

8.4.2014.

Clerk to counsel for the appellant and AAG with Masoodur Rahman, Forester for the respondents present and reply filed. To come up for rejoinder on 27.5.2014.

MEMBER

MEMBER

27.05.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Masoodur Rahman, SDFO for the respondents present. Counsel for the appellant does not want to file rejoinder. To come up for arguments on 12.09.2014.

MEMBER

12.09.2014

Appellant with counsel and Mr. Masoodur Rahman, SDFO with Mr. Kabeerullah Khattak, Asstt. AG for the respondents present. Appellant moved application for withdrawal of the appeal as his grievance has been redressed by the respondent department by his transfer and posting as Deputy Ranger Lower Siran Forest Sub-Division vide order dated 04.08.2014.

In the light of the application, the appeal is dismissed as withdrawn, with no order as to costs. File be consigned to the record.

ANNOUNCED

12.09.2014

Chairman

709/13

20.11.2013

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG for the respondents present and requested for time to contact them. To come up for written reply by way of last chance on 13.12.2013.

MEMBER

MEMBER

13.12.2013.

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Masoodur Rahman, Range Officer for the official respondents present and requested for further time. Fresh notice be issued to respondent No.3. To come up for written reply by way of last chance on 17.1.2014.

MEMBER

17.1.2014

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Muhammad Ayub, SDFO for the respondents present and stated that written reply prepared and bring for vetting. He requested for further time. To come up for written reply by way of another last chance on 6.3.2014.

MEMBER

MEMBER

6.3.2014

Appellant with counsel and AAG for official respondents present and requested for time to contact them. None is available on behalf of private respondent No.3. Fresh notice be issued to him through registered post. To come up for written reply of all the respondents on 8.4.2014.

MEMBER

MEMBER

26.6.2013

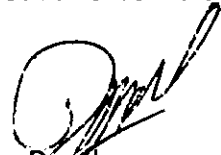
Counsel for the appellant and Mr. Muhammad Jan, GP present. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance 2013, the Tribunal is incomplete. To come up for the same on 24.9.2013.


READER

*Appellant deposited
Process fees & security
Rs. 180/- Baitul Tajarat
attached with file*

24.9.2013

Appellant with counsel, and Mr. Muhammad Jan, GP present. Notices have not been issued. The Bench is incomplete owing to tour of learned Member Mr. Sutan Mahmood Khattak, to D.I.Khan and proceeding of learned Member Mr. Muhammad Aamir Nazir abroad. Case to come up for the same on 23.10.2013.


Reader

23.10.2013.

Appellant with counsel and Mr. Usman Ghani, SGP present. Notices be issued to the respondents positively. To come up for written reply by way of last chance on 20.11.2013.


MEMBER


MEMBER

Appeal No. 709/2013.

Mr. Muhammad Farooq

3. 3.5.2013 Counsel for the appellant present and heard. Contended that the appellant has not been treated in accordance with the law/rules. The appellant was transferred from the post of Deputy Ranger Gicerpur Range to Upper Siran Sub Division Mansehra on 21.10.2011. After 4 months he was transferred to Kaghan Forest Sub Division vide order dated 23.2.2012. He was once again transferred to SDEO Shinkiari Sub Division on 10.10.2012. He was transferred to Shergarh Forest Sub Division vide order dated 8.1.2013. The appellant preferred a departmental appeal on 14.1.2013 with the prayer that the orders dated 20.12.2012 and 8.1.2013 be set aside and order dated 10.10.2012 be restored but with no response. Counsel for the appellant further contended that the appellant has not completed his normal tenure which is against the policy of the Government. He has been repeatedly transferred from one place to another within a short period. Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 26.6.2013 for submission of written reply.

Member.



4. 3.5.2013 This case be put before the Final Bench TS for further proceedings.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 709/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19/04/2013	<p>The appeal of Mr. Muhammad Farooq presented today by Mr. Rizwanullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	22-4-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>3-5-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 709 /2013

Muhammad Farooq
Deputy Ranger,
R/O Post Office Dheodhyal, Village Dhakarmung,
Tehsil and District Mansehra.

APPELLANT


VERSUS

1. Secretary Government of Khyber Pakhtunkhwa,
Environmental Department, Peshawar and others

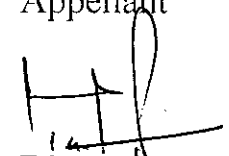
RESPONDENTS

I N D E X

S.No	Particulars	Annexure	Pages #
1	Service Appeal	-	1-6
2	Affidavit	-	7
3	Copy of Transfer order 21-10-2011	"A"	8
4	Copy of office Order No. 21 dated 23-02-2012	"B"	9
5	Copy of Ex-Pakistan leave	"C"	10
6	Copy of transfer order dated 10-10-2012	"D"	11
7	Copy of transfer order dated 20-12-2012	"E"	12
8	Copy of office order No. 40 dated 08-01-2013	"F"	13
9	Copy of departmental appeal and registered postal receipt	"G & H"	14 & 16
10	Wakalatnama	-	17


Appellant

Through


Rizwanullah
M.A. LL.B

Advocate High Court,
Peshawar

Dated: 18-4-2013

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 709 /2013

Muhammad Farooq
Deputy Ranger,
R/O Post Office Dheodhyal, Village Dhakarmung,
Tehsil and District Mansehra.

