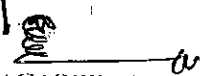


FORM OF ORDER SHEET

Court of _____

Case No. - 981 / 2023


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/05/2023	<p>The appeal of Mr. Ahmad Nawaz resubmitted today by Mr. Allah Yar Khan Tareen Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on _____</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Ahmad Nawaz son of Dost Muhammad r/o Main Point Tareela Lake Tehsil & District Haripur received today i.e. on 18.04.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal are unattested.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Sub-rule-4 of rule 6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974 requires that every civil servant to whom the relief claimed may affect shall also be show as respondent.
- ④ Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal in file covers.


No. 1215 /S.T.

DI. 18/4 /2023.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Allah Yar Khan Tareen Adv.
High Court A.Abad.

Objection No. 03 is conceived because of mentioning of one Abdul Baseer in the memo of appeal. However, said objection is not made out as said Abdul Baseer is not a Civil Servant. Hence, no need to implead him. Remaining objections have been met.


Allah Yar Khan Tareen
Advocate

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHUWA

Appeal No. 981 /2023

Ahmed Nawaz

VERSUS

Secretary Forestry and others

=====

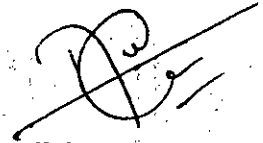
APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 31-01-2023 COMMUNICATED TO THE APPELLANT ON 18-02-2023 WHEREIN THE APPELLANT WAS ILLEGALLY AND UNLAWFULLY TERMINATED FROM SERVICE BY RESPONDENT NO.03 AND UPON THE REJECTION OF THE DEPARTMENTAL APPEAL OF THE APPELLANT VIDE ORDER DATED 20-03-2023

=====

INDEX

Sr. No.	Description of Documents	Annexures	Pages
1	Memo of appeal		1-8
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4	Copy of Order dated 20-10-2021	C	11
5	Copy of experience certificates	D	12
6	Copy of writ petition No. 355/2022	E	13-20
7	Copy of order dated 15-06-2022 passed by Honorable Peshawar High Court (Abbottabad Bench)	F	21-23
8	Copy of writ Petition No. 04/2023	G	24-31
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	Copy of Departmental Appeal	I	33
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Allah Yar Khan Tareen

Advocate High Court

At Abbottabad

Address

Office No. 001 Basement

District Bar Association Building

Judicial Complex Haripur.

Contact No: 0334-4064491

(1)

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHUWA

Appeal No. 981 /2023

Ahmed Nawaz s/o Dost Muhammad, r/o Main Point Tarbela Lake Tehsil and District Haripur.

Appellant

VERSUS

1. Secretary Forestry, Environment and Wildlife Department, Khyber Pakhtunkhwa Peshawar.
2. Conservator Wildlife Hazara Circle, Abbottabad.
3. Divisional Forest Officer Wildlife Division, Haripur.

Respondents

=====

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 31-01-2023 COMMUNICATED TO THE APPELLANT ON 18-02-2023 WHEREIN THE APPELLANT WAS ILLEGALLY AND UNLAWFULLY TERMINATED FROM SERVICE BY RESPONDENT NO.03 AND UPON THE REJECTION OF THE DEPARTMENTAL APPEAL OF THE APPELLANT VIDE ORDER DATED 20-03-2023

=====

PRAYER:

On acceptance of the instant appeal, the impugned order dated 31-01-2023 may kindly be set aside being illegal, unlawful, against the facts and law and the appellant may kindly be reinstated in service with all back benefits.

Any other relief which this Honorable Court deems fit and appropriate may also be granted in the interest of justice.

Respectfully Sheweth:

The petitioner seeks to make the following submissions:

(2)

1. That in pursuance to the recruitment process undertaken by the respondents for appointment on the post of Boatman (BPS-03), the petitioner applied under due course for appointment against the said post, and upon recommendation of the Departmental Selection Committee, he was appointed by the respondent No. 3 by order No. 18 dated 31-01-2022 issued under his office Endst No. 491-95/WL-HR of even date. Copy of appointment order is Annexure A.
2. That the petitioner assumed the charge of the said post on 01-02-2022 and performed his duties with full Zeal and Zest since the day first and regularly got his monthly salaries. Copy of charge report is Annexure B.
3. That prior to his appointment made vide order dated 31-01-2022 (Annexure-A), the petitioner was appointed on temporary basis vide Order No. 04 dated 20-10-2021 under Endst No. 182-84 to meet with the need of respondents being a skilled waterman already having work experience with the contractors. Copy of order dated 20-10-2021 and experience certificates are Annexure C & D respectively.
4. That the petitioner came to know that one Abdul Baseer had filed a writ Petitioner No 355/2022 in the Honorable Peshawar High Court Abbottabad Bench challenging the appointment of appellant, which was disposed of on a statement made at the bar on behalf of respondents that they, after having conducted an inquiry, have decided to re-advertise the post presently held by the petitioner. Copy of writ petition No. 355/2022 and its disposal order dated 15-06-2022 are respectively Annexure E & F.
5. That the appellant received another notice on behalf of said Abdul Baseer that he was filing another writ petition against the appellant among others. When the appellant on receipt of said notice became conscious and when tried to dig out the reasons, he was told from office of the respondent No. 3 that his appointment made vide order dated 31-01-2022 (Annexure-A) was likely to be withdrawn/cancelled under undue pressure of said Abdul Baseer built by entangling the official respondents in litigation. Attested copy of the writ petition No. 04-A/2023 filed is Annexure-G.
6. That the appellant being consistently alarmed through verbal communication from office of Respondent No. 03 that it has become inevitable to undo his appointment in view of the judgment of this Honorable Court passed in Writ Petition No. 355/2022 decided on 15-

06-2022 to create a vacancy for re-advertisement of the post filed a writ petition No. 201-A/2023 before Honorable Peshawar High Court Abbottabad Bench. On the first date of hearing of the said writ petition i.e 16-02-2023, the Honorable High Court sought comments from the respondents but the respondent no.03 illegally and unlawfully issued the impugned order dated 31-01-2023 and terminated the service of the appellant. Said order was prepared after 16-02-2023 and was communicated to the appellant on 18-02-2023. Copy of Impugned Order is Annexure H.

7. That being aggrieved by the impugned order dated 31-01-2023 appellant preferred departmental appeal before respondent No. 02, against the impugned order but vide order Dated 20-03-2023 the departmental appeal of the appellant was dismissed illegally and unlawfully. Copy of Departmental appeal and dismissal order is Annexure I and J respectively)
8. The appellant impugns the said order and the dismissal on following grounds inter alia.

GROUND:

- i. That the appellant having been selected and recommended by DSC was appointed under due Course through the appointment order annexure A. On his having joined the service in pursuance to the said appointment order issued by respondent No. 03, he has got the status of Government Servant and he was not liable to be removed from service in perverse and arbitrary manner.
- ii. That the appointment of the appellant having taken effect was not amenable to the rule of the *locus poenitentiae* as such the respondents had got no authority to withdraw the appointment order of the appellant.
- iii. That the appellant was not engaged with or heard at any stage of the enquiry, if any, in the matter of his appointment. Even otherwise, if any such enquiry was conducted, the same was nothing than an afterthought and was not workable for undoing the appointment of the appellant having been actualized since long by accepting the charge assumption report of the appellant followed by payment of monthly salary to him.
- iv. That the appellant was not liable for a blame of any illegality or irregularity in the process of his selection and appointment on recommendation of the DSC. So, there was nothing on his part to

expose him to disciplinary action under E&D Rules for receiving any penalty. Any other inquiry conducted to the prejudice of appellant at his back cannot be equated with the enquiry under Efficiency and Disciplinary Rules providing penalty of removal or dismissal from service among others.

