

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
APPEAL NO. 910 OF 2022.**

Appeal No. 910/2022

Abdul Razzaq S/o Muhammad Ishaq (Forest Guard) recently posted in Galies Division Forest Division, Abbottabad.

...APPELLANT

VERSUS

Chief Conservator of Forest Northern Forest Region-II Abbottabad and others

...RESPONDENTS

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Divisional Forest Officer
Galies Forest Division
Abbottabad



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1. Chief Conservator of Forest Northern Forest Region-II Abbottabad.
2. Conservator of Forests Lower Hazara Forest Circle Abbottabad.
3. Divisional Forest Officer, Galis Forest Division Abbottabad.

...RESPONDENTS

Parawise comments on behalf of respondent No. 01 to 03

Respectfully Sheweth:

Preliminary Objection.

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 estopped by his own conduct to bring the present appeal.
4. The appeal is poor on account of non-joinder of necessary party.
5. The appeal is time barred.
6. The Honorable Tribunal has got no jurisdiction to entertain the appeal.
7. That the appellant has not come to this honorable service tribunal with clean hands.

FACTS

Para wise comments are as under:-

1. It is correct that the petitioner was appointed as a Forest Guard in defunct Soka Nullah vide DFO Soka Nullah office order No. 63 dated 17.08.1987 and reported arrival on 22.08.1987.
2. It is correct.
3. Pertains to record.
4. Due to widening of Natural Resource Conservation Project (NRCP), the petitioner was adjusted in District Government Abbottabad against the existing vacancy occurred due to repatriation of Mr. Javed Iqbal Forest Guard to Galis Forest Division vide Conservator of Forests Abbottabad Circle office order No. 43 dated 25.09.2004.
5. Pertains to record.
6. The tentative seniority list of Forest Guard has been circulated vide letter No. 764/E dated 23.08.2019 and accordingly some Forest Guards raised observation which was responded vide this office letter No. 4781-93/E dated 17.12.2019 that the Conservator of Forests Abbottabad has already advised that:
"The Forest Guards who preferred an application for restoration of their seniority with effect from the date of their appointment is incorrect because they are originally appointee of the project / watershed Divisions and the seniority of Forest Guards maintained being Divisional cadre according to Service Rules 1962.

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According to the decision taken in the high level meeting during the devolution plan for the year 2001, the seniority given to the project / Watershed employees on the date of their arrival in their respective Divisions. Therefore the seniority list prepared in Galis, Haripur and Siran Forest Divisions are correct, the employees of Project / Watershed Circle are not entitled for the Seniority from the date of their arrival. If the employees agitating for their seniority from their date of arrival then the same may be recommended for posting in their parent Divisions i.e. Watershed, so that they could be able to claimed their seniority from the date of their appointment. In similar nature of case Mr. Istiaq Khan Forest Guard preferred an appeal before the honorable Khyber Pakhtunkhwa Service Tribunal and the court passed order that the incumbent may be transferred to his parent Division and give him seniority, therefore on the decision of the court the Forest Guard was transferred back to Watershed and his seniority was restored in Daur Watershed Division.”

7. It is correct that a seniority list for the period 31.12.2020 has been circulated amongst the Forest Guards vide letter No. 3753-55/E dated 13.01.2021 with a direction to point out any error / omission within a week time. Subsequently, the petitioner has preferred an application for rectification of his seniority on dated 26.01.2021. However, the plaintiff was responded vide this office letter No. 4197/E dated 11.02.2021 that the seniority list of Forest Guard has been prepared in accordance with the decision taken in the Minutes of meeting dated 05.10.2020 chaired by worthy Chief Conservator of Forests Northern Forest Region-II Abbottabad wherein vide item No. 5(i), it is clearly decided in light of Establishment Division Islamabad letter dated 31.01.2014 duly endorsed vide Section Officer (litigation), Govt. of KPK Environment Department letter No. SO(Lit:)/E.D/11-62/92(Instruction)/1810-19 dated 11.03.2014 that:

“The Forest Guards adjusted in any division due to termination of a project or were surplus in Watershed Management Project, shall as per different courts decisions, for the purpose of seniority shall be considered as if appointed in the date of adjustment in the respective Forest Division.”

