

EP 440/2019

12.10.2021

counsel for the petitioner and Mr. Muhammad Rasheed, DDA alongwith Muhammad Asif, Junior Clerk for the respondents present.

According to operative part of the judgment under execution it was directed that a proper enquiry shall be conducted in the manner prescribed by the rules which shall be concluded within a period of two months from the date of receipt of judgment of the Tribunal. The appellant was reinstated in service for the purpose of enquiry making the question of service and back benefits subject to outcome of such enquiry. According to the comments submitted by the respondents, the denovo enquiry was conducted in compliance with the judgment of this Tribunal after his reinstatement for the purpose of enquiry and a committee was constituted which submitted its report dated 31.10.2016 with finding as to misconduct of the petitioner. Therefore, the petitioner was dismissed in pursuance to the findings in denovo enquiry. The copy of reinstatement order, the denovo enquiry and consequent dismissal order have been annexed with the comments of respondents. As far as the scope of the operative part as discussed before is concerned, the judgment at credit of the petitioner has served its utility, leaving no scope for any other matter requiring implementation. This order will have no bearing on legal right of the petitioner, if he is advised to seek any remedy against the order of his dismissal resulting from the denovo enquiry. This execution Petition warranting no further proceedings be consigned to the record room.



Chairman
Camp Court, A/Abad

16.05.2021


Due to cancellation of tour, Bench is not available. Therefore, case to come up for the same as before on 28.09.2021.


Reader

28.09.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Rafiqullah, DFO and Asif Junior Clerk for the respondents present.

Learned counsel for the petitioner seeks time. Request is accorded. To come up for further proceedings on 11.10.2021 before S.B at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

11.10.2021

Petitioner in person and Mr. Muhammad Rasheed, DDA alongwith Rafiqullah, DFO for the respondents present.

After having argued the implementation report, question of maintainability of this Execution Petition is apt to arise. As lawyers are on strike, therefore, arguments could not be heard on the said question. To come up for arguments on the point of maintainability on 12.10.2021 before S.B, at Camp Court, Abbottabad.


Chairman
Camp Court, A/Abad

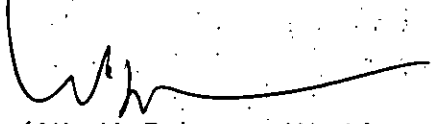
18.01.2021

Due to COVID-19, the case is adjourned for the same on 16.02.2021 before S.B.


READER

16.02.2021

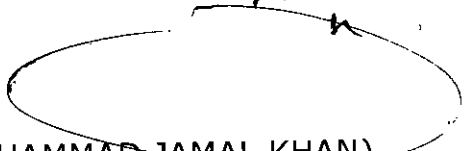
Mr. Zulfiqar Tanoli, Advocate counsel for the petitioner present and submitted Wakalat Nama in favor of the petitioner. Mr. Riaz Khan Painsdakhel learned Asst. AG for respondents present. Being freshly engaged learned counsel for the petitioner requested for adjournment. Adjourned. To come up for further proceedings on 16.05.2021 before S.B at Camp Court. A/Abad.


(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, A/Abad

19.11.2020

Petitioner is present in person. Mr. Usman Ghani, District Attorney and Mr. Noor-ul-Wahaj, Assistant, for the respondents are also present.

Representative of the department submitted implementation report on behalf of respondents No. 1 to 4 which is made part of record. File to come up for arguments on the same on 18.01.2021 before S.B at Camp Court, Abbottabad.


(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT ABBOTTABAD

Due to covid ,19 case to come up for the same on / /
at camp court abbottabad.

Reader

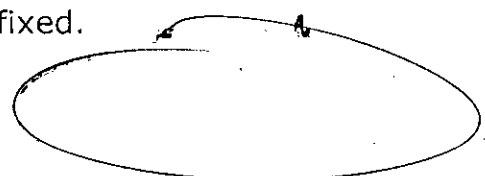
Due to summer vacation case to come up for the same on 117
9/17/20 at camp court abbottabad.


Reader

17.09.2020

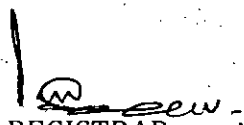

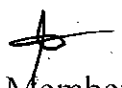
Petitioner has not forth come at the moment i.e 11:20
A.M. Mr. Usman Ghani, District Attorney is present.

Representative of the department is also absent. The
perusal of record reveals that the case was adjourned due to the
spread of COVID-19 on two consecutive dates of hearing. Issuing
of notices to the respondents is indispensable accordingly, the
respondents issue notices for 19.11.2020 before S.B at Camp
Court, Abbottabad. Notice be also issued to petitioner as well as
his respective counsel for the date fixed.


(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT ABBOTTABAD

Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 440/2019

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|------------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 27.11.2019 | <p>The execution petition of Mr. Muhammad Ajmal submitted today by him may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 27/11/19</p> |
| 2 | 28-11-19 | <p>This execution petition be put up before touring S. Bench at A.Abad on <u>19-12-2019</u>.</p> |
| 19.12.2019 | | <p>Petitioner in person present. Notice issued to the respondents for implementation report for 22.01.2020 before S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court Abbottabad</p> |
| 22.01.2020 | | <p>Petitioner in person present. Mr. Ziaullah, DDA alongwith Mr. Ashraf Ali, Assistant and Mr. Muhammad Nadeem Store Keeper for the respondents present. Notices be issued to the respondents for submission of implementation report. To come up for further proceedings on 20.02.2020 before S.B at camp court Abbottabad.</p> <p style="text-align: right;"> Member Camp Court A/Abad</p> |



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Execution Petition No. 440 /2019

Muhammad Ajmal son of Ghulam Sarwar, village Sheemn Bagh Tarlai, Baffa District Mansehra.....(Petitioner)

VERSUS

1. The Secretary Environment Khyber Pakhtunkhwa, Peshawar.
2. The Chief Conservator of Forests, Region-II, Abbottabad.
3. The Conservator of Forests, Watershed Management Circle, Abbottabad.
4. The Deputy Commissioner (erstwhile DCO) Kohistan..... **(Respondents)**

**EXECUTION PETITION FOR IMPLEMENTATION OF JUDGMENT DATED 24.08.2016
PASSED BY THIS TRIBUNAL IN SERVICE APPEAL NO. 162/2013.**

RESPECTFULLY SHEWETH

1. That the petitioner was initially appointed as Junior Clerk-cum-Computer Operator in BPS-05 on 27.06.1993.
2. That due to devolution policy of the Government, the petitioner became surplus and later on vide order dated 11.07.2005 transferred and posted at Agror-Tanawal Forest Division Mansehra. Subsequently vide order dated 06.10.2005 his services were placed at the disposal of DCO Kohistan.

3. That the petitioner preferred service appeal No. 162/2013 for his adjustment and payment of salaries.
4. That the Honourable Tribunal vide judgment dated 24.08.2016 ordered a denovo enquiry to be conducted in the matter within two months but till date neither denovo enquiry has been conducted nor reinstated into service.

