



Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	<p>25.03.2016</p> 	<p><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p>Appeal No. 1251/2013</p> <p>Umar Sharif Versus Government of KPK through Chief Secretary, Peshawar etc.</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Bilal Ahmad Kakaizai, Advocate) and Government Pleader (Mr. Ziaullah) for the respondents present.</p> <p>2. This appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 of Forester Umar Sharif is for the following prayer:-</p> <p>“That on acceptance of this Service Appeal, the respondents be directed to promote the appellant from the date when the post of Deputy Ranger BPS-11 fell vacant the in 25% promotion quota on the basis of selection on merit as per old rules Or earlier recommendations of DPC be restored and new rules be declared ultra vires to the extent of appellant as appellant became eligible and fit for promotion when old rules were in vogue with such other relief as may deem fit in the circumstances of the case may also be granted.”</p> <p>3. Arguments heard and record perused.</p>

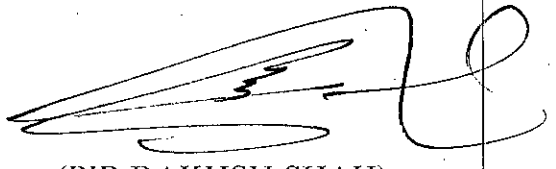
4. After perusal of the record and hearing pro & contra arguments, it was found that name of the appellant was duly recommended for promotion by DPC vide letter dated 26.3.2012 which letter was withdrawn by another letter dated 20.4.2012 where-after rules were amended and 25% promotion quota on merit was substituted by direct recruitment. The learned counsel for the appellant submitted at the bar that case of the appellant is identical with the case of Forester Nadir Khan who instituted appeal No. 1463/2009 decided by this Tribunal on 22.2.2013. He submitted that the appellant is also entitled for the same relief as given to Forester Nadir Khan. In the stated situation, the Tribunal decides to remit the case to the respondent-department to examine this appeal in the light of appeal No. 1463/2009 titled, "Nadir Khan Versus Secretary Environments, KPK Peshawar etc." decided on 22.2.2013 and if the two cases are identical, so case of the appellant may also be considered for the same relief given to Nadir Khan. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

25.03.2016

  
(ABDUL LATIF)

MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

1251/13

20.11.2015

Appellant with counsel for the appellant and Mr. Usman Ghani Sr. GP with Muhammad Amjad, SDFO for the respondents present. Since the court time is over, therefore, arguments could not be heard. To come up for arguments on 14-1-2016.

  
Member

  
Member

14.01.2016

Appellant with counsel and Mr. Muhammad Muzaffar, SDFO alongwith Mr. Muhammad Jan, GP for respondents present. Member copy of the appeal was not found. Appellant is directed to procure the copy of the same. To come up for arguments on 25-3-16.

  
MEMBER

  
MEMBER

18.4.2014

Appellant in person and Mr. Muhammad Amjad, SDFO on behalf of respondents with Mr. Usman Ghani, Sr. GP present. Written reply received on behalf of the respondents, copy whereof is handed over to the appellant for rejoinder alongwith connected appeals on 1.7.2014.

  
Chairman

01.7.2014

Appellant in person and Mr. Muhammad Amjad, SDFO, Allai Upper Hazara Forest, Mansehra with Mr. Usman Ghani, Sr. GP for the respondents present. Rejoinder has already been received on behalf of the appellant, copy whereof be handed over to the Learned Sr. GP for arguments alongwith connected appeals on 29.12.2014.

  
Chairman

29.12.2014

Appellant in person and Mr. Muhammad Amjad, SDFO on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. The Tribunal is incomplete. To come up for further proceedings alongwith connected appeals on 30.04.2015.



Reader.

30.4.2015

Appellant with counsel and Mr. Ziaullah, GP with Muhammad Amjad, SDFO for the respondents present. Counsel for the appellant requested for adjournment. Therefore, case is adjourned to 20.11.2015 for arguments.

  
MEMBER

  
MEMBER

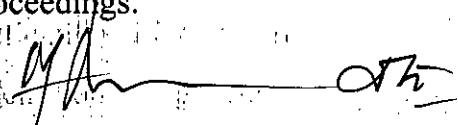
1251/13

29.1.2014

Appellant in person, and Mr. Muhammad Jan, GP with Muhammad Siddique SDFO for the respondents present. Representative of the respondents requested for further time to file written reply.

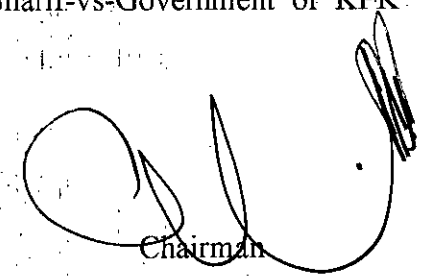
Appellant submitted an application for transferring the instant appeal to the learned Bench-I on the ground that his another Service Appeal No.1004/2013 is pending before that very bench and fixed for to-day.

Request seems genuine. In order to avoid inconvenience to the parties, and in the interest of natural justice, this case is also send to the learned Chairman for appropriate order. Parties are directed to appear before the learned Bench-I to-day for further proceedings.

  
MEMBER

29.01.2014

Appellant in person present. Case file received on transfer from learned Bench-II. To come up for written reply alongwith connected appeal (No. 1004/2013) titled 'Umar Sharif-vs-Government of KPK etc', on 18.4.2014.

  
Chairman

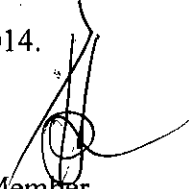
Appeal No. 1257/2013,  
Mr. Usman Sharif,

17.12.2013

Appellant with counsel present. Preliminary arguments


heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the impugned Notification dated 14.03.2013, the appellant filed departmental appeal on 02.05.2012, which has not been responded within the statutory period of 90 days, hence the present appeal on 26.08.2013. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 29.01.2014.

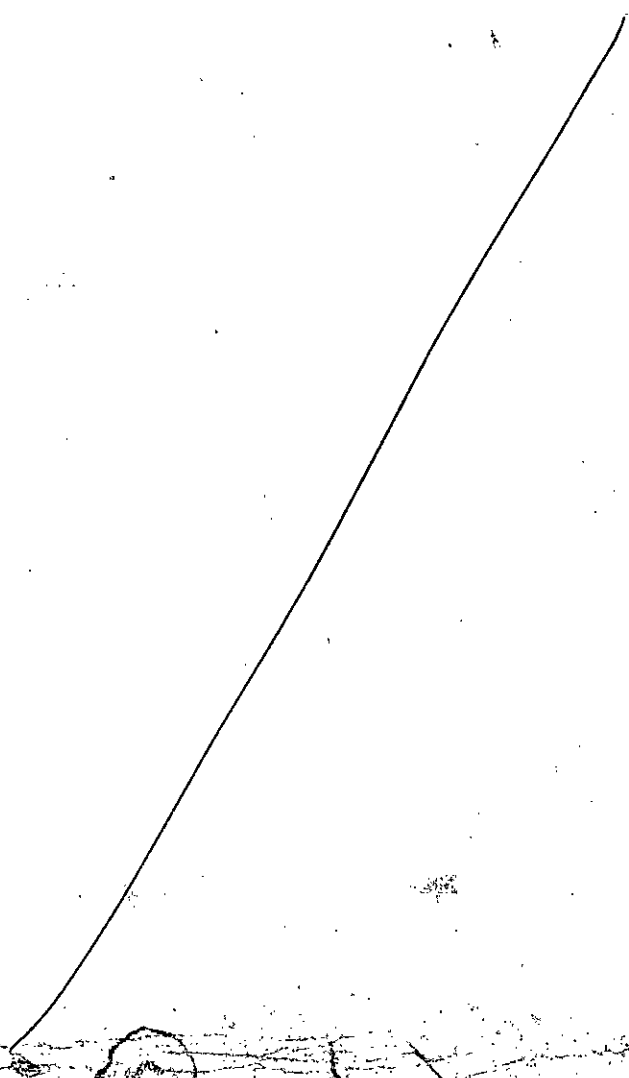
Appellant deposited  
Process fee Security  
of Rs. 2000/- Bank Receipt  
attached with file

  
Member

17.12.2013

This case be put before the Final Bench II for further proceedings.



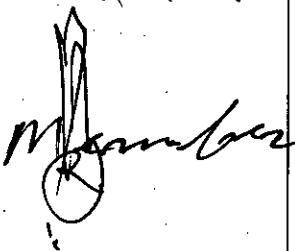
  
Chairman



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1251/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26/08/2013	<p>The appeal of Mr. Umar Sharif presented today by Mr. Bilal Ahmad Kakaizai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	29-8-2013.	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>27-11-2013.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	27-11-2013.	<p>Appellant present in person. Due to strike of Lawyers, counsel for the appellant is not available. To come up for p.H. on 17-12-2013.</p> <p style="text-align: right;"> Member</p>

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: 1251 / 2013

Umar Sharif

V/s


Government of KPK etc.

