


FORM OF ORDER SHEET

Court of _____

12(2) CPC Petition No. 503/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18/07/2023	<p>The Petition U/S 12(2) CPC in appeal no: 7608/2020 submitted by Mr. Saeed Anwar through Mr. Asfandyar Khan Wazir Advocate. It is fixed for hearing before Division Bench at Peshawar on _____ . Original file be requisitioned.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

12 (2) Application No. 503 /2023

IN

Service Appeal No.7608-P/2021

Decided on: 03.05.2023

Saeed Anwar

...VERSUS...

The Govt. of KP & others

INDEX

Serial No.	List of Documents	Annex ure	Page No.
1.	Application U/S 12(2) CPC		1-4
2.	Affidavit		5
3.	Copy Advertisement	"A"	6-8
4.	Copy of appointment order dated: 14.12.2017	"B"	9
5.	Copy of appointment letter dated: 03.02.2020	"C"	10
6.	Copy of Ex-party Judgment dated: 03.05.2023 in Service appeal No. 7608/2021	"D"	11-16
7.	NWFP Environment department Rules published 2018		17-19
8.	Wakalatnama		20

Applicant

Through



Afrasia Khen Wazir
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,

PESHAWAR

12 (2) Application No. 503 /2023

IN

Service Appeal No.7608-P/2021

Decided On: 03.05.2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6591

Dated 18/07/23

Saeed Anwar, SDFO Karak Kohat Forest
Division.....Applicant/Respondent No.5

V E R S U S

1. The Government of Khyber Pakhtunkhwa through its Chief Secretary Civil Secretariat, Peshawar.
2. The Secretary Forestry, Environment & Wildlife Department, Civil Secretariat, Peshawar.
3. The Director General (DG), Pakistan Forest Institute, Khyber Pakhtunkhwa, Peshawar.
4. Zahid Muhammad Son of Mr. Daryab Khan, Divisional Forest Officer (DFO), Demarcation Region-1, Forestry Planning & Monitoring Circle, Peshawar.
5. Muhammad Waqas Khan (SDFO), Unit-3, Forestry Planning & Monitoring Circle, Peshawar.....Appellant/ Respondent.
6. Bilal Ahmad, SDFO Besham Kohistan Watershed Division.
7. Aman Ullah, SDFO, Jared Kaghan Forest Division.
8. Sardar Muhammad Saleem, DFO Hazara Tribal Forest Division, Battagram.
9. Ihsan Ud Din, SDFO Drosh, Chitral Forest Division.....Respondents

APPLICATION UNDER SECTION 12(2) OF THE CODE OF CIVIL PROCEDURE ACT NO.V OF 1908 READ WITH ALL ENABLING PROVISIONS OF LAW GOVERNING THE SUBJECT AGAINST THE JUDGMENT DATED: 03.05.2023 PASSED BY THIS HON'BLE TRIBUNAL IN SERVICE APPEAL NO.7608/2021, BY NOT CONSIDERING THE TRUE AND CORRECT DATE OF APPOINTMENT DATED:14.12.2017 OF APPLICANT/RESPONDENT NO.5, ADVERTISEMENT ISSUED BY THE KHYBER PAKHTUNKHWA PUBLIC SERVICE COMMISSION, APPOINTMENT LETTERS OF THE CANDIDATES & RULES ESTABLISHED THERE UNDER, BY WHICH THE APPLICANT WILL SUFFER IRREPARABLE LOSS BY IGNORING APPOINTMENT LETTERS OF RESPONDENT NO.5/APPELLANT IN THE TITLED APPEAL, MOREOVER,

THE SENIORITY OF RESPONDENT NO.5 IS DECIDED WITH THE APPLICANT WHEN HE DOES NOT FALLS WITHIN THE AMBIT OF CIVIL SERVANT, THE SAME MAY BE DECIDED WITH HIS BATCH MATE I.E. MR. SHAH FAHAD INSTEAD OF 2017 BATCH APPOINTEE, HENCE, THE INSTANT CASE FALLS WITHIN THE DEFINITION OF 12(2) CPC.

RESPECTFULLY SHEWETH:

1. **That** applicant/respondent No.5. Is law abiding peaceful citizen of Pakistan and presently posted as a SDFO Karak Kohat Forest Division.
2. **That** Khyber Pakhtunkhwa Public Services Commission advertised numerous posts of SDFOs (BPS-17), the applicant/respondent No.5 and others candidates applied for the same and being an eligible candidate with the requisite qualification. The applicant/respondent No.5 was appointed as a SDFO on 14.12.2017, he was referred to the field being the degree holder of master in his filed as per requisite of advertisement *ibid*. the appellant/respondent No.5 was referred to the Pakistan Forest Institute (PFI), for completion of training/master degree in forestry as per requisite criteria for the post *ibid*.

