


S.No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	16.05.2016	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center"><u>CAMP COURT ABBOTTABAD</u></p> <p align="center"><u>APPEAL NO. 551/2013</u></p> <p align="center"><u>Abdul Qadar Versus Government of Khyber Pakhtunkhwa through Secretary Environment Department, Peshawar, and others.</u></p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN.</u></p> <p>Counsel for the appellant M/S Muhammad Arshad, Head Clerk and Muhammad Daud, Superintendent alongwith Mr. Muhammad Siddique, Senior Government Pleader for respondents present.</p> <p>2. During the course of arguments, learned counsel for the appellant placed reliance on judgment of this Tribunal dated 12.06.2015 wherein appeals of the similarly placed employees were accepted and consequently appellant reinstated in service. Their intervening period was treated as leave of the kind due.</p> <p>3. Since case of the appellant is at par with that of Mr. Mayatullah, appellant in appeal No. 526/2013, Mr. Sarangzeb in appeal No. 529/2013, Mr. Nawab Ali in appeal No. 534/2013 and Mr. Aftreen in appeal No. 535/2013 who were reinstated in service vide judgment of this Tribunal referred to above dated 12.06.2015 as such the appeal in hand is also accepted in the terms as laid down in the said judgment and consequently, the appellant is reinstated in service and the intervening</p>

16.05.16.

period he remained out of service is to be treated by the respondents as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.


(Abdul Latif)
Member


(Muhammad Azim Khan)
Chairman
16 May 2016
Barp Court, A/Abid

ANNOUNCED
16.05.2016

18.01.2016

Agent of counsel for the appellant and Mr. Muhammad Arshad, Head Clerk alongwith Mr. Muhammad Saddique, Sr.G.P for respondents present. Counsel for the appellant is stated indisposed. Adjourned for final hearing before D.B to 16.02.2016 at Camp Court A/Abad. Status-quo be maintained.



Member



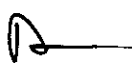
Chairman
Camp Court A/Abad

16.02.2016

Counsel for the appellant, M/S Farhad, SDFO and Muhammad Arshad, Head Clerk alongwith Mr. Muhammad Saddique, Sr.G.P for respondents present. Counsel for the appellant seeks adjournment. Adjourned for final hearing before D.B to 18.04.2016 at Camp Court A/Abad. Status -quo be maintained.



Chairman
Camp Court A/Abad



18.04.2016

Appellant in person and Mr. Muhammad Arshad, Head Clerk alongwith Mr. Muhammad Siddique Sr.GP for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for final hearing on 16.05.2016 before D.B at camp court, Abbottabad. Status-quo be maintained.



Chairman
Camp court, A/Abad


8 23.7.2015 Appellant in person, M/S Iltaf Hussain Qureshi, SDFO and Muhammad Arshad, Head Clerk alongwith Mr.Muhammad Bilal, G.P for official respondents present. Comments on behalf of respondents No.1 to 7 submitted. The learned G.P relies on the same on-behalf of respondent No.8. None present for private respondent No.9. Proceeded ex-parte. The appeal is assigned to D.B for rejoinder and final hearing for 16.9.2015 at camp court A/Abad. Status-quo be maintained.


Chairman
Camp Court A/Abad

16.9.2015 Counsel for the appellant and Mr.Muhammad Tahir Aurangzeb, G.P for respondents present. Rejoinder not submitted. Requested for adjournment. To come up for rejoinder and final hearing before D.B on 22.10.2015 at Camp Court A/Abad. Status-quo be maintained.


Chairman
Camp Court A/Abad

22.10.2015 Counsel for the appellant and Mr.Muhammad Tahir Aurangzeb, G.P for respondents present. Rejoinder submitted. Arguments could not be heard due to non-availability of D.B. To come up for final hearing before D.B on 18.1.2016 at Camp Court A/Abad. Status-quo be maintained.


Chairman
Camp Court A/Abad.

6 18.5.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as Forest Guard on merit in the prescribed manners and vide impugned order dated 21.12.2012 his services were terminated without any lawful justification regarding which he preferred departmental appeal on 24.1.2013 which was rejected on 12.2.2013 and hence the instant service appeal on 6.3.2013.

That the respondents were neither authorized nor justified to roll back the order of appointment of the appellant and, furthermore, no notice or opportunity of hearing was extended to the appellant.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 17.6.2015 before S.B at Camp Court A/Abad.

Learned counsel for the appellant further argued that the respondents intend to fill in the post which stood vacated due to removal of appellant. Notice of stay application be also issued for the date fixed. Till the next date of hearing status-quo be maintained.

Appellant Deposited
Security & Process Fee




Chairman
Camp Court A/Abad


7 17.6.2015

Appellant in person, M/S Iltaf Qureshi, SDFO for respondents No.4 to 6 and Muhammad Arshad, Head Clerk for respondent No.7 along with Mr.Muhammad Tahir Aurangzeb, G.P for respondents present. Requested for adjournment. To come up for written reply on 23.7.2015 before S.B at camp court A/Abad. Status-quo be maintained.


Chairman
Camp Court A/Abad

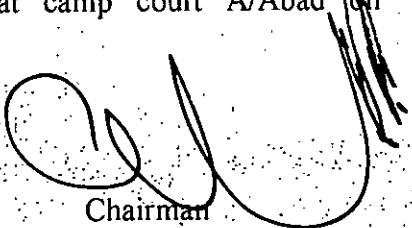
4- 17.3.2014

Counsel for the appellant present, and stated that similar nature cases are pending before the Tribunal, which have been admitted for regular hearing at Peshawar. To come up for preliminary hearing, in the light of preliminary order in the connected appeals, at Camp Court A/Abad on 17.6.2014.


Chairman
Camp Court A/Abad

5- 17.6.2014

Neither appellant nor counsel for the appellant present. To come up for preliminary hearing at camp court A/Abad on 16.12.2014.


Chairman
Camp Court A/Abad

16.12.2014




Counsel for the appellant present. The Tribunal is incomplete. To come up for preliminary hearing at camp court A/Abad on 18.05.2015.


Reader.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 551/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19/03/2013	<p>The appeal of Mr.Abdul Qadir resubmitted today by Reheela Mughal Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR/</p>
2	27.3.13	<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up there on <u>16.9.13</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3.	16.9.2013	<p>No one is present on behalf of the appellant. To come up for preliminary hearing at camp court A/Abad on 17.3.2014.</p> <p style="text-align: right;"> Chairman Camp Court A/Abad</p>

BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 551 /2013

Abdul Qaddar son of Malik Tajan resident of Khandiat District, Kohistan.

...APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Environment Department and others.

...RESPONDENTS

APPEAL

INDEX

<i>S. #</i>	<i>Description</i>	<i>Page No.</i>	<i>Annexure</i>
1.	Appeal alongwith affidavit	1 to 12	
2.	Application for interim injunction	13 to 14	
3.	Copy of Testimonial of appellant	<i>15 To 18</i>	"A"
4.	Copies of newspaper cutting	<i>19 To 20</i>	"B"
5.	Copy of Merit list	<i>21</i>	"C"
6.	Copy of appointment letter	<i>22</i>	"D"
7.	Copy of training certificate for passing the training of Forest Guard for the year 2011-12	<i>23</i>	"E"
8.	Copy of letter No. 06 dated 11/10/2012	<i>24 To 25</i>	"F"
9.	Copy of writ petition No. 533 of 2011	<i>26 To 34</i>	"G"
10.	Copy of order dated 07/03/2012	<i>35 To 38</i>	"H"
11.	Copy of recommendations of inquiry committee	<i>39</i>	"I"

12.	Attested copy of writ petition No. 339-A/2012	40 To 50	"J"
13.	Copy of order dated 25/04/2012	51	"K"
14.	Attested copy of order dated 16/05/2012 in W.P No. 339-A/2012	52 To 54.	"L"
15.	Copy of order No. 54 dated 21/12/2012	55	"M"
16.	Copy of order dated 23/01/2013	56	"N"
17.	Copy of appeal dated 24/01/2013	57 To 59	"O"
18.	Copy of order No. 4464 dated 13/02/2013	60	"P"
19.	Wakalatnama	61.	

Dated: 28-2-
2013

Through

...APPELLANT

 REHEELA MUGHAL
Advocate High Court
Abbottabad.

(REHEELA MUGHAL)
Advocate High Court, Abbottabad

The appeal of Mr. Abdul Qadir son of Malik Tajan received today i.e. on 06/03/2013 is incomplete on the following scores which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Addresses of respondent No. 8 to 10 are incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal Rules 1974.
- 2- Annexures of the appeal may be attested.
- 3- Nine more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 384 /S.T.

Dt. 06/3 /2013.

Legally
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

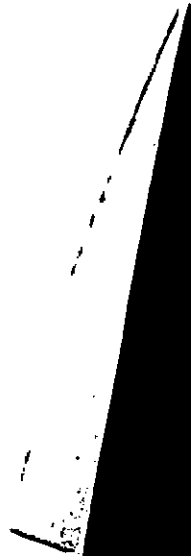
RAHEELA MUGHAL ADV. A.ABAD.

19.3.2013.

After Removal of objections
Appeal is resubmitted.

RAHEELA MUGHAL
Advocate High Court
At Peshawar


19.3.2013



3. Since common questions of law and facts are involved, therefore, all the appeals are proposed to be disposed off by way of this single judgment.

4. The learned counsel for the appellant submitted that the posts were duly advertised in newspapers in response to which the appellants submitted their applications. That the appellants stood successful before the Departmental Selection Committee, and were notified in the merit list. That they were duly appointed after the appointment letters and were also given the requisite training. That they after serving for almost one year, were unlawfully terminated from service. The learned counsel for the appellant maintained that no charge sheet, no proper enquiry was conducted, no show cause notice was served on the appellant and to sum up that no opportunity of defence at all was provided to the appellants, hence the impugned order is bad in the eyes of law. It was further submitted that the Hon'ble Peshawar High Court in Writ Petition No. 533/2011 mandated that chance of interview be given to Ziaul Haq (Petitioner) and had never directed the department to roll back entire the process which would end up in termination of the appellants after one year of their service. That the entire procedure adopted by the respondent-department was illegal, whimsical and conducted with malafide. The learned counsel for the appellants submitted that valuable rights of the appellants

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

have been put at stack for no fault on their part. Finally, he requested that the impugned orders may be set aside and the appellants may be reinstated into service with all back benefits.

5. The learned Addl. Advocate General replied that appointment of the appellants were full of irregularities and illegalities as evident from report of the enquiry committee, therefore, entire process was properly recommended to be rolled back. It was further submitted that the impugned order was passed in the light of findings and recommendations of the enquiry committee. He requested that the appeal may be dismissed.

6. We have heard the learned counsel for the parties and have gone through the record.

7. It transpired from perusal of the record that the Hon'ble Peshawar High Court in its writ jurisdiction vide Writ Petition No. 533/2011 had never mandated the Chief Secretary or the respondent-department for any action against the appellants. All the purpose of the said direction was to give opportunity of interview to petitioner Ziaul Haq before the Departmental Selection Committee. The department-respondent has obviously gone beyond the limits ordained on it. Even then if illegality or irregularity was committed in the process of appointments of the appellants so the proper course was to have initiated

APPROVED

CHIEF SECRETARY
GOVERNMENT OF PESHAWAR
PESHAWAR

disciplinary proceedings against the appellants in the prescribed manner and according to rules. Still the question would be as to what disciplinary action was taken against the appointing authority? The record reveals that without adopting the legal course, the respondent-department straight away issued termination orders to the appellants and they were put to face grilling circumstances. No remedy was given to them also by the appellate authority as is evident from the impugned orders, which cannot be maintained. Therefore, on acceptance of these appeals, the impugned orders are set aside. Consequently, the appellants are reinstated into service. The intervening period be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
12.6.2015

Sd

Pir Bakhtshah
member

Sd
Abedullatif
member

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 22-7-2015
 Number of Words 2400
 Copying Fee 20-0
 Urgent 2-0
 Total 22-0
 Name of Copyist [Signature]
 Date of Completion of Copy 22-7-2015
 Date of Delivery of Copy 22-7-2015

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 927 /ST

Dated 31 / 5 / 2016

To


The Conservator of Forests, Upper Haxara,
Circle Manshra..

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 16.5.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

OFFICE OF THE CONSERVATOR OF FORESTS, UPPER HAZARA FOREST CIRCLE
MANSEHRA.

To;

Mr. Abdul Qadir s/o Malik Tajan
Residence Gabral Khandia Valley PO Komila
Tehsil Dassu District Kohistan.

No: 4464 /GE dated Mansehra the 12/02/2013.

Subject: APPEAL OF MR. ABDUL QADIR S/O MALIK TAJAN THE DFO UPPER
KOHISTAN OFFICE ORDER NO.54, DATED 21/12/2012.

Memo:

Reference your appeal dated 24/01/2013.

Upon termination from service of one Mr. Abdul Qadir s/o Malik Tajan preferred an appeal dated 24/01/2013 before the undersigned being appellate authority against the DFO Upper Kohistan office order No.54, dated 21/12/2012. The DFO Upper Kohistan offered comments upon the appeal vide No.1643/GE, dated 12/02/2013.

I, in the capacity of appellate authority in the instant case have gone through the relevant documents available on record upon which the order appealed against is based and found that:

A committee was constituted by CCF-II vide office order No.34, dated 13/04/2012 with the mandate to enquire in the Writ Petition No.533/2011 which recommended rolling back of entire recruitment process based on certain procedural flaws. Subsequently another enquiry committee on higher level was constituted by Administrative Department vide Notification No.SO(Lit)ED/2-165/2011, dated 14/06/2012 for the same purpose which detected further irregularities in addition to the flaws pointed out by previous committee. Based on the recommendation of above committee, the Administrative Department directed vide No. SO(Lit)ED/2-165/2011/1281-82, dated 11/12/2012 for implementation of recommendation of earlier committee.

In light of the absolute recommendations by the two successive committees, direction of the Administrative Department, and comments of the DFO/competent authority, the facts on which the termination order is based found established. Hence, the action taken vide office order No.54, dated 21/12/2012 is appropriate as no other action can satisfy the recommendations so made which is, therefore, neither excessive nor inadequate:

Keeping in view the above facts on record the appeal is rejected and order appealed against is confirmed.

Conservator of Forests
Upper Hazara Forest Circle
Mansehra

No: /GE

Copy forwarded to DFO Upper Kohistan Forest Division Dassu for information with reference to his letter cited above.

Conservator of Forests
Upper Hazara Forest Circle
Mansehra

Handwritten text: "A" and "B" with dots.

قیمتی

کورٹ فیس

وکالت نامہ

(61)

بعدالت سروسز کمپنیز پرائیویٹ لمیٹڈ K P O ک لیرا لا ڈوٹیرن

عنوان: عوالا دروہ نام K P O ک لیرا لا ڈوٹیرن

منجانب: Petitioner

نوعیت مقدمہ: Service Appeal

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

استاد صاحب داصلہ فعل ادیکہ ملک وکی

کو وکیل مقرر کر کے اتر کرنا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب

موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء

وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور

کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار

بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختم مجھ کو منظور قبول

ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف

پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف

مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست براد استجارت نالش بصیغہ مفلسی کے دائر کرنے اور اس کی

پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 28-2-2013

بمقام:

عبدالواحد

Accepted by me
RAHEELA MUGHAL
Advocate High Court
28-2-2013

the respondents, in particular, his appearance before the DSC. The petitioner, in support of his said claim, annexed copy of the minutes of meeting of the DSC, wherein the petitioner was named with other persons, who had appeared for the interviewed before the DSC for the said appointment.

5. In peculiar circumstances of the present case, when there are two documents purporting to be official minutes of the DSC, having contradictory information, this Court cannot dilate upon the said factual controversy in constitutional jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

6. Accordingly, without passing any findings on the said matter, which may prejudice the case of the petitioner before the competent authority, we treat the present petition as representation and refer the same to the worthy Chief Secretary, Government of Khyber Pakhtunkhawa with the directions that;

- i. to resolve the factual anomaly regarding appearance of the petitioner before the 'Departmental Selection Committee' and consider his grievance in accordance with law and proceed in the matter in a

Certified to be True Copy

Pen 13-13 Couh.
Altoh... Bench
... Mats Cr...

o(38)

'transparent manner' to ensure the cherished goal of 'good governance' and 'rule of law'.

ii. to conclude the matter, within a period of thirty days, if not earlier, from the date of receipt of this judgment.

iii. in case the relief sought by the present petitioner can not be positively considered or resolved within the stipulated period, the petitioner be communicated reasons in writing for the same.

7. Accordingly, for the reasons stated hereinabove, this petition is disposed of in the above terms.

Certified to be True Copy
18.3.13
Peshawar Court
Abbottabad Bench
Authorized Under Sec 75 Act 1973 Ordms.

