

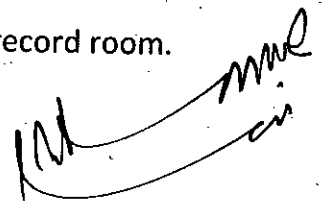
04.04.2018

Petitioner with counsel and Mr. Usman Ghani, District Attorney alongwith Mr. Hamayun Khan, SDFO for the respondents present. Wakalatnama in favour of Mr. ImdadUllah and Mr. Aziz-ur-Rehman, Advocate submitted. The departmental representative informed that the pay of the petitioner has been released by the department to his account on 29.03.2018.

The present execution petition is, therefore, disposed of as duly executed. The petitioner is, however, at liberty to file another petition, if he feels that the judgment has not been complied with. File be consigned to the record room.



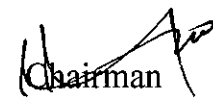
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04.04.2018


~~Chairman~~
Chairman
Camp Court, Swat



FORM OF ORDER SHEET

Execution Petition No. 36/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	07.02.2018	<p>The Execution Petition of Mr. Habib Ullah Khan submitted to-day 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</p>
2-	8-2-18	<p>This Execution Petition be put up before Touring S. Bench at Swat on <u>08-03-18</u></p> <p style="text-align: right;"> CHAIRMAN</p>
08.03.2018		<p>Petitioner in person present. Notices be issued to the respondents. To come up for implementation report on 4.4.2018 before S.B at camp court, Swat.</p> <p style="text-align: right;"> Chairman Camp court, Swat</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 36 /2018
In
Service Appeal No. 336/2017

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 138

Dated 07/02/2018

Mr. Habibullah Khan Forest Guard, Matta Forest Sub Division,
District Swat. ...

(Petitioner)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Forest, Environment and Wild Life Department, Peshawar.
2. The Chief Conservator of Forests, Malakand Forest Division Region-III, Saidu Sharif Swat.
3. The Conservator of Forests, Malakand Circle East, Saidu Sharif, Swat.
4. The Divisional Forest Officer, Swat Forest Division, Mingora Swat.
5. The Sub Divisional Forest Officer, Matta Sub Division, Swat.

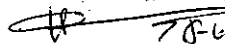
EXECUTION PETITION FOR PROPER IMPLEMENTATION
OF JUDGMENT DATED 04.12.2017 IN SERVICE APPEAL
NO. 336/2017.

RESPECTFULLY SHEWETH

1. That the petitioner was dismissed from service on 26.01.2017 against which he filed service appeal No. 336/2017 before this Honourable Tribunal.
2. That vide judgment dated 04.12.2017, this Tribunal accepted the appeal and the petitioner was reinstated in service, however the department was at liberty to hold denovo proceedings in accordance with the law and rules. The issue of back benefits should also be subject to the final outcome of the denovo proceedings. (Annexure-A).

- 2
3. That vide order dated 08.12.2017, the appellant has been reinstated in service with immediate effect. (Annexure-B).
 4. That the petitioner has not been paid current salary w.e.f. 08.12.2017 till date despite his reinstatement in service.
 6. That a period of more than two months elapsed but the departmental proceedings have not been conducted and concluded and under the law the petitioner is also entitled to back benefits.

It is, therefore, requested that the respondents may very kindly be directed to pay the petitioner salary for the period from his reinstatement in service i.e. 08.12.2017 as well as back benefits w.e.f. 26.01.2017 and oblige.

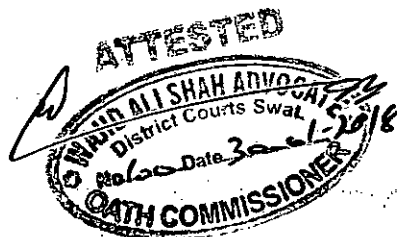


(HABIBUR RAHMAN)

Petitioner

AFFIDAVIT

I Habibur Rahman, Forest Guard, Matta Forest Sub Division, Swat 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 Hon'ble Tribunal.




DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT



Service Appeal No. 336/2017

Date of Institution... 12.04.2017

Date of decision... 04.12.2017

Habibullah Khan Ex-Forest Guard, Incharge Lalku C. No. 31 to 46, Tehsil Matta, District Swat. ... (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary Forest, Environment and Wild Life Peshawar and 4 others. ... (Respondents)

MR. IMDADULLAH,
Advocate

... For appellant.

MIAN AMIR QADAR,
District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUGHAL,

... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall also dispose of service appeals No. 337/2017 of Hayat Muhammad and No. 338/2017 of Shah Kamin Khan as in all the appeals common questions of law and facts are involved.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The appellants were dismissed on 26.01.2017 against which they filed departmental appeals on 06.02.2017 which were rejected on 29.03.2017 and

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CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal
Camp Court, Swat

thereafter they filed the present service appeals on 12.04.2017. The charges against the appellants were 5 in number which include creation of criminal obstruction in the process of checking of their beats, misbehavior with superior officers, covering of illicit damage, non compliance with the orders of the superiors and damage caused to the forests.

