


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 1151/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	09.10.2024	<p>The implementation petition of Mr. Abdul Ghani received today by registered post through Sardar Muhammad Azeem Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on 29.10.2024. Original file be requisitioned. AAG has noted the next date. Counsel for the petitioner has been informed telephonically.</p> <p>By order of the Chairman  REGISTRAR</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

CM.NO. /2024

E.P. No. 1151/2024

Abdul Ghani

...PETITIONER

VERSUS

Government of K.P.K and others.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION OF JUDGMENT

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8.	<i>Vakalat Nama already placed on file</i>	--	- 8 -

...PETITIONER

A. Ghani

Abdul Ghani Ex-forest Guard

Through:

(Signature)

(SARDAR MUHAMAMD AZEEM)
Advocate High Court, Abbottabad

Dated:- 25/9-2024

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

E.P. No. 1151/2024

Diary No. 16519

GM.NO. 12024

Dated 09-10-2024

1. Abdul Ghani S/o Khani Zaman R/o Malikpura Abbottabad Ex-Forest
Guard water shed range Daur Division Abbottabad.

...PETITIONER

V E R S U S

1. Government of K.P.K through secretary forestry environmental, midlife
Department Peshawar.
2. Chief conservator of forest Peshawar
3. Conservator of forest water shed, management circle Abbottabad.
4. Divisional Forest officer Dovor Forest Division Abbottabad.
5. Budget & Account officer Environmental Department government of
KPK Peshawar.
6. Range Forest officer Sherwan Abbottabad.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION OF
JUDGMENT DATED 16.05.2024 IN APPEAL
NO. 3991/21 OF THIS HONOURABLE
TRIBUNAL.

Respectfully Sheweth,

1. That the petitioner had filed an appeal No. 3991/21 before
this Honourable Tribunal on 24.03.2021 against the
impugned order No.18 dated 19.03.2020 issued by
respondent No.3 under which recovery was imposed on
petitioner.
2. That this Honourable Tribunal after Hearing of the parties
on acceptance of the appeal of the petitioner, respondent
were directed to decide it a fresh after evaluating all of the
aspects of the case in hand. (Copy of judgment / order
is annexed as Annexure "A")

3. That the petitioner after receiving of judgment from this Honourable Tribunal. Submitted before respondents allowing with application for implementation of judgment through registered post as well as directly. (Copy of application and posted receipt are annexed as Annexure "B" & "C" respectively)
4. That the respondents was not yet implemented the judgment of this Honourable Tribunal up till now thus the act and action of respondents contempt of court, which is punishable under contempt of court act.
5. That the petitioner is suffering financially loss day by day due to respondents non-compliance with the decision of this Honourable Court.
6. That the respondent was duty bound to compliance. The judgment of the Tribunal in accordance with law and observation of the court.

It is therefore respectfully prayed that on acceptance of this Application respondents may graciously be directed to implement the judgment of this Honourable Tribunal in letter and spirit.

...PETITIONER

A. Ghani

Abdul Ghani Ex-forest Guard

Through:

(Signature)

(SARDAR MUHAMAMD AZEEM)
Advocate High Court, Abbottabad

Dated:- 28/9 /2024

Verification

I, **Abdul Ghani S/o Khani Zaman petitioner**, do hereby solemnly affirm and declare on Oath that the contents of instant **application** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

DEPONENT

A. Ghani

...PETITIONER

Dated:- 28/9 /2024

‘A,’

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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.3991/2021

BEFORE: MR. KALIM ARSHID KHAN ... CHAIRMAN
MRS. RASHIDA BANO ... MEMBER (J)



Abdul Ghani S/o Khani Zaman, Forester, Havelian Watershed Range, Daur Division, Abbottabad. (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Forestry, Environmental & Wildlife Department, Peshawar.
2. Chief Conservator Forest Department, Peshawar.
3. Conservator of forest Water Shed, Management Circle, Abbottabad.
4. Divisional Forest Officer, Daur Forest Division, Abbottabad.
5. Budget & Accounts Office, Environmental Department, Government of Khyber Pakhtunkhwa, Peshawar.
6. Range Forest Officer, Sherwan, Abbottabad.

.... (Respondents)

Arshad Khan Tanoli
Advocate ... For appellant

Mr. Muhammad Jan
District Attorney ... For respondents

Date of Institution.....24.03.2021
Date of Hearing.....16.05.2024
Date of Decision.....16.05.2024

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:

“On acceptance of instant appeal, the impugned office order No.15 dated 19.03.2020 as passed by respondent No.3 may graciously be declared as null and void and may kindly be set-aside. Any other relief which this honorable Tribunal deems fit

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ENQUIRING
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
01-8-24

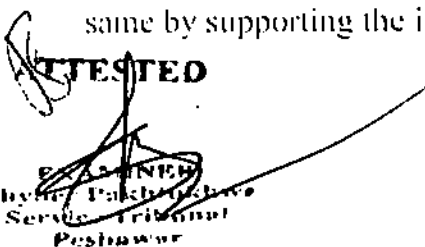
and proper in the circumstances of the case may also be granted in favor of appellant.”