(COPIES OF ADVERTISEMENT & APPOINTMENT ORDER DATED: 14.12.2017 ARE ATTACHED AS ANNEXURE "A" & "B" RESPECTIVELY)

3. **That** appellant was recommended as nominee by the Khyber Pakhtunkhwa Public Service Commission for training/completion of Master Degree in Forestry from Pakistan Forest Institute (PFI), Peshawar, to complete his MSC Degree from the institute *ibid*, meanwhile, after successful completion of degree *ibid*, he was regular appointed to the post of SDFO in Khyber Pakhtunkhwa Forest Department on 03.02.2020, vide Notification No. SO(ESTT)ENV/11-6/2018/PSC, moreover, after regular appointment the appellant comes within the definition of civil servant, furthermore, the appellant along with Mr. Shah Fahad was appointed through one and the same notification, astonishingly, the appellant/respondent No.5, claimed inter-se seniority at par with petitioner/applicant (**2017 Batch**) instead of his batch mate (**2020 Batch**) which was appointed through one and the same regular appointment notification *ibid*.

(COPY OF Regular APPOINTMENT LETTER/ORDER DATED: 03.02.2020 IS ATTACHED AS ANNEXURE "C")

4. **That** the ex-party judgment dated: 03.05.2023 in service appeal No.7608/2021 was verbally communicated by the department to the applicant/petitioner, on 13th July 2023 which was passed without affording opportunity of hearing, by ignoring his appointment letter, rules & advertisement of the applicant/petitioner to protect and defend his fundamental Right enshrined under the Constitution of Islamic Republic of Pakistan, 1973.

(COPY OF EX-PARTY JUDGMENT DATED: 03.05.2023 IN SERVICE APPEAL NO.7608/2021 IS ATTACHED AS ANNEXURE "E")

5. **That** the applicant is having no other efficacious and alternative remedy, hence, approaches this Hon'ble Tribunal, inter alia on the following grounds.

GROUND:

- A. That** it is the constitutional vested rights of the applicant/respondent to be dealt in accordance with law.
- B. That** the petitioner/applicant has been treated discriminatorily while his juniors are given seniority from the date of appointment of the applicant i.e. 14.12.2017 instead of his batch mate namely Mr. Shah Fahad which were appointed through one appointment letter *ibid*.
- C. That** the impugned order has been issued in surmises and conjectures rather based on misreading and non-reading of the facts of the case hence, deserves to be set at naught. Furthermore, the respondents have no lawful authority to ignore the applicant/petitioner without any justified reasons.
- D. That** this Hon'ble Tribunal passed judgment in service appeal No. 7608/2021, wherein, the inter-se seniority was given to the appellant/respondent No.5 with latter appointed candidates, which is against the norms of natural justice. Moreover, he is entitled for inter-se seniority with his batch mate which is reflected in the Para **(VIII)** of the appointment letter dated 03-02-2020.
- E. That** any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

It is therefore, most humbly prayed, that on the acceptance of instant application, the ex-party judgment dated:03.05.2023, passed by this Hon'ble Tribunal, by ignoring the appointment order, advertisement & KP Forest Department rules while deciding the titled service appeal, moreover, the seniority of appellant/respondent No.5 **(Appointed in 2020)** is considered at par with the applicant **(Appointed in 14.12.2017)**, astonishingly, till 2020 the appellant/respondent No.5 do not fall within the ambit of Civil Servant Act 1973, while he claimed inter se seniority with 2017 regular appointee, the ex-party judgment *ibid* may please be set-aside and thus the case of applicant may

kindly be decided by awarding opportunity of hearing to fairly assist this tribunal, to protect his due rights, so as to secure the ends of justice and equity.

Any other relief not specifically prayed for and deemed appropriate to this Hon'ble Tribunal, may also be granted in favour of appellant.

Applicant/respondent No.5

Through


Afrasiab Khan Wazir
Advocate High Court

CERTIFICATE:

It is certified, that no such like application has earlier been filed before this Hon'ble tribunal on the subject matter.

DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

12 (2) Application No. ____/2023

IN

Service Appeal No.7608-P/2021

Decided on: 03.05.2023


Saeed Anwar.....**Applicant/Petitioner/Respondent No.5**

...VERSUS...

The Govt. of KP & others.....**RESPONDENTS**

AFFIDAVIT

I, Saeed Anwar, SDFO Karak Kohat Forest Division (BPS-17), applicant/respondent.5, do hereby solemnly affirm and declare on oath that the contents of the accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT

18-7-23
CNIC No.



1

(A) (6)

**KHYBER PAKHTUNKHWA PUBLIC SERVICE
COMMISSION**

2- Fort Road Peshawar Cantt:

Website: www.kppsc.gov.pk

Tele: Nos. 091-9214131, 9213563, 9213750, 9212897

Dated: 16.06.2016

ADVERTISEMENT No. 03 / 2016.

Applications, on prescribed form, are invited for the following posts from Pakistani citizens having domicile of Khyber Pakhtunkhwa / F.A.T.A by **15.07.2016**. Incomplete applications and applications without supporting documents required to prove the claim of the candidates shall be rejected.