I N D E X

Description of Documents		Page
Memo of Service Application		1 - 4
Affidavit		5
Addresses Sheet		6
Annexure-"A"	Certificate of Training	7
Annexure-"B"	Old Rules	8
Annexure-"C"	Miscellaneous Orders	9 - 13
Annexure-"D"	Letter dated 20.04.2012	14
Annexure-"E"	Notification dated 14.03.2013 (New Rules)	15 - 16
Annexure-"F"	Departmental Appeal	17 - 18
Annexure-"G"	Letter dated 08.10.2011	19
Wakalat Nama		Nil

  
Appellant

Through:

  
BILAL AHMAD KAKAIZAI  
(Advocate, Peshawar)



BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1251/13

27  
26/8/13

UMAR SHARIF,  
Forester,  
C/o DFO, Hazara Tribal Forest Division,  
Battagram.

Appellant

VERSUS

- 1. GOVERNMENT OF KHYBER PAKHTUNKHWA,  
Through Chief Secretary,  
Civil Secretariat, Peshawar.
- 2. SECRETARY,  
Environment Department,  
Government of KPK, Peshawar
- 3. CHIEF CONSERVATOR OF FORESTS,  
KPK, Peshawar.
- 4. CONSERVATOR OF FORESTS,  
Upper Hazara Forest Circle, Mansehra.

Respondents

26/8/13

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974, FOR PROMOTION TO THE POST OF DEPUTY RANGER BPS-11 AS PER RECOMMENDATIONS AND CONSIDERATIONS OF DPC IN EARLIER MEETINGS UNDER OLD RULES, AND DECLARATION TO THE EFFECT THAT NEW RULES BEING, DISCRIMINATORY AND AGAINST THE INTERESTS OF APPELLANT ARE NULLITY IN THE EYES OF LAW TO THE EXTENT OF APPELLANT.

*Prayer: That on acceptance of this Service Appeal, the Respondents be directed to promote the Appellant from the date when the post of Deputy Ranger BPS-11 fell vacant in 25% promotion quota on the basis of selection on merit as per old rules-OR-earlier recommendations of DPC be restored and new rules be declared ultra vires to the extent of Appellant as Appellant became eligible and fit for promotion when old rules were in vogue with such other relief as may deem fit in the circumstances of the case may also be granted.*

*Respectfully Sheweth,*

Short facts, giving rise to present Service Appeal, are as under:-

- 1) That, Appellant has more than 33 years of continuous service and is now posted and working as Forester in BPS-09.
- 2) That, during the course of employment Appellant applied for the course of training in Sarhad Forest School Abbottabad in 22<sup>nd</sup> Forester's Course (session 1995-96) and was awarded High Standard Certificate with first position; copy of the Certificate in this respect is attached as Annexure A.
- 3) That, after obtaining 1<sup>st</sup> position, Appellant became eligible for promotion to the post of Deputy Ranger (BPS-11) on the basis of selection on merit as per rules in vogue at that time, copy of an abstract of Old Rules are attached as Annexure B.
- 4) That, although on many occasions, Department sent the working papers of the Appellant for the purpose of promotion but no meeting was convened however finally, after much delay, on 31.03.2012 the Appellant was recommended / considered for promotion in merit quota as per old rules, copies of few such orders whereby working papers were sought are attached as Annexure C ( Sheets).

- 5) That, after consideration of the Appellant in DPC meeting, the Respondent No. 3 withdrew the consideration / recommendations of the DPC vide letter dated 20.04.2012, copy of the same is attached as Annexure D.
- 6) That, thereafter, the Respondents, melafidely, did not convene the meeting of Departmental Promotion Committee and waited for promulgation of new rules and in the meanwhile, Old Service Rules were amended to the entire detriment of the Appellant, copies of the Notification dated 14.03.2013 whereby 25% merit quota has been abolished are attached as Annexure E.
- 7) That, the said new rules were circulated among all the conservators and when it reached to Divisional Forest Officer, Hazara Tribal Forest Division, Appellant submitted his Departmental Appeal, copy of the Departmental Appeal is attached as Annexure F.
- 8) That, the Respondents failed to communicate the fate of the Departmental Appeal in requisite time hence, this Service Appeal on the following amongst other grounds: -

#### GROUNDS

- A. That, the Impugned Notification whereby 25% merit quota has been abolished is illegal, unlawful, void and ineffective to the extent of Appellant because Appellant already became eligible for promotion as per old rules in merit quota and he was also considered and recommended by the DPC.
- B. That, application of new rules on Appellant which are otherwise detrimental to the service benefits of the Appellant is against the principles of Natural Justice, also.
- C. That, the act of Respondents whereby they stretched the process of promotion through different modes and means is discriminatory and victimizing.

- D. That, Appellant secured 1<sup>st</sup> position in the Departmental Examination / Training etc in the year 1995 and was waiting for his term of promotion since long but at the verge of promotion the Department melodiously changed / notified new rules which are detrimental to the interests of the Appellant alone.
- E. That, on many occasions the Department was directed by the high ups to consider the cases of promotion as per old rules but the Department acted against the norms of justice and protection of law enshrined in the Constitution of Islamic Republic of Pakistan, 1973, copies of few such orders are attached as Annexure G ( Sheets).
- F. That, the acts and omission of the Respondents are against Article 4, 25 and 27 of the Constitution of Islamic Republic of Pakistan, 1973.
- G. That, Appellant cannot be subjected to the new rules in which the Respondents curtailed his legitimate right of promotion.
- H. That, the practice of the Respondents will demoralize the objective of Civil Servants who believe in hard work both in theory and practice.

It is, therefore, requested that Appeal be accepted as prayed for.



Appellant

Through,



BILAL AHMAD KAKAIZAI  
(Advocate, Peshawar)

BEFORE NWFP SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: \_\_\_\_ / 2013

Umar Sharif

V/s

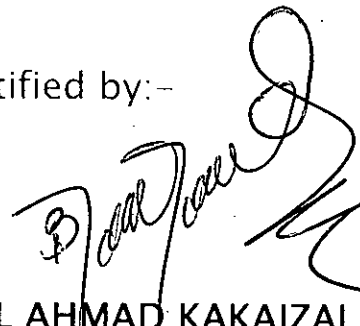
Government of KPK etc.

AFFIDAVIT

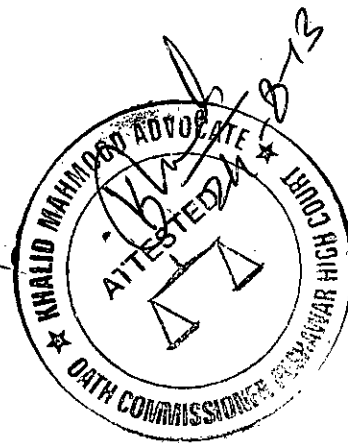
I, UMAR SHARIF, Forester, C/o DFO, Hazara Tribal Forest Division, Battagram, Appellant, do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

  
Deponent.

Identified by:-



BILAL AHMAD KAKAIZAI  
(Advocate, Peshawar)



6

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: \_\_\_\_ / 2013

Umar Sharif

V/s

Government of KPK etc.

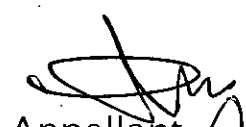
ADDRESSES OF PARTIES.

PETITIONER:

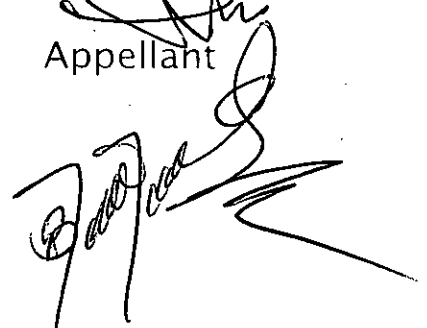
UMAR SHARIF, Forester, C/o DFO, Hazara Tribal Forest Division, Battagram.

RESPONDENT

1. Government of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary, Environment Department, Government of Khyber Pakhtunkhwa, Peshawar
3. Chief Conservator of Forests, KPK, Peshawar.
4. Conservator of Forests, Upper Hazara Forest Circle, Mansehra

  
Appellant

Through,

  
BILAL AHMAD KAKAIZAI  
(Advocate, Peshawar)

7

A

SA

AB

I

SARHAD FOREST SCHOOL  
 ABBOTTABAD



This is to certify that Mr. UMAR SHARIF  
 S/o AZAM GUL OF BATTAGRAM Dist. H/TRIBAL AT  
BATTAGRAM  
 passed successfully through the course of training prescribed for the  
 Forester Guard Class from Sarhad Forest School, Abbottabad in the Session  
 22nd Foresters Course (1995-96) and awarded High Standard certificate.

His position in order of merit was FIRST out of 32 Trainees.