2. Brief facts leading to the instant appeal are that appellant was appointed as Forest Guard in the respondent department and served the department with best of his ability. That DFO Duar Water Shed Division Abbottabad inspected Billion Tree Afore-station Project plantation area during the monsoon and spring 2016-17 and monsoon 2017 in Sherwan, Water shed Range on 09.10 and 25.04.2018. During inspection of the said area some irregularities were found, upon which departmental proceedings were initiated against the appellant by issuing charge sheet alongwith statement of allegation. He submitted his reply to the charge sheet. Thereafter, a show cause notice was service upon him, to which he also replied. Inquiry committee was constituted who assessed the loss and recommended amount of Rs. 1089167/- to be recovered from the appellant. In light of inquiry report, respondent No. 3 recommended imposed one and half of the total recoverable amount worth Rs. 5444.584/- upon the appellant vide impugned order dated 19.03.2020. Feeling aggrieved, he filed departmental appeal, which was rejected on 11.01.2021, hence the present 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 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 District Attorney controverted the same by supporting the impugned order(s).

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 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

6. Perusal of records reveals that appellant was appointed as Forest Guard in the respondents department. The D.F.O Daur Water Shed Division Abbottabad (respondent No.4) inspected Billion Tree Afore-station Project (BTAP) plantation area carried out during the Monsoon and Spring 2016, and the Monsoon 2017 in Sherwan, Water Shed Range on 9, 10 and 25.04.2018. During inspection of the above said area some irregularities were found. Due to the said reason the respondent No.4 reported the matter to respondent No.3 that none of these activities have been carried out in professional manner. That on receipt of the said report the respondent No.3 constituted an inquiry committee, who initiated proceedings vide letter No.8309 dated 07.06.2018. Thereafter the appellant was served with charge sheet with following allegations which are reproduce here;

- a) As per report of Special monitoring team shared with DFO Daur Watershed Division Abbottabad the difference between charged and actual area is 55acre out of 81 acre, which seems that the amount of 55 acre has been misappropriated by the Incharge Forest Guard.
- b) No replacement works were carried out despite the instructions and directions of the DFO Daur Watershed Division, during visits, various meeting to this contest was held and clear cut instructions regarding safety and rehabilitation of plantation were issued by concerned but miseries are still intact and no improvement had been noticed.
- c) The survival percentage of Talhar area is 25.27% same is badly below and unsatisfied and apparently seems that the amount charged against the abovearea on account of plantation and watch and ward was misappropriated which needs to be recovered and remitted in Government Treasury.
- d) No boundary pillars were erected on the site due to which the site identification isnot possible.
- e) Pit to pit spacing found more than 10x10 which is not according to standard of PC-I, resultantly the charged amount against the plantation seem fake and bogus.
- f) No sign board was installed on site which is necessary according to PC-I and directives regarding this issue has also been issued time to time.
- g) Plantation journals was not updated and maintained according to the requirements.
- h) Site selection was made on gossips and nothing has been done as per requirements.
- i) No additional sowing was carried out and in this regards directions of

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EXAMINER
Khyber Pakhtunkhwa
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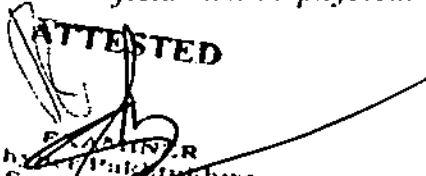
- higher ups was neglected badly.
- j) No BTAP writing was seen on site which shows your utter negligence and disinterest in Government Works.
 - k) Watch Ward charged apparently bogus as none of progress has been traced out on site.
 - l) The survival percentage is seemed so less and undesirable.

7. The appellant submitted reply to the charge sheet and after hearing appellant, the inquiry committee submitted his findings to the respondent No.3 vide letter No.105/BWS dated 03.05.2019. Appellant was served with a show cause notice, to which he submitted reply. The inquiry committee assessed the loss and recommended amount of Rs.1089167/- to be recoverable from the officials involved in the matter. In the light of inquiry committee report, respondent No.3 recommended to impose one and half of the total recoverable amount worth Rs.544584/- upon appellant vide impugned office order No.15 dated 19.03.2020.

8. From the record it is evident that charge sheet alongwith statement of allegation were issued to the appellant by conservator of Forests who was not the competent authority as per appendix "A" attached to NWFP Forest Subordinate Service Rules 1943. DFO is the competent authority. Appellant was awarded impugned penalty in view of inquiry reports orders by the authority, who was not competent to impose any penalty upon appellant.

