

4/4/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 1254/2022

**KIFAYAT ULLAH S/O ABDUL HALEEM VERSUS GOVERNMENT OF KHYBER
PAKHTUNKHWA THROUGH SECRETARY AND OTHERS**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4463

Dated 20/3/2023

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**MOST IMMEDIATE
COURT MATTER**



**GOVERNMENT OF KHYBER PAKHTUNKHWA
CLIMATE CHANGE, FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT
(LITIGATION SECTION)**

Phone No 091-9212103

NO. SO(Lit:)/CCFE&WD/3-381/Kifayat Ullah /2022

Dated Peshawar: 13th March, 2023

To,

The Conservator of Forests,
Central Forest Circle, Peshawar.


Subject:

**SUBMISSION OF WRITTEN REPLY IN APPEAL NO. 1254/2022 TITLED
"KIFAYAT ULLAH S/O ABDUL HALEEM VS GOVT OF KHYBER
PAKHTUNKHWA THROUGH SECRETARY & OTHERS**

I am directed to refer to your letter No. 4105/E-Kifayat Ullah/Bajour dated 24th February, 2023 on the subject noted and to return parawise comments in the subject case (**in original**) duly signed by Secretary to Govt. of Khyber Pakhtunkhwa, Climate Change, Forestry, Environment & Wildlife Department for onward submission to the Hon'ble Court concerned **within stipulated time period**. A copy of "**receipt**" may be furnished to this Department for record and perusal of high ups.

2. Moreover, an officer posted in Peshawar not below the rank of BPS-17 may please be deputed / authorized to attend hearing of the subject case on each date of hearing with complete record / documents on behalf of the Secretary Climate Change, Forestry, Environment & Wildlife Department under intimation to this department.

Being **High Court** matter may please be treated as **Most Urgent**.


(Hafiz Abdul Jalil)
Section Officer (Litigation)

Encls. As above. (**in original**)

Endst: of even No & dated:

Copy of the above is forwarded to the:

1. Chief Conservator of Forests, Central Southern Forest Region-I, Peshawar w/r to his letter No. 9014/E dated 27th February, 2023.
2. Divisional Forest Officer Bajour for information.
3. Budget & Accounts Officer, Forestry, Environment & Wildlife Department.
4. PS to Secretary Climate Change, Forestry, Environment & Wildlife Department.
5. Master File.

Section Officer (Litigation)

Est

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

REF: IN SERVICE APPEAL NO.1254/2022


Kifayat Ullah S/O Abdul Haleem (Ex-Forest Guard)
Resident of Shah Narai P.O Khar, Tehsil Khar _____ (APPELLANT)

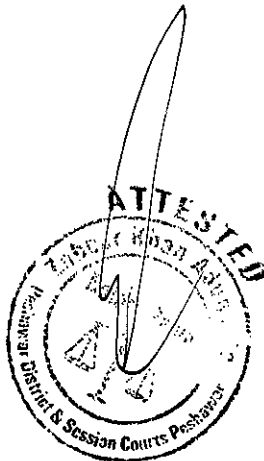
VERSUS

1. Secretary
to Government of Khyber Pakhtunkhwa
Climate Change, Forestry, Environment & Wildlife department Peshawar.
2. Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar
3. Conservator of Forests
Central Forest Circle Peshawar
4. Budget & Account Officer
to Government of Khyber Pakhtunkhwa
Climate Change, Forestry, Environment & Wildlife department
Peshawar _____ (RESPONDENTS)

AFFIDAVIT

I, Muhammad Ilyas SDFO Khar Forest Sub-Division, do hereby solemnly affirm and declare on oath that the contents of the accompanying Reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon`ble Court


DEPONENT



CINC No. 16102-2274761-7

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

REF: IN SERVICE APPEAL NO.1254/2022

Kifayat Ullah S/O Abdul Haleem (Ex-Forest Guard)
Resident of Shah Narai P.O Khar, Tehsil Khar _____ (APPELLANT)

VERSUS

1. Secretary
to Government of Khyber Pakhtunkhwa
Climate Change, Forestry, Environment & Wildlife department Peshawar.
2. Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar
3. Conservator of Forests
Central Forest Circle Peshawar
4. Budget & Account Officer
to Government of Khyber Pakhtunkhwa
Climate Change, Forestry, Environment & Wildlife department
Peshawar _____ (RESPONDENTS)

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1,2,3&4

PRELIMINARY OBJECTION

- i. That the appellant has got no cause of action.
- ii. That the appellant has no locus standi to file this Service Appeal.
- iii. That the appellant has not come to this court clean hand.

