

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 511/2012

Date of Institution ... 18.04.2012

Date of Decision ... 28.01.2019

Anwar Ali, Forest Guard, Peshawar Forest Division, Charsadda Range S/O Murad Ali Khan R/o Jalal Killi Sarki Tehsil & District Charsadda. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary Government of Khyber Pakhtunkhwa Peshawar and three others. ... (Respondents)

Mr. Fazal Shah Mohmand,
Advocate

--- For appellant.

Mr. Muhammad Jan
Deputy District Attorney

--- For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL

--- MEMBER(Executive)
--- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS

2. Learned counsel for the appellant argued that on the allegations of illegal cutting of Sheesham trees departmental proceedings were instituted against him and punishment of recovery of Rs. 76970/- and warning to be careful in future was awarded to him. After exhausting departmental remedies, he filed service appeal 116/2009 decided on 15.05.2009, whereby directions were given to the respondents to conduct de-novo enquiry. In pursuance of directions of this Tribunal de-novo enquiry was conducted and vide impugned order dated

24.09.2011 penalty of stoppage of two annual increments alongwith recovery of Rs. 219137/- was imposed on him. He filed departmental appeal which was rejected on 11.02.2012 followed by the present service appeal. De-novo enquiry was not conducted according to the procedure laid down in the invogue rules. Speaking order was not passed on his departmental appeal. Time span was not specified while awarding minor penalty.

3. On the other hand learned Deputy District Attorney argued that all codal formalities were observed before passing the impugned order. Reliance was also placed on judgment of this Tribunal dated 09.06.2015 rendered in service appeal no. 1995/2011 through which a case of identical nature was dismissed by this Tribunal.

CONCLUSION

4. We have examined the entire available record placed on file. Perusal of the de-novo enquiry conducted against the appellant revealed that allegations of illicit cutting of Sheesham trees were proved. The appellant was afforded full opportunity of defense during the departmental proceedings. We could not find any legal infirmity in the proceedings referred to above.

5. So far as impugned order dated 24.09.2011 through which minor penalty of stoppage of two annual increments alongwith recovery of Rs. 219137/- was awarded to the appellant was concerned, Sub-Rule-1(II) of Rule-4 of E&D Rules 2011 provides that punishment of withholding for a specific period, promotion or

increments be awarded subject to a maximum of three years. On the other hand time span was not given in the order referred to above so it needs modification.

6. As a sequel to above, the appeal is partially accepted and the penalty of stoppage of two annual increments would be effective for a period of one year.

Parties are left to bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)
MEMBER



(ANMAD HASSAN)
MEMBER

ANNOUNCED
28.01.2019