

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

APPEAL NO. 1407 /2017

**MUHAMMAD FARASH KHAN VS FOREST DEPTT:**

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**APPELLANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

**MOBILE NO.0345-9383141**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

**APPEAL NO. 1407/2017**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1392

Dated 08/12/17

Mr. Muhammad Farash Khan, Forest Guard,  
O/O Sub Divisional Forest Officer,  
Balakot Forest Sub Division, Mansehra ..... **APPELLANT**

**VERSUS**

- 1- The Chief Conservator of Forests, Central southern Forest Region-I, Khyber Pakhtunkhwa, Peshawar.
- 2- The Conservator of Forest, Kaghan Forest Circle at Abbottabad.
- 3- The Divisional Forest Officer, Kaghan Forest Division, Jabba.

..... **RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 23.11.2017 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR FIXATION OF PAY AND OTHER BENEFITS FROM THE DATE OF FIRST APPOINTMENT i.e. 17.9.1991 INCLUDING REGULARIZATION OF BREAK PERIOD I.E. FROM JULY 2001 TILL 9.1.2003 HAS BEEN REGRETTEED ON NO GOOD GROUNDS**

**PRAYER:**

**That on acceptance of this appeal the respondents may be directed to count the previous service of the appellant towards regular service i.e. pay fixation and other benefits may be allowed to appellant w.e.f. 17.9.1991 instead of 9.1.2003 including regularization of break period i.e. from July 2001 till 9.1.2003. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.**

**R/SHEWETH:**

**ON FACTS:**

1. That appellant was appointed as Forest Guard through proper recommendation of the Departmental Selection Committee vide Divisional Forest Officer Upper/Lower Kaghan Forest Division office order No. 16 dated 17.9.1991 and had performed his duties quite efficiently, honestly & whole heartedly till 30-06-2000. Copies of the appointment order and service book are attached as annexure ..... **A & B.**

Re-submitted to -day  
and filed.

Filed to-day  
Registrar  
12/17

Registrar  
12/17

2. That appellant performed his duties for more than three years wherein the Sern Kaghan Forestry Project became completed and appellant was issued termination notice, upon which appellant filed appeal before Divisional Forest Officer but appellant was not properly adjusted and worked till December 2001 without salary.
3. That The Conservator for Forest, Sern Kaghan Forestry Circle Abbottabad respondent No.2 conveyed through letter no. 326/DA dated 26-06-2001 to the Chief Conservator Forest Peshawar respondent No.1 that all the non-adjusted staff may be referred to Surplus Pool that they may further be adjusted in the nearby future. Copy of the letter dated is attached as annexure ..... **C.**
4. That as The Sern Kaghan Forest Circle came into being the appellant along with his other colleagues were not adjusted rather employees of Social Forestry Project Mansehra were adjusted on the vacant posts.
5. That finally the appellant and his other colleagues were regularly adjusted against the post of Forest Guard in the respondent Department vide order dated 9.1.2003 and since then the appellant is performing performing his duties quite efficiently and up to the entire satisfaction of his superiors. Copy of the order dated 7.6.2003 is attached as annexure ..... **D.**
6. That Recently the appellant came into know that the previous service of the appellant has not been regularized nor the benefits of his break period has been granted to the appellant upon which the appellant preferred Departmental appeal before the respondent No.1 vide dated 11.8.2017. That it is pertinent to mention that In 2010, employees of the Water Shed Circle were terminated from service but later on they were readjusted on their original post and were also paid for the break period. Copy of the Departmental appeal is attached as annexure ..... **E.**
7. That vide appellate order dated 2.10.2017 the Departmental appeal of the appellant has been regretted on no good grounds. Copy of the impugned appellate order dated 23.11.2017 is attached as annexure ..... **F.**
8. That appellant feeling aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.


**GROUND:**

- A- That by not counting/including the project service served by the appellant in the respondent Department is against the law, facts and norms of natural justice.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That similar nature case title Mian Siraj Vs Govt: of KPK has been decided by this august Tribunal vide judgment dated 2.7.2010 and as such the same was implemented by the Department, therefore under the principle of consistency reported in 2009 SCMR page 1 the appellant is also entitled for the grant of similar relief. Copies of the judgment and implementation order are attached as annexure ..... **G and H.**
- D- That the respondents acted in arbitrary and malafide manner by not counting the project service of the appellant towards regular service in terms of pay fixation, other benefits and regularization of break period.
- E- That the action and inaction of the respondents is discriminatory and based on malafide.
- F- That appellant is fully entitled for fixation of pay and other benefits including regularization of break period but in spite of that the respondents are not willing.
- G- That under Article 38 (e) of the Constitution of Pakistan 1973, State is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as pray for.


Dated: 29-11-2017

**APPELLANT**

  
**MOHAMMAD FARASH KHAN**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**

  
&  
**MUHAMMAD MAAZ MADNI**  
**ADVOCATES**

## BETTER COPY OF ANNEXURE-A

Consequent upon the Departmental Selection Committed constituted vide this office order no. 6 dated 8.8.1991 the following persons having qualified the Test/Interview are hereby appointed as Forest Guard on Contract basis, as provided in the Ministry of Planning and Development Division Islamabad letter No. 4 (35) 91 dated 6.8.1991, in Revised Basic Pay Scale No. 2 (Rs. 945-32-1425) with usual allowance as admissible under the rules against the existing vacancies in Development Project titled "Afforestation and Introduction of Social Forest in Hazara" with effect from the date of their arrival.

