

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 935/2015

Date of Institution ... 19.08.2015
Date of Decision ... 15.09.2017

Rehmatullah Khan son of Habibullah Jan, Divisional Forest Officer, Mansehra. ... (Appellant)

VERSUS

1. Secretary, Government of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department, Peshawar and another. ... (Respondents)

MR. SAADULLAH KHAN MARWAT,
Advocate --- For appellant.

MR. MUHAMMAD JAN,
Deputy District Attorney. ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN.- The present appeal was placed before a D.B of this Tribunal and vide two separate judgments of the Worthy Members of this Tribunal dated 01.08.2017, the matter was sent for reference to referee judge as both the judgments mentioned above differed on the point of grant of antedated promotion . On this the matter was placed before the undersigned for decision as Referee Judge.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The appellant was promoted from the post of Range Officer Wildlife (BPS-16) to the post of Sub Divisional Wildlife Officer (BPS-17) on 12.3.2015 with immediate effect. However, through the present appeal, the appellant seeks antedated promotion w.e.f. 01.07.2014 (when the post was created). Prior to 1.07.2014, the appellant was assigned the duties on acting charge basis against the post of BPS-17 vide order dated 19.12.2013.

ARGUMENTS

4. The learned counsel for the appellant argued that when the appellant was promoted on acting charge basis from 19.12.2013 and the seat was created on 01.07.2014, then he should have been promoted from 01.07.2014 and not with immediate effect i.e. 12.3.2015. In this regard he relied upon a judgment of this Tribunal in appeal No. 612/2008 entitled "Muhammad Iqbal Khattak Vs. Government of Khyber Pakhtunkhwa" decided on 13.3.2009 which was upheld by the august Supreme Court of Pakistan in Civil Appeals No. 860 and 861 of 2010 decided on 24.05.2012 (hereinafter called "Muhammad Iqbal Khattak case"). The learned counsel for the appellant argued that in the above referred judgment of this

Tribunal the then appellant was also promoted on acting charge basis and when he was later on promoted, the department did not promote him from the date of acting charge and this Tribunal allowed the appeal and granted antedated promotion to him. He further argued that the present case of the appellant is similar to the above referred appeal and he be also given antedated promotion.

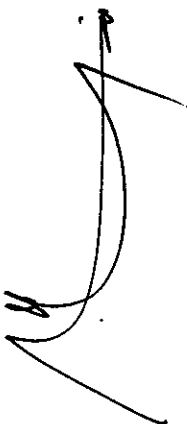
5. On the other hand, the learned Deputy District Attorney argued that the case of the appellant is not similar to the above mentioned case because the present appellant was promoted on acting charge basis against a vacancy which was reserved for direct recruits of Public Service Commission. That if the present appellant is given antedated promotion then many direct recruits who were appointed in between 01.07.2014 and 12.03.2015 shall become junior to the appellant. He referred to the seniority list in which almost eight direct recruits have been appointed in between this period. He argued that by not impleading those persons, the present appeal is liable to be dismissed on this score alone. He further relied upon a judgment entitled "*Abid Hussain Sherazi Vs. Secretary M/O Industries and Production, Government of Pakistan, Islamabad*" reported as 2005-SCMR-1742. In this judgment the august Supreme Court of Pakistan dismissed the petition for antedated promotion case on the ground of non impleading all the seniors which could have been affected by an order of the court

and also denied antedated promotion from the date of occurrence of vacancy on merit.

CONCLUSION.


6. In the presence of two judgment of the august Supreme Court of Pakistan mentioned above, this Tribunal is to see whether the above two judgments of the august Supreme Court of Pakistan are in conflict with each other or they complement each other and what are the circumstances of the present appeal and which *ratio* out of the above two judgments can be applied to the present appeal. The judgment of Abid Hussain Sherazi is of the year, 2005 and has been taken into account by the august Supreme Court of Pakistan in Iqbal Khattak case and in this judgment the august Supreme Court of Pakistan has not differed with the judgment of Abid Hussain Sherazi but it has been held that the circumstances of the case of Abid Hussain Sherazi were different from Iqbal Khattak case. Iqbal Khattak case has been based on a reported judgment entitled "*Luqman Zareen and others Vs. Secretary Education, Government of Khyber Pakhtunkhwa and others*" (2006-SCMR-1938). In Luqman Zareen case, the august Supreme Court of Pakistan while deciding the case had put certain queries and on the basis of those queries granted antedated promotion. We are to see whether those queries are fully replied in the present appeal and if this is the case, then the appellant is entitled for antedated promotion otherwise he

is not. Those queries were (a) whether there was any impediment in the way of respondent to be promoted to the next higher scale at the time when a vacancy occurred and the answer was no; (b) who was senior to the respondent and whose right of ranking senior had been affected or impaired by the judgment, the learned counsel could not refer to anything in this regard; (c) Whether he was put on such higher post on officiating or on acting charge basis only because the requisite exercise of allowing the regular promotion to such post was being delayed by the competent authority and where he was subsequently found fit for such promotion and so promoted on regular basis, then he was entitled not only to the salary attaching to such post but also to all consequential benefits; (d) whether he was on officiating or on acting charge basis against the said vacancy to which he was promoted on regular basis.



7. Now applying these queries to the present appeal we see that as to query (a) there was an impediment in the way of appellant to be promoted when he was placed on acting charge basis because this seat was reserved for direct recruits and not for promotion as is apparent from the acting charge itself. (b) in the present appeal as discussed above eight senior persons, atleast, would be affected. (c) & (d) the present appellant was not promoted to the said post on which he was holding the acting charge appointment rather another post was created on

01.07.2014 against which he claims promotion from the said date i.e. 01.07.2014. In the present appeal, the appellant himself had asked to give him antedated promotion not from the date when he was promoted on acting charge basis but from the date of creation of this new vacancy which means that his case is dissimilar to Iqbal Khattak case and is a case of fresh promotion with new creation of post and not in continuation of promotion on acting charge vacancy.



8. This Tribunal therefore, reaches the conclusion that the circumstances of the present appeal are not similar to Iqbal Khattak case as the conditions mentioned therein are not fulfilled. The judgment of Abid Hussain Sharazi is therefore, applicable in the present appeal. It is held in Abid Hussain Sharazi case that there is no vested right in promotion or rules determining eligibility for promotion. Where-ever there is a change or grade or post for the better there is an element of selection involved i.e. promotion and it is not earned automatically but under an order of the competent authority to be passed after consideration of comparative suitability and entitlement of those incumbents. The august Supreme Court of Pakistan further placed reliance on 2 cases entitled "*Muhammad Umar Malak Vs. Federal Service Tribunal*" (PLD 1987 172) and "*Government of Punjab Vs. Muhammad Awais Shahid*" (1991-SCMR-696). It has further been held by the august Supreme Court of Pakistan while relying upon another

judgment entitled "*Muhammad Yousaf Vs. Chairman Railwa*" (1999-SCMR-1559) by holding "*as regard claim to promotion or proforma promotion, what the civil servant could claim under the law was, that he should be considered when question of promotion was taken up. Civil servant could not call upon the Service Tribunal to direct the department to fill the promotion post forthwith or on a particular date and not to keep it vacant or under consideration*".

9. It is now crystal clear that the case of the appellant is dissimilar to the one of Iqbal Khattak and he cannot be granted ante-dated promotion on the basis of that case. While agreeing with Mr. Muhammad Hamid Mughal, the learned Member (Judicial) this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


(NIAZ/MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED
15.09.2017

(Approved for Reporting)

14.09.2017

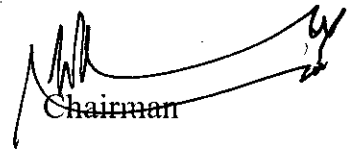
Appellant alongwith counsel and Mr. Muhammad Jan, Deputy District Attorney alongwith Rahim Dad, Junior Clerk for the respondents present. Arguments heard. To come up for order on 15.09.2017 before this S.B.


Chairman

15.09.2017

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide my detailed judgment of to-day, this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


Chairman


ANNOUNCED

15.09.2017

01.08.2017


Counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents present. Since the learned Member Executive passed dissenting judgment in the present appeal as such the bench remained unable to arrive on unanimous decision. Therefore, in view of Sub-Section-2 of Section-5 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 the present case is hereby sent to learned Chairman Service Tribunal for further appropriate orders.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD HAMID MUGHAL)
MEMBER

17.08.2017

File received from D.B-II and order sheet dated 01.08.2017 perused. This case be put up before the Chairman as a Referee Judge. Notices be issued to the parties. To come up for appearance/further proceedings on 12.09.2017 before S.B.


12.09.2017

Counsel for the appellant, and District Attorney for the official respondents present. Both the parties seeks adjournment. To come up for arguments before this S.B tomorrow on 13.09.2017.


