

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 597/2022

BEFORE: **MRS. RASHIDA BANO** ... **MEMBER (J)**
MISS FAREEHA PAUL ... **MEMBER (E)**

Muhammad Naveed, Mali (BPS-3), Pakistan Forest Institute, Peshawar.
..... (*Appellant*)

Versus

1. **Secretary, Forest, Environment and Wild Life Department, Peshawar.**
 2. **Director General, Pakistan Forest Institute, Peshawar.**
 3. **Chief Conservator, Pakistan Forest Institute, Peshawar.**
- (**Respondents**)

Mr. Abdur Rauf Khan Ghouri,
Advocate ... For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney ... For respondents

Date of Institution..... 26.01.2022
Date of Hearing..... 19.12.2023
Date of Decision..... 19.12.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the departmental order dated 28.12.2021 with the prayer as follows:-

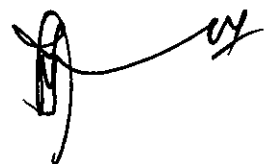
“on acceptance of the appeal, the impugned order dated 10.06.2021 of Secretary, PEW may kindly be set aside and the appellant be reinstated with all previous benefits in the best interest of justice.”



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Mali (BPS-3) at Pakistan Forest Institute on 22.01.2019. Due to some domestic and family issues, he had panic attacks and got severely ill and suffered from depression, for which he was treated in different hospitals by specialist doctors. While he was admitted for treatment, a show cause notice was issued by Director General, Pakistan Forest Institute on 28.03.2021 with many allegations. He was dismissed from service on 10.06.2021, against which his departmental appeal was also rejected on 28.12.2021; hence the instant service appeal.

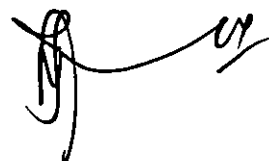
3. Respondents were put on notice. Respondents No. 1 & 2 submitted their joint written reply while respondent No. 3 was deleted from the panel of respondents vide order sheet dated 10.11.2022. We have heard the learned counsel for the appellant as well as the learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant was proceeded unjustifiably and without any ground reality. According to him, the appellant was neither served with charge sheet and statement of allegations nor show cause notice was served upon him. He further argued that codal formalities were not adopted nor absence notices were published in the daily newspapers and that the appellant was condemned unheard. He requested that the appeal might be accepted as prayed for.



5. Learned Deputy District Attorney, while rebutting the arguments presented by learned counsel for the appellant, argued that several complaints of the residents of PFI Colony were received against the appellant by the competent authority regarding his narcotics addiction, using ice and other dangerous drugs. He further argued that he was a habitual absentee and several explanations were called from him. He informed that previously his absence period was treated as leave without pay vide order dated 21.12.2020 but he did not mend his way. He further argued that before issuing the impugned order, show cause notice was served upon the appellant and his signature was also obtained. Learned DDA informed that the appellant used to wander in the colony where he was residing, heavily intoxicated, and when called for personal hearing, did not bother to appear before his competent authority and thus he was rightly dismissed from service. He requested to dismiss the appeal.

6. Arguments and record presented before us transpires that the appellant was appointed as Mali in the Pakistan Forest Institute, Peshawar in 2019 on deceased son quota. At the very outset learned Deputy District Attorney brought to the notice of the bench that one of the brothers of the appellant had already been appointed after the death of his father on deceased son quota, a fact which was revealed in 2021, and, therefore, under the rules, the appellant did not qualify for that appointment. Upon that, learned counsel for the appellant admitted that one of the brothers of the appellant had already been appointed on the deceased son quota. Record provided before us



further shows that the appellant remained absent from his lawful duty several times for which he was served with various explanations and at the end, a show cause notice was also served upon him, which was duly received by him, but he did not respond to it. The appellant has attached some documents with his appeal which indicate that he remained an indoor patient under treatment at a local hospital in Peshawar. The notes of doctor of that hospital show that before being treated there, the appellant remained under treatment at some other hospital also and spent 10-14 days there. When asked whether he had submitted any application for leave and got it sanctioned from his competent authority, learned counsel for the appellant admitted that no such application was submitted.

7. In view of the above discussion, we are of the view that the appellant was a civil servant, who, under the rules was obligated to get his leave sanctioned from his competent authority, which he failed to do. Moreover, his appointment on deceased son quota was also not as per rules as one of his brothers had already been appointed against that quota.

8. In view of the foregoing, the service appeal is dismissed being groundless. Cost shall follow the events. Consign.

9. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 19th day of December, 2023.


(FARLEHA PAUL)
Member (E)



(RASHIDA BANO)
Member (J)


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19th Dec. 2023 01. Mr. Abdur Rauf Khan Ghouri, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 04 pages, the service appeal is dismissed. Cost shall follow the events. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 19th day of December, 2023.*


(FARLEHA PAUL)
Member (F)


(RASHIDA BANO)
Member (J)

Fazal Subhan PS