5. Muhammad Farash Khan s/o Abdul Qayum Khan of Village and Post Office Tarnwai Tehsil and District Abbottabad.

Their appointment is subject to the following condition:

1. The posts are purely temporary and shall cease to exist on the expiry of the project. Their service/ employment in Forest Department is therefore, purely temporary and as such their services can be terminated in accordance with the Services and General Admin: Department Notification No. SO-(VII-1-8166 at any time irrespective of the fact that they are holding the charge of the post other than that for which they are originally recruited.
2. They will remain on probation for a period of two years (extendable by one year) during which their service can be terminated at any time with one month prior notice.
3. They will be governed by such rule, regulations or orders relating to any allowances etc as are applicable to the class of service to which they belong.
4. The incumbents shall have no claim for transfer to any other project/Division or regular service.

5. The incumbent shall produce the following documents:
  - i. Educational Certificates attested by the Gazetted officer.
  - ii. Medical Fitness from the Medical Superintendent of Distt: Head Quarter Hospital.
  - iii. Domicile Certificate.
  - iv. Character Certificate from two responsible persons not being the relatives of the candidate, duly countersigned by attested by the Assistant Commissioner/Sub-Divisional Magistrate.
6. If they wish to resign, they will have to serve one month's notice or remit an amount equal to one month salary in lieu thereof.
7. They will join the duty at their own expenses.
8. The incumbent fail(s) to report arrival for duty within (7) days of the receipt of this letter the appointment shall stand cancelled.

Sd/-Haider Zaman  
Project Director/D.F.C,  
Afforestation and introduction of  
Social Forestry in Hazara,  
Abbottabad.

No. 355-59/HSF,

Copy forwarded to:

1. The Conservator of forest watershed Management Circle, Abbottabad for favour of information please.
2. All concerned officials for information necessary action/compliance.
3. Head Clerk/Divisional Accountant for information and necessary action.
4. Personnel file of concerned officials for record.

Project Director/DFO  
Afforestation and Introduction  
Of Social Forestry in Hazara,  
Abbottabad.

4. The incumbents shall have no claim for transfer to any other Project / Division or regular services. They will be governed by the rules, regulations or orders relating to allowances etc. as are applicable in the class of service to which they belong.

2. They will remain on probation for a period of two years (explained by one year) during which their conduct can be terminated at any time within one month of the date of their appointment. In lieu of probation, if they fail to perform their duties to the satisfaction of the authority concerned, they shall be liable to be removed from service.

3. The posts are purely temporary and shall cease to exist on the expiry of the project. Their service/employment in forest department is therefore, purely temporary and as such their services can be terminated in accordance with the Forest and Range Department Notification No. SO-1111-1-103 at any time irrespective of the fact that they are holding the charge of the post other than that for which they are originally recruited.

Their appointment is subject to the following conditions:

1. Their Farooq Afsar s/o Dilber Afsar of Village, Sheeran cum Kumbhar Teh: and Dist: Abbottabad.
2. Syed Ahmad Hussain Shah s/o Syed Nazamul Shah of Village Fort, Post Office, Teh: and Dist: Abbottabad.
3. Mr. Mohammad Shehar s/o Mr. Mohammad d Village Karamat Post Office Gaziabad (Batal) Teh: and Dist: Manshera.
4. Mohammad Haroon s/o Shahzaman of Village and Post Office Farwat Teh: and Dist: Abbottabad.
5. Mohammad Farash Khan s/o Abdul Gyon Khan of Village and Post Office Tashana, Teh: and Dist: Mansehra.

effect from the date of their arrival. " Attraction and Introduction of Social Forestry in Hazara " in the rules against the existing vacancies in Development Project. (No: 945-12-1425) per month with usual allowances as admissible under No. 4(2) 91 dated 6.8.1991, in revised Basic Pay Scale No. 2 in the Ministry of Planning and Development Division Islamabad after are hereby appointed as Forest Guard on contract basis, as provided 8.8.1991. The following persons having qualified the test/Interview Selection Committee constituted and the order No. 945-12-1425/91 are hereby recommended for the post of Forest Guard in the Forest Department in Hazara. A list of names of Forest Guards and their details is enclosed herewith for the information of the Government of Punjab.

A-4

- (9)
- (8)
5. The incumbents shall produce the following documents :
- i. Educational Certificates attested by the Gazetted Officer.
  - ii. Medical Fitness from the Medical Superintendent of Distt. Head Quarter Hospital.
  - iii. Domicile Certificate.
  - iv. Character Certificate from two reasonable persons not being the relatives of the candidate, duly countersigned at least by the Assistant Commissioner /Sub Divisional Magistrate.
6. If they wish to resign, they will have to serve one month's notice or remit an amount equal to months salary in lieu thereof.
7. They will join the duty at their own expenses.
8. The incumbents fail(s) to report arrival for duty within (7) days of the receipt of this letter the appointment shall stand cancelled.

Sd/-Haider Zaman  
Project Director / D.F.O  
Afforestation and Introduction  
of Social Forestry in Hazara  
Abotabad

No. 353-59/MSF,

Copy forwarded to :-

1. The Conservator of Forests Watershed Management Circle, Abotabad for favour of information please.
2. All Concerned Officials for immediate necessary action/ compliance.
3. Head Clerk / Divisional Accountant for information and necessary action.
4. Personal File of concerned Officials for record.
5. Office Order file.