AGRICULTURE LIVESTOCK & COOPERATIVE DEPTT:	
1.	<p>ONE (01) POST OF ASSISTANT FODDER BOTANIST IN LIVESTOCK & DAIRY DEVELOPMENT DEPARTMENT (RESEARCH)</p> <p>QUALIFICATION: M.Sc Agriculture preferably in Agronomy or equivalent qualification from a recognized University.</p> <p>AGE LIMIT: 25 to 32 years. PAY SCALE: BPS-17 ELIGIBILITY: Both Sexes. ALLOCATION: Zone-1.</p>
2.	<p>TWO (02) POSTS OF VETERINARY OFFICER (HEALTH) (WOMEN QUOTA) IN DIRECTORATE OF LIVESTOCK & DAIRY DEVELOPMENT (EXTENSION).</p> <p>QUALIFICATION: Doctor of Veterinary Medicine (DVM) or equivalent qualification in Veterinary Science from recognized University and registered with Pakistan Veterinary Medical Council (PVMC).</p> <p>AGE LIMIT: 22 to 35 years. PAY SCALE: BPS-17 ELIGIBILITY: Female. ALLOCATION: Merit.</p>
3.	<p>FOUR (04) POSTS OF MALE LIVESTOCK PRODUCTION OFFICER (HEALTH) IN LIVESTOCK & DAIRY DEVELOPMENT DEPARTMENT (EXTENSION).</p> <p>QUALIFICATION: (i) B.Sc (Hons) Animal Husbandry from a recognized University; Or (ii) Doctor of Veterinary Medicine (DVM) or equivalent qualification in Veterinary Science from a recognized University and registered with Pakistan Veterinary Medical Council (PVMC).</p> <p>AGE LIMIT: 22 to 35 years. PAY SCALE: BPS-17 ELIGIBILITY: Male. ALLOCATION: One each to Merit Zone-1, 2 and 3.</p>
COMMUNICATION & WORKS DEPARTMENT	
4.	<p>FOUR (04) POSTS OF ASSISTANT ENGINEER CIVIL IN C&W DEPARTMENT.</p> <p>QUALIFICATION: Degree in B.E/B.Sc Engineering (Civil) from a recognized University.</p> <p>AGE LIMIT: 21 to 32 years. PAY SCALE: BPS-17 ELIGIBILITY: Both Sexes. ALLOCATION: One each to Merit, Zone-1, 2 & 5.</p>

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5.	<p>SIX (06) POSTS OF SUB ENGINEER CIVIL IN C&W DEPARTMENT</p> <p>QUALIFICATION: Diploma of Associate Engineering Civil (D.A.E) from a recognized Board of Technical Education.</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-11 ELIGIBILITY: Both Sexes. ALLOCATION: One each to Zone-1, 3, 4, & 5 and Two to Zone-2.</p>
6.	<p>ONE (01) POST OF SUB ENGINEER CIVIL (MINORITY QUOTA) C&W DEPTT:</p> <p>QUALIFICATION: Diploma of Associate Engineering Civil (D.A.E) from a recognized Board of Technical Education.</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-11 ELIGIBILITY: Both Sexes. ALLOCATION: Merit.</p>
7.	<p>ONE (01) (LEFTOVER) POST OF JUNIOR SCALE STENOGRAPHER IN C&W DEPARTMENT.</p> <p>QUALIFICATION: (i) Intermediate or equivalent from a recognized board (ii) A speed of 60 words per minute is Shorthand in English and 35 words per minute in Typewriting in English and knowledge of Computer in using MS Word and MS Excel.</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-14 ELIGIBILITY: Both Sexes. ALLOCATION: Zone-5.</p>
ENVIRONMENT DEPARTMENT	
8.	<p>NINE (09) POSTS OF SUB DIVISIONAL FOREST OFFICER IN THE OFFICE OF CHIEF CONSERVATOR OF FORESTS.</p> <p>QUALIFICATION: Master's Degree in Forestry from a recognized University / Institute OR Second Class Bachelor's Degree in Forestry from a recognized University / Institute. OR Second Class Bachelor's Degree in Agriculture or other Science subject from a recognized University.</p> <p>Preference will be given to those having qualification prescribed first. B.S.C</p> <p>Note: - Appointment of candidates selected for the posts by the Public Service Commission shall be made subject to the following conditions: -</p> <ol style="list-style-type: none"> i. The selected candidates shall undergo and successfully complete the training at the Pakistan Forest Institute leading to Master's Degree in Forestry. Those already having Master's Degree in Forestry from PFI shall be exempted from such training. ii. The selected candidates shall produce certificate from the standing Medical Board at Peshawar regarding their physical and mental fitness for performing the duties required of them. iii. The selected candidates shall execute a bond with the Forest Department to the effect that on successful completion of the training they shall serve the Government for at least five years and in default shall refund all the expenses incurred in connection with their training and education. <p>AGE LIMIT: 21 to 32 years. PAY SCALE: BPS-17 ELIGIBILITY: Male. ALLOCATION: Two each to Merit, Zone-1 & 3 and One each to Zone-2,4 & 5.</p>
9.	<p>ONE (01) POST OF SUB DIVISIONAL FOREST OFFICER (MINORITY QUOTA) IN THE OFFICE OF CHIEF CONSERVATOR OF FOREST.</p> <p>QUALIFICATION: Master's Degree in Forestry from a recognized University / Institute OR Second Class Bachelor's Degree in Forestry from a recognized University / Institute. OR Second Class Bachelor's Degree in Agriculture or other Science subject from a recognized University.</p> <p>Preference will be given to those having qualification prescribed first.</p>