ON FACTS:-


- 1- That it is admitted by the appellant he had been appointed on purely temporary basis as Forest Guard in developmental PC-I Scheme titled as **Watershed Management in Bajaur Agency**. The services of a PC-I Project Staff are constrained to the Project period. Besides, as per terms and condition of the then DFO FATA-I Peshawar office order No. 117 dated 15/4/1993, he was liable to the condition not to claim any right for regularization in to service (**Annex-I**). Furthermore, the services of the appellant had been terminated time and again by the competent authority (**Annex-II**) having several service breaks, making him not eligible for pensionary benefits as is evident from his service book (**Annex-III**).
- 2- That it pertains to his service record.
- 3- That it is incorrect rather services of the appellant were converted / adjusted in to regular post through office order No. 15 dated 31/07-2002, w.e.f 01/07/2002, is simply meant to have join the civil service since his date of regularization (**Annex-IV**), making him entitled for all the benefits of a civil servants
- 4- Correct to the extent that the appellant has got retired on 31/12/2021 vide, DFO Bajaur officer order No.37 dated 23/12/2021 on attaining the age of 60 years as per Government Policy. But as per instruction of Govt: Khyber Pakhtunkhwa Finance Department circulated vide letter No. SOSR-III(FD)4-141/98 dated 11.07.1998, the services of the employees appointed after 30.03.1989 would not be counted for pension and the appellant had been employed initially on 15-04-1993 which is in contradiction of the instruction of Finance Department (**Annex-V**)

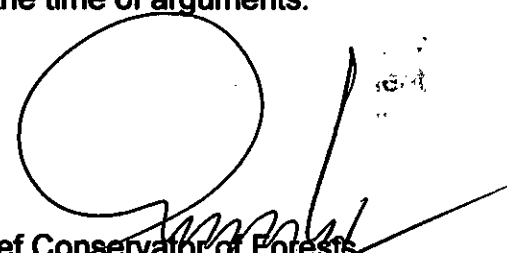
5- Pertains to record.


6- The appellant has got no cause of action to file instant appeal.


GROUND OF SERVICE APPEAL

- A. Incorrect that the appellant has been treated in accordance with law and nothing has been violated.
- B. Incorrect that the appellant's services shall not be counted for the purpose of pension, as explained under Para 1 & 4.
- C. Incorrect as explained and referred under Para (B).
- D. Incorrect as explained and referred under Para (B).
- E. Incorrect as explained and referred under Para (B).
- F. Incorrect as explained and referred under Para (B).
- G. The respondents seek leave to raise additional grounds at the time of arguments.


Secretary
to Govt; of Khyber Pakhtunkhwa
Climate Change Forestry, Environment & Wildlife
Department Peshawar
(Respondent No.1)


Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar
(Respondent No.2)


Conservator of Forests,
Central Forest Circle Peshawar.
(Respondent No.3)


Director Budget and Accounts
to Govt; of Khyber Pakhtunkhwa
CFE&WD Peshawar
(Respondent No.4)

5/11
6

On the account of absence of...
vide minutes dated 12/12/70, the following...
appointed as Forest Guards in PTA-2...
allowances admissible under the rules against...
in PTA-1 Forest Division under provincial scheme...
Government in Bajaur Agency" on purely temporary...
the date they report arrival for duties:-

1. Mr. Saad Uddin S/O Sakhiyar of Bajaur Agency.
2. Mr. Iqbal Khan S/O Subhan Villah of Bajaur Agency.
3. Mr. Iqbal Khan S/O Abdul Halim of Bajaur Agency.
4. Mr. Nohamand Khan S/O Babar Khan of Bajaur Agency.
5. Mr. Saad Uddin S/O Pacha Villah of Bajaur Agency.

These appointments are subject to the following terms and conditions:-

1. These appointments are purely temporary and on contract basis. Their services can be terminated without giving notice on assigning any other post or on expiry/completion of scheme about which post which ever is earlier. They will not be entitled to right of continuity on post/assignment on which or regularization of their services.
2. They will join their duty on their own expenses.
3. They will be on probation for a period of 6 months.
4. Their appointment are subject to production of original Education/Health and Local Government Certificate etc.
5. In case they wish to resign at any time notice will be necessary and on that date pay will be forfeited.
6. They will be governed by the rules and orders relating to leave, travelling, medical attendance and to (L&D) Rules pay etc as may be issued by Government from time to time.