(Copy of Minutes of the meeting dated 05.10.2020 & SO(Lit) letter dated 11.03.2014 is attached as annex-A & annex-B)

8. It is incorrect. The seniority list has been prepared and circulated following the rules / law / instructions and no contravention is made.
9. It is incorrect. The post of Forest Guard is Divisional Cadre and his seniority shall be maintained in his parent Division where appointed as provided in the basic Forest Guard Service Rules 1962 and service rules notified vide Govt. of KPK, Forestry, Env; and Wildlife Department Notification No. SO(Estt)FE&WD/ I-465/2021 dated 04.06.2021 clearly reflects that the recruitment on Forest Division basis.

(Copy of Forest Guard Service Rules, 1962 and Notification dated 04.06.2021 is attached as annex-C & annex-D)

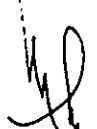
3

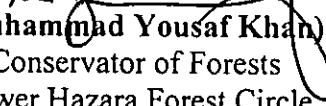
10. It is correct.
11. That the respondents act as per law and rules.
12. Pertains to record.
13. That the respondents also seek permission to raise further points at the time of arguments.

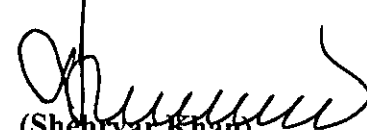
GROUNDS

- a. As per para 7 and 9 above.
- b. It is incorrect as per para 7 and 9 above.
- c. No comments.
- d. As per para 7 and 9 above.

It is therefore, humbly prayed that on acceptance of above reply the instant appeal may graciously be dismissed with costs.


(Kifayatullah Baloch)
Chief Conservator of Forests
Northern Forest Region-II
Abbottabad


(Muhammad Yousaf Khan)
Conservator of Forests
Lower Hazara Forest Circle
Abbottabad


(Sherryar Khan)
Divisional Forest Officer
Galis Forest Division
Abbottabad

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3. Divisional Forest Officer, Galis Forest Division Abbottabad.

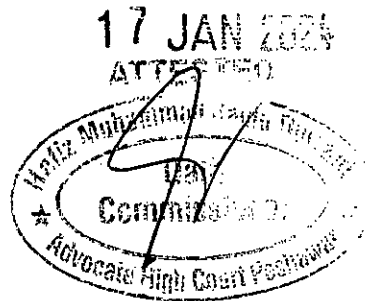
...RESPONDENTS

COUNTER AFFIDAVIT

The undersigned do hereby solemnly affirm and declare on oath that the contents of our written reply in the appeal is correct to the best of my knowledge and record, nothing has been concealed from the honorable tribunal. The answering respondents have been neither placed ex-parte nor their defense struck off /cost.

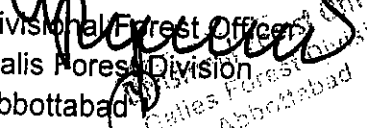

(Shehryar Khalil)

Divisional Forest Officer
Galis Forest Division
Abbottabad



AUTHORITY LETTER

Mr. Junaid Alam SDFO Abbottabad of Galis Forest Division Abbottabad is hereby authorized to attend the Honorable Service Tribunal Peshawar for submission of reply of Appeal No. 910/2022 titled "Abdul Razzaq S/O Muhammad Ishaq versus Chief Conservator of Forests Northern Forest Region-II Abbottabad and others"


Divisional Forest Officer
Galis Forest Division
Abbottabad

(5)

Annex-A

Minutes of the Meeting chaired by Mr. Azhar Ali Khan, Chief Conservator of Forests (CCF) Northern Forest Region-II (NFR-II) held in the Conference Room of Regional Office Abbottabad on 05.10.2020

A meeting with all Conservators and DFOs in NFR-II was convened by the CCF on the following Agenda items (List of participants attached);

1. Improvement of Satisfaction level of Complaints at Pakistan Citizen Portal.
2. Progress made under PC-I "Ten Billion Tree Tsunami Programme Phase-I, Up scaling of Green Pakistan Programme".
3. Prosecution Cases.
4. Forest Conservancy.
5. Any Other Issue.

The discussion and decisions on agenda items are summarized as below;

1. PAKISTAN CITIZEN PORTAL

After welcome remarks by chair, the meeting started with briefing by CF Lower Hazara (Focal Person) of accounts of meeting held under the Chairmanship of worthy Secretary Forestry Environment and Wildlife Department (FE&WD) wherein the dissatisfaction was showed over poor satisfaction level of NFR-II, which was 38% i.e. below the benchmark of 50%. In said meeting such level of satisfaction was generally attributed to indifference and inefficiency of forest staff.