Project Director / D.F.O  
Afforestation and Introduction  
of Social Forestry in Hazara  
Abotabad



Note:—The entries in this page should be renewed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

Heirs,

- 1.
- 2.
- 3.

Verification Roll No. dated \_\_\_\_\_ received back \_\_\_\_\_

Left thumb-impression.

Qualification	Date	Qualifications	Date
English		First Arts	
Pashtu		B. L. or B. A.	
Urdu		Pleadership examination	
Plan-drawing		Training School Final examination	
Finger print		Other qualifications—	
Drill instructing			
Court duties			
Reserve duties			

1. Name *Mr. Mohammod Farash Khan*

2. Race *Swati*

3. Residence *village and P.O Talhata Tehsil Balakot Distt. Muzaffargarh*

4. Father's name and residence *Abdul Qayum Khan of village and P.O Talhata Tehsil Balakot Distt. Muzaffargarh*



5. Date of birth by Christian era as nearly as can be ascertained 4-1-1973

6. Exact height by measurement *5-5*

7. Personal marks for identification *Scar on right cheek*

8. Left hand thumb and Finger impression of (non-gazetted) officer

Little Finger  Ring Finger 

Middle Finger  Fore Finger 

Thumb 

9. Signature of Government servant.

10. Signature and designation of the Head of the Office, or other Authority

*[Signature]*  
*[Signature]*

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
Forest Guard in BPS No. 2 (R. 945-32-1145)	Temp.			Rm 945/		18/9/91	[Signature]

9	10	11	12	13		14	15
				Leave			
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
Signature and designation of the head of the office or other attesting officer in attestation of column 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Period	Government to which debitable	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
[Signature] Project Director, DFO Attestation of Introduction of Forest Guard in Hilera District			Appointed as Forest Guard in BPS No. 2 (R. 945-32-1145) on Contract Basis vide Project Director, DFO Hazare Sarda Forest Project, Alhad Jgo No. 14 dt. 18-9-91 and reported arrival on 18/9/91				
[Signature] Attestation of Introduction of Forest Guard in Hilera District						Services from 18-9-91 to 31-12-1991 verified by entry bills.	
			Dismissed from Forest Guard's cause in Alhad Forest School 7101 with this order, dt. 20-6-92 - 59/1154/92-3-92 + reported deposition on 14.6.92				



1	2	3	4	5	6	7	8
Name of post	Whether substantive or official and whether permanent or temporary	If officiating (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional pay for officiating	Other employment filling the term "Pay"	Date of appointment	Signature of Government servant
P/S - BAs-S	4		B/1624	1/93		6	
P/S - BAs-S	1		B/15321				

Formed from Designation Post Division  
B/1624 on 20/11/91. (P.S.)

9	10	11	12	13	14	15
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination (such as appointment, promotion, transfer, dismissal, etc)	Reason of termination	Signature of the head of the office or other attesting officer	Allocation of period of leave on average pay pro rata for which leave salary is payable to another Government servant taken Period to which Government debtible	Signature of the head of the office or other attesting officer	Reference to any record of punishment or censure, or award or prize of the Government servant.
32/96		Approved annual	32/96	Pay over/See with Govt. A New pro Finance Dept. Not. No. RD (PRG) 1-1/91 dt 20/6/91		
Approved annual	32/96	Approved annual	32/96			

Transferred to State Region  
Forestry Dept. Wilder Side Secretary to Govt. of Maharashtra  
Dep. Director, Wildlife Dept. Maharashtra vide No. S1 (P-5) 120/1-150/93  
204-11-75 in reported off/leave on P.S.  
Home mem of S-1-1884  
32/96

(9)

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term 'Pay'	Date of appointment	Signature of Government servant
F/G in B.P.S-5 (1400-66-2390)	-	-	Rs. 1730/-			12/1/97	
-	-	-	Rs. 1796			1/1/98	
-	-	-	Rs. 1862/-			1/1/99	
Promoted in P.S-5 (2100-100-5100)	-	-	Rs. 2800/-			01/07/2003	
-	-	-	Rs. 2918			12/11/03	

9	10	11	12	13		14	15
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is payable to another Government		
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	Period	Government to which debitible	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
Allowed increment		12/30/97				7/12/97	verified true.
Divisional Forest Officer Lower Lagan Forest Division BALAKOT						1-1-98	
Allowed increment		30/1/98				21/12/98	
Divisional Forest Officer Lower Lagan Forest Division BALAKOT						1-1-99	
Allowed increment		30/1/99				21/12/98	
Divisional Forest Officer Lower Lagan Forest Division BALAKOT						01-07-1999	
Promoted in Revised pay scale vide Govt. of W.P. Finance Deptt. Notification No. FD(PRC) 111 dated 27.10.03						01-07-1999	
Allowed increment		01/07/2003				07/06/2003	
Adjusted in Revised Forest Division Revised scale of the vacant post in case of Office No. 12 S.O. 07/06/2003, The						07/06/2003	



12

1	2	3	4	5	6	7	8
Name of post	Whether subaltern or officiating and whether permanent or temporary	If officiating, (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C, S. II.	Pay in substantive post	Additional pay for officiating	Other emoluments falling under the term "Pay"	Date of appointment	Signature of Government servant
Plumbe/BK BPS-7 1333a-1st-50361				Rs. 5884/-		24/6/2010	
				Rs. 5884/-		11/12/2010	
Former Guard in BPS-7 (5880-390-15400)				Rs. 9649/-		11/12/2011	
				Rs. 9969/-		11/12/2011	
				Rs. 10284/-		11/12/2012	
				Rs. 10607/-		11/12/2013	