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	<p>(b) At least 2nd class Bachelor's from recognized University with one year Diploma in information Technology from a recognized Board of Technical Education.</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-12 ELIGIBILITY: Both Sexes. ALLOCATION: Merit.</p>
65.	<p>ONE (01) LEFT OVER POST OF MOTOR VEHICLE EXAMINATION (WOMEN QUOTA) IN TRANSPORT DEPARTMENT.</p> <p>QUALIFICATION: Diploma of Associate Engineer in Automobile Technology (DAE) from recognized College of Technology (Three Years Diploma)</p> <p>AGE LIMIT: 20 to 32 years. PAY SCALE: BPS-11 ELIGIBILITY: Female. ALLOCATION: Merit.</p>

CORRIGENDUM

It is for information for all concerned that the 103 posts of Pharmacist (B-17) of General Quota, 11 posts of Pharmacist (B-17) of Women Quota, 03 posts of Pharmacist (B-17) of Disabled Quota and 02 posts of Pharmacist (B-17) of Minority Quota in Health Department advertised in this Commission's Advt. No.06/2015, Sr. No.25, 26, 27 & 28 respectively stand withdrawn upon the request of the Department through the Establishment Department.

GENERAL CONDITIONS

- (i) Age shall be reckoned on **15.07.2016**. Maximum age limit as prescribed in the recruitment rules shall be relaxed upto 10 years for Disabled persons and Govt Servants who have completed 2 years continuous service and upto 3 years for candidates belonging to backward areas specified in the appendix attached to the Khyber Pakhtunkhwa Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 2008. However, a candidate shall be allowed relaxation in age in one of the above categories provided that the candidates from backward areas, in addition to automatic relaxation of three years shall be entitled to one of the relaxations available to Govt Servants, general or disabled candidates, whichever is relevant and applicable to them. Employees or ex-employees of development projects of the Government of Khyber Pakhtunkhwa and employees or ex-employees of development projects of the Federal Government under the administrative control of the Government of Khyber Pakhtunkhwa shall also be entitled to age relation equal to the period served in the projects, subject to a maximum limit of ten years provided that this age relaxation shall not be available in conjunction with any other provisions of the age relaxation rules.
- (ii) Only the qualification possessed on the closing date of the advertisement fixed for the incountry candidates shall be taken into consideration.
- (iii) Degrees / Diploma / Experience Certificates / Testimonials of unrecognized Institution are not accepted. Only original Degrees / Certificates are accepted, however, the candidates can apply on provisional certificate signed by the Controller of Examination of the respective institution. The candidates shall produce original degrees / certificates before their selection. Detail Marks Certificates for all the examinations shall necessarily be required and these should be attached with the application forms.
- (iv) Candidates applying against disabled posts must attach with their application forms a disability certificate from the Provincial Council for Rehabilitation of Disabled Persons as well as disability certificate from the respective Medical Superintendent/ Medical Board showing therein the specific disability.
- (v) Govt. / Semi Govt. / Autonomous / Semi Autonomous Bodies employees may apply direct but their Departmental Permission Certificates should reach within 30 days of the closing date.
- (vi) Applications should be on the prescribed application form obtainable from the listed below branches of the **NATIONAL BANK OF PAKISTAN**. Application Fee is Rs.285/- (Rupees Two Hundred Eighty Five only) for all the candidates. In addition to the application fee, the candidates will have to pay Rs.15/- (rupees fifteen only) on account of Bank Charges. Separate application form will be required for each advertised category of posts. Application forms obtained other than the specified branches of the

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National Bank will be considered invalid and such applications will not be entertained. The applications on plain paper or Photostat shall not be accepted. Incomplete and late applications shall not be accepted which shall be rejected. Candidates can also apply online through the Commission's website (www.kpppsc.gov.pk). However the application fee needs to be deposited in State Banks of Pakistan or a National Bank of Pakistan Branch under head of account No. C02101- Organs of State-Examination Fee of KP PSC through Challan on or before the closing date. The same alongwith attested copies of all the documents need to be submitted to the Commission within 10 days.

- (vii) Applications must be submitted within time as no extra time is allowed for postal transit. The applications if submitted on the last date for receipt of applications must reach the Commission's office by the closing hours.
- (viii) Applicants married to Foreigners are considered only on production of the Govt. Relaxation Orders.
- (ix) No applicant shall be considered in absentia on paper qualifications unless, he/she possesses exceptionally higher qualifications than the minimum prescribed qualification for a particular post(s).
- (x) Govt. reserves the right not to fill any or fill more or less than the advertised post(s).
- (xi) Candidates who have already availed three chances by physical appearance before the Commission and have failed for the post(s) having one and the same qualifications and scale of pay shall be ineligible.
- (xii) Experience wherever prescribed shall be counted after the minimum qualifications for the post(s), if not specifically provided otherwise against the advertised post(s).
- (xiii) The candidates applying for posts requiring experience are advised to fill in the requisite proforma and provide the experience certificate available on the Commission's website and submit it alongwith the application form. The application form without this proforma and certificate shall not be accepted/ processed.
- (xiv) In case the number of applications of candidates is disproportionately higher than the number of posts, short listing will be made in anyone of the following manner: -
 - (a) Written Test in the Subject.
 - (b) General Knowledge or Psychological General Ability Test.
 - (c) Academic and/or Professional record as the Commission may decide.

