

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT CAMP COURT SWAT

Service Appeal No: 192/2023

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

**Sultanat Khan Ex. Forest Guard Alpuri Forest Division, Alpuri,
District Shangla.**

.... (Appellant)

VERSUS

1. The Secretary Forest Department Government of Khyber Pakhtunkhwa, Peshawar.
2. The Chief Conservator of Forests, Malakand Forest Region (Region-III), Saidu Sharif, District Swat.
3. The Conservator of Forest, Malakand Circle East, Mingora, District Swat.
4. Divisional Forest Officer Alpuri, District Shangla.
5. District Accounts Officer, Alpuri, District Shangla.

.... (Respondents)

Mr. Imdad Ullah
Advocate

... For appellant

Mr. Umair Azam
Additional Advocate General

... For respondents

Date of Institution.....20.01.2023
Date of Hearing.....05.06.2024
Date of Decision.....05.06.2024

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeals have been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:



“On acceptance of the instant service appeal, the respondents may very kindly be directed to release the General Provident Fund alongwith Compassionate Pension of the appellant in accordance with law.”

2. Brief facts leading to filing of the instant appeal are that the appellant was appointed as Forest Guard on 27.09.1972. During service, he was involved in case FIR No. 424 dated 20.10.2014 under section 302/324 PPC and got convicted in the said FIR. During conviction, he was dismissed from service. After release, he filed departmental appeal for his reinstatement and then finally service appeal for his reinstatement, but the same was withdrawn in order to approach the authorities for the release of his GP Fund and compassionate pension. Then he filed departmental appeal, which was not responded, hence the instant service appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents 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 appellants and learned Additional Advocate General 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 Additional Advocate General controverted the same by supporting the impugned order(s).



6. Perusal of record reveals that the appellant was appointed as Forest Guard on 27.09.1972. During service, he was involved in case FIR No. 424 dated 20.10.2014 under section 302/324 PPC and got convicted in the said FIR. Upon conviction, he was dismissed from service. After release, he filed departmental appeal for his reinstatement and then finally service appeal for his reinstatement, but the same was withdrawn in order to approach the authorities for the release of his GP Fund and compassionate pension. The appellant through instant appeal requested for release of his GP Fund and grant of compassionate pension

7. It is admitted fact that appellant served the department for 42 years and GP Fund was deducted from his salary which is his own money laying in the government treasury and he is entitled for release of the same because the same was deducted from his salary every month. For this he will have to file application to Board constituted for the purpose.

8. Rule 6 of the Khyber Pakhtunkhwa Contributory Provident Fund Rules, 2006 is relevant for the purpose which covered the subject of disbursement of fund. It is mentioned in Sub Rule 2 that;


“In case of a subscriber is dismissed or removed from service on account of misconduct, he may be entitled to receive, in addition to his own subscriptions to the fund and profits earned thereon, an amount, as compassionate allowance, out of government contribution to his account, which shall, in no case, exceed two-third of such contributions.”




9. As appellant had not filed any application to the Board, therefore, he will have to approach the Board for release of his GP Fund under Rule 6.

10. For what has been discussed above, the appeal in hand is dismissed. Cost shall follow the event. Consign.

11. *Pronounced in camp court at Swat and given our hands and seal of the Tribunal on this 5th day of June, 2024.*


(MUHAMMAD AKBAR KHAN)
Member (E)
Camp Court Swat


(RASHIDA BANO)
Member (J)
Camp Court Swat

*Kaleemullah


ORDER


05.06.2024 1 Learned counsel for the appellant present. Mr. Umair Azam,

learned Additional Advocate General, for the respondents present.

2. Vide our detailed judgment of today placed on file, the appeal in hand is dismissed. Cost shall follow the event. Consign.

3. *Pronounced in camp court at Swat and given our hands and seal of the Tribunal on this 5th day of June, 2024.*


(MUHAMMAD AKBAR KHAN)
Member (E)
Camp Court Swat


(RASHIDA BANO)
Member (J)
Camp Court Swat

06.02.2024

Tour to Camp Court Swat has been cancelled, therefore to come up for the same as before on 01.04.2024.


Reader

Due to cancellation tour case
is adjourned to 08-05-2024.



08 05.2024

01. Counsel for the appellant present. Mr. Umair Azam, Addl. AG for the respondents present.

02. Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Granted. To come up for arguments on 05.06.2024 before the D.B at camp court, Swat. PP given to the parties.

**SCANNED
KPST
Peshawar**



(Farceha Paul)
Member(E)
Camp Court, Swat.



(Rashida Bano)
Member(E)
Camp Court Swat

Fazle Subhan, P.S