S. JAGES

Announced:
07.03.2012

/*M.S.A*/

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John R.	
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Date of Commencement of Copy	18.3.13
Date of Delivery of copy	

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original document

is hereby certified to be a true and correct copy

(39)

WRITE PETITION NO. 553/2011 BY ZIA-UL-HAQ REGARDING HIS SELECTION FOR THE POST OF FOREST GUARD, APPOINTMENT OF ENQUIRY COMMITTEE VIDE CHIEF CONSERVATOR OF FORESTS-II KHYBER PAKHTUNKHWA PESHAWAR OFFICE ORDER NO. 34 DATED 13/4/2012, REPORT THERE-OF.

BRIEF HISTROY OF THE CASE

The Director Information, Government of Khyber Pakhtunkhwa was requested for publication of vacant posts of Forest Guards in Upper Kohistan Forest Division vide Divisional Forest Officer Upper Kohistan Forest Division letter No. 2925/GE dated 12.04.2010. Accordingly advertisement appeared in daily Nawa-e-Waqt Rawalpindi on 22.04.2010 and in daily Mashriq Peshawar on 23.04.2010.

As a result of discussion dated 19.04.2010, the Divisional Forest Officer, Lower Kohistan also requested DFO Upper Kohistan vide his letter No. 2963/GE dated 21.04.2010 to include the cases of appointment of his Division in the same process. The process materialized jointly and applications from 157-inhabitants of District Kohistan were received upto 04.05.2010 (Copy of list enclosed as Annex-1).

The Departmental Selection committee conducted written test on 12.05.2010 wherein 102-Nos. candidates appeared (Copy of list enclosed as Annex-2). Meeting of the Departmental Selection Committee was held on 08.06.2011 whereas interview etc from 23-Nos. short listed candidates was conducted on 8/6/2011, (copy of list enclosed as Annex-3).

Out of total 23-Nos. candidates, S.No. 1, 2 & 3 (3-Nos.) were recommended for appointment in Upper Kohistan Forest Division Dasso, while S.No. 4 to 11 (8-Nos.) were recommended for recruitment in Lower Kohistan Forest Division Pattan. The record revealed that (13 No) thirteen candidates have been appointed up-to 14/11/2011 in both Forest Divisions.

DISCUSSIONS

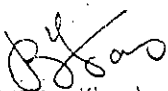
In compliance with Chief Conservator of Forests-II Khyber Pakhtunkhwa office order NO.34 dated 13/4/2012 the committee held its meeting in the office of DFO Unhar Watershed Division Mansehra on 19.04.2012. All relevant record of both the Forest Divisions has been produced by Mr. Sajjad Ahmad Head Clerk of Upper Kohistan Forest Division.


The said record has been examined by the committee in detail and fully analyzed the gravity of the case. The committee reached to the conclusion that:

1. Working papers have not been prepared by the concerned Forest Divisions.
2. There is no mention of vacant posts in any paper prepared and meant for appointment of Forest Guards in both the Forest Divisions.
3. The office orders for appointment of Forest Guards have not been found issued in time.
4. The minutes of D.S.C meeting indicates that interview has been conducted on 8.6.2011 instead of 18.05.2010 after a lapse of more than one year period.
5. The procedure contained in GOVERNMENT OF KHYBER PAKHTUNKHWA, SERVICES AND GENERAL & ADMINISTRATION DEPARTMENT (REGULATION WING) Notification No. SOR-I(S&GAD)4-1/75 dated Peshawar the 17.06.1989 has not been found followed properly.

RECOMMENDATIONS

In the light of foregoing facts and material on record, the committee recommend to Rollback the entire incomplete process adopted for appointment of Forest Guards and to direct the competent authorities for initiating the process a fresh as per rules.


(Rustam Khan)
Divisional Forest Officer
Unhar Watershed Division, Mansehra
(Chairman)
19/4/2012


(Khurshid Ahmad)
Superintendent
Lower Hazara Circle, Abbottabad
(Member)

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

W.P No 339A/2012

(40)

"AWB"
"J"

1. Hidayatullah s/o Umer Draz of Jijal Tehsil patan Kohistan.
2. Umer Daraz s/o Gul Sadbar of Jijal Tehsil Pattan Kohistan.
3. Said zahab s/o Mir Alam of Jijal Tehsil Pattan Kohistan.
4. Umar yar s/o Abdul Qahar. of Jijal Tehsil Pattan Kohistan.
5. Saranzeb s/o Aman Mir of Pattan Tehsil Pattan Kohistan
6. Inayatullah s/o Abdul Hakeen of Jijal Tehsil Pattan Kohistan
7. Afreen s/o Jumia Khan Jijal Tahsil Pattan Kohistan
8. Nawab Ali s/o Noor ul Huda of Pattan Kohistan
9. Mohammad Zaib s/o Hsji Yardad of Pattan Kohistan
10. Abdul Qadar s/o Malik Tajan of Khandiat Kohistan
11. Abdul Qafi s/o Abdul Hadi resident of Sazin. Kohistan
12. Muhammad Azad Wali s/o Chlora resident of Palas Kohistan

.....Petitioner

VERSUS

1. Government of Khyber Pakhtunkhwa Through Secretary
Enviornment Department.
2. Chief Conservative of Forest Khyber Pakhtunkhwa Peshawar.
3. Divisional Forest Officer, Lower Forest Division ,Pattan
Kohistan
4. Divisonal Forest Officer, Upper Khoistan Forest Division,
Dassu,
Kohistan.
5. Zia-ul-Haq S/O Ghulam Qadir Resident of Village Jijal Tehsil
Pattan, District Khoistan.

Certified to be True Copy
25.2.13
Exhibit
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ordns.

No 1495
25.4.12

25/4/12

“W”

“J”

THE STATE OF
NEW YORK
IN SENATE
January 10, 1907.
REPORT
OF THE
COMMISSIONERS OF THE
LAND OFFICE
IN RESPONSE TO A
RESOLUTION PASSED
BY THE SENATE
MAY 11, 1906.
ALBANY: JAMES BRONKHORST
PRINTERS, 1907.

(41)

- 6. DFO Unhar Water Shed Division , Mansehr member inquiry Committee/ Chairman.
- 7. Superintendent Lower Hazara Circle Abbottabad member inquiry committee.
- 8. Aziz-ur-Rehman S/O Rustam Khan of Goshali Tehsil Dassu.Palas Distdict Kheistan.Respondents

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN**

Respectfully Sheweth:

FACTS

- 1. That the respondents No 3 invited application for appointments as forest guards in Forest Department Kohistan through an advertisement in Daly Mashiq and Nawai-e-Waqt.
- 2. That the petitioners applied for the pots and after observing all legal formalities, the Departmental selection committee, appointed the candidates on merits.
- 3. That the petitioner and proforma respondents were appointed as Forest Guard in Forest Department, in BPS 7, consequent upon recommendations of Departmental selection committee. Copies of office orders passed on different days are annexed as Mark "A".
- 4. That the petitioners No 2 and 5 to 10 have undergone the prescribed training of Forest Guard form Sarhad Forest School Thai Abbottabad, while remaining have to undergo

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[Signature]
 Peshawar High Court
 Abbottabad Bench
 Authorized Under Sec 75 Acts Ordns

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 Peshawar High Court
 Abbottabad Bench

[Signature]
25/12/12

the prescribed training on their turn. Copies of training Certificates are annexed as Mark "B".

(4g)

5. That the respondent No 5 filed a Writ Petition No 533 of 2011, which was listed before the Honorable Court on 07.03.2012, which was treated as representation and referred the same to chief Secretary KPK with direction to decide the matter within 30 days . Copy of writ Petition No 533 and order dated 07.03.2012 are annexed Mark "C".
6. That the respondent filed comments in the Writ Petition, which is annexed as Mark "D".
7. That the Chief Secretary/Respondent No 1 has so far not reproduced, nor acted upon the direction of this Honorable Court, passed in Writ Petition No 533 however an enquiry report by a Committee statedly constituted by Chief Conservator Forest II Khyber Pakhtunkhwa/respondent No 3, comprising of respondent No 6 and 7, has been submitted, copy of which is annexed as Mrk "E".
8. That the order passed for constitution of alleged committee, report submitted by the committee dated 19.04.2012, action taken, act done are based upon malefide, against Govt Policy, Good governance, rule of law and of no legal effect on the following amongst the other.

REASONS

- a. That the order of impugned is beyond the authority of its maker.
- b. It is unconstitutional, violative of fundamental rights.

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12/25/12

(43)

- c. It proclaims its own arbitrariness.
- d. That some of the petitioner were not arrayed as party in Writ Petition No 533 by respondent No 5 despite the fact that their appointment were made and others made party them too were not served, hence facts concealed from the Honorable Court.
- e. That the petitioner were condemned unheard, which is violently against natural justice.
- f. That the respondent No1 has not acted upon the orders of court, amounts to disobedience.
- g. That the heading of report committee find mention the writ petition No 533, but not acted as per direction issued, even otherwise respondent No 3/chief Conservator was not directed to act or constitute any committee nor committee had any powers to rollback the entire process, as the petitioners/persons appointed, has been accrued a vested right, which can not be recalled without adopting proper procedure after affording opportunity of hearing to the effectees/petitioner, hence liable to be annulled.
- h. That the appointments made after short listing and purely on merits, and this fact was admitted by respondents in their comments filed in Writ Petition No 533 and now they are barred to take U-turn and are not authorized to rollback the entire proceeding, which is unwarranted by law.

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 Abbottabad Bench
 M. B. Khan

(44)

- i. That the directions passed in Writ Petition was altogether different in nature, whereas so called committee considered the matter on different angle, makes the same nullity in the eye of law.
- j. That DSC has recommended the appointments of petitioners, resulting into proper appointments by competent authority, acted upon by joining and assuring the post and subsequently undergone training in Forest School Thai Abbottabad, bestowed a vested right in petitioner, guaranteed by constitution, law besides. Which cannot be taken away by any one including respondents on the basis of any alleged inquiry and that too allegedly conducted on the back of petitioners/effectees. Moreover no reasons have been assigned to rollback the entire proceeding of appointment, hence liable to reversed.
- k. That the Writ Petition No. 533 filed by respondent No 5 against some of the petitioner claiming himself as meritorious to those, arrayed as respondent in that petition and has never claimed the entire to be annulled and based on that petition and direction made therein, the entire procedure of appointment cannot be collapsed and as such the so called inquiry of respondent cannot be considered, nor can be acted upon and respondents are not authorized to honor the

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Abbottabad Bench
Authorized Under Section 23 Acts Ordinance

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Abbottabad Bench

25/7/20

same rather the orders of Court should be complied with strictly in accordance with law..

For all that submitted above, It is respectfully prayed that the appropriate writ may graciously be issued.

(45)

- A. To declare the recommendation of so called submitted through respondent of 19.04.2012 as null and void, illegal, without any legal authority, without jurisdiction. And of no legal effect
- B. To set at naught the recommendations of alleged committee to rollback the entire process adopted for appointments of petitioner and order of committee. No 34 dated 13.04.2012.
- C. To restrain the respondents from acting upon the so called recommendations made by alleged committee.
- D. To restrain the respondents from passing any order against the interest of petitioners including initiating fresh process of appointment or removal of petitioners.
- E. Asking them to act in accordance with law and proceed in the matter in a transparent manner to ensure the protection of petitioners rights, strictly in parameters prescribed in law.
- F. To ask the respondent, to comply the order of the Honorable Court passed in Writ Petition No

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 Abbottabad Bench
 Authorized Under Sec 75 Act 1973

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 Peshawar High Court
 Abbottabad Bench
 25/5/12

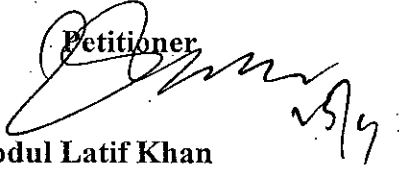
533 of 2011 as directed vide order dated 07.03.2012.

(46)


AND

Any other relief appropriate in the circumstances but not specifically asked for my also be granted to petitioners.

Dated: 25-04-2012

Through ^{Petitioner} 
Abdul Latif Khan
Advocate Supreme Court of Pakistan

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025/2/13
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Abbottabad Bench
Authorized Under Sec 75 Acts Ordms

 / 25/4/12
Peshawar High Court
Abbottabad Bench

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

CM 219-A /2012

IN

W.P No 339-A/2012

(47)

Hidayat Ullah and others.....Petitioners

VERSUS

Govt of Khyber Pakhtunkhwa and other.....Respondents

WRIT PETITION

Application for suspension of impugned recommendation of alleged inquiry Committee dated 19.04.2012.

Respectfully Sheweth:

- 1. That the accompany Writ Petition may kindly be considered as part and parcel of the instant application.
- 2. That the Petitioners have a *Prima Facie* case.
- 3. That the Balance of Convenience is favor of Petitioners.
- 4. That if the recommendations of alleged inquiry committee dated 19.04.2012 allowed to be continued the Petitioners would suffer an *irreparable loss*.

It is therefore humbly prayed that as per relief the recommendations of alleged inquiry committee dated 19.04.2012 be suspended till the decision of the Writ Petition.

Dated: 25.04-2012

Certified to be True Copy

25/04/2012
 Peshawar High Court
 Abbottabad Bench
 Authorized Under Sec 25 Act 6 of 1951

Petitioner
 Through
 Abdul Latif Khan
 Advocate Supreme Court of Pakistan

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Registrar
 Additional High Court
 Peshawar, High Court
 Abbottabad Bench

AFFIDAVIT

(48)

I Hidadyat Ullah S/O Umer Daraz do hereby declare on oath
That contents of instant application for suspension of
recommendation of inquiry committee are correct to best of
my knowledge and belief and nothing has been concealed
from this August Court.

Dated 25.04.2012

DEPONENT

IDENTIFIED BY

COUNSEL

No. 2179/279 Receipt No. 279
Certified that the above was verified on the
affirmation ATA before me on the
..... 25 day of MAY 20012
Hidayat Ullah S/O Umer Daraz
Rawalpora Tehsil, Pattan Distt
Kohistan who is personally known to me

Certifier
Member, Magistrate
Pattan Bench

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25/2/13
Peshawar High Court
Abbottabad Bench
Authorized Under Section 25 of the Oaths Act, 1974

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Registrar
Peshawar High Court
Abbottabad Bench

12

PESHAWAR HIGH COURT, ABBOTTABAD BENCH
W.P No _____/2012

Hidayat Ullah and others.....Petitioners

(49)

VERSUS

Govt of Khyber Pakhtunkhwa and other.....Respondents

WRIT PETITION

Memo of addresses of the parties

Petitioner:-

1. Hidayatullah s/o Umer Draz of Jijal Tehsil patan Kohistan.
2. Umer Daraz s/o Gul Sadbar of Jijal Tehsil Pattan Kohistan.
3. Said zahab s/o Mir Alam of Jijal Tehsil Pattan Kohistan.
4. Umar yar s/o Abdul Qahar. of Jijal Tehsil Pattan Kohistan.
5. Saranzeb s/o Aman Mir of Pattan Tehsil Pattan Kohistan
6. Inayatullah s/o Abdul Hakeen of Jijal Tehsil Pattan Kohistan
7. Afreen s/o Juma Khan Jijal Tahsil Pattan Kohistan
8. Nawab Ali s/o Noor ul Huda of Pattan Kohistan
9. Mohammad Zaib s/o Haji Yardad of Pattan Kohistan
10. Abdul Qadar s/o Malik Tajan of Khandiat Kohistan
11. Abdul Qafi s/o Abdul Hadi resident of Sazin. Kohistan
12. Muhammad Azad Wali s/o Chlora resident of Palas Kohistan

Respondent:-

1. Government of Khyber Pakhtunkhwa Through Secretary
Enviornment Department.
2. Chief Conservative of Forest Khyber Pakhtunkhwa Peshawar.
3. Divisional Forest Officer, Lower Forest Division ,Pattan
Kohistan

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25.13
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 A of Ordinance

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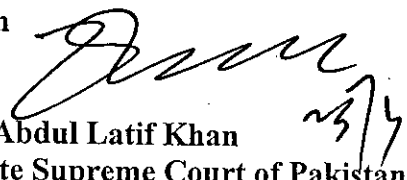
Additional Registrar
Peshawar High Court
Abbottabad Bench

(25/13) M/M

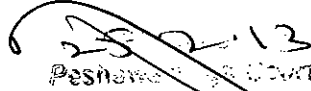
(50)

- 4. Divisonal Forest Officer, Upper Khoistan Forest Division,
Dassu, Kohistan.
- 5. Zia-ul-Haq S/O Ghulam Qadir Resident of Village Jijal Tehsil
Pattan, District Khoistan.
- 6. DFO Unhar Water Shed Division , Mansehra member inquiry
Committee/ Chairman.
- 7. Superintendent Lower Hazara Circle Abbottabad member
inquiry committee.
- 8. Aziz-ur-Rehman S/O r Rustam Khan of Goshali Tehsil
Dassu. Palas Distdict Khoistan.


