

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 241/2013

Date of institution ... 28.01.2013

Date of judgment ... 25.08.2016

Muhammad Riasat, Forester,
Haripur Forest Division, Haripur.

... (Appellant)

VERSUS

1. Province of Khyber Pakhtunkhwa through Secretary Environment Department, Peshawar.
2. Chief Conservator of Forests, Central and Southern Forest Region-I, Peshawar.
3. Chief Conservator of Forests, Northern Forest Region-II, Abbottabad.
4. Conservator of Forests, Lower Hazara Forest Circle, Abbottabad.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST NOTIFICATION DATED 05.10.2012 AND FINAL ORDER DATED 04.01.2013 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR INCLUSION OF HIS NAME IN THE SENIORITY LIST OF LOWER HAZARA FOREST CIRCLE ABBOTTABAD HAS BEEN REJECTED.

Mr. Shahzada Irfan Zia, Advocate
Mr. Ziaullah, Government Pleader

.. For appellant.
.. For respondents.

MR. ABDUL LATIF
MR. PIR BAKHSH SHAH

.. MEMBER (EXECUTIVE)
.. MEMBER (JUDICIAL)

JUDGMENT

ABDUL LATIF, MEMBER:-

Facts giving rise to instant appeal are

that the appellant joined service as Forester on 19.09.1985 and on 20.10.1997 he was transferred from Working Plan Unit IV, Abbottabad to Lower Hazara Forest Circle, Abbottabad in the interest of public service and posted against an existing vacant post. That the seniority lists were framed and the name of appellant was shown in the seniority list of

Lower Hazara Forest Circle at proper place. That all of a sudden the impugned notification dated 05.10.2012, which is totally illegal and inconsistent with the provision of Khyber Pakhtunkhwa Civil Servants Act 1973 was issued, which changed the whole scenario. In the impugned notification the criteria of seniority and promotion has been violated, ignoring the principles laid down in section 8 and 9 of Khyber Pakhtunkhwa Civil Servants Act 1973. That it is worth to mention that on 31.12.2011 a seniority list of Foresters circulated by Conservator of Forests, Lower Hazara Circle, wherein name of the appellant has been shown at serial No. 21. That on 31.10.2012 seniority list of Foresters of Lower Hazara Forest Circle, Abbottabad was circulated, wherein the name of the appellant was excluded without any show-cause notice, in spite of the fact that in all previous seniority lists of Lower Hazara Forest Circle circulated from time to time, name of the appellant was shown at his proper place. That the notification dated 05.10.2012 issued by respondent No. 1 is without the mandate of law and in conflict with the provision of Khyber Pakhtunkhwa Civil Servants Act. That the appellant filed departmental appeal before respondent No. 4 and requested for inclusion of his name in the seniority list of Lower Hazara Forest Circle which was rejected vide order dated 04.01.2013 and hence the instant service appeal with a prayer that on acceptance of this appeal the impugned notification dated 05.10.2012 and final order dated 04.01.2013 may graciously be set-aside, being illegal and void, directing the respondents to issue/circulate final seniority list of Foresters of Lower Hazara Forest Circle Abbottabad, placing the name of appellant at his proper place in the same seniority list and not to disturb the appellant from his circle of posting (Lower Hazara Forest Circle) Abbottabad.

2. The learned counsel for the appellant while arguing the case assailed the impugned notification dated 05.10.2012 stating that the same was illegal and inconsistent with the provision of Khyber Pakhtunkhwa Civil Servants Act 1973. He further argued that through the impugned notification the criteria, seniority and promotion were violated and the same was also against the principles laid down in section 8 & 9 of Khyber Pakhtunkhwa Civil Servant Act 1973. He further contended that the seniority list of Foresters circulated on 31.12.2011 name of the appellant had been shown at serial No. 21 of the Foresters of

Lower Hazara Circle but seniority list subsequently circulated on 31.10.2012 his name was excluded from the said seniority list without any reasons and without serving any notice on him to that effect. He further argued that his departmental representation was rejected vide order dated 04.01.2013 which reflected clear malafide on the part of respondents to give opportunity of promotion to Foresters junior to appellant at the cost of the appellant which was illegal and not maintainable under the law. He further argued that notification dated 05.10.2012 was without the mandate of law, the same was in conflict with the provision of Khyber Pakhtunkhwa Civil Servant Act 1973 and the entire exercise had been undertaken to deprive the appellant from the benefits of promotion which were expected to become due in the near future at present post of place of the appellant and prayed the impugned notification dated 05.10.2012 and final order dated 04.01.2013 may be set-aside and respondents may be directed to issue final seniority list of Foresters of Lower Hazara Forest Circle Abbottabad at his proper place. He relied on case laws 2004 SCMR 1864 and PLJ 1998 Lahore 148.

3. The learned Government Pleader resisted the appeal and argued that the impugned notification dated 05.10.2012 was made keeping in view the principles laid down in section 8 & 9 of the Khyber Pakhtunkhwa Civil Servant Act 1973. He further argued that the notification was issued as a sequel to the reconstitution/revision of the circles and the main objective behind the said notification was to curtail the quantum of litigations arising out of the reconstitution/revision of the various circles. He further argued that after issuance of the notification dated 05.10.2012 seniority lists were to be prepared circle-wise for the initially appointed staff with reference to the date of their regular appointments irrespective of their contemporary place of posting. He further argued that name of the appellant excluded from the seniority list of Foresters of lower Hazara Forest Circle as it stood on 31.10.2012 was strictly in accordance with law and rules and his seniority was now prepared in accordance with the date of initial appointment in the Forestry Planning and Monitoring Circle which was his original place of appointment and argued further that contention of the appellant for the inclusion of his name in the seniority list of Lower Hazara Forest Circle was not tenable under the revised criteria for maintaining seniority in the notification dated

05.10.2012. He further argued that government was mandated to revise criteria for posting/transfer and promotion keeping in view the requirements of public service and notification dated 05.10.2012 made with the same objective in view was never challenged by any civil servant across the Province. He further contended that notification dated 05.10.2012 was strictly in accordance with law, was made with the approval of the Provincial Government and the Tribunal had got no jurisdiction to pass directions for modification or annulment of the said notification and in this regard he placed reliance on 2011 SCMR 1111, 2006 SCMR 1427, 2009 SCMR 980 and 2015 PLC (C.S) 962. He prayed that the appeal being devoid of merits may be dismissed.

4. Arguments of the learned counsels for the parties heard and record perused with their assistance.

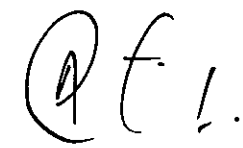
5. Perusal of the record would reveal that notification dated 05.10.2012 was made by the Environment Department Government of Khyber Pakhtunkhwa with a view to address administrative problems and also resolve problems of inter-se seniority amongst the different cadres of the Lower formation of the said department borne on the establishment of various Forest Circles. A perusal of the record would reveal that initial appointment and promotions of the Foresters and Deputy Rangers and promotion of foresters to the rank of Deputy Rangers in each circle was to be regulated on the basis of circle wise seniority list of the Foresters. It further reveals that seniority of Foresters and Deputy Rangers was to be determined and fixed in their respective circle on the basis of their initial appointments which is in conformity with the principles laid down in section-8 of the Khyber Pakhtunkhwa Civil Servant Act 1973 and the rules made there under. The principles of seniority as laid down in the aforementioned notification besides being in conformity with the rules may also wriggle out the problems of inter-se seniority arising due to temporary adjustment/transfers of Forest officials amongst various circles of the Forest Department and is not likely to affect adversely entire process of promotion as alleged by the contesting appellant. It is also learnt from the record that the impugned notification has since attained finality as the same remained unchallenged from any quarter. In the circumstances, we do not find any force in the instant appeal and do not hesitate to dismiss the same being devoid

of merits and appeal being also not maintainable as notification in question was made by the government for which it was competent under the law. Parties are, however, left to bear their own costs. File be consigned to the record room.

6. Our this judgment will also dispose of Service Appeal No. 300/2013 titled "Syed Ibrar Hussain Shah-vs-Province of Khyber Pakhtunkhwa through Secretary Environment Department, Peshawar, Service Appeal No. 304/2013 titled "Abid Hussain Swati-vs-Province of Khyber Pakhtunkhwa through Secretary Environment Department, Peshawar, Service Appeal No. 308/2013 titled "Muhammad Anwar Abbassi-vs-Province of Khyber Pakhtunkhwa through Secretary Environment Department, Peshawar, Service Appeal No. 344/2013 titled "Muhammad Shafqat-vs-Province of Khyber Pakhtunkhwa through Secretary Environment Department, Peshawar, Service Appeal No. 453/2013 titled "Muhammad Javed-vs-Province of Khyber Pakhtunkhwa through Secretary Environment Department, Peshawar, Service Appeal No. 454/2013 titled "Baqir Hussain Shah-vs-Province of Khyber Pakhtunkhwa through Secretary Environment Department, Peshawar and Service Appeal No. 857/2013 titled "Amjad Khan-vs-Province of Khyber Pakhtunkhwa through Secretary Environment Department, Peshawar, as identical and common questions of law and facts are involved therein.

ANNOUNCED
25.08.2016


(PIR BAKHSH SHAH)
Member


(ABDUL LATIF)
Member

25.08.2016

Counsel for the appellant and Mr. Wahdat Zeeshan, SDFO alongwith Mr. Ziaullah, GP for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today placed on file, we do not find any force in the instant appeal and do not hesitate to dismiss the same being devoid of merits and appeal being also not maintainable as notification in question was made by the government for which it was competent under the law. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED
25.08.2016



(ABDUL LATIF)
MEMBER

(PIR BAKHSH SHAH)
MEMBER

DFD

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
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Muhammad Riasat, Forester,
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2. Chief Conservator of Forests, Central and Southern Forest Region-I, Peshawar.
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... (Respondents)

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Mr. Ziaullah, Government Pleader

.. For appellant.
.. For respondents.

MR. ABDUL LATIF
MR. PIR BAKHSH SHAH

.. MEMBER (EXECUTIVE)
.. MEMBER (JUDICIAL)

JUDGMENT

ABDUL LATIF, MEMBER:-

Facts giving rise to instant appeal are

that the appellant joined service as Forester on 19.09.1985 and on 20.10.1997 he was transferred from Working Plan Unit IV, Abbottabad to Lower Hazara Forest Circle, Abbottabad in the interest of public service and posted against an existing vacant post. That the seniority lists were framed and the name of appellant was shown in the seniority list of

rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant

Khaled Rahman
Advocate, Peshawar.

Dated: 27 / 03/ 2014

Affidavit

I, Mohammad Salam Regulation Jamadar, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent

ANSWER

9

171

Copy of letter No. 2511/IB/A/12-E(SIC)(4), dt: 01-11-2013 from Chief Engineer(South) Irr: Peshawar to this office.

Subject:- APPEAL NO. 794/2012 FILED BY MOHAMMAD SALAM KHAN VS: GOVT: OF KHYBER PAKHTUNKHWA.

Reference:- Your letter No. 2873/113-M, dated 10-10-2013.

I am directed to refer to the subject noted above and to state that copy of parawise comments duly corrected by the Govt; Pleader alongwith complete annexure and copy of appeal may be supplied through special man and reflect appeal number in appropriate place of the comments and the wards of petitioner may replaced as appellant so as to proceed further in the matter please.

SD/ ADMINISTRATIVE OFFICER

No. 3067 / 113-M Dated Bannu the 01/11/2013.

Copy of the above is forwarded to the Executive Engineer Marwat Canal Division Bannu for immediate necessary action under intimation to this office by today positively.

SUPERINTENDING ENGINEER
BANNU IRRIGATION CIRCLE BANNU

"MSOR ZALI"

Handwritten notes: "for immediate action as desired" and "supervised" with a checkmark.

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10

OFFICE OF THE EXECUTIVE ENGINEER, MARWAT CANAL
IRRIGATION DIVISION BANNU

No. _____/50-M,

Dated the ____/11/2013

To,

The Superintending Engineer,
Bannu Irrigation Circle Bannu.

Subject:

APPEAL NO.794/2012 FILED BY MUHAMMAD SALAM KHAN VS:
GOVERNMENT OF KHYBER PAKHTUNKHWA.

I. VS: SECRETARY IRRIGATION KHYBER PAKHTUNKHWA.

II. VS: CHIEF ENGINEER (SOUTH) IRRIGATION KHYBER PAKHTUNKHWA.

III. VS: SUPERINTENDING ENGINEER BANNU IRRIGATION CIRCLE BANNU.

Reference:

Your letter No.3001/113-M dated 01/11/2013

In reference of Sub Divisional Officer Tajori Irrigation Sub Division Tajori letter No.573-74/Civil Suit dated 31/10/2013, addressed to this office and copy thereof to your office wherein he stated that he is the authorized person to attend and pursue the court in the above subject case on behalf of the Secretary Irrigation Khyber Pakhtunkhwa, Chief Engineer (South) Irrigation and your good self. He regularly attends the Service Tribunal Court accompanied by Government Pleader where the Honourable Court are regularly pressing for submission of comments/replies but due to lapse of much more time neither reply finalized nor submitted. As your Office Superintendent pay no attention to the case neither assist the Sub Divisional Officer Tajori due to which he became very discourage from his attitude and non-co-operation being fully conversant with the case. So Court lastly warned him with direction to submit reply on 26/12/2013 positively. The Sub Divisional Officer already vetted the reply from Government Pleader and now needs to be fair at your office level duly signed by Respondent No.1&2 respectively before the due date so as Sub Divisional Officer Tajori may be able to submit the same on due course.

EXECUTIVE ENGINEER

Copy forwarded to the:-

1. Chief Engineer (South) Irrigation Department Khyber Pakhtunkhwa Peshawar for information with reference to his letter No.2511/IB/A/12-E (SIC) (4) dated 01/11/2013.
2. Government Pleader Service Tribunal Khyber Pakhtunkhwa Peshawar for information.
3. Sub Divisional Officer Tajori Irrigation Sub Division Tajori with reference to his letter quoted above for information and he is directed to pursue the same on personal level to avoid exparty.

EXECUTIVE ENGINEER

No. 1387 /118-E
To,

Dated

Bannu

the 3 /06/2013

The Superintending Engineer,
Bannu Irrigation Circle Bannu.

ANNEX E

13

Subject:

APPLICATION FOR PROMOTION AS JUNIOR CLERK.

An application in respect of Mr. Muhammad Salam Khan Regulation Jamadar requesting for promotion as Junior Clerk duly recommended by Sub Divisional Officer Head Works Sub Division Bannu is sent herewith with comments that the official having sufficient and required qualification. He also work since long with additional duty on drafting, preparation of estimates, PC-1, Accounts matter, Monthly Progress Report and required information if desired by higher ups on computer.

Hence in light of above, it is strongly recommended that he may be considered for promotion to the post of Junior Clerk being fulfill the promotion qualification.

Encl:

As above

90
[Signature]
EXECUTIVE ENGINEER,
MARWAT CANAL DIVISION BANNU.

[Signature]

[Signature]

No. 1049 / 351 Dated Bannu

the 01/2012

To

The Superintending Engineer,
Southern Irrigation Circle Bannu.

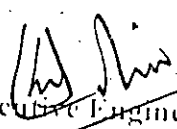
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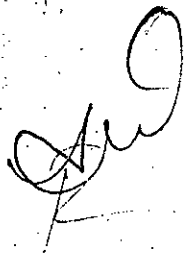
Subject: APPLICATION FOR PROMOTION

Enclosed please find herewith an application in respect of Mr. Muhammad Salam Khan Regulation Jamadar (BPS-05) attached to Head Works Sub Division Marwat Canal Division Bannu requesting for promotion against the vacant post of Junior Clerk (BPS-07). His application is hereby submitted for further sympathetic consideration please.

Enclosure: -

Photocopies of C.N.I.C. Order copy and documents


Executive Engineer,
Marwat Canal Division Bannu.



22/11/2012



21.07.2016

Counsel for the appellant and Addl: AG for respondents present. Order could not be announced as Learned Member Executive (Mr. Abdul Latif) is busy in Single Bench Cases, therefore the case is adjourned to 27.07.2016 for order.

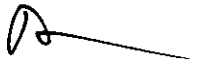

Member

Member

27.07.2016

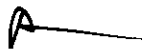
Counsel for the appellant and Mr. Wahdat Zeeshan, SDFO alongwith Mr. Ziaullah, GP for respondents present. Order could not be announced as learned Mr. Pir Bakhsh Shah, Member(Judicial) is on leave. To come up for order on 11.08.2016.


Member



11.08.2016

Appellant in person and Mr. Zahoor Ahmed, Range Officer alongwith Additional AG for respondents present. Order could not be announced due to shortage of time. To come up for order on 29-8-16


Member


Member

19.04.2016

Appellant with counsel, M/S Arsalan Tariq, SDFO and Wahdat Zeeshan Anwar, SDFO alongwith Addl: AG for respondents present. Seniority list produced which is placed on file but no transfer order of the appellant produced. Hence to come up for perusal of record and order on 27-5-16.


MEMBER


MEMBER

27.05.2016

Appellant in person and Mr. Ziaullah, GP for respondents present. While perusing the record, it was noted that in the impugned notification dated 05.10.2012, there is reference to previous notification dated 02.01.2012 which is not available on record. Respondent-department is directed to produce copy of the same notification dated 02.01.2012 on the next date. To come up for such record and order on 23.06.2016.

Member


Member

23.06.2016

Appellant in person, Mr. Muhammad Muntaz, Block Officer and Mr. Wahdat Zeeshan, SDFO alongwith Mr. Ziaullah, GP for respondents present. Representative of the respondents submitted copy of notification dated 02.01.2012 which is placed on file. To come up for order on 21-7-16.


Member


Member

14.04.2016

Counsel for the appellant, M/S Arsalan Tariq, SDFO and Zahoor Ahmad, Rang Officer alongwith Addl: AG for respondents present. Respondent-department is directed to produce transfer order dated 1997 and final seniority list of the Lower Hazara Circle and application if any of the appellant lodged against the transfer order on the next dated. To come up for such record and further arguments on 19.04.2016.

Member


Member

19.04.2016

Appellant with counsel, M/S Arsalan Tariq, SDFO and Wahdat Zeeshan Anwar, SDFO alongwith Addl: AG for respondents present. Seniority list produced which is placed on file but no transfer order of the appellant produced. Hence to come up for perusal of record and order on ~~27-5-16~~


MEMBER


MEMBER

27.05.2016

Appellant in person and Mr. Ziaullah, GP for respondents present. While perusing the record, it was noted that in the impugned notification dated 05.10.2012, there is reference to previous notification dated 02.01.2012 which is not available on record. Respondent-department is directed to produce copy of the same notification dated 02.01.2012 on the next date. To come up for such record and order on 23.06.2016.

Member


Member

27.08.2015

Counsel for the appellant and Mr. Inamullah, SDFO
alongwith Addl: AG for respondents present. Arguments could
not be heard due to Learned Member (Judicial) is on leave. To
come up for arguments on 1-10-2015.



Member

01.10.2015

Counsel for the appellant and Yousaf Khan, DFO
alongwith Mr. Ziaullah GP for respondents present. Arguments
could not be heard due to paucity of time. To come up for
arguments on 23-2-16.



Member



Member

Forester / F-Gr _____ DFO - 42 Division

Dy: Ranger / Ranger / Conservator - 8 - Circle

SPFO / DFO - Provincial - SCMT

NWFP. Routine 8

No. _____ From _____

Date _____ To _____

Encl: _____

SUBJECT:

Supp

Forester - - in lower circle
19.9.1985 - in working plan with

Circle
20.10.1997 - to - lower Hazans for

T: Seniority List: 31.12.2011 Circle
No: 2, but 10 persons returned

No Name of 31.12.2012
Appellant.

- S-8 Civil - -

- S-22 - Grand Clauses Act: PGT 1998 LHR -148

- S-19A: " (Should be published in official Gazette)

- 2004 SCMR 1864:

- 1) Not maintainable: 5.10.2012 D.A

ii) No jurisdiction u/n 3(2) APT -> 2009 SCMR 980
2006 " 142)

10 09.02.2015

Counsel for the appellant and Mr. Nisar Ahmed, SDFO on behalf of respondents alongwith Addl: AG present. This appeal is a connected appeal alongwith other appeals fixed on 4.6.2015. The same is therefore adjourned and to be heard by D.B alongwith connected appeals on 4.6.2015.


Chairman


04.06.2015

Counsel for the appellant and Addl: AG for the respondents present. Arguments could not be heard as learned Member is on official tour to camp court Swat, therefore the case is adjourned to 14.07.2015 for arguments.


Member

14.07.2015

Counsel for the appellant, Mr. Yousaf Khan, DFO and Inamullah, SDFO alongwith Mr. Ziaullah, GP for the respondents present. Arguments partly heard. Certain information's were asked by the department to be provided in the Tribunal on the next date, hence to come up for such informations and complete arguments on 27-08-2015

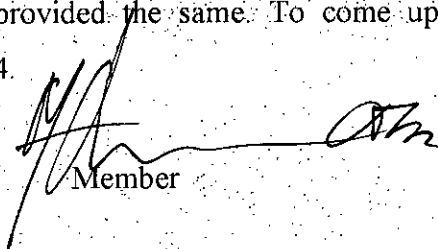

Member

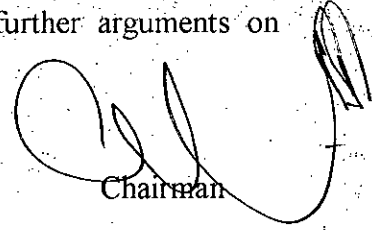

Member

24/1/2013

8 13.2.2014

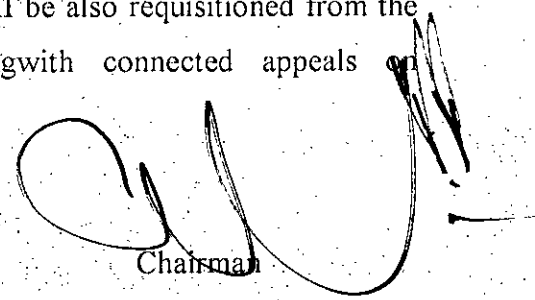
Appellant with counsel and Mr. Nisar Ahmad, SDFO, Patrol Squad Lower Hazara Circle Abbottabad on behalf of respondents with AAG present. Arguments of the learned counsel for the appellant partly heard. The learned AAG requested for adjournment on the ground that he had instructed the respondent-department to provide him necessary record for preparing arguments, but the department has not yet provided the same. To come up for further arguments on 25.6.2014.