9	10	11	12	13	14	15	
Signature and designation of the head officer or officer in attendance of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc)	Signature of the head of the office or other attesting officer	Notice and date of termination of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is payable to Government	Signature of the head of the office or other attesting officer	Reference to any record pertaining to award, or reward or prize of the Government servant.
Signature of the head of the office or officer in attendance of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc)	Signature of the head of the office or other attesting officer	Notice and date of termination of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is payable to Government	Signature of the head of the office or other attesting officer	Reference to any record pertaining to award, or reward or prize of the Government servant.
Signature of the head of the office or officer in attendance of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc)	Signature of the head of the office or other attesting officer	Notice and date of termination of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is payable to Government	Signature of the head of the office or other attesting officer	Reference to any record pertaining to award, or reward or prize of the Government servant.
Signature of the head of the office or officer in attendance of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc)	Signature of the head of the office or other attesting officer	Notice and date of termination of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is payable to Government	Signature of the head of the office or other attesting officer	Reference to any record pertaining to award, or reward or prize of the Government servant.

C (13)

OFFICE OF THE CONSERVATOR OF FORESTS, SIRAN KAGHAN FOREST CIRCLE  
ABBOTTABAD.

To,

The Chief Conservator of Forests,  
Territorial Conservation, NWFP,  
Peshawar.

No. 326 /PA dated Abbottabad the 26/06/2001.

Subject :- STAFF OF SIRAN KAGHAN FORESTRY PROJECT.

It is submitted that the following staff of Siran Kaghan Forestry Project could not be adjusted in Siran Kaghan and Abbottabad Circle, due to non-availability of the posts. It is requested that they may be placed in surplus pool so that they can be adjusted later on against the vacant posts.

S.#	Name	BPS	Date of Appointment	Place of appointment
<b>JUNIOR CLERKS</b>				
1.	Abdul Rashid	5	16.11.1998	Lower Kaghan Division Balakot
<b>DRIVERS</b>				
2.	Muhammad Yaqoob	7	02.07.1979	Unhar W/shed Division Mansehra
3.	Muhammad Javeri	6	15.05.1982	Siran Forest Division Mansehra
4.	Abdullah	7	05.12.1982	Unhar W/shed Division Mansehra
5.	Arwarzeb	4	12.03.1988	Siran W/shed Division Mansehra
6.	Mushtaq Hussain	6	12.07.1988	Lower Kaghan Division Balakot
7.	Muhammad Azeem	4	20.09.1988	P. M. W/shed Mgt. A-Abad
8.	Muhammad Flaz	4	14.01.2000	Upper Kaghan Division Balakot
<b>CLEARNER</b>				
9.	Abdul Jalli	2	15.11.1982	Unhar W/shed Division Mansehra
<b>NAIB QASID</b>				
10.	Muhammad Javed	1	16.10.1990	Upper Kaghan Division Balakot
11.	Jarvaiz	1	03.03.2000	Lower Kaghan Division, Balakot.
<b>CHOWKIDARS</b>				
12.	Shamraiz	2	08.07.1987	Siran W/Shed Division, Mansehra.
13.	Muhammad Afzal	1	01.10.1987	Upper Kaghan Division, Balakot.
14.	Altaf Hussain	1	16.12.1987	Afforestation Division, Mansehra.
15.	Muhammad Tamraz	1	14.12.1988	Upper Kaghan Division, Balakot.
16.	Abdul Laili	1	02.11.1989	Upper Kaghan Division, Balakot.

**ATTESTED**

*[Signature]*



(15) 2  
 (13/A)

17	Muhammad Javed	1	15.10.1990	Upper Kaghan, Division, Balakot
18	Far Zaman	1	16.10.1990	Upper Kaghan, Division, Balakot
19	Imdad Salam	1	15.12.1990	Lower Kaghan Division Balakot
20	Mahir Hussain	1	16.03.1996	Lower Kaghan Division Balakot
21	Jehanzab-ll	1	16.06.1998	Upper Kaghan, Division Balakot
22	Zabool	1	14.07.1999	Lower Kaghan Division Balakot
<b>DAK RUBBER</b>				
23	Qasim	1	15.10.1990	Upper Kaghan Division Balakot
<b>MALI</b>				
24	Gul Khatib	1	03.04.1993	Upper Kaghan Division, Balakot
25	Muhammad Tariq	1	19.08.1998	SKFP, Abbottabad
<b>BUDDER</b>				
26	Mahawar Khan	5	20.11.1985	Siran Wished Division, Mansehra
<b>SWEEPERS.</b>				
27	Mahroof	1	12.09.1993	Upper Kaghan Division, Balakot
28	Khurshid	1	00.08.1999	Lower Kaghan Division, Balakot
<b>FOREST GUARDS</b>				
29	Shah Alam	5	19.05.1990	Upper Kaghan Division Balakot
30	Rahullah	5	17.09.1990	Lower Kaghan Division Balakot
31	Mansoor Hussain	5	10.09.1990	Lower Kaghan Division Balakot
32	Muhammad Saleem	5	20.02.1991	Upper Kaghan Division Balakot
33	Hazrat Afeen	5	01.03.1991	Upper Kaghan Division Balakot
34	Muhammad Farash	5	18.09.1991	Social Forestry, Mansehra
35	Shah Nawaz	5	08.07.1996	Lower Kaghan Division, Balakot
36	Faisal	5	18.09.1996	Upper Kaghan Division Balakot
37	Makhar Hussain	5	10.10.1996	Lower Kaghan Division Balakot
38	Dawood	5	14.02.2000	Lower Kaghan Division Balakot

22/12/16  
**ATTESTED**

Conservator of Forests,  
 Siran Kaghan Forest Division,  
 Abbottabad

**BETTER COPY OF ANNEXURE-D**

OFFICE ORDER NO. 125 DATED 07/06/2003 BY JALIL UD DIN,  
OFFICE OF FORESTS, ABBOTABAD CIRCLES, ABBOTTABAD.