Chairman


Chairman

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	01.08.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Appeal No. 935/2015</p> <p style="text-align: center;">Date of Institution ... 19.08.2015 Date of Decision ... 01.08.2017</p> <p style="text-align: center;">Rehmatullah Khan S/o Habibullah Jan, Divisional Forest Officer -----Appellant</p> <p>1. The Secretary, Government of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department, Peshawar.</p> <p>2. The Chief Conservator, Wildlife Khyber Pakhtunkhwa, Peshawar.</p> <p style="text-align: right;">-----Respondents</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER (J):</u> Learned counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present.</p> <p>2. Appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the respondents. Through this appeal, the appellant who vide order dated 12.03.2015 was promoted from the post of Range Officer Wildlife (BPS-16) to the post of Sub-Divisional Wildlife Officer (BS-17) with immediate effect seeks antedation of his promotion w.e.f from 01.07.2014.</p> <p>3. Learned counsel for the appellant contented that on 19.12.2013 the appellant was promoted as Sub Divisional Wildlife Officer (BS-17) on acting charge basis. Further argued that Finance Department created posts including two posts of Sub Divisional Wildlife Officer (BS-17) w.e.f from 01.07.2014 and as such the authority was legally bound to promote the appellant w.e.f from 01.07.2014 instead of 12.03.2015. in support of his case, the learned counsel for the appellant relied upon the judgments of the august Supreme Court titled</p>

Usman Ghani

LUQMAN ZAREEN and others----Petitioners Versus SECRETARY EDUCATION, KHYBER PAKHTUNKHWA and others---Respondents (2006 S C M R 1938) Govt. of Khyber Pakhtunkhwa the Secy. Establishment and another-----Appellants Versus Muhammad Iqbal Khattak (C.A 860/10) Ahmad Khan (C.A 861/10).

4. Learned District Attorney while controverting the arguments of learned counsel for the appellant contended that the case of the appellant was not fit for antedated promotion and as such he was rightly promoted on 12.03.2015 with immediate effect. Further argued that on 19.12.2013 the appellant was promoted on acting charge basis till the availability of the recommendee of Public Service Commission. Hence the appellant was not promoted on acting charge basis against the post to which he was later on promoted on regular basis.

5. Argument of learned counsel for the appellant and learned District Attorney heard. File perused.

6. The post against which the appellant was promoted on acting charge basis on 19.12.2013, was indeed the post of recommendee of Public Service Commission. Perusal of the impugned promotion order dated 12.03.2015 would show that at the relevant time the appellant was holding the post of Range Officer (BS-16) and not the post of Sub Divisional Wildlife Officer (BS-17) on acting charge basis when he was promoted as Sub Divisional Wildlife Officer (BS-17) on regular basis.

7. Judgment cited by the learned counsel for the appellant are not applicable to the facts and circumstance of the present case in as much as the appellant was not already holding the higher post to which he was promoted vide order dated 12.03.2013.

8. It needs scarcely mention that as a general rule appointments/promotions takes effect from the date of issuance of orders of appointments/promotions and not from the back dates of the creation

Lawyer

/availability of the posts, otherwise every appointment and promotion should be antedated one as it is not possible to fill up every vacancy the same day it becomes available.

9. It may also be mentioned that the appellant had filed the departmental application/representation not only for the antedated promotion but also for restoration of seniority. Order dated 19.12.2013 mentioned above also suggests that officers were also directly recruited as Sub Divisional Wildlife Officers (BS-17) against the posts available since the year 2013. The appellant in his departmental representation also prayed for the restoration of seniority and had annexed the seniority list there with, however through the present appeal, the appellant has not made any prayer for the restoration of his seniority. Thus it appears that the appellant has suppressed material facts in the present appeal while praying for antedated promotion.

10. It is also not the case of the appellant that in the intervening period between 01.07.2014 to 12.03.2015 other officer/officers got directly recruited, similarly it is also not the case of the appellant that he was wrongly deprived from promotion when his colleagues or juniors were promoted.

11. In the light of above, the present appeal is devoid of any substance and as such the same is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
01.08.2017

M. Hamid
(MUHAMMAD HAMID MUGHAL)
MEMBER (J)

DISSENTING JUDGMENT

GUL ZEB KHAN, MEMBER (E):-

12. Perusal of the record revealed that the appellant was first appointed as Deputy Ranger in Wildlife Department in BPS-05 in 1982. The said post was subsequently upgraded to BPS-11. He was promoted to the post of Range Officer (BPS-16) in 2007. Later he was promoted to the post of Sub Divisional

M. Hamid

Wildlife Officer (B-17) on acting charge basis on 19-12-2013 till availability of nominees of the Public Service Commission and on regular basis on 15-03-2015 by the competent forum. So it is crystal clear that the vacancies/posts of the Sub-Divisional Wildlife Officers (B-17) are filled in two streams i.e direct quota through Public Service Commission and promotion quota by the Department itself. In such circumstances the two (2) newly created posts in BPS- 17 with effect from 1st July 2014 as intimated by the Finance Department vide their advice dated: 05-05-2014 were meant to be apportioned amongst the two sub-cadres streams i.e. one each for direct recruitees and promotees quotas respectively. Thus it was the official responsibility of the Department/ Respondents to timely as well as expeditiously process the Appellant's regular promotion case w.e.f 1st July, 2014 and not from the immediate effect i.e. 12-03-2015 thus ensuring not to inflict any undue loss (financial or service benefits) to any government/civil servant. In the instant case, the Respondents have failed to carry out/complete the required action/exercise during the time available at their disposal i.e with effect from 5/5/2014 to 30/06/2014 (55 days) as per intimation sent by the Finance Department. The date of 12-03-2015 is the date on which notification was procrastinately issued by the Respondents and not the actual date of occurrence of the regular vacancy in the promotion quota and it is against the norms and general principles of justice and fair play to make the appellant to bear the brunt of delaying tactics on the part of others who delayingly processed his promotion case. In the instant appeal it is quite clear that service/promotion benefits are unnecessarily denied to the appellant due to inefficiency of lethargic attitude of the respondent-departments, which could have been avoided, had the Respondents resorted to timely process his promotion case.

13. In view of the foregoing observations, the impugned order is therefore liable to be set-aside. Hence, the appeal is accepted and the impugned order is hereby set-aside. Respondents are directed to issue fresh

notification/promotion order duly anti-dating the Appellant's regular promotion from the actual date of occurrence of regular vacancy in the respective sub-cadre/quota. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
01.08.2017



(GUL ZEB KHAN)
MEMBER

15.03.2017

Appellant in person and Addl:AG for respondents present. Rejoinder not submitted. Requested for time to file rejoinder. To come up for rejoinder and arguments on 20.06.2017 before D.B.



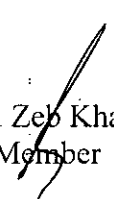
(ASHFAQUE TAJ)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

20.06.2017

Appellant with counsel and Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Appellant submitted rejoinder which is placed on file. To come up for arguments on 31.07.2017 before D.B.



(Gul Zeb Khan)
Member

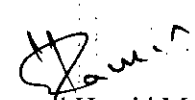


(Muhammad Amin Khan Kundi)
Member

10. 31.07.2017

Counsel for the appellant and Mr. Usman Ghani District Attorney for the respondent present. Arguments heard. To come up for final order on 01.08.2017 before D.B.

(Gul Zeb Khan)
Member



(Muhammad Hamid Mughal)
Member

21.03.2016

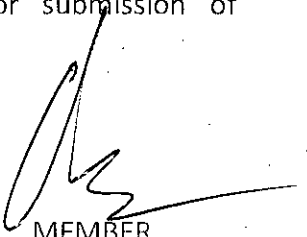
Appellant with counsel and Mr. Muhammad Hussain, DFO Headquarter alongwith Addl: A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 29.6.2016.


Chairman

29.06.2016


None present on behalf of the appellant despite repeated calls. Assistant AG for the respondents present. Notice be issued to appellant and his counsel for 08.11.2016 for submission of rejoinder.


MEMBER


MEMBER

08.11.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for time to file rejoinder. To come up for rejoinder and arguments on 15.03.2017.


(MUHAMMAD AMIR NAZIR)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

26.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was initially appointed as Deputy Ranger in 1982 and during the course of service promoted as Sub Divisional Wildlife Officer (BPS-17) on acting charge basis on 19.12.2013. That two posts of Sub Divisional Wildlife Officers were created vide circular letter dated 5.5.2014 with effect from 1.7.2014 and appellant promoted against the same on 12.3.2015 with immediate effect though entitled to have been promoted against the said post with effect from 1.7.2014 regarding which he preferred departmental appeal on 4.5.2015 which was not responded and hence the instant service appeal on 19.8.2015.

That the appellant is entitled to promotion as Sub Divisional Wildlife Officer with effect from the date of creation of post i.e. 1.7.2014.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 25.11.2015 before S.B.


Chairman

25.11.2015

Counsel for the appellant and Mr. Syed Jamal, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 21.3.2016 before S.B.


