

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 738/2019

Date of Institution ... 13.05.2019

Date of Decision ... 24.11.2021

Muhammad Junaid, Forest Guard, BPS-08 Buner Forest Division, Chamalla Range
... (Appellant)

VERSUS

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

Asad Mehmood,
Advocate ... For Appellant

Mr. Muhammad Adeel Butt,
Additional Advocate General ... For official respondents No. 1 to 3

Irfan Ali Yousaf Zai,
Advocate ... For private respondents No. 4 & 5

ROZINA REHMAN ... **MEMBER (JUDICIAL)**
ATIQU-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

This single judgment shall dispose of the instant service appeal as well as connected service appeal bearing No. 739/2019 "titled Miraj Khan Versus Government of Khyber Pakhtunkhwa through Secretary, Forest Department, Peshawar and four others", as common question of law and facts are involved therein.

02. Brief facts of the case are that the appellants were initially appointed as Forest Guard in Forest Department and put in more than 31 years service in the

same grade. As per seniority list, appellants were the senior most amongst their colleagues, but respondent No. 4 and 5 were promoted vide impugned order dated 11-01-2019 and the appellants were not considered for promotion being the senior most. Feeling aggrieved, the appellants filed departmental appeals dated 21-01-2019, which were not responded, hence the instant service appeals with prayers that the impugned orders may be set aside and the respondents may be directed to consider the appellants for promotion to the post of Forester being senior to respondents No. 4 and 5.

03. Learned counsel for the appellants has contended that consideration for promotion, being a vested right is protected/conferred on appellants under section-9(1) of Civil Servant Act, 1973, which cannot be refused or denied. Reliance was placed on 2010 SCMR 1301; that the appellants being eligible were not even considered for promotion, which is gross violation of law and rule; that the appellants being senior to respondents No. 4 and 5 and having more than 31 years service are preferably entitled to promotion against the post of Forester; that the required length of service is five years, whereas the appellants have more than 31 years service at their credit were not even considered for promotion, which is violation of promotion policy and rules.

04. Learned Additional Advocate General for official respondents has contended that cases of the appellants were considered for promotion by departmental selection committee in its meeting held on 01-01-2019, but their cases were deferred on the grounds that the appellants were awarded major punishment by divisional forest officer vide order dated 31-01-2002, against which the appellants filed appeals to the appellate authority, which were decided by the appellate authority vide order dated 03-07-2002 and as per order, inter alia, the appellants were awarded with a punishment that they should not be considered for promotion during the remaining service period till their retirement; that the appellants challenged the order dated 03-07-2002 in this Tribunal, which

was dismissed vide judgment dated 15-01-2004, however the appellants have not challenged such order in the Supreme Court, hence such order has gained finality and the appellants cannot be promoted to the next grade in the light of court decision; that departmental appeals of the appellants were rejected by conservator of forest vide order dated 23-11-2018; that the impugned orders dated 11-01-2019 are legal and in accordance with law, hence the appellants are not justified to challenge the promotion order of respondents No. 4 and 5.

05. Learned counsel for private respondents No. 4 & 5 has contended that the judgment of this tribunal dated 27-07-2002 had maintained the order dated 31-01-2002 through which the penalty of barring the appellants from further promotion till their retirement is still intact, as such the appellants have no cause of action. He contended that it is correct that the appellants are senior to the private respondents but mere seniority does not confer any right of promotion, as promotion is based on seniority cum fitness, whereas the appellants are otherwise not fit for promotion due to the penalty imposed upon them vide order dated 31-01-2002; ~~that the appellants have already been declared ineligible for further~~ promotion due to judgment of this Tribunal, hence the appellants were treated in accordance with law.

06. We have heard learned counsel for the parties and have perused the record.

07. Record reveals that the appellants were proceeded against on the charges of negligence and were awarded with punishment of reduction in pay ten stages below time scale, against which the appellants filed appeals to the appellate authority and the appellate authority vide order dated 03-07-2002 modified the penalties and ten stages were reduced to six stages with cumulative effect with a censure to be vigilant in future. The appellants were further penalized for barring their promotion for their entire service until retirement and they were kept under observation for six months. The appellants filed service appeal No. 693/2002,

which was decided vide judgment dated 15-01-2004, operative part of which is reproduced as under:

"There seems no irregularity or illegality in the impugned order, except that it has been passed with cumulative effect, which is not lawful. The impugned order is accordingly modified to the extent of imposing penalty of six stages without cumulative effect. With this modification/variation in the impugned order, the instant appeal as well as the connected two appeals, referred to above, are fail and dismissed."

While interpreting the judgment dated 15-01-2004, the learned counsel for the appellants reiterated his stance that the issue in hand involves interpretation of the said judgment. As per counsel of the appellants, the appellants have interpreted the judgment that penalties of the appellants were reduced and confined only to one penalty of reduction in pay by six stages without cumulative effect; hence, impliedly the other penalty of barring them from promotion for their entire life is no more in field, as it was not discussed in the said judgment and due to the reason, the appellants did not challenge the judgment in the Supreme Court, but the respondents interpreted it otherwise, thus caused irreparable loss to the appellants. Stance of counsel for the appellants is logical and appeals to the prudent mind, as the penalty of barring the appellants from promotion for their entire service until retirement is also illegal and such penalty is not specified in rules and any penalty not specified in the law would make the order void ab initio. Reliance is placed on 2007 SCMR 229. In other words, such penalty also carry cumulative effect, which too is illegal. It also would be violative of settled principle of law that no one can be vexed twice for one and the same cause. Reliance is placed on NLR 1995 Service-6(a). In a situation, where literal construction or plain meaning caused hardship, futility or uncertainty, the purposive or contextual construction was to be preferred to arrive at a more just, reasonable and sensible result. Wisdom in this respect derived from the judgment


reported as 2016 PLC (CS) 155. In a situation, we agree with the interpretation made by the counsel for the appellants and construe that the penalty of barring the appellants from promotion, being illegal is no more in field. It otherwise would be illegal to uphold an illegal punishment, which is not specified in rules and no adverse action could be taken which was not prescribed by law/rule/regulation. Reliance is placed on 2016 PLC 97. We have noted that the appellants have been deprived of promotion only on the issue of interpretation of the said judgment; the appellants however, are otherwise fit for promotion on the basis of seniority cum fitness.

08. In view of the foregoing discussion, the instant appeal as well as connected Service Appeal bearing No. 739/2019 "titled Miraj Khan Versus Government of Khyber Pakhtunkhwa through Secretary, Forest Department, Peshawar and four others", are accepted. The appellants are held entitled to promotion with all benefits and with direction to the respondents to promote the appellants from the date, their juniors were promoted. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

24.11.2021


(ROZINA REHMAN)
MEMBER (J)

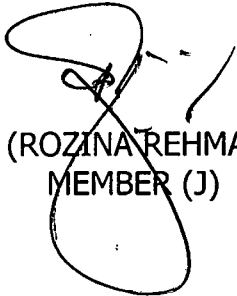

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

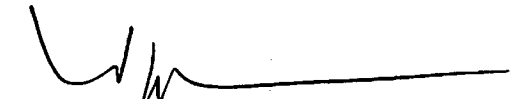
ORDER
24.11.2021

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 1 to 3 and counsel for private respondents No. 4 & 5 present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal as well as connected Service Appeal bearing No. 739/2019 'titled Miraj Khan Versus Government of Khyber Pakhtunkhwa through Secretary, Forest Department, Peshawar and four others", are accepted. The appellants are held entitled to promotion with all benefits and with direction to the respondents to promote the appellants from the date, their juniors were promoted. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
24.11.2021


(ROZINA REHMAN)
MEMBER (J)


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

02.04.2021

Learned counsel for the appellant present.

Mr. Kabirullah Khattak learned Addl. AG alongwith Liaqat Ali SDFO for respondents present.

Former requests for adjournment in order to further prepare the brief. Adjourned to 13/7/2021 for arguments before D.B.



(Atiq Ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

13.07.2021

Counsel for the appellant and Mr. Adeel Butt, Additional Advocate General for respondents present.

Due to general strike of the Peshawar Bar Association, the case is adjourned to 24.112021 for the same before D.B.



(Rozina Rehman)
Member (Judicial)



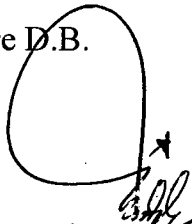
Chairman

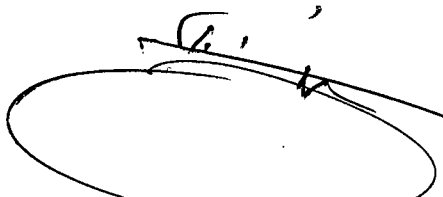
24.09.2020

Appellant alongwith his counsel Mr. Asad Mehmood, Advocate is present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Hazrat Mir, DFO Buner for official respondents and counsel Mr. Irfan Ali, Advocate for private respondents No. 4 and 5 is present.

The learned counsel representing the appellant is seeking time for submitting rejoinder. Time is allowed.

Adjourned to 30.11.2020 for rejoinder and arguments before D.B.


(Mian Muhammad)
Member (E)

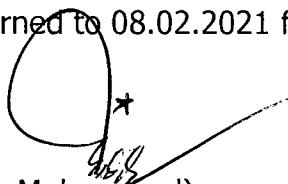

(Muhammad Jamal)
Member(J)

30.11.2020

Mr. Taimur Ali Khan, Advocate for counsel for the appellant and Addl. AG for the respondents present.

Request for adjournment due to indisposition of learned counsel for the appellant.

Adjourned to 08.02.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)


Chairman

08.02.2021

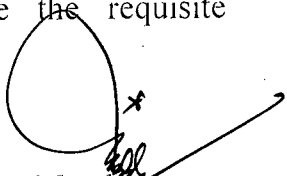
Due to COVID-19, the case is adjourned for the same on 02.04.2021 before D.B.


READER

03.03.2020

Counsel for the appellant, Addl. AG alongwith Liaqat Ali, SDFO for the official respondents and private respondents No. 4 & 5 present.

Respondents seek time to submit written reply. Adjourned to 09.04.2020 on which date the requisite reply/comments shall positively be furnished.


Member

09.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 01.07.2020 for the same. To come up for the same as before S.B.



Reader

01.07.2020

Counsel for the appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Hazrat Mir DFO on behalf of official respondents No.1 to 3 present. Private respondents No.4 & 5 in person present.

Representative of official respondents No.1 to 3 and private respondents No.4 & 5 submitted written reply which is placed on file. To come up for rejoinder, if any, and arguments on 24.09.2020 before D.B.


Member (J)

738/2019

03.12.2019

Counsel for the appellant present.

Learned counsel referred to final seniority list of Forest Guards of Bunir Forest Division as stood on 17.09.2018 and contended that the name of appellant appeared at a senior serial number than those of respondents No. 4 and 5. The appellant, as per list, was appointed/promoted to the post of Forest Guard on 13.10.1987 while the private respondents have been appointed as such on 26.02.1992 and 14.06.2003, respectively. In the said manner, the appellant has been deprived of his promotion right and other service benefits by the respondents.

The appeal is admitted for regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 27.01.2020 before S.B.

Chairman

27.01.2020

Clerk to counsel for the appellant present. Written reply not submitted. Liaqat Ali SDFO for official respondents and private respondents No.4 present and requested for time to furnish written reply/comments. Granted. To come up for written reply/comments on 03.03.2020 before S.B.

Member

05.09.2019

Counsel for the appellant present.

States that the date of hearing in the instant matter was erroneously noted ~~to~~^{as} 15.09.2019 in his diary, therefore, he is not in possession of brief today. Requests for adjournment.

Adjourned to 22.10.2019 for preliminary hearing.

Chairman



22.10.2019

Junior counsel for the appellant present.

Requests for adjournment as learned senior counsel for the appellant is not available today.

Adjourned to 04.12.2019 for preliminary hearing.

Chairman



The appeal of Mr. Muhammad Junaid Forest Guard Buner Forest Division Chamalla Range received today i.e. on 13.05.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Addresses of respondent no. 4 & 5 are incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Annexures of the appeal may be flagged.
- 3- Annexures of the appeal may be attested.
- 4- Memorandum of appeal is misprinted.
- 5- Page Nos. 7 to 10, 17 of the appeal are illegible which may be replaced by legible/better one.
- 6- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 943 /S.T,

Dt. 13/5 /2019.

