

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT ABBOTTABAD.

Service Appeal No. 1211/2019

Date of Institution ... 30.09.2019

Date of Decision ... 12.10.2021

Mubashar Ahmad S/O Momin Gul, R/O Darband, Tehsil Torghar,
District Torghar.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Wildlife
Department, Khyber Pakhtunkhwa Peshawar and three others.

... (Respondents)

SYED ASIF SHAH,
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General

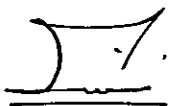
--- For respondents.

MR. AHMAD SULTAN TAREEN
MR. SALAH-UD-DIN

--- CHAIRMAN
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Through this single judgment we intends to dispose of the instant service appeal as well as connected Service Appeal bearing No. 1212/2019 titled "Majid Khan Versus Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa Peshawar and three others", Service Appeal bearing No. 1312/2019 titled "Fazal Nawaz Khan Versus Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa, Peshawar and three others", Service Appeal bearing No. 1313/2019 titled "Hafeez-ur-Rehman Versus Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber



Pakhtunkhwa, Peshawar and three others", Service Appeal bearing No. 1314/2019 titled "Hazratullah Versus Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa, Peshawar and three others"; Service Appeal bearing No. 1315/2019 titled "Faizur-Rehman Versus Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa, Peshawar and three others", Service Appeal bearing No. 1316/2019 titled "Hussain Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa, Peshawar and three others", Service Appeal bearing No. 1317/2019 titled "Anwar Khan Versus Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa, Peshawar and three others", Service Appeal bearing No. 1318/2019 titled "Muhammad Tayyab Versus Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa, Peshawar and three others", Service Appeal bearing No. 1319/2019 titled "Muhammad Irfan Versus Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa, Peshawar and three others", Service Appeal bearing No. 1320/2019 titled "Haroon Khan Versus Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa, Peshawar and three others", and Service Appeal bearing No. 1610/2019 titled "Umer Farooq Versus Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa, Peshawar and three others", as common questions of law and facts are involved therein.

2. Brief facts giving rise to filing of the instant service appeal as well as connected service appeals are that certain posts of Watchers BPS-07 were lying vacant in Khyber Pakhtunkhwa Torghar Wildlife Division, which were advertised through newspaper. The appellants being qualified for the said posts, applied for appointment on the concerned vacant posts. The appellants remained successful in test/interview conducted for the posts of Watchers BPS-07 and after

fulfillment of all legal and codal formalities, the appellant Umer Farooq was appointed on 04.01.2019, while rest of the appellants were appointed vide appointment orders dated 14.11.2018. The appellants joined service and they were also paid salaries for about nine months, however upon the complaint of a local MPA, an inquiry was conducted by Provincial Inspection Team Khyber Pakhtunkhwa regarding the appointment made on the posts of Watchers BPS-07. In light of recommendations of the Provincial Inspection Team Khyber Pakhtunkhwa, the appointment orders of the appellants were cancelled through impugned order dated 22.08.2019. The same was challenged by the appellants through filing of separate departmental appeals, which were rejected. The appellants have now approached this Tribunal through filing of the instant service appeal as well as connected service appeals for redressal of their grievance.

J. I.

3. Notices were issued to the respondents, who submitted their reply, wherein they refuted the stance of the appellants.

4. Learned counsel for the appellants has contended that the appellants were qualified for the posts of Watchers and they were appointed on merit after fulfillment of all legal and codal formalities; that the appellants assumed the charge of their posts and had properly performed their duties with effect from 14.11.2018 to 22.08.2019 and they were also paid their salaries; that whole of the inquiry proceedings were conducted at back of the appellants and they were not at all associated with the inquiry proceedings, therefore, the impugned orders being wrong and illegal are liable to be set-aside; that there was no illegality or irregularity in the appointment orders of the appellants, therefore, the competent Authority was not justified in cancelling of the same through the wrong and illegal impugned order dated 22.08.2019; that the inquiry proceedings were conducted in utter violation of the relevant provisions of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and the appellants were condemned unheard; that the so called inquiry proceedings

were conducted for ulterior motives and the appointment orders of the appellants were cancelled without any legal and justified reason. Reliance was placed on 2009 SCMR 663, 2008 SCMR 598, 2011 PLC (C.S) 331, 2007 SCMR 1008, 2014 PLC (C.S) 1007, 2014 PLC (C.S) 476 and 2006 SCMR 678.

5. On the other hand, learned Additional Advocate General for the respondents has contended that upon directives of Chief Minister's Secretariat Khyber Pakhtunkhwa, an inquiry was conducted by Provincial Inspection Team regarding the appointment of Watchers BPS-07, which recommended that as the appointments of the appellants were based on irregular/defective process, therefore, the same may be cancelled and the posts may be re-advertised for its filling by following merit and criteria; that the competent Authority has rightly passed cancellation orders of appointment of the appellants in light of recommendations of Provincial Inspection Team and the departmental appeals of the appellants were also rightly dismissed; that whole of the proceedings were conducted in accordance with law and rules, therefore, the appeals of the appellants may be dismissed with cost.

6. Arguments heard and record perused.

7. A perusal of the record would show that the posts of Watchers in Khyber Pakhtunkhwa Torghar Wildlife Division were properly advertised in the newspaper and the appellants were appointed upon the recommendations of Departmental Selection Committee and their appointment orders were issued by the competent Authority. It is an admitted fact that after their appointment, the appellants had performed their duties till issuance of cancellation orders of their appointment orders on 22.08.2019, therefore, the principle of locus Poenitentiae would not permit the competent Authority to undue their appointment on the ground that there were any irregularities/defects in the process of their appointment. No charge sheet/statement of allegations, or any show-cause notice was issued to the appellants and they were not provided any opportunity to defend themselves. The

appellants have been condemned unheard and the procedure so adopted by the competent Authority has caused pre-judice to the appellants.

8. The inquiry report of the Provincial Inspection Team upon the complaint of local MPA of PK-35 would show that nothing is mentioned therein that the appellants were either not qualified for appointment on the concerned posts or that they were extended any undue favour in the process of test/interview conducted for the concerned posts. It is by now well settled that for any irregularity whatsoever, if committed by the department itself, the appointee cannot be harmed, damaged or condemned subsequently, when it occur to the department that it has itself committed some irregularities qua any appointment. Certain alleged irregularities/defects pointed out by the Provincial Inspection Team in the appointment process could make liable the competent Authority as responsible for the same and the appellants cannot be blamed for the same. August Supreme Court of Pakistan in its judgment reported as 2004 SCMR 303 has observed as below:-

"obviously the appointments so made, were made by the competent Authority and in case prescribed procedure was not followed by the concerned Authority, the appointees/respondents could not be blamed for what was to be performed and done by the competent Authority before having verified qualification and suitability and observance of the due process before issuing the appointment orders",

Keeping in view the facts and circumstance of the matter in question, the competent Authority was not justified in cancelling the appointment orders of the appellants.

9. In light of the above discussion, the appeal in hand as well as connected service appeals bearing No. 1212/2019, 1312/2019 to 1320/2019 and 1610/2019 are allowed by

setting-aside the impugned orders and the appointment orders of the appellants stand restored with all consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

12.10.2021



(Salah-Ud-Din)
Member (Judicial)
Camp Court Abbottabad



(Ahmad Sultan Tareen)
Chairman
Camp Court Abbottabad

Service Appeal No. 1211/2019

ORDER
12.10.2021


Appellant alongwith his counsel Syed Asif Shah, Advocate, present. Mr. Muhammad Shakeel, DFO alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand as well as connected service appeals bearing No. 1212/2019, 1312/2019 to 1320/2019 and 1610/2019 are allowed by setting-aside the impugned orders and the appointment orders of the appellants stand restored with all consequential benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
12.10.2021



Chairman
Camp Court A/Abad



(Salah-ud-Din)
Member (Judicial
Camp Court A/Abad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

In Re:

C. M No. _____/2021

In

Service Appeal No.1211 of 2019

Mubashir Ahmad.....Appellant

VERSUS

Govt of K. P & others.....Respondents

***APPLICATION FOR WITHDRAWAL OF IMPLEADMENT APPLICATION
SUBMITTED BY THE PRESENT APPLICANT IN THE ABOVE TITLED SERVICE
APPEAL.***

=====

Respectfully Sheweth:

1. That the captioned Service Appeal is pending adjudication before this Honourable Tribunal which is fixed for today i.e. 12.10.2021.
2. That the applicant is no more entrusted to pursue further with the above mentioned Service Appeal hence, wants to withdraw the impleadment application submitted by the applicant in the above captioned Appeal.

It is, therefore, most humbly prayed that on acceptance this Application, the impleadment application submitted by the present applicant may kindly be withdrawn.

Applicant

Through

(BABAR KHAN YOUSAFZAD)
Advocate Supreme Court.

Dated:- 11.10.2021

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR.

In Re:

C. M No. _____/2021

In

Service Appeal No.1211 of 2019

Mubashir Ahmad.....Appellant

VERSUS

Govt of K. P & others.....Respondents

AFFIDVIT

I, Laiq Muhammad Khan (Member Provincial Assembly PK-35) S/o Muhammad Yousaf Khan R/o presently Room No.C-02, MPA Hostel Peshawar, do hereby solemnly affirm and declare on oath that the contents of the above **Application** are ~~true and correct to the best of my knowledge and belief~~ and that nothing has been concealed or withheld from this Hon'ble Court.

Deponent

Mubashir
12.10.2021

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Muhammad Shakeel, DFO for the respondents present.

Learned counsel for the appellant has stated on his own responsibility that he electronically received the application about withdrawal of the impleadment application, through WhatsApp from Babar Khan Yousafzai Advocate on cell phone via Sim# 0345-9484980 alongwith affidavit of the applicant. As the learned counsel for the appellant submits that he received the said application electronically and got them printed and have produced the same after assurance from the counsel for the applicant, therefore, they may be placed on file. Request is accorded. Although the request of the applicant seeking impleadment has been brought on record through proxy of the appellant's counsel but even if there is no such application, we are not inclined to implead a private complainant without locus standi. Moreover, the impleadment has been sought due to some grounds taken in the appeal relating to role of MPA but we are concerned to hear the parties on merits and law relating to terms and conditions of the service as well as legality/irregularity of the proceedings culminating in imposition of penalty upon the appellant. The application for impleadment stands disposed of in the given terms. Both the parties are ready to make submissions on merit. Let the file to come up for arguments forthwith.



(Saif-ud-Din)
Member (Judicial)
Camp Court A/Abad



Chairman
Camp Court A/Abad

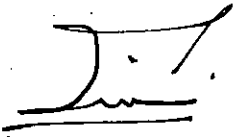
26.08.2021

Syed Asif Shah, Advocate, for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Shakeel, DFO(Wild Life) for respondents present.

Ms. Nida Khan, Advocate present and submitted an application for impleadment of Mr. Liaq Muhammad Khan as respondent in the instant appeal with a request that the same may also be considered in other connected appeals bearing No. 1212/2019,1312/2019,1313/2019,1314/2019,1315/2019,1316/2019,1317/2019,1318/2019,1319/2019 and 1320/2019, which is placed on file and copy of the application handed over to the learned counsel for the appellant as well as learned District Attorney. Adjourned. To come up for reply as well as arguments before the D.B on 27.09.2021.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

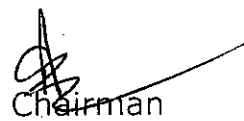
11.10.2021

Appellant in person present. Mr. Muhammad Rasheed, Deputy District Attorney alongwith departmental representative Mr. Muhammad Shakeel, DFO for the respondents present.

Lawyers are on strike. It appears from previous proceeding that an application for impleadment was submitted on behalf of Liaq Muhammad Khan and its reply has also been filed. Obviously the disposal of present application is necessary before further proceedings with the appeal on merit. To come up for disposal of the application on 12.10.2021 before the D.B at Camp Court Abbottabad.



(Salah-Ud-Din)
Member (Judicial)
Camp Court A/Abad



Chairman
Camp Court A/Abad


09.08.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Shakeel D.F.O present.

Learned A.A.G made a request for adjournment on the ground that no notice was served upon in respect of early fixation of the case. Case is adjourned with direction to both the parties to argue the case positively on the next date. To come up for arguments on 26.08.2021 before D.B.

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(Rozina Rehman)
Member (J)

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Chairman

26.08.2021

~~Syed Asif Shah, Advocate, for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Shakeel, DFO (Wild Life) for respondents present.~~

~~Ms. Nida Khan, Advocate present and submitted an application for impleadment of Mr. Liaq Muhammad Khan as respondents in the instant appeal with a request that the same may also be considered in other connected appeals bearing NO. 1212/2019, 1312/2019, 1313/2019, 1314/2019, 1315/2019, 1316/2019, 1317/2019, 1318/2019, 1319/2019 and 1320/2019. Copy of the application handed over to the learned counsel for the appellant as well as learned District Attorney. Adjourned To come up for reply, as well as arguments before the D.B on 27/08/2021.~~

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

(SAJID RAJIB BIN)
MEMBER (JUDICIAL)

15.02.2021

Nemo for parties.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Preceding date was adjourned on a reader's note, therefore, both the parties be put on notice for 19.04.2021 before D.B for arguments at Camp Court Abbottabad.



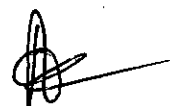
(Atiq ur Rehman Wazir)
Member (E)
Camp Court, A/Abad



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

25.06.2021

Counsel for the appellant present. He submitted an application for fixation of the date at Peshawar in the instant service appeal. Previously the appeal was fixed for hearing at Camp Court, Abbottabad for 19.04.2021. However, hearing could not take-place due to cancellation of the tour. It has been stated in the application that the respondents have cancelled appointment order of the appellant due to which he is suffering from severe physical and mental torture. He requested for urgent disposal of the matter. The application is placed on file. Office is directed to fix the case before the D.B. at Peshawar for arguments on 9.08.2021, subject to notice to the respondents.



Chairman

22.10.2020

Appellant in person present.

Usman Ghani learned District Attorney alongwith Muhammad Shakeel DFO for respondents present.

Representative of respondents submitted written reply/comments. To come up for rejoinder, if any and arguments on 18.01.2021 before D.B at Camp Court, Abbottabad.



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

18.01.2021

Due to Covid-19, the case is adjourned for the same on 15.02.2021 before D.B.

READER

18.12.2019

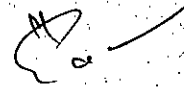
Appellant alongwith his counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Niaz Muhammad Khan DFO for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for further time for submission of written reply/comments Adjourned to 23.01.2020 for written reply/comments before S.B at Camp - Court Abbottabad.



(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad


23.01.2020

Appellant in person present. Written reply not submitted. Niaz Muhammad DFO and Faraz Gul Assistant representatives of respondent department present and requested for time to furnish written reply/comments. Granted. To come up for written reply/comments on 19.02.2020 before S.B at Camp Court Abbottabad.



Member
Camp Court, A/Abad

Due to covid ,19 case to come up for the same on 13 /08/20 at camp court abbottabad.



Reader

22.10.2019

Appellant present in person. Counsel for the appellant present. Mr. Usman Ghani, District Attorney present. No one is present on behalf of the respondents. Adjourn. To come up for written reply/comments on 21.11.2019 before S.B at Camp Court, Abbottabad. Notices be issued to the respondents for the date fixed.



Member
Camp court, A/Abad

21.11.2019

Learned counsel for the appellant present. Written reply not submitted. Niaz Muhammad DFO representative of respondent present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 18.12.2019 before S.B at Camp Court, A/Abad.



Member
Camp Court, A/Abad

01.10.2019

Counsel for the appellant present.