Chairman



Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 935/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19.08.2015	<p>The appeal of Mr. Rehmatullah presented today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>26-8-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 935 /2015

Rehmatullah

Versus

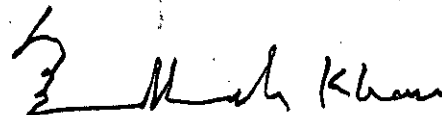
Secretary & others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Appeal		1-3
2.	Promotion Order, 19-12-13	"A"	4
3.	Creation of Posts by FD, 05.05.2014	"B"	5
4.	Regularization order, 12.03.2015	"C"	6
5.	Representation, 04.05.2015	"D"	7
6.	Judgment of Tribunal,	"E"	8-13
7.	Judgment of apex Court,	"F"	14-23

Appellant

Through



Dated: 19.08.2015

(Saadullah Khan Marwat)
Advocate
21-A Nasir Mension,
Shoba Bazar, Peshawar.
Ph: 0300-5872676

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWARS.A No. 935 /2015

Rehmatullah Khan S/o Habibullah Jan,
 Divisional Forest Officer, Mansehra Appellant

Versus

1. Secretary, Government of KP, Forestry,
 Environment & Wildlife Department,
 Peshawar.
2. Chief Conservator, Wildlife, KP; Peshawar. Respondents

**N.W.F. Province
 Service Tribunal**
 Diary No. 975
 Dated 19-8-2015

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT,
 1974 AGAINST NOTIFICATION NO.
 SO(ESTT)ENVT/II-3/2K15/2594-95 DATED
 12.03.2015 OF R. NO. 1 WHEREBY SERVICES OF
 APPELLANT WAS REGULARIZED WITH IMMEDIATE
 EFFECT INSTEAD OF 01.07.2014.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

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

1. That in the year 1982, appellant was appointed as Deputy Ranger Forest BPS-05, which post was upgraded to B-11 by the department. In the year 2007, he was promoted to the post of Range Officer B-16 while in the year 2013, he was promoted to the post of Sub Divisional Officer, Wild Life B-17 but on acting charge basis. (Copy as annex "A")
2. That on 05.05.2014, Finance Department created 5 posts including 2 posts of Sub Divisional Wildlife Officer B-17 at Serial No. 3 & 4 with effect from 01.07.2014 in the department. (Copy as annex "B")

[Handwritten signature and stamp]

19/8/15

3. That on 12.03.2015, services of appellant were regularized as Sub Divisional Wildlife Officer B-17 in the department with immediate effect instead of 01.07.2014. (Copy as annex "C")
4. That on 04.05.2015, appellant submitted representation before R. No. 1 to antedate order of promotion as Sub Divisional Wildlife Officer B-17 but without any response till date. (Copy as annex "D")
5. That in similar situation, the Hon'ble Tribunal was pleased to antedate promotion of servants since the availability of the post. The department filed CPLA before the Supreme Court of Pakistan but the judgment of the Hon'ble Tribunal was upheld. (Copies as annex "E" & "F")

Hence this appeal, inter alia, on the following grounds:-

GROUND S :


- a. That appellant has neat and clean service record in his credit spread over decades.
- b. That vide order dated 05.05.2014, 2 posts of Sub Divisional Wildlife Officer B-17 were created by the Finance Department with effect from 01.07.2014 in Wildlife Department, meaning thereby that since 01.07.2014 the post was available and the authority was legally bound to promote appellant with effect from 01.07.2014 instead of 12.03.2015.
- c. That similar subject matter came up for hearing before the Hon'ble Tribunal and the apex Supreme Court of Pakistan held that regular promotion be made from the date of availability of the post.
- d. That appellant was quite capable for promotion to the said post with effect from 01.07.2014 instead of 12.03.2015 but by not antedating the impugned order, the act of the respondents is based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, the impugned order dated 12.03.2015 of R. No. 1 be antedated/modified to 01.07.2014 instead of with immediate effect with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

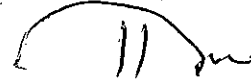


Appellant

Through



Saadullah Khan Marwat



Arbab Saif-ul-Kamal

&



Miss Robina Naz,
Advocates,

Dated: 19.08.2015

A

4

19-12-13



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

Dated Peshawar, 19TH December, 2013

NOTIFICATION

No. SO(Estt)Env/II-3/2K12: The Competent Authority in consultation with the Departmental Promotion Committee is pleased to promote the following Range Officers Wildlife (BS-16) to the post of Sub Divisional Wildlife Officer (BS-17) Wildlife Department, on Acting Charge basis till the availability of the recommendee of the Public Service Commission, with immediate effect:-

#	Name of Range Officer
1-	Mr. Rehmatullah,
2-	Mr. Muhammad Ayaz

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT:

Dated Pesh: 19th Dec: 2013

Endst: No. SO(Estt)Env/II-3/2K12

1437-42

Copy is forwarded to:-

- 1) PS to Secretary Environment Department.
- 2) Chief Conservator Wildlife, Khyber Pakhtunkhwa.
- 3) Director Budget and Accounts Environment Department.
- 4) Officers concerned.
- 5) Master file.
- 6) Office order file.

Attestes
by

Mir Zali Khan
(MIR ZALI KHAN)
SECTION OFFICER (ESTT)

B

5

ES-13



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

NO. BO-II/FD/1-5(A)/SNE/2013-14
Dated Peshawar the 05.05.2014

To

The Secretary to Govt: of Khyber Pakhtunkhwa,
Environment Department.

SUBJECT: BUDGET CALL CIRCULAR FOR THE YEAR 2014-15, SNE FRESH.

Dear Sir,

I am directed to refer your letter No.B&A/13-14/Bud/SNE/W-L/1536 date 28.03.2014 on the subject noted above and to say that Finance Department agrees to the creation of the following 05 posts w.e.f 01.07.2014 in Wildlife Department.

S#	Name of Office	Nomenclature of post	BPS	No. of posts
1.	Conservator Wildlife Northern Circle Swat.	Chowkidar	01	01
2.	DFO Wildlife Malakand	Range officer Wildlife	16	01
3.	DFO Wildlife Dir	Sub Divisional Wildlife Officer	17	01
4.	DFO Wildlife Mardan	Sub Divisional Wildlife Officer	17	01
5.	DFO Wildlife Chitral	Range Officer Wildlife	16	01
TOTAL				05

2. The Administrative Department may prepare audit copy indicating therein accurate financial implications involved and send to this department for authentication please.

*agreed copy to
and * C.W.D. S & N
A. Q. Khan, Peshawar
13/5*

Yours faithfully,

(SYED NOOR AHMAD SHAH)
BUDGET OFFICER-II

Copy forwarded to The:-

1. Director FMIU, Finance Department.
2. Chief Conservator Wildlife Peshawar.
3. Master File.

*Attested
by*



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar, 12th March, 2015 /

NOTIFICATION

No. SO (Estt) Evt/II-3/2k15: The Competent Authority is pleased to promote Mr. Rehmat-Ullah, Range Officer Wildlife (BS-16) as Sub Divisional Wildlife Officer (BS-17), Wildlife Department, Khyber Pakhtunkhwa, on regular basis, with immediate effect

2. The officer on promotion will remain on probation for the prescribed period of one year in terms of Section-6(?) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE
DEPARTMENT

Endst: No. SO (Estt) Evt/II-3/2k15/ 12594-95. Dated Pesh: 12th March, 2015

Copy is forwarded to:-

- 1- PS to Secretary Forestry, Environment & Wildlife Department, Khyber-Pakhtunkhwa.
- 2- Chief Conservator Wildlife, Khyber Pakhtunkhwa.
- 3- Director Budget and Accounts Cell, Forestry, Environment & Wildlife Department.
- 4- Officer concerned. *do cc wll*
- 5- Personal file of the officer.
- 6- Master file.
- 7- Office order file.

Mir Zali Khan
(MIR ZALI KHAN)
SECTION OFFICER (ESTT)

Attestes
[Signature]

Sam Gille
[Signature]

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4-5-15

The Secretary to Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department

THROUGH PROPER CHANNEL

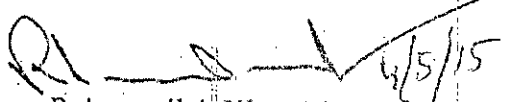
Subject: RESTORATION OF SENIORITY

It is submitted that the undersigned was promoted to the rank of Sub Divisional Wildlife Officer (BPS-17) vide notification NO.SO(Estt)Govt/II-3/2k12, dated 19/12/2013 (Annex-I) by Secretary Govt: of Khyber Pakhtunkhwa on acting charge basis and later vide notification No.SO(Estt)Envt/II-3/2k15, dated 12/03/2015 (Annex-II) the promotion was regularized with immediate effect.

Since two posts of Sub Divisional Wildlife Officer B-17 were created w.e.from 1-7-2014 as per letter No.BO-II/FD/1-5(A)/SNE/2013-14 dated 05/05/2014 (Annex-III) and the regularization of promotion was thus required from that date. Unfortunately the undersigned was attached with the Head Office due to unknown grievance of higher authorities vide notification NO.So(Estt)Envt/2-50(32)/2k14, dated 09/07/2014 (Annex-IV) and case for regularization of promotion was not channelized. Later on the undersigned posted as Divisional Forest Officer Wildlife, Mansehra vide notification NO.So(Estt)/FE&WD/2015, dated 13/01/2015 (Annex-V).

Keeping in view the above it is requested that promotion of the undersigned to the post of Sub Divisional Wildlife Officer B-17 may be considered from 01/07/2014 (seniority list attached Annex-VI) in the light of Budget Call circular for the year 2014-15 SNE fresh by BO(II) Finance Department and the seniority of the undersigned may be restored accordingly, please.