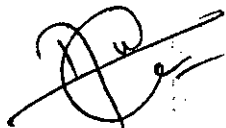
- v. Therefore, the statement given on behalf of the official Respondents enabling the disposal of writ petition No.355/2022 vide order dated 15-06-2022 was not binding upon the appellant under the facts and law, and they had no justification to interpret the judgment of this Honorable Court to the petitioner's prejudice for undoing his appointment.
- vi. That the respondent no.03 was in no manner authorized to terminate the service of the appellant without conducting any inquiry and without following the procedure as laid down in E & D Rules. The act of respondents is severely against the law and is liable to be set aside.
- vii. That furthermore the respondent no.03 prepared impugned order dated 31-01-2023 ostensibly with incorporation of back date on it. Said order was actually prepared after the comments had been sought by the Honorable High Court in the writ petition No. 201-A/2023 of the appellant. This act of respondent No. 03 is clearly tainted with mala fide and is absolutely illegal.
- viii. That it is an inalienable right of the appellant to be treated in accordance with law and the petitioner believes that there is no law to confer discretion upon respondents for withdrawal of the appointment order of the petitioner which is valid under the facts and law and does not suffer from any illegality or irregularity. Therefore, the appellant is entitled for the protections provided under article 4 of the Constitution of Islamic Republic of Pakistan.
- ix. That the impugned orders have been passed in the glaring disregard of the judgments of the Superior Courts in this regard.
- x. That further points will be raised during the course of arguments with the permission of this Honorable Court.

(5)

With the foregoing facts and grounds, it is respectfully prayed that the instant appeal may graciously be accepted as per prayer in the heading above.

af
Amir
Appellant

Through


Allah Yar Khan Tareen
Advocate High Court

Dated:

(6)

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHUWA

Appeal No. _____/2023

Ahmed Nawaz

VERSUS

Secretary Forestry and others

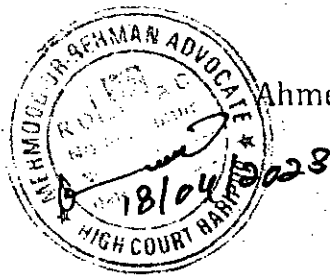
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APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 31-01-2023 COMMUNICATED TO THE APPELLANT ON 18-02-2023 WHEREIN THE APPELLANT WAS ILLEGALLY AND UNLAWFULLY TERMINATED FROM SERVICE BY RESPONDENT NO.03 AND UPON THE REJECTION OF THE DEPARTMENTAL APPEAL OF THE APPELLANT VIDE ORDER DATED 20-03-2023

=====

AFFIDAVIT

I Ahmed Nawaz Khan s/o Dost Muhammad Khan r/o Main Point Tarbela Lake Tehsil and District Haripur, do hereby affirmed on oath that the contents of above Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



*af
Nawaz*
Ahmed Nawaz Khan s/o Dost Muhammad Khan

r/o Main Point Tarbela Lake

Tehsil and District Haripur.

CNIC:13302-7507387-1

Dated:

(7)

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHUWA

Appeal No. _____/2023

Ahmed Nawaz

VERSUS

Secretary Forestry and others

=====

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 31-01-2023 COMMUNICATED TO THE APPELLANT ON 18-02-2023 WHEREIN THE APPELLANT WAS ILLEGALLY AND UNLAWFULLY TERMINATED FROM SERVICE BY RESPONDENT NO.03 AND UPON THE REJECTION OF THE DEPARTMENTAL APPEAL OF THE APPELLANT VIDE ORDER DATED 20-03-2023

=====

CERTIFICATE

It is certified that instant Service Appeal is first petition being filed before this Honorable Tribunal and no other appeal is pending before this Honorable Court.

af
Deponent

(8)

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHUWA

Appeal No. _____/2023

Ahmed Nawaz

VERSUS

Secretary Forestry and others

=====

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 31-01-2023 COMMUNICATED TO THE APPELLANT ON 18-02-2023 WHEREIN THE APPELLANT WAS ILLEGALLY AND UNLAWFULLY TERMINATED FROM SERVICE BY RESPONDENT NO.03 AND UPON THE REJECTION OF THE DEPARTMENTAL APPEAL OF THE APPELLANT VIDE ORDER DATED 20-03-2023

=====

MEMO OF ADDRESS

Ahmed Nawaz Khan s/o Dost Muhammad Khan r/o Main Point Tarbela Lake Tehsil and District Haripur.

Petitioner

VERSUS

1. District Forest Officer Haripur.
2. Conservator Wildlife Hazara Circle, Abbottabad.
3. Secretary Forestry, Environment and Wildlife Department.

Respondents

Through



Allah Yar Khan Tareen

Advocate High Court

(9)

Annexure
'A'

CTC
D/S

OFFICE ORDER NO 18 DATED HARIPUR THE 31-01-2022
ISSUED BY MR. MUHAMMAD SHAKEEL, DIVISIONAL FOREST OFFICER,
HARIPUR WILDLIFE DIVISION, HARIPUR

Consequent upon recommendation of the Departmental Selection Committee, vide this Office Order no 11 dated 30-12-2021, held on 31-01-2022. Mr. Ahmed Nawaz Khan S/O Dost Muhammad R/O Main Point Tarbella Lake P/O Khalabat Haripur is hereby appointed as Boatman (BPS-03) against a regular vacant position of Boatman (BPS-03) viz Rs: 9610-390-21310 plus usual allowance in Haripur Wildlife Division with immediate effect.

TERMS AND CONDITIONS

1. His services will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973, all the laws applicable to the Civil Servants and the Rules made hereunder.
2. He will be on probation as per Rules-15 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989.
3. His services will be liable to termination at 15 days notice, at any time without assigning any reason irrespective of the fact that he holds a post other than the one to which he was originally recruited.
4. In case he wishes to resign at any time, an advance notice of one month shall be necessary or in lieu thereof his one month's pay shall be forfeited to government.
5. The appointment is subject to the production of Clearance Certificate from District Police Officer Haripur and necessary medical fitness certificate from the Medical Superintendent of District Head Quarter Hospital Haripur before joining of the position.
6. His service will start from the date of his arrival for duties.
7. If he failed to report arrival for duty within thirty days of the receipt of this order, the appointment will stand cancelled automatically.
8. The incumbent will be posted anywhere in the jurisdiction of Haripur Wildlife Division.
9. In case of any political influence for posting/transfer for favorable station or undue favour which is against the public interest, the service of the incumbent will be terminated.
10. He will join duty at his own expenses, as no TA/DA shall be admissible therefor.

If the above terms and conditions are acceptable to him, he should report the office of the undersigned within 14 days after issuance of this order.