In response the CF Upper Hazara commented that it is not always inefficiency of staff in satisfying the complainer who sometimes irrespective of facts and law, want disposal of complaints in accord with their ambitions. He also referred some complaints which were quite illogical such as a complaint was lodged against staff of Torghar Forest Division who did not register FIR against local MPA for the charges of making a controversial speech in a Jirga. He proposed thorough study of the Manual of Pakistan Citizen Portal for handling these types of complaints.

The decisions taken after deliberations are given below:

- i. No laxity shall be tolerated in disposal of complaints placed at Pakistan Citizen Portal desk board.
- ii. All possible measures shall be taken to resolve the issues highlighted in the complaints.
- iii. Where applicable Urdu language shall be for facilitating the citizens.
- iv. All DFOs shall personally look into Dashboard and improve the performance and satisfaction percentage before 20.10.2020.
- v. Each DFO shall personally go through the instructions of Manual of Pakistan Citizen Portal and be ready to take a test in this regard on next meeting.

Attested
J. M. Khan

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vi. Performance in disposal of complaints shall be one of the basic tool to assess ones performance reflected in annual PERs.

2. PROGRESS MADE UNDER PC-I "TEN BILLION TREE TSUNAMI PROGRAMME PHASE-I, UP SCALING OF GREEN PAKISTAN PROGRAMME"

Less achievement of targets during the Monsoon 2020 was attributed to intensive raining for a short spell followed by rainless period. However, the house assured completion of all the targets of current fiscal year by utilizing maximum planting time of spring 2021. The following instructions were issued;

- i. Proper planning for achieving targets shall be made in hand before 15th November 2020.
- ii. Community organization and conclusion of agreements for various activities shall be completed during November – December 2020.
- iii. By better planning the time for storage of extracted bare rooted plants in nurseries shall be minimized to avoid wilting and ultimate failure in plantations.
- iv. For undertaking immediate corrective measures, the CFs and DFOs shall personally conduct surprise visits of nurseries for ensuring proper extraction, storage and loading of planting stock.
- v. Since sufficient funds are available therefore there is no justification of delayed payments to labours. The CFs must monitor this aspect for resolving issues there and then.
- vi. The CFs must check the tour dairies of the DFOs and asses their performance by field verifications.

3. PROSECUTION CASES

Huge numbers of pending Prosecution Cases reflects inefficiency on the part of DFOs. Therefore all possible measures should be taken for pleading the cause of state in the court of law and getting the cases decided.

4. FOREST PROTECTION

Forest protection against illicit cutting is core duty of the Forest Department, in this pursuit;

- i. The DFOs must ensure presence of their staff at place of their duty.
- ii. The CFs should ensure that the DFOs are properly observing office time and conducting field tours.
- iii. Although government has been requested to help checking timber smuggling through Hazara Motor/Expressway by adopting suitable mechanism in collaboration with NHA but till such decision all possible measures should be undertaken for forestalling and apprehending forest produce smuggling through this route. The chair appreciated initiative of DFO Hazara Tribal who has shifted the barrier to intervene in forest produce transportations through expressway.

*Ahmed
Jinnah
20/11/20*

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- iv. All possible measures shall be taken to curb down the menace of timber smuggling. Special arrangements should be made to check any timber smuggling at each entry point of the Expressway.
- v. All the stumps should be carved with proper number on most durable point. Without any cogent reason, any stump without number shall be presumed as outcome of illegal cutting for the purpose of proceeding against the responsible one.
- vi. The Compartment History Files must invariable be maintained and updated.

5. GENERAL ISSUES

The Chair directed that Minutes of Meeting regarding Seniority List of Forest Guards was issued vide this office No.2069-90/E dated 16/09/2020 wherein some decisions were taken for streamlining the seniority lists of the Forest Guards disturbed due to inter divisional transfers resulting simmering dissatisfactions and triggering litigations. However, as evident from the appeals of Forest guards received in this office, it seems that the decisions have not properly been construed. Therefore the chair clarified that:

- i. The Forest Guards adjusted in any division due to termination of a project or were surplus in Watershed Management Project, shall as per different courts' decisions, for the purpose of seniority shall be considered as if appointed on the date of adjustment in the respective Forest Division.
- ii. However the Forest Guards transferred from any other permanent forest division and working in any other division continuously for three years or more, shall be given seniority from the date of appointment
- iii. The Forest Guards who have passed less than three years but do not want to be transferred back to their parent divisions, shall produce an affidavit that they should be placed at the bottom of the seniority list existing on the date of their arrival in the Division. Entries shall be made in their respective service books accordingly.