It is, therefore, requested that the respondents may very graciously be directed to implement the judgment of this Tribunal in letter and spirit and the appellant be reinstated into service with all back benefits as they failed to conduct denovo proceedings within the stipulated period of sixty days despite lapse of more than three years time.


(MUHAMMAD AJMAL)

PETITIONER

AFFIDAVIT

I, Muhammad Ajmal son of Ghulam Sarwar, do hereby solemnly affirm and declare that the contents of the execution petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

ATTESTED




DEPONENT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

3

APPEAL NO. 162/2012



Mohammad Ajmal
S/O Ghulam Sarwar,
Vill: Sheen Bagh Tarlai,
Baffa Mansehra.....

M. W. J. P. Peshawar
Secretary
Case No. 1520
Date: 31-12-12

Appellant.

VERSUS

- 1- The Secretary Environment, KPk Peshawar.
- 2- The Chief Conservator of Forests region-II, Abbottabad.
- 3- The Conservator of Forests, watershed management Circle Abbottabad.
- 4- The DCo Kohistan.

.....Respondents

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED. 30.11.2012 WHEREBY APPEAL FOR ADJUSTMENT AND PAYMENT OF SALARIES HAS BEEN REJECTED FOR NO GOOD GROUNDS.

31/12/12

PRAYER:

That on acceptance of this appeal the order dated. 30.11.2012 may be set-aside and the respondents may be directed to adjust the appellant with all salaries arrears and consequential relief being still in service. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

Re-submitted to ~~file~~
and filed.

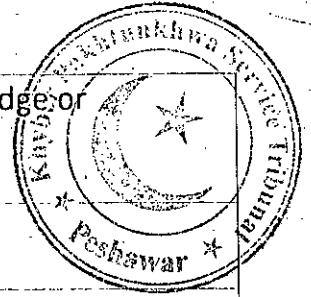
31/1/13

ATTESTED

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

Date of
order/
proceedings
2

Order or other proceedings with signature of Judge or
Magistrate



3

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Appeal No: 162/2013

Mr. Muhammad Ajmal Versus Secretary, Government of
Khyber Pakhtunkhwa Environment Department Peshawar
and 3 others.

JUDGMENT

24.08.2016


MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

Appellant with counsel and Mr. Ziaullah, Government
Pleader alongwith Mr. Sattar Muhammad, Assistant for
respondents present.

2. Muhammad Ajmal -S/O Ghulam Sarwar hereinafter
referred to as the appellant has preferred the instant service
appeal under Section 4 of the Khyber Pakhtunkhwa Service
Tribunal Act, 1974 against order dated 30.11.2012 vide which
his appeal for adjustment and payment of salary was rejected.

3. Brief facts giving rise to the present appeal are that the
appellant was appointed as Junior Clerk-cum-Computer
Operator in BPS-05 vide order dated 27.6.1993. That he
alongwith other officials was declared surplus and, lateron, vide
order dated 11.07.2005 he was transferred and posted at Agror-
Tanawal Forest Division, Manshra and vide office order dated
06.10.2005 his services were placed at the disposal of DCO.

ATTESTED


Chairman
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Kohistan. The appellant did not join his duty for one reason or the other and, afterward, his departmental appeal was rejected vide order dated 30.11.2012 and hence the instant service appeal on 31.12.2012.


4. Learned counsel for the appellant has argued that the appellant is entitled to adjustment and receiving salary as a civil servant and that withholding of his salary and denial of posting/adjustment of the appellant is against facts and law. That the appellant is willing to serve but the respondents are not inclined to adjust him.

5. Learned Government Pleader has argued that the appellant was adjusted by placing his services as Junior Clerk alongwith others at the disposal of DCO Kohistan vide order dated 06.10.2005 but he did not join his duty. That a condition to the said adjustment order was attached and due to non-compliance of the said order services of the appellant and others stood terminated.

6. We have heard arguments of learned counsel for the parties and perused the record.

7. A careful perusal of office order No. 34 dated Peshawar the 6th October, 2005 issued by the Chief Conservator of Forests would suggest that appellant and similarly placed employees, 13 in numbers, were to report for duty to the DCO Kohistan at

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

whose disposal their services were placed for further adjustment against various vacancies. The following note was added to the said office order which is reproduced herein for facilitation:-


Note:

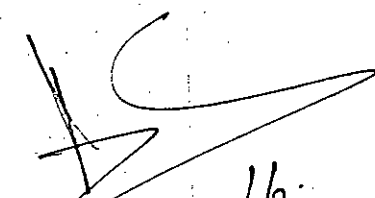
All Junior Clerks are hereby informed that non-compliance of this order may result into their non-employment by Govt. for which Forest Department will not be responsible."

The stance of the respondents is that on the strength of this note the appellant is no longer a civil servant and therefore not entitled to any pay or other services.

8. It is not disputed before us that the appellant has not reported for duty for his further adjustment by the DCO Kohistan against a vacancy as required vide office order dated 06.10.2005 referred to above. According to record placed before us the appellant has submitted an application dated 11.12.2011 stating therein that he may be adjusted by reinstating him in service. According to our view the condition attached to the office order dated 06.10.2005 may not ipso-facto operate as an order of termination from service. According to the record of the case appellant has not reported for duty. Reason for non-compliance with the order are neither probed nor available on record. We are also not in a position to observe, on the basis of available record, that the appellant is entitled to be treated as a

ATTESTED


EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar


 24.08.16

civil servant at surplus pool and would therefore be entitled to service benefits.

9. In the afore-stated circumstances, we are therefore of the humble view that a proper enquiry shall be conducted in the matter by affording opportunity of hearing to the appellant in the manners prescribed by rules which shall conclude within a period of 2 months from the date of receipt of judgment of the Tribunal. The appellant is reinstated in service for the purpose of enquiry however, the question of service and back benefits shall be subject to outcome of such enquiry. Parties are left to bear their own costs. File be consigned to the record room.

Announced 24.08.2016 *Sd/- M. Azim Khan Afridi,*
Chairman

Sd/- M. Amir Nadeem,
Member

Certified to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 27/11/16
Number of Copies 2000
Copying Charges 22-00
Urgent 4-00
Total 26-00
Name of Copy [Signature]
Date of Completion of Copy 27/11/16
Date of Delivery of Copy 27/11/16

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Execution Petition No.440/2019

Muhammad Ajmal Son of Ghulam Sarwar ,Village Sheem Bagh Tarlai ,Baffa
District Mansehra.

