


21.07.2017


Petitioner in person and Mr. Muhammad Bilal, DDA alongwith Mr. Aminul Islam, SDFO for the respondents present. No stay order of the august Supreme Court of Pakistan produced by the respondents. Respondents are directed to implement the order of this Court till next date or to produce the stay order of the august Supreme Court of Pakistan. Last chance is given. To come up for implementation report on 19.10.2017 before S.B. at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

19.10.2017

Petitioner in person and Mr. Muhammad Bilal, Deputy District Attorney alongwith Mr. Hasnain, SDFO for the respondents present. The representative of the respondents submitted order dated 18.10.2017 whereby the pay of the petitioner has been released. The petitioner is also satisfied.





In view of the above, the present petition is disposed of as duly executed. File be consigned to the record room.


Chairman
Camp court, A/Abad.

ANNOUNCED
19.10.2017

FORM OF ORDER SHEET

Execution Petition No. 230 /2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25.11.2016	<p>The Execution Petition of Mr. Muhammad Shabbir submitted to-day by post 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-	13-12-16	<p>This Execution Petition be put up before Touring S. Bench at A.Abad on <u>19-1-17</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	19.01.2017	<p>Petitioner in person present. Notices be issued to the respondents. To come up for implementation report on 20.04.2017 before S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Chairman Camp Court, A/Abad</p>
	20.04.2017	<p>Counsel for the petitioner and Mr. Aminul Islam, SDFQ along with Mr. Muhammad Siddique, Sr.GP for the respondents present. Judgment of the Tribunal has not been implemented. Representative of the respondents submitted before the court that judgment of this Tribunal has been challenged before the august Supreme Court of Pakistan. The respondents shall produce either produce stay order of the august Supreme Court of Pakistan or to implement judgment of the Tribunal. To come up for further proceedings on 21.07.2017 before S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Chairman Camp Court, Abbottabad.</p>

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Peshawar.

Execution Petition No. 230 /2016,

**Khyber Pakhtunkhwa
Service Tribunal**

In

Diary No. 1128

Service Appeal No. 1078/2014

Dated 25-11-16

Muhammad Shabbir son of Muhammad Saeed resident of Narbeer,
Jangian, Tehsil and District, Mansehra presently posted as Forest
Guard, SDFO Office, Mansehra. (Petitioner)

VERSUS

1. Secretary, Forests Department, Government of Khyber
Pakhtunkhwa, Peshawar.
 2. Conservator of Forests, Lower Hazara Forest Circle, Abbottabad.
 3. Divisional Forest Officer, Siran Forest Division, Mansehra.
- (Respondents)

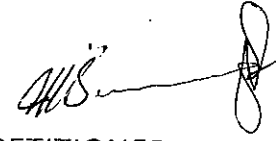
EXECUTION PETITION FOR IMPLEMENTATION OF JUDGMENT DATED
20.09.2016 IN SERVICE APPEAL NO. 1078/2014.

RESPECTFULLY SHEWETH

1. That the petitioner had been compulsorily retired from service vide order dated 10.01.2014 against which he preferred departmental appeal which was partially accepted vide order dated 08.05.2014, consequently appellant was reinstated into service however, intervening period since impugned order till his reinstatement from service was treated as extra-ordinary leave without pay.
2. That the petitioner has filed service appeal No. 1077/2014 which was accepted and the impugned order was modified to the extent that the extra-ordinary leave without pay was converted into leave of the kind due vide judgment dated 20.09.2016. (Copy of the judgment is attached as annexure-A).

3. That a period of more than 2 months elapsed but no action has been taken against the said judgment by the respondents despite the fact that the respondents have not obtained stay order from the august Supreme Court of Pakistan.

It is therefore, requested that on acceptance of the execution petition to implement the judgment in letter and spirit.



23/016

PETITIONER
Muhammad Shabbir

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTUN
KHWA PESHAWAR



Appeal no. 1078/2014

Muhammad Shabbir son of Muhammad Saeed resident of Narbeer, Janglan Tehsil and District Mansehra presently posted as Forest Guard, SDFO office Mansehra.

... APPELLANT

VERSUS

- 1). Secretary Forest, Government of Khyber Pakhtunkhwa Peshawar.
- 2). Conservator of Forest Lower Hazara Forest Circle Abbottabad.
- 3). Divisional Forest Officer Siran Forest Davison Mansehra.

