

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 241 Muhammad Riayat 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:

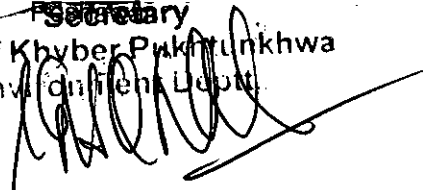
1. In reply to para-1 it is submitted that the appellant is currently holding the post of Forester under the Administrative control of respondent No. 04 i.e. Conservator of Forests, Lower Hazara Forest Circle, but was recruited in Working Plan Circle and later-on transferred to Lower Hazara Forest Circle, 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
~~Secretary~~
Govt of Khyber Pakhtunkhwa
Environment Deptt.


Chief Conservator of Forests
Northern Forest Region-II
Abbottabad 02


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.

Attested
SECTION OFFICER (ESTT)

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



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

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

1663
7/5/2011

Ref: _____

Date: 07-05-2011

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۱۳
۷/۵

جناب سیکرٹری صاحبہ ماحولیات صوبہ خیبر پختون خوا پشاور

جناب عالی! گزارش ہے کہ ایک خبرگلات KPP میں سیاسی نا جائزہ دار کے تحت "میرٹ کوٹ" کے آرڈر میں مخصوص جو زمیندار سترز کو ڈیپٹی ریسٹورز کے عملوں پر نا جائزہ پیردوٹ کروانے کیلئے استہدائی مجلت میں جو رخ 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، خلاف قانون اور خلاف ضابطہ ہے۔ کیونکہ

1۔ حکومت KPP حکیمہ ماحولیات کے لیٹر نمبر NO-SO(ESTT)ENV/11-4/18/2K9 جو رخ 17 جنوری 2011

(نقل مشاغل ہے) "ANNEXED A" کے ہدایات کے مطابق نہ تو مالڈرنڈ ویٹ سٹرمل اور مالڈرنڈ ویٹ کے سٹرمل پر ایک ایک سیارٹی لیٹ اور ایک ایک پیردوٹس کو یقینی بنانے کیلئے کوئی اقدامات کئے ہیں۔ مذکورہ دونوں سٹرملز کے مشتمل سیارٹی لیٹ پر مشتمل پیردوٹس زیر غور لیا جا رہا ہے۔ جو نہ صرف میں ایک استہدائی جبران پیدائش کی کوشش ہے۔ بلکہ حکیمانہ مفادات کے برعکس، ظلم اور نا انصافی ہے۔

2۔ جناب والا کی سربراہی میں جو رخ 11-03-30 کو SSRC کے اجلاس ہو چکی ہے۔ جس کی منیش دستخط شدہ جاری ہوا ہے۔ جسے روٹس میں "میرٹ کوٹ" کے آرڈر میں (5) متواتر NT AC.Rs لینے والوں کی مخصوص پیردوٹس کی کوئی پیردوٹس موجود نہیں ہے۔ لیکن 10-5-11 میں ایسے لوگوں کو پیردوٹس 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 ڈرائنگ پیسز ارسال نہیں کی گئے۔ جو کہ خلاف پروڈر ہے۔

مذکورہ بالا حقائق کے پیش نظر استدعا ہے۔ کہ حکیمانہ مفادات، ملذد میں خبرگلات کو انصاف کو یقینی بنانے کیلئے 10-05-11 کو ہونی والی ڈیپٹی ریسٹورز کے پیردوٹس کیلئے DPC کی اجلاس کو مالڈرنڈ ویٹ اور ویٹ سٹرملز کے ایک ایک پیردوٹس اور سیارٹی / منیش پیر قانون کے مطابق یقینی بنایا جائے۔

am ccf for
bani na chakra
09/05/11

حاجی حمزہ یحیٰں مرکزی صدر ایسوسی ایشن صوبہ خیبر پختون خوا

Attested -

Divisional Forest Officer
Patrol 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/jwc

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
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.