Dated: 18-02-2012

Petitioner
Through 
Abdul Latif Khan
Advocate Supreme Court of Pakistan

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Peshawar Bench
Abbottabad Bench
Authorized Under Sec 25 A

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Peshawar High Court
Abbottabad Bench
25/2/12

(51)

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

FORM 'A'
FORM OF ORDER SHEET

Date of Order or Proceedings	ORDER OR PROCEEDINGS WITH SIGNATURE OF JUDGE/JUDGES
1	2
25.04.2012	<p><u>WP No.339-A/2012</u></p> <p>Present: Mr. Abdul Latif Khan, Advocate for petitioners.</p> <p style="text-align: center;">***</p> <p>Counsel for petitioners contended that in WP No.533 of 2001 filed by respondent No.5, some of the petitioners were not arrayed as respondents and the said writ petition was treated as representation and referred to the Chief Secretary, Khyber Pakhtunkhwa vide order dated 7.3.2012 for redressal of the grievances within 30 days but respondents No.6 and 7 without giving an opportunity of hearing to the present petitioners recommended to roll back the whole process of appointments of the petitioners on the basis of an inquiry report submitted by a Committee, constituted by respondent No.2, comprising of respondents No.6 and 7. He further argued that respondents No.6 and 7 were neither competent nor authorized to hold any inquiry against the petitioners and that the order of respondent No. 2 for constitution of alleged committee is void ab-initio. He further argued that in the writ petition No.533/2011 the said respondents had filed their comments, wherein, they had categorically mentioned that appointments of the petitioners were made after observing all codal formalities.</p> <p>Let comments of respondents No.2 to 4 be asked for before 16.05.2012.</p> <p><u>Interim Relief</u></p> <p>Till then the operation of the impugned order is suspended.</p> <p style="text-align: center;">Certified to be True Copy</p> <p style="text-align: center;">Peshawar High Court Abbottabad Bench Authorized Under Section 75 of the P.H.C. Act, 1973</p>

'ANES' 'K'

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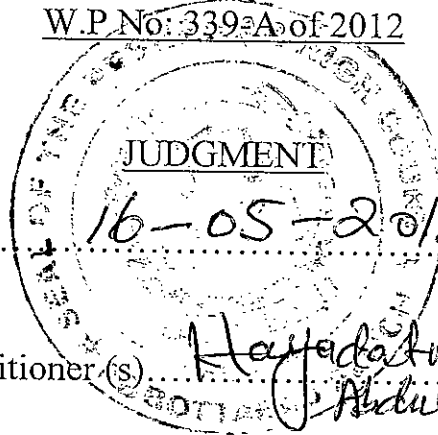
206	25	2.13
	15	
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	32	00
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	25	2.13

Additional text: "P. 100" and "25 2.13" are also visible.

(58)

JUDGMENT SHEETIN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH
JUDICIAL DEPARTMENT

W.P.No: 339-A of 2012



Date of hearing... 16-05-2012

Appellant(s)/Petitioner(s)... Hidayatullah and others by
Abdul Latif Khan Advocate.

Respondent(s)... Govt etc by A-AG

YAHYA AFRIDI :-J:

Hidayatullah and 11

others, petitioners, seek the constitutional jurisdiction
of this Court, praying that;

"A. To declare the recommendation of so called submitted through respondent of 19.04.2012 as null and void, illegal, without any legal authority, without jurisdiction. And of no legal effect.

B. To set at naught the recommendations of alleged committee to rollback the entire process adopted for appointments of petitioner and order of committee. No.34 dated 13.04.2012.

C. To restrain the respondents from acting upon the so called recommendations made by alleged committee.

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13
Examiner
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ordms

بسم الله الرحمن الرحيم
الحمد لله رب العالمين
والصلاة والسلام على
سيدنا محمد وآله الطيبين
الطاهرين

الجمهورية الجزائرية الديمقراطية الشعبية
وزارة التعليم العالي والبحث العلمي
جامعة الجزائر - قسنطينة
الكلية العلمية
الدراسة
البريد الإلكتروني
البريد الإلكتروني

- D. *To restrain the respondents from passing any order against the interest of petitioners including initiating fresh process of appointment or removal of petitioners.*
- E. *Asking them to act in accordance with law and proceed in the matter in a transparent manner to ensure the protection of petitioners rights, strictly in parameters prescribed in law.*
- F. *to ask the respondent, to comply the order of the Honourable Court passed in Writ Petition No.533 of 2011 as directed vide order dated 07.03.2012.*

And any other relief appropriate in the circumstances but not specifically asked for may also be granted to petitioners”.

2. The petitioners have impugned the recommendations of the Committee, which reads that:

“In the light of foregoing facts and material on record, the committee recommend to Rollback the entire incomplete process adopted for appointment of Forest guards and to direct the competent authorities for initiating the process a fresh as per rules.”

3. When the learned counsel for petitioners confronted that whether any rights of the petitioners had been effected by the said recommendations, his response was in negative.



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25/2/13
Examiner
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ordms

(54)

4. In view of the present position, the petitioners are not aggrieved, as envisaged in Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

5. Accordingly, for the reasons stated hereinabove, the present petition is pre mature, hence, dismissed. However, the petitioners may if the need so arise and their rights are effected in any manner, whatsoever, they may, if so advised, approach the competent forum, in accordance with law.

Announced:
16.05.2012

SD JUDGES

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~~Signature~~
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75, Act & Ordms

(55)

OFFICE ORDER NO. 54 DATED DSSU THE 21st DECEMBER, 2012
ISSUED BY MR. AZHAR ALI KHAN, DIVISIONAL FOREST OFFICER
UPPER KOHISTAN FOREST DIVISION, DASSU

A recruitment process was completed for the posts of Forest Guards in Lower & Upper Kohistan Forest Divisions during 06/2011. One Mr. Zia-ul-Haq S/O Ghulam Qadir Resident of Village Jijjal Tehsil Pattan District Kohistan challenged the recruitment process in August High Court Peshawar Circuit Bench Abbottabad vide WP. 553/2011. The court treated the petition as representation and referred the case to Chief Secretary Khyber Pakhtunkhwa to resolve the matter. The Administrative Department vide No. SO (Lit) ED/2-165/2011 dated 17/03/2012, directed the CCF-II to hold enquiry to ascertain factual position, grant relief if any. The CCF-II constituted an enquiry committee vide office order No. 34 dated 13/04/2012. The enquiry committee based on certain procedural flaws recommended to roll back the entire recruitment process. Before the recommendation of the committee could be acted upon, the matter was subjudiced in the court as the incumbent employees agitated before the High Court through a writ petition No. 339-A/2012. However the petition held premature and dismissed. Meanwhile the petitioner of WP 553/2011 furnished an affidavit through which he resiled from his previous stance. Construing that the cause of action was disappeared, it was recommended to file the case. The Administrative Department by disagreeing the proposal of closing the case, constituted an Enquiry Committee vide notification No. SO (Lit) ED/2-165/2011 dated 14/06/2012. Based on the findings of the Enquiry Committee the Administrative Department vide No. SO (Lit) ED/2-165/2011/1281-82 dated 11/12/2012 and No. SO (Lit) ED/2-165/2011/1284-85 dated 11/12/2012 communicated by Conservator Upper Hazara office No. 2963-64/GE dated 19/12/2012 directed "implement the decision of the earlier enquiry committee and report compliance" i.e. to roll back the entire recruitment process adopted for appointment of Forest Guards.

Therefore, in compliance of the above order of the administrative Department, the said appointment process is rolled back and the following Forest Guards appointed under the mentioned process and working in Upper Kohistan Forest Division are hereby terminated from their services with immediate effect:-

#.	Name of Forest Guards	Fathers Name
1.	Mr. Abdul Kafi	Abdul Hadi
2.	Mr. Aziz-ur-Rehman	Rehman Khan
3.	Mr. Hidayatullah	Umer Draz
4.	Mr. Inayatullah	Abdul Hakeem
5.	Mr. Umer Draz	Gul Sadbar
6.	Mr. Abdul Qadir	Malik Tajan
7.	Mr. Umer Yar	Abdul Qahar

Sd/- (AZHAR ALI KHAN)
 DIVISIONAL FOREST OFFICER
 UPPER KOHISTAN FOREST DIVISION
 DASSU

Memo

Copy forwarded to the:-

1. P.S to Secretary Environment Department Khyber Pakhtunkhwa, Peshawar for information please.
2. Chief Conservator of Forests, Northern Forest Region-II Abbottabad for favour of information, please.
3. Conservator of Forests, Upper Hazara Forest Circle, Mansehra, with reference to his endst. No. 2963-64/GE, dated 19/12/2012, please.
4. Section Officer (Litigation) for information with reference to his Notification SO (Lit) ED/2-165-2011 received vide endst. No. 10386-92 dated. 14/06/2012.
5. All concerned Forest Guards for information.
6. All the SDFOs Upper Kohistan Forest Division for necessary action.

K

[Signature]

DIVISIONAL FOREST OFFICER
 UPPER KOHISTAN FOREST DIVISION
 DASSU

(56)

OFFICE OF THE CONSERVATOR OF FORESTS, UPPER HAZARA FOREST
CIRCLE MANSEHRA.

To,

1. Mr. Abdul Kafi s/o Abdul Hadi of Sazin Kohistan
2. Mr. Aziz-ur-Rehman s/o Rehman Khan of Jalkot
3. Mr. Hidayatullah s/o Umer Draz of Jijal Tehsil Pattan
4. Mr. Inayatullah s/o Abdul Hakeem of Jijal Tehsil Pattan
5. Mr. Umer Daraz s/o Gul Sadbar of Jijal Tehsil Pattan
6. Mr. Mr. Abdul Qadar s/o Malik Tajan of Khandia Kohistan
7. Mr. Umar Yar s/o Abdul Qahar of Jijal Tehsil Pattan
8. Mr. Nawab Ali s/o Noor ul huda of Pattan Kohistan
9. Mr. Afreen s/o Juma Khan of Jijal Tehsil Pattan
10. Mr. Mohammad Zaib s/o Haji Yardad of Pattan
11. Mr. Sarangzeb s/o Aman Mir of Pattan
12. Mr. Sarzahab s/o Mir Alam of Jijal Tehsil Pattan

"ANE"
"N"

No: /GE dated Mansehra the 22/01/2013.

Subject: APPEAL AGAINST THE DFO LOWER KOHISTAN OFFICE ORDER NO.20, DATED 21/12/2012 AND DFO UPPER KOHSITAN OFFICE ORDER NO.54, DATED 21/12/2012.

Memo: Reference your appeal dated 07/01/2013.

You have preferred a joint appeal against DFO Upper Kohistan office order No.54, dated 21/12/2012 and DFO Lower Kohistan office order No.20, dated 21/12/2012 before the undersigned. Under rule 3(2) of NWFP Civil Servants (appeal Rules 1986) every affected civil servant shall prefer the appeal separately, hence the appeal in hand can not be entertained.

You are therefore directed to prefer your appeals separately for further course of action/

Conservator of Forests
Upper Hazara Forest Circle
Mansehra

No: 3758-59 /GE

Copy forwarded to:

1. DFO Upper Kohistan Forest Division Dassu
2. DFO Lower Kohistan Forest Division Pattan

For information.

Conservator of Forests
Upper Hazara Forest Circle
Mansehra

بخدمت جناب کنزرویٹر صاحب اپر ہزارہ فارسٹ سرکل مانسہرہ

(57)

عنوان: اپیل برخلاف آفس آرڈر نمبر 54 مجریہ مورخہ 21 دسمبر 2012ء از دفتر

DFO اپر کوہستان فارسٹ ڈویژن داسو

3549
28-1-2013

جناب عالی!

اپیل کی جاتی ہے کہ آفس آرڈر نمبر 54 مجریہ مورخہ 21 دسمبر 2012ء از دفتر
DFO اپر کوہستان داسو کو منسوخ فرما کر اپیل کنندہ کو ان کی جملہ سابقہ حقوق اور
رعایتوں کے ساتھ سروس پر بحال فرمایا جائے۔
مختصر روئیداد اپیل۔

عالیجاہ۔

جناب DFO اپر کوہستان نے بذریعہ اخبارات "روزنامہ نوائے

وقت" مورخہ 22 اپریل 2010ء اور روزنامہ مشرق مورخہ 23 اپریل 2010ء پر
کوہستان فارسٹ ڈویژن میں فارسٹ گارڈان (بی پی ایس 5) کی بھرتی کے لئے
اشتہار دیا۔ (عکسی نقل شامل اپیل ہے)۔

میں نے دیگر امیدواروں کے ہمراہ تحریری امتحان اور زبانی انٹرویو دیا اور محکمہ سلیکشن کی
سفارش پر مجھے اپیل کنندہ کو حکم نامہ کے ذریعے بحیثیت فارسٹ گارڈ بھرتی کیا گیا۔
بعد ازاں امیدواران سے سمس ضیاء الحق ولد غلام قادر نے پشاور ہائی کورٹ ایبٹ آباد
بنچ میں رٹ پٹیشن نمبر 533/211 دائر کر دی جس میں اس نے استدعا کی کہ اپیل
کنندہ کی تعیناتی شفاف طریقہ سے نہیں کی گئی اور ضیاء الحق نے رٹ پٹیشن میں یہ بھی
استدعا کی کہ وہ بھی امتحان میں شریک ہو اور اس نے بھی امتحان پاس کیا۔ لیکن اسے
تعینات نہیں کیا گیا۔ عدالت سے استدعا کی کہ اس کی تعیناتی کے لئے احکامات جاری
کئے جائیں۔

ضیاء الحق کی رٹ پٹیشن کو صورت حال کی وضاحت تصور کر کے فاضل عدالت نے
چیف سیکرٹری کو بھیج دی کہ درخواست دہندہ کے تحفظات پر تحقیق کر کے ان کو دور کیا
جائے اور اگر ممکن نہ ہو تو وجوہات کے ساتھ اس کو مطلع کیا جائے۔

اس پر چیف کنزرویٹر رجن (ii) نے ایک کمیٹی قائم کی جس نے یہ سفارش کی کہ تعیناتی
کے لیے اپنایا گیا طریقہ مروجہ طریقہ سے مطابقت نہیں رکھتا۔ اس لئے اس سارے عمل

1000

کو لپیٹ دیا جائے اور بھرتی کا عمل نئے سرے سے شروع کیا جائے۔
جناب عالی!

DFO صاحب اپر کوہستان نے آفس آرڈر نمبر 54 مجریہ 21 دسمبر

2012ء کے ذریعے مجھ اپیل کنندہ کو سروس سے سبکدوش کر دیا۔

وجوہات اپیل۔

(۱) یہ کہ کمیٹی کی رپورٹ (جس کی عکسی نقل) شامل اپیل کی جاتی ہے، سے عمیال ہے کہ وہ رپورٹ بلا تحقیق اور حقائق کو تلاش کیے بغیر مفروضوں پر مبنی ہے اور جانبدارانہ ہے۔ اس بناء پر ناقابل عمل ہے۔

(۲) یہ کہ رپورٹ کے مندرجات سے پتہ چلا ہے کہ مذکورہ کمیٹی نے نہ تو سلیکشن کمیٹی سے پوچھ گچھ کی ہے اور نہ ہی مدعی ضیاء الحق سے استفسار کیا۔

(۳) یہ کہ بقول کمیٹی کے کہ ورکنگ پیپر تیار نہیں کیا گیا اور انٹرویو دیر سے کئے گئے ہیں۔ اور یہ جاننے کی کوشش نہ کی کہ وہ کیا حالات تھے جن کے تحت انٹرویو لیٹ ہوئے۔ لیکن یہ بات نظر انداز کر دی گئی کہ انٹرویو ز تحریری امتحان کے نتیجہ میں مرتبہ فہرست کے مطابق ہوئے اور اس تحریری امتحان اور اس کے نتیجہ میں مرتبہ فہرست کو غلط قرار نہیں دیا گیا۔

(۴) یہ کہ اپیل کنندہ کی تعیناتی کے لئے تمام مروجہ قواعد و ضوابط کو ملحوظ خاطر رکھا گیا اور ان پر کمیٹی نے عمل کیا۔ جس میں آسامیوں کا مشتمل کرنا، تحریری مقابلہ کا امتحان زبانی انٹرویو اور فزیکل ٹیسٹ شامل ہیں جو ریکارڈ سے ثابت ہے۔

(۵) یہ کہ مدعی ضیاء الحق نے پشاور ہائی کورٹ کے ایبٹ آباد بنچ میں اپنا تحریری بیان اسٹامپ کاغذ پر داخل کیا کہ وہ اپنا دعوہ واپس لیتا ہے اور مزید یہ کہ اس نے یہ بھی لکھ دیا کہ اپیل کنندہ کی تعیناتی نہایت شفاف طریقہ سے ہوئی ہے۔ اور مدعی کو اس پر کسی قسم کا نہ اعتراض ہے اور نہ ہی وہ اس ضمن میں محکمہ سے کوئی رعایت مانگتا ہے۔ (ضیاء الحق کے بیان کے عکسی نقل شامل اپیل کی جاتی ہے)۔

(۶) یہ کہ اپیل کنندہ نے سرحد فاریسٹ سکول تھائی سے تربیت بھی حاصل کر لی ہے۔ (تربیتی سرٹیفیکیٹ کی عکسی نقل شامل اپیل کی جاتی ہے)

(۷) یہ کہ اگر بحث کی خاطر یہ بھی مان لیا جائے کہ مروجہ طریقہ کار میں کچھ امور کو صرف نظر کیا گیا تو بھی وہ ایسے امور نہیں کہ ان پر سہوایا لائے علمی کی وجہ سے عمل پیرانہ ہو کر خدا نخواستہ سارا عمل ہی غارت ہو یا کسی کی جان بوجھ کر حق تلفی کی گئی ہو۔

(۸) یہ کہ اپیل کنندہ نے تقریباً ایک سے دو سال محکمہ میں سروس بھی کر لی ہے۔ نیز یہ کہ

نئے قواعد میں نئی بھرتی کے لیے تعلیمی معیار میں بھی تبدیلی آگئی ہے۔ جس کی بناء پر اپیل کنندہ دوبارہ تعیناتی کے لیے مقابلہ کے امتحان کے اہل ہی نہیں رہے۔

(۹) یہ کہ اگر سلیکشن کمیٹی سے طریقہ کار میں کوئی غلطی ہوئی ہے تو اس کی سزا مجھ اپیل کنندہ کو نہ دی جائے بلکہ سلیکشن کمیٹی سے باز پرس کی جائے۔

(۱۰) یہ کہ آفس آرڈر نمبر 54 مجریہ 21 دسمبر 2012ء (مندرجہ عنوان اپیل) صریحاً قانونی تقاضوں کے منافی ہونے کی بناء پر قابل تہنیک ہیں۔ لہذا اپیل کی جاتی ہے اگر طریق کار میں سہو آیا لایا علمی کی بناء پر سلیکشن کمیٹی سے کوئی کوتاہی ہوئی ہے جس سے کسی بھی امیدوار کی حق تلفی نہیں ہوئی ہو تو اسے صرف نظر فرما کر اپیل کنندہ کو جملہ سابقہ حقوق و مراعات کے ساتھ سروس پر بحال کر دیا جائے۔ اپیل کنندہ آپ کے اقبال کے لیے دعا گو رہے گا۔

24
07.01.2013 المرقوم

العارض

Dr. F. S.

