


FORM OF ORDER SHEET

Court of _____

Appeal No. 587/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/04/2024	<p>The appeal of Mr. Shahzad Khan resubmitted today by Mr. Furqan Ahmad Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 24.04.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Shahzad Khan received today i.e on 17.04.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- ✓ Check list attached with the appeal is blank.
- 2- ✓ Annexures of the appeal are unattested.
- 3- ✓ Appeal has not been flagged/marked with annexures marks.
- 4- ✓ Page no. 22 & 23 of the appeal are illegible.
- 5- ✓ Address of the appellant is incomplete be completed according to rule 6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974.

No. 800 /S.T,

Dt. 18/04 /2024.


18/4/24
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Furqan Ahmad Adv.
High Court Peshawar.

Resubmitted
22-4-24

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 587 /2024

Shahzad Khan.....Appellant

VERSUS

Director Institutional and Human Resource
Development & Management, Forest Department,
Peshawar and othersRespondents


I N D E X

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Dated:

Appellant

Through


Furqan Ahmad
Advocate High Court

- 1 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 587 /2024

Shahzad Khan S/o Amar Khan
R/o Mohallah Ghari Jabbar Khan, P.O Pabbi
Dag Baisud, Nowshera.

.....Appellant

VERSUS

1. Director Institutional and Human Resource Development & Management, Forest Department, Peshawar Khyber Pakhtunkhwa.
2. Chief Conservator of Forest, Central Southern Forest Region-I, Khyber Pakhtunkhwa, Peshawar.
3. Secretary Institutional and Human Resource Development & Management, Forest Department, Peshawar Khyber Pakhtunkhwa.

....Respondents

SERVICE APPEAL U/S 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 AGAINST OFFICE ORDER
NO.33/ I&HRD&M/ EATT; DATED
11.09.2023 (PARTIALLY IMPUGNED TO
THE EXTENT OF "CONSIDERING PERIOD
FROM 30.04.2021 TO 11.09.2023 AS LEAVE
WITHOUT PAY) AND ORDER DATED
03.04.2024.

Respectfully Sheweth:

Appellant humbly submits as under:-

- 1) That appellant was primarily inducted on work charge basis and was then regularized vide Director I&HRD&M Office Order No. 24, dated 02.05.2019, wherein, appellant be on probation for a period of one year, extendible for further one Year in accordance with Section 6 (2) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 and with Rule 15 (i) of the Khyber Pakhtunkhwa Civil Servants Appointment, Promotion and Transfer (APT) Rules 1989]
- 2) That appellant was expelled from service by the Director I&HRD&M vide Office Order No. 12, dated 30.04.2021 for being willfully absent from duty on 14 April, 2021.
- 3) That feeling aggrieved, the appellant moved a computerized application bearing No.Nil, dated Nil to the worthy office of the Chief Conservator of Forests, Central Forest Region-I, Peshawar for favour of consideration to restore his service, but the same was turned down vide the good office of the Chief Conservator of Forests, Central Forest Region-I, Peshawar vide letter No. 432, dated; 09.08.2021. Hence, later on, the appellant instituted a Service Appeal Case bearing No. 7882/2021, in the Services Tribunal, Peshawar, which was decided in his favour with the directions as follows:
 - i. To reinstate the Services of the Appellant &
 - ii. To conducted proper enquiry.

- 4) That after conducting inquiry, appellant was also reinstated with immediate effect in the light of recommendation of Inquiry Committee vide office order dated 11.09.2023.
- 5) That through the same order, appellant was deprived of monetary benefits, while considering period from 30.04.2021 to 11.09.2023 as leave without pay.
- 6) That appellant preferred department appeal/ representation, which was dismissed vide order dated 30.04.2024. (Copy of Departmental appeal and order are attached)
- 7) That feeling aggrieved, appellant approaches this hon'ble Court on following grounds:-

GROUND.

- A. That admittedly, charges leveled against appellant were not proved. Therefore, he was reinstated into service, treating period from 30.04.2021 to 11.09.2023 as leave without pay amounts to punishing appellant for offence which he had not committed.
- B. That impugned orders (partially impugned) were passed without application of legal mind and dictums laid down by superior Courts of country.
- C. That depriving appellant from monetary benefits is arbitrary, illegal and without lawful authority.
- D. That respondents had not interpret the relevant rules correctly and fairly.
- E. That appellant was treated unheard while passing partially impugned order dated 11.09.2023.

PAYER

It is therefore, humbly prayed that on acceptance of this appeal, the respondents may graciously be directed to grant full pay w.e.f. 30.04.2021 to 11.09.2023 by modifying the impugned order dated 11.09.2023.

Any other relief which this hon'ble court deems appropriate in the circumstances of the case though not specifically asked for may kindly also be granted.

Dated:

15/11
Appellant

Through

Furqan
Furqan Ahmad
Advocate High Court

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.



17-4-2021

15/11
Deponent

- 5 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2024

Shahzad Khan.....Appellant

VERSUS

Director Institutional and Human Resource
Development & Management, Forest Department,
Peshawar and others Respondents

ADDRESSES OF PARTIES

APPELLANT

Shahzad Khan S/o Amar Khan
R/o Mohallah Ghari Jabbar Khan, P.O Pabbi
Dag Baisud, Nowshera.

