# FORM OF ORDER SHEET

Court of	· · · · · · · · · · · · · · · · · · ·	. ,
 Appeal No	1426/2	023

Appeal No. 1426/2023					
S.No.	Date of order proceedings	Order or other proceedings with signature of judge			
1	2	3			
1-	04/07/2023	The appeal of Mr. Basit Ali presented today by him.			
-		It is fixed for preliminary hearing before Single Bench at			
		Peshawar on .			
		By the order of Chairman  REGISTRAR			

## BEFORE THE KHYBERPUKHTOONKHWA SERVICE TRIBUNAL, **PESHAWAR**

Basit Ali s/o Israr Ullah , Mohallah Saidkhan , Karnal sher Kalay swabi. . Appeal No. 1426

Appellant

Vs

- 1. Divisional forest officer, Mardan Wildlife Division, Mardan.
- 2. Conservator wildlife central circle Peshawar.

Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL AGAINST ORDER 28.03.2023 AND SUBSEQUENTLY BY THE APPELLATE AUTHORITY DATED .05.06.2023, WHEREIN THE APPELLANT WAS AWAEDED MAJOR PENALTY OF REMOVAL FROM SERVICE.

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BASIT ALI S/O ISRAR ULLAH

MOHALLAH SAID KHANI, KARNAL SHER KALAY, SWABI.

CELL NO.03009860868

## BEFORE THE KHYBERPUKHTOONKHWA SERVICE TRIBUNAL, **PESHAWAR**

Basit Ali s/o Israr Ullah , Mohallah Saidkhan , Karnal sher Kalay, swabi. Appeal No. 1426/2023

Vs

- 1. Divisional forest officer, Mardan Wildlife Division, Mardan.
- 2. Conservator wildlife central circle Peshawar.

Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL AGAINST ORDER DATED 28.03.2023 AND SUBSEQUENTLY BY THE APPELLATE AUTHORITY DATED .05.06.2023, WHEREIN THE APPELLANT WAS AWAEDED MAJOR PENALTY OF REMOVAL FROM SERVICE.

Respectfully sheweth.

The appellant submits as under,

- 1. That the appellant was appointed as wildlife watcher (BPS-07) against the post existed regular post in Mardan Wildlife Division vide office order dated .21.10.2016, issued by the concerned Wildlife Officer Mardan, Wildlife Division Mardan, subject to terms and conditions therein. ( copy of appointment letter attached).
- 2. The appellant, after completion of probation period, attained excellence in performance of his duties and the department as well as the concerned judicial Magistrate awarded excellence certificates . (copies attached).
- 3. That in the month of December, 2022, the appellant encountered a domestic problem which was likely to aggravate in a spur of moment, and remaining of the appellant on the same station and post was volatile and exposed to imminent threats to life, therefore, the appellant was needed to move fast and leave the station in order to prevent the life threat forthwith

- 4. That the appellant submitted an application for leave dated 27.12.2022 to Divisional wildlife officer, Mardan Wildlife Division via swabi office, for the reasons mentioned therein,. The appellant was told that the application will be forwarded to the concerned authority for further necessary action. It is further stated that the application was not allotted any diary or register number number and the concerned R& D branch rather showed arrogance and mis behavior with the appellant especially swabi Divisional Officer officer Mr.Farhad Khan & Mubassir Ali wildlife Watcher, which caused him mental and physical shock.
- 5. That later on , the appellant tried to check the status of his leave application but he was told that it is under process and once it is appoved , the appellant will be informed.
- 6. That since the appellant was in imminent life threat, he had to move fast and leave the station, therefore, he was asked by the concerned wildlife Mardan Division to leave the station if need and the application will be allowed later on.
- 7. That on the assurance of the concerned authority, the appellant left the country 0n 11.01.2023. in order to avoid the imminent life threat.
- 8. That after the dispute resolution, the appellant came back from abroad and on 27.02.2023 the visited the Wildlife office. Mardan, wherein he was served a notice with caption, FINAL SHOW CAUSE NOTICE UNDER RULE -9KP E&D RULES 2011,dated 09/02/2023 with the direction to resume his duties within 15 days failing which major penalty will be imposed upon the appellant.
- 9. That since the due date in the said notice was passed, hence the appellant could not reply the same within time.
- 10. That the said notice was followed by removal from service order dated 28.03.2023, wherein the appellant awarded major penalty of removal from service without taking peculiar circumstances into consideration.