The meeting ended with vote of thanks from chair.

Amended
Amir

Sd/-(Azhar Ali Khan)
Chief Conservator of Forests
Northern Forest Region-II
Khyber Pakhtunkhwa
Abbottabad

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No. 3146-70 / 1

Dated Abbottabad the 20/10/2020

Copy for circulation forwarded to the:

1. Chief Conservator of Forests, Central Southern Forest Region-I Peshawar for information.
2. Chief Conservator of Forests, Malakand Forest Region-III Swat for information.
3. All Conservator of Forests Northern Forest Region-II Abbottabad for information and necessary action.
4. Project Director 10 BTAP Peshawar for information and necessary action.
5. All Divisional Forest Officers Northern Forest Region-II Abbottabad for information and necessary action.
6. PS to Secretary Forestry, Environment & Wildlife Department government of Khyber Pakhtunkhwa Peshawar for information.

Chief Conservator of Forests
Northern Forest Region-II
Khyber Pakhtunkhwa
Abbottabad

Checked
J.M.
9/10

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Annex-B

COPY OF LETTER NO.7813-15/E DATED 1.4.2014 FROM CGF, NORTHERN FOREST REGION-II ABBOTTABAD TO THIS OFFICE AND OTHERS

Subject: CRL ORIGINAL PETITION NO.89/11, CMA 309-K/12, CMA 310-K/2012, CRL MAS42-K/2012, 80-K/2012, 87-K/2012, 3-K/2013, CMA 2463/13, CRL M.A 29-K/2013, CMA 131-K/2013/CRL M.A 185-K/2012, 225-2013, 226/2013, 227/2013, CMAS, 224-K/2013, 257-K & 258-K/2013, CRL M.A 263/2013, CRL MA 282 IN CRL ORIGINAL PETITION NO.89/2011 (2013/SCMR/1752).

Memo:
Enclosed please find herewith a copy of Section Officer (Litigation) Government of Khyber Pakhtunkhwa Environment Department Peshawar letter no.SO(LI)/E-D/II-62/92(Instruction)/1810-19 dated 11.3.2014, which is self contained for information, necessary action and strict compliance.

Encl: As above

Sd/-CHIEF CONSERVATOR OF FORESTS
NORTHERN FOREST REGION-II
KHYBER PAKHTUNKHWA
ABBOTTABAD

No 6705-07/B&A dated Abbottabad, the 3 /April, 2014

Copy alongwith its enclosures forwarded to all Divisional Forest Officers in Lower Hazara Forest Circle Abbottabad for information, necessary action and strict compliance.

Encl: As above

CONSERVATOR OF FORESTS,
LOWER HAZARA FOREST CIRCLE,
ABBOTTABAD

*Suggested
Jamil
make a memo
for the undersigned
Cob
09/4/14*

10

GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT
LITIGATION SECTION

SO(Lit)/E.D/11-62/92(Instruction) / 81-17
Dated Peshawar: 11/03/2014.

- 3
1. The Chief Conservator of Forests Region, Central Region-I, Peshawar.
 2. The Chief Conservator of Forests Region, Northern Region-II, Abbottabad.
 3. The Chief Conservator of Forests Region, Malakand Region-III, Saidu Sharif. Swat.
 4. The Chief Conservator Wildlife, Peshawar.
 5. The Director General, Pakistan Forest Institute, Peshawar.
 6. The Director General, Environmental Protection Agency, Peshawar.
 7. The Managing Director, Forest Development Corporation, Hayatabad, Peshawar.

Subject: CRL ORIGINAL PETITION NO. 89/11.CMA 309-K/12 CMA.310-K/2012.Cr.M.As.42-K/2012.80-K/2012.87-K/2012.13-K/2013 CMA 2453/13.Cr.M.A.29-K/2013.CMA.131-K/2013.Cr.M.As.185-K/2012.225-2013.226/2013.227/2013. CMAs.244-K TO 247-K/2013.257-K & 258-K/2013. Cr.M.A. 263/2013.Cr. MA.282 IN CRL ORIGINAL PETITION NO. 89/2011/2013/SCMR/1752).