ARGUMENTS

4. The learned counsel for the appellants argued that the authority issued show cause notices to the appellants on 20.12.2016 mentioning five charges against the appellants which were duly replied to by the appellants. That many factual controversies are involved in the charges. That there is no mention of any reason for dispensing with the regular enquiry. That no personal hearing was afforded to the appellants. That one of the fact finding enquiry which was made the basis for initiation of departmental proceedings was carried out by the authority himself.

5. That in the appeal of Shah Kameen Khan, he attained superannuation on 12.01.2017 but the impugned order was passed 14 days after his superannuation which is an illegal act. That the appellant Shah Kameen Khan was awarded two major punishments retrospectively which is void order.

6. On the other hand, the learned District Attorney argued that the authority has rightly proceeded against the appellants under Rule 7 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. That there was sufficient record against the appellants. That the appellants were afforded personal hearing.

That all codal formalities were fulfilled.

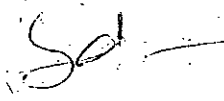
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 DISTRICT ATTORNEY
 PAKHTUNKHWA
 DISTRICT COURT, PESHAWAR


2017

9. In view of the above discussion, this Tribunal reaches the conclusion that the authority has not acted in accordance with the law and all the three appeals are therefore, accepted and appellants Habibullah and Hayat Muhammad are reinstated in service. The authority is however, at liberty to hold denovo proceedings in accordance with the rules and law as per observations mentioned above. The issue of back benefits of both the appellants shall be subject to the final outcome of the denovo proceedings.

10. Since Shah Kameen, appellant has attained superannuation and no further proceedings could be initiated against him and it has also been held above that the order against him is a void order, therefore, the same order is set aside and the penalties imposed on Shah Kameen Khan appellant are set aside. He shall also be entitled for the back benefits.

11. Parties are left to bear their own costs. File be consigned to the record room.

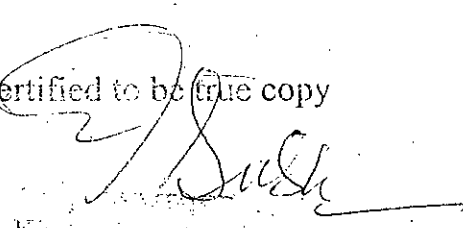

(Muhammad Hamid Mughal)
Member


(Niaz Muhammad Khan)
Chairman
Camp Court, Swat

ANNOUNCED

04.12.2017

Certified to be true copy


Niaz Muhammad Khan
Chairman
Camp Court, Swat

Date of Presentation of Application: 5-12-17
Number of Appeals: 1000
Cost: 10-00
12-00
12-00
5-12-17
5-12-17

OFFICE ORDER NO. 52 DATED MINGORA THE: 08/12/2017 ISSUED BY MR. SHAH HUSSAIN DIVISIONAL FOREST OFFICER SWAT FOREST DIVISION MINGORA SWAT.

Consequent upon decision announced on 04.12.2017 by Khyber Pakhtunkhwa Services Tribunal Camp Court Swat, M/S Habibullah Khan and Hayat Muhammad Forest Guards are hereby re-instated in service and attached with SDFO Matta Forest Sub Division in the best interest of public service with immediate effect till further order.

Sd/-
(Shah Hussain)
Divisional Forest Officer
Swat Forest Divn: Mingora

No. 2542-45
/E,

Copy forwarded to the:

1. Conservator of Forests, Malakand Forest Circle East Saidu Sharif for favour information, please.
2. SDFO Matta for information and necessary action.
3. M/S. Habibullah Khan and Hayat Muhammad Forest Guards C/O SDFO Matta for information and necessary action.
4. Head Clerk/Accountant for information and necessary action.


Divisional Forest Officer
Swat Forest Divn: Mingora

جامعہ عربیہ اسلامیہ

صبا - عالی

تاریخ جمعہ بروز آدرس میں آئیوں کا

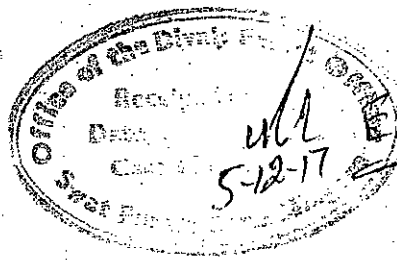
حوالہ 17-12-17 ای انصاف عربیہ اسلامیہ لکھنؤ
کرنالوں - آدرس میں آئیوں کا - اس کے علاوہ
دیگر امور ان کے لئے آدرس میں آئیوں کے بارے میں

تاریخ اہل انصاف

1. ڈپٹی سیکرٹری آف ایجوکیشن
2. چیف ایگزیکٹو آفیسر ایجوکیشن
3. کنٹرولنگ آفیسر ایجوکیشن

جسٹس ایجوکیشن
سیول سروس ڈیپارٹمنٹ

5-12-17



DPD
05-12-17
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