

SCANNED  
KPST  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBINAL PESHAWAR.**

**APPEAL NO. 1914 of 2022**

1. Muhammad Saeed s/o Sadbar Khan Forest Guard, Dargai Forest Sub Division District Malakand

**Appellant**

**VERSUS**

1. The Government of Khyber Pakhtunkhawa through Chief Secretary, Khyber Pakhtunkhawa, Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhawa Forest Department.
3. The Chief Conservator of Forests, Khyber Pakhtunkhawa Peshawar.
4. The Conservator of Forests Malakand East Forest Circle Saidu Sharif Swat.
5. The Divisional Forest Officer, Malakand Forest Division at Batkhela
6. Mr. Khurshid Ahmad s/o Qazi Saleh Muhammad, F/Guard Dargai F.Sub Division.
7. Mr. Zain Ul Abideen s/o Sultan Mehmood, F/Guard Batkhela F.Sub Division.
8. Mr. Javid Akhtar s/o Akhtar Muhammad F/Guard, Batkhela F.Sub Division
9. Mr. Naseer Hassan Mian s/o Said Akbar Mian, F/Guard Batkhela F.Sub Division.
10. Mr. Said Muhammad s/o Ghulam Muhammad F/Guard Dargai F.Sub Division.

**Respondents**

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Parawise comments on behalf of respondent No. 01 to 05

Preliminary Objection.

1. That the appellant has got no cause of action to file instant appeal.
2. That the appellant is stopped by his own conduct to file instant appeal
3. That the appellant has not come to the court with clean hands.
4. That the appellant is misconceived and based on malafide.
5. That with the utmost respect this Honorable Service Tribunal has got no jurisdiction to adjudicates upon the subject matter.
6. That the appeal is barred by law.
7. That the relief as claimed by the appellant, hence no sanctity in the eye of law.

Respectfully Shewith.

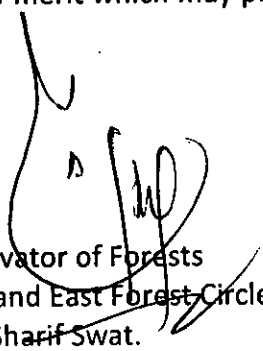
1. May be correct subject to verification by relevant agencies.
2. Pertains to record.
3. The appellant was appointed as Forest Guard BPS-02 vide DFO Malakand Social Forestry Division Batkhela vide office order No.33 dated 8/10/1992 and reported arrival for duty on 31-10-1992 (Annexure-I&II).
4. The appellant Mr. Muhammad Saeed Forest Guard of Ex-Malakand Social Forestry Project was terminated on winding-up of the said project from service vide DFO Social Forestry Division Malakand letter No.459/PSF dated 28/1/1998 with effect from 31/1/1998.(Annexure-III)
5. As per decision made by the Service Tribunal Peshawar dated 9/12/2010, the appellant was adjusted against the vacant post of Forest Guard vide DFO Working Plan Unit-III Peshawar office order No.3 dated 24/2/2011 and decided that the intervening period from the date of his termination till his arrival for duty is hereby treated as extra ordinary leave without pay(Annexure-IV).
6. Pertained to record.
7. The appellant was transferred from Demarcation Forest Division to Malakand Forest Division vide CF Malakand East Circle office order No. 68 dated 21/2/2018 and reported his arrival for duty on 6/3/2018 in Malakand Forest Division. (Annexure-V)
8. Pertains to record.
9. In light of Service Tribunal Peshawar decision dated 9/12/2010 and re-adjustment in service vide DFO Working Plan office order No. 3 dated 24/2/2011 and further transferred from Demarcation Forest Division to Malakand Forest Division on 21/2/2018 as per Annexure-V mentioned para-7 above which is self explanatory and placed at Serial No.10 on merit basis as per relevant law and rules.( Annexure-VI
10. Pertains to record.
11. In correct, as per preceding Paras, the action of the respondents is in line with the relevant laws and rules, therefore, the appeal being baseless and without any ground and is not maintainable and may be dismissed.


