

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT, SWAT.

Service appeal No. 525/2014

Date of institution ... 31.03.2014  
Date of decision .... 02.07.2018

Anwarzeb, Forest Guard, Swat Demarcation Forest Division, Saidu Sharif, Swat.  
... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Forest Department,  
Peshawar and others. ... (Respondents)

Present

Mr. Muhammad Arif Advocate,  
Advocate ... For appellant.

Mr. Usman Ghani,  
District Attorney ... For respondents No. 1 to 3.

Mr. Imdadullah,  
Advocate ... For respondent No. 4 & 5.

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MR. SUBHAN SHER, ... CHAIRMAN  
MR. MUHAMMAD HAMID MUGHAL, .. MEMBER.

JUDGMENT

SUBHAN SHER, CHAIRMAN:-

The appellant is aggrieved from the order of the competent authority i.e. respondent No. 2 dated 07.03.2014 whereby his appeal for the grant of seniority was rejected.

2. Stated here the facts arising out of the appeal in hand are, that the appellant was appointed as Forest Guard on 15.02.1988 and then served as such at different stations of duty. That on 05.07.2002, his services were regularized and he was adjusted against the post of regular Forest Guard. During his service, he was

Swat  
2.7.2018  
[Signature]

transferred from Working Plan Unit-IV Abbottabad to Demarcation Forest Division, Swat Shagai vide order dated 30.01.2012. That respondent No. 3 issued a seniority list of Forest Guards on 30.09.2013 in which he was placed at the bottom in the seniority list. As per his version, it was conveyed to him on 04.11.2013, which was challenged by him in departmental appeal on 11.11.2013, however, it was rejected on 07.03.2014, so he brought the present service appeal before this Tribunal.

3. Arguments heard and file perused.

4. Mr. Muhammad Arif, Advocate, learned counsel for the appellant contended that the respondents did not consider the seniority of the appellant and instead, his juniors were promoted. He requested that the impugned order dated 07.03.2014 be set aside and the appellant be given seniority from the date of appointment i.e. 15.02.1988.

5. Mr. Imdadullah, Advocate appeared on behalf of private respondents No. 4 & 5 and opposed the contentions of the learned counsel for the appellant. He argued that in the Forest Department, promotion is regulated in each circle independently and any new comer when come to a Forest Circle, he is placed at the bottom of the seniority list of that very circle. Further contended that during his service, the appellant not only changed circle many times but even he was terminated from service on 31.5.2013 and due to this change of circle and termination from service, frequent breaks occurred in his service and he went down in his seniority.

6. Mr. Usman Ghani, learned District Attorney also adopted the arguments advanced by the learned counsel for private respondents No. 4 & 5.

Swat  
2.7.2018  
S. H.

7. On perusal of record, it came to the surface that on 03.05.2003 mutual posting/transfer of the appellant was ordered and he was placed at the bottom of the seniority list. Besides this, it is also clearly mentioned in the said order that it should not be counted towards regularization of his service in the department. Similarly, on 29.08.2006 in the seniority list, he was again placed at the bottom in the said list. Not only this but when the appellant was transferred from Swat to Abbottabad where Forest Guard namely Muhammad Tauqir challenged his seniority and his application was allowed on 15.06.2009 by the DFO, Working Plan and again the appellant was placed at the bottom as he was transferred to that circle and was not entitled to the seniority in that very circle. When the appellant again transferred from Abbottabad to Swat Circle, a seniority list was issued on 30.04.2012, and he was placed at the bottom of that seniority list. In short, the appellant enjoyed postings of his choice in many circles and each time he was not only disclosed consequences but even he did know that time and again he was being placed at the bottom of the seniority list. He neither raised any objection on those lists nor impugned them before any competent authority nor came in appeal before this Tribunal. So in this way, all those seniority lists took finality in the eyes of law being actualized by the respective beneficiaries.

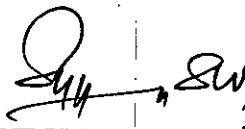
8. After considering the arguments of both the parties and perusing the available record, this Tribunal reached to the conclusion that on one hand, the appellant failed to make out a case for interference by this Tribunal in its appellate jurisdiction and on the other hand, the official respondents have not committed any wrong rather acted in accordance with law on the subject by placing the appellant in the bottom of seniority list whenever he joined the new circle. As such, the appeal in hand being without force and merits stands dismissed. In the

Swat  
2.7.2018  
[Signature]

circumstances of the case, parties shall bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)  
Member

  
2.7.2018  
(SUBHAN SHER)  
Chairman  
Camp Court, Swat.

ANNOUNCED  
02.07.2018

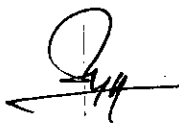
02.07.2018

Appellant Anwar Zeb in person alongwith his counsel Mr. Muhammad Arif, Advocate present and fresh Wakalatnama submitted. Mr. Usman Ghani, District Attorney on behalf of the official respondents present. Mr. Imdadullah, Advocate on behalf of private respondents No. 4 & 5 present.

Arguments heard and file perused.

Vide our detailed judgment of today placed on file, this Tribunal reached to the conclusion that on one hand, the appellant failed to make out a case for interference by this Tribunal in its appellate jurisdiction and on the other hand, the official respondents have not committed any wrong rather acted in accordance with law on the subject by placing the appellant in the bottom of seniority list whenever he joined the new circle. As such, the appeal in hand being without force and merits stands dismissed. In the circumstances of the case, parties shall bear their own costs. File be consigned to the record room.

  
Member

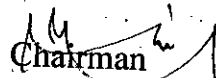
 2.7.2018.  
Chairman  
Camp court, Swat.

**ANNOUNCED**  
**2.07.2018**

09.11.2017

Appellant alongwith counsel, Addl. AG for the official respondents and Mr. Imdadullah, Advocate for respondents No. 4 & 5 present and submitted wakalatnama which is placed on file. Parties requested for adjournment. To come up for arguments on 02.01.2018 before the D.B at camp court, Swat.

  
Member

  
Chairman  
Camp court, Swat

02.01.2018

Counsel for the appellant alongwith appellant, Addl. AG alongwith Riaz Hussain, RFO for the official respondents and private respondents No. 4 & 5 with counsel present. None is present on behalf of private respondent No. 6, hence proceeded against ex-parte. Counsel for private respondents seeks adjournment due to death of his relative. Request is accepted. To come up for arguments on 05.03.2018 before the D.B at camp court, Swat.


  
Member

  
Chairman  
Camp Court, Swat

05.03.2018

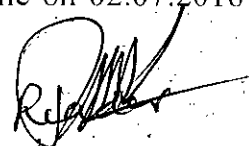
Appellant alongwith counsel and District Attorney alongwith Riaz Hussain, RFO for the official respondents present and private respondents No. 4 & 5 in person present. Appellant seeks adjournment as his counsel is not in attendance. To come up for arguments on 07.05.2018 at camp court Swat.

  
Member

  
Chairman  
Camp court, Swat

09.05.2018


The Tribunal is non-functional due to retirement of the Worthy Chairman. To come up for the same on 02.07.2018 before the D.B at camp court, Swat.



525/14

06.12.2016


Appellant with counsel Mr. Muhammad Zubair, Sr.GP for the official respondents and private respondent No. 4 in person present. Due to non-submission of rejoinder and incomplete bench arguments could not be heard. To come up for rejoinder and final hearing on 03.04.2017 at camp court, Swat.

  
Chairman  
Camp court, Swat

03.04.2017

Counsel for the appellant and Mr. Muhammad Zubair, Senior Government Pleader for respondents present. Learned counsel for appellant requested for adjournment for submission of rejoinder. Adjourned. To come up for rejoinder and arguments on 07.08.2017 before D.B at Camp Court Swat.

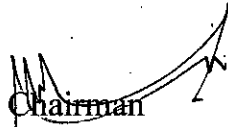
  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER  
Camp Court Swat.

07.08.2017

Appellant in person, Mr. Muhammad Zubair, District Attorney for the respondents present. Rejoinder submitted. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 9.11.2017 before the DB at camp court, Swat.

  
Member

  
Chairman  
Camp court, Swat


14.01.2016

Appellant in person, Mr. Riaz Hussain, Range Officer alongwith Mr. Muhammad Zubair, Sr. GP for official respondents No. 1 to 3 and private respondent No. 4, 5, 6, 8 and 12 in person present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 1000/- which shall be borne by official respondents No. 1 to 3 as well as private respondents present today. None present on behalf of remaining private respondents No. 7, 9, 10, 11 and 13. Proceeded ex-parte. To come up written reply/comments and cost on 6.4.2016 before S.B at Camp Court Swat.

  
Chairman  
Camp Court Swat

06.04.2016

Appellant in person, Mr. Riaz Hussain, Range Officer alongwith Mr. Muhammad Zubair, Sr.GP for official respondents No. 1 to 3 and private respondents No. 4 & 5 in person present. Written statements by official respondents as well as private respondents No. 4 & 5 submitted. Cost of Rs. 1000/- paid and receipt thereof obtained from the appellant. The appeal is assigned to D.B for rejoinder and final hearing for 05.09.2016 at camp court, Swat.

  
Chairman  
Camp Court, Swat.

05.09.2016

Appellant in person and Mr. Hamayun Khan, Range Officer alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Appellant seeks adjournment. Adjourned for rejoinder and final hearing to 06.12.2016 before the D.B at camp court, Swat.

  
Member

  
Chairman  
Camp Court, Swat




07.09.2015


None present for appellant. Mr. Riaz Hussain, Forest Ranger alongwith Mr. Muhammad Zubair, Sr. GP for official respondents No. 1 to 3 and private respondents No. 4, 5 and 12 in person present. Notice be repeated to remaining private respondents No. 6 to 11 and 13 for 2.11.2015 for submission of written reply before S.B at Camp Court Swat.

  
Chairman  
Camp Court Swat

02.11.2015

Appellant in person, Mr. Riaz Hussain, Range Officer alongwith Mr. Muhammad Zubair, Sr. G.P for official respondents No. 1 to 3 and private respondents in person present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 14.01.2016 before S.B at Camp Court Swat.

  
Chairman  
Camp Court Swat



11

22.06.2015

Appellant in person and Assistant A.G for respondents present. Counsel for the appellant is not in attendance due to strike of the Bar. To come up for preliminary hearing on 13.7.2015 before S.B.

  
Chairman

12

13.07.2015

Appellant with counsel and Assistant A.G for respondents present. Learned counsel for the appellant argued that the appellant was appointed as Forest Guard vide order dated 15.2.1988 and was senior to other officials but shown junior in the seniority list dated 30.9.2013 though transfer order of the appellant from Working Plant Unit-IV Abbottabad was not with the consent of the appellant and was made by the department in the interest of public service. That the appellant preferred departmental appeal against the impugned order on 11.11.2013 which was rejected on 7.3.2014 and hence the instant service appeal on 31.3.2014.

That the seniority list placing the appellant at the bottom is against the provisions of rule 17 (b) and 17 (2) of the APT Rules, 1989.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 7.9.2015 at Camp Court Swat as the matter pertains to the territorial limits of Malakand Division.

  
Chairman

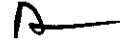
Appellant Deposited  
Security & Process Fee



8.

06.03.2015

Appellant in person present and requested for adjournment. Request accepted. To come up for preliminary hearing on 08.04.2015.

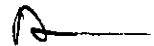


Member

9.

08.04.2015

Appellant with counsel and Mr. Ihsan Ullah, SDFO alongwith Asstt: AG for the respondents present. Counsel for the appellant stated that identical case of Main karim Shah-vs-Forest Department has already been decided by this Tribunal vide judgment dated 17.04.2013 and requested for adjournment to produce the same. To come up for further proceedings on 07.05.2015.



Member

10.

07.05.2015

Appellant in person and Mr. Ihsan Ullah, SDFO alongwith Asstt: AG for the respondents present. Appellant moved an application for adjournment. Application allowed. To come up for preliminary hearing on 22.06.2015 before S.B.



Member

5  
17.09.2014

Counsel for the appellant and Mr. Kabirullah Khattak, Assistant Advocate General for the respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 20.11.2014.

  
Member

6  
Reader Note:

20.11.2014

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 26.01.2015 for the same.

  
Reader

7  
26.01.2015

Counsel for the appellant and Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. The learned AAG requested for time to contact the respondents for submission of complete record with seniority list of the appellant. To come up for preliminary hearing on 06.03.2015.

  
Member

3.  
28.05.2014

Appellant alongwith counsel present. Preliminary arguments partly heard. The appellant has impugned order dated 07.03.2014, vide which his departmental appeal against seniority list issued by the Divisional Forest Officer, was rejected on the ground that as per (Appointment/Promotion/Transfer) Rules 1989 seniority of the Forest Guards transferred from one Division to another is to be determined from the date of his arrival.

Since the learned counsel for the appellant contended that in provisional seniority list the appellant has been placed in S.No.3 however, in the final seniority list the name of appellant has been placed at the bottom, therefore, pre-admission notice be issued to the learned Government Pleader to assist the Tribunal in this respect alongwith relevant record. To come up for preliminary hearing on 21.07.2014.

  
Member

4,  
21.7.2014

None for the appellant present, however, Mr. Ziaullah, GP present. Notices be issued to appellant and his counsel. To come up for preliminary hearing on 17.09.2014.


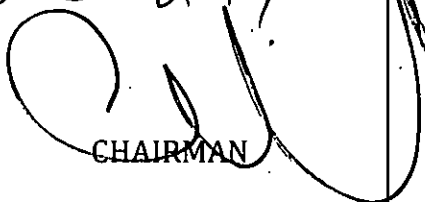
  
MEMBER

Form- A

FORM OF ORDER SHEET

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

Case No. 525/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/04/2014	<p>The appeal of Mr. Anwar Zeb resubmitted today by Mr. Attiq-ur-Rehman Qazi 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	15-4-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <del>28-5-2014</del></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Anwar Zeb Forest Guard Swat Demarcation forest Division Swat received today i.e. on 31 .03.2014 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 day.

- 1- Addresses of respondent Nos. 4 to 13 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Law under which appeal is filed is not mentioned.
- 3- One copy/set of the appeal along with annexures i.e complete in all respect may also be submitted with the appeal.

No. 550 /S.T,

Dt. 01/04 /2014.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Attig-ur-Rehman Qazi Adv. Pesh.

*Duly completed & Resubmitted.*

*Ansarullah Khan Adv.*  
*11-04-2014*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 525 /2014

Anwarzeb

VERSUS

Secretary Forest, etc.

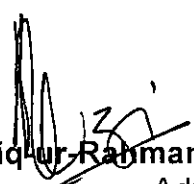
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**I N D E X**

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S.No	Particulars	Annexure	Dates	Pages
1	Memo of Petition			1-3
2	Order dated 7-03-2014	"A"		4
3	Order dated 15-02-1988	"B"		5
4	Order dated 05-07-2002	"C"		6
5	Order dated 30-01-2012	"D"		7
6	Orders	"E"		8-9
7	Seniority List	"F"		10
8	Departmental representation	"G"		11-12
9	Vakalatnama			13

Peshawar, dated  
25th /March, 2014

  
(Atiqur-Rahman Qazi)  
Advocate

  
(Anisar Ullah Khan)  
Advocate



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 525 /2014

Anwarzeb, Forest Guard,  
Swat Demarcation Forest Division,  
Saidu, Swat.