A.W.J. Farooq
Deputy Registrar
No. 804
Dated 19-4-13

APPELLANT

VERSUS

1. Secretary Government of Khyber Pakhtunkhwa, Environmental Department, Peshawar..
2. The Chief Conservator of Forests, Northern Forest Region-II Abbottabad, Khyber Pakhtunkhwa , Peshawar.
3. Mian Tahir Shah, Forester/Incharge of Shinkiari Forest Sub-Division, Mansehra

RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST
THE PRE-MATURE AND POLITICALLY
MOTIVATED TRANSFER ORDER NO. 36
DATED 20-12-2012 AND OFFICE ORDER
NO. 40 DATED 08-01-2013 PASSED BY
THE RESPONDENT NO. 2**

Prayer in Appeal

By accepting of this appeal, the impugned transfer order No. 36 dated 20-12-2012 and office order No. 40 dated 08-01-2012 may graciously be set aside being politically motivated, pre-mature, passed in utter violation of posting/transfer policy of the

Muhammad Farooq
19-4-13

Government of Khyber Pakhtunkhwa and that transfer order No. SO(Estt. Envt/1-8/2K10 dated 10-10-2012 passed by the respondent No. 1 may kindly be restored in the interest of justice.

Any other relief deemed appropriate in the circumstances of the case, not specifically asked for, may also be granted to the appellant.

Respectfully Sheweth,

Short facts giving rise to the present appeal are as under:-

1. That the appellant was serving as Deputy Ranger (B-11) Giderpur Range at the relevant time who was under the supervision and control of Respondent No. 2.
2. That the appellant had 32 years unblemished service record to his credit. No complaint, whatsoever, was either received against him to his superiors nor any warning was given to him during the said period.
3. That the appellant was transferred from the post of Deputy Ranger Giderpur Range to upper Siran Sub-Division Mansehra on 21-10-2011 (Copy Annex-A). He duly complied with the aforesaid order by assuming his new assignment.
4. That after 04 months of the above transfer order, the appellant was again transferred from upper Siran Forest Sub-Division to Kaghan Forest Sub-Division vide office Order No. 21 dated 23-02-2012 (Copy Annex-B). The appellant also implemented the said order accordingly.
5. That the appellant was granted 60 days Ex-Pakistan leave with effect from 08-10-2012 to 06-12-2012 for performance of "Hajj-e-Baitullah Shairf" (Copy Annex-C).

6. That during his Ex-Pakistan leave, the appellant was once again transferred from SDFO Kaghan Forest Sub-Division to SDFO Shinkiari Sub-Division against vacant post on 10-10-2012 **(Copy Annex-D)**.
7. That after expiry of above leave, appellant assumed the charge of the Post in compliance of the order No. SO(Estt. Eenvt/1-8/2K10 dated 10-10-2012 passed by the Respondent No. 1.
8. That the appellant was performing his duty with great zeal and vigour, but strangely, he was made a rolling stone by transferring to Shergarh Forest Sub-Division on 20-12-2012 **(Copy Annex-E)** and one Mian Tahir Shah, forester (BPS-9) was authorized to work as Incharge Shinkiari Sub-Division against the post vacated by the appellant.
9. That as the above order was passed in hurry and haphazard manner, therefore, the place in column No. 3 was wrongly mentioned in it instead of Shinkiari Forest Sub-Division. This order was later on rectified through office order No. 40 dated 08-01-2013 and it was confirmed that the appellant had been transferred from Shinkiari Forest Sub-Division to Shergarh Forest Sub-Division **(Copy Annex-F)**.
10. That the appellant felt aggrieved, filed a departmental appeal with respondent No. 1 on 14-01-2013 praying therein that the impugned transfer order No. 36 dated 20-12-2010 and office order No. 40 dated 08-01-2013 may graciously be set aside and transfer order No. SO(Estt. Eenvt/1-8/2K10 dated 10-10-2012 may kindly be restored **(Copy of Departmental appeal and Postal Receipt Annex-G & H)**.
11. That the above departmental appeal was neither decided within the statutory period of law with cogent reasons nor any information whatsoever was given to the appellant as required under **Article 19-A of the Constitution of Islamic Republic of Pakistan 1973**. Thus, the Appellate Authority has blatantly violated

the provision of law as well as Constitution and the Principle laid down by August Supreme Court of Pakistan in case reported in 2011 SCMR 1 (Citation -B). The relevant citation is reproduced herein for facility of reference:-

(b) General Clauses Act (X of 1897)---

----S. 24-A ---Speaking order- Public functionaries are bound to decide cases of their subordinates after application of mind with cogent reasons within reasonable time.

It is well settled law that the decision of the August Supreme Court of Pakistan is binding on each and every organ of the State by virtue of Article 189 and 190 of the Constitution of Islamic Republic of Pakistan, 1973. Reliance can be placed on the judgment reported in 1996-SCMR-Page-284 (Citation-C). The relevant citation is as under:-

(c) Constitution of Pakistan (1973)

Arts. 189 & 190--- Decision of Supreme Court— Binding, effect of--- Extent—Law declared by Supreme Court would bind all Courts, Tribunals and bureaucratic set-up in Pakistan.

12. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds within the statutory period of law.

GROUND OF APPEAL

- A. That at the very outset, it is submitted that the appellant was transferred 4 times within an year which indicates that this action of the Competent Authority was fallacious, malicious and politically motivated. This was obviously done to accommodate his blue eyed chaps. Therefore, these orders are not sustainable in the eyes of law.

B. That the impugned orders were passed in utter violation of Posting/Transfer Policy of the Government of Khyber Pakhtunkhwa. Therefore, the said orders are not warranted under the law.