**GROUNDS:**

- A- Incorrect as stated at Para-9 above, which is self-explanatory.
- B- As stated para-9 above.
- C- In correct as stated para-9 above.
- D- Incorrect as stated above.
- E- As replied above.
- F- No violation was made against abide rules/regulation.
- G- Incorrect as stated in the preceding paras the appeal is baseless and without any ground thus is not maintainable. Moreover, the respondents seek leave to raise additional grounds at the time of arguments.

**PRAYERS**

In-view of the above, it is humbly prayed that appellant has got no cause of action and his appeal is devoid of merit which may please be dismissed with cost in the best interest of state.

  
Conservator of Forests  
Malakand East Forest Circle  
Saidu Sharif Swat.  
(Respondent No.04)

  
Divisional Forest Officer,  
Malakand Forest Division,  
At Batkhela.  
(Respondent No.05)

**Appeal 1914 of 2022**

**1. Muhammad Saeed s/o Sadbar Khan Forest Guard, Dargai Forest Sub Division District Malakand**

**Appellant**

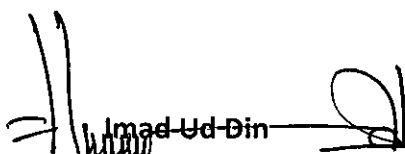
**VERSUS**

1. The Government of Khyber Pakhtunkhawa through Chief Secretary, Khyber Pakhtunkhawa, Peshawar.
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8. Mr. Javid Akhtar s/o Akhtar Muhammad F/Guard, Batkhela F.Sub Division
9. Mr. Naseer Hassan Mian s/o Said Akbar Mian, F/Guard Batkhela F.Sub Division.
10. Mr. Said Muhamamd s/o Ghulam Muhammad F/Guard Dargai F.Sub Division.

**Respondents**

**AFFIDAVIT**

I, the undersigned Divisional Forest Officer Malakand Forest Division do hereby solemnly affirms and declare on oath that the content of our para-wise comment on behalf of respondent No. 1,2,3,4&5 are true to the best of my knowledge and belief that nothing has been concealed from this Service Tribunal .



Imad-Ud-Din  
Divisional Forest Officer  
Malakand Forest Division  
At Batkhela (Respondent No.5)



It is further stated on oath stated that in this appeal the answering have neither been placed ex-parte nor their defence his been struck off-

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OFFICE ORDER NO. 33 DATED SAIDU SHARIF THE 08 TH OCTOBER, 1992  
ISSUED BY DR. NASIM JAVED DFO/PROJECT DIRECTOR SOCIAL FORESTRY  
PROJECT MALAKAND DIR AT SAIDU SHARIF.

Consequent upon the recommendation of Departmental Selection Committee constituted vide Project Director Malakand Social Forestry Project office order No. 24 sated 20/9/1992, the following persons are hereby appointed as Forest Guards against the existing vacancies in Malakand Social Forestry Project in B.P.S. No. 2 (945-32-1425) with usual allowances as admissible under the rules.

1. Mr. Jafar Akram s/o Noor Hawas Khan of Agra Mkd: Agency.
2. Mohammad Saeed s/o Sadbar Khan of Pitao Mkd: Agency
3. Hidayatullah, s/o Fazal Rahman of Malakand Agency
4. Mohammad Irshad s/o Abdur Rashid of Sakhakot Mkd: Agency.
5. Shamsul Wahab s/o Zarawar Khan of Khar Mkd: Agency.
6. Aarangzeb s/o Ahmad Khan of Jabar Mkd: Agency.
7. Noor Mohammad s/o Ahmad Khan, of Jalala Malakand Agency.