Member


Chairman

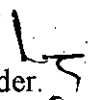
9 25.6.2014

Appellant with counsel and Mr. Javed Arshad, DFO Patrol Squad Abbottabad on behalf of respondents with Mr. Usman Ghani, Sr. GP present. Arguments could not be heard as learned counsel for the appellant pointed out that similar nature cases are also pending before the learned Member Bench-II, and requested for requisitioning the cases from the diary of learned Member Bench-II for further proceedings in all the connected cases, in order to avoid conflicting judgments. Therefore, the connected appeals pending before the learned Member Bench-II be also requisitioned from the said bench for arguments alongwith connected appeals on 22.12.2014.


Chairman

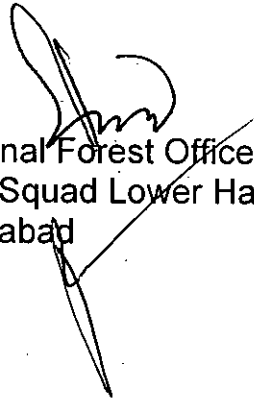
22.12.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for arguments alongwith connected appeals on 09.02.2015. Mr. Nisar Ahmad, SDFO, Patrol Squad Lower Hazara Circle Abbottabad also present.


Reader.

AUTHORITY LETTER

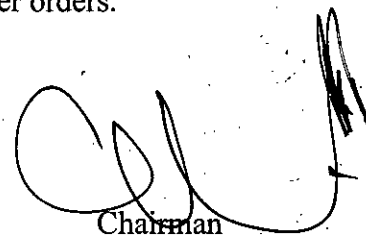
Mr. Nisar Ahmad SDFO, Patrol Squad Lower Hazara Circle Abbottabad is hereby authorized to attend the Honorable Court of Service Tribunal Khyber Pakhtunkhwa Peshawar on behalf of Government of Khyber Pakhtunkhwa, Forest Department on 09-02-2015 in connection with appeal No. 241,300,304,308 & 344 of 2013 filed by Mr. Muhammad Riasat Forester and four others.


Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

241/13

5 26.3.2013

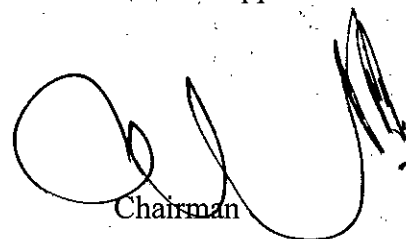
Counsel for the appellant and Mr. Abid Mumtaz, SDFO on behalf of the respondents with Mr. Noorullah, S.G.P present. To come up for reply to application for interim relief and written reply/comments on behalf of the respondents on 30.5.2013. The learned counsel for the appellant referred to his application for interim relief and stated that the respondent-department may be restrained from processing case of promotion of officers junior to the appellant. Representative of the respondents stated that no case of promotion is under process at the moment. The respondent-department is directed to put on hold process of promotion till further orders.



Chairman

6 30.5.2013

Counsel for the appellant and Mr. Abid Mumtaz, SDFO with Mr. Usman Ghani, Sr. GP for the respondents present. Written reply/para-wise comments received on behalf of the respondents, copy whereof be handed over to the learned counsel for the appellant for rejoinder on 9.9.2013.



Chairman

7 9.9.2013

Counsel for the appellant and Mr. Nasir Ahmad, SDFO on behalf of the respondents with AAG present. Rejoinder on behalf of the appellant received, copy whereof is handed over to the learned AAG for arguments on 13.2.2014.




CHAIRMAN

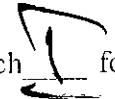
3. 15.2.2013

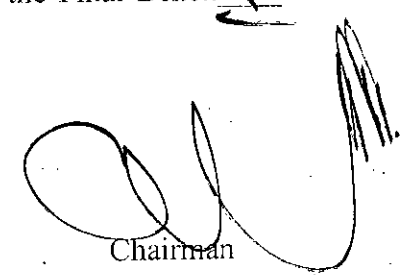
Counsel for the appellant present and heard on preliminary. Contended that the appellant has not been treated in accordance with the law. The name of the appellant has not been properly placed in the seniority list. The appellant preferred a departmental appeal but the same was rejected on 4.1.2013. The learned counsel for the appellant has also submitted an application for the grant of interim relief. Copy of application also be sent to the respondents. Points raised 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, notices be issued to the respondents. Case adjourned to 26.3.2013 for submission of written reply on main appeal as well as reply/arguments on application.

Appellant deposited security & process fee Rs 1000/- Bank receipt is attached with file.


Member.

4. 15.2.2013



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


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 241/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28/01/2013	<p>The appeal of Mr.Muhammad Riasat presented today by Mr. Shahzada Irfan Zia 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	6-2-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>15-2-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE: 241 / of 2013
Service Appeal No.

Muhammad Riasat, Forester Appellant

VERSUS

Province of Khyber Pakhtunkhwa and others... .. Respondents

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5.	Seniority List dated 31.12.2011	'B'	8 - 10
6.	Seniority List dated 31.10.2012	'C'	11 - 13
7.	Departmental Appeal	'D'	14 - 15
8.	Final Order dated 4.1.2013	'E'	16
9.	Vakalat Nama		

M. Riasat

Appellant

Through:

(Signature)

(Shahzada Irfan Zia)
Advocate, Peshawar.

Dated: 28 .01.2013

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 241 / of 2013

~~A. W. J. Brown~~
~~...~~
~~...~~
~~...~~
251
28-1-13

Muhammad Riasat, Forester,
Haripur Forest Division, Haripur... Appellant

VERSUS

1. Province of Khyber Pakhtunkhwa through Secretary Environment Department, Peshawar.
2. Chief Conservator of Forests, Central and Southern Forest Region-I, Peshawar.
3. Chief Conservator of Forests, Northern Forest Region-II, Abbottabad.
4. Conservator of Forests, Lower Hazara Forest Circle, Abbottabad... Respondents

APPEAL UNDER SECTION 4, OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST NOTIFICATION DATED 5.10.2012 AND FINAL ORDER DATED 4.1.2013 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR INCLUSION OF HIS NAME IN THE SENIORITY LIST OF LOWER HAZARA FOREST CIRCLE ABBOTTABAD HAS BEEN REJECTED.

Pg. 68

~~...~~
~~...~~
8/1/13
Respectfully Sheweth:

FACTS OF THE CASE

1. That the appellant is a regular member of Provincial Civil Service, holding the post of Forester under the administrative control of respondent No.4.

6. That on 31.10.2012 seniority list of Foresters of Lower Hazara Forest Circle, Abbottabad was circulated, wherein the name of the appellant

was excluded without any Show Cause Notice, inspite of the fact that in all previous seniority lists of Lower Hazara Forest Circle circulated from time to time, name of the appellant was shown at his proper place. (Annex: C).

7. That the appellant filed his Departmental Appeal before respondent No. 4 and requested for inclusion of his name in the seniority list of Lower Hazara Forest Circle, but to his utter dismay that his request was not accepted but rejected vide order dated 4.1.2013. (Annex: D & E).

8. That the modus operandi adopted by respondents to exclude name of the appellant from the seniority list of Lower Hazara Forest Circle was that no posts of promotions were available in the initial place of posting. The whole strategy was observed to favour the junior officials of the Lower Hazara Forest Circle, ignoring the long service of the appellant. It is an under hand activity to give an opportunity of promotion to juniors in supersession of the appellant, which is against the rights of appellant.

9. That the notification dated 5.10.2012 issued by respondent No.1 is without the mandate of law and in conflict with the provision of Khyber Pakhtunkhwa Civil Servants Act. The entire exercise has been undertaken to deprive the appellant from the benefit of promotion, for which he is expected to become due in near future at his present place

of posting. *The So-called Notification dated 5-10-2012 was not Published in the official Gazette, therefore the same is illegal and when a basic order is void, whole series of orders falls to the ground.*

10. That it is worth mentioning that an Act always prevail over the notification, hence the action of respondents is ultra vires of rules, unwarranted by law and totally illegal.

In view of the aforesaid facts and circumstances of the case it is humbly prayed that the impugned notification dated 5.10.2012 and final order dated 4.1.2013 may graciously be set aside, being illegal and void, directing the respondents to circulate final seniority list of Foresters of Lower Hazara Forest Circle Abbottabad, placing the name of appellant at his proper place in the same seniority list and not to disturb the appellant from his ^{ISSUE/}Circle of posting (Lower Hazara Forest Circle) Abbottabad.

Any other relief though not specifically asked for to which the appellant is found entitled in the circumstances of the case may also be granted in favour of the appellant.

M. Riasat

Appellant

Through:

Dated: 28.01.2013

(Shahzada Irfan Zia)
Advocate, Peshawar.

CERTIFICATE:

Certified that as per instructions of my client, no such Service Appeal on behalf of the appellant has earlier been filed in this Honourable Tribunal on the subject matter.

Advocate.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. No. _____ / of 2013
Service Appeal No. _____ / of 2013

Muhammad Riasat, Forester Applicant

VERSUS

Province of Khyber Pakhtunkhwa and others... .. Respondents

APPLICATION FOR INTERIM RELIEF.

Respectfully Sheweth:

1. That the above titled appeal has been filed before this Honourable Tribunal in which no date of hearing has yet been fixed.
2. That the appellant/applicant has a good prima facie case and he is sanguine about the success of his case.
3. That balance of convenience is in favour of the applicant and if the notification dated 5.10.2012 and final order dated 4.1.2013 are not suspended, the applicant will suffer irreparable loss.
4. That the facts and grounds of appeal may kindly be treated as integral part of this application.

It is, therefore, humbly requested that the Notification dated 5.10.2012 and final order dated 4.1.2013 may kindly be suspended till the final disposal of the instant appeal.

It is further prayed that respondents be restrained from promoting any junior Forester in supersession of the appellant to the post of Deputy Ranger in Lower Hazara Forest Circle, Abbottabad.

M. Riasat

Applicant

Through:

[Signature]

Dated: 28.01.2013

(Shahzada Irfan Zia)
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. No. _____ / of 2013

IN RE:

Service Appeal No. _____ / of 2013

Muhammad Riasat, Forester Applicant

VERSUS

Province of Khyber Pakhtunkhwa and others... .. Respondents

AFFIDAVIT

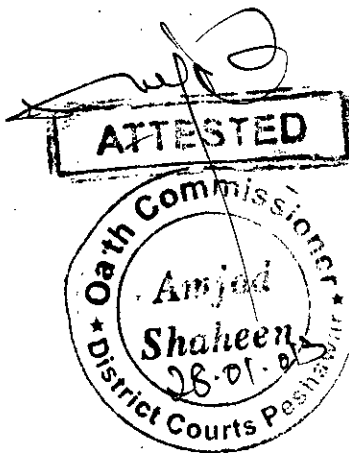
I, Muhammad Riasat Forester, Haripur Forest Division Haripur, do hereby solemnly affirm and declare that the contents of this Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

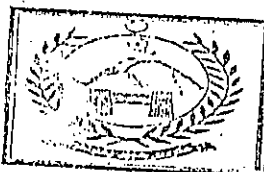
M. Riasat

Deponent

IDENTIFIED BY:

(Signature)
(Shahzada Irfan Zia)
Advocate, Peshawar.





GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

Dated Pesh 5th Oct., 2012

NOTIFICATION

No.SO(Estt)Envvt/I-4/2k11. In supersession of this department Notification No.SO(Estt)Envvt/I-4/2k11/6475 dated 2/1/2012, the Competent Authority, in exercise of the powers vested vide Item 1-6 Part-I of defunct West Pakistan Manual Volume-II, is pleased to order reconstitution/revision of the following Circles for the purpose of initial appointment of Foresters and Deputy Rangers and promotion of Foresters to the rank of Deputy Rangers, in each circle, on the basis of circle-wise seniority lists of the Foresters, with immediate effect.

#	Name of Circles constituted	Name of Circle
1-	Upper Hazara Circle	Upper Hazara Circle
2-	Lower Hazara Circle	Lower Hazara Circle
3-	Malakand West Circle	Malakand West Circle
4-	Malakand East Circle	Malakand East Circle
5-	FATA Circle	FATA Circle
6-	Southern Circle	Southern Circle
7-	Watershed Management Circle	Watershed Management Circle
8-	Forestry Planning & Monitoring Circle	Forestry Planning & Monitoring Circle

The seniority of the Foresters and Deputy Rangers shall be determined and fixed in the respective Circles on the basis of their initial appointment.

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT.
Dated Pesh: 5th Oct., 2012

Encl. No. SO(Estt)Envvt/I-4/2k11 1629-50

Copy is forwarded for information to:-

- 1) PS to Secretary Environment Department.
- 2) Chief Conservator of Forests, Central & Southern Forest Region-I, Peshawar.
- 3) Chief Conservator of Forests, Northern Forest Region-II, Abbottabad.
- 4) Chief Conservator of Forests, Malakand Forest Region-III, Mingora at Saidu Sharif, Swat.
- 5) All Conservators of Forests, Khyber Pakhtunkhwa C/O CCF-I; with the direction that tentative seniority lists of their respective circles may be issued by calling thereby objections within one month's time period, if found no objection from any official(s), then final seniority lists may be issued accordingly.
- 6) All Directors Integrated Specialized Units, Forest Department.
- 7) Master file.
- 8) Officer order file.

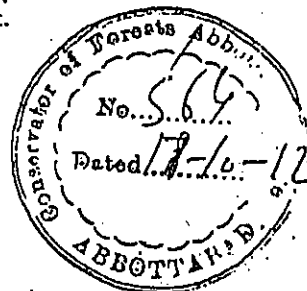
No. 207 /B dated Abbottabad the 16 /10/2012.

Copy for information and immediate necessary action to the:

1. Conservator of Forests, Lower Hazara Forest Circle Abbottabad.
2. Conservator of Forests, Upper Hazara Forest Circle Manshra.
3. Conservator of Forests, Watershed Management Circle Abbottabad.

Please do the following:

- i. Circulate the above notification amongst all the DFOs of your respective circle.
- ii. Call the concerned Foresters and direct them to withdraw their appeals, who have preferred appeals in various courts.
- iii. Prepare synopsis of all concerned for promotion.



Chief Conservator of Forests
Northern Forest Region-II Abbottabad
Khyber Pakhtunkhwa

(PTO)

attested
[Signature]

LA → Immediate

TCF:
17/10/12

TENTATIVE SENIORITY LIST OF FORESTERS IN RESPECT OF LOWER HAZARA FOREST CIRCLE, ABBOTTABAD
AS IT STOOD ON 31-12-2011

S. #	Name of Forester	Qualification	Home District	Any test passed	Date of Birth	Date of appointment in		Cadre	Remarks
						Govt. Service	Present grade		
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	Mr. Sarfraz Khan S/o Muhammad Ashraf	Matric	Haripur	Trained	01-05-1954	11-11-1975	02-08-1977	A'Abad Circle	Appointed as Deputy Ranger on acting charge basis w.e.f 28-4-2008
2.	Mr. Javed Sultan	B.A	Abbot.abad	-do-	01-06-1952	10-08-1977	10-08-1977	-do-	BS-09, 11-05-1998
3.	Mr. Masood-ur-Rehman S/O Jamadali	Matric	Manshra	-do-	20-06-1954	26-10-1977	26-10-1977	-do-	Appointed as Deputy Ranger on acting charge basis w.e.f 28-04-2008
4.	Muhammad Farooq	B.A	Manshra	-do-	02-07-1956	19-08-1978	19-08-1978	-do-	Appointed as Deputy Ranger on acting charge basis w.e.f 28-04-2008
5.	Muhammad Iqbal S/O Gohar Rehman	MA	Manshra	-do-	19-06-1954	26-08-1978	26-08-1978	Watershed Circle	Appointed as Deputy Ranger on acting charge basis w.e.f 18-12-2009
6.	Mr. Sultan Melmood	B.A	Manshra	-do-	08-04-1958	26-08-1978	26-08-1978	-do-	Appointed as Deputy Ranger on acting charge basis w.e.f 18-12-2009
7.	Muhammad Hanif	M.A	Manshra	-do-	01-02-1955	28-08-1978	28-08-1978	A'Abad Circle	Appointed as Deputy Ranger on acting charge basis w.e.f 18-12-2009
8.	Muhammad Pervaz	Matric	Manshra	-do-	03-04-1959	03-03-1979	03-03-1979	-do-	BS-09, 02-12-1997
9.	Mr. Nisar Ahmad S/o Sanaulah Khan	M.A	Manshra	-do-	11-05-1959	18-09-1979	18-09-1979	-do-	BS-09, 25-09-1997
10.	Muhammad Gulfam	Matric	Manshra	-do-	24-03-1959	22-09-1979	22-09-1979	-do-	BS-09, 25-09-1997
11.	Mr. Nisar Ahmad S/O Muhammad Raza	F.A	Manshra	-do-	06-04-1961	24-03-1981	24-03-1981	-do-	BS-09, 22-06-2010
12.	Mr. Tariq Javed	Matric	Abbottabad	-do-	18-04-1956	06-06-1981	06-06-1981	-do-	BS-09, 22-06-2010
13.	Muhammad Iqbal S/O Haji Muhammad Younis	Matric	Manshra	-do-	01-04-1953	12-11-1975	01-11-1981	-do-	BS-09, 22-06-2010
14.	Mr. Abid Hussain	B.A	Manshra	-do-	15-04-1961	23-11-1981	23-11-1981	W/Shed Circle	BS-09, 22-06-2010
15.	Mr. Abdul Rashid S/O Safiullah	Matric	Haripur	-do-	15-07-1952	07-05-1973	28-05-1983	W/Shed Circle	BS-09, 22-06-2010
16.	Muhammad Shafqat	B.A	Haripur	-do-	01-01-1960	01-10-1983	01-10-1983	W/Plan Circle	BS-09, 22-06-2010
17.	Mr. Baidar Bakht	Matric	Manshra	-do-	08-01-1953	15-01-1979	01-10-1984	A'Abad Circle	BS-09, 22-06-2010
18.	Muhammad Riasat S/O Mir Akbar	F.A	Abbottabad	-do-	15-06-1963	01-01-1984	01-01-1984	-do-	BS-09, 22-06-2010
19.	Muhammad Anwar S/O Muhammad Roshan	Matric	Manshra	-do-	01-05-1958	27-08-1981	30-09-1985	-do-	BS-09, 22-06-2010
20.	Muhammad Javed S/O Mohib-ur-Rehman	F.A	Manshra	-do-	15-04-1963	30-09-1985	30-09-1985	-do-	BS-09, 22-06-2010
21.	Muhammad Riasat S/O Abdul Qayyum	Matric	Abbottabad	-do-	25-03-1966	01-10-1986	01-10-1986	-do-	BS-09, 22-06-2010

attested
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1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
22	Muhammad Anwar-II S/O Fazal-ur-Rehman	F.A	Abbottabad	Trained	15-06-1966	01-10-1986	01-10-1986	A'Abad Circle	BS-09, 22-06-2010
23	Mian Tahir Hussain Shah	B.A	Mansehra	-do-	05-02-1963	23-11-1986	23-11-1986	-do-	BS-09, 22-06-2010
24	Sardar Mehmood	Matric	Mansehra	-do-	15-03-1954	03-05-1975	11-12-1986	-do-	BS-09, 22-06-2010
25	Mr. Naeem Gohar	F.A	Abbottabad	-do-	14-12-1963	01-10-1988	01-10-1988	W/Plan Circle	BS-09, 22-06-2010
26	Mr. Bashir Ahmad	M.A	Mansehra	-do-	11-03-1965	01-10-1988	01-10-1988	-do-	BS-09, 22-06-2010
27	Mr. Amjad Khan	F.A	Mansehra	-do-	06-05-1968	01-10-1988	01-10-1988	-do-	BS-09, 22-06-2010
28	Muhammad Fiaz	Matric	Mansehra	-do-	10-03-1961	12-03-1979	28-09-1989	-do-	BS-09, 22-06-2010
29	Syed Ibrar Hussain Shah	Matric	Mansehra	-do-	12-02-1965	01-10-1989	01-10-1989	W/Plan Circle	BS-09, 22-06-2010
30	Mr. Sajid Khan	B.A	Abbottabad	-do-	13-06-1970	02-11-1989	02-11-1989	-do-	BS-09, 22-06-2010
31	Muhammad Asif	F.A	Abbottabad	-do-	17-11-1967	04-11-1989	04-11-1989	A'Abad Circle	BS-09, 22-06-2010
32	Mr. Mashaf Khan	Matric	Mansehra	-do-	18-05-1952	28-05-1973	16-12-1989	-do-	BS-09, 22-06-2010
33	Muhammad Luqman	F.A	Haripur	-do-	03-05-1970	23-05-1990	23-05-1990	-do-	BS-09, 22-06-2010
34	Mr. Gul Zaman	Matric	Mansehra	-do-	19-01-1959	21-04-1979	21-09-1992	Watershed Circle	Appointed as Deputy Ranger on acting charge basis w.e.f. 28-04-2008 BS-09, 22-06-2010
35	Mr. Kamran Khan	B.Sc (Forestry)	Abbottabad	-do-	01-05-1970	01-10-1992	01-10-1992	A.Abad Circle	BS-09, 22-06-2010
36	Muhammad Bashir S/O Arsala Khan	Matric	Mansehra	-do-	02-01-1957	20-11-1976	28-02-1993	-do-	BS-09, 22-06-2010
37	Mr. Shad Muhammad	Matric	Mansehra	Un-trained	06-05-1956	28-04-1975	07-04-1997	W/Plan Circle	BS-09, 22-06-2010
38	Syed Farooq Shah	Matric	Abbottabad	Trained	06-02-1956	17-11-1973	26-04-2002	A,Abad Circle	BS-09, 22-06-2010
39	Muhammad Daud	Matric	Abbottabad	-do-	02-04-1953	26-07-1975	26-04-2002	-do-	BS-09, 22-06-2010
40	Syed Sultan Shah	Matric	Mansehra	Un-trained	03-07-1952	31-03-1975	16-07-2002	-do-	BS-09, 22-06-2010
41	Muhammad Sadiq	Matric	Haripur	Trained	15-03-1957	17-11-1975	16-07-2002	-do-	BS-09, 22-06-2010
42	Muhammad Iqbal S/O Mir Muhammad	Matric	Mansehra	-do-	05-07-1956	24-04-1976	16-07-2002	-do-	BS-09, 22-06-2010
43	Mr. Arif Hussain S/O Khushal Khan	Matric	Mansehra	-do-	16-06-1954	20-11-1976	16-07-2002	-do-	BS-09, 22-06-2010
44	Mr. Raza Muhammad	Matric	Abbottabad	-do-	01-08-1966	09-01-1990	19-07-2004	-do-	BS-09, 22-06-2010
45	Mr. Zulfiqar Khan	Matric	Abbottabad	-do-	14-04-1969	17-02-1991	02-12-2004	-do-	BS-09, 22-06-2010
46	Mr. Afrasiab	Matric	Abbottabad	-do-	01-01-1959	08-04-1976	11-02-2005	-do-	BS-09, 22-06-2010
47	Muhammad Amraiz	Matric	Abbottabad	-do-	10-06-1957	14-04-1976	11-02-2005	-do-	BS-09, 22-06-2010
48	Muhammad Ajab S/O Gulzar Ahmad	F.A	Abbottabad	-do-	11-04-1953	26-07-1975	15-02-2005	-do-	BS-09, 22-06-2010
49	Muhammad Ramzan	Under Matric	Abbottabad	-do-	21-09-1954	26-07-1975	15-02-2005	-do-	BS-09, 22-06-2010
50	Mr. Mian Khan	Middle	Abbottabad	-do-	08-06-1953	19-02-1976	15-02-2005	-do-	BS-09, 22-06-2010
51	Muhammad Yousaf S/O Sher Ahmad	Matric	Abbottabad	-do-	16-06-1952	24-03-1976	15-02-2005	-do-	BS-09, 22-06-2010
52	Muhammad Younis S/O Ahmad Khan	Matric	Mansehra	-do-	15-04-1958	11-07-1975	12-04-2006	-do-	BS-09, 22-06-2010
53	Mr. Iltaf Hussain	Matric	Mansehra	Un-Trained	12-05-1953	03-05-1976	12-04-2006	-do-	BS-09, 22-06-2010