Contends that in pursuance to a public advertisement the appellant applied for the post of Wildlife Watcher BPS-07 and after going through the entire process of recruitment/test was appointed as such on 14.11.2018. After appointment the appellant started performing his duty, however, on 22.08.2019 the Divisional Forest Officer Torghar/respondent No. 2 issued an order whereby the appointment was cancelled. It was provided in the order that upon complaint by an MPA an enquiry was conducted and in pursuance of the enquiry report the impugned order was being made. Learned counsel also referred to the enquiry report dated 01.03.2019 and contended that the appellant was never associated with the proceedings and was also not provided with an opportunity of putting-forth his defence. The impugned order dated 22.08.2019 was, therefore, in violation of law and hence not sustainable.

In view of the available record and arguments learned counsel, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/ comments on 22.10.2019 before S.B at Camp Court, Abbottabad.

Alongwith the appeal there is an application for suspension of operation of impugned order. Notice of the application be also given to the respondents for the date fixed.


Chairman

Appellant Deposited
Security & Process Fee



11/10/19

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1211/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/09/2019	<p>The appeal of Mr. Mubashar Ahmad presented today by Syed Asif Shah Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 30/9/19</p>
2-	01/10/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/10/19</u></p> <p> CHAIRMAN</p>

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

Service Appeal No. 1211 of 2019

Mubashir AhmadAppellant

VERSUS

Government of Khyber Pakhtunkhwa through
Secretary Wild Life Department, Khyber Pakhtunkhwa,
Peshawar etc..... Respondents

SERVICE APPEAL

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Dated 26.09.2019



Mubashir Ahmad

.....Appellant

Through



SYED ASIF SHAH,
Advocate High Court,
Masehra.

17 17

17 17

- 1 -

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

Service Appeal No. 1211 of 2019

Mubashar Ahmad S/o Momin Gul R/o
Darband, Tehsil Torghar, District Torghar

.....Appellant

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 1328

Dated 30/9/2019

1. Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa Peshawar.
2. Divisional Forest Officer, Wildlife Division, Torghar.
3. Chief Conservator, Wildlife Division, Torghar.
4. Conservator, Wildlife Division, Southern Circle Peshawar.

.....Respondents

Filed to-day

Registrar

30/9/19

**SERVICE APPEAL UNDER SECTION 4 OF
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 TO THE EFFECT
THAT THE APPELLANTS BEING DULY
APPOINTED WATCHERS ARE ENTITLED
FOR COMPLETION OF THEIR SERVICE AS
PER RELEVANT LAW, RULES AND
REGULATION. ORDER BEARING NO.
232-50 DATED 22.08.2019 WHEREBY**

THE APPOINTMENT ORDER OF THE APPELLANT WAS CANCELLED BY THE RESPONDENTS ON THE BASIS OF SO-CALLED INQUIRY REPORT AND THE DISMISSAL OF DEPARTMENTAL REPRESENTATION FILED BY THE APPELLANT VIDE ORDER DATED 20/09/2019 IS WRONG, ILLEGAL, AGAINST THE LAW AND FACTS, ARBITRARY, FANCIFUL, PERVERSE, WITHOUT LAWFUL AUTHORITY, AGAINST THE CANNONS OF JUSTICE, BASED ON POLITICAL VICTIMIZATION, AGAINST THE FUNDAMENTAL RIGHTS OF THE APPELLANT, HENCE LIABLE TO BE SET ASIDE.

PRAYERS:-

On acceptance of the instant appeal, the impugned order bearing No. 232-60 dated 22/08/2019 alongwith orders dated 20/09/2019 regarding dismissal of departmental representation filed by the appellants passed/ issued by the respondents may please be set aside and while restoring the appointment orders of the appellants, the appellants may please be re-instated in service with all back benefits or any other relief as this Honourable Tribunal deems fit and

- 3 -

appropriate in the circumstances of the case, may also be issued/ passed.

Respectfully Sheweth!

1. That, the appellants are bonafide residents of District Torghar.

(Copies of the CNICs of the appellants are annexed as annexure "A")

2. That, the respondents initially advertised some posts of Watchers (BPS-7) in Wild Life Department through advertisement and the appellants being local, qualified, experienced and eligible in all respects duly applied for their respect posts.

(Copy of the advertisement is annexed as annexure "B")

3. That the respondents later on conducted test/ interview which was duly qualified by the appellants as per law, rules and criteria mentioned in advertisement and after fulfillment of all the legal and codal formalities, the appellants were duly

appointed against their respective posts vide appointment orders.

(Copies of the appointment orders are annexed as annexure "C")

4. That, from their appointment, the appellant is performing his assigned duties with due diligence, honestly and to utmost satisfaction of his superiors and the appellant also received his salaries for about 09 months.

5. That during the service period of the appellants, local MPA of PK-32 on the basis of political influence, victimization initiated a so-called inquiry through provisional inspection team and under the influence of the said MPA, the committee and inquiry officers cancelled the appointment order of the appellant vide office order No. 232-60 dated 22/08/2019.

(Copy of the impugned office order is annexed as annexure "D")

5 -

6. That, the appellant also preferred his departmental appeals before the respondents which was also dismissed vide orders dated 20/09/2019.

(Copies of departmental appeals alongwith orders are annexed as annexure "E & F")

7. That, the appellants being aggrieved from the impugned orders passed by the respondents ran from pillar to post for redressal of their grievances but in vain, hence being aggrieved, the appellant seeks the gracious indulgence of this Honourable Tribunal by way of instant appeal, inter alia, on the following grounds:-

GROUNDS

a. That, the impugned orders passed/ issued by the respondents on the basis of so-called inquiry report are wrong,

illegal, against the law and facts, arbitrary, fanciful, perverse, without lawful authority, against the canons of justice, based on political victimization, against the fundamental rights of the appellant, hence being unconstitutional liable to be struck down.

b. That, the appellant was appointed being qualified, experienced and meritorious in all respects and never remained negligent in performance of his assigned duties, hence there arise no question for termination/ dismissal order of the appellant's services.

c. That, no show cause notice has been issued to the appellant prior to cancellation of the appointment order of the appellant, which was mandatory. Similarly, the appellant has not been given the chance of hearing and all the proceedings have been carried out by the respondents in their sheer violation of the relevant law, rules and regulations.

d. That, it is well settled principle of law and natural justice that no one should be condemned unheard but in the instant case, the appellant has not been given a chance of hearing by the respondents rather all the proceedings have been conducted by keeping the appellants in dark which is not only against the law but also constitutionally guaranteed rights of appellant.

e. That, the respondents making themselves pawn the hands of the local MPA have conducted all the proceedings mere on the whims and wishes of the respondents and never considered the relevant law, rules and regulations on the subject, hence the appellant has been victimized of the political figures of the area which is not permissible under the law.

f. That, there is no legal flaw or any illegality/ irregularity in the appointment order of the appellant rather the appellant was appointed after fulfillment

of all the legal and codal formalities and after due verification/ satisfaction, hence the appellant's appointment order can never be cancelled in such a cursory and slip shod manner but by cancelling the appointment order of the appellant, the appellant has been deprived from legal, valid and legitimate rights mere on the basis of malafide.

g. That, the so-called inquiry has also been carried out in clear violation of the relevant law, rules and regulations on the subject. It was incumbent upon the respondents to call the appellant during the course of inquiry and to provide him ample opportunity of being heard which is constitutional guaranteed right of the appellant, but such right of the appellant has been denied by the respondents was to terminate the services of the appellant under the garb of the so-called inquiry. Further pre-requisites of inquiry have also been missing in the instant case.

h. That, in fact Local MPA wants to appoint his blue eyed chaps during the appointment/ recruitment process but he failed to do so and later on he staged the drama of so-called inquiry just to terminate the appellant and accommodate his blue eyed chaps, hence all the proceedings including inquiry etc, have no legal sanctity in the eyes of law.

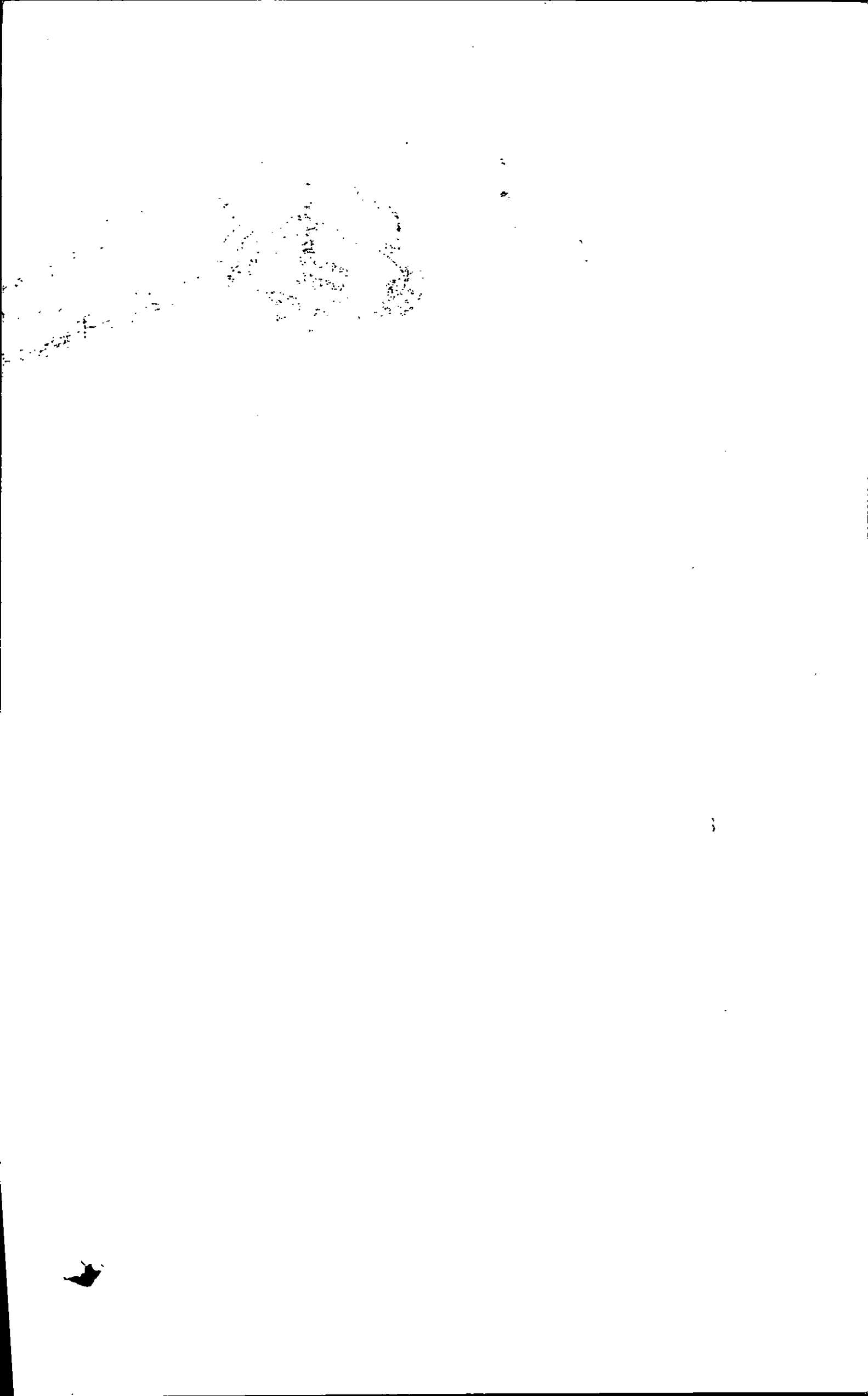
i. That, it was not an inquiry rather it was an after thought effort of the respondents to get the posts vacant just to make happy the local MPA and the appellants being the political opponents of said MPA have been victimized by the respondents in a sheer malafide manner.

j. That, the powers or jurisdiction are vested in an authority to exercise it justly, fairly, honestly, judiciously and in accordance with the mandate of law, rules and regulations but the respondents have transgressed upon their powers/ jurisdiction while dealing with the matter in hand.

k. That, it is an inalienable right of the appellant to enjoy the protection of law, rules and regulations but such right of the appellant has been infringed by the respondents in a sheer malafide manner.

.....PRAYERS.....


It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned order bearing No. 232-60 dated 22/08/2019 alongwith orders dated 20/09/2019 regarding dismissal of departmental representation filed by the appellant passed/ issued by the respondents may please be set aside and while restoring the appointment order of the appellant, the appellant may please be re-instated in service with all back benefits or any other relief as this Hon'ble Tribunal deems fit and



- 11 -

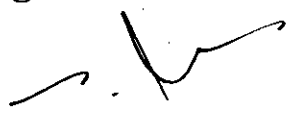
appropriate in circumstances of the case,
may also be issued / passed.

Dated: 26/09/2019


Mubashir Ahmad

.....Appellant

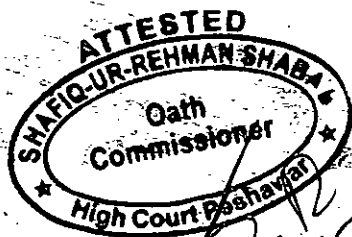
Through



SYED ASIF SHAH,
Advocate High Court,
Masehra.

AFFIDAVIT.

I, Mubashir Ahmad son of Momin Gul
resident of Darband, Tehsil Oghi, District
Mansehra, petitioner, do hereby solemnly
affirm and declare on oath that the
contents of the foregoing service appeal
are true and correct and nothing has
been concealed from this Hon'ble Court.

Dated: 26/09/2019




Mubashir
(DEPONENT)

30-09-19

- 12 -

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

Service Appeal No. _____ of 2019

Mubashir AhmadAppellant

VERSUS

Government of Khyber Pakhtunkhwa through
Secretary Wild Life Department, Khyber Pakhtunkhwa,
Peshawar etc..... Respondents

AFFIDAVIT

I, **Mubashir Ahmad S/o Momin Gul R/o, Tehsil
Oghi, District Mansehra**, do hereby solemnly affirm
and declare that all the contents of the
accompanied **appeal** are true and correct to the
best of my knowledge and belief and nothing has
been concealed or withheld from this Hon'ble
Tribunal.



DEPONENT

CNIC: 13504-7761070-1

CELL: 03465617870

ATTESTED
SHAFIQ-UR-REHMAN SH
Oath
Commissioner
High Court Peshawar

Handwritten signature and date
30-09-19



Identified By:

SYED ASIF SHAH
Advocate High Court
Mansehra.

- 13 -

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

Service Appeal No. _____ of 2019

Mubashir AhmadAppellant

VERSUS

Government of Khyber Pakhtunkhwa through
Secretary Wild Life Department, Khyber Pakhtunkhwa,
Peshawar etc..... Respondents

SERVICE APPEAL

**APPLICATION FOR SUSPENSION OF THE
OPERATION OF IMPUGNED ORDER DATED
22/08/2019 AND FOR ISSUANCE OF TEMPORARY
INJUNCTION TO THE EFFECT THAT THE
RESPONDENTS MAY PLEASE BE RESTRAINED FROM
APPOINTING ANY PERSON(S) AGAINST THE POST
OF THE APPELLANT, FROM ADVERTING THE
IMPUGNED POST, FROM CARRYING OUT ANY TEST/
INTERVIEW ON THE IMPUGNED POST, FROM
ISSUING ANY APPOINTMENT ORDER TO ANY
OTHER PERSON(S) OR FROM DOING ANY OTHER
ACT WHICH DIRECTLY OR INDIRECTLY AFFECTS
THE RIGHTS OF THE APPELLANT TILL THE
DISPOSAL OF THE TITLED SERVICE APPEAL.**

Respectfully Sheweth:

1. That, this application may please be considered as part and parcel of the titled service appeal.
2. That, the appellant has a prima facie appeal and there is every hope of its success.
3. That, the balance of convenience also tilts in favour of the appellant.

4. That, if the temporary injunction has not been granted then the appellant would suffer an irreparable loss and purpose of the titled appeal would become infructuous.

.....PRAYER.....

It is, therefore, most humbly requested that on acceptance of the instant application, operation of the impugned orders may please be suspended and the temporary injunction as mentioned in the heading of the instant application may please be granted till the disposal of the titled service appeal.