I am directed to enclose a copy of letter No. SOE-VI/E&AD/1-13/2009 dated: 25/02/2014 (alongwith its enclosures), on the subject noted above received from Section Officer (REG-VI), Establishment Department, Govt. of Khyber Pakhtunkhwa, which is self-explanatory, for strict compliance with the guidelines/principles contained therein.

Encl: As Above.

F. J. Khan
Section Officer (Litigation)

*Checked
J.M.M.
9/3/14*

List of even No. & Date please.

Copy for information to the:

1. Section Officer (Establishment) Environment Department alongwith copy of subject case.
2. PS to Secretary Environment Department.
3. Master file.

Stamp: Section Officer (Litigation) Environment Department
Duty No. 524
Date 31-3-14



4603/14
12/2/14
30
14/2/13-2-14
1328
BC-24650

GOVERNMENT OF PAKISTAN
CABINET SECRETARIAT
ESTABLISHMENT DIVISION

Islamabad, 31 January, 2014
Add: Secy: (Just. Secy)
File No. 376-14
Date: 3-2-2014

OFFICE MEMORANDUM

Subject:

CRL. ORIGINAL PETITION NO. 89/2011, CMA.309-K/2012, CMA.310-K/2012, Crl.M.As.42-K/2012, 80-K/2012, 87-K/2012, 13-K/2013, CMA.2453/13, Crl.MA.29-K/2013, CMA.131-K/2013, Crl.M.As.185-K/2012, 225/2013, 226/2013, 227/2013, CMA. 244-K TO 247-K/2013, 257-K & 258-K/2013, Crl.M.A. 263/2013; Crl. MA, 282 IN CRL. ORIGINAL PETITION NO.89/2011(2013/SCMR/1752)

The undersigned is directed to say that the Honorable Supreme Court of Pakistan had passed judgment on 12-6-2013 on the subject petitions clubbed with a number of other petitions and had ordered that a copy of this judgment be sent to all the Chief Secretaries of the Provinces as well as the Establishment Secretary with the direction to streamline the service structure of civil servants in line with principles laid down in this judgment.

It was expected that afore-mentioned judgment was downloaded by all Ministries/Departments for compliance. However, for the sake of convenience, the following guidelines/principles are highlighted:-

The Honourable Court has declared the following practices as illegal:-

(i) A civil servant, who after passing the competitive exam in terms of the recruitment rules, is appointed on merits, loses his right to be considered for promotion, when an employee from any other organization is absorbed without competing or undertaking competitive process with the backdated seniority and is conferred the status of a civil servant in complete disregard of recruitment rules.

Absorption of a non Civil Servant conferring on him status of a Civil Servant and likewise absorption of a Civil Servant from non cadre post to cadre post without undertaking the competitive process under the recruitment rules.

Introduction of any validation law in the nature of multiple or parallel legislation on the subject of service law.

Appointment of civil servants with or without backdated seniority.

*Checked
J.M.M.
9/1/14*

absorption

Non cadre

(v) The re-employment / rehiring of the retired Civil / Government Servants being violative of the constitution are declared nullity.

The Apex Court has further held that:-

(a) No non-civil servant can be transferred and appointed by way of deputation to any cadre. The procedure provided under Esta Code has been approved by this Court in the case of Mohammad Arshad Sultan.

(b) No civil servant of a non-cadre post can be transferred out of cadre to be absorbed to a cadre post which is meant for recruitment through competitive process.

(c) The procedure provided under ESTACODE requires that a person who is transferred and appointed on deputation must be a govt servant and such transfer should be made through the process of selection. The borrowing Govt has to establish the exigency in the first place and then the person who is being transferred/ placed on deputation in Govt must have matching qualifications and expertise in the field with required experience.

(d) An employee holding a post under any authority or corporation, body or organization established by or under any Provincial or Federal law or which is owned or controlled by Federal or Provincial Government or in which Federal Government or Provincial Government has controlling share or interest, could not be conferred status of a civil servant.

(e) It is settled principle of law that if the right of promotion is not blocked by re-employment then such powers can be exercised, then too in exceptional cases for a definite period. Besides it violates the fundamental rights of the serving civil servants, on account of such rehiring on contract are deprived of their legitimate expectancy of promotion to a higher cadre, which is violative of the provisions of Articles 4, 9 and 25 of the Constitution.

(f) The absorption and out of turn promotion will also impinge on the self respect and dignity of the civil servants, who will be forced to work under their rapidly and unduly promoted fellow officers, those who have been inducted from other services / cadres regardless of their (inductees) merit and results in the competitive exams (if they have appeared for exam at all), hence are violative of Article 14 of the Constitution.