*Umar Sharif*  
 SARHAD FOREST SCHOOL  
 ABBOTTABAD

Abbottabad, the 30-9-1996

*[Signature]*  
 CONSERVATOR OF FORESTS  
 ABBOTTABAD CIRCLE

**ATTESTED**  
*[Signature]*

8

B

*to Promotions*  
*By Rangan*

Seventy five percent by promotion on the basis of seniority-cum-fitness, from amongst holders of the posts of Foresters in the Circle where the vacancies occur with five years service as such, who have successfully completed such training or passed such Departmental Examination as prescribed by the Government for the purpose and,


✓

Twenty five percent by promotion on the basis of selection on merit from amongst Foresters who have secured first position in Foresters training course at the Forest School, with five years service or have secured five consecutive excellent annual reports and are below 25 years of age."



**ATTESTED**



	<p style="text-align: center;">CONSERVATOR OF FORESTS, LOWER HAZARA FOREST CIRCLE, ABBOTTABAD</p>	No. <u>10P0-1104</u> JGE.
		Dated <u>22</u> /01/2011

(9)  
c/

To

- All Divisional Forest Officers,
- In Lower Hazara Forest Circle.
- In Upper Hazara Forest Circle.
- In Watershed Management Project, Abbottabad.

Subject PROMOTION OF FORESTERS TO THE RANK OF DEPUTY RANGERS

Memo.

Please supply ACR files complete in all respect along with No Disciplinary / Anti-Corruption cases certificate and synopsis (Five copies) on the prescribed format (already supplied vide this office letter No. 6186-94/GE, dated 31-12-2007) in respect of the following Foresters on emergent basis for promotion as Deputy Ranger, strictly in accordance with the following methods / criteria prescribed for the said post under NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as well as instructions laid down in Chief Conservator of Forests, Khyber Pakhtunkhwa Peshawar letter No.310-12/E, dated 18-07-2007 endorsed to you vide this office No. 1482-92/GE, dated 10-08-2007:-

- i- Seventy five percent by promotion on the basis of seniority-cum-fitness, from amongst holders of the posts of Foresters in the Circle where the vacancies occur with five years service as such, who have successfully completed such training or passed such Departmental Examination as prescribed by the Government for the purpose and,
- ii- Twenty five percent by promotion on the basis of selection on merit from amongst Foresters who have secured first position in Foresters training course at the Forest School, with five years service or have secured five consecutive excellent annual reports.

H.T.

S.#	Name of Foresters	Place of posting
1.	Javed Sultan	Galis Forest Division, Abbottabad
2.	Mr. Muhammad Maqbool	Agror Tanawal Forest Division, Mansehra
3.	Mr. Shabir Ahmad	Unhar Watershed Division
4.	Mr. Taj Muhammad	Daur Watershed Division
5.	Mr. Muhammad Pervaz	Siran Forest Division, Mansehra
6.	Mr. Muhammad Nazir	Kunhar Watershed
7.	Mr. Nisar Ahmad S/O Sanaullah Khan	District Government Abbottabad
8.	Mr. Muhammad Mumtaz	Agror Tanawal Forest Division, Mansehra
10.	Mr. Muhammad Gulfam	Kaghan Forest Division, Garhi Habibullah
11.	Mr. Nisar Ahmad S/O Muhammad Razza	Patrol Squad Division, Abbottabad
12.	Mr. Tariq Javed	Haripur Forest Division
13.	Mr. Gul Faraz	Upper Kohistan Forest Division, Dasso
14.	Mr. Rustam Khan.	-do-
15.	Mr. Muhammad Asghar	-do-
16.	Mr. Muhammad Iqbal S/O Haji Muhammad Younis	Siran Forest Division, Mansehra
17.	Mr. Muhammad Sharif	Hazara Tribal Forest Division

  
**ADMITTED**  
 FILE

S.#	Name of Foresters	Place of posting
18.	Mr. Abid Hussain	Kaghan Forest Division, Garhi Habibullah
19.	Mr. Khurshid Khan	Daur Watershed Division
20.	Mr. Naimat Ullah	Kohistan Watershed Division

The Foresters, who come under merit quota and deputed to District Governments may also be included in the panel / promotion case.

Besides above the said documents in respect of the following Deputy Rangers already appointed on acting charge basis may also be sent in connection with their regular promotion as Deputy Rangers. **Meeting of Departmental Promotion Committee has been fixed on 01-02-2011**

S.#	Name of Deputy Ranger	Place of posting
1.	Mr. Sarfaraz Khan	Galis Forest Division, Abbottabad
2.	Mr. Masood-ur-Rehmand	District Government Mansehra
3.	Mr. Muhammad Farooq	Agror Tanawal Forest Division, Mansehra
4. ✓	Mr. Muhammad Rangeen	District Government Battagram
5.	Mr. Gul Zaman	Unhar Watershed Division
6.	Mr. Sultan Khan	Siran Forest Division, Manshra
7.	Mr. Muhammad Iqbal S/O Gohar Rehman	Kunhar Watershed Division
8.	Mr. Sultan Mehmood	Daur Watershed Division
9.	Mr. Muhammad Hanif	Kunhar watershed
10.	Mr. Ziran Gul	Buniar Watershed

*[Signature]*  
 Conservator of Forests,  
 Lower Hazara Forest Circle,  
 Abbottabad

HT-

No. \_\_\_\_\_ /GE,  
 Copy forwarded to the:

- 1- The Chief Conservator of Forests, Khyber Pakhtunkhwa Province, Peshawar with reference to his office endorsement No. 2530-33/E, dated 13-01-2011.
- 2- Conservator of Forests, Upper Hazara Forest Circle, Mansehra.
- 3- Project Director / CF, Watershed Management, Project, Abbottabad.

They are requested to direct the Divisional Forest Officers concerned for submission of the above documents complete in all respect of Foresters serving in their Circles before 28<sup>th</sup> January, 2011 most positively. Please also intimate the number of vacancies of Deputy Rangers available in their Circles.

- 4- The Executive District Officers (Agriculture), Abbottabad, Mansehra and Battagram for information and necessary action.

Conservator of Forests,  
 Lower Hazara Forest Circle,  
 Abbottabad.

*[Signature]*

**ATTESTED**

OFFICE OF THE  
DIVISIONAL FOREST OFFICER HAZARA TRIBAL FOREST DIVISION  
BATTAGRAM.

NO-1219-GE dt. 5/11/08

11

9/2

To

The Conservator of Forest,  
Hazara Circle Abbottabad.

Subject:

PROMOTION AGAINST MERIT QUOTA FROM  
FORESTER TO THE RANK OF DEPUTY RANGER.


Memo:

Reference in continuation of this office letter No:1015/GE Dated  
20-10-2008.

As already reported wide letter cited in the reference that Mr:  
Umar Sharif Forester of Hazara Tribal Forest Division Battagram standing First Position  
in the 22<sup>nd</sup> Forester training course 1995-96, therefore he is recommended for inclusion in  
the Departmental ~~Promotion~~ Committee (DPC) for promotion from Forester to the Rank of  
Deputy Ranger on merit.

The following documents of the said Forester are enclosed  
herewith.

1. Synopsis
2. ACR Files from Page 1 to 91.
3. Attested copy of Forester Training Certificate  
Obtained from Sarhad Forest School Thai Abbottabad.

  
Divisional Forest Officer  
Hazara Tribal Forest Division  
Abbottabad

  
**ATTESTED**

(P-2)

(12) 9/3

No. 2057-76 /GE dated Abbottabad the 11/11/2011

Copy forwarded to the:

- 1- All Divisional Forest Officers in Lower Hazara Forest Circle.
- 2- All Divisional Forest Officers in Upper Hazara Forest Circle Mansehra (except DFO, Lower Kohistan Forest Division). DFOs Hazara Tribal & Agror Tanawal should also intimate present position of the cases of M/S Umer Sharif Forester which was under trial in Khyber Pakhtunkhwa Service Tribunal and Muhammad Maqbool under trial in the Court of NAB.
- 3- All Divisional Forest Officers in Watershed Management Project Abbottabad. DFO Daur Watershed should intimate present position of appeal of Mr. Javed Sultan Forester in Supreme Court of Pakistan on account of recovery of Rs.385896/45.
- 4- Executive District Officer (Agriculture), Abbottabad, Mansehra and Battagram.