Dated 26.09.2019

Mubashir Ahmad
.....Appellant

Through

SYED ASIF SHAH,
Advocate High Court,
Masehra.

AFFIDAVIT.

I, Mubashir Ahmad son of Momin Gul resident of Darband, Tehsil Oghi, District Mansehra, petitioner, do hereby solemnly affirm and declare on oath that the contents of the foregoing service appeal are true and correct and nothing has been concealed from this Hon'ble Court.

Dated: 26/09/2019

Mubashir Ahmad
(DEPONENT)



30-09-19

- 15 -

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

Service Appeal No. _____ of 2019

Mubashir AhmadAppellant

VERSUS

Government of Khyber Pakhtunkhwa through
Secretary Wild Life Department, Khyber Pakhtunkhwa,
Peshawar etc..... Respondents

CORRECT ADDRESSES OF THE PARTIES

APPELLANT

Mubashir Ahmad S/o Momin Gul R/o, Tehsil Oghi,
District Mansehra

RESPONDENTS:

1. Government of Khyber Pakhtunkhwa through Secretary
Wildlife Department, Khyber Pakhtunkhwa Peshawar.
2. Divisional Forest Officer, Wildlife Division, Torghar.
3. Chief Conservator, Wildlife Division, Torghar.
4. Conservator, Wildlife Division, Torghar, Southern Circle
Peshawar.

Dated 26.09.2019

Mubashir Ahmad

.....Appellant

Through



SYED ASIF SHAH,
Advocate High Court,
Masehra.

Annex A

-16-

Annex A (Stamp)



Office of the Deputy Commissioner
District Torghar

No. Dom/DC(2019)/TG/ 461

Dated Torghar the 28/02/2019

Fax# 0997-580188
dctorghar@gmail.com

To
The Divisional Forest Officer,
Wildlife Division Torghar

Subject: VERIFICATION OF DOMICILE

Reference to your office letter No.392/WL-TG Dated: 10-01-2019 on the Subject cited above.

Domicile certificates have been issued by this office in favor of the following persons vide serial No. and date noted against each.

S.NO	NAME	FATHER NAME	DOMICILE NO	DATE OF ISSUE
1.	Fazal Nawaz Khan	Mir Nawaz Khan	7018	02-08-2016
2.	Anwar Khan	Asar Khan	16059	17-10-2017
3.	Hafeez Ur Rehman	Sahib Ur Rehman	1183	02-04-2014
4.	Hazrat Ullah	Dakh Ruliah	1012	20-02-2014
5.	Hussain Ahmad	Abdul Haleem	379	03-05-2011
6.	Riaz Ahmad	Muhammad Saleh	1318	23-05-2014
7.	Muhammad Irfan	Muhammad Tahir	6900	27-07-2016
8.	Majid Khan	Azmat Khan	5428	18-02-2016
9.	Mubasher Ahmad	Momin Gul	1191	08-04-2014
10.	Haroon Khan	Hazrat Hussain	691	20-12-2013
11.	Muhammad Tayyab	Nawab Nabi	4911	31-12-2015

Affected

Deputy Commissioner
Torghar

PROVISIONAL CERTIFICATE

THE L.M.E. SCHOOL & COLLEGE DARBAND

MANSEHRA

SSC (Annual) 2015

Registration No: 1351256028

Admission No: 031

This is to certify that Mr/Miss. MUBASHER AHMED

S.D/O: MOMIN GUL has passed his/her SSC Annual Examination 2015

Under Roll No: 171999 obtaining 63% marks grade C from the Board of

Intermediate & Secondary Education Abbottabad in SCIENCE group.

His/Her date of birth according to this school record is 25-Apr-1998

CHARACTER CERTIFICATE

He/She was a regular student of this institution. His/ Her Moral Character during his/her stay in the institution was: Good

Checked by: S.L.H.

Date: 13-09-2015

Principal
The L.M.E. School
Darband



-18-

Part - I
Session: 2016 (Annual)
DETAILED MARKS CERTIFICATE

Roll No: 35714
 Group: PRE-MEDICAL

MUBASHER AHMED
 NOMIN GUL

Father Name:
 Reg No: 015672007
 Institution:
 District:

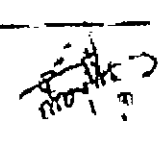
THE TIMES SCHOOL & COLLEGE DARBAND OGH, MANSEHRA

has secured the marks shown against each subject in the Higher Secondary School Certificate Examination Part-I held in the month of April/May as a Regular Candidate.

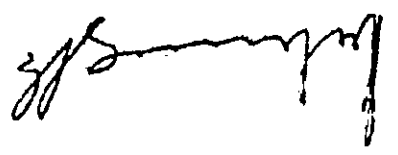
Subjects	Marks		Marks Obtained	
	Theory	Pract	Total	Marks in Words
English	100	46	46	Forty-Six
Urdu	100	51	51	Fifty-One
Maths (Geometry)	50	34	34	Thirty-Four
Physics	100	30	42	Forty-Two
Chemistry	100	41	55	Fifty-Five
Biology	100	38	45	Forty-Five
Total	550		273	Two Hundred Seventy-Three Only

Remarks :

Date : 31 July 2016

Checked By: 

Controller of Examinations



If any error is found in this certificate, the Controller of Examinations will not be responsible for it. The Controller of Examinations will not be responsible for it.

1131660185

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION ABBOTTABAD

Khyber Pakhtunkhwa (Pakistan)

Higher Secondary School Certificate Examination

Part - II

Session: 2018 (Annual)

PROVISIONAL & DETAILED MARKS CERTIFICATE

Roll No: 131660

Group: PRE-MEDICAL



Name: MUBASHER AHMED
 Father Name: MOMIN GUL
 Reg No: 0155772007
 Ex-Student of THE TIME SCHOOL & COLLEGE DARBAND MANSEHRA

has secured the marks shown against each subject in the Higher Secondary School Certificate Examination Part-II held in the month of April/May.

Subjects	Marks	Marks Obtained				Total	Marks in Words
		Part-I		Part-II			
		Theory	Pract	Theory	Pract		
English	200	46	-	45	-	91	Ninety-One
Urdu (Comp)	200	51	-	41	-	92	Ninety-Two
Islamic Compulsory	50	34	-	-	-	34	Thirty-Four
Pakistan Studies	50	-	-	36	-	36	Thirty-Six
Physics	200	30	12	36	12	90	Ninety Only
Chemistry	200	41	14	41	12	108	One Hundred Eight
Biology	200	38	7	42	13	100	One Hundred Only
Total : 1100						551-C	Five Hundred Fifty-One Only
Date : 28 September, 2018	Remarks :					Marks Improved	

Checked By :

Controller of Examinations

Note: Errors / Omissions excepted. Any error in Name, Father Name etc must be intimated within 30 days after declaration of result (04-08-2018). Visit us: www.biseatd.edu.pk
 176 GOVT HIGH SCHOOL DARBAND MANSEHRA

20



AB 49689145



**BOARD OF INTERMEDIATE AND SECONDARY EDUCATION
ABBOTTABAD**

Khyber Pakhtunkhwa (Pakistan)
Secondary School Certificate Examination

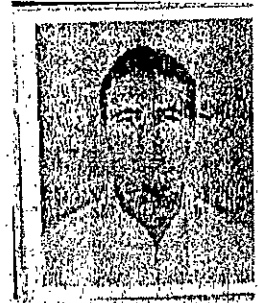
Roll No: 49689

Group: SCIENCE

(CLASS IX)

Session 2014

Name: MUBASHER AHMED
Father's Name: MOMIN GUL
Date of Birth: 25 APRIL 1998
Reg No: 1351256028
Institution / District: THE TIME SCHOOL & COLLEGE DARBAND
MANSEHRA



has secured the marks shown against each subject in the Secondary School Certificate Examination Part-I (9th-Class) held in the month of March/April as a Regular Candidate.

Subjects	Total Marks		Part-I		Total	Marks in Words
			Marks Obtained			
			Theory	Practical		
English	75		54		54	Fifty-Four
Urdu	75		46		46	Forty-Six
Mathematics	75		40		40	Forty Only
Physics	65	10	46	8	54	Fifty-Four
Chemistry	65	10	22	9	31	Thirty-One
Biology	65	10	27	9	36	Thirty-Six
Islamiat Comp	50		25		25	Twenty-Five
Pakistan Studies	50		34		34	Thirty-Four
Total Marks: 550					320	Three Hundred Twenty Only
Remarks						

Dated: 17-JUN-14

Checked By: [Signature]


[Signature]
Remarks
M. M. M. (Sc)
Mansehra

[Signature]
Controller of Examinations

Note: Errors/Omissions excepted. Any mistake in Name, Father's Name and Date of Birth etc must be intimated within 30 days of the issuance date of this certificate. Visit us: www.biscatd.edu.pk

ABBOTTABAD
BOARD OF INTERMEDIATE
AND SECONDARY
EDUCATION

- 21 -



BOARD OF INTERMEDIATE AND SECONDARY EDUCATION
ABBOTTABAD
Khyber Pakhtunkhwa (Pakistan)



Part - I

Session: 2016 (Annual)

DETAILED MARKS CERTIFICATE

Roll No: 35714

Group: PRE-MEDICAL



Name: MUBASHER AHMED
Father Name: MOMIN GUL
Reg No: 0155772007
Institution/
District: THE TIMES SCHOOL & COLLEGE DARBAND Oghi MANSEHRA

has secured the marks shown against each subject in the Higher-Secondary-School Certificate Examination Part-I held in the month of April/May as a Regular Candidate.

Subjects	Marks	Marks Obtained			
		Theory	Pract	Total	Marks in Words
English	100	46		46	Forty-Six
Urdu (Comp)	100	51		51	Fifty-One
Islamyat Compulsory	50	34		34	Thirty-Four
Physics	100	30	12	42	Forty-Two
Chemistry	100	41	14	55	Fifty-Five
Biology	100	38	7	45	Forty-Five
Total: 550				273	Two Hundred Seventy-Three Only
Remarks: _____					

Date: 31 July, 2016

Checked By: _____

Mubasher Ahmed
M.T (S) M.S. M.Ed (S)
G.I.S. Darband Mansehra

Mubasher Ahmed
Controller of Examinations

Note: Errors / Omissions excepted. Any error in Name, Father Name etc must be intimated within 30 days after declaration of result(31-07-2016). Visit us: www.biseatd.edu.pk

162 GOVT DEGREE COLLEGE DARBAND MANSEHRA

23 - ~~SECRET~~ Annexure C

OFFICE ORDER NO. 15 DATED TORGHAR THE 14/11/2018, ISSUED BY
MR. NIAZ MUHAMMAD DIVISIONAL FOREST OFFICER TORGHAR WILDLIFE
DIVISION TORGHAR

As recommended by Departmental Selection Committee, constituted vide this office order No.04 dated 30-10-2018, in its meeting held on 13/11/2018 in the office of DFO Wildlife Torghar, Mr. Mubasher Ahmad S/O Momin Gul Village Darband Mera Maddakhail Tehsil and District Torghar is hereby appointed as Wildlife Watcher BPS-07 (Rs. 10990-610-29290) along with usual allowances admissible as per rules of the Government of Khyber Pakhtunkhwa against the regular vacant post in Torghar Wildlife Division with immediate effect and subject to the following terms and conditions:

TERMS AND CONDITIONS

1. His service will be governed by the Khyber Pakhtunkhwa Civil Servants Act 1973, all the laws applicable to the Civil Servants and the Rules made there under.
2. He shall be on probation as per Rules-15 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.
3. His service will be liable to termination at 15 days notice at any time without assigning any reason irrespective of the fact that he hold a post other than the one to which they were originally recruited.
4. In case he wish to resign at any time, an advance notice of one month shall be necessary or in lieu thereof his one month pay shall be forfeited to government.
5. The appointment is subject to the production of clearance certificate from District Police Officer Torghar and necessary medical fitness certificate from the Medical Superintendent of District Headquarters Hospital Torghar before joining of the position.
6. His service will start from the date of his arrival for duties.
7. If he failed to report arrival for duty within fifteen (15) days of the receipt of this order, the appointment will stand cancelled automatically.
8. He will have to verify their academic certificates, degrees and transcripts / DMCs from respective boards and universities before joining of the position.
9. He will have to undergo one year training course of Forest Guard / Wildlife Watcher at the Khyber Pakhtunkhwa Forest School Thal Abbottabad.
10. Verification of domicile certificates from Deputy Commissioner Torghar.
11. The incumbent will be posted anywhere in the jurisdiction of Torghar Wildlife Division / Province.
12. In case of any political influence for posting/transfer for favorable station or undue favour which is against the public interest, the service of the incumbents will be terminated.
13. He will join duty at their own expense, and no TA/DA shall be admissible there-for.

Attested
[Signature]

(Niaz Muhammad)
Divisional Forest Officer
Torghar Wildlife Division
Torghar

No. 272-76 /WL-TG
Copy forwarded to the:

1. Chief Conservator Wildlife Khyber Pakhtunkhwa for favour of information, please.
2. Conservator Wildlife Southern Circle Peshawar for favour of information, please.
3. Divisional Accountant for necessary action.
4. Mr. Mubasher Ahmad S/O Momin Gul Village Darband Mera Maddakhail Tehsil and District Torghar for information and necessary action.
5. Personal File.

[Signature]
Divisional Forest Officer
Torghar Wildlife Division
Torghar



24

Annexure D

The following 12 Wildlife Watchers appointed in Torghar Wildlife Division vide office orders mentioned against each:

S. No.	Name of Wildlife Watcher	Office order No.	Date	Remarks
1.	Mr. Fazal Nawaz Khan	Officer order No. 01	Dated Torghar the 14-11-2018	
2.	Mr. Faiz Ur Rehman	Officer order No. 07	Dated Torghar the 14-11-2018	
3.	Mr. Anwar Khan	Officer order No.08	Dated Torghar the 14-11-2018	
4.	Mr. Hafeez Ur Rehman	Officer order No. 09	Dated Torghar the 14-11-2018	
5.	Mr. Hazratullah	Officer order No. 10	Dated Torghar the 14-11-2018	
6.	Mr. Hussain Ahmad	Officer order No.11	Dated Torghar the 14-11-2018	
7.	Mr. Riaz Ahmad	Officer order No. 12	Dated Torghar the 14-11-2018	Already resigned vide this office order No. 23 dated 11/03/2019.
8.	Mr. Muhammad Irfan	Officer order No.13	Dated Torghar the 14-11-2018	
9.	Mr. Majid Khan	Officer order No. 14	Dated Torghar the 14-11-2018	
10.	Mr. Mubasher Ahmad	Officer order No.15	Dated Torghar the 14-11-2018	
11.	Mr. Haroon Khar	Officer order No. 16	Dated Torghar the 14-11-2018	
12.	Mr. Muhammad Tayyab	Officer order No. 17	Dated Torghar the 14-11-2018	
13.	Mr. Umer Farooq	Officer order No. 20	Dated Torghar the 04-01-2019	

On the complaint dated 24-11-2018 of Mr. Laiq Muhammad Khan Member Provincial Assembly, an inquiry against the above appointments was conducted through Provincial Inspection Team. The Provincial Inspection Team besides other actions recommended cancellation of appointment of the said 12 Wildlife Watchers. The inquiry report was conveyed through Government of Khyber Pakhtunkhwa Forestry, Environment and Wildlife Department vide letter No.SO (Estt)/FE&WD/11-6/DSC/2765-69, dated 25-7-2019 and endorsed to this office vide Conservator Wildlife Southern Circle Peshawar No.1570/WL(SC) dated Peshawar the 02/08/2019 for implementation.

In compliance of directives of Administrative Department, the appointment of the 12 Wildlife Watchers appointed vide office orders mentioned against each above are hereby cancelled with immediate effect.