(g) Principle of locus poenitentiae is the power of receding till a decisive step is taken but it is not a principle of law that order once passed becomes irrevocable and past and closed transaction. If the order is illegal then perpetual rights cannot be based on the basis of an illegal order.

*Amended
10/11/2007*

(h) Any backdated seniority cannot be granted to any absorbee and his inter-seniority, on absorption in the cadre shall be maintained at the bottom as provided under the Rules regulating the seniority.

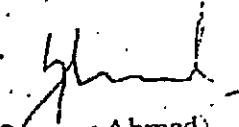
All Ministries / Divisions and Departments / Organizations under them are requested to comply with the judgment of the Apex Court in letter and spirit.

(Muhammad Shakeel Malik)
Joint Secretary

All Ministries / Divisions/Departments

Copy forwarded for information to: -

1. Chief Secretary, Government of the Punjab, Lahore
2. Chief Secretary, Government of Sindh, Karachi
3. Chief Secretary, Government of KPK, Peshawar
4. Chief Secretary, Government of Balochistan, Quetta
5. Chief Secretary, Gilgit Baltistan, Gilgit
6. Chief Secretary, Government of AJ&K, Muzaffarabad


(Naseer Ahmed)
Deputy Secretary

*Attested
Jinnah
9/2/20*

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Annex-C

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FOREST DEPARTMENT FOREST GUARDS (DIVISIONAL) SERVICE RULES, 1962

Secretaries and General Administration Department

under

The 12th February 1962

Where No. SOXIX.22/60—In pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf the Governor of West Pakistan is pleased to make the following rules regulating recruitment to the Forest Department Forest Guards (Divisional) Service and prescribing conditions of service for the persons appointed thereto, namely:—

PART I—GENERAL.

1. *Short title, commencement and application*—(1) These rules may be called the Forest Department Forest Guards (Divisional) Service Rules, 1962.

(2) They shall come into force at once.

2. *Definitions*—In these rules, unless the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

(a) "Commission" means the West Pakistan Public Service Commission;

(b) "Divisional Forest Officer" means the Divisional Forest Officer in charge of a Forest Division;

(c) "Government" means the Government of West Pakistan;

(d) "initial recruitment" means the appointment made otherwise than by promotion or transfer from another Service/Department/post;

(e) "Scheduled Castes" means the Scheduled Castes as determined accordance with the provisions of Article 204 of the late Constitution;

(f) "Service" means the Forest Department Forest Guards (Divisional) Service; and

(g) "Under-Developed Areas" means Quetta and Kalat Divisions, the Special Areas of D. I. Khan and Peshawar Divisions and such other areas as may be declared by Government to be under-developed areas for the purposes of these rules.

PART II—RECRUITMENT

3. *Constitution and composition of the Service*—(1) The Service shall be constituted on Divisional basis, that is a separate service shall be formed for each Forest Division.

(2) The service shall comprise all the posts of Forest Guards in a Forest Division.

4. *Appointing Authority*—Appointments to the service shall be made by the Divisional Forest Officer concerned.

5. *Method of recruitment*—Appointments to the service shall be made by initial recruitment.

6. *Age*—(1) No person, who is less than eighteen years or more than twenty-five years of age, shall be appointed to the service;

Provided that—

(i) for a period of ten years from the coming into force of these rules, the upper age limit in the case of candidates from under-developed areas and Schedule Castes shall be twenty-eight years; and

(ii) in the case of persons whose services under Government have been terminated for want of a vacancy, the period of service already rendered by them shall, for the purpose of the upper age limit under this rule, be excluded from their age.

(2) For the purposes of this rule, age shall be reckoned—

(i) where recruitment is to be made on the basis of a written examination, as on the 1st of January of the year in which the examination is proposed to be held; and

(ii) in other cases, as on the last date fixed for submission of applications for appointment.

*Secretaries
J.M.M.
1962*

7. Qualification—(1) No person shall be appointed to the Service, unless he—
- (a) has passed the ^{or the} Vernacular, Middle or the Anglo-Vernacular Middle Examination or its equivalent examination; and
 - (b) possesses the minimum physical measurements prescribed by Government.

PART III—CONDITIONS OF SERVICE

S. Probation—(1) Persons appointed to the service against substantive vacancies shall remain on probation for a period of two years.