**NWFP Service Tribunal**  
**Peshawar**  
**482**  
**31-3-2014**  
Appellant

**VERSUS**

1. Government of Khyber Pakhtunkhwa, through Secretary Forest, Peshawar.
2. Conservator of Forests, Malakand East Forest Circle, Shagai Saidu, Swat.
3. D.F.O, Swat Demarcation Forest Division, Saidu, Swat.
4. Mian Karim Shah Vill. Shin cham, PO Fatehpur Teh. Khwazzakhela, Swat
5. Farid Ullah Vill. Darash khel, Teh. Banda Dawood Shah, Karak
6. Alam Zeb Rashid abad, Tehsil Toru, District Mardan
7. Muhammad Saleem-I Vill. & PO Saleem Khan, Palodan Pul, Teh. Distt. Swabi
8. Noshewan Akhunabad No.4, Mehboob Dheri, Gunj, Peshawar
9. Muhammad Saleem-II Shahdara Street, Teh. Babozai, Swat
10. Muhammad Fahim, Miangaan Street, Vill. PO Kukari, Teh. Babozai Distt. Swat
11. Amjad Ali (c/o Syed-zaman Med. Store Fazal Market) Shahdara Mingora, Swat
12. Bahrobar Vill. Chamtalai, Khwazzakhela, Swat
13. Muhammad Saeed, Vill. Pityawo, PO Dargai, Malakand Agency  
c/o D.F.O, Swat Demarcation Forest Division, Saidu, Swat.

Respondents

=====

**U/S 4 OF NWFP SERVICE TRIBUNAL ACT, 1974,  
SERVICE APPEAL AGAINST RESPONDENT NO. 2's ORDER  
No. 7135/E DATED 07-03-2014 (Copy annex "A"), REJECTING THE  
APPELLANT'S APPEAL FOR THE GRANT OF SENIORITY DUE**

**Prayer:**

On acceptance of this appeal, setting aside the impugned order dated 07-03-2014 and declaring the appellant senior to respondents' No. 4 to 13 in accordance with law and the rules regulating the matter.

**RESPECTFULLY SHEWETH,**

1. Being qualified and eligible the appellant was selected and appointed Forest Guard vide office order No. 43 dated 15-02-1988. (Copy annex hereto marked "B")

Since then the appellant has been serving as Forest Guard at different stations of duty.

*incisical Ex-Parte 14-1-2016*  
*2/18*  
*7*  
*8*  
*9*  
*10*  
*11*  
*12*  
*13*  
*B-Prayer on 9/1/16*

*Re-submitted to [Signature] and filed.*  
*[Signature]*  
*31/3/14*  
*[Signature]*  
*11/4/14*

3. Subsequently the appellant was adjusted against the post of Regular Forest Guard by respondent No. 2 vide order dated 05-07-2002. (Copy annex hereto marked "C")
4. While serving as Forest Guard in Working Plant Unit-IV Abbottabad, the appellant was transferred and posted in the Demarcation Forest Division Swat Shagai vide order dated 30-01-2012. (Copy annex hereto marked "D")

It may be added here that there were several other postings /transfers orders, the last one being the office order No. 40, whereby the appellant was posted as Forest Guard in Party-I in the Demarcation Forest Division Swat. (Copy annexed hereto marked "E")

5. Respondent No.3 issued the seniority list of the Forest Guards of the Demarcation Forest Division vide No. 194-95/G dated 30-09-2013 which was conveyed to the appellant on 04-11-2013, relegating him to the bottom. (Copy annexed hereto marked "F")
6. The appellant appealed against the said seniority list on 11-11-2013, which has been rejected by respondent No.2. (Copies annexed hereto marked "G")
7. Feeling aggrieved and finding no other remedy the appellant is approaching this Hon'ble Tribunal for the redress of his grievance respectfully maintaining that the impugned order is factually incorrect and legally untenable, inter-alia for the following:

## REASONS

- a. The appellant was selected and appointed on 15-02-1988. In the impugned seniority list the date of his entry in service is given 20-02-1988, which needs correction.

Anyway the perusal of the dates of entry of respondents No. 4 to 13 will show that they are all junior to him and have been wrongly placed above the appellant.

- b. All the postings/transfers etc, of the appellant were made in the interest of public Service and by the competent authority. None would, therefore, affect adversely and his seniority in service, shall remain intact.
- c. The so called reason noted in the impugned order is inapplicable to the appellant's case. Because all the postings/transfers were ordered in the interest of Public Service and by the competent authority.

Besides it has not been applied to respondent No. 4 as is evident from the very impugned seniority list, which is an utter discrimination.

- d. The impugned order is against the rules and is in violation of the principles of equity and justice. It is, therefore, liable to be corrected by the Hon'ble Service Tribunal.


In view of the above, it is prayed that this appeal may be allowed by granting the appellant seniority among the Forest Guards according to this date of entry into the service and placing him above respondents' No. 4 to 13.

Any other relief deemed appropriate may also be granted.

  
Appellant

Through,

Peshawar, dated  
25th /Mar, 2014

  
(Atiq-ur-Rahman Qazi)  
Advocate

  
(Ansar Ullah Khan)  
Advocate

9

ANNEXURE

A

OFFICE OF THE CONSERVATOR OF FORESTS MALAKAND EAST FOREST CIRCLE SAIDU SHARIF.

To

The Divisional Forest Officer,  
Demarcation Forest Division, Shagai.

No. 7135 /E, dated Saidu Sharif the 07/3 /2014.

SUBJECT:- APPEAL AGAINST SENIORITY LIST ISSUED VIDE DIVISIONAL FOREST OFFICER DEMARCATION NO.194-95/G, DATED 30/9/2013.

Memo:-  
Reference your No.259/G, dated 11/12/2013.

As per APT. Rules 1989 seniority of the Forest Guard transferred from other division is to be determined from the date of his arrival.

In light of the above, the appeal of Mr.Anwar Zeb Forest Guard of your division is hereby rejected. You should inform the appellant accordingly.

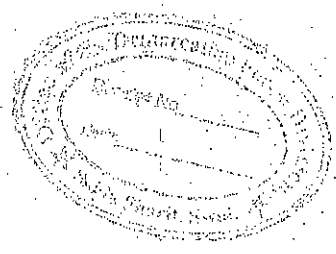
No. 539 /4 dated 10-03-2014

Rem. cc Immediate

CONSERVATOR OF FORESTS,  
MALAKAND FOREST CIRCLE EAST,  
SAIDU SHARIF SWAT.

*Copy Forward to  
Anwar Zeb Fg of Incharge  
Party-I for information and  
7/3*

*[Signature]*  
7/3



*[Handwritten signature]*

(5)

'B'

OFFICE ORDER NO. 43 DATED THE 15TH FEBRUARY, 1988 BY MIAN ALTAF HUSSAIN DIVISIONAL FOREST OFFICER WATERSHED MANAGEMENT PROJECT DIR AND SWAT AT SAIDU SHARIF (SWAT).

As recommended/Selected by the Selection committee the following are hereby appointed as Forest Guards, against the existing vacancies in Dir-Swat Watershed Management Project in BPS No.2 in Scale of Rs.625-16-945 with usual allowances as admissible under the Rules from the date of their arrival reports in this project with production of required certificates.

S.No. Name and Addresses

- 1) ... / ... / ...
2) ... / ... / ...
3) ... / ... / ...
4) ... / ... / ...
5) ... / ... / ...
6) ... / ... / ...
7) ... / ... / ...

Their appointments are purely temporary and can be terminated any time without assigning any reason.

The appointment is subject to the production of the following certificates.

- 1) Medical certificate from Medical Superintendent Saidu Group of Hospital/Timergara.
2) Character certificate from two responsible persons who are not related to the candidate.
3) Matric with science certificate.
4) Domicile certificate.

Sd/- (Mian Altaf Hussain) Divisional Forest Officer, Watershed Management Project ... Dir/Swat at Saidu Sharif.

No. 2524-24 /WS,

Copy forwarded to the:

- 1) Conservator of Forests, Malakand Circle, Mingora for favour of information please.
2) All candidates. They should please report their arrival for duty alongwith the above, mentioned certificates immediately.
3) Divisional Head Clerk/Accountant for information.
4) Personal File for record.

Handwritten signatures and dates at the bottom of the page.

6

ANNEXURE "C"

OFFICE ORDER NO. 04 DATED MINGORA THE: 05/JULY, 2002 BY MR. MOHAMMAD ICBAL KHAN SWATI CONSERVATOR OF FORESTS MALAKAND CIRCLE MINGORA SWAT

Having been recommended by the Divisional Forest Officer Swat vide his letter No.7831/G, dated 29.6.2002 Mr. Anwar Zeb Forest Guard of Forestry Sector Project (Swat RMU) is hereby adjusted against the regular post of Forest Guard and transferred to Kalam Forest Division against the existing vacancy in the interest of public service with immediate effect. However the terms and conditions of his service should not be changed and will remain as such as provided in the Services and General Administration Department letter No.SOR-III (S&G D)/8/38/86, dated 30.3.1989, Finance Department No.BX/5-58/FD/97-98/Vol-IV, dated 14.12.2000 as clarified by the Budget and Accounts Officer (Forests) Govt. of NWFP, Forestry, Fisheries and Wildlife Department Peshawar vide letter No.BAA/99-2000/Bud-II/387/Vol-II/2847 dated 8-1.2001.

Moreover, the official will be placed at the bottom of the seniority list of the Forest Guards of Kalam Forest Division.

Sd/-  
(MOHAMMAD ICBAL SWATI)  
CONSERVATOR OF FORESTS  
MALAKAND CIRCLE, MINGORA

No. 133-35 /B,

Copy forwarded to the:-

1. Divisional Forest Officer Swat Forest Division Mingora for information and necessary action with reference to his letter quoted above.
2. Divisional Forest Officer Kalam Forest Division Madyan for information and necessary action.
3. Circle Accountant for information.

Sd/- As above.

No. 51 /B,

Dated Mingora, the: 8 /7/2002.

Copy forwarded to the Range Forest Officer, Matta for information and necessary action. He is directed to relieve the Forest Guard to report for duty in Kalam Forest Division.

*[Signature]*  
DIVISIONAL FOREST OFFICER  
SWAT FOREST DIVN: MINGORA.

الوزیر

اج حوض 12 جولائی کو لکرا دیا  
سے آپ کو پتہ ریس سے خارج کیا جا  
آپ کی آمد بندر لیم ڈاک 0605 کلاں کو  
جائیں۔ آپ اپنی جملہ ڈروئی سرکار

ضابطہ عالی  
رنگ کلاں  
Rt. C  
13/7-2002

مکمل  
12/7/02

GROUP OFFICE  
*[Signature]*

OFFICE ORDER NO 107 DATED PESHAWAR THE 30 /1 /2012 ISSUED BY  
MR. HAIDER ALI KHAN CHIEF CONSERVATOR OF FORESTS-I KHYBER PAKHTUNKHWA  
PESHAWAR

In order to adjust in their home districts/close to their home districts the following posting/transfer amongst the Forest Guards is hereby ordered in the interest of public service with immediate effect:-

S. No	Name of Forest Guard	From	To
1	Mr. Anwar Zeb	Working Plan Unit-IV Abbottabad	Demarcation Forest Division Swat Shagai
2	Mr. Aslam Khan	Demarcation Forest Division Swat Shagai	Working Plan Unit-IV Abbottabad
3	Mr. Behrobar	Working Plan Unit-III Peshawar	Demarcation Forest Division Swat Shagai
4	Mr. Alam Zeb	Demarcation Forest Division Swat Shagai	Working Plan Unit-III Peshawar
5	Mr. Mohammad Saeed	Working Plan Unit-III Peshawar	Demarcation Forest Division Swat Shagai
6	Mr. Nowsherawan	Demarcation Forest Division Swat Shagai	Working Plan Unit-III Peshawar

Note:-

The Forest Guard listed at Sl. No. 2 substitute of Sl. No. 1 will work in Working Plan Unit-III at Peshawar on detailment basis and will draw his salary from Working Plan Unit-IV Abbottabad.

d/-

(Haider Ali Khan)  
Chief Conservator of Forests-I  
Khyber Pakhtunkhwa Peshawar

o. /E

Copy forwarded for information and necessary action to:-

1. CF P&M Circle Peshawar.
2. ✓ CF Malakand East Circle Swat.
3. Regional Accountant Head Office Peshawar.

Chief Conservator of Forests-I  
Khyber Pakhtunkhwa Peshawar

OFFICE ORDER NO. 107 DATED PESHAWAR THE 30 VI 2012 ISSUED BY  
 MR. HAIDER ALI KHAN CHIEF CONSERVATOR OF FORESTS-1 KHYBER PAKHTUNKHWA  
 PESHAWAR

In order to adjust to their home districts to their home districts the following posts/positions amongst the Forest Guards is hereby ordered in the interest of public service with immediate effect:-

S. No	Name of Forest Guard	From	To
1	Mr. Anwar Sob	Working Plan Unit-IV Demarcation Forest Abbottabad	Demarcation Forest Abbottabad Division Swat Shagal
2	Mr. Azam Khan	Demarcation Forest Abbottabad Division Swat Shagal	Working Plan Unit-IV Demarcation Forest Abbottabad
3	Mr. Behrooz	Working Plan Unit-III Demarcation Forest Peshawar	Demarcation Forest Abbottabad Division Swat Shagal
4	Mr. Alam Sob	Demarcation Forest Abbottabad Division Swat Shagal	Working Plan Unit-III Demarcation Forest Peshawar
5	Mr. Mohammad Saad	Working Plan Unit-III Demarcation Forest Peshawar	Demarcation Forest Abbottabad Division Swat Shagal
6	Mr. Fawaz Khan	Demarcation Forest Abbottabad Division Swat Shagal	Working Plan Unit-III Demarcation Forest Peshawar

The Forest Guard listed at Sl. No. 2 substitute of Sl. No. 1 will work in Working Plan Unit-III at Peshawar on settlement basis and will draw his salary from Working Plan Unit-IV Abbottabad.

(Haider Ali Khan)  
 Chief Conservator of Forests-1  
 Khyber Pakhtunkhwa Peshawar

- cc: Forwarded for information and necessary action to the:-
1. Chief Conservator of Forests-1
  2. ✓ Chief Conservator of Forests-2
  3. Regional Accountant Head Office Peshawar

(Signature)  
 Chief Conservator of Forests-1  
 Khyber Pakhtunkhwa Peshawar



(8)

E 683

**ANNEXURE**

OFFICE ORDER NO. 40 DATED SAIDU SHARIF THE 03/03/2012,  
ISSUED BY MR. MUHAMMAD ZAHIR SHAH DIVISIONAL FOREST OFFICER  
DEMARCATION FOREST DIVISION SAIDU SHARIF SWAT AT SHAGAI.

On arrival in Demarcation Forest Division, Swat the following Forest Guard are hereby posted in the working parties detail against each in the interest of public service with immediate effect: -

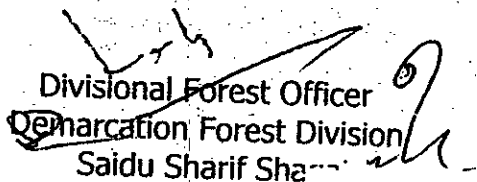
Sr. No.	Name of Forest Guard	Name of party
1.	Mr. Anwar Zeb.	Party - I
2.	Mr. Behrobar.	Party - II
3.	Mr. Muhammad Saeed.	Party - II

SD/-  
(Muhammad Zahir Shah)  
Divisional Forest Officer  
Demarcation Forest Division  
Saidu Sharif Shagai.

no. 1168-70 IG,

Copy forwarded to: -

1. Incharge Party - I & II of Demarcation Forest Division, Swat for information and further necessary action.
2. Head Clerk/Divisional Accountant for information and necessary action.
3. All concerned for information and necessary action.