Attended

Sd/-
(Niaz Muhammad Khan)
Divisional Forest Officer
Torghar Wildlife Division
Torghar

No.232-60/WL-TG

Copy forwarded for information and necessary action to the:

1. Section Officer (Estt) Government of Khyber Pakhtunkhwa, Forestry, Environment and Wildlife Department with reference to his letter cited above.
2. Chief Conservator Wildlife Khyber Pakhtunkhwa Peshawar.
3. Conservator Wildlife Southern Circle Peshawar with reference to his endorsement cited above.
4. Sub-Divisional Wildlife Officer Torghar.
5. Range Officer Wildlife Torghar.
6. All concerned Ex-Wildlife Watchers.
7. Personal files of the concerned Ex-Wildlife Watchers.

Divisional Forest Officer
Torghar Wildlife Division
Torghar

25 /
Anon 'D'

CONFIDENTIAL



PROVINCIAL INSPECTION TEAM, KHYBER PAKHTUNKHWA

INQUIRY REPORT

SUBJECT: INQUIRY AGAINST ILLEGAL APPOINTMENT IN WILDLIFE DEPARTMENT DISTRICT TORGHAR.

1. ORDER OF INQUIRY

Orders of the inquiry were received to Provincial Inspection Team from Chief Minister's Secretariat, Khyber Pakhtunkhwa vide letter No. SO/HCMS/KPK/3-8/2018/22343-44 W/E dated 14.12.2018 (Annex: A).

2. COMPLAINT:


Mr. Laila Muharamad Khan, MPA PK-35, Torghar submitted a letter to Chief Minister Khyber Pakhtunkhwa wherein he raised the issue of illegal appointment of Wildlife Watcher in Wildlife division District Torghar (Annex: B).

The gist of the allegations is as under:

i. According to him, Wildlife Torghar advertised 12 posts of Wildlife Watcher and 27 candidates were shortlisted after conducting physical. Medical test on 27.2.2018. The Selection Committee found the testimonials of the 27 candidates correct and accord approval. But astonishingly, after 9 months physical test was re-arranged on 13.1.2018 which was an illegal act.

ii. After 9 months, the chest and height of some candidates were reduced and out of 27 candidates, 12 blue eyed candidates were finalized

- 26 -



These candidates were appointed by taking bribe which was injustice with other candidates.

iii. The honourable MPA requested to cancel these illegal appointments in Wildlife division District Torghar and to re-advertise the said posts so that the eligible candidates could be able to get their right.

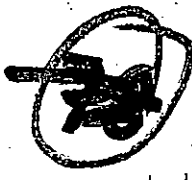
3. INQUIRY PROCEEDINGS

- a. After receipt of the reference, a two member team of PIT visited District Torghar in connection with the subject inquiry (Annex: C).
- b. PIT requested Divisional Forest Officer (DFO), Torghar to provide attendance register of the newly appointed Wildlife Watcher vide letter dated 11.1.2019 (Annex: D). In response, DFO, Torghar replied vide letter dated 11.1.2019 (Annex: E).
- c. The officials of District Police Office (DPO), Torghar and DFO Wildlife, Torghar recorded their statement as per given detail;

S.No.	Name	Designation	Annexure
1.	Abdul Sami	Asst. Member of the 1 st Committee	F
2.	Muhammad Ali	Head Constable Member of the 1 st Committee	
3.	Khan Muhammad	Head Constable Member of the 1 st Committee	
4.	Sajid	Head Constable Member of the 1 st Committee	
5.	Aamir Khan Swati	Head Constable Member of the 2 nd Committee	G
6.	Khan Muhammad	Head Constable Member of the 2 nd Committee	
7.	Syed Afzal	L.H.C. Member of the 2 nd Committee	
8.	Sardar Ali Khan	Range Officer, Wildlife Torghar	H
9.	Asif Nawaz	Watcher, Wildlife Torghar	I
10.	Fazal Wahab	Deputy Ranger, Wildlife Torghar	J

- d. DFO Wildlife Torghar recorded his statement vide (Annex: K). later on, he attended PIT on 7.2.2019 and recorded his supplementary statement vide (Annex: L).
- e. PIT served a questionnaire upon DFO Wildlife Torghar vide letter dated 13.2.2019 followed by reminder dated

- 27 -



19.2.2019(Annex: M). DFO Wildlife responded to the same letter dated 19.2.2019(Annex: N).

OBSERVATIONS

After scrutiny of the available record/documents, detailed discuss written statements and replies of the concerned staff, observations of are as under:-

- i. Perusal of the record showed that Divisional Forest Officer (Dl Wildlife District Torghar advertised 12 posts of Wildlife Watcher (BPS-07) through information Department in daily Mashriq dated 15-12-2017(Annex:O). Qualification for the post of Wildlife Watcher (BPS-07) was as follows:

Wildlife Watcher (BPS-07)	<p>a) At least 2nd class Intermediate Certificate with Matric Science from a recognized Board; and</p> <p>b) <u>Physical fitness:</u></p> <p>i. Height: five feet and six inches (minimum);</p> <p>ii. Chest Size: 34-36, inches(minimum); and</p> <p>iii. Eye Sight: V-6J(with glasses), each eye 6x6.</p> <p>Note: It is essential that the candidate will have to qualify Marathon race of 2-Km within 20 minutes</p>	18-30 years	<p>By initial recruitment.</p> <p>Note: The candidates who have been recruited will have to undergo compulsory one year Training Course of Forest Guard or Wildlife Watcher at the Khyber Pakhtunkhwa Forest School, Thai Abbottabad."</p>	Annex:P
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- ii. In the said advertisement, it was mention in the conditions that candidates will have to submit eye certificate with regard to correct eye sight issued by eye specialist alongwith bio-data(CV) to the office of DFO Wildlife Division Torghar till 10.01.2018. After closing date i.e. 10.01.2018, total 251 applications were received. DFO Wildlife notified a Scrutiny Committee, for Scrutiny documents of the candidate vide his office order dated 6.2.2018 comprised of the following members.



- i. Mr. Sardar Ali Khan Rang Officer, Wildlife Torghar
- ii. Fazal Wahab, Deputy Ranger
- iii. Asif Nawaz, Watcher Wildlife, Torghar.

iii. The Scrutiny Committee submitted a verified list on 12.2.2018(Annex:Q). According to the list, 153 applicants were found eligible while 98 applicants were found ineligible. Afterwards, DFO Wildlife Torghar notified another committee, having the same members of the scrutiny committee, for the physical test vide his office order dated 6.2.2018(Annex:R). On the same day, DFO Wildlife Torghar requested DPO Torghar to depute three officials to conduct physical test i.e. including 2 Km Marathon, height and Chest Measurement. In response, DPO Torghar deputed the following four (4) officials for physical test (Annex: S):

- i. ASI Sami Khan SRC/DPO Office
- ii. HC Sajid Khan A/LO Police Line
- iii. LHC Khan Muhammad A/OHC DPO Office
- iv. FC Pervaiz No. 73/NOHC DPO Office

iv. Physical test of 153 candidates was conducted on 27.2.2018, wherein 27 candidates qualify the test (Annex:T). Member of both committees (Police & Wildlife) signed the list of 27 candidates who qualified the physical test and the same was forwarded to DFO Wildlife, Torghar for further process (Annex:U). Meanwhile, District Nazim Torghar wrote a letter to Chief Conservator, Wildlife KP on 6.9.2018 wherein he stated that he received various complaints of the general public about embezzlement/political involvement during the physical test of Wildlife Watcher Torghar. In the said letter, he requested to cancel and re-arrange the physical test (Annex: V).

The request of District Nazim Torghar was honoured and DFO Wildlife Torghar re-arranged the physical test. The DFO Wildlife deputed the same committee who conducted the 1st physical test while DPO Torghar changed the members of the committee for 2nd physical test. The District Nazim Torghar also recommended two

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(02) candidates who disqualified the 1st test. The 2nd physical test of 20 candidates (27 qualified candidates of 1st test and 2 candidate recommended by District Nazim Torghar) was conducted on 13.11.2018. In the 2nd physical test, 15 candidates qualified the test while 14 candidates including the two (2) recommended candidate of District Nazim disqualified the test (Annex:W). List of the 15 qualified candidates duly signed by the members of police committee and countersigned by DPO Torghar was furnished to DFO Wildlife Torghar on 15.11.2018 (Annex: X).

vi. Thereafter, Departmental Selection Committee (DSC), notified vide office order dated 30.11.2018, conducted interview of 15 candidates on the same day and recommended 12 candidates for the post of Wildlife Watcher (BPS-7) while two (2) candidates were placed on waiting list (Annex:Y).

viii. The inquiry team visited District Torghar wherein they directed DFO Wildlife Torghar to present the qualified and disqualified candidates of 2nd physical test before the team so as to re-measure their chest size & height to substantiate as the levelled allegations were true or otherwise. On 9.1.2019, out of 14 disqualified candidates, only six (6) appeared before inquiry team. The detail of their re-measurement of chest size & height and comparison with 2nd physical test is given as under;

S. No	Name of Candidate	Father Name	Measurement in the 2 nd Physical test		Actual Measurement in the presence of inquiry team		Annexure
			Height	Chest	Height	Chest	
1.	Ihtisham Khan	Qasam Khan	5x9	33x35 ¹⁷²	5x9	32x34 ¹⁷²	Z
2.	Saeed Khan	Taj Mehmood	5x8 ¹⁷²	33x35	5x8 ¹⁷²	33x35 ¹⁷²	
3.	Izhar Ahmad	Hikmat Khan	5x6 ¹⁷²	33x35 ¹⁷²	5x6 ¹⁷²	33x36	
4.	Azeem ul Haq	Naseeb ullah	5x6	33x35	5x6	33 ¹⁷² x35 ¹⁷²	
5.	Syed Jahid Shah	Khadi Shah	5x5 ¹⁷²	33 ¹⁷² x35 ¹⁷²	5x5 ¹⁷²	33x36	
6.	Syed Hameed ulan	Mukaram Shah	5x8 ¹⁷²	33x35	5x8 ¹⁷²	31x35	



vii. The above comparison showed some increase/decrease in height/chest of the 6 candidates but none of the candidate fulfil the required qualifying criteria. (i.e. height: 5 feet 6 inches & chest 34x36 inches).

viii. On 10.1.2019, out of 12 selected candidates, 11 appeared before team except Mr. Majid Khan, who according to DFO Wile Torghar, was ill and was unable to appear before inquiry team. Detail of the re-measurement of height/chest of the selected candidates and comparison with the 2nd physical test is given under:

S.No	Name of Candidate	Father Name	Measurement in the 2 nd Physical test		Actual Measurement in the presence of inquiry team	
			Height	Chest	Height	Chest
1.	Hussain Ahmad	Abdul Haleem	5x7	36x38 ^{1/2}	5x7 ^{1/2}	36x39
2.	Anwar Khan	Asar Khan	5x6 ^{1/2}	34x36 ^{1/2}	5x6 ^{1/2}	35x37
3.	Mubashir Ahmad	Momin Gul	5x8	34x36 ^{1/2}	5x8	34 ^{1/2} x3
4.	Fazal Nawaz Khan	Mir Nawaz Khan	5x7 ^{1/2}	34x36	5x7 ^{1/2}	34 ^{1/2} x3
5.	Muhammad Irfan	Muhammad Tahir	5x6	34x36	5x6 ^{1/2}	34x36
6.	Riaz Ahmad	Muhammad Saleh	5x7 ^{1/2}	34x36	5x8	34x36 ^{1/2}
7.	Faiz ur Rehman	Sahib ur Rehman	5x7	38x40	5x7 ^{1/2}	37x39
8.	Haroon Khan	Hazrat Hussain	5x7 ^{1/2}	35 ^{1/2} x38	5x8 ^{1/2}	36x38 ^{1/2}
9.	Hafeez ur Rehman	Sahib ur Rehman	5x7 ^{1/2}	35x37	5x7 ^{1/2}	34x36
10.	Muhammad Tayyab	Nawab Nabi	5x8 ^{1/2}	34x36	5x8 ^{1/2}	35x37
11.	Hazrat Ullah	Bakhrullah	5x8 ^{1/2}	35x37 ^{1/2}	5x7	35x38

vii. The above comparison showed some increase/decrease in height/chest of the 11 candidates but besides these changes their size (chest/height) was found according to the required criteria. None of the selected candidate was found below the required criteria (i.e. height: 5 feet 6 inches & chest 34x36 inches). Hence, the result of the 2nd test in term of chest/height was found correct.

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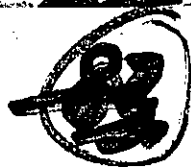


ix. It is pertinent to mention that out of 27 candidates, 17 candid (11 qualified + 6 disqualified) of 2nd test appeared before the inquiry team for re-measurement of chest/height. As the above observation confirmed the accuracy of the result of 2nd test to great extent. Hence, it casted doubts that the 1st test might not be conducted accurately and favour was extended to those 12 qualified candidates who disqualified the 2nd test.

x. To ascertain the factual position, DFO Wildlife Torghar was directed to present all the candidates who were declared disqualified in 1st physical test. In response, out of 126 candidates (153-27), only six (6) candidates appeared before the inquiry team. The details of their re-measurement of height/chest and comparison with the 1st physical test is given as under:

S.No	Name of Candidate	Father Name	Measurement in the 1 st Physical test		Actual Measurement in the presence of inquiry team	
			Height	Chest	Height	Chest
1.	Fateh ullah	Amrullah	5x6 ^{1/2}	37x39 ^{1/2}	5x7	35x38
2.	Suleman Khan	Yakmin Khan	5x5	31x32 ^{1/2}	5x5	29x31
3.	Hameed ur Rehman	Zaibullah	5x5 ^{1/2}	33x34	5x5 ^{1/2}	33x34
4.	Namzood Khan	Mahabat	5x9	31x35	5x9.5	29 ^{1/2} x32
5.	Zabehullah	Sabit ullah	5x8	33x34 ^{1/2}	5x8 ^{1/2}	31x33
6.	Sakhi Badsha	Muhammad Zahir shah	5x5 ^{1/2}	33 ^{1/2} x35	5x7	32x34 ^{1/2}

xi. The above comparison showed that the last five (5) candidates, who were disqualified in the 1st physical test, did not qualify the required passing criteria even before the inquiry team. However, the size of height/chest of Mr. Fateh Ullah S/o Amrullah (the candidate at S.No 1) was found according to the set criteria of Wildlife Watcher and as per result he passed the 1st physical test but his name was not reflected in the list of 27 qualified candidates signed by all the members of the committee. This made the result of 1st physical test dubious. Therefore, the result of 1st physical test was examined and tallied with the list of 27 qualified candidates which transpired the following defects/flaws/irregularities in the 1st test:



a. None of the candidate recorded their signature against their result/measurement in the column meant for the purpose. With regard to this query, DFO Wildlife replied that the list was handed over to Police for mentioning of result in the list. The police had not recorded the signature of candidates in the signature column in the said list due to unknown reason. The reply of DFO Wildlife raised questions that why they were not ask to do so and what was the purpose/duty of DFO committee in the physical test. Hence, non-availability of signature of candidates against their result casted doubts and put question mark on the sanctity/validity of 1st test.

b. The result of Marathon & Eye Certificate was not provided and due to lack of proper attention, was recorded in a vague manner in the list. These columns were either left blank or filled by recording tick mark which did not give clue about the score/result of the process. In this regard, DFO Wildlife replied that for the result of marathon race slips were handed over to the police. After marathon the police officials returned the same and recommended that all candidates were qualified due to easy marathon i.e. 2 Km in 20 minutes. But no such remarks were found on the record. The token provided by DFO Wildlife Torghar contain Name, F/Name and Signature of the candidate but did not contain the result i.e. whether he qualified/disqualified the test and what was his score.

c. Similarly, according to advertisement/service rules, the criteria for eye sight was V-6J (with glasses), each eye 6x6, which was part of the physical fitness and was required to be checked during the test but it was observed that the eye sight was not checked on the spot of the test instead candidates were requested to provide eye certificate from eye specialist alongwith application till closing date of advertisement. The same was confirmed by DFO Wildlife vide his reply that eye sight test were checked during submission of documents and all



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the candidates found fit and called for further process. The reply of DFO. was suffice to prove the process defective as the eye sight was checked 16 days before the physical test and that too by any eye specialist.