C. That the tenure of the appellant was not completed against any of the above posts. But, the Competent Authority has over looked this aspect of the case while passing the impugned orders. Thus, the Competent Authority, has blatantly violated the law laid down by august Supreme court of Pakistan in case reported in **PLD-2013-Supreme Court-page-195 (citation-h)**. The relevant citation of the said judgment is reproduced herein for facility of reference: -

(h) Civil Servants Act (LXXI of 1973)---

---Ss. 4 & 10---Constitution of Pakistan, Art. 184(3)---Tenure, posting and transfer of civil servants---Principles---When the ordinary tenure for a posting had been specified in the law or rules made thereunder, such tenure must be respected and could not be varied, except for compelling reasons, which should be recorded in writing and were judicially reviewable---Transfers of civil servants by political figures which were capricious and were based on considerations not in the public interest were not legally sustainable.

D. That the Competent Authority was under statutory obligation to give reasons regarding transfer of the appellant before completion of his normal tenure against each post during the disputed period as per dictum laid down by August Supreme Court of Pakistan in case referred to above in Para-C. Hence, the impugned orders have no sanctity in the eyes of law.

E. That the impugned orders were the result of malafide action and colorable exercise of powers by the Competent Authority who did not apply his independent mind in respect of repeated illegal transfer orders of the appellant within short span of one year. Thus, the above orders are against the spirit of Administration of Justice

- F. That the impugned orders suffer from legal infirmities and as such cause grave miscarriage of justice to the appellant.
- G. That the impugned orders are against law, facts of the case and norms of Natural Justice. Therefore, these are untenable under the law.

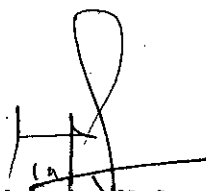
In view of the above narrated facts and grounds, it is, therefore, humbly prayed that transfer order No. 36 dated 20-12-2012 and office order No. 40 dated 08-01-2013 may graciously be set aside being politically motivated, pre-mature, passed in utter violation of posting/transfer policy of the Government of Khyber Pakhtunkhwa and that transfer order No. SO(Estt. Env/1-8/2K10 dated 10-10-2012 passed by the respondent No. 1 may kindly be restored in the interest of justice.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.


Appellant

Through

Dated: 18-4-2013


Rizwanullah
M.A. LL.B
Advocate High Court,
Peshawar

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2013

Muhammad Farooq
Deputy Ranger,
R/O Post Office Dheodhyal, Village Dhakarmung,
Tehsil and District Mansehra.

APPELLANT

VERSUS

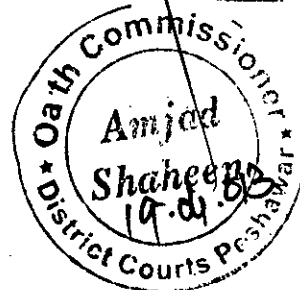
1. Secretary Government of Khyber Pakhtunkhwa,
Environmental Department, Peshawar and others

RESPONDENTS

AFFIDAVIT

I, Muhammad Farooq, Deputy Ranger, R/O Post Office Dheodhyal, Village Dhakarmung, Tehsil and District Mansehra do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.


ATTESTED




Deponent

Annex-A

8

OFFICE ORDER NO.05 DATED PESHAWAR THE 21/10/2011 ISSUED BY MR. GUL MUHAMMAD KHAN CHIEF CONSERVATOR OF FORESTS-II KHYBER PAKHTUNKHWA-

The following posting/transfer amongst the field staff is hereby ordered in the interest of public service with immediate effect:

S.No.	Name of Official	From	To
1-	Mr Mohammad Farooq Deputy Ranger	Giderpur Range	Upper Siran Sub Division (in his own pay scale)
2-	Mr. Abdur Rashid Forester	Under Transfer from Birangali Range	Giderpur Range (in his own pay scale)

Sd/-CCF KPK-II

No.45-48/E

Copy forwarded for information and necessary action to the:

- 1- Chief Conservator of Forests-I Khyber Pakhtunkhwa Peshawar.
- 2- CF, Lower Hazara Circle Abbottabad.
- 3- CF Upper Hazara Forest Circle Mansehra.
- 4- Director B&A Govt of Khyber Pakhtunkhwa Environment Department Peshawar.

Sd/-CCF-II KPK

No. 1836-37 /E, dated Abbottabad the 21 /10/2011.

- Copy forwarded to the Divisional Forest Officers
- 1- Siran Forest Division Mansehra
 - 2- Galis Forest Division Abbottabad

for information and further necessary action.

Conservator of Forests
Lower Hazara Forest Circle

No. 2489 /GE Dated Mansehra the 01 /11/2011

Copy forwarded to Mr. Muhammad Muzaffar Forest Ranger Incharge Upper Siran Forest

Attested
11/11/2011
11/11/2011

Annex-C

10

OFFICE ORDER NO. 08 DATED ABBOTTABAD THE 04 /10/2012
ISSUED BY ALI ASGHAR, CHIEF CONSERVATOR OF FORESTS,
NORTHERN FOREST REGION-II ABBOTTABAD.

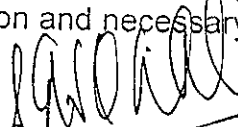
Sixty (60) days Ex-Pakistan Leave on full pay is hereby sanctioned in favour of Muhammad Farooq, Deputy Ranger of Lower Hazara Forest Circle Abbottabad with effect from 08-10-2012 to 06-12-2012 in connection with performance of "Hajj-e-Baitullah Sharif" subject to the following conditions:

- 1- That the sanction of Ex-Pakistan Leave is subject to entitlement.
- 2- That the official will not be given any foreign exchange.
- 3- That the official will return to the same station, where from he proceeds on leave.
- 4- This office has no objection for Ex-Pakistan Leave / performance of Hajj.