Mr. Muhammad Farash, Forest Guard declared surplus vide conservator of forest/FD, former Siran Kaghan Forest Circle, Abbotabad letter No. 326/FA, dated 26-06-2001 is hereby adjusted in Kaghan Foreest Division, Balakot against the vacancy of due to retirement of Mr. Muhammad Haroon, Forest Guard w.e.from 01-07-2003.

Then intervening period from the date of temporary date of arrival is hereby treated as Extra Ordinary Leave without pay.

Sd (Jalal ud Din)  
Conservator of Forest,  
Abbottabad Circle,  
Abbottabad.

Copy forwarded to:

1. The Divisional Forest Officer, Kaghan Forest Division, Balakot for information and necessary action.
2. Mr. Muhammad Farash, Forest Guard for information and compliance.

Conservator of Forest,  
Abbottabad Circle,  
Abbottabad.

D-14

ORDER NO. 125 DATED 07/5/2005 BY THE DIRECTOR, ARBORETUM, RAIPUR

Mr. Subramanian Pandey, Forest Officer, deputed to the  
Conservation of Forests/IV, former Senior Forest Officer, I, S.  
No. 526/IV, No. 26.E.2004 is to be posted to  
in the Division, Raipur, subject to the approval of  
the Government of Madhya Pradesh, Government of India,  
Ministry of Environment and Forests.

The intervening period of the absence of Mr. Subramanian Pandey  
is to be covered by Mr. Subramanian Pandey, Forest Officer, I, S.  
No. 526/IV, No. 26.E.2004.

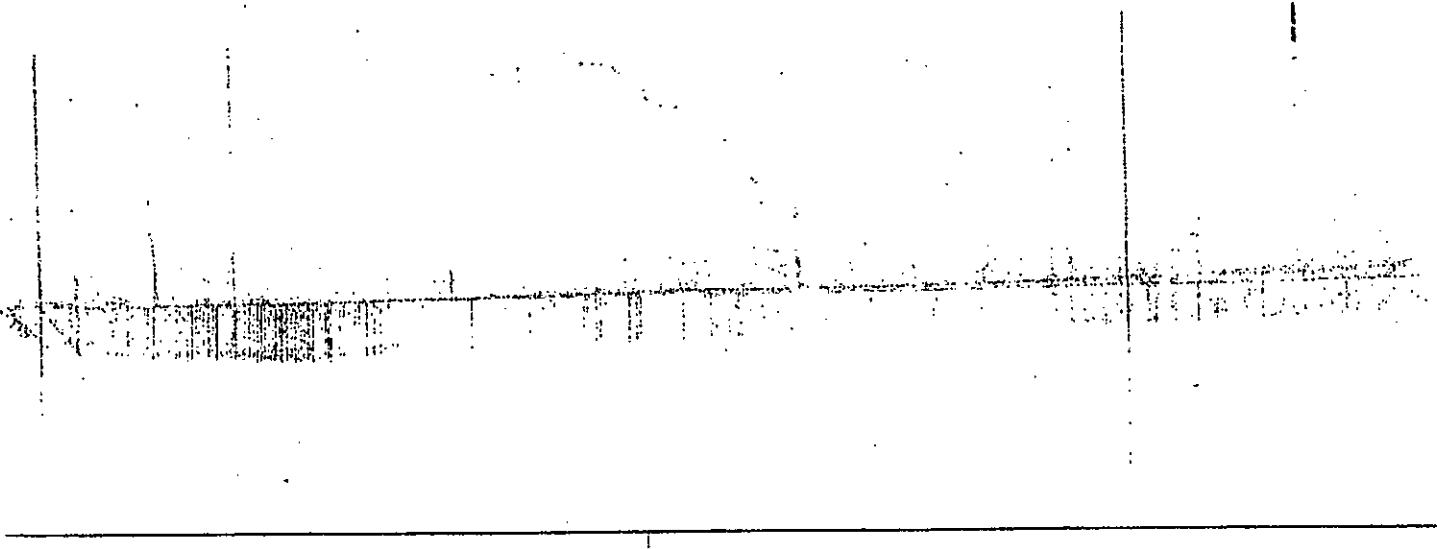
Dated: 07-05-2005  
Conservation of Forests/IV,  
Raipur (M.P.).

- ✓ 1- Mr. Subramanian Pandey, Forest Officer, Raipur, M.P.
- ✓ 2- Mr. Subramanian Pandey, Forest Officer, Raipur, M.P.

*Ex-125*

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*[Handwritten initials]*



To

The Chief Conservator (Forest),  
Khyber Pakhtunkhwa, Peshawar.