عبدالقادر ولد ملک تاجان۔

گورنمنٹ سکول الہ آباد

ڈاکٹر ف۔ س۔

28/1

(24)

OFFICE ORDER NO. 06 DATED MANSEHRA THE 11 /10/2012, ISSUED BY MR. MOHAMAD SIDDIQUE KHAN, CONSERVATOR OF FORESTS, UPPER HAZARA FOREST CIRCLE MANSEHRA.

"AW"
"F"

As recommended by DFO Upper & Lower Kohistan, Mr. Abdul Qadir Forest Guard is hereby transferred from Lower Kohistan Forest Division Pattan to Upper Kohistan Forest Division Dasso against the existing vacancy in the interest of public service with immediate effect.

Sd/-
(Mohammad Siddique Khan)
Conservator of Forests
Upper Hazara Forest Circle
Mansehra

Memorandum:

Copy forwarded to:

1. DFO Upper Kohistan Forest Division Dasso for information with reference to his No.552/GE, dated 03/10/2012.
2. ✓ DFO Lower Kohistan Forest Division Pattan for information with reference to his No.1205/GE, dated 25/02/2012.

Conservator of Forests
Upper Hazara Forest Circle
Mansehra

No. 411-12 /GE, dated Pattan the 12 /10/2012

Copy forwarded to:

1. The Sub-Divisional Forest Officer, Palas Forest Sub-Division for information. He is directed to relieve the FG concerned under the arrangement and submit all relevant papers to this office for necessary action and record.
2. ✓ Mr. Abdul Qadir Forest Guard to SDFO Palas Forest Sub-Division for information and necessary action.

Divisional Forest Officer
Lower Kohistan Forest Division
PATTAN

(25)

OFFICE ORDER NO. 26 DATED MANSEHRA THE 11/10/2012, ISSUED BY
MR. MOHAMAD SIDDIQUE KHAN, CONSERVATOR OF FORESTS, UPPER HAZARA
FOREST CIRCLE MANSEHRA.

As recommended by DFO Upper & Lower Kohistan, Mr. Abdul Qadir Forest Guard is hereby transferred from Lower Kohistan Forest Division Pattan to Upper Kohistan Forest Division Dassu against the existing vacancy in the interest of public service with immediate effect.

Sd/-
(Mohammad Siddique Khan)
Conservator of Forests
Upper Hazara Forest Circle
Mansehra

Memorandum:

Copy forwarded to:

1. DFO Upper Kohistan Forest Division Dassu for information with reference to his No.552/GE, dated 03/10/2012.
2. DFO Lower Kohistan Forest Division Pattan for information with reference to his No.1205/GE, dated 25/02/2012.


Conservator of Forests
Upper Hazara Forest Circle
Mansehra

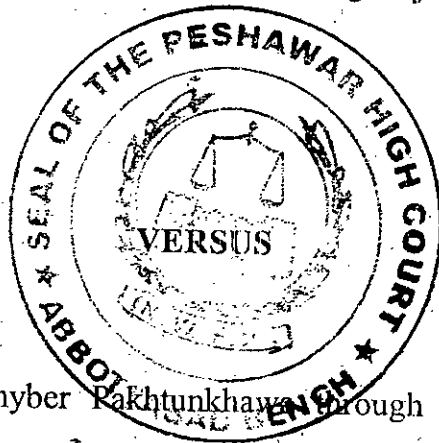
(26)



BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.

"ANE"
"G"

Zia-ul-Haq son of Ghulam Qadir resident of Village Jijal, Tehsil Pattan, District Kohistan.



...PETITIONER

1. ✓ Government of Khyber Pakhtunkhwa through Secretary Environment Department.
2. Chief Conservative of Forest, KPK Peshawar.
3. ✓ Divisional Forest Officer Lower Kohistan Forest Division Pattan Kohistan.
4. Divisional Forest Officer, Upper Kohistan Forest Division, Dassu.
5. Mr. Nawab Ali son of Noor-ul-Huda resident of Pattan, Tehsil Pattan, District Kohistan.
6. Mr. Arfeen Khan son of Juma Khan resident of Jijal, Tehsil Pattan, District Kohistan.
7. Mr. Abdul Qadar son of Malik Tajan resident of Khandia, Tehsil Khandia, District Kohistan.
8. Mr. Muhammad Zaib son of Haji Yardad resident of Pattan, District Kohistan.
9. Mr. Inayatullah son of Abdul Hakeem resident of Jijal, Tehsil Pattan, District Kohistan.

....RESPONDENTS

No 3374
8-9-4

Additional Registrar
Peshawar High Court
Abbottabad Bench

[Handwritten signature]

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN DECLARING OFFICE ORDER NO. 2 DATED

Certified to be True Copy
18.3.13
Examiner
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ord 1973

(27)

11/07/2011 AS ILLEGAL, AGAINST RULE AND POLICY OF THE GOVT. OF KPK, WITHOUT JURISDICTION, WITHOUT LAW FUL AUTHORITY, DISCRIMINATORY AND VOID ABINITIO.

PRAYER:- ON ACCEPTANCE OF INSTANT WRIT PETITION, RESPONDENT NO. 3 MAY KINDLY BE DIRECTED TO ISSUE APPOINTMENT OF THE PETITIONER AS FOREST GUARD IN BPS-7 ACCORDING TO LAW AND POLICY OF THE GOVT. OF KPK. ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED.

Respectfully Sheweth: -

FACTS:

1. That respondent No. 3 had advertised the posts of Forest Guard in Lower Kohistan Forest Division.
2. That petitioner alongwith other candidates applied for the advertised posts.

[Signature]
Additional Registrar
Peshawar High Court
Abbottabad Bench
18/3/11

Certified to be True Copy
18.3.11
Registrar
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ordns

(28)

②

3. That petitioner appeared before selection committee and merit list was prepared, petitioner was on higher pedestal in merit list than respondents No. 5 to 9 being more qualified. Copies of the testimonial and domicile certificate of the petitioner are attached as Annexure "A".
4. That father of petitioner was also in service of the Forest Department who retire was w.e.f 28/02/2011. Copy of the order of retirement is annexed as annexure "B".
5. That respondent No. 3 had issued an appointment order of respondents No. 5 to 9 on 11/07/2011. Copy of the order is annexed as annexure "C".
6. That respondents had kept the order secret and on coming to know about the impugned order petitioner had approached the department who promised to resolved the matter but a week ago they refused to redress the grievances of the petitioner, hence instant petition on the following:-

GROUND S :-

- a. That impugned appointment order is illegal, without jurisdiction without lawful authority,

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18-03-13
Peshawar High Court
Abbottabad Bench
Authorized Under Sec-75 Acts Ordinance

(29)



discriminatory, void and against law, rules and policy of the govt. of KPK.

- b. That appointment of respondents No. 5 to 8 was made on the basis of being employee's son and petitioner was better qualified being employee's was similarly placed was ignored hence discrimination was made on the political influence.
- c. That respondent No. 9 was neither employee's son nor better qualified and also was low in merit list.
- d. That respondent No. 9 was also not eligible for appointment according to policy. Copy of policy letter is attached as Annexure "D".
- e. That court fee stamp paper worth of Rs.500/- are affixed.

FILED TODAY

**Additional Registrar
Peshawar High Court
Abbottabad Bench**

2/8/91

In the circumstances, what has been submitted above and case to argued at bar on acceptance of instant petition impugned appointment order may kindly be declared illegal and respondent NO. 3 may graciously be directed to issue appointment order of petitioner according to law and policy

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183-13
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 15 Acts Ordms

(30)

of the govt. of KPK any other relief which this honourable Court deems fit and proper in the circumstances of the case may also be granted.

Dated: 8/9 /2011

Through

...PETITIONER

(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan
Abbottabad

VERIFICATION: -

Verified on oath that the contents of forgoing writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court

PETITIONER.

Certified to be True Copy

Examiner
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ordns

FILED TODAY
Additional Registrar
Peshawar High Court
Abbottabad Bench

8/9/11

① (31)

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.

Zia-ul-Haq son of Ghulam Qadir resident of Village Jijal, Tehsil Pattan, District Kohistan.

...PETITIONER

VERSUS

Government of Khyber Pakhtunkhawa through Secretary Environment Department and others.

....RESPONDENTS

WRIT PETITION

AFFIDAVIT

I, Zia-ul-Haq son of Ghulam Qadir resident of Village Jijal, Tehsil Pattan, District Kohistan, do hereby solemnly affirm and declare that the contents of forgoing writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

[Handwritten signature]

13403-9415203-1 DEPONENT

Identified By:-

(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan
Abbottabad

2888/34

34

Atk 8
sel "
Zia-ul-Haq Ghulam Qadir
Village Jijal Kohistan

FILED TODAY

Additional Registrar
Peshawar High Court
Abbottabad Bench
28/12/14

Certified to be True Copy

18-3-13
Peshawar High Court
Abbottabad Bench
Peshawar High Court Rules Ordinance

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819

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.

Zia-ul-Haq son of Ghulam Qadir resident of Village Jijal, Tehsil Pattan, District Kohistan.

...PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Environment Department and others.

....RESPONDENTS

WRIT PETITION

CERTIFICATE

Certified that no such like writ petition has earlier been filed before this Honourable Court by the petitioner.

...PETITIONER

Dated: 8/9 /2011

Through

(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan
Abbottabad

FILED TODAY
Additional Registrar
Peshawar High Court
Abbottabad Bench
4/8/11

Certified to be True Copy

18/8/13
Peshawar High Court
Abbottabad Bench
Authorized Under Section 75 of the Courts Act, 1973



(33)

**BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.**

Zia-ul-Haq son of Ghulam Qadir resident of Village Jijal, Tehsil Pattan, District Kohistan.

...PETITIONER

VERSUS

Government of Khyber Pakhtunkhawa through Secretary Environment Department and others.

....RESPONDENTS

WRIT PETITION

LIST OF BOOKS

1. Constitution of Islamic Republic of Pakistan 1973.
2. NWFP civil servant (appointment promotion and transfer) Rules, 1973.
3. Appointment policy.
4. Other law books are sited at Barr.

Zia-ul-Haq

...PETITIONER

Dated: 8/9/2011

Through

(Signature)
(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan
Abbottabad

(Signature)
Peshawar High Court
Abbottabad Bench
8/9/11

Certified to be True Copy

18/3/13
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts 6, 1973

(34)

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.

Zia-ul-Haq son of Ghulam Qadir resident of Village Jijal, Tehsil Pattan, District Kohistan.

...PETITIONER

VERSUS

Government of Khyber Pakhtunkhawa through Secretary Environment Department and others.

....RESPONDENTS

WRIT PETITION

ADDRESSES OF THE PARTIES

Respectfully Sheweth:-

Addresses of the parties are as under:-

Zia-ul-Haq son of Ghulam Qadir resident of Village Jijal, Tehsil Pattan, District Kohistan.

...PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhawa through Secretary Environment Department.
2. Chief Conservative of Forest, KPK Peshawar.
3. Divisional Forest Officer Lower Kohistan Forest Division Pattan Kohistan.
4. Divisional Forest Officer, Upper Kohistan Forest Division, Dassu.
5. Mr. Nawab Ali son of Noor-ul-Huda resident of Pattan, Tehsil Pattan, District Kohistan.
6. Mr. Arfeen Khan son of Juma Khan resident of Jijal, Tehsil Pattan, District Kohistan.
7. Mr. Abdul Qadar son of Malik Tajan resident of Khandia, Tehsil Khandia, District Kohistan.
8. Mr. Muhammad Zaib son of Haji Yardad resident of Pattan, District Kohistan.
9. Mr. Inayatullah son of Abdul Hakeem resident of Jijal, Tehsil Pattan, District Kohistan.

....RESPONDENTS

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18.3.13
Peshawar High Court
Abbottabad Bench
Enrolled under Secy. Acts Ordms

Dated: 8/9 /2011

Through

...PETITIONER

[Handwritten signature]
PESHAWAR HIGH COURT
Abbottabad Bench

[Handwritten signature]
(HAJI SABIR HUSSAIN TANOLI)
Advocate Supreme Court of Pakistan
Abbottabad

(35)

JUDGMENT SHEET

**IN THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.**

JUDICIAL DEPARTMENT

"ANE"

W.P No. 533 of 2011

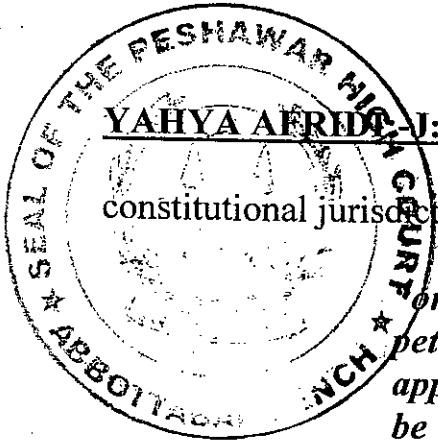
"H"

JUDGMENT

Date of hearing 07-03-2012

Appellant(s)/Petitioner (s) (Zia-ul-Haq) by M/s Haji Sabir Hussain Tanoli and Muhammad Arshad Awan, Advocates.

Respondent (s) _____



YAHYA AERIDI, J:- Zia-ul-Haq seeks the constitutional jurisdiction of this Court praying that;

on acceptance of instant petition, impugned appointment order may kindly be declared illegal and respondent No.3 may graciously be directed to issue appointment order of petitioner according to law and policy of the Government of Khyber Pakhtunkhwa or any other relief, which this Honourable Court deems fit and proper in the circumstances of the case, may also be granted."

2. In essence, the grievance of the petitioners is that in response to the public advertisement made by

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18-3-13
Peshawar High Court
Abbottabad Bench
Authorized Under Section 75 Acts Ordms

respondent No.3 inviting applications for recruitment as 'Forest Guards' in Lower Kohistan Forest Division, Pattan Kohistan, he had applied for the said post alongwith other candidates; that the petitioner appeared before the 'Departmental Selection Committee' ("DSC"); and that the merit list was prepared, wherein, petitioner was placed in higher position, having better qualification than respondents No.5 to 9; and in addition thereto, petitioner was also the son of a retired employee of the Forest Department and yet he was not consider for appointment as a 'Forest Guard'.

3. Respondents No.1 and 3 were asked to submit their comments. In response thereto, Respondent No.1, Secretary Environment, Government of Khyber Pakhtunkhwa, Respondent No.2, Chief Conservator of Forests, Kyber Pakhtunkhwa and Respondent No.3 Divisional Forest Officer, Lower Kohistan Forest Division, Pattan Kohistan have submitted their requisite para-wise comments. It was, *inter alia*, alleged in the comments that petitioner had failed to appear before the DSC for interview, as such, he was not considered.