RESPONDENTS

1. Director Institutional and Human Resource
Development & Management, Forest
Department, Peshawar Khyber Pakhtunkhwa.
2. Chief Conservator of Forest, Central Southern
Forest Region-I, Khyber Pakhtunkhwa,
Peshawar.
3. Secretary Institutional and Human Resource
Development & Management, Forest
Department, Peshawar Khyber Pakhtunkhwa.

Appellant

Through


Furqan Ahmad
Advocate High Court

- 5 -

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PUKHTUNKHWA, PESHAWAR

Service Appeal No _____/2024

Shahzad Khan.....(Appellant)

V E R S U S

Director Institutional and others


MEMO OF ADDRESSES

APPELLANT

Shahzad Khan S/O Amar Khan R/O Mohallah Ghari Jabbar Khan
P.O Pabbi Dagg Baisud, Nowshera

RESPONDENTS

1. Director Institutional and Human Resource Development &
Management Forest Department, HRD Office, Shami Road
Peshawar Khyber Pakhtunkhwa
2. Chief Conservator of Forest, Central Southern Forest Region-I,
HRD Office, Shami Road, Peshawar
3. Secretary Institutional and Human Resource Development &
Management, HRD Office Forest Department Shami Road,
Peshawar

Through: Appellant

(FURQAN AHMAD)
Advocate,
High Court, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**



Service Appeal No. 7882/2021

BEFORE: MR. SALAH-UD-DIN ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Mr. Shahzad Khan S/O Aman Khan, R/O Moh. Ghari Jabbar Khan P.O Pabbi Dag Baisud, District Nowshera. (Appellant)

Versus

1. The Director Institutional & Human Resource Development & Management, Forest Department, Khyber Pakhtunkhwa, Peshawar.
2. Chief Conservator of Forests, Central Southern Forest Region-1, Khyber Pakhtunkhwa, Peshawar.
3. Secretary Institutional & Human Resource Development & Management, Forest Department, Khyber Pakhtunkhwa, Peshawar. (Respondents)

Akhunzada Syed Pervez,
Advocate ... For appellant

Mr. Asad Ali Khan, ... For respondents
Assistant Advocate General

Date of Institution.....	07.12.2021
Date of Hearing.....	30.05.2023
Date of Decision.....	30.05.2023

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 order dated 30.04.2021 of respondent No. 1, whereby the appellant was terminated from service and against order dated 09.08.2021 of respondent No. 2, whereby the representation of the appellant was rejected. It has been prayed that on acceptance of the appeal, the impugned orders might

ATTESTED

[Signature]

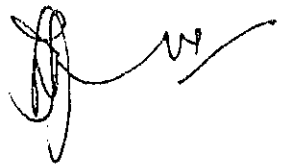
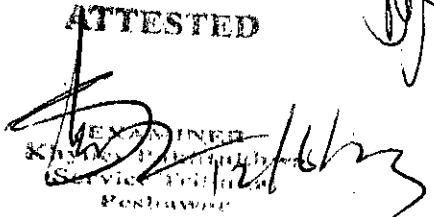
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

be set aside and the appellant might be reinstated to his service with all back and consequential benefits.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was initially appointed as Watchman (Chowkidar) on fixed pay. Later on, vide order dated 02.05.2019, his services were regularized. On 30.04.2021, respondent No. 1 issued termination order of the appellant on the ground of absence from duty but the period of absence was not specifically shown in the termination order. Feeling aggrieved, the appellant filed representation before respondent No. 2 which was rejected on 09.08.2021 but he came into know about the rejection order when he received letter dated 25.11.2021; hence the instant appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We heard the learned counsel for the appellant as well as the learned Assistant Advocate General for the respondents and that perused the case file with connected documents in detail.

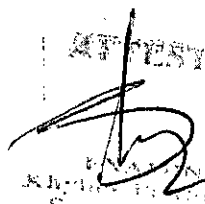
4. Learned counsel for the appellant, after presenting the case in detail, contended that the appellant never remained absent from his duty and that the period of his absence was not specifically mentioned in the impugned order. According to him, neither charge sheet/statement of allegations was served upon him nor proper inquiry was conducted. He contended that no show cause notice was served upon the appellant and also opportunity of personal hearing was not provided to him, which was not a formality but mandatory under the law. He requested that the appeal might be accepted as prayed.

ATTESTED 

MEXANINEE
K...
Service...
R...

5. Learned Assistant Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was habitual absentee. He further contended that the appellant was under probation and under Section 11 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, there was no need of holding regular enquiry into the matter. He requested that the appeal might be dismissed.

6. Arguments and record presented before us indicate that the appellant was appointed as Chowkidar (BPS-3) on 02.05.2019 under the Khyber Pakhtunkhwa Civil Servants Act, 1973. According to the terms and conditions of his appointment he was on probation for a period of one year extendable for further one year under Section 6(2) of the Khyber Pakhtunkhwa Civil Servants Act 1973 read with Rule 15(i) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Record further shows that the probation period after lapse of one year was not extended for another one year as per terms and conditions of his appointment, which indicates that his probation period ended on 02.05.2020.