11. That feeling aggrieved, the appellant filed the departmental against the impugned order, which met the same fate of dismissal, hence the instant appeal on the following grounds interalia;

## GROUNDS;

- 1) That the impugned order dated 28.03.2023 and decision on the departmental appeal dated 05.06.2023 are illegal, unlawful and arbitrary in nature, prompted by colorful exercise of discretion.
- 2) That both the orders are against the law and facts and merit declaration as null and void in the eye of law.
- 3) That the appellant fulfilled the codl formalities for grant of ex-Pakistan leave, but the respondent willfully played with the career of the appellant which is not sustainable in any manner.
- 4) That the appellant as submitted, encountered a domestic imminent life threat which needed a decamping from the current duty station. The sane valuable right of life is protected under the constitution of Pakistan, 1973.
- 5) The said right of life cannot be put at stake under the conventions human rights.
- 6) The appellant was not provided an opportunity of fair hearing against the Article no.A of the constitution as a person cannot be condemned unheard.
- 7) That both the orders dated 28.03.2023 and 05.06.2023 were passed in a hasty and slipshod manners against the peculiar circumstances of the instant matter.
- 8) That no regular inquiry or personal hearing or any show cause notice was communicated to the appellant except one final show cause notice dated 09.02.2023which was served by the respondent in his office after the due date.



- 9) That the imposition of major penalty of removal from service with out inquiring into matter and complying with the codal formalities is very grave and brutal in nature and cannot be sustained.
- 10) That the appellant is a best performer, had been serving the department with excellence. The fact is determined by the department excellence certificates.
- 11) The appellant is the sole bread earner of his poor family and there is no source of income except this job.
- 12) That the appellant undertake to be careful in future and to this effect the appellant is ready to furnish surety to the satisfaction of this honorable tribunal.

## **PRAYER**

In the circumstances, it is humbly prayed that the orders dated 28.03.2023 and decision on departmental appeal may kindly be set aside in the peculiar circumstances of the case and the appellant be reinstated into service with back benefits in the interest of justice.

Appellant,
Basit Ali s/o Israr Ulla

Mohallah said khani, Village and post office karnal sher kalay, swabi. Cell no. 0300-9860868.

### Verification

Verified on oath on this 4th day of july, that the contents of this appeal petition are true and correct and nothing has been misstated or concealed.

Deponent

• 1



### DATED MARDAN THE 21 - 10 - 12016, OFFICE ORDER NO. ISSUED BY MR. SAJJAD ALI DIVISIONAL FOREST OFFICER MARDAN WILDLIFE DIVISION MARDAN.

Consequent upon the recommendations of Departmental Selection Committee (DSC) constituted vide this office order No. 20 dated 06-10-2016 under the rules 11 of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion, Transfer) Rules 1989. Mr. Basit Ali S/O Israr Ullah R/O Moh: Saeed Khani P/O & Village Karnal Sher Kali Swabi is hereby appointed as Wildlife Watcher (BPS-07) (Rs.9,220-510-24,520) per month against the existing regular post in Mardan Wildlife Division with immediate effect in the interest of public service.

The appointment is subject to the terms & conditions mentioned hereunder

### The terms & conditions:

1. He will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973, all the laws applicable to Civil Servant & the Rules made hereunder.

The probation period of the appointment is one year with effect from his arrival for duty.

3. In case of resignation the incumbent shall give one month notice in advance otherwise his pay equal to one month shall be forfeited towards government.

4. He will be governed by such rules, orders and instruction relating to pay, leave, T.A and medical attendance etc: applicable to government servants to the status equal to him.

5. The incumbent shall undergo the prescribed training course at Khyber Pakhtunkhwa Forest School at Thai Abbottabad on allotment of seats & nominations made for the said training otherwise he will be liable to removal from service on non-compliance of orders.

Production of medical certificate from Medical Superintendent DHQ Hospital Swabi/Mardan.