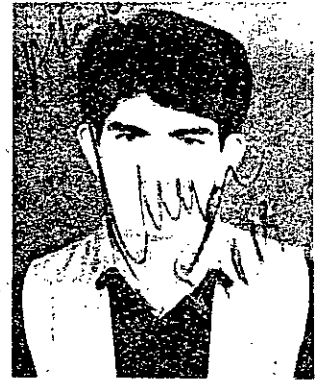
4. The petitioner filed rejoinder to the comments and controverted the said factual assertions of

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18-7-13
Peshawar Court
Abolished Bench
Authorized Signer Secy 75 / 13 / 13

(18)

DOMICILE CERTIFICATE



I declare that I was born of parents who are permanently domiciled in North-West Frontier Province, having been born/settled in this province.

I was born at village/mohallah Gabral

Tehsil Dassu District ~~Abdullah~~ Kohistan.

Abdul Qadir
SIGNATURE OF THE APPLICANT

DATED _____

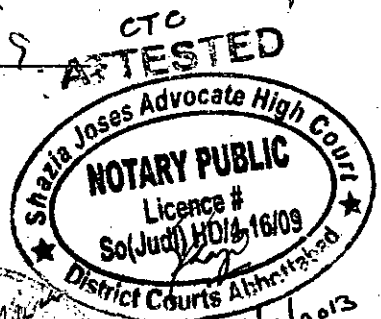
Pursuant to the declaration dated 7/11/1989

filed by Mr. Abdul Qadir S/o Malik Tajan

domiciled in North-West Frontier Province it is hereby certified that the said Abdul Qadir is born of parents who are permanent residents of the North-West Province having been born/settled within it.

I have satisfied myself from personal/~~my knowledge~~/verification that the above declaration is true and certify accordingly.

This 8 date of 11 19 89



No. 123 dt. 8/11/89
No-1467/DCKH.
Dt. 08-11-1989.

Dist. Magistrate
~~Abdullah~~
Kohistan



MAGISTRATE 1ST CLASS
Dassu
Milsh

بیان کرتے ہیں کہ یہی علیہ القادر ولد ملک تاجان سنگہ گجرات واسو
 منہ کو منان کو ذاتی طور سے جانتے ہیں۔ منہ کو منان کا آباؤ اجداد
 یہی دربر رہا باشندہ۔ منہ کو منان کے آباؤ اجداد کے آباؤ اجداد
 سے منہ کو منان کے آباؤ اجداد کے آباؤ اجداد کے آباؤ اجداد
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منہ کو منان کے آباؤ اجداد کے آباؤ اجداد کے آباؤ اجداد
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امیر خان

منہ کو منان

ملک امیر خان
 وائس چیرمین یونین کونسل
 کنگ

منہ کو منان
 منہ کو منان
 منہ کو منان
 منہ کو منان

49 05 42 - 25

بیان۔ ملک امیر خان وائس چیرمین یونین کونسل، سر منہ کو منان
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ڈیوٹی فارمٹ آئینہ ابر کوہستان فارمٹ ڈیوٹی فارمٹ



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ایڈیٹر جنرل
اسلام آباد

راولپنڈی اسلام آباد ایڈیٹر جنرل اور امتنان بیگم قلم شائع ہوتے

THURSDAY 22 APRIL 2010

جلد	56
شمارہ	228
صفحہ	16
تاریخ	22 اپریل 2010ء
قیمت	10 روپے
فون	5562676-77
فیکس	441-2202641
یو این	111-222-007

درخواستیں مطلوب ہیں

مندرجہ ذیل آسامیوں کیلئے عملی چنگلات سوبہ خیر متونخواہ میں حکومت کی پالیسی کے مطابق ریگور کنٹرول کی بنیاد پر ملحق کرہستان کی شہریت کی حامل آن امیدواروں سے درخواستیں مطلوب ہیں جو آسامی کے ساتھ ساتھ روح قابلیت پر گہرا اترتے ہیں۔

نمبر شمار نام آسامی
فارمٹ کارڈ بی بی ایس کسی تسلیم شدہ بورڈ سے سینکڑوں
18-25 سال
5 نمبر سکول سرٹیفکیٹ

عمومی شرائط

- 1۔ ٹیسٹ دفتر ڈی ایف اراہر کوہستان کے دفتر میں مورخہ 12 مئی 2010ء کو لیا جائے گا۔
- 2۔ کامیاب امیدواروں کی لسٹ مرتب کر کے کونسل پورڈو دفتر اراہر کوہستان فارمٹ ڈیوٹی فارمٹ داسو پر چسپاں کر دی جائے گی۔
- 3۔ صرف کامیاب امیدواروں سے انٹرویو مورخہ 18 مئی 2010ء کو دفتر بنڈا میں لیا جائے گا۔
- 4۔ امیدوار اپنی درخواستیں مع معہدہ نقل متعلقہ دستاویزات ڈیوٹی فارمٹ آفس اراہر کوہستان کو بھیجیں اور اسلی دستاویزات ٹیسٹ انٹرویو کے موقع پر پیش کریں۔
- 5۔ درخواستوں کی وصولی کی آخری تاریخ 4 مئی 2010ء ہے۔
- 6۔ تربیت یافتہ اور تجربہ کار افراد کو ترجیح ملے گی۔
- 7۔ ٹیسٹ انٹرویو کیلئے آنے والوں کو کوئی ٹی اے/ڈی اے نہیں دیا جائے گا۔

المشہرہ ڈیوٹی فارمٹ آفس
اے کوہستان فارمٹ ڈیوٹی داسو

(19)
"ANE"
"B"

اللہ ہی کیلئے ہیں مشرق و مغرب (قرآن حکیم)

Daily MASHRIQ Peshawar

پشاور روزنامہ
عہدہ نو کے بانی
سید تاج میر شاہ

مشرق

مسلسل اشاعت کے 43 سال

ABC CERTIFIED

پشاور اسلام آباد سبیک وقت شائع ہونے والا کثیر الاشاعت قومی اخبار

جلد 43 نمبر 8 جمادی الاول 1431ھ 23 اپریل 2010ء 9 بجے تک 10 روپے پراسانی دوریم

شمارہ 245

(20)

درخواستیں مطلوب ہیں

مندرجہ ذیل آسامیوں کیلئے جگہ جھنگلات سوہیہ خیرہ پختونخوا میں حکومت کی پالیسی کے مطابق ریگولر کنٹریکٹ کی بنیاد پر ضلع کوہستان کی شہریت کی حامل ان امیدواروں سے درخواستیں مطلوب ہیں جو آسامی کے ساتھ درج قابلیت پر پورا اترتے ہیں۔

نمبر شمار	نام آسامی	قابلیت
1	فارسٹ گارڈ بی بی ایس نمبر 5	کسی حلیم شدہ بورڈ سے سیکنڈری سکول میں تیس

عمومی شرائط :-

- 1 ٹیسٹ دفتری ڈی ایف او اور کوہستان کے دفتر میں مورچہ 12 مئی 2010ء کو لیا جائیگا۔
- 2 کامیاب امیدواروں کی لسٹ مرتب کر کے نوٹس بورڈ دفتر کوہستان فارسٹ ڈویژن داسو پر چسپاں کر دی جائیگی۔
- 3 صرف کامیاب امیدواروں سے انٹرویو مورچہ 18 مئی 2010ء کو دفتر پرائمری لیا جائیگا۔
- 4 امیدوار اپنی درخواستیں مع مصدقہ نقول متعلقہ دستاویزات ڈویژن فارسٹ آفسر کوہستان کو بھیجیں اور اسلی دستاویزات ٹیسٹ انٹرویو کے موقع پر پیش کریں۔
- 5 درخواستیں کی وصولی کی آخری تاریخ 4 مئی 2010ء ہے۔
- 6 تربیت یافتہ اور تجربہ کار افراد کو ترجیح دینے کی۔
- 7 ٹیسٹ انٹرویو کیلئے آنے والوں کو کوئی ٹی ایس ایس نہیں دیا جائیگا۔

المشتمر: ڈویژن فارسٹ آفیسر ایچ

کوہستان فارسٹ ڈویژن داسو

also available on www.nwfp.gov.pk

INF(P)1326

(81) Annex-10

MINUTES OF THE MEETING OF DEPARTMENTAL SELECTION COMMITTEE HELD UNDER THE CHAIRMANSHIP OF MUHAMMAD TARIQ DIVISIONAL FOREST OFFICER UPPER KOHISTAN

The Committee constituted vide DFO Upper Kohistan Forest Division vide Office Order No. 116 dated 12/04/2010 conducted written tests and interviews on 12/05/2010 and 08/06/2011 respectively for the purpose of recruitment of Forest Guards against vacancies in Upper and Lower Kohistan Forest Divisions. Though in the beginning the recruitment process was initiated for Upper Kohistan Forest Division, but later on the vacancies of Lower Kohistan were also included at the request of concerned DFO. The test for physical fitness was also conducted. Based on written test, only the short listed candidates were called for interview and physical fitness tests. The following merit list is concluded according to marks obtained in written and oral tests:

S.#	Name with full address	Qualification	Additional qualification/ Training	Marks Obtained			Total (100)	Position
				Test (50)	Relevant qualification (10)	Interview (40)		
1	Abdul Kafi S/O Abdul Hadi of Sazin Tehsil Dassu	BA,B.Ed	-	38	-	35	73	1 st
2	Aziz-ur-Rehman S/O Rustam Khan of Goshali Tehsil Dassu	F.Sc	-	39	-	33	72	2 nd
3	Muhammad Azad Wali S/O Chalora Khan (late F/G) of Palas District Kohistan	F.Sc	-	38.5	-	33	71.5	3 rd
4	Nawab Ali S/O Noor ul Huda of Pattan	Matric	Trained F/Guard	32	10	28	70	4 th
5	Aireen S/O Juma Khan of Jijal Tehsil Pattan	Matric	Trained F/Guard	32	10	26	68	5 th
6	Abdul Qadar S/O Malik Tajan of Khandia	Matric	-	32	-	36	68	6 th
7	Muhammad Zaib S/O Haji Yardad of Pattan	Matric	-	31	-	35	66	7 th
8	Inyatullah S/O Abdul Hakeen of Jijal Tehsil Pattan	Matric	-	35	-	29	64	8 th
9	Sirangzeb S/O Aman Mir of Pattan	Matric	-	30	-	34	64	9 th
10	Umar Yar S/O Abdul Qahar of Jijal Tehsil Pattan	FA	Trained F/Guard	36	10	17	63	10 th
11	Sarzahab S/O Mir Alam of Jijal Tehsil Pattan	FA	Trained Forester	28	10	24	62	11 th
12	Hiyayatullah S/O Umer Draz of Jijal Tehsil Pattan	Matric	-	28	-	33	61	12 th
13	Umar Daraz S/O Gul Sadbar of Jijal Tehsil Pattan	Matric	-	30	-	30	60	13 th
14	Gul Muhammad S/O Hazrat Umar of Jijal Pattan	BA	Trained Forester	34	10	16	60	14 th
15	Gul Mian S/O Noor Muhammad of Dassu	FA	-	30	-	20	50	15 th
16	Attaullah S/O Jan Alam of Jijal Tehsil Pattan	Matric	-	28	-	20	48	16 th
17	Shams-ur-Rehman S/O Muhammad Din of Seo	F.Sc	-	29	-	15	44	17 th
18	Anwar-ul-Haq S/O Shah Gulbar of Palas	FA	-	29	-	15	44	18 th
19	Abdul Qayyum S/O Mir Alam of Pattan	Matric	-	32.5	-	11	43.5	19 th
20	Sher Alam S/O Shah Nazar of Jijal Pattan	FA	-	29	-	14	43	20 th
21	Mukhtiar Ahmed S/O Amir Khan of Jijal Pattan	FA	-	31	-	12	43	21 st
22	Masaud Alam S/O Hakim Wali of Sazin Dassu	MA	-	30.5	-	12	42.5	22 nd
23	Khanzeb Khan S/O Nawab Khan of Jijal Pattan	Matric	-	31	-	11	42	23 rd

The incumbent on serial No. 3 has already been appointed as Forest Guard being son of deceased Forest Guard i.e. Mr. Chalora Khan. The candidates falling on serial No. 1 & 2 will be recruited in Upper Kohistan against existing 2 vacancies. The candidates falling on merit list from serial No. 4 to 11 will be appointed by DFO Lower Kohistan against the vacant positions of Forest Guards. This merit list will stand valid for coming 6 month i.e till 17.12.2011. In case of creation of new vacancies the same merit will be observed for new appointments.

The DFOs Upper and Lower Kohistan will issue appointment orders after fulfillments of codal formalities accordingly.

M. A.

13/09

(6)
22

GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

Dated Pesh: 22/06/2010.

NOTIFICATION.

NO.SO(Estt)/Envt/1-4/2K10: In pursuance of Government of Khyber Pakhtunkhwa, Finance Department's sanction issued vide No.FD/SO (FR)/7-15/2007 dated 18.6.2010; the Competent Authority is pleased to upgrade the posts of Forest Guard, Forester and Deputy Ranger in Environment Department as recommended by the upgradation committee in its meeting held on 15.03.2010, as per details mentioned below, with immediate effect.

Nomenclature	Existing qualification	Existing pay scale	Proposed pay scale	Proposed qualification
Forest Guard	Matric ✓	BPS-05	BPS-07	F.A at least 2 nd Division, with Science having one year Diploma in Forestry from Sarhad Forest School, Thar Abbottabad. ✓
Forester	Matric Science ✓	BPS-07	BPS-09	B.A at least 2 nd Division, with F.Sc 2 nd Division having two years Diploma in Forestry from Sarhad Forest School, Thar Abbottabad.
Deputy Ranger	On promotion on the basis of seniority-cum-fitness from amongst the Foresters. ✓	BPS-09	BPS-11	On the basis of Seniority-cum-Fitness from amongst the Foresters. (As per passed practice).

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Proposed at
D.S.

SEA

SECRETARY TO GOVERNMENT
OF
KHYBER PAKHTUNKHWA,
ENVIRONMENT DEPARTMENT.

Endst: NO. FD/SO(FR)/7-15/2007

Dated 16/2010

Copy is forwarded for information and necessary action to:-

1. Director Budget & Accounts, Environment Department.
2. All District Accounts Officers in Khyber Pakhtunkhwa.
3. All Agency Accounts Officer in Khyber Pakhtunkhwa.

(SHAUKATULLAH)
SECTION OFFICER (FR)
FINANCE DEPARTMENT

NO. SO (Estt)/Env/1-4/2K10/2915-2938

Dated Pesh: 22/6/2010

1. The Private Secretary to Minister for Khyber Pakhtunkhwa.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
4. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
5. The Secretary to Govt. of Khyber Pakhtunkhwa, P&D Department.
6. The Secretary (Administration & Coordination) FATA Secretariat, FATA with the request to make necessary arrangements and budgetary provision in relevant budget for up-gradation of the posts exists in FATA.
7. Chief Conservator of Forests, Khyber Pakhtunkhwa.
8. Principal Staff Officer to Chief Secretary Khyber Pakhtunkhwa.
9. The Budget Officer-II, Finance Department.
10. The Section Officer (FR) Finance Department.
11. All Conservator of Forests/Directors ISUs, Forest Department.
12. Mr. Haji Muhammad Zeb, President F/Guards, Forester & Deputy Rangers, Association, Khyber Pakhtunkhwa w/r to his application dated 26.8.2008.
13. Office Order file.

(MUTAHIR SHAH)
SECTION OFFICER (ESTT)

No. 79-80 /E

Dated Peshawar the 6 /7/2010

Copy forwarded for information and necessary action to the:-

- All Conservator of Forests Khyber Pakhtunkhwa.
- All Directors in Khyber Pakhtunkhwa.