7. Through the impugned order, services of the appellant were terminated on the grounds that he was in the habit of absenting himself from his duty. His services were terminated under clause 2 and 3 of terms and conditions of his appointment order and hence neither any inquiry was conducted nor any show cause notice was issued before passing the impugned order. As stated above, probation period of the appellant was not extended and therefore, it ended on 02.05.2020 and from that date onwards, he was a regular civil servant and any


ATTESTED:

12/01/23

disciplinary action against him had to be taken under the Government Servants (Efficiency & Discipline) Rules, 2011. It is a well established norm that before awarding any major penalty, a formal inquiry is essential and before conducting such inquiry a properly drafted charge sheet and statement of allegations is necessarily served upon the accused. Then he has to be given a fair chance to present his case before the inquiry officer or committee alongwith an opportunity of personal hearing. In this case no procedure has been adopted; neither the charges have been fully defined nor the appellant has been given a chance of fair trial.

8. In view of the above, the impugned order is set aside. Respondents are directed to reinstate the appellant and conduct proper inquiry into the matter, strictly following the rules, and complete the procedure within 60 days of the receipt of this judgment. Costs shall follow the event. Consign.

9. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 30th day of May, 2023.


(FAREEHA PAUL)
Member (E)


(SALAH-UD-DIN)
Member (J)

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

31/5/23
12/6/23
Date of Presentation of Application
Number of Words Page 7
Copying Fee 35/-
Urgent _____
Total 40/-
Name of Copy _____
Date of Copy _____
Date of Delivery of Copy 12/6/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. 782/2021



Shahzad Khan S/O Amar Khan,

R/O Moh. Ghari Jabbar Khan P.O Pabbi Dag Baisud, District Nowshehra.

..... Appellant

1. The Director I & Human Resource Dev: & Mgt, Forest Department, Khyber Pakhtunkhwa, Peshawar.
2. Cheif Conservator of Forests, Central Southern Forest Region-1 Khyber Pakhtunkhwa, Peshawar.
3. Secretary I & Human Resource Dev: & Mgt, Forest Department, Khyber Pakhtunkhwa, Peshawar.

..... Respondents

SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED OFFICE ORDER NO. 12 DATED 30.04.2021 OF RESPONDENT NO.1 WHEREBY THE APPELLANT IS TERMINATED FROM SERVICE AND OFFICE ORDER NO.432, DATED 29.08.2021 OF RESPONDENT. NO.2 WHEREBY THE PRESENTATION OF APPELLANT IS REJECTED.

Respectfully Sheweth:

1. That the Appellant very implore for permission to plead his grievances at the hands of respondents and seeks solace thereto, as follows:
2. That on 27.12.2018 the appellant was initially appointed Watchman (Chowkidar) on basis of fix pay and later on, keeping in view, the performance of appellant the respondent's office vide Office Order No.24

ATTESTED

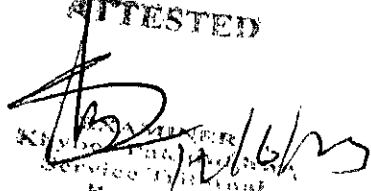
EXAMINER
Khyber Pakhtunkhwa
Services Tribunal
Peshawar

Dated 02.05.2019 regularised the service of appellant as Chowkidar (BPS-03). (Copy of appointment & regularising order is annexed "A").

- 3. That on 30.04.2021 the respondent No.1 mercilessly issued termination order of appellant on ground of absence from service but the period of absence has not been specifically shown in impugned termination order. (Copy of the order of termination order is annexure "B").
- 4. That the appellant aggrieved from said termination order has filed representation before Respondent No.2 but on 09.08.2021 the Respondent No.2 without hearing the appellant rejected the representation/appeal of Appellant. But the appellant came into know the rejection order when a few days before he had received letter dated 25.11.2021. (Copy of the representation/appeal along with rejection order dated 09.08.2021 with letter dated 25.11.2021 is annexure "C" & "D" respectively)
- 5. That feeling aggrieved from the act of the respondents now the appellant has no other adequate remedy except to file the instant Service Appeal on the following grounds amongst others:

GROUNDS:

- A. That the impugned termination Order dated 30.04.2021 of Respondent No.1 and office/rejection order dated 09.08.2021 of Respondent No.2 is illegal, wrong, based on malafide, without cogent reasons based on political high handedness and against the fundamental rights of the Appellant, hence liable to be struck down and reversed.
- B. That the impugned order is void ab-initio and without jurisdiction and in violation of fundamental rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973.
- C. That appellant never remain absent from his duty.
- D. That on 30.04.2021 the respondent No.1 mercilessly issued termination order of appellant on ground of absence from his service but the period of absence has not been specifically shown in impugned termination order.