... (Petitioner)

VERSUS

1. The Secretary Environment Khyber Pakhtunkhwa ,Peshawar.
2. The Chief Conservator of Forests Northern Forest Region –II Abbottabad.
3. The Conservator of Forests, Watershed Management Circle Abbottabad.
4. The Deputy Commissioner (erstwhile DCO) Kohistan

...(Respondents)

RESPECTFULLY SHEWETH:-

**Subject: IMPLEMENTATION REPORT ON BEHALF OF RESPONDENT
NO. 1, 2,3 and 4.**

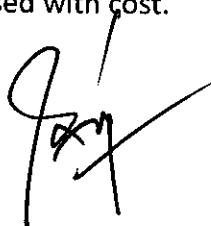
Para-wise comments on behalf of Respondents No.1 to 4 are as under:-

1. Correct to the extent that the petitioner was appointed against the project post of Junior clerk /Cum Computer Operator on purely on contract basis for a specific period till expiry of project as clearly reflected in his appointment order **(Copy of order is annex as annexure- A)**.
2. It is correct that due to devolution plan the petitioner declared as surplus and further disposal in the office of DCO Kohistan vide Chief Conservator of Forests NWFP Peshawar office order No. 34 dated 6.10.2005 **(copy of order is attached as annexure –B)** wherein all the Junior Clerks were directed in case of non compliance of this order may result into their non employment by Govt, for which Forest Department will not be responsible. The appellant failed to comply with the said order and not join the duty in the office of DCO Kohistan & remained absent for a long period w.e.f 2005 to 2011.
3. It is correct that the case was decided by Honorable Service Tribunal dated 28.08.2016 with the decision that:-

**"The appellant is reinstated in service for the purpose of enquiry however,
the question of service and back benefits shall be subject to outcome of such
enquiry"**

4. Incompliance with the above order of Honorable Court, the Conservator of Forest Watershed Management Circle Abbottabad constituted a committee vide office order No.6 dated 30.09.2016 (Copy attached as Annexure-C). The committee submitted its report vide DFO Unhar letter No.791/DWS dated 31.10.2016.(Copy attached as annexure-D) wherein the petitioner found guilty of misconduct, therefore, DFO Daur Watershed / competent Authority had dismissed the services of petitioner (Copy attached as annexure-E) Wherein Muhammad Ajmal Junior Clerk was stand dismissed due to non compliance of order of the superior.

Since the petitioner was a contractual employee and not a regular employee, therefore, it is very humbly requested that the instant petition, being elevated of merit may graciously be dismissed with cost.



Conservator of Forest
Watershed Management Circle
Abbottabad

Anne - A

A

4

(A)

93

OFFICE ORDER NO. 69 DATED ABBOTTABAD THE 27/JUNE, 1993 ISSUED BY
MOHAMMAD KHURSHID, DIVISIONAL FOREST OFFICER, SOKA MULLAH WATERSHED
PROJECT, ABBOTTABAD.

(29)

Consequent upon the recommendation of departmental selection Committee constituted vide Office Order No.67, dated 29-5-1993 Mr. Muhammad Ajmal Khan S/O Mr. Ghulam Sarwar of village, Maseen Bagh, Post Office, Baffa Tehsil and District, Mansehra is hereby appointed as Junior Clerk cum Computer Operator with the condition of age relaxation by the competent authority vide Government of NWFP, Services and General Administration Department (Regulation Wing) No. SON-I(S&G&A)1-117/91, dated 1-2-1993 in SPS No.5 (1035-49-1770) per month plus usual allowances as admissible under the rules.

His appointment as Junior Clerk cum Computer Operator is purely temporary and his services/employment in Soka Mullah Project are purely temporary and on contract basis and against the vacant post of approved PO-I Scheme of Soka Mullah for the specific period the services of appointee shall stand terminated on the expiry of Project in accordance with Govt: of NWFP Planning and Development Deptt: No. CHIEP (DATA)11-415/85, dated 19-4-1989.

If he wishes to resign at any time he would have to serve one months notice or his one month's pay would be forfeited to Govt: in lieu of that.

He will be governed by such rules and orders relating to pay, house rent, travelling allowance, medical allowance, transfer etc., prevailing at the time of issue of this letter and any order issued by the Govt: in future.

- 1) He would have to produce medical certificate of fitness.
- 2) He would have to join his services at his own expenses, within 14 days from the date of issue of this order.

Sd/- (Mohammad Khurshid)
Divisional Forest Officer
Soka Mullah Watershed Project
Abbottabad

Memorandum.

No. 1986-89/SN,

Copy forwarded to :-

- 1) The Conservator of Forests, Watershed Management Project, Abbottabad for favour of information please.
- 2) The Conservator of Forests, Coordination Cell, Peshawar for favour of information please.
- 3) Head Clerk/Accountant Divisional Office for information.
- 4) Mr. Mohammad Ajmal S/O Mr. Ghulam Sarwar of village, Maseen Bagh, Post Office, Baffa Tehsil and District, Mansehra for information, and necessary action.

Attested

Divisional Forest Officer
Soka Mullah Watershed Project
Abbottabad

Attested

DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION,
ABBOTTABAD

Divisional Forest Officer
Duar Watershed Division
Abbottabad

Annex-B

(B)

97

ORDER NO. 34 DATED PESHAWAR THE 26-10-2005 ISSUED BY
 GHIAZI MARJAN CHIEF CONSERVATOR OF FORESTS NWFP PESHAWAR.

In accordance with the provision contained in Para 4B of the circular letter of S&GAD
 No. 138/2001 and after proper approval of the Establishment Department vide letter No.
 SO (Estt) & ADP-13/2002 dated 22-9-2005, the services of the following Junior Clerks
 are hereby placed at the disposal of DCO Kohistan for their further adjustment against
 vacancies:

| S. No | Name of Junior Clerks | Demerit |
|-------|-----------------------|------------|
| 1 | Zia Nizami | Abbottabad |
| 2 | Muhammad Sarfaraz | Abbottabad |
| 3 | Jaffar Khan | Abbottabad |
| 4 | Muhammad Byas | Abbottabad |
| 5 | Arshad Mehmood | Abbottabad |
| 6 | Taj Muhammad | Manshira |
| 7 | Muhammad Aimal | Manshira ✓ |
| 8 | Muhammad Shafiq | Manshira ✓ |
| 9 | Arshad Hussain | Manshira |
| 10 | Shahid Hussain | Abbottabad |
| 11 | Muhammad Arshad | Manshira |
| 12 | Muhammad Jamil | Abbottabad |
| 13 | Abdul Manan | Abbottabad |

734
 17-10-05

Note: All the Junior Clerks are hereby informed that non-compliance of this order may
 result into their non-employment by Govt. for which Forest Department will not be
 responsible.

Sd/-
 (GHIAZI MARJAN)
 Chief Conservator of Forests
 NWFP Peshawar

- Copy for information and necessary action forwarded to the:
- 1. Chief Conservator of Forests Watershed Management Project Abbottabad.
 - 2. Conservator of Forests Abbottabad Circle Abbottabad.
 - 3. DCO Kohistan with reference to SO (S.Pool) letter No. cited above which has
 already been endorsed to him.
 - 4. SO (C) Govt. of NWFP Environment Department Peshawar
 - 5. SO (Estt) Govt. of NWFP Environment Department Peshawar.
 - 6. SO (S.Pool) Govt. of NWFP Establishment & Administration Department
 Peshawar with reference to his letter No. cited above.
 - 7. Budget Superintendent Head Office Peshawar.