The appointments are subject to the following conditions:

The posts are purely temporary and shall be liable to termination on the expiry of the project period. Their services can also be terminated at any time during the project period with one month's notice or on the payment of one month's salary in lieu of the notice. If the incumbent intends to resign, he shall serve the department with one month's notice or remit an amount equal to his one month's salary.

He shall remain on probation for a period of two years further extendable by one year during which his services can be terminated if he failed to perform his duties to the satisfaction of the appointing authority.

He shall be governed by such rules and regulations as are applicable to the class of service to which he belongs.

He shall produce the following documents:

- 1) Medical fitness certificate from the Civil Surgeon of Civil Hospital Batkhela.
- 2) Domicile certificate.
- 3) Character certificate from two responsible persons not being the relatives of the candidates duly countersigned by the Political Agent Malakand Agency.
- 4) He will have to join the duty at his own cost.

Attested

Divisional Forest Officer,  
Malakand Forest Division,  
At Batkhela

## Copy annexure 5

OFFICE ORDER NO 33 DATED SAHU SHARIF THE 08 THE OCTOBER, 1992 ISSUED BY DR. NASIM JAVED DFO/PROJECT DIRECTOR SOCIAL FORESTRY PROJECT MALAKAND DIR AT SAIDU SHARIF.

conquent upon the recommendation of departmental SELECTION committee constituted vide project director malakand social forestry project office order-no 24 aated 20-9-1992 the following persons are hereby appointed as forest guards against the existing vacandles in malakand social forestry project in B.P.S no. 2 (945-32-1425) with usual allowances as admissible under the rules.

1. Mr. jafar akram S/o noor hawas khan of agra Mkd: agency .
2. Mohammad saeed S/o sadbar khan of pitao Mkd: agency.
3. Hidayat ullah S/o fazal Rahman of malakand agency.
4. Mohammad irshad S/o abdur rashid of sakhakot MKD: agency.
5. Shamsul wahab S/o zarawar khan of khar Mkd: agency.
6. Aurangzeb S/o ahmad khan of jabar Mkd: agency.
7. Noor mohammad S/o ahmad khan of jalala malakand agency.

The appointments are subject of the following conditions:

The posts are purely temporary and shall be liable to also be terminated at any time during the project period with one month notice or on the payment of one month's salary in lieu of department with one month notice or remain an amount equal to his one month's salary .

He shall remain on probation for a period of two years further extendable by one year during which his services can be terminated If he failed to perform his duties to the satisfaction of the appointing authority.

He shall be governed by such rules and regulations as are applicable to the class of service to which he belongs.

He shall produce the following documents:

- 1) Medical fitness certificate from the Civil Surgeon of Civil Hosptial Batkhela.
- 2) Domicile certificate
- 3) Character certificate from two responsible persons not being the relatives of the candidation duty countersigned by the political agent malakand agency.
- 4) He will have to join the duty at his own cost.

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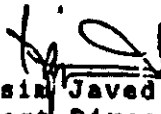
- 5) If he fails to accept the offer and report the arrival for duty within ten days of the receipt of this letter, the offer shall stand cancelled.


Sd/-  
(Dr. Nasim Javed)  
DFO/Project Director  
Social Forestry Project Mkd: Dir  
Saidu Sharif

No. 1102-9 /SF,  
Copy forwarded to the:

- 1) Chief Conservator of Forests, (North) at Peshawar for favour of information.
- 2) Conservator of Forests, Malakand Circle Mingora for favour of information.
- 3) All concerned for information and necessary action.
- 4) Head Clerk/Divisional Accountant for information and necessary action.

Personal files for record.

  
(Dr. Nasim Javed)  
DFO/Project Director  
Social Forestry Project Mkd: Dir  
Saidu Sharif.

Attested   
Divisional Forest Officer  
Malakand Forest Division  
At Batkhela

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The Project Director  
of Social forestry,  
Saidu Shang Swat

Sub: Application for arrival report

Sir,

with great humble and respect

I beg to state that the candidate Mr Mohd  
Saeed S/o Sadbar Khan arrived in the  
office of Social forestry at 9-35 am

on 31-10-1992 on Saturday as forest Guard.