(Mr. Muhammad Shakeel)
Divisional Forest Officer
Haripur Wildlife Division
Haripur

No. 491-95 /WL-HR

Copy forwarded to the:

- ✓ 1. Chief Conservator Wildlife Khyber Pakhtunkhwa, Peshawar for favour of information, please.
2. Conservator Wildlife Hazara Circle, Abbottabad for favour of information, please..
3. Divisional Accountant of Wildlife Divisional Office Haripur for information and necessary action.
- ✓ 4. Mr. Ahmed Nawaz Khan S/O Dost Muhammad Main Point Tarbella Lake P/O Khalabat Haripur for information.
5. Personal file of concerned official.

Divisional Forest Officer
Haripur Wildlife Division
Haripur

(P)

The District Forest Officer

Haripur Wildlife Division

Haripur

Annexure
B

Sub

Arrival Report

LL
D

It is submitted that I have been selected as Boatman Wildlife (BPS-3) vide your office order NO 18 dated 31-1-2022

So therefore, I do submit my arrival report from today 01 Feb, 2022

01-02-2022

Yours obediently

Amal Datta

Boatman Wildlife

(11)
OFFICE ORDER NO. 4 DATED HARIPUR 20/10/2021 THE ISSUED BY
MR. MUHAMMAD SHAKEEL DIVISIONAL FOREST OFFICER HARIPUR
WILDLIFE DIVISION. *Annexure (C)*

Due to non-availability of Boatman in Haripur Wildlife Division Mr. Ahmad Nawaz S/O Dost Muhammad bearing CNIC No. 13302-7507387-1 is hereby temporary engaged as Boatman on fixed pay basis @Rs. 21000/- per month in this Wildlife Division w.e.f 20/10/2021 till further order or appointment of regular Boatman in this Wildlife Division.

It is further mentioned that his stay in this department will be considered as assignment based and therefore couldn't be termed as any favor, whatever in consideration of permanent position in future in this division and his service will be purely temporary and also liable to termination at any time without any prior notice information.

Furthermore the pay of the above official may be made from the budget sub head A-01151 Non developmental on fixed pay basis as mentioned above.

[Handwritten Signature]
(Muhammad Shakeel)
Divisional Forest officer
Haripur Wildlife Division
Haripur

No. 182-84 WL-HR

Copy forwarded to:

1. Divisional Accountant Haripur Wildlife Division for information and necessary action.
2. SDWO Ghazi for information and necessary action.
3. Mr. Ahmad Nawaz S/O Dost Muhammad for information and necessary action.

[Handwritten Signature]
Divisional Forest officer
Haripur Wildlife Division
Haripur

(12)

Annex 'D'

[Handwritten signature]

ٹھیکیدار تربیلہ ڈیم ونگ KPK



آفس: چوگی نمبر 2، پرانی تربیلہ کاشن بلکھارٹ ٹاؤن شپ، تحصیل و ضلع ہری پور

تاریخ 17-07-2019

حازیر

TO WHOM IT MAY CONCERN

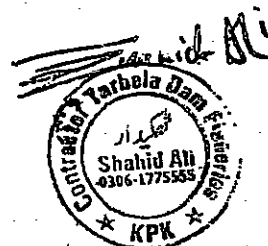
Certified that Mr. Ahmed Nawaz S/O Dost Muhammad, resident of Main Point Tarbela Lake village Padhana, Tehsil & District Haripur has been working with us a "Boat Driver" with effect from 31-08-2016 to date.

He was appointed on merit on the basis of his past 03 years experience with another Fish Contractor in the relevant field.

During past tenure he was found hardworking, punctual and competent. He has vast experience in the field of Boat driving. He has extra ability of swimmer, diver including the removing of the fault in the Boat if any during the emergency.

Attested
[Handwritten signature]
17/7/19

(Shahid Ali)
Fish Contractor



Annexure 'E' (13)

BEFORE PESHAWAR HIGH COURT ABBOTTABAD BENCH



W.P.NO. 355/2022

Abdul Baseer S/O Zebar Shah R/O Village Gall Dogah, Tehsil Ghazi District Haripur.

Handwritten signature and initials

.....Petitioner

CTC

V/S

- 1) Secretary Forestry, Environment & Wildlife KPK Peshawar,
- 2) Chief Conservative Wildlife KPK Peshawar.
- 3) Conservator Wildlife Hazara Circle Abbottabad.
- 4) Divisional Forest Officer, Wildlife Division Haripur.
- 5) Divisional Forest Officer, Wildlife Division Kakol Road Abbottabad.
- 6) Ahmad Nawaz Khan S/O Dost Muhammad R/O Main Point Tarbella Lake P/O Khalabat Haripur.

.....Respondents

WRIT PETITION UNDER ARTICLE 199 OF CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED UP TO DATE, FOR DECLARATION TO THE EFFECT THAT NON ISSUANCE OF APPOINTMENT ORDER OF THE PETITIONER AND ISSUANCE OF APPOINTMENT ORDER OF THE RESPONDENT NO 6th AGAINST THE POST OF BOATMAN IS ILLEGAL, WRONG, AGAINST THE POLICY, PRESERVE, WITHOUT LAWFUL AUTHORITY, BASED ON MALAFIDE IS LIABLE TO BE SET ASIDE.

No. 1425/22

FILED
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH
27/3/22

Certified to be True Copy
 EXAMINER
 03 FEB 2023
 Peshawar High Court and Bench
 Abbottabad Bench

Handwritten signature/initials

PRAYER:-

ON ACCEPTANCE OF INSTANT WRIT PETITION THE RESPONDENTS NO.1 TO 5 BE DIRECTED THAT THE PETITIONER BEING ELIGIBLE, HAVING REQUISITE QUALIFICATIONS AND QUALIFIED IN ALL RESPECT BE CONSIDERED AGAINST THE RESPECTIVE POST OF BOATMAN AND APPOINTMENT ORDER NO. 491-95/WL-HR DATED 31/01/2022 OF THE RESPONDENT NO 6 MAY KINDLY BE DECLARED NULL AND VOID AS UNQUALIFIED AND INELIGIBLE, HAVING NO EFFECT UPON THE RIGHTS OF THE PETITIONER AND THE PETITIONER BEING ELIGIBLE, IN ALL RESPECT BE CONSIDERED AND ISSUE APPOINTMENT ORDER OF THE PETITIONER AGAINST THE RESPECTIVE POST AND ALONG WITH ANY OTHER RELIEF WHICH THIS WORTHY COURT MAY DEEM APPROPRIATE IN THE GIVEN CIRCUMSTANCE IN THE FAVOUR OF PETITIONER.

Respectfully Sheweth,

1. That the Respondent No.5 announced various posts through advertisement including post of Boatman (BPS-06) for District Haripur. (Copy of advertisement is attached as Annexure "A").
2. That in pursuance of the advertisement the Petitioner being qualified and eligible applied for the same post, and qualified the written test and secured 68 Numbers as top of the provisional result conducted by the KPTA. (Copy of merit list is attached as Annexure "B".)