Asad
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Asad Mahmood Adv. Pesh.

1. Addresses of respondents have been provided.
2. Annexures are properly flagged.
3. Annexures of appeal are attested.
4. Fresh copy of appeal is attached.
5. Pg no. 7-17 are ACR copies wherein remarks are legible. although ACR's have no special role in this appeal.
6. Another copy is also provided.

Asad

KHYBER PAKHTUNWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 738 /2019

Muhammad Junaid,

Forest Guard, BPS-08, Buner Forest Division.

.....**A**PPPELLANT

VERSUS

Forest **D**eartment

.....**R**ESPONDENTS

INDEX

SR NO.	DESCRIPTION	ANNEXURE	PAGE NO.
1.	Memo of Appeal	-----	01 - 03
2.	Stay Application	-----	04
3.	Affidavit	-----	05
4.	Application for Condonation of Delay, if any	-----	06
5.	Copy of ACRs	A	07 - 17
6.	Seniority List	B	18
7.	Impugned Orders	C & D	19 - 20
8.	Departmental Appeal	E	21 - 23
9.	Promotion Rules	F	24 - 25
10.	Vakalatnama	-----	26


APPPELLANT

Through


Asad Mahmood
Advocate High Court


Taimur Ali Khan
Advocate High Court

KHYBER PAKHTUNWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 738 /2019

Muhammad Junaid,

Forest Guard, BPS-08, Buner Forest Division, Chamlla Range.

.....**A**PPPELLANT

Khyber Pakhtukhwa
Service Tribunal

Diary No. 749

Dated 13/5/2019

VERSUS

1. Govt of KPK through Secretary, Forest Department, Peshawar.
2. Chief Conservator of Forests, Malakand Forest Region-III, Saidu Shareef Swat.
3. Divisional Forest Officer, Buner Forest Division, Daggar, Buner.
4. Mr. Noor ul Amin, Forester –BPS 10, Buner Forest Division - Daggar, Office of Range Forest Officer, Daggar Range, Buner.
5. Mr. Parwant Khan, Forester –BPS 10, Buner Forest Division, Office of Range Forest Officer, Chamlla Range, Buner.

.....**R**ESPONDENTS

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT,

1974 AGAINST AN IMPUGNED ORDER NO.19 AND 20 DATED

11TH JANUARY, 2019 WHEREBY JUNIORS TO APPELLANT WERE

PROMOTED TO THE POST OF FORESTER (BPS-10) IN GROSS

VIOLATION OF SENIORITY RULES AND APPELLANT, IN

VIOLATION OF EXPRESS PROVISION OF LAW, IS

DENIED/REFUSED PROMOTION TO FORESTER (BPS-10) AND

AGAINST DEPARTMENTAL APPEAL NOT RESPONDED WITH IN A

STATUTORY PERIOD OF 90 DAYS.

Filed to-day

Registrar

13/5/19

Re-submitted to -day
and filed.

Registrar

17/6/19

PRAYER:

ON ACCEPTANCE OF THIS APPEAL, IMPUGNED ORDERS, BEING ILLEGAL AND UNLAWFUL, MAY KINDLY BE SET ASIDE AND RESPONDENTS MAY KINDLY BE DIRECTED TO CONSIDER THE APPELLANT, BEING SENIOR TO REPENDENTS 4 & 5, FOR PROMOTION TO THE POST OF FORESTOR (BPS-10) ON THE BASIS OF SENIORITY CUM FITNESS.

- **Impugned Order** - 11th January, 2019 (Annexure-C)
- **Departmental Appeal** – 21st January, 2019 (Annexure-D)
- **Service Appeal** - 13th May, 2019

FACTS:

Respectfully Sheweth,

Appellant humbly submitted as under:

1. That the appellant was appointed as Forest Guard (BPS-08) in the respondents' department and put in more than 31 years laudable service in respondents' department. ACRs (**Annexure-A**) with good remarks speaks of appellant's performance up to entire satisfaction of his immediate superiors and recommended him for promotion.
2. That the respondent's department issued final seniority list (**Annexure-B**) of Forest Guards (BPS-08), dated 17th September, 2018 wherein the appellant is shown at seniority no. 03 and respondents are at seniority no. 4 & 5. Further, official at seniority no. 1 fore-go his promotion which entitles appellant - next to him in seniority – for promotion.
3. That Departmental Promotion Committee (DPC) was held wherein respondent no. 4 & 5, despite being juniors to the appellant in seniority, were promoted to the post of Forester (BPS-10) vide Order 19 and 20 dated 11th January 2019 (**Annexure-C and D**), and appellant is not even considered for promotion and denied promotion in gross violation of seniority rules and promotion policy.
4. That appellant filed departmental appeal (**Annexure-E**) dated 21st January, 2019, against the impugned orders, which was not responded within a stipulated period of 90 days. Hence, the instant service appeal.

5. Feeling aggrieved from impugned orders, appellant file service appeal on the grounds inter alia:



LEGAL GROUNDS:

- A. Impugned orders dated 11th January 2019, being illegal and unlawful, passed in violation of express provision of law, are liable to be set aside. **Further**, not taking any action on the departmental appeal of appellant is also the violation of law and norms of justice.
- B. **Consideration for promotion, being a vested right (2010SCMR1301) is protected/conferred on appellant under Section 9(1) of KP Civil Servant Act, 1974, can not be refused or denied. Hence, appellant, being eligible, not even considered for promotion is gross violation of law, seniority rules and judgements of Supreme Court. Hence, impugned orders being passed are null and void in the eyes of law.**
- C. That appellant, being a senior to respondent no. 4 & 5 in the seniority and having a more than 31 years of service length, is **preferably entitled to promotion** against the post of Forester. Furthermore, after fore-go promotion by official at seniority no. 1, legally entitles appellant to be promoted to the same post in preference rather than juniors to him at Seniority no. 4 and 5 are to be promoted.
- D. That required length of service, as per promotion rules and policy (**Annexure-F**), for the post of Forester (BPS-10) is five years whereas appellant despite having more than 31 years of lengthy service against the same post of Forest Guard (BPS-8) is **even not considered for promotion** and hence, denied for the same in violation of promotion rules and policy.
- E. Seeking permission to take further legal grounds while advancing arguments.

It is, therefore, most humbly prayed that impugned orders may kindly be set aside in order to promote justice and respondents may kindly be directed to consider an appellant for promotion to the post of FORESTER (BPS-10) from due date.

Through

Taimur Ali Khan
Advocate High Court


APPELLANT

Asad Mahmood
Advocate High Court

KHYBER PAKHTUNWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2019

Muhammad Junaid,
Forest Guard, BPS-08, Buner Forest Division.

.....**A**PELLANT

VERSUS

Forest **D**epartment

.....**R**ESPONDENTS

**STAY APPLICATION FOR DIRECTION TO
RESPONDENTS' DEPARTMENT TO KEEP THE POST OF
FORESTER (BPS-10) VACANT - DUE TO PROMOTION OF
FORESTER IN CHAMLLA RANGE - TILL THE FINAL
DISPOSAL OF THE INSTANT SERVICE APPEAL.**

Hon'ble Tribunal,

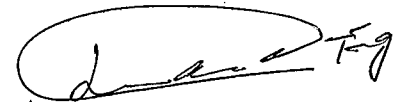
1. All the makings to issue/grant an interim relief to save appellant's service from further miseries, are fully satisfied:
 - a. Appellant, being eligible and senior, is preferably entitled to be promoted. Hence, prima facie case is arguable.
 - b. If interim relief is not granted, it would cause the appellant to suffer an irreparable loss because appellants' guaranteed right would be infringed if junior to appellant is promoted and nothing would left for this Tribunal to finally decide upon.
 - c. Balance of convenience also lies in favour of appellant because appellant would suffer an irreparable loss whereas respondents would be caused no loss. And further to avoid multiplying litigation and its cost on the part of appellant.

It is, therefore, most humbly prayed that the respondents may kindly be instant application may kindly be accepted as prayed for and to avoid further litigation in the instant matter and save appellant's future from further miseries.

Through



Taimur Ali Khan
Advocate High Court



APELLANT



Asad Mahmood
Advocate High Court

KHYBER PAKHTUNWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2019

Muhammad Junaid,

Forest Guard, BPS-08, Buner Forest Division.

..... APPELLANT


V
ERSUS

Forest Department


..... RESPONDENTS

AFFIDAVIT

It is hereby solemnly affirm and declare on oath that contents of this appeal are true and correct to the best of my knowledge and brief and nothing has been concealed from this Hon'ble Tribunal.


Deponent

ATTEST



KHYBER PAKHTUNWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2019

Muhammad Junaid,
Forest Guard, BPS-08, Buner Forest Division.

.....**A**PELLANT

VERSUS

Forest **D**epartment

.....**R**ESPONDENTS

APPLICATION UNDER SECTION 5
OF LIMITATION ACT, FOR
CONDONATION OF DELAY, IF ANY

Respectfully Sheweth,

1. Impugned orders were passed, on 11th January, 2019, which had accrued a cause of action to appellant - for even not considered for a promotion.
2. Appellant, against the impugned orders, filed departmental appeal on 21st January, 2019 which was not responded even waited for a statutory period of ninety (90) days.
3. Appellant after a lapse of 90 days, files a service appeal within next 30 days.

It is, therefore, humbly prayed that although there is no intentional and deliberate delay at appellant's end. But if any delay accrued or came into knowledge at a later stage may kindly be condoned, by this Tribunal, under section 5 of Limitation Act.

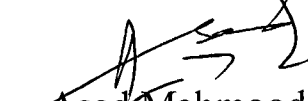
Through



Taimur Ali Khan
Advocate High Court



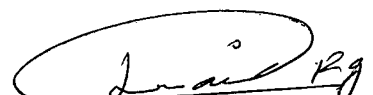
APELLANT



Asad Mahmood
Advocate High Court

AFFIDAVIT

It is hereby solemnly affirm and declare on oath that contents of this appeal are true and correct to the best of my knowledge and brief and nothing has been concealed from this Hon'ble Tribunal.



Deponent

Govt of Khyber Pakhtunkhwa Peshawar
Forest Department Annual Confidential Report
For the year ending 31 December

Note:

1. This form should be filed according to the instructions contained in the Services and general Administration Department letter No. SR-142-50-487 dated 20-03-1956.

2. This report is to be written up by the reporting officer for each calendar year and is to be submitted in the first week of January unless it is written at any time on the transfer of the reporting officer.

1. Name in Full MOHAMMAD JUNID
2. Grade: 08
3. Qualification MATRIC (Sec)
4. Total Service on _____
5. Scale of pay and present pay _____
6. Period of report 01-01-2017 To 31-07-2017
7. Observation on _____

- 8. (i) Supervision control and general check over the work of
 - a. Subordinates v. good
 - b. Control and labours v. good
- (ii) Distribution of work among his subordinate v. good
- (iii) Check over compliance to the instructions received from District or Region Sub Region good
- (iv) Promptness in submission on of or district head quarter by his staff good
- (v) (a) Replies to the communication from the higher authority good
(b) Reports and returns good
- (vi) Amenability to maintenance on order and discipline good
- (vii) Capacity to train, help, advice staff v. good
- (viii) Technical knowledge and application v. good
 - (a) Silviculture v. good
 - (b) Range Management v. good
 - (c) Soil conservation NOT EXAMINED
 - (d) Engineering NOT EXAMINED
 - (e) Protection NOT EXAMINED
- (ix) initiative v. good
- (x) Knowledge of protection regulation good
- (xi) Relation ship with public good
- (xii) Particular of reprimand or warning if any administered _____
- (xiii) General remarks by reporting Officer: A Good Forest Guard and fit for Accelerated promotion.

General remarks by higher officer

Signature of reporting officer
MUSTAFA KHAN
RFO CHAMLA
17-8-2018
District Forest Division

Attested
M

Govt of Khyber Pakhtunkhwa Peshawar
Forest Department Annual Confidential Report
For the year ending 31 December

Note:

1. This form should be filed according to the instructions contained in the Services and general Administration Department letter No. SF 11250-43 dated 20-03-1956.