Sd/-(Ali Asghar)
Chief Conservator of Forests
Northern Forest Region-II Abbottabad
Khyber Pakhtunkhwa

Copy forwarded to the:

- ✓ 1. CF Lower Hazara Forest Circle Abbottabad with reference to his letter No. 425/GE dated 02-10-2012. He is requested to relieve the officer under local arrangements by posting senior most /suitable officer from Kaghan Forest Division.
2. DFO Kaghan Forest Division Garhi Habibullah for information and necessary action.
3. Muhammad Farooq Deputy Ranger C/O DFO Kaghan Forest Division Garhi Habibullah for information and necessary action.


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

Attested
H.T.D.
Adv


Sub Divisional Forest Officer
Patrol Square Forest Division
Abbottabad

No. 853 - 54

/E dated Garhi Habibullah the 08/10/2012.


Copy forwarded to the:-

1) -

Mr. Taimur Ilyas, Sub Divisional Forest Officer, Jared Forest Sub Division for information. He is directed to look after the matter of Kaghan Forest Sub Division in the absence of Mr. Muhammad Farooq, SDFO, Kaghan who is going for performing of Hajj 2012.

✓
2) -

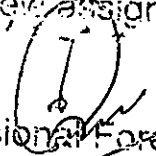
Mr. Muhammad Farooq, Sub Divisional Forest Officer, Kaghan Forest Sub Division for information.


Divisional Forest Officer
Kaghan Forest Division
Garhi Habibullah

No. 1796

/E, dated Garhi Habibullah the 19 /12/2012.

Copy forwarded to Mr. Muhammad Farooq, Deputy Ranger for information and necessary action. He is directed to report his arrival in Siran Forest Division, Muzeshra to join his new assignment.


Divisional Forest Officer
Kaghan Forest Division
Garhi Habibullah

بخدمت جناب سیکرٹری صاحب ماحولیات صوبہ خیبر پختونخواہ پشاور

بوساطت جناب D.F.O صاحب سرن فارسٹ ڈویژن مانسہرہ

عنوان: ٹرانسفر آرڈر محمد فاروق ڈپٹی ریجنل شٹلکاری فارسٹ سب ڈویژن تاثیر گڑھ
سب ڈویژن۔

اپیل برخلاف آفس آرڈر نمبر-36 مورخہ 20.12.2010 سی سی ایف ناردرن
فارسٹ ریجن-III ایبٹ آباد۔ ترمیمی آفس آرڈر نمبر-40 مورخہ 8.1.2013 سی
سی ایف ناردرن فارسٹ ریجن-III ایبٹ آباد۔

جناب عالی! اپیل ذیل عرض ہے۔

۱۔ یہ کہ جناب نے بحیثیت مجاز اتھارٹی نوٹیفکیشن نمبر
SO(Estt)Envt-1-8/2K-10 مورخہ 10 اکتوبر 2012 کو فدوی کی
ٹرانسفر کاغان فارسٹ ڈویژن سے شٹلکاری سب ڈویژن پر خالی اسامی پر کی تھی۔
(کاپی لف ہے)۔ جب کہ فدوی فریضہ حج کی ادائیگی کے سلسلے میں ایکس پاکستان لیو
پر تھا۔ (کاپی لف ہے)۔

۲۔ یہ کہ فدوی فریضہ حج کی ادائیگی سے واپسی پر آرڈر مذکورہ کی تعمیل کرتے
ہوئے مورخہ 19.12.2012 کو سرن فارسٹ ڈویژن میں حاضر ہوا اور شٹلکاری
سب ڈویژن کا چارج لیا۔ (کاپی لف ہے)۔

۳۔ یہ کہ دوبارہ آفس آرڈر عنوان بالا کے تحت جناب سی سی ایف۔ ریجن۔ II
ایبٹ آباد نے فدوی کا تبادلہ دوبارہ کاغان فارسٹ ڈویژن سے اپر ہزارہ سرکل
شیر گڑھ سب ڈویژن کرنے کے بعد دوبارہ آفس آرڈر نمبر 40 مورخہ 8.1.2013

Attested
H.T.V
Adv

ترمیم کر کے شکایاری سب ڈویژن سے شیر گڑھ سب ڈویژن کر دیا ہے۔

۴۔ یہ کہ ہر دو احکامات نہایت ہی عجلت، غلط اور خلاف قانون اور سیاسی دباؤ کے تحت کئے گئے ہیں۔

۵۔ یہ کہ فدوی کے ایک سال کے دوران چار ٹرانسفر آرڈر کئے گئے ہیں۔ فدوی کو ذہنی اذیت سے دوچار کیا جاتا رہا ہے جو کہ قواعد و ضوابط کی صریحاً خلاف ورزی ہے۔

لہذا استدعا ہے کہ مندرجہ بالا حقائق کو مد نظر رکھتے ہوئے فدوی کے آفس آرڈر نمبر 36 مورخہ 20.12.2012 کو ترمیمی آرڈر نمبر 40 مورخہ 08.01.2013 سی سی ایف ریجن- II ایبٹ آباد کو منسوخ فرما کر نوٹیفکیشن نمبر SO(Estt)Envt-1-8/2K-10 مورخہ 10 اکتوبر 2012 جو کہ بمطابق قانون اور مجاز اتھارٹی کا جاری شدہ ہے کے بحالی کے احکامات صادر فرما کر مشکور فرمائیں۔

المرقوم 14.01.2013

ارض

محمد فاروق ڈپٹی ریجنل سرمن فارسٹ ڈویژن مانسہرہ۔

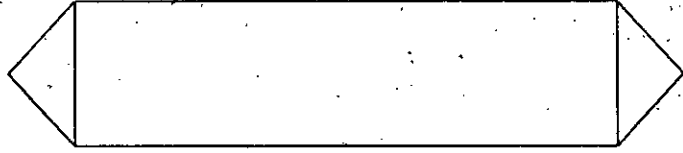
ایڈوانس کاپی!

