

KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR
AT CAMP COURT, ABBOTTABAD

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**
SALAH UD DIN ... **MEMBER(Judicial)**

Service Appeal No.1126/2016

Date of presentation of Appeal.....21.10.2016
Date of Hearing.....27.02.2024
Date of Decision.....27.02.2024

Muhammad Shakeel, Divisional Forest Officer, Battagram Wildlife Division, Battagram.....*Appellant*

Versus

1. **Government of Khyber Pakhtunkhwa**, Forestry, Environment & Wildlife Department through Secretary Forest, Peshawar.
2. **Conservator Wildlife Forest Offices Complex**, Shami Road, Peshawar.
3. **Chief Conservator**, Wildlife Forest Offices, Complex Shami Road, Peshawar.....(*Respondents*)


Present:

Mr. Muhammad Arshad Khan Tanoli, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney ..For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER OF RESPONDENT NO.1 DATED 21.09.2016, WHEREBY, THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST ORDER/ADVERSE REMARKS OF THE CONSERVATOR DATED 22.03.2016 ENDORSED BY CHIEF CONSERVATOR WAS REJECTED AND ORDER/REMARKS DATED 22.03.2016 WAS UPHELD.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: The appellant's case in brief is that adverse remarks were communicated to him which were recorded in his Performance Evaluation Report (PER) for the period from 01.01.2015 to 27.08.2015.



2. Feeling aggrieved, he filed departmental appeal for expunction of the impugned adverse remarks but his appeal was rejected, hence, the present service appeal.
3. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.
4. We have heard learned counsel for the appellant and learned Deputy District Attorney for the respondents.
5. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).
6. Perusal of record shows that appellant was serving as Divisional Forest Officer. While performing his duties, he was warned regarding his performance of duties as well as his presence at duty station. The officers visited the construction site and issued instructions to the appellant that he should improve. The disputed remarks in the PER for the period from 01.01.2015 to 27.08.2015 vide order dated 22.03.2016 as under:

"PART-IV

1. *Mostly remained absent from duty station.*
2. *He is a submissive and apathetic officer and lacks the liability to control the things as expected from the other field officer. Such attitude and behavior often becomes*



problematic when the officer fails to perform his duties with devotion and commitment.

3. *Nothing un-fortunately."*

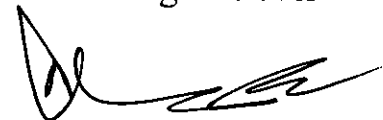
The explanation called from the appellant on 03.08.2015 is reproduced as under:

"It is assumed from your reply that you left your duty station before 13.07.2015 without seeking permission from the undersigned. Moreover, you did not bother to inform the undersigned on that day for sanctioning of leave.

However, keeping in view the urgency of your situation on 13.07.2015, you are directed to submit the relevant medical certificates/prescription of your uncle from Government hospital so that your absentee may be considered as a casual leave. Also, intimate this office the purpose of leaving your duty station."

The remarks, other than of absence, given in the impugned order are much different from the contents of explanations called from the appellant. The remarks in the PERs were that he was a submissive and apathetic officer and lacked the liability to control the things as expected from the other field officer. However, overall grading is recorded as average that might not affect further promotions of the appellant because average ACR is not considered as adverse.

7. We have given due consideration to the adverse observations in the light of relevant instructions and we find that some of them do not appear to have been strictly observed. It is provided in the Guidelines that reporting officer is expected to counsel the officer being reported upon about his weak points and advise him how to improve and that adverse remarks should ordinarily be recorded when the officer fails to improve despite counseling. In the present case, however, there is nothing to show that such proper counseling was ever



administered to the appellant. In view of the importance of this instruction, the Reporting Officer, or the Countersigning Officer should not only impart appropriate advice but also keep a record of such an advice having been duly administered.

8. For the reasons mentioned above, we are of the opinion that the adverse remarks in this case have been recorded in disregard of the relevant instructions. Therefore, on acceptance of this appeal, the adverse remarks recorded in the PER for the period from 01.01.2015 to 27.08.2015 are expunged. Consign.

9. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 27th day of February, 2024.*



KALIM ARSHAD KHAN
Chairman



SALAH UD DIN
Member (Judicial)

Mutazem Shah

ORDER

27th Feb, 2024

1. Learned counsel for the appellant and Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, on acceptance of this appeal, the adverse remarks recorded in the PER for the period from 01.01.2015 to 27.08.2015 are expunged. Consign.

3. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 27th day of February, 2024.*

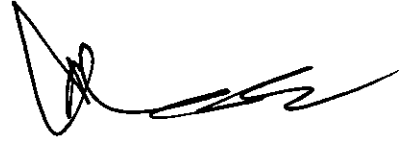


(Salah Ud Din)

Member (J)

Camp Court Abbottabad

Mutazem Shah



(Kalim Arshad Khan)

Chairman

Camp Court Abbottabad