ATTESTED

 MEMBER
 SERVICE TRIBUNAL
 KARACHI

- E. That the appellant has not been served upon any charge sheet/ statement of allegation, show cause notice, no inquiry officer has ever been notified, and no opportunity of personal hearing and reply have been given to the petitioner.
- F. That while awarding the major penalty, the inquiry is mandatory but the respondents failed to conduct any inquiry. Hence the impugned office orders are illegal and unlawful thus have no legal effect.
- G. That there were no disciplinary proceedings against appellant. It is worth to mention here that the Departmental Committee regularised the appellant post with due consideration of the unblemished and clear service record of the petitioner.
- H. That the illegal and arbitrary order of the respondents clearly proves their malafide and personal grudge against the appellant.
- I. That the petitioner has been condemned unheard and has not been treated according to law and rules.
- J. That no opportunity of personal hearing was provided to petitioner which is violation of law and rules.
- K. That no regular inquiry was conducted against the appellant before imposing major penalty of termination from service which is not permissible in law.
- L. That the case of the petitioner does not come under the gross misconduct therefore, not liable to be for major punishment i.e termination from his service.
- M. That the attitude and conduct of the department shows that they were bent upon to remove the appellant at any cost.
- N. That the impugned office / rejection order dated 09.08.2021 is on face of it ambiguous and uncertain.
- O. That neither any witness has been produced against the appellant nor the appellant was allowed to cross examine any of the witnesses, hence the

ATTESTED
[Signature]
EXAMINER
Serv. P. [unclear]
[unclear]

appellant has not been given a fair chance of hearing and he has been condemned unheard.

P. That the appellant has conducted no misconduct and he is innocent, nothing has been proved against the petitioner in the whole process/procedure under the E&D rules and is liable to be reinstated back to his service with all back benefits.

Q. That any other ground would be agitated at the time of argument with permission of this August court.

It is, therefore, humbly prayed that on acceptance of instant appeal the impugned Office Order No. 12, dated 30.04.2021 regarding to termination of the appellant from service of the appellant and rejection of appeal through Office Order No.432 dated 09.08.2021 passed by respondent No.2 may please be declared null and void and be set aside and the appellant may also be reinstated back to his service with all back benefits and with consequential benefits.

Any other relief avail in the circumstances of the case may also be granted to the petitioner.

Abid Ullah
Appellant

Through

Akhunzada Syed Pervez

&

Abid Ullah

Advocates, High Court Peshawar

DATED 06.12.2021

CERTIFICATE

It is, certified that, as per instruction of my client, no such like Appeal has earlier been filed or is pending before this Hon'ble Court.

ATTESTED
ADVOCATE
16/12/21
Khayr-ud-Din
Service Tribunal
Peshawar

CHARGE SHEET

I, Hazrat Mir, Director I&HRD&M Directorate as competent authority, hereby charge you Mr. Shahzad Khan Chowkidar (BPS-03) I&HRD&M Directorate as follows:-

That while posted as Chowkidar (BPS-03) in I&HRD&M Directorate, you committed the following irregularities:-

- i). That you were found absent from official duty on 14th April 2021 at 1600 hours.
 - ii). That Mr. Jawad Usman PA to Director I&HRD&M called you telephonically to come to office but you didn't come to the office for official duty.
2. By reasons of the above, you appear to be guilty of mis-conduct and in-efficiency under Rule-5 of the Khyber Pakhtunkhwa Government Servant (E&D) Rules 2011, and have rendered yourself liable to all or any of the penalty specified in Rule-4 of the Rules, ibid.
 3. You are, therefore, required to submit your written defence within seven days after receipt of this charge sheet to the Enquiry Officer/Enquiry Committee, as the case may be.
 4. Your written defence, if any, should reach the enquiry officer/enquiry committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-Parte action shall be taken against you.
 5. Intimate whether you desire to be heard in person.
 6. A statement of allegation is enclosed.


Director
I&HRD&M
(Competent Authority)

21/7/2023

24-7-23

- 15 -

DISCIPLINARY ACTION

I, Hazrat Mir, Director I&HRD&M Directorate as Competent Authority of the opinion that Mr. Shahzad Khan, I&HRD&M Directorate posted as Chowkidar (BPS-03) has rendered himself liable to be proceeded against as he committed the following act/commissions, within the meaning of Section-3 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011):-

STATEMENT OF ALLEGATIONS

- i). That he was found absent from official duty on 14th April 2021 at 1600 hours.
 - ii). That Mr. Jawad Usman PA to Director I&HRD&M called him telephonically to come to office but he didn't come to the office for official duty.
2. For the purpose of enquiry against the said accused with reference to the above allegations, an enquiry officer/enquiry committee, consisting of the following, is constituted under rule 10(1) (a) of Rules ibid vide this office order No. 30 dated 21/07/2023:-
- i. Muhammad Sajid, Divisional Forest Officer, Patrol Squad, Peshawar.
 - ii. Mr. Dawood Afridi, Assistant Director (NMAs) I&HRD&M Directorate, Peshawar.
3. The enquiry officer/enquiry committee shall, in accordance with the provisions of the rules ibid, provide reasonable opportunity of hearing to the accused, record its findings and make enquiry report within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry officer/enquiry committee.