Certified to be True Copy
 EXAMINER
 03 FEB 2023
 Peshawar High Court 4th Bench
 Authorized Under Sec 73 Evd Ord

FILED TODAY
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH

CPL
D

3. That being qualified candidate, petitioner initially called for interview vide letter dated 30/12/2021 for 13/01/2022 which was cancelled and secondly vide letter no 453-56/WL-HR Dated 24/01/2022 for 31/01/2022. "Copies of Letters are attached as Annexure C&D."
4. That petitioner appeared before departmental selection committee on 31/01/2022 and all relevant educational documents of the petitioner was ascertained by the departmental selection committee.
5. That respondent No 4 by ignoring the merit list, qualification and experience of the petitioner vide letter No 491-95/WL-HR dated 31/01/2022 issued appointment order of respondent No 6, who is not qualified and eligible candidate by ignoring the petitioner. (Copy of the appointment order is attached as Annexure "E").
6. That the Respondents are bound to make appointment of the petitioner as per criteria fixed in the advertisement and the petitioner is entitled to be appointed against the said Post in all respects, which is also covered by the KPK government Policy.
7. That appointment of respondent No 6 is clearly nepotism and discriminatory and against the rights of the petitioner whereas petitioner inquired about the illegal appointment and submitted applications to Chief Minister Kpk, Secretary Environment respondent No 1 and Respondent No 5 for his redresses but still unproductive and fruitless, and just departmental inquires and letters is being made against the respondent No 4. (Copies of applications receipts are attached as Annexure "F").

Certified to be True Copy
EXAMINER
 03 FEB 2023
 Peshawar High Court Ad Bench
 Authorized Under Sec 75 Evig Ord

FILED TODAY
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ADJUTANT CLERK BENCH

CTC
[Signature]

8. That feeling dissatisfied and aggrieved the petitioner seeks indulgence of this honorable Court inter-alia on following grounds:-

GROUNDS:-

- a. That the impugned appointment order is illegal, against the law, facts, policy arbitrary, fanciful, preserve, without lawful authority, based on malafide, discriminatory and against the norms of justice, hence liable to be struck down.
- b. That the petitioner is qualified, eligible and entitled for appointment while respondents are bound to appoint against the post of "boatman" while petitioner is more qualified i.e. B.A and Shahadat ul Aalmiyya Then respondent No 6. (Copies are attached as Annexure "G").
- c. That as-per criteria of the advertisement petitioner has five years' experience as boatman whereas respondent No. 6 does not have such like experience, ignoring this facts and basic criteria of the advertisement is illegal and unlawful and liable to dismissed. (Copy of the experience certificate is attached as Annexure "H").
- d. That issuance of appointment order of the respondent No 6 is void based upon malice, mala-fide, nepotism, discriminatory, favoritism and do not creates any rights in favor of Respondent No 6.
- e. That appointment order issued in hastily by ignoring the advertisement as the post was advertised in BPS-6 but impugned appointment order issued of BPS-3, while basic pay scale of boatman post was BPS-3 which was upgraded by the finance department in the year 2015 by awarding two pay scale up gradation to all provincial government employees from BPS-1 to BPS-5. Copy of the Notification is attached as Annexure "I".

ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABOTTABAD BENCH
24/3/22

Certified to be True Copy
EXAMINER
03 FEB 2023
Peshawar High Court and Bench

ETC
D

- f. That in the year respondents issued retirement order of boatman namely Syed Mukhtair Shah in BPS-6 and on vacation the said post respondent No.5 clearly mentioned the post of boatman as BPS-5 vide letter No 734/WL-Atd Dated 01/10/2019 which transpire basic pay scale of the post. Copies of the retirement order and letter are attached as Annexure "J" & "K".
- g. That respondents had not published any corrigendum in the advertisement if the post of boatman is BPS-3 and criteria for the appointment in Basic pay scale 1 to 4 as per the Appointment and transfer rules 1989 the said posts shall be made on the recommendations of the Departmental selection committee through the District employment exchange concerned.
- h. That the act of respondents is arbitrary, fanciful and discriminatory and against the rights of petitioner, guaranteed by the constitution of Pakistan.
- i. That the Articles 3, 25 & 27 of the Constitution of Pakistan ensure elimination of every sort of exploitation promotes equality of citizens and negates discrimination in services. However, the very act of the Respondents No.3 is against the constitutionally guaranteed rights.
- j. That the requisite notice along with memo of writ petition has been sent through Post. (Copies of Notice along with Postal Receipts are attached as Annexure "L&M" respectively.)
- k. That the other points shall be agitated at the time of arguments.

ADDITIONAL REGISTRAR
PUNJAB HIGH COURT
LAHORE
27/3/22

The court fee stamp paper worth Rs 500/- is attached.

Certified to be True Copy
EXAMINER
03 FEB 2023
Punjab High Court And Bench
Authorized Under

It is therefore humbly prayed that on acceptance of instant writ petition the respondents no.1 to 5 be directed that the

LTC
[Signature]

petitioner being eligible, having requisite qualifications and qualified in all respect be considered against the respective post of boatman and appointment order no 491-95/WL-HR dated 31/01/2022 of the respondent no 6 may kindly be declared null and void as unqualified and ineligible, having no effect upon the rights of the petitioner and the petitioner being eligible, in all respect be considered and issue appointment order of the petitioner against the respective post and along with any other relief which this worthy court may deem appropriate in the given circumstance in the favor of petitioner.

Abdul Baseer
Petitioner

Dated: - 02/03/2022

THROUGH:

[Signature]

NAZAKAT ALI TANOLI
ADVOCATE HIGH COURT
ABBOTTABAD.

VERIFICATION.

Verified that the contents of foregoing writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

Abdul Baseer
Petitioner

~~FILED~~
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
2/3/22

Certified to be True Copy
EXAMINER
03 FEB 2023
Peshawar High Court And Bench
Authorized Under Sec 73 Evol Ordns

CTC
D.C.

(19)

8

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.



W.P.NO. 255/2022

Abdul Baseer S/O Zehar Shah R/O Village Gall Dogah, Tehsil Ghazi District Haripur.

.....Petitioner

V/S

Secretary Forestry, Environment & Wildlife KPK Peshawar and other

Respondents

WRIT PETITION

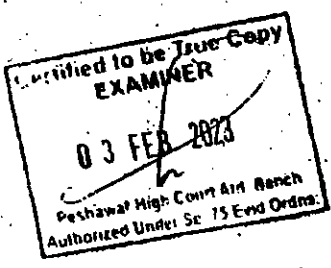
CERTIFICATE

Certified that no writ petition on the subject has earlier been filed by the petitioners.

Abdul Baseer
PETITIONER

Dated: - 02/03/2022

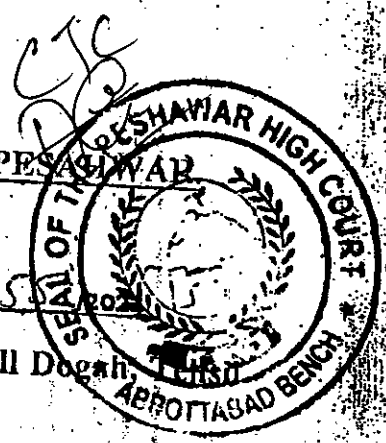
Through:



(Signature)
(Nazakat Ali Tanoli)
Advocate High Court,
Abbottabad.

(Signature)
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

(20)
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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P.NO. 3562/2022

Abdul Baseer S/O Zebar Shah R/O Village Gall Dogah,
Ghazi District Haripur.