SPECIFIED BRANCHES OF THE NATIONAL BANK OF PAKISTAN.

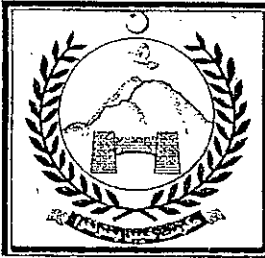
- (1) Main Branches of:
Parachinar, Mardan, Swabi, Malakand, Shangla, Chitral, Timargara, Daggar, D.I.Khan, Bannu, Karak, Kohat, Hangu, Lakki Marwat, Abbottabad, Haripur, and Mansehra
- (2) Saddar Road Branch, Tehkal Payan Branch, G.T Road (Nishtar Abad) Branch and University Campus Branch Peshawar.
- (3) Tehsil Bazar Branch Charsadda, Nowshera Cantt: Branch, Bank Square Branch Mingora and City Branch Tank

Note: -The candidate who apply for the post(s) are advised to make sure that they are eligible for the post in all respects because eligibility of the candidate will be determined strictly according to the rules after conduct of all essential tests.

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(Sharif Hussain)
Secretary
Khyber Pakhtunkhwa
Public Service Commission
Peshawar.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar the, 14th December, 2017

B-9

NOTIFICATION

No: SO (Estt) FE&WD/I-6/PSC/2K17: The Competent Authority, on the recommendations of Khyber Pakhtunkhwa Public Service Commission, has been pleased to appoint Mr. **Saeed Anwar S/O Nawab Khan** resident of village Bannuchi Kala Post Office Azim Kala, Tehsil & District Bannu as Sub Divisional Forest Officer BS-17 (Rs.16000-1200-40000) in Forest Department Khyber Pakhtunkhwa subject to the following terms and conditions mentioned hereunder:-

TERMS AND CONDITIONS

- a. He will be entitled to draw pay in BPS-17 along with usual allowances as admissible to corresponding category of Govt: services from time to time.
 - b. He shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973, and the Rules made there-under;
 - c. He will be initially on probation for a period of one year further extendable as prescribed in Rule-15 of the Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules, 1989. If his work during the period of probation is not found satisfactory, his services shall be terminated without any notice.
 - d. In case he wishes to resign at any time, a month's notice shall be necessary or in lieu thereof a month's pay will be forfeited.
 - e. He shall produce a medical certificate of fitness from Medical Superintendent, Police and Services Hospital Peshawar.
 - f. He shall produce certificate of character from the head of academic institution last attended and also certificate of character from two other responsible persons not being his relatives, who are well acquainted with his character and antecedents.
 - g. He shall undergo for field training for a period of one year;
 - h. His inter-se-seniority shall be determined in the light of the Merit Order drawn by the Khyber Pakhtunkhwa Public Service Commission.
 - i. He will join duty at his own expenses; no TA/DA shall be admissible for that purpose,
2. If the above Terms and Conditions are acceptable to him, he should submit arrival report to the Chief Conservator of Forest Central and Southern Forest Region-I, Peshawar for attachment/field training within 30-days of issuance of this Notification, under intimation to this department.

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

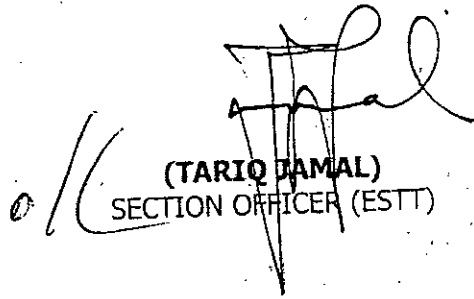
5272-84

Endst: No: SO (Estt) FE&WD/I -6/PSC/2k17

Dated Pesh: the 14th December, 2017.

Copy is forwarded to:-

- 1) Chief Conservator of Forests, Central & Southern Forest Region-I, Peshawar. H is requested that a proposal for attachment/field training of the above named appointee of SDFO in consultation with CCF-II, Abbottabad and CCF-III, Malakand may be furnished to this department.
- 2) Director Recruitment, Khyber Pakhtunkhwa Public Service Commission w/r to his letter No: PSC/SR-IV)/F-18/2017/61812 dated 15th June, 2017.
- 3) Director Budget & Accounts Cell, Forestry, Environment & Wildlife Department.
- 4) PS to Secretary Forestry, Environment & Wildlife Department.
- 5) Mr. Saeed Anwar S/O Nawab Khan resident of village Bannuchi Kala Post Office Azim Kala, Tehsil & District Bannu.
- 6) Personal file of the officer.
- 7) Master file.
- 8) Office order file.


(TARIQ JAMAL)
SECTION OFFICER (ESTT)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar the, 3rd February, 2020

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NOTIFICATION

No. SO(Estt)Envy/11-6/2018/PSC: The Competent Authority, is pleased to appoint the following Sub Divisional Forest Officers (BS-17) (Ps: 30370-2300-76370) in Forest Department, Khyber Pakhtunkhwa on the recommendations of Khyber Pakhtunkhwa Public Service Commission and successfully completing their training leading to Master's Degree in Forestry.