Attended
by


Rehmatullah Khan Marwat
Divisional Forest Officer
Mansehra Wildlife Division
Mansehra

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BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 612/2008

Date of Institution. .. 16.04.2008
Date of Decision .. 13.03.2009

Muhammad Iqbal Khattak,
Assistant Political Agent, Khar Bajaur Agency. ... (Appellant)

VERSUS

1. Government of NWFP through Secretary Establishment Department, Peshawar.
2. Govt. of NWFP through Chief Secretary, Peshawar. (Respondents)

APPEAL U/S 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO.SOE.II (E&D) 2 (192)2007 DATED 19.2.2008 WHEREBY THE APPELLANT WAS PROMOTED ON REGULAR BASIS W.E.F. 19.2.2008 INSTEAD OF 30.11.1999 AND ORDER NO.SOE-II (E&D) 2(192) WHEREBY HIS DEPARTMENTAL APPEAL WAS DISMISSED.

MR. SHAKEEL AHMAD,
Advocate ... For appellant.

MR. ZAHID KARIM KHALIL,
Addl. Government Pleader, ... For respondents.

MR. JUSTICE (R) SALIM KHAN, .. CHAIRMAN.
MR. BISMILLAH SHAH, .. MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN.-The present appeal No. 612 of 2008 by Muhammad Iqbal Khattak and appeal No. 613 of 2009 by Ahmad Khan involved similar questions of law, therefore, these are taken together for arguments and disposal.

2. Muhammad Iqbal Khattak was promoted as Tehsildar on regular basis vide order dated 28.12.1988. He was promoted to PCS(E.G) (BPS-17) on temporary basis vide notification dated 06.03.1996. He contended that many posts became vacant, but the appellant was promoted to (BPS-17) on regular basis on 19.2.2008 with immediate effect, instead of ante-dating of his promotion to the date on which the vacancy fell to his turn in the

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seniority lists of officers of PCS (E.G). His departmental appeal was rejected on 22.03.2008. The present appeal was filed on 16.4.2008 which is within time. The case of Ahmad Khan (Appellant) is similar to the case of Muhammad Iqbal Khattak on facts also. His appeal is also within time.

3. The respondents contested the appeal on many grounds, including the ground that no one could claim a vested right in promotion or in the terms and conditions for promotion to a higher post.

4. We heard the arguments and perused the record.

5. The learned counsel for the appellants contended that the appellants were temporarily posted to BPS-17 post on 06.3.1996, but they remained silent, because they did not have a vested right for promotion to a higher post. The appellants have already been considered for promotion and have been found eligible and fit for regular promotion to BPS-17 post, therefore, the principles embodied in the judgment of the August Supreme Court of Pakistan reported as 1990 SCMR 1321 are not applicable to their cases. In fact, the vacancies had become available for the appellants as early as on 30.11.1999, and it was the responsibility of the official respondents to expeditiously deal with the cases of the appellants for their regular promotion. The appellants could not be punished for no fault on their side, or for delay caused by the official respondents in processing the cases of the appellants. He relied on 1997 PLC (C.S) 77, wherein it has been held in para 3 as under:-

"On behalf of the Government it is contended that no civil servant has a right to claim that he should be promoted from a back date even though a vacancy may be existing on the date from which the promotion is being claimed. This is no doubt true but there are no orders by the Government that the respondents/petitioners should be held up for some time. The delay in making the promotions occurred entirely due to the reason that the officials of the Education Department could not carry out a fairly simple exercise within a reasonable period. In the circumstances it will not be appropriate for this Civil Petition to interfere with the order of the Service Tribunal. Leave is refused."

This judgment was in the petition for leave to appeal against the judgment dated 19.02.1995 of the Punjab Service Tribunal. It is worth-mentioning that

the judgments cited as 1990 SCMR 1321 and cited as 1997 PLC (C.S) 77 are on two different aspects of the same subject.

6. Ante-dating of promotion, after consideration of the candidate aspiring for such promotion, after he was found eligible and fit for such promotion and is promoted, is an established principle of law. Such a candidate cannot be punished for any delay caused by the department in processing his case for promotion. The order of promotion, therefore, has to be ante-dated to the date on which the vacancy for his turn became available or to the date on which he actually took charge of the post on officiating/acting charge basis, whichever is later.

7. The A.G.P contended that the present appeals were miserably time-barred and both the appellants were estopped by their own conduct to file the present appeals. In fact, the principle embodied in the judgment reported as 1990 SCMR 1321 was applicable to the cases of the appellants from 06.3.1996 to 18.2.2008. They could not claim promotion as of right. The principle embodied in the judgment reported as 1997 PLC (C.S) 77 became applicable to their case on 19.2.2008. Cause of action arose to the appellants for claiming ante-dation of their promotion as prayed for only when their cases were considered for promotion, they were found eligible and fit for promotion, and their promotion orders were issued, though with immediate effect. They filed their departmental appeals within time from the date of the impugned order dated 19.2.2008, and their appeals were rejected on 22.3.2008. They filed Service Appeals on 16.04.2008. The departmental appeals as well as the Service Appeals were well within time.

8. The A.G.P further contended that, according to the proviso contained in sub-section (2) of Section 22 of the N.W.F.P Civil Servants Act 1973, "no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade." Judgment cited as 1990 SCMR 1321 was, then, applicable and appellants could not file representation. This stage has already passed. The appellants have been considered for holding the higher post after their promotion to that higher post, and their fitness for such promotion and taking of post has already been determined. The judgment cited as 1997

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EXAMINER

PLC (C.S) 77 has become applicable after determination of fitness of the appellants. The question in these cases is not the determination of fitness but is the right of ante-dation of their promotion. The appellants had vested right for consideration of promotion on their turn, whenever it was, and, when found fit on determination of fitness, at any stage, they had a right to claim ante-dation of their promotion to the dates on which the vacancies were available for their respective turns or from the dates on which they actually took the charge of their respective posts, whichever were later in time.

The A.G.P also contended that according to sub-rule (6) of Rule 9 of the N.W.F.P Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 "acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis." The appellants have never claimed any vested right for regular promotion to the post which they held on acting charge basis, on the basis of acting charge appointment. In fact, they did not have such a right. They remained silent for a long time, knowing that they did not have such a right on the basis of acting charge appointment. They, however, had a vested right, as civil servants, for consideration for promotion, when the authority was to consider someone for promotion against the vacancy. No other person could be considered till the appellants were so considered. They, therefore, had a vested right for ante-dation of their promotion only when they were regularly promoted, but from the date when the vacancy became available for their turn.

10 The A.G.P further contended that, according to the North West Frontier Province, Provincial Management Service Rules, 2007, notified on 11.05.2007 vide No. SOE.II(ED)2(14)2007, The NWFP Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 were repealed. He was of the view that the N.W.F.P Provincial Management Service Rules, 2007 had come into force at once w.e.f. 11.05.2007, while the orders of promotion of the appellants were issued on 19.02.2008. He submitted that the promotion orders were covered by the new rules, therefore, the appellants could not claim any benefit out of the already repealed rules of 1997. In order to clarify this controversy, it is necessary to reproduce the relevant Rule 8 of the N.W.F.P Provincial Management Service Rules, 2007 which is as under:-

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"8. Repeal.- The North-West Frontier Province Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 shall stand repealed after the retirement of existing incumbents of both the cadres. Separate seniority list of both the cadres shall be maintained under the existing rules and they shall be promoted at the ratio of 50:50. The existing incumbents of PCS (E.G) and (S.G) in different pay scales, for the purpose of their promotion, shall continue to be governed under the said service rules till the retirement of the last such incumbent."

The above rule, by itself, clarifies that the rules of 1997 shall not stand repealed before the retirement of the existing incumbents of both the cadres of Secretariat/Executive Groups, and shall remain in force till the retirement of the last such incumbent. It further clarified that separate seniority list of both the cadres shall be maintained under the existing rules. The existing rules for such incumbents are the N.W.F.P Provincial Civil Service (Secretariat/Executive Group) Rules, 1997. It was also clarified that such incumbents shall be promoted at the ratio of 50:50. It means that out of each two vacancies, one vacancy shall be given to Secretariat Group, while another vacancy shall be given to the Executive Group. Further clarification is to the effect that the existing incumbents of PCS (E.G) and (S.G) in different pay scales shall continue to be governed under the rules of 1997 for the purpose of their promotion, and this process is to continue till the retirement of last such incumbent. Both the appellants belonged to the Executive Group of Civil Servants. They were to be governed under the N.W.F.P Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 before 11.05.2007, and they have to be governed under the above mentioned rules of 1997 till the retirement of the last incumbent of a post in Secretariat Group/Executive Group.

11. The cases of the appellants are, therefore, to be governed in accordance with the provisions of Section 8 (quoted above) of the new N.W.F.P Provincial Management Service Rules, 2007. The record shows that vacancies were available for the appellants but they were not promoted at the due time and their cases for promotion were delayed unnecessarily without any fault of the appellants. They, therefore, are entitled to ante-dation of their promotion, against the first available vacancy falling to the turn of each of them or from the date of taking over the charge of that vacancy on officiating/acting charge basis, whichever is later.

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12. In the light of the above, we accept both the appeals, and direct the official respondents to ante-date the promotion of each of the two appellants to the respective dates on which a vacancy became available for the respective turn of the appellants or from the respective dates of their taking charge of such vacancy on officiating/acting charge basis, whichever is later. The appellants are entitled to the costs of their respective litigation from the official respondents.

ANNOUNCED
11.03.2009

J.J. - Justice C.S. Jaiswal
Chairman
J.J. - Biswinder Chahal
Member

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IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE EJAZ AFZAL KHAN.
MR. JUSTICE MUHAMMAD ATHER SAEED.