  
Divisional Forest Officer  
Demarcation Forest Division  
Saidu Sharif Shagai

TRUE COPY

Add

9

Mr. Anwar Zeb Forest Guard is hereby transferred from Swat Forest Division to Buner Forest Division against the existing vacancy of Forest Guard occurred due to the termination of Mr. Sher Ali Forest Guard with immediate effect in the interest of public service.

Sd/-  
(DR. MUHAMMAD IQBAL SIAL)  
CONSERVATOR OF FORESTS  
MALKAND CIRCLE  
MINGORA.

No. 1339-42 /E.

Copy forwarded to :

1. Divisional Forest Officer Swat Forest Division Mingora for information with reference to his letter No. 371/G, dated 19.7.2004.

2. Divisional Forest Officer Buner Forest Division Sowerai for information and n/action with reference to his endorsement No. 234-37 dated 14/7/2004.

3. Forest Guard concerned C/O Divisional Forest Officer Swat.

4. Office Order file.

File  
23/7/04

CONSERVATOR OF FORESTS  
MALKAND CIRCLE  
MINGORA

No. 312 /R, dated Mingora, the 27/7/2004.

Copy forwarded to Range Officer Matta for information, further necessary action. He is requested to relieve the Mr. Anwar Zeb Forest Guard to join the duty in Buner Forest Division immediately, and submit the departure report of the concerned Forest guard for record in this office.

Divisional Forest Officer,  
Swat Forest Divn: Mingora.

314  
23-7-04

Handwritten notes and signatures at the bottom of the page.

Stamp and signature at the bottom right of the page.

"F" 31

**SENIORITY LIST OF FOREST GUARDS OF DEMARCATION FOREST DIVISION, SWAT AS IT STOOD ON 30-09-2013**

**Issued in compliance with the following directives/decisions:**

- i). As directed by Khyber Pakhtunkhwa Service Tribunal in the appeal No. 456/2012 titled "Mian Karim Shah Forest Guard V/S Faridullah Forester, Alamzeb Forest Guard, DFO Demarcation. Swat and others announced on 17-04-2013 as per para-9 of the decision.
- ii). Notification of Establishment and Administration Department Govt. of NWFP received vide Chief Conservator of Forests NWFP, Peshawar endorsement No. 1419-20/E, dated 04-09-2004.
- iii). Notice issued by Service Tribunal Khyber Pakhtunkhwa vide EP-59, dated 13-09-2013.

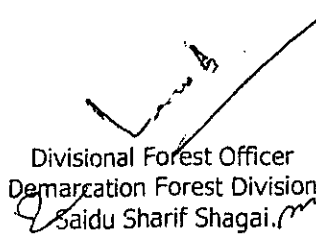
S.#	Name of Forest Guard	Academic Qualification	Date of Birth	Domicile	Trained / Untrained	Date of 1 <sup>st</sup> entry in to Govt: service	Reported arrival in Demarcation F/Division Swat	Remarks
1.	Mian Karim Shah.	B.A	12-06-1968	Swat	Trained	03-04-1988	05-09-2011	Transfer from Swat Forest Division. Court order
2.	Mr. Faridullah.	Matric	02-01-1965	Karak	Trained	22-08-1988	01-11-1988	Transfer from FATA
3.	Mr. Alam Zeb.	F.A	05-04-1969	Mardan	Trained	28-01-1990	28-01-1990	Parent Division.
4.	Mr. Muhammad Saleem-I.	Matric	02-05-1970	Sawabi	Trained	27-05-1990	27-05-1990	Parent Division.
5.	Mr. Nowsherwan.	Matric	27-05-1971	Peshawar	Trained	30-05-1990	30-05-1990	Parent Division.
6.	Mr. Muhammad Saleem-II.	F.A	03-01-1962	Swat	Trained	01-06-1988	06-12-2000	Transferred from Swat Forest Divn:
7.	Mr. Muhammad Fahim.	F.A	15-06-1968	Swat	Untrained	23-04-1988	12-10-2007	Transferred from Kalam Forest Divn.:
8.	Mr. Amjad Ali	Matric	03-07-1967	Swat	Untrained	26-11-2011	26-11-2011	Re-instated in service.
9.	Mr. Bahrobar	Matric	21-04-1958	Swat	Untrained	15-09-1985	01-02-2012	Transferred from Working Plan Unit-III, Peshawar.
10.	Mr. Muhammad Saeed.	B.Sc	08-07-1969	Malakand Agency	Untrained	25-02-2011	01-02-2012	- do -
11. ✓	Mr. Anwar Zeb	F.A	15-06-1969	Swat	Trained	20-02-1988	06-02-2012	Transferred from Working Plan Unit-IV Abbottabad.

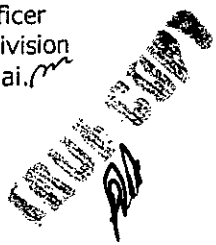
NO. 194-95 /G. Dated Saidu Sharif the 30/09/2013.

Copy forwarded to: -

- 1. Incharge Party - III of Demarcation Forest Division, Swat.
- 2. Incharge Party - I and II of Demarcation Forest Division, Swat.

For information and necessary action. They should circulate the final Seniority List among the Forest Guards.

  
 Divisional Forest Officer  
 Demarcation Forest Division  
 Saidu Sharif Shagai.

  
 2013

ANNEXURE

10

9

Mr. Anwar Zeb Forest Guard is hereby transferred from Swat Forest Division to Buner Forest Division against the existing vacancy of Forest Guard occurred due to the termination of Mr. Sher Ali Forest Guard with immediate effect in the interest of public service.

Sd/-  
(DR. MUHAMMAD IQBAL SIAL)  
CONSERVATOR OF FORESTS  
MALKAND CIRCLE  
MINGORA.

No. 1339-42 /E.

Copy forwarded to :

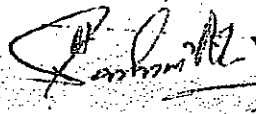
1. —  
Divisional Forest Officer Swat Forest Division Mingora for information with reference to his letter No. 371/G, dated 19.7.2004.
2.  
Divisional Forest Officer Buner Forest Division Sowerai for information and n/action with reference to his endorsement No. 234-37 dated 14/7/2004.
3.  
Forest Guard concerned C/O Divisional Forest Officer Swat.
4.  
Office Order file.

File  
23/7/04

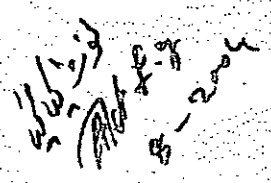
CONSERVATOR OF FORESTS  
MALKAND CIRCLE  
MINGORA

No. 312 /R, dated Mingora, the 27 /7/2004.

Copy forwarded to Range Officer Matta for information, further necessary action. He is requested to relieve Mr. Anwar Zeb Forest Guard to join the duty in Buner Forest Division immediately, and submit the departure report of the concerned Forest guard for record in this office.

  
27/7/04  
Divisional Forest Officer,  
Swat Forest Divn: Mingora.

314  
23-7-04





4 P 31

**SENIORITY LIST OF FOREST GUARDS OF DEMARCATION FOREST DIVISION, SWAT AS IT STOOD ON 30-09-2013**

**Issued in compliance with the following directives/decisions:**


- i). As directed by Khyber Pakhtunkhwa Service Tribunal in the appeal No. 456/2012 titled "Mian Karim Shah Forest Guard V/S Faridullah Forester, Alamzeb Forest Guard, DFO Demarcation. Swat and others announced on 17-04-2013 as per para-9 of the decision.
- ii). Notification of Establishment and Administration Department Govt: of NWFP received vide Chief Conservator of Forests NWFP, Peshawar endorsement No. 1419-20/E, dated 04-09-2004.
- iii). Notice issued by Service Tribunal Khyber Pakhtunkhwa vide EP-59, dated 13-09-2013.

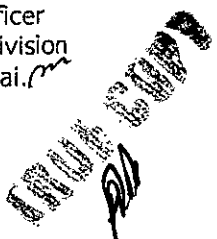
S.#	Name of Forest Guard	Academic Qualification	Date of Birth	Domicile	Trained / Untrained	Date of 1 <sup>st</sup> entry in to Govt: service	Reported arrival in Demarcation F/Division Swat	Remarks
1.	Mian Karim Shah.	B.A	12-06-1968	Swat	Trained	03-04-1988	05-09-2011	Transfer from Swat Forest Division. Court order
2.	Mr. Faridullah.	Matric	02-01-1965	Karak	Trained	22-08-1988	01-11-1988	Transfer from FATA
3.	Mr. Alam Zeb.	F.A	05-04-1969	Mardan	Trained	28-01-1990	28-01-1990	Parent Division.
4.	Mr. Muhammad Saleem-I.	Matric	02-05-1970	Sawabi	Trained	27-05-1990	27-05-1990	Parent Division.
5.	Mr. Nowsherwan.	Matric	27-05-1971	Peshawar	Trained	30-05-1990	30-05-1990	Parent Division.
6.	Mr. Muhammad Saleem-II.	F.A	03-01-1962	Swat	Trained	01-06-1988	06-12-2000	Transferred from Swat Forest Divn:
7.	Mr. Muhammad Fahim.	F.A	15-06-1968	Swat	Untrained	23-04-1988	12-10-2007	Transferred from Kalam Forest Divn:.
8.	Mr. Amjad Ali	Matric	03-07-1967	Swat	Untrained	26-11-2011	26-11-2011	Re-instated in service.
9.	Mr. Bahrobar	Matric	21-04-1958	Swat	Untrained	15-09-1985	01-02-2012	Transferred from Working Plan Unit-III, Peshawar.
10.	Mr. Muhammad Saeed.	B.Sc	08-07-1969	Malakand Agency	Untrained	25-02-2011	01-02-2012	- do -
11. ✓	Mr. Anwar Zeb	F.A	15-06-1969	Swat	Trained	20-02-1988	06-02-2012	Transferred from Working Plan Unit-IV Abbottabad.

NO. 194-95 /G. Dated Saidu Sharif the 30/09/2013.

- Copy forwarded to: -
1. Incharge Party - III of Demarcation Forest Division, Swat.
  2. Incharge Party - I and II of Demarcation Forest Division, Swat.

For information and necessary action. They should circulate the final Seniority List among the Forest Guards.

  
 Divisional Forest Officer  
 Demarcation Forest Division  
 Saidu Sharif Shagai.



ANNEXURE

10

To,

The Conservator of Forests,  
Malakand East Forest Circle,  
Shagai Saidu Sharif Swat.

Through: Proper Channel.

Subject: APPEAL AGAINST SENIORITY LIST ISSUED VIDE DFO  
DEMARICATION NO. 194-95/G, DATED 30.09.2013. (COPY  
ENCLOSED) *with Received on 4/11/2013*

Dear Sir,

It is submitted that I have been placed at the bottom of the subject noted seniority list (copy enclosed) which is injustice with me as well as against the spirit of service rules on the basis of the following facts:

1. I was appointed in defunct Watershed Management Project Dir-Swat vide Office order No. 43 dated 15.02.1988 (copy enclosed).
2. On closure of Watershed Management Project, I along with other staff was adjusted in Environmental Rehabilitation Project Malakand.
3. On closure of the said project, I was transferred and adjusted in Kalam Forest Division vide Conservator of Forests Malakand Circle office order No. 4 dated 05.07.2002 (copy enclosed) against regular vacancy of Forest Guard.
4. Later on I was transferred with executive order of the authorities to Swat Forest Division, Buner Forest Division, back to Kalam Forest Division and thereafter to "Working Plan Circle where I mostly served in Abbottabad".  
Lastly on availability of vacancy in Demarcation Forest Division I was transferred to Working Plan on the said vacancy vide Chief Conservator of Forests Office order No. 107 dated 30.01.2012 (copy enclosed).

TRUE COPY  
*Red*

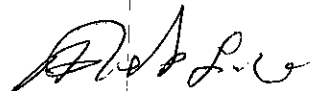
Respected Sir,

I was appointed during the year 1988 and performed my duties in the department for about (26) Twenty six years. As a Public Servant I have obeyed every transfer order and served efficiently every where. Now placing me on the bottom of seniority list even after such a long service is injustice with me rather is against the service discipline as well as different orders issued by Service Tribunal Peshawar High Court as well as Supreme court of Pakistan in similar nature cases from time to time specially in cases of Ezat Sher Vs. Govt. and Mian Karim Shah Vs. Govt. who were also the appointees of defunct Watershed Management project.

It is humbly requested to set-aside the seniority list issued by D.F.O. Demarcation and direct him to place me in the seniority list on right place i.e. from the date of appointment i.e. 15.02.1988.

I shall be very thankful to you for this act of kindness.

Your most obedient servant

  
ANWAR ZEB Forest Guard,  
Demarcation Forest Division  
Saidu Sharif Swat.

Dated 11-11-013

TRUE COPY  
Feb

# VAKALATNAMA

In the Court of K.P. Service Tribunal

No. \_\_\_\_\_ of 2013

Anwarzeb

Petitioner  
Plaintiff  
Applicant  
Appellant  
Complainant  
Decree-Holder

**V**ERSUS

Gen. Forest etc

Respondent  
Defendant  
Opponent  
Accused  
Judgment-Debtor

I / We Anwarzeb the above noted Appellant

do hereby appointed and constitute **Atiq ur Rahman Qazi, Advocate Supreme Court & Ansar Ullah Khan, Advocates High Court**, to appear, plead, act, compromise, withdraw or refer to arbitration for me / us as my / our counsels / advocates in the above noted matter, without any liability for his default and with the authority to engage any other Advocate / Counsel at my / our cost.

The Client / Litigant will ensure his presence before the Court on each and every date of hearing and the counsel would not be responsible if the case is proceeded ex-parte or is dismissed in default of appearance. All cost awarded in favour shall be the right of Counsel or his nominee, and if awarded against shall be payable by me/us.

I / We authorize the said Advocates to withdraw and receive on my / our behalf all sums and amounts payable or deposited on my / our account in the above noted matter.

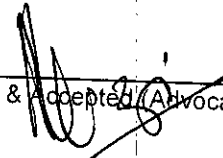

Anwarzeb

Client

Dated 25th March 2014

Office: **ATIQU LAW ASSOCIATES,**  
87, Al-Falah Street, Besides State Life Building,  
Peshawar Cantt, Phone: 091-5279529  
E-mail : zafark.advocate@gmail.com

Attested & Accepted (Advocates)



31-7-2009

~~24-07-2009~~

**SENIORITY LIST OF FOREST GUARDS OF WORKING PLAN UNIT NO. IV ABBOTTABAD**

S. No.	Name	Name Division where recruited	Academic Qualification	Date of Birth	Home District	Date of 1 <sup>st</sup> entry into Government Service	Date of Appointment in present Grade.	Traning	BPS	Division where Serving
<b>FOREST GUARD</b>										
1	Mr. Muhammad Touqeer	W/Plan	B.A	23.2.1975	Abbottabad	21.2.1995	21.2.1995	Traned	5	W/Plan
2	Mr. Alamzeb	W/Plan	Matric	02.4.1976	Mansehra	23.2.1995	23.2.1995	Traned	5	W/Plan
3	Mr. Anwarzeb	Dir Swat Watershed	Matric	15.6.1969	Adjusted from Swat W/Shed Project vide O/O No. 72 Dated 9.5.2007	20.2.1988	20.2.1988	Un-Traned	5	W/Plan

No. 177-179 /WP-IV, Abbottabad The 29 / 06/ 209

**Copy Forwarded to**

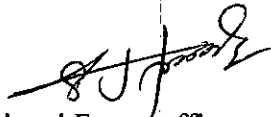
Mr. Muhammad Touqeer Forest Guard Working Plan Unit No. IV Abbottabad  
 Mr. Alamzeb Forest Guard Working Plan Unit No. IV Abbottabad  
 Mr. Anwar zeb Forest Guard Working Plan Unit No. IV Abbottabad

} for favour of information and necessary action.