7. Character certificate from local police station.

(Sajjad Ali) Divisional Forest Officer Mardan Wildlife Division Mardán

No. 1043-47/WL (MR)

### Copy forwarded to the:

1. Chief Conservator Wildlife Khyber Pakhtunkhwa Peshawar.

Conservator Wildlife Southern Circle Peshawar.

Section Officer Estt: Govt of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department Peshawar.

Official Concerned.

5. Personal file of official concerned.

For favour of information & necessary action please.

Divisional Mardan Wildlife Division

Mardan



# OFFICE ORDER NO. 37 DATED MARDAN THE 26-/2-/2017, ISSUED BY MR. AMANULLAH DIVISIONAL FOREST OFFICER MARDAN WILDLIFE DIVISION MARDAN

On satisfactory completion of one year probationary period, after their appointment to the post of Wildlife Watcher (BPS-07), the probation of the following Wildlife Watchers (BPS-07) appointed vide Divisional Forest Officer Wildlife office order No.26, 33 and 44 dated 21/10/2016 are hereby terminated with effected from 21/10/2017 as per provision of Section 7(1) of the Khyber Pakhtunkhwa Civil Servant Act 1973, amended vide Government of Khyber Pakhtunkhwa, Establishment and Administration Department Notification No. SOR-VI (E&AD) 1-3/2009/Vol-VIII dated 16-02-2010 read with rule-15 of Khyber Pakhtunkhwa Civil Servant (Appointment, Econotion and Transfer) Rule 1989.

- 1. Mr. Inayat Úllah
- 2. Mr. Abid Ullah
- Mr. Bašit Ali بحر

(AmanUllah)
Divisional Forest Officer
Mardan Wildlife Division
Mardan

No. 219-21/ WI\_(MP)

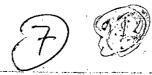
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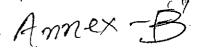
- 1. Sub Divisional Wildlife Officer Chota Lahor Sub Division.
- Official concerned.

for information and necessary action, please.

Divisional Forest Officer Mardan Wildlife Division

Mardan







# OFFICE OF THE DIVISIONAL FOREST OFFICER MARDAN WILDLIFE DIVISION MARDAN

Email: <u>dfowildlifemardan@gmail.com</u>
Phone No. 0937-841235
No. 423\_/WL (MR) Dated Mardan the 29 / 2022



## EXPERIENCE CERTIFICATE

It is certified that Mr. Basit Ali S/O Israr Ullah has served in Wildlife Department Government of Khyber Pakhtunkhwa (Mardan Wildlife Division) in capacity of Wildlife Watcher (BPS-07) from 21-10-2016 to date and has gained a lot of experience in Wildlife Activities. Besides, his Wildlife activities in field he also worked as Wildlife Prosecutor at Swabi Courts.

His performance during the entire period of his service rendered by him has remained very good and this office wishes him success in his future.

Mardan Wildlife Division

Mardan



## IN THE COURT OF AMIR ALI

Judicial Magistrate-I, Swabi

No. 507 JM,

Dated: 21.02.2022

## TO WHOM IT MAY CONCERN

It is certified that Mr. Basit s/o Israr Ullah bearing CNIC # 16204-0341625-9 Wild Life watcher BPS-07 is working as Muharrir/Special Public Prosecutor of Wild Life Department in the court of undersigned and representing Wild Life's cases from 2016 till to date. He is efficient, hardworking and knows the procedures.

Wish him best of luck.

Amir Ali / Judicial Magistrate-I, Swabi



IN THE COURT OF MUHAMMAD IRFAN,
JUDICIAL MAGISTRATE, SWABI

No. 85

JM,

Dated 28.02.2<sub>19</sub>

## To whom it may concern

It is certified that Mr. Basit s/o Israr Ullah bearing CNU # 16204-0341625-9 Wild Life watcher BPS-07 is working a a Muharrir/Special Public Prosecutor of Wild Life Department in he court of undersigned and representing Wild Life's cases from 2016till to date. He is efficient, hardworking and knows the procedures.

. Wish him best of luck.