attested
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1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
54	Mr. Taj Muhammad S/O Haji Abdul Khanan	Matric	Mansehra	Trained	09-09-1958	20-11-1976	12-04-2006	A'Abad Circle	BS-09, 22-06-2010
55	Muhammad Ramzan S/O Kala Khan	Matric	Abbottabad	Un-trained	30-09-1952	24-11-1976	19-08-2006	-do-	BS-09, 22-06-2010
56	Muhammad Naseem	Matric	Mansehra	-do-	01-04-1956	10-07-1977	25-09-2007	-do-	BS-09, 22-06-2010
57	Mr. Rustam Khan	Under Matric	Abbottabad	-do-	15-09-1958	18-12-1976	27-09-2007	-do-	BS-09, 22-06-2010
58	Muhammad Imtiaz	Under Matric	Haripur	-do-	20-04-1960	18-12-1976	27-09-2007	-do-	BS-09, 22-06-2010
59	Syed Iltaf Hussain Shah	Matric	Mansehra	-do-	21-06-1959	26-06-1977	18-01-2008	-do-	BS-09, 22-06-2010
60	Mr. Uzair	Under Matric	Abbottabad	-do-	01-01-1988	20-03-2008	20-03-2008	-do-	BS-09, 22-06-2010
61	Muhammad Saeed	Matric	Haripur	-do-	18-07-1952	21-12-1976	18-07-2008	-do-	BS-09, 22-06-2010
62	Mr. Wajid Ali Shah	Middle	Mansehra	-do-	12-12-1953	28-12-1976	18-07-2008	-do-	BS-09, 22-06-2010
63	Mr. Mir Afzal	Middle	Abbottabad	-do-	09-04-1955	24-05-1974	18-07-2008	-do-	BS-09, 22-06-2010
64	Mr. Zakir Hussain	Matric	Mansehra	-do-	15-06-1952	22-06-1974	14-02-2009	-do-	BS-09, 22-06-2010
65	Muhammad Saeed	Under Matric	Mansehra	-do-	07-07-1957	10-07-1977	14-02-2009	-do-	BS-09, 22-06-2010
66	Muhammad Arif	Matric	Mansehra	-do-	25-12-1957	10-07-1977	13-05-2009	-do-	BS-09, 22-06-2010
67	Mr. Zahoor Ahmad	Under Matric	Abbottabad	-do-	25-4-1968	3-11-2010	15-09-2009	-do-	BS-09, 22-06-2010
68	Mr. Waqir Ahmad	B.Sc	Mansehra	-do-	18-6-1981	13-5-2011	3-11-2010	-do-	BS-9 Contractual Employees
69	Mr. Taj Muhammad	F.Sc	Abbottabad	Trained	25-12-1957	13-5-2011	13-5-2011	-do-	BS-9
70	Mr. Saeed Akhtar	F.A	Mansehra	-do-	12-4-1975	27-4-1977	28-5-2011	-do-	BS-9
71	Muhammad Anees	Matric	Abbottabad	Un-trained	15-6-1991	24-3-2007	15-11-2011	-do-	BS-9
72	Mr. Liaqat Ali s/o Abdul Jabbar	F.Sc	Mansehra	-do-	24-5-1956	14-12-2011	14-12-2011	-do-	BS-9
		Matric	Mansehra	-do-		22-8-1977	14-01-2012	-do-	BS-9

attested
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Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

(Annex: C)

(11)


TENTATIVE SENIORITY LIST OF FORESTERS IN RESPECT OF LOWER HAZARA FOREST CIRCLE, ABBOTTABAD AS IT STOOD ON 31-10-2012

S. #	Name of Forester	Qualification	Home District	Any test passed	Date of Birth	Date of appointment in		Cadre	Remarks
						Govt. Service	Present grade		
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1	Muhammad Farooq	B.A	Mansehra	Trained	02-07-1956	19-08-1978	28-04-2008	Hazara Forestry Pre-investment Project Mansehra	Appointed as Deputy Ranger on acting charge basis w.e.f 28-04-2008
2	Mr. Gul Zaman	Matric	Mansehra	-do-	19-01-1959	21-04-1979	28-04-2008	-do-	Appointed as Deputy Ranger on acting charge basis w.e.f 28-04-2008
3	Muhammad Hanif	M.A	Mansehra	-do-	01-02-1955	28-08-1978	18-12-2009	-do-	Appointed as Deputy Ranger on acting charge basis w.e.f 18-12-2009
4	Muhammad pervaiz S/O Ali Gohar	Matric	Mansehra	-do-	03-04-1959	03-03-1979	03-03-1979	Hazara Forestry Pre-investment Project Mansehra	BS-09, 22-06-2010
5	Taj Muhammad	Matric C. Com	Abbottabad	-do-	15-09-1955	06-04-1976	08-03-1979	Hazara Forestry Pre-investment Project Mansehra	BS-09, 22-06-2010
6	Mr. Nisar Ahmad S/o Sanaullah Khan	M.A	Mansehra	-do-	01-05-1959	18-09-1979	18-09-1979	Hazara Forestry Pre-investment Project Mansehra	BS-09, 25-09-1997
7	Muhammad Gulfam	Matric	Mansehra	-do-	24-03-1959	22-09-1979	22-09-1979	-do-	BS-09, 25-09-1997
8	Mr. Nisar Ahmad S/O Muhammad Raza	F.A	Mansehra	-do-	06-04-1961	24-03-1981	24-03-1981	Hazara Forestry Cooperative Division	BS-09, 22-06-2010
9	Mr. Tariq Javed	Matric	Abbottabad	-do-	18-04-1956	06-06-1981	06-06-1981	-do-	BS-09, 22-06-2010
10	Khurshid Khan	B.A	Abbottabad	-do-	02-12-1963	05-12-1981	05-12-1981	Hazara Forestry Cooperative Division Mansehra	BS-09, 22-06-2010
11	Mr. Baidar Bakht	Matric	Mansehra	-do-	08-01-1953	15-01-1979	01-10-1984	Siran Forest Division	BS-09, 22-06-2010
12	Muhammad Riasat S/O Mir Akbar	F.A	Abbottabad	-do-	15-06-1963	01-10-1984	01-10-1984	Haripur Forest Division	
13	Mr. Aurangzeb S/O Aziz-ur-Rehman	Matric	Mansehra	-do-	06-09-1960	02-06-1979	29-10-1984	Kaghan Forest Division	BS-09, 22-06-2012
14	Muhammad Anwar S/O Muhammad Roshan	Matric	Mansehra	-do-	01-05-1958	27-08-1981	30-09-1985	Kaghan Forest Division	BS-09, 22-06-2010

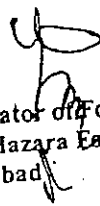
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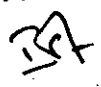
reference to his letter upper Hazara

16	Muhammad Javed S/O Mohib-ur-Rehman	F.A	Mansehra	Trained	15-04-1963	30-09-1985	30-09-1985	Kaghan Forest Division	BS-09, 22-06-2010
17	Mian Tahir Hussain Shah	B.A	Mansehra	-do-	05-02-1963	23-11-1986	23-11-1986	Siran Forest Division	BS-09, 22-06-2010
18	Sardar Mehmood	Matric	Mansehra	-do-	15-03-1954	03-05-1975	11-12-1986	Kaghan Forest Division	BS-09, 22-06-2010
19	Muhammad Fiaz	Matric	Mansehra	-do-	10-03-1961	12-03-1979	28-09-1989	Hazara Forestry Pre-investment Project Mansehra	BS-09, 22-06-2010
20	Muhammad Luqman	F.A	Haripur	-do-	03-05-1970	23-05-1990	23-05-1990	Haripur Forest Division	BS-09, 22-06-2010
21	Mr. Abdur Rasheed	Matric	Abbottabad	-do-	07-01-1959	23-08-1977	01-07-1990	Patrol Squad Division	BS-09, 22-06-2010
22	Muhammad Bashir S/O Arsala Khan	Matric	Mansehra	-do-	02-01-1957	20-11-1976	28-02-1993	Hazara Timber Extraction Division A'Abad	BS-09, 22-06-2010
23	Mr. Masood-ur-Rehman S/O Fazal-ur-Rehman	F.A	Mansehra	-do-	25-04-1960	27-04-1976	18-01-1997	Siran Forest Division	BS-09, 22-06-2010
24	Mr. Shad Muhammad	Matric	Mansehra	Un-trained	06-05-1956	28-04-1975	07-04-1997	Kaghan Forest Division	BS-09, 22-06-2010
25	Syed Farooq Shah	Matric	Abbottabad	Trained	06-02-1956	17-11-1973	26-04-2002	Galis Forest Division	BS-09, 22-06-2010
26	Muhammad Daud	Matric	Abbottabad	Un-trained	02-04-1953	26-07-1975	26-04-2002	Galis Forest Division	BS-09, 22-06-2010
27	Muhammad Sadiq	Matric	Haripur	Trained	15-03-1957	17-11-1975	16-07-2002	Haripur Forest Division	BS-09, 22-06-2010
28	Muhammad Iqbal S/O Mir Muhammad	Matric	Mansehra	-do-	05-07-1956	24-04-1976	16-07-2002	Kaghan Forest Division	BS-09, 22-06-2010
29	Mr. Arif Hussain S/O Khushal Khan	Matric	Mansehra	-do-	16-06-1954	20-11-1976	16-07-2002	Hazara Timber Extraction Division Abbottabad	BS-09, 22-06-2010
30	Mr. Raza Muhammad	Matric	Abbottabad	-do-	01-08-1966	09-01-1990	19-07-2004	Patrol Squad Division	BS-09, 22-06-2010
31	Mr. Afrasiab	Matric	Abbottabad	-do-	01-01-1959	08-04-1976	11-02-2005	Haripur Forest Division	BS-09, 22-06-2010
32	Muhammad Ajab S/O Gulzar Ahmad	F.A	Abbottabad	-do-	11-04-1953	26-07-1975	15-02-2005	Galis Forest Division	BS-09, 22-06-2010
33	Muhammad Ramzan	Under Matric	Abbottabad	Trained	21-09-1954	26-07-1975	15-02-2005	Galis Forest Division	BS-09, 22-06-2010
34	Mr. Mian Khan	Middle	Abbottabad	Un-trained	08-06-1953	19-02-1976	15-02-2005	Galis Forest Division	BS-09, 22-06-2010
35	Muhammad Younis S/O Ahmad Khan	Matric	Mansehra	Trained	15-04-1958	11-07-1975	12-04-2006	Siran Forest Division	BS-09, 22-06-2010
36	Mr. Iltaf Hussain	Matric	Mansehra	Un-Trained	12-05-1953	03-05-1976	12-04-2006	-do-	BS-09, 22-06-2010
37	Mr. Taj Muhammad S/O Haji Abdul Khanan	Matric	Mansehra	Trained	09-09-1958	20-11-1976	12-04-2006	Hazara Timber Extraction Division A'Abad	BS-09, 22-06-2010
38	Muhammad Naseem	Matric	Mansehra	Un-trained	01-04-1956	10-07-1977	25-09-2007	Kaghan Forest Division	BS-09, 22-06-2010
39	Muhammad Imtiaz	Under Matric	Haripur	-do-	20-04-1960	18-12-1976	27-09-2007	Haripur Forest Division	BS-09, 22-06-2010
0	Syed Iltaf Hussain Shah	Matric	Mansehra	-do-	21-06-1959	26-06-1977	18-01-2008	Hazara Timber Extraction Division Abbottabad	BS-09, 22-06-2010
1	Mr. Uzair	Matric	Haripur	Un-trained	01-01-1988	20-03-2008	20-03-2008	Haripur Forest Division	BS-09, 22-06-2010
2	Mr. Wajid Ali Shah	Middle	Haripur	-do-	12-12-1953	28-12-1976	18-07-2008	Haripur Forest Division	BS-09, 22-06-2010
3	Mr. Mir Afzal	Matric	Mansehra	-do-	09-04-1955	24-05-1974	14-02-2009	Siran Forest Division	BS-09, 22-06-2010

attested


43	Muhammad Saeed	Matric	Mansehra	Trained	07-07-1957	10-07-1977	13-05-2009	Kaghan Forest Division	BS-09, 22-06-2010
44	Muhammad Arif	Matric	Mansehra	Un-trained	25-12-1957	10-07-1977	29-08-2009	Kaghan Forest Division	BS-09, 22-06-2010
45	Mr. Zahoor Ahmad	B.Sc	Abbottabad	-do-	25-4-1968	3-11-2010	3-11-2010	Siran Forest Division	BS-09, 22-06-2010
46	Mr. Waqar Ahmad	F.Sc	Mansehra	Trained	18-6-1981	13-5-2011	13-5-2011	Kaghan Forest Division	BS-09, 22-06-2010
47	Mr. Taj Muhammad	F.A	Abbottabad	Trained	25-12-1957	27-4-1977	28-5-2011	Haripur Forest Division	BS-09, 22-06-2010
48	Mr. Saeed Akhtar	Matric	Abbottabad	Un-trained	12-4-1975	24-3-2007	15-11-2011	Galis Forest Division	BS-09, 22-06-2010
49	Muhammad Anees	F.Sc	Mansehra	-do-	15-6-1991	14-12-2011	14-12-2011	Kaghan Forest Division	BS-09, 22-06-2010


 Conservator of Forests
 Lower Hazara Forest Circle
 Abbottabad

attested


Conservator of Forests,
Lower Hazara Forest Circle
Abbottabad

Through: PROPER CHANNEL

Subject: APPEAL AGAINST SENIORITY OF FORESTERS CIRCULATED BY
CONSERVATOR OF FORESTS LOWER HAZARA ABBOTTABAD
WHEREBY THE NAME OF APPELLANT HAS NOT BEEN
INCORPORATED IN THE SENIORITY LIST.

FACTS OF THE CASE

It is submitted that I was appointed as Forester in Working Plan Circle vide Conservator of Forests, forestry Pre-Investment Centre Peshawar office order No. 18 dated 19.9.1985.

1. That the appellant joined service as Forester in Working Plan Unit No. IV Abbottabad on 01.10.1986.
2. That on 20.10.1997 the appellant was transferred from Working Plan Unit IV Abbottabad to Lower Hazara Forest Circle Abbottabad in the interest of public service and posted in Galies Forest Division Abbottabad against the existing vacancy vide Chief Conservator of Forests vide office order No. 22 dated 20.10.1997.
3. That a seniority list of Foresters has been circulated by the Conservator of Forests, Lower Hazara Forest Circle vide his No. 2385-92/B&A, dated 28.11.2012, wherein the name of appellant has not been incorporated.
4. Previously seniority lists as circulated by the Conservator, Lower Hazara Forest Circle indicates and specifies the name of the appellant during the year 1999 at S No. 164, 2001 S.No. 97 2002 S.No. 86 2003 S.No. 84 2205 S.No. 76 2009 S.No. 59 and 2011 S. No. 21 respectively (Copy attached).
5. it is worth mentioning that the name of appellant has been shown at S. No. 21 in the tentative seniority list of Foresters as stood on 31.12.2011 circulated by the Conservator of Forests, Lower Hazara Forest Circle (copy attached)
6. All the previous cases of promotion from Foresters to the rank of Deputy Rangers were made as per seniority circulated by the Conservator of Forests, Lower Hazara Forest Circle on the basis of integrated seniority list.
7. It is also bring into your kind notice that almost in all the territorial Forest Divisions majority of the officials were initially appointed in pre-investment Project and upon the expiry of the aforementioned projects their services were re-adjusted/absorbed against the vacant position in various territorial divisions. It is also pertinent to add that there are few cases of promotion of foresters who were initially recruited in pre-investment project and were promoted to the rank of Deputy Ranger as under:

attested
RF

(2)

- 1. Mr. Muhammad Ahsan ul-Mulk
- 2. Mr. Muhammad Ahsan ul-Mulk
- 3. Mr. Muhammad Ahsan ul-Mulk
- 4. Mr. Muhammad Ahsan ul-Mulk
- 5. Mr. Muhammad Ahsan ul-Mulk
- 6. Mr. Muhammad Ahsan ul-Mulk
- 7. Mr. Muhammad Ahsan ul-Mulk
- 8. Mr. Muhammad Ahsan ul-Mulk
- 9. Mr. Muhammad Ahsan ul-Mulk
- 10. Mr. Muhammad Ahsan ul-Mulk

8. Keeping in view the current seniority lists it is quite evident that all the previous cases of promotion to the posts of foresters and Deputy Rangers based on the integrated seniority lists, so far entertained are also unjustified.

9. In view of the current seniority list the officials are referred to their initial place of appointment for claiming seniority thus leaving the junior most appointee in a particular division to supersede the appellant as per newly issued seniority list and thus directly affected/annulled the right of the appellant.

GROUND

1. The appellant was transferred from Working Plan Unit-IV Abbottabad to Gilgit Forest Division in the interest of public service; therefore his seniority will not be disturbed.
2. As per section 8 of civil servant Act, 1973 the seniority will have determined on the basis of length of service, thus the appellant is entitled for seniority.
3. That the rights of the appellant to consider for seniority as the list of the appellant stand transferred to lower Hazara Forest Circle as per fundamental rule-14 and the appellant serving in Lower Hazara Forest Circle more than 5 years.
4. As per para-6 page 441 of the ESTA CODE 2007 seniority on transfer from one office to another, seniority in the office to which he is transferred should count his seniority in the new office from the date of his transfer to that office.

In view of the aforesaid facts, it is humbly prayed that may kindly be correct the impugned seniority list and the name of the appellant be shown its place please.


Muhammad Riasat
Forester
Haripur Forest Division
Haripur

Copy in advance forwarded to the Chief Conservator of Forests, Northern Forest Region-II, Khyber Pakhtunkhwa, Abbottabad for favour of consideration please.

Encl: 1, 1

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<p>OFFICE OF THE CONSERVATOR OF FORESTS LOWER HAZARA FOREST CIRCLE ABBOTTABAD</p>		<p>No. <u>3260</u> /GE, Dated <u>4/1/2013</u></p>
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The Divisional Forest Officer
Haripur Forest Division, Haripur


Subject APPEAL

Reference Your office letter No. 1954/E, dated 02-01-2013.

Consequent upon the issuance of Notification No. SO (Estt) Evt / 1-4 / 2K11 / 1629-50, dated 05-10-2012 by the Government of Khyber Pakhtunkhwa Environment Department the refixation of seniority of Foresters and Deputy Rangers is to be done in the respective Circles on the basis of their initial appointments.

In view of the above no ambiguity is left in fixation of the seniority of the applicant namely Muhammad Riasat Forester in the Forestry Planning and Monitoring Circle which is the Circle of his initial appointment.

Please inform the applicant accordingly.


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Handwritten notes:
G/S
05/01/13

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attested
R/S

51 P



S.No. of order or proceedings 1	Date of Order or proceedings. 2	Order or other proceedings with signature of Judge or Magistrate and the of parties where necessary. 3
	10.02.2014	<p style="text-align: center;"><u>Petition No. 1648/2013</u> <u>(Arif Abbas-vs-Govt. of KPK through Chief Secretary and 6 others)</u></p> <p>Mr. Tehmash Khan, father of the petitioner, on behalf of petitioner with counsel for the petitioner and Mr. Usman Ghani, Sr. GP the respondents present. Arguments heard, and file perused.</p> <p>This petition under Article 212 of the Constitution of Islamic Republic of Pakistan' (hereinafter referred to as 'the Constitution') 'with other enabling provisions of service law to the same effect', referred to the full Bench of the Tribunal on the request and application of the petitioner. Since the petition has been lodged under Article 212 of the Constitution, it would not be out of place to reproduce the provision of Article 212 of the Constitution:</p> <p style="text-align: center;">"212. Administrative Courts and Tribunals.---</p> <p>Notwithstanding anything hereinbefore contained the appropriate Legislature may be Act (provide for the establishment of) one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of--</p> <ul style="list-style-type: none"> (a) matters relating to the terms and conditions of person (who or have been) in the service of Pakistan, including disciplinary matters; (b) matters relating to claims arising from tortious acts of Government, or any person in the service of Pakistan, or any local or other authority empowered by law to levy a tax or cess and any servant of such authority acting in the discharge of his duties as such servant; or (c) matters relating to the acquisition, administration and disposal of any property which is deemed to be enemy property under any law. <p>(2) Notwithstanding anything hereinbefore contained, where an Administrative Court or Tribunal is established under clause (1), no such Court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of</p>

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Administrative Court or Tribunal extends (and all proceedings in respect of any such matter which may be pending before such other Court immediately before the establishment of the Administrative Court or Tribunal (other than an appeal pending before the Supreme Court), shall abate on such establishment):

Provided that the provisions of this clause shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly unless, at the request of that Assembly made in the form of a resolution, (Majlis-e-Shoora (Parliament)) by law extends the provisions to such a Court or Tribunal.

(3) An appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court, being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal."