They are requested to supply No Disciplinary / Anti-Corruption cases certificate in respect of the following Foresters on emergent basis for promotion as Deputy Rangers:

S.#	Name of Deputy Ranger / Forester	Place of posting
1.	Mr. Sarfraz Khan Deputy Ranger	Galis Forest Division
2.	Mr. Masood-ur-Rehman Deputy Ranger	District Government Mansehra
3.	Muhammad Farooq Deputy Ranger	Siran Forest Division
4.	Muhammad Rangeen, Deputy Ranger	District Government Battagram
5.	Mr. Gul Zaman, Deputy Ranger	Unhar Watershed Division
6.	Muhammad Iqbal S/O Gohar Rehman Deputy Ranger	Kunhar Watershed Division
7.	Mr. Sultan Mehmood Deputy Ranger	Daur Watershed Division
8.	Muhammad Hanif, Deputy Ranger	Unhar Watershed Division
9.	Mr. Zareen Gul Deputy Ranger	Bunair Watershed Division
10.	Mr. Javed Sultan Forester	Galis Forest Division
11.	Mr. Muhammad Maqbool Forester	Agror Tanawal Forest Division
12.	Mr. Shabir Ahmad Forester	Unhar Watershed Division
13.	Mr. Taj Muhammad Forester	Daur Watershed Division
14.	Muhammad Pervaiz Forester	Siran Forest Division
15.	Muhammad Nazir Forester	Kunhar Watershed Division
16.	Mr. Nisar Ahmad s/o Sanaullah Khan Forester	District Government A'Abad
17.	Muhammad Mumtaz Forester	Agror Tanawal Forest Division
18.	Muhammad Gulfam Forester	Kaghan Forest Division
19.	Mr. Nisar Ahmad s/o Muhammad Raza Forester	Galis Forest Division
20.	Mr. Tariq Javed Forester	Haripur Forest Division
21.	Mr. Gul Fraz Forester	Upper Kohistan Forest Division
22.	Mr. Rustam Khan Forester	-do-
23.	Muhammad Asghar Forester	-do-
24.	Muhammad Iqbal s/o Haji Muhammad Younis Forester	Siran Forest Division
25.	Muhammad Sharif Forester	Hazara Tribal Forest Division
26.	Mr. Abid Hussain Forester	Kaghan Forest Division
27.	Mr. Khurshid Khan Forester	Daur Watershed Division
28.	Mr. Niamat Ullah Forester	Kohistan Watershed Division
29.	Mr. Wahab Shah Forester	Hazara Tribal Forest Division
30.	Muhammad Riasat Forester	Galis Forest Division
31.	Muhammad Bashir Forester	District Government Mansehra
32.	Mr. Umer Sharif Forester	Hazara Tribal Forest Division
33.	Mr. Masood-ur-Rehman s/o Fazal-ur-Rehman Forester	Hazara Tribal Forest Division
34.	Mr. Zulfqar Khan Forester	Patrol Squad Division
35.	Mr. Taj Muhammad Forester	Siran Forest Division

- 5- Conservator of Forests Upper Hazara Forest Circle Mansehra
- 6- Project Director/CF Watershed Management Project Abbottabad

They are requested to direct the DFOs concerned for submission of the above certificates in respect of Foresters serving in their Circles immediately for onward submission to CCF-I, Khyber Pakhtunkhwa Peshawar

Conservator of Forests  
Lower Hazara Forest Circle  
Abbottabad

Muhammad Jamshaid Khan  
Divisional Forest Officer  
Hazara Tribal Forest Division  
Battagram



Phone No. 0997-310017

No. 2724/GE. dated: 26/03/2012

5/4

To

The Conservator of Forests,  
Upper Hazara Forest Circle  
Mansehra.

(13)

Subject:- PROMOTION OF FORESTER TO THE RANK OF DEPTY RANGERS

Memo:-

Reference your office letter endorsement No.4785-89/GE, dated 05/03/2012.

As desired the Seniority list of the Foresters of Hazara Tribal Forest Division Battagram has already been submitted vide this office No. 2616/GE, dated 17/3/2012. However the synopsis of ACR, No disciplinary action/ Anti- corruption certificate of the following 5 senior Foresters with ACRs files are submitted herewith for further course of

action:-

S.No	Name of Forester	Particulars.
1-	Mr. Shah-e-Room	i-Synopsis, No disciplinary/ Anti-corruption certificate. ii-ACR file from page 01 to 87
2-	Syed Wahab Shah	i-Synopsis, No disciplinary/ Anti-corruption certificate. ii-ACR file from page 01 to 147
3-	Mr. Riaz Muhammad	i-Synopsis, No disciplinary/ Anti-corruption certificate. ii-ACR file from page 01 to 97
4-	Mr. Muhammad Yousaf	i-Synopsis, No disciplinary/ Anti-corruption certificate. ii-ACR file from page 01 to 91
5-	Mr. Umar Sharif	i-Synopsis, No disciplinary/ Anti-corruption certificate. ii-ACR file from page 01 to 105

It is further added that Mr. Umar Sharif Forester at S.No.05 above standing 1st position in the 22<sup>nd</sup> Forester course 1995-96. Therefore the competent forum may be apprised to consider in the DPC for promotion to the Rank of Deputy Ranger on merit please.

Enclosure: above

DIVISIONAL FOREST OFFICER  
HAZARA TRIBAL FOREST DIVISION  
BATTAGRAM

**ATTESTED**

14

D



CHIEF CONSERVATOR OF FORESTS-I  
KHYBER PAKHTUNKHWA SHAMI ROAD PESHAWAR  
Phone No. 091-9212177 Fax No. 091-9211478

No. /Estt: Dated Peshawar The 26 /04/2012

To

1. The Conservator of Forests  
Lower Hazara Forest Circle  
Abbottabad
2. The Conservator of Forests  
Upper Hazara Forest Circle  
Manshra

Subject: PROMOTION OF FORESTER (BPS-9) TO THE RANK OF DEPUTY RANGER (BPS-11).

Memo: Reference this office letter No.3241-44/GL, dated 21.3.2012.

As evident from the above cited letter it was decided that seniority of Foresters for the purpose of promotion is required to be prepared on the basis of place of domicile of Foresters but it has been noticed that seniority/Working Paper were not on proper position and most of the Foresters are making representations.

Therefore to proceed further the decision taken in the DPC meeting in respect of Hazara Circles held on 31.3.2012 is hereby withdrawn and another date i.e. 30.4.2012 is fixed for consideration of the revised Working Paper in respect of Hazara Lower and Upper Circles including Watershed Circle.

It is therefore once again requested to submit the revised W/Paper on the subject keeping in view the place of domicile of the Foresters so that injustice could not be made to each and every Forester.

Chief Conservator of Forests -I  
Khyber Pakhtunkhwa Peshawar

No. 3537-3RE

Copy forwarded for information and necessary action to the:

1. ✓ Chief Conservator of Forests-II Khyber Pakhtunkhwa Peshawar. This is with reference to the discussion held on 19.04.2012.
2. Section Officer (Estt:) Government of Khyber Pakhtunkhwa Environment Department Peshawar. He is requested to attend the DPC meeting on 30.04.2012 in r/o Lower/Upper Hazara Circles.

Chief Conservator of Forests -I  
Khyber Pakhtunkhwa Peshawar

Estt put up file  
no 3261  
23/04/12  
23/4/2012

**ATTESTED**

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT

35  
15 E

NOTIFICATION

Dated Peshawar the 14<sup>th</sup> March, 2013

No. SO (Estt) Env/1-465/2k12. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, the Environment Department, Government of Khyber Pakhtunkhwa, in consultation with the Establishment and the Finance Department, hereby directs that in the Forestry, Fisheries and Wildlife Department's Notification No. SO (FT. II) 1-465/99/Vol: IV dated 26.1.1993, the following further amendments shall be made, namely;

AMENDMENTS

In the Appendix, under the heading "Forest Wing" in "PART-II SUB PROFESSIONAL POSTS", for the existing entries against S.No. 1, 2 & 3, the following shall be substituted in respective columns namely:-

#	Nomen- clature of the post	Qualification for appointment by initial recruitment	Age limit	Method of recruitment
1	Deputy Forest Ranger (BPS-11)	a) B.Sc. Degree (atleast 2 <sup>nd</sup> Division) from a recognized University; and  b) <u>Physical Fitness:</u>  b(i) <u>Height:</u> 5-6, ft (minimum); and  b(ii) <u>Chest Size:</u> 34-56, inches (minimum)  Note:- Candidate Will qualify Marathon race of 2-Km within 20 minutes	21 to 32 years	a). Twenty-five percent by initial; recruitment; and  b) Seventy-five percent by promotion, on the basis of seniority-cum-fitness, from amongst Foresters (BPS-9) having five years service, who have successfully completed such training or passed such departmental examination as may be prescribed by the Government from time to time.  Note- The candidates who have been recruited will have to undergo the prescribed training for Forester at Khyber Pakhtunkhwa Forest School Thal Abbottabad; and
2	Forester (BPS-9)	a) Bachelor's Degree with FSc (atleast 2 <sup>nd</sup> Division) from a recognized University; and  b) <u>Physical Fitness:</u>  b(i) <u>Height</u> 5-6, ft (minimum); and  b(ii) <u>Chest Size:</u> 34-36, inches (minimum)  Note:- Candidate Will qualify Marathon race of 2-Km within 20	21-32 years	a) Twenty-five percent by initial; recruitment; and  b) Seventy-five percent by promotion, on the basis of seniority-cum-fitness, from amongst Forest Guards of the Forest Division with atleast five years service as such, have passed such departmental examination as may be prescribed by the Government from time to time.  Note- The candidates who have been recruited will have to undergo two years certificate course in Forestry at Khyber Pakhtunkhwa Forest School Thal Abbottabad.