Sd/- (Mr. Shabir Hussain)
Divisional Forest Officer
PTA-1 Forest Division
Peshawar.

117-3/56-59/12

- Copy forwarded for information to the:-
1. Conservator of Forests PATA/Social Forestry Division Peshawar.
 2. Range Officer, Bajaur at Khan.
 3. All Concerned. They are directed to sign their names within a week time.
 4. Personal File.
 5. Divisional Accountant.

Signature
Mr. Shabir Hussain

Signature
Mr. Shabir Hussain

OFFICE ORDER NO.117 DATED PESHAWAR THE 15/4/1993 ISSUED BY

MR. SHABIR HUSSAIN DIVISIONAL FOREST OFFICER FATA FOREST DIVI:PESH

On the recommendation of Departmental Selection Committee vide minutes dated:6.3.1993, the following candidate hereby appointed as Forest Guards in BPS-12 i.e Rs.945-42-1425 with usual allowances admissible under the rules against the existing vacancies in FATA-I Forest Divn: under provincial scheme namely "Watershad in Bajaur Agency" on purely on temporary basis with effect from the date they arrived for duties:-

1. Mr. Sher Zada S/O Bakhtiar of Yousaf Abad Bajaur Agency.
2. Mr. Perviz Khan S/O Subhan Vill Hayati, Bajaur Agency.
3. Mr. Kifayatullah S/O Abdul Haleem Vill: Salatai Bajaur Agency.
4. Mr. Mohammad Janas Khan S/O Subar Khan-Vill: Khar Bajaur Agency.
5. Mr. Syed Badshah S/O Pacha Vill: Garo Bajaur Agency.

Their appointments are subject to the following terms and conditions:-

1. Their appointments are purely temporary and on contract basis. Their services, can be terminated without giving notice or assigning any reason at any time or on expiry/completion of scheme abolition of the post whichever is earlier. They will not confer any right of continuity on post/absorption or else-where or regularization of their services.
2. They will join their duty on their own expenses.
3. They will be on probation for a period of six months.
4. Their appointment are subject to production of original Education/Health and Domicile and Character, Certificate etc.
5. In case they wish to resign at any time, 30 days notice will be necessary or in lieu thereof 30 days pay will be forfeited.
6. They will be governed by the rules and order relating to leave, travelling, medical attendance and to (E&D) Rules pay etc as may be issued by Government from time to time.

Sd/(Mr. Shabir Hussain)
Divisional Forest Officer
FATA-I, Forest Division,
Peshawar

No.3556-59/E,

Copy forwarded for information to the:-

1. Conservator of Forests FATA/Social Forestry Circle, Peshawar.
2. Range Officer, Bajaur at Khar
3. All concerned. They are directed to join their duty within a week time.
4. Personal file.
5. Divisional Accountant.

Divisional Forest Officer
FATA-I, Forest Division,
Peshawar

5

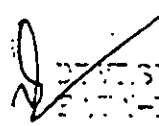
OFFICE ORDER NO: 90 DATED 30/06/1999, ISSUED BY MUHAMMAD SAADI
DIVISIONAL FOREST OFFICER, PATA-I FOREST DIVISION PESHAWAR.

The period of Developmental Scheme Water Shed Range in Bajaur Agency stand expired on 30.05.1999, therefore the services of Mr. Kifayat ullah F/gd: is hereby terminated w.e.f 30.05.1999 (w/e). This is with reference to notice No. 2097/E dated 07-05-1999 already served upon him.

sd/-
(MUHAMMAD SAADI)
DIVISIONAL FOREST OFFICER
PATA-I FOREST DIVISION,
PESHAWAR.

No. 2781-⁵⁵ /E,

- Copy in continuation of this order, No. 2098-2100/E dated 7-6-99. forwarded for information and necessary action to:-
1. The Conservator of Forests PATA/Local Forestry Circle Peshawar.
 2. Range Forest Officer Bajaur at khar.
 3. Mr. kifayat ullah Forest Guard.
 4. Divisional Accountant.
 5. Personal File.


DIVISIONAL FOREST OFFICER,
PATA-I FOREST DIVISION,
PESHAWAR.

OFFICE OF THE DIVISIONAL FOREST OFFICER, FATA-I FOREST DIVISION, PESHAWAR

To

Mr. Kifayatullah Khan C/O
Range Forest Officer, Bajaur Range.