A perusal of the relevant provisions of Article 212 of the Constitution would reveal that, firstly, one or more Administrative Courts or Tribunals would be established by an Act of appropriate legislature; secondly, the Administrative Courts or Tribunals would exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of persons (who are or have been) in the service of Pakistan, including disciplinary matters; thirdly, after establishment of the Administrative Court or Tribunal, no other Court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends; and, fourthly, the provision of clause 2 of Article 212 shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly unless, at the request of that Assembly made in the form of a resolution, Majlis-e-Shoora (Parliament) by law extends the provisions to such a Court or Tribunal.

It may be added here that the Majlis-e-Shoora (Parliament) enacted the Provincial Service Tribunals (Extension of provisions of Constitution) Act, 1974, (Act XXXII of 1974) (hereinafter referred to as Act XXXII of 1974) and thereby extended the provisions of clause 2

ATTESTED

EXAMINER
HYDERABAD
SCHOOL TRIBUNAL
Fazlurwar

Article 212 of the Constitution to the Provincial Service Tribunals of the Khyber Pakhtunkhwa, the Punjab and Sindh.

The main stress of the learned counsel for the petitioner was on clause 2 of Article 212 of the Constitution read with Act XXXII of 1974, under the mistaken belief that this Article of the Constitution confers jurisdiction on the Tribunal to grant injunction, notwithstanding prerequisite of filing service appeal under the Service Tribunal Act, whereas, in fact, the plain reading of clause 2 of Article 212 of the Constitution would show that the bar imposed on other Courts to grant injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of the Tribunal extends would come into operation only when at the request of the Provincial Assembly made in the form of a resolution, Majlis-e-Shoora (Parliament) by law extends the provisions of clause 2 of Article 212 of the Constitution to such Tribunal. The learned counsel for the petitioner was, as such, unable to show that the provision in Article 212 of the Constitution which entitles him to straight away lodge a petition under Article 212 of the Constitution by circumventing or abridging the mandatory provision of filing appeal under the Service Tribunal Act.

On the other hand, section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 (Khyber Pakhtunkhwa Act. No.1 of 1974) (hereinafter referred to as Act No.1 of 1974), where-under the Khyber Pakhtunkhwa Service Tribunal has been established, clearly provides for filing of appeal and also prescribes period of limitation for filing of appeal and prior to that preferring departmental appeal in the following manner:

“4. Appeal to Tribunals.— Any civil servant aggrieved by a final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service within thirty days of the communication of such order to him (or six months of the establishment of the appropriate Tribunal, whichever is later,) prefer an appeal of (to) the Tribunal having jurisdiction in the matter:

ATTESTED
 CHAIRMAN
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

Provided that--
 (a) where an appeal, review or a representation to a departmental authority as provided under the Khyber Pakhtunkhwa Civil Servants Act, 1973, or any rules against any such order, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date of which appeal, application or representation was preferred; (....)"

It is an admitted fact, and even not disputed by the learned counsel for the petitioner, that the petitioner has neither preferred a departmental appeal, review or representation to a departmental authority nor has even lodged appeal against a final order, whether original or appellate, in accordance with the mandatory provisions of section 4 of Act No.1 of 1974. Likewise, the judgment in the case titled 'Munshi Muhammad Azam...Petitioner-versus-A.C etc... Respondents' reported as PLJ 1996 Lahore 16 (DB), referred to by the learned counsel for the petitioner, would be of no help to the case of the petitioner unless he shows that no departmental appeal is provided against the impugned transfer order. Moreover, even in that case the appellant would be required to file appeal under the Service Tribunal Act and not a petition under Article 212 of the Constitution.

The learned counsel for the petitioner argued the case at length; and, during his arguments, referred to several provisions of the Constitution and law, including Articles 9 and 199 of the Constitution, posting/transfer policy of the Provincial Government, sections 22,23 and 23(b) of the Khyber Pakhtunkhwa Civil Servants Act, 1973, and also to the ailment/disability of the petitioner together with his service record and the circumstances leading to his transfer; but none of such contentions references would lend credence to his otherwise weak case on account of maintainability and jurisdiction, when this Tribunal is, admittedly, not constitutional forum to entertain petitions under the Constituc

ATTESTED

BY
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

Undoubtedly, the Tribunal is a creation of the Statute, namely, the Khyber Pakhtunkhwa Service Tribunal Act, 1974, and can only entertain and proceed with appeals instituted/filed there-under.

After realizing his difficulty to convince the Bench on the questions of maintainability and jurisdiction, the learned counsel prayed for treating the petition as departmental appeal and referring the same to the departmental authority, while extending the order of status-quo granted in favour of the petitioner by the learned Member Bench on 16.01.2014. However, once it is held that the petition is not maintainable and this Tribunal lacks jurisdiction to entertain the constitutional petition under Article 212 of the Constitution, any order passed thereafter would be without jurisdiction, and not sustainable in law.

As a sequel to the foregoing discussion, the petition is dismissed in limine, with costs.

ANNOUNCED
10.02.2014

*sd/-
Members*

*sd/-
Chairman*

*sd/-
Members*

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application	13-2-2014
Number of Words	2000
Copying Fee	12
Urgent	2
Total	14
Name of Applicant	
Date of Completion of C	13-2-2014
Date of Delivery of C	13-2-2014

[Signature]



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 241 Muhammad Riasat Forester

APPELLANT

VERSUS

1. The Secretary Environment govt. of Khyber Pakhtunkhwa, Peshawar
2. Chief Conservator of Forests Central Southern Forest Region-I, Peshawar
3. Chief Conservator of Forest Northern Forest Region-II Abbottabad
4. Conservator of Forests Lower Hazara Forest Circle Abbottabad

RESPONDENTS

Parawise comments on behalf of respondents

Respectively Sheweth:

Preliminary Objections

1. The appeal is not maintainable in the present form
2. The appellants have no locus standi
3. The appellant is legally stopped by his own conduct to bring the present appeal.

FACTS


Parawise comments are as under:

1. In reply to para-1 it is submitted that the appellant is currently holding the post of Forester under the Administrative control of respondent No. 04 i.e. Conservator of Forests, Lower Hazara Forest Circle, but was recruited in Working Plan Circle and later-on transferred to Lower Hazara Forest Circle, Abbottabad, which was further disintegrated into two Forest Circles i.e. Lower Hazara Forest Circle and Upper Hazara Forest Circle.
2. In reply to para-2 it is submitted that the purpose of better Administration / Management the Forest department is divided into Regions, Circles, Divisions and further sub-Territorial units vulnerable to further revisions as per need basis under the law and official procedure. The post of Forester is inter-transferable between the Forest Circles. Therefore the phrase of the appellant i.e.
" The appellant was permanently adjusted in Lower Hazara Forest Circle" is portrayed in a contorted sense / manner, as far the handling of this promotion in the specific Forest Circle is concerned. The longer stay of a Forester in any Forest Circle never gives him the right of any specific privileges over the others in contradiction to the law & procedure.
3. The seniority lists framed at that times were as per rules and law and the contents therein were correct.

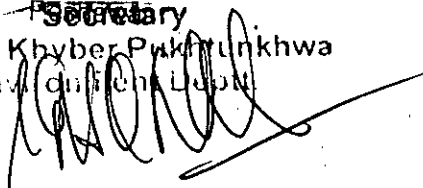
4. Para No-4 is incorrect hence denied. After the constitution of new Forest Circles/ bifurcation of existing Forest Circles by the Govt. for better Administration/Management. The immediate problem that arised was of formation of fresh seniority lists of Foresters and other filed staff. In order to settle the huge quantum of current as well as impending queries of the affected field staff, a unanimous decision was taken at the departmental level, to fix the seniority of the field staff in their respective circles, on the basis of their initial appointment. It is pertinent to mention here that the decision was taken in consultation and request of the President of the Union of Forest Guard, Forester and Deputy Rangers, vide his application / letter **No. Nil dated 07-5-2011 & dated 17-01-2011 (attached)** addressed to the Secretary Environment Govt. of Khyber Pakhtunkhwa, Peshawar, therefore the Notification No. SO (Estt)/I-4/2K11/1629-50 dated 5.10.2012 was issued by the Govt. for the reconstitution/ revision of the circles for fixing the seniority of the Foresters and Deputy Rangers in the respective Circle on the basis of their initial appointments which has helped the department in curtailing the higher quantum of impending litigations. The Notification has never violated the principles laid down in the Section 8 & 9 of the Khyber Pakhtunkhwa Civil Servants Act 1973. Rather it has fortified the essence of the Khyber Pakhtunkhwa Civil Servants Act 1973, in general and section 8 & 9 of the Act in specific.
5. True as till 5.10.2012 a common integrated seniority list used to be issued by the Conservator^r of Forest Lower Hazara Forest Circle for all the incumbents of the posts in various Forest Circles of Hazara Region.
6. After the issuance of the Notification **No. SO(Estt) Env/I-4)2K11/1629-50 dated 5.10.2012) attached)** the seniority lists are prepared circle wise for their initially appointed staff irrespective of their contemporary place of postings. Therefore the appellant name was not shown in the seniority list as it stood on 31.10.2012 issued by the CF Lower Hazara Forest Circle. In this regard lists of the Foresters who have been initially appointed in Forestry Planning and Monitoring Circle Peshawar have already been sent to the respective Conservator of Forests vide this office letter No. 708-10/GE dated 28.11.2012 for inclusion in the seniority list of his Circle in the light of above Notification. **(Letter along with Seniority list attached)**
7. Consequent upon the issuance of Notification by the Govt. Environment Department KPK dated 5/10/2012, the request of the appellant/departmental appeal for inclusion of his name in the seniority list of Lower Hazara Forest Circle, could not be entertained, rather his seniority was fixed in the FP & M Circle without any pre-judice. CF Lower Hazara office **letter No. 3260/GE dated 4/1/2013 is annexed herewith.**
8. Para No. 8 is incorrect hence denied. The posts of Deputy Forest Rangers are indeed part of the hierarchy FP & M Circle, but promotion of Foresters to the post of Deputy Rangers is made on the availability of vacant post, besides other promotion criteria to be considered by the departmental promotion committee. The length of service has never been the mandatory condition for promotion, rather it is the comparison of the length of service of the incumbents of the post that matters the most. As per the seniority position of the appellant and the availability of vacant higher post in his parent circle besides other criterias, will enable him for consideration for promotion by the DPC. The promotion is strictly made by the Department, in accordance with the rules and regulations.


9. Para No. 9 is also incorrect hence denied. The Notification dated 5/10/2012 is issued in the best interest of the state aiming at the curtailment of litigations made by the larger community. The pray of the appellant is arbitrary and against the interest of the state. The policies are devised by the Government, keeping in view the larger interest of the community rather than benefiting the personal gains of few persons.
10. Para No. 10 is also incorrect. Notifications are issued by Govt. from time to time in order to keep the Act rejuvenated with changing needs, better administrative control and less problems to be created, in the best interest of the state.

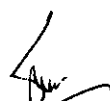
Hence the so called Notification is legal and implemented immediately with letter and spirit. Therefore any order passed keeping the essence of the Notification intact may be declared legal and consequently the appeal may be dismissed with cost.


Secretary Environment
Government of Khyber Pakhtunkhwa

~~Secretary~~
Govt of Khyber Pakhtunkhwa
Env. Conservation Dept.


Chief Conservator of Forests
Northern Forest Region-II
Abbottabad


Chief Conservator of Forests
Central Southern Forest Region-I
Peshawar


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

APPEAL NO. 241 of 2013

Muhammad Riasat Forester

APPELLANTS



VERSUS

1. The Secretary Environment Govt. of Khyber Pakhtunkhwa, Peshawar
2. Chief Conservator of Forest Central Southern Forest Region-I, Peshawar
3. Chief Conservator of Forests Northern Forest Region-II Abbottabad
4. Conservator of Forests Lower Hazara Forest Circle Abbottabad

RESPONDENTS

COUNTER AFFIDAVIT

The undersigned do hereby solemnly affirms and declare on oath that the contents of our written reply in the appeal are correct to the best of my knowledge and record, nothing has been concealed from the honorable Tribunal.


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad 



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NO.SO(Estt)Envt/1-4/2K11/1450/wc
Dated Pesh: 7th May, 2011

To

The Chief Conservator of Forests,
Khyber Pakhtunkhwa.

SUBJECT: APPLICATION

I am directed to refer to the subject cited above and to enclose herewith a copy of an application which is self-explanatory (alongwith its enclosure) submitted by Haji Muhammad Zeb, President Forest Guards/Foresters and Deputy Rangers Association Khyber Pakhtunhwa, for necessary action as per remarks of the Secretary Environment which are reproduced below :-

"For considering both the circles separately as per new administrative arrangement and rules/policy."

Encl: as above

Mutahir Shah
(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

Endst:No.and date even.

Copy is forwarded to PS to Secretary Environment Department.

Mutahir Shah
SECTION OFFICER (ESTT)

Attested

Mutahir Shah
Divisional Forest Officer
Patrol Division Lower Mahara Circle
Mardan



F/GUARDS FORESTERS & D/RANGERS
ASSOCIATION N.W.F.P, REGED

47

Laji Muhammad Zeb Khan (L.L.B)
Central President

Res: 0945-761174
Cell: 0300-5824716
0345-9065554

Zeb House Zeb Abad
Chakdra P.O.Chakdra
Tehsil Adenzai
District Dir (L)

1663
7/5/2011

607
7/5/2011

Date: 07-05-2011

جناب سیکرٹری صاحبہ صاحبہ جو خیریتوں خواہتار۔۔
جناب عالی! گزارش ہے کہ
حکومت خیگلات KPP میں سیاسی نا جائزہ بارے کے تحت "میرٹ کوٹ" کے آرڈر میں مخصوص جو غیر فارم سٹریٹو
ڈیپٹی ریجنل کے عہدوں پر نا جائزہ بر دھوٹ کروانے کیلئے انتہائی عجلت میں درجہ 10 مئی 2011 کو DPC
کی اجلاس منعقد کروانے کیلئے جناب C.F صاحبہ کے دفتر سے احکامات جاری کی جا چکی ہے۔ جو کہ
خلاف قواعد، خلاف قانون اور خلاف ضابطہ ہے۔ کیونکہ!

1۔ حکومت KPP حکیمہ ماجولیات کے لیٹر نمبر NO-SO(ESTT)ENV/11-4/8/2K9
156/104
تاریخ 17 جنوری 2011
(مقل شامل ہے) "ANNEXED A" کے ہدایات کے مطابق نہ تو مالڈ لٹریٹ ڈیلیٹ سٹریٹ اور مالڈ لٹریٹ ایئر
کے سٹیج پر انگ انگ سیارٹی لیٹ اور انگ انگ پیروشن کو یقینی بنانے کیلئے کوئی اقدامات کیے ہیں۔۔۔
مذکورہ دونوں سٹیج کے مشتمل سیارٹی لیٹ پر مشتمل پیروشن زیر غور لیا جا رہا ہے۔ جو کہ نہ صرف
میں ایک انتہائی بحران پیدا کرنے کی کوشش ہے۔ بلکہ حکیمانہ مفادات کے برعکس، ظلم اور نا انصافی
2۔ جناب والا کی سربراہی میں درجہ 11-03-30 کو SSRC کے اجلاس ہو چکی ہے۔ جس کی
منیٹ ڈسٹوٹ شدہ جاری ہوا ہے۔ جس کے روشنی میں "میرٹ کوٹ" کے آرڈر میں (5) متواتر NT
ACOR کے لئے والوں کی مخصوص پیروشن کی کوئی پروویژن موجود نہیں ہے۔ لیکن 11-05-10 میں
ایسے لوگوں کو بر دھوٹے جانے کی کوشش کی جا رہی ہے۔ جو کہ خلاف قواعد ہے۔
3۔ DPC کے اہم نمبر SO.(ESTT) صاحب کو حسب قواعد کوئی ڈرنگ پیپر ارسال نہیں کیا
جو کہ خلاف پروڈر ہے۔

مذکورہ بالا مفادات کے پیش نظر استدعا ہے۔ کہ حکیمانہ مفادات، ملذ میں خیگلات کو انصافی
کو یقینی بنانے کیلئے 11-05-10 کو ہونی والی ڈیپٹی ریجنل کے پیروشن کیلئے DPC کی اجلاس
تاکہ مالڈ لٹریٹ اور ڈیلیٹ سٹیج کے انگ انگ پیروشن اور سیارٹی / منیٹس پر قانون کے مطابق
یقینی بنایا جاسکے۔

حاجی حمزہ بیگان مرکزی صدر ایسوسی ایشن صوبہ خیبر پختون خوا
09/05/11

Attested -

Divisional Forest Officer
Patal Soud Lower Hazara Circle
Pakistand



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NO.SO(Estt)Envt/I-4/B/2K9
Dated Pesh: 17th January, 2011

156/wc

425

To

The Chief Conservator of Forests,
Khyber Pakhtunkhwa.

SUBJECT: APPLICATION FOR CONSIDERATION OF DEPUTY RANGERS
PROMOTION FROM CONCERNED FOREST CIRCLES.

I am directed to refer to the subject cited above and to enclose
herewith a copy of an application (self-explanatory) submitted by Haji
Muhammad Zeb Khan, President, F/Guards Foresters & D/Rangers Association,
with the direction that necessary action in the matter may be taken in view of
the new administrative arrangement so that in-justice question may not arise.

Amir Ali Shah

Mutahir Shah
(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

Encl: No. and date even.

Copy is forwarded to PS to Secretary Environment Department.

SECTION OFFICER (ESTT)

Attested

[Signature]
Divisional Forest Officer
Patrol Section Lower Hazara Circle
Abbottabad



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

Dated Pesh 5th Oct., 2012

NOTIFICATION

No.SO(Estt)Envt/I-4/2k11: In supersession of this department Notification No.SO(Estt)Envt/I-4/2k11/6475 dated 2/1/2012, the Competent Authority, in exercise of the powers vested vide Item 1-6 Part-I of defunct West Pakistan Manual Volume-II, is pleased to order reconstitution/revision of the following Circles for the purpose of initial appointment of Foresters and Deputy Rangers and promotion of Foresters to the rank of Deputy Rangers, in each circle, on the basis of circle-wise seniority lists of the Foresters, with immediate effect.

#	Name of Circles constituted	Name of Circle
1-	Upper Hazara Circle	Upper Hazara Circle
2-	Lower Hazara Circle	Lower Hazara Circle
3-	Malakand West Circle	Malakand West Circle
4-	Malakand East Circle	Malakand East Circle
5-	FATA Circle	FATA Circle
6-	Southern Circle	Southern Circle
7-	Watershed Management Circle	Watershed Management Circle
8-	Forestry Planning & Monitoring Circle	Forestry Planning & Monitoring Circle

The seniority of the Foresters and Deputy Rangers shall be determined and fixed in the respective Circles on the basis of their initial appointment.

SECRETARY TO GOVT: OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT.

Endst: No. SO(Estt)Envt/I-4/2k11/

1629-50

Dated Pesh: 5th Oct., 2012

Copy is forwarded for information to:-

- 1) PS to Secretary Environment Department.
- 2) Chief Conservator of Forests, Central & Southern Forest Region-I, Peshawar.
- 3) Chief Conservator of Forests, Northern Forest Region-II, Abbottabad.
- 4) Chief Conservator of Forests, Malakand Forest Region-III, Mingora at Saidu Sharif, Swat.
- 5) All Conservators of Forests, Khyber Pakhtunkhwa C/O CCF-I; with the direction that tentative seniority lists of their respective circles may be issued by calling thereby objections within one months time period, if found no objection from any official(s), then final seniority lists may be issued accordingly.
- 6) All Directors Integrated Specialized Units, Forest Department.
- 7) Master file.
- 8) Officer order file.

Attested -

(ASHFAQ KHAN)
SECTION OFFICER (ESTT)

Director, Forest Officer
Patrol Officer, Upper Hazara Circle
Peshawar

OFFICE OF THE
CONSERVATOR OF FORESTS
LOWER HAZARA FOREST CIRCLE
ABBOTTABAD



No. 708-10 /GE,

Dated 28/11/2012

- 1- The Conservator of Forests
Watershed Management Project Abbottabad.
- 2- The Conservator of Forests
Forestry Planning & Monitoring Circle, Peshawar.
- 3- Principal
Sarhad Forest School, Abbottabad
at Thai.

Subject

SENIORITY LIST OF DEPUTY RANGERS / FORESTERS

Memo

The detail of Deputy Rangers /Foresters with full particulars, who are appointee of your Circles and presently serving in this Circle is enclosed herewith on the prescribed proforma for inclusion in the seniority list of your respective Circle on the basis of their initial appointment in the light of Government of Khyber Pakhtunkhwa Notification No. SO (Estt) Env/1-4/2K11/1629-50, dated 05-10-2012. The Conservator of Forests, Forestry Planning and Monitoring Circle is requested to also supply the names of Deputy Rangers / Foresters, who are appointee of this Circle and presently serving in his Circle at an early date for further necessary action.

Encl. As above

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

No. 711 /GE

Copy forwarded to the Chief Conservator of Forests, Northern Forest Region-II Abbottabad Khyber Pakhtunkhwa for favour of information please.

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Attested -

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

NAME / SENIORITY LIST OF FORESTERS OF WORKING PLAN CIRCLE PRESENTLY SERVING IN LOWER HAZARA FOREST CIRCLE ABBOTTABAD

S. #	Name of Forester	Qualification	Home District	Any test passed	Date of Birth	Date of appointment in		Cadre	Remarks
						Govt. Service	Present grade		
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	Muhammad Shafqat	B.A	Haripur	Trained	01-01-1960	01-10-1983	01-10-1983	Upper Tanawal Working Plan Division Abbottabad	ES-09, dated 22-06-2012
2.	Muhammad Riasat S/O Abdul Qayyum	Matric	Abbottabad	-do-	25-03-1966	01-10-1986	01-10-1986	Working Plan Unit No. VI, Abbottabad	-do-
3	Muhammad Anwar-II S/O Fazal-ur-Rehman	F.A	Abbottabad	Trained	15-06-1966	01-10-1986	01-10-1986	Working Plan Unit No. VI, Abbottabad	-do-
4.	Mr. Bashir Ahmad	M.A	Mansehra	-do-	11-03-1965	01-10-1988	01-10-1988	Working Plan Unit No. IV, Abbottabad	-do-
5.	Mr. Amjad Khan	FA	Mansehra	-do-	06-05-1968	01-10-1988	01-10-1988	Working Plan Circle	-do-
6.	Syed Ibrar Hussain Shah	Matric	Mansehra	-do-	12-02-1965	01-10-1989	01-10-1989	-do-	-do-
7.	Mr. Zulifqar Khan	Matric	Abbottabad	-do-	14-04-1969	17-02-1991	01-09-2004	-do-	-do-


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Attested -

Divisional Forest Officer
Petrol Squad Lower Hazara Circle
Abbottabad

(Annex: E)

16

OFFICE OF THE CONSERVATOR OF FORESTS LOWER HAZARA FOREST CIRCLE ABBOTTABAD		No. <u>3260</u> /GE, Dated <u>4/1/2013</u>
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The Divisional Forest Officer
Haripur Forest Division, Haripur

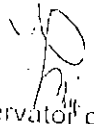
Subject APPEAL

Reference Your office letter No. 1954/E, dated 02-01-2013.