Divisional Forest Officer  
 Working Plan Unit No. IV  
 Abbottabad

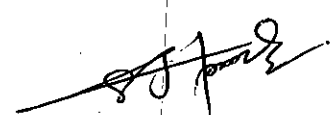
**AUTHORITY LETTER.**

Mr.Ihsanullah Sub Divisional Forest Officer Demarcation Forest Division Swat is hereby authorized to attend the Services Tribunal Khyber Pakhtunkhwa Peshawar on 06.3.2015 on behalf of the undersigned in case titled "Anwar Zaib Forest Guard Versus DFO Demarcation Swat. He is also authorized to discuss the above case with the Asstt: Advocate General Services Tribunal Peshawar.

  
Divisional Forest officer  
Demarcation Forest Divn.Swat.

**AUTHORITY LETTER**

Mr.Ihsanullah SDFO Demarcation Forest Division Swat is hereby authorized to attend Khyber Pakhtunkhwa Services Tribunal Peshawar on 08.04.2015 in the case "titled Anwar Zeb Forest Guard versus Forest Department" on behalf of the undersigned.

  
Divisional Forest Officer  
Demarcation Forest Division  
Saidu Sharif Swat.

Before Service Tribunal, Khyber Pakhtunkhwa, Peshawar

Anwar Zeb

vs

Forest etc

Application for Adjournment

Respectfully Sheweth:

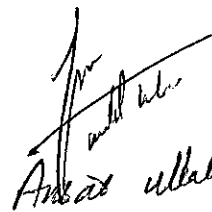
- 1- that the above noted appeal is pending before this Hon'ble court and is fixed for today i.e 6/5/2015.
- 2- that the counsel for the appellant is unable to attend and assist the Hon'ble court due to some personal engagements.

It is therefore, requested that the appeal may kindly be adjourn to next date.

A. Zeb  
Appellant

through

Dated: 6/5/2015

  
Anwar Zeb  
Admin

I

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 525 / 2014

Anwarzeb

VERSUS

Secretary Forest, etc.

=====

**APPLICATION FOR DELETION OF NAMES OF  
RESPONDENTS NO 4 AND 5 FROM THE COLUMN OF RESPONDENTS**

=====

**RESPECTFULLY SHEWETH,**

1. The above titled service appeal is pending before is pending before the Hon'ble Tribunal and is fixed for 06-04-2016.
2. That the respondent No 4 and 5 have been promoted to next higher scale of Forester (BPS-10), with effect from 17-04-2013.
3. That the seniority pertains to the cadre of Forest Guards, Demarcation Forest Division, Swat. The applicants are no more part of the seniority list of the Forest Guards (BPS-8) and have been included in the seniority list of Foresters (BPS-10).
4. That the promotion order of the present applicants was not challenged by the appellant Anwar Zeb, which has now gained finality.
5. That the impleadment of present applicants in the column of respondents is mis-joinder of parties, subject to correction by this Hon'ble Tribunal.

In view of the above, it is prayed that by accepting this appeal, the names of applicants / respondents No 4 & 5 may kindly be deleted from the column of Respondents.



  
Appellant

Through,

Peshawar, dated  
9 /Mar, 2016

  
(Muhammad Zafar Khan Tahirkheli)  
Advocate



OFFICE ORDER NO. 08 DATED 05/11/2014 ISSUED BY MR. MUHAMMAD RIAZ  
DIVISIONAL FOREST OFFICER DEMARCATION FOREST DIVISION AT SAIDU SHARIF  
SWAT.

In pursuance with the Honourable Services Tribunal Khyber Pukhtunkhwa Peshawar decision dated 17.0.4.2013, opinion arrived from the Section Officer (Opinion II) Government of Khyber Pukhtunkhwa Law Parliamentary Affairs & Human Right Department No.SO(OP II)LD/5-6/2012-Vol-II dated 20.08.2014, and subsequent recommendation of the Departmental Promotion Committee during its meeting held on 31.10.2014 in the office of the undersigned, Mian Karim Shah Forest Guard of Demarcation Forest Division, Swat is hereby promoted to the rank of Forester (BPS—09) against the vacant post with immediate effect.

He will be on probation for the period of one year in terms of section -6 (2) of the Khyber Pukhtunkhwa Civil Servant Act, 1973 read with rules 15 (i) of the Khyber Pukhtunkhwa Civil Servant (Appointment, promotion and transfer) Rules, 1989.

The promotion order is purely temporary and will not constitute any right of continuity on abolition of the post. He will be reverted to original post with out any notice.

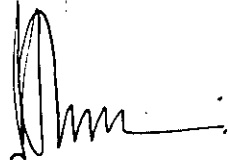
The promotion is subject to <sup>The</sup> final decision of the Supreme court of Pakistan as per opinion given above, whereas an appeal in the case has already been filed by the department in August, Supreme Court. .

Sd/-  
(Muhammad Riaz)  
Divisional Forest officer  
Demarcation Forest Divn.  
At Saidu Sharif Swat

No. 382-85  
/G,

Copy forwarded to the:-

- 1) Conservator of Forests, Malakand Circle East at Saidu Sharif Swat for favour of information with reference to his letter No.9128/E, dated 23.05.2014. Copy of the decision of Services Tribunal Khyber Pakhtunkhwa Peshawar dated 17.4.2013 alongwith opinion detailed given above are also enclosed herewith please.
- 2) Head Clerk/Divl; Acctt: for information and necessary action.
- 3) Mian Karim Shah Forester Demarcation Forest Division Swat for information.
- 4) Personal file for record.

  
Divisional Forest officer  
Demarcation Forest Divn.  
At Saidu Sharif Swat

OFFICE ORDER NO. 09 DATED 05 /11/2014 ISSUED BY MR. MUHAMMAD RIAZ  
DIVISIONAL FOREST OFFICER DEMARCATION FOREST DIVISION AT SAIDU SHARIF  
SWAT.

As recommended by the Departmental Promotion Committee during its meeting held on 31.10.2014 in the office of the undersigned, Mr. Faridullah Forest Guard of Demarcation Forest Division, Swat is hereby promoted to the rank of Forester (BPS—09) against the vacant post with immediate effect.

He will be on probation for the period of one year in terms of section -6 (2) of the Khyber Pukhtunkhwa Civil Servant Act, 1973 read with rules 15 (i) of the Khyber Pukhtunkhwa Civil Servant (Appointment, promotion and transfer) Rules, 1989.


The promotion order is purely temporary and will not constitute any right of continuity on abolition of the post. He will be reverted to original post with out any notice.

Sd/-  
(Muhammad Riaz)  
Divisional Forest officer  
Demarcation Forest Divn.  
At Saidu Sharif Swat

No. 386-89  
/G,

Copy forwarded to the:-

- ✓ 1) Conservator of Forests, Malakand Circle East at Saidu Sharif Swat for favour of information with reference to his letter No.9128/E, dated 23.05.2014 please.
- 2) Head Clerk/Divl; Acctt: for information and necessary action.
- 3) Mr. Faridullah Forester Demarcation Forest Division Swat for information.
- 4) Personal file for record.

  
Divisional Forest officer  
Demarcation Forest Divn.  
At Saidu Sharif Swat

# VAKALATNAMA

In the Court of **Khyber Pakhtunkhwa Service Tribunal, Peshawar**

Service Appeal No. 525 of 2014

Petitioner  
Plaintiff  
Applicant  
Appellant  
Complainant  
Decree-Holder

**Anwar Zeb**

**V**ERSUS

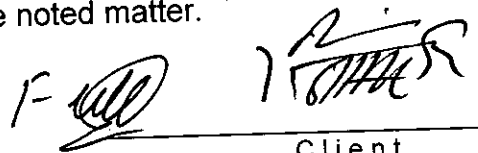
Respondent  
Defendant  
Opponent  
Accused  
Judgment-Debtor

**Secy Forest etc**

I / We Mian Karim Shah and Farid Ullah the above noted Respondents No 4 & 5 do hereby appointed and constitute, **Muhammad Zafar Tahirkheli, Advocate High Court**, to appear, plead, act, compromise, withdraw or refer to arbitration for me / us as my / our counsels / advocates in the above noted matter, without any liability for his default and with the authority to engage any other Advocate / Counsel at my / our cost.

The Client / Litigant will ensure his presence before the Court on each and every date of hearing and the counsel would not be responsible if the case is proceeded ex-parte or is dismissed in default of appearance. All cost awarded in favour shall be the right of Counsel or his nominee, and if awarded against shall be payable by me/us.

I / We authorize the said Advocates to withdraw and receive on my / our behalf all sums and amounts payable or deposited on my / our account in the above noted matter.



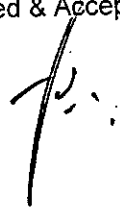
Client

**M. Zafar Tahir**

Attested & Accepted (Advocates)

Dated 9 / 3 / 2016

Office **ATIQ LAW ASSOCIATES,**  
87, Al-Falah Street, Besides State Life Building,  
Peshawar Cantt, Phone: 091-5279529  
E-mail : [zafartk.advocate@gmail.com](mailto:zafartk.advocate@gmail.com)





**APPEAL NO.525/2014 ANWAR ZEB FOREST GUARD  
VERSUS GOVT OF KPK AND OTHERS**

**INDEX**

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9.	Annexure-G	12
	Total	12

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR.

Service Appeal No.525/2014

Swat Demarcation Forest Division Saidu Sharif, Swat

.....Petitioner

VERSUS

Government of KPK and others

..... (Respondents)

AFFIDAVIT

I, Riaz Hussain (Range Forest Officer Demarcation Swat & attorney for Respondents No. 1, 2 & 3), do hereby solemnly affirm and declare on oath that the contents of the above titled reply is true and correct to the best of my knowledge and belief.

DEPONENT

  
Riaz Hussain

(Range Forest Officer Demarcation Swat & attorney for  
Respondents No. 1, 2 & 3)

129

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

---

Service Appeal No: 525/2014

Anwar Zeb Forest Guard

Swat Demarcation Forest Division Said u Sharif Swat

..... Petitioner

Versus

Government of Khyber Pakhtunkhwa and other

..... Respondent

Reply on behalf of respondent No: 1, 2 and 3

Respectfully Sheweth:

Preliminary objection

1. The appellant has no cause of action to file the appeal
2. The appeal is barred by time
3. The appeal is not maintainable in present form.
4. That the appeal is not maintainable due to misjoinder and non joinder of necessary parties
5. The appellant has been estopped by his own conduct to the file.

Reply on facts

1. It is correct that appellant was appointed as Forest Guard vide office Order No: 43 dated 12.02.1988 (Copy enclosed as Annexure A), in Dir Swat Watershed Management Project for project period with condition

“The appointments are purely temporary and can be terminated any time without assigning any reason”

The termination notice dated 31.05.2000, served on applicant was withdrawn and was Re- Adjusted as Forest Guard in Forestry Sector Project (FSP) vide Division Forest Officer Swat Office Order No: 03 dated 16.01.2001 (Copy enclosed as Annexure B). Subsequently the petitioner made Arrival Report for duty on 18.01.2001 in Forestry Sector Project (FSP) against the Project post.

2. The services of appellant was Terminated, Reinstated and posted by transfer in various forest division against the post of Forest Guard as follow
  - a. Terminated from services vide office order No: 25 dated 01.01.2003 issued by Division Forest Officer Kalam
  - b. Reinstated in service as per Office Order No:31 dated:16.04 2003, issued by Conservator of Forest Malakand
  - c. On his request for Mutaul transfer, adjusted in Swat Forest Division Vide Conservator of Forest Malakand Office Order No: 35 dated 3.05.2003 and both officials were placed at the bottom of seniority list in their respective place of posting.
  - d. Due to non-availability normal post in Swat Forest Division, office order No 35 dated 03.05.2003 was cancelled vide Conservator of Forest Malakand Office order No: 51 dated 04.12.2003 and the appellant made back arrival report in Kalam Forest Division.
  - e. Office Order No 35 dated 03.05.2003 was restored vide Conservator of Forest Malakand office order No: 90 dated 24.04.2003 and appellant reported arrival as Forest Guard in Swat Forest Division on 14.05.2003.. (Copy enclosed as Annexure C)
  - f. Transferred to Kalam Forest Division Vide Conservator of Forest Malakand Office Order No: 56 dated 29.08.2006 and the appellant made arrival report in Kalam Forest Division on 09.10.2006.
  - g. Transferred from Kalam Forest Division to FP&M Circle vide Chief Conservator of Forest Khyber Pakhtunkhwa Office Order No: 242 dated 06.03.2007 and posted by Conservator of Forest FP&M in Unit IV Abbottabad vide office order No: 72 dated 09.05.2007. The appellant made arrival report on 23.05.2007 and was placed at the bottom of seniority list. Copy of order dated 15.06.2009 of DFO Working Plan Unit IV Abbottabad is enclosed (Copy enclosed as Annexure D).
  - h. Transferred from WP Unit VI Abbottabad vide Chief Conservator of Forest Khyber Pakhtunkhwa Office Order No: 107 dated 30.1.2012 (Annexure E is enclosed) and the appellant made arrival report on 06.02.2012 in Demarcation Forest Division and was placed at the bottom of seniority list as per Civil Servant Appointment Promotion and Transfer Rules 1989 section 8 clause (2). (Copy of Rules enclosed as Annexure F and copy of seniority List enclosed as annexure G).
3. It is correct the extent that the appellant was adjusted by respondent No: 2 vide order dated 05.07.2002. He was put at the bottom of Seniority List of Forest Guard.


seniority list as per Civil Servant Appointment Promotion and Transfer Rules 1989 section 8 clause (2). (Copy of Rules enclosed as Annexure ~~F~~ and copy of seniority List enclosed as annexure ~~G~~).

3. It is correct the extent that the appellatant was adjusted by respondent No: 2 vide order dated 05.07.2002. He was put at the bottom of Seniority List of Forest Guard.
4. It is correct that appellatant was transferred from WP Unit IV Abbottabad to Demarcation Forest Division Said u Sharif Swat and was placed at the bottom of Seniority List as per provision of Civil Servant Appointment Promotion and Transfer Rules 1989 Section 8 clause (2).
5. It is correct. Seniority List has been determined strictly in accordance with the Rules Civil Servant Appointment Promotion and Transfer Rules 1989 Section 8 clause (2). There is no violation of abided Rules.
6. As the seniority was determined in accordance with Civil Servant Appointment Promotion and Transfer Rules 1989 Section 8 clause (2) and the appeal being baseless, was rejected by Authority (copy of appeal and order passed by Authority are enclosed as annexure I and J).
7. As explained at S#6 above.


#### GROUND/REASONS

- (A) The seniority list is prepared and issued according to law, rules and policy.
- (B&C) Incorrect, all the posting/transfer orders of competent authorities are in the interest of public service. Seniority of the person, so transferred according to Rules 8 (2) Khyber Pakhtunkhwa Civil servant (Appointment, Promotion & Transfer Rules, 1989). The Rules have rightly been implemented.
- (D) As explained at S#5 above  
It is therefore prayed that the appeal being baseless and having no facts may kindly be dismissed with cost.


Respondent NO.1

  
Secretary to Government of Khyber Pakhtunkhwa  
Forestry, Environment & Wild Life Department, Peshawar

Respondent NO.2

  
Conservator of Forests  
Malakand Circle East  
Saidu Sharif, Swat

Respondent NO.3

  
Divisional Forest Officer  
Demarcation Forest Division  
Saidu Sharif, Swat

OFFICE ORDER NO. 43 DATED THE 15TH FEBRUARY, 1988 BY MIAN ALTAH HUSSAIN DIVISIONAL FOREST OFFICER WATERSHED MANAGEMENT PROJECT DIR AND SWAT AT SAIDU SHARIF (SWAT).