Director
I&HRD&M
(Competent Authority)

24.7.23

عنوان: جواب چارج شیٹ

جناب عالی!

گزارش حسب ذیل ہے۔

یہ کہ من سائل کو بغیر کسی وجہ کے ملازمت سے ٹرمینٹ کیا گیا تھا۔ من سائل نے اس بابت عدالت سے رجوع کیا۔ عدالت نے من سائل کو ملازمت پر بحال کرنے کا حکم جاری کیا لیکن دفتر ہذا نے ملازمت پر بحال کرنے کی بجائے چارج شیٹ کیا گیا۔ اور جواب چارج شیٹ تحریری طور پر پیش کرنے کا لکھا گیا ہے۔ لہذا من سائل کا جواب چارج شیٹ حسب ذیل ہے۔

(1) یہ کہ چارج شیٹ میں غیر حاضری 14-04-2021 سے دکھائی گئی ہے۔ حالانکہ من سائل نے اس دوران کوئی غیر حاضری نہیں کی ہے۔

(2) یہ کہ من سائل کو جواد عثمان P.A نے ٹیلی فون کیا اور کہا کہ کرونا کی وجہ سے حاضری %50 پچاس فیصد ہے لہذا تم چایاں ہمیں دے دو۔ جب ضرورت ہوگی تو آپ کو بلا لیں گے۔

(3) یہ کہ من سائل نے کوئی مس کنڈکٹ نہیں کیا ہے۔ بلکہ جنید صاحب نے بدینتی اور اپنے لوگوں کو بھرتی کرنے کے لئے من سائل کو سازش کر کے ٹرمینٹ کیا ہے۔


(4) یہ کہ بھرتی شدہ لوگوں میں شیراعظم کو مستقل آرڈر جاری کیا گیا ہے جو کہ من سائل کے حقوق پر غیر قانونی ضرب ہے۔

(5) یہ کہ من سائل کسی بھی شفاف انکوائری کے لئے کسی بھی غیر جانبدار آفسر صاحب / انکوائری آفیسر کے سامنے پیش ہونے اور اپنی معروضات پیش کرنے کو تیار ہوں۔

سائل شہزاد خان ولد امر خان سکنہ محلہ گڑھی جبار خان ڈاگ بیسود تحصیل یہی ضلع نوشہرہ

المرقوم: 25-07-2023

Cell NO: 0313-9219945


25-7-23

Divisional Forest Officer
Patrol Squad Forest Division
Central Forest Circle Peshawar



Shami Road Peshawar
Phone # 091-9214024

No. 321 /PS-22

Dated Peshawar the 24 /07/2023


To

Mr. Shahzad Khans/o Amar Khan
R/O Mah. Ghari Jabbar Khan
P.O Pabbi Dag Daisud, District,
Nowshera.

Subject: - OFFICE ORDER NO. 30 DATED; 21.07.2023 ISSUED BY DIRECTOR I&HRD&M DIRECTORATE, PESHAWAR REGARDING DISCIPLINARY PROCEEDING AGAINST MR. SHAHZAD KHAN CHOWKIDAR.

In the light of the subject Office Order, the undersigned has been nominated as Chairman of the Enquiry to be conducted against you.

Hence; you are directed to submit your written reply/ statement/ defense to the Charges leveled against you in the enclosed Charge Sheet alongwith Statement of Allegations within 07 days most positively after receipt of the letter in the matter, otherwise Ex-Parte action shall be taken against you under E&D Rules, 2011.


Divisional Forest Officer
Patrol Squad Forest Division
Central Forest Circle Peshawar
(Chairman Enquiry Committee)

No. / IPS-22

Copy forwarded to the:-

1. Conservator of Forests, Central Forest Circle for favor of information, please.
2. Director I&HRD&M Directorate, Peshawar for favor of information and necessary action with reference to his good Office Order No. cited above. He is requested to nominate a Departmental representative to assist the Enquiry Committee, please.
3. Mr. Dawood Afridi, Assistant Director NMAs, I&HRD&M, Peshawar for favor of information, please.

26-07-2023

Divisional Forest Officer
Patrol Squad Forest Division
Central Forest Circle Peshawar
(Chairman Enquiry Committee)



DIRECTORATE OF
INSTITUTIONAL & HUMAN RESOURCE DEVELOPMENT & MANAGEMENT
KHYBER PAKHTUNKHWA FOREST DEPARTMENT

-18-

Shami Road, Peshawar Phone No. (091)9212459 Fax (091) 5243301

Office order No. 33 /I&HRD&M/Estt

Dated Peshawar the 11 /09/2023

Whereas the Khyber Pakhtunkhwa Service Tribunal passed an order in service Appeal No. 7882/2021. Wherein the respondents were directed to reinstate the appellant Mr. Shahzad Khan (Chowkidar BPS-03) and conduct proper inquiry against him.

And whereas an Enquiry Committee was constituted vide this office order No. 30 dated 21/07/2023 to conduct proper enquiry.

And whereas the Enquiry Committee finalized enquiry proceedings and submitted enquiry report vide letter No. 64/PS-23 dated 11/09/2023

And whereas the Enquiry Committee could not prove the allegations against him.