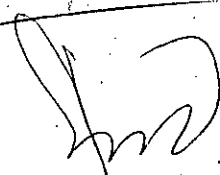
Consequent upon the issuance of Notification No. SO (Estt) Env / 1-4 / 2K11 / 1629-50, dated 05-10-2012 by the Government of Khyber Pakhtunkhwa Environment Department the re-fixation of seniority of Foresters and Deputy Rangers is to be done in the respective Circles on the basis of their initial appointments.

In view of the above no ambiguity is left in fixation of the seniority of the applicant namely Muhammad Riasat Forester in the Forestry Planning and Monitoring Circle which is the Circle of his initial appointment.

Please inform the applicant accordingly.


 Conservator of Forests
 Lower Hazara Forest Circle
 Abbottabad

G-113
 05/01/13

Attested -


Divisional Forest Officer
 Patrol Squad Lower Hazara Circle
 Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 241 Muhammad Riasat Forester

APPELLANT

VERSUS

1. The Secretary Environment govt. of Khyber Pakhtunkhwa, Peshawar
2. Chief Conservator of Forests Central Southern Forest Region-I, Peshawar
3. Chief Conservator of Forest Northern Forest Region-II Abbottabad
4. Conservator of Forests Lower Hazara Forest Circle Abbottabad

RESPONDENTS

Parawise comments on behalf of respondents

Respectively Sheweth:

Preliminary Objections

1. The appeal is not maintainable in the present form
2. The appellants have no locus standi
3. The appellant is legally stopped by his own conduct to bring the present appeal.

FACTS


Parawise comments are as under:

1. In reply to para-1 it is submitted that the appellant is currently holding the post of Forester under the Administrative control of respondent No. 04 i.e. Conservator of Forests, Lower Hazara Forest Circle, but was recruited in Working Plan Circle and later-on transferred to Lower Hazara Forest Circle, Abbottabad, which was further disintegrated into two Forest Circles i.e. Lower Hazara Forest Circle and Upper Hazara Forest Circle.
2. In reply to para-2 it is submitted that the purpose of better Administration / Management the Forest department is divided into Regions, Circles, Divisions and further sub-Territorial units vulnerable to further revisions as per need basis under the law and official procedure. The post of Forester is inter-transferable between the Forest Circles. Therefore the phrase of the appellant i.e. "The appellant was permanently adjusted in Lower Hazara Forest Circle" is portrayed in a contorted sense / manner, as far the handling of this promotion in the specific Forest Circle is concerned. The longer stay of a Forester in any Forest Circle never gives him the right of any specific privileges over the others in contradiction to the law & procedure.
3. The seniority lists framed at that times were as per rules and law and the contents therein were correct.

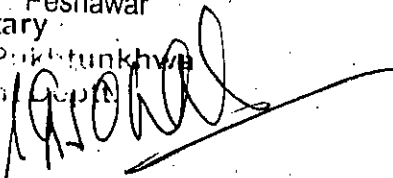
4. Para No-4 is incorrect hence denied. After the constitution of new Forest Circles/ bifurcation of existing Forest Circles by the Govt. for better Administration/Management. The immediate problem that arised was of formation of fresh seniority lists of Foresters and other filed staff. In order to settle the huge quantum of current as well as impending queries of the affected field staff, a unanimous decision was taken at the departmental level, to fix the seniority of the field staff in their respective circles, on the basis of their initial appointment. It is pertinent to mention here that the decision was taken in consultation and request of the President of the Union of Forest Guard, Forester and Deputy Rangers, vide his application / letter **No. Nil dated 07-5-2011 & dated 17-01-2011 (attached)** addressed to the Secretary Environment Govt: of Khyber Pakhtunkhwa, Peshawar, therefore the Notification No. SO (Estt)/I-4/2K11/1629-50 dated 5.10.2012 was issued by the Govt. for the reconstitution/ revision of the circles for fixing the seniority of the Foresters and Deputy Rangers in the respective Circle on the basis of their initial appointments which has helped the department in curtailing the higher quantum of impending litigations. The Notification has never violated the principles laid down in the Section 8 & 9 of the Khyber Pakhtunkhwa Civil Servants Act 1973. Rather it has fortified the essence of the Khyber Pakhtunkhwa Civil Servants Act 1973, in general and section 8 & 9 of the Act in specific.
5. True as till 5.10.2012 a common integrated seniority list used to be issued by the Conservator of Forest Lower Hazara Forest Circle for all the incumbents of the posts in various Forest Circles of Hazara Region.
6. After the issuance of the Notification **No. SO(Estt) Env/I-4)2K11/1629-50 dated 5.10.2012) attached)** the seniority lists are prepared circle wise for their initially appointed staff irrespective of their contemporary place of postings. Therefore the appellant name was not shown in the seniority list as it stood on 31.10.2012 issued by the CF Lower Hazara Forest Circle. In this regard lists of the Foresters who have been initially appointed in Forestry Planning and Monitoring Circle Peshawar have already been sent to the respective Conservator of Forests vide this office letter No. 708-10/GE dated 28.11.2012 for inclusion in the seniority list of his Circle in the light of above Notification. **(Letter along with Seniority list attached)**
7. Consequent upon the issuance of Notification by the Govt. Environment Department KPK dated 5/10/2012, the request of the appellant/departmental appeal for inclusion of his name in the seniority list of Lower Hazara Forest Circle, could not be entertained, rather his seniority was fixed in the FP & M Circle without any pre-judice. CF Lower Hazara office **letter No. 3260/GE dated 4/1/2013 is annexed herewith.**
8. Para No. 8 is incorrect hence denied. The posts of Deputy Forest Rangers are indeed part of the hierarchy FP & M Circle, but promotion of Foresters to the post of Deputy Rangers is made on the availability of vacant post, besides other promotion criteria to be considered by the departmental promotion committee. The length of service has never been the mandatory condition for promotion, rather it is the comparison of the length of service of the incumbents of the post that matters the most. As per the seniority position of the appellant and the availability of vacant higher post in his parent circle besides other criterias, will enable him for consideration for promotion by the DPC. The promotion is strictly made by the Department, in accordance with the rules and regulations.

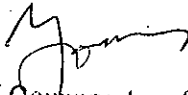
9. Para No. 9 is also incorrect hence denied. The Notification dated 5/10/2012 is issued in the best interest of the state aiming at the curtailment of litigations made by the larger community. The pray of the appellant is arbitrary and against the interest of the state. The policies are devised by the Government, keeping in view the larger interest of the community rather than benefiting the personal gains of few persons.
10. Para No. 10 is also incorrect. Notifications are issued by Govt. from time to time in order to keep the Act rejuvenated with changing needs, better administrative control and less problems to be created, in the best interest of the state.

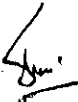
Hence the so called Notification is legal and implemented immediately with letter and spirit. Therefore any order passed keeping the essence of the Notification intact may be declared legal and consequently the appeal may be dismissed with cost.


Secretary Environment
Government of Khyber Pakhtunkhwa
Peshawar

Secretary
Govt of Khyber Pakhtunkhwa
Environment Deptt.


Chief Conservator of Forests
Northern Forest Region-II
Abbottabad


Chief Conservator of Forests
Central Southern Forest Region-I
Peshawar


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

APPEAL NO. 241 of 2013

Muhammad Riasat Forester

APPELLANTS


VERSUS

1. The Secretary Environment Govt. of Khyber Pakhtunkhwa, Peshawar
2. Chief Conservator of Forest Central Southern Forest Region-I, Peshawar
3. Chief Conservator of Forests Northern Forest Region-II Abbottabad
4. Conservator of Forests Lower Hazara Forest Circle Abbottabad

RESPONDENTS

COUNTER AFFIDAVIT

The undersigned do hereby solemnly affirms and declare on oath that the contents of our written reply in the appeal are correct to the best of my knowledge and record, nothing has been concealed from the honorable Tribunal.


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal no. 241, 300, 304, 308 and 344 of 2013 Muhammad Riasat & 04 Others

APPELLANT

VERSUS

1. The Secretary Environment govt. of Khyber Pakhtunkhwa, Peshawar
2. Chief Conservator of Forests Central Southern Forest Region-I, Peshawar
3. Chief Conservator of Forest Northern Forest Region-II Abbottabad
4. Conservator of Forests Lower Hazara Forest Circle Abbottabad

RESPONDENTS

Parawise comments on behalf of respondents

Respectively Sheweth:

Preliminary Objections

1. The appeal is not maintainable in the present form
2. The appellants have no locus standi
3. The appellant is legally stopped by his own conduct to bring the present appeal.

FACTS

Parawise comments are as under:

- in reply to para 1 it is submitted that the*
1. The appellant is currently holding the post of Forester under the Administrative control of respondent No. 04 i.e. Conservator of Forests, Lower Hazara Forest Circle, but was recruited in Working Plan Circle and later-on transferred to Lower Hazara Forest Circle, Abbottabad, which was further disintegrated into two Foresters Circle i.e. Lower Hazara Forest Circle and Upper Hazara Forest Circle.

Para 2 is incorrect.

2. For the purpose of better Administration / Management the Forest department is divided into Regions, Circles, Divisions and further sub-Territorial units vulnerable to further revisions as per need basis under the law and official procedure. The post of Forester is inter-transferable between the Forest Circles. Therefore the phrase of the appellant i.e.

"The appellant was permanently adjusted in Lower Hazara Forest Circle" is portrayed in a contorted sense / manner, as far the handling of this promotion in the specific Forest Circle is concerned. The longer stay of a Forester in any Forest Circle never gives him the right of any specific privileges over the others in contradiction to the law & procedure.

3. The seniority lists framed at that times were as per rules and law and the contents therein were correct.

- para 4 is incorrect hence denied.*
4. After the constitution of new Forest Circle/bifurcation of existing Forest Circles by the Govt. for better Administration/Management. The immediate problem that arised was of formation of fresh seniority lists of Foresters and other filed staff. In order to settle the huge quantum of current as well as impending queries of the affected field staff, a unanimous decision was taken at the departmental level, to fix the seniority of the field staff in their respective circles, on the basis of their initial appointment. It is pertinent to mention here that the decision was taken in consultation and request of the president of the Union of Forest Guard and Forester and Deputy Rangers, vide his application / letter No. Nil dated 07-5-2011 & dated 17-01-2011 (Attached) addressed to the Secretary Environment Govt. of Khyber Pakhtunkhwa, Peshawar, therefore the notification No. SO (Estt)/I-4/2K11 dated 5.10.2012 was issued by the Govt. for the reconstitution/ revision of the circles for fixing the seniority of the Forester and Deputy Rangers in the respective Circle on the basis of their initial appointments which has helped the department in curtailing the higher quantum of impending litigations. The notification has never violated the principles laid down in the Section 8 & 9 of the Khyber Pakhtunkhwa civil servants Act 1973. Rather it has

fortified the essence of the K.P Civil Servants Act 1973, in general and section 8 & 9 of the Act in specific.

5. True as till 5.10.2012 a common integrated seniority list used to be issued by the Conservator of Forest Lower Hazara Forest Circle for all the incumbents of the posts in various Forest Circles of Hazara Region.
6. After the issuance of the notification No. ^{303/16} (Estt) Env/1-432K 11 dated 5.10.2012, the seniority lists are prepared circle wise for their initially appointed staff irrespective of their contemporary place of postings. Therefore the appellant name was not shown in the seniority list issued on 31.10.2012 by the CF Lower Hazara Forest Circle. Rather it was shown on the seniority list issued by Conservator of Forests, Forestry Planning & Monitoring Circle (CF FP & M) dated _____ in the appropriate place as per his seniority. *(notification ad seniority just stated)*
7. Consequent upon the issuance of notification by the govt. environment Department KPK dated 5/10/2012, the request of the appellant/departmental appeal for inclusion of his name in the seniority list of lower Hazara Forest Circle, could not be entertained, rather his seniority was fixed in the FP & M Circle without any pre-judice. CF Lower Hazara office letter No. 3260/GE dated 4/1/2013 is annexed herewith.
8. *Para No 6 is incorrect hence denied.*
The posts of Deputy Forest Rangers are indeed part of the hierarchy FP & M Circle, but promotion of Foresters to the post of Deputy Rangers is made on the availability of vacant post, besides other promotion criteria to be considered by the departmental promotion committee. The length of service has never been the mandatory condition for promotion, rather it is the comparison of the length of service of the incumbents of the post that matters the most. As per the seniority position of the appellant and the availability of vacant higher post in his parent circle besides other criterias, will enable him for consideration for promotion by the DPC. The promotion is strictly made by the Department, in accordance with the rules and regulations.
9. *Para No 9 is also incorrect hence denied.*
The notification dated 5/10/2012 is issued in the best interest of the state aiming at the curtailment of litigations made by the larger community. The pray of the appellant is arbitrary and against the interest of the state. The policies are devised by the Government, keeping in view the larger interest of the community rather than benefiting the personal gains of few persons.
10. *Para No 10 is also incorrect.*
Notification are issued by govt. from time to time in order to keep the Act rejuvenated with changing needs, better administrative control and less problems to be created, in the best interest of the state.

~~Acts are erected by the legislative bodies which are amended by notifications by the Govt. after seeking proper approvals. Hence the so called notification is legal and implemented immediately with letter and spirit. Therefore any order passed keeping the essence of the notification intact may be declared legal and consequently the appeal may be set a side~~ *dismissed with cost.*

Secretary Environment
Government of Khyber Pakhtunkhwa
Peshawar

Chief Conservator of Forests
Central Southern Forest Region-I
Peshawar

Affidavit

[Signature]


Chief Conservator of Forests
Northern Forest Region-II
Abbottabad

[Signature]
Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

*Stated on oath that all the content of
what para wise comments are true and
correct and nothing has been concealed*

*vetted
subject to all
an cause*
[Signature]

47

	<p>GOVERNMENT OF KHYBER PAKHTUNKHWA ENVIRONMENT DEPARTMENT NO.SO(Estt)Envt/1-4/2K11/1450/wc Dated Pesh: 7th May, 2011</p>
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To

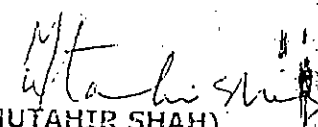
✓ The Chief Conservator of Forests,
Khyber Pakhtunkhwa.

SUBJECT: APPLICATION

I am directed to refer to the subject cited above and to enclose herewith a copy of an application which is self-explanatory (alongwith its enclosure) submitted by Haji Muhammad Zeb, President Forest Guards/Foresters and Deputy Rangers Association Khyber Pakhtunhwa, for necessary action as per remarks of the Secretary Environment which are reproduced below :-

"For considering both the circles separately as per new administrative arrangement and rules/policy."

Encl: as above

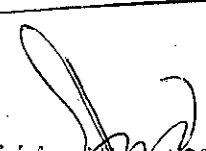

(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

Endst:No.and date even.

Copy is forwarded to PS to Secretary Environment Department.

SECTION OFFICER (ESTT)

Attested-


Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad



F/GUARDS FORESTERS & D/RANGERS
ASSOCIATION N.W.F.P. REGED

47

Haji Muhammad Zeb Khan (L.L.B)
Central President

Res: 0945-761174
Cell: 0300-5824716
0345-9065554

1663
7/5/2011

Zeb House Zeb Abad
Chakdra P.O.Chakdra
Tehsil Adenzai
District Dir (L)

Ref: _____

Date: 07-05-2011

۱۳
۷/۵/۲۰۱۱

جناب سیکرٹری صاحب ماحولیات صوبہ خیبر پختون خوا ایشیا

جناب عالی! گزارش ہے کہ! گزشتہ سال میں سیاسی نا جائزہ بارڈ کے تحت "میرٹ کوٹ" کے آرڈر میں مخصوص جوئینر فارسٹرز کو ڈیپٹی ریٹائرمنٹ کے عہدوں پر نا جائزہ پروموشن کروانے کیلئے انتہائی غجبت میں صرف 10 مئی 2011 کو DPC کی اجلاس منعقد کروانے کیلئے جناب سیکرٹری صاحب کے دفتر سے احکامات جاری کیے گئے تھے۔ جو کہ خلاف قواعد، خلاف قانون اور خلاف ضابطہ ہے۔ کیونکہ!

1۔ حکومت KPP حکیم ماحولیات کے لیٹر نمبر NO-SO(ESTT)ENV/11-4/B/2K9/156/104 مورخ 17 جنوری 2011 (مقل شامل ہے) "ANNEXED A" کے ہدایات کے مطابق نہ تو والد کوٹ ڈیسٹ سیکرٹری اور والد کوٹ ڈیسٹ کے سرچلیر ایگ ایگ سیکرٹری لیٹ اور ایگ ایگ سیکرٹری کو یعنی بنانے کیلئے کوئی اور احکامات گئے ہیں۔ نہ مذکورہ دونوں سرچلیر کے مشترکہ سیکرٹری لیٹ پر مشترکہ پروموشن زیر غور لیا جا رہا ہے۔ جو کہ غیر درست ہے۔ ایک انتظامی بحران پیدا کرنے کی کوشش ہے۔ بلکہ حکمانہ مفادات کے برعکس، ظلم اور نا انصافی ہے۔

2۔ جناب والا کی سربراہی میں مورخ 30-03-11 کو SSRC کے اجلاس ہو چکی ہے۔ جس کی منیٹرز دستخط شدہ جاری ہوا ہے۔ جسے روٹھی میں "میرٹ کوٹ" کے آرڈر میں (5) متواتر ACORs لینے والوں کی مخصوص پروموشن کی کوئی پروموشن موجود نہیں ہے۔ لیکن 10-5-11 میں ایسے لوگوں کو پروموشن دئے جانے کی کوشش کی جا رہی ہے۔ جو کہ خلاف قواعد ہے۔

3۔ DPC کے اہم ممبر SO(ESTT) صاحب کو حسب قواعد کوئی ڈرنگ پیپر ارسال نہیں کیا گیا۔ جو کہ خلاف پروڈر ہے۔ مذکورہ بالا حقائق کے پیش نظر استدعا ہے کہ حکمانہ مفادات، ملذذ میں خبیثات کو انصاف مندرجہ ذیل بنانے کیلئے 10-05-11 کو سونے والی ڈیپٹی ریٹائرمنٹ کے پروموشن کیلئے DPC کی اجلاس منعقد کروائی جائے اور ڈیپٹی ریٹائرمنٹ اور سیکرٹری / منیٹرز کے قانون کے مطابق

CCP for
07/05/11

یقینی بنایا جائے۔
عالمی محمد رفیقان مرکزی صدر ایسوسی ایشن صوبہ خیبر پختون خوا

Attested -

Divisional Forest Officer
Petrol Squad Lower Hazara Circle
Abbottabad



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NO.SO(Estt)Envt/I-4/B/2K9
Dated Pesh: 17th January, 2011

156/w.c.

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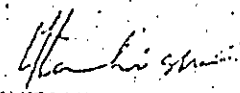
To

The Chief Conservator of Forests,
Khyber Pakhtunkhwa.

SUBJECT: APPLICATION FOR CONSIDERATION OF DEPUTY RANGERS
PROMOTION FROM CONCERNED FOREST CIRCLES.

I am directed to refer to the subject cited above and to enclose
herewith a copy of an application (self-explanatory) submitted by Haji
Muhammad Zeb Khan, President, F/Guards Foresters & D/Rangers Association,
with the direction that necessary action in the matter may be taken in view of
the new administrative arrangement so that in-justice question may not arise.

File No. 13 w.Sabir

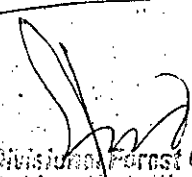

(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

Encl: No. and date even.

Copy is forwarded to PS to Secretary Environment Department.

SECTION OFFICER (ESTT)

Attested -


Divisional Forest Officer
Petrol Squad Lower Hazara Circle
Abbottabad



F/GUARDS FORESTERS & DRANGERS ASSOCIATION N.W.F.P, REGED

17/1

Majid Muhammad Zeb Khan (L.L.B) Central President

Res: 0945-761174 Cell: 0300-5824716 0345-9065554

Zeb House Zeb Abi Chakdra P.O.Chakce Tehsil Adenzai District Dir (L)

Ref: _____

Date: 17-01-2011

حساب سیکرٹری جنرل صاحب ناخواندگیات صوبہ چترال تون خوا

حساب عالی گزارش ہے کہ اٹیپ ریجنل کے خیال آسامیوں پر پروٹوشن کروانے کیلئے حساب CCF صاحب KPP کے دفتر سے DPC کی میٹنگ یکم فروری 2011 کو طلب کیا گیا ہے۔ جس کے بارے میں ڈائریکٹ مالاکوٹ سیکرٹری کے دفتر سے سٹیٹ اور ایڈٹ مالاکوٹ سیکرٹری سے الگ الگ پیور ملٹ کرنے کے بجائے سابلوڈ مالاکوٹ سیکرٹری کے دفتر سے سٹیٹ اور قسٹریڈ سیکرٹری کو پروٹوشن "CONSIDER" کے جاوے ہیں۔ جو کہ خلاف قاعدہ اور خلاف آئین ہے اور جس کے نتیجے میں ڈیسٹ مالاکوٹ سیکرٹری کے سیکرٹری اور سٹیٹ ڈائریکٹری کی حق تلفی کی تھی انسان موجود ہے کیونکہ ایک مذکورہ دو آؤں سیکرٹری میں کنزرویٹرز تعینات ہے۔ جنہوں نے باقاعدگی سے کام آغاز کیا ہے۔ مابقی سیکرٹری کو ڈیپارٹمنٹ سے اور ہر سیکرٹری کے سٹیٹ کے مطابق ہر سیکرٹری سے ڈائریکٹری کو ڈیپارٹمنٹ کے صدر پر پروٹوشن کیا جاتا ہے۔

کہنا اور رہا ہے کہ اٹیپ کے متعلقہ اعلیٰ کام کو ہدایات زمانی جانے۔ مگر وہ ڈیسٹ مالاکوٹ سیکرٹری سیکرٹری اور ایڈٹ مالاکوٹ سیکرٹری سوات سید شریف سے الگ الگ سٹیٹ اور ڈائریکٹری سٹیٹ اور ڈائریکٹری سٹیٹ سے الگ الگ پروٹوشن کروانے۔ تاکہ کسی ملازم کی حق تلفی نہ ہو۔ بصورت دیگر ملازمین کو حق تلفی سے بچانے کیلئے عدالت جانے سے بھی گریز نہیں کریں گے۔

Handwritten signature and date 17/01/11. Text: PL with CCF for... for... arrangement.