Explanation—Officiating service and any period of service spent on deputation to a corresponding or a higher post may be allowed to count towards the period of probation.

(2) If the work or conduct of a member of the Service during the period of probation has been found to be unsatisfactory, the Divisional Forest Officer may, notwithstanding that the period of probation has not expired, dispense with his services.

(3) On completion of the period of probation of a member of the service, the Divisional Forest Officer may, subject to the provisions of sub-rule (4), either confirm him in his appointment, or if his work or conduct has, in the opinion of the Divisional Forest Officer, not been satisfactory—

- (a) dispense with his services; or
- (b) extend the period of probation by a period not exceeding two years in all, and during or on the expiry of such period, pass such orders as he could have passed during or on the expiry of the initial probationary period.

Explanation I—If no orders have been made by the day following the completion of the initial probationary period, the probation shall be deemed to have been extended.

Explanation II—If no orders have been made by the day on which the maximum period of probation expires, the probationer shall be deemed to have been confirmed in his appointment from the date his probation was last extended or may be deemed to have been so extended.

(4) No person shall be confirmed in the service unless he successfully completes such training and passes such departmental examinations as may be prescribed by Government from time to time.

(5) If a member of the service fails to complete successfully any training or pass any departmental examination prescribed under sub-rule (4) within such period or in such number of attempts as may be prescribed by Government, the Divisional Forest Officer may dispense with his services.

9. Seniority—The seniority *inter se* of the members of the Service shall be determined in accordance with the orders of their appointment; provided that if two or more persons are appointed on the same date or by the same order, their *inter se* seniority shall be determined in accordance with the order of merit assigned by the Divisional Forest Officer.

10. Liability to transfer and serve—Members of the service shall be liable—

- (a) to transfer anywhere in West Pakistan; and
- (b) to serve in any Department of Government or any local authority or other statutory body set up or established by Government.

11. General rules—In all matters not expressly provided for in these rules, members of the service shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to them.

12. Relaxation—Any of these rules may, for reasons to be recorded in writing, be relaxed in individual cases if Government is satisfied that strict application of the rule would cause undue hardship to the individual concerned.

Suggested
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13. *Delegation*—Government may delegate all or any of its powers under these rules to any officer subordinate to it.

14. *Powers of Governor to safeguard rights of Government servants*—Whenever in the application of these rules, the terms and conditions of service of any person serving in connection with the affairs of the Province of West Pakistan, as guaranteed by any law for the time being in force, are likely to be adversely affected, the Governor of West Pakistan, shall make appropriate orders to safeguard the constitutional and legal rights of such persons.

(As amended by S.O. No. 64, dated 7-5-1964.)

*Checked
J.M.D.
20/11/64*

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Annex-D

Annex-VI

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THE GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

NOTIFICATION

Peshawar Dated the 4th June, 2021 3-9-30

SO(EST)FF&WD/1-465/2021 In pursuance of the provisions contained in sub-rule (2) of Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, the Forestry, Environment & Wildlife Department in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department Notification No.SO(FT:II)AD/1-465/88/Vol-IV, dated 26.01.1993, the following further amendments shall be made, namely:

In the Appendix,-

AMENDMENTS

- (i) under the heading "FOREST WING", under sub-heading "PROFESSIONAL POSTS" against Serial No. 3, for the existing entries, the following shall be substituted in the respective columns, namely:

1	2	3	4	5
3.	Sub Divisional Forest Officer (BS-17)	Second class M.Sc /BS (4-years) Degree in Forestry from a recognized University/ Institute.	21 to 32 Years	<p>(a) Twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Forest Rangers (BS-16), with at least five years service as such; and</p> <p>(b) eighty percent by initial recruitment.</p> <p><u>Note:-</u> Candidates, appointed by the initial recruitment, shall be subject to the following conditions:-</p> <p>i) the specialized training of one year duration at Pakistan Forest Institute, shall be mandatory for the officers appointed by initial recruitment, who have obtained degree in Forestry from a recognized University;</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 required of them; and</p> <p>iii) the candidates appointed on initial recruitment shall execute a bond with the Forestry, Environment and Wildlife Department, to the effect that on successful completion of one year mandatory training as specified in clause (i) above, 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>

checked
3/11/21

Approved
Divisional Forest Officer
Peshawar

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				Incurred in connection with their training and education: Provided that the candidates, appointed on initial recruitment, who have obtained degree in forestry from Pakistan Forest Institute, shall be exempted from executing a bond with the Forestry, Environment and Wildlife Department, as required under this clause"; and
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(b) under the heading "FOREST WING", under sub-heading "PART-II SUB PROFESSIONAL POSTS", against Serial No.1, 2 and 3, for the existing entries, the following shall be substituted in the respective columns, namely:

Sl. No.	Post	Qualification	Age	Recruitment
1.	Deputy Ranger (BS-12)			By promotion, on the basis of seniority-cum-fitness, from amongst Foresters (BPS-10), on Forest Circle basis, with at least five years service as such, who have completed mandatory three months training at the Khyber Pakhtunkhwa Forest School Thal Abbottabad other than mandatory one year Forest Guard training: Provided that the Foresters who possess M.Sc/MS/B.Sc Forestry Degree from Pakistan Forest Institute, are exempted from training at Khyber Pakhtunkhwa Forest School Thal Abbottabad.
2	Forester (BPS-10)			By promotion, on the basis of seniority-cum-fitness, from amongst Forest Guards (BPS-8), on the basis of Forest Division level, with at least five years service as such who have qualified the mandatory Forest Guard training at Khyber Pakhtunkhwa Forest School Thal Abbottabad. Provided that the Forest Guards (BPS-8) who have obtained M.Sc/BS/B.Sc Forestry Degree from Pakistan Forest Institute are exempted from training at Khyber Pakhtunkhwa Forest School Thal Abbottabad.
3	Forest Guard (BPS-8)	a) Intermediate in Science from a recognized Board; and b) Physical Fitness: i) Health: the candidate shall be free from all physical and mental disabilities. ii) Height: 5'feet-6" inches (minimum). iii) Chest Size: 32 -34, inches (minimum); and	18 to 25 years	a) Seventy Percent by initial recruitment on Forest Division basis; b) Thirty Percent by initial recruitment, on Forest Range basis from amongst the bonafide communities of the concerned Forest Division, who have user/rights/owners in the Designated Forests. Note: (i) The selected candidates shall have to undergo one year mandatory pre-service training as stipendary student at Khyber Pakhtunkhwa Forest School Thal Abbottabad and the posting order of the candidates shall be issued only after successful completion of the said training;

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*Amir
Chief Officer
Forest Division*

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		iv) Marathon race: Candidate shall qualify Marathon race of 3-km within 12 minutes.		Provided that the candidates, who have obtained MSc/BS/BSc Degree in Forestry from Pakistan Forest Institute are exempted from training at Khyber Pakhtunkhwa Forest School Thal Abbottabad; and (ii) In case of default or leaving the job before expiry of five years, the selected candidate shall refund all the expenses incurred on the training."
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Secretary
Govt of Khyber Pakhtunkhwa
Forestry, Environment & Wildlife Department

Endst: NO: SO (Estt)/Env/ I-465/2021: Dated Peshawar the, 4th June, 2021.

Copy is forwarded for information to: -

- 1) All Administrative Secretaries, Govt: of Khyber Pakhtunkhwa.
- 2) Accountant General, Khyber Pakhtunkhwa.
- 3) Chief Conservators of Forests, CSFR-I, Peshawar, NFR-II, Abbottabad and MRF-III, Malakand at Swat.
- 4) All Conservators of Forests, Forest Department, Khyber Pakhtunkhwa.
- 5) All Deputy Conservators/Divisional Forest Officers, Khyber Pakhtunkhwa Forest Deptt:.
- 6) Registrar Peshawar High Court/Service Tribunal, Khyber Pakhtunkhwa.
- 7) Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- 8) Director Budget & Accounts Cell, FE&W Department, Peshawar.
- 9) Assistant Legal Drafter-I, Law Department, Peshawar w/r to his letter No. ALD-I/Legis: 1(3)02, dated 19.4.2021.
- 10) Librarian, Government of Khyber Pakhtunkhwa, Administration Department.
- 11) Manager Government Printing Press, Khyber Pakhtunkhwa, Peshawar for publication in the Official Gazette with the request that twenty printed copies of the notification, when published may be furnished to this department.
- 12) PS to Secretary, FE&W Department Khyber Pakhtunkhwa.
- 13) Master file.
- 14) Concerned file.

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Attested
Divisional Forest Officer
Gulistan Forest Division
Abbottabad

[Signature]
SECTION OFFICER (ESTT)