File is in SOA

(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

DATED 01.11.2011 duc



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

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

156/wc

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Endst: No and date even.

Mutahir Shah
(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

Endst: No and date even.

Copy is forwarded to PS to Secretary Environment Department.

SECTION OFFICER (ESTT)

Attested

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



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

Haji Muhammad Zeb Khan (L.L.D)
Central President
Res: 09-45-761174
Cell: 0300-5824716
03-45-906555-8

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

Ref: _____

Date: 17-01-2011

جناب سیکرٹری، جسٹس ناچولیات صوبہ خیبر پختونخوا

جناب عالی! گزارش ہے کہ

ڈی پی سی رینجرز کے خیالی آسامیوں پر پروٹوشن کرانے کیلئے جناب CCF جسٹس KPP کے دفتر سے DPC کی میٹنگ یکم فروری 2011 کو طلب کیا گیا ہے۔ ایسا ایک ایسا آرڈر ہے جس سے ایف ڈی کے رینجرز اور ایف ڈی والاکندہ سیکل سے ایف ڈی ڈکنگ پیرز طلب کرنے کے بجائے سہ ماہیہ والاکندہ سیکل کے دفتر سنیاری لیٹ اور ایف ڈی ڈکنگ پیرز کو پروٹوشن "CONSIDER" کے جاریے ہیں۔ جو کہ خلاف قاعدہ اور خلاف قانون ہے اور جس کے نتیجے میں ڈیسٹ والاکندہ سیکل کے سنیار اور مستحق فارستروں کی حق دہانی کی توی امکان موجود ہے۔ جو کہ ایف ڈی ڈکنگ پیرز میں سیکل میں کنزرویٹرز تینتات ہے۔ جنہوں نے باقاعدگی کا آغاز کیا ہے۔ فارستروں کو ڈی پی سی رینجرز کے دفتر پر پروٹوشن کیا جاتا ہے۔ اور ہر سیکل کے سنیاری لیٹ کے مطابق ہر سیکل سے فارستروں کو ڈی پی سی رینجرز کے دفتر پر پروٹوشن کیا جاتا ہے۔

کہنا اور رہا ہے کہ

جس کے حوالے سے متعلقہ اعلیٰ حکام کو ہدایات فرمائی جائے۔ کہ وہ ڈیسٹ والاکندہ سیکل سیکرٹری اور ایف ڈی والاکندہ سیکل سنیاری لیٹ سے ایف ڈی ڈکنگ پیرز طلب کر کے ہر سیکل کے سنیاری لیٹ اور ڈکنگ پیرز کو پروٹوشن کروائے۔ تاکہ کسی ڈکنگ پیرز کی حق دہانی نہ ہو۔ کہ صورت دیگر ڈکنگ پیرز کو حق دہانی سے ڈھکی چھپی کیلئے عدالت جانے سے بھی گریز نہیں کریں گے۔

Handwritten signature and date: 17/01/11
Text: P.P. with C.C.F. for the purpose of the meeting.

حاجی محمد زب خان مرکزی صدر ایسوسی ایشن KPP

AS/S.O. (E)

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)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

Endst: 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 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)

Divisional 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.

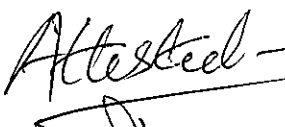

Encl. As above


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


S. #	Name of Forester
1.	2.
1.	Muhammad Shafqat
2.	Muhammad Riasat S/O Qayyum
3	Muhammad Anwar-II S Fazal-ur-Rehman
4.	Mr. Bashir Ahmad
5.	Mr. Amjad Khan
6.	Syed Ibrar Hussain Sha
7.	Mr. Zulifqar Khan

2

Conservator of F
Lower Hazara F
Abbottabad

(Annex: E)

16

OFFICE OF THE CONSERVATOR OF FORESTS LOWER HAZARA FOREST CIRCLE ABBOTTABAD		No. <u>3260</u> /GE, Dated <u>41/1/2013</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.

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

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

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.

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" 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.