2. This report is to be written up by the reporting officer for each calendar year and is to be submitted in the first week of January unless it is written at any time on the transfer of the reporting officer.

1. Name in Full MOHAMMAD JUNID
2. Grade a8
3. Qualification MATRIC (Sec)
4. Total Service on _____
5. Scale of pay and present pay _____
6. Period of report 01-01-2016 to 31-12-2016
7. Observation on _____

- 8. (i) Supervision control and general check over the work of:
 - a. Subordinates v. good.
 - b. Control and labours v. good.
- (ii) Distribution of work among his subordinate good.
- (iii) Check over compliance to the instructions received from Directorate Region Sub Region or district head quarter by his staff good.
- (iv) promptness in submission on:
 - (a) Replies to the communication from the higher authorities v. good.
 - (b) Reports and returns v. good.
- (v) Amenability to maintenance on order and discipline v. good.
- (vi) Capacity to train, help, advice staff v. good.
- (vii) Technical knowledge and application:
 - (a) Silviculture
 - (b) Range Management
 - (c) Soil conservation
 - (d) Engineering
 - (e) Protection
- (ix) initiative v. good.
- (x) knowledge of protective and regulation v. good.
- (xi) Relation ship with public v. good.
- (xii) Particular of reprimand or warning if any administered
- (xiii) General remarks by reporting officer: A hard worker & an obedient Forest Guard.

Attested
X

General remarks by higher officer

Signature M. Khan
MUJTABA KHAN
RFO CHAMLA
12-8-2018
Forest Division

Government of Punjab
Forest Department
For the year ending 31 December

Note:

- 1. This form should be filed according to the instructions contained in the Services and general Administration Department's letter No. S.R. 21/5048 dated 20.03.1956
- 2. This report is to be written up by the reporting officer for each calendar year and is to be submitted in the first week of January unless it is written at any time on the transfer of the reporting officer.
- 1. Name in Full M.O. HMMAD JUNID
- 2. Grade 08
- 3. Qualification MATRIC (Sen)
- 4. Total Service on _____
- 5. Scale of pay and present pay _____
- 6. Period of report 01-01-2015 to 31-12-2015
- 7. Observation on _____

- 8. (i) Supervision control and general check over the work of
 - a- Subordinates v. good
 - b- Control and labours v. good
 - (ii) Distribution of work among his subordinates v. good
 - (iii) Check over compliance to the instructions received from District or Region Sub Region or district head quarter by his staff v. good
 - (iv) promptness in submission of good
 - (v) (a) Replies to the communication from higher officers good
 - (b) Reports and returns v. good
 - (vi) Amenability to maintenance of order and discipline v. good
 - (vii) Capacity to train, he p. advice staff v. good
 - (viii) Technical knowledge and application v. good
 - (a) Silviculture
 - (b) Range Management
 - (c) Soil conservation
 - (d) Engineering
 - (e) Protection
 - (ix) Initiative v. good
 - (x) Knowledge of protective legislation good
 - (xi) Relation ship with public good
 - (xii) Particular of reprimand or warning of any administrative nature nil
 - (xiii) General remarks by reporting Officer An obedient & good Forest Guard.

} -> Not examined

ATTESTED
[Signature]

General remarks by higher officer

[Signature]
MUSTAFA KHAN
RFO CHAMLA

Signature Name in Block letter
Designation of countersigning officer

Govt. of Khyber Pakhtunkhwa, Peshawar
Forest Department Annual Confidential Report
For the year ending 31 Dec 2014

Note:

1. This form should be filed according to the instructions contained in the Services and general Administration Department Order No. SF 133/50 dated 20-03-1956

2. This report is to be written up by the reporting officer for each calendar year and is to be submitted in the first week of January unless it is written at any time on the transfer of the reporting officer

3. Name in Full MOHAMMAD JUNID

4. Grade: 08 Qualification METRIC (3c)

5. Total Service on _____

6. Scale of pay and present pay _____

7. Period of report 01-01-2014 To 31-12-2014

8. Observation on (i) Supervision control and general check over the work of v. good

a. Subordinates v. good

b. Control and labours

(ii) Distribution of work among his subordinates good

(iii) Check over compliance to the instructions received from the Region Sub Region good

or district head quarters by his staff v. good

(iv) promptness in submission of (a) Replies to the communication from the higher authority good

(b) Reports and returns v. good

(v) Amenability to maintenance of order and discipline v. good

(vi) Capacity to train help, advice staff v. good

(vii) Technical knowledge and application (a) Silviculture v. good

(b) Range management good

(c) Soil conservation good

(d) Engineering good

(e) Protection good

(viii) initiative good

(ix) Knowledge of protective and regulation good

(x) Relation ship with public good

(xi) Particular of reprimand or warning if any administrative NIL

(xii) General remarks by reporting Officer An experience Forest Guard fit for further promotion.

(xiii) General remarks by higher officer _____

Attested


Signature Name in Block
Designation of reporting officer
MUJJABA KHAN
RFO CHAMLA

Signature Name in Block
Designation of counting signing officer

Govt. of Khyber Pakhtunkhwa Peshawar
Forest Department Annual Confidential Report
For the year ending 31 December

Note:

- 1. This form should be filed according to the instructions contained in the Services and general Administration Department letter No. SR-112-50 487 dated 20-03-1956.
- 2. This report is to be written up by the reporting officer for each calendar year and is to be submitted in the first week of January unless it is written at any time on the transfer of the reporting officer.

1- Name in Full Mr. M. Hassanad Jinnah Khan Forest Guard Buner F/Division
 2- Grade: BPS-08
 3- Qualification Matric (With Science)
 4- Total Service on _____
 5- Scale of pay and present pay 08
 6- Period of report 1-7-2013 - 31-12-2013
 7- Observation on _____

- 8- (i) Supervision control and general check over the work of
 - a- Subordinates v. good.
 - b- Control and labours v. good.
- (ii) Distribution of work among his subordinate, very good.
- (iii) Check over compliance to the instructions received from Directorates Region Sub Region or district head quarter by his staff. very good.
- (iv) promptness in submission on of _____
- (v) (a) Replies to the communication from the higher authority v. good.
 (b) Reports and returns v. good.
- (vi) Amenability to maintenance on order and discipline Amenability
- (vii) Capacity to train, help, advice staff. v. good.
- (viii) Technical knowledge and application
 - (a) Silviculture v. good.
 - (b) Range Management v. good.
 - (c) Soil conservation v. good.
 - (d) Engineering v. good.
 - (e) Protection v. good.
- (ix) initiative v. good.
- (x) Knowledge of protective and regulation v. good.
- (xi) Relation ship with public v. good.
- (xii) Particular of reprimand or warning if any administrated nil.
- (xiii) General remarks by reporting Officer Most obedient & dutiful & very good worker.

ATTESTED
AM

General remarks by higher officer:

I agree with the Report
officer

NASRUZZAH JAN
Signature Name in Block letter
Designated of reporting officer

AMIR AKBAR SHAH
Signature Name in Block letter
Designation of countersigning Officer
Divisional Forest Officer
Buner Forest Division

Govt. of Khyber Pakhtunkhwa Peshawar
Forest Department Annual Confidential Report
For the year ending 31 December _____

Note:

- 1. This form should be filed according to the instructions contained in the Services and general Administration Department letter No. SR-112-50 487 dated 20-03-1956.
- 2. This report is to be written up by the reporting officer for each calendar year and is to be submitted in the first week of January unless it is written at any time on the transfer of the reporting officer.

1- Name in Full Mr. MOHAMMAD JUNAID KHAN Fg

2- Grade: 08.

3- Qualification Matric (Science)

4- Total Service on _____

5- Scale of pay and present pay _____

6- Period of report 1-1-2013 to 31-7-2013

7- Observation on _____

8- (i) Supervision control and general check over the work of _____

a- Subordinates *v. good.*

b- Control and labours. *v. good.*

(ii) Distribution of work among his subordinate. *v. good.*

(iii) Check over compliance to the instructions received from Directorates Region Sub Region or district head quarter by his staff. *v. good.*

(iv) promptness in submission on of _____

(v) (a) Replies to the communication from the higher authority *very good.*

(b) Reports and returns *very good.*

(vi) Amenability to maintenance on order and discipline *v. good.*

(vii) Capacity to train, help, advice staff. *v. good.*

(viii) Technical knowledge and application

(a) Silviculture *v. good.*

(b) Range Management. *Not tested*

(c) Soil conservation. *do.*

(d) Engineering *do.*

(e) Protection *very good.*

(ix) initiative

(x) Knowledge of protective and regulation

(xi) Relation ship with public

(xii) Particular of reprimand or warning if any administered *Nil*

(xiii) General remarks by reporting Officer *Efficient, good worker*

and fit. for Promotion. **ZAHID HUSSAIN** *Zahid Hussain*

Signature Name in Block letter
Designated of reporting officer

ATTESTED

AM

General remarks by higher officer

I agree with the Report.
Officer

AMIR AKBAR SHAH
Signature Name in Block letter

Designation of countersigning Officer
Provisional Forest Officer
Buner Forest Division

GOVERNMENT OF N.W.F.P FOREST
DEPARTMENT. CONFIDENTIAL REPORT
FOR THE YEAR. 01-1-2004 to 31-8-2004

130

Note:-1. This Form should be filled according to the instruction contained in the Service & General Administration Department letter No. SR. 11/2-76/489, dated 29/3/1956.

2. This Report is to be written up by the reporting officer for each calendar year and to be initiated in the first week of January, unless it is written at an other time on the transfer of reporting officer.

1. Name in full MOHAMMAD JUNAID Forest Guard.

2. Grade (BPS) 5

3. Qualification Matric

4. Total Service on 31/12/ _____

5. Period of report. 1-1-2004 - 31-8-2004

6. Scale of pay and present pay _____

7. **OBSERVATION ON:-**

(i) Supervision, control & general check over the work of-

i. Subordinate. Very good.

ii. Contractors and Labours v. good.

(ii) Distribution of work amongst his subordinate. v. good.

(iii) Check over the compliance of the instructions received from the Directorate, Region /Sub Region or District headquarters by his staff Satisfactory

(iv) Promptness in submission of

a. Reply to the communications. Satisfactory.

b. Reports and Returns. Quite satisfactory.

(v) Amenability to maintenance of order and discipline Fair.

(vi) Capacity to train help and advise staff. Fair.

(vii) Technical knowledge and applications:

a. Silviculture. v. good.

b. Range Management. Not tried.

c. Soil Conservazion. v. good.

d. Forest Engineering v. good.

e. Forest protection. very good.

(viii) Initiative satisfactory.

(ix) Knowledge of procedure and regulations v. good.

8. Relation with public pleasant.

9. Particulars of reprimand or warning if any administered NIL.

10. General Remarks by the Reporting Officers. A good man and

Dated. 31-12-2004 a good worker

ATTACHED
W

NAME (IN BLOCK LETTER) MOHAMMAD ZAVIR SUB
AND DESIGNATION OF THE REPORTING OFFICER REO CHAMLA

11. general Remarks by the Higher officer Approved with the reporting officer.

Govt. of Khyber Pakhtunkhwa Peshawar
Forest Department Annual Confidential Report
For the year ending 31 December _____

Note:

- 1. This form should be filed according to the instructions contained in the Services and general Administration Department letter No. SR-112-50 487 dated 20-03-1956.
- 2. This report is to be written up by the reporting officer for each calendar year and is to be submitted in the first week of January unless it is written at any time on the transfer of the reporting officer.

1- Name in Full Mr. MUHAMMAD JUNAID KHAN Fg

2- Grade: ag.

