

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 747/2023

Fazal-e-Amin Junior Clerk Appellant

Versus

1. The Secretary Climate Change, Forestry, Environment & Wildlife Deptt: Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Chief Conservator of Forests Central Southern Forest Region-I, Khyber Pakhtunkhwa Peshawar.
3. The Director Non-Timber Forest Products (NTFP) Khyber Pakhtunkhwa, Shami Road, Peshawar.
4. The Deputy Director Non-Timber Forest Products (NTFP) Khyber Pakhtunkhwa, Shami Road, Peshawar.
5. MR. Airab Ali Photographer, Kohat Forest Circle, Shami Road, Peshawar.

Respondents

INDEX

| S. No. | Description of documents | Pages |
|--------|---|-------|
| 1 | Para-wise Comments | 1-3 |
| 2 | Affidavit | 4 |
| 3 | Annexure-I (Copy of Notification dated 08-03-2018) | 5-6 |
| 4 | Annexure-II (Copy of Notification dated 17-02-2014) | 7 |
| 5 | Annexure-III (Copy of letter No. 1215 dated 25-01-2023) | 8 |
| 6 | Annexure-IV (Copy of letter No. 2572 dated 24-05-2019) | 9 |
| 7 | Annexure-V (Copy of letter No. 760 dated 22-11-2022) | 10 |
| 8 | Annexure-VI (Copy of letter No. 1758 dated 13-12-2022) | 11 |

Meat clat - 10/08/23

Peshawar

**H*
sccl
Assistant Director NTFP
Headquarter Peshawar
(For Respondents No. 01, 02, 03 & 04)

①

[Handwritten Signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 747/2023

Fazal-E-Amin, Junior Clerk (BPS-11)

NTFP Directorate Peshawar **Appellant**

Versus

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 6696

Dated 25/07/23

1. The Secretary,
Climate Change, Forestry, Environment & Wildlife Department,
Government of Khyber Pakhtunkhwa Civil Secretariat
Peshawar.
2. The Chief Conservator of Forests
Central Southern Forest Region-I,
Khyber Pakhtunkhwa Peshawar
3. The Director,
NTFP Khyber Pakhtunkhwa, Shami
Road, Peshawar
4. The Deputy Director,
NTFP Khyber Pakhtunkhwa, Shami
Road, Peshawar
5. Mr. Aerab Ali Photographer
Kohat Forest Circle Peshawar **(Respondents)**

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

PRELIMINARY OBJECTIONS:

1. The appeal is not maintainable in the present form.
2. The appellant has no locus standi to bring the present appeal.
3. The appellant is legally estopped by his own conduct to bring the present appeal
4. The appeal is time barred.
5. That the appellant has no cause of action.

FACTS:

1. Correct to the extent that the appellant was appointed as Junior Clerk (BPS-11) in 2018 in NTFP Directorate of Forest Department.
2. Correct to the extent that the father of the appellant was working as Superintendent in NTFP Directorate and was retired from Govt service on the age of superannuation w.e.f 09/04/2021. As per para-17 of Chapter-V of the Notification bearing No. EO

(2)

(Admn)/34-M Allotment Rules-2018 issued by Govt of Khyber Pakhtunkhwa Administration Deptt; (**Annex-I**), the quarter in question was required to be retained with him for a period of six months. After lapse of six months the issue regarding allotment of quarter was required to be placed before the Allotment Committee constitute vide Notification No. SOG(ED)/4-7/2010, Vol-II, dated 17/02/2014 (**Annex-II**), Nevertheless, the Director concerned vide O/O No. 42, dated 27/05/2021 issued allotment order to the appellant by giving recommendation of the Housing Allotment Committee vide CCF-I letter No. 2572/E, dated 24/05/2019, which has since been issued in quarter No. 2 instead of quarter in question with the following conditions:-

- i. He shall submit occupation of his respective residence.
- ii. He shall use the premises for residential purpose only.
- iii. He shall not sublet the premises to any other person.
- iv. The existing design shall not be altered, otherwise the allotment shall be cancelled and legal action will be initiated against him.
- v. He must clear the entire utility bills (Electricity/Gas/Water Charges) regularly on monthly basis.
- vi. If the premises are required to the department for any other purpose he will vacate the house on a month notice.

Keeping in view the condition No.vi, the appellant was required to vacate the quarter instead of agitating the issue in the Court of Law.