*Handwritten notes:*  
13/3

*Handwritten signature:*

**ATTESTED**

*Handwritten initials:*  
COR 2/13

16

Forest Guard (SPS-7)	a) Intermediate with Matric Science (at least 2 <sup>nd</sup> Division) from a recognized Board; and	13-28 years	By initial recruitment.
	b) <u>Physical Fitness:</u>		
	b(i) <u>Height</u>		
	5-6, ft (minimum); and		
	(ii) <u>Chest Size:</u>		
	34-36, inches (minimum)		
	<u>Note:-</u> Candidate Will qualify Marathon race of 2-Km within 20 minutes		

Note:- The candidates who have been recruited will have to undergo one year training course of Forest Guards at Khyber Pakhtunkhwa Forest School Thal Abbottabad."



SECRETARY TO GOVT: OF  
KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT.

2113-2213

Dated Peshawar the 14<sup>th</sup> March, 2013.

Encl: NO.SO(Estt)/Env/II-465/2K:

Copy is forwarded for information to:-

- 1) All Administrative Secretaries, Govt of Khyber Pakhtunkhwa.
- 2) Accountant General, Khyber Pakhtunkhwa.
- 3) All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 4) Chief Conservator of Forests, Khyber Pakhtunkhwa.
- 5) Chief Conservator Wildlife Khyber Pakhtunkhwa.
- 6) All Conservators of Forests Khyber Pakhtunkhwa.
- 7) All Deputy Conservators/Divisional Forest Officer in Khyber Pakhtunkhwa. *ccf-II Abbottabad*
- 8) All District Coordination Officers in Khyber Pakhtunkhwa.
- 9) Registrar Peshawar High Court/Service Tribunal, Khyber Pakhtunkhwa.
- 10) Secretary, Khyber Pakhtunkhwa Public Service Commission.
- 11) All Executive District Officers Finance in Khyber Pakhtunkhwa.
- 12) Director Budget & Accounts Cell, Environment Department.
- 13) All District Accounts Officers in Khyber Pakhtunkhwa.
- 14) Librarian, Government of Khyber Pakhtunkhwa, Establishment Department.
- 15) Manager Government Printing Press, Khyber Pakhtunkhwa, Peshawar for publication in the Official Gazette with the request that twenty printed copies of the notification, when published may be furnished to this department.
- 16) PS to Secretary Environment Department Khyber Pakhtunkhwa.
- 17) PA to Additional Secretary Environment Department.
- 18) PA to Deputy Secretary-I & II, Environment Department.
- 19) Master file.
- 20) Concerned file.

*Fida-ul-Karim*  
(FIDA-UL-KARIM)  
SECTION OFFICER (ESTT:)



ATTESTED




17

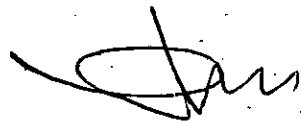
F

The Divisional Forest Officer  
Hazara Tribal Forest Division  
Battagram.

Subject: Appeal

please enclosed find herewith appeal of  
Mr. Ulmer Shah for For Dairland Submission  
to the quarter concerned.

  
SDF/Aval  
2-5-2013



**ATTESTED**

The Secretary  
Environment Department  
Govt of Khyber Pakhtunkhwa  
Peshawar

18

Through:- PROPER CHENNAI

Subject:- PROMOTION OF FORESTER (BPS-9) TO THE RANK OF DEPUTY RANGER-  
Appeal thereof.

Respected Sir,


Will your good self please be kind, Affectionate and sympathetic enough to consider/honour the following factors:-

- (i) That the appellant has 33 years meritorious service at his credit.
- (ii) That the subject long awaited promotion of the appellant is due since time immemorial on the basis of merit quota. The certificate of first position of Regular Forester Training for the year 1995-96 is enclosed as Annex-I
- (iii) That a Departmental Promotion Committee (DPC) had been taken for the subject promotion on 31-03-2012 in accordance with the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989 (Annex-II) and the appellant had been considered/recommended for promotion on the basis of merit quota as enshrined in the Rules ibid.
- (iv) Then the Chief Conservator of Forest-I withdrew the consideration/recommendation of the DPC dated 31-03-2012 for the reasons entailed in his office letter endorsement No.3537-39/E dated 20-04-2012 and 30-04-2012 was fixed for next DPC (Annex-III) which could not take place to date.
- (v) Meanwhile, the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989 were revised/amended vide Government, of Khyber Pakhtunkhwa Environment Department Notification No.So(Estt)Envtt/1-465/2k12 dated 14/03/2013 (Annex-IV) due to which the appellant is being suffered badly and deprived of his Legal/constitutional right of the subject promotion.

PRAYER

Hence keeping in view the above exposition, it is humbly prayed that;

- (i) The recommendation of the Departmental Promotion Committee (DPC) dated 31-03-2012 may kindly be restored so that appellant could avail his promotion.
- (ii) The appellant may not be made subjudice to the Revised Rules please.

  
Appellant 2/5/013  
Umer Sharif Forester  
C/o  
Divisional Forest Officer  
Hazara Tribal Forest Division  
Battagram

  
**ATTESTED**

19 G



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT

NO.SO(Estt)Env/ 1-465/2K11 3025  
Dated Peshawar 8<sup>th</sup> October: 2011

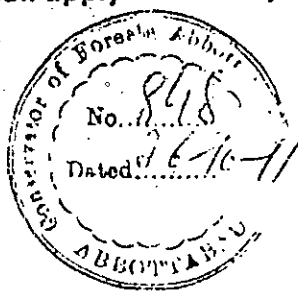
To

The Chief Conservator of Forests,  
Khyber Pakhtunkhwa.

SUBJECT: UPGRADATION/NOTIFICATION SERVICE RULES OF FOREST  
GUARD, FORESTERS AND DEPUTY RANGERS/CONSULTATION  
WITH P.S.C. BEFORE NOTIFYING SERVICE RULES.

P-138

I am directed to refer to your letter No.1016/E dated 22/9/2011  
on the subject cited above and to state that according to the advice of SSRC  
Committee, the promotion cases may be processed as per the existing policy  
/rules because new rules shall apply when they are actually notified.



M. Mutahir Shah  
(MUTAHIR SHAH)  
SECTION OFFICER (ESTT)

Endst:No. and date even.

Copy is forwarded to PS to Secretary Environment Department.

NO. 1416-20 /E, dated Peshawar the 17 /10/2011.

B-VIII-31

Copy forwarded for information and necessary  
action to the:-

1. Chief Conservator of Forests-II Khyber Pakhtunkhwa.
2. Conservator of Forests Malakand East Circle.
3. Conservator of Forests Lower Hazara Circle.
4. Conservator of Forests Southern Circle Peshawar.
5. Conservator of Forests FATA Circle Peshawar.

They are requested to submit revise working Paper  
complete in all respect on the present position as early as possible

Spec  
E.A.  
C.F. L/II  
25/11/11

Arud  
CHIEF CONSERVATOR OF FORESTS-I  
KHYBER PAKHTUNKHWA PESHAWAR.

(continued P-2)

ATTESTED

## BEFORE KHYBER PAKHTUNKHWA PROVINCE SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1251/2013

Umar Shairf Forester C/O DFO, Hazara Tribal Forest Division

Appellant

Versus

- 1- GOVERNMENT OF KHYBER PAKHTUNKHWA,  
Through Chief Secretary  
Civil Secretariat, Peshawar.
- 2- SECRETARY,  
Environment Department,  
Government of KPK, Peshawar.
- 3- CHIEF CONSERVATOR OF FORESTS,  
Khyber Pakhtunkhwa Peshawar.
- 4- CONSERVATOR OF FORESTS,  
Upper Hazara Forest Circle Mansehra.

Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Sheweth

Preliminary Objection:

- 1- The appeal is not maintainable in the present form.
- 2- That the appellant has no cause of action.
- 3- The applicant has got no locus standi to bring the present appeal.
- 4- The appellant estopped by his own conduct to bring the present appeal.
- 5- The appeal is bad on account of non-joinder and mis-joinder of necessary parties/ time bared.
- 6- The instant appeal is time barred.
- 7- That the appellant has been estopped by his own conduct to file the appeal.
- 8- That this Hon'ble Tribunal has no jurisdiction to adjudicate the appeal.