E-15

Subject: **APPEAL FOR REGULARIZATION OF SERVICE BREAK  
PERIOD FROM JULY 2000 TO 2003**

Respected Sir,

Most respectfully it is stated that:

1. I, was appointed as Forest Guard, through proper recommendation of the Departmental Selection Committee vide Division Forest Officer Upper/Lower Kaghan Forest Division office order no. 04 dated 04-07-1996 and performed his duties quite efficiently, honestly & whole heartedly till 30-06-2000.
2. I, performed my duties for more than 05 years the Sern Kaghan Forestry Project became completed and I was issued termination notice, upon which I filed appeal before Divisional Forest Officer but I was not properly adjusted and worked till December 2001 without salary. (Damage Report is attached as Annexure-A)
3. The Conservator for Forest, Sern Kaghan Forestry Circle Abbottabad conveyed through letter no. 326/DA dated 26-06-2001, the Chief Conservator Forest Peshawar, that all the non-adjusted staff may be referred to Surplus Pool that they may further be adjusted in the nearby future which was not responded.
4. As The Sern Kaghan Forest Circle came into being I along with other colleagues were not adjusted rather employees of Social Forestry Project Mansehra were adjusted on our posts. The record of which is attached herewith.
5. I and my other colleagues were adjusted in the Department in the year 2003 and since then I am performing my duties quite efficiently. Recently, I came into know that there is breakage in my service as the period from July 2001 till adjustment in 2003 is converted into Extra Ordinary Leave without Pay, irrespective of the fact that most of the similar project employees of the same cadre who were adjusted and are performing duties have availed the benefits which is available in the office.
6. In 2010, employees of the Water Shed Circle were terminated from service but later on they were readjusted on their original post and were also paid for the break period.


7. I along with my other colleagues have performed our duties in the break period from July 2000 to 2003 but were neither paid for the period nor was our break period calculated in the service for regularization.
8. I am performing my duties in the Department from the last 26 years but till date I was not paid for the break period i.e. from July 2000 to 2003.

It is therefore, most kindly requested to regularize our gap/break period from July 2000 to 2003 which is converted in Extra Ordinary Leave without Pay and also issued orders for payment of the areas from July 2000 to 2003 and oblige please.

Obediently Yours,

محمد فراش خان

**MOHAMMAD FARASH,**  
Forest Guard.

Chief, Conservator of Forests Central Southern Forest Region-I Khyber Pakhtunkhwa Peshawar		Shami Road Peshawar Phone # 091-9212177 Fax: # 9211478 E-mail: ccfforests.pesh@gmail.com
No. 1209 /E	Dated Peshawar the	10/2017

F-17

To

The Divisional Forest Officer  
Kaghan Forest Division Jabba  
Mansehra




Subject: APPEAL FOR REGULARIZATION OF SERVICE BREAK PERIOD FROM JULY 2000 TO 2003.

Memor:- Reference this office letter No. 716/E, dated 18/09/2017.


B/ Enclosed please find herewith a copy of an appeal dated nil preferred by Muhammad Farash Forest Guard for information and necessary action with the remarks that the same is not worth consideration at this belated stage and hereby rejected. Please inform the applicant about factual position of the case under intimation to this office.

Encl: As above.

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

No. 2088 /E dated Jabba the 23 /11/2017.

Copy forwarded to Muhammad Farash Forest Guard  
c/o Sub Divisional Forest Officer, Balakot Forest Sub Division for  
information.

  
Divisional Forest Officer  
Kaghan Forest Division  
Jabba

9-20  
9-18

BETTER COPY OF ANNEXURE

(G)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

SERVICE APPEAL NO. 318/2009

Date of institution.....21.02.2009

Date of Decision.....02.07.2010 ✓

Mian Siraj, Driver, School of Nursing, Kohat.

Village & P/O Bilitang Tehsil and District Kohat.....Appellant

VS

- 1- Government of NWFP (K.P.K) through Secretary Health Department Peshawar.
- 2- Director provincial Health Services Academy, Peshawar.
- 3- Accountant General, NWFP (K.P.K), Peshawar.
- 4- District Accounts Officer, Kohat.....Respondents

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNAL ACT 1974 FOR FIXATION OF PAY WITH EFFECT FROM THE DATE OF APPOINTMENT AS PER NOTIFICATION DATED 30-7-2008 AS IS DONE TO THE OTHER EMPLOYEES AGAINST WHICH APPELLANT SUBMITTED HIS DEPARTMENTAL APPEAL DATED 10-11-2008 BUT THE SAME IS NOT RESPONDED DESPITE LAPSE OF 90 DAYS.

Mr. Waqar Ahmad Seth, Advocate

.....For appellant

Mr. Sher Afghan Khattak, Addl: Advocate General

.....For Respondents

Mr. Sultan Mehmood khattak

.....Member

Mr. Noor Ali Khan

.....Member

**JUDGMENT**

SULTAN MEHMOOD KHATTAK MEMBER:- According to the appointments made in the appeal, the appellant namely Mian Siraj was appointed as Driver in Family Health Project in the year 1994. On winding up of the said project on 31-12-1999, the Finance Department created posts

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*[Signature]*

*[Signature]*

of Drivers on fixed pay of Rs. 2500/- per month, without any break. The appellant was accordingly appointed as Driver Nursing School Kohat vide order dated 19-7-1999. At that time number of other employees were appointed on regular basis but the same was discriminated. Respondent No. 1 vide letter dated 21-1-2008 for the fixed employee namely Sahib-Ur-Rehman Driver into regular who is similarly placed employee like appellant, therefore respondent is requested for conversion of all other Drivers into regular pay scales. The Finance Department vide letter dated 12.5.2008 gave concurrence for conversion for the posts of Drivers on fixed pay into pay scale No.1 and in accordance with the said concurrence. Notification was issued by respondent. No.2 on 17-5-2008, wherein the appellants name appeared at S. No. 7, but with immediate effect, whereas pay fixation of other employees was done with effect from the date of appointment. Feeling aggrieved the appellant submitted his departmental appeal on 09-11-2008, but with no response within the stipulated period, hence this appeal with the prayers that on acceptance of the appeal the respondents be directed to fix the pay of the appellant from the date of initial appointment in dated of 12-5-2008 along-with arrears to bring it at par with the length of service with such other relief as may deem fit-in the circumstances of the case may also be granted.