...RESPONDENTS

=====

APPEAL UNDER SECTION 4 OF NWFP SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER # 42 OF RESPONDENT # 2 DATED 8/05/2014 WHEREBY THE INTERVENING PERIOD OF DEPARTMENTAL INQUIRY OF THE PETITIONERS i.e FROM THE ORDER OF COMPULSORY RETIREMENT OF PETITIONER PASSED BY RESPONDENT # 3 WAS ORDERD TO BE TREATED AS EXTRA ORDINARY LEAVE WITHOUT PAY IS WITHOUT ANY PLAUSABLE EXPLANATION ILLEGAL, VOID WITHOUT LAWFUL AUTHORITY, WITHOUT JURISDICTION AND SAME IS NOT TENABLE IN THE EYES OF LAW AND ARE LIABLE TO BE SET ASIDE.

PRAYER:- ON ACCEPTANCE OF INSTANT APPEAL THE ORDER OF RESPONDENT NO 2 MAY KINDLY BE SET ASIDE WITH REGARD TO HOLDING THE INTERVENING PERIOD OF DEPARTMENTAL INQUIRY AS LEAVE WITHOUT PAY BE SET ASIDE AND ANY FURTHER PROCEEDINGS IN CONSEQUENCE OF IMPUGNED ORDER MAY ALSO BE SET ASIDE BEING UNLAWFUL AND AGAINST THE SETTLED NORMS OF JUSTICE.

Respectfully Sheweth; -

The facts giving rise to the instant appeal are arrayed as under :-

FACTS

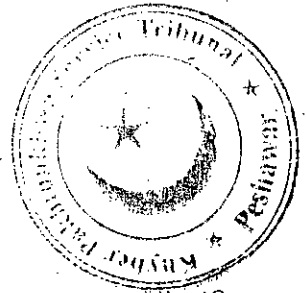
- 1). On 21/ 11/ 2013, DFO Siran Forest Division along with conservator of Forests Lower Hazara Forest Circle Abbottabad checked Forest and inspected Massar RFC- 8(i), (ii) & (iii) and found two number of cheer trees freshly cut on spot while many other trees were also noticed damaged.

Submitted to -
led.

9/6/14

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



Appeal No: 1078/2014
M. Shabbir vs Govt

20.09.2016

Appellant with counsel and Mr. Muhammad Siddique,
Senior Government Pleader alongwith Mr. Muhammad
Pervaiz, Range Officer for the respondents present. Arguments
heard. Record perused.

Vide our detailed judgment of to-day placed in
connected service appeal No. 1077/2014, titled "Noor Zaman
Versus Secretary Forest, Government of Khyber Pakhtunkhwa,
Peshawar and 2 others", this appeal is also accepted as per
detailed judgment. Parties are left to bear their own costs.
File be consigned to the record room.

Announced

20.09.2016


Self
Member

Self
Chairman
Camp Court
A/Asst

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation	10-10-16
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Date of Completion of Copy	10-10-16
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Date of Order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2
20.09.2016	<div data-bbox="1112 264 1404 541" style="text-align: right;">  </div> <p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>CAMP COURT ABBOTTABAD</u></p> <p>1. Appeal No. 1077/2014, Noor Zaman and 2. Appeal No: 1078/2014 Muhammad Shabbir Versus Secretary Forest, Government of Khyber Pakhtunkhwa, Peshawar and 2 others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Appellants with counsel and Mr. Muhammad Siddique, Senior Government Pleader alongwith Mr. Muhammad Pervaiz, Range Officer for respondents present.</p> <p>2. This judgment shall dispose of service appeal No. 1077/2014 titled "Noor Zaman Versus Secretary Forest, Government of Khyber Pakhtunkhwa, Peshawar and 2 others" and service appeal No. 1078/2014, titled "Muhammad Shabbir Versus Secretary Forest, Government of Khyber Pakhtunkhwa, Peshawar and 2 others". as identical questions of law and facts are involved in both the appeals.</p> <p>3. Brief facts of the case of the appellants are that the appellants were serving as Forest Guards when subjected to enquiry and subsequently compulsorily retired from service with immediate effect vide order dated 10.1.2014. Aggrieved with the same appellants preferred departmental appeals which were accepted vide order dated</p>

ATTESTED

(EX AMINE)
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

08.5.2014 and, consequently, appellants were reinstated in service however intervening period since impugned order till their reinstatement were treated as extra-ordinary leave without pay.

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

5. It is not disputed before us that appellant Muhammad Shabbir is still serving and is now serving as Forester while appellant Noor Zaman stood retired from service on attaining the age of superannuation. It was not disputed before us that both the appellants have earned to their credits leaves including earned leave as they have put in considerable service. We are therefore inclined to accept the instant appeal and modify the impugned order dated 08.05.2014 to the extent that the extra-ordinary leave without pay shall stand converted into leave of the kind due. The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

Announced

20-09-2016

sdf

(Muhammad Azim Khan Afridi)
Chairman

sdf

(Muhammad Amir Nazir)
Member

Certified to be true copy
Muhammad Amir Nazir
Member

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