No. 1228 /E dated Peshawar the 23-11 /1999
subject: ACQUISITION OF SERVICES FOR THE POST OF FOREST GUARD
ON CONTRACT BASIS.

Memo: Consequent upon the continuation of PC-I Scheme Afforestation
in Barang & Ghar Shamoza Area Bajaur AG: (previously W/Shed Mgt: Bajaur Agy:
your services are hereby acquired for the post of Forest Guard @ rate
of Rs. 1400/- per month, which is the minimum of Basic pay scale No. 5
on contract basis w.e. from 1.12.1999 under the said scheme which is
likely to be continued upto 30-6-2000 under the following terms &
conditions:

- 1- The terms & conditions of your service shall be governed by the Policy formulated by the Government for the appointment of staff under Developmental Schemes as contained in the S&GAD Circular NO. SOR-III(S&GAD)/8-38/85 dated 30-3-1989 read with letter of even No. dated 29/4/1997.
- 2- Your appointment will be purely temporary & your services can be terminated without any notice being assigned at any time irrespective of the fact that you are holding the post other than the one to which you were originally recruited or on the payment of one month salary in lieu of the notice or on the winding up of the project.
- 3- In case you wish to resign at any time, one month's notice will be necessary or in lieu thereof a month's pay shall be forfeited.
- 4- You will be governed by such rules, orders & instructions relating to pay, leave, T.A & Medical Attendance etc: as may be issued by the Government for the status of Govt: Servants to which you belong.
- 5- Your appointment to the above post will not confer on you any right of regular appointment/absorption or any other post and nor your services will count towards seniority/promotion.
- 6- The contract is renewable on year to year basis subject to your satisfactory performance & further continuation of the Project.
- 7- The offer is subject to the condition that you shall execute an agreement with the D.F.O. FATA-I Forest Divn: Peshawar.

No. 1229 — 30
/E

Copy forwarded to:

- 1- The Range Forest Officer Bajaur Range for information and necessary action.
- 2- Divisional Accountant.

Divisional Forest Officer
FATA-I Forest Division
Peshawar.

Divisional Forest Officer
FATA-I Forest Division
Peshawar.

OFFICE ORDER NO. 173 DATED PESHAWAR THE 30/6/2000 ISSUED
BY SHER NAWAZ KHAN DIVISIONAL FOREST OFFICER, FATA-I FOREST DIVN:
PESHAWAR.

The services of Mr. Kifayatullah Forest Guard
is hereby terminated with effect from 30-6-2000 (Afternoon).

Sd/-
(Sher Nawaz Khan)
Divisional Forest Officer
FATA-I Forest Division
Peshawar.

No. 3512-15 /E

Copy in continuation of this office No. 3069-73 /E
dated 15 /6/2000 forwarded for information and necessary action
to the:

- 1- Range Forest Officer, Bajaur Range at Khar,
- 2- Divisional Accountant.
- 3- Mr. Kifayatullah F/Guard C/O Range Officer, Bajaur.
- 4- Personal file.

DIVISIONAL FOREST OFFICER
FATA-I FOREST DIVISION
PESHAWAR.

To

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Mr. Kifayatullah Forest Guard C/O
Range Forest Officer, Bajaur Range.

No. 434 /E., dated Peshawar the 8/9/2000.

Subject: ACQUISITION OF SERVICES FOR THE POST OF FOREST GUARD
ON CONTRACT BASIS.

Memo: Consequent upon the continuation of PC-I Scheme "AFFORESTATION
IN BARANG AND GHAR SHAMOZAI AREA OF BAJAUR AGENCY) your services
are hereby acquired for the post of Forest Guard @ rate of Rs. 1400/-PM
which is the minimum of basic pay scale No. 5 on contract basis w.e. from 2.7.2000
under the said scheme which is likely to be continued upto 30-6-2001 under the
following terms and conditions:

- 1- The terms & condition of your service shall be governed by the policy formulated by the Government for the appointment of staff under Developmental Schemes as contained in the S&GAD Circular NO.SOR.III(S&GAD)/8-38/86 dated 30.3.1989 ~~with~~ read with letter of even No. dated 29-8-1997.
- 2- Your appointment will be purely temporary & your services can be terminated without any notice being assigned at any time irrespective of the fact that you are holding the post other than the one to which you were originally recruited or on the payment of one month salary in lieu of the notice or on the winding up of the project.
- 3- In case you wish to resign at any time, one month's notice will be necessary or in lieu thereof a month's pay shall be forfeited.
- 4- You will be governed by such rules, orders & instructions relating to pay, leave, T.A & medical attendance etc: as may be issued by the Government for the status of Government servants to which you belong.
- 5- Your appointment to the above post will not confer on you any right of regular appointment/absorption or any other post and nor your services will count towards seniority/promotion.
- 6- The contract is renewable on year to year basis subject to your satisfactory performance & further continuation of the Project.
- 7- The offer is subject to the condition that you shall execute an agreement with the D.F.O. FATA-I Forest Division, Peshawar.