جناب سیکرٹری ماحولیات گورنمنٹ خیبر پختونخواہ پشاور۔

Attested
H
Adv

23/1/13

بعدالت جناب چیمبر میں مذکور سٹریٹ پیروں کی



Service Appeal

2013ء منجانب ایڈووکیٹ

15 اپریل

مورخہ

بنام

Muhammad Farooq

مقدمہ

دعویٰ

VERSUS

Govt of KPK Through Secretary
environmental Department

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام لیتا ہے کیلئے رضوان اللہ علیہ وسلم
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کراتے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

2013

اپریل

ماہ

15

المرقوم

Attested
محمد علی
منظور ہے

Muhammad Farooq

العہدہ

بیتا

مقام

**BEFORE THE HONORABLE CHAIRMAN, KHYBER
PAKSTUNKHAWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No 709/2013

Muhammad Farooq, Deputy Ranger
R/O of Village Dhakarmung District Mansehra
Appellant

Versus

- 1) The Secretary Government of Khyber Pakhtunkhwa,
Environment Department Peshawar
- 2) The Chief Conservator of Forests, Northern Forest Region-II Abbottabad,
Khyber Pakhtunkhwa Peshawar
- 3) Mian Tahir Shah, Forester/Incharge of Shinkiari Forest Sub
Division.....Respondents

**REPLY/PARAWISE COMMENTS ON BEHALF OF
RESPONDENTS NO.1 TO 3**

PRELIMINARY OBJECTIONS

1. That the instant appeal is not maintainable.
2. That the instant appeal is bard by time.
3. That the appellant has got no cause of action.
4. That the appellant has got no locus standi.
5. That the appeal is bad for mis-joinder and non-joinder of necessary party.
6. That the appellant has not come to this court with clean hands.

Respectfully Sheweth

FACTS OF THE CASE

Para wise comments are as under:

- 1) It is correct. The appellant served as Range Forest Officer Giddarpur during the period from 30.06.2009 to 31.10.2011.
- 2) Pertains to record.
- 3) Pertains to record.

- 4) Pertains to record.
- 5) The Ex-Pakistan leave was granted to appellant on his request in connection with performance of Hajj.
- 6) In reply to para-6, it is submitted that in order to handle the official matter in the absence of appellant, an other Deputy Ranger was posted on Kaghan Forest Sub Division vide Secretary to Govt: of Khyber Pakhtunkhwa Environment Department Notification No.SO (Estt)Env/1-8/2K10 dated 10.10.2012, keeping in view the best public interest.
- 7) Needs no comments.
- 8) Incorrect. After expiry of Ex-Pakistan leave the appellant joined his duties. In the meanwhile on the request of DFO Agror Tanawal duly recommended by the Conservator of Forests Upper Hazara vide letter No.1932/GL dated 2.11.2012 (**Annex-I**), the appellant was posted on Shergarh Forest Sub Division vide Chief Conservator of Forests Office Order No. 40 dated 8.1.2013 in the best interest of public and in compliance the appellant joined his duty as SDFO Shergarh on 24.01.2013. Whereas Mian Tahir Shah Forester who was entrusted the charge of Lower Siran Sub Division two months before vide Divisional Forest Officer Siran, Mansehra Office Order No. 71 dated 15.10.2012 was allowed to continue the work as I/C Lower Siran Forest Sub Division.
- 9) Incorrect. Since the appellant was on Ex-Pakistan leave when he was transferred from Kaghan Forest Sub Division to Shinkiari Sub Division therefore the Office Order No. 36 dated 20.12.2012 was rightly issued as no intimation was received by respondent No. 2 that the appellant has relinquished the charge from Kaghan Forest Sub Division. However on clearance the office order No. 36 dated 20.12.2012 was partially amended/rectified.
- 10) Needs no comments.
- 11) Since the appellant joined his new assignment in compliance with the Chief Conservator of Forests, Northern Region-II Abbottabad office order No. 40 dated 08.1.2013 therefore no decision on the appeal was made. It is further added that posting of appellant was made on Shergarh Forest Sub Division in the best interest of State on the request of concerned Divisional Forest Officer duly recommended by Conservator of Forests Upper Hazara Circle.
- 12) The appeal of appellant is inconsistent with the provision of law as being a Govt: Servant he is duty bound to obey the order of his superior in the best interest of public for which he is drawing monthly salary.


GROUNDS

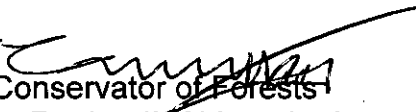
- A. Incorrect. Being a senior and capable official the appellant was posted on different stations in the best interest of public in which neither fallacious, malicious or political motivation nor any favoritism was involved.