C. As. No. 860 to 861 of 2010.

(On appeal against the judgment dt.
11-3-2009 passed by NWFP Service Tribunal, Peshawar in
Appeals No.612 and 613 of 2008).

Govt. of NWFP the Secy. Establishment and another. (in both cases)
.....Appellants

Versus.

Muhammad Iqbal Khattak. (in CA.860/10)
Ahmed Khan. (in CA.861/10)
.....Respondents

For the appellants: Mian Muhibullah Kakakhel, Sr. ASC.
Miss. Tehmina Muhibullah, ASC.
Mir Adam Khan, AOR.
(in both)

For the respondents: Hafiz S.A. Rehman, Sr. ASC.
Mr. Shakeel Ahmed, ASC
(in both).

Date of hearing: 24-05-2012

JUDGMENT

EJAZ AFZAL KHAN,--- These appeals with the leave of the Court have arisen out of the judgment dated 11-3-2009 of the Service Tribunal whereby appeals filed by the respondents were allowed.

2. The points raised and noted while granting leave read as under:-

“We have heard the learned counsel at some length. We are inclined to grant leave inter-alia on the point as to whether the legal and factual aspects of the controversy have been dilated upon and decided by the Tribunal in accordance with relevant Rules i.e. rule 8 of the NWFP, Provincial Civil Service (Secretariat/Executive Group) Rules, 1997 and Rule 9 (6) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. It is also to be examined as to whether the stop-gap-arrangement can be equated to that of regular promotion and besides that the order passed by the learned Service Tribunal could be made applicable to all of Tehsildars who are awaiting their promotion. Since a short question of law is involved in the matter, therefore, the case be listed after four weeks subject to

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limitation. In the meanwhile operation of the impugned judgment shall remain suspended”.

3. Leaned counsel appearing on behalf of the appellants contended that though the Governor of the Province in consultation with the Provincial Selection Board was pleased to order the promotion of the respondents in BPS-16 as Extra Assistant Commissioner in BPS-17 in the Ex-PCS (E.B) Cadre with immediate effect on purely temporary basis vide notification dated Peshawar 6th March, 1996, yet it could not earn them any benefit of entitle them to a vested right notwithstanding they have been promoted on regular basis with immediate effect vide notification dated 19-2-2008. They, the learned counsel added, could not have claimed any ante-dated promotion even on the occurrence of any vacancy in such scale in violation of Section 8 of the Civil Services Act or Rule 9 of NWFP Civil Service (Executive Group) Rules, 1997, as decidedly promotion is not a vested right. Appeal before the departmental authority, the learned counsel added, or before the Tribunal claiming ante-dated promotion was, therefore, misconceived. The learned Tribunal, the learned counsel maintained, could not have alloed such appeal when it tended to mar the seniority of may others in the run. The learned counsel to support his contention placed reliance on the cases of “Wajahat Hussain, Assistant Director, Social Welfare, Lahore and 7 others Vs. Province of the Punjab, through Secretary, Social Welfare and Zakat, Lahore and 81 others” (PLD 1991 S.C 82), “Sh. Anwar Hussain Assistant Director, Labour Welfare, Lahore Region, Lahore. Vs. Government of the Punjab through Secretary, Labour Department and others” (1985 SCMR 1201), “Nazeer Ahmed. Vs. Government of Sindh through Chief Secretary Sindh, Karachi and 2 others” (2001 SCMR 352), Government of Pakistan through Establishment Division, Islamabad and 7 others. Vs. Hameed Akhtar Niazi, Academy of Administrative, Walton Training, Lahore and others” (PLD 2003 S.C 110). The learned counsel next contended that a change in scale by means of promotion is not automatic but dependent on a process involving selection, therefore, any change in scale without such process being violative of the relevant law and rules, cannot be maintained. The learned counsel to support his contention placed reliance on the case of “Abid Hussain Sherazi. Vs. Secretary M/o Industries and Production, Government of Pakistan, Islamabad” (2005 SCMR 1742).

4. As against learned counsel appearing on behalf of the respondents defended the impugned judgment by contending that where a vacancy occurs in the next higher scale, the Civil Servant officiating or working on acting charge basis there against is not considered for promotion or the

process of regular promotion is delayed on account of lethargic attitude of the competent authority or any other exigency so-called, the Civil Servant who is subsequently found fit for such promotion on regular basis cannot be deprived of the salary and other consequential benefits attached to such post. Learned counsel to support his contention placed reliance on the cases of "Lugman Zareen and others. Vs. Secretary Education, NWFP and others" (2006 SCMR 1938). The learned counsel next contended that though the NWFP Civil Service (Secretariat Group) Rules, 1997 have been substituted by the NWFP Provincial Management Service Rules, 2007 but the rights of the existing incumbents of both the cadres have been protected by Rule 8 of the latter, therefore, the change in rules would not affect the service structure of the respondents or rights accruing thereunder. The learned counsel next contended that if the concluding paragraph of the impugned judgment is read none of the rights of any of the officers including their seniority has been affected.

5. We have gone through the entire record carefully and considered the submission of the learned counsel for the parties.

6. The record reveals that the Governor of the Province in consultation with the Provincial Selection Board was pleased to order the promotion of the respondents working in BPS-16 as Extra Assistant Commissioner in BPS-17 in Ex-PCS (E.B) Cadre./ The respondents were, no doubt, promoted on temporary basis in the year 1996, all the same, what stands out to be taken notice of is, that it was not done without considering their eligibility and without involving the process of selection as is evident from the order itself. When asked whether the respondents were deficient in terms of qualification or experience to hold the post in the next higher scale, at the time they were promoted temporarily, the reply of the learned counsel for the appellant was in no. When asked whether there was any impediment in the way of the respondents to be promoted to the next higher scale, at the time when a vacancy or two occurred in the said scale, again the answer was in no. When asked what restrained the appellants to defer or delay the process of selection to fill one or any number of vacancies occurring from time to time in the next higher scale, the reply of the learned counsel was that it was because of confusion created by the devolution plan. This answer, to say the least, is too vague to be plausible. When asked who was senior to the respondent and whose right of ranking senior has been affected or impaired by the impugned judgment, again the learned counsel could not refer to anything on the record.

7. There is no dispute with the proposition that the terms and conditions of the service of the respondents, in view of the provision contained in Rule 8 of NWFP Civil Service (Secretariat Group) Rules, 2007, shall continue to be governed by the erstwhile rules. There is also no dispute with the proposition that if the respondents were to hold a post on acting charge basis, they could also hold the same on regular basis. In the case of "Lugman Zareen and others. Vs. Secretary Education, NWFP and others" (2006 SCMR 1938), this Court while dealing with an identical issue held as under:-

"It is then a position admitted on all sides that nothing existed in the way of the petitioners on 31-8-2000 which could have disentitled them to regular promotion to the posts in question and that it was only the usual apathy, negligence and bureaucratic red-tapsim which had deprived the petitioners of the fruits that they deserved. The petitioners could not be permitted to be punished for the faults and inaction of others. We are of the view that where a post was available against which a civil servant could be promoted; where such a civil servant was qualified to be promoted to such a higher post; where he was put on the said higher post on officiating or acting charge basis only because the requisite exercise of allowing the regular promotion to the said post was being delayed by the competent authority and where he was subsequently, found fit for the said promotion and was so promoted on regular basis then he was entitled not only the salary attaching to the said posts but also to all consequential benefits from the very date from which he had been put on the said post on officiating or acting charge basis and we hold accordingly".

While dealing with the reservations of the nature expressed by the learned counsel for the appellant, this Court held as under:-

"A bare perusal of these judgments would thus, show that this Court had always accepted the principle that a person who was asked to hold a higher post to which he was subsequently promoted on regular basis, was entitled to the salary etc, attaching to such a post for the period that he held the same; that he would also be entitled to any other benefits which may be associated with the said post and further that a vacancy existed in a higher cadre to

which a civil servant was qualified to be promoted on regular basis but was not so promoted without any fault on his part and was instead; put on the said post on officiating basis then on his regular promotion to the said post, he would be deemed to have been so promoted to the same from the date from which he was allowed to hold the said higher post unless justifiable reasons existed to hold otherwise.

When this being the state of things on factual and legal plain, we don't think the judgment of the learned Service Tribunal is open to any exception. The judgments rendered in the cases of "Wajahat Hussain, Assistant Director, Social Welfare, Lahore and 7 others. Vs. Province of the Punjab, through Secretary, Social Welfare and Zakat, Lahore and 81 others", Sh. Anwar Hussain, Assistant Director, Labour Welfare, Lahore Region, Lahore. Vs. government of the Punjab through Secretary, Labour Department and others", Nazeer Ahmed. Vs. Government of Sindh through Chief Secretary Sindh, Karachi and 2 others", Government of Pakistan through Establishment Division, Islamabad and 7 others. Vs. Hameed Akhtar Niazi, Academy of Administrative, Walton Training, Lahore and others" and "Abid Hussain Sherazi. Vs Secretary M/o Industries and Production, Government of Pakistan, Islamabad", (supra) cited by the learned counsel for the appellants are not applicable to the case in hand because of their distinguishable facts and features

9. For the reasons discussed above, these appeals, being without merit, are dismissed.

Islamabad
24-5-2012

Sd/ EJAZ AFZAL KHAN JUDGE

SD/ MUHAMMAD ATHAR SAEED JUDGE

Not approved for Reporting.