DIVISIONAL FOREST OFFICER
FATA-I FOREST DIVISION
PESHAWAR.

No. 435-36

/E.,

Copy forwarded to:

- 1- The Range Officer, Bajaur Range for information and n/action.
- 2- Divisional Accountant.

DIVISIONAL FOREST OFFICER
FATA-I FOREST DIVISION
PESHAWAR.

OFFICE OF THE DIVISIONAL FOREST OFFICER FATA.I FOREST DIVISION, PESHAWAR.

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83

Mr. Kifayatullah Forest Guard C/O
Range Forest Officer, Bajaur Range.

No. 1772 /E, dated Peshawar the 14 /6/2001.

SUBJECT: SERVICE TERMINATION NOTICE.

Memo:

In light of this office letter No. 434 /E dated 08 /02/2000.
and agreement made with you. Your services will be stand terminated on 30-6-2001,
(Afternoon).

Please note once again.

DIVISIONAL FOREST OFFICER
FATA.I FOREST DIVISION
PESHAWAR.

No. 1773 — 76 /E,

Copy incontinuation of this office No. 435-36 /E,
dated 08 / 9 /2000 forwarded to the:-

- 1- Conservator of Forests, FATA/Social Forestry Circle, Peshawar
for favour of information please.
- 2- Range Forest Officer, Bajaur Range .A spare copy of the
notice is enclosed herewith for delivery to the official
concerned under proper receipt.
- 3- Divisional Accountant for information.
- 4- Personal File.

DIVISIONAL FOREST OFFICER
FATA.I FOREST DIVISION
PESHAWAR.

85 (10)

Mr. Kifayatullah Forest Guard 2/C

Rango Forest Officer, Bajaur Range.

484

/E., dated Peshawar the 23/10/2001.

Subject: APPOINTMENT OF SERVICES FOR THE POST OF FOREST GUARD ON CONTRACT BASIS.

Consequent upon the continuation of PC-I Scheme in Bajaur & Ghar Shanozal Area of Bajaur Agency (Prev: Watershed Mgt: in Bajaur Agency) your services are hereby acquired for the post of Forest Guard @ rate of Rs. 1400/- PM which is the minimum of basic pay scale No. 5 on contract basis w.e. from 01-7-2001 under the said scheme which is likely to be continued upto 30-6-2002 under the following terms and conditions:

- 1- The terms & condition of your service shall be governed by the policy formulated by the Government for the appointment of staff under Developmental Schemes as contained in the SR&AD Circular NO. SCR.III (SR&AD) 6-35/86 dated 30.3.1989 read with letter of even No. dated 29-8-1997.
- 2- Your appointment will be purely temporary & your services can be terminated without any notice being assigned at any time irrespective of the fact that you are holding the post other than the one to which you were originally recruited or on the payment of one month salary in lieu of the notice or on the winding up of the Project.
- 3- In case you wish to resign at any time, one month's notice will be necessary or in lieu thereof a month's pay shall be forfeited.
- 4- You will be governed by such rules, orders & instructions relating to pay, leave, T.A. & medical attendance etc: as may be issued by the Government for the status of Government servants to which you belong.
- 5- Your appointment to the above post will not confer on you any right of regular appointment/absorption or any other post and nor your services will count towards seniority/promotion.
- 6- The contract is renewable on year to year basis subject to your satisfactory performance & further continuation of the Project.
- 7- The offer is subject to the condition that you shall execute an agreement with the WFO WATA-I Forest Division Peshawar.

Divisional Forest Officer
WATA-I Forest Division
Peshawar.

No. 485 86

/E.,
Copy forwarded for information and n/action.

1- The Range Forest Officer Bajaur AGENCY.

OFFICE OF THE DIVISIONAL FOREST OFFICER, PATA-I FOREST DIVISION,
PESHAWAR.

To

Mr. Kifayatullah Forest Guard C/O
Range Forest Officer, Bajaur Range.