2. The respondents have filed their written reply, wherein they refuted the post of the appellant and stated that the case of the appellant is different from the case of other employees and that he was appointed in Family Health Project on 6-12-1994 till the project life i.e. 31-12-1999. He was adjusted as Driver at Nursing School on 14-2-2000 as per entry made in his service book on fixed pay of Rs. 3500/-P-M. Moreover he was brought to regular BPS-4 vide Finance Department's Notification dated 12-5-2008, with immediate effect. As such he is not entitled to the relief claimed by him.

Arguments heard and record perused.

3. As <sup>no</sup>doubt the appellant was appointed as Driver in the Family Health Project on 06-12-1991 but before winding up the project on 31-12-1999, he was appointed as Driver in Nursing School Kohat vide office order dated 19-7-1999. As per entry in the service book the appellant was later on adjusted as Driver at fixed pay @ Rs. 2500/- per month vide order dated 14-2-2000. In the light of Finance Department's letter dated 12-5-2008, the post of the appellant was

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reverted to BPS-4 on regular side, vide Notification dated 17-5-2008 of respondent No.2, but with immediate effect. The main contention of the appellant is that in the light of Finance Department's letter dated 30-7-2008 he is entitled is fixation of his pay from the date of his initial appointment instead of 12-5-2008 the Sahib-Ur-Rehman, similarly placed employee. Moreover, respondent No.2 has also addressed a letter dated 15-10-2008 to respondent No.4 in favor of the appellant for fixation of his pay from the date of appointment. However, it was observed that he will not be entitled to arrears up to 30-6-2008.

4. In view of the above the Tribunal deems it appropriate to remand the case of the appellant to the respondent Department with the direction to consider his claim with regard to entitlement of fixation of his pay from the date of appointment in the light of the aforesaid letters as well as case of Sahib-Ur-Rehman . Driver, strictly in accordance with law/rules on the subject within a period of one month of the receipt of this order. The appeal is disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record.

ANNOUNCED

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*[Signature]*

*Attested*

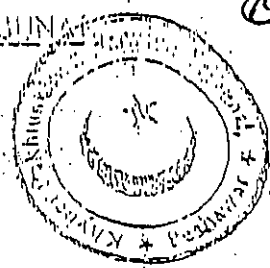
*[Signature]*

Case (A)

THE PESHAWAR SERVICE TRIBUNAL  
PESHAWAR

SERVICE APPEAL NO. 318/2009

Date of institution 21.07.2009  
Date of decision 02.07.2010



*(Handwritten marks)*  
G-18

M. Siraj, Driver, School of Nursing, Kohat,  
Village & P.O Bilitang,  
Tehsil & District, Kohat.

(Appellant)

VERSUS

Government of NWFP (K.P.K.) through,  
Secretary Health Department, Peshawar,  
Director, Provincial Health Services Academy, Peshawar,  
Accountant General, NWFP (K.P.K.), Peshawar,  
District Accounts Officer, Kohat.

(Respondents)

APPEAL UNDER THE NWFP SERVICE TRIBUNALS ACT, 1974  
FOR FIXATION OF PAY WITH EFFECT FROM THE DATE OF  
APPOINTMENT AS PER NOTIFICATION DATED 10.7.2008 AS IS  
DONE TO THE OTHER EMPLOYEES AGAINST WHICH  
APPELLANT SUBMITTED HIS DEPARTMENTAL APPEAL  
DATED 10.11.2008 BUT THE SAME IS NOT RESPONDED  
DESPITE LAPSE OF 90 DAYS.

Mr. Nigar Ahmad Sethi, Advocate;  
Member Afgan Khattak,  
Addl. Advocate General.

For appellant

For respondents

Mr. Mian Mahmood Khattak,  
Mr. Anwar Ali Khan

Member  
Member

JUDGMENT

SULTAN MUHAMMAD KHATTA, MEMBER:-

According to the

arrangements made in the appeal, the appellant, namely, Mian Siraj, was appointed as driver in Family Health Project in the year 1994. On winding up of the said project on 31.12.1999, the Finance Department created posts of Drivers on fixed pay of Rs. 2500/- per month, without any break. The appellant was accordingly appointed as Driver in Planning School Kohat vide order dated 19.7.1999. At that time, number of other employees were appointed on regular basis but the

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*(Signature)*

**ATTESTED**

**ATTESTED**

*(Signature)*


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... was discriminated. Respondent No.1 vide letter dated 21.01.2008  
 ... fixed pay employee, namely Sahib-ur-Rahman Driver into regular  
 ... who is similarly placed employee like appellant, therefore, respondent  
 ... requested for conversion of all other Drivers into regular pay scales. The  
 ... Department vide letter dated 12.5.2008 gave concurrence for conversion  
 ... of Drivers on fixed pay into Pay Scale B-1 and in accordance with  
 ... said concurrence. Notification was issued by respondent No.2 on 17.5.2008,  
 ... wherein, the appellant's name appeared at S.No.7, but with immediate effect,  
 ... whereas pay fixation of other employees was done with effect from the date of  
 ... appointment. Feeling aggrieved, the appellant submitted his departmental appeal  
 ... on 09.11.2008, but with no response within the stipulated period, hence this  
 ... appeal with the prayer that on acceptance of the appeal, the respondents be  
 ... directed to fix the pay of the appellant from the date of initial appointment  
 ... instead of 12.5.2008 along with orders to bring it at par with the length of  
 ... service with such other relief as may deem fit in the circumstances of the case  
 ... may also be granted.