Now Mr. Shahzad Khan, Chowkidar is hereby reinstated with immediate effect in light of the judgment of Khyber Pakhtunkhwa Service Tribunal and recommendation of the Enquiry Committee.

The period from 30/04/2021 to 11/09/2023 shall be treated as leave without pay.

(Hazrat Mir)
Director

I & Human Resource Dev. & Mgt.
Peshawar

No. 217-20 /I&HRD&M/Estt

Copy forwarded for information and necessary action to the:-

1. Chief Conservator of Forests, Central Southern Forest Region-I, Peshawar.
2. Section Officer (Litigation), CCFE&WD, Peshawar.
3. Account Section I&HRD&M Directorate Peshawar.
4. Mr. Shahzad Khan, Chowkidar.

Director

I & Human Resource Dev. & Mgt.
Peshawar

The Worthy Chief Conservator of Forests, Central
Southern Forests Region-1 Khyber Pakhtunkhwa.

SUBJECT:

APPEAL AGAINST ORDER DATED 11-09-2023 PASSED BY
DIRECTOR I AND HUMAN RESOURCE DEVELOPMENT AND
MANAGEMENT KHYBER PAKHTUNKHWA PESHAWAR

Respected Sir:

The Appellant namely Shahzad Khan S/o Amar Khan humbly submits as under:

1. That the appellant has been appointed on 27-12-2018 as a watchman in the directorate of institutional of Human Resource Development and Management Khyber Pakhtunkhwa Forest Department.
2. That on 30-04-2021 the appellant has been terminated by the department on the ground of absences from service but the period has not been specified by the department.
3. That the appellant aggrieved from the said termination order filed departmental appeal before the department on 09-08-2021 and without hearing of the appellant the appeal of the appellant was dismissed by the department on 25-11-2021.
4. That after the appellant filed a service appeal before the Khyber Pakhtunkhwa service Tribunal Peshawar on 06-12-2021.
5. That the appeal of the appellant was allowed and case reminded back to the Department with the direction to reinstate the appellant and conduct the inquiry.
6. That proper inquiry has been conducted against the appellant and the result of which the appellant was declared innocent; where as the inquiry committee could not proof the allegation against the appellant.

7. That the on 11-09-2023 the appellant Namely Shahzad Khan Chokider/ Watchman is hereby reinstated with immediate effect in light of the judgment of Khyber Pakhtunkhwa Service Tribunal and recommendation of the enquiry committee.
8. That the department has neither received any complaint against appellant, nor was any inquiry conducted against him during his entire service.
9. Any other ground may be taken at the time of personal hearing.

It is, therefore, humbly requested, that the impugned order dated 11-09-2023 may kindly be modified on the shape of reinstate from the date of his appointment and with all back benefits.

Any other relief avail in the circumstance of the appeal may also be granted to appellant.

Appellant

شہزاد
Shahzad Khan S/o Amar Khan

CNIC# 17201-1125417-9

0313-9219945

1043
17-10-2023

CHIEF CONSERVATOR OF FORESTS
CENTRAL SOUTHERN FOREST REGION-I
KHYBER PAKHTUNKHWA



SHAMI ROAD PESHAWAR

Ph: +92 91 9212177, Fax: +92 91

9211478

E-mail:

ccfforests.pesh@gmail.com

Dated 03/08/2024


No. 5459 /E,
To


Mr. Shahzad Khan, Chowkidar
C/O Director, I&HRD&M
Peshawar

Subject: - APPEAL AGAINST ORDER DATE 11TH SEPTEMBER, 2023 ISSUED BY
DIRECTOR I&HRD & M KHYBER PAKHTUNKHWA

Memo:- Reference your appeal dated Nil received in this office on 17/10/2023

After having been examined the case in line with the relevant rules 6(5) of Khyber Pakhtunkhwa Govt; Servants (Efficiency & Discipline) Rules, 2011, your appeal has been rejected by the Appellate Authority being not covered under the rules.


Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar

EA

Director
03/4

PROCEEDINGS OF MR. SHEHZAD CHOWKIDAR I&HRD&M, PESHAWAR.

BACKGROUND:

1. Shehzad Chowkidar was primarily inducted on work charge basis and was then regularized vide Director I&HRD&M Office Order NO: 24, dated 02.05.2019 (Ann-I), whereby as per point 2 [the accused shall initially be on probation for a period of one year, extendible for further one Year in accordance with Section 6 (2) of the Khyber-Pakhtunkhwa Civil Servants Act-1973 and with Rule 15 (i) of the Khyber-Pakhtunkhwa Civil Servants Appointment, Promotion and Transfer (APT) Rules 1989] as well as point 3 of the terms and conditions of recruitment (the appointment of the accused is purely temporary and shall be liable to termination at any time without assigning any reason thereof before the expiry of the period of probation/ extended period of probation if his performance is not found satisfactory or any adverse remarks received from his superior Officer. All the specified terms and conditions of recruitment, including the above two were accepted to the accused.