No. 1878

/E., dated Peshawar the 07/6/2002.

Subject:

SERVICE TERMINATION NOTICE.

Memo:

In light of this office letter No. 484 /E dated 23/10/2001, your services will be stand terminated on 30-5-2002
(Afternoon).

Please note once again.

DIVISIONAL FOREST OFFICER
PATA-I FOREST DIVISION
PESHAWAR.

No. 1879 — 81 /E

Copy in continuation of this office No. 485-86 /E
dated 23/10/2001 forwarded to the:

Range Forest Officer, Bajaur Range. for information
and n/action. A spare copy of the notice is enclosed
herewith for delivery to the official concerned under
proper receipt.

Divisional Account for information.
Personal file.

DIVISIONAL FOREST OFFICER
PATA-I FOREST DIVISION
PESHAWAR.

87 (11)

The entries in this page should be renewed or re-attested at least every five years and the Signature to items 9 and 10 should be dated.

Name Mr. Kufayyallah

Race Muslim

Residence Village Salorzi Bajaur Agency

Father's name and residence Abdul Haleem


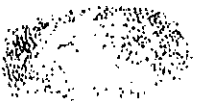
Date of birth by Christian era as nearly as can be ascertained .. 1-1-1962

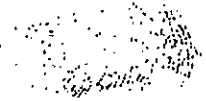
Exact height by measurement .. 5' 4"


Personal marks for identification Two scars on Rt knee joint

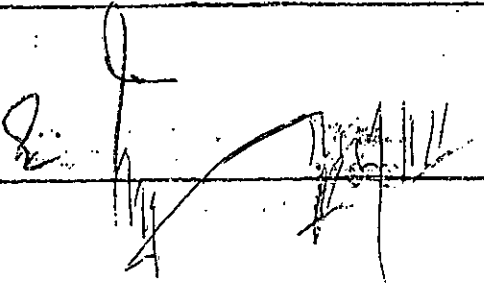
Left hand thumb and Finger impression of (non-gazetted) officer

Little Finger.  Ring Finger 

Middle Finger.  Fore Finger 

Thumb. 

Signature of Government servant 

Signature and designation of the Head of the Office, or other Attesting Officer. 

	10	11	12	13		14	15
	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	Leave		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
				Period	Government to which debitable		
	20-8-80		24/1/98				
1999							
1999							

20-8-80 At 24/1/98







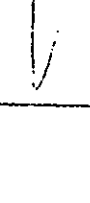

Services terminated on 30-6-1999 (A/P) with effect from 30-6-1999

Services engaged on contract basis with effect from 1-12-1999 till 23-11-1999

Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of appointment	8 S. I.
P/94-6 BPS-5 (Ps-1400)	Contract			Ps-1400/-		30-6-2000	
1	11	11	11	Ps-1400/-		02-7-2000	
4	4	4	4	Ps-1400/-		12-1-2000	
11	11	11	11	Ps-1400/-		30-6-2000	

Name of post	Whether substantive or officiating and whether permanent or temporary	if officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in subst. post	Whether permanent or the pay	Date appoint.
P/General in BPS-5 (Rs. 1400)	Contract		Rs. 1400/-		09-12-2002
P/General in BPS-5 (Rs. 2100)	Contract		Rs. 2100/-		12-12-2002
P/General in BPS-5 (Rs. 2100)	Contract		Rs. 2100/-		30-6-2002
P/General in BPS-5 (200-100-5700)	Temp.		Rs. 2100/-		7-12-2002

15

11 Name of the person such as Commissioner, Inspector, Master, Magistrate, etc.)	12 Signature of the head of the office or other attesting Officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to a recorded punish- ment or censure, or re- ward or praise of the Government Ser-	
		Nature and dura- tion of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debatable to another Government			
			Period			Government to which debatable
<p>Dismissed in contract 1-7-2001 vide GO 184/E dt. 23-4-2001.</p>						
<p>Fixed in Residual 1-7-2001 vide GOs of NWP D.P.O. No. F.O (PRC) 1-7-2001 dt. 27-4-2001.</p>			<p>1-7-2001 1-7-2001</p>			
<p>Services stand terminated 30-8-2002 vide D.O. No. 1878/12 dt. 7-6-2002.</p>			<p>1-7-2002</p>			
<p>Left adjusted to normal (SAR) w.e.f 1-7-2002 Go No. 15 dt. 31-7-2002.</p>			<p>1-7-2002</p>			
<p>Div. Officer FATA-1 Feroze Division Leshwar</p>				<p>Divisional Forest Officer, FATA-1 Feroze Division, Leshwar</p>		

OFFICE ORDER NO. 15 DATED PESHAWAR THE 31/7/2002 ISSUED BY
SHER HAWAZ KHAN DIVISIONAL FOREST OFFICER, FATA-I FOREST DIVISION
PESHAWAR.