.....Petitioner

V/S

Secretary Forestry, Environment & Wildlife KPK Peshawar
* and other

WRIT PETITION

ADDRESSES OF THE PARTIES

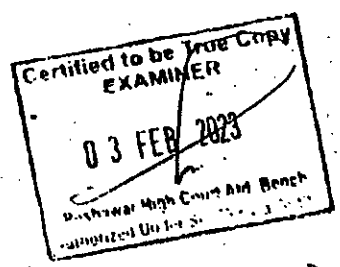
Abdul Baseer S/O Zebar Shah R/O Village Gall Dogah, Tehsil Ghazi District
Haripur.
.....Petitioner

V/S

1. Secretary Forestry, Environment & Wildlife KPK Peshawar.
2. Chief Conservative Wildlife KPK Peshawar.
3. Conservator Wildlife Hazara Circle Abbottabad.
4. Divisional Forest Officer, Wildlife Division Haripur.
5. Divisional Forest Officer, Wildlife Division Kakol Rond Abbottabad.
6. Ahmad Nawaz Khan S/O Dost Muhammad R/O Main Point Tarbella Lake
P/O Khalabat Haripur.

Abdul Baseer
PETITIONER

Dated 02/03/2022



Through:

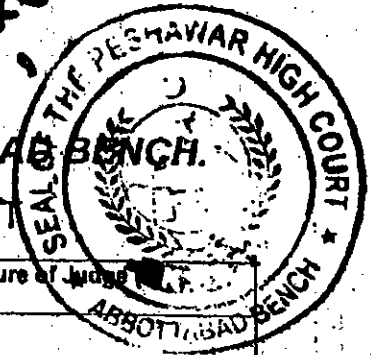
Nazakat Ali Tanoli
Nazakat Ali Tanoli
Advocate High Court,
Abbottabad.

REGISTRAR
REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
8/3/22

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PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

FORM OF ORDER SHEET



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge
1	2
15.06.2022	<p><u>W.P.No.355-A/2022.</u></p> <p>Present: Mr. Nazakat Ali Tanoli, Advocate for petitioner.</p> <p>Mr. Sajid ur Rehman Khan, Assistant Advocate General for respondents.</p> <p>***</p> <p><u>KAMRAN HAYAT MIANKHEL, J.</u> Through instant writ petition filed under Article 199 of the Constitutional of Islamic Republic of Pakistan, 1973, petitioner seeks the following relief:-</p> <p>"It is, therefore, humbly prayed that on acceptance of instant writ petition the respondents No.1 to 5 be directed that the petitioner being eligible, having requisite qualifications and qualified in all respect be considered against the respective post of postman and appointment order No.491-95/WL-HR dated 31.01.2022 of the respondent No.6 may kindly be declared null and void as unqualified and ineligible, having no effect upon the rights of petitioner and the petitioner being eligible, in all respect be considered and issue appointment order to the petitioner against the respective post and along with any other relief which this worthy court may deem appropriate in the given circumstances in the favor of petitioner."</p>

Kamran Hayat Miankhel

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EXAMINER
03 FEB 2023
Peshawar High Court Atd Bench
Authorized Under Sec. 75 Evtd Ordns.

Attest. PS.

Hon'ble Mr Justice Wiqar Ahmad
Hon'ble Mr. Justice Kamran Hayat Miankhel

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2. Brief facts of the instant writ petition are that respondent No.5 announced various posts through advertisement including post of boatman for district Haripur. The petitioner being qualified and eligible applied for the same and qualified the written test and secured 68 marks. Interview was held by the DSC, recommended respondent No.6 for appointment and vide letter No.491-95/WL-HR dated 31.01.2022 respondent No.6 was appointed by the respondents. The petitioner submitted applications to the Chief Minister Khyber Pakhtunkhwa, Secretary Environment (respondent No.1) and respondent No.5 for redressal of his grievance, hence, this writ petition.

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3. Learned counsel for petitioner argued at some length and during arguments learned Assistant Advocate General apprised this court that on the complaint of petitioner, the whole process of recruitment of boatman has been scratched and re-advertisement of post of boatman has been ordered. The learned Assistant Advocate General produced the relevant documents showing that vide letter dated 07.06.2022 formal inquiry under E&D Rules, 2011 against the delinquent officers/officials in the matter to fix responsibilities was ordered. The record further depicts that proper inquiry was conducted and after the inquiry, whole process was

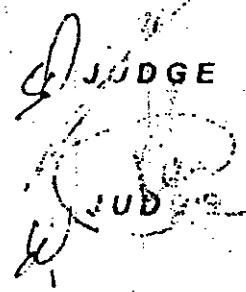
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EXAMINER
03 FEB 2023
Peshawar High Court All Bench
Authorized Under Sec 15 E-d Order

(23)

CTC 

scratched due to malpractice and also for non-observance of relevant law and rules and re-advertisement of the post was ordered.

4. So in this view of the matter, this writ petition has become infructuous and is hereby disposed off. However, the petitioner shall be at liberty to apply for the post when advertised.

JUDGE


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03 FEB 2023
Roshwar High Court And Bench
Authorized Under Sec 75 Evd Ord.

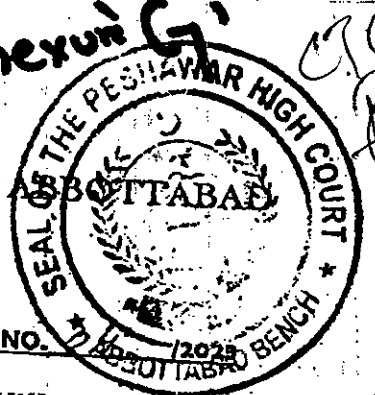
Atlab P.S.

Hon'ble Mr. Justice Wigar Ahmad
Hon'ble Mr. Justice Kamran Hayat Miankhal

(24)

Annex G

BEFORE PESHAWAR HIGH COURT
ABBOTTABAD BENCH



W.P.NO.

12025

Abdul Baseer S/O Zebar Shah R/O Village Gall Dogah,
Tehsil Ghazi District Haripur.

.....Petitioner

V/S

- 1) Secretary Forestry, Environment & Wildlife KPK Peshawar.
- 2) Section Officer (Social Sector) Chief Minister Secretariat KPK Peshawar.
- 3) Chief Conservative Wildlife KPK Peshawar.
- 4) Conservator Wildlife Hazara Circle Abbottabad.
- 5) Divisional Forest Officer, Wildlife Division Haripur.
- 6) Divisional Forest Officer, Wildlife Division Kakol Road Abbottabad.
- 7) Ahmad Nawaz Khan S/O Dost Muhammad R/O Main Point Tarbella Lake P/O Khalabat Haripur.

.....Respondents

WRIT PETITION UNDER ARTICLE 199 OF CONSTITUTION
OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED
UP TO DATE.