- d. A candidate Mr. Haroon Khan at S.No.18 fulfilled the required height/chest criteria while his Eye Certificate/ Marathon columns were left blank. On the basis of this result, he was considered qualified and his name was included in the list of 27 qualified candidates and later on he was selected against the post of wildlife watcher. However, the name of Mr. Zahid Shah at S. No. 60(though some overwriting was observed in his measurement) was not included in the list of 27 qualified candidates who had almost the same result.
- e. Two candidate i.e. Mr. Fateh ullah at S.No 16 & Mr. Zahid Shah at S.No. 60 (as mentioned above) who qualified the test in term of chest/height were not included in the list of the 27 qualified candidates. Therefore, they did not avail the opportunity of further competition, did not appear in the 2nd test and subsequently were not called for interview. Mr. Fateh ullah appeared before the inquiry team. His chest/height was found within the required parameters of chest/height. (For reference see table at para-ix, Serial No. 1).
- f. Two candidates i.e. Mr. Ihtisham Khan, at S.No. 83 & Muhammad Yaqoob at S.No. 20, who disqualified the 1st test in term of chest/height were included in the list of 27 qualified candidates. They both availed the opportunity to appeared in the 2nd test wherein they again failed the test and did not qualify for interview. Mr. Ihtisham Khan s/o Qasim Khan appeared before PIT team for re-measurement of chest/height and he did not fulfill the required criteria of Wildlife Watcher (For reference see table at para-viii, Serial No. 1). Regarding this query, DFO Wildlife replied that the names of disqualified candidates were included in qualified list by the

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police and after signature the same was provided to them. It raised a question that why the same was not verified/talied by the members of DFO scrutiny committee instead recording signature blindly. It revealed their collusion as the recruitment process was mandate of their department not the police department.

g. The list of 27 qualified candidates of 1st physical test was not signed by Mr. Pervaiz and Mr. Asif Nawaz, the notified members of Police & Wildlife committees respectively. Instead the same was signed by Muhammad Ali Shah and Salim Shah who were not the members of the respective committees. In this regard, DFO Wildlife Torghar replied that due to some emergency, Mr. Asif Nawaz Wildlife Watcher left the same process and senior wildlife watcher Mr. Saleem Shah signed the list. Moreover, Muhammad Ali Shah signed the list instead of Mr. Pervaiz which was nominated by District Police Officer Torghar. The said incumbent was also from Police Department. The reply of DFO seems not correct as Mr. Asif Nawaz did not mention any emergency vide his statement. Furthermore, they had to issue notification for the replacement of members before initiating the process.

xii. As discussed above at para-e that Mr. Fatch ullah and Mr. Zahid Shah was dropped from further competition. Hence, it raised question that whether there was possibility of their selection if they were allowed to interview and whether they could affect the merit list. To ascertain this situation, the merit list of selected candidates and the educational qualification of the two deprived candidates, provided by DFO office Wildlife Torghar, was examined which showed the following details;



Merit list of the selected Candidates for the post of Wildlife Watcher

S No	Name	Father Name	Qualification	Minimum prescribed qualification marks out of 70		Higher Qualification Marks out of 12	Experience marks out of 10	Total marks	Interview marks out of 8	Grand Total
				Metric	Inter					
1	Fazal Nawaz Khan	Mir Nawaz Khan	SSC ^{1st} FSc ^{1st} BS(Hons)	35	35	08	--	78	04	82
2	Faiz ur Rehman	Sahib ur Rehman	SSC ^{1st} FSc ^{2nd} BS(Hons)	35	27	08	--	70	05	75
3	Anwar Khan	Asar Khan	SSC ^{1st} DAE ^{1st}	35	35	--	--	70	04	74
4	Hafeez ur Rehman	Sahib ur Rehman	SSC ^{1st} FSc ^{1st}	35	35	--	--	70	04	74
5	Hazrat Ullah	Bakhr Ullah	SSC ^{1st} FSc ^{2nd}	35	27	--	--	62	05	67
6	Hussain Ahmad	Abdul Haleem	SSC ^{1st} FSc ^{2nd}	35	27	--	--	62	04	66
7	Riaz Ahmad	Muhammad Saleh	SSC ^{1st} FSc ^{2nd}	35	27	--	--	62	04	66
8	Muhammad Irfan	Muhammad Tahir	SSC ^{1st} FSc ^{2nd}	35	27	--	--	62	03	65
9	Majid Khan	Azmat Khan	SSC ^{2nd} FSc ^{2nd}	26	27	--	--	53	07	60
10	Mubasher Ahmad	Momin Gul	SSC ^{2nd} FSc ^{2nd}	26	27	--	--	53	07	60
11	Haroon Khan	Hazrat Hussain	SSC ^{2nd} FSc ^{2nd}	26	27	--	--	53	05	58
12	Muhammad Tayyab	Nawab Nabi	SSC ^{2nd} FSc ^{2nd}	26	27	--	--	53	04	57



x) The academic qualification of the deprived candidates and total marks before interview as per criteria would be as under;

Name	Father Name	Qualification	Minimum prescribed qualification marks out of 70		Higher Qualification Marks out of 12	Experience marks out of 10	Total marks	Merit position before interview
			Matric	Inter				
Zahid Shah	Salami Shah	SSC 2 nd DAE 1 st	26	35	--	--	61	At S No 9
Fateh Ullah	Amrullah	SSC 2 nd FA 1 st	26	27	--	--	53	Fall within the brackets of S No 10 to 12

xii. The above facts revealed that if both the deprived candidates were allowed to interview then there were chances of their selection. Especially, in the case of Mr. Zahid Shah whose selection was confirmed even though he got minimum score in the interview.

xiii. A question was asked from members of 1st Committee of Police that they declared 27 candidates successful which were re-examined by the 2nd committee of police department who declared further 14 candidates disqualified. Moreover, re-examination by PIT team, the result showed decrease in their size i.e. height & chest. What was the reason? They replied that they conducted the said test upto optimum care and responsibility so as to make it transparent. According to them, they conducted 1st test of 153 candidates with regard to 2 km Marathon, height chest. Proper list was prepared of the candidates showing height chest size. So far Marathon test is concerned, they stated that the token were allotted by Wildlife Department and the detail was available with them. Out of 153 candidates only 27 candidates were qualified fulfilling the laid down criteria which was signed by both the committees i.e. Police & Wildlife. With regard to increase decrease in size of the candidates, they stated that they conducted the test in the month of February 1988 while the second test was conducted during the month of November 1988 which shows the aging period had been passed and due to this reason that the candidates were living beings, therefore their size had changed.

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Signature of [Name]

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xiv Mr. Sardar Ali Khan, Range Officer Wildlife Division Torghar (Member of Wildlife Committee) stated in his written statement that DFO Wildlife vide his notification declared him chairman for the physical test. The responsibility of physical test was assign to Police committee. The Police committee conducted test of all the 153 candidates and prepared a hand written list of qualified candidates and asked him to sign the list which he signed. With regard to exclusion of two qualified candidates from the approved list, he stated that he did not have any personal interest/prejudice with any candidate. If he had such intentions then he should disqualified them in the physical test. Probably, this was done mistakenly.

xv Mr. Asif Nawaz Watcher Wildlife Division Torghar (Member of Wildlife Committee) stated in his written statement that he attended Police Line Judba Torghar in compliance to DFO's orders. The physical test was the responsibility of police committee and they conducted the entire process. He further stated that he did not know anything about the list and he did not sign the same.

xvi Mr. Fazal Wahab, Deputy Ranger, Wildlife Division Torghar (Member of Wildlife Committee) stated in his written statement that DFO Wildlife Torghar nominated him for physical test but on the same day he was assigned other responsibilities. Due to the reason he was not present at the time of physical test. At the end of the test, Police Committee asked him to sign the list immediately and according to him he signed the list. He further stated that he did not know anything about the list and being a field staff, he did not had knowledge of measurement. To a question that the names of two qualified candidates were replaced by two disqualified candidates, he replied that he knows nothing about that and after physical test he went to Forest School Thal, Abbottabad for training.

xvii A questionnaire was served to DFO Wildlife Torghar wherein he was asked that under what authority the 2nd physical test was conducted?

He replied that the physical test was re-conducted due to complaint of District Nazim Torghar and Tehsil Nazim and their favourable two candidates after instructions of worthy Chief Conservator Wildlife, Khyber Pakhtunkhwa and Conservator Wildlife. He further stated that in the second physical test the opportunity was not given to the candidates who already disqualified the test. The reply of the DFO itself points toward the defective process of the 2nd test as if there were complaints against the 1st test then opportunity should be given to all the candidates regardless the fact that they qualified or disqualified the previous test so as to ensure transparency.

4. Conclusion:

The facts lead to the conclusion that both the Committees i.e. Police & Wildlife exercised great laxity and negligence while conducting 1st physical test. In the said test, the entire process was over sighted especially Marathon and Eye Sight. The result of 1st physical test was recorded in a vague manner which consisted of various defects/ flaws and irregularities which has been discussed at para-xi (a,b,c,d,e,f & g) of this report. The recruitment process was delayed for some months due to the ban imposed by Election Commission of Pakistan and due to the complaint of District Nazim Torghar. Two qualified candidates Mr. Fatchullah S/o Amrullah and Mr. Zahid Shah S/o Mr. Salamt Shah were restrained from further competition despite the fact that they had qualified the chest/height criteria. Hence, it was injustice with them. Similarly, two candidates Mr Ihtisham Khan and Muhammad Yaqoob who disqualified the 1st test were included in the list of 27 qualified candidates which indicate that undue favour was extended to these two candidates. Though the result of 2nd physical test was found almost accurate in term of chest/height measurement while the remaining criteria of physical test i.e. eye sight and Marathon was totally ignored in the 2nd test and for the same the DFO relied upon previous test result which was defective, questionable and under complaints. Moreover, 2nd test was

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conducted of the qualified candidates of the 1st test leaving 126 disqualified candidates of 1st test deprived which is against the principles of fair competition. Furthermore, complete lack of supervision from DFO Wildlife Torghar provided opportunity to the members of the Police and DFO committee to conduct the 1st test as per their own understanding/knowledge which lead the process to a defective exercise. The record did not confirm any efforts made by DFO Wildlife to counter check/oversee the process. The DFO Wildlife and members of his committee tried to shift the burden of physical tests to the police committee despite the fact that the post of Wildlife Watcher existed in their department and they were mandated to conduct the same and the role of police committee was to assist/facilitate them in the recruitment process.

5. FINDINGS

Based on the observations/analysis at Para-3 of this report, findings are as under:-

- I. That, Divisional Forest Officer (DFO), Wildlife District Torghar advertised 12 No. of posts of Wildlife Watcher (BPS-07).
- II. The committees constituted for the 1st physical test exercised sheer negligence and laxity while conducting the 1st physical test. Due to the reason several defects/irregularities were found in the 1st physical test such as;
 - Non recording of candidate's signature.
 - Inclusion of two (2) disqualified candidates in the list of qualified candidates.
 - Exclusion of two (2) qualified candidates from the list of qualified candidates.
 - Eye sight was not checked during the physical test.
 - The result/record of marathon race was not maintained

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The list of qualified candidates were not signed by two notified members instead two (2) un-notified persons signed the same.

- III. 2nd physical test was conducted only of qualified candidates of 1st physical test and two recommended candidates of District Nazim which was injustice with the other disqualified candidates of 1st physical test and was against the principles of fair competition. Moreover, the 2nd physical test was confined to measurement of chest and height only and for the other criteria of physical fitness i.e. the eye sight and marathon, DFO Wildlife Torghar relied upon the result of 1st test which was already questionable. Hence, the process of 2nd test was also defective.
- IV. District Nazim Torghar unlawfully intervened in the process of recruitment and by his influence two (2) physically disqualified candidates were allowed to appear in the 2nd physical test. He compelled Wildlife Department to conduct the 2nd physical test.
- V. DFO Wildlife Torghar failed to resist to unlawful pressure of District Nazim and allowed two (2) disqualified candidates to appear in the 2nd physical test.
- VI. The recruitment process was delayed due to the ban imposed by Election Commission of Pakistan and later on due to the complaints of irregularities/political involvement by District Nazim Torghar.
- VII. The role of DFO Wildlife (being the divisional head) with regard to supervision/monitoring of the recruitment process was not confirmed by the record. Complete lack of supervision from the DFO provided an opportunity to members of Police and DFO Committee to conduct the test in a manner that did not ensure transparency.

6. RECOMMENDATIONS

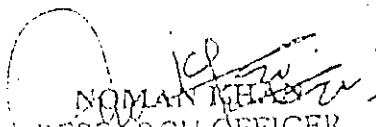
Based on observations and findings of the report recommendations of PI are as follows:

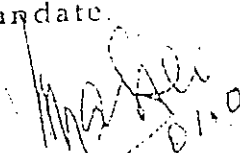
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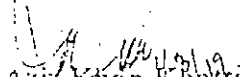
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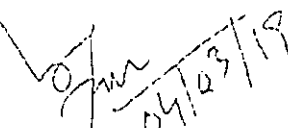
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- I. Disciplinary action under the relevant rules may be taken against the members of the Police and Wildlife Committees, who conducted 1st physical test, on the grounds of negligence and omission of duties/responsibilities assigned to them.
- II. Disciplinary action against the incumbent DFO Wildlife Torghar may be taken for his negligence and non interest in his official duties and failure to overcome anomalies mentioned in this report.
- III. The appointment of 12 Wildlife Watcher District Torghar is based on irregular/defective process and fair trial for competition was not observed. The appointment of 12 No. of Wildlife Watcher was made against the spirit of merit, therefore; the appointment may be cancelled. The posts may be re-advertised and be filled strictly following the merit and criteria.
- IV. The required height and chest size of Wildlife Watcher is over and above the height and chest size required for other forces of this province. Therefore, the same may be considered to make it uniform with other force physical requirement.
- V. The District Nazim Torghar may also be proceeded under the relevant disciplinary rules on the grounds of unlawful intervention in the recruitment process and merit of the Wildlife Watcher having no such mandate.


NOMAN KHATTAK
RESEARCH OFFICER
Provincial Inspection Team,
Khyber Pakhtunkhwa
28/2/19


LIAQAT ALI MOHMAND
MEMBER (INQUIRIES)
Provincial Inspection Team,
Khyber Pakhtunkhwa
01.03.2019


AZIZ KHAN KHATTAK
MEMBER GENERAL
Provincial Inspection Team,
Khyber Pakhtunkhwa


Muhammad Akbar Khan
CHAIRMAN
Provincial Inspection Team,
Khyber Pakhtunkhwa
04/03/19

فون:

(سابقہ وارنٹ ڈیفنس اور ایف ڈی ایف)

Handwritten signature and name: *محمد شہزاد*
M. Shaukat

ایف ڈی ایف اور ایف ڈی ایف ڈیفنس اور ایف ڈی ایف ڈیفنس

فون: اطلاع دہری اور ایف ڈی ایف

ایف ڈی ایف ڈیفنس اور ایف ڈی ایف ڈیفنس

فون: اطلاع دہری اور ایف ڈی ایف ڈیفنس اور ایف ڈی ایف ڈیفنس

فون: اطلاع دہری اور ایف ڈی ایف ڈیفنس اور ایف ڈی ایف ڈیفنس

جان صاحب

فون: اطلاع دہری اور ایف ڈی ایف ڈیفنس اور ایف ڈی ایف ڈیفنس

ایف ڈی ایف ڈیفنس اور ایف ڈی ایف ڈیفنس

تاریخ: 29 اگست 2019



Handwritten signature: *M. Shaukat*

Address
Department

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OFFICE OF THE CONSERVATOR WILDLIFE SOUTHERN CIRCLE PESHAWAR

To

Mr. Mubashir Ahmad,
Ex-Wildlife Watcher,
Torghar Wildlife Division,
C/O DFO Wildlife Torghar.