Handwritten signature and date 17/01/11. Text: KPP صدر ایسوسی ایشن

AS/SO(E)

Handwritten signature and date 17/01/11. Text: PL meet on...

Attested -

Divisional Forest Officer Patrol Squad Lower Hazara Circle Abbottabad



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

Dated Pesh 5th Oct., 2012

NOTIFICATION

No.SO(Estt)Envt/I-4/2k11: In supersession of this department Notification No.SO(Estt)Envt/I-4/2k11/6475 dated 2/1/2012, the Competent Authority, in exercise of the powers vested vide Item 1-6 Part-I of defunct West Pakistan Manual Volume-II, is pleased to order reconstitution/revision of the following Circles for the purpose of initial appointment of Foresters and Deputy Rangers and promotion of Foresters to the rank of Deputy Rangers, in each circle, on the basis of circle-wise seniority lists of the Foresters, with immediate effect.

//	Name of Circles constituted	Name of Circle
1-	Upper Hazara Circle	Upper Hazara Circle
2-	Lower Hazara Circle	Lower Hazara Circle
3-	Malakand West Circle	Malakand West Circle
4-	Malakand East Circle	Malakand East Circle
5-	FATA Circle	FATA Circle
6-	Southern Circle	Southern Circle
7-	Watershed Management Circle	Watershed Management Circle
8-	Forestry Planning & Monitoring Circle	Forestry Planning & Monitoring Circle

The seniority of the Foresters and Deputy Rangers shall be determined and fixed in the respective Circles on the basis of their initial appointment.

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT.

Endst: No. SO(Estt)Envt/I-4/2k11/

Dated Pesh: 5th Oct., 2012

Copy is forwarded for information to:-

- 1) PS to Secretary Environment Department.
- 2) Chief Conservator of Forests, Central & Southern Forest Region-I, Peshawar.
- 3) Chief Conservator of Forests, Northern Forest Region-II, Abbottabad.
- 4) Chief Conservator of Forests, Malakand Forest Region-III, Mingora at Saidu Sharif, Swat.
- 5) All Conservators of Forests, Khyber Pakhtunkhwa C/O CCF-I, with the direction that tentative seniority lists of their respective circles may be issued by calling thereby objections within one month's time period, if found no objection from any official(s), then final seniority lists may be issued accordingly.
- 6) All Directors Integrated Specialized Units, Forest Department.
- 7) Master file.
- 8) Officer order file.

Attested -

(ASHFAQ KHAN)
SECTION OFFICER (ESTT)

Division Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

OFFICE OF THE
CONSERVATOR OF FORESTS
LOWER HAZARA FOREST CIRCLE
ABBOTTABAD



No. 708-10 /GE,

Dated 28/11/2012


- 1- The Conservator of Forests
Watershed Management Project Abbottabad.
- 2- The Conservator of Forests
Forestry Planning & Monitoring Circle, Peshawar.
- 3- Principal
Sarhad Forest School, Abbottabad
at Thai.

Subject SENIORITY LIST OF DEPUTY RANGERS / FORESTERS

Memo


The detail of Deputy Rangers /Foresters with full particulars, who are appointees of your Circles and presently serving in this Circle is enclosed herewith on the prescribed proforma for inclusion in the seniority list of your respective Circle on the basis of their initial appointment in the light of Government of Khyber Pakhtunkhwa Notification No. SO (Estt) Env/1-4/2K11/1629-50, dated 05-10-2012. The Conservator of Forests, Forestry Planning and Monitoring Circle is requested to also supply the names of Deputy Rangers / Foresters, who are appointees of this Circle and presently serving in his Circle at an early date for further necessary action.

Encl. As above

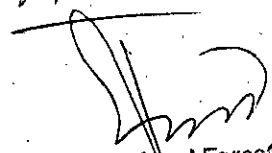

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

No. 711 /GE

Copy forwarded to the Chief Conservator of Forests, Northern Forest Region-II Abbottabad Khyber Pakhtunkhwa for favour of information please.


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Attested -


Divisional Forest Officer
Patrol Squad Lower Hazara Circle,
Abbottabad

NAME / SENIORITY LIST OF FORESTERS OF WORKING PLAN CIRCLE PRESENTLY SERVING IN LOWER HAZARA FOREST CIRCLE ABBOTTABAD

S. #	Name of Forester	Qualification	Home District	App. test passed	Date of Birth	Date of appointment in		Cadre Place of initial appointment	Remarks
						Govt. Service	Present grade		
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	Muhammad Shafqat	B.A	Haripur	Trained	01-01-1960	01-10-1983	01-10-1983	Upper Tanawal Working Plan Division Abbottabad	BS-09, dated 22-06-2012
2.	Muhammad Riasat S/O Abdul Qayyum	Matric	Abbottabad	-do-	25-03-1966	01-10-1986	01-10-1986	Working Plan Unit No. VI, Abbottabad	-do-
3	Muhammad Anwar-II S/O Fazal-ur-Rehman	F.A	Abbottabad	Trained	15-06-1966	01-10-1986	01-10-1986	Working Plan Unit No. VI, Abbottabad	-do-
4.	Mr. Bashir Ahmad	M.A	Mansehra	-do-	11-03-1965	01-10-1988	01-10-1988	Working Plan Unit No. IV, Abbottabad	-do-
5.	Mr. Amjad Khan	FA	Mansehra	-do-	06-05-1968	01-10-1988	01-10-1988	Working Plan Circle	-do-
6.	Syed Ibrar Hussain Shah	Matric	Mansehra	-do-	12-02-1965	01-10-1989	01-10-1989	-do-	-do-
7.	Mr. Zulifqar Khan	Matric	Abbottabad	-do-	14-04-1969	17-02-1991	01-09-2004	-do-	-do-


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Attested -

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

(Annex: E)

16

OFFICE OF THE CONSERVATOR OF FORESTS LOWER HAZARA FOREST CIRCLE ABBOTTABAD		No. <u>3260</u> /GE, Dated <u>4/1/2013</u>
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The Divisional Forest Officer
Haripur Forest Division, Haripur

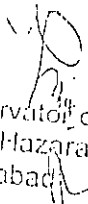
Subject APPEAL

Reference Your office letter No. 1954/E, dated 02-01-2013.

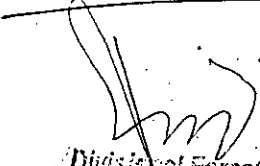
Consequent upon the issuance of Notification No. SO (Estt) Envt / 1-4 / 2K11 / 1629-50, dated 05-10-2012 by the Government of Khyber Pakhtunkhwa Environment Department the refixation of seniority of Foresters and Deputy Rangers is to be done in the respective Circles on the basis of their initial appointments.

In view of the above no ambiguity is left in fixation of the seniority of the applicant namely Muhammad Riasat Forester in the Forestry Planning and Monitoring Circle which is the Circle of his initial appointment.

Please inform the applicant accordingly.


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

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G-113
A 01
05/01/13

Attested -

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 241 Muhammad Riasat Forester

APPELLANT

VERSUS

1. The Secretary Environment govt. of Khyber Pakhtunkhwa, Peshawar
2. Chief Conservator of Forests Central Southern Forest Region-I, Peshawar
3. Chief Conservator of Forest Northern Forest Region-II Abbottabad
4. Conservator of Forests Lower Hazara Forest Circle Abbottabad

RESPONDENTS

Parawise comments on behalf of respondents

Respectively Sheweth:

Preliminary Objections

1. The appeal is not maintainable in the present form
2. The appellants have no locus standi
3. The appellant is legally stopped by his own conduct to bring the present appeal.

FACTS

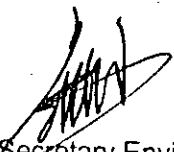
Parawise comments are as under:


1. In reply to para-1 it is submitted that the appellant is currently holding the post of Forester under the Administrative control of respondent No. 04 i.e. Conservator of Forests, Lower Hazara Forest Circle, but was recruited in Working Plan Circle and later-on transferred to Lower Hazara Forest Circle, Abbottabad, which was further disintegrated into two Forest Circles i.e. Lower Hazara Forest Circle and Upper Hazara Forest Circle.
2. In reply to para-2 it is submitted that the purpose of better Administration / Management the Forest department is divided into Regions, Circles, Divisions and further sub-Territorial units vulnerable to further revisions as per need basis under the law and official procedure. The post of Forester is inter-transferable between the Forest Circles. Therefore the phrase of the appellant i.e.
"The appellant was permanently adjusted in Lower Hazara Forest Circle" is portrayed in a contorted sense / manner, as far the handling of this promotion in the specific Forest Circle is concerned. The longer stay of a Forester in any Forest Circle never gives him the right of any specific privileges over the others in contradiction to the law & procedure.
3. The seniority lists framed at that times were as per rules and law and the contents therein were correct.

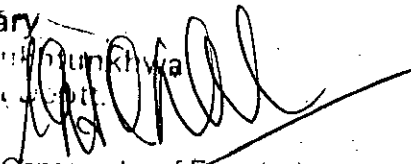
4. Para No-4 is incorrect hence denied. After the constitution of new Forest Circles/ bifurcation of existing Forest Circles by the Govt. for better Administration/Management. The immediate problem that arised was of formation of fresh seniority lists of Foresters and other filed staff. In order to settle the huge quantum of current as well as impending queries of the affected field staff, a unanimous decision was taken at the departmental level, to fix the seniority of the field staff in their respective circles, on the basis of their initial appointment. It is pertinent to mention here that the decision was taken in consultation and request of the President of the Union of Forest Guard, Forester and Deputy Rangers, vide his application / letter **No. Nil dated 07-5-2011 & dated 17-01-2011 (attached)** addressed to the Secretary Environment Govt. of Khyber Pakhtunkhwa, Peshawar, therefore the Notification No. SO (Estt)/I-4/2K11/1629-50 dated 5.10.2012 was issued by the Govt. for the reconstitution/ revision of the circles for fixing the seniority of the Foresters and Deputy Rangers in the respective Circle on the basis of their initial appointments which has helped the department in curtailing the higher quantum of impending litigations. The Notification has never violated the principles laid down in the Section 8 & 9 of the Khyber Pakhtunkhwa Civil Servants Act 1973. Rather it has fortified the essence of the Khyber Pakhtunkhwa Civil Servants Act 1973, in general and section 8 & 9 of the Act in specific.
5. True as till 5.10.2012 a common integrated seniority list used to be issued by the Conservator of Forest Lower Hazara Forest Circle for all the incumbents of the posts in various Forest Circles of Hazara Region.
6. After the issuance of the Notification **No. SO(Estt) Env/I-4)2K11/1629-50 dated 5.10.2012) attached)** the seniority lists are prepared circle wise for their initially appointed staff irrespective of their contemporary place of postings. Therefore the appellat name was not shown in the seniority list as it stood on 31.10.2012 issued by the CF Lower Hazara Forest Circle. In this regard lists of the Foresters who have been initially appointed in Forestry Planning and Monitoring Circle Peshawar have already been sent to the respective Conservator of Forests vide this office letter No. 708-10/GE dated 28.11.2012 for inclusion in the seniority list of his Circle in the light of above Notification. **(Letter along with Seniority list attached)**
7. Consequent upon the issuance of Notification by the Govt. Environment Department KPK dated 5/10/2012, the request of the appellat/departamental appeal for inclusion of his name in the seniority list of Lower Hazara Forest Circle, could not be entertained, rather his seniority was fixed in the FP & M Circle without any pre-judice. CF Lower Hazara office **letter No. 3260/GE dated 4/1/2013 is annexed herewith.**
8. Para No. 8 is incorrect hence denied. The posts of Deputy Forest Rangers are indeed part of the hierarchy FP & M Circle, but promotion of Foresters to the post of Deputy Rangers is made on the availability of vacant post, besides other promotion criteria to be considered by the departmental promotion committee. The length of service has never been the mandatory condition for promotion, rather it is the comparison of the length of service of the incumbents of the post that matters the most. As per the seniority position of the appellat and the availability of vacant higher post in his parent circle besides other criterias, will enable him for consideration for promotion by the DPC. The promotion is strictly made by the Department, in accordance with the rules and regulations.

9. Para No. 9 is also incorrect hence denied. The Notification dated 5/10/2012 is issued in the best interest of the state aiming at the curtailment of litigations made by the larger community. The pray of the appollant is arbitrary and against the interest of the state. The policies are devised by the Government, keeping in view the larger interest of the community rather then benefiting the personal gains of few persons.
10. Para No. 10 is also incorrect. Notifications are issued by Govt. from time to time in order to keep the Act rejuvenated with changing needs, better administrative control and less problems to be created, in the best interest of the state.


Hence the so called Notification is legal and implemented immediately with letter and sprit. Therefore any order passed keeping the essence of the Notification intact may be declared legal and consequently the appeal may be dismissed with cost.


Secretary Environment
Government of Khyber Pakhtunkhwa
Peshawar


Chief Conservator of Forests
Central Southern Forest Region-I
Peshawar


Secretary
Govt of Khyber Pakhtunkhwa
Environment Deptt.

Chief Conservator of Forests
Northern Forest Region-II
Abbottabad 02


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

APPEAL NO. 241 of 2013

Muhammad Riasat Forester

APPELLANTS

VERSUS

1. The Secretary Environment Govt. of Khyber Pakhtunkhwa, Peshawar
2. Chief Conservator of Forest Central Southern Forest Region-I, Peshawar
3. Chief Conservator of Forests Northern Forest Region-II Abbottabad
4. Conservator of Forests Lower Hazara Forest Circle Abbottabad

RESPONDENTS

COUNTER AFFIDAVIT

The undersigned do hereby solemnly affirms and declare on oath that the contents of our written reply in the appeal are correct to the best of my knowledge and record, nothing has been concealed from the honorable Tribunal.


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal no. 241, 300, 304, 308 and 344 of 2013 Muhammad Riasat & 04 Others

APPELLANT

VERSUS

1. The Secretary Environment govt. of Khyber Pakhtunkhwa, Peshawar
2. Chief Conservator of Forests Central Southern Forest Region-I, Peshawar
3. Chief Conservator of Forest Northern Forest Region-II Abbottabad
4. Conservator of Forests Lower Hazara Forest Circle Abbottabad

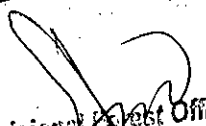
RESPONDENTS

Parawise comments on behalf of respondents

Respectively Sheweth:

Preliminary Objections

1. The appeal is not maintainable in the present form
2. The appellants have no locus standi
3. The appellant is legally stopped by his own conduct to bring the present appeal.

Attested -

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

FACTS

Parawise comments are as under:

- In reply to para 1 it is submitted that the*
1. The appellant is currently holding the post of Forester under the Administrative control of respondent No. 04 i.e. Conservator of Forests, Lower Hazara Forest Circle, but was recruited in Working Plan Circle and later on transferred to Lower Hazara Forest Circle, Abbottabad, which was further disintegrated into two Foresters Circle i.e. Lower Hazara Forest Circle and Upper Hazara Forest Circle.

para 1 is incorrect.

2. For the purpose of better Administration / Management the Forest department is divided into Regions, Circles, Divisions and further sub-Territorial units vulnerable to further revisions as per need basis under the law and official procedure. The post of Forester is inter-transferable between the Forest Circles. Therefore the phrase of the appellant i.e.

"The appellant was permanently adjusted in Lower Hazara Forest Circle" is portrayed in a contorted sense / manner, as far the handling of this promotion in the specific Forest Circle is concerned. The longer stay of a Forester in any Forest Circle never gives him the right of any specific privileges over the others in contradiction to the law & procedure.

3. The seniority lists framed at that times were as per rules and law and the contents therein were correct.

- para no 4 is incorrect hence denied.*
4. After the constitution of new Forest Circle/bifurcation of existing Forest Circles by the Govt. for better Administration/Management. The immediate problem that arised was of formation of fresh seniority lists of Foresters and other field staff. In order to settle the huge quantum of current as well as impending queries of the affected field staff, a unanimous decision was taken at the departmental level, to fix the seniority of the field staff in their respective circles, on the basis of their initial appointment. It is pertinent to mention here that the decision was taken in consultation and request of the president of the Union of Forest Guard and Forester and Deputy Rangers, vide his application / letter No. Nil dated 07-5-2011 & dated 17-01-2011 (Attached) addressed to the Secretary Environment Govt. of Khyber Pakhtunkhwa, Peshawar, therefore the notification No. SO (Estt)/I-4/2K/11 dated 5.10.2012 was issued by the Govt. for the reconstitution/ revision of the circles for fixing the seniority of the Forester and Deputy Rangers in the respective Circle on the basis of their initial appointments which has helped the department in curtailing the higher quantum of impending litigations. The notification has never violated the principles laid down in the Section 8 & 9 of the Khyber Pakhtunkhwa civil servants Act 1973. Rather it has

fortified the essence of the K.P Civil Servants Act 1973, in general and section 8 & 9 of the Act in specific.

5. True as till 5.10.2012 a common integrated seniority list used to be issued by the Conservator of Forest Lower Hazara Forest Circle for all the incumbents of the posts in various Forest Circles of Hazara Region.
6. After the issuance of the notification No. ^{303/11} (Estt) Env/1-432K 11 dated 5.10.2012, the seniority lists are prepared circle wise for their initially appointed staff irrespective of their contemporary place of postings. Therefore the appellant name was not shown in the seniority list issued on 31.10.2012 by the CF Lower Hazara Forest Circle. Rather it was shown on the seniority list issued by Conservator of Forests, Forestry Planning & Monitoring Circle (CF FP& M) dated _____ in the appropriate place as per his seniority. *(notification and seniority list attached)*
7. Consequent upon the issuance of notification by the govt. environment Department KPK dated 5/10/2012, the request of the appellant/departmental appeal for inclusion of his name in the seniority list of lower Hazara Forest Circle, could not be entertained, rather his seniority was fixed in the FP & M Circle without any pre-judice. CF Lower Hazara office letter No. 3260/GE dated 4/1/2013 is annexed herewith.
8. *Para No 8 is incorrect hence denied.*
The posts of Deputy Forest Rangers are indeed part of the hierarchy FP & M Circle, but promotion of Foresters to the post of Deputy Rangers is made on the availability of vacant post, besides other promotion criteria to be considered by the departmental promotion committee. The length of service has never been the mandatory condition for promotion, rather it is the comparison of the length of service of the incumbents of the post that matters the most. As per the seniority position of the appellant and the availability of vacant higher post in his parent circle besides other criterias, will enable him for consideration for promotion by the DPC. The promotion is strictly made by the Department, in accordance with the rules and regulations.
9. *Para No 9 is also incorrect hence denied.*
The notification dated 5/10/2012 is issued in the best interest of the state aiming at the curtailment of litigations made by the larger community. The pray of the appellant is arbitrary and against the interest of the state. The policies are devised by the Government, keeping in view the larger interest of the community rather than benefiting the personal gains of few persons.
10. *Para No 10 is also incorrect.*
Notification are issued by govt. from time to time in order to keep the Act rejuvenated with changing needs, better administrative control and less problems to be created, in the best interest of the state.

~~Acts are erected by the legislative bodies which are amended by notifications by the Govt. after seeking proper approvals. Hence the so called notification is legal and implemented immediately with letter and spirit. Therefore any order passed keeping the essence of the notification intact may be declared legal and consequently the appeal may be set aside dismissed with cost.~~

Secretary Environment
Government of Khyber Pakhtunkhwa
Peshawar

Chief Conservator of Forests
Central Southern Forest Region-I
Peshawar

Affidavit

[Signature]

Chief Conservator of Forests
Northern Forest Region-II
Abbottabad

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad


Attested
[Signature]
Divisional Forest Officer
Patrol Squad Lower Hazara
Abbottabad

*Stated on oath that all the content of
what para wise comments are true and
correct and nothing has been omitted*

*vetted
subject to all
amendments*

[Signature]

47

	<p>GOVERNMENT OF KHYBER PAKHTUNKHWA ENVIRONMENT DEPARTMENT NO.SO(Estt)Envt/1-4/2K11/1450/wc Dated Pesh: 7th May, 2011</p>
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To

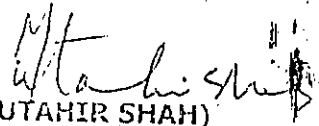
✓ The Chief Conservator of Forests,
Khyber Pakhtunkhwa.

SUBJECT: APPLICATION

I am directed to refer to the subject cited above and to enclose herewith a copy of an application which is self-explanatory (alongwith its enclosure) submitted by Haji Muhammad Zeb, President Forest Guards/Foresters and Deputy Rangers Association Khyber Pakhtunhwa, for necessary action as per remarks of the Secretary Environment which are reproduced below :-

"For considering both the circles separately as per new administrative arrangement and rules/policy."

Encl: as above



(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

Endst: No. and date even.

Copy is forwarded to PS to Secretary Environment Department.

Allocated:-

SECTION OFFICER (ESTT)


Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad



F/GUARDS FORESTERS & D/RANGERS
ASSOCIATION N.W.F.P. REGD

47

Haji Muhammad Zeb Khan (L.L.B)
Central President

Res: 0945-761174
Cell: 0300-5824716
0345-9065554

Zeb House Zeb Abad
Chakdra P.O. Chakdra
Tehsil Adenzai
District Dir (L)

1663
7/5/2011

Ref: _____

Date: 07-05-2011

۷۵۷
۱۳
۷/۵

جناب سیکرٹری صاحبہ صاحبہ جو امور خیریتوں خواجہ

جناب عالی! گزارش ہے کہ ایک سیاسی نا جائزہ بارڈ کے تحت "میرٹ کورٹ" کے آرڈر میں (جو غیر قانونی طور پر ڈیپٹی سیکرٹری کے عہدوں پر ناجائز برادریوں کو ماننے کیلئے انتہائی غلطی میں صرف 10 مئی 2011 کو DPC کی اجلاس منعقد کرانے کیلئے جناب جی. ایف. صاحب کے دفتر سے احکامات جاری کی جا چکی ہے۔ جو کہ خلاف قواعد، خلاف قانون اور خلاف ضابطہ ہے۔ کیونکہ!