3- Qualification Metric Health (Science)

4- Total Service on _____

5- Scale of pay and present pay _____

6- Period of report 01-01-2002 to 31-12-2002

7- Observation on _____

8- (i) Supervision control and general check over the work of _____

a- Subordinates

b- Control and labours v. good

(ii) Distribution of work among his subordinate. v. good

(iii) Check over compliance to the instructions received from Directorates Region Sub Region or district head quarter by his staff. v. good

(iv) promptness in submission on of _____

(v) (a) Replies to the communication from the higher authority. good
(b) Reports and returns good

(vi) Amenability to maintenance on order and discipline good

(vii) Capacity to train, help, advice staff. good

(viii) Technical knowledge and application good

(a) Silviculture

(b) Range Management

(c) Soil conservation

(d) Engineering

(e) Protection good

(ix) initiative good

(x) Knowledge of protective and regulation good

(xi) Relation ship with public good

(xii) Particular of reprimand or warning if any administrated not

(xiii) General remarks by reporting Officer

ATTACHED
AM

Recommended for promotion.

General remarks by higher officer:
Agreed with reporting officer

Signature Name in Block letter
Designated of reporting officer

JAYATAU

Signature Name in Block letter
Designation of countersigning Officer

RUSTAM KHAN

1. This form should be filled according to the instruction contained in the Service & General Administration Department letter No. SR. 11/2-76/489, dated 29/3/1956.

2. This Report is to be written up by the reporting officer for each calendar year and to be initiated in the first week of January, unless it is written at an other time on the transfer of reporting officer. 15,

Name in full Mr. Mohammed Junaid Fgd.

Grade (BPS) 05

Qualification Matric

Total Service on 31/12/ 01-1-2001 to 30-6-2001

Period of report. _____

Scale of pay and present pay _____

OBSERVATION ON:-

(i) Supervision, control & general check over the work of-

i. Subordinate. V. good

ii. Contractors and Labours V. good.

(ii) Distribution of work amongst his subordinate. V. good.

(iii) Check over the compliance of the instructions received from the Directorate, Region /Sub Region or District headquarters by his staff V. good.

(iv) Promptness in submission of

a. Reply to the communications. V. good.

b. Reports and Returns. V. good.

(v) Amenability to maintenance of order and discipline V. good.

(vi) Capacity to train help and advise staff. V. good.

(vii) Technical knowledge and applications:

a. Silviculture. V. good.

b. Range Management. not tested.

c. Soil Conservaztion. Very good.

d. Forest Engineering V. good.

e. Forest protection. very good.

(viii) Initiative V. good.

(ix) Knowledge of procedure and regulations V. good.

8. Relation with public V. good.

9. Particulars of reprimand or warning if any administered Nil.

10. General Remarks by the Reporting Officers. obedient & hard worker.

ATTESTED
AM

Dated. 10.4.2010

SHERAJAN.
NAME (IN BLOCK LETTER)
AND DESIGNATION OF THE
REPORTING OFFICER

Sherjan
RO
Chamba.

11. general Remarks by the Higher officer

Good worker

Dated 12.4.2010

NAME (IN BLOCK LETTER)
AND DESIGNATION OF THE
COUNTERSIGNING OFFICER.

SALAH WAZIR KHAN

Govt. of Khyber Pakhtunkhwa Peshawar
Forest Department Annual Confidential Report
For the year ending 31 December _____

Note:

1. This form should be filed according to the instructions contained in the Services and general Administration Department letter No. SR-112-50 487 dated 20-03-1956.
2. This report is to be written up by the reporting officer for each calendar year and is to be submitted in the first week of January unless it is written at any time on the transfer of the reporting officer.
1. Name in Full MOHAMMAD JUNAID KHAN F.g
2. Grade: o 8
3. Qualification M.A. with (Economics)
4. Total Service on _____
5. Scale of pay and present pay _____
6. Period of report 5-9-2001 to 31-12-2001
7. Observation on _____
8. (i) Supervision control and general check over the work of _____
 - a- Subordinates
 - b- Control and labours: v-good
 - (ii) Distribution of work among his subordinate.
 - (iii) Check over compliance to the instructions received from Directorates Region Sub-Region or district head quarter by his staff. v. good
 - (iv) promptness in submission on of _____
 - (v) (a) Replies to the communication from the higher authority good
(b) Reports and returns
 - (vi) Amenable to maintenance on order and discipline
 - (vii) Capacity to train, help, advice staff. good
 - (viii) Technical knowledge and application
 - (a) Silviculture
 - (b) Range Management.
 - (c) Soil conservation.
 - (d) Engineering
 - (e) Protection good
 - (ix) initiative good
 - (x) Knowledge of protective and regulation good
 - (xi) Relationship with public cordial
 - (xii) Particular of reprimand or warning if any administered. nil
 - (xiii) General remarks by reporting Officer

Recommended for promotion.

General remarks by higher officer

Agreed with reporting officer.

Signature Name in Block letter
Designated of reporting officer

[Signature]
HAYAT AU

Signature Name in Block letter
Designation of countersigning Officer

RUSTAM KHAN

This form shall be filled according to the instruction contained in the Service of Civil Administration Department letter No. SK. 11/2-76-489, dated 29/3/1956. This Report is to be written up by the reporting officer for each calendar year and to be initiated in the first week of January, unless it is written at an other time on the transfer of reporting officer.

170

Name in full Mr. Mohammad Junaid Fgd.

Grade (BPS) es

Qualification Matric

Date Service to 31-12 2000

Period of report 01-01-2000 to 31-12-2000

Scale of pay and prerogative

OBSERVATION ON:-

Supervisor's control or general check over the work of-

- (i) Subordinate V. Good
- (ii) Contractors and Labour V. Good
- (iii) Distribution of work amongst his subordinate V. Good
- (iv) Check over the compliance of the instructions received from the Directorate, Region / Sub Region or District headquarters by his staff V. Good
- (v) Promptness in submission of
 - a. Reply to the communications V. Good
 - b. Reports and Returns V. Good
- (vi) Amenability to maintenance of order and discipline V. Good
- (vii) Capacity to train help and advise staff V. Good
- (viii) Technical knowledge and applications
 - a. Silviculture V. Good
 - b. Range Management not tested
 - c. Soil Conservation - do -
 - d. Forest Engineering - do -
 - e. Forest protection V. Good
- (ix) Initiative V. Good
- (x) Knowledge of procedure and regulations V. Good
- 8. Relation with public V. Good
- 9. Particulars of reprimand or warning if any administered Nil
- 10. General Remarks by the Reporting Officer obedient & Good Worker.

ATTACHED
SM

Date 10.4.2010

Amir Akbar Shah RSP
NAME (IN BLOCK LETTER)
AND DESIGNATION OF THE
REPORTING OFFICER

11. General Remarks by the Higher Officer

Good Worker

12.4.2010

SHAH WAZIR KHAN
NAME (IN BLOCK LETTER)
AND DESIGNATION OF THE
COUNTERSIGNING OFFICER
12/4/10

AL SENIORITY LIST OF FOREST GUARDS OF BUNER FOREST DIVISION AS IT STOOD ON 17/09/2018.

Name of Forest Guard	District of Domicile	Educational qualification	Technical qualification	Date of birth	Date of 1st entry into Govt. service	Date of appointment/promotion to the present post	Remarks
✓ Mr. Muhammad Ashah	Buner	Matric	Trained	03.02.1960	30.08.1982	30.08.1982	
✓ Mr. Miraj Khan	Buner	Middle	Trained	01.05.1962	31.03.1983	31.03.1983	
✓ Mr. Muhammad Junaid	Buner	Matric	Trained	01.04.1965	13.10.1987	13.10.1987	
✓ Mr. Noorul Amin	Buner	F.A	Trained	15.01.1972	26.02.1992	26.02.1992	
✓ Mr. Parwanat Khan	Buner	Matric	Trained	01.08.1965	14.06.2003	14.06.2003	
✓ Mr. Anwarul Haq	Buner	Matric	Trained	14.06.1971	14.06.2003	16.06.2003	
✓ Mr. Sabze Ali	Buner	Matric	Trained	09.04.1973	14.06.2003	14.06.2003	
✓ Mr. Muhamad Tariq	Buner	Matric	Trained	27.12.1981	25.02.2005	17.02.2005	
✓ Mr. Saëdu'llāh	Buner	Matric	Trained	12.07.1971	28.12.2006	28.12.2006	
✓ Mr. Noor Wahid	Buner	Matric	Trained	08.01.1976	28.12.2006	28.12.2006	
✓ Mr. Kawsar Ali	Buner	F.A	Trained	02.02.1976	13.03.2007	13.03.2007	
✓ Mr. Fida Hussain	Buner	F.A	Trained	07.02.1976	27.10.2007	17.10.2007	
✓ Mr. Amir Sultan	Buner	Matric	Trained	20.04.1976	27.10.2007	27.10.2007	
✓ Mr. Abdūl Wahid	Buner	Matric	Trained	13.04.1977	27.10.2007	27.10.2007	
✓ Mr. Amir Zeb	Buner	F.A	Trained	20.04.1978	27.10.2007	27.10.2007	
✓ Mr. Ashiq Hussain	Buner	Matric	Trained	14.06.1969	06.12.2007	06.12.2007	
✓ Mr. Abdur Rahman	Buner	Matric	Trained	20.03.1971	06.12.2007	06.12.2007	
✓ Mr. Jehan Zaib	Buner	Matric	Trained	07.04.1972	06.12.2007	06.12.2007	
✓ Mr. Sultanat Khan	Buner	Matric	Trained	15.02.1971	07.12.2007	07.12.2007	
✓ Mr. Muhammad Alam	Buner	Matric	Trained	10.03.1966	15.02.2008	15.12.2008	
✓ Mr. Said Akbar Shah	Buner	F.A	Trained	07.01.1973	15.02.2008	14.02.2008	
✓ Mr. Siner Shah	Buner	Matric	Untrained	01.06.1967	15.12.2008	15.12.2008	
✓ Mr. Tavkal Khan	Buner	Matric	Trained	01.03.1970	15.02.2008	15.02.2008	
✓ Mr. Imran Khan	Buner	B.A	Trained	01.04.1983	30.01.2008	31.07.2008	
✓ Mr. Amir Ahamad	Buner	Matric	Trained	03.04.1972	18.07.2008	13.07.2008	
✓ Mr. Sabir Ali	Buner	F.A	Trained	01.01.1969	01.01.2009	01.01.2009	
✓ Muhammad Azam	Buner	Matric	Trained	09.01.1985	21.08.2009	21.08.2009	
✓ Mr. Bādrul Jamil	Buner	B.A	Trained	28.04.1963	28.04.1985	22.03.2003	

L354-56/G.

Dated

Daggar

the: 18 /09/2018.

Copy forwarded for information and necessary action to the:

1. SDO Daggar.
2. ✓ RFO Chamla.
3. All concerned.

ATTESTED
AM

Attested

MS RFO
Range Forest Officer,
Chamla Forest Range,
Buner Forest Division

ANNEX-B
18

ANNEX-C

19

OFFICE ORDER NO. 19 /DATED 11 /01/2019, ISSUED BY
MR. AHMAD JALIL DIVISIONAL FOREST OFFICER BUNER FOREST DIVISION AT
DAGGAR.

On the recommendation of Departmental Promotion Committee contained in minutes of the meeting held under the Chairmanship of DFO Buner Forest Division on 10.01.2019 Mr. Noor-ul-Amin Forest Guard (BPS-08) of Buner Forest Division is hereby promoted to the rank of Forester (BPS-10) with immediate effect.

The promotion order is hereby temporary and will not constitute any right of continuity. He will be on probation for period of one year in terms of section 06 (2) of the Khyber Pakhtunkhwa civil servants (Appointment promotion and transfer rules 1989).

His further posting/adjustment order will be issued separately.

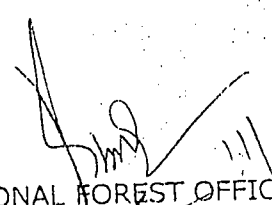
Sd/-
(Mr. Ahmad Jalil)
DIVISIONAL FOREST OFFICER
BUNER FOREST DIVN: DAGGAR

No. 4729-36 /G,

Copy forwarded for information and necessary action to the:

1. Chief Conservator of Forests Malakand Forest Region-III Swat.
2. Conservator of Forests Malakand Forest Circle East Swat.
3. Section officer Establishment Govt: of KP FE & Wildlife Department Peshawar.
4. SDFO Daggar.
5. Divisional Assistant/Accountant.
6. Mr. Noor-ul- Amin Forester.
7. ✓ Personal file.
8. Office Order file.