As recommended/Selected by the Selection committee the following are hereby appointed as Forest Guards, against the existing vacancies in Dir-Swat Watershed Management Project in BPS No.2 in Scale of Rs.625-16-945 with usual allowances as admissible under the Rules from the date of their arrival reports in this project with production of required certificates.

S. No. Name and Addresses

- 1) Mr. Abdul Shaffar P/O Rahim Jan Vill; Shakardara P/O Mulla Distt: Swat.
- 2) Mr. Farhad P/O Subidar Vill; Asala Dala Teh; Chuzakhal Distt: Swat.
- 3) Mr. Azizul Haq P/O Hamidul Haq Vill; Baba P/O Chuzakhal Distt: Swat.
- 4) Mr. Bilal Iqbal P/O Dost Mohammad Khan Vill; Ainsor P/O Chuzakhal Distt: Swat.
- 5) Mr. Mohammad Laiq P/O Amir Manzara Vill; Ashari P/O Grushkela Tehsil Motta Distt: Swat.
- 6) Mr. Mohammad Salim Khan P/O Mohammad Ali Jan Vill; Kozza Tehsil Motta Distt: Swat.
- 7) Mr. Khan Badshah P/O Shah Jehan Vill; Kizilalay Motta Distt: Swat.
- 8) Mr. Anwar Zeb P/O Shah Nasrood Vill; Gwaliza P/O Motta Distt: Swat.
- 9) Mr. Khazim Rehman P/O Mansul Hadi Vill; Keelgram P/O Mangwatal Tehsil Motta Distt: Swat.

Their appointments are purely temporary and can be terminated any time without assigning any reason.

The appointment is subject to the production of the following certificates.

- 1) Medical certificate from Medical Superintendent Saidu Group of Hospital/Timergara.
- 2) Character certificate from two responsible persons who are not related to the candidate.
- 3) Matric with science certificate.
- 4) Domicile certificate.

TRUE COPY  
AZab

Sd/-  
(Mian Altaf Hussain)  
Divisional Forest Officer,  
Watershed Management Project,  
Dir/Swat at Saidu Sharif.

No. 2521-24 /WS,

Copy forwarded to the:

- 1) Conservator of Forests, Malakand Circle, Mingora for favour of information please.
- 2) All candidates. They should please report their arrival for duty along with the above, mentioned certificates immediately.
- 3) Divisional Head Clerk/Accountant for information.
- 4) Personal File for record.

Divisional Forest Officer,  
Watershed Management Project,  
Dir/Swat at Saidu Sharif.

Office order No. 03 dated Mingora the 16 /th January 2001 by Mr. Shah Wazir Khan, Divisional Forest Officer, Swat Resource Management Unit at Mingora Swat.

In the light of approval accorded by the Government of NWFP Finance Department vide letter No. B-X/5-58/FD/97-98/Vol-IV dated 14.12.2000 and advise/clarification of Budget and Accounts Officer (Forests) Government of NWFP Forestry, Fisheries and Wildlife Department vide letter No. B&A/99-2000/Bud-II/387/Vol-II/2847 dated 08.01.2001, the termination notices served upon the following Forest Guards of Ex-ERP by the then DFO ERP Upper Swat Division vide letters dated 31.5.2000 are hereby withdrawn.

S.No.	Name of Forest Guard	Father's name	Domicile
1	Mr. Dclaram Khan	Darveza	Swat
2	Mr. Mohamud Abdullah	Qalandar Khan	Swat
3	Mr. Mohamud Ismail	Abdul Jalil	Swat
4	Mr. Sher Shah Ali	Abdur Rahim Jan	Swat
5	Mr. Jehan Alam	Abdul Azim	Swat
6	Mr. Abdul Ghaffar	Abdur Rahim	Swat
7	Mr. Anwar Zaib	Shah Namrood	Swat
8	Mr. Umar Ahad	Subedar	Swat
9	Mr. Shamsur Rahman	Shamsul Hadi	Swat
10	Mr. Azizul Haq	Nameer Gul	Swat
11	Mr. Mohamud Salim	Mohamud Ali Jan	Swat
12	Mr. Abdul Wahab-I	Nawab Khan	Swat
13	Mr. Ihsanullah	Mian Sahib Jan	Swat
14	Mr. Abdul Wahab-II	Umar Wahid	Swat
15	Mr. Mohamud Hussain	Beladar Khan	Swat
16	Mr. Aqal Mand	Fazal Wahab	Swat
17	Mr. Hussain Ahmad	Sahibzada Inayatullah	Swat

Their services are hereby adjusted against the posts sanctioned by the Finance Department vide their above cited letter under NWFP Forestry Sector Project in the pay/scale drawn by them on 30.6.2000.

They are therefore directed to report their arrival for FSP duties/activities to the DFO Swat RMU in Swat District within 14 days from the issuance of this order, failing which his/their adjustment will be cancelled and the next official of the said cadre in the seniority list, maintained by Ex-ERP will be called for duties.

The period from 01.7.2000 till the arrival date is hereby treated as extra ordinary leave without pay.

Sd/- (SHAH WAZIR KHAN)  
DIVISIONAL FOREST OFFICER,  
SWAT R.M.U. AT MINGORA.

No. 25-44 /FSP.

Copy forwarded to the:-

1. Chief Conservator of Forests, Territorial and Conservation, NWFP Peshawar for favour of information please.
2. Conservator of Forests, Malakand Circle, Mingora for favour of information with reference to his letter No.371-75/FSP dated 11.01.2001 please.
3. Project Director NWFP Forestry Sector Project Peshawar for confirmation as discussed.
4. Officials concerned for information and necessary action.

DIVISIONAL FOREST OFFICER,  
SWAT R.M.U. AT MINGORA.

16/1/2001

OFFICE ORDER NO. 35 DATED MINGORA THE 3rd MAY, 2003 ISSUED BY MR. NAZIR MUHAMMAD CONSERVATOR OF FORESTS MALAKAND CIRCLE MINGORA.

---

Having been recommended by the Divisional Forest Officer Swat vide his letter No.2403/G, dated 28/12/2002, the mutual transfer of the following Forest Guards is hereby ordered in the interest of public service with immediate effect :-

S.No.	Name of Forest Guard.	From	To:
1.	Mr. Shakirullah F/G.	Swat Forest Division-Mingora.	Kalam Forest Division Madyan.
2.	Mr. Anwar Zeb F/G.	Kalam Forest Division, Madyan.	Swat Forest Division Mingora.

The order is being issued on the following grounds/ reasons :-

- i) Under special circumstances on humaniterian basis.
- ii) Mr. Anwar Zeb Forest Guard being involved in a disciplinary case, has recently been reinstated in service, is not feasible.
- iii) The order can be withdrawn any time without any reason.
- iv) It should not be counted towards regularisation of their services in the department.

Sd/-  
 ( NAZIR MUHAMMAD )  
 CONSERVATOR OF FORESTS  
 MALAKAND CIRCLE  
 MINGORA.

No. 8416-18 /E,

Copy forwarded to the:-

- 1. Divisional Forest Officer Swat Forest Division Mingora.
- 2. Divisional Forest Officer Kalam Forest Division Madyan For information and necessary action.

Sd/- As above.

No. 2769-71 /G,

Dated Madyan the 25 /5/2003.

Copy forwarded for information and intaction to:-

- 1. Range Forest Officer Behrain South Range at Madyan
- 2. Mr. Anwar Zeb Forest Guard, for information and intaction.
- 3. Personal file for record.

DIVISIONAL FOREST OFFICER  
 KALAM FOREST DIVN MADYAN





خدمت جناب ڈی اف او صاحب درکنگ پلان یونٹ نمبر IV ایبٹ آباد

(53)

درنگل برائے سینارٹی لسٹ

ملاحظہ ہے کہ سائل 21-02-1995 کو بطور فارسٹ گارڈ بھرتی ہوا اور میری بھرتی کے دو دن بعد دوسرا درنگل ہوا۔ 23-02-1995 کو بھرتی ہوا سرکل کی سینارٹی لسٹ میں اپنے تمام ڈویژن کے ساتھیوں میں سینارٹی لسٹ میں مائیکڈ سرکل کے ایک پراجیکٹ سے انور زیب نامی فارسٹ گارڈ یہاں ٹرانسفر ہو کر میری یونٹ میں آیا جس کی سروس مجھ سے زیادہ ہے اور اس کو سلیکشن سکیم بھی ملا ہوا ہے۔ اور اس نے فارسٹ گارڈ کی ٹریگ بھی نہیں کی۔ اب چونکہ یہ فارسٹ گارڈ دوسرے سرکل سے آیا ہے اس نے کوئی ٹریگ بھی نہیں کی ہے اس لیے سینارٹی میں یہ مجھ سے جونیئر ہونا چاہئے۔

اس لیے سے اتماس ہے کہ میری ڈویژن لیول اور سرکل لیول کی سینارٹی کو درست کیا جائے

عین نوازش ہوگی

*M. Ammar*

محمد توقیر (فارسٹ گارڈ)

درکنگ پلان یونٹ نمبر IV

ایبٹ آباد

25-06-2008

EC

~~Mr Ammar has been adjusted from watershed Swat therefore he is placed at the bottom of the Generaly list of Forest Guard who were appointed in watershed plan approved convey to all.~~

*F. O. Khan*

18/6/08

2008

OFFICE ORDER NO 107 DATED PESHAWAR THE 30 / 11 / 2012 ISSUED BY  
MR. HAIDER ALI KHAN CHIEF CONSERVATOR OF FORESTS-I KHYBER PAKHTUNKHWA  
PESHAWAR

In order to adjust in their home districts/close to their home districts the following posting/transfer amongst the Forest Guards is hereby ordered in the interest of public service with immediate effect:-

S. No	Name of Forest Guard	From	To
1	Mr. Anwar Zeb	Working Plan Unit-IV Abbottabad	Demarcation Forest Division Swat Shagai
2	Mr. Aslam Khan	Demarcation Forest Division Swat Shagai	Working Plan Unit-IV Abbottabad
3	Mr. Belrobar	Working Plan Unit-III Peshawar	Demarcation Forest Division Swat Shagai
4	Mr. Alam Zeb	Demarcation Forest Division Swat Shagai	Working Plan Unit-III Peshawar
5	Mr. Mohammad Saeed	Working Plan Unit-III Peshawar	Demarcation Forest Division Swat Shagai
6	Mr. Nowsherawan	Demarcation Forest Division Swat Shagai	Working Plan Unit-III Peshawar

Note:- The Forest Guard listed at Sl. No. 2 substitute of Sl. No. 1 will work in Working Plan Unit-III at Peshawar on detailment basis and will draw his salary from Working Plan Unit-IV Abbottabad.

d/-  
(Haider Ali Khan)  
Chief Conservator of Forests-I  
Khyber Pakhtunkhwa Peshawar

v. /E

Copy forwarded for information and necessary action to the:-

1. C.P.P&M Circle Peshawar.
2. ✓ CF Malakand East Circle Swat.
3. Regional Accountant Head Office Peshawar.

*(Signature)*  
Chief Conservator of Forests-I  
Khyber Pakhtunkhwa Peshawar

**Statutory provision regarding Appointment.**

*Section 5 of Civil Servants Act, 1973* - Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorised by the Governor in that behalf.

**THE NORTH-WEST FRONTIER PROVINCE  
CIVIL SERVANTS (APPOINTMENT, PROMOTION &  
TRANSFER) RULES, 1989.**

## PART-I

## GENERAL

1. **Short title and commencement:** - (1) These rules may be called the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.  
(2) They shall come into force at once.
2. **Definitions:**-(1) In these rules, unless the context otherwise requires:-
- (a) "Appointing Authority" in relation to a post, means the persons authorized under rule 4 to make appointment to that post;
- (b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;
- (c) "Commission" means the North West Frontier Province Public Service Commission;
- <sup>29</sup>(d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government, which do not fall within the purview of the Provincial Selection Board;
- <sup>30</sup>(dd) "Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission:
- Provided that more than one such committees may be constituted for civil servants holding different scales of pay".
- (e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission];
- (f) "Post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades : and
- <sup>31</sup>(g) "Provincial Selection Board" means the Board constituted by Government for the purpose of selection of civil servants for promotion or transfer to posts in respect

<sup>29</sup> Substituted by Clause (d) of sub-rule (1) of Rule-2 vide Notification No. SOR-I (S&GAD) 4-1/80 (Vol-II) dated 14-01-92.

<sup>30</sup> Clause (dd) added by Notification No. SOR-III (S&GAD) 2-7/86, dated 8-12-1994

<sup>31</sup> Clause (g) substituted by Notification No. SOR-I(S&GAD) 4-1/80/11, dated 14-01-1992.

## PART-II

## APPOINTMENT BY PROMOTION OR TRANSFER

7. **Appointment by Promotion or Transfer.**<sup>36</sup>(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee".

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exist.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18 to 21 unless the officer concerned has completed such minimum length of service as may be specified from time to time.

8. **Inter-Provincial Transfer:**-(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:-

Provided that:-

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;
- (iv) the person concerned is a bona fide resident of the North-West Frontier Province.
- (v) a vacancy exists to accommodate the request for such a transfer; and;
- (vi) Provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength, which he joins for the purpose of determining his seniority vis-à-vis other members borne on the cadre.

<sup>36</sup> Sub rule (1) substituted by Notification No. SOR-(S&GAD)4-1/80/11, dated 14-01-1992.

**SENIORITY LIST OF FOREST GUARDS OF DEMARCATION FOREST DIVISION, SWAT AS IT STOOD ON 30-09-2013**  
**Issued in compliance with the following directives/decisions:**

- i). As directed by Khyber Pakhtunkhwa Service Tribunal in the appeal No. 456/2012 titled "Mian Karim Shah Forest Guard V/S Faridullah Forester, Alamzeb Forest Guard, DFO Demarcation, Swat and others announced on 17-04-2013 as per para-9 of the decision.
- ii). Notification of Establishment and Administration Department Govt: of NWFP received vide Chief Conservator of Forests NWFP, Peshawar endorsement No. 1419-20/E, dated 04-09-2004.
- iii). Notice issued by Service Tribunal Khyber Pakhtunkhwa vide EP-59, dated 13-09-2013.

S.#	Name of Forest Guard	Academic Qualification	Date of Birth	Domicile	Trained / Untrained	Date of 1 <sup>st</sup> entry in to Govt: service	Reported arrival in Demarcation F/Division Swat	Remarks
1.	Mian Karim Shah.	B.A	12-06-1968	Swat	Trained	03-04-1988	05-09-2011	Transfer from Swat Forest Division. Court order
2.	Mr. Faridullah.	Matric	02-01-1965	Karak	Trained	22-08-1988	01-11-1988	Transfer from FATA
3.	Mr. Alam Zeb.	F.A	05-04-1969	Mardan	Trained	28-01-1990	28-01-1990	Parent Division.
4.	Mr. Muhammad Saleem-I.	Matric	02-05-1970	Sawabi	Trained	27-05-1990	27-05-1990	Parent Division.
5.	Mr. Nowsherwan.	Matric	27-05-1971	Peshawar	Trained	30-05-1990	30-05-1990	Parent Division.
6.	Mr. Muhammad Saleem-II.	F.A	03-01-1962	Swat	Trained	01-06-1988	06-12-2000	Transferred from Swat Forest Divn:
7.	Mr. Muhammad Fahim.	F.A	15-06-1968	Swat	Untrained	23-04-1988	12-10-2007	Transferred from Kalam Forest Divn:
8.	Mr. Amjad Ali	Matric	03-07-1967	Swat	Untrained	26-11-2011	26-11-2011	Re-instated in service.
9.	Mr. Bah-robar	Matric	21-04-1958	Swat	Untrained	15-09-1985	01-02-2012	Transferred from Working Plan Unit-III, Peshawar.
10.	Mr. Muhammad Saeed.	B.Sc	08-07-1969	Malakand Agency	Untrained	25-02-2011	01-02-2012	- do -
11.	Mr. Anwar Zeb	F.A	15-06-1969	Swat	Trained	20-02-1988	06-02-2012	Transferred from Working Plan Unit-IV Abbottabad.