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2006 S C M R 1938

[Supreme Court of Pakistan]

Present: Khalil-ur-Rehman Ramday and Raja Fayyaz Ahmed, JJ

LUQMAN ZAREEN and others----Petitioners

Versus

SECRETARY EDUCATION, N.-W.F.P. and others----Respondents

C.Ps. Nos.326-P to 342-P, 485-P, 486-P, 513-P to 519-P, 586-P and 622-P of 2005, decided on 21st June, 2006.

(On appeal from the judgment/order, dated 14-5-2005 of the N.-W.F.P. Service Tribunal, Peshawar, passed in Service Appeals Nos.187 and 188 of 2004, 1019, 1020, 1021, 1022, 1023, 1025, 1026, 1122, 1178, 1191, 1192, 1193, 1194, 1195, 1196, 1024, 1151, 1152, 1153, 1154, 1158, 1159, 1160, 1161, 1157 and 997 of 2003, respectively).

(a) North-West Frontier Province Civil Servants Act (XVIII of 1973)---

---S. 8---Promotion--- Principle--- Acting charge--- Departmental Promotion Committee issued delayed notification---Effect---Where a post was available against which a civil servant could be promoted; where such civil servant was qualified to be promoted to such a higher post; where he was put on such higher post on officiating or acting charge basis only because requisite exercise of allowing regular promotion to such post was being delayed by competent authority and where he was subsequently found fit for such promotion and was so promoted on regular basis, then the civil servant was entitled not only to the salary attaching to such post but also to all consequential benefits from that very date from which he had put on the said post on officiating or acting charge basis.

(b) North-West Frontier Province Civil Servants Act (XVIII of 1973)---

---S. 8---Promotion---Acting charge---Date of promotion---Determination---Civil servants were promoted on 31-8-2000, on acting charge basis but Departmental Promotion Committee issued their notification of promotion on 27-5-2003---Grievance of civil servants was that their promotion was not considered from the date when they were promoted on acting charge basis---Validity---Civil servant who was asked to hold a higher post to which he was subsequently promoted on regular basis, was entitled to the salary etc. attaching to such post for the period that he held the same---Such civil servant was also entitled to any other benefits which might be associated with such post---If a vacancy existed in the higher cadre to which a civil servant was qualified to be promoted on regular basis but was not so promoted without any fault on his part and was instead put on such post on officiating basis, then on his regular promotion to such post, the civil servant would be deemed to have been so promoted to the same from the date from which he was allowed to hold the higher post, unless justifiable reasons existed to hold otherwise---Supreme Court converted petition for leave to appeal into appeal and set aside the judgment passed by Service Tribunal---Supreme Court declared the civil servants to be deemed to be promoted from 31-8-2000 and not from 27-5-2003---Appeal was allowed.

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Sarfar Ali Khan's case PLD 1994 SC 233 and Chaudhry Mehmood Akbar's case 2003 SCMR 13 rel.

(c) North-West Frontier Province Service Tribunals Act (I of 1974)---

---S. 4---North-West Frontier Province Civil Servants Act (XVIII of 1973), S.8---Appeal---Maintainability---Necessary parties---Non-impleading of direct appointees---Civil servants were promoted on 31-8-2000, on acting charge basis but Departmental Promotion Committee issued their notification of promotion on 27-5-2003---During promotion on acting charge basis and issuance of notification, department directly recruited few civil servants---Grievance of said civil servants was that their promotion was not considered from the date when they were promoted on acting charge basis---Service Tribunal dismissed appeal on the ground that the direct appointees were not made party to the appeal---Validity---Appeals filed by civil servants before Service Tribunal did not seek seniority over directly recruited persons and what they were asking for was vindication of their right to regular promotion from the date in question---If civil servants were found entitled to the same then they could not be deprived of it only because it could have caused some prejudice to some others nor could those others be heard to deny such benefit deserved by the civil servants---Non-impleading" of the direct appointees to the appeals filed by civil servant in Service Tribunal could be no ground to deny them a right which had lawfully accrued to them---Appeal was allowed.

Javed A. Khan, Advocate Supreme Court with Mir Adam Khan, Advocate-on-Record for petitioners (in all petitions).

M. Saeed Khan, Additional Advocate-General, N.-W.F.P. with Haji Ahmed Khan, Additional Secretary (S&L) and Fazli Manan, Director (S&L) Education Department, Peshawar for Respondents.

Date of hearing: 21st Just, 2006.

JUDGMENT

KHALIL-UR-REHMAN RAMDAY, J.---All these petitions, twenty-eight in number, involve identical questions of law and facts; arise out of the same consolidated judgment of the learned N.-W.F.P. Service Tribunal and are, therefore, being disposed of together through this single judgment.

2. The petitioners in all these cases were serving the respondent-Government as S.E.Ts. in different schools of the Province. Through a notification dated 31-8-2000, they were "ADJUSTED" against the higher posts of Subject-Specialists in the following terms:

"The following SETs holding M.A./M.Sc. Degrees in the relevant subject for the post of Subject Specialists on acting charge basis in the schools noted against each on seniority basis with immediate effect subject to the terms and conditions in vogue or ones to be framed in future."

3. After the petitioners had held the said higher posts of Subject Specialists and Headmasters for about three years, a further notification was issued on 27-5-2003 which read as under:

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"On the recommendation of the Departmental Promotion Committee, the Competent Authority has been pleased to promote the following S.E.Ts. (BPS-16) (I/C S.S.) to the rank of Subject Specialists (BPS-17) on regular basis with immediate effect and adjusted in the schools as noted against their names."

4. The petitioners felt aggrieved of their promotion to the said post from 27-5-2003 and not from the date when they had been actually appointed to the said posts though on acting charge basis i.e. from 31-8-2000. They sought redress of their said grievance from the learned Service Tribunal but failed.

5. Hence these petitions.

6. It has not been denied even before us that clear vacancies of Subject Specialists existed on 31-8-2000. It has also not been denied that all the petitioners possessed the requisite qualifications for being regularly promoted to the said posts on the said date and no impediment existed in their way to such a promotion. The reason offered for not so doing was that since a large number of SETs were to be promoted, therefore, it took the Departmental Promotion Committee some time i.e. about three years to do the needful. It was, however, submitted that no financial loss had accrued to the petitioners because during these three years when they were holding the said higher posts, they had been paid salaries etc. attached to the same.

7. The learned Tribunal non-suited the petitioners essentially on the ground that during the period in question when they were holding the higher posts on acting charge basis, they were entitled only to the salaries of the said posts and nothing more and that they were not possessed of any right to claim regular promotion from 31-8-2000. A mention had also been made by the learned Tribunal that during this period some twenty-seven persons had got directly recruited as Subject Specialists who had not been arrayed as parties to the appeals filed by the petitioners before the said learned Tribunal; that ante-dating the promotion of the petitioners to the said posts would adversely affect the seniority of the said direct appointees and since they had not been made parties to the said appeals, therefore, the sought relief could not be granted to them. From the impugned judgment of the learned Service Tribunal, an impression is also gathered that while refusing the said relief to the petitioners, the said learned Tribunal had also been influenced by the fact that they had not resorted to the available remedies in the year 2000 when they had been promoted to the posts in question on acting charge basis only and not on regular basis.

8. We have heard the learned counsel for the parties and have also perused the record in the light of the submissions made before us.

9. It is then a position admitted on all sides that nothing existed in the way of the petitioners on 31-8-2000 which could have disentitled them to regular promotion to the posts in question and that it was only the usual apathy, negligence and bureaucratic red-tapsim which had deprived the petitioners of the fruits that they deserved. The petitioners could not be punished for the faults and inaction of others. We are of the view that where a post was available against which a civil servant could be promoted; where such a civil servant was qualified to be promoted to such a higher post; where he was put on the said higher post on officiating or acting charge basis only because the requisite exercise of allowing the regular promotion to the said post was being delayed by the competent authority and where he was subsequently, found fit for the said promotion and was so promoted on regular basis then he was entitled not only to the salary attaching to the said posts but also to all consequential benefits from the very date from which he had been put on the said post on officiating or acting charge basis and we hold accordingly.

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The learned Tribunal had brushed aside some precedent cases cited before it including some cases of this Court by declaring that the same were distinguishable. We have gone through the said judgments delivered by this Court and find that the learned Tribunal had failed to read the said judgments properly and to appreciate the ratio of the same in its correct prospective.

11. One such judgment to which a reference had been made in detail in the impugned judgment was Sarwar Ali Khan's case reported as PLD 1994 SC 233. This was a case where a Deputy Registrar of the Sindh Labour Appellate Tribunal had been appointed to the post of the Registrar of the same Tribunal on 5-7-1988 with immediate effect and till further orders but in his own pay and scale. It was almost three years later that he was regularly promoted to the said post on the recommendation of the Departmental Promotion Committee. Since there was no prospect of his further promotion beyond the post of Registrar, therefore, he had claimed only the salary of the post of Registrar which he had held on officiating basis for about three years and had prayed for nothing more. This claim was denied to him which finally led him to this Court. And this is what was held by this Court in the said facts and circumstances:

".... This cannot be stretched to cover the case in hand, where the incumbent has worked against that post on his own pay and status for three years, particularly when there was no legal impediment in his way to be promoted at that time on regular basis when he was inducted on 5-7-1988. In the instant case, since the appellant was eligible and qualified for promotion to B-18, there appears no justifiable reason to deprive him of the salary and others benefits of that post for a period of three years, which he would have received, had he been promoted on regular basis. The appellant had discharged full duties and responsibilities of the higher post and in the absence of some plausible reason, he cannot be deprived of the salary and other benefits connected with that post." Underlining is ours).