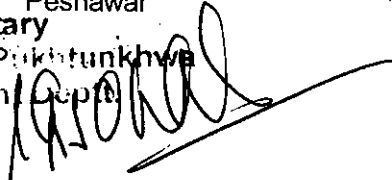
- 4 Para No-4 is incorrect hence denied. After the constitution of new Forest Circles/ bifurcation of existing Forest Circles by the Govt. for better Administration/Management. The immediate problem that arised was of formation of fresh seniority lists of Foresters and other filed staff. In order to 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) Evt/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.

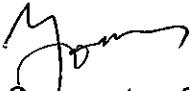
9. Para No. 9 is also incorrect hence denied. The Notification dated 5/10/2012 is issued in the best interest of the state aiming at the curtailment of litigations made by the larger community. The pray of the appellant is arbitrary and against the interest of the state. The policies are devised by the 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

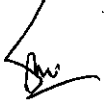

VERSUS

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 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



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.

SECTION OFFICER (ESTT)

Attested-

[Signature]
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

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

1663
7/5/2011

Ref: _____

Date: 07-05-2011

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۱۳
۷۰۵

جناب سیکرٹری صاحب ماحولیات صوبہ خیبر پختون خوا پشاور

جناب عالی! گزارش ہے کہ ایک خبر گلات KPP میں سیاسی نا جائز دباؤ کے تحت "میرٹ کوٹ" کے آرڈر میں مخصوص جوئیر فارسٹرز کو ڈیپٹی ریجنل کے عہدوں پر نا جائز مینورٹی کر دینے کی ہمتی بجلیت میں جوڑ 10 مئی 2011 کو DPC کی اجلاس منعقد کر دینے کے لیے جناب CCF صاحب کے دفتر سے احکامات جاری کی جا چکی ہے۔ جو کہ خلاف قواعد، خلاف قانون اور خلاف ضابطہ ہے۔ کیونکہ!

1۔ حکومت KPP کی ماحولیات کے لیٹر نمبر NO-SO(ESTT)ENV/11-4/18/2K9 جوڑ 17 جنوری 2011

(مقل شامل ہے) "ANNEXED A" کے ہدایات کے مطابق نہ تو والد کٹر و لیٹ سٹریٹ اور والد کٹر والڈ کے سٹیج پر ایک سیارٹی لیٹ اور ایک ایگ ہیروشن کو یقینی بنانے کیلئے کوئی اقدامات لئے ہیں۔ مذکورہ دونوں سٹیج کے مشورہ سیارٹی لیٹ پر مشورہ ہیروشن زیر غور لایا جا رہا ہے۔ جو نہ صرف میں ایک استغما میجران پیدار کرنے کی کوشش ہے۔ بلکہ حکمانہ مفادات کے برعکس، ظلم اور نا انصافی ہے۔

2۔ جناب والا کی سربراہی میں جوڑ 30-03-11 کو SSRC کے اجلاس ہو چکی ہے۔ جس کی منیش دستخط شدہ جاری ہوا ہے۔ جس کے روشنی میں "میرٹ کوٹ" کے آرڈر میں (5) متواتر NT AC.Rs لئے والوں کی مخصوص ہیروشن کی کوئی پروویژن موجود نہیں ہے۔ لیکن 10-5-11 میں ایسے لوگوں کو مینورٹی کر دینے کی کوشش کی جا رہی ہے۔ جو کہ خلاف قواعد ہے۔

3۔ DPC کے اہم نمبر SO.(ESTT) صاحب کو حسب قواعد کوئی ڈرائنگ میسرز ارسال نہیں کی گئی جو کہ خلاف پروڈر ہے۔

مذکورہ بالا حقائق کے پیش نظر استدعا ہے۔ کہ حکمانہ مفادات، ملذمین خبر گلات کو انصافی کو یقینی بنانے کیلئے 10-05-11 کو ہونے والی ڈیپٹی ریجنل کے ہیروشن کیلئے DPC کی اجلاس تاکہ والد کٹر والڈ اور لیٹ سٹیج کے ایک ہیروشن اور سیارٹی / منیش پر قانون کے مطابق یقینی بنایا جاسکے۔

ccp for
basic in circle
admission
11/05/11

حاجی محمد رفیقان مرکزی صدر ایسوسی ایشن صوبہ خیبر پختون خوا

Attested -

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NO.SO(Estt)Envt/I-4/B/2K9 156/wc
Dated Pesh: 17th January, 2011

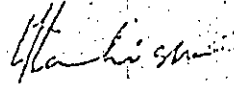
To

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.