Sd/-
 Chief Conservator of Forests
 NWFP Peshawar

If agreed, may be enclosed to
 concerned officers for
 information, action and strict
 compliance - if please

EA
 15/10

Sd/-
 Alister
 Alister

DIVISIONAL FOREST OFFICER
 DUAR WATERSHED DIVISION
 ABBOTTABAD

DIVISIONAL FOREST OFFICER
 DUAR WATERSHED DIVISION
 ABBOTTABAD

OFFICE ORDER NO. 6 DATED ABBOTTABAD THE 30/09/2016, ISSUED BY MR. JAVED ARSHAD CONSERVATOR OF FORESTS/PD WATERSHED MANAGEMENT CIRCLE ABBOTTABAD

P-95

P-13

P-31

One Mr. Muhammad Ajmal S/O Ghulam Sarwar of Sheen Bagh post office Baffa Tehsil Mansehra was appointed as Junior Clerk vide DFO, Soka Nullah Watershed office order No.69, dated 27-06-1993. During devolution Plan 2001 the services of Junior Clerk was declared as surplus vide notification No. SO (G/A)/FF&WD/II-577/Surplus/2001/30-06-2001, with effect from 01-7-2001. In view of the above order the service of the Junior Clerk was placed at the disposal of DCO Kohistan vide Chief Conservator of Forests NWFP office order No.34, dated 06-10-2005. The Ex-Junior Clerk did not join the duty in DCO Office Kohistan and remained absent since then. Letter on he filed an appeal No.162 of 2013, before Khyber Pakhtunkhwa Service Tribunal.

P-239

The Khyber Pakhtunkhwa Service Tribunal Peshawar vide their Judgement dated 24-3-2016, has reinstated the services of the appellant i.e, Muhammad Ajmal Ex-Junior Clerk for constitution of committee in the case to conduct enquiry proceedings for production of the findings before the honourable court within a period of one months.

However the question of service and back benefits shall be subject to outcome of enquiry. The D.C. Kohistan vide letter No.20/Estt/15598/DCKH dated 08-09-2016 has also requested the Chief Conservator of Forests Northern Forest Region-II, for completion of enquiry. The case was accordingly referred to Chief Conservator of Forests Northern Forest Region-II, for constitution of committee vide this office letter No.1049/E-F, dated 07-9-2016, who vide letter No.1987/E dated 21-9-2016, has directed to constitute the committee through Circle level.

P-2

Therefore in view of the Court order a committee consisting upon the following officer is hereby constituted to conduct detail enquiry against Muhammad Ajmal Ex-Junior Clerk regarding his non compliance of the order of his superiors as well as willful absence from duty since 06-10-2005 to date:-

Attested

Attested

[Signature]
DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION
ABBOTTABAD

[Signature]
Divisional Forest Officer
Daur Watershed Division
Abbottabad

-Mr. Sagheer Ahmad Malik DFO, Unhar Watershed

-Mr. Rizwan Ahmad Kazmi DFO, Kohistan Watershed Besham

The committee should submit its findings/recommendation within a month upto 20-10-2016, positively for onward submission to Khyber Pakhtunkhwa Service Tribunal.

Being Court case the enquiry will not be delayed

Photo copy of following letters are enclosed

- 1-Notification No.SO (G/A)/FF&WD/11-577/Surplus/2001/30-06-2001.
- 2-CCF, NWFP Office Order No.34, dated 06-10-2005.
- 3-Judgement of Court dated 24-08-2016.
- 4-Deputy Commissioner Kohistan letter No.20/Estt/15598/DCKH dated 08-09-2016.
- 5-Additional Advocate General Khyber Pakhtunkhwa Service Tribunal Peshawar.

Sd/-

(Javed Arshad)

Conservator of Forests/PD
Watershed Management Circle
Abbottabad

Copy forwarded to:-

- 1- The Chief Conservator of Forests Northern Forest Region-II, Abbottabad for information with reference to his No.1987/E dated 21-09-2016.
- 2- Deputy Commissioner District Kohistan
- 3- Additional Advocate General Khyber Pakhtunkhwa Service Tribunal Peshawar
- 4- Deputy Solicitor Law Parliamentary Affairs & Human Rights Department Peshawar
- 5- Section Officer Litigation Govt. FE&WL Department for information
- 6- Mr. Sagheer Ahmad Malik DFO, Unhar Watershed Mansehra
- 7- Mr. Rizwan Ahmad Kazmi DFO, Kohistan Watershed Division Besham
- 8- Divisional Forest Officer Daur Watershed Division Abbottabad
- 9- Mr. Muhammad Ajmal S/O Ghulam Sarwar of Sheen Bagh Post Office Baffa Tehsil Mansehra.

Conservator of Forests/PD
Watershed Management Circle
Abbottabad

Attested
DIVISIONAL FOREST OFFICER
DAUR WATERSHED DIVISION,
ABBOTTABAD.

Attested
Divisional Forest Officer
Daur Watershed Division
Abbottabad

Annexure - D

301

FOREST DEPARTMENT
UNHAR WATERSHED DIVISION
MANSEHRA

Phone # 0997-920142

No. 291 /UWS, Dated 31/10/2016

To

The Conservator of Forests/PD
Watershed Management Circle
Abbottabad



Subject:

ENQUIRY CASE AGAINST MR. MUHAMMAD AJMAL EX-JUNIOR CLERK
ENQUIRY REPORT THEREOF

Memo:

Reference your office order No. 06 dated 30.09.2016.

As desired vide your above cited office order, subject enquiry report is enclosed herewith for further necessary action in your office please.

Encl: As Above.

Divisional Forest Officer
Unhar Watershed Division
Mansehra

Be

Proceed to concerned
office

Attested 04/11

Attested

DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION
ABBOTTABAD

Divisional Forest Officer
Daur Watershed Division
Abbottabad

303

541

59

ENQUIRY REPORT OF THE ENQUIRY CASE AGAINST MR. MUHAMMAD AJMAL SON OF GHULAM SARWAR OF SHEEN BAGH, POST OFFICE BAFFA TEHSIL & DISTRICT MANSEHRA EX-JUNIOR CLERK VIDE OFFICE ORDER NO. 06 DATED 30.9.2016, BY MR. JAVED ARSHAD CONSERVATOR FORESTS/PD WATERSHED MANAGEMENT CIRCLE ABBOTTABAD.

BRIEF HISTORY OF THE CASE.

