

13.12.2023 1. Junior to counsel for the appellant present. Mr. Muhammad Jan learned District Attorney for the respondents present.

2. Junior to counsel for the appellant requested for adjournment on the ground that senior counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. To come up for arguments on 14.02.2024 before D.B. P.P given to the parties.

SCANNED  
Kaleem Ullah

(Muhammad Akbar Khan)  
Member (E)

(Rashida Bano)  
Member (J)

\*KaleemUllah\*

14<sup>th</sup> Feb. 2024 1. Junior to counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present.

2. Former made a request for adjournment as senior counsel was not available today. Adjourned by way of last chance. To come up for arguments on 06.06.2024 before D.B. P.P given to the parties.

SCANNED  
Kaleem Ullah

(Salah Ud Din)  
Member (J)

(Kalim Arshad Khan)  
Chairman

\*Kaleem Ullah\*



06<sup>th</sup> June, 2024

**SCANNED**  
**KPST**  
**Peshawar**

1. Mr. Misbah Ullah, Advocate for the appellant present and submitted fresh Wakalatnama in favour of the appellant, which is placed on file. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Learned counsel for the appellant seeks adjournment on the ground that he has been engaged in this appeal today and has not gone through the brief of the appeal. Adjourned by way of last chance. To come up for arguments on 28.06.2024 before the D.B. Parcha Peshi given to the parties.

**ORDER**  
28.06.20241

\*Naeem Amin\*

(Fareeha Paul)

Member (Executive)

Learned counsel for the appellant present. Mr. Asif Masood Ali

(Kalim Arshad Khan)

Chairman

Shah, learned Deputy District Attorney alongwith Zafar Ali, Section Officer Food Department for respondents present.

2. For what has been discussed above, we are unison to modify the penalty awarded to the appellant by setting aside the punishment of recovery of pecuniary loss. Costs shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 28<sup>th</sup> day of June, 2024.*

**(FAREEHA PAUL)**  
Member (E)

**(RASHIDA BANO)**  
Member (J)

\*M.Khan

amount of pecuniary loss occurred to Forest Department due to negligence of and inefficiency of the appellant vide order dated 08.08.2018.

These two after visiting the area reported that no pecuniary loss was occurred to the Forest Department vide report dated 27.08.2018, when subsequently constituted committee to assigned assessed the actual amount of pecuniary loss opined after physical verification that no such loss occurred then in our humble view to recover any amount from the appellant is not in accordance with the rules and is against the justice, therefore, penalty to this extent is unjustified.

9. Perusal of formal inquiry report reveals that appellant was negligent in performance of his duties, as sheeps and goats were grazing in the encircled plantation area which is prohibited under law. 15 number of large size doors made of Deodar timber was purchased from an unauthorized and verified dealer by appellant despite knowing the legal procedure being SDFO. Therefore, in our view penalty of withholding of two increments for two years is inaccordance with the rules and commensurate with the act committed by the appellant.

10. For what has been discussed above, we are unison to modify the penalty awarded to the appellant by setting aside the punishment of recovery of pecuniary loss. Costs shall follow the event. Consign.

11. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 28<sup>th</sup> day of June, 2024.*

**(FAREEHA PAUL)**  
Member (E)

  
**(RASHIDA BANO)**  
Member (J)

*called from him, but no response has been received from his side till date.*

- v. *Forms of large size gates, doors and windows i.e. total 15 numbers of manufacture of Deodar timber were found in redundant from his official residence, situated adjacent to his functional office, but during checking, the same was neither found in the record i.e.. Form No: 5 & 6. nor was present in the Prosecution Cases Register, Compensation Cases Register and Damage Book Register;*
- vi. *He explained before the raiding team that he has purchased the same during auction, but he could not produce any documentary evidence in his defence/claim before the Chief Conservator of Forests.*
- vii. *During visit of Sher Palam plantation, it was found that due to his failure/negligence, the entire plantation was failed. While the rest of pits were completely devoid of any plant or sowing. The pits were very small in size and were hardly visible on the ground. The charged area was 24 hectare while it was not more than 10 hectare on ground. The payment made in excess need to be recovered from him.*