The respondents have filed their written replies, wherein, they refused to  
 ... of the appellant and stated that the case of the appellant is different from  
 ... the case of other employees and that he was appointed in Family Health project  
 ... on 6.12.1994 till the project file i.e. 31.12.1999. He was adjusted as Driver at  
 ... Primary School on 14.2.2000 as per entry made in his service book on fixed pay  
 ... B-1/2000-P.M. Moreover, he was brought to regular BPS-4 vide Finance  
 ... Department's Notification dated 12.5.2008, with immediate effect. As such he  
 ... is not entitled to the relief claimed by him.

Argument heard and record peruse.

*Attested*  


*Attested*  


**ATTESTED**

**ATTESTED**  


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In doubt, the appellant was appointed as Driver in the Family Health Project on 06.12.1999 but before winding up of the Project on 31.12.1999, he was appointed as Driver in Muslim School Kohat, vide office order dated 19.7.1999. As per entry in the service book, the appellant was later on adjusted as Driver on fixed pay @ Rs.2500/- per month vide order dated 14.2.2000. In the light of Finance Department's letter dated 12.5.2008, the post of the appellant was restricted to BPS-11 on regular scale, vide Notification dated 17.5.2008 of respondent No.2, but with immediate effect. The main contention of the appellant is that in the light of Finance Department's letter dated 30.7.2008 he is entitled to fixation of his pay from the date of his initial appointment instead of 12.5.2008. He is similar to Rehman, similarly placed employee. Moreover, respondent No.2 has also addressed a letter dated 15.10.2008 to respondent No.4 in favour of the appellant for fixation of his pay from the date of appointment. However, it was decided that he will not be entitled to arrears upto 30.6.2008.

In view of the above, the Tribunal deems it appropriate to remand the case of the appellant to the respondents department with the direction to consider his claim with regard to entitlement of fixation of his pay from the date of appointment in the light of the aforesaid letters as well as case of Sahib-ur-Rehman, Driver, strictly in accordance with law/rules on the subject within a period of two months of the receipt of this order. The appeal is disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record.

CONCURRED  
07.07.2010

(NIGOR ALI KHAN)  
MEMBER

(MULAKKAT MOOD KHAN)  
MEMBER

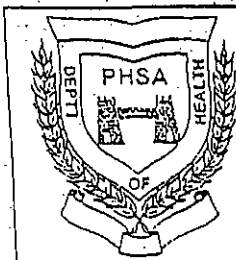
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Secretary  
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ATTEST  
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**Provincial Health Services Academy**  
Dept: of Health Govt. of Khyber Pakhtunkhwa  
Budhni Road Duran Pur Peshawar,  
☎ # 091-2650861, 2260109; Fax # 091- 2261249  
E-mail: phsa\_peshawar@yahoo.com

~~H-23~~  
H-21

*To be substituted by even No. & date.*

**OFFICE ORDER**

Ex-post facto approval is hereby accorded to regularize the services of the following driver of Nursing School Kohat with effect from the date of appointment i.e. 06/12/1994 as ordered by the honorable Services Tribunal, Peshawar judgment dated 02/07/2010 in Service Appeal No. 318/2009 on the analogy of Mr. Sahib-ur-Rahman Driver, vide Finance Department letter No. BVII/FD/4-48/2007/08 dated 12/05/2008 and Secretary Health letter No. SO-III/ 8-90/07 (Sahib-ur-Rahman) dated 21/01/2008. However, arrear of pay & allowances will be admissible from 14/02/2000.

Name	Designation	Date of appointment
Mr. Mian Siraj	Driver	06/12/1994

-sd-  
DIRECTOR

F/No. 215/PHSA/Admn/Appointment/2012-13/5517-20

Dated . 16/07/2012

Cc:

1. District Accounts Officer, Kohat.
2. Vice Principal, School of Nursing Kohat for compliance under intimation to this office.
3. Registrar, Services Tribunal Pakhtunkhwa Peshawar.
4. Mr. Mian Siraj Driver, School of Nursing Kohat.

ATTESTED

DIRECTOR

ATTESTED

**VAKALATNAMA**

*Before the Khyber Pakhtunkhwa Service Tribunal Peshawar*

OF 2017

*Muhammad Farash Khan*

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

*Forest Department*

(RESPONDENT)  
(DEFENDANT)

I/We *Muhammad Farash Khan*

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_\_/\_\_\_\_/2017

*محمد فراس خان*

CLIENT

*[Signature]*  
ACCEPTED

NOOR MOHAMMAD KHATTAK

&  
*[Signature]*  
MUHAMMAD MAAZ MADNI  
ADVOCATES

OFFICE:

Flat No.3, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141