ATTACHED
A M


DIVISIONAL FOREST OFFICER
BUNER FOREST DIVN: DAGGAR

11/01/2019

ANNEX-D

20

OFFICE ORDER NO. 20 /DATED 11 /01/2019, ISSUED BY
MR. AHMAD JALIL DIVISIONAL FOREST OFFICER BUNER FOREST DIVISION AT
DAGGAR.

On the recommendation of Departmental Promotion Committee contained in minutes of the meeting held under the Chairmanship of DFO Buner Forest Division on 10.01.2019 Mr. Parwanat Khan Forest Guard (BPS-08) of Buner Forest Division is hereby promoted to the rank of Forester (BPS-10) with immediate effect.

The promotion order is hereby temporary and will not constitute any right of continuity. He will be on probation for period of one year in terms of section 06 (2) of the Khyber Pakhtunkhwa civil servants (Appointment promotion and transfer rules 1989).

His further posting/adjustment order will be issued separately.

Sd/-
(Mr. Ahmad Jalil)
DIVISIONAL FOREST OFFICER
BUNER FOREST DIVN: DAGGAR

No. 4737-44 /G,

Copy forwarded for information and necessary action to the:

1. Chief Conservator of Forests Malakand Forest Region-III Swat.
2. Conservator of Forests Malakand Forest Circle East Swat.
3. Section officer Establishment Govt: of KP FE & Wildlife Department Peshawar.
4. SDFO Daggar.
5. Divisional Assistant/Accountant.
6. Mr. Parwanat Khan Forester.
7. ✓ Personal file.
8. Office Order file.

ATTESTED
[Signature]

[Signature] 11/01/2019
DIVISIONAL FOREST OFFICER
BUNER FOREST DIVN: DAGGAR

To:
 Conservator,
 Forests Malakand,
 Forest Circle East Swat.

DEPARTMENTAL APPEAL AGAINST AN IMPUGNED ORDERS DATED 11TH JANUARY, 2019 WHEREBY JUNIOR TO THE APPELLANT HAVE BEEN PROMOTED TO THE POST OF FORESTER (BPS-10) IN GROSS VIOLATION OF LAW AND APPELLANT IS DEPRIVED FROM HIS DUE RIGHT TO PROMOTION TO THE RANK OF FORESTER.

THROUGH PROPER CHANNEL:-

Respectfully Sheweth,

ON FACTS:

Appellant humbly submitted as under:

1. That appellant is rendering services in Forest department and presently working in the capacity of Forest Guard at district Buner.
2. Divisional Forest Officer (DFO) Buner, on the recommendation of Departmental Promotion Committee (DPC), vide office order no. 19 and 20 dated 11th January, 2019, have promoted Mr. Noor-ul-Amin and Mr. Farwant Khan to the rank of FORESTER (BPS-10) and depriving appellant from his due right of promotion to the rank of FORESTER in gross violation of law.
3. That appellant, being a senior most Forest Guard, is entitled to be promoted to the rank of Forester (BPS-10) but despite being eligible and senior most Forest Guard; deprived from his due right of promotion.
4. That appellant has not been considered for promotion due to adverse remarks in ACR for wrong interpretation of decision/judgement KPK Service Tribunal Peshawar.
5. Feeling aggrieved from the impugned orders of promotion, appellant is referring this departmental appeal on the grounds inter alia:

Attached ?
 [Signature]

GROUNDS:

- A. That the aforementioned impugned orders dated 11th January, 2019 issued by Divisional Forest Officer are in gross violation of law, norms of justice and liable to be set aside.
- B. That appellant, being a senior Forest Guard, is entitled for the promotion to the post of FORESTER on the basis of seniority cum fitness.
- C. That not considering an appellant for promotion to the post of FORESTER (BPS-10) for having adverse remarks in ACR for the year 2016 and 2017 is due to wrong interpretation of decision/judgment of KPK Service Tribunal by the department but no fault on the part of appellant.
- D. That juniors to appellant have been promoted to the post of Forester is against the violation of promotion policy.

PRAYER

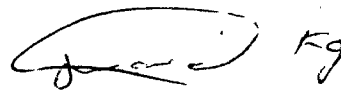
It is, therefore, most humbly requested that captioned orders may be withdrawn and appellant may kindly be granted a due right of promotion to the rank FORESTER from the date when his promotion is due.

ATTESTED





Dated: 21st January, 2019

APPELLANT



Muhammad Junaid
Forest Guard.

	OFFICE OF THE DIVISIONAL FOREST OFFICER BUNER FOREST DIVISION DAGGAR	
	Ph: 0939-510114 Fax: 0939-510104 Email: dfobuner@gmail.com Facebook: dfobuner@gmail.com Twitter: dfobuner1110@gmail.com	
No. <u> </u> /G, Dated Daggur the: <u>28</u> /01/ 2019.		

To

The Conservator of Forests
Malakand Forest Circle East Swat.

Subject:- **DEPARTMENTAL APPEAL AGAINST AN IMPUGNED ORDERS DATED 11TH JANUARY, 2019 WHEREBY JUNIOR TO THE APPELLANT HAVE BEEN PROMOTED TO THE POST OF FORESTER (BPS-10) IN GROSS VIOLATION OF LAW AND APPELANT IS DEPRIVED FROM HIS DUE RIGHT TO PROMOTION TO THE RANK OF FORESTER.**

Memo:

Enclosed please find herewith appeal of Mr. Muhammad Junaid Forest Guard of Buner Forest Division for favour of information and necessary action, please.

Encl : As above.

DIVISIONAL FOREST OFFICER
BUNER FOREST DIVN: DAGGAR

No. 5100 /G,

Copy forwarded to Mr. Muhammad Junaid Forest Guard with reference to his appeal dated 21.01.2019.

ATTACHED
[Signature]

[Signature]
28/01/19
DIVISIONAL FOREST OFFICER
BUNER FOREST DIVN: DAGGAR

GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NOTIFICATION

Dated Peshawar the 14th March, 2013

SO (Estt)Envy/1-465/2k12 In pursuance of the provisions contained in sub-rule (2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, Environment Department, Government of Khyber Pakhtunkhwa, in consultation with the Establishment and the Finance Department, hereby directs that in the Forestry, Fisheries and Department's Notification No.SO(FT.II)1-465/88/Vol:IV dated 26.1.1993, the following amendments shall be made, namely;

AMENDMENTS

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

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

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3 - ANNEX-F
465

24

WAKALATNAMA

KHYBER PAKHTUNWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/2019

Muhammad Junaid,
Forest Guard, BPS-08, Buner Forest Division.

V ERSUS


Forest Department

Hon'ble Tribunal;

Mr. Asad Mahmood, Advocate, is hereby empowered to institute, conduct, defend, compound, or abandon the legal proceedings, and to do on my behalf all other matters connected with the case before this Hon'ble Forum. Ab initio responsibility for keeping abreast of the case and attend thereto shall, however, lie upon the undersigned. Dismissal in default or for non-prosecution shall not, in any way, be attributed to the counsels. Wakalatnama was read over to me and I fully understood the contents thereof; and were found to the entire satisfaction of mine.

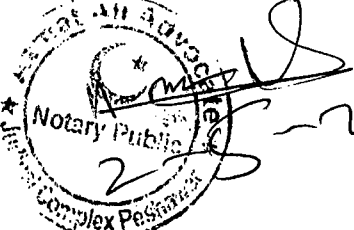
 Fg.
APPELLANT/PETITIONER

I hereby accept the case.


(Asad Mahmood)
Advocate, Peshawar,
Cell # 03449064149


(TAIMUR ALIKHAN)
Advocate High Court

ATTESTED


Notary Public
25-2-19

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

Service Appeal No.738/2019

Muhammad Junaid

Versus

Secretary Forest, Environment and Wildlife Department

INDEX

S#	Description of documents	Annexure	Page No
1.	Reply of the Respondent		1-2
2.	Copy of the Minutes of the meeting	"A"	3-6
3.	Copy of the officer order No.36 dated 23.11.2018	"B"	7
4.	Copy of the inquiry Report	"C"	8-10
5.	Copy of the officer order No.3 dated 3.07.2002	"D"	11-12
6.	Copy of the Service Tribunal judgment dated 15.01.2004	"E"	13-17
7.	Wakalat nama		

Petitioner

Through,

Dated: 01/07/2020


Hazrat Mir) DFO

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHSAWAR.
SERVICE APEAL No. 738, 739/2019.

Muhammad Junaid & Miraj Khan..... (Petitioner)

Versus

Secretary Forestry, Environment and Wildlife Department (Respondents)

Joint Parawise comments on behalf of Respondents No. 1, 2 & 3

AFFIDAVIT

I, Mr. Hazrat Meer Divisional Forest Officer Buner bearing CNIC No. 17101-8573214-9, solemnly affirm and declare on oath that the contents of enclosed Joint parawise Comments on behalf of Respondents No. 1, 2 & 3 are true and correct to the best of my knowledge and belief. Nothing has been concealed from this Hon' able Court.

DEPONENT


(Hazrat Meer)

ADivisional Forest Officer Buner
CNIC No. 17101-8573214-9
Mobile No. 0345-9197251

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 738/2019

Muhammad **J**unaid,

Forest **G**uard, **B**PS-08, **B**uner **F**orest **D**ivision, **C**hamlla **R**ange.

.....**A**PPELLANT

VERSUS

1. Govt of KPK through Secretary Forestry, Environment & Wildlife Department, Peshawar.
2. Chief Conservator of Forests, Malakand Forest Region-III, Saidu Sharif Swat.
3. Divisional Forest Officer. Buner Forest Division, Daggar, Buner.
4. Mr. Noorul Amin, Forester-BPS 10, Buner Forest Division, Daggar.
5. Mr. Parwanat Khan, Forester-BPS 10, Buner Forest Division.

.....**R**ESPONDENTS

Para wise comments on behalf of Respondents are furnished asunder:

PRELIMINARY OBJECTIONS

- i. That the appellant has no cause of action.
- ii. That the appellant has no locus standi to file the appeal.
- iii. That the appeal is bad for non-joinder of necessary parties and mis-joinder of un-necessary parties.
- iv. That the appellant has been estopped by his own conduct to file the appeal.
- v. That the appeal is badly time barred.
- vi. That the appeal is not maintainable in its present form.
- vii. That the Honorable Tribunal has no justification to adjudicate the matter.

FACTS

1. Pertains to record, hence no comments.
2. Only seniority does not qualify a civil servant for promotion unless and until other criteria are fulfilled as per Khyber Pakhtunkhwa Promotion Police, 2008 and Existing Service Rules of Forest Department, Khyber Pakhtunkhwa.
3. Incorrect the appellant was considered by Departmental Promotion Committee in its meeting held on 10/01/2019 and was deferred on the following reasons/grounds. However Respondent No. 4 and 5 were recommended for promotion by DPC (**Copy of the minutes of DPC is Annex-A**):-

"The appellant was awarded major penalty by DFO Buner (Authority) vide office order No. 80 dated 31/01/2002 (**Annex-B**), after conducting proper inquiry under E&D rules. Being aggrieved with the order of DFO Buner, the appellant had filed departmental appeal before the Conservator of Forests (Appellate authority) which was decided by the appellate authority vide office order No. 03 dated 03/07/2002 (**Annex-C**). As per order of the appellate authority, the following punishment, inter alia were awarded to the appellant.

"He should not be considered for promotion during the remaining service period till his retirement".

The appellant challenged the order No. 03 dated 03/07/2002 of the Conservator of Forests in the honorable tribunal of NWFP (Now KPK) which was dismissed vide judgment of NWFP service tribunal Peshawar dated 15/01/2004 (**Annex-D**). However, the appellant had not challenged the order of the service tribunal within the stipulated period, which is now a legal order and should be abide by.

4. The departmental appeal of the appellant was rejected by Conservator of Forests Malakand Circle East, being appellate authority vide office order No. 36 dated 23/11/2018 (**Annex-E**).
5. Office orders No. 19 & 20 dated 11/01/2019 are legal and in accordance with promotion policy. Hence the appellant is not justified to challenge the promotion orders of respondent's No. 04 and 05.