CHIEF CONSERVATOR OF FORESTS
KHYBER PAKHTUNKHWA PESHAWAR

1
2
C/L

(22)

OFFICE ORDER NO. 02 DATED PATTAN THE 11 / 10 / 2011 ISSUED BY
AZHAR ALI KHAN DIVISIONAL FOREST OFFICER LOWER KOHISTAN FOREST
DIVISION PATTAN

Consequent upon the recommendation of Departmental Selection Committee, constituted vide DFO Upper Kohistan Forest Division, Dasso office order No. 116 dated 12.4.2010 following candidates are hereby appointed as Forest Guard in BPS-7 (Rs. 3530-190-9230) against the existing vacancies in Lower Kohistan Forest Division Pattan with effect from the date of arrival:

1.	Mr. Nawab Ali S/O Noor-ul-Huda of Pattan, Tehsil Pattan District Kohistan
2. ✓	Mr. Aftab Khan S/O Juma Khan of Jhal, Tehsil Pattan District Kohistan
3. ✓	Mr. Abdul Qadir S/O Malik Tajan of Khandia, Tehsil Khandia, District Kohistan
4.	Mr. Muhammad Zaib S/O Haji Yardad of Pattan, Tehsil Pattan, District Kohistan.
5.	Mr. Inayatullah S/O Abdul Hakeem of Jhal, Tehsil Pattan, District Kohistan

Their appointment is subject to the following terms and conditions:

1. Their appointment is purely on adhoc basis against the existing vacancies.
2. Their services will be governed by such rules and orders relating to Leave, Traveling Allowance, Medical Attendance Rules, Pay and Posting/Transfer etc. in respect of other service matters as may be issued by the Government for Civil Servants to which they belong.
3. In case they wish to resign at any time, they will have to serve one month notice for the purpose or one month pay will be forfeited in lieu thereof.
4. Their appointment is further subject to the conditions that they must have bonafide domicile of District Kohistan and production of Health Certificate, Age Certificate, Character Certificate, Computerized National Identity Card, Domicile Certificate, School leaving certificate and an undertaking to the effect that they can be removed from service at any time without assigning any reason and they will not claim the right for continuation of their service in any court or any way. All these documents should be completed within one month from the date of appointment/arrival.
5. They will have to undergo the prescribed training of Forest Guards from Sarhad Forest School (Thai) Abbottabad

Sd/- (Azhar Ali Khan)
Divisional Forest Officer
Lower Kohistan Forest Division
Pattan

Memo

Copy forwarded to the:

1. Conservator of Forests, Upper Hazira Circle Manshera for favor of information, please.
2. Divisional Forest Officer, Upper Kohistan Forest Division, Dasso for information.
3. Mr. Nawab Ali S/O Noor-ul-Huda of Pattan, Tehsil Pattan District Kohistan
4. Mr. Aftab Khan S/O Juma Khan of Jhal, Tehsil Pattan District Kohistan
5. Mr. Abdul Qadir S/O Malik Tajan of Khandia, Tehsil Khandia, District Kohistan
6. Mr. Muhammad Zaib S/O Haji Yardad of Pattan, Tehsil Pattan, District Kohistan for information and necessary action.

The Divisional Accountant for information and necessary action.

Divisional Forest Officer
Lower Kohistan Forest Division
Pattan

(23)

CERTIFICATE



"SAME"
"E"

Serial No. 124

Reg. No. 17/70th FG/2011-12/SFS

This is to Certify that Mr. Abdul Qadir
Son of Mr. Tajan Malak
CNIC #: 13401-7322657-5

trainee of *Sarhad Forest School Thai, Abbottabad* has passed
the *70th Forest Guard Regular Course, Session 2011-12*
Obtaining 768 Marks out of 1300 Marks and Placed in
Higher Standard

The Examination was taken as a Whole/~~In Parts~~

Prepared by: RA
Checked by: _____
Dated: _____


PRINCIPAL
SARHAD FOREST SCHOOL
THAI, ABBOTTABAD


DIRECTOR
HUMAN RESOURCE DEVELOPMENT
PESHAWAR

Standards

1.	Honour	75% or Greater
2.	Higher	40% - 74%
3.	Lower	33% - 39%

1

BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 551 /2013

E.W.F. Peshawar
538
06/3/13

Abdul Qaddar son of Malik Tajan resident of Khandiat District, Kohistan

...APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Environment Department.
2. Chief Conservative of Forest Khyber Pakhtunkhwa, Peshawar.
3. Conservator of Forest Upper Hazara Forest Circle Mansehra.
4. Divisional Forest Officer, Lower Forest Division, Pattan Kohistan.
5. Divisional Forest Officer, Upper Kohistan Forest Division, Dassu.
6. Divisional Forest Officer, Upper Kohistan Forest Division, Kohistan.
7. DFO Unhar Water Shed Division, Mansehra member Inquiry Committee/Chairman.
8. Superintendent Lower Hazara Circle Abbottabad Member Inquiry Committee.

~~_____~~
~~_____~~

Zia-ul-Haq son of Ghulam Qadir resident of Village Jijal Tehsil Pattan, District Kohistan.

...RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHAWA SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER DATED 12/02/2013 IN APPEAL NO.**

Recd: No - 9
ex-parte visit
under sheet No - 8
dt: 23/5/15 (9)

~~_____~~
~~_____~~
6/3/13
~~_____~~
19/3/13

4464, WHEREBY APPEAL AGAINST TERMINATION ORDER NO. 54 DATED 21/12/2012 WAS REJECTED BY THE RESPONDENT NO. 3.

PRAYER: ON ACCEPTANCE OF THE INSTANT APPEAL, ORDER DATED 12/02/2013, IN CONSEQUENCE OF RECOMMENDATION OF INQUIRY COMMITTEE VIDE ORDER NO. 34 DATED 13/04/2012 FOR ROLLBACK THE ENTIRE PROCESS ADOPTED FOR APPOINTMENT OF APPELLANT ALONGWITH OTHERS AND ALSO RECOMMENDATION OF COMMITTEE DATED 19/04/2012 AND TERMINATION ORDER OF APPELLANT VIDE OFFICE ORDER NO. 54 DATED DASSU THE 21ST DECEMBER, 2012 ISSUED BY RESPONDENT NO. 5 MAY ALSO BE DECLARED AS NULL AND VOID, WITHOUT JURISDICTION, ILLEGAL, MALAFIDE, WITHOUT LAWFUL AUTHORITY, AGAINST THE NATURAL JUSTICE AND INEFFECTIVE UPON THE CONSTITUTIONAL RIGHTS OF THE PETITIONER, THEREFORE, MAY KINDLY BE SET-ASIDE AND APPOINTMENT ORDER OF PETITIONER BEARING NO. 2 DATED 11/07/2011 ISSUED BY RESPONDENT NO. 4 MAY KINDLY BE RESTORED AND APPELLANT MAY KINDLY BE REINSTATED IN THE SERVICE WITH ALL BACK BENEFITS, ANY OTHER RELIEF WHICH THIS HONOURABLE COURT MAY DEEMED FIT AND PROPER IN THE CIRCUMSTANCES MAY ALSO BE GIVEN TO THE APPELLANT.

May please your lordships:-

The facts giving rise to the instant appeal are arrayed as under:-

1. That, appellant is matriculate with science. Testimonial of appellant are attached as Annexure "A".
2. That respondent No. 3 invited application for appointment as Forest Guard in Forest Department Kohistan through Advertisement in Daily "Mashriq" and "Nawa-e-Waqt". Copies of newspaper cutting are attached as Annexure "B".
3. That appellant applied for the said post and after screening test and interview and observing all the legal formalities, appellant alongwith other were short listed by department selection committee on merit. Copy of Merit list is annexed as Annexure "C".
4. That appellant alongwith other was appointed under BPS-7 on the recommendations of departmental selection committee. Copy of appointment letter is attached as Annexure "D".

5. That appellant alongwith other appointees were directed to get the prescribed training of Forest Guard from Sarhad Forest School Thai, Abbottabad. Copy of training certificate for passing the training of Forest Guard for the year 2011-12 is attached as Annexure "E"
6. That, after completion of the training period, the appellant was appointed and posted at Forest Division Pattan Lower Kohistan. After three months, appellant was transferred and posted at Forest Division Upper Kohistan Dassu vide transfer/posting letter No. 06 dated 11/10/2012. Copy of the letter is attached as Annexure "F"
7. That one Zia-ul-Haq filed writ petition No. 533 of 2011 and challenged the appointment of appellant alongwith others on the basis of son's employee quota, in which Honourable High court directed the Secretary to decide the matter within 30 days, treating the writ petition as representation. Copy of writ petition No. 533 of 2011 and order dated 07/03/2012 are annexed as Annexures "G" & "H".
8. That Secretary, respondent No. 1 had not decided the representation as directed by the Honourable Peshawar

High Court Abbottabad Bench but an inquiry committee was constituted by the Chief Conservator. Copy of recommendations of inquiry committee is attached as Annexure "I".

9. That appellant alongwith others challenged the inquiry report in writ petition No. 339-A/2012. Attested copy of writ petition No. 339-A/2012 and order dated 25/04/2012 are attached as Annexures "J" & "K"

10. That on 16/05/2012 the Honourable court disposed of the writ petition with the direction that if any right of petitioners were effected they may approach the appropriate forum. Attested copy of order dated 16/05/2012 in W.P No. 339-A/2012 is attached as Annexure "L".

11. That after a few months on the consequence of the recommendation of committee appointment order of appellant alongwith others were terminated from service vide office order No. 54 dated 21/12/2012 is annexed as Annexure "M".

12. That appellant alongwith others filed an appeal on 07/01/2013 which was sent back that every aggrieved

person may file individual appeal. Copy of order dated 23/01/2013 is attached as Annexure "N".

13. That appellant filed an appeal dated 24/01/2013 to the conservator Upper Hazara Division Forest Circle Mansehra/respondent No. 5 which is annexed as Annexure "O"
14. That respondent No. 5 rejected the appeal of appellant vide order No. 4464 dated 13/02/2013 is annexed as Annexure "P"
15. That feeling aggrieved of the afore-stated situation, the appellant is filing the present appeal, inter-alia, on the following grounds:-

GROUND

- a. That order for constituting the committee against the appointment of the appellant alongwith other is beyond the jurisdiction and authority of respondents.
- b. That Act of respondents firstly to constitute the committee against the appointment orders secondly recommendation of the committee thirdly all the consequences of the

recommendation of the committee termination order of the petitioner is totally without lawful authority, against the natural justice, malafide, arbitrary, whimsical manner, corum-non-judice.

c. That termination order of appellant is against the fundamental rights of appellant guaranteed by the constitution of the Islamic Republic of Pakistan.

d. That termination order is discrimination towards the appellant and is in the violation of the norms and justice and viries of the constitution of the Islamic Republic of Pakistan.

e. That once the appellant was appointed holder the requisite qualification, by the respondents, then, the respondent could not terminate the service of the appellant sans any justifiable reason and adopting the due process of law, impugned termination is therefore the nullity in the eyes of law, and therefore are not sustainable and a liable to be struck down.

f. That the reason courted for termination as services of appellant are terminated as appointment are not accordance with law at a

liable to be terminated such onus could not places as a brunt are the held of the appellant alongwith others, as, once a rights has accrued to the person cannot be snatched.

g. That in the heading of the inquiry report writ petition 533 was mentioned but respondents had not acted as per direction of the Honourable Court and also respondent No. 2 / Chief Conservator was not Act or constitute any committee nor committee had any powers to role back the entire process, as the appellant alongwith other appointees has been accrued a vest right which cannot be a called without adopting proper procedure after affording opportunity of hearing to the effectees / appellant hence liable to be annulled.

h. That the respondents admitted in their comments submitted in the writ petition No. 533, that appellant alongwith other persons purely appointed on merit. Now respondents cannot take U-tern and are not authorized to role back the entire proceedings which is unwarranted at law.

i. That DSC has recommended the appointment of the appellant resulting into proper appointment

by competent authority, Acted upon by joining and assuring the post and subsequently got the training in forest School Thai Abbottabad, bestowed are vested right in favour of the appellant; guaranteed by the constitution and on the basis of the alleged inquiry committee petitioner / appellant cannot be terminated from the service, hence all the recommendation of the committee and termination order is liable to be set-aside at appellant entitled to reinstate the service with all the benefits.

- j. That in writ petition No. 533 filed by respondent No. 10 against some of the petitioners claiming himself entitled for the post on the basis of the son quota and had never claimed the entire appointments to be annulled and void, so the whole procedure of appointments could not be clasped and on the consequences of the recommendation of the committee appellant cannot be terminated from the service so the Act of the respondent is totally un-logical and against the natural justice and is liable to be set-aside.

- k. That there is no fault of the appellant or others or there is no other charge against the appellant

and without notice termination order from the service is against the natural justice.

- l. That appellant belong to a very hard area of land and there is no any other source of income or service opportunity in that area usually forest department is there hope for getting the bread for their family so vested right snatched by the respondents is totally against the fundamental rights and also Government spent of a lot of expenditures for the appointment of forest guard and their training and their salary, so after the appointment constituting the committee against the appointment orders than on the consequences of the inquiry committee termination order is totally in the enmity with the beloved country in the shape of fiscal loss and the entire malafide and illegal Act was done on the wishes and whims of political personalities.
- m. That the appeal is within time.
- n. That other points will be urged at the time of arguments.

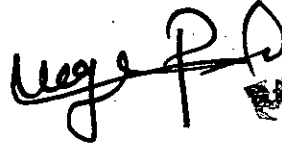
It is, therefore humbly prayed that on acceptance of the instant appeal, order dated 12/02/2013, in consequence of recommendation of Inquiry Committee vide order No. 34

dated 13/04/2012 for rollback the entire process adopted for appointment of appellant alongwith others and also recommendation of committee dated 19/04/2012 and termination order of appellant vide office order No. 54 dated Dassu the 21st December, 2012 issued by respondent No. 5 may also be declared as null and void, without jurisdiction, illegal, malafide, without lawful authority, against the natural justice and ineffective upon the constitutional rights of the petitioner, therefore, may kindly be set-aside and appointment order of petitioner bearing No. 2 dated 11/07/2011 issued by respondent no. 4 may kindly be restored and appellant may kindly be reinstated in the service with all back benefits, any other relief which this Honourable court may deemed fit and proper in the circumstances may also be given to the petitioner.

Dated: 28-2- /2013

Through

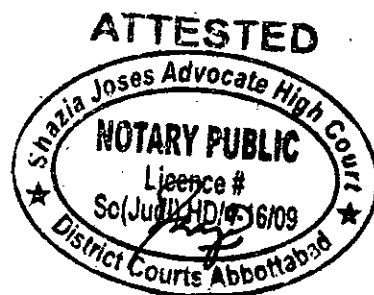
...APPELLANT


REHEELA MUGHAL
 Advocate High Court
 Abbottabad

(REHEELA MUGHAL)
 Advocate High Court, Abbottabad

VERIFICATION:-

Verified that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



28/2/2013


 DEPONENT

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

Service Appeal No. _____/2013

Abdul Qaddar son of Malik Tajan resident of Khandiat District, Kohistan.

...APPELLANT

VERSUS

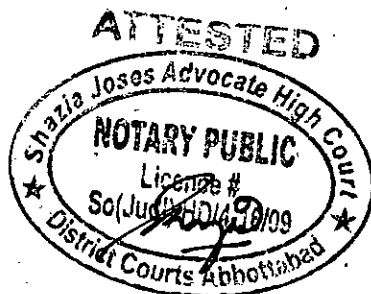
Government of Khyber Pakhtunkhwa through Secretary Environment Department and others.

...RESPONDENTS

APPEAL

AFFIDAVIT

I, Abdul Qaddar son of Malik Tajan resident of Khandiat District, Kohistan, do hereby affirm and declare that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from the Honourable Court.



28/2/2013

DEPONENT

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

Service Appeal No. _____/2013

Abdul Qaddar son of Malik Tajan resident of Khandiat District, Kohistan.

...APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Environment Department
and others.

...RESPONDENTS

APPEAL

**APPLICATION FOR INTERIM INJUNCTION AGAINST
THE RESPONDENTS.**

Respectfully Sheweth:-

1. That the said appeal may kindly be considered as a integral part of the instant application and appellant has good prima facie case and appellant is hopeful for the success of the said appeal.
2. That if interim injunction was not granted than appellant will suffer irreparable loss.


It is, therefore humbly prayed that:

- i. may kindly be suspended the order No. 54 dated 21/12/2012 issued by respondent No. 5 till the final disposal of the instant appeal.
- ii. That appellant may kindly be given the permission to join the service till the final disposal of the instant appeal.
- iii. That post of the appellant may kindly be not filled till the final disposal of the appeal.

Dated: 28-2- /2013

Through

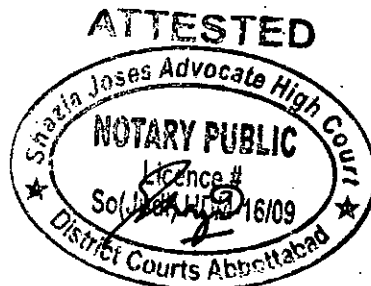
...APPELLANT


(REHEELA MUGHAL)
Advocate High Court, Abbottabad


RAHEELA MUGHAL
Advocate High Court
Abbottabad

AFFIDAVIT

I, Abdul Qaddar son of Malik Tajan resident of Khandiat District, Kohistan, do hereby affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been suppressed from the Honourable Court.