Ends 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

C:\LETTER DIRECTOR\LETTER DATED 01.01.2011.doc



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

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

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

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

Ref: _____

Date: 17-01-2011

جناب سیکرٹری، جناب ماحولیات جوہر چیئرمین خواتین

جناب عالی، گزارش ہے کہ

ڈیپٹی سیکرٹری کے عالی آسامیوں پر پروٹوشن کروانے کیلئے جناب CCF صاحب KPP کے دفتر سے DPC کی میٹنگ یکم فروری 2011 کو طلب کیا گیا ہے۔

اور ایڈٹ والا کنڈر میٹل سے ایک ورکنگ پیپر طلب کرنے کے بجائے سبالتو والا کنڈر میٹل کے دفتر سے سیاری لیٹ اور قمترہ ورکنگ پیپر کو پروٹوشن "CONSIDER" کیے جا رہے ہیں۔ جو کہ خلاف قاعدہ اور خلاف قوانین ہے اور جس کے نتیجے میں ایڈٹ والا کنڈر میٹل کے سینئر اور مستحق فائبرسٹوں کی حق تلفی کی تھی اسکا موجودہ ریکورڈ مذکورہ دو ذمہ سیکٹرز میں کنٹرولڈ کاپیاں ہیں۔ جنہوں نے باقاعدگی کا آغاز کیا ہے۔ فائبرسٹ میٹل کے ریکورڈ اور سیاری لیٹ کے ساتھ ہر میٹل سے فائبرسٹوں کو ڈیپٹی سیکرٹری کے دفتر پر پروٹوشن کیا جاتا ہے۔

کہنا اور رہا ہے کہ

جو کہ حکمرانوں کے متعلقہ اعلیٰ حکام کو ہدایات دی جانی چاہئے۔ کہ وہ ایڈٹ والا کنڈر میٹل سیکرٹری اور ایڈٹ والا کنڈر میٹل کے ساتھ سبالتو سبالتو سبالتو سے ایک ایک سیاری لیٹ اور ورکنگ پیپر طلب کر کے ہر میٹل کے ساتھ ایک ایک پروٹوشن کروائے۔ تاکہ کسی دلائل کی حق تلفی نہ ہو۔ کہ صورت دیگر دلائل میں کو حق تلفی سے بچانے کیلئے عدالت جانے سے بھی گریز نہیں کریں۔

Pl with CCF for...
per new...
arrangement.
AS/SO (E)

حاجی محمد زب خان مرکزی صدر ایسوسی ایشن KPP

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.

Dated Pesh: 5th Oct., 2012

Endst: No. SO(Estt)Envt/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 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)

[Signature]
Divisional 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	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

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) 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.

Handwritten notes:
S.B.
A 01
05/01/13

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Attested -

Handwritten signature
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.

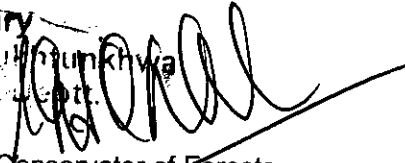
4. Para No-4 is incorrect hence denied. After the constitution of new Forest Circles/ bifurcation of existing Forest Circles by the Govt. for better Administration/Management. The immediate problem that arised was of formation of fresh seniority lists of Foresters and other filed staff. In order to settle 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) Envt/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


Chief Conservator of Forests
Central Southern Forest Region-I
Peshawar

~~Secretary~~
Govt of Khyber Pakhtunkhwa
Environment Dept.