2  
The newly recruited  
candidate to a post of  
Dargai Range at  
Mushay.

may kindly  
remained  
kindness.

It is therefore requested that you  
accepted my arrival report I shall  
thankful to you for your this act of

~~Signature~~

Yours obediently  
Mohd Saeed S/o Sadbar Khan  
Village Petaw P/o Dargai Teh Dargai  
Dist. Malakand Agency.

10.  
My if agreed, the  
4/11/92  
in Dargai Range  
Plem

31/11

Signature  
Project Director  
Social Forestry  
Saidu Shang Swat



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Dm. 111

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OFFICE OF THE DIVISIONAL FOREST OFFICER, SOCIAL FORESTRY DIVISION,  
MALAKAND.

Mr. Mohammad Asad Khan

Ch. P. Vaidya

Ref: MSF, dated Batkela, d. 28.12.1997.

Subject: SERVICES TERMINATION ORDS

Ref: this office letter No. 3994/1 dated 30.12.1997.

.....

It is regretted that your services already declared surplus as per Briding Period PC-1 of the Social Forestry Project for the year 1997-98, are hereby terminated with effect from 31.1.1998 (A.N.).

Mohammad Asad Khan  
Divisional Forest Officer,  
Social Forestry Division,  
Malakand.

NO: MSF,

Copy in continuation of this office letter enddt: No. 3994/1 dated 30.12.1997 is forwarded to:

1. The Chief Conservator of Forests, Social Forestry, NWFP Peshawar for favour of information please.
2. The PD/Conservator of Forests, Malakand Social Forestry Circle, at Saidu-Sharif for favour of information please
3. Personal file for record
4. Divisional Head Clerk, for information and necessary action.

Mohammad Asad Khan  
Divisional Forest Officer,  
Social Forestry Division,  
Malakand at Batkhela.

Attested

Mohammad Asad Khan  
Divisional Forest Officer,  
Malakand Forest Division,  
at Batkhela.

**OFFICE OF THE DIVISIONAL FOREST OFFICER SOCIAL  
RESOURCE MALAKAND**

To,

Mr Muhammad Saeed (F.G)

Dated: Batkhela 28-1-1998

Service termination order

No1. 459/MST. Dated Batkhela 1998

Subject **SERVICE TERMINATION ORDER**

Ref; this office letter No. 339/MST. dated 30-12-1997

It is regretted that your services already declared surplus as per birthing period PC-1 the social forestry project for the year 1997-198, are hereby terminated with effect from 31-1-1998 (A.H)

Divisional forest officer  
Social forestry division  
Malankand

No. /MST

Copy in continuation of this office letter endst: No. 1280-92 dated 30-12-1997 is forwarded to:

1. The Chief conservator of forests, social forestry, NWFP Peshawar for favour of information please.
2. The PP/Conservator of forest malankand social forestry circle, at saidu sharif for favour of information please
3. Personal file for record
4. Divisional need clerks, for information and necessary action.

Divisional forest officer  
Social forestry division  
Malankand

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OFFICE ORDER NO. 3 DATED PESHAWAR 24/02/2011  
ISSUED BY QAZI SHABIR AHMAD DIVISIONAL FOREST OFFICER WORKING  
PLAN UNIT-III PESHAWAR.

\*\*\*\*

As per decision made by the Service Tribunal Peshawar in appeal No.443 dated 4.02.2010, under section 4 of the Service Tribunal Act 1974, and as advised by Conservator of Forests Forestry Planning & Monitoring Circle Peshawar vide his letter No. 2677/E dated 21.2.2011, Mr. Muhammad Saeed Ex - Forest Guard of defunct Malakand Social Forestry Project is hereby adjusted against the vacant post of Forest Guard with effect from the date of arrival for duty.