- B. Incorrect. The appellant was posted on different stations in the best interest of State, keeping in view the requirement of the department.
- C. Incorrect. Initially the appellant was transferred from Giddarpur Range to Upper Siran Sub Division and then to Kaghan Sub Division against vacant positions. However due to non availability of any other suitable officer, the appellant was posted on Shergarh Sub Division in the best interest of State, hence no violation of law was occurred.
- D. Incorrect. The posting of appellant was purely in the best interest of public and not on political basis hence rules/law not violated.
- E. Incorrect. As explained in Para-C above, the posting of appellant on Shergarh Sub Division was merely in the interest of public.
- F. Incorrect. The impugned order is correct and no legal infirmities involved.
- G. Incorrect. The impugned order regarding posting of appellant on Shergarh Forest Sub Division is purely in the best interest of public/state.

PRAYERS

In view of the above submission it is humbly prayed that appeal of appellant based on conjectures surmises and without legal footing may kindly be dismissed with cost as it is devoid of merits.


Mian Tahir Shah Forester
Incharge Shinkiari Forest Sub Division
(Respondent No. 3)


Chief Conservator of Forests
Northern Region-II, Abbottabad
(Respondent No.2) *02*


Secretary to Govt: of Khyber
Pakhtunkhwa Environment
Department Peshawar
(Respondent No.1)

Annex-I

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OFFICE OF THE CONSERVATOR OF FORESTS, UPPER HAZARA FOREST CIRCLE MANSEHRA.

To,

The Chief Conservator of Forests Northern Forest Region-II Abbottabad.



No: 1932 /GL dated Mansehra the 2/10/2012.

Subject: SITUATION REPORT REGARDING AGROR TANAWAL FOREST DIVISION.

Memo: Reference your office letter No.291/GL, dated 24/10/2012.

DFO Agror Tanawal vide his letter No.1428/GE, dated 18/10/2012 has reported that Mr. Sultan Mehmood Deputy Ranger posted on complicated Shergarh Forest Sub-Division has no adequate experience of Territorial Range due to which the forest protection, supervision upon the protective staff and non-utilizing of their services against illicit menace of timber smuggling is affecting badly. Similarly Mr. Mohammad Sarfaraz Deputy Ranger posted on Agror Sub-Division being in-capable and ineffective has no experience of territorial charge and failed to run the affairs of important and a major Sub Division like Agror.

Therefore Mr. Mohammad Farooq Forest Ranger presently serving as SDFO Kaghan and Mr. Mohammad Manzoor SDFO Daur Watershed may be posted on Shergarh and Agror Forest Sub-Division to make an halt against the illicit damage and smuggling of timber.

Keeping in view of the foregoing facts, it is once again requested that the above two SDFOs or at least any other competent SDFO's for Shergarh and Agror Sub-Division may kindly be posted on priority basis in the best interest of forest conservancy.

Conservator of Forests Upper Hazara Forest Circle Mansehra

No: 1933 /GE

Copy forwarded to DFO Agror Tanawal Forest Division Mansehra for information with reference to his letter cited above.

EC
DB

may be seen a file

Conservator of Forests Upper Hazara Forest Circle Mansehra

Hc/DFO

May kept pending at Present pd. DB

[Handwritten signature]

BEFORE THE HONORABLE CHAIRMAN, KHYBER
PAKSTUNKHAWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No 709/2013

Muhammad Farooq, Deputy Ranger
R/O of Village Dhakarmung District Mansehra
Appellant

Versus

- 1) The Secretary Government of Khyber Pakhtunkhwa,
Environment Department Peshawar
- 2) The Chief Conservator of Forests, Northern Forest Region-II
Abbottabad,
Khyber Pakhtunkhwa Peshawar
- 3) Mian Tahir Shah, Forester/Incharge of Shinkiari Forest Sub
Division..... Respondents

REPLY/PARAWISE COMMENTS ON BEHALF OF RESPONDENTS
NO.1 TO 3

PRELIMINARY OBJECTIONS

1. That the appeal is ~~without cause and~~ ^{instant} is not maintainable.

2. That the appeal is ~~not in accordance with Service Law and~~
~~time bar.~~ ^{That the instant appeal is barred by law.}

3. That the appellant has got no cause of action.

4. That the appellant has got no locus standi.

5. That the appeal is bad for mis-joinder and non-joinder of
necessary party.

6. That the appellant has not come to this court with clean
hands.

5388
17-01-014

CPI.
Pl. Net.
17/1/14
Senior Govt. Pleader
Khyber Pakhtoon Khwa
Service Tribunal Peshawar.

Respectfully Sheweth

FACTS OF THE CASE

Para wise comments are as under:

- 1) It is correct. The appellant served as Range Forest Officer Giddarpur during the period from 30.06.2009 to 31.10.2011.
- 2) ~~Needs no comments.~~ *Pertains to record.*
- 3) ~~It is correct.~~ *Pertains to record.*
- 4) ~~It is correct.~~ *Pertains to record.*
- 5) ~~It is correct.~~ The Ex-Pakistan leave was granted to appellant on his request in connection with performance of Hajj.
- 6) *in reply to para 6 this submitted that*
~~It is correct.~~ In order to handle the official matter in the absence of appellant, an other Deputy Ranger was posted on Kaghan Forest Sub Division vide Secretary to Govt: of Khyber Pakhtunkhwa Environment Department Notification No.SO (Estt)Env/1-8/2K10 dated 10.10.2012, keeping in view the best public interest.
- 7) Needs no comments.
- 8) ~~It is~~ in-correct. After expiry of Ex-Pakistan leave the appellant joined his duties. In the meanwhile on the request of DFO Agror Tanawal duly recommended by the Conservator of Forests Upper Hazara vide letter No.1932/GL dated 2.11.2012 (**Annex-I**), the appellant was posted on Shergarh Forest Sub Division vide Chief Conservator of Forests Office Order No. 40 dated

8.1.2013 in the best interest of ^{public} ~~State~~ and in compliance the appellant joined his duty as SDFO Shergarh on 24.01.2013. Whereas Mian Tahir Shah Forester who was entrusted the charge of Lower Siran Sub Division two months before vide Divisional Forest Officer Siran, Mansehra Office Order No. 71 dated 15.10.2012 was allowed to continue the work as I/C Lower Siran Forest Sub Division.