Mr. Muhammad Ajmal S/O Ghulam Sarwar, resident of Sheen Bagh Post Office Baffa, Tehsil & District Mansehra was appointed as a Junior Clerk vide Divisional Forest Officer (DFO) Soka Nullah Watershed Project Office Order No. 69 dated 27.06.1993. During the Devolution Plan 2001, the services of Mr. Muhammad Ajmal Junior Clerk were declared as surplus vides Notification No. SO (G/A)/EF & W.D/111-577/Surplus/2001/30-06-2001 with effect from 01.07.2001. In view of the above Notification the service of the Junior Clerk was placed at the disposal of District Coordination Officer (DCO) Kohistan vide Chief Conservator of Forests NWFP Office Order No. 34 dated 06.10.2005. The Ex-Junior Clerk Mr. Muhammad Ajmal did not join the duty in DCO Office Kohistan and remained absent since then, later on he filed an appeal No. 162 of 2013, before Khyber Pakhtunkhwa Service Tribunal.

The Khyber Pakhtunkhwa Service Tribunal vide its Judgment dated 24.08.2016, has reinstated the services of the appellant Mr. Muhammad Ajmal Ex-Junior Clerk for constitution of committee in the case to conduct enquiry proceedings for production of findings before the honorable Court within a period of one (1) month.

However, the question of service and back benefits shall be subject to outcome of enquiry. The Deputy Commissioner (DC) Kohistan vide letter No. 20/Estt:/15598/DC(KH) dated 08.9.2016 has also requested the Chief Conservator of Forests Northern Forest Region-II (CCF-II) for completion of Enquiry. The case was accordingly referred to CCF-II for constitution of Enquiry Committee vide CF/PD Watershed Management Circle Abbottabad No. 1049/E,F dated 07.09.2016 who vide letter No. 1987/E dated 21.9.2016 directed CF/PD Watershed to Constitute the Committee through Circle level. Resultantly, CF/PD Watershed Circle Abbottabad vide Office Order No. 06 dated 30.9.2016 constituted this Enquiry Committee comprising of;

1. Mr. Sagheer Ahmed Malik, DFO Unhar Watershed Mansehra and
2. Mr. Rizwan Ahmed Kazmi, DFO Kohistan Watershed Division Besham.

The Committee is mandated to conduct a detailed formal enquiry against Mr. Muhammad Ajmal Ex-Junior Clerk regarding non-compliance of the orders of his superiors, as well as, wilful absence from duty since 05.10.2005 to date.

Photo copies of the following letters were enclosed as the basic documents of Enquiry.

Attested

DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION
ABBOTTABAD

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1. Government of NWFP, Forestry, Fisheries & Wildlife Department Order No. SO (GIA)/FF & WD/II-577/Surplus/2001 dated 30.6.2001.
 2. Chief Conservator of Forests, NWFP Peshawar Office Order No. 34 dated 06.10.2005.
 3. Judgment of Khyber Pakhtunkhwa Service Tribunal Peshawar dated 24.08.2016.
 4. Additional Advocate General Khyber Pakhtunkhwa, Service Tribunal Peshawar letter No. 2767-72/AAG dated 25.8.2016.
 5. Deputy Commissioner Kohistan letter No. 20/Estt/15598/DC (KH) dated 08.9.2016.

II. PROCEEDINGS.

On receipt of the Office Order No. 06 dated 30.9.2016 by CF/PD Watershed Management Circle Abbottabad along with above mentioned documents on 07.10.2016 the enquiry committee went through the contents of all the attached documents and initiated proceedings into the case vide No. 676-78/UWS dated 13.10.2016 and No. 690/UWS dated 14.10.2016 respectively wherein 17.10.2016, 11.00 am was fixed as the date & time for conduction of proceedings in the office of DFO Unhar Watershed Mansehra, as such Mr. Rizwan Ahmed Kazmi (member committee), Mr. Muhammad Ajmal Ex-Junior Clerk (Official under enquiry) and Mr. Sattar Muhammad Assistant office of DC Kohistan (Prosecutor) were informed to attend, who acknowledged for attendance and participation. The communication was further confirmed and strengthened via mobiles and telephone.

On 17.10.2016 the constituent enquiry committee in the Chairs, M/S Muhammad Ajmal Ex-Junior Clerk (Official under Enquiry), Sattar Muhammad Assistant DC Office Kohistan (Prosecutor) Muhammad Arshad Head Clerk DFO Unhar (Prosecutor from Forest) all present before the committee and marked their presence on the proceeding sheet of the day (placed on file).

Mr. Muhammad Ajmal Ex-Junior Clerk here in after written accused official was narrated with the text of the office order No. 06 dated 30.6.2016 issued by CF/PD Watershed and office order No. 34 dated 06.10.2005 issued by Mr. Ghazi Marjan the than Chief Conservator of Forests NWFP present Khyber Pakhtunkhwa, read word to word loud enough and made him understand in Urdu as well and asked for understanding to which he responded positively. The accused official was given ample opportunity to express his cogent reason as to why he did not comply with the order of CCF for joining the office of DCO Kohistan to which he confirmed his inability to join and assume service in the office of DCO Kohistan and attributed it with his Psycho - traumatic illness and also exhibited prescriptions of the different Doctors dated 19.03.2003, 25.6.2004, 04.8.2004, 20.9.2004 respectively (Ex: 1/7 to 4/7). The accused official also exhibited office order No. 69 dated 27.6.1993 regarding his appointment as Junior Clerk cum Computer Operator in defunct Soka Nullah Watershed Project Abbottabad (Ex: 5/7) and office order No. 36 dated 29.9.1993 by CCF Peshawar where in age relaxation for 4 years, 3 months and seven days was accorded in favor of the accused official (Ex: 6/7). The accused official also exhibited one (1) attested photo copy of SSC Examination Session 1978 (A) (Ex: 7/7). The accused official was further

counselled as to whether he wants to add any more clarifications in writing, as present in person, documentary or witnesses in persons to which he replied in negative.

Mr. Sattar Muhammad (Prosecutor) also presented and prosecuted the case personally tendered a written statement (Ex: B-1/1) and ensured the provision of photo copies of more record on 19.10.2016. The proceedings in the case were concluded with the provision of record by Mr. Sattar Muhammad (Prosecutor) on 19.10.2016.

On 19.10.2016 Mr. Sattar Muhammad (Prosecutor) exhibited the photo copies of the following record:

| S # | Letter No & Date | Issued by | Addressee |
|-----|--|--|--|
| 1. | No. 20/Estt./6856/DCO (Kh) dated 26.10.2005 | DCO Kohistan | Chief Conservator of Forests NWFP Peshawar. |
| 2. | 5239/GE dated 02.1.2006 | Conservator of Forests Hazara Circle Abbottabad | DCO Kohistan |
| 3. | E No.20/Estt./2185/DCO (Kh) dated 15.3.2006 | DCO Kohistan | Conservator of Forests Abbottabad Circle. |
| 4. | No. SOS. Pool (E& AD) 3-13/2002 dated 01.7.2006 | Section Office Surplus Pool Establishment Department Peshawar. | DC Kohistan and others. |
| 5. | No. 20/Estt. /10800/DCO (Kh) dated 05.12.2006 | DCO Kohistan | Section Office Surplus Pool Establishment Department Peshawar. |
| 6. | No. SOS Pool (E &AD)3-13/2002 dated 19.12.2006 | Section Office Surplus Pool Establishment Department Peshawar | DC Kohistan and others |
| 7. | No. SO. Estt: (Env/1-13/2009/1365 dated 24.3.2010. | Section Officer Establishment Environment Department | DCO Kohistan |
| 8. | No. 20/Estt/2740 dated 07.5.2010 | DCO Kohistan | Section Officer Establishment Environment Department |

III. DISCUSSION ON THE CASE.

During personal hearing and examination of the accused official it is clearly established that Mr. Muhammad Ajmal Ex-Junior Clerk of Forest Department who was declared surplus along with many others and sent off to join the service at the office of DCO Kohistan vide CCF (NWFP) Khyber Pakhtunkhwa Office Order No. 34 dated 06.10.2005 did not report at the office of DCO Kohistan for joining the service there as directed vide above referred office order and the accused official admitted his non-compliance to the order of his superior and attributed the same to his some Psycho – traumatic illness concerning which he also exhibited treatment prescriptions of different Doctors placed on file.