Amurrah
" F "

No. 3447 WL(SC) Dated Peshawar the 20/9 2019

Subject: **APPEAL FOR REINSTATEMENT AS WILDLIFE WATCHER.**

You have preferred an appeal dated 29-08-2019 to the undersigned for reinstatement in service as Wildlife Watcher by setting aside officer order No. 04 dated 22-08-2019 issued by DFO Wildlife Torghar. Your subject appeal has been considered and was referred to the concerned DFO Wildlife Torghar for his comments vide this office No. 2581/WL(SC) dated 30-08-2019. DFO Wildlife Torghar furnished his comments on the appeal vide his office letter No. 329/WL-TG dated 04-09-2019. From the comments of DFO Wildlife Torghar and facts of the case, it is clear that:

An inquiry was conducted by the Provincial Inspection Team, Khyber Pakhtunkhwa in compliance with Chief Minister's Secretariat Khyber Pakhtunkhwa letter No. SOVI/CMS/KPK/3-8/2018/22343 W/E dated 14-12-2018, issued in light of a letter from Mr. Laiq Muhammad Khan, MPA PK-53 Torghar wherein the MPA had raised the issue of illegal appointment of Wildlife Watchers in Torghar Wildlife Division.

The Provincial Inspection Team, Khyber Pakhtunkhwa conducted the inquiry and it has been recommended in its enquiry report that the appointment of twelve (12) wildlife watchers including your appointment being irregular and contradictory to the provisions of relevant rules and procedure, may be cancelled. The inquiry report of the Provincial Inspection Team, Khyber Pakhtunkhwa was received in Khyber Pakhtunkhwa Wildlife Department through Section Officer (Estt), Government of Khyber Pakhtunkhwa, Forestry, Environment and Wildlife Department letter No. SO(Estt)/FE&WD/11-6/DSC/2765-69 dated 25-07-2019 which was subsequently endorsed to this office vide Chief Conservator Wildlife Khyber Pakhtunkhwa endorsement No. 1104/WL(E) dated 31-07-2019. In light of the aforementioned inquiry, it has clearly been mentioned in the aforesaid letter from Administrative Department that the appointment made against the 12 posts of wildlife watchers in Torghar Wildlife Division may immediately be cancelled and these posts may be re-advertised through ETEA and filled strictly by observing merit and criteria.

This office referred the said inquiry report to DFO Wildlife Torghar for necessary action vide this office endorsement No. 1570/WL(SC) dated 02-08-2019. As such in compliance with the directives of the Administrative Department and in line with the recommendations of the inquiry committee, the DFO Wildlife Torghar cancelled the appointment of above-mentioned wildlife watchers including you vide his office order No. 04 dated 22-08-2019.

Since your appointment has been cancelled on the recommendations of a high-level inquiry committee, therefore the undersigned is convinced that office order No. 4 dated 22-08-2019 issued by the DFO Wildlife Torghar is supported by law and procedure after fulfillment of legal formalities, therefore your appeal dated 29-08-2019 is hereby rejected.

No. 1 WL(SC)

Accepted

[Signature]
Conservator Wildlife
Southern Circle
Peshawar

20/09/2019

Copy forwarded to the:

1. Chief Conservator Wildlife Khyber Pakhtunkhwa for information.
2. DFO Wildlife Torghar for information and necessary action. He is requested to obtain acknowledgement receipt of this letter from the appellant for official record.

Conservator Wildlife
Southern Circle
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1211 / 2019

Mubashar Ahmad

Versus

Government of Khyber Pakhtunkhwa Peshawar

Subject: **EARLY HEARING OF ABOVE MENTION ABOVE APPEAL**

RESPECTFULLY SHEWETH:-

1. That the instant appeal preferred before the learned services tribunal Peshawar and the above application considered part and parcel of the instant appeal.
2. That the matter is urgent so the appellant seek is remedy / interim relief before the learned tribunal Peshawar.


It is, humbly prayed that the acceptance of application may kindly be allow and the chance of hearing to given the appellant.

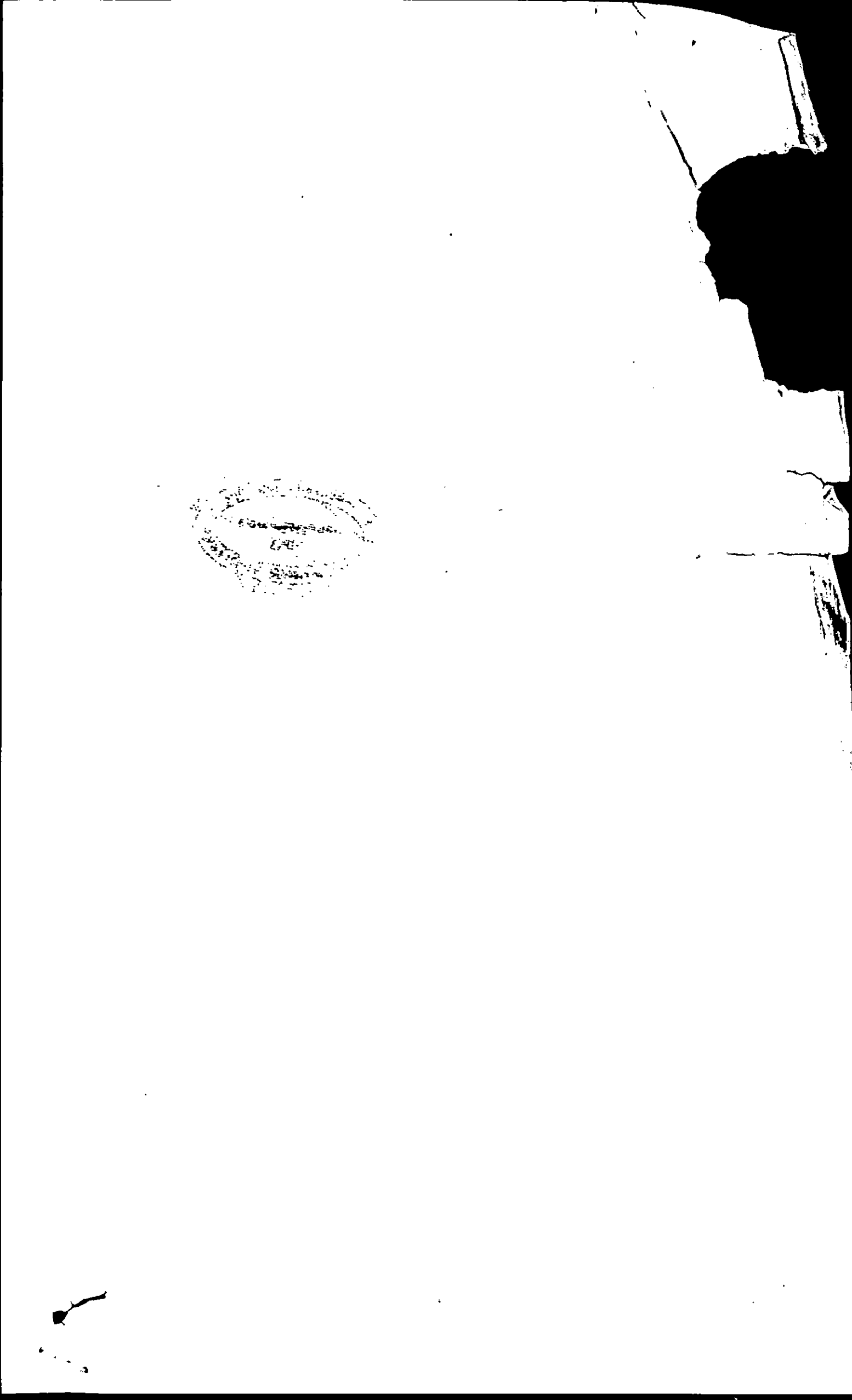
Through

Petitioner


SYED ASIF SHAH
ADVOCATE HIGH COURT
MANSEHRA

Dated : 01-10-2019

Be fixed today

1/10



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. _____ 2019

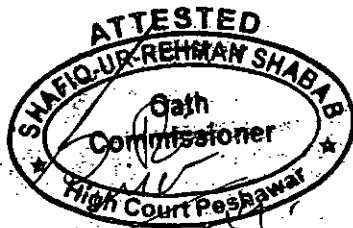
Mubashar Ahmad

Versus

Government of Khyber Pakhtunkhwa Peshawar

AFFIDAVIT

I, do hereby solemnly affirm and declare on Oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Court.



61-10



ADVOCATE

OFFICE OF THE CHIEF CONSERVATOR WILDLIFE KHYBER
PAKHTUNKHWA PESHAWAR.

No. 4365 /WL (E) dated 18-11 /2019

AUTHORITY LETTER

Divisional Forest Officer Wildlife Torghar is hereby authorized to attend the Khyber Pakhtunkhwa Service Tribunal, Peshawar in the Service appeal No.1211/2019 titled of "Mubashir Ahmad Verses Govt: of Khyber Pakhtunkhwa" on behalf of Chief Conservator Wildlife Khyber Pakhtunkhwa on each and every date of hearing till final decision in the subject court case


18/11/19
Chief Conservator Wildlife
Khyber Pakhtunkhwa
Peshawar
Chief Conservator Wildlife
Khyber Pakhtunkhwa
Peshawar

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

SERVICE APPEAL NO. 1211of/2019

Mubashar Ahmad S/o Momin Gul R/o Darband, Tehsil Torghar, District Torghar

.....PETITIONERS

VERSUS

1. Govt Khyber Pakhtunkhwa through Secretary Wildlife Department, Khyber Pakhtunkhwa Peshawar.
2. Divisional Forest Officer Wildlife – Torghar
3. Chief Conservator Wildlife Khyber Pakhtunkhwa at Shami Road, Peshawar.
4. The Conservator Wildlife Southern Circle, Peshawar

.....RESPONDENTS

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.01 TO 04

Respectfully Sheweth:

PRELIMINARY OBJECTION:

1. That the appellant has got no cause of action therefore, the instant appeal is liable to be dismissed.
2. That the appeal in hand is barred by law, hence not maintainable.
3. That the appellant is estopped by their own conduct to file the instant appeal.
4. That the appeal in hand is incompetent in its present form hence not maintainable.

ON PRAYERS

Incorrect: The appointment orders of the appellants were cancelled by the respondent No.02 vide Divisional Forest Officer Wildlife Torghar Office Order No.04 dated: 22.08.2019 on the basis of findings of the inquiry report of the Provincial Inspection Team (PIT) regarding illegal appointment of Wildlife Watchers in Torghar Wildlife Division. The said inquiry was conducted by PIT in compliance with the directives of Chief Minister's Secretariat, Khyber Pakhtunkhwa vide letter No. SOVI/CMS/3-8/2018/22343-44 W/E dated:14.12.2018. The PIT in its inquiry report recommended, inter-alia that:

- (i) Disciplinary action may be taken against the members of Police and Wildlife Committees and incumbent Divisional Forest Officer Torghar under the relevant rules, who conducted first physical test, on the grounds of negligence and omission of duties/responsibilities assigned to them.
- (ii) The appointment of 12 Wildlife Watchers in Torghar Wildlife Division is based on irregular/defective process and fair trial for competition was not observed. The appointment of 12 Wildlife Watchers was made against the spirit of merit, therefore, the appointment may be cancelled. The posts may be re-advertised and be filled strictly following the merit and criteria.

Accordingly, as explained above, the DFO Wildlife Torghar cancelled the appointment orders of the appellants. Their departmental representations/appeals were also rejected by the Appellate Authority as under (**Copies enclosed as Annexure-I**):

S.No.	Letter No.	Dated	Addressed to
1.	3421-22/WL(SC)	20.09.2019	Mr. Faiz-Ur-Rehman (Ex-Wildlife Watcher)
2.	3424-25/WL(SC)	=do=	Muhammad Tayab (Ex-Wildlife Watcher)
3.	3426-28/WL(SC)	=do=	Muhammad Irfan (Ex-Wildlife Watcher)
4.	3430-31/WL(SC)	=do=	Majid Khan (Ex-Wildlife Watcher)
5.	3433-34/WL(SC)	=do=	Hazratullah (Ex-Wildlife Watcher)
6.	3436-37/WL(SC)	=do=	Hafeez-Ur-Rehman (Ex-Wildlife Watcher)
7.	3439-40/WL(SC)	=do=	Anwar Khan (Ex-Wildlife Watcher)
8.	3442-43/WL(SC)	=do=	Hussain Ahmad (Ex-Wildlife Watcher)
9.	3445-46/WL(SC)	=do=	Haroon Khan (Ex-Wildlife Watcher)
10.	3448-49/WL(SC)	=do=	Mubashir Ahmad (Ex-Wildlife Watcher)
11.	3451-52/WL(SC)	=do=	Fazal Nawaz Khan (Ex-Wildlife Watcher)

It is further clarified that the department has also initiated disciplinary proceedings against the responsible officers/officials involved in illegal appointment of Wildlife Watchers in Torghar Wildlife Division under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in compliance with the recommendation of PIT inquiry report.

In view of above facts, no illegal decision and political victimization of the appellants has been made by the respondents hence the appeal is liable to be dismissed.

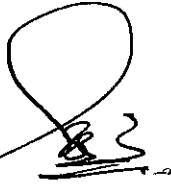
ON FACTS

1. Pertains to the record, hence no comments.
2. **Correct** to the extent that on 15.12.2017 the Divisional Forest Officer Wildlife Torghar advertised 12 posts of Wildlife Watcher (BPS-07). In response, the appellants were applied for the posts.
3. **Correct** to the extent that the appellants served from 14.11.2018 to 22.08.2019 in the office of Divisional Forest Officer Wildlife Torghar. }
4. In correct, as explained above (**On Prayers**)
5. **Incorrect.** On the orders of the Chief Minister, Khyber Pakhtunkhwa, an inquiry was conducted by the PIT regarding illegal appointment of Wildlife Watchers in Torghar Wildlife Division. In compliance with the recommendations of the said inquiry report, the appointment orders of the appellants were cancelled. (**copy of the inquiry is "A"**)
6. **Correct** to the extent that the appellants preferred departmental appeals for setting aside the appointment cancellation orders and requested for re-appointment as Wildlife Watcher in Torghar Wildlife Division. The same were rejected by the Appellate Authority, based on valid grounds.
7. **Incorrect:** As explained above.


ON GROUNDS

- a. **Incorrect:** The appointment orders of the appellants were cancelled by the respondent No.02 vide Office Order No.04 dated: 22.08.2019 in light of the recommendations of inquiry report conducted by the PIT. Hence the impugned order is very much legal.
- b. **Incorrect:** Cancellation of appointment orders was done as per recommendations of the PIT's inquiry report which termed these appointments against law and rules.
- c. **Incorrect:** The PIT in its inquiry report clearly recommended that the appointment orders of 12 posts of Wildlife Watchers in Torghar Wildlife Division may be cancelled immediately and then re-advertise the posts. Hence the appointment orders being illegal were cancelled in light of the said inquiry.
- d. **Incorrect: As explained at Serial No. c above.**
- e. **Incorrect:** Provincial Inspection Team is competent to conduct enquiry and its recommendations are binding.
- f. Inquiry report of Provincial Inspection Team (PIT) has completely discussed the case and various appellants appeared in front of the inquiry committee.
- g. **Incorrect:** Proper inquiry was conducted by PIT and the appointment orders have been proved to be issued in violation of laws and rules hence the impugned orders were issued in accordance with law.
- h. **Incorrect:** As explained above
- i. **Incorrect:** Inquiry was conducted by a recognized body of the province.
- j. **Incorrect:** Respondents acted as per law and rules.
- k. **Incorrect:** Illegal order does not create rights. Hence no right has been violated.