Judicial Magistrate, Swabi 28/18

Muhamman Judicial Magistratus Swape فِيتَ فَ مَ اللَّهُ اللَّاللَّاللَّ اللَّاللّلْلِلللَّا اللَّهُ اللَّهُ اللَّهُ اللَّهُ اللَّهُ الللَّهُ اللّل flagted 2/2 BB still Emple -: fire - 201 11/1 8 20 8 of Jan 2013 of 11/1 10130 3 3° 2 29 8 Just 31' Just Union - 6/6/2 83 00c Se 35 / 1/1/ ) (1000 ) 1/105 / 1/23 y 3/10 / 1/23 y 3/10 / 1/23 y 3/10 / 1/23 fig 342 0/ - 10 300) 13 de la prévious de partires de partires de partires de la partire de l 300 8860868 (Just 2008) 27/12/22 200









## OTHER OF THE DIVISIONAL FOREST OFFICER MARDAN WILDLIFE DIVISION MARDAN

Email, drowildlitemand intermalicom

Phone No. 0507 841235 /WL (MR) Daigd Mardan the of



Τo

Mr. Basit Ali \$/O Israr Ullah

CNIC No. (16204-0341625-9)

R/O Mohallah Said Khani, PO & Village Kernal Sher Khan Kalli

District Swabi

Subject:

FINAL SHOWCAUSE NOTICE UNDER RULE-9 OF GOVERNMENT OF KHYBER PAKHTUNKHWA EFFICIENCY & DISCIPLINARY RULES 20:1 ON ACCOUNT OF WILDLIFE ABSENCE FROM OFFICIAL DUTY

As per report of your reporting office i.e. Sub Divisional Wildlife Officer Swabi vide 16 fetter No. 85/WL (SB) dated 31-01-2023, that Mr. Busit Ali Wildlife Watcher (BPS-07) remain absent from his official duty since 11-01-2023 without any prior permission. The Reporting Officer served various explanation/notices at your home address (Provided by you at the time of your joining the service) as Wildlife Watcher) and directed you to join your official duty but you failed to join the day Consequently as per report of Sub Divisional Wildlife Officer Swabi the undersigned also serve a notice vide this office letter No. 957/WL (MR) dated 01-92-2023 through register mail at your home address and direct you to join your duty in your own interest but you failed to join the duty.

Now being a competent authority you are hereby serve a final showcause notice under Rule-9 of the Khyber Pakhtunkhwe Efficiency & Disciplinary Rules 2011 and direct you to resume your duty in your own interest within 15 days.

In case of no response, ex-parte decision shall be taken against you on expiry or tin stipulated period under Rule-9, of the Khyber Pakhtunkhwa Efficier by & Disciplinary Rules 2011 major penalty of dismissal from service will be imposed upon you.

> Divisional Forest officer Mardan Wildlife Division Mardan

opy forwarded to the

Sub Divisional Wildlife Officer Swabi for favour of information vide his letter No. 85/WL (SB) dated 31-01-2023.

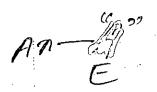
Divisional Accountant/Assistant stop his pay & allowances till finalizatio in: PASSEMENT CO

proceedings.

Divisional Forest officer Mardan Wildlife/Division Mardan At







### 104 DATED MARDAN THE 38/03 /2023 OFFICE ORDER NO.\_ ISSUED BY MR. MOHAMMAD AYAZ KHAN DIVISIONAL FOREST OFFICER MARDAN WILDLIFE DIVISION MARDAN

Mr. Basit Ali S/O Israr Ullah CNIC No. 16204-0341625-9 Resident of Said Khanay PO Kernal Sher Kalli District Swabi Wildlife Watcher (BPS-07) of Mardan Wildlife Division is hereby removed from service/Post of Wildlife Watcher (BPS-07) with effect from 11-01-2023 after completing proceedings in all respect under Section-9 and imposed major penalty under Section-4 (b)(iii) of the Efficiency & Disciplinary Rules, 2011 in the best interest of public.