55-22 S-1  
12/03/14

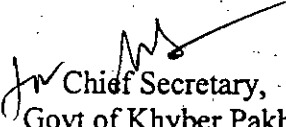
### FACTS

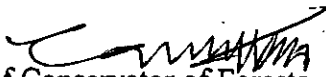
- 1- Pertains to record.
- 2- Pertains to record.
- 3- Pertains to record. However, no one can claim promotion as a right according to law. Hence para-3 is denied.
- 4- Pertains to record. However, the DPC meeting <sup>was</sup> withdrawn.
- 5- In Correct. As the working Paper/ Seniority list were not on proper position due to which the decision taken in the DPC meeting held on 31-03-2012 of whole Hazara Forest Circles was withdrawn.
- 6- Denied. Another date i.e. 30-04-2012 was fixed for the purpose, but the meeting could not be held due to short comings in the records of Foresters, hence no question of melâfide arises on the part of this Department / Respondent.
- 7- Pertains to record.
- 8- Pertains to record, hence no comments.


### GROUNDS

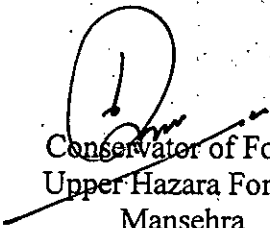
- A) Incorrect. The petitioner has not been considered on merit quota as per old Rules due to non existence of vacant Post of Deputy Ranger and pending disciplinary proceedings against him and hence he is not eligible for Promotion on merit quota on promulgation of new rules on the subject and there is <sup>no</sup> illegality in the impugned notification.
- B) Denied. The new Rules are in accordance to the Principles of Natural Justice.
- C) Incorrect. There is no discrimination on the part of the respondents.
- D) Incorrect as per paras mentioned above.
- E) Incorrect. The appellatant was death with in according to law and Regulation.
- F) Denied. The acts of the Respondents are in accordance to the Rules/ Procedure on the subject.
- G) Incorrect. On promulgation of new rules the Promotion of petitioner can not be considered on old rules. As the old Rules are no more effective.
- H) Incorrect. All acts are being followed in accordance to the provisions of Khyber Pakhtunkhwa Civil Servant and Promotion Rules.

Keeping to the aforesaid reply / comments and ground in view, therefore, it is prayed that the appeal may kindly be dismissed costs.

  
Chief Secretary,  
Govt of Khyber Pakhtunkhwa  
Environment Department Peshawar  
Peshawar

  
Chief Conservator of Forests,  
Northern Forest Region-II  
Abbottabad

  
Secretary,  
Environment Department  
Government of Khyber Pakhtunkhwa

  
Conservator of Forests,  
Upper Hazara Forest circle  
Mansehra

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**


Appeal No. 1251/2013


Umar Sharif


Versus Government of KPK etc.

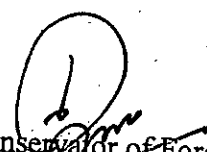
**AFFIDAVIT.**

We respondents solemnly affirm and declare on Oath that contents of thje  
reply is correct to the best of our knowledge and belief and nothing concealed  
from this Honourable Tribunal.

  
Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

  
Secretary,  
Environment Department  
Government of KPK, Peshawar.

  
Chief Conservator of Forests,  
Northern Forest Region-II,  
Abbottabad. 02

  
Conservator of Forests,  
Upper Hazara Forest Circle  
Mansehra.

BEFORE KHYBER PAKHTUNKHWA PROVINCE SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1251/2013

Umar Shairf Forester C/O DFO, Hazara Tribal Forest Division

Appellant

Versus

- 1- GOVERNMENT OF KHYBER PAKHTUNKHWA,  
Through Chief Secretary  
Civil Secretariat , Peshawar.
- 2- SECRETARY,  
Environment Department,  
Government of KPK, Peshawar.
- 3- CHIEF CONSERVATOR OF FORESTS,  
Khyber Pakhtunkhwa Peshawar.
- 4- CONSERVATOR OF FORESTS,  
Upper Hazara Forest Circle Mansehra.

Respondents

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Respectfully Sheweth

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- 7- That the appellant has been estopped by his own conduct to file the appeal.
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55 22 S.T.  
12/03/14



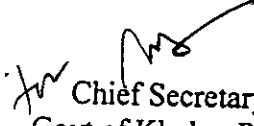
### FACTS

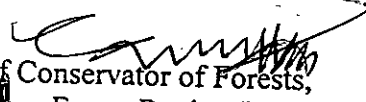
- 1- Pertains to record.
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- 6- Denied. Another date i.e. 30-04-2012 was fixed for the purpose, but the meeting could not be held due to short comings in the records of Foresters, hence no question of melafide arises on the part of this Department / Respondent.
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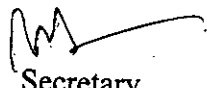
### GROUNDS

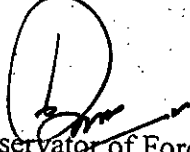
- A) Incorrect. The petitioner has not been considered on merit quota as per old Rules due to non existence of vacant Post of Deputy Ranger and pending disciplinary proceedings against him and hence he is not eligible for Promotion on merit quota on promulgation of new rules on the subject and there is<sup>no</sup> illegality in the impugned notification.
- B) Denied. The new Rules are in accordance to the Principles of Natural Justice.
- C) Incorrect. There is no discrimination on the part of the respondents.
- D) Incorrect as per paras mentioned above.
- E) Incorrect. The appellat was death with in according to law and Regulation.
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- G) Incorrect. On promulgation of new rules the Promotion of petitioner can not be considered on old rules. As the old Rules are no more effective.
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Chief Secretary,  
Govt of Khyber Pakhtunkhwa  
Environment Department Peshawar  
Peshawar

  
Chief Conservator of Forests,  
Northern Forest Region-II  
Abbottabad

  
Secretary,  
Environment Department  
Government of Khyber Pakhtunkhwa

  
Conservator of Forests,  
Upper Hazara Forest circle  
Mansehra

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

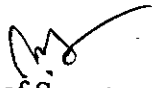
Appeal No. 1251/2013


Umar Sharif


Versus Government of KPK etc.

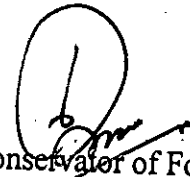
**AFFIDAVIT.**

We respondents solemnly affirm and declare on Oath that contents of thje  
reply is correct to the best of our knowledge and belief and nothing concealed  
from this Honourable Tribunal.

  
Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

  
Secretary,  
Environment Department  
Government of KPK, Peshawar.

  
Chief Conservator of Forests,  
Northern Forest Region-II,  
Abbottabad. or

  
Conservator of Forests,  
Upper Hazara Forest Circle  
Mansehra.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 522 /ST

Dated 1 / 4 / 2016

To


The Secretary Environment,  
Peshawar.

Subject: -

**JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 25.3.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

5/6/14  
127/14

**BEFORE NWFP SERVICE TRIBUNAL,**  
**PESHAWAR**

SERVICE APPEAL NO. 1251 / 2013.

**UMAR SHARIF**                      **VS**                      **GOVERNMENT OF KPK ETC.**

**REJOINDER ON BEHALF OF APPELLANT**

*Respectfully Sheweth,*

Rejoinder on behalf of Appellant is as under: -

**REJOINDER TO THE PRELIMINARY OBJECTIONS:**

Preliminary Objections as taken by the Respondents are illegal and unlawful because while raising the same, the Respondents had not cited any lawful reason or justification in support thereof in respect of cause of action, maintainability etc hence the same are mere routine objections having nothing to do with the merits of the case.

**REJOINDER TO THE FACTS:**

1. Para-1 & 2 needs no reply.
2. Para 3 & 4 of the Appeal has not been specifically denied by the Respondents however it is added that Appellant is not claiming Promotion rather he wants the implementation of earlier recommendations of DPC whereby Appellant was considered for Promotion under Old Rules and New Rules have been formulated under melafide intention by not assigning any merit quota.

3. Para 5 of the Comments is neither legal nor proper. In fact no such order in respect of Seniority List or Working Papers is on record.
4. Para 6 of the Comments is in fact admission on part of the Respondents. The Appellant and others was not considered for promotion due to no fault on their part rather the department was delaying the matter in order to inflict more harm to those who could have been promoted under the old rules in merit quota. Needless to mention here that as per order of this Honorable Tribunal some of the employees have been promoted as per old rules, Copies of the Judgment dated 22.02.2013, Minutes of the Meeting dated 29.05.2013, Letters dated 30.05.2013, 25.07.2013 & 26.03.2012 are attached as Annexure R/1 to R/5.
5. Paras 7 and 8 of the Comments need no Rejoinder.

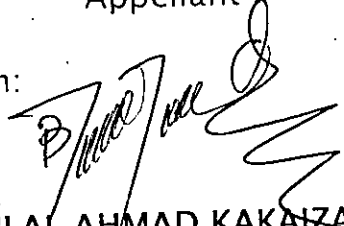
REJOINDER TO THE GROUNDS:

Grounds as taken by the Appellant in its Appeal are just and proper while that of comments as filed by all the Respondents are unjust, illegal and unlawful hence need no Rejoinder.

It is, therefore, requested that Appeal of the Appellant be accepted as prayed for.