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:

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 2 is incorrect.
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.

4. *para 4 is incorrect hence denied.*
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

*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. ^{30/11} (Estt) 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 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

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

*vetted
subject to all
amendments
[Signature]
8/10/13*



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NO.SO(Estt)Envt/1-4/2K11/1450/we

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 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
(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

Endst:No.and date even.

Copy is forwarded to PS to Secretary Environment Department.

Attested -

SECTION OFFICER (ESTT)

[Signature]
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

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۱۳
۷۰۵

جناب سیکرٹری صاحب ماحولیات صوبہ خیبر پختون خوا پشاور۔

جناب عالی! گزارش ہے کہ ایک خبر کراچی میں سیاسی نا جائزہ بارے کے تحت "ہیرٹ کوٹہ" کے آرڈر میں مخصوص جوئیر فائبرز کو ڈیپٹی ریجنل کے عہدوں پر ناجائز ہیرٹ کوٹہ کرانے کیلئے استقامتی عجلت میں جوڑ 10 مئی 2011 کو DPC کی اجلاس منعقد کرانے کیلئے جناب CCF صاحب کے دفتر سے احکامات جاری کی جا چکی ہے۔ جو کہ خلاف قواعد، خلاف قانون اور خلاف ضابطہ ہے۔ کیونکہ!

1۔ حکومت KPP حکم ماحولیات کے لیٹر نمبر NO-SO(ESTT)ENV/11-4/18/209 جوڑ 17 جنوری 2011 (تخل شامل ہے) "ANNEXED A" کے ہدایات کے مطابق نہ تو مالڈر ٹریڈ لیٹ سٹریٹ اور فالڈر ٹریڈ کے سٹیج پر انگ انگ سیارٹی لیٹ اور انگ انگ ہیرٹوشن کو یقینی بنانے کیلئے کوئی اقدامات لئے ہیں۔ نہ مذکورہ دونوں سٹریٹ کے مشتمل سیارٹی لیٹ پر مشتمل ہیرٹوشن زیر غور لیا جا رہا ہے۔ جو کہ نہ صرف میں ایک استقامتی بحران پیدائش کی کوشش ہے۔ بلکہ حکمانہ مفادات کے برعکس، ظلم اور نا انصافی ہے۔

2۔ جناب والا کی سربراہی میں جوڑ 11-03-30 کو SSRC کے اجلاس ہو چکی ہے۔ جس کی منیش دستخط شدہ جاری ہوا ہے۔ جس کے روشنی میں "ہیرٹ کوٹہ" کے آرڈر میں (5) متواتر NT ACORs لئے والوں کی مخصوص ہیرٹوشن کی کوئی پرویزن موجود نہیں ہے۔ لیکن 11-05-10 میں ایسے لوگوں کو ہیرٹوشن لئے 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 پیسز ارسال نہیں کی گئے۔ جو کہ خلاف پروڈر ہے۔

مذکورہ بالا حقائق کے پیش نظر استدعا ہے۔ کہ حکمانہ مفادات، ملذمین خبرگلات کو انصافی کو یقینی بنانے کیلئے 11-05-10 کو ہونے والی ڈیپٹی ریجنل کے ہیرٹوشن کیلئے DPC کی اجلاسوں تاکہ مالڈر ٹریڈ اور لیٹ سٹریٹ کے انگ انگ ہیرٹوشن اور سیارٹی / منیش پرویزن قانون کے مطابق یقینی بنایا جاسکے۔

am ccr for
the circle
admission of
the

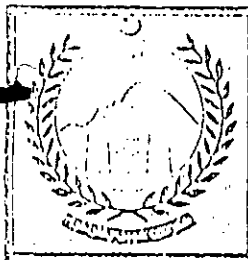
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(E) ۷/۵

حاجی محمد رفیقان مرکزی صدر ایسوسی ایشن صوبہ خیبر پختون خوا

Attested -

Divisional Forest Officer
Patrol Squad Lower Nazara Circle
Abbottabad



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NO.SO(Estt)Envt/I-4/B/2K9 156/wc
Dated Psli: 17th January, 2011

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 is safe

Mutahir Shah
(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

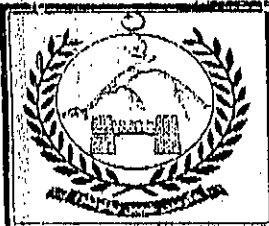
Endst:No.and date even.