3. As explained in Para-2 above, in light of the House Allotment committee the proper procedure was to place the case of allotment before the committee, being a proper way. Consequently, Director NTFP vide his letter No 1215 dated 25-01-2023 issued Notice for vacation of residential quarter (**Annex-III**)
4. Incorrect, no recommendation of Respondent No. 02 is available on the record at the time of allotment of quarter to the appellant with further clarification that Respondent No. 4 has recorded recommendation of Respondent No. 2, which relates to quarter No.2 as the applicant of quarter No.2 was the widow of late Nasir Hussain Ex-Senior Clerk being a special case (**Annex-IV**).
5. Incorrect. As per record available in the office of Respondent No. 2, the quarter in question was on the name of Mr. Darwesh Khan Superintendent, who has since been retired from service on the age of superannuation as in the issued order bearing No. 42, dated 27/05/2021, no copy has been made to Respondent No.2.
6. Incorrect. No appeal has been made by the appellant to Respondent No. 2 except that Director concerned has reported that the subject quarter has since been allotted to the appellant, which has since been replied by Respondent No. 2 with the direction for cancellation of his allotment order (**Annex-V & VI**).
7. No comments.

Grounds:

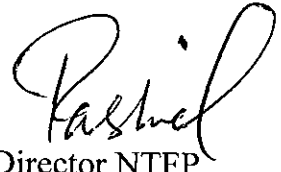
- A. Incorrect, keeping in view the above explanation.
- B. Incorrect, as per Annex-II, the case was required to be placed before the Allotment Committee constituted by the Administrative Department for the purpose.
- C. Incorrect, the respondent No. 5 is a Govt servant instead of private person and as per Law/Rules each and every Govt servant is entitled to be compensated from such allotment.

- D. Incorrect, as per explanation available in Pera-2 above.
- E. Incorrect, as per explanation available in Pera-2 above.
- F. Incorrect, as per explanation available in Para -5 above.
- G. The action taken by the Respondent No. 2 is under the Law/Rules being Head of the Attached Deptt; and required to be implemented in letter and spirit.
- H. That the respondents also seek permission to raise further ground at the time of hearing.

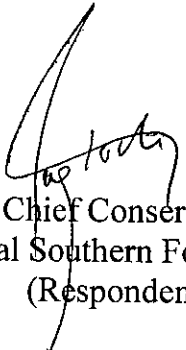
In view of the above exposition, it is therefore most humbly prayed that on acceptance of this parawise reply, the instant service appeal may kindly be dismissed with costs.



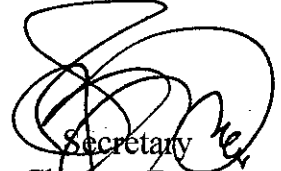
Deputy Director NTFP
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 04)



Director NTFP
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 03)



Chief Conservator of Forests
Central Southern Forest Region-I, Peshawar
(Respondent No. 02)



Secretary
Climate Change, Forestry, Evn: &
Wildlife Department, Peshawar
(Respondent No. 01)

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 747/2023

Fazal-e-Amin ----- Petitioner

Versus

1. The Secretary,
Climate Change, Forestry, Environment & Wildlife Department, Government of Khyber
Pakhtunkhwa Civil Secretariat Peshawar.
2. The Chief Conservator of Forests, Central Southern Forest Region-I, Khyber Pakhtunkhwa
Peshawar
3. The Director,
NTFP Khyber Pakhtunkhwa, Shami Road, Peshawar
4. The Deputy Director,
NTFP Khyber Pakhtunkhwa, Shami Road, Peshawar
5. Mr. Aerab Ali Photographer, Kohat Forest Circle Peshawar

Respondents

AFFIDAVIT

I, Haseeb Ahmad Assistant Director NTFP Headquarter Peshawar do hereby solemnly affirm and declare that the contents of the Department's written reply along with enclosures submitted on behalf of Respondents No. 01 to 04 are true and correct to the best of my knowledge and belief and that nothing has been concealed from the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar.

It is further stated that in this appeal, the necessary respondents have neither been placed opposite nor their defence has been struck off/Cost.

DEPONENT
CNIC No. 11101-6233289-5
For respondents No. 01 & 04
Mobile No. 0336-1966077 / 0335-0581381

IDENTIFIED BY:

ADVOCATE GENERAL
KHYBER PAKHTUNKHWA
PESHAWAR



EXTRAORDINARY
GOVERNMENT

REGISTERED NO. P.II
G A Z E T T E



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 08th MARCH, 2018

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT.

NOTIFICATION

Peshawar, dated the 08.03.2018.