- 9) ~~It is~~ in-correct. Since the appellant was on Ex-Pakistan leave when he was transferred from Kaghan Forest Sub Division to Shinkiari Sub Division therefore the Office Order No. 36 dated 20.12.2012 was rightly issued as no intimation was received by respondent No. 2 that the appellant has relinquished the charge from Kaghan Forest Sub Division. However on clearance the office order No. 36 dated 20.12.2012 was partially amended/rectified.
- 10) Needs no comments.
- 11) ~~It is~~ Since the appellant joined his new assignment in compliance with the Chief Conservator of Forests, Northern Region-II Abbottabad office order No. 40 dated 08.1.2013 therefore no decision on the appeal was made. It is further added that posting of appellant was made on Shergarh Forest Sub Division in the best interest of State on the request of concerned Divisional Forest Officer duly recommended by Conservator of Forests Upper Hazara Circle.
- 12) The appeal of appellant is inconsistent with the provision of law as being a Govt: Servant. He is duty bound to obey the order of his superior in the best interest of ^{Country} ~~State~~ for which he is drawing monthly salary.

Public

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GROUNDS

- A. ~~It is~~ in-correct. Being a senior and capable official the appellant was posted on different stations in the best interest of ^{Public} ~~State~~ in which neither fallacious, malicious or political motivation nor any favoritism was involved.
- B. ~~It is~~ in-correct. The appellant was posted on different stations in the best interest of State, keeping in view the requirement of the department.
- C. ~~It is~~ In-correct. Initially the appellant was transferred from Giddarpur Range to Upper Siran Sub Division and then to Kaghan Sub Division against vacant positions. However due to non availability of any other suitable officer, the appellant was posted on Shergarh Sub Division in the best interest of State, hence no violation of law was occurred.
- D. *incorrect* The posting of appellant was purely in the best interest of public/~~State~~ and not on political basis hence rules/law not violated.
- E. *incorrect* As explained in Para-C above, the posting of appellant on Shergarh Sub Division was merely in the interest of public ~~and State as well.~~
- F. *incorrect* The impugned order is correct and no legal infirmities involved.
- G. *incorrect* The impugned order regarding posting of appellant on Shergarh Forest Sub Division is purely in the best interest of public/state.

PRAYERS

In view of the above submission it is humbly prayed that appeal of appellant based on conjectures surmises and without legal footing may kindly be dismissed with cost as it is devoid of merits.

Mian Tahir Shah Forester
Incharge Shinkiari Forest Sub Division
(Respondent No. 3)

Chief Conservator of Forests
Northern Region-II,
Abbottabad
(Respondent No.2)

Secretary to Govt: of Khyber
Pakhtunkhwa Environment
Department Peshawar
(Respondent No.1)

vetted w/r to letter no

85-17/CAE dt 9/11/14

vetted suspect to

*connect w, attachment of
insurance, affidavit of
approval of Suleif AAE7*

[Signature]
17/1/14

Govt: Pleader
Khyber Pakhtoon Khwa
Svc: Tribunal Peshawar

*UNSETTLED
ac above.*

[Signature]
17-1-14

لعدالت صباب حسین صاحب سرورس ٹریبونل کشاور

حاصل
کلی

درخواست بمبراد طلبی اپیل / 709 عدالت II محمد فاروق بنام سلیبی / 2013

صباب عالی ا

ذراخواست ذیل عرض ہے -

1. یہ کہ واپس مندرجہ عنوان بابو زبیر سے ملک عدالت لاہور میں ٹریبونل کشاور ہے۔

2. یہ کہ محکمہ صباک کی داد رسی کرنے سے ٹریبونل کشاور سے آرڈر کر کے صباک کو دوبارہ اپنی جگہ پر لٹھیا کر دیا ہے اور اسلک

3. یہ کہ صباک اپیل مندرجہ عنوان سے دستبرد دار سے بنا جا چکا ہے

لہذا استدعا ہے کہ واپس عنوان بابو کو عدالت صباب طلب کر کے داخل دفتر فرمایا جائے

الحارصہ

محمد فاروق ڈیپٹی چیئر پرسن عدالت ڈوئیٹھ ٹریبونل کشاور
12/9/2014

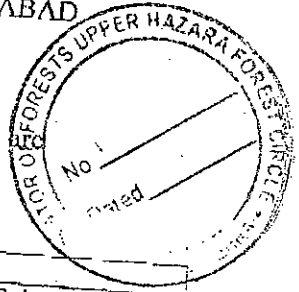
FROM :

FAX NO. :

29 Jul. 2009 02:55AM P1

OFFICE ORDER NO. 07 DATED ABBOTTABAD THE 04 /08/2014 ISSUED
BY SARDAR MUHAMMAD SULTAN CHIEF CONSERVATOR OF FORESTS
NORTHERN FOREST REGION-II KHYBER PAKHTUNKHWA ABBOTTABAD

The following postings/transfers amongst the SDFO/Deputy Ranger/Foresters hereby made in the interest of public service with immediate effect:



S.No.	Name of officer	From	To
1.	Mr. Suleman Khan, SDFO	Balakot Forest Sub-Division	Upper Siran Forest Sub-Division
2.	Mr. Muhammad Farooq, Deputy Ranger	Giddarpur Range	Lower Siran Forest Sub-Division
3.	Mr. Gulfam, Forester	Balakot Watershed Ranger	Balakot Forest Sub-Division
4.	Mr. Muhammad Zahoor, Forester	Upper Siran Forest Sub-Division	Giddarpur Range

Note: Serial No. 1 to move first.