Copy is forwarded to PS to Secretary Environment Department.

SECTION OFFICER (ESTT)

Attested

[Signature]
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.

Dated Pesh: 5th Oct., 2012

Endst: No. SO(Estt)Envt/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.

Attested -

(ASHFAQ KHAN)
SECTION OFFICER (ESTT)

Divisional Forest Officer
Patrol Supervisor 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

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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

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>41/1/2013</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) 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.

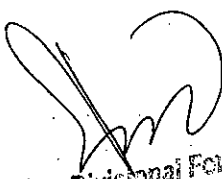
In view of the above no ambiguity is left in fixation of the seniority of the applicant namely Muhammad Riasat Forester in the Forestry Planning and Monitoring Circle which is the Circle of his initial appointment.

Please inform the applicant accordingly.


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Handwritten notes:
S/B
A 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) Evt/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.

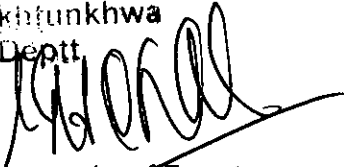
9. Para No. 9 is also incorrect hence denied. The Notification dated 5/10/2012 is issued in the best interest of the state aiming at the curtailment of litigations made by the larger community. The pray of the appellant is arbitrary and against the interest of the state. The policies are devised by the 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.

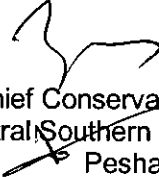


Secretary Environment
Government of Khyber Pakhtunkhwa
Secretary Peshawar

Govt of Khyber Pakhtunkhwa
Environment Deptt.



Chief Conservator of Forests
Northern Forest Region-II
Abbottabad 02



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

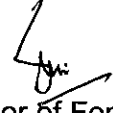
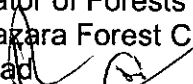
VERSUS

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

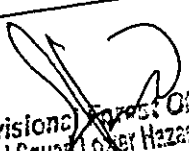
RESPONDENTS

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.

Attested -

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

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.

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 10 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

*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. ^{30/11} (Estt) Env/I-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 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 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 sprit. 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

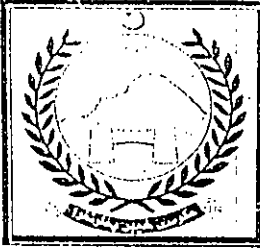
Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Attested
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 concealed*

*vetted
subject to all
amendments*

[Signature]
8/10/13



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 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
(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

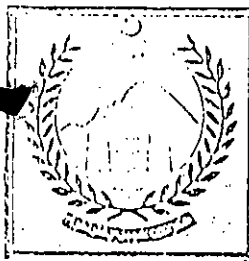
Endst:No.and date even.

Copy is forwarded to PS to Secretary Environment Department.

Attested -

SECTION OFFICER (ESTT)

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



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NO.SO(Estt)Envt/I-4/B/2K9 156/w.c.
Dated Pesh: 17th January, 2011

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.

Endst: No. and date even.

Mutahir Shah
(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

Endst: No. and date even.

Copy is forwarded to PS to Secretary Environment Department.

SECTION OFFICER (ESTT)

Attested

[Signature]
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.

Dated Pesh: 5th Oct., 2012

Enclst: No. SO(Estt)Envt/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 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)

Divisional 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

(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

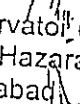
Subject APPEAL

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

Consequent upon the issuance of Notification No. SO (Estt) Env't / 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

Sr B
05/01/13

Attested -


Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

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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