8. Appellant submitted detail reply to the charge sheet and inquiry committee submitted the report wherein all the charges were discussed separately and holds that charges proved in substance. Authority after receiving inquiry committee report issued Final Show Cause notice which was replied by the appellant. Authority after considering all the material facts figure and reply of the appellant passed impugned order dated 13.09.2018 imposed minor penalty of withholding of two increments for two years alongwith recovery of the pecuniary loss to be calculated by the Forest Department. DFO lower Dir directed/appointed Mr. Rafiq Ullah,

SDFO and Raza Khan, Forest Guard to assess and determine actual



6. Perusal of record reveals that appellant was inducted in the respondents/department (Forestry, Environment & Wildlife Department) in the year 2014 and recently performing his duties as Sub-Divisional Forest Officer (SDFO), Hangu Forest Sub-Division, Kohat Forest Division. Appellant while posted as Sub-Divisional Forest Officer (SDFO), Timergara an enquiry was initiated and charge sheet/statement of allegations was served upon the appellant and an enquiry committee was constituted to conduct disciplinary proceedings under section 5(1) of the Khyber Pakhtunkhwa, Civil Servants, Efficiency and Disciplinary Rules, 2011.

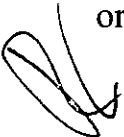
7. There are seven allegations against the appellant which are given below;

- i. *Whereas he was called upon to explain vide Conservator of Forests, Malakand, West Forest Circle letter dated 19th August, 2016, the reply furnished by him vide letter dated 23 August, 2016 was not upto the mark and was accordingly communicated to him vide Conservator of Forest, Malakand West Forest Circle letter dated 04" October, 2016. But till date, no satisfactory reply received from his side.*
- ii. *As per report of Divisional Forest Officer, Lower Dir Forest Division letter dated 14th April, 2012, that due to his negligence/inefficiency, various shortfall have been noticed in planting stock;*
- iii. *It has been learn! that the plants distributed by him under free distribution was not in transparent manner;*
- iv. *During visit of Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa on 08th April, 2017, Nasafa Enclosure Compartment No: 17, Goats and Sheep's grazing in the said enclosure were seen. No Neghaban was present/available there. An explanation in this regard was also*



**17.12.2018, which was conveyed to the appellant on 26.12.2018 may please be exonerated/absolved of all the charges leveled against him.”**

2. Brief facts of the case are that appellant was inducted in the respondent department in the year 2014 and recently he is performing his duty as SDFO, Hangu Forest Sub-Division, Kohat; that appellant while posted at SDFO, Timergara an inquiry was initiated and charge sheet and statement of allegation was issued, which was properly replied by him. Thereafter a final show cause notice was issued to which he also responded. Respondents vide impugned order dated 13.09.2018 imposed minor penalty of withholding of two increments for two years alongwith recovery of pecuniary loss to be calculated by the Forest Department. Feeling aggrieved, appellant preferred departmental appeal, which was rejected vide order dated 17.12.2018, 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 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).



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

**Service Appeal No.188/2019**

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

**Muhammad Rashid, Sub-Divisional, Forest Officer, Forestry,  
Environment and Wildlife Department, Peshawar**  
... (Appellant)

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
  2. Secretary Forest, Environment & Wildlife Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
  3. The Chief Conservator of Forests, Central Southern Region-I, Environment & Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
  4. The Divisional Forest Officer, Lower Dir, Forest Division, Timergara.
- ... (Respondents)

Mr. Misbah Ullah  
Advocate ... For Appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney ... For Respondents

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Date of Institution.....24.01.2019  
Date of Hearing.....28.06.2024  
Date of Decision.....28.06.2024

**JUDGMENT**

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

**“By accepting this appeal, the impugned original order dated 13.09.2018 and order of appellate authority dated**