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

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EXAMINER
06 FEB 2023
Peshawar High Court Atd Bench
Authorized Under Sec 10 of Ordos

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[Signature]

PRAYER:-

ON ACCEPTANCE OF INSTANT WRIT PETITION,

- a) THAT LETTER DATED 07.06.2022 MAY KINDLY BE DECLARED NULL AND VOID TO THE EXTENT OF RE-ADVERTISEMENT REGARDING POST OF BOATMAN AS PETITIONER COULD NOT BE PENALIZED FOR WRONG ACT OF THE RESPONDENTS.
- b) THAT APPOINTMENT ORDER NO. 491-95/WL-HR DATED 31/01/2022 OF THE RESPONDENT NO 6 MAY KINDLY BE DECLARED NULL AND VOID AS UNQUALIFIED AND INELIGIBLE BEING RESULT OF NEPOTISM AND DISCRIMINATION;
- c) THAT RESPONDENTS NO.1 TO 6 BE DIRECTED TO ISSUE APPOINTMENT ORDER OF THE PETITIONER BEING ELIGIBLE, HAVING REQUISITE QUALIFICATIONS AND QUALIFIED IN ALL RESPECT BE CONSIDERED AGAINST THE RESPECTIVE POST OF BOATMAN, ALONG WITH ANY OTHER RELIEF WHICH THIS WORTHY COURT MAY DEEM APPROPRIATE IN THE GIVEN CIRCUMSTANCE IN THE FAVOUR OF PETITIONER.

Respectfully Sheweth,

- 1. That the Respondent No.6 announced various posts through advertisement including post of Boatman (BPS-06) for District Haripur. (Copy of advertisement is attached as Annexure "A").
- 2. That in pursuance of the advertisement the Petitioner being qualified and eligible applied for the same post, and qualified the written test and secured 68 Numbers as top of the provisional result conducted by the KPTA. (Copy of merit list is attached as Annexure "B".)

Certified to be
EXAMINER
D. 6 FEB 2023
Peshawar High Court and Bench
Abbottabad Bench
Authorized Under Sec 15 Evad. Ordins

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
23/1/23

ETC
[Handwritten Signature]

3. That being qualified candidate, petitioner initially called for interview vide letter dated 30/12/2021 for 13/01/2022 which was cancelled and secondly vide letter no 453-56/WL-HR Dated 24/01/2022 for 31/01/2022. "Copies of Letters are attached as Annexure C&D."
4. That petitioner appeared before departmental selection committee on 31/01/2022 and all relevant educational documents of the petitioner was ascertained by the departmental selection committee.
5. That respondent No 5 by ignoring the merit list, qualification and experience of the petitioner. vide letter No 491-95/WL-HR dated 31/01/2022 issued appointment order of respondent No 6, who was not qualified and eligible candidate Copy of the appointment order is attached as Annexure "E").
6. That the Respondents were bound to make appointment of the petitioner as per criteria fixed in the advertisement and the petitioner is entitled to be appointed against the said Post in all respects, which is also covered by the KPK government Policy.
7. That appointment of respondent No 7 is clearly nepotism and discriminatory and against the rights of the petitioner whereas petitioner applications to Chief Minister Kpk, Secretary Environment respondent No 1 and Respondent No 6 for his redresses. (Copies of applications receipts are attached as Annexure "F").

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 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH
 27/1/23

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 06 FEB 2023
 Peshawar High Court 812 Bench
 Authorized Under S-14 Ord. 1969

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8. That on the complaint of the petitioner fact finding inquiry report was conducted by special secretary forestry, environment & wildlife department regarding illegal appointment wherein only formal inquiry was recommended against the responsible officers. Copy of the fact finding inquiry report is attached as annexure "G".
9. That respondent No 2 wrongly interpreted the above report and issued letter No (SS)CMS/KPK/2-Forest/2022/418 dated 07/06/2022 and directed for re-advertisement which is erroneous and petitioner cannot be penalized due to wrong act of the respondents. Copies of the letters dated 31/05/2022 & 07/06/2022 are attached as annexure "H".
10. That feeling dissatisfied and aggrieved the petitioner seeks indulgence of this honorable Court inter-alia on following grounds:-

GROUNDS:-

- a. That the impugned appointment order is illegal, against the law, facts, policy arbitrary, fanciful, preserve, without lawful authority, based on malafide, discriminatory and against the norms of justice, hence liable to be struck down.
- b. That the petitioner is qualified, eligible and entitled for appointment while respondents are bound to appoint against the post of "boatman" while petitioner is more qualified i.e. B.A and Shahadat ul Aajmiaya Then respondent No 7. (Copies are attached as Annexure "I".
- c. That as per criteria of the advertisement petitioner has five years' experience as boatman whereas respondent No. 7 does not have such like experience, ignoring this facts and

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PESHAWAR HIGH COURT
ABBOTTABAD BENCH
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Peshawar High Court Aid Bench
Authorized Under Sec 75 Evd Ordns

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[Signature]

- * basic criteria of the advertisement is illegal and unlawful and liable to dismissed. (Copy of the experience certificate is attached as Annexure "J").
- d. That issuance of appointment order of the respondent No 7 is void based upon malice, mala-fide, nepotism, discriminatory, favoritism and do not creates any rights in favor of Respondent No 7.
- e. That appointment order issued in hastily by ignoring the advertisement as the post was advertised in BPS-6 but impugned appointment order issued of BPS-3, while basic pay scale of boatman post was BPS-3 which was upgraded by the finance department in the year 2015 by awarding two pay scale up gradation to all provincial government employees from BPS-1 to BPS-5. Copy of the Notification is attached as Annexure "K".
- f. That in the year respondents issued retirement order of boatman namely Syed Mukhtair Shah in BPS-6 and on vacation the said post respondent No.5 clearly mentioned the post of boatman as BPS-5 vide letter No 734/WL-Atd Dated 01/10/2019 which transpire basic pay scale of the post. Copies of the retirement order and letter are attached as Annexure "L" & "M".
- g. That respondents had not published any corrigendum in the advertisement if the post of boatman is BPS-3 and criteria for the appointment in Basic pay scale 1 to 4 as per the Appointment and transfer rules 1989 the said posts shall be made on the recommendations of the Departmental selection committee through the District employment exchange concerned.

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 EXAMINER
 06 FEB 2023
 Peshawar High Court Atd Bench
 Authorized Under Sec 75 E and Ordns.

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 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH
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[Signature]

- h. That petitioner earlier filed writ petition No 355-A/22 before this Honorable court which was disposed off being infructuous on 15/08/2022 but respondents misguided about the impugned notification, the order dated 15/08/2022 may kindly be review in the best interest of justice. Copies of writ petition and order are attached as Annexure "N".
- i. That respondent No 7 is still working on the said post and receiving regularly monthly salary similarly no formal inquiry was conducted against the concerned officials.
- j. That the act of respondents is arbitrary, fanciful and discriminatory and against the rights of petitioner, guaranteed by the constitution of Pakistan.
- k. That the Articles.3, 25 & 27 of the Constitution of Pakistan ensure elimination of every sort of exploitation promotes equality of citizens and negates discrimination in services. However, the very act of the Respondents No.3 is against the constitutionally guaranteed rights.
- l. That the requisite notice along with memo of writ petition has been sent through Post. (Copies of Notice along with Postal Receipts are attached as Annexure "O&P" respectively.)
- m. That the other points shall be agitated at the time of arguments.
- n. The court fee stamp paper worth Rs 500/- is attached.

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

8/2/23

Certified to be TRUE COPY
EXAMINER
06 FEB 2023
Peshawar High Court 1st Bench
Authorized Under Sec. 15 & 16 of Ord.