9. Moreover, Service Appeal No.1220/2018 of the block officer Gulzar Ahmad Shah one of the officials who were proceeded against on the same allegations of 60% area failed due to subtended work at site, was accepted by this Tribunal vide order dated 16.02.2021, wherein it was held that;

"Allegations were of the nature, which required specific proof; but no such effort was made by the inquiry officer to substantiate his findings with concrete evidence. The inquiry officer totally relied upon the report of monitoring team and we could not ascertain from the record that any field visit or physical verification was conducted. Reasons for failure of

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 P. J. ANJUM, R.
 Khuzdar, Peshawar
 Service Tribunal
 Peshawar

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the project as recorded in the charge sheet are due to sub-standard work. Obviously duty and responsibility of a forest guard is limited to the extent of surveillance and sub-standard work if any, surely fall in the list of responsibilities of officers above the scale of forest guard in the hierarchy. Besides, other important factors to be considered were ignored i.e. Site selection, edaphic, climate and socio-economic inhibitions."

When inspection was carried out after two years then there must be same difference in plants planted.

11. The appellate authority in his order dated 06.10.2022 categorically mentioned that reproduced here:

- ii. The deficiencies in plantation areas, if any was required to be detected by the Divisional Forest Officer Daur Watershed before processing bills/muster rolls for sanction and release of funds demanded by the Ex-Forest Ranger for further disbursement amongst the laborers deployed on the activity;
- iii. The areas in question were required to be got monitored by the Divisional Forest Officer, Daur Watershed for his due satisfaction before entertaining the claim of appellant which has not been done;
- iv. The activity is carried out during Monsoon 2016, but Divisional Forest Officer Daur Watershed checked the concerned areas during July 2018 after almost two years of handing over the charge of Sherwan Range by the appellant to his successor i.e. 27.09.2016.

12. When charge of the post was handed over to new Forest Ranger by the appellant it was his duty to properly measure all the areas and then takes the charge. No such charge assumption report was produced by the respondent that some work was not done in accordance with master roll which means that there was no short fall in plantations, which were properly planted.

11. Moreover, when area was inspected after two years than due to seasonal climate

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 EX/MIS/...
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change some trees must have been damaged. Short coming in the inquiry is evident from appellate order then it will be in the fitness of things and in the interest of justice to look into the matter with broad view and decide it on merit strictly in accordance with law. Therefore, we are unison to accept the appeal and refer the matter back to respondent department to decide it afresh after evaluating all the aspects of the case in hand. Costs shall follow the event. Consign.

12. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 16th day May, 2024.


(KALIM ARSHID KHAN)
CHAIRMAN


(RASHIDA BANO)
MEMBER (J)

Kaleemullah

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
d/18/24

Date of Presentation of Application 12/6/24
Number of Words 67
Copying Fee 30/-
Urgent ✓
Total 30/-
Name of Copyist _____
Date of Completion of Copy 01/8/24
Date of _____ 01/8/24

Affected
Shumaila

A. Khan
03450792991

میں نے اپنے ایک دوست کو بتایا کہ وہ اپنے ایک دوست کو بتائے

26/8/23 (تاریخ)

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No. 1518

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uninsured letters of not more than
the initial weight RGL141380114
Post Office Guide or on which
acknowledgement is due.

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Received a registered
addressed to _____ Date-Stamp

Initials of Receiving Officer _____
*Write here "letter", "postcard", "packet" or "parcel"
with the word "insured" if necessary.

If insured.	Insured for Rs. (in figures) _____ (in words) _____	Weight _____ Kilos _____ Grams _____
	Insurance fee Rs. _____ Ps. _____ (in words) _____	Name and address of sender _____



ACKNOWLEDGEMENT DUE CARD (Registered)

نام _____
 پتہ _____
 ذائقانہ _____
 تحصیل _____
 ضلع _____

پوسٹ کوڈ _____
(پوسٹ ڈھانچہ کوڈ)

Sardar Mulla
Azem Advocate
High Court Abolition

Accepted

28/12/24

28/12/24

Application for Enforcement of Judgment

The undersigned is the plaintiff in the above-mentioned suit and has obtained a decree against the defendant. The defendant has failed to comply with the terms of the decree and has not paid the amount due to the plaintiff. The plaintiff has exhausted all other remedies available to him and is now applying to the court for enforcement of the decree. It is requested that the court may be pleased to issue a writ of execution against the defendant to enforce the decree.

Plaintiff's Signature

Plaintiff's Name

Application for Enforcement of Judgment

Name of Plaintiff

Name of Defendant

Name of Court

Application for Enforcement of Judgment

Plaintiff's Signature