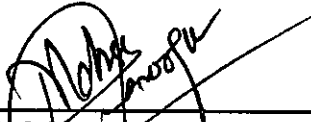
It is therefore most humbly prayed that the subject Appeal may please be dismissed with cost.




Secretary
Govt. of Khyber Pakhtunkhwa
Forestry, Environment and
Wildlife Department
(Respondent No.01)



Divisional Forest Officer Wildlife
Torghar Wildlife Division
(Respondent No. 02)

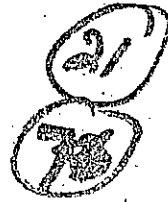


Chief Conservator Wildlife
Khyber Pakhtunkhwa
Peshawar
(Respondent No. 03)



Conservator Wildlife
Southern Wildlife Circle
Peshawar
(Respondent No. 04)

Annex 'D'



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CONFIDENTIAL



PROVINCIAL INSPECTION TEAM, KHYBER PAKHTUNKHWA

INQUIRY REPORT

SUBJECT: INQUIRY AGAINST ILLEGAL APPOINTMENT IN WILDLIFE
DEPARTMENT DISTRICT TORGHAR.

ORDER OF INQUIRY

Orders of the inquiry were received to Provincial Inspection Team from Chief Minister's Secretariat, Khyber Pakhtunkhwa vide letter No. SOV/CMS/KPK/3-8/2018/22343-44 W/E dated 14.12.2018 (Annex: A).

COMPLAINT:

Mr. Laif Muhammad Khan, MPA PK-35, Torghar submitted a letter to Chief Minister Khyber Pakhtunkhwa wherein he raised the issue of illegal appointment of Wildlife Watcher in Wildlife division District Torghar (Annex: B).

The gist of the allegations is as under:

1. According to him, Wildlife Torghar advertised 12 posts of Wildlife Watcher and 27 candidates were shortlisted after conducting physical, medical test on 27.2.2018. The Selection Committee found the testimonials of the 27 candidates correct and accord approval. But astonishingly, after 9 months physical test was re-arranged on 17.1.2018 which was an illegal act.

2. After 9 months, the chest and height of some candidates were reduced and out of 27 candidates, 12 blue-eyed candidates were finalized.

(2) (77) (4)

These candidates were appointed by taking bribe which was injustice with other candidates.

- iii. The honourable MPA requested to cancel these illegal appointments in Wildlife division District Torghar and to re-advertise the said posts so that the eligible candidates could be able to get their right.

INQUIRY PROCEEDINGS

- a. After receipt of the reference, a two member team of PIT visited District Torghar in connection with the subject inquiry (Annex: C).
- b. PIT requested Divisional Forest Officer (DFO), Torghar to provide attendance register of the newly appointed Wildlife Watcher vide letter dated 11.1.2019. (Annex: D). In response, DFO, Torghar replied vide letter dated 11.1.2019 (Annex: E).
- c. The officials of District Police Office (DPO), Torghar and DFO Wildlife, Torghar recorded their statement as per given detail;

S.No	Name	Designation	Annexure
1.	Abdul Sami	Asst. Member of the 1 st Committee	F
2.	Muhammad Ali	Head Constable Member of the 1 st Committee	
3.	Khan Muhammad	Head Constable Member of the 1 st Committee	
4.	Sajid	Head Constable Member of the 1 st Committee	
5.	Aamir Khan Swati	Head Constable Member of the 2 nd Committee	G
6.	Khan Muhammad	Head Constable Member of the 2 nd Committee	
7.	Syed Afzal	LHC, Member of the 2 nd Committee	
8.	Sardar Ali Khan	Range Officer, Wildlife Torghar	H
9.	Asif Nawaz	Watcher, Wildlife Torghar	I
10.	Fazal Wahab	Deputy Ranger, Wildlife Torghar	J

- d. DFO Wildlife Torghar recorded his statement vide (Annex: K). later on, he attended PIT on 7.2.2019 and recorded his supplementary statement vide (Annex: L).
- e. PIT served a questionnaire upon DFO Wildlife Torghar vide letter dated 13.2.2019, followed by reminder dated:

23

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19.2.2019(Annex: M). DFO Wildlife responded to the same letter dated 19.2.2019(Annex: N).

OBSERVATIONS

After scrutiny of the available record/documents, detailed discussion, written statements and replies of the concerned staff, observations of are as under:-

i. Perusal of the record showed that Divisional Forest Officer (D) Wildlife District Torghar advertised 12 posts of Wildlife Watcher (BPS-07) through information Department in daily Mashriq dt 15-12-2017(Annex:O). Qualification for the post of Wild Watcher (BPS-07) was as follows:

Wildlife Watcher (BPS-07)	a) At least 2 nd class Intermediate Certificate with Matric Science from a recognized Board; and	18-30 years	By initial recruitment.	Annex: P
	b) <u>Physical fitness:-</u> i. Height: five feet and six inches (minimum); ii. Chest Size: 34-36 inches (minimum); and iii. Eye Sight: V. 6J (with glasses), each eye 6x6.		Note: The candidates who have been recruited will have to undergo compulsory one year Training Course of Forest Guard or Wildlife Watcher at the Khyber Pakhtunkhwa Forest School, Thal Abbottabad.	
	Note: It is essential that the candidate will have to qualify Marathon race of 2-Km within 20 minutes			

ii. In the said advertisement, it was mention in the conditions that candidates will have to submit eye certificate with regard to cor eye sight issued by eye specialist alongwith bio-data(CV) to office of DFO Wildlife Division Torghar till 10.01.2018. After closing date i.e. 10.01.2018, total 251 applications were received. DFO Wildlife notified a Scrutiny Committee, for Scrutiny documents of the candidate vide his office order dated 6.2.2018 comprised of the following members.

- 24
- 34
- 51
- i. Mr. Sardar Ali Khan Rang Officer, Wildlife Torghar
 - ii. Fazal Wahab, Deputy Ranger
 - iii. Asif Nawaz, Watcher Wildlife Torghar.

The Scrutiny Committee submitted a verified list on 12.2.2018 (Annex: Q). According to the list, 153 applicants were found eligible while 98 applicants were found ineligible. Afterwards, DFO Wildlife Torghar notified another committee, having the same members of the scrutiny committee, for the physical test vide his office order dated 6.2.2018 (Annex: R). On the same day, DFO Wildlife Torghar requested DPO Torghar to depute three officials to conduct physical test i.e. including 2 Km Marathon, height and Chest measurement. In response, DPO Torghar deputed the following four (4) officials for physical test (Annex: S):

- i. ASI Sami Khan SRC/DPO Office
- ii. HC Sajid Khan A/LO Police Line
- iii. LHC Khan Muhammad A/OHC DPO Office
- iv. FC Pervaiz No. 73/NOHC DPO Office

Physical test of 153 candidates was conducted on 27.2.2018, wherein 27 candidates qualify the test (Annex: T). Member of both committees (Police & Wildlife) signed the list of 27 candidates who qualified the physical test and the same was forwarded to DFO Wildlife, Torghar for further process (Annex: U). Meanwhile, District Nazim Torghar wrote a letter to Chief Conservator, Wildlife KP on 6.9.2018 wherein he stated that he received various complaints of the general public about embezzlement/political involvement during the physical test of Wildlife Watcher Torghar. In the said letter, he requested to cancel and re-arrange the physical test (Annex: Y).

The request of District Nazim Torghar was honoured and DFO Wildlife Torghar re-arranged the physical test. The DFO Wildlife deputed the same committee who conducted the 1st physical test while DPO Torghar changed the members of the committee for 2nd physical test. The District Nazim Torghar also recommended two

(02) candidates who disqualified the 1st test. The 2nd physical test (20 candidates (27 qualified candidates of 1st test and 2 candidate recommended by District Nazim Torghar) was conducted on 13.11.2018. In the 2nd physical test, 15 candidates qualified the test while 14 candidates including the two (2) recommended candidate of District Nazim disqualified the test(Annex:W). List of the 15 qualified candidates duly signed by the members of police committee and countersigned by DPO Torghar was furnished to DFO Wildlife Torghar on 15.11.2018(Annex: X).

vi. Thereafter, Departmental Selection Committee (DSC), notified vide office order dated 30.11.2018, conducted interview of 15 candidates on the same day and recommended 12 candidates for the post of Wildlife Watcher(BPS-7) while two (2) candidates were placed on waiting list(Annex:Y).

viii. The inquiry team visited District Torghar wherein they directed DFO Wildlife Torghar to present the qualified and disqualified candidates of 2nd physical test before the team so as to re-measure their chest size & height to substantiate as the levelled allegations were true or otherwise. On 9.1.2019, out of 14 disqualified candidates, only six (6) appeared before inquiry team. The detail of their re-measurement of chest size & height and comparison with 2nd physical test is given as under:

S. No	Name of Candidate	Father Name	Measurement in the 2 nd Physical test		Actual Measurement in the presence of inquiry team		Annexure
			Height	Chest	Height	Chest	
1.	Ihtisham Khan	Qasam Khan	5x9	33x35 ¹⁷⁷	5x9	32x34 ¹⁷⁷	2
2.	Saeed Khan	Taj Mahmood	5x8	33x35	5x8 ¹⁷⁷	33x35 ¹⁷⁷	
3.	Izhar Ahmad	Hikmat Khan	5x6	33x35 ¹⁷⁷	5x6 ¹⁷⁷	33x36	
4.	Azeem ul Haq	Nasceeb ullah	5x6	33x35	5x6	33 ¹⁷⁷ x35 ¹⁷⁷	
5.	Syed Janid Shah	Khadi Shah	5x5	33 ¹⁷⁷ x35 ¹⁷⁷	5x5 ¹⁷⁷	33x36	
6.	Syed Hameed ulan	Mukaram Shah	5x8	33x35	5x8 ¹⁷⁷	31x35	

(26) (33)

vii. The above comparison showed some increase/decrease in height/chest of the 6 candidates but none of the candidate fulfil the required qualifying criteria (i.e. height: 5 feet 6 inches & chest 34x36 inches).

viii. On 10.1.2019, out of 12 selected candidates, 11 appeared before team except Mr. Majid Khan, who according to DFO Wili Torghar, was ill and was unable to appear before inquiry re Detail of the re-measurement of height/chest of the selected candidates and comparison with the 2nd physical test is given under:

S.No	Name of Candidate	Father Name	Measurement in the 2 nd Physical test		Actual Measurement in the presence of inquiry team	
			Height	Chest	Height	Chest
1.	Hussain Ahmad	Abdul Haleem	5x7	36x38 ^{1/2}	5x7 ^{1/2}	36x39
2.	Anwar Khan	Asari Khan	5x6 ^{1/2}	34x36 ^{1/2}	5x6 ^{1/2}	35x37
3.	Mubashir Ahmad	Momin Gul	5x8	34x36 ^{1/2}	5x8	34 ^{1/2} x33
4.	Fazal Nawaz Khan	Mir Nawaz Khan	5x7 ^{1/2}	34x36	5x7 ^{1/2}	34 ^{1/2} x33
5.	Muhammad Irfan	Muhammad Tahir	5x6	34x36	5x6 ^{1/2}	34x36
6.	Riaz Ahmad	Muhammad Saleh	5x7 ^{1/2}	34x36	5x8	34x36 ^{1/2}
7.	Faiz ur Rehman	Sahib ur Rehman	5x7	38x40	5x7 1/2	37x39
8.	Haroon Khan	Hazrat Hussain	5x7 ^{1/2}	35 ^{1/2} x38	5x8 ^{1/2}	36x38
9.	Hafeez ur Rehman	Sahib ur Rehman	5x7 ^{1/2}	35x37	5x7 ^{1/2}	34x36
10.	Muhammad Tayyab	Nawab Nabi	5x8 ^{1/2}	34x36	5x8 ^{1/2}	35x37
11.	Hazrat Ullah	Bakhrullah	5x6 ^{1/2}	35x37 ^{1/2}	5x7	35x38

vii. The above comparison showed some increase/decrease in height/chest of the 11 candidates but besides these changes their size (chest/height) was found according to the required criteria. None of the selected candidate was found below the required criteria (i.e. height: 5 feet 6 inches & chest 34x36 inches). Hence, the result of the 2nd test in term of chest/height was found correct.

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ix It is pertinent to mention that out of 27 candidates, 17 candidates (11 qualified & 6 disqualified) of 2nd test appeared before the inquiry team for re-measurement of chest/height. As the above observations confirmed the accuracy of the result of 2nd test to great extent. Hence, it casted doubts that the 1st test might not be conducted accurately and favour was extended to those 12 qualified candidates who disqualified the 2nd test.

To ascertain the factual position, DFO Wildlife Torghar was directed to present all the candidates who were declared disqualified in 1st physical test. In response, out of 126 candidates (153-27), six (6) candidates appeared before the inquiry team. The details of their re-measurement of height/chest and comparison with physical test is given as under:

S.No.	Name of Candidate	Father Name	Measurement in the 1 st Physical test		Actual Measurement in the presence of team	
			Height	Chest	Height	Chest
1.	Fatch ullah	Amrullah	5x6 ^{1/2}	37x39 ^{1/2}	5x7	35x38
2.	Suleman Khan	Yakmin Khan	5x5	31x32 ^{1/2}	5x5	29x31
3.	Hameed ur Rehman	Zaibullah	5x5 ^{1/2}	33x34	5x5 ^{1/2}	33x34
4.	Namzeed Khan	Mahabat	5x9	31x35	5x9.5	29 ^{1/2} x32
5.	Zabehullah	Sabit ullah	5x8	33x34 ^{1/2}	5x8 ^{1/2}	31x33
6.	Sakhi Dadsha	Muhammad Zahir shah	5x5 ^{1/2}	33 ^{1/2} x35	5x7	32x34 ^{1/2}

The above comparison showed that the last five (5) candidates, who were disqualified in the 1st physical test, did not qualify the required passing criteria even before inquiry team. However, the size of chest/height of Mr. Fatch Ullah S/o Amrullah (the candidate at S.No. 1) was found according to the set criteria of Wildlife Watcher and per result he passed the 1st physical test but his name was not reflected in the list of 27 qualified candidates signed by all the members of the committee. This made the result of 1st physical test dubious. Therefore, the result of 1st physical test was examined and tallied with the list of 27 qualified candidates which transpired the following defects/flaws/irregularities in the 1st test:

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a. None of the candidate recorded their signature against their result/measurement in the column meant for the purpose. With regard to this query, DFO Wildlife replied that the list was handed over to Police for mentioning of result in the list. The police had not recorded the signature of candidates in the signature column in the said list due to unknown reason. The reply of DFO Wildlife raised questions that why they were not ask to do so and what was the purpose/duty of DFO committee in the physical test. Hence, non-availability of signature of candidates against their result casted doubts and put question mark on the sanctity/validity of result of 1st test.

b. The result of Marathon & Eye Certificate was not provided and due to lack of proper attention, was recorded in a vague manner in the list. These columns were either left blank or filled by recording tick mark which did not give clue about the score/result of the process. In this regard, DFO Wildlife replied that for the result of marathon race slips were handed over to the police. After marathon the police officials returned the same and recommended that all candidates were qualified due to easy marathon i.e. 2 Km in 20 minutes. But no such remarks were found on the record. The token provided by DFO Wildlife Torghar contain Name, F/Name and Signature of the candidate but did not contain the result i.e. whether he qualified/disqualified the test and what was his score.

c. Similarly, according to advertisement/service rules, the criteria for eye sight was V-6J (with glasses), each eye 6x6, which was part of the physical fitness and was required to be checked during the test but it was observed that the eye sight was not checked on the spot of the test instead candidates were requested to provide eye certificate from eye specialist alongwith application till closing date of advertisement. The same was confirmed by DFO Wildlife vide his reply that eye sight test were checked during submission of documents and all

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The candidates found fit and called for further process. The reply of DFO was suffice to prove the process defective as the eye sight was checked 16 days before the physical test and that too by any eye specialist.