16
A. 15

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The services of Mr. Kifayatullah Forest Guard
S/O Abdul Haleem appointed under Developmental Scheme vide this
Office Order No. 117 dated 15-4-1993 are hereby converted /
adjusted in EPS No. 5 (As. 2100-100-5100) from Developmental side
into Normal Budget (S.N.E) w.e.f. from 01-7-2002 duly approved vide government
of Pakistan, Kashmir Affairs & Northern Areas and States & Frontier Region
Division, Islamabad No. F.3(22)-FATA/2000 dated 01-4-2002 received vide
Conservator of Forests, South-FATA Circle, Peshawar office endst: No. 4982/B&D
dated 07-5-2002.

His services will be governed by all terms and conditions
under NWFP Services Rules.

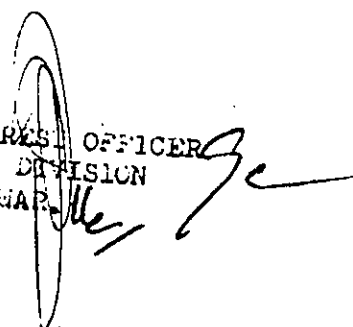
Sd/-
(SHER HAWAZ KHAN)
DIVISIONAL FOREST OFFICER
FATA-I FOREST DIVISION
PESHAWAR.

No. 183 - 87 /E

Copy for information and necessary action forwarded to:

- 1- The Conservator of Forests, South-FATA Circle, Peshawar.
- 2- The Range Forest Officer Bajaur Range
- 3- Divisional Accountant.
- 4- Mr. Kifayatullah Forest Guard of Bajaur Range.
- 5- Personal file.

DIVISIONAL FOREST OFFICER
FATA-I FOREST DIVISION
PESHAWAR.



No.SOSR-III(FD)4-141/98
GOVERNMENT OF N.W.F.P.
FINANCE DEPARTMENT.

Dated Peshawar, the 11.7.1998.

The Director Budget & Accounts
(Forests), Government of NWFP.
Forestry, Fisheries & Wildlife
Department, Peshawar.

Subject:- APPOINTMENT OF STAFF UNDER DEVELOPMENT
SCHEMES.

Reference your memo. No.B&A/96-97/Pension/
6646-47 dated 27.4.1998 on the subject noted above.

Finance Department advises that paragraph 3 of
Services & General Administration Department's letter
No.SOSR-III(FD)8-38/86 dated 30.3.1989 gives an impression
that projects employees appointed after 30.3.1989 would
be on contract basis and their service would not count for
the aforesaid date may, therefore, be treated as
from that date. The entire service of the employees who were
employed/appointed before 30.3.1989 shall count for the
purpose of pensionary benefits provided other conditions on
the subject stand fulfilled. The Administrative Department
may also keep the provisions of Finance Department's letter
No.SOSR-III(FD)4-112/80-Vol:III dated 26.7.1997 in view while
sanctioning the benefit.

*check all
correspondence
& districts.*

Jun 7/98

B/S/9/98

*Mr Zu R. bring up
the file*

*(MUHAMMAD KHAN)
Section Officer(SR-III)*

No.SOSR-III(FD)4-141/98 Dated Peshawar, the 11.7.1998

A copy for information is forwarded to:-

The Section Officer (Regulation-III), Govt. Secy.
NWFP, S&GAD with reference to his letter No.SOSR-III
(S&GAD)8-38/86/77 dated 16.6.1998.

The Budget Officer-X, Finance Department.

(MUHAMMAD KHAN)

(13)

THE GOVERNMENT OF INDIA
MINISTRY OF DEFENSE
NEW DELHI

1. For those employees who have been appointed as contract employees on the basis of their services rendered and shall not continue on the contract basis in the project, it should be provided in the offer of appointment that on expiry/termination of the contract/project, services of the newly recruited employees would be liable for termination on the expiry of the contract or the project period whichever is earlier.