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[Signature]

It is therefore humbly prayed that on acceptance of instant writ petition,

- a) that letter dated 07.06.2022 may kindly be declared null and void to the extent of re-advertisement regarding post of boatman as petitioner could not be penalized for wrong act of the respondents.
- b) that appointment order no. 491-95/WL-HR dated 31/01/2022 of the respondent no 6 may kindly be declared null and void as unqualified and ineligible being result of nepotism and discrimination,
- c) that respondents no.1 to 6 be directed to issue appointment order of the petitioner being eligible, having requisite qualifications and qualified in all respect be considered against the respective post of boatman, along with any other relief which this worthy court may deem appropriate in the given circumstance in the favour of petitioner.

Abdul Baseer
Petitioner

Dated: - 03/01/2023

THROUGH:

[Signature]

NAZAKAT ALI TANOLI
ADVOCATE HIGH COURT
ABBOTTABAD.

VERIFICATION.

Verified that the contents of foregoing writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

Abdul Baseer
Petitioner

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
3/1/23

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EXAMINER
06 FEB 2023
Peshawar High Court and Bench
Authorized Under Section 12, Evig Ordns

(31)

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BEFORE THE PESHAWAR HIGH COURT, BENCH ABBOTTABAD

Abdul Baseer

VERSUS

Secretary Forest & others

WP No. 24/2023

WRIT PETITION

AFFIDAVIT

I, Abdul Baseer S/O Zebar Shah R/O Village Gall Dogah, Tehsil Ghazi District Haripur, CNIC No. 13301-3701785-9, do hereby solemnly affirm and declare that the contents of forgoing Writ Petition are true and correct and nothing has been suppressed from this Honorable Court.

Dated: 21/12/2022

DEPONENT:

13301-3701785-9 *Abdul Baseer*

AFFIDAVIT

S.No: 6967/605 Receipt No: 605
I, the above is verified on Solemn Oath before me on this 21 day of Dec 2022
Abdul Baseer S/O Zebar Shah
Village Gall Dogah is identified by [Signature]
who is personally known to me

Certified to be True Copy
EXAMINER
06 FEB 2023
Peshawar High Court Atd Bench
Authorized Under: Sec 25 Evd Ordns.

Oath Commissioner
(Additional Registrar)
Peshawar High Court Abbottabad Bench

21/12/22

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

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(32) Annexure H

31/01/2023

OFFICE ORDER NO 55 DATED HARIPUR THE
ISSUED BY MR. NAVEED-UL HAQ, DIVISIONAL FOREST OFFICER, HARIPUR WILDLIFE
DIVISION, HARIPUR

The Departmental Selection Committee (DSC) recommended Mr. Ahmad Nawaz S/O Dost Muhammad resident of Tarbela Lake, Post Office Khalabat Haripur for appointment as Boatman (BPS-03) against the vacant post in Haripur Wildlife Division in its meeting held on 31-01-2022.

2. **WHEREAS**, another candidate namely Mr. Abdul Baseer S/O Zebar Shah resident of Guldoga, Tehsil Ghazi, District Haripur made a complaint alleging the selection process adopted for the post to the August office of the Chief Minister Khyber Pakhtunkhwa. In response to the said complaint the worthy Secretary to the government of Khyber Pakhtunkhwa, Climate Change, Forestry, Environment and Wildlife Department, assigned enquiry to his Special Secretary to unearth factual position and to recommend further course of action in the reported matter.

3. **AND WHEREAS**, worthy Special Secretary of Administrative Department conducted enquiry by recording statement of all concerned, declared that the DSC could have not followed requisite procedures in induction process of said post which was referred by competent authority to the August office of Chief Minister Khyber Pakhtunkhwa for further order.

4. **AND WHEREAS**, in response to finding of enquiry report, the august office has directed vide letter No. SO (SS)/CMS/KPK/2-Forest-2022/418 dated 07-06-2022 that the post of Boatman may be re-advertised and appointment should be made in accordance with Law/Rules, besides initiation of departmental proceeding against all those who were at fault.

5. **AND WHEREAS**, in response to writ petition (W.P.No.355-A/2022) filed by complainant (Abdul Baseer), the learned Assistant Advocate General stated before the Peshawar High Court, Abbottabad bench that formal enquiry under E&D Rules, 2011 against the delinquent officers has already been ordered and post shall be re-advertised, upon said assurance of Assistant Advocate General, the writ petition was disposed-off by the honorable Court.

6. In lieu thereof; the undersigned is convinced that the requisite formalities/modalities as laid down under relevant rules could have not been followed by DSC which have been declared as otherwise by all competent forum and so as to comply the directives as narrated above, **Mr. Ahmad Nawaz S/O Dost Muhammad resident of Main Point Tarbela Lake, Post Office Khalabat Haripur** is hereby terminated from service with immediate effect.

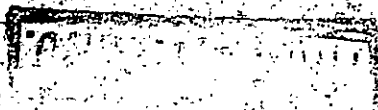
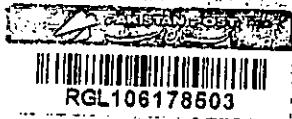
— s.d —
(NAVEED-UL HAQ)
Divisional Forest Officer
Haripur Wildlife Division
Haripur

No. 508-10 /WL-HR

Copy forwarded to the:

1. Chief Conservator Wildlife, Khyber Pakhtunkhwa, Peshawar for favour of information, please.
2. Conservator Wildlife, Hazara Wildlife Circle, Abbottabad for favour of information please.
- ✓ 3. Mr. Ahmad Nawaz S/O Dost Muhammad resident of Main Point Tarbela Lake, Post Office Khalabat Haripur for information.
4. Personal file.

Divisional Forest Officer
Haripur Wildlife Division
Haripur



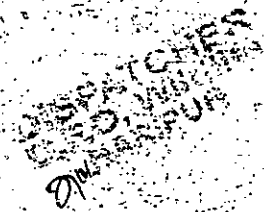
To,

Mr. Ahmad Nawaz So Dost Muhammad

Village Padham Taxbela lile, Post office K.T.S,

Haeipur

Phone # 03449416718



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To,

Conservator Wildlife, Hazara Wildlife Circle, Abbottabad.

(33)

Annexure I

Subject: Departmental Appeal against termination order

Sir,

With due respect it is stated that appellant was appointed as boatman BPS -03 under due course vide Order dated 31-01-2022 and the appellant started performing his duties after assuming the charge of said post. That on 18-02-2023 the Appellant has been communicated with the Termination order which is clear violation of law and the fundamental rights of the appellant on following grounds inter alia:

1. The petitioner has filed a Writ Petition No. 201-A/2023 which is pending before the Honorable Peshawar High Court (Abbottabad bench). The appellant has been removed from service during the pendency of writ petition. The pertinent ground in the said writ petition is the invocation for treatment in accordance with law particularly when the appointment of the appellant having been made under due course had taken effect and was not subject to the principle of locus poenitentia.
2. On 16-02-2023 the writ petitioner of the appellant was fixed before Honorable Peshawar High Court and comments were sought by the Honorable Court regarding the above mentioned Writ Petition thereafter the impugned order was illegally made with incorporation of back date i-e 31-01-2023, on the said order. This act is clearly against the law, due process and procedure and clearly establishes the malice of the worthy DFO. Copy of impugned order is annexed.
3. The appellant has purportedly been removed from service on the basis of an inquiry initiated upon the application of One Abdul Baseer. The appellant had not been associated with said inquiry in any manner and same is ineffective upon the rights of the appellant. Moreover, no malice or illegality has been pointed out at the part of the appellant.
4. No inquiry or departmental proceedings were initiated against the appellant nor any show cause notice was served to the appellant prior to impugned termination, which is severe violation of the law.
5. The service of the appellant could not be arbitrarily terminated after he was appointed by following of the proper procedure.
6. The service of the appellant has been terminated in a perfunctory manner.
7. The impugned order is liable to be set aside being illegal and result of colorful exercise of authority by the DFO.