12. Dealing with this judgment, the learned Tribunal had failed to appreciate the principle laid therein by this Court by omitting to give the requisite weight to the principle enunciated and the words "other benefits" emphasized by this Court through the said judgment.

13. Another judgment of this Court placed before the learned Tribunal for its guidance was the one delivered in the case of Chaudhry Mehmood Akbar reported as 2003 SCMR 13.

14. This was a case where Muhammad Afzal, the respondent in that case, while serving as Deputy Superintendent of Jail on 21-12-1989, was transferred and posted as Superintendent of Jail in his own pay and scale and it was almost five years thereafter i.e. on 1-9-1994 that he was regularly promoted to the said post of Superintendent. He reached the Service Tribunal claiming regular promotion from the date when he had been appointed to the said post of Superintendent i.e. from 21-12-1989 instead of the date of his regular promotion to the same i.e. on 1-9-1994. The learned District Attorney who represented the Government before the learned Tribunal did not object to the grant of the said relief and the same was accordingly allowed to him. One Muhammad Akbar questioned the said judgment of the learned Tribunal before this Court submitting that he was senior to Muhammad Afzal in service; had been promoted to the post of Superintendent of Jail after Muhammad Afzal had been put on the said post in his own pay and scale but before his regular promotion to the said post on 1-9-1994 and that granting promotion to the said Muhammad Afzal with effect from 21-12-1989 would operate prejudicially to his seniority and interests vis-a-vis the said Muhammad Afzal. After hearing all the sides, this Court sanctified the promotion of Muhammad Afzal with effect from the date when he had been actually put on the said higher post i.e. with effect from 21-12-1989 subject only to the proviso

that the same would not adversely affect the rights of the other Superintendents of Jail who were sent to the said Muhammad Afzal.

15. A bare perusal of these judgments would thus, show that this Court had always accepted the principle that a person who was asked to hold a higher post to which he was subsequently promoted on regular basis, was entitled to the salary etc. attaching to such a post for the period that he held the same; that he would also be entitled to any other benefits which may be associated with the said post and further that if a vacancy existed in a higher cadre to which a civil servant was qualified to be promoted on regular basis but was not so promoted without any fault on his part and was instead put on the said post on officiating basis then on his regular promotion to the said post, he would be deemed to have been so promoted to the same from the date from which he was allowed to hold the said higher post unless justifiable reasons existed to hold otherwise.

16. The appeals filed by the petitioners before the learned Service Tribunal could not have been dismissed on the ground of limitation. Firstly, because it was the subsequent notification dated 27-5-2003 which had ordered their regular promotion not from the date that they had been promoted to the posts in question on acting charge basis but from the date of the said notification, which had caused grief to them. Therefore, limitation would start running against them not from 31-8-2000 but from 27-5-2003. And secondly, because on similar question of limitation, this Court had thus, held in Sarwar Ali Khan's case (supra)

"... it can be said that presumption favourable to the civil servant (appellant) would be that it was temporary arrangement and would not last long but it lasted for three years. Filing representation was also proper remedy and in such circumstances, it would not be fair to knock down service appeal as time-barred on the ground that first notification was not challenged."

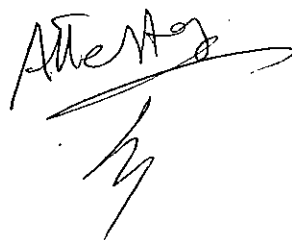
17. This brings us to the question whether the petitioners could have been denied relief by the learned Tribunal on the ground that allowing relief in question to them could have operated to the prejudice of some persons who had been directly recruited to the posts of Subject Specialists between 31-8-2000 and 27-5-2003 and who had not been impleaded as respondents in the said appeals. Suffice it to say that the appeals filed by the petitioners before the Service Tribunal did not seek seniority over the said directly recruited persons and what they were asking for was the vindication of their right to regular promotion from the date in question and if the petitioners were found entitled to the same then they could not be deprived of it only because it could have caused some prejudice to some others nor could the said others be heard to deny the said benefit deserved by the petitioners. Therefore, we find that nonimpleading of the said direct recruits to the appeals filed by the present petitioners in the learned Tribunal could also be no ground to deny them a right which had lawfully accrued to them.

18. Having thus, examined all aspects of the matter and for the above-discussed reasons, all these petitions are converted into appeals which are allowed as a result whereof the impugned judgment of the N.-W.F.P. Service Tribunal is set aside and as a further result whereof it is declared that the petitioners (now appellants) shall be deemed to have been regularly promoted as Subject Specialists from 31-8-2000 and not from 27-5-2003.

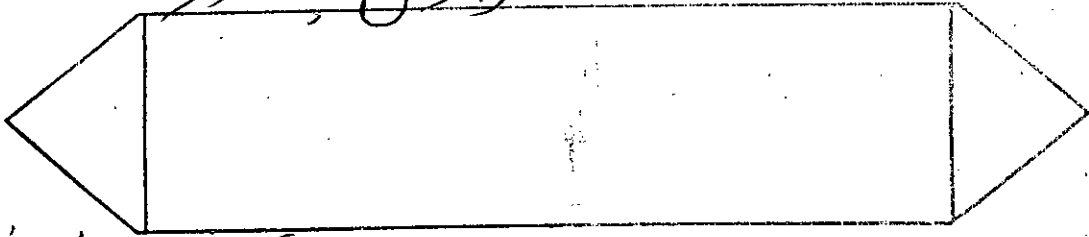
19. No orders as to costs.

M.H./L-6/SC

Appeals allowed.



بعدالت سروس ٹریبونل کنور



کلا 2015، پنجاب اسلام آباد
رحمت اللہ بنام سیکرٹری جنرل

مورنہ 15-8-17
مقدمہ سروس
دعویٰ اپیل

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ
آن مقام کے لیے سروس ٹریبونل کنور کے لیے سروس ٹریبونل کنور میں روپنہ نامہ کو

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صوتی چیک درو پیڈار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر این پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نمائنی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا محضر قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا اذکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 17
ماہ اگست 2015ء

واہ الع

کے لئے منظور ہے۔

مقام

M. M. Khan
Advocate

Arbab Saiful Kamal
Advocate
Peshawar
Miss Robina Naz
Advocate

اللہ کے نام سے

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Appeal No.935 of 2015

Mr. Rahmatullah
Sub-Divisional Wildlife Officer

.....Appellant

VERSUS

1. Secretary, Government of Khyber Pakhtunkhwa,
Forestry, Environment and Wildlife Department.
2. Chief Conservator Wildlife Khyber Pakhtunkhwa Peshawar. Respondents

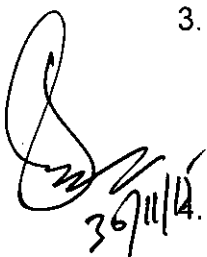
Parawise comments on behalf of respondents:

Preliminary Objections:

1. The appellant has no locus standi and cause of action.
2. The appeal is time barred.
3. The appeal is not maintainable on the basis of non-joinder and mis-joinder of unnecessary parties.
4. That this Honorable Tribunal has got no jurisdiction to entertain the appeal.
5. That the appeal is not maintainable in the present form.

On Facts

1. Correct to the extent that he was appointed as Deputy Ranger Wildlife in 1982 and promoted to rank of Range Officer Wildlife (BPS-16) in 2007. However, in fact he was appointed on acting charge basis against the post of SDWO (BS-17) on 19-12-2013 which was otherwise meant to be filled in through direct recruitment through the Khyber Pakhtunkhwa Public Service Commission and for which necessary requisition had already been sent to the Khyber Pakhtunkhwa Public Service Commission as stop gap arrangement further acting charge basis creates no right for regularization.
2. Pertains to record.
3. The appellant was rightly promoted as Sub-Divisional Wildlife Officer (B-17) on regular basis on 12-03-2015 against a regular vacant post falling under the promotion quota.
4. Incorrect. The departmental appeal/representation was considered and rejected on merit by the competent authority vide No. SO(Estt)Env/II-27/2k12/2290 dated 12-08-2015 (Annexure-A)


36/11/14





5. Incorrect. Each and every case is to be decided in the light of its own facts and circumstances. According to the Provincial Government Promotion Policy, promotion is always made with immediate effect (Annexure-B). Hence the appellant has no cause of action to file instant appeal as already narrated in para-1 above. In fact he was initially appointed on acting charge basis on 19-12-2013 against a post of SDWO (BPS-17) which was meant for direct appointment quota to be filled in through Khyber Pakhtunkhwa Public Service Commission on regular basis for which a formal requisition had already been placed with the Commission. However later on, on availability of regular vacant post of SDWO (BPS-17) falling under promotion quota, he was considered on merit being the senior most and promoted as SDWO (BPS-17) on regular basis with immediate effect i.e. 12-3-2015

Grounds

- a. Pertains to record.
- b. Pertains to record. However detail reply has been given in the above paras.
- c. Under the promotion policy of Government of Khyber Pakhtunkhwa, the "promotion will always be notified with immediate effect".
- d. Incorrect. The authority cannot promote the official with effect from the date of creation of post under the rules as the process for promotion cases is taking time. Further promotion is not a vested right.