1۔ حکومت KPP فیکم جو اجلیات کے لیٹر نمبر NO-SO (ESTT) ENV/11-4/B/2K9 156/102 مورخہ 17 جنوری 2011

(مقل شامل ہے) "ANNEXED A" کے ہدایات کے مطابق نہ تو مالڈرنگ ڈیسٹ سٹریٹ اور مالڈرنگ ڈیسٹ کے سیکرٹری اور ایک سیکرٹری لیٹ اور ایک ایگ پریشن کو یقینی بنانے کیلئے کوئی اور احکامات کیے ہیں۔ نہ مذکورہ دونوں سٹریٹ کے مشترکہ سیکرٹری لیٹ پر مشترکہ پریشن زیر طور لیا جا رہا ہے۔ جو غیر قانونی ہے۔ ایک انتظامی بحران پیدا کرنے کی کوشش ہے۔ بلکہ حکمانہ مفادات کے برخلاف، "م" اور "ا"

2۔ جناب والا کی سربراہی میں مورخہ 11-03-30 کو SSRC کے اجلاس ہو چکی ہے۔ جس کی

منیٹس دستخط شدہ جاری ہوئے۔ جسے روٹیشن میں "میرٹ کورٹ" کے آرڈر میں (5) متواتر

AC.Rs لینے والوں کی مخصوص پریشن کی کوئی پروڈیشن موجود نہیں ہے۔ لیکن 10-5-11 میں

ایسے لوگوں کو برادریوں کے جانے کی کوشش کی جا رہی ہے۔ جو کہ خلاف قواعد ہے۔

3۔ DPC کے اہم نمبر SO (ESTT) صاحب کے حسب قواعد کوئی ڈرنگ پیپر ارسال نہیں کی

جو کہ خلاف قواعد ہے۔

مذکورہ بالا ضابطوں کے پیش نظر استدعا ہے۔ کہ حکمانہ مفادات، ملذزمن خبرکلات کو انصافی

کو یقینی بنانے کیلئے 10-05-11 کو ہونے والی ڈیپٹی سیکرٹری کے پریشن کیلئے DPC کی اجلاس

تاکہ مالڈرنگ ڈیسٹ اور ڈیسٹ سٹریٹ کے ایک ایگ پریشن اور سیکرٹری / منیٹس پر قانون کے مطابق

یقینی بنایا جاسکے۔

الغرض!

حاجی محمد زب خان مرکزی صدر ایسوسی ایشن صوبہ خیریتوں خواجہ

15

Attested -

Divisional Control Officer
Patrol Squad Lower Hazara Circle
Abbottabad



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NO.SO(Estt)Envt/I-G/B/2K9 158/wc
Dated Pesh: 17th January, 2011

475

To

The Chief Conservator of Forests,
Khyber Pakhtunkhwa.

SUBJECT: APPLICATION FOR CONSIDERATION OF DEPUTY RANGERS
PROMOTION FROM CONCERNED FOREST CIRCLES.

I am directed to refer to the subject cited above and to enclose herewith a copy of an application (self-explanatory) submitted by Haji Muhammed Zeb Khan, President, F/Guards Foresters & D/Rangers Association, with the direction that necessary action in the matter may be taken in view of the new administrative arrangement so that in-justice question may not arise.

Copy to be sent

(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

Endst:No.and date even.

Copy is forwarded to PS to Secretary Environment Department.

SECTION OFFICER (ESTT)

Attested

Divisional Forest Officer
Forest Circle
Khyber Pakhtunkhwa



GUARDS FORESTERS & DRANGERS ASSOCIATION N.W.F.P, REGED

Majid Muhammad Zeb Khan (L.L.B.)
Central President

Res: 0945-761174
Cell: 0300-5824716
0345-906555

Zeb House Zeb Abi
Chakdra P.O.Chakdr
Tehsil Adenzal
District Dir (L)

Date: 17-01-2011

جناب سیکرٹری، صاحب ماحولیات جوہر چیئرمین خواتین

جناب عالی گزارش ہے کہ

ٹی ایچ رینجرز کے خالی آسامیوں پر پروٹوشن کروانے کیلئے جناب CCF صاحب KPP کے دفتر سے DPC کی میٹنگ یکم فروری 2011 کو طلب کیا گیا۔ جس میں ڈی ایچ او، ایڈمنسٹریٹو آفیسر، ایڈمنسٹریٹو آفیسر اور ایسٹ مالاکندہ سیکل سے ایک ورکنگ پیپرز طلب کرنے کے بجائے سابقہ مالاکندہ سیکل کے مشترکہ سٹیٹی لیٹ اور ایسٹ مالاکندہ سیکل سے ایک ورکنگ پیپرز طلب کرنے کے بجائے ہیں۔ جو کہ خلاف قانون اور خلاف اصول اور جس کے نتیجے میں ویسٹ مالاکندہ سیکل کے سینئر اور سٹیٹی لیٹ ڈائریکٹروں کی حق تلفی کی تھی اس کا موجودہ ریکورڈ اور جسے مذکورہ دونوں سیکلز میں کنزرویٹرز تعینات ہے۔ جنہوں نے باقاعدگی کا آغاز کیا ہے۔ تاہم سیکل کے ریکورڈ پر ایسٹ مالاکندہ سیکل کے سٹیٹی لیٹ کے مطابق ہر سیکل سے فارسیوں کو ٹی ایچ رینجرز کے دفتر پر پروٹوشن کیا جاتا ہے۔

کہنا اور رہنا ہے کہ

مذکورہ خلاف کے متعلقہ اعلیٰ حکام کو ہدایات فرمائی جائے۔ کہ وہ ویسٹ مالاکندہ سیکل سیکرٹری اور ایسٹ مالاکندہ سیکل سیکرٹری سے ایک ایک سٹیٹی لیٹ اور ورکنگ پیپرز طلب کر کے ہر سیکل کے سٹیٹی لیٹ اور ایسٹ مالاکندہ سیکل کے سٹیٹی لیٹ سے بھی گزرنے نہیں کریں گے کیلئے عدالت جانے سے بھی گزرنے نہیں کریں گے۔ تاکہ کسی دلائم کی حق تلفی نہ ہو۔ بصورت دیگر دلائم کی حق تلفی سے بچانے کے لئے

Pl with CCF for...
for...
management

17/01/11

ابصار خواجہ
سجیٹ ڈائریکٹر سیکرٹری صدر ایسوسی ایشن KPP

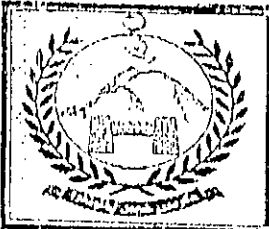
AS/SO(E)

Pl put on file
ASST

17/1/2011

Attested

District Forest Officer
Patrol Sub-Station Hazara Chakdr
Abbottabad



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

Dated Pesh 5th Oct., 2012

NOTIFICATION

No.SO(Estt)Envt/I-4/2k11: In supersession of this department Notification No.SO(Estt)Envt/I-4/2k11/6475 dated 2/1/2012, the Competent Authority, in exercise of the powers vested vide Item 1-6 Part-I of defunct West Pakistan Manual Volume-II, is pleased to order reconstitution/revision of the following Circles for the purpose of initial appointment of Foresters and Deputy Rangers and promotion of Foresters to the rank of Deputy Rangers, in each circle, on the basis of circle-wise seniority lists of the Foresters, with immediate effect.

#	Name of Circles constituted	Name of Circle
1-	Upper Hazara Circle	Upper Hazara Circle
2-	Lower Hazara Circle	Lower Hazara Circle
3-	Malakand West Circle	Malakand West Circle
4-	Malakand East Circle	Malakand East Circle
5-	FATA Circle	FATA Circle
6-	Southern Circle	Southern Circle
7-	Watershed Management Circle	Watershed Management Circle
8-	Forestry Planning & Monitoring Circle	Forestry Planning & Monitoring Circle

The seniority of the Foresters and Deputy Rangers shall be determined and fixed in the respective Circles on the basis of their initial appointment.

SECRETARY TO GOVT: OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT.

Endst: No. SO(Estt)Envt/I-4/2k11/

1629-50

Dated Pesh: 5th Oct., 2012

Copy is forwarded for information to:-

- 1) PS to Secretary Environment Department.
- 2) Chief Conservator of Forests, Central & Southern Forest Region-I, Peshawar.
- 3) Chief Conservator of Forests, Northern Forest Region-II, Abbottabad.
- 4) Chief Conservator of Forests, Malakand Forest Region-III, Mingora at Saidu Sharif, Swat.
- 5) All Conservators of Forests, Khyber Pakhtunkhwa C/O CCF-I; with the direction that tentative seniority lists of their respective circles may be issued by calling thereby objections within one months time period, if found no objection from any official(s), then final seniority lists may be issued accordingly.
- 6) All Directors Integrated Specialized Units, Forest Department.
- 7) Master file.
- 8) Officer order file.

Attested -

(ASHFAQ KHAN)
SECTION OFFICER (ESTT)

Chief Conservator
Forest Region-I
Peshawar

OFFICE OF THE
CONSERVATOR OF FORESTS
LOWER HAZARA FOREST CIRCLE
ABBOTTABAD



No. 708-10 /GE,
Dated 28/11/2012


- 1- The Conservator of Forests
Watershed Management Project Abbottabad.
- 2- The Conservator of Forests
Forestry Planning & Monitoring Circle, Peshawar.
- 3- Principal
Sarhad Forest School, Abbottabad
at Thai.

Subject SENIORITY LIST OF DEPUTY RANGERS / FORESTERS

Memo


The detail of Deputy Rangers /Foresters with full particulars, who are appointees of your Circles and presently serving in this Circle is enclosed herewith on the prescribed proforma for inclusion in the seniority list of your respective Circle on the basis of their initial appointment in the light of Government of Khyber Pakhtunkhwa Notification No. SO (Estt) Env/1-4/2K11/1629-50, dated 05-10-2012. The Conservator of Forests, Forestry Planning and Monitoring Circle is requested to also supply the names of Deputy Rangers / Foresters, who are appointees of this Circle and presently serving in his Circle at an early date for further necessary action.

Encl. As above



Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

No. 711 /GE

Copy forwarded to the Chief Conservator of Forests, Northern Forest Region-II Abbottabad Khyber Pakhtunkhwa for favour of information please.


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Attested


Divisional Forest Officer
Forest Circle
Abbottabad

NAME / SENIORITY LIST OF FORESTERS OF WORKING PLAN CIRCLE PRESENTLY SERVING IN LOWER HAZARA FOREST CIRCLE ABBOTTABAD

S. =	Name of Forester	Qualification	Home District	Any test passed	Date of Birth	Date of appointment in		Cadre	Remarks
						Govt. Service	Present grade		
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	Muhammad Shafqat	B.A	Haripur	Trained	01-01-1960	01-10-1983	01-10-1983	Upper Tanawal Working Plan Division Abbottabad	BS-09, dated 22-06-2012
2.	Muhammad Riasat S/O Abdul Qayyum	Matric	Abbottabad	-do-	25-03-1966	01-10-1986	01-10-1986	Working Plan Unit No. VI, Abbottabad	-do-
3.	Muhammad Anwar-II S/O Fazal-ur-Rehman	F.A	Abbottabad	Trained	15-06-1966	01-10-1986	01-10-1986	Working Plan Unit No. VI, Abbottabad	-do-
4.	Mr. Bashir Ahmad	M.A	Mansehra	-do-	11-03-1965	01-10-1988	01-10-1988	Working Plan Unit No. IV, Abbottabad	-do-
5.	Mr. Amjad Khan	FA	Mansehra	-do-	06-05-1968	01-10-1988	01-10-1988	Working Plan Circle	-do-
6.	Syed Ibrar Hussain Shah	Matric	Mansehra	-do-	12-02-1965	01-10-1989	01-10-1989	-do-	-do-
7.	Mr. Zulifqar Khan	Matric	Abbottabad	-do-	14-04-1969	17-02-1991	01-09-2004	-do-	-do-

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad


Handwritten signature

Attested -

Handwritten signature
Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

(Annex: E)

16

OFFICE OF THE CONSERVATOR OF FORESTS LOWER HAZARA FOREST CIRCLE ABBOTTABAD		No. <u>3260</u> /GE, Dated <u>4/1/2013</u>
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The Divisional Forest Officer
Haripur Forest Division, Haripur

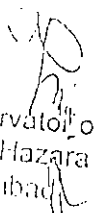
Subject APPEAL

Reference Your office letter No. 1954/E, dated 02-01-2013.

Consequent upon the issuance of Notification No. SO (Estt) Env / 1-4 / 2K11 / 1629-50, dated 05-10-2012 by the Government of Khyber Pakhtunkhwa Environment Department the refixation of seniority of Foresters and Deputy Rangers is to be done in the respective Circles on the basis of their initial appointments.


In view of the above no ambiguity is left in fixation of the seniority of the applicant namely Muhammad Riasat Forester in the Forestry Planning and Monitoring Circle which is the Circle of his initial appointment.

Please inform the applicant accordingly.


 Conservator of Forests
 Lower Hazara Forest Circle
 Abbottabad

G-1/B
 A
 05/01/13

Attested -


 Divisional Forest Officer
 Forest Planning and Monitoring Circle
 Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 241 Muhammad Riasat Forester

APPELLANT

VERSUS

1. The Secretary Environment govt. of Khyber Pakhtunkhwa, Peshawar
2. Chief Conservator of Forests Central Southern Forest Region-I, Peshawar
3. Chief Conservator of Forest Northern Forest Region-II Abbottabad
4. Conservator of Forests Lower Hazara Forest Circle Abbottabad

RESPONDENTS

Parawise comments on behalf of respondents

Respectively Sheweth:

Preliminary Objections

1. The appeal is not maintainable in the present form
2. The appellants have no locus standi
3. The appellant is legally stopped by his own conduct to bring the present appeal.

FACTS

Parawise comments are as under:

1. In reply to para-1 it is submitted that the appellant is currently holding the post of Forester under the Administrative control of respondent No. 04 i.e. Conservator of Forests, Lower Hazara Forest Circle, but was recruited in Working Plan Circle and later-on transferred to Lower Hazara Forest Circle, Abbottabad, which was further disintegrated into two Forest Circles i.e. Lower Hazara Forest Circle and Upper Hazara Forest Circle.
2. In reply to para-2 it is submitted that the purpose of better Administration / Management the Forest department is divided into Regions, Circles, Divisions and further sub-Territorial units vulnerable to further revisions as per need basis under the law and official procedure. The post of Forester is inter-transferable between the Forest Circles. Therefore the phrase of the appellant i.e.
" The appellant was permanently adjusted in Lower Hazara Forest Circle" is portrayed in a contorted sense / manner, as far the handling of this promotion in the specific Forest Circle is concerned. The longer stay of a Forester in any Forest Circle never gives him the right of any specific privileges over the others in contradiction to the law & procedure.
3. The seniority lists framed at that times were as per rules and law and the contents therein were correct.

4. Para No-4 is incorrect hence denied. After the constitution of new Forest Circles/ bifurcation of existing Forest Circles by the Govt. for better Administration/Management. The immediate problem that arised was of formation of fresh seniority lists of Foresters and other filed staff. In order to settle the huge quantum of current as well as impending queries of the affected field staff, a unanimous decision was taken at the departmental level, to fix the seniority of the field staff in their respective circles, on the basis of their initial appointment. It is pertinent to mention here that the decision was taken in consultation and request of the President of the Union of Forest Guard, Forester and Deputy Rangers, vide his application / letter **No. Nil dated 07-5-2011 & dated 17-01-2011 (attached)** addressed to the Secretary Environment Govt: of Khyber Pakhtunkhwa, Peshawar, therefore the Notification No. SO (Estt)/I-4/2K11/1629-50 dated 5.10.2012 was issued by the Govt. for the reconstitution/ revision of the circles for fixing the seniority of the Foresters and Deputy Rangers in the respective Circle on the basis of their initial appointments which has helped the department in curtailing the higher quantum of impending litigations. The Notification has never violated the principles laid down in the Section 8 & 9 of the Khyber Pakhtunkhwa Civil Servants Act 1973. Rather it has fortified the essence of the Khyber Pakhtunkhwa Civil Servants Act 1973, in general and section 8 & 9 of the Act in specific.
5. True as till 5.10.2012 a common integrated seniority list used to be issued by the Conservator of Forest Lower Hazara Forest Circle for all the incumbents of the posts in various Forest Circles of Hazara Region.
6. After the issuance of the Notification **No. SO(Estt) Env/I-4)2K11/1629-50 dated 5.10.2012) attached)** the seniority lists are prepared circle wise for their initially appointed staff irrespective of their contemporary place of postings. Therefore the appellat name was not shown in the seniority list as it stood on 31.10.2012 issued by the CF Lower Hazara Forest Circle. In this regard lists of the Foresters who have been initially appointed in Forestry Planning and Monitoring Circle Peshawar have already been sent to the respective Conservator of Forests vide this office letter No. 708-10/GE dated 28.11.2012 for inclusion in the seniority list of his Circle in the light of above Notification. **(Letter along with Seniority list attached)**
7. Consequent upon the issuance of Notification by the Govt. Environment Department KPK dated 5/10/2012, the request of the appellat/departmental appeal for inclusion of his name in the seniority list of Lower Hazara Forest Circle, could not be entertained, rather his seniority was fixed in the FP & M Circle without any pre-judice. CF Lower Hazara office **letter No. 3260/GE dated 4/1/2013 is annexed herewith.**
8. Para No. 8 is incorrect hence denied. The posts of Deputy Forest Rangers are indeed part of the hierarchy FP & M Circle, but promotion of Foresters to the post of Deputy Rangers is made on the availability of vacant post, besides other promotion criteria to be considered by the departmental promotion committee. The length of service has never been the mandatory condition for promotion, rather it is the comparison of the length of service of the incumbents of the post that matters the most. As per the seniority position of the appellat and the availability of vacant higher post in his parent circle besides other criterias, will enable him for consideration for promotion by the DPC. The promotion is strictly made by the Department, in accordance with the rules and regulations.

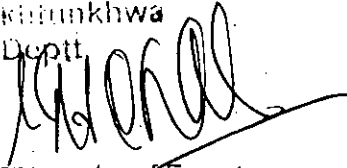
9. Para No. 9 is also incorrect hence denied. The Notification dated 5/10/2012 is issued in the best interest of the state aiming at the curtailment of litigations made by the larger community. The pray of the appellant is arbitrary and against the interest of the state. The policies are devised by the Government, keeping in view the larger interest of the community rather than benefiting the personal gains of few persons.
10. Para No. 10 is also incorrect. Notifications are issued by Govt. from time to time in order to keep the Act rejuvenated with changing needs, better administrative control and less problems to be created, in the best interest of the state.

Hence the so called Notification is legal and implemented immediately with letter and spirit. Therefore any order passed keeping the essence of the Notification intact may be declared legal and consequently the appeal may be dismissed with cost.

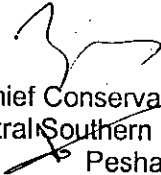


Secretary Environment
Government of Khyber Pakhtunkhwa
Secretary Peshawar

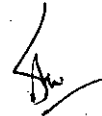
Govt of Khyber Pakhtunkhwa
Environment Deptt.



Chief Conservator of Forests
Northern Forest Region-II
Abbottabad



Chief Conservator of Forests
Central Southern Forest Region-I
Peshawar



Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

APPEAL NO. 241 of 2013

Muhammad Riasat Forester

APPELLANTS

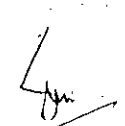
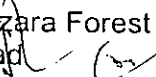
VERSUS

1. The Secretary Environment Govt. of Khyber Pakhtunkhwa, Peshawar
2. Chief Conservator of Forest Central Southern Forest Region-I, Peshawar
3. Chief Conservator of Forests Northern Forest Region-II Abbottabad
4. Conservator of Forests Lower Hazara Forest Circle Abbottabad

RESPONDENTS

COUNTER AFFIDAVIT

The undersigned do hereby solemnly affirms and declare on oath that the contents of our written reply in the appeal are correct to the best of my knowledge and record, nothing has been concealed from the honorable Tribunal.


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal no. 241, 300, 304, 308 and 344 of 2013 Muhammad Riasat & 04 Others

APPELLANT

VERSUS

1. The Secretary Environment govt. of Khyber Pakhtunkhwa, Peshawar
2. Chief Conservator of Forests Central Southern Forest Region-I, Peshawar
3. Chief Conservator of Forest Northern Forest Region-II Abbottabad
4. Conservator of Forests Lower Hazara Forest Circle Abbottabad

RESPONDENTS

Parawise comments on behalf of respondents

Respectively Sheweth:

Preliminary Objections

1. The appeal is not maintainable in the present form
2. The appellants have no locus standi
3. The appellant is legally stopped by his own conduct to bring the present appeal.

FACTS

Parawise comments are as under:

1. *in reply to para 1 it is submitted that the*
The appellant is currently holding the post of Forester under the Administrative control of respondent No. 04 i.e. Conservator of Forests, Lower Hazara Forest Circle, but was recruited in Working Plan Circle and later-on transferred to Lower Hazara Forest Circle, Abbottabad, which was further disintegrated into two Foresters Circle i.e. Lower Hazara Forest Circle and Upper Hazara Forest Circle.

Para 1 is incorrect.

2. For the purpose of better Administration / Management the Forest department is divided into Regions, Circles, Divisions and further sub-Territorial units vulnerable to further revisions as per need basis under the law and official procedure. The post of Forester is inter-transferable between the Forest Circles. Therefore the phrase of the appellant i.e.

"The appellant was permanently adjusted in Lower Hazara Forest Circle" is portrayed in a contorted sense / manner, as far the handling of this promotion in the specific Forest Circle is concerned. The longer stay of a Forester in any Forest Circle never gives him the right of any specific privileges over the others in contradiction to the law & procedure.

3. The seniority lists framed at that times were as per rules and law and the contents therein were correct.

para no 4 is incorrect hence denied.