NO. 194-95 JG. Dated Saidu Sharif the 30/09/2013.


Copy forwarded to :-  
 1. Incharge Party - III of Demarcation Forest Division, Swat.  
 2. Incharge Party - I and II of Demarcation Forest Division, Swat.

For information and necessary action. They should circulate the final Seniority List among the Forest Guards.

Divisional Forest Officer  
 Demarcation Forest Division  
 Saidu Sharif Shagai

## AUTHORITY LETTER

Mr. Riaz Hussain Forest Ranger is hereby authorized to attend the service Tribunal Khyber Pakhtunkhwa in Service appeal No 525/2014, Anwar zeb Forest Guard versus Secretary to Government of Khyber Pakhtunkhwa Forestry, Environment and Wildlife Department on behalf of the undersigned fixed for 06/04/2016.

  
DIVISIONAL FOREST OFFICER  
DEMARCATON FOREST DIVISION  
SAIDU SHARIF SWAT

بعدالت جناب سپیشل جج / سروس ٹریبونل / سیشن جج صاحب ضلع سوات

سرکار

بنام

انورزیب

درخواست بمراد وصول کرنے جرمانہ

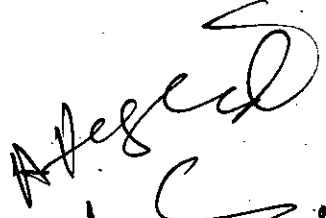
جناب عالی! حسب ذیل عرض ہے۔

- ۱۔ یہ کہ مقدمہ عنوان بالا عدالت حضور میں زیر سماعت ہے جس میں آج مورخہ 06/04/2016 مقرر ہے۔
- ۲۔ یہ کہ مقدمہ عنوان بالا میں عدالت حضور نے ریسیٹنٹ نمبر 1 کے خلاف مورخہ 14/01/2016 کو بوجہ غیر حاضری جرمانہ مبلغ 1000 روپے لگایا تھا۔
- ۳۔ یہ کہ اب سائیل / اپیلانٹ مذکورہ بالا جرمانہ وصول کرنا چاہتا ہے۔

لہذا استدعا ہے کہ حسب استدعا بالا داد رسی فرمائی جائے۔

عریضہ 

انورزیب (سائیل / اپیلانٹ)

  
06.04.16

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 525 / 2014

Anwarzeb

VERSUS

Secretary Forest, etc.

**APPELLANT'S REJOINDER TO RESPONDENT'S PARAWISE REPLY**

=====

**RESPECTFULLY SHEWETH:**

**REPLY TO PRELIMINARY OBJECTIONS**

1. All the 5 preliminary objections of Respondents No 1, 2 & 3 are a gross misstatement and irrelevant assertion designed to mislead. These are factually incorrect and legally untenable, and as such are to be ignored.

**REJOINDER ON FACTS**

1. Para-1 has been admitted correct.
2. Para 2 of the appeal is correct and that of reply is incorrect. All the sub paras a to h of para 2 pertain to the record.
3. Para 3 of the appeal is correct and that of reply is incorrect. The appellant was adjusted in another sub division without his consent and was therefore required to be allowed proper place of seniority with effect from the date of his initial appointment.
4. Para 4 has been admitted correct by the respondents.
5. Para 5 has been admitted correct by the respondents. The Section 8 clause (2) of APT Rules, 1989 concern the transfer of employees from Federal Govt. to Provincial Govt. or vice versa. The relevant law has no bearing on the appellant case.
6. Para 6 of the appeal is correct and that of reply is incorrect. The respondent department has not dealt the appellant in accordance with the law.
7. Para 7 of the appeal is correct and that of reply is incorrect.



**REPLY TO THE GROUNDS**

All the grounds taken in para "a" to "d".

In view of the above, the appellant's appeal may kindly be accepted as prayed for.



Appellant,

Through,

Peshawar, dated  
\_\_\_\_/April, 2017

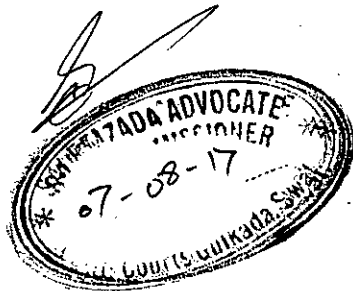


(Ansar Ullah Khan)  
Advocate High Court, Peshawar

**Affidavit**

I, the appellant, do hereby state on Oath that the contents of the above rejoinder are true and correct to the best of my knowledge and belief, and nothing has been kept concealed from this Hon'ble Tribunal.

**ATTESTED**



DEPONENT

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

In the matter of:-

Answer Job Appellant

VERSUS

The Govt. K.P. through  
Secretary Forest and other Respondents

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

**AZIZ-UR-RAHMAN and IMDAD ULLAH**  
Advocates High Court

*9-11-17*

To be the advocate for the Respondent 4-5 in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
- ❖ I understand that the services of aforesaid lawyer are hired irrespective of the outcome of the case.

And I/We hereby agreed to ratify whatever the advocate or his substitute shall to do in the said premises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this \_\_\_\_ day of \_\_\_\_ 2017.

(Signature or thumb impression)

(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

(AZIZ-UR-RAHMAN)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk  
G.T. Road Mingora, District Swat.  
Cell No. 0300 907 0671

(IMDAD ULLAH)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk,  
G.T. Road, Mingora, District Swat  
Cell No. 0333 929 7746

فہماری بابت فارسٹ گارڈز جاری شدہ 30/4/2012 وصول شدہ

181

3

SENIORITY LIST OF FOREST GUARDS OF DEMARCATON FOREST DIVISION, SWAT AS STOOD ON 30<sup>TH</sup> APRIL 2012.

S.#	Name of Forest Guard	Academic Qualification	Date of Birth	Domicile	Trained / Untrained	Date of 1 <sup>st</sup> entry in to Govt: service	Reported arrival in Demarcation F/Division Swat	Remarks
1.	Mr. Alam Zeb.	F.A	05-04-1969	Mardan	Trained	28-01-1990	28-01-1990	Parent Division.
2.	Mr. Muhammad Saleem-I.	Matric	02-05-1970	Sawabi	Trained	27-05-1990	27-05-1990	Parent Division.
3.	Mr. Nowsherwan.	Matric	27-05-1971	Peshawar	Trained	30-05-1990	30-05-1990	Parent Division.
4.	Mr. Muhammad Saleem-II.	F.A	03-01-1962	Swat	Trained	01-06-1988	06-12-2000	Transferred from Swat Forest Division.
5.	Mr. Muhammad Fahim.	F.A	15-06-1963	Swat	Untrained	23-04-1988	12-10-2007	Transferred from Kalam Forest Division.
6.	Mian Kurin Shah.	B.A	12-06-1968	Swat	Trained	03-04-1988	05-09-2011	Transferred from Swat Forest Division.
7.	Mr. Amjad Ali	Matric	03-07-1967	Swat	Untrained	26-11-2011	26-11-2011	Re-instated in service.
8.	Mr. Bahrobar	Matric	21-04-1958	Swat	Untrained	15-09-1985	01-02-2012	Transferred from Working Plan Unit-III, Peshawar.
9.	Mr. Muhammad Saeed.	B.Sc	08-07-1969	Malakand Agency	Untrained	25-02-2011	01-02-2012	- do -
10.	Mr. Anwar Zeb	Matric	15-06-1969	Swat	Trained	20-02-1988	06-02-2012	Transferred from Working Plan Unit-IV Abbottabad.

NO. 1346 /G. Dated Saidu Sharif the 04/05/2012.

Copy forwarded to:-

- Incharge Party - III of Demarcation Forest Division, Swat.
- Incharge Party - I and II of Demarcation Forest Division, Swat.

For information and necessary action. They should circulate the Seniority List among the Forest Guards serving under their control. Any short coming etc if found therein may be reported to this office within stipulated period.

Divisional Forest Officer  
Demarcation Forest Division  
Saidu Sharif Shagal.

8. In the result the appeal succeeds as indicated above with no order as to costs.

9. Parties be informed.

H.B.T./86/Sr.F

Appeal accepted.

1998 P L C (C.S.) 944

[Service Tribunal Punjab]

Before Safdar Hussain Shah Jafri, Member-I

ARSHAD MEHMOOD

versus

THE SECRETARY EDUCATION, PUNJAB,  
LAHORE and 3 others

Appeal No. 605 of 1994, decided on 21st May, 1996.

Civil service—

---Termination of service---Civil servant was recruited as untrained teacher on temporary basis; but his services were terminated on ground that he failed to pass C.T. Examination within stipulated period of three years---Letter of appointment whereby civil servant was initially recruited as untrained teacher, showed that he was not required to pass C.T. Examination within any specified period---Even otherwise Authority had not been able to show that condition of obtaining professional qualification within three years had been prescribed with the approval of rule-making Authority---Civil servant had passed required C.T. Examination though not within three years---Civil servant, in circumstances, was ordered to be reinstated in service with stipulation that period from date of his termination till he resumed duty, should be treated as leave without pay. [p. 947] A & B

Sh. Nazir Ahmed for Appellant.

Syed Abbas Raza, District Attorney for Respondents.

Date of hearing: 21st May, 1996.

#### JUDGMENT

The appellant Arshad Mahmood was recruited as an untrained teacher, on temporary basis, vide order, dated 19-12-1981 (Annexure A/5) issued by the District Education Officer, Rawalpindi. According to the appellant (Annexure C/8), he was poised for appearing in the C.T. Examination when the Deputy District Education Officer, Rawalpindi

terminated his services on 18-3-1987. He filed an appeal before the Punjab Service Tribunal resulting in his reinstatement in service vide order of this Tribunal dated 14-5-1991 in Appeal No. 776 of 1990 (pages-C/15-17) with the following further observations:-

"The case is remanded to the District Education Officer, Rawalpindi to initiate fresh proceedings strictly in accordance with law and decide it on merits after hearing the appellant. The intervening period during which the appellant remained out of service shall be decided by the competent Authority in the light of the outcome of the de nove proceedings. There are no orders as to costs.  
**ANNOUNCED.**"

The appellant was accordingly reinstated in service by the Deputy District Education Officer, Rawalpindi vide his order, dated 16-6-1991 and the appellant resumed duty on 25-6-1991. The services of the appellant were, however, terminated again by the Deputy District Education Officer through a general letter dated 24-1-1994 (Annex. B/6). According to the written objections filed by the department, the services of the appellant were finally terminated on 26-5-1994 on the ground that the earlier order of the Deputy District Education Officer, dated 24-1-1994 had been passed without observing proper procedure. The officer representing the respondent department has, however, produced a letter, dated 8-6-1994 (annexed to the file) which reads as under:-

"The undersigned on the applicants appeal to the Minister for Azad Kashmir Affairs and Northern Affairs, Islamabad, has gone through all the record in the office and cases in High Court and Service Tribunal.

An inquiry on 26-4-1994, he could not prove his right to remain in service under rules Punjab Education Department. Hence you are hereby terminated from service from 26-5-1994."

2. The appellant filed a representation against the order, dated 24-1-1994 on 30-1-1994 to the next higher authority i. e. District Education Officer and finding no response to the said appeal, filed the instant appeal before this Tribunal on 10-5-1994 assailing the order, dated 24-1-1994 whereby his services had been terminated.

3. The learned counsel for the appellant states that the services of the appellant were actually terminated on the ground that he had failed to pass C.T. Examination within the stipulated period of three years. The learned counsel states that the department itself allowed the appellant to appear in the C.T. Examination and that once he had passed the examination, he was entitled to be reinstated in service. To substantiate his submissions, the learned counsel has produced a copy of the certificate issued by the Board of

of the XEN, T.R.(P), WAPDA, Shalimar Workshop, Lahore, with effect from 19-1-1980, while the remaining two had been absorbed in the Office of the XEN, T.R.(P) Workshop, Kot Lakhpat. The seniority of both the officers were being maintained separately. According to him, the appellant was declared surplus and, therefore, he was entitled to count his seniority only with effect from the date he joined the office of the XEN, T.R. (P), WAPDA, Shalimar Workshop, Lahore, and not from the date he joined the office of the XEN, M&T, WAPDA, Lahore. He was, however, wrongly shown in the seniority lists circulated on 18-6-1983, 18-5-1985 and 13-4-1992 but subsequently when the Authority issued a combined seniority list on 13-12-1992, the appellant was rightly placed at serial No. 9, keeping in view his length of service in the office of the XEN, T.R. (P), WAPDA, Shalimar Workshop, Lahore. It is contended that by doing so, no injustice had been done to the appellant and accordingly his grievance is misconceived.

6. We have heard both the parties at length. It is an admitted fact that when an employee is transferred from one office to another or from one place to another compulsorily, alongwith the post and his work, he is entitled to count his previous continuous service in the grade, towards his seniority in that grade in the new office. For the sake of facility, para. (b) of serial No.6(i), printed at page 336 of 1989 ESTACODE is reproduced below:-

"6(i)(b). When a person is compulsorily transferred to another office as a result of conscription, or alongwith the post and his work, he should be allowed to count his previous continuous service in the grade towards seniority in that grade in the new office."

It has not been stated before us that the Authority has issued instructions other than the above. Besides that, in the present case it is apparent from the letter dated 17-1-1980, that the appellant's transfer alongwith others was made in the interest of Authority. It will be advantageous to reproduce below the said letter in extenso:-

"No. CETR/101, dated 17-1-1980

The Chief Engineer (Admn.) Power,  
WAPDA, WAPDA House, Lahore.

Subject: TRANSFER OF SKILLED PERSONNEL WITH POSTS  
TO THE T.R. DEPARTMENT.

Chief Engineer, Lahore has transferred a large Oil Treatment Plant to the T.R. Department on the condition that the staff associated with its Operation and Maintenance would also accompany the Plant.

The number of persons connected with the Plant are given below:-

- (1) Mr. Nazir Ahmed, Foreman.
- (2) Mr. M. Yaqeen, Assistant Foreman.
- (3) Mr. Maqsood Ahmed, Fitter Grade-I.
- (4) Mr. Ghulam Mujtaba Butt, Fitter Grade-I.
- (5) Mr. Allah Rakha, Fitter Grade-I.
- (6) Mr. Muhammad Latif, Fitter Grade-I.

The Executive Engineer, (M&T) has issued Transfer Order in respect of Foreman and Assistant Foreman, who have given their departure report and have arrived in the T.R. Department (copy of the order is attached herewith).

It is requested that formal order may be issued for the transfer of these 6 skilled personnel to the T.R. Department."

7. It is evident from the above letter that the appellant was neither declared surplus nor he was sent on deputation to the Office of the XEN, T.R. (P), WAPDA, Shalimar Workshop, Lahore, but what had happened was that his services were placed at the disposal of the said office. This is also confirmed by the letter dated 19-1-1980 wherein it is inter alia stated that "the services of the following officials are placed at the disposal of the XEN, T.R.(P), WAPDA, Shalimar, Lahore:-

- (1) .....
- (2) .....
- (3) Mr. Allah Rakha, Fitter Grade-I."