His name is hereby deleted from the Seniority list of Wildlife Watchers of Mardan Wildlife Division with effect from 11-01-2023

> (Mohammad Ayaz Khan) Divisional Forest Officer Mardan Wildlife Division Mardan

No 12/14/3/6/WL (MR)

Copy forwarded to the:-

- Chief Conservator Wildlife Khyber Pakhtunkhwa, Peshawar
- Conservator Wildlife Central Circle, Peshawar
- Sub Divisional Wildlife Officers Swabi & Chota Lahor
- Range Officers Wildlife Mardan, Sakra & Topi.
- Mr. Basit Ali S/O Israr Ullah

Divisional Accountant. for favour of information, please

> Divisional Forest Officer Mardan Wildlife Division Mardan

Naual 1 /



Annex-1

The Conservator Wildlife Central Circle Peshawar.

Subject:

APPEAL FOR RE-INSTATEMENT IN SERVICE

Dear Sir,

It is submitted that I was appointed as Wildho Whiteher in Swatn we the start of North Control of North Cont Sub-Division of Mardan Wildlife Division on 2 -10 2016 and performed my duty honorably the prosperitors are The prosecution-cases duty was assigned to me which was properly handled/pertised and as a result almost and and as a result almost all the cases were decided in favor of the Government.

Due to some domestic problems, I sent application through SDWO Swabi for grant of 90 days earned leave on full pay with effect from 07-01-2023 to 05-07-2023 (Annov. Divisor programs). (Annex-I)was presumed that the leave might been sanctioned. I have availed the leave as per above availed that the leave might been sanctioned. as per above application. However, the leave application neither rejected nor sanctioned and instance of a production. and instead of considering the leave application, the DFO Wildlife Mardan has removed me from a minute. me from service vide order No. 104 dated 28-03-2023 (Annex-II).

I have submitted appeal for re-instatement in service to DFO VARING Mardan on 15-04-2023 (Annex-III) but could not yet considered, therefore I submit appeal to your good self for re-instatement in service with the request to consider my appeal and re-instate me in service as my removal from service is illegal with the reason that neither my leave application was rejected nor opportunity for personal hearing was given. The show cause notice etc. has also not been issued to me. The codal formalities as required funder E&D Rules, 2011 have not been fulfilled.

In view of the above, it is humbly requested to consider my appeal and re-instate me in service. The above period w.e.f. 11-01-2023 to the date of re-instatement may be treated as leave on full pay as I have already submitted application for grant of . 50 days earned leave w.e.f. 07-01-2023 to 06-07-2023 and accordingly availed.

I will be highly obliged and will pray to your good self for long life on considering my appeal favorable, please.

Your's faithful

Ex-Wildlife Watcher Swabi Wildlife Sub Division

Mardan Wildlife Division

Dated: 27-04-2023

No 399) MVL (CC)

- the 15 -- <u>\$Σ</u>--120.5 dated Peshawar

Copy alongwith its enclosures forwarded to DFO Wildlife Martian for information and submission of comments in the matter.

Wildlife Central Circle



## DATED PESHAWAR THE A) - 1 (-12023, ISSUED BY IFTIKHAR UZ ZAMAN, CONSERVATOR WILDLIFE CENTRAL CIRCLE, PESHAWAR

Under consideration is an appeal dated 27.04.2023proferred by Mr. Basit Ab. Ex-Wildlife Watcher of Mardan Wildlife Division against DFO Wildlife Mardan office order No. 104 dated 28-03-2023 for re-instatement in service

The appollant was serving as Wildlife Watcher (BPS-07) in Swabi Wildlife Brightlintory of the Capa; Sub-Division of Mardan Wildlife Division against a regular post. The undersigned received the above mentioned appeal wherein he has prayed for reinstatement in service by setting aside the said office order on the following grounds

1 That due to some domestic problems, he submitted an application through SDWO. Swabi for grant of 90 days earned leave on full pay welf

That he presumed that the requisite leave might have been sanctioned.

3 That instead of considering the leave application, DFO Wildlife Mardan removed him from service vide above mentioned office order.

4. That he preferred an appeal to DFO Wildlife Mardan on 15.04.2023 for roinstatement in service but could not yet considered.

5. That his leave application was neither rejected nor opportunity of personal hoaring was given to him by DFO Wildlife Mardan.