No.EO (Admn) ³⁴38-M Allotment Rules, 2018.-In exercise of the powers conferred under section 18 of the Khyber Pakhtunkhwa Provincial Buildings (Management, Control and Allotment) Act, 2018 (Khyber Pakhtunkhwa Act No. II of 2018). and in supersession of the Residential Accommodation at Peshawar (Procedure for Allotment) Rules, 1980 and Allotment Rules, 2015, the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

THE KHYBER PAKHTUNKHWA RESIDENTIAL ACCOMMODATION AT PESHAWAR (PROCEDURE FOR ALLOTMENT) RULES, 2018.

CHAPTER-I
GENERAL

1. **Short title and commencement.**---(1)These rules may be called the Khyber Pakhtunkhwa Residential Accommodation at Peshawar (Procedure for Allotment) Rules, 2018.

(2) These shall come into force at once.

2. **Definitions.**---In these rules, unless there is anything repugnant in the subject or context, the following expressions shall mean,-

- (a) "Act" means the Khyber Pakhtunkhwa Provincial Buildings (Management, Control and Allotment) Act, 2018 (Khyber Pakhtunkhwa Act No. II of 2018);
- (b) "allotment order" means an order, issued by the Estate Office, specifying the details and terms and conditions of allotment in favour of an allottee;
- (c) "applicant" means the public office holder, who applies for the residential accommodation under these rules;
- (d) "bachelor hostel" means a residential accommodation, declared as such, under rule 6 of these rules;
- (e) "competent authorities" mean the competent authorities, as specified in Schedule-I;
- (f) "family member" means and includes spouse, legitimate children of a public office holder, including his parents, real unmarried sisters and minor brothers, residing with and wholly dependent upon him;

Assted
Haseeb Ahmad
Assistant Director
Non Timber Products
Headquarter, Shami Road
Peshawar

8

Annex-I

1283 KHYBER PAKHTUNKWHA GOVT: GAZETTE, EXTRAORDINARY, 08th MARCH, 2018

(7) An applicant, who has joined on transfer or posting from another station, shall produce a no demand certificate in respect of residential accommodation, if any, occupied by him at the previous station, before he is allotted residential accommodation at the place of new posting.

15. **Occupation of allotted residential accommodation.**---(1) On receipt of an allotment order, the allottee shall take over possession of the residential accommodation from the Estate Office, within one month of such allotment order, and sign the occupation certificate, as specified in Schedule X, along with a receipt for all fittings and fixtures.

(2) The outstanding bills or dues of services for the intervening period from the date of vacation of previous allottee till the date of occupation by current allottee shall be paid by the later.

(3) Where an allottee does not occupy the residential accommodation, within stipulated time, without any cogent reason, such allotment order shall be considered as cancelled with (01) prior written notice and in that case the allottee shall have no claim for his seniority in future.

**CHAPTER -VI
RETENTION OF RESIDENTIAL ACCOMMODATION**

16. **Retention in case of death during service.**---(1) The widow of the deceased allottee shall be entitled to retain the residential accommodation until such time the allottee would have superannuated, had he remained alive, subject to a minimum period of three years, whichever is earlier:

Provided that in case of death of a female allottee, the widower can retain the residential accommodation for a maximum period of one year only.

(2) The retention of residential accommodation, under sub-rule (1) above, shall be subject to the payment of normal rent by the widow or widower of deceased allottee, as the case may be. The normal rent, in this case, shall be presently applicable for the grade or scale of deceased allottee, fixed by Government, from time to time. The normal rent shall either be deducted, at source, from the emoluments of the deceased allottee by the Accountant General, Khyber Pakhtunkhwa, the drawing and disbursing officer of the department of the deceased allottee or it shall be deposited by the widow or widower, as the case may be, into the Government treasury, on monthly basis and record of such deposits shall be submitted to the Estate Office.

(3) In order to retain the residential accommodation, a duly attested no marriage certificate, shall be submitted by the widow to the Estate Office, on six monthly basis. The residential accommodation, during the period as specified in sub-rule (1) above, shall be withdrawn from such widow, if she chooses to remarry.

17. **Retention in case of retirement.**---(1) An allottee, upon his retirement, may retain the allotted residential accommodation for a grace period of maximum six months from the date of his retirement, on payment of normal rent: ✓

Provided that where an allottee is re-employed by Government, in any public body, commission or an autonomous institution, as the case may be, in any capacity, within six months of his retirement, and if he is already in possession of the residential accommodation, he may be allowed to retain such residential accommodation upon payment of double market rent of the residential accommodation for a maximum period of one year, including the grace period of six (06) months.