  
Appellant

Through:

  
BILAL AHMAD KAKAIZAI  
(Advocate, Peshawar)

BEFORE NWFP SERVICE TRIBUNAL,  
PESHAWAR

SERVICE APPEAL NO. 1251 / 2013.

UMAR SHARIF

VS

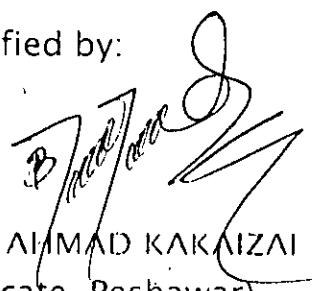
GOVERNMENT OF KPK ETC.

AFFIDAVIT

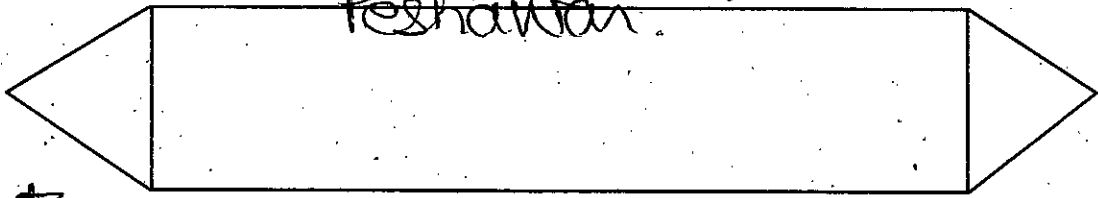
I, UMAR SHARIF, FORESTER, H.T. Batagram, Appellant, do hereby on oath affirm and declare that the contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honorable Tribunal.

  
Deponent

Identified by:

  
BILAL AHMAD KAKIZAI  
(Advocate, Peshawar)

Before KPK Service Tribunal  
بعدالت  
Peshawar



Appellant  
Government of

KPK  
etc

منجانب

نام Omer Sharif

مورخہ

مقدمہ

دعویٰ

جرم

باعث تخریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل

Bilal A. Kalkanوی کے Peshawar مقام

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف دینے جواب دہی اور قبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زر اس پر دستخط کرانے کے اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکفرقہ یا اپیل کی برآمدگی اور  
منسوخی نیز دائر کرنے اپیل نگرانی اور نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ  
مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اس کے  
مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا ابھی اختیار ہوگا۔ اگر  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے۔ کہ پیروی مذکور  
کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

ماہ

المرقوم

بد گواہ ش

Accepted  
& Accepted

Bilal A. Kalkan

کے لئے منظور ہے۔

بمقام

Handwritten signature



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.



SERVICE APPEAL NO. 1463/2009

Date of institution ... 26.08.2009  
Date of decision ... 22.02.2013

Nadir Khan, Forester,  
Dir Kohistan Forest Division,  
Dir Lower.

(Appellant)

VERSUS

1. The Secretary Environments, KPK Peshawar.
  2. The Chief Conservator of Forests, KPK Peshawar.
  3. The Conservator of Forests, Malakand Circle, Saidu Sharif Swat.
  4. The DFO Dir Lower.
  5. Mr. Sardar Saleh, Dy: Forest Ranger, Dir Kohistan Forest Division Dir Lower.
- (Respondents)

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT 1974 AGAINST THE PROMOTION ORDER DATED 15.4.2009 WHEREBY THE JUNIOR MOST PRIVATE RESPONDENT HAS BEEN PROMOTED IN VIOLATION OF RULES BY IGNORING THE APPELLANT AND AGAINST NOT TAKING ACTION ON THE APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS.

Mr. Muhammad Asif Yousafzai,  
Advocate.

For appellant

Mr. Arshad Alam, G.P  
Mr. Sultan Ali Shah, Advocate

For official respondents No. 1 to 4  
For private respondent No. 5

Mr. Qalandar Ali Khan  
Mr. Sultan Mahmood Khattak

Chairman  
Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:- As identical questions are

involved in this appeal and Appeal No. 1464/09 by Syed Abdul Wahid, Appeal No. 1634/09 by Nadir Khan, Appeal No. 1635/09 by Syed Abdul Wahid and Appeal No. 1768/09 by Mujtaba Khan, this single judgment will also dispose of the mentioned appeals.

All the aforementioned five appeals have been lodged by the appellants against the promotion of private respondents, namely, Sardar Saleh and Wisal

ATTESTED  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar

Jan on 15.4.2009 and 27.5.2009, respectively. The impugned promotion orders have been assailed on the ground that the appellants joined service as Foresters in the Forest Department either earlier than the private respondents or were senior in merit than the latter and were placed senior to private respondents in the seniority list. They claimed that they had also qualified the departmental examination at Thai School. According to the relevant rules, the criteria laid down for promotion of Foresters to the posts of Deputy Forest Rangers was as under:-

- (a) Seventy-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Foresters in the Circle where the vacancies occur with five years service as such, who have successfully completed such training or passed such Departmental Examination as may be prescribed by the Government for the purpose; and
- (b) twenty-five per cent by promotion, on the basis of selection on merit, from amongst Foresters who have secured first position in Foresters training course at the Forest School with five years service or have secured five consecutive excellent annual reports and are below 35 years of age."

The appellants alleged that in utter violation of the aforesaid rules and in order to accommodate blue eyed, the respondent-department issued promotion orders whereby private respondents were promoted, though they were junior to the appellants and also not eligible for promotion. The appellants, therefore, preferred departmental appeals against the impugned promotion orders, and when received no response from the departmental authority within the statutory period, they lodged these appeals, inter-alia, on the grounds that the impugned

promotion orders were against law, rules, facts, norms of justice and material on record, therefore, not tenable; that the appellants have not been treated according to law and despite being eligible, they were not considered for promotion and thus legal right of promotion was denied to them; that despite the fact that private respondents were junior and had not secured first position in the prescribed examination, they were promoted in total violation of the rules; and that upper age was relaxed in the matter of first appointment, but in order to give undue advantage to the private respondents, the respondent-department adopted a wrong procedure for age relaxation.

3. The appeals were resisted both by the official respondents No. 1 to 4 as well as private respondent No. 5 by filing written replies/comments wherein a number of legal and factual objections were raised. This fact could not be denied by the respondents that appellants were senior to private respondents in the seniority list but they claimed that private respondents have been promoted on merit regardless of the seniority. While admitting this position that neither of the parties secured first position in the Foresters course, the respondents claimed that private respondent, Wasil Khan, secured first position in 10<sup>th</sup> up-gradation course. It was vehemently contended by the respondents that private respondents were promoted against 25 % promotion quota on the basis of selection on merit as they had secured five consecutive excellent annual confidential reports with five years service and that as compared to them, the appellants were not eligible for promotion. They further claimed that rules regarding age limit had been relaxed by the competent authority on the recommendations of standing service rules committee in its meeting held on 29...

4. The appellants also filed rejoinders wherein besides refuting allegations of the private respondents, they reiterated their case; where-after arguments of the

ATTESTED

learned counsel for the appellants, learned Govt. Pleader and learned counsel for private respondents were heard, and record perused.

5. It is an admitted fact that private respondents have been promoted against 25 % quota for promotion on the basis of selection on merit from amongst Foresters who either secured first position in the Foresters training course at the Forest School with five years service or secured five consecutive excellent annual reports and were below 35 years of age. It is also an admitted position that neither the appellants nor private respondents secured first position in the Foresters course at the Sarhad Forest School Abbottabad at Thal. The respondents claimed that private respondent, Wasil Khan, secured first position in the 10<sup>th</sup> upgradation course for Foresters from 17.6.2005 to 4.10/2005, an upgradation course for less than four months; but they miserably failed to show that this is the same course prescribed in the rules for promotion on merit. Apart from the fact that no such claim has been made in respect of the other private respondent, namely, Sardar Saleh, the impugned promotion orders appear to be mainly based on the second ground of securing five consecutive excellent annual reports. In such an event when the promotion was being made on the basis of merit, it was incumbent upon the department, especially Departmental Promotion Committee (DPC), to have also considered ACRs of other eligible Foresters having five years service and were below 35 years of age, particularly those who were senior to the private respondents; instead of picking and choosing junior ones even on the false pretext of securing first position in the prescribed training course. Needless to say that respondents have not shown on record anything to the effect that the appellants were not eligible for promotion against the quota in question either on account of having less than prescribed service or their ACRs fell short of threshold of five excellent annual reports. In such a situation, the

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consideration of only selected persons on merit, without placing his case in juxtaposition with the cases of other eligible and senior contenders, would obviously amount to contravention of the rules itself, to say the least.