The intervening period from the date of his termination till his arrival for duty is hereby treated as extra ordinary leave without pay.

Sd/-  
(QAZI SHABIR AHMAD)  
Divisional Forest Officer  
Working Plan unit-III,  
Peshawar.

No.242-44/WP-III Dated 24/02/2011.

Copy forwarded to the

1. Chief Conservator of Forests Khyber Pakhtunkhwa Peshawar for favour of information please.
2. Conservator of Forest Forestry Planning & Monitoring Circle Peshawar for information with reference to his letter No.2677/E dated 21.02.2011.
3. ✓ Muhammad Saeed S/O Saib Khan Ex- Forest Guard Malakand Social Forestry Batakela.

*[Signature]*  
Divisional Forest Officer  
Working Plan unit-III,  
Peshawar.

C:\Documents and Settings\shabir\My Recent Documents\OO Ex Forest Guard WPJ.doc

Attested  
Divisional Forest Officer,  
Malakand Division  
Peshawar

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OFFICE ORDER NO. 68 DATED SAIDU SHARIF THE: 21 /02/2018 BY MR. MUHAMMAD YOUSAF KHAN, CONSERVATOR OF FORESTS, MALAKAND CIRCLE EAST, SHAGAI SAIDU SHARIF SWAT.

Mr. Mohammad Saeed Forest Guard is hereby transferred from Demarcation Forest Division to Malakand Forest Division in the interest of public service with immediate effect.

SD/-  
(MUHAMMAD YOUSAF KHAN)  
CONSERVATOR OF FORESTS,  
MALAKAND CIRCLE EAST.

No. 8960-61 /E,

Copy forwarded to the:-

- 1. Divisional Forest Officer Demarcation Forest Division, Swat.
- 2. Divisional Forest Officer Malakand Forest Division, Batkhela.

For information and necessary action.

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

Attested

Divisional Forest Officer  
Malakand Forest Division  
At Batkhela

# MANUAL OF CIVIL SERVICES RULES

KP GOVERNMENT EMPLOYEES  
2018

by  
Amir Badabab

Attested:

Amir Badabab  
Malakand Forest Division

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

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

\*(5) If on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next (04) years following the order;

Provided that if he declines to avail the benefit of promotion for the second time, then he shall stand superseded permanently for such promotion,

\*Sub rule (5) of Rule 7 added by Notification No. SOR-VI (E&AD)I-3/2009/Vol-VIII Dated 22-10-2011

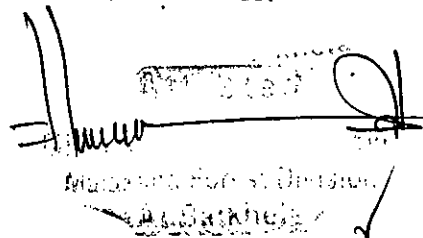
8. **Inter-Provincial Transfer:** -(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:-

Provided that:-

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

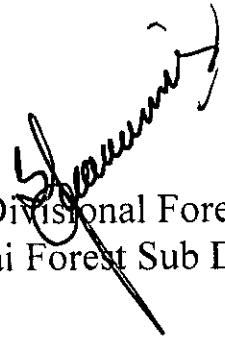
(2) A person so transferred shall be placed at the bottom of the cadre strength, which he joins for the purpose of determining his seniority vis-a-viz other members borne on the cadre.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request of transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.


  
 Director, Forest Division,
   
 Peshawar

AUTHORITY LETTER.

Mr. Gul Hassan Shah Block Officer is hereby authorized to attend Khyber Pakhtunkhawa Service Tribunal Peshawar on 19/07/2023 in connection with Appeal No. 1914 of 2022 (Muhammad Saeed) Forest Guard versus Govt. of Khyber Pakhtuynkhawa Respondent No. 1 to 5 due to the undersigned engagements in Darul Qaza Swat.

  
Sub Divisional Forest Officer  
Dargai Forest Sub Division