(2) An allottee, who has resigned, dismissed, removed or compulsorily retired from service, as the case may be, may retain the allotted residential accommodation for a maximum period of three months on payment of normal rent.

Attested
* A H
see
Haseeb Ahmad
Assistant Director
Non Timber Forest Products
Headquarter, Shami Road
Peshawar

7

Annex-II



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT
(GENERAL SECTION)
DATED 17-02-2014

NOTIFICATION

No. SOG(ED)/4-7/2010 Vol-II. The competent authority has been pleased to re-constitute the following House Allotment Committee to run the job smoothly and transparently:

Chief Conservator of Forests (Region-I), Peshawar

(a) For allotment of Residential Quarter / House/Bungalow in the premises of Chief Conservator of Forests-I Office, Shami Road, Peshawar:

| | | | |
|------|----------------|---|----------|
| i. | CCF-I | = | Chairman |
| ii. | Director I&HRD | = | Member |
| iii. | SO(G) | = | Member |
| iv. | DFO (D) | = | Member |

(b) For allotment of Residential Quarter / House/Bungalow in the premises of FMC Colony:

| | | | |
|------|-------------|---|----------|
| i. | DS-I | = | Chairman |
| ii. | SO(G) | = | Member |
| iii. | DFO-I (FMC) | = | Member |

SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

Endst: No & Date as above / 984-89

Copy is forwarded for information and necessary action to:

1. The Chief Conservator of Forests-I, Khyber Pakhtunkhwa, with reference to his letter No.1314/RA/RK dated 12-12-2013.
2. The Director, I&HRD, Peshawar.
3. The Conservator of Forests, Forestry Planning & Monitoring Circle, Peshawar
4. The Divisional Forests Officer (D), Peshawar.


Section Officer (General)

Copy is forwarded for information to:

1. PS to Secretary Environment Department.
2. PA to Deputy Secretary-I, Environment Department

Attested
K.A.D.

Haseeb Ahmad
Assistant Director
Non Timber Forest Products
Headquarter, Shami Road
Peshawar


Section Officer (General)

8

Annex-III



NIAZ ALI KHAN
CHIEF CONSERVATOR OF FORESTS
CENTRAL SOUTHERN FOREST REGION-I
SHAMI ROAD PESHAWAR

Ph: +92 91 9212177, Fax: +92 91 9211478
E-mail: ccfforests.pesh@gmail.com



No. 2572 /RA/RK/AA-02

Dated 24 /05/2019

Director
NTFP Directorate
Peshawar

Subject: - OFFICE ORDER NO.273 DATED 15.05.2019.

2-599

Reference Divisional Forests Officer (Direction) Head Office Peshawar Office Order No.273 and endorsement No.2503-06/RA/RK dated 15.05.2019.

Refer to the subject noted above and being custodian administrator of the quarter under reference, you are requested to go through the contents of the application and process the case regarding **allotment of the Quarter No.02 situated at Shami Road Peshawar**, as per rule, , under intimation to this office.

Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar

No. 2573-75 /RA/RK

Copy forwarded to:

1. Section Officer (General) Forestry, Environment and Wildlife Department Government of Khyber Pakhtunkhwa Peshawar for information with reference to Divisional Forests Officer (Direction) Head Office Peshawar his endorsement No. cited above.
2. Conservator of Forests FATA Circle Peshawar for information with reference to this Divisional Forests Officer (Direction) Head Office Peshawar his endorsement No. cited above.
3. Divisional Forests Officer (Direction) Head Office Peshawar for information with reference to his endorsement No. cited above.

Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar

Hasseeb Ahmad
Assistant Director
Non-Timber Forest Products
Headquarter Shami Road
Peshawar

Admitted
RA/RK
25/5/19

9

Annex-IV

| | | |
|---|--|---|
|  | Office of the DIRECTOR Non-Timber Forest Products Khyber-Pakhtunkhwa Peshawar |  |
| ADDRESS: Khyber Pakhtunkhwa Forest Department Shami Road, Peshawar Ph: 091-9211480 Fax:091-9213227 E-mail: directorofntfp@gmail.com | | |
| No. 760 | D-NTFP / Estt /Khyber-Pakhtunkhwa Dated Peshawar the 22 /11 /2022 | |

To

The Chief Conservator of Forests,
 Central Southern Forest Region-I,
 Khyber Pakhtunkhwa, Peshawar.