A candidate Mr. Haroon Khan at S.No.18 fulfilled the required height/chest criteria while his Eye Certificate/ Marathon columns were left blank. On the basis of this result, he was considered qualified and his name was included in the list of 27 qualified candidates and later on he was selected against the post of wildlife watcher. However, the name of Mr. Zahid Shah at S. No. 60(though some overwriting was observed in his measurement) was not included in the list of 27 qualified candidates who had almost the same result.

Two candidate i.e. Mr. Fatch ullah at S.No 16 & Mr. Zahid Shah at S.No. 60 (as mentioned above) who qualified the test in term of chest/height were not included in the list of the 27 qualified candidates. Therefore, they did not avail the opportunity of further competition, did not appear in the 2nd test and subsequently were not called for interview. Mr. Fatch ullah appeared before the inquiry team. His chest/height was found within the required parameters of chest/height. (For reference see table at para-ix, Serial No. 1).

Two candidates i.e. Mr. Ishisham Khan, at S.No. 83 & Muhammad Yaqoob at S.No. 20, who disqualified the 1st test in term of chest/height were included in the list of 27 qualified candidates. They both availed the opportunity to appeared in the 2nd test wherein they again failed the test and did not qualify for interview. Mr. Ishisham Khan & Qasim Khan appeared before PIT team for re-measurement of chest/height and he did not fulfill the required criteria of Wildlife Watcher. (For reference see table at para-viii, Serial No. 1).

Regarding this query, DFO Wildlife replied that the names of disqualified candidates were included in qualified list by the

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police and after signature the same was provided to them. It raised a question that why the same was not verified/talhed by the members of DFO scrutiny committee instead recording signature blindly. It revealed their collusion as the recruitment process was mandate of their department not the police department.

g. The list of 27 qualified candidates of 1st physical test was not signed by Mr. Pervaiz and Mr. Asif Nawaz, the notified members of Police & Wildlife committees respectively. Instead the same was signed by Muhammad Ali Shah and Sulim Shah who were not the members of the respective committees. In this regard, DFO Wildlife Torghar replied that due to some emergency, Mr. Asif Nawaz Wildlife Watcher left the same process and senior wildlife watcher Mr. Saleem Shah signed the list. Moreover, Muhammad Ali Shah signed the list instead of Mr. Pervaiz which was nominated by District Police Officer Torghar. The said incumbent was also from Police Department. The reply of DFO seems not correct as Mr. Asif Nawaz did not mention any emergency vide his statement. Furthermore, they had to issue notification for the replacement of members before initiating the process.

xii. As discussed above at para-e that Mr. Fatch ullah and Mr. Zahid Shah was dropped from further competition. Hence, it raised question that whether there was possibility of their selection if they were allowed to interview and whether they could affect the merit list. To ascertain this situation, the merit list of selected candidates and the educational qualification of the two deprived candidates, provided by DFO office Wildlife Torghar, was examined which showed the following details;

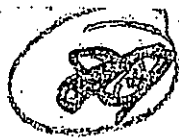


Merit list of the selected Candidates for the post of Wildlife Watcher

S. No	Name	Father Name	Qualification	Minimum prescribed qualification marks out of 70		Higher Qualification Marks out of 12	Experience marks out of 10	Total marks	Interview marks out of 8	Grand Total
				Metric	Inter					
1	Fazal Nawaz Khan	Mir Nawaz Khan	SSC ^{1st} FSc ^{1st} BS(Hons)	35	35	08	70	04	74	
2	Faiz ur Rehman	Sahib ur Rehman	SSC ^{1st} FSc ^{2nd} BS(Hons)	35	27	08	70	04	74	
3	Anwar Khan	Asar Khan	SSC ^{1st} DAE	35	35	08	70	04	74	
4	Hafeez ur Rehman	Sahib ur Rehman	SSC ^{1st} FSc ^{1st}	35	35	08	70	04	74	
5	Hazrat Ullah	Bakhr Ullah	SSC ^{1st} FSc ^{2nd}	35	27	08	62	03	65	
6	Hussain Ahmad	Abdul Halcom	SSC ^{1st} FSc ^{2nd}	35	27	08	62	04	66	
7	Riaz Ahmad	Muhammad Saleh	SSC ^{1st} FSc ^{2nd}	35	27	08	62	04	66	
8	Muhammad Irfan	Muhammad Tahir	SSC ^{1st} FSc ^{2nd}	35	27	08	62	03	65	
9	Majid Khan	Azmat Khan	SSC ^{2nd} FSc ^{2nd}	26	27	08	53	07	60	
10	Mubasher Ahmad	Momin Gul	SSC ^{2nd} FSc ^{2nd}	26	27	08	53	07	60	
11	Haroon Khan	Hazrat Hussain	SSC ^{2nd} FSc ^{2nd}	26	27	08	53	05	58	
12	Muhammad Tayyab	Nawab Nabi	SSC ^{2nd} FSc ^{2nd}	26	27	08	53	04	57	

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The academic qualification of the deprived candidates and total marks before interview as per criteria would be as under:

Name	Qualification	Minimum prescribed qualification marks out of 20		Higher Qualification Marks out of 12	Experience marks out of 10	Total marks	Merit position before interview
		Metric	Inter				
Zahid Shah	SSC DAE	26	35	61	At S No. 9
Muhammad	SSC FA	26	27	53	Fall within the brackets of S No. 10 to 12

The above facts revealed that if both the deprived candidates were allowed to interview then there were chances of their selection. Especially, in the case of Mr. Zahid Shah whose selection was confirmed even though he got minimum score in the interview.

A question was asked from members of 1st Committee of Police that they declared 27 candidates successful which were re-examined by the 2nd committee of police department, who declared further 14 candidates disqualified. Moreover, re-examination by PIT team, the result showed decrease in their size i.e. height & chest. What was the reason? They replied that they conducted the said test upto optimum care and responsibility so as to make it transparent. According to them, they conducted 1st test of 153 candidates with regard to 2 km Marathon, height chest. Proper list was prepared of the candidates showing height chest size. So far Marathon test is conducted, they stated that the token were allotted by Wildlife Department and the detail was available with them. Out of 153 candidates only 27 candidates were qualified fulfilling the laid down criteria. Order was signed by both the committees i.e. Police & Wildlife. With regard to increase decrease in size of the candidates, they stated that they conducted the test in the month of February 2011 and the second test was conducted during the month of November 2011 which shows the 1.5 kg period had been passed and due to maturation that the candidates were living beings, therefore their size had changed.

Submitted by: _____

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Mr. Sardar Ali Khan, Range Officer Wildlife Division Torghar (Member of Wildlife Committee) stated in his written statement that DFO Wildlife vide his notification declared him chairman for the physical test. The responsibility of physical test was assign to Police committee. The Police committee conducted test of all the 153 candidates and prepared a hand written list of qualified candidates and asked him to sign the list which he signed. With regard to exclusion of two qualified candidates from the approved list; he stated that he did not have any personal interest/prejudice with any candidate. If he had such intentions then he should disqualified them in the physical test. Probably, this was done mistakenly.

Mr. Asif Nawaz Watcher Wildlife Division Torghar (Member of Wildlife Committee) stated in his written statement that he attended Police Line Judba Torghar in compliance to DFO's orders. The physical test was the responsibility of police committee and they conducted the entire process. He further stated that he did not know anything about the list and he did not sign the same.

Mr. Fazal Wahab, Deputy Ranger, Wildlife Division Torghar (Member of Wildlife Committee) stated in his written statement that DFO Wildlife Torghar nominated him for physical test; but on the same day he was assigned other responsibilities. Due to the reason, he was not present at the time of physical test. At the end of the test, Police Committee asked him to sign the list immediately and according to him he signed the list. He further stated that he did not know anything about the list and being a field staff, he did not had knowledge of measurement. To a question that the names of two qualified candidates were replaced by two disqualified candidates, he replied that he knows nothing about that and after physical test he went to Forest School Thal, Abbottabad for training.

A questionnaire was served to DFO Wildlife Torghar wherein he was asked that under what authority the 2nd physical test was conducted.

(34) (20)

He replied that the physical test was re-conducted due to complaint of District Nazim Torghar and Tehsil Nazim and their favourable two candidates after instructions of worthy Chief Conservator Wildlife, Khyber Pakhtunkhwa and Conservator Wildlife. He further stated that in the second physical test the opportunity was not given to the candidates who already disqualified the test. The reply of the DFO itself points toward the defective process of the 2nd test as if there were complaints against the 1st test then opportunity should be given to all the candidates regardless the fact that they qualified or disqualified the previous test so as to ensure transparency.

Conclusion:

The facts lead to the conclusion that both the Committees i.e. Police & Wildlife exercised great laxity and negligence while conducting 1st physical test. In the said test, the entire process was over-sighted, especially Marathon and Eye Sight. The result of 1st physical test was recorded in a vague manner which consisted of various defects/flaws and irregularities which has been discussed at para-xi (a,b,c,d,e,f & g) of this report. The recruitment process was delayed for some months due to the ban imposed by Election Commission of Pakistan and due to the complaint of District Nazim Torghar. Two qualified candidates Mr. Fatchullah S/o Amrullah and Mr. Zahid Shah S/o Mr. Salami Shah were restrained from further competition despite the fact that they had qualified the chest/height criteria. Hence, it was injustice with them. Similarly, two candidates Mr. Idrisham Khan and Muhammad Yaqoob who disqualified the 1st test were included in the list of 27 qualified candidates which indicate that undue favour was extended to these two candidates. Though the result of 2nd physical test was found almost accurate in term of chest-height measurement while the remaining criteria of physical test i.e. eye sight and Marathon was totally ignored in the 2nd test and for the same the DFO relied upon previous test result which was defective, questionable and under complaints. Moreover, 2nd test was

conducted of the qualified candidates of the 1st test leaving 126 disqualified candidates of 1st test deprived which is against the principles of fair competition. Furthermore, complete lack of supervision from DFO Wildlife Torghar provided opportunity to the members of the Police and DFO committee to conduct the 1st test as per their own understanding/knowledge which lead the process to a defective exercise. The record did not confirm any efforts made by DFO Wildlife to counter check/oversee the process. The DFO Wildlife and members of his committee tried to shift the burden of physical tests to the police committee despite the fact that the post of Wildlife Watcher existed in their department and they were mandated to conduct the same and the role of police committee was to assist/facilitate them in the recruitment process.

FINDINGS

Based on the observations/analysis at Para-3 of this report, findings are as under:-

- I. That, Divisional Forest Officer (DFO), Wildlife District Torghar advertised 12 No. of posts of Wildlife Watcher (BPS-07).
- II. The committees constituted for the 1st physical test exercised sheer negligence and laxity while conducting the 1st physical test. Due to the reason several defects/irregularities were found in the 1st physical test such as:
 - Non recording of candidate's signature.
 - Inclusion of two (2) disqualified candidates in the list of qualified candidates.
 - Exclusion of two (2) qualified candidates from the list of qualified candidates.
 - Eye sight was not checked during the physical test.
 - The result/record of march race was not maintained.



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The list of qualified candidates were not signed by two notified members instead two (2) un-notified persons signed the same.

2nd physical test was conducted only of qualified candidates of 1st physical test and two recommended candidates of District Nazim which was injustice with the other disqualified candidates of 1st physical test and was against the principles of fair competition. Moreover, the 2nd physical test was confined to measurement of chest and height only and for the other criteria of physical fitness i.e. the eye sight and marathon, DFO Wildlife Torghar relied upon the result of 1st test which was already questionable. Hence, the process of 2nd test was also defective.

District Nazim Torghar unlawfully intervened in the process of recruitment and by his influence two (2) physically disqualified candidates were allowed to appear in the 2nd physical test. He compelled Wildlife Department to conduct the 2nd physical test.

DFO Wildlife Torghar failed to resist to unlawful pressure of District Nazim and allowed two (2) disqualified candidates to appear in the 2nd physical test.

The recruitment process was delayed due to the ban imposed by Election Commission of Pakistan and later on due to the complicity of irregularities/political involvement by District Nazim Torghar.

The role of DFO Wildlife (being the divisional head) with regard to supervision/monitoring of the recruitment process was not confirmed by the record. Complete lack of supervision from the DFO provided an opportunity to members of Police and DFO Committee to conduct the test in a manner that did not ensure transparency.

RECOMMENDATIONS

Based on observations and findings of the report recommendations of PII are as follows:

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Disciplinary action under the relevant rules may be taken against the members of the Police and Wildlife Committees who conducted 1st physical test, on the grounds of negligence and omission of duties/responsibilities assigned to them.

Disciplinary action against the incumbent DFO Wildlife Torghar may be taken for his negligence and non interest in his official duties and failure to overcome anomalies mentioned in this report.

The appointment of 12 Wildlife Watcher District Torghar is based on irregular/defective process and fair trial for competition was not observed. The appointment of 12 No. of Wildlife Watcher was made against the spirit of merit, therefore; the appointment may be cancelled. The posts may be re-advertised and be filled strictly following the merit and criteria.

The required height and chest size of Wildlife Watcher is over and above the height and chest size required for other forces of this province. Therefore, the same may be considered to make it uniform with other force physical requirement.

The District Nazim Torghar may also be proceeded under the relevant disciplinary rules on the grounds of unlawful intervention in the recruitment process and merit of the Wildlife Watcher having no such mandate.

KCP
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Provincial Inspection Team,
Khyber Pakhtunkhwa
28/2/19

Muhammad Ali
01.03.2019
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Khyber Pakhtunkhwa

Aziz Khan Khattak
MEMBER GENERAL
Provincial Inspection Team,
Khyber Pakhtunkhwa

Muhammad Akbar Khan
04/03/19
CHAIRMAN
Provincial Inspection Team,
Khyber Pakhtunkhwa

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**



Mubashar Ahmed son of Momin Gul, resident of Darband, Tehsil & District Torghar....**Appellant**

Put up to the court with relevant app.

Versus

- 28/9/21*
- 1) Government of Khyber Pakhtunkhwa through Secretary Wildlife Department, Jhyber Pakhtunkhwa Peshawar
 - 2) Divisional Forest Officer wildlife Division, Torghar
 - 3) Chief Conservator Wildlife Division Torghar
 - 4) Conservator Wildlife Division Southern Circle Peshawar.....**Respondents**

Reader

Allowed

04/11/2021

SERVICE APPEAL NO. 1211 OF 2019

**APPLICATION SEEKING FIXATION OF
THE TITLED SERVICE APPEAL BEFORE
CAMP COURT ABBOTTABAD FOR ITS
EARLY DISPOSAL.**

11/10

Respectfully Sheweth!

- 1) That, the above titled appeal is pending before this Honourable Court since last two years at Camp Court Abbottabad. Meanwhile non availability of Camp Court the instant appeal is fixed before the Principal Seat Peshawar.
- 2) That, now the case in hand pending for arguments.
- 3) That, due to Covid - 19 the non availability of Camp Court at Abbottabad the above mentioned case

transferred to Principal Seat Peshawar
for further proceedings.

4) That, now the Camp Court Abbottabad is
functioning.

It is, therefore, requested that the above
titled appeal may graciously be transferred/
fixed from Principal Seat to the Camp
Court/Tribunal at Abbottabad for its early
disposal/proceedings.

Dated 25/09/2021

Mubashar
Mubashar Ahmed
(Appellant)

Through: -

Asif Shah
SYED ASIF SHAH
Advocate High Court,
District Courts,
(Mansehra)

AFFIDAVIT

I, MUBASHAR AHMED SON OF MOMIN GUL, RESIDENT
OF DARBAND, TEHSIL AND DISTRICT TORGHAR
(APPELLANT) DO HEREBY SOLEMNLY AFFIRM AND
DECLARE ON OATH THAT THE CONTENTS OF THE
FORE-GOING APPLICATION ARE TRUE AND CORRECT
AND NOTHING HAS BEEN CONCEALED FROM THIS
HONOURABLE COURT.

DATED 25/09/2021

Mubashar
MUBASHAR AHMED
(DEPONENT)