It is humbly requested that the impugned order may kindly be set aside and the service of appellant may be restored with all back benefits.

ahmad nawaz

Ahmad Nawaz s/o Dost Muhammad

r/o Main Point Tarbela Road

tehsil and district Haripur

Dated 06-03-2023

Annexure (J)
OFFICE ORDER NO 23 DATED ABBOTTABAD THE 20/03/2023
ISSUED BY MR. MUHAMMAD ARIF, CONSERVATOR WILDLIFE HAZARA WILDLIFE
CIRCLE, ABBOTTABAD

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Mr. Ahmed Nawaz S/O Dost Muhammad, Ex-Boatman of Haripur Wildlife Division preferred a departmental appeal against his termination from service, issued by termination order DFO Wildlife Haripur vide office order No. 55 dated 31/01/2023.

2. **WHEREAS**, as per laid down procedure, the appeal in question was referred to concerned DFO Wildlife Haripur for his comments pertaining to highlighted observations of appellant official in which he furnished his comments vide letter No. 640/WL-HR dated 13-03-2023. The following facts have arisen:

i. The appointment process initiated for the induction of boatman were not in accordance with prevailing rules and hence the same appointment was question marked by all quarter concerned from day one, the then Conservator Wildlife did not endorse appointment order of appellant and had raised observations on initiated formalities, which could not be addressed by appointing authority, hence the appointment order was not maintainable from day once.

ii. Another candidate namely Mr. Abdul Baseer S/O Zebar Shah resident of Guldoga, Tehsil Ghazi, District Haripur made a complaint alleging the selection process adopted for the post to the August office of Chief Minister Khyber Pakhtunkhwa. In response to the said complaint the worthy Secretary to the government of Khyber Pakhtunkhwa, Climate Change, Forestry, Environment and Wildlife Department, assigned enquiry to the worthy Special Secretary of Administrative Department.

iii. Worthy Special Secretary of Administrative Department conducted enquiry by recording statement of all concerned, declared that the DSC could have not followed requisite procedures in induction process of said post which was referred by competent authority to the August office of Chief Minister Khyber Pakhtunkhwa for further order.

iv. In response to finding of enquiry report, the august office of Chief Minister Khyber Pakhtunkhwa has directed vide letter No. SO (SS)/CMS/KPK/2-Forest-2022/418 dated 07-06-2022 that the post of Boatman may be re-advertised and appointment should be made in accordance with Law/Rules, besides initiation departmental proceeding against all those who were at fault.

v. Under honorable court proceeding vide writ petition (W.P.No.355-A/2022) filed by complainant (Abdul Baseer), the learnt Assistant Advocate General stated before the Peshawar High Court, Abbottabad bench that formal enquiry under E&D Rules, 2011 against the delinquent officers has already been ordered and post shall be re-advertised, upon said assurance of Assistant Advocate General, the writ petition was disposed-off by the honorable Court.

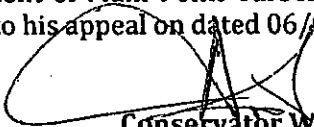
vi. The appellant could not have completed satisfactory probation period as per Appointment, Promotion and Transfer Rules, 1989 vide Rules 15, and his termination were made within the prescribed period prior to confirmation order.

3. **NOW THEREFORE**; the undersigned is convinced that the requisite formalities/modalities as laid down under relevant/prevaling rules could have not been followed by DSC which have been declared as otherwise by all competent forum and termination order of DFO Wildlife Haripur based on genuine ground, hence hereby upheld and instant appeal preferred by, **Mr. Ahmad Nawaz S/O Dost Muhammad resident of Main Point Tarbela Lake, Post Office Khalabat** is hereby rejected on merit.

(Muhammad Arif)
Conservator Wildlife
Hazara Wildlife Circle
Abbottabad

No. 5065-67 /WL-HC
Copy forwarded to the

1. Chief Conservator Wildlife, Khyber Pakhtunkhwa, Peshawar for favour of information, please.
2. DFO Wildlife, Haripur Wildlife Division for information and necessary action.
3. Mr. Ahmad Nawaz S/O Dost Muhammad resident of Main Point Tarbela Lake, Post Office Khalabat for information with reference to his appeal on dated 06/03/2023.

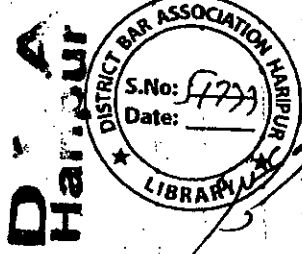

Conservator Wildlife
Hazara Wildlife Circle
Abbottabad

DBA No: 651
 BC No: 21-91361
 Name of Advocate: اللہ مارفان نسیم

S.No: 51777



وکالت نامہ



Hairpur

بعدالت: ڈسٹرکٹ ایبیلٹی کورٹ
 عنوان: اجمل نواز
 منجانب: ایبیلٹ
 باعث تحریر: اللہ مارفان نسیم

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے بیرونی و جوابدہی برائے پیشی یا تصدیق مقدمہ مندرجہ بالا
اللہ مارفان نسیم ایبیلٹ
 کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص ذمہ بردار عدالت حاضر ہوتا رہوں گا اور بروقت
 پکارے جانے مقدمہ مکمل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری
 غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب
 موصوف مقدمہ مقام پچھری کے علاوہ کسی جگہ یا پچھری کے اوقات سے پہلے یا پیچھے یا بروقت تھکیل یا پچھری کرنے کے ذمہ دار نہ
 ہوں گے اور مقدمہ پچھری کے علاوہ کسی اور جگہ سماعت ہونے پر یا بروقت تھکیل یا پچھری کے اوقات کے آگے پیچھے پیش ہونے
 پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا ضمانت کے واپس کرنے کے معنی صاحب
 موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل سزا سننے پر داخستہ صاحب موصوف مل کر وہ ذات منظور و قبول ہوگا اور صاحب موصوف کو
 عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی
 اختیار ہوگا اور اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور سیدہ سے اور داخل کرنے اور ہر قسم کے بیان دینے اور
 اس کے تاشی و راضی نامہ و فیصلہ بر حلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیرونجات از پچھری صدر
 اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کٹرفر درخواست حکم اختتامی یا ترقی یا گرفتاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب
 موصوف کو بشرط ادا سنگی علیحدہ ضمانت بیرونی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ
 منسوخ کرے یا اس کے کسی جزوی کارروائی کے یا بصورت اپیل کی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو
 بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ
 اتوار پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب
 موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے
 برخلاف نہیں ہوگا۔
 لہذا وکالت نامہ لکھ دیا ہے کہ سند ہے۔
 مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔
 مورخہ: دن ماہ سال

Attended
and
Accepted

اللہ نواز (ایبیلٹ)

دستخط