The clear cut directive in the office order No. 34 dated 06.10.2005 issued by CCF (NWFP) Khyber Pakhtunkhwa also quoted in the decision of worthy Service Tribunal dated 24.8.2016. "All Junior Clerks are hereby informed that non-compliance of this order may result into their non-employment by Govt: for which Forest Department will not be responsible" establishes his non-employment to Govt: service being absent since 06.10.2005 till the date of decision i.e. 24.8.2016 when he is conditionally reinstated in service for the purpose of enquiry proceeding only. The accused official failed to exhibit any such document which can ensure his reporting and presence at the office of DCO

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Kohistan. While examining the official correspondence of DC Kohistan with act the relevant quarters concerned exhibited as prosecution documents placed on file. It is very much clear that Mr. Muhammad Ajmal Junior Clerk did not and never join the office of DCO Kohistan for further service with that office.

The accused official prayed for mercy and sympathetic consideration on humanitarian grounds being feeble and old and only earning head of a family to support for livelihood having no other means of earning except physical labor.

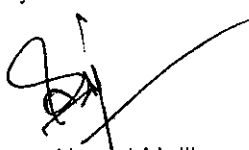
IV. **FINDING:** Going through the narrated facts in person, scrutiny of the documents appended with the case file, documents exhibited by accused official and prosecution, the Enquiry Committee concludes the following findings:

1. That Mr. Muhammad Ajmal Ex-Junior Clerk of Forest Department did not comply with the office order No. 34 dated 06.10.2005 issued by Ghazi Marjan then than Chief Conservator of Forests (NWFP) Khyber Pakhtunkhwa and remained absent from service for which he was employed to discharge further in the office of DCO Kohistan from 06.10.2005 till 24.8.2016 when re-instated by Service Tribunal Peshawar for the purpose of enquiry only.
2. As accused official can not claim his right of service by non-compliance of orders remaining absent for a very long period of time and rendering himself liable of imposition of condition of non-employment as quoted in the office order No. 34 dated 06.10.2005 by CCF.
3. The accused official has grown old and feeble, attributed his non-compliance to his psycho- traumatic sickness, owns a family to support being the only earning head, prayed for mercy on humanitarian grounds, which creates a small slot of some minor relief on humanitarian grounds, if deemed appropriate by the competent forum.


V. **ENCLOSURES:** Case file from page- 1 to 85 along with two (2) extra copies of this enquiry report are enclosed for further needed action by the Conservator of Foresters/PD Watershed Management Circle Abbottabad

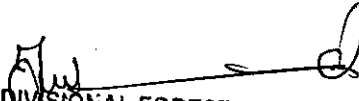
Enquiry Committee

Dated 31.10.2016.


Mr. Sagheer Ahmed Malik
DCF/Divisional Forest Officer
Unhar Watershed Division
Mansehra

Attested


Mr. Rizwan Ahmed Kazmi
Divisional Forest Officer
Kohistan Watershed Division
Kohistan


DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION,
ABBOTTABAD

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ORDER NO. 26 DATED ABBOTTABAD THE 19/12/2017 ISSUED BY MR.ABDULLAH KHAN
DIVISIONAL FOREST OFFICER DAUR WATERSHED DIVISION ABBOTTABAD

Read with

- 1- Appointment of Mr Muhammad Ajmal Ex-Junior Clerk Office Order No.69 dated 27.6.1993.
- 2- Govt of NWFP, Forestry, Fisheries & Wild life Department Order No. SO (G/A) FF & WD/II-577/Surplus/2001 dated 30.6.2001.
- 3- Adjustment Order of Junior Clerk by CCF (NWFP) KPK No.34.dated 6.10.2005.
- 4- Appeal of Mr Muhammad Ajmal before the CCF, Peshawar dated 27.09.2012.
- 5- CF Watershed Letter No.1294-97/E dated 30.11.2012 addressed to Mr. Muhammad Ajmal.
- 6- Judgment on appeal by KPK Service Tribunal No.162/2013 dated 24.8.2016.
- 7- Office Order No.6 dated 30.9.2016 regarding constitution of enquiry committee.
- 8- Enquiry report of enquiry committee dated 31.10.2016.

Mr. Muhammad Ajmal S/O Ghulam Sarwar of Sheen Bagh Post office Baffa Tehsil Mansehra was appointed as Junior Clerk/ cum Computer Operator Vide DFO, Soka Nullah Watershed (defunct) Office Order No. 69 dated 27.06.1993 on purely temporary basis for specific period of project. During devolution plan 2001 the services of Junior Clerk were declared as surplus vide notification No. SO (G/A/FF&WD/II-577/Surplus /2001 dated /30.06.2001,with effect from 01.7.2001.In view of the order the services of the above Junior Clerk were placed at disposal of the DCO Kohistan vide Chief Conservator of Forests NWFP Office Order NO.34, dated 06.10.2005.The Ex-Junior Clerk did not join the duty in the DCO Office Kohistan and remained absent since then. There was complete dead lock since 2005 to 2011, when the Ex-Junior Clerk preferred an appeal dated 27.09.2012, before Chief Conservator of Forests NWFP Peshawar, stating that he could not report arrival to DCO Kohistan due to his illness and now when recovered from illness has reported arrival to DCO Kohistan but he refused to accept his arrival hence the Ex-Official requested for adjustment in the Department which was endorsed to CF Watershed Abbottabad. The appeal was rejected by the CF Watershed vide No.1294/E dated 30.11.2012, with the condition that he is not on the role of the Forest Department. Later on the Ex-Official filed an appeal No 162 of 2013,before Khyber Pakhtunkhwa Service Tribunal.

The Khyber Pakhtunkhwa Service Tribunal Peshawar vide their judgment dated 24.08.2016,has reinstated the services of the appellant i.e. Muhammad Ajmal Ex-Junior Clerk for constitution of committee in the case to conduct enquiry proceeding for production of the findings before the honorable court with in a period of one month.