LEGAL GROUNDS

- A. Incorrect. Office orders No. 19 and 20 dated 11/01/2019 are legal and lawful as it were issued in light of recommendations of DPC dated 10.1.2019. The departmental appeal of the appellant was also rejected by Conservator of Forests Malakand Forest Circle East, being appellate authority vide office order No. 36 dated 23/11/2018 (**Annex-E**).
- B. Incorrect. The appellant was duly considered and deferred by the DPC in its meeting held on 10.1.2019 on the grounds as elaborated at para 3 above of facts.
- C. As explained in detailed in paras 2 & 3 above of facts. In light of the office order No. 03 dated 03/07/2002 and judgment of Khyber Pakhtunkhwa Service Tribunal dated 15/01/2004 in service appeal No. 693/2002, the appellant was not promoted (**Annex-C & D**).
- D. As explained above in detailed.
- E. Seeking permission to take additional grounds and evidence during arguments.

It is humbly requested that the appeal being illegal, unlawful and not maintainable in the eyes of law may be dismissed with cost please.


SECRETARY TO GOVERNMENT OF KPK
FORESTRY ENVIRONMENT & WILDLIFE
DEPARTMENT


CHIEF CONSERVATOR OF FORESTS
MALAKAND FOREST REGION-III
SAIDU SHARIF SWAT


DIVISIONAL FOREST OFFICER
BUNER FOREST DIVISION DAGGAR

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE REGARDING THE PROMOTION OF FOREST GUARDS TO THE RANK OF FORESTERS HELD ON 10.01.2019 IN THE OFFICE OF THE DIVISIONAL FOREST OFFICER BUNER FOREST DIVISION AT DAGGAR.

A Departmental Promotion Committee was constituted vide this office order No. 18, dated 07.01.2019. The following attended the meeting:

1. Mr. Ahmad Jalil
Divisional Forest Officer
Buner Forest Division. Chairman.
2. Mr. Hafiz Abdul Jalil
Section Officer Estt:
Forestry, Environment and
Wildlife Department, Peshawar. Member.
3. Mr. Arshad Ali Khan
Sub Divisional Forest Officer
Daggar Forest Sub Division. Member.

The Departmental Promotion Committee examined the working and service record of the following Forest Guards and made its recommendation as noted against each:

1) Mohammad Asha F/Guard.

The committee perused the service record of Mohammad Asha Forest Guard standing at S.No.01 of the working paper/seniority list. The committee observed as under:

- 1) 15 Adverse ACRs.
- 2) 07 Average ACRs.
- 3) 07 Missing ACRs..
- 4) 01 Fair ACR.
- 5) 06 good ACRs.
- 6) Out of last Ten ACRs, Three are average, three are missing, two good and two fair.

Therefore, the committee did not recommend him for promotion to the rank of Forester, hence deferred due to adverse ACRs and poor performance. The official will be required to earn satisfactory ACRs for five years in order to be promoted to the next grade:

2) Mr. Miraj Khan Forest Guard.

The committee pursued the service record of Mr. Miraj Khan, Forest Guard standing at S.No. 02 of the working paper/seniority list. The committee observed as under:

- 1) 01 Adverse ACR.
- 2) 10 Average ACRs.
- 3) 08 Missing ACRs.
- 4) 05 Fair ACRs.
- 5) 15 Good ACRs.
- 6) Out of the last Ten ACRs, one is v. good two are good, three average and four are missing.

Besides, as per decision of the Honourable Service Tribunal Peshawar dated 15.1.2004, he could not be considered for promotion during the remaining service period till his retirement.

Therefore, the committee did not recommend him for promotion to the rank of Forester and hence deferred.

4 (127)

3) Mr. Muhammad Junaid Forest Guard.

The committee pursued the service record of Mr. Muhammad Junaid, Forest Guard . standing at S. No. 03, of the working paper. The committee observed as under:

- 1) 13 Very good.
- 2) 14 Good.
- 3) 05 Missing.
- 4) 08 Average.
- 5) Out of the last Ten ACRs, two are missing, four good, four very good.

Besides, as per decision of the Honourable Service Tribunal Peshawar dated 15.1.2004, he should not be considered for promotion during the remaining service period till his retirement.

Therefore, the committee did not recommend him for promotion to the rank of Forester and hence deferred.

4) Mr. Noorul Amin Forest Guard.

The committee pursued the service record of Mr. Noorul Amin, Forest Guard . standing at S.No. 04 of the working paper. The committee observed as under:

- 1) 11 excellent ACRs.
- 2) 09 very good ACRs.
- 3) 14 Good ACRs.
- 4) 01 Fair ACR
- 5) 01 Average ACR.
- 6) 01 Missing ACR.
- 7) Out of the last Ten ACRs, three are good five are excellent and two very good.


Therefore, the committee recommended him for promotion to the rank of Forester on regular basis. He will be on probation for a period of one year as per Rules.


5) Mr. Parwanat Khan Forest Guard.

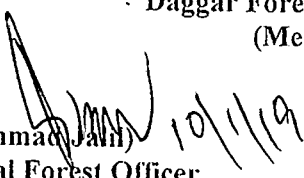
The committee pursued the service record of Mr. Parwanat Khan, Forest Guard . standing at S.No. 04 of the working paper. The committee observed as under:

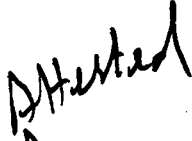
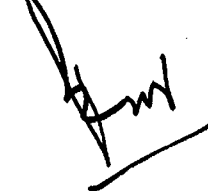
- 1) 02 Excellent ACRs.
- 2) 10 very good ACRs.
- 3) 07 Good ACRs.
- 4) 0 Fair ACR
- 5) 01 Average ACR.
- 6) 0 Missing ACR.
- 7) Out of last Ten ACRs, Eight are very good, one good and one excellent.

Therefore, the committee recommended him for promotion to the rank of Forester on regular basis. He will be on probation for a period of one year as per Rules.


(Hafiz Abdul Jalil)
Section Officer (Estt)
Environment Department
Peshawar (Member)


(Arshad Ali Khan)
Sub Divisional Forest Officer
Daggar Forest Sub Division
(Member).


(Mr. Ahmad Jalil)
Divisional Forest Officer
Buner Forest Division.
(Chairman)

529)

OFFICE ORDER NO. 19 /DATED 11 /01/2019, ISSUED BY
MR. AHMAD JALIL DIVISIONAL FOREST OFFICER BUNER FOREST DIVISION AT
DAGGAR.

On the recommendation of Departmental Promotion Committee contained in minutes of the meeting held under the Chairmanship of DFO Buner Forest Division on 10.01.2019 Mr. Noor-ul-Amin Forest Guard (BPS-08) of Buner Forest Division is hereby promoted to the rank of Forester (BPS-10) with immediate effect.

The promotion order is hereby temporary and will not constitute any right of continuity. He will be on probation for period of one year in terms of section 06 (2) of the Khyber Pakhtunkhwa civil servants (Appointment promotion and transfer rules 1989).


His further posting/adjustment order will be issued separately.

Sd/-
(Mr. Ahmad Jalil)
DIVISIONAL FOREST OFFICER
BUNER FOREST DIVN: DAGGAR

No. 4729-36 /G,

Copy forwarded for information and necessary action to the:

1. Chief Conservator of Forests Malakand Forest Region-III Swat.
2. Conservator of Forests Malakand Forest Circle East Swat.
3. Section officer Establishment Govt: of KP FE & Wildlife Department Peshawar.
4. SDFO Daggar.
5. Divisional Assistant/Accountant.
6. Mr. Noor-ul- Amin Forester.
7. ✓ Personal file.
8. Office Order file.


DIVISIONAL FOREST OFFICER
BUNER FOREST DIVN: DAGGAR
11/01/2019

attested



6 (51)

OFFICE ORDER NO. 20 /DATED 11 /01/2019, ISSUED BY
A. AHMAD JALIL DIVISIONAL FOREST OFFICER BUNER FOREST DIVISION AT
DAGGAR.

On the recommendation of Departmental Promotion Committee contained in minutes of the meeting held under the Chairmanship of DFO Buner Forest Division on 10.01.2019 Mr. Parwanat Khan Forest Guard (BPS-08) of Buner Forest Division is hereby promoted to the rank of Forester (BPS-10) with immediate effect.

The promotion order is hereby temporary and will not constitute any right of continuity. He will be on probation for period of one year in terms of section 06 (2) of the Khyber Pakhtunkhwa civil servants (Appointment promotion and transfer rules 1989).

His further posting/adjustment order will be issued separately.

Sd/-
(Mr. Ahmad Jalil)
DIVISIONAL FOREST OFFICER
BUNER FOREST DIVN: DAGGAR

No. 4737-44 /G,

Copy forwarded for information and necessary action to the:

1. Chief Conservator of Forests Malakand Forest Region-III Swat.
2. Conservator of Forests Malakand Forest Circle East Swat.
3. Section officer Establishment Govt: of KP FE & Wildlife Department Peshawar.
4. SDFO Daggar.
5. Divisional Assistant/Accountant.
6. Mr. Parwanat Khan Forester.
7. Personal file.
8. Office Order file.

[Signature]
DIVISIONAL FOREST OFFICER
BUNER FOREST DIVN: DAGGAR
11/01/2019

attached
[Signature]

Read with

Annex-B

1. Conservator of Forests Malakand Circle office order No. 3 dated 03.7.2002.
2. Service Tribunal judgment dated 15.01.2004.
3. Appeal of Mr. Mohammad Junaid Forest Guard dated 18.10.2018.
4. This office letter No.3159/E, dated 25.10.2018.
5. DFO Buner letter No.2305/G, dated 01.11.2018.
6. This office letter No.3541/E, dated 07.11.2018.
7. Personal hearing dated 16.11.2018.

7

Brief history of the case

While deciding appeal of Mr. Mohammad Junaid Forest Guard, the Conservator of Forests Malakand Circle (Appellate authority) vide his office order No. 3 dated 03.7.2002 imposed following penalties:-

- a. Pay of the appellant is reduced by six stages with accumulative effect.
- b. Censure to be vigilant and careful in future.
- c. He should not be considered for promotion during remaining period till retirement.
- d. He will remain under observation for six months.

Being aggrieved the above named Forest Guard approached Service Tribunal. The Service Tribunal vide judgment dated 15.01.2004 only relaxed the penalty mentioned at serial No. (a) and converted the penalty of accumulative effect into without accumulative effect. The other penalties have not been considered and kept as such.

The Forest Guard after lapse of more than 14 years approached this office vide appeal dated 18.10.2018 requesting therein to withdraw the penalty mentioned at serial No. © above. The appeal was sent to the DFO Buner for comments vide this office No.3159/E, dated 25.10.2018. In response the DFO Buner vide his letter No.2305/G, dated 01.11.2018 offered his comments. The official was heard in person on 16.11.2018.

Discussion

The appeal of the appellant, judgment of Service Tribunal dated 15.01.2004 and comments offered by the DFO Buner have been examined thoroughly. The official was also heard in person and it has been noticed that the appellant was required to challenge the Service Tribunal judgment dated 15.01.2004 in August Supreme Court of Pakistan but he failed to do so. Moreover the Conservator of Forests Malakand Circle is the appellate authority in the instant case who had already decided appeal of the above named official vide office order No.3 dated 03.7.2002.

Order


In view of above exposition as well as personal hearing dated 16.11.2018, the appeal of Mr. Mohammad Junaid Forest Guard of Buner Forest Division dated 18.10.2018 is hereby rejected.

Sd/-
(MOHAMMAD RIAZ)
CONSERVATOR OF FORESTS,
MALAKAND CIRCLE EAST,

No. 3898-99 /E,
Copy forwarded to the:-

- ✓ 1. Divisional Forest Officer, Buner Forest Division Daggar for information and further necessary action with reference to his letter No. cited above.
2. Mr. Mohammad Junaid Forest Guard C/O DFO Buner for information with reference to his appeal dated 18.10.2018.


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

attached


EC
4/04/2018

B

OFFICE ORDER NO. 90 / DATED SAWARI THE 31 / 01 / 2002, ISSUED BY MR. RUSTAM KHAN, DIVISIONAL FOREST OFFICER, BUNER FOREST DIVISION.