Sd/-
(Sardar Muhammad Sultan)
Chief Conservator of Forests,
Northern Forest Region-II,
Khyber Pakhtunkhwa,
Abbottabad

EC
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Memorandum

Copy forwarded for information and necessary action to the:

1. Secretary Environment Department, Govt. of Khyber Pakhtunkhwa, Peshawar with reference to discussion on the subject please.
2. Conservator of Forests, Watershed Management Circle, Abbottabad. } with reference
3. Conservator of Forests, Lower Hazara Forests Circle, Abbottabad. } to discussion
4. Conservator of Forests, Upper Hazara Forests Circle, Mansehra. } dated 4.8.2014.
5. Office order file.

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



No. 870 /GE, datedc Mansehra the 04 /08/2014.

Copy forwarded to Divisional Forest Officer Agror Tanawal Forest Division Mansehra for information and immediate necessary action.

EC
[Handwritten signature]

Conservator of Forests
Upper Hazara Forest Circle
Mansehra.

Annex - E

(12)

**OFFICE ORDER NO. 36 DATED ABBOTTABAD THE 20-12-2012 ISSUED BY
ALI ASGHAR CHIEF CONSERVATOR OF FORESTS NORTHERN FOREST
REGION-II ABBOTTABAD KHYBER PAKHTUNKHWA**

The following postings / transfers amongst the Deputy Rangers are hereby made in the interest of public service with immediate effect:

S.#	Name of official	From	To
1.	Muhammad Farooq	Kaghan Forest Sub-Division of Kaghan Forest Division Garhi Habibullah	Shergarh Forest Sub-Division of Agror Tanawal Forest Division in his own pay and scale
2.	Mr. Sultan Mehmood	Shergarh Forest Sub-Division of Agror Tanawal Forest Division	Services placed at the disposal of CF Watershed Management Circle Abbottabad for further posting / adjustment against the available vacancy of DR / RFO

Sd/- (Ali Asghar)
Chief Conservator of Forests
Northern Forest Region-II Abbottabad
Khyber Pakhtunkhwa

Copy forwarded for information and necessary action to the:

- 1- Chief Conservator of Forests Central Southern Forest Region-I Peshawar.
- 2- Conservator of Forests, Upper Hazara Forest Circle, Mansehra. He should get the forest check, prepare a damage list and send to this office alongwith draft charge sheet.
- 3- Conservator of Forests, Lower Hazara Forests Circle Abbottabad
- 4- DFO Kaghan Forest Division, Garhi Habibullah.
- 5- DFO Agror Tanawal Forest Division, Mansehra
- 6- Director Budget & Accounts Environment Department Peshawar
- 7- Office order file

Attested
H. H. H.
Adv

Sd/- As above

No. 3161-2 IGE dated Abbottabad the 28/12/2012

Copy forwarded for information and necessary action to the Divisional Forest Officers:

- 1- DFO, Kaghan Forest Division, Garhi Habibullah.
- 2- DFO, Siran Forest Division, Mansehra

40

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OFFICE ORDER NO. 40 DATED ABBOTTABAD THE 8 /01/2013 ISSUED BY
ALI ASGHAR CHIEF CONSERVATOR OF FORESTS NORTHERN FOREST
REGION-II ABBOTTABAD KHYBER PAKHTUNKHWA

In partial modification of this Office Order No. 36 dated 20-12-2012 the postings / transfers amongst the Deputy Rangers already ordered may be read as follow in the interest of public service:

#	Name of official	From	To
1	Muhammad Farooq	Shinkiari Forest Sub Division (On arrival from Hajj Leave)	Shergarh Forest Sub-Division of Agror Tanawal Forest Division in his own pay & scale
2	Mr. Sultan Mehmood	Shergarh Forest Sub-Division of Agror Tanawal Forest Division	Services placed at the disposal of CF Watershed Management Circle Abbottabad for further posting/adjustment against the available vacancy of DR/RFO

✓ Mian Mutahir Shah Forester will continue to work as In-charge of Shinkiari Forest Sub-Division.

Sd/- (Ali Asghar)
Chief Conservator of Forests
Northern Forest Region-II Abbottabad
Khyber Pakhtunkhwa

Copy forwarded for information and necessary action to the:

1. Conservator of Forests Upper Hazara Forest Circle Mansehra
2. Conservator of Forests Lower Hazara Forest Circle Abbottabad
3. Conservator of Forests Watershed Circle Abbottabad
4. DFO Kaghan Forest Division, Garhi Habibullah
5. DFO Agror Tanawal Forest Division, Mansehra
- ✓ 6. DFO Siran Forest Division Mansehra
7. Director Budget & Accounts Environment Department Peshawar
8. Office orders file.


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




Attested

Adv

No. 3935-36 /GE Dated Mansehra the 11 /01/2013

Copy forwarded for information and necessary action to the:-

1. Mr. Muhammad Farooq Deputy Ranger.
2. Mian Tahir Hussain Shah Forester.


Divisional Forest Officer
Siran Forest Division Mansehra