The promotion order has been issued as per law; therefore appeal may be dismissed with cost.

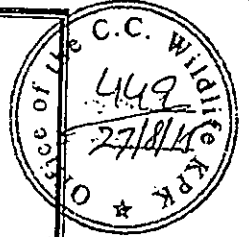

Secretary to Government of
Khyber Pakhtunkhwa
Forestry, Environment and Wildlife
Department


Chief Conservator of Wildlife
Khyber Pakhtunkhwa
Peshawar
30/11/15



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

NO.SO(Estt)/Envt/II-27/2K12, 2290,
Dated Pesh: 12TH August, 2015



To

The Chief Conservator Wildlife,,
Khyber Pakhtunkhwa.

SUBJECT: RESTORATION OF SENIORITY.

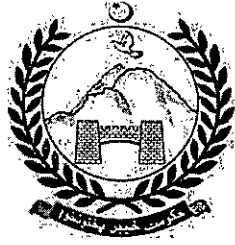
I am directed to refer to your letter No. 6554/WL(E) dated 04.05.2015 on ~~the~~ above subject and to inform that the Competent Authority has been pleased to reject the appeal, preferred by Mr. Rehmatullah, Sub Divisional Wildlife Officer (BS-17), presently working as Divisional Wildlife Officer, Mansehra Wildlife Division.

S.K.
(SYED KAZIM HUSSAIN SHAH)
SECTION OFFICER (ESTT)

Endst: No.and date even.

Copy is forwarded to PS to Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa.

SECTION OFFICER (ESTT)



ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA
(REVISED EDITION) 2011**

**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS
RELATING TO THE TERMS AND CONDITIONS
OF PROVINCIAL CIVIL SERVANTS**

**COMPILED BY;
(O&M) SECTION
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

VI. Date of Promotion:

Promotion will always be notified with immediate effect.

VII. Notional Promotion:

In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired.

VIII. Promotion of Civil Servants who are awarded minor penalties.

- (a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.
- (b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. Promotion in case of pending investigations by NAB:

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion fora which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.935/15

Rahmatullahv/s.....Secretary and others

REPLICATION

Respectfully Sheweth;

Answer to Preliminary objections:

All the five preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no locus standi, cause of action, appeal is time barred, the same is not maintainable on account of mis, & non-joinder of necessary parties, hon'ble Tribunal has no jurisdiction and the appeal is not maintainable.

ON FACTS:

- 1) Admitted correct to the extent of appointment and promotion to the post of Range Officer Wildlife B-16 in the year, 2007 and as per averments of the department, appellant was appointed on 19.12.2013 on acting charge basis

as SDWO, B-17, meaning thereby that a post was available and is entitled for its benefits since, 2013.

- 2) Not commented upon by respondents, meaning thereby that posts of SDWO B-17 were available since 01.07.2014, so appellant was entitled for its benefits, etc since that date.
- 3) In response to this para of the appeal it is submitted that the post of SDWO B-17 was available since 01.07.2014, so the department was legally bound to give effect to the order dated w.e.f. 01.07.2014 instead of 12.03.2015. Such view has been expressed by the apex court in plethora of the judgments that promotion be made from the date of availability of the posts and not with immediate date.
- 4) That not correct. The para of the appeal is correct. As for order of rejection of representation is concerned, the same was after thought as appeal before the Hon'ble Tribunal was filed on 19.08.2015 after its maturity.

Regarding order of rejection dated 12.08.2015 of the departmental appeal, the same was till date not endorsed to appellant but to chief conservator Wildlife, KP; so the same has no bearing effect upon appellant's rights.

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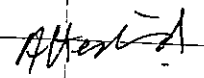
GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT AND WILDLIFE DEPARTMENT

NOTIFICATION

No. SO (Estt)FE&WD/II-26/2K15. In pursuance of Section 8(1) of the Khyber Pakhtunkhwa Civil Servant Act. 1973, read with Rule-17 Civil Servant (Appointment, Promotion and Transfer) Rules, 1989, the Competent Authority is pleased to notify/circulate final seniority list of Sub Divisional Wildlife Officer Wildlife (BPS-17) Khyber Pakhtunkhwa, Wildlife Department (as stood on 22-05-2017) for general information.

FINAL SENIORITY LIST OF SUB DIVISIONAL WILDLIFE OFFICERS (BPS-17) KHYBER PAKHTUNKHWA WILDLIFE DEPARTMENT AS STOOD ON 22-05-2017

S#.	Name of Officer with academic qualification	Date of Birth & Domicile	Date of First entry into Govt: Service	Regular appointment / promotion to the present post			Remarks
				Date	BPS	Method of recruitment	
1	2	3	4	5	6	7	8
1.	Mr. Aman Ullah B.A	22-12-1958 Mardan	1-05-1982 BPS-05	19-12-2013	17	By Promotion	-
2.	Mr. Ejaz Ahmad M.Sc Forestry	08-02-1983 Malakand	13-10-2014 BPS-17	13-10-2014	17	Direct Recruitment	-
3.	Miss Haseena Ambarin M.Sc Forestry	17-02-1984 Bannu	20-11-2008 BPS-16	13-10-2014	17	Direct Recruitment	-
4.	Mr. Salah-ud-Din Ayubi M.Sc Forestry	25-04-1980 Peshawar	20-11-2008 BPS-16	13-10-2014	17	Direct Recruitment	-
5.	Mr. Muhammad Abdus Samad M.Sc Forestry	28-01-1986 F.R Bannu	20-11-2008 BPS-16	13-10-2014	17	Direct Recruitment	-
6.	Mr. Niamat Ullah Khan M.Sc Forestry	13-04-1987 North Waziristan Agency	13-10-2014 BPS-17	13-10-2014	17	Direct Recruitment	-
7.	Mr. Muhammad Idress M.Sc Forestry	10-04-1982 Shangla	13-10-2014 BPS-17	13-10-2014	17	Direct Recruitment	-
8.	Mr. Ishtiaq Ullah M.Sc Forestry	05-03-1986 Kohat	13-10-2014 BPS-17	13-10-2014	17	Direct Recruitment	-
9.	Miss Maria Marjan M.Sc Forestry	10-03-1985 Karak	13-10-2014 BPS-17	13-10-2014	17	Direct Recruitment	-
10.	Mr. Rehmatullah, F.A.	15-10-1963 Bannu	02-06-1982 BPS-05	12-03-2015	17	By promotion	-


 Chief Officer, Wildlife
 Khyber Pakhtunkhwa
 Peshawar



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 2118 /ST Dated: 26/9/2017

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

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

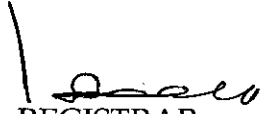
To,

The Secretary Forest,
Government of Khyber Paktunkhwa,
Peshawar.

Subject: - **JUDGMENT IN APPEAL NO. 935/2015, REHMATULLAH KHAN.**

I am directed to forward herewith a certified copy of judgment dated 15/09/2017 passed by this tribunal on the above subject for strict compliance.

Encl: as above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

11.	Mr. Muhammad Ayaz, B.A.	07-04-1961 Mardan	13-06-1982 BPS-05	17-11-2015	17	By promotion	-
12.	Syed Taimur Ali Shah M. Sc Forestry	20-12-1985 Swat	31-12-2015 BPS-17	31-12-2015	17	Direct Recruitment	-
13.	Miss Manahil Wahab M. Sc Forestry	18-01-1992 D.I.Khan	31-12-2015 BPS-17	31-12-2015	17	Direct Recruitment	-
14.	Mr. Kiramat Shah M. Sc Forestry	02-01-1991 Peshawar	31-12-2015 BPS-17	31-12-2015	17	Direct Recruitment	-
15.	Mr. Munsef Ali, M.Sc Forestry	13-05-1989 Orkazai Agency (FATA)	31-05-2016 BPS-17	31-05-2016	17	Direct Recruitment	-
16.	Syed Sarmad Hussain Shah, M.Sc Forestry	18-08-1993 Mansehra	31-05-2016 BPS-17	31-05-2016	17	Direct Recruitment	-
17.	Mr. Naveed-Ul-Haq, M. Sc Forestry	15-05-1988 Dir (Lower)	20-11-2008 BPS-16	21-06-2016	17	By promotion	-

Chief Secretary
Government of Khyber Pakhtunkhwa

Endst No. SO (Estt)FE&WD/II-26/2K15

dated Peshawar the _____ / _____ /2017

Copy is forwarded to:-

1. Chief Conservator Wildlife Khyber Pakhtunkhwa, Peshawar.
2. Director Budget and Account Govt: Khyber Pakhtunkhwa Forestry, Environment and Wildlife Department.
3. Conservators Wildlife Southern and Northern Circles.
4. All Officers concerned.

[Handwritten Signature]
Chief Conservator Wildlife
Khyber Pakhtunkhwa
Peshawar

SECTION OFFICER (ESTT)