Read with.

1. Damage lists dated 23-9-2001, 30-9-2001 and 14-10-2001, duly prepared and signed by Mr. Mujtaba Khan, Forester, Zia-ud-Din Forest Guard and Mr. Shera Jan Ex-Range Officer, Chhuala.
2. Divisional Forest Officer, Buner Office order No. 15 dated 17-10-2001.
3. Statement of allegations dated 17-10-2001.
4. Replies of the accused officials dated 24-10-2001, 28-10-2001 and 29-10-2001.
5. Statements and cross examination of accused officials dated 31-10-2001.
6. Show cause notice No. 254-56/R, dated 29-11-2001.
7. Replies to the Show cause notice dated 7-12-2001, 8-12-2001 and 9-12-2001.
8. Personal hearing of accused officials dated 13-12-2001.

BRIEF HISTORY.

During the inspection of Amzai and Umbara Khol Forests by Divisional Forest Officer, Buner Forest Division alongwith Range Officer, Chhuala, Mujtaba Khan Forester, Zia-ud-Din Forest Guard and other officials on 23-9-2001, 30-9-2001 and 14-10-2001, the following illicit damage/irregularities were noticed/detected :-

S.No.	Compartment No.	Number of illicit cut trees.
1.	Amzai Compartment No. 16	70 Nos. Chir trees.
2.	Amzai Compartment No. 03 and 04.	38 Nos. Chir trees.
3.	Umbara Khol Compartment No. 03.	61 Nos. Chir trees.

Beside above, the Divisional Forest Officer, Buner also observed the newly constructed Katcha house in Amzai Compartment No. 05 where snayers/labourers were stationed alongwith equipments/ tools and ration etc for illicit cutting of trees.

During the above inspection/visits and damage noticed/ enlisted, the Incharge Forest Guards of the beats and Forester incharge were also accompanying the Divisional Forest Officer, Buner.

(Contd/P-2)

Taking note of the huge damage, the Divisional Forest Officer, Buner ordered the enquiry under "Special power" Ordinance 2000, vide his office order No.15 dated 17-10-2001, and appointed an enquiry committee consisting Mr. Hayat Ali Range Officer, Daggar as a Chairman and Mr. Said Umar Assistant as a member. A statement of allegations was also served on the following accused officials :-

1. Mr. Sher Dil Khan, Forester Incharge Amazai block.
2. Mr. Miraj Khan Forest Guard Incharge Umbara Khel beat.
3. Mr. Muhammad Junaid F/Guard Incharge Amazai beat.

In response to statement of allegations, the accused officials submitted their defensive replies, Statements of prosecution witnesses were recorded and opportunity of cross examination was provided, for the sake of natural justice on the day of enquiry i.e. 31-10-2001, by the enquiry committee. The accused officials were also heard in person. Enquiry committee established the charges of in-efficiency and Mis-conduct.

On receipt of enquiry report, show cause notice was served upon the accused officials, vide Divisional Forest Officer, Buner letter No.254-SS/A, dated 28-11-2001. The accused officials furnished their replies dated 7-12-2001, 8-12-2001 and 9-12-2001. The accused officials were also appeared before Divisional Forest Officer, Buner on 12-12-2001 and heard in person.

DISCUSSION.

After taking over the charge as Divisional Forest Officer, Buner on 5-9-2001, forest inspections were started in Buner Forest Division, Daggar and Chamla Ranges.

Sufficient time was provided to the field staff for checking of forests under ^{their} control/responsibility. Instructions were delivered to improve their working and divert full attention towards the protection of forests. Instead of repeated verbal directives, the above accused officials failed in controlling the forests damage and as a result huge illicit damage occurred in the forests.

From the perusal of statement of allegations, damage lists, replies of the accused officials, and report of the enquiry committee, it is crystal clear that accused officials have actually failed in performance of Government duty and rendered them-selves guilty of in-efficiency and Mis-conduct. The accused officials have also owned the occurrence of damage/irregularities mentioned in the statement of allegations. According to their confession much more damage has been confirmed in the areas of their responsibility as inspected by Divisional Forest Officer, Buner on 23-9-2001, 30.9-2001, and 14-10-2001. The Forests remained under great threat of locals as well as nearby inhabitants of down Districts. In such circumstances, the accused officials were required to have close watch on the illegal activities of the timber smugglers, but they failed in timely checking

(Contd/P-3)

and controlling the illicit forest damage. Occurance of heavy damage fully confirms their in-efficiency and Mis-conduct. Hence liable for major penalty.

ORDER.

The perusal of enquiry file reveals that all the damage mentioned in the statement of allegations has actually been caused to the forest due to poor performance of the accused officials. Damage reports whatever found issued during the course of enquiry were without detection and taking possession of case property, tools and implements, which further confirms lacking on the part of accused officials. Mere issuance of damage reports can not be considered remedy for huge loss sustained to the Government. No FIR has been found lodged against the forest offenders. Accused officials also failed in bringing alarming situation in the notice of the higher-ups of the Department in time.

In the light of foregoing facts, the charges of in-efficiency and Mis-conduct levelled against all the three accused officials establish fully.

They deserve severe punishment but considering their long service, I Mr. Rustom Khan, Divisional Forest Officer, Buner Forest Division in the capacity of authority, hereby order the reduction in pay TEN STAGES below time scale of each accused officials viz M/S Sher Dil Khan, Forester, Miraj Khan, and Muhammad Junaid Forest Guards with immediate effect.

Sd/- (RUSTAM KHAN)
DIVISIONAL FOREST OFFICER,
BUNER FOREST DIVISION, SAWARI.

No. 2880-82/G.

- 1. Copy forwarded to the :-
- 2. Conservator of Forests, Malakand Circle, Mingora, for favour of information, please.
- 3. All concerned officials for information and further necessary action.
- 4. Range Officer, Chahala Range for information and further necessary action.
- 5. HC/Divl; Accountant for information and further necessary action.
- 6. Personal files for record.

DIVISIONAL FOREST OFFICER,
BUNER FOREST DIVISION,
SAWARI. 1

Annex-D

OFFICE ORDER NO. 03 DATED MINGORA THE 03 / 17 / 2002 ISSUED BY
MR. MUHAMMAD IQBAL SWATI CONSERVATOR OF FORESTS MALAKAND CIRCLE
MINGORA (SWAT).

READ WITH: -

1. Divisional Forest Officer Buner Office Order No. 90 dated 31-01-2002.
2. Appeal dated 27-02-2002 of Mr. Muhammad Junaid Forest Guard Buner Forest Division.
3. Conservator of Forests Malakand Circle letter No. 7210/E, dated 13-03-2002.
4. Comments offered by the DFO Buner vide his letter No. 4793/G, dated 08-05-2002.

BRIEF HISTORY OF THE CASE: -

Mr. Muhammad Junaid Forest Guard of Buner Forest Division was proceeded against under the N.W.F.P. removal from service (Special Powers) Ordinance, 2000 on account of illicit cutting of tress in Amazai Comptt: No. 3, 4 & 16 and Umbara Khel Comptt: No. 3 Proper charge sheet/memo of allegations was served upon the accused official (now appellant) and an enquiry committee was constituted to probe into the allegations vide Divisional Forest Officer Buner Office Order No. 15 dated 17-10-2001.

The enquiry committee after conducting proper enquiry in accordance with the provision of rules held him guilty of he charge of In - efficiency and mis - conduct. The DFO Buner (Authority) after serving Show Cause notice and affording him opportunity of personal hearing also found him guilty of the charges and imposed punishment, reducing his pay ten (10) stages vide his office order No. 90 dated 31-01-2002.

The official being aggrieved of the said order preferred appeal before the undersigned (appellate authority) which was sent to the DFO Buner vide this office letter No. 7210/E, dated 13-03-2002. In response the DFO Buner furnished comments vide his letter No. 4793/G, dated 08-05-2002.

DISCUSSION:

The appeal of appellant and comments offered by the DFO Buner have been examined thoroughly and it has been observed that the proceeding have been conducted strictly in accordance with the rules having no procedural flaw. It has been stated by the appellant that damage reports have been issued against the offenders for illicit cutting of tress and all the stumps were accordingly numbered but later on the numbers were removed by the locals due to cutting of stumps for the purpose of firewood. He further stated that he also approached the S.H.O. Police Nawagai for taking legal and lawful action against the Forest offenders besides reporting the matter to the Range Officer for adoption of other measure, to compact the activities of the offenders.

ORDER: -

In view of the above exposition, and long service of the appellant rendered in the department. I Muhammad Iqbal Swati Conservator of Forests Malakand Circle in the capacity of appellate authority exercising the powers conferred by rule - 5 of the N.W.F.P. Civil Servants (Appeal) Rules, 1985 decided the subject appeal as under: -

attached


(21)

12

(4)

- 1- Divisional Forest Officer Buner office order No. 90 dated 31-01-2002 is modified as under: -
- 2- The pay of the appellant Mr. Muhammad Junaid Forest Guard is reduced by six (6) stages with accumulative effect.
- 3- Censure to be vigilant and careful in future.
- ✓ 4- He should not be considered for promotion during the remaining service period till his retirement.
- 5- He will remain under observation for six months and if found guilty of any charge, will be removed from service under removal from service (Special Powers) Ordinance, 2000.

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


B No. 35-36 /B&A.

Copy forwarded to the: -

- 1- Divisional Forest Officer Buner at Sawarai for information and necessary action with reference to his letter quoted above.
- 2- ✓ Mr. Muhammad Junaid Forest Guard C/O DFO Buner Forest Division Sawarai for information with reference to his appeal dated 27-02-2002.

CONSERVATOR OF FORESTS
MALAKAND CIRCLE
MINGORA.

26/6

attached


Annex - E

13

BEFORE THE N.W.F.P. SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 693/2002

Date of institution .. 27.7.2002

Date of decision .. 15.1.2004

Muhammad Junaid, Forest Guard,
Office Incharge Amazai Beat Buner,
Forest Division, Sawerai.

.. Appellant

VERSUS

1. Govt. of NWFP through Secretary,
Forest Department, Peshawar.
2. Conservator of Forest,
Malakand Circle Mingora Swat.
3. D.F.O, Buner Forest Division, Buner.
4. Mr. Hayat Ali, Regional Officer (Chairman),
Mr. Said Umar Assistant (Member) Inquiry Committee,
District Buner.
5. Range Officer, Chamlla Range Forest Department,
Chamlla. .. Respondents

Mr. Muzammil Khan,
Advocate.

.. For appellant

Mr. Sultan Mehmood,
Govt. Pleader/P.P

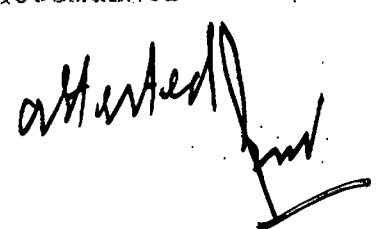
For respondents

Mr. Abdul Sattar Khan,
Mr. Azmat Hanif Orakzai.

.. Chairman
Member

JUDGMENT

ABDUL SATTAR KHAN, CHAIRMAN: This appeal is directed against the order dated 31.1.2002, whereby respondent No. 3 imposed a penalty of reduction in pay on appellant for 10 stages below time scale/and also against the order dated 3.7.2002 vide which the Appellate Authority reduced the said penalty to six (6) stages with accumulative effect.

attested


2. It is to be noted that there are two other connected appeals bearing No. 694 and 695 of 2002 filed by Sher Dil-Khan and Miraj Khan appellants respectively. As the impugned orders, respondent department and points of law and facts are common in all the appeals, therefore, our this single judgment shall dispose of the instant appeal as well as the connected two appeals, referred to above.