In our view, therefore, the Respondent-Authority was not justified in reckoning the seniority of the appellant with effect from the date he joined the office of the XEN, T.R. (P), WAPDA, Shalimar Workshop, Lahore. Nothing has been produced before us to show that the appellant had made any request for his transfer or absorption in the said office and as such it will be unfair to place him under those who were junior to him. The learned counsel for the appellant has thus rightly submitted that this Tribunal, in somewhat similar circumstances has allowed seniority in the case reported as 1985 PLC (C.S.) 415. The learned counsel has also placed reliance on several other decisions of this Tribunal. In these circumstances, we set aside the impugned order dated 17-4-1995 and remand the case to the respondent-Authority for assigning the proper place to the appellant in the seniority list with effect from 11-8-1976 and to consider him for promotion with effect from the date, if any of his juniors had been promoted.

were also transferred to the office of the Executive Engineer, T.R. (P), WAPDA, Shalimar Workshop, Lahore, vide Office Order, dated 10-1-1980 but subsequently, by Office Order dated 19-1-1980, the services of the appellant alongwith two others, namely, Nazir Ahmed and Ghulam Mujtaba were allowed to remain at the disposal of the said Executive Engineer, while the services of Muhammad Yaqeen, Assistant Foreman, Muhammad Latif, Fitter (Grade-I) and Maqsood Ahmed Butt, Fitter (Grade-I) were placed at the disposal of the Executive Engineer, T.R. (P), Workshop, Kot Lakhpat, Lahore.

2. The appellant's grievance is that Muhammad Latif, Maqsood Ahmed Butt and Ghulam Mujtaba were also transferred alongwith him by order dated 19-1-1980 nevertheless they were promoted as Assistant Foreman vide Office Orders dated 11-5-1981, 21-6-1982 and 6-1-1987 respectively, while giving them the benefits of their previous service, whereas he had been ignored. According to him, in the seniority lists circulated on 18-5-1985 and 13-4-1992 his name had rightly been placed at Serial Nos.6 and 4 respectively, by reckoning his seniority with effect from 11-8-1976 i.e. the date when he was promoted as Fitter (Grade-I) and these seniority lists attained finality, as nobody had challenged them but surprisingly in the seniority list circulated on 13-12-1992, his name was placed at serial No.9, by reckoning his seniority with effect from the date he joined the Office of the Executive Engineer, T.R. (P), WAPDA, Shalimar Workshop, Lahore. Against this seniority list the appellant submitted a representation on 4-1-1993 to the XEN, T & R (P), WAPDA, Shalimar Workshop, Lahore, which was not responded too. Thereafter, the appellant remained silent for a long time and it was on 1-11-1994, that he again submitted a representation to the General Manager, Inventory Control, WAPDA, WAPDA House, Lahore, claiming his seniority which remained in the field from 1980 to 1992. The said representation was rejected on 17-4-1995 and communicated to the appellant on 2-5-1995. Thereafter, the appellant filed the present appeal before this Tribunal on 29-5-1995, under section 4 of the Service Tribunals Act, 1973.

3. The learned counsel for the appellant contended, that evidently the transfer of the appellant and others was made alongwith the Dehydration Plant, keeping in view the exigency of work and not on his own request and, therefore, he has a right to reckon his seniority with effect from the date he was promoted as Fitter and not from the date he was transferred to the Office of the Executive Engineer, T.R.(P), WAPDA, Shalimar Workshop, Lahore. It was submitted that in the seniority lists circulated in 1985 and 1992, the appellant was rightly assigned the seniority position with effect from the date he was promoted as Fitter and the said seniority lists had attained finality, therefore, there was no justification for relegating his position in the list which was issued subsequently on 13-12-1992, specially when his seniority remained in the field for more than ten years. The learned counsel asserted

that, in these circumstances, it was unjustifiable to disturb his seniority without affording him any opportunity of hearing. He also placed reliance on the several decisions of the Tribunal as well as the Honourable Supreme Court in support of his contentions, that the appellant's seniority cannot be disturbed as he had been transferred by the WAPDA for its own work and affairs and that too after lapse of more than ten years. According to him, the respondent-Authority had acted unlawfully when it assumed, that on declaring the appellant surplus he had been absorbed in the office of the XEN, T&R.(P), WAPDA, Shalimar Workshop, Lahore, and as such he is entitled to the seniority with effect from the date he joined there. The learned counsel maintained that the appellant's case had been dealt with discriminately, as the persons transferred alongwith him were given the benefit of their past service, while he had been unlawfully refused. Finally, he prayed for setting aside the impugned order dated 17-4-1995, with directions to the respondents to reckon the appellant's seniority with effect from 11-8-1976, when he was appointed as Fitter (Grade-I) with all the consequential benefits.

4. The learned counsel for the respondent-Authority has raised a preliminary objection that the present appeal is time-barred as the impugned seniority list was circulated on 13-2-1992, against which the appellant submitted representations on 4-1-1993 and 1-11-1994 i.e. clearly beyond the prescribed period of limitation. He stated that since the appellant's Departmental appeals, were time-barred, the present appeal before this Tribunal is incompetent. He stated that the appellant had filed his Departmental appeal on 4-1-1993 against which he could have come to the Tribunal, after expiry of the statutory period of 90 days, but instead of that he filed another Departmental appeal on 1-11-1994, which is not provided in law and thus the present appeal is liable to be dismissed on this score alone. The submission of the learned counsel for the respondent has force, nevertheless, we are persuaded by the judgments of the Honourable Supreme Court in the case reported as 1986 SCMR 1213 and 1995 SCMR 950, wherein their Lordships had held that if the Departmental appeal is not dismissed on limitation but on merits, the appeal to the Tribunal could be filed within 30 days from the date of the rejection on merits. In the instant case the appellant's departmental appeal was rejected on 17-4-1995, without referring to his previous appeal or saying a single word about limitation and the reply was received by him on 2-5-1995. On receipt of this reply, the appellant filed the present appeal on 29-5-1995 which, cannot be treated as time-barred and accordingly the contention of the learned counsel for the respondent-Authority is repelled.

5. The learned counsel then submitted that on the transfer of Oil Treatment Plant from the XEN, M&T, WAPDA, Lahore to the XEN, T.R. (P), WAPDA, Shalimar Workshop, Lahore, the appellant and five other persons became surplus but three out of them were absorbed in the office

and recommended the promotions of the respondents. Therefore, these appeals are liable to be dismissed on this point.

3. The departmental representative Mr. Nisar Muhammad, Section Officer is present on behalf of the official respondents and we put the question whether there was anything adverse against the appellants, to which he submitted that all the appellants enjoyed good service record.

4. The question before us is whether the appellants were eligible for promotion as Assistant (B-11) and the D.P.C. had rightly applied its mind or arbitrarily discarded the appellants. The admitted position is that the appellants are senior to the respondents and four of them have been granted Selection Grade B-9, which is normally allowed on the basis of good service record, and there being nothing adverse against them, the D.P.C. in contravention of the rules, exceeded its limits, and recommended the supersession of the appellants, and the result was that most juniors were promoted as Assistant (B-11). It is a clear case of injustice and favouritism. We are sorry to note that the competent Authority also did not take notice of such glaring illegalities and approved the promotions of the respondents without any cogent reasons or justification.

5. Coming to the point of jurisdiction, it is a well-settled proposition of law that promotion is not a vested right of a civil servant, but he has a right for consideration of his name as when the cases for promotion in his cadre are taken up and he can challenge his supersession before the Tribunal, as the case may be. No doubt, under proviso (b) to section 4(1) of the Service Tribunals Act, 1973, there is bar that no appeal shall lie to the Tribunal in cases of determining the fitness or otherwise of a person to be appointed to, or to hold a particular post, but the Tribunal can go into the question of eligibility and to examine whether any injustice has been done to an aggrieved civil servant, and on this point, we rely on the judgments of the Hon'ble Supreme Court reported in PLD 1980 SC 22; 1991 SCMR 1129 and PLD 1994 SC 539. Therefore, in view of the law laid down by the Hon'ble Supreme Court, we hold that the Tribunal can go into the question of promotion where injustice has been done to the civil servants, and we repel the objection of the respondent department.

6. For the foregoing reasons, we allow these five appeals and direct the appellate authority to review their cases in the light of above observations and pass appropriate orders.

H.B.T./95/Sr.F

Appeals allowed.

1998 P L C (C.S.) 939

[Federal Service Tribunal]

Before Muhammad Ismail and Nasim Sabir Syed, Members

ALLAH RAKHA

versus

DIRECTOR, T.R. (DISTRIBUTION), WAPDA,  
LAHORE and 10 others

Appeal No. 221(L) of 1995, decided on 29th November, 1995.

Civil service—

---Seniority---Civil servant who initially was appointed as 'Helper' later on was promoted as "Fitter"—Oil Treatment Plant in which civil servant was working; later on having been transferred to another organisation, civil servant alongwith others was also transferred to transferee organisation—Co-civil servants who were transferred alongwith civil servants were promoted as Assistant Foreman giving them benefits and his seniority was reckoned from date he was transferred to transferee organisation and not from date he was promoted as Fitter—Held, civil servant who was transferred to transferee organisation in view of exigency of work and not on his own request, his seniority should have been reckoned with effect from date he was promoted as Fitter and not from date he was transferred to transferee organisation as when a civil servant is transferred from one office to another or from one place to another compulsorily alongwith his post and work, he is entitled to have his previous continuous service counted in grade towards his seniority in that grade in the new office. [pp. 942, 943] A & B

1986 SCMR 1213; 1995 SCMR 950 and 1985 PLC (C.S.) 415 ref.

Mian Mahmood Hussain for Appellant.

Abdul Majid with Pervaiz Ahmed, Head Clerk, Office of the XEN,  
Shalimar Division WAPDA, Lahore as D.R.

Date of hearing: 12th October, 1995.

#### JUDGMENT

MUHAMMAD ISMAIL (MEMBER).---The appellant, Allah Rakha, was initially appointed Helper in the WAPDA on 6-8-1969 and was promoted as Fitter with effect from 10-8-1976. He was serving as such on Oil Treatment Plant which was under the control of the Executive Engineer, M & T Division, WAPDA, Lahore, when the said plant was transferred to the Executive Engineer, T.R. (P), WAPDA, Shalimar Workshop, Lahore, alongwith the staff. Consequently the appellant alongwith five others, who



2. Director of Inspection (Taxes), Islamabad.
3. Director of Training (Income Tax), Lahore.
4. Controller of Estate Duty, Lahore.

Subject: Seniority of Ministerial Staff Grade 5 - 15 Income Tax Department.

I am directed to forward herewith an extract from the minutes of the Commissioners Conference held on 24th and 26th May, 1979 relating to the decision taken regarding seniority of Ministerial Staff (Grade 5 -15) of Income Tax Department for favour information and necessary action:--

(VIII. SENIORITY OF MINISTERIAL STAFF GRADE 5-15.---It was decided that whereas in case of Zones at Lahore and Karachi the seniority of Ministerial Staff shall be determined at one centralized place, in all other cases it shall be determined Zonewise.

The seniority list at Karachi and Lahore shall be maintained by CIT, East Zone, Karachi and CIT, Lahore Zone A, respectively. The staff of the Commissioner of Income Tax (Revision) and Appellate Assistant Commissioners shall form part of the staff of the Zonal Commissioners for seniority purpose. In the event of a transfer of an official from one Zone to another, the transfer being on his own option, he shall be treated as the junior-most person in that Zone".

The perusal of the above circular shows that:--

- (a) The circular relates to the Ministerial Staff of Grade-5 to 15 whereas the appellant as well as the respondents Nos. 5 and 6 cannot be termed as Ministerial Staff. They are Field Officers.
  - (b) The circular relates to Ministerial Staff of Grade-5 to 15 who derived their authority from the Executive Order and are liable to be appointed on Regional basis and promoted from Grade 5 to 15. The Inspectors of Income-Tax, on the other hand, derived their authority from the Statute of Income Tax and therefore they hold the statutory appointment and cannot be bracketed with the other "Ministerial Staff".
  - (c) The said circular has not been implemented by the Income Tax Authorities themselves because when the learned counsel was asked to produce the seniority list of the Inspectors as maintained in accordance with the said Circular of 1979, he failed to give a logical reply. He was of the opinion that seniority of the Inspectors is based partly on Regional basis and partly on Centralised basis which forms a feeding cadre for the promotion to the higher posts.
7. While examining the issue purely from legal point of view, we are at

difficulty to comprehend why a person in the same service is deprived of his vested rights of seniority on the incident of transfer, though with his own consent. If a civil servant applies for his appointment in another department which is alien to his parent department, he definitely loses his seniority because both the services are different inter se, but in case of transfer to another station, the service structure is not changed and the seniority should not be disturbed. The Establishment Division has provided in the ESTACODE that if a civil servant is transferred in the interest of public service to another department, he will retain his seniority from the date of initial appointment. If the seniority is not disturbed even on transfer to another department, how the seniority is affected by transfer within the department.

8. Supposing the Circular of 1979 is applicable to the present appellant, he was neither asked to give an undertaking of loss of seniority, as directed by the C.B.R. in the above-referred circular, nor this fact of loss of seniority was mentioned in the order of transfer. The appellant moved the authorities within the minimum possible time of his knowledge about the apprehension of loss of seniority and expressed his willingness to be sent back to Karachi. At least this offer should have been accepted. In any case he cannot be deprived of the benefits of his four years of service. Although there are no rules for the maintenance of seniority and for the establishment of proper feeding cadre for the next higher jobs, the appellant definitely deserves to retain his seniority at least in Karachi Zone from the date of his initial appointment. The question of promotion of respondents Nos. 5 and 6 whether on regular basis or against selection post cannot be touched at this stage because if the seniority of the appellant is to be reckoned from the date of his initial appointment in Karachi, the promotion of respondents Nos. 5 and 6 at Multan will not be affected. Otherwise, the appellant will be senior to respondents Nos. 5 and 6 if the seniority list is prepared on centralized basis from the date of appointment.

9. The result of the above discussion is that we partially accept this appeal and direct that the seniority of the appellant should be reckoned with effect from his initial appointment at Karachi in the seniority list of Karachi Zone and for this purpose he may be treated on temporary transfer to Multan Zone while his parent office (where his seniority is maintained) may be considered to be Karachi Zone or otherwise, if necessary, he may be posted back to Karachi to redress his grievance of seniority. Respondents Nos. 1 and 2 are directed to streamline the issue of maintenance of seniority of Inspectors in accordance with the spirit of law as discussed hereinabove.

10. No order as to costs.

11. Parties be informed.

H.B.T./24/Sr.F

Order accordingly.