2. The accused Chowkidar was expelled from service by the Director I&HRD&M vide Office Order No. 12, dated 30.04.2021 (Ann-II), by taking support of the pre-mentioned point 3 of the terms and conditions of the old Rules circulated vide the Khyber-Pakhtunkhwa Establishment Department Letter No. SOR-VI (E&D)-1-3/2009/Vol-VIII, dated 02.04.2010 (Ann-III) of the issued recruitment letter as in (Ann-I), for being absent from duty on 14th April, 2021 along with adverse remarks of the Enquiry Assistant and non-serious attitude of the accused towards his duty, which is conspicuously evident from the inked contents of the termination order.

3. Being aggrieved, the accused moved a computerized application bearing No: Nil, dated; Nil (Ann-IV) to the worthy office of the Chief Conservator of Forests, Central Forest Region-1, Peshawar for favour of consideration to restore his service, but the same was turned down vide the good office of the Chief Conservator of Forests, Central Forest Region-1, Peshawar vide letter No. 432, dated; 09.08.2021 (Ann-V). Hence; accordingly, the accused instituted a Service Appeal case bearing No. 7882/2021, in the District Tribunal, Peshawar, which was decided in his favour with the compendium as follows;

- a) To reinstate the Services of the Appellant &
- b) To Conduct proper inquiry.

4. In order to comply, the orders of the Honorable Court of Services Tribunal, Peshawar the Director I&HRD&M, Peshawar ordered the Enquiry Committee vide Office Order No. 31/PS-23, dated; 07.08.2023, comprising of the following officers (Ann-VI);

- 1. DFO, Patrol Squad Central Forest Circle, Peshawar (Chairman) &
- 2. Dawood Afridi Assistant Director (NMAs) in I&HRD&M, Peshawar.

5. The enquiry against the accused Chowkidar (Mr. Shehzad) with specified terms as follows;

- a) That the Chowkidar was found absent from official duty on 14th April, 2021 at 15:00 hours &
- b) That Mr. Jawad Usman PA to Director I&HRD&M called him telephonically to come to the office, but he didn't come to office for official duty.

CONCLUSIONS:

6. In order to probe into the matter from every avenue to arrive at the factual position, a preliminary session was scheduled in the office of the DFO, Patrol Squad Central Forest Region-1, Peshawar on 18.08.2023 vide this office letter No. 31/PS-23, dated; 07.08.2023 (Ann-VII).

The statement of Mr. Jawad Usman PA to Director I&HRD&M, was taken in black and white (Ann-VIII). The accused was also treated with a especially designed Questionnaire to respond. The answers of the accused were recorded (Ann-IX). On asking a question in the Questionnaire whether the accused had been abroad during his termination period/ absence from duty, he submitted photocopy of his passport indicated that on 31.08.2022 he had left for Dubai and entered back to Pakistan 24.11.2022 (Ann-X).

Here, it is pertinent to highlight that the Departmental Representative Mr. Asif Mehmood Junior instructor, nominated vide Director I&HRD&M's office letter No. 98/I&HRD&M/Estt, dated: 27.07.2023 (Ann-XI) could not come to attend the enquiry proceedings, due to his field engagement.

Consequently, the enquiry proceeding was attended by Mr. Jamil Junior Clerk I&HRD&M, who provided the attested requisite record pertaining to the enquiry. He failed to prove the charges leveled against the accused.

III) DISCUSSION:

After going through all the available record and personal hearing of the accused and Mr. Jawad Usman, it is being gotten transpired out that there has been arisen contradiction in their stances. As per statement of Mr. Jawad Mumtaz, the accused had been called at 1600 hours to come for his official duty but he couldn't. This is being accepted up to the extent in the computerized appeal wherein; under point (3); the accused had mentioned as in (Ann-IV) that due to Corona he had been kept on call for having 50% attendance in his noumena but nothing such was existing on the record reviewed.

As per statement of the accused recorded through the Questionnaire, he was handed over; highlights that he was not absent. Meanwhile, on asking from Mr. Jamil Junior Clerk I&HRD&M regarding his absence, he offered a copy of the handily maintained attendance sheet/register (Ann-XII), highlighting attendance sheet having had signatures of the accused. Hence; the charge of absence drops and does not prove.

If there had been installed any biometric system in the office and computerized attendance sheet would have been provided, then the Enquiry Committee would certainly reach the factual position in this connection to quote the exact time of the accused for joining duty on 14th April, 2021. Although, in one hand, the statement of the PA Jawad Usman shows that the accused had been called for duty at 1600 hours and had not seen him in the premises of the office building, can totally not be overlooked, yet on the other hand, the statement of the accused who claims to have been on duty at his duty time; creates dubiousness for which the benefit of doubt be awarded to the accused as a thumb canon of justice and the 2nd charge too disproves.

CONCLUSION:

On the above elucidation, we reach to the aftermath that keeping in view the sarcastic remarks of the officer/officials regarding habitual absence from duty as well as clause 2 & 3 of the terms and conditions of the recruitment of the old rules, the immediate authority terminated the services of the accused. Thus the accused may be absolved from the charges leveled against him.

