

was removed from service vide order dated 25.02.2015 against which appellant filed service appeal bearing No:678/2015, wherein vide order dated 16.04.2019 de-novo inquiry was ordered by reinstating the appellant into service on the basis of which full-fledged de-novo inquiry was conducted by the inquiry officer, who found appellant guilty of charges.

7. Authority after receiving de-novo inquiry report vide order dated 26.11.2019, awarded punishment of compulsory retirement to the appellant. Appellant filed departmental appeal against order of his compulsory retirement, wherein after considering all the material on record appellate authority vide impugned order dated 16.03.2020 set aside penalty of compulsory retirement and reinstated appellant into service with immediate effect treating intervening period from 25.02.2015 till 28.04.2019 and 25.11.2020 till 16.03.2020 as extra ordinary leave without pay, but countable towards his pension and awarded minor penalty of stoppage of two annual increments falling due on 01.12.2020 and 01.12.2021 without accumulative effect.

8. Now appellant preferred this service appeal against order dated 16.03.2020 under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974, which reads;

“Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him, prefer an appeal of the Tribunal having jurisdiction in the matter.”





So, in accordance with Section 4, appellant was required to file service appeal within thirty days of issuing of impugned order dated 16.03.2020 passed by appellate authority, but instant service appeal was filed on 10.06.2020 with a considerable delay of one month and 20 days. Although appellant filed application for condonation of delay and mentioned that due to Covid-19 Epidemic, he could not obtain order within time. This reason is plausible, because government has also issued Epidemic Control Act, 2020, wherein limitation that occurred in filing any appeal or availing legal remedy during Epidemic period was condoned, so appeal is within time.

9. Perusal of above inquiry report reveals that appellant was present on the spot when respondent/department official were detained illegally by near relative the nephew of the appellant being head of the mob and he had not made any efforts for rescue of official as his duty was to safeguard the timber but said was stolen as per inquiry report, he glove in hand with timber smuggler. In our humble view punishment awarded to appellant is just and proportionate keeping in view the nature of misconduct and need no interference by this Tribunal.

10. For what has been discussed above, we are unison to dismiss the appeal in hand. Costs shall follow the event. Consign.

11. Pronounced in camp court at Abbottabad and given under our hands and seal of the Tribunal on this 25th day of July, 2024.


(FAREEHA PAUL)
Member (E)
Camp Court, Abbottabad


(RASHIDA BANO)
Member (J)
Camp Court, Abbottabad

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT CAMP COURT
ABBOTTABAD

Service Appeal No.7263/2020

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

**Mr. Khitab Gul S/O Lal Khan R/O Maira Rehmat Khan, Tehsil &
District Abbottabad.**

.... (*Appellant*)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Forestry Peshawar.
2. Conservator of Forests Lower Hazara Circle, Abbottabad.
3. Divisional Forest Officer, Gallies Forest Division, Abbottabad.
4. Range Officer, Beeran Gali, Abbottabad.

... (*Respondents*)

Mr. Sajjad Ahmad Abbasi ... For appellant
Advocate

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

Date of Institution.....10.06.2020
Date of Hearing.....25.07.2024
Date of Decision.....25.07.2024

JUDGMENT

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

“On acceptance of this appeal, the order No. 66 dated 16.03.2020 passed by respondent No.2 be set aside and the appellant be reinstated in service with effect from 25.02.2015 with all back benefits.”



2. Brief facts of the case are that appellant joined the respondent department as Forest Guard on 10.09.1990, and since his appointment, he performed his duties with great zeal and zest. During service, he was twice removed from service vide orders dated 25.02.2015 and 22.09.2015. After exhausting departmental remedy appellant approached the Service Tribunal by filing two service appeals, which were allowed and respondents were directed to conduct de-novo inquiry. In consequence of de-novo inquiry the appellant was exonerated from the charges and was compulsory retired from service on the basis of charges of inefficiency on 26.11.2019 vide order No.47. Appellant filed departmental appeal before respondent No.2 which was partially accepted by reinstating the appellant with immediate effect and stopped two annual increments and also treated absence period as extraordinary leave without pay vide order dated 16.03.2020, 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 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 reveals that appellant was serving in respondent department as Forest Guard since his appointment in year 1990. Appellant

ORDER
25.07.2024

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, learned Deputy District Attorney for the respondent present.
2. For what has been discussed above, we are unison to dismiss the appeal in hand. Costs shall follow the event. Consign.
3. *Pronounced in camp court at Abbottabad and given under our hands and seal of the Tribunal on this 25th day of July, 2024.*


(FAREEHA PAUL)
Member (E)
Camp Court, Abbottabad


(RASHIDA BANO)
Member (J)
Camp Court, Abbottabad

*M.Khan