28/2/2013


DEPONENT

S.B. 33805

Roll No. 2315

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Saidu Sharif N.W.F.P. Pakistan.
PROVISIONAL CERTIFICATE
SECONDARY SCHOOL CERTIFICATE EXAMINATION

Session 199 4 Annual/Supplementary

(15)

THIS IS TO CERTIFY THAT Abdul Qadir

Son/Daughter of Tajam Malak

and a candidate of swat

has passed the Secondary School Certificate Examination of the Board of Intermediate & Secondary Education, Saidu Sharif held in oct 199 4 as a Regular/Private candidate. He/She obtained 486 Marks out of 850 and has been placed in Grade (C) Representing Good

The candidate passed in the following subjects:

- 1. English
- 2. Urdu
- 3. Islamiyat
- 4. Pak: Studies
- 5. ~~G~~-Maths/Maths (Elec.)
- 6. Ph
- 7. Ch
- 8. Bio

"ANE"
"A"

Internal assessment Grade awarded by the institution concerned is ()

Date of Birth according to admission form is Third March

One thousand nine hundred and Seventy nine (03-03-1979)

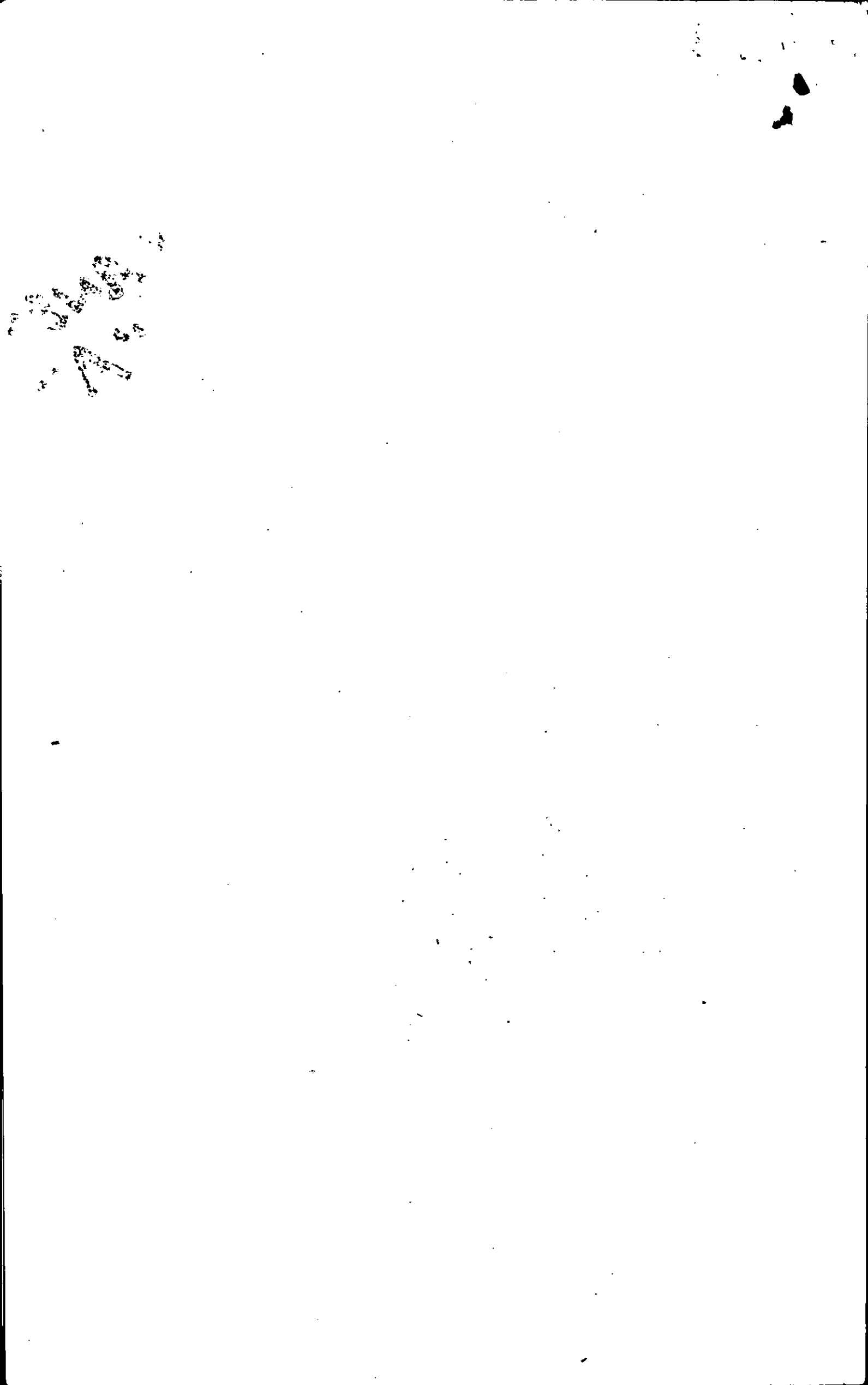
Prepared by [Signature]
Checked by [Signature]
Date of Preparation

Controller of Examination [Signature]

CTC
ATTESTED

Shazia Josés Advocate High Court
NOTARY PUBLIC
Licence #
So(JUD) HDH/18/09
District Courts Abbottabad

18/3/2013



Board of Intermediate & Secondary Education

SAIDU SHARIF SWAT

DETAILED MARKS CERTIFICATE Secondary School Certificate Examination (SCIENCE GROUP)



N^o 0036859

Session 19 *94* (Annual/Supplementary)

(16)

Name Abdul-Qadir

Father's Name Talab Malak Roll No. 2315

SUBJECT	Total number of marks allotted	MARKS OBTAINED	
		In figures	In words
1. English	150	64	
2. Urdu	150	75	
3. Islamiat Comp.	75	52	
4. Pakistan Studies	75	25	
5. Mathematics	100	53	
6. Physics	100	44	
7. Chemistry	100	58	
8. Biology	100	55	
Total	850	401	<i>Four hundred & 1</i>

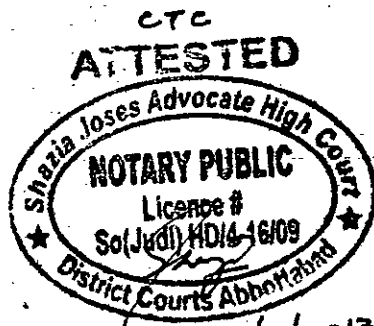
This certificate is issued errors and omissions excepted.

Prepared by _____

Checked by _____

Date 18/3/2013 19 _____

Controller of Examinations
Board of Intermediate & Secondary Education
SAIDU SHARIF SWAT

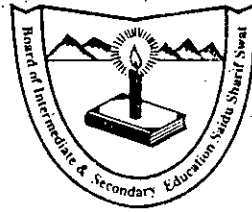


18/3/2013

sw No. S(S) 3234

Roll No. 2315

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION (17)



Saidu Sharif Swat N.W.F.P. Pakistan
Secondary School Certificate Examination

SESSION SUPPLEMENTARY 1994

THIS IS TO CERTIFY THAT ABDUL QADIR .

Son/Daughter of TAJAN MALAK .

and a resident of DISTT: KOHISTAN .

has passed the **Secondary School Certificate Examination**

of the Board of Intermediate and Secondary Education, Saidu Sharif Swat held in

1994 as a *Private candidate*. He/She obtained 426 Marks out of 850 and has been placed in Grade C Representing GOOD.

The Candidate passed in the following subjects.

- | | | | |
|------------|---------------------|----|----|
| 1. English | 3. Islamiyat | 5. | 7. |
| 2. Urdu | 4. Pakistan Studies | 6. | 8. |

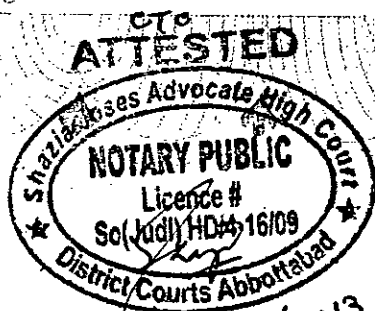
Date of birth according to admission form is THIRD MARCH

one thousand nine hundred and SEVENTY NINE (03-03-1979)

Asst. Secretary

This certificate is issued without alteration or erasure.

Secretary



18/3/2013

6



ANN
" Acc

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	12.06.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <ol style="list-style-type: none"> 1. Appeal No. 526/2013, Inayatullah, 2. Appeal No. 527/2013, Muhammad Zeb, 3. Appeal No. 528/2013, Hidayatullah, 4. Appeal No. 529/2013, Sirang Zeb, 5. Appeal No. 530/2013, Umar Yar, 6. Appeal No. 532/2013, Umar Daraz, 7. Appeal No. 534/2013, Nawab Ali, 8. Appeal No. 535/2013, Afreen 9. Appeal No. 508/2013, Sarzahab <p style="text-align: center;">Versus</p> <p style="text-align: center;">The Secretary Environment Department, Khyber Pakhtunkhwa, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:-</u> Appellant</p> <p>with counsel (Mr. Muhammad Asif Yousafzai, Advocate) and Addl. Advocate General (Mr. Muhammad Adeel Butt) for the respondents present.</p> <p>2. According to record, the appellants were appointed as Forest Guards vide order dated 11.7.2011, 3.10.2011 and 14.11.2011, by DFOs Upper Kohistan Forest Division and Lower Kohistan Forest Division. One Ziaul Haq who was not appointed as such, questioned these appointments in Writ Petition No. 553/2011 before the Hon'ble Peshawar High Court, Abbottabad Bench who vide order dated 7.3.2012 directed the Chief Secretary, Government of Khyber Pakhtunkhwa in the following words:-</p> <p>"6. Accordingly, without passing any findings on the said matter, which may prejudice the case of the petitioner before the competent authority, we treat</p>

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

the present petition as representation and refer the same to the Worthy Chief Secretary, Government of Khyber Pakhtunkhwa with the directions that;

- i. to resolve the factual anomaly regarding appearance of the petitioner before the 'Departmental Selection Committee' and consider his grievance in accordance with law and proceed in the matter in a 'transparent manner' to ensure the cherished goal of 'good governance' and 'rules of law'.
- ii. to conclude the matter, within a period of thirty days, if not earlier, from the date of receipt of this judgment.
- iii. In case the relief sought by the present petitioner can not be positively considered or resolved within the stipulated period, the petitioner be communicated reasons in writing for the same.."

In the background of the said directions of the Hon'ble Peshawar High Court, the matter was put before the enquiry committee comprising of Rustam Khan, DFO, Unhar Watershed Division, Mansehra,^{as} Chairman and Khursheed Ahmad, Superintendent Lower Hazara Circle, Abbottabad,^{as} Member. They put up their recommendations as follows:-

"In the light of foregoing facts and material on record the committee recommend to roll back the entire incomplete process adopted for appointment of forest guards and to direct the competent authority for initiating the process afresh as per rules."

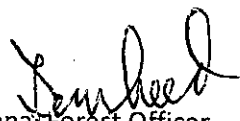
The record further revealed that this recommendation was ultimately acted upon and the appellants were terminated by way of the impugned order 21.12.2012. Their departmental appeals were also dismissed, hence these service appeals under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

Handwritten signature and official stamp of the Service Tribunal, Khyber Pakhtunkhwa.




AUTHORITY LETTER

Mr. Altaf Qureshi Sub Divisional Forest Officer, Komila Forest Sub Division is hereby authorized to attend the Hon'able Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad in case titled "Abdul Qaddar Versus Government of Khyber Pakhtunkhwa on behalf of the undersigned on 17/6/2015


Divisional Forest Officer 16/6
Upper Kohistan Forest Division
Dassu

Divisional Forest Officer
Upper Kohistan Forest Division
Dassu


17.06.15

BEFORE HONOURABLE KYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Appeal No. 551/2013

Abdul Qadir son of Malik Tajan
Resident of Khandia District Kohistan

VERSUS

1. Govt. of KPK Peshawar, through Secretary.
2. Chief Conservator of Forests, KPK, Peshawar.
3. Conservator of Forests, Upper Hazara Forest Circle.
4. Divisional Forest Officer Lower Kohistan Forest D.
5. Divisional Forest Officer Upper Kohistan Forest D.
6. Divisional Forest Officer Unhar Watershed Division.
7. Superintendent Lower Hazara Forest Circle Abbottabad.

PARAWISE COMMENTS ON BEHALF OF
RESPONDANT NO. 01 TO 07

Respectfully Sheweth:

PRELIMINARY OBJECTION

1. That the appellant has got no cause of action.
2. That the appellant has got no locus standi.
3. That the instant appeal is not maintainable.
4. That the instant appeal is barred by Law.
5. That the appeal is stopped by his own conduct.
6. That the appellant has not come to the Tribunal with clean hands.

ON FACTS

1. Pertains to the record, hence no comments.
2. Pertains to the record, hence no comments.
3. Need no comments.
4. It is correct.
5. Pertains to record has no comments.
6. Pertains to record has no comments.
7. It is correct. Mr. Zia ul Haq filed the writ petition No. 533/2011 in the August Peshawar High Court Circuit Bench Abbottabad, praying therein that he also qualified the attest and interview and was eligible for appointment. Whereas, he was not recommended for the appointment. The petition was treated as representation and the matter was referred back to the Chief Secretary KPK with the directives to resolve the factual controversy with a period of 30 days.
8. In-correct. An independent enquiry committee was constituted on the directives of the competent authority by the Chief Conservator of Forests

Northern Region-II: Khyber Pakhtunkhwa Peshawar
vide office order No. 34 dated 13.04.2012 and
committee concluded vide its report dated
19.04.2012 as under:-

"In light of foregoing facts and material on record, the committee recommended to roll back the entire incomplete process and opted for appointment of Forest Guards and direct the competent authorities for initiating the process a fresh as per rules" (Annex- 1 & 2)

9. It is correct. The incumbent employees alongwith applicant challenged the recommendations of Committee before the Honorable Peshawar High Court Circuit Bench Abbottabad through Writ Petition No. 339/A/2012 dated 25.04.2012 and Honorable Court suspended the operation of the recommendations of the Enquiry Committee i.e. to roll back the entire recruitment process and required the comments of the competent authority, after receipt of which the Honorable Peshawar High Court Circuit Bench Abbottabad vide judgment/ order dated 16.05.2012 dismissed the Writ Petition of the applicants considering as premature.

10. As explained above.

11. It is correct. Due to flaw in the appointment process, and the recommendation of committee all the appointees were terminated from services.

12. All the appointees preferred appeal jointly which was not in accordance to the rules as prescribed in NWFP Civil Servants (Appeal Rules 1986) under rules 3(2)

13. It is correct.

14. On recommendation of two Committees, directives of Administrative Department and the fact on which the termination order is based found established, the appeal was rejected by the appellate Authority vide No. 4464/GE dated 12/02/2013 (Annex-3)

15. The appellant has got no cause of action to file instant appeal.

GROUNDS

a. In-correct. The order for constituting the committee is justified.

- b. In-correct. Since the recruitment process abinitio found faulty, therefore, the appellant did not have status of Government Servants.
- c. In correct. The Committee examined the whole record of test and interview and after fully analyzing the gravity of the case, the Committee points out certain flaws in the recruitment process and recommended to roll back the entire process adopted for appointment of Forest Guards.
- d. As explained above, the Committee examined the record of appointment process and found certain shortfalls; hence the appellant had not been associated with the inquiry proceedings.
- e. In-correct the Committee pointed out procedural flaws in recruitment process which implies that the appellant did not given status of Government Servant abinitio. In such a situation there was no need of adopting the process meant for Government Servant.
- f. In-correct. Due to procedural flaws were found by the Committee in recruitment process, the termination of the appellant is in accordance with Law.
- g. Incorrect. On recommendation of two successive Committee, directives of Administrative Department and the fact on which the termination order is based found established, the Chief Conservator of Forests has desired to roll back all the process of recruitment.
- h. In-correct. On the decision of Honorable High Court, enquiry Committees was constituted by the competent authority to probe the shortfall. The Enquiry Committee point out several flaws in the recruitment process on their recommendation. The Administrative Department directed to roll back all the process.
- i. In-correct. As replied in above paras
- j. In-correct. Mr. Zia-ul-Haq filed the writ petition No. 533/2011 in the August Peshawar High Court Circuit Bench Abbottabad praying therein that he also qualified the test and interview and was illegible for appointment whereas, he was not recommended for the appointment.
- k. As explained in Para "C"

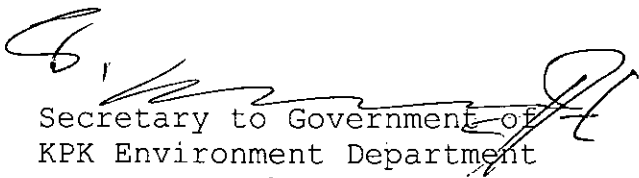
1. In-correct. Since the entire process was found faulty, therefore the appellant was not inquired into. Moreover detail reply has been given in above paras

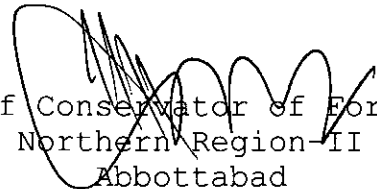
m. In-correct. The appeal is time barred.

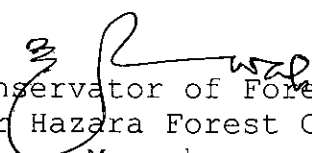
n. That respondent also seeks permission to advance other grounds at the time of arguments.


PRAYERS

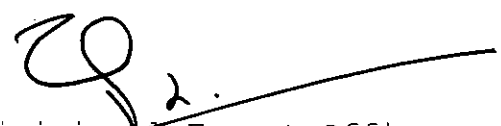
In view of the above facts available on record it is humbly prayed that the appeal is being unjustified and against the Law may please be dismissed with cost in the best interest of the State.