6. Besides, in order to accommodate the private respondents, the authority went to extent of granting relaxation in the upper age limit simply on the basis of proposed amendments in the service rules of Deputy Rangers (BPS-9) by the Standing Service Rules Committee in its meeting held on 29.4.2009, without waiting for approval of the proposed amendments and notification by the competent authority, which was subsequently issued on 3.8.2009, thus showing indecent haste in pushing through the promotion case of the private respondents. There can hardly be a second opinion about the contention of the learned counsel for the appellants that relaxation in upper age limit is normally granted in cases of initial appointment/recruitment and that in the instant case the Standing Service Rules Committee cleared/approved proposed amendment for deletion of 35 years age limit from the service rules prescribed for promotion against merit quota and not relaxation in upper age limit.

7. The learned counsel for the appellants pointed out that private respondents have been promoted on acting charge basis against the declared policy of the government that appointment on acting charge shall be made either against posts which are likely to fall vacant for a period of six months or more and further when a most senior civil servant belonging to the cadre or service concerned who is otherwise eligible for promotion, does not possess the specified length of service; but, according to the learned counsel for the appellants, the promotions in question do not meet either of the said two conditions. The learned counsel maintained that the concerned authority again violated the rules when private respondent, Sardar Saleh, was regularized as Deputy Ranger in BPS-11 with

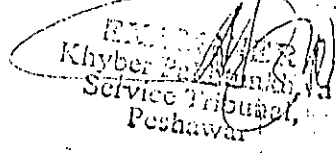
...prospective effect from 15.4.2009 vide order dated 18.2.2013 i.e during pendency of the appeals, just few days before the final date of hearing, without placing the matter before DPC. In short, neither rules have been followed at the time of consideration of the case of promotion of the private respondents nor prescribed procedure has been observed before issuance of the impugned orders, which would render such orders void and illegal.

8. Consequently, on the acceptance of the appeals, the impugned promotion orders dated 15.4.2009 and 27.5.2009, are set-aside and the case is remanded/sent back to the respondent-department for reconsideration of case of promotion against the vacant/available posts under the prescribed 25% quota on the basis of merit while taking into consideration all eligible Foresters who fulfill the criteria laid down in the relevant rules, within reasonable time, but in no case later than ninety days from the receipt of this judgment/order. There shall, however, be no order as to costs.

*Dr. Balwinder Singh*  
Chairman  
*Dr. Gulshan Mahmood*  
Member

ANNOUNCED  
22.2.2013

Certified to be true copy



Date of Presentation of Application 5-3-2013  
Number of Words 21100  
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Number of Witnesses 16  
Date of Issuance of Copy 5-3-2013  
Date of Receipt of Copy 5-3-2013



Put up  
with the  
Tribunal

5/6/14

BEFORE NWFP SERVICE TRIBUNAL,  
PESHAWAR

SERVICE APPEAL NO. 1251 / 2013.

UMAR SHARIF                      VS                      GOVERNMENT OF KPK ETC.

APPLICATION FOR EARLY HEARING AND INTERIM RELIEF TO THE EFFECT THAT APPELLANT MAY ALSO BE CONSIDERED FOR PROMOTION TO THE POST OF DEPUTY RANGER AS PER OLD RULES IN UPCOMING DPC MEETING SCHEDULED TO BE HELD ON 10.06.2014 OR ELSE THE RESPONDENTS BE DIRECTED NOT TO HOLD THE DPC MEETING TILL THE DECISION OF INSTANT APPEAL.

Respectfully Sheweth,

Short facts giving rise to present Application is as under:

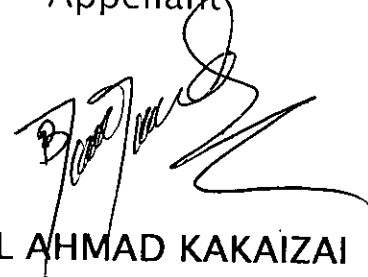
1. That, titled Appeal is pending sub-judice in this honorable Tribunal in which 01.07.14 is fixed.
2. That, the contents of main Appeal may please be read as integral part of this Application.
3. That, Respondents has scheduled the meeting of Departmental Promotion Committee on 10.06.2014 wherein the incumbents should be considered for promotion as per old rules, (copy of the order dated 26-05-2014 is attached for ready reference).
4. That, Appellant is also agitating his Grievance before the Tribunal on the same issue i.e. consideration of Appellant as per old rules on merit quota.

5. That, the posts of the Deputy Rangers are lying vacant in Abbottabad, Hazara Region, and Appellant has also passed his Examination in 1<sup>st</sup> division hence he has the right to be considered for promotion.
6. That, Appellant has prima facie case in his favour and balance of convenience also lies in his favour and if the interim relief is not granted he will suffer irreparable loss and due to non-availability of post in future, the object of his Appeal may also fail.

It is, therefore, requested that Application be accepted and Respondents may please be directed to consider the Appellant as well for promotion or else the holding of meeting of DPC may please be stayed till the decision of main Appeal moreover Appellant may also be given an early hearing.

  
Appellant

Through:

  
**BILAL AHMAD KAKAIZAI**  
(Advocate, Peshawar)



BEFORE NWFP SERVICE TRIBUNAL,  
PESHAWAR

SERVICE APPEAL NO. 1251 / 2013.

UMAR SHARIF

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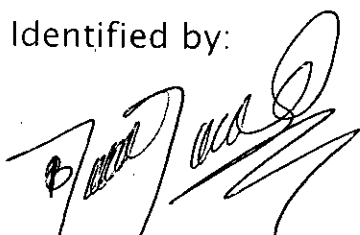
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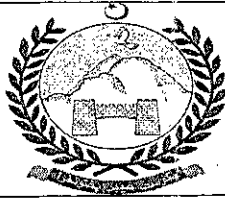


BILAL AHMAD KAKAIZAI  
(Advocate, Peshawar)

ATTESTED



Chief Conservator of Forests  
Central Southern Forest Region-I  
Khyber Pakhtunkhwa Peshawar



Shami Road Peshawar  
Phone # 091-9212177 Fax # 9211478  
E-mail: [chief\\_forest@gmail.com](mailto:chief_forest@gmail.com)

No. /E

Dated Peshawar the 26 /5/2014

1. The Chief Conservator of Forests Northern Forest Region-II Abbottabad.
2. The Chief Conservator of Forests Malakand Forest Region-III Saidu Sharif Swat.
3. CF Southern Circle Peshawar.
4. CF FP&M Circle Peshawar

Subject: PROMOTION OF FORESTERS TO THE RANK OF DEPUTY RANGER

Memo:

Reference your office letter No. 3770-73/E, dated 9/5/2014.

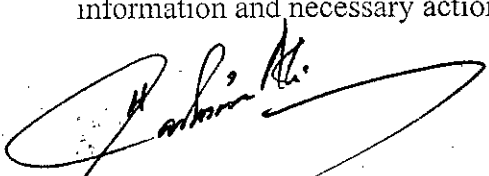
Due to non receiving of the Working Papers on the subject well in time, the date of DPC already fixed as 27/5/2014 is hereby postponed to 10/6/2014.

Chief Conservator of Forests  
Central Southern Forest Region-I  
Khyber Pakhtunkhwa Peshawar

No. 3961

/E

Copy forwarded to Section Officer (Estt) Govt. of Khyber Pakhtunkhwa Environment Department for information and necessary action. He is requested to attend the DPC on due date.

  
Chief Conservator of Forests  
Central Southern Forest Region-I  
Khyber Pakhtunkhwa Peshawar

**BEFORE NWFP SERVICE TRIBUNAL,**  
**PESHAWAR**

SERVICE APPEAL NO. 1251 / 2013.

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**APPLICATION FOR EARLY HEARING AND INTERIM RELIEF TO THE EFFECT THAT APPELLANT MAY ALSO BE CONSIDERED FOR PROMOTION TO THE POST OF DEPUTY RANGER AS PER OLD RULES IN UPCOMING DPC MEETING SCHEDULED TO BE HELD ON 10.06.2014 OR ELSE THE RESPONDENTS BE DIRECTED NOT TO HOLD THE DPC MEETING TILL THE DECISION OF INSTANT APPEAL.**

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Appellant

Through:

  
BILAL AHMAD KAKAIZAI  
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**BEFORE NWFP SERVICE TRIBUNAL,**  
**PESHAWAR**

SERVICE APPEAL NO. 1251 / 2013.

***UMAR SHARIF***

***VS***

**GOVERNMENT OF KPK ETC.**


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BILAL AHMAD KAKAIZAI  
(Advocate, Peshawar)

Chief Conservator of Forests Central Southern Forest Region-I Khyber Pakhtunkhwa Peshawar		Shami Road Peshawar Phone # 091-9212177 Fax # 9211478 E-mail: chief_forest@gmail.com
No. /E		Dated Peshawar the 26/5/2014

1. The Chief Conservator of Forests Northern Forest Region-II Abbottabad.
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Subject: PROMOTION OF FORESTERS TO THE RANK OF DEPUTY RANGER

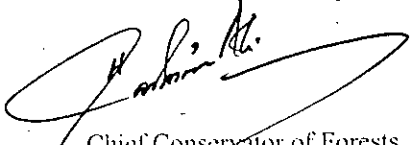
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