	NAME AND PARENTAGE	DOMICILE
1	Muhammed Waqas Khan	Bannu
2	Mr. Shah Fahad	Bannu

The following terms and conditions will apply:-

- (i) They will get pay at the minimum of BPS-17 including usual allowances as admissible under the rules. They will also be entitled to annual increment as per existing policy;
- (ii) They shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973, and other laws applicable to the Civil Servants and the rules made there-under;
- (iii) They shall be on probation initially for a period of one year extendable for further one year;
- (iv) In case of resign at any time, fourteen days notice shall be necessary or in lieu thereof fourteen days pay shall be forfeited;
- (v) They shall produce a medical certificate of fitness from Medical Superintendent, Civil Hospital Peshawar and character certificate from any gazetted officer;
- (vi) Their retention in service shall be subject to verification of their domicile testimonials and antecedents etc from the concerned authorities/offices;
- (vii) Their appointments are liable to be terminated at any time without assigning any reasons before the expiry of the period of probation/extended period of probation, if their performance during this period is not found satisfactory;
- (viii) Their inter-se-seniority should be determined in the light of the Merit Order drawn by the Khyber Pakhtunkhwa Public Service Commission.

2. If the above terms and conditions are acceptable to them, they should submit their arrival reports to the Chief Conservator of Forests, Central & Southern Forests Region-1, Peshawar for duty within 30-days of issuance of this Notification, under intimation to this department.

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Service Appeal No.143/2019 titled "Muhammad Usman-vs- the province of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others" and connected Appeal No. 7608/2021 titled "Muhammad Waqas Khan-vs- The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and others" decided on 03.05.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: { **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH UD DIN ... MEMBER (Judicial)



Service Appeal No.143/2019

Date of presentation of appeal 30.01.2019
Dates of Hearing..... 03.05.2023
Date of Decision..... 03.05.2023

Handwritten mark: 'C-11' in a circle.

Muhammad Usman, SDFO Forestry, Environment & Wildlife Department, Civil Secretariat Peshawar.....(Appellant)

Versus

- 1. **Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.**
- 2. **Secretary to the Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department, Civil Secretariat Peshawar.**
- 3. **Director General, Pakistan Forest Institute, Khyber Pakhtunkhwa, Peshawar.....(Respondents)**

Present:

Mr. Zartaj Anwar, Advocate.....For appellant.

Mr. Asif Masood Ali Shah,
Deputy District Attorney.....For respondents.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, FOR CORRECTION OF FINAL SENIORITY LIST OF SDFO'S DATED 31.08.2018 AS PER MERIT ASSIGNED BY KHYBER PAKHTUNKHWA PUBLIC SERVICE COMMISSION, AGAINST WHICH THE DEPARTMENTAL APPEAL DATED 11.10.2018, HAS NOT BEEN RESPONDED DESPITE THE LAPSE OF NINETY DAYS STATUTORY PERIOD.

Service Appeal No.7608/2021

Date of presentation of appeal 18.10.2021
Dates of Hearing..... 03.05.2023
Date of Decision..... 03.05.2023

ATTESTED

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

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Mr. Muhammad Waqas Khan, DFO (BPS-17), Unit-3 Forestry Planning and Monitoring Circle, Peshawar.

.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. The Secretary Forestry, Environment & Wildlife Department, Civil Secretariat Peshawar.
3. Director General, Pakistan Forest Institute, Khyber Pakhtunkhwa, Peshawar.
4. Mr. Zahid Muhammad, SDFO Tank, D.I. Khan Division. Ex.Parte
5. Mr. Saeed Anwar, SDFO, Karak, Kohat Forest Division. Ex.Parte
6. Mr. Bilal Ahmad, SDFO, Besham Kohistan Watershed Division. Ex.Parte
7. Aman Ullah, SDFO, Jared, Kaghan Forest Division. Ex. Parte
8. Sardar Muhammad Saleem, DFO, Hazara Tribal Forest Division, Battagram.
9. Ihsan Ud Din, SDFO, Drosh, Chitral Forest Division. Ex.Parte

.....(Respondents)

Present:

Mr. Amin Ur Rehman Yousafzai, Advocate....For appellant.

Mr. Asif Masood Ali Shah,
Deputy District Attorney.....For respondents.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 07.10.2021, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR CORRECTION HIS SENIORITY POSITION IN THE FINAL SENIORITY LIST OF SDFO, DATED 26.06.2021 ACCORDING TO MERIT ORDER ASSIGNED BY KHYBER PAKHTUNKHWA

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment this appeal and the connected service appeal No. 7608/2021 titled "Muhammad Waqas Khan versus The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and others" are decided as both are the same and can conveniently be decided together.