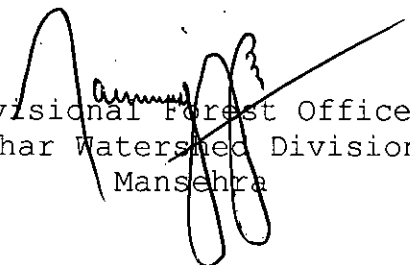

Secretary to Government of
KPK Environment Department
Peshawar



Chief Conservator of Forests
Northern Region-II
Abbottabad


Conservator of Forests
Upper Hazara Forest Circle
Mansehra


Divisional Forest Officer
Upper Kohistan Forest Division
Dassu


Divisional Forest Officer
Lower Kohistan Forest
Division
Pattan


Divisional Forest Officer
Unhar Watershed Division
Mansehra


Superintendent
Lower Hazara Forest Circle,
Abbottabad

XVI

WRITE PETITION NO. 553/2011 BY ZIA-UL-HAQ REGARDING HIS SELECTION FOR THE POST OF FOREST GUARD, APPOINTMENT OF ENQUIRY COMMITTEE VIDE CHIEF CONSERVATOR OF FORESTS-II KHYBER PAKHTUNKHWA PESHAWAR OFFICE ORDER NO. 34 DATED 13/4/2012, REPORT THERE-OF.

BRIEF HISTROY OF THE CASE

The Director Information, Government of Khyber Pakhtunkhwa was requested for publication of vacant posts of Forest Guards in Upper Kohistan Forest Division vide Divisional Forest Officer Upper Kohistan Forest Division letter No. 2925/GE dated 12.04.2010. Accordingly advertisement appeared in daily Nawa-e-Waqt Rawalpindi on 22.04.2010 and in daily Mashriq Peshawar on 23.04.2010.

As a result of discussion dated 19.04.2010, the Divisional Forest Officer, Lower Kohistan also requested DFO Upper Kohistan vide his letter No. 2963/GE dated 21.04.2010 to include the cases of appointment of his Division in the same process. The process materialized jointly and applications from 157-inhabitants of District Kohistan were received upto 04.05.2010 (Copy of list enclosed as Annex-1).

The Departmental Selection committee conducted written test on 12.05.2010 wherein 102-Nos. candidates appeared (Copy of list enclosed as Annex-2). Meeting of the Departmental Selection Committee was held on 08.06.2011 whereas interview etc from 23-Nos. short listed candidates was conducted on 8/6/2011, (copy of list enclosed as Annex-3).

Out of total 23-Nos. candidates, S.No. 1, 2 & 3 (3-Nos.) were recommended for appointment in Upper Kohistan Forest Division Dasso, while S.No. 4 to 11 (8-Nos.) were recommended for recruitment in Lower Kohistan Forest Division Pattan. The record revealed that (13 No) thirteen candidates have been appointed up-to 14/11/2011 in both Forest Divisions.

DISCUSSIONS


In compliance with Chief Conservator of Forests-II Khyber Pakhtunkhwa office order NO.34 dated 13/4/2012 the committee held its meeting in the office of DFO Unhar Watershed Division Mansehra on 19.04.2012. All relevant record of both the Forest Divisions has been produced by Mr. Sajjad Ahmad Head Clerk of Upper Kohistan Forest Division.


The said record has been examined by the committee in detail and fully analyzed the gravity of the case. The committee reached to the conclusion that:

1. Working papers have not been prepared by the concerned Forest Divisions.
2. There is no mention of vacant posts in any paper prepared and meant for appointment of Forest Guards in both the Forest Divisions.
3. The office orders for appointment of Forest Guards have not been found issued in time.
4. The minutes of D.S.C meeting indicates that interview has been conducted on 8.6.2011 instead of 18.05.2010 after a lapse of more than one year period.
5. The procedure contained in GOVERNMENT OF KHYBER PAKHTUNKHWA, SERVICES AND GENERAL & ADMINISTRATION DEPARTMENT (REGULATION WING) Notification No. SOR-I(S&GAD)4-1/75 dated Peshawar the 17.06.1989 has not been found followed properly.

RECOMMENDATIONS

In the light of foregoing facts and material on record, the committee recommend to Rollback the entire incomplete process adopted for appointment of Forest Guards and to direct the competent authorities for initiating the process a fresh as per rules.


(Rustam Khan)
Divisional Forest Officer
Unhar Watershed Division, Mansehra
(Chairman)


(Khurshid Ahmad)
Superintendent
Lower Hazara Circle, Abbottabad
(Member)

OFFICE OF THE CONSERVATOR OF FORESTS, UPPER HAZARA FOREST CIRCLE
MANSEHRA.

To,

Mr. Abdul Qadir s/o Malik Tajan
Residence Gabral Khandia Valley PO Komila.
Tehsil Dassu District Kohistan.

No: 4464 /GE dated Mansehra the 12/02/2013.

Subject: APPEAL OF MR. ABDUL QADIR S/O MALIK TAJAN THE DFO UPPER
KOHISTAN OFFICE ORDER NO 54, DATED 21/12/2012.

Memo: Reference your appeal dated 24/01/2013.

Upon termination from service of one Mr. Abdul Qadir s/o Malik Tajan preferred an appeal dated 24/01/2013 before the undersigned being appellate authority against the DFO Upper Kohistan office order No.54, dated 21/12/2012. The DFO Upper Kohistan offered comments upon the appeal vide No.1643/GE, dated 12/02/2013.

I, in the capacity of appellate authority in the instant case have gone through the relevant documents available on record upon which the order appealed against is based and found that:

A committee was constituted by CCF-II vide office order No.34, dated 13/04/2012 with the mandate to enquire in the Writ Petition No.533/2011 which recommended rolling back of entire recruitment process based on certain procedural flaws. Subsequently another enquiry committee on higher level was constituted by Administrative Department vide Notification No.SO(Lit)ED/2-165/2011, dated 14/06/2012 for the same purpose which detected further irregularities in addition to the flaws pointed out by previous committee. Based on the recommendation of above committee, the Administrative Department directed vide No. SO(Lit)ED/2-165/2011/1281-82, dated 11/12/2012 for implementation of recommendation of earlier committee.

In light of the absolute recommendations by the two successive committees, direction of the Administrative Department, and comments of the DFO/competent authority, the facts on which the termination order is based found established. Hence, the action taken vide office order No.54, dated 21/12/2012 is appropriate as no other action can satisfy the recommendations so made which is, therefore, neither excessive nor inadequate.

Keeping in view the above facts on record the appeal is rejected and order appealed against is confirmed.

Conservator of Forests
Upper Hazara Forest Circle
Mansehra

No: /GE

Copy forwarded to DFO Upper Kohistan Forest Division Dassu for information with reference to his letter cited above.

Conservator of Forests
Upper Hazara Forest Circle
Mansehra

BEFORE HONOURABLE KYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Appeal No. 551/2013

Abdul Qadir son of Malik Tajan
Resident of Khandia District Kohistan

VERSUS

1. Govt. of KPK Peshawar, through Secretary.
2. Chief Conservator of Forests, KPK, Peshawar.
3. Conservator of Forests, Upper Hazara Forest Circle.
4. Divisional Forest Officer Lower Kohistan Forest D.
5. Divisional Forest Officer Upper Kohistan Forest D.
6. Divisional Forest Officer Unhar Watershed Division.
7. Superintendent Lower Hazara Forest Circle Abbottabad.

PARAWISE COMMENTS ON BEHALF OF
RESPONDANT NO. 01 TO 07

Respectfully Sheweth:

PRELIMINARY OBJECTION

1. That the appellant has got no cause of action.
2. That the appellant has got no locus standi.
3. That the instant appeal is not maintainable.
4. That the instant appeal is barred by Law.
5. That the appeal is stopped by his own conduct.
6. That the appellant has not come to the Tribunal with clean hands.

ON FATS

1. Pertains to the record, hence no comments.
2. Pertains to the record, hence no comments.
3. Need no comments.
4. It is correct.
5. Pertains to record has no comments.
6. Pertains to record has no comments.
7. It is correct. Mr. Zia ul Haq filed the writ petition No. 533/2011 in the August Peshawar High Court Circuit Bench Abbottabad, praying therein that he also qualified the attest and interview and was eligible for appointment. Whereas, he was not recommended for the appointment. The petition was treated as representation and the matter was referred back to the Chief Secretary KPK with the directives to resolve the factual controversy with a period of 30 days.
8. In-correct. An independent enquiry committee was constituted on the directives of the competent authority by the Chief Conservator of Forests

Northern Region-II Khyber Pakhtunkhwa Peshawar vide office order No. 34 dated 13.04.2012 and committee concluded vide its report dated 19.04.2012 as under:-

"In light of foregoing facts and material on record, the committee recommended to roll back the entire incomplete process and opted for appointment of Forest Guards and direct the competent authorities for initiating the process a fresh as per rules" (Annex- 1 & 2)

9. It is correct. The incumbent employees alongwith applicant challenged the recommendations of Committee before the Honorable Peshawar High Court Circuit Bench Abbottabad through Writ Petition No. 339/A/2012 dated 25.04.2012 and Honorable Court suspended the operation of the recommendations of the Enquiry Committee i.e. to roll back the entire recruitment process and required the comments of the competent authority, after receipt of which the Honorable Peshawar High Court Circuit Bench Abbottabad vide judgment/ order dated 16.05.2012 dismissed the Writ Petition of the applicants considering as premature.

10. As explained above.

11. It is correct. Due to flaw in the appointment process, and the recommendation of committee all the appointees were terminated from services.

12. All the appointees preferred appeal jointly which was not in accordance to the rules as prescribed in NWFP Civil Servants (Appeal Rules 1986) under rules 3(2)

13. It is correct.

14. On recommendation of two Committees, directives of Administrative Department and the fact on which the termination order is based found established, the appeal was rejected by the appellate Authority vide No. 4464/GE dated 12/02/2013 (Annex-3)

15. The appellant has got no cause of action to file instant appeal.

GROUNDS

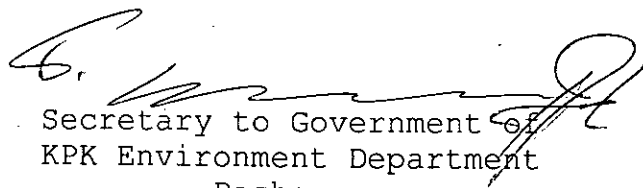
a. In-correct. The order for constituting the committee is justified.

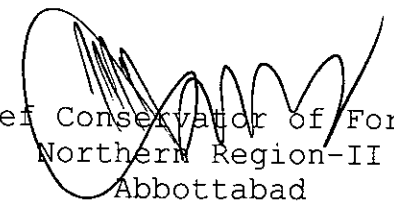
- b. In-correct. Since the recruitment process abinitio found faulty, therefore, the appellant did not have status of Government Servants.
- c. In correct. The Committee examined the whole record of test and interview and after fully analyzing the gravity of the case, the Committee points out certain flaws in the recruitment process and recommended to roll back the entire process adopted for appointment of Forest Guards.
- d. As explained above, the Committee examined the record of appointment process and found certain shortfalls; hence the appellant had not been associated with the inquiry proceedings.
- e. In-correct the Committee pointed out procedural flaws in recruitment process which implies that the appellant did not given status of Government Servant abinitio. In such a situation there was no need of adopting the process meant for Government Servant.
- f. In-correct. Due to procedural flaws were found by the Committee in recruitment process, the termination of the appellant is in accordance with Law.
- g. Incorrect. On recommendation of two successive Committee, directives of Administrative Department and t he fact on which the termination order is based found established, the Chief Conservator of Forests has desired to roll back all the process of recruitment.
- h. In-correct. On the decision of Honorable High Court, enquiry Committees was constituted by the competent authority to probe the shortfall. The Enquiry Committee point outed several flaws in the recruitment process on their recommendation. The Administrative Department directed to roll back all the process.
- i. In-correct. As replied in above paras
- j. In-correct. Mr. Zia-ul-Haq filed the writ petition No. 533/2011 in the August Peshawar High Court Circuit Bench Abbottabad praying therein that he also qualified the test and interview and was illegible for appointment whereas, he was not recommended for the appointment.
- k. As explained in Para "C"

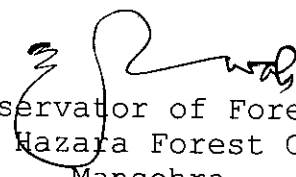
1. In-correct. Since the entire process was found faulty, therefore the appellant was not inquired into. Moreover detail reply has been given in above paras
- m. In-correct. The appeal is time barred.
- n. That respondent also seeks permission to advance other grounds at the time of arguments.


PRAYERS

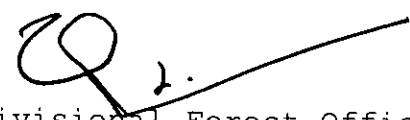
In view of the above facts available on record it is humbly prayed that the appeal is being unjustified and against the Law may please be dismissed with cost in the best interest of the State.

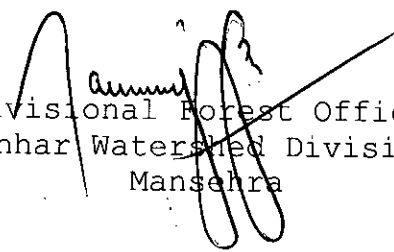

Secretary to Government of
KPK Environment Department
Peshawar



Chief Conservator of Forests
Northern Region-II
Abbottabad


Conservator of Forests
Upper Hazara Forest Circle
Mansehra


Divisional Forest Officer
Upper Kohistan Forest Division
Dassu


Divisional Forest Officer
Lower Kohistan Forest
Division
Pattan


Divisional Forest Officer
Unhar Watershed Division
Mansehra


Superintendent
Lower Hazara Forest Circle,
Abbottabad

XVI

WRITE PETITION NO. 553/2011 BY ZIA-UL-HAQ REGARDING HIS SELECTION FOR THE POST OF FOREST GUARD, APPOINTMENT OF ENQUIRY COMMITTEE VIDE CHIEF CONSERVATOR OF FORESTS-II KHYBER PAKHTUNKHWA PESHAWAR OFFICE ORDER NO. 34 DATED 13/4/2012, REPORT THERE-OF.

BRIEF HISTROY OF THE CASE

The Director Information, Government of Khyber Pakhtunkhwa was requested for publication of vacant posts of Forest Guards in Upper Kohistan Forest Division vide Divisional Forest Officer Upper Kohistan Forest Division letter No. 2925/GE dated 12.04.2010. Accordingly advertisement appeared in daily Nawa-e-Waqt Rawalpindi on 22.04.2010 and in daily Mashriq Peshawar on 23.04.2010.

As a result of discussion dated 19.04.2010, the Divisional Forest Officer, Lower Kohistan also requested DFO Upper Kohistan vide his letter No. 2963/GE dated 21.04.2010 to include the cases of appointment of his Division in the same process. The process materialized jointly and applications from 157-inhabitants of District Kohistan were received upto 04.05.2010 (Copy of list enclosed as Annex-1).

The Departmental Selection committee conducted written test on 12.05.2010 wherein 102-Nos. candidates appeared (Copy of list enclosed as Annex-2). Meeting of the Departmental Selection Committee was held on 08.06.2011 whereas interview etc from 23-Nos. short listed candidates was conducted on 8/6/2011, (copy of list enclosed as Annex-3).

Out of total 23-Nos. candidates, S.No. 1, 2 & 3 (3-Nos.) were recommended for appointment in Upper Kohistan Forest Division Dassu, while S.No. 4 to 11 (8-Nos.) were recommended for recruitment in Lower Kohistan Forest Division Pattan. The record revealed that (13 No) thirteen candidates have been appointed up-to 14/11/2011 in both Forest Divisions.

DISCUSSIONS

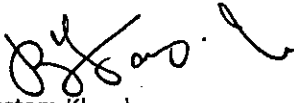
In compliance with Chief Conservator of Forests-II Khyber Pakhtunkhwa office order NO.34 dated 13/4/2012 the committee held its meeting in the office of DFO Unhar Watershed Division Mansehra on 19.04.2012. All relevant record of both the Forest Divisions has been produced by Mr. Sajjad Ahmad Head Clerk of Upper Kohistan Forest Division.


The said record has been examined by the committee in detail and fully analyzed the gravity of the case. The committee reached to the conclusion that:

1. Working papers have not been prepared by the concerned Forest Divisions.
2. There is no mention of vacant posts in any paper prepared and meant for appointment of Forest Guards in both the Forest Divisions.
3. The office orders for appointment of Forest Guards have not been found issued in time.
4. The minutes of D.S.C meeting indicates that interview has been conducted on 8.6.2011 instead of 18.05.2010 after a lapse of more than one year period.
5. The procedure contained in GOVERNMENT OF KHYBER PAKHTUNKHWA, SERVICES AND GENERAL & ADMINISTRATION DEPARTMENT (REGULATION WING) Notification No. SOR-I