4. After the constitution of new Forest Circle/bifurcation of existing Forest Circles by the Govt. for better Administration/Management. The immediate problem that arised was of formation of fresh seniority lists of Foresters and other filed staff. In order to settle the huge quantum of current as well as impending queries of the affected field staff, a unanimous decision was taken at the departmental level, to fix the seniority of the field staff in their respective circles, on the basis of their initial appointment. It is pertinent to mention here that the decision was taken in consultation and request of the president of the Union of Forest Guard and Forester and Deputy Rangers, vide his application / letter No. Nil dated 07-5-2011 & dated 17-01-2011 (Attached) addressed to the Secretary Environment Govt. of Khyber Pakhtunkhwa, Peshawar, therefore the notification No. SO (Estt)/I-4/2K11 dated 5.10.2012 was issued by the Govt. for the reconstitution/ revision of the circles for fixing the seniority of the Forester and Deputy Rangers in the respective Circle on the basis of their initial appointments which has helped the department in curtailing the higher quantum of impending litigations. The notification has never violated the principles laid down in the Section 8 & 9 of the Khyber Pakhtunkhwa civil servants Act 1973. Rather it has

Attested -

[Signature]
Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

*in reply to para 2
it is submitted that*

fortified the essence of the K.P Civil Servants Act 1973, in general and section 8 & 9 of the Act in specific.

5. True as till 5.10.2012 a common integrated seniority list used to be issued by the Conservator of Forest Lower Hazara Forest Circle for all the incumbents of the posts in various Forest Circles of Hazara Region.
6. After the issuance of the notification No. (Estt) ^{30/36} Env/1-472K 11 dated 5.10.2012, the seniority lists are prepared circle wise for their initially appointed staff irrespective of their contemporary place of postings. Therefore the appellant name was not shown in the seniority list issued on 31.10.2012 by the CF Lower Hazara Forest Circle. Rather it was shown on the seniority list issued by Conservator of Forests, Forestry Planning & Monitoring Circle (CF FP& M) dated _____ in the appropriate place as per his seniority. *(notification ad seniority just altered)*
7. Consequent upon the issuance of notification by the govt. environment Department KPK dated 5/10/2012, the request of the appellant/departmental appeal for inclusion of his name in the seniority list of lower Hazara Forest Circle, could not be entertained, rather his seniority was fixed in the FP & M Circle without any pre-judice. CF Lower Hazara office letter No. 3260/GE dated 4/1/2013 is annexed herewith.
8. *Para No 6 is incorrect hence denied.*
The posts of Deputy Forest Rangers are indeed part of the hierarchy FP & M Circle, but promotion of Foresters to the post of Deputy Rangers is made on the availability of vacant post, besides other promotion criteria to be considered by the departmental promotion committee. The length of service has never been the mandatory condition for promotion, rather it is the comparison of the length of service of the incumbents of the post that matters the most. As per the seniority position of the appellant and the availability of vacant higher post in his parent circle besides other criterias, will enable him for consideration for promotion by the DPC. The promotion is strictly made by the Department, in accordance with the rules and regulations.
9. *Para No 9 is also incorrect hence denied.*
The notification dated 5/10/2012 is issued in the best interest of the state aiming at the curtailment of litigations made by the larger community. The pray of the appellant is arbitrary and against the interest of the state. The policies are devised by the Government, keeping in view the larger interest of the community rather than benefiting the personal gains of few persons.
10. *Para No 10 is also incorrect.*
Notification are issued by govt. from time to time in order to keep the Act rejuvenated with changing needs, better administrative control and less problems to be created, in the best interest of the state.

~~Acts are erected by the legislative bodies which are amended by notifications by the Govt after seeking proper approvals. Hence the so called notification is legal and implemented immediately with letter and spirit. Therefore any order passed keeping the essence of the notification intact may be declared legal and consequently the appeal may be set aside.~~ *dismissed with cost*

Secretary Environment
Government of Khyber Pakhtunkhwa
Peshawar

Chief Conservator of Forests
Central Southern Forest Region-I
Peshawar

Appellant
[Signature]

Chief Conservator of Forests
Northern Forest Region-II
Abbottabad


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Attested
Divisional Forest Officer
Patrol Squad Lower Hazara
Abbottabad

*Stated on a/c that all the content of
notar para wise comments are true and
correct and notar her by*

*vetted
subject to all
amendments*
[Signature]

47

	<p>GOVERNMENT OF KHYBER PAKHTUNKHWA ENVIRONMENT DEPARTMENT NO.SO(Estt)Envt/1-4/2K11/1450/wc Dated Pesh: 7th May, 2011</p>
---	--

To

✓ The Chief Conservator of Forests,
Khyber Pakhtunkhwa.

SUBJECT: APPLICATION

I am directed to refer to the subject cited above and to enclose herewith a copy of an application which is self-explanatory (alongwith its enclosure) submitted by Haji Muhammad Zeb, President Forest Guards/Foresters and Deputy Rangers Association Khyber Pakhtunkhwa, for necessary action as per remarks of the Secretary Environment which are reproduced below :-

"For considering both the circles separately as per new administrative arrangement and rules/policy."

Encl: as above

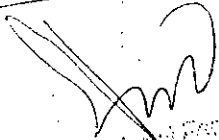

(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

Endst:No.and date even.

Copy is forwarded to PS to Secretary Environment Department.

Attested -

SECTION OFFICER (ESTT)


Forest Officer
Peshawar Forest Circle
Established



F/GUARDS FOREST GUARDS & D/RANGERS
ASSOCIATION N.W.F.P, REGED

47

Haji Muhammad Zeb Khan (L.L.B)
Central President

Res: 0945-761174
Cell: 0300-5824716
0345-9065554

1663
7/5/2011

Zeb House Zeb Abad
Chakdra P.O.Chakdra
Tehsil Adenzai
District Dir (L)

Ref: _____

Date: 07-05-2011

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۵۰۷
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جناب سیکرٹری صاحب ماحولیات صوبہ خیبر پختون خوا پشاور
جناب عالی! گزارش ہے کہ

حکومت خیالات KPP میں سیاسی نا جائزہ بارے کے تحت "میرٹ کورٹ" کے آرڈر میں مخصوص جوئینر فارسٹرز کو ڈپٹی ریجنل مینجمنٹ کے عملوں پر نا جائزہ بیروٹ کروانے کیلئے انتہائی غفلت میں صرف 10 مئی 2011 کو DPC کی اجلاس منعقد کروانے کیلئے جناب CCF صاحب کے دفتر سے احکامات جاری کی جا چکی ہے۔ جو کہ خلاف قواعد، قانون اور خلاف ضابطہ ہے۔ کیونکہ!

1۔ حکومت KPP حکیم ماحولیات کے لیٹر نمبر NO-SO(ESTT)ENV/11-4/B/2K9
156/ve خود 17 جنوری 2011

(مقل شامل ہے) "ANNEXED A" کے ہدایات کے مطابق نہ تو مالڈرنڈ ولیمٹ سٹریٹ اور مالڈرنڈ الیٹ کے سٹاک پر انک سٹیاریٹ لیٹ اور انک بیروٹس کو یقینی بنانے کیلئے کوئی اقدامات کئے ہیں۔ نہ مذکورہ دونوں سٹاک کے مشتمل سٹیاریٹ لیٹ پر مشتمل بیروٹس زیر غور لیا جا رہا ہے۔ جو کہ ضرور میں ایک انتظامی بحران پیدا کرنے کی کوشش ہے۔ بلکہ حکیمانہ مفادات کے برخلاف، ظلم اور نا انصافی ہے۔

2۔ جناب والا کی سربراہی میں صرف 11-03-30 کو SSRC کے اجلاس ہو چکی ہے۔ جس کی منیٹس دستخط شدہ جاری ہوا ہے۔ جسے روٹس میں "میرٹ کورٹ" کے آرڈر میں (5) متواتر NT ACORs لینے والوں کی مخصوص بیروٹس کی کوئی پروڈیون موجود نہیں ہے۔ لیکن 10-5-11 میں ایسے لوگوں کو بیروٹس دئے جانے کی کوشش کی جا رہی ہے۔ جو کہ خلاف قواعد ہے۔

3۔ DPC کے اہم نمبر SO(ESTT) صاحب کو حسب قواعد کوئی ڈسٹنگ پیسز ارسال نہیں کی گئے جو کہ خلاف ورزی ہے۔

مذکورہ بالا حقائق کے پیش نظر استدعا ہے۔ کہ حکیمانہ مفادات، ملذومین جسٹکلات کو انصافی کو یقینی بنانے کیلئے 11-05-10 کو ہونے والی ڈپٹی ریجنل مینجمنٹ کے بیروٹس کیلئے DPC کی اجلاسوں تاکہ مالڈرنڈ الیٹ اور ولیمٹ سٹاک کے انک بیروٹس اور سٹیاریٹ / منیٹس پر قانون کے مطابق یقینی بنایا جاسکے۔

CCF for
10/5/11
15

حاجی محمد زب خان مرکزی صدر ایسوسی ایشن صوبہ خیبر پختون خوا

Attested -

Divisional Forest Officer
Patrol Guard Lower Dir District Dir
Abdullah

475



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NO:SO(Estt)Envt/I-4/B/2K9
Dated Pesh: 17th January, 2011

156/wc

To:

The Chief Conservator of Forests,
Khyber Pakhtunkhwa.

SUBJECT: APPLICATION FOR CONSIDERATION OF DEPUTY RANGERS
PROMOTION FROM CONCERNED FOREST CIRCLES.

I am directed to refer to the subject cited above and to enclose
herewith a copy of an application (self-explanatory) submitted by Haji
Muhammad Zeb Khan, President, F/Guards Foresters & D/Rangers Association,
with the direction that necessary action in the matter may be taken in view of
the new administrative arrangement so that in-justice question may not arise.

Push is made

Mutahir Shah
(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

Encl: No and date even.

Copy is forwarded to PS to Secretary Environment Department.

SECTION OFFICER (ESTT)

Attested

ENVIRONMENT DEPARTMENT
KHYBER PAKHTUNKHWA



F/GUARDS FORESTERS & D/RANGERS
ASSOCIATION N.W.F.P, REGED

Majid Muhammad Zeb Khan (L.L.B.)
Central President

Res: 0945-761174
Cell: 0300-5824716
0345-9065554

Zeb House Zeb Abi
Chakdra P.O.Chakke
Tehsil Adenzai
District Dir (L)

Ref: _____

Date: 17-01-2011

حساب سیکرٹری، صاحب ماحولیات صوبہ چیمبرز ٹون حوالہ

ذمات عالی گزارش ہے کرا

ڈیپٹی سیکرٹری کے ذمائی آسایوں پر پروٹوشن کرانے کیلئے حساب CCF صاحب KPP کے دفتر سے DPC کی میٹنگ یکم جنوری 2011 کو طلب کیا گیا ہے۔ جس کے بعد ڈیپٹی سیکرٹری، مالاکنڈ نیشنل ایگریکلچرل یونیورسٹی اور ایسٹ مالاکنڈ نیشنل ایگریکلچرل یونیورسٹی سے ایگ ڈرکنگ پیپرز طلب کرنے کے بجائے مالاکنڈ نیشنل ایگریکلچرل یونیورسٹی کے مشترکہ سٹیڈی لیٹ اور مشترکہ ڈرکنگ پیپرز کو پروٹوشن "CONSIDER" کیے جا رہے ہیں۔ جو کہ خلاف معاہدہ اور خلاف قانون ہے اور جس کے نتیجے میں ڈیپٹی مالاکنڈ نیشنل ایگریکلچرل یونیورسٹی کے سیکرٹری اور سٹیڈی لیٹ کے ساتھ ساتھ مالاکنڈ نیشنل ایگریکلچرل یونیورسٹی کے سیکرٹری نے باقاعدگی تمام اخراجات کیا ہے۔ مالاکنڈ نیشنل ایگریکلچرل یونیورسٹی کے سیکرٹری اور ہر سیکرٹری کے سٹیڈی لیٹ کے مطابق ہر سیکرٹری سے فارسٹرز کو ڈیپٹی سیکرٹری کے حوالہ پر پروٹوشن کیا جاتا ہے۔

کہنڈا اور برٹا ہے کرا

جس کے معاملات کے متعلقہ اعلیٰ حکام کو ہدایات دی جاتی ہیں۔ مگر وہ ڈیپٹی مالاکنڈ نیشنل ایگریکلچرل یونیورسٹی اور ایسٹ مالاکنڈ نیشنل ایگریکلچرل یونیورسٹی سے ایگ ڈرکنگ پیپرز طلب کرنے کے سٹیڈی لیٹ اور ڈرکنگ پیپرز کے ساتھ ساتھ ایگ ڈرکنگ پروٹوشن کرانے۔ تاکہ کسی دلائم کی حق تلفی نہ ہو۔ کی صورت دیگر دلائم میں کو حق تلفی سے بچانے کیلئے عدالت جانے سے بھی گریز نہیں کریں گے۔

Pl with CCF for...
for...
arrangement.
AS/SO(E)
17/11/11

ساجی محمد بیگ سیکرٹری صدر ایسوسی ایشن KPP

17/11/11
Pl. Inst. or file
Asst.
17/11/2011

Attested -

Divisional Forest Officer
Patrol Supd. Lower Hazara Circle
Muzaffargarh

OFFICE OF THE
CONSERVATOR OF FORESTS
LOWER HAZARA FOREST CIRCLE
ABBOTTABAD



No. 708-10 /GE,
Dated 28/11/2012

- 1- The Conservator of Forests
Watershed Management Project Abbottabad.
- 2- The Conservator of Forests
Forestry Planning & Monitoring Circle, Peshawar.
- 3- Principal
Sarhad Forest School, Abbottabad
at Thai.

Subject SENIORITY LIST OF DEPUTY RANGERS / FORESTERS

Memo

The detail of Deputy Rangers /Foresters with full particulars, who are appointees of your Circles and presently serving in this Circle is enclosed herewith on the prescribed proforma for inclusion in the seniority list of your respective Circle on the basis of their initial appointment in the light of Government of Khyber Pakhtunkhwa Notification No. SO (Estt) Env/1-4/2K11/1629-50, dated 05-10-2012. The Conservator of Forests, Forestry Planning and Monitoring Circle is requested to also supply the names of Deputy Rangers / Foresters, who are appointees of this Circle and presently serving in his Circle at an early date for further necessary action.

Encl. As above

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

No. 711 /GE

Copy forwarded to the Chief Conservator of Forests, Northern Forest Region-II
Abbottabad Khyber Pakhtunkhwa for favour of information please.

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Attested -

Disputational Forest Officer
Patrol and Lower Hazara Circle
Abbottabad

NAME / SENIORITY LIST OF FORESTERS OF WORKING PLAN CIRCLE PRESENTLY SERVING IN LOWER HAZARA FOREST CIRCLE ABBOTTABAD

S. #	Name of Forester	Qualification	Home District	Any test passed	Date of Birth	Date of appointment in		Cadre Place of initial appointment	Remarks
						Govt. Service	Present grade		
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	Muhammad Shafqat	B.A	Haripur	Trained	01-01-1960	01-10-1983	01-10-1983	Upper Tanawal Working Plan Division Abbottabad	BS-09, dated 22-06-2012
2.	Muhammad Riasat S/O Abdul Qayyum	Matric	Abbottabad	-do-	25-03-1966	01-10-1986	01-10-1986	Working Plan Unit No. VI, Abbottabad	-do-
3.	Muhammad Anwar-II S/O Fazal-ur-Rehman	F.A	Abbottabad	Trained	15-06-1966	01-10-1986	01-10-1986	Working Plan Unit No. VI, Abbottabad	-do-
4.	Mr. Bashir Ahmad	M.A	Mansehra	-do-	11-03-1965	01-10-1988	01-10-1988	Working Plan Unit No. IV, Abbottabad	-do-
5.	Mr. Amjad Khan	FA	Mansehra	-do-	06-05-1968	01-10-1988	01-10-1988	Working Plan Circle	-do-
6.	Syed Ibrar Hussain Shah	Matric	Mansehra	-do-	12-02-1965	01-10-1989	01-10-1989	-do-	-do-
7.	Mr. Zulifqar Khan	Matric	Abbottabad	-do-	14-04-1969	17-02-1991	01-09-2004	-do-	-do-

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad


OK

Attested -

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

(Annex: E)

16

OFFICE OF THE CONSERVATOR OF FORESTS LOWER HAZARA FOREST CIRCLE ABBOTTABAD		No. <u>3260</u> IGE, Dated <u>4/1/2013</u>
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The Divisional Forest Officer
Haripur Forest Division, Haripur


Subject APPEAL

Reference Your office letter No. 1954/E, dated 02-01-2013.

Consequent upon the issuance of Notification No. SO (Estt) Emt / 1-4 / 2K11 / 1629-50, dated 05-10-2012 by the Government of Khyber Pakhtunkhwa Environment Department the refixation of seniority of Foresters and Deputy Rangers is to be done in the respective Circles on the basis of their initial appointments.


In view of the above no ambiguity is left in fixation of the seniority of the applicant namely Muhammad Riasat Forester in the Forestry Planning and Monitoring Circle which is the Circle of his initial appointment.

Please inform the applicant accordingly.


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Handwritten notes:
G/B
A 01
05/01/13

Attested -


Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

<u>Name</u>	<u>Date of Appointment</u>	<u>Date of Transfer/Adjustment</u>
1. Muhammad Riasat Appeal No. 241/2013	19-9-1985 in Working Plan Circle.	20-10-1997 adjusted in Lower Hazara Circle. (18 Years)
2. Syed Ibrar Hussain Shah Appeal No. 300/2013	05-10-1988 in Working Plan Circle.	03-8-1998 adjusted in Lower Hazara Circle. (17 Years)
3. Muhammad Shafiqat Appeal No. 344/2013	03-11-1982 in Working Plan Circle.	18-8-1987 08-5-1985 adjusted in Lower Hazara Circle. (28 Years)
4. Abid Hussain Swati Appeal No. 304/2013	23-11-1981 in Watershed Management Project	08-11-2007 adjusted in Lower Hazara Circle. (8 Years)
5. Muhammad Anwar Abbasi Appeal No. 308/2013	01-10-1986 in Working Plan Circle.	13-6-1989 adjusted in Lower Hazara Circle. (26 Years)

6. Amjad Khan
Appeal No. 857/2013

01-10-1988 in Working Plan Circle.

13-6-1984 adjusted in Lower
Hazara Circle. (21 Years)

7. Muhammad Javed
Appeal No. 453/2013

01-10-1989 in Working Plan Circle.

1993 adjusted in Upper Hazara
Circle. (22 Years)

8. Bazir Hussain Shah
Appeal No. 454/2013

01-10-1983 in Working Plan Circle

1989 adjusted in Upper Hazara
Circle. (26 Years)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal NO. 241 /2013.

Muhammad Riasat Versus. Province of KPK etc.

Re-joinder of the appellant.

Respectfully Sheweth:-

REPLY OF OBJECTIONS.

The appeal is maintainable in its present form and the appellant has legal cause of action and valid locus-standi. The appellant appeared before the Court with clean hands and with the bonafide claim.

ON FACTS.

1. No comments.
2. The appellant was transferred to Lower Hazara Forest Circle and his name has been shown in the Seniority Lists of the said Circle, therefore, the exclusion of his name from the said Seniority list immediately */Sudden* without any show cause notice is illegal and against the natural justice.
3. The respondents admitted the averment of appeal as correct, hence needs no reply.
4. The appellant is entitled for his seniority in lower Hazara Forest Circle and exclusion of his name from the said Seniority list is against his legal rights. The impugned notification is in violation of Section 8 & 9 of Civil Servant Act-1973.
5. The respondents admitted the averment of appeal as true, therefore, the Para needs no reply.
6. As stated in reply of above Paras the appellant was transferred to Lower Hazara Forest Circle and his name has been shown in the Seniority ~~XXXXX~~ lists of the above Circle; therefore, certain Vested rights have been created in his favour and the impugned notification snatched these rights from the appellant.
7. The Departmental appeal of the appellant was cogent, reasonable but the same was not considered and no heed was given to his submissions.
8. The appellant rendered a long period of his service in the Lower Hazara Forest Circle and now he is looking towards the prospects of promotion in the said Circle, but the impugned notification destroyed his entire service career and prospects of promotion.
9. As stated in reply of para 8 above.
10. It is a ~~judicial~~ ^{Legal} question which needs Judicial review.

It is, therefore, humbly prayed that the relief may kindly be granted as prayed for in the appeal.

Dated : 09-9-2013

Muhammad Riasat
Appellant.

Affidavit.

Through:-

Shahzada Irfan Zia,
Advocate, Peshawar.

I, the appellant, do hereby declare on Oath that the contents of this Rejoinder are true and correct and that nothing has been concealed from this Honourable Court.

Muhammad Riasat
Deponent.

ATTESTED
AHSAN ALI SYED
Advocate High Court Peshawar.

9-9-13

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal NO. 241 /2013.

Muhammad Riasat Versus. Province of KPK etc.

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Deponent.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal NO. 241 /2013.

Muhammad Riasat Versus. Province of KPK etc.

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REPLY OF OBJECTIONS.

The appeal is maintainable in its present form and the appellant has legal cause of action and valid locus-standi. The appellant appeared before the Court with clean hands and with the bonafide claim.

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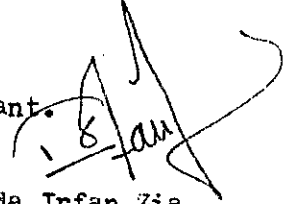
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Dated: 09-9-2013

Appellant.

Affidavit.

Through:-

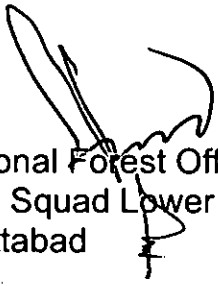

Shahzada Irfan Zia,
Advocate, Peshawar.

I, the appellant, do hereby declare on Oath that the contents of this Rejoinder are true and correct and that nothing has been concealed from this Honourable Court.

Deponent.

AUTHORITY LETTER.

Mr. Nisar Ahmed SDFO Patrol Squad Lower Hazara Circle hereby authorized to attend the Honorable Court of Sessions Khyber Pakhtunkhwa Peshawar on behalf of Government of Khyber Pakhtunkhwa, Forest Department on 09-9-2013 in connection with cases No. 241, 300, 304, 308 and 344 of 2013 filed by Muhammad Nisar Ahmed Forester and four others.


Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

<u>Name</u>	<u>Date of Appointment</u>	<u>Date of Transfer / Adjustment</u>
1. Muhammad Riasat Appeal No. 241/2013.	19.9.1985 in Working Plan Circle.	20.10.1997 adjusted in Lower Hazara Circle. (18 years)
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6. Amjad Khan
Appeal No. 857/2013

01-10-1988 in Working Plan Circle.

13-6-1994 adjusted in Lower
Hazara circle. (21 Years)

7. Muhammad Javed
Appeal No. 453/2013

01-10-1989 in Working Plan Circle.

1993 adjusted in Upper Hazara
circle. (22 Years)

8. Bagir Hussain Shah
Appeal No. 454/2013

01-10-1983 in Working Plan Circle

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