SUBJECT: ALLOTMENT OF CATEGORY IV QUARTER NO.03.

Reference Your office order No.14 dated:08/11/2022

It is conveyed to your good self that the concerned quarter has already been allotted to Mr. Fazale Amin, NTFP Junior Clerk vide order No.42 dated: 27-05-2021 in pursuance of your clear instruction/ Direction vide No. 2572/RA/RK/AA-02 dated: 24-05-2019. **(Copy attached)**

In view of the above your honor is requested to revisit the order issued in this regard please.



Director
 Non-Timber Forest Products
 Khyber Pakhtunkhwa
 Peshawar

817
 23/11

R.A
 23/11
 CCF-1

Attested
 Haseeb
 Assistant Director

Office of the Chief Conservator
 Non-Timber Forest Products
 Headquarter, Shami Road
 Peshawar
 * Official Diary No. **8644**
23/11/22

(10)

Annex-V

CHIEF CONSERVATOR OF FORESTS
CENTRAL SOUTHERN FOREST REGION-I
KHYBER PAKHTUNKHWA
(HAD)



SHAMI ROAD PESHAWAR
Ph: +92 91 9212177, Fax: +92 91 9211478
E-mail: ccfforests.pesh@gmail.com

No. 1758 /RA/RK/AA-02

Dated 13 / 12 / 2022

To

Director
NTFP Directorate
Peshawar

Subject: - ALLOTMENT OF QUARTER IN SHAMI ROAD FOREST COLONY
VIDE OFFICE ORDER NO.41 DATED 08.11.2022.

Memo: *In continuation to this office Order No.41 dated 08.11.2022 and your office letter No.760/D-NTFP dated 22.11.2022.*

Refer this office correspondence cited above, it is intimated that this office vide Office Order No. 273 dated 15.05.2019, endorsement No. 2503-06/RA/RK dated 15.05.2019 & letter No. 2572/RA/RK dated 24.05.2019, only allowed your good office for taking necessary proceeding as a special case for Quarter No. 02 situated at Shami Road Peshawar. Furthermore, you were not instructed/ allowed for allotting every other quarter in light of this office Order cited above. Keeping in view the above, you are requested to proceed as per law for vacation of the said quarter from ex-superintendent and handover to allottee to occupy the same.

Moreover, you are requested to cancel the Office Order No. 42 dated 27.05.2021 issued by your office for allotment of the said quarter with immediate effect.

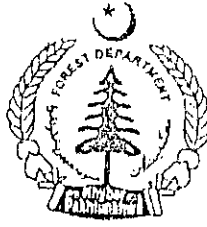
Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar

Haseeb Ahmad
Assistant Forest Officer
Non Timber Forest Products
Headquarter, Shami Road
Peshawar

Attested
*RA
seal

uou

CHIEF CONSERVATOR OF FORESTS
CENTRAL SOUTHERN FOREST REGION-I
KHYBER PAKHTUNKHWA
(HAD)



SHAMI ROAD PESHAWAR
Ph: +92 91 9212177, Fax: +92 91 9211478
E-mail: ccfforests.pesh@gmail.com

No. 1758 /RA/RK/AA-02

Dated 13 / 12 / 2022

To

Director
NTFP Directorate
Peshawar

Subject: - ALLOTMENT OF QUARTER IN SHAMI ROAD FOREST COLONY
VIDE OFFICE ORDER NO.41 DATED 08.11.2022.

Memo: In continuation to this office Order No.41 dated 08.11.2022 and your office letter No.760/D-NTFP dated 22.11.2022.

Refer this office correspondence cited above, it is intimated that this office vide Office Order No. 273 dated 15.05.2019, endorsement No. 2503-06/RA/RK dated 15.05.2019 & letter No. 2572/RA/RK dated 24.05.2019, only allowed your good office for taking necessary proceeding as a special case for Quarter No. 02 situated at Shami Road Peshawar. Furthermore, you were not instructed/ allowed for allotting every other quarter in light of this office Order cited above. Keeping in view the above, you are requested to proceed as per law for vacation of the said quarter from ex-superintendent and handover to allottee to occupy the same.

Moreover, you are requested to cancel the Office Order No. 42 dated 27.05.2021 issued by your office for allotment of the said quarter with immediate effect.

Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar

ASSISTANT DIRECTOR
Non-Timber Forest Products
Khyber Pakhtunkhwa
Peshawar