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KALIM ARSHAD KHAN
Chairman, Khyber Pakhtunkhwa Service Tribunal



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13

2. According to the facts gathered from the record in service appeal No. 143/2019, the appellant was initially appointed on the recommendation of Khyber Pakhtunkhwa Public Service Commission as Forest Ranger (BPS-16) vide appointment order dated 25.11.2010; that the respondent department advertised the post of Sub Divisional Forest Officers through open advertisement, appellant having all the required eligibility applied for the post of Sub Divisional Officer through proper channel and was selected and recommended for the post of SDFO by the Khyber Pakhtunkhwa Public Service Commission and vide notification dated 19.10.2015 appointed by the competent authority, and on the same date submitted his arrival report i.e. 19.10.2015; that vide notification dated 17.11.2015 respondent department issued attachment/field training of the newly appointed SDFO (BPS-17) according their respective joining, where as appellant was nominated for the subject course; that according to the inter-se merit position of all the selectees of male SDFO the appellant was at serial No.14; that the respondent department in violation of rules while withdrawing appointment order of the appellant and placing him in the panel of junior SDFO who had been appointed in pursuance to another advertisement against the different merit position and issued seniority list as stood on 31.08.2018 by placing the appellant at serial No. 44 instead of serial No. 37; that the appellant, feeling aggrieved, filed departmental appeal on 11.10.2018, which was not responded within the statutory period of ninety days and, hence, filed the instant service appeal.

3. In service appeal No. 7608/2021, the appellant was appointed as SDFO (BPS-17) in the respondent department; that the appellants was assigned inter-se seniority wherein he was rendered at serial No. 3 on merit order, while the private respondents No. 4,5 and 7 were placed at serial No. 4,6,8 and 9 while the private respondent No. 8 and 9 were promoted to the post of SDFO(BS-17) on 13.12.2018; that the appellant alongwith other officials were nominated for training at the Pakistan Forestry Institute through a letter dated-

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14.12.2017 and has completed his training at the Pakistan Forestry Institute successfully and after completing his training he was appointed as SDFO (BS-17) vide notification dated 03.02.2020. It was clearly mentioned in the appointment order of the appellant that the inter-se seniority should be determined in the light of the merit order drawn by the Khyber Pakhtunkhwa Public Service Commission; that the respondent/department issued the final seniority list of SDFOs on 26.05.2021 as stood on 20.01.2021, wherein the private respondents were shown senior to the appellant; that the appellant, feeling aggrieved, filed departmental appeal, which was rejected on 07.10.2021, hence, the instant service appeal.

4. On receipt of the appeals and admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeals by filing written replies raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellants.

5. We have heard learned counsel for the appellants and learned Deputy District Attorney for the official respondents.

6. Learned counsel for the appellants argued that the appellants have not been treated in accordance with law and rules. The department had never taken into consideration the settled principles governing seniority/promotion before issuance of the final seniority list. He further argued that according to the terms and conditions of the appointment order (viii) their inter-se seniority shall be determined in the light of the merit order drawn by the Khyber Pakhtunkhwa Public Service Commission.

7. Conversely learned Deputy District Attorney argued the appellant has been treated in accordance with law and rules. He further argued that as per the existing service rules of Forest Department, the appointment of candidates for the post of SDFO by the Public

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15

service Commission shall be subject to the condition that "the selected candidate shall undergo and successfully complete the training at Pakistan Forest Institute leading to Master's Degree in Forestry, however, those already having Master's Degree in Forestry from PFI shall be exempted from the training". Since the appellant was not M.Sc Forestry Degree holder vide Administrative Department letter No. SO(Estt)/FE&WD/1-50/(189)/2k15/36-39, dated 04.01.2023 after withdrawal of this appointment/attachment notification bearing No. SO(Estt)/FE&WD/1-50(189)/2015/28-34 dated 29.12.2015, he was referred for M.Sc Forestry Degree in the Session 2015-17 to Pakistan Forest Institute as per the above rules. His appointment order was after withdrawal & was directed to report to Pakistan Forest Institute for undergoing M.Sc Forestry.

8. There is no denying the fact that seniority of civil servants on initial recruitment is determined and fixed by the Competent Authority in accordance with the merit order assigned by the Selection Authority as mandated by Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Similarly there is no denial of the fact that the appellants have been appointed on the recommendation of the Khyber Pakhtunkhwa Public Service Commission and the Khyber Pakhtunkhwa Public Service Commission has also sent an inter-se merit order of all the recommendees. Such merit order was to remain intact which has been disturbed by the official respondents as is evident from the impugned seniority list but without justification. The official respondents in their reply contend that the appellants had to undergo some mandatory training where-after they were appointed. This does not mean that their seniority would be taken away or that the passage of sometime between recommendation and appointment would disturb the inter-se seniority of the appellants, which they had initially gained on finalization of selection process by the Khyber Pakhtunkhwa Public Service Commission. The appointment and seniority are entirely two different things, therefore, if some time has passed between recommendation of the Khyber Pakhtunkhwa

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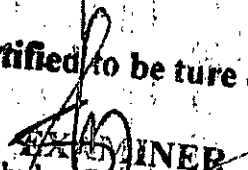
Public Service Commission and appointment of the appellants, that would not adversely affect their seniority in accordance with the provisions of Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989. The respondents have not quoted any rule which could disentitle the appellants from their seniority in accordance with Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989. Even during the course of arguments when the Law Officer was asked to quote any rule, he could not refer to any such rule except the service rules of the department, wherein the qualification etc is given for certain posts. This being so we hold that the appellants were entitled to retain their inter-se seniority in accordance with the merit order assigned by the Khyber Pakhtunkhwa Public Service Commission and, therefore, while allowing these appeals we direct that the appellants be assigned their correct seniority in accordance with the merit order assigned by the Khyber Pakhtunkhwa Public Service Commission. Costs shall follow the event. Consign.

9. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 3rd day of May, 2023.*


KALIM ARSHAD KHAN
Chairman


SALAH UD DIN
Member (Judicial)

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Adnan Shuh, PA

Date of Presentation of Application 19/6/23
Number of Words Page 6
Copying Fee 30/-
Urgent 8/5
Total 38/-
Name of Copyiest Shahad
Date of Completion of Copy 19/6/23
Date of Delivery of Copy 19/6/23

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GOVERNMENT



REGISTERED NO. PIII
GAZETTE

17

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 27TH FEBRUARY, 2018.

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE ENVIRONMENT DEPARTMENT.

NOTIFICATION

Dated: 6th March, 2007.

NO. SO(Estt)/Env/1-465/2k5/: In pursuance of the provisions contained in sub-rule (2) of rule 3 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Environment Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in the Forestry, Fisheries and Wildlife Department Notification No. SO (FT:II)AD/1-465/88/Vol- IV, dated 26/01/1993, the following amendments shall be made, namely:

AMENDMENT

In the Appendix, under the heading "FOREST WING" in PART-1, PROFESSIONAL POSTS, for the existing entries against S.No.3,4 & 5, the following shall be substituted, in the respective Columns, namely:-

1.	2.	3.	4.	5.
3.	Divisional Forest Officer/Deputy Conservator			By promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Sub Divisional Forest Officers (BPS-17) who have completed such qualifying service as prescribed by Government and have successfully completed such training or passed such department examination as prescribed by Government for the purpose.
4.	Sub Divisional Forest Officer	Master's Degree in Forestry from a recognized University/Institute; or Second Class Bachelor's Degree in Forestry from a recognized University/ Institute; Or Second Class Bachelor's Degree in Agriculture or other Science subjects from a recognized University.	21 to 32 years	(a) Twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst holders of posts of Forest Rangers having five years service as such; and (b) Eighty percent by initial recruitment. NOTE: Appointment of candidates selected for the post by the Public Service Commission shall be made subject to the following conditions:- 1) The selected candidates shall undergo and successfully complete

1198

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				<p>the training at the Pakistan Forest Institute leading to Master's Degree in Forestry. Those already having Master's Degree in Forestry from PFI shall be exempted from such training.</p> <p>ii) The selected candidates shall produce certificate from the Standing Medical Board at Peshawar regarding their physical and mental fitness for performing the duties requires of them.</p> <p>iii) The selected candidates shall execute a bond with the Forest Department to the effect that on successful completion of the training they shall serve the Government for at least five years and in default shall refund all the expenses incurred in connection with their training and education.</p>
5	Forest Ranger (BPS-16)	<p>Bachelor's Degree in Forestry, or Intermediate at least (2nd Division) from a recognized Board, with two or more of the following subjects:</p> <ul style="list-style-type: none"> i. Mathematics ii. Physics iii. Chemistry. iv. Biology. v. Zoology. vi. Botany. 	18 to 30 years	<p>(a) Sixty-seven percent by promotion, on the basis of seniority-cum-fitness, from amongst Deputy Rangers having four years service as such; and</p> <p>(b) Thirty-three percent by initial recruitment.</p> <p><u>Note:</u> Appointment of candidates selected for the post by the Public Service Commission shall be made subject to the following conditions:-</p> <p>i) The selected candidates shall undergo and successfully complete the training at the Pakistan Forest Institute leading to Bachelor's Degree in Forestry. Those already having Bachelor's Degree in Forestry from PFI shall be exempted from such training.</p> <p>ii) The selected candidates shall produce certificate from Standing Medical Board at Peshawar regarding their physical and mental fitness for performing the duties required of them.</p> <p>iii) The selected candidates shall execute a bond with the Forest Department to the effect that on successful completion of the</p>

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				training they shall serve the Government for at least five years and in default shall refund all the expenses incurred in connection with their training and education.
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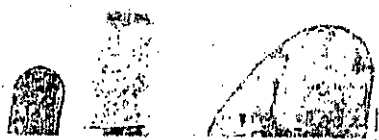
NOTE: Preference will be given to those having qualification prescribed first against each at S/ No 4 & 5.

Sd/-xxx
SECRETARY TO GOVT: OF NWFP
ENVIRONMENT DEPARTMENT

Printed and published by the Manager,
State, Ptg. Dept., Khyber Pakhtunkhwa, Peshawar.

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WAKALAT NAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

12 (2) Application No. ____/2023
IN
Service Appeal No.7608-P/2021
Decided on: 03.05.2023

I, Saeed Anwar, SDFO Karak Kohat Forest Division applicant/respondent.5, in the above noted Service appeal, do hereby appoint and constitute **Afrasiab Khan Wazir Advocate High Court** as my counsel in the above proceedings and authorize him to appear, plead, defend, act, compromise, withdraw, negotiate or refer to arbitration for me as my advocate/legal attorney in the above mentioned matter, without any liability for his default and with the authority to engage/ appoint any other Advocate/ Counsel on my/our behalf and all sums and amounts deposited on my/our account in the above noted matter.

ATTESTED & ACCEPTED


Afrasiab Khan Wazir
Advocate High Court