The appeal was sent to DFO Wildlife Mardan for his comments vide this office letter No. 3991/WE(CC) dated; 15.05.2023 whereupon he furnished his comments as under

1. That the appellant was granted 25 days Ex- Pakistan leave w.e.f 24.11.2022 to 18.12.2022 for performance of Umrah by him vide his office order No.59

2. That as per written report of the concerned Sub-Divisional Wildlife Officer dated.21.11.2022. Wildlife Swabi, the appellant submitted an arrival report upon expiry of the said leave and remained absent from his duty since 11-01-2023 without any prior

permission of the competent authority.

3. That in the meanwhile, the Sub-Divisional Officer Wildlife Swabi called several explanations from the appellant as well as tried to contact him personally through his cell phone several times but the cell phone of the appellant remained switched off and no reply to the explanations called from the appellant, was submitted to the Sub-Divisional Wildlife Officer Swabi.

4. That resultantly the Sub-Divisional Wildlife Officer Swabi submitted report to him (DFO Wildlife Mardan) regarding his (appellant) absence from Government duty and requested to take strict necessary action against the appellant under Khyber Pakhtunkhwa Government Servants Efficiency and Discipline Rules,

5. That he called for explanation of the appellant and mailed the same on his home address with the direction to resume his duty and submit his reply to the explanation regarding his willful absence vide his letter No. 957/WL(MR) dated 01-02-2023, but in vain, as no reply was received from the appellant.

6. That he then served a final show cause notice as provided under Rule-9 of the Khyber Pakhtunkhwa Government Servants Efficiency and Discipline Rules. 2011 to the appellant vide his letter No. 996/WL(MR) dated 09-02-2023 and mailed the same on his home address with the direction to resume his duty within 15 days but no response received from the appellant.

7. That on expiry of 15 days period as given in the final show cause notice, he floated an advertisement in the Daily Mashriq on 08-03-2023 wherein the appellant was directed to resume his duty within 15 days but this time too, no

reply received from the appellant within the stipulated period of 15 days.

8. That thereafter he(DFO Wildlife Mardan) after completing the proceedings in all respect as provided in Section-9 of the Khyber Pakhtunkhwa Government Servants Efficiency and Discipline Rules, 2011, the appellant was awarded major penalty of removal from service as provided in Section-4(b)(iii) of the said rules vide his office order No. 104 dated 28-03-2023.

9. That no correspondence has been made by the appellant and his (appellant) claim regarding submission of his leave application is completely baseless as no such application has been received by his (DRO Wildlife Mardan)office.





After seeking comments of DFO Wildlife Mardan, the appellant was called for personal hearing by the undersigned on 24.05.2023 at 10.00 Am in his office along with all relevant record /facts pertaining to his appeal to proceed further in the case vide this office letter No. 4012/WL (CC) dated: 20.05. 2023. The appellant was accordingly heard in person on said date. From his personal hearing it was revealed that the appellant remained abroad (Kyrgyzstan) during the period of his absence from duty. A questionnaire duly replied and signed by the appellant has also been obtained from him, in which he confessed that he could not submit his application to his SDWO directly and availed Ex-Pakistan visit without any approval.

## Conclusion and Decision:

After going through the appeal, comments of the concerned DFO Wildlife, discussion with the appellant during his personal hearing and all relevant record, it is clear that DFO Wildlife (Competent authority) has not received any application of the appellant for grant of leave w.e.f 11.01.2023 and that he remained abroad (Kyrgyzstan) during the period of his willful absence from duty without getting Ex-Pakistan leave and NOC from the competent authority as required under the relevant rules. Therefore, the undersigned in the capacity of "Appellate Authority" is convinced that there are no solid grounds to accept the appeal, hence the same is rejected being devoid of merit.

(Iftikhar uz Zaman) Conservator Wildlife Central Circle Peshawar

No. 4090 -92 ML (CC)

Copy forwarded for information to the:

- 1. Chief Conservator Wildlife Khyber Pakhtunkhwa Peshawar.
- 2. Divisional Forest Officers Wildlife Mardan.
- 3. Mr. Basit Ali, Ex-Wildlife Watcher of DFO Wildlife Mardan office.

Conservator Wildlife

Certral Circle

Peshawar