3. Brief facts of the case are that the appellant was appointed as Forest Guard in the respondent department on 13.10.87 and put in about 16 years meritorious service in the department without any complaint etc. and served at various places. To his utter surprise, when on his request, checking of the concerned forest at Buner was conducted by respondent No.3 whereupon he was also shown the excess damages committed by some locals against whom report to the concerned quarters was made well within time (Annexure-A). Respondent No.3 after completing his inspection levelled allegations against the appellant and others and appointed an inquiry committee vide order dated 17.10.2001 (Annexure-B). A show cause notice with statement of allegations was served upon the appellant which was duly replied by him in time (Annexures C & C/1). Thereafter an enquiry was conducted without fulfilling the legal formalities and without giving an opportunity to the appellant to explain himself. It is alleged that the inquiry report will be provided at the time of arguments as not provided to the appellant at this stage. Ultimately, a penalty of reduction in pay for ten stages below the time scale was imposed upon the appellant vide order dated 31.1.2002 (Annexure-D). Feeling aggrieved, the appellant filed a departmental appeal, whereupon the authority instead of exonerating the appellant from the

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charges reduced the penalty from ten stages to six stages with accumulative effect (Annexures E & F). Hence this appeal.

4. The grounds mentioned in the appeal are that ^{against} the show cause notice and allegations levelled ~~the~~ appellant are baseless, false and fabricated; that the respondent No.3 has wrongly implicated the appellant inspite of the documentary proof/information duly made in time; that the impugned orders are malafide; that the so-called inquiry and in consequence thereof the impugned order are ultra-vires of the law/rules, as the inquiry was not properly conducted by the Inquiry Committee and that the documentary proof and evidence produced by the appellant have not been taken into consideration by the Inquiry Committee rather the inquiry has been conducted subjectively under the pressure of respondent No.3. Moreover, the impugned penalty with accumulative effect without mentioning specific period is also against the relevant provision of law. In the prayer, it has been asked that on acceptance of the appeal, both the impugned orders dated 31.1.2002 and 3.7.2002 may be set-aside and the appellant be exonerated from all the charges levelled against him by restoring his pay and allowances to its original position.

SMW

5. Respondents have filed their written reply and contested the appeals of the appellants by denying their claim and it has been stated that the appellants were found guilty of in-efficiency and mis-conduct and after adopting of proper procedure, they were rightly punished. In rebuttal, appellants also filed their replications.

6. Arguments heard & record perused.

7. From perusal of the record it is evident that during the inspection of Amasai and Umbara Khel Comptts: by the D.F.O, Buner Forest Division alongwith other officers/officials of the Forest Department on 23.9.2001, 30.9.2001 and 14.10.2001, illicit damage/irregularities were noticed. Departmental proceedings were initiated and completed against the appellants and they were found guilty of negligence and the damage was caused due to their poor performance. Accordingly, the Authority imposed penalty of reduction in pay ten stages below time scale on each of the appellants vide order dated 31.1.2002. The appellants filed their departmental appeals. The Conservator of Forests, Malakand Circle, Mingora decided the said appeals on 3.7.02 and while modifying the penalty already imposed on the appellants, passed the following orders:

1. "The pay of the appellants^{are} reduced by six (6) stages with accumulative effect.
2. Censure to be vigilant and careful in future.
3. They should not be considered for promotion during the remaining service period till their retirement.
4. They will remain under observation for six months and if found guilty of any charge, will be removed from service under Removal from Service (Special Powers) Ordinance, 2000."

Feeling aggrieved, the appellant-s approached this Tribunal for the redressal of their greivances through the instant appeals.

8. Learned counsel for the appellants argued that the punishment awarded to the appellants is very harsh in the circumstances; that the appellants have informed the authority well in time regarding the damage caused to the forests, notice of which was not taken and the appellants were punished.

attached
[Signature]

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9. In reply it was urged by the learned P.P that proper the enquiry was conducted. The appellants were afforded/opportunity to defend themselves. Opportunity of personal hearing was also given to them and they were properly punished.

10. The Tribunal observes that the appellants have no valid claim. Proper enquiry was conducted against them. Their liabilities have fairly and squarely been fixed by the Enquiry Committee. Proper opportunity of defence was also afforded to them. There seems no irregularity or illegality in the impugned order, except that it has been passed with cumulative effect which is not lawful. The impugned order is accordingly modified to the extent of imposing penalty of six stages without cumulative effect. With this modification/variation in the impugned order, the instant appeal as well as the connected two appeals, referred to above, are fail and dismissed. Parties are, however, left to bear their own costs. File be consigned to the record.

ANNOUNCED

15.1.2004

Accepted 15/04
(ABDUL SATTAR KHAN)
CHAIRMAN
NWFP SERVICE TRIBUNAL
PESHAWAR.

Amm
(AZMAT HANIF ORAKZAI)
MEMBER

Certified to be true copy.

[Signature]
NWFP Service Tribunal,
Peshawar.

attached
[Signature]

17/1/04
2000
7-00
7-00
17/1/04
17/1/04



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2481 /ST

Dated: 14/12 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The Divisional Forest Officer Buner Division Dagar,
Government of Khyber Pakhtunkhwa
Buner.

Subject: JUDGMENT IN APPEAL NO. 738/2019 MR. MUHAMMAD JUNAID & 1 OTHER.

I am directed to forward herewith a certified copy of Judgement dated 24.11.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

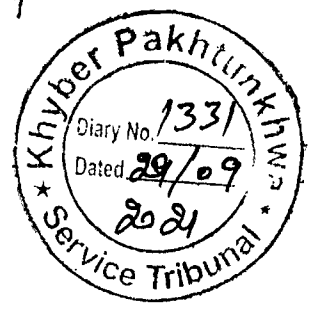

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

کمیٹی کے سربراہان کی طرف سے

گواہت

DB 1

24/11



سید عثمان کے حوالہ سے

دیوانہ کی طرف سے

Filed on the...



Reader

NFA

Handwritten signature

08/11/2021

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**BEFORE KHYBER PAKHTUNWA SERVICE TRIBUNAL,
PESHAWAR**

Appeal No. 738 & 739/2019

1. *Muhammad Junaid, Forest Guard, BPS-08, Buner Forest Division*
2. *Miraj Khan, Forest Guard, BPS-08, Buner Forest Division.*

.....**APPELLANTS**

VERSUS

1. *Govt of KPK through Secretary, Forest and others.*

.....**RESPONDENTS**

**WRITTEN ARGUMENTS ON BEHALF OF
APPELLANTS.**

Respectfully Sheweth,

ON FACTS:

Appellant humbly submitted as under:

1. *That the appellant was appointed as Forest Guard (BPS-08) in the respondents department and put in more than 31 years laudable service in respondents' department.*
2. *That damage to forest was detected by Divisional Forest Officer (DFO), and the penalty of “reduction in pay for TEN stages below the time scale” was imposed vide order dated 31.01.2002 which was illegally enhanced, WITHOUT ISSUING SHOW CAUSE NOTICE AND SHOWING COGENT REASON, by the appellate authority vide order dated 03.07.2002 and added 3 more punishments thereto including:*
 - a. *“The Pay of appellant is reduced by six (6) stages with accumulative effect”.*
 - b. *Censure to be vigilant and careful in future.*
 - c. *They should not be considered for promotion during the remaining service period till their retirement. (THIS PUNISHMENT IS ALIEN TO LAW AND NEITHER ENLISTED IN THE RSO 2000, NOR IN MINOR & MAJOR PENALTIES OF E & D RULES 1973)*

- d. They will remain under observation for six months and if found guilty of any charge, will be removed from service under **Removal from Service (Special Powers) Ordinance, 2000.**”
3. That the appellants, feeling aggrieved from impugned orders, filed service appeal no. 693/2002 in KP Service Tribunal and was decided on 15.01.2004 wherein **IMPUGNED ORDER was modified to the extent of imposing penalty of reduction of pay by six stages without accumulative effect and kept silence over the other 3 penalties.**
4. That Departmental Promotion Committee (DPC) was held on 10.01.2019 wherein appellants were denied a promotion to the post of FORESTER (BPS 10) from FOREST GUARD (BPS 08) on account of judgment/order of KP Service Tribunal in service appeal no. 693/2002 which is wrongly interpreted by the respondents department and hence respondents no. 4 & 5, despite being juniors, were promoted to the post of Forester (BPS-10).
5. Feeling aggrieved from impugned orders, appellant is preferring this service appeal on the grounds inter alia:

LEGAL GROUNDS:

- A. **LAW** includes act of the court as well as a statutory law(2015 PLC CS 354)① Hence, the same **PRINCIPLES FOR INTERPRETATION** applicable to **STATUTES** will be applied to interpret the **COURTS ORDERS**.
- B. In case of absurdity, language of statute/law can be interpreted by modifying law in a way to avoid absurdity or repugnance where grammatical construction of law leads to such absurdity. (PLD 1956 FC② 209). In case of conflict in two provisions of law, then courts have to follow harmonious interpretations and not attributed redundancy to any provision of law. (2019 PTD 615)③
- C. Where the words are capable of more than one interpretations of any law/order or where there is an ambiguity about the true intention of legislature, the court may consider the general history including the various steps leading to its enactment in order to discover the intention of legislature/law maker. (1992 SCMR 563)④ **Purposive or contextual construction** is to be preferred, incase of conflict, to arrive at just, reasonable and sensible conclusion/result. (2016 PLC CS 155)⑤
- D. Penalties against appellant were imposed in the year 2002 at the time when **RSO, 2000 was in field**. Imposing penalty **OUT OF RSO 2000**

even the penalties enlisted under Govt (E & D) Rules 1973 are also held illegal. (2007 SCMR 229) Hence, imposition of penalty of with-holding promotion till retirement is also illegal.

- E. In view of judgment of Hon'ble PESHAWAR HIGH COURT, reported as 7 {NLR 1995 Service 6, citation (a)} Series of four punishments based on same evidence and same misconduct would be hit by maxim "Nemo debet lis vexari prona et eadem causa" (it is a rule of law that a man shall not be twice vexed for one and same cause). Hence, appellants were awarded **ONE PUNISHMENT** by KP Service Tribunal and in view of the above said judgment of Peshawar High Court, the remaining 3 punishments were set aside.
- F. Penalty of **WITHHOLDING OF PROMOTION** awarded by respondents was not available in **RSO 2000**. Moreover, withholding of promotion till retirement without specifying time or for indefinite period is violation of fundamental rules **FR-29** and is held illegal. (2017 PLC CS NOTE 22). Hence, question of penalty of with-holding promotion till retirement against appellants does not arise. Where penalty is not provided in law, such order is illegal in the eyes of law. (PLJ 2011 TrC (Ser) 5).
- G. Awarding 04 penalties for one and same charge/cause of action is against the principle of "**NO ONE CAN BE VEXED TWICE FOR ONE AND SAME CAUSE OF ACTION**" and also violation of ARTICLE 13 of CONSTITUTION OF PAKISTAN 1973 forming the basis of the Principle of "**DOUBLE JEOPARDY**". Awarding more than one penalty for one and same offence is hit by **DOUBLE JEOPARDY**. (2007 PLC CS 1318)
- H. **Accused official can be awarded one penalty for one charge.** Appellants were awarded one penalty of "**REDUCTION IN PAY TO SIX STAGES BELOW THE TIME SCALE WITHOUT ACCUMALATIVE EFFECT**" vide order dated 15.01.2004 in service appeal no. 693/2002. Hence, in view of aforementioned principles, remaining 3 penalties are set aside vide same order dated 15.01.2004. **TWO PUNISHMENTS CAN NOT BE AWARDED FOR ONE CHARGE.** (2007 PLC CS 1234, PLJ 2012 TrC 47) (2007 PLC CS 1234)
- I. In view of judgment of Hon'ble PESHAWAR HIGH COURT, reported as NLR 1995 Service 6, citation (b) Successive orders of enhancement of punishment smacking of mala fides can not be passed in view of maxim "Nemo debet lis vexari prona et eadem causa" (it is a rule of law that a man shall not be twice vexed for one and same cause.)

J. That appellate order dated 03.07.2002 wherein penalties were **enhanced from 01 to 04 penalties without recording cogent reasons and without issuing show cause notice** is illegal and against the basic spirit of Governments (E & D) Rules 2011. (PLJ 2008 TrC (Ser) 7, 2008 PLC CS⁽¹⁰⁾ 300, 2013 SCMR 372-a) Appellate authority must state cogent reasons while enhancing the penalty of appellants. (2016 PLC CS 454). Hence, impugned order can not be interpreted in violation to law; by imposing remaining 03 penalties.