2. It has been observed that on completion of the developmental phase of the project, pressure is exerted both from sponsors of the scheme(s) and political quarters to extend the project life or convert the same into non-developmental scheme and accordingly departments are confronted with an embarrassing situation. In order to avoid such a situation it has been decided that in future appointments against the project(s) posts shall be made for a specific period of contract period. For some specific period whereas usually appointments against the project posts are made for some specific period which the project has been sanctioned. On the expiry of the developmental phase of the project, the staff so appointed stands terminated provided the project period is not extended or converted into normal budget.

I am directed to say that developmental schemes/projects are normally approved for some specific period whereas usually appointments against the project posts are made for some specific period which the project has been sanctioned. On the expiry of the developmental phase of the project, the staff so appointed stands terminated provided the project period is not extended or converted into normal budget.

Subject: APPOINTMENT OF STAFF UNDER DEVELOPMENTAL SCHEMES
All A confidential copy to be sent to Government of India.

FOR THE SECRETARY
MINISTRY OF DEFENSE
NEW DELHI

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

REF: IN SERVICE APPEAL NO.1264/2022

Kifayat Ullah S/O Abdul Haleem (Ex-Forest Guard)
Resident of Shah Narai P.O Khar, Tehsil Khar _____ (APPELLANT)

VERSUS

1. Secretary
to Government of Khyber Pakhtunkhwa
Climate Change, Forestry, Environment & Wildlife department Peshawar.
2. Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar
3. Conservator of Forests
Central Forest Circle Peshawar
4. Budget & Account Officer
to Government of Khyber Pakhtunkhwa
Climate Change, Forestry, Environment & Wildlife department
Peshawar _____ (RESPONDENTS)

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1,2,3&4

PRELIMINARY OBJECTION

- i. That the appellant has got no cause of action.
- ii. That the appellant has no locus standi to file this Service Appeal.
- iii. That the appellant has not come to this court clean hand.

ON FACTS:-

- 1- That it is admitted by the appellant he had been appointed on purely temporary basis as Forest Guard in developmental PC-I Scheme titled as **Watershed Management in Bajaur Agency**. The services of a PC-I Project Staff are constrained to the Project period. Besides, as per terms and condition of the then DFO FATA-I Peshawar office order No. 117 dated 15/4/1993, he was liable to the condition not to claim any right for regularization in to service (**Annex-I**). Furthermore, the services of the appellant had been terminated time and again by the competent authority (**Annex-II**) having several service breaks, making him not eligible for pensionary benefits as is evident from his service book (**Annex-III**).
- 2- That it pertains to his service record.
- 3- That it is incorrect rather services of the appellant were converted / adjusted in to regular post through office order No. 15 dated 31/07-2002, **w.e.f 01/07/2002**, is simply meant to have join the civil service since his date of regularization (**Annex-IV**), making him entitled for all the benefits of a civil servants
- 4- Correct to the extent that the appellant has got retired on 31/12/2021 vide, DFO Bajaur officer order No.37 dated 23/12/2021 on attaining the age of 60 years as per Government Policy. But as per instruction of Govt: Khyber Pakhtunkhwa Finance Department circulated vide letter No. SOSR-III(FD)4-141/98 dated 11.07.1998, the services of the employees appointed after 30.03.1998, would not be counted for pension and the petitioner had been employed initially on 15-04-1993 which is in contradiction of the instruction of Finance Department (**Annex-V**)

5- Needs-no-comments. *Paragans to record.*

6- Needs-no-comments. *The appelland has got no cause of action to file instant appeal.*

GROUNDS OF SERVICE APPEAL

Incorrect.

A. That the appelland has been treated in accordance with law and nothing has been violated.

B. That the appelland's services shall not be counted for the purpose of pension, as explained under Para 1 & 4.

C. As explained and referred under Para (B).

D. As explained and referred under Para (B).

E. As explained and referred under Para (B).

F. As explained and referred under Para (B).

G. Needs-no-comments. *The respondents seek leave to raise additional grounds at the time of arguments.*

Secretary
to Govt; of Khyber Pakhtunkhwa
Climate Change Forestry, Environment & Wildlife
Department Peshawar
(Respondent No.1)

Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar
(Respondent No.2)

Conservator of Forests,
Central Forest Circle Peshawar.
(Respondent No.3)

Director Budget and Accounts
to Govt; of Khyber Pakhtunkhwa
CFE&WD Peshawar
(Respondent No.4)

Submitted for netting P.

AAE
23/2/23
Secretary, Peshawar

Noted subject to correct attachment of all annexures, affidavit and approval 2 + Index
AAE
23/02/2023

AD