RECOMMENDATIONS:

1. The authority may enroll the Chowkidar on its strength with immediate effect.
2. As the accused had been absent from rendering services during termination period. Hence; he may be treated under the paras/ rules highlighted by the Administrative Department which is reproduced as under;
 - i. 6(5): - If a Government servant is absent from official duty during the disciplinary proceedings under these rules, such period may be treated as extra ordinary leave without pay with the approval of Competent Authority (**Ann-XIII**).
 - ii. FR-17: - (1) Subject to any exceptions specifically made in these rules and to the provisions of sub-rule (2), an officer shall begin to draw the pay and allowances attached to his tenure of a post with effect from the date when he assumes the duties of that post and shall cease to draw them as soon as he ceases to discharge those duties (**Ann-XIV**).



Muhammad Sajid

Divisional Forest Officer
Patrol Squad Forest Division
Central Forest Circle Peshawar
(Chairman)


Dawood Afridi

Assistant Director (NMAs)
I&HRD&M, Peshawar
(Member)

Amar Khan
2019

	DIRECTORATE OF INSTITUTIONAL & HUMAN RESOURCE DEVELOPMENT & MANAGEMENT KHYBER PAKHTUNKHWA FOREST DEPARTMENT
	Shami Road, Peshawar Phone No. (091) 9212459, Fax No. (091) 5243293 OFFICE ORDER NO. <u>24</u> DATED PESHAWAR THE <u>20</u> / <u>10</u> / <u>2019</u>

The following officials were engaged on fix pay work charge basis, a committee of the Officers was constituted vide office order No.14 dated 27/12/2018 to scrutinize the documents and conduct interview. The committee after scrutinizing the documents of the officials, held interviews and recommended the officials for selection against the vacant position of Drivers in BPS-6 (10620-560-27420) and Chowkidar in BPS-3 (9610-390-21310):-

1. Mr. Zeeshan Ali Shan S/O Mubarik Shah as Driver (BPS-6)
2. Mr. Muhammad Amjad S/O Salah-ud-Din as Driver (BPS-6)
3. Mr. Abbas Khan S/O Z'ullah as Driver (BPS-6)
4. Mr. Sharizad Khan S/O Amar Khan as Chowkidar (BPS-3)

TERMS & CONDITION

- 1- They shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973, and all other laws applicable to the Civil Servants and the rules made there-under.
- 2- They shall, initially, be on probation for a period of one year extendable for further one year in accordance with Section 6(2) of the KP Civil Servants Act-1973 read with rule 15(i) of KP Civil Servant (Appointment, Promotion and Transfer) Rules 1989.
- 3- Their appointment is purely temporary and shall be liable to termination at any time without assigning any reason thereof before the expiry of the period of probation/extended period of probation. If their performance during this period is not found satisfactory or any adverse remarks received from his superior officer.
- 4- In case they wish to resign at any time, one month prior notice shall be necessary or in lieu thereof, one month's pay shall be forfeited.
- 5- They shall not be entitled to any TA/DA on their first appointment.
- 6- They will produce Medical fitness Certificate from Civil Surgeon, Police Services Hospital Peshawar.
- 7- Their appointment is subject to satisfactory report of verification of character/antecedents from concerned Police Station.
- 8- If the above terms and conditions are acceptable to them, they should report the Director I&HRD&M Directorate Shami Road Peshawar, for duty within 14 days after issuance of this order if the appointees failed to join the duty within stipulated time their order will be considered as cancelled.

Sd/-
(Muhammad Junaid Dayar)
Director
I & Human Resource Dev. & Mgt.
Forest Deptt: Peshawar


No. 1925-28 I&HRD&M/Estt.
Copy forwarded for information and necessary action to the:-

1. Deputy Director, I&HRD&M, Peshawar.
2. Account and Establishment Assistant, I&HRD&M, Peshawar.
3. Officials Concerned.

A T T E N T I O N

[Signature]
Director
I & Human Resource Dev.
Khyber Pakhtunkhwa Forest Deptt:
Peshawar

[Signature]
Director
I & Human Resource Dev. & Mgt.
Forest Deptt: Peshawar

قیمت 50 روپے	25028	پشاور بار ایسوسی ایشن، نمبر پختونخواہ
ایڈویکٹ: <u>خرفان احمد</u>	بار کونسل ایسوسی ایشن نمبر: <u>11-1915</u>	PESHAWAR BAR ASSOCIATION
رابطہ نمبر: <u>0331-5743739</u>		

Bc

بعدالت جناب: مشیر عینوخواہ سروس ٹرانسپونل لٹیاور

منجانب: <u>ایبیل اسٹ</u>	دعویٰ: <u>سروس اپیل</u>
<u>شینہزا</u>	علت نمبر: _____
<u>بنام</u>	مورخہ: _____
<u>فارست ڈیپارٹمنٹ لٹیاور</u>	جرم: _____
	تھانہ: _____

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام لٹیاور کیلئے خرفان احمد ایبیل کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق ازریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 17/4/2024

خرفان احمد

باعت تحریر آگہ

مقام لٹیاور کے لیے منظور ہے۔

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