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simply on the ground of providing opportunities to the learned Standing Counsel for the respondents Nos. 1 and 2 to produce the relevant rules/instructions for determination of seniority of the Inspectors. On one occasion it was specifically mentioned that the concerned Secretary, AIT of the CBR should depute an officer well-conversant with the issued involved and also to produce the relevant record in the matter. However, it is regretted to mention that the CBR failed to assist the Standing Counsel by providing rules or instructions on the subject and they also failed to produce the relevant record. Learned Standing Counsel has produced certain extracts from the instructions which are self-contradictory and the issue is thereby further confused to the extent of ambiguity. For example the learned Standing Counsel for the Federal Government relied on a request of the employees of Income-tax Department dated 5-12-1990, a circular from the Inspecting Assistant Commissioner, HQ dated 11-11-1987, a circular dated 17-8-1987 issued by the Secretary AIT, a letter dated 8-2-1989 from the Secretary AIT dated 18-2-1986. The above list will amply demonstrate the state of affairs in the CBR-- an organisation said to be well-equipped and responsible for earning billions of revenues for the State Exchequer. They are not in a position to comprehend the point in issue. A civil servant was transferred under legal orders of the Competent Authority from Karachi Zone to Multan Zone in 1986 and the documents produced in support of the case against the appellant are issued much after the said incident of transfer. Apparently these letters cannot operate retrospectively. The only letter that can be relevant is dated 18-2-1986 which says that "in the circumstances, mutual transfer of a person to a Region in which he is not domiciled seems to be irregular", which seems that the specific instructions of the CBR issued in 1986 were not in favour of mutual transfer. Even then the Commissioners of Income Tax were allowed and they practised the mutual transfers despite being declared as irregular and they also deprived the incumbents of the benefits of their vested rights of seniority on a supposed directive of the CBR issued somewhere in 1979 (which will also be analysed hereinafter). Similarly there is another contradiction that by circular of 8-2-1989 the CBR informed the Regional Commissioners that "it has been decided that the Regional Commissioners of Income Tax may consider the cases of mutual transfers, if any, of the incumbents domiciled of the intending zone. Such transfer orders should be made clearly specifying that the incumbents would have no claim of seniority and no financial benefits etc.". This means that in the year 1989 the CBR for the first time regularised the earlier "irregular" mode of mutual transfer and prescribed a condition that the transfer orders should contain clear provisions about the loss of seniority. Thus, an order not containing such provisions about the loss of seniority will not affect a civil servant to relegate his position to a lower level. But just after four months of the said circular another letter dated 17-8-1987 was issued to the effect that "inter-Regional transfers" of officials of BPS-1 to BPS-16 even on mutual basis are not permissible under the rules. Therefore, the Board's above-referred circular is withdrawn herewith. The result of this circular is that the "irregular" mode of mutual transfer that was "regularised" in February, 1987 was withdrawn after four months. Three months

thereafter another circular was issued stating that "no request for inter-Regional transfer of officials of BPS-1 to BPS-15, even on mutual consent basis may please be sent to this office". The last "authority" on which respondents Nos. 1 and 2 rely in support of their cases is a charter of demand from the employees of Income Tax Department of Faisalabad Zone dated 5-12-1990 wherein they have reminded the authorities in terms of their own circulars referred to above, that officials recruited in their respective zones on the basis of domicile may not be transferred elsewhere "against" their consent. This was all the defence placed on record to show that whatever has happened to the appellant was just, equitable and suited to the norms of service. All the above documents are not at all relevant to the case in hand. They are confusing and ambiguous. It shows the level of understanding of the Regional set-up of Income Tax and the Head of Department being the C.B.R.

5. Under the Statute governing establishment of Income Tax, the authorities have been described as, the Central Board of Revenue, the Directors of Inspection, the Commissioners of Income Tax, Assistant Commissioners of Income Tax and the Inspectors of Income Tax. The C.B.R. is the authority at the helm of affairs and the Inspectors of Income Tax is the junior-most authority in the same ladder. Thus the authorities of Income Tax put together make a joint group and the C.B.R. being the top supervisory authority cannot be absolved from the responsibilities to regulate the situation of the entire group as a whole. As stated earlier there is no set of regulations or instructions to govern the matters relating to the Inspectors and those which exist, are ambiguous. The learned counsel for the Federal Government was confused when confronted to the situation that Income Tax Inspectors being the feeding cadre for the Income Tax Officers cannot be placed disjointly at the discretion of the Regional Commissionerates. The learned Standing Counsel simply stated that there were two categories of Income Tax Inspectors. The list of one category was maintained at the Regional level and the list of the other category was maintained centrally as a unified group, however, he was not able to produce any instructions or rules for the bifurcation of the same statutory post of Inspector of Income Tax into two categories of Regional and Central level.

6. The letter, on the basis of which the seniority of the appellant from the date of his posting in Multan Zone, is dated 9-6-1979 with the subject "seniority of Ministerial Staff Grade-5 to 15 of Income Tax Department" which is reproduced as under:-

"C. No. 4/1/AIT-2/77, Islamabad, the 9th June, 1979.

From: Mr. Bashir Ahmed Wani,  
Second Secretary.

To

1. All Commissioners of Income Tax.

superiors. We, therefore, dismiss the appeal, having no merit at all. However to meet the requirement of F.R. 29 we modify the impugned order dated 23-2-1995 to the extent that "minor penalty of withholding two annual increments" would be without cumulative effect.

18. No order as to costs.

19. Parties be informed.

H.B.T./27/Sr.F

Appeal dismissed.

1996 P L C (C.S.) 734

[Federal Service Tribunal]

Before Aftab Ahmed and Muhammad Raza Khan, Members

MUHAMMAD BASHIR BALOCH

versus

CHAIRMAN, CENTRAL BOARD OF REVENUE,  
ISLAMABAD and 5 others

Appeal No. 80(R) of 1995, heard on 4th September, 1995.

Civil service—

—Seniority—Civil servant's initial appointment as Income-tax Inspector was in Karachi Zone, but as a result of mutual transfer on the inter zonal basis he was posted at Multan—After transfer of civil servant to Multan, co-civil servants who were junior to civil servant were promoted, but civil servant was ignored on the ground that his seniority had been reckoned from date of his transfer to Multan and not from his initial appointment—Civil servant was placed at a junior position and was not considered for promotion when cases for promotion of co-civil servants who were junior to civil servants were considered despite no undertaking was obtained by Authority concerned from civil servant for loss of seniority at time of its consent for mutual transfer to Multan—Held, in case of transfer of civil servant from one station to another, service structure would not be changed and his seniority should not be disturbed—Civil servant having been mutually transferred from one station to another in the same Department, in interest of public service, he would retain his seniority from date of his initial appointment and not from date of his transfer. [p. 739] A & B

Sh. Riazul Haq for Appellant.

Javed Aziz Sandhu for Respondents.

Date of hearing: 4th September, 1995.

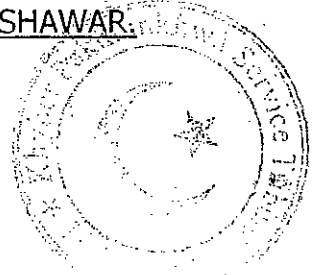
JUDGMENT

MUHAMMAD RAZA KHAN (MEMBER).—Mr. Muhammad Bashir Baloch is working as Income-tax Inspector since 25-3-1982. His initial appointment was in Karachi Zone. However, in 1986, as a result of mutual transfer on the inter zonal basis, he was posted at Multan. The appellant alleges that on his said transfer to Multan he was verbally informed that he would be placed at the junior-most position in the seniority list of Income-tax Inspectors in Multan Zone and that he would lose his seniority position with effect from the date of his initial appointment. The appellant promptly moved an application to the concerned authorities asking for the verification of the said rumours and requested the authorities that in case of apprehended loss of seniority he was ready to go back to Karachi Zone to retain his seniority position from the initial appointment. Allegedly the said representation and further reminders were not responded. Rather he was reportedly told that since the undertaking for loss of seniority has not been obtained from him at the time of his consent for mutual transfer, therefore, the seniority cannot be disturbed without such undertaking. Lately respondents Nos. 5 and 6, were promoted on 5-10-1994 (their dates of initial appointment was 22-6-1982 and 23-6-1982 respectively). The appellant was ignored on the ground that his seniority has been reckoned with effect from 20-7-1986. The appellant filed a departmental representation against the said order of promotion of junior officers. No response has been received within the statutory period of ninety days. Hence this appeal.

2. Respondents Nos. 1 and 2 have not filed any written objections. Respondents Nos. 3 and 4 being the Regional Commissioner, Lahore and Commissioner of Income-tax, Multan have filed the objections wherein it has been alleged that in accordance with the CBR's Letter No. 41/1/AIT/77, dated 9-6-1979 which reads "in the event of a transfer of an officer from one Zone to another, the transfer being on his own option, he shall be treated as the junior-most person in that Zone", the seniority of the appellant has been regulated with effect from the date of his joining at Multan Zone and therefore he was placed at a junior position and so he was not considered for promotion when the cases for promotion of respondents Nos. 5 and 6 were considered.

3. Respondents Nos. 5 and 6 have contested the case on several legal and factual issues, inter alia, alleging that they have been promoted against a selection post of special officers as per discretionary powers of the authorities and it was not a regular promotion. They have also alleged that the authorities have already informed the appellant on 5-8-1986 that the appellant will have to be placed at the bottom of the seniority list of Multan Zone and this letter was duly received by the appellant on the same date. Moreover, they have contended that the matters of the service are controlled by the rules and instructions on the subject and not on the undertakings, wishes and whims.

4. The case was fixed for regular hearing and was adjourned several times

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 456/2012

Date of Institution. ... 12.4.2012

Date of Decision. ... 17.4.2013

Mian Karim Shah, Forest Guard, Demarcation Forest Division,  
Saidu Sharif Shagai, Swat. ...

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Chief Conservator of Forests, Government of Khyber Pakhtunkhwa, Peshawar.
3. Conservator of Forests, Malakand Circle East, Saidu Sharif, Swat.
4. DFO Demarcation Forest Division, Saidu Sharif Shagai, Swat.
5. Faridullah, Forester, Demarcation Forest Division, Saidu Sharif Shagai, Swat.
6. Alamzeb Forest Guard, Demarcation Forest Division, Shagai, Saidu Sharif, Swat. ... (Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974.

MR. MUHAMMAD ZAFAR TAHIRKHELI,  
Advocate

... For appellant.

MR. ARSHAD ALAM,  
Government Pleader

... For official respondents.

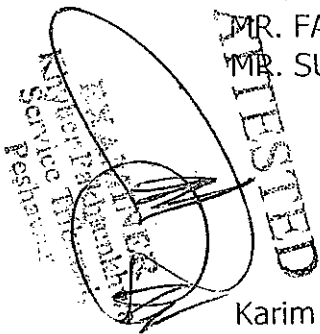
MR. KHALID RAHMAN,  
Advocate

... For private respondents  
No. 5 and 6.

MR. FAREEDULLAH KHAN,  
MR. SULTAN MAHMOOD KHATTAK,

... MEMBER  
... MEMBERJUDGMENT

FAREEDULLAH KHAN, MEMBER.- This appeal has been filed by Mian Karim Shah, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order No. 32 dated 15.11.2011, whereby seniority list dated 25.10.2011 has been withdrawn and against the order No. 34 dated 25.11.2011, whereby private respondent No. 5 is promoted as Forester (BPS-9). It has been prayed that on acceptance of the appeal, the impugned orders may be set aside and the respondent department may be directed to



Swat Forest Division, one Abdul Jalil, Forest Guard of Demarcation Forest Division, Swat submitted an application for his transfer to Swat Forest Division. He was accordingly transferred and the appellant was posted in Demarcation Forest Division without his consent. Hence his seniority had rightly been fixed from the date of appointment. He further argued that private respondents are junior to the appellant because private respondent No. 5 was initially appointed on 22.8.1988 while private respondent No. 6 was appointed on 28.1.1990. The appellant was placed at the top of seniority list as it stood on 25.10.2011 while private respondent No. 5 and 6 at S.No. 2 and 3 respectively on the basis of initial appointment. The appellant being senior and eligible had right to be considered for promotion as Forester while his junior has been considered and promoted as Forester and he has been discriminated against. He stated that the appellant belongs to the same Division while private respondent No. 5 belongs to District Karak and was transferred from FATA. He further stated that the appellant was transferred from Swat Forestry Division Swat to Demarcation Forest Division Swat in exigencies of service without his consent. So he could not be deprived of his legal right of seniority on the basis of such transfer. He also stated that vide office Order No. 48, dated 10.3.2012 another post of Forester is lying vacant since 3.4.2012 due to transfer of Muhammad Iqbal Forester to Kalam Forest Division. He requested that the appeal may be accepted as prayed for.

6. The learned counsel for private respondents argued that the appellant while serving as Forest Guard in Swat Forest Division, a post of Forester lying vacant in the Demarcation Forest Division, so he managed his transfer/adjustment in Demarcation Forest Division in which he succeeded. Due to such transfer/adjustment in Demarcation Forest Division his name should be placed at the bottom of the seniority list as per law/rules. So his name was placed at the bottom of the seniority list. Later on due to extraneous pressure a tentative seniority list as it stood on 25.10.2011 was issued, and his name was brought to S.No.1 of the list. On objections of the other permanent Forest Guards of Demarcation Forest Division, the matter was clarified and subsequently his seniority was withdrawn. His name was brought at the bottom of the seniority list vide letter dated 10.11.2011 and seniority list issued on 18.7.2011 restored. On the basis of his seniority, private respondent No. 4 was considered for promotion as Forester and after observing all the codal formalities, he was promoted as Forester on 25.11.2011 on the recommendations of the Departmental Promotion Committee. He served on the post for some time and valuable rights accrued in his favour, which could not be snatched from him. He

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stated that similar nature Service Appeal No. 18.15/2011 titled "Muhammad Saleem-II Versus Secretary Forests, Khyber Pakhtunkhwa, Peshawar etc.", has also been dismissed by this Tribunal vide judgment dated 15.7.2011. The learned Government Pleader also relied on the arguments of the learned counsel for private respondents. They both requested for dismissal of the appeal.

7. The Tribunal while agreeing with the arguments to the arguments advanced by the learned counsel for the appellant observes that the appellant was posted as Forest Guard in Swat Forest Division. He was performing his services smoothly. Meanwhile one Abdul Jalil, Forest Guard, submitted application for transfer from Demarcation Forest Division to Swat Forest Divisional. Respondent No. 4 issued No Objection Certificate for the transfer and effected the same. The said Abdul Jalil was placed in Swat Forest Division while the appellant was got transferred to Demarcation Forest Division in place of Abdul Jalil. Record shows that the appellant had not expressed any desire for the transfer nor was he otherwise taken into confidence.

8. The appellant then approached the respondent No. 3 for giving him seniority w.e.f. his date of appointment. Agreeing to the request, respondent No. 3, directed respondent No. 4 accordingly. In compliance with the directions, respondent NO. 4 issued seniority list placing the appellant at the top. But a sudden somersault occurred and newly issued seniority list was withdrawn and the old one was restored. Thereby the appellant was found from the top to the bottom of the list.

Keeping the above narration in view, the appeal is accepted and the respondent No. 4 is directed to consider the seniority of the appellant from the actual appointment and the impugned promotion order be reviewed in the records. Parties are left to bear their own costs. File be consigned to the

ANNOUNCED  
17.4.2013.

Certified to be true copy  
(SUL)  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Sd/- Feroz Ullah Khan  
Member  
Sd/- Sultan Mahmood Khan  
Member  
(N)

بعدالت جناب سرسٹریٹس ہونٹل حنیہ لیتوٹوا بنام لکھنؤ کورٹ

منجانب ایڈوانٹ ایڈووکیٹ

2 جولائی 2018

مورخہ

مقدمہ الزام بنام حنیہ لیتوٹوا / مقدمہ حنیہ لیتوٹوا

بذریعہ حنیہ لیتوٹوا و شری

سرسٹریٹس ہونٹل

دعویٰ

جرم

الحق

27/7/2018

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنے طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ آن مقام کل لکھنؤ کورٹ کے متعلقہ آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ہالٹ و فیملہ بر حلف دینے جواب دہیا و اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت مقدمہ پیروی یا ڈگری ایک طرف اپیل کی برآمدگی اور منسوخ مذکور کے مکمل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

2018

ماہ جولائی

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Attested and  
accepted by

گواہ شد

العبد  
الفرزیب

M. Arif Advocate  
District Court Swat  
کیلے منظور ہے۔

گواہ شد

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mob# 03329483542

کل لکھنؤ

بمقام