However the question of Service and back benefits shall be subject to outcome of enquiry The DC Kohistan Vide letter No.20/Estt/15598/DCKH dated 08.09.2016,has also requested the Chief Conservator of Forests Northern Forest Region- II, for completion of enquiry. The case was accordingly referred to Chief Conservator of Forests Northern Forest Region- II for constitution of committee vide Conservator of Forest Watershed letter No.1049/E-F dated 7.9.2011.

The Chief Conservator of Forests Northern Forest Region II vide letter No1987/E date: 1 21.9.2016, directed CF Watershed for constitution of committee on circle level.

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Attested

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 Divisional Forest Officer
 Daur Watershed Division
 Abbottabad

Attested

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 DIVISIONAL FOREST OFFICER
 DAUR WATERSHED DIVISION,
 ABBOTTABAD.

Resultantly Conservator of Forest Watershed Circle Abbottabad vide his Office Order No.6 dated 30.9.2016 constituted an Enquiry Committee comprising on following:

- 1) Mr. Saqibera Ahmed Malik DFO, Unhar Watershed
- 2) Mr. Rizwan Ahmed Kazmi DFO Kohistan Watershed Besham

The Enquiry Committee recommended the following findings

- 1) That Mr. Muhammad Ajmal Ex-Junior Clerk of Forest Department did not comply with the Office Order No. 34 dated 06.10.2005 issued by Ghazi Majid the then Chief Conservator of Forests (NWFP) Khyber Pakhtunkhwa and remained absent from service for which he was employed to discharge further in the office of DCO Kohistan from 06.10.2005 till 24.08.2016 when re-instated by Service Tribunal Peshawar for the purpose of enquiry only
- 2) As accused cannot claim his right of service by non-compliance of orders remaining absent for a very long period of time and rendering himself liable of imposition of condition of non-employment as quoted in the Office Order No.34 dated 06.10.2005 by CCF.
- 3) The accused official has grown old and feeble, attributed his non-compliance to his Psycho-traumatic sickness, and owns a family to support being the only earning head, prayed for mercy on humanitarian grounds, which creates a small slot of some minor relief on humanitarian grounds, if deemed appropriate by the competent forum.

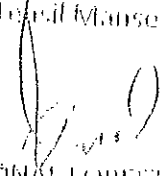
The undersigned fully agree with Para No 1&2 the findings of Enquiry committee and order issued by the then CCF (NWFP) KPK No.34 dated 10.6.2005. Being Head of department his order is final; hence the services of Mr. Muhammad Ajmal Junior Clerk are stand dismissed due to non-compliance of Order, issued by Superior authority

Sd/
(ABJULLAH KHAN)
Divisional Forest Officer
Duar Watershed Division
Abbottabad

No. 731

Copy forwarded to:

- 1) Conservator of Forests Watershed Management Circle Abbottabad for favour of information with reference to his letter No. 1885/LF Dated 27.10.2017.
- 2) Mr. Muhammad Ajmal Ex-Junior Clerk S/O Ghulam Sarwar of Sheen Bagh Post Office Batta Tehsil Mansehra for information.


DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION
ABBOTTABAD


DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION
ABBOTTABAD

Attested

Attested

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Execution Petition No. 440 /2019

Muhammad Ajmal son of Ghulam Sarwar, village Sheemu Bagh Tarlai, Baffa
District Mansehra.....(Petitioner)

VERSUS

1. The Secretary Environment Khyber Pakhtunkhwa, Peshawar.
2. The Chief Conservator of Forests, Region-II, Abbottabad.
3. The Conservator of Forests, Watershed Management Circle, Abbottabad.
4. The Deputy Commissioner (erstwhile DCO) Kohistan..... (Respondents)

EXECUTION PETITION FOR IMPLEMENTATION OF JUDGMENT DATED 24.08.2016
PASSED BY THIS TRIBUNAL IN SERVICE APPEAL NO. 162/2013.

RESPECTFULLY SHEWETH

1. That the petitioner was initially appointed as Junior Clerk-cum-Computer Operator in BPS-05 on 27.06.1993.
2. That due to devolution policy of the Government, the petitioner became surplus and later on vide order dated 11.07.2005 transferred and posted at Agror Renewal Forest Division Mansehra. Subsequently vide order dated 06.10.2005 his services were placed at the disposal of DCO Kohistan.

M. A. J.
DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION
ABBOTTABAD

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- 3. That the petitioner preferred service appeal No. 162/2013 for his adjustment and payment of salaries.
- 4. That the Honourable Tribunal vide judgment dated 24.08.2016 ordered a denovo enquiry to be conducted in the matter within two months but till date neither denovo enquiry has been conducted nor reinstated into service.

It is, therefore, requested that the respondents may very graciously be directed to implement the judgment of this Tribunal in letter and spirit and the appellant be reinstated into service with all back benefits as they failed to conduct denovo proceedings within the stipulated period of sixty days despite lapse of more than three years time.



(MUHAMMAD AJMAL)
PETITIONER

AFFIDAVIT

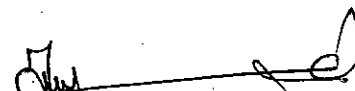
I, Muhammad Ajmal son of Ghulam Sarwar, do hereby solemnly affirm and declare that the contents of the execution petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

ATTESTED




DEPONENT

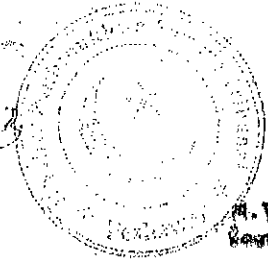
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DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION
ABBOTTABAD

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

(5)

APPEAL NO. 162 /2012



Mohammad Ajmal
S/O Ghulam Sarwar,
Vill: Sheen Bagh Tarlai,
Baffa Mansehra.....

A. W. J. Engr
Kashmiri
No. 152
Date 31-12

Appellant.

VERSUS

- 1- The Secretary Environment, KPk Peshawar.
- 2- The Chief Conservator of Forests region-II, Abbottabad.
- 3- The Conservator of Forests, watershed management Circle Abbottabad.
- 4- The DCo Kohistan.

.....Respondents

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED. 30.11.2012 WHEREBY APPEAL FOR ADJUSTMENT AND PAYMENT OF SALARIES HAS BEEN REJECTED FOR NO GOOD GROUNDS.

Filed in-Case
[Signature]
3/12/12
PRAYER:

That on acceptance of this appeal the order dated. 30.11.2012 may be set-aside and the respondents may be directed to adjust the appellant with all salaries arrears and consequential relief being still in service. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

Co-submitted to-
and filed.

[Signature]
3/11/13

ATTESTED

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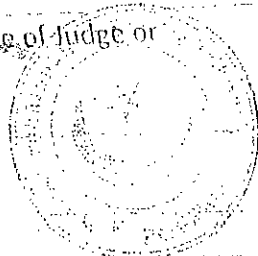
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[Signature]
DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION
ABBOTTABAD

Date of
order/
proceedings
2

Order or other proceedings with signature of Judge or
Magistrate

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BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Appeal No. 162/2013

Mr. Muhammad Ajmal Versus Secretary, Government of
Khyber Pakhtunkhwa Environment Department Peshawar
and 3 others.

JUDGMENT

24.08.2016

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

Appellant with counsel and Mr. Ziaullah, Government
Pleader alongwith Mr. Sattar Muhammad, Assistant for
respondents present.

2. Muhammad Ajmal S/O Ghulam Sarwar hereinafter
referred to as the appellant has preferred the instant service
appeal under Section 4 of the Khyber Pakhtunkhwa Service
Tribunal Act, 1974 against order dated 30.11.2012 vide which
his appeal for adjustment and payment of salary was rejected.

3. Brief facts giving rise to the present appeal are that the
appellant was appointed as Junior Clerk-cum-Computer
Operator in BPS-05 vide order dated 27.6.1993. That he
alongwith other officials was declared surplus and, lateron, vide
order dated 11.07.2005 he was transferred and posted at Agror-
Tanawal Forest Division, Manshra and vide office order dated
06.10.2005 his services were placed at the disposal of DCO.

ATTESTED

SECRETARY
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR

Attested

[Signature]
DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION
BAGHOTTAZAD

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Kohistan. The appellant did not join his duty for one reason or the other and, afterward, his departmental appeal was rejected vide order dated 30.11.2012 and hence the instant service appeal on 31.12.2012.

4. Learned counsel for the appellant has argued that the appellant is entitled to adjustment and receiving salary as a civil servant and that withholding of his salary and denial of posting/adjustment of the appellant is against facts and law. That the appellant is willing to serve but the respondents are not inclined to adjust him.

5. Learned Government Pleader has argued that the appellant was adjusted by placing his services as Junior Clerk alongwith others at the disposal of DCO Kohistan vide order dated 06.10.2005 but he did not join his duty. That a condition to the said adjustment order was attached and due to non-compliance of the said order services of the appellant and others stood terminated.

6. We have heard arguments of learned counsel for the parties and perused the record.

7. A careful perusal of office order No. 34 dated Peshawar the 6th October, 2005 issued by the Chief Conservator of Forests would suggest that appellant and similarly placed employees, 13 in numbers, were to report for duty to the DCO Kohistan at

RECEIVED
14/12/2012
OFFICE OF THE
CHIEF EXECUTIVE
OFFICER
DUAR WATERSHED DIVISION
PESHAWAR

Attested

[Signature]
DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION
PESHAWAR

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whose disposal their services were placed for further adjustment against various vacancies. The following note was added to the said office order which is reproduced herein for facilitation:-

Note:

All Junior Clerks are hereby informed that non-compliance of this order may result into their non-employment by Govt. for which Forest Department will not be responsible.

The stance of the respondents is that on the strength of this note the appellant is no longer a civil servant and therefore not entitled to any pay or other services.

8. It is not disputed before us that the appellant has not reported for duty for his further adjustment by the DCO Kohistan against a vacancy as required vide office order dated 06.10.2005 referred to above. According to record placed before us the appellant has submitted an application dated 11.12.2011 stating therein that he may be adjusted by reinstating him in service. According to our view the condition attached to the office order dated 06.10.2005 may not ipso-facto operate as an order of termination from service. According to the record of the case appellant has not reported for duty. Reason for non-compliance with the order are neither probed nor available on record. We are also not in a position to observe, on the basis of available record, that the appellant is entitled to be treated as a

TESTED
[Signature]
Assistant
Commissioner

Attested

[Signature]
DIVISIONAL FOREST OFFICER
DUAR WATER SHED DIVISION
BOTTABAD

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civil servant at surplus pool and would therefore be entitled to service benefits.

9 In the afore-stated circumstances, we are therefore of the humble view that a proper enquiry shall be conducted in the matter by affording opportunity of hearing to the appellant in the manners prescribed by rules which shall conclude within a period of 2 months from the date of receipt of judgment of the Tribunal. The appellant is reinstated in service for the purpose of enquiry however, the question of service and back benefits shall be subject to outcome of such enquiry. Parties are left to bear their own costs. File be consigned to the record room.

Announced
24.08.2016

Sd/- M. Azim Khan Afzali,
Chairman

Sd/- M. Amir Noor,
Member

Original copy
10/10/2016

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30-08-2016

[Signature]
DIVISIONAL FOREST OFFICER
DUAR WATERSHED DIVISION
ABBOTABAD

DBAM No. _____

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S.No _____

26752

BC No. _____

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Fee Rs. 100/-

Name of Advocate _____

بار محمد رفیق



2019-20

General Secretary
District Bar Association
Mansehra

وکالت نامہ

بعدالت: صاحب سروس ٹریڈ ہونٹل سیٹاد کیمپ کورٹ ایسٹ، کراچی

عنوان: محمد اہمل نام: فارسٹ و جڈ

منجاب: مسائنل (مدنی) نوعیت مقدمہ: Executions

(440/19)

باعث تحریر آنکھ

دریں مقدمہ عنوان بالا میں اپنی طرف سے برائے پیروی و جواب دہی بمقام ایسٹ ایبڈ کے لئے
ذوالفقار تنوی، بار محمد رفیق، حاجی کجریا محمد شمس علی ایبڈ کراچی
کو بدیں شرائط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے
جانے وکیل موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ
میرے خلاف ہو گیا تو وکیل موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل موصوف صدر مقام کچہری کے علاوہ
کسی اور جگہ کچہری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ کچہری کے علاوہ
کسی اور جگہ سماعت ہوا یا کچہری کے اوقات کے آگے چھپے سماعت ہونے پر مظہر کو کوئی نقصان پہنچے تو وکیل موصوف ذمہ دار
نہ ہوں گے اور وکیل موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست
بیان حلفی و تصدیق کرنے اور اسپر دستخط کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور قسم کاروبیہ وصول
کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپرد ثالثی و راضی نامہ و دستبرداری و اقبال دعویٰ کا اختیار بھی ہوگا
بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناع یا فیصلہ قبل از ڈگری اجراء ڈگری بھی وکیل موصوف
کر بشرط ادائیگی علیحدہ محتسب ادا کرنے کا مجاز ہوگا اور بصورت ضرورت بدوراں مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا ایئر سٹر کو
بجائے خود یا اپنے ہمراہ مقرر کریں اور مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے وکیل موصوف کو
اور اگر پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو وکیل موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت
میں میرا مطالبہ وکیل موصوف کے برخلاف نہیں ہوگا مجھے کل ساختہ پرداخت وکیل موصوف مثل ذات خود منظور و قبول ہوگا۔
لہذا وکالت نامہ لکھ دیا ہے اور دستخط/انگوٹھا ثبت کر دیا ہے تاکہ سند رہے۔ مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے۔

16-02-21 مورخہ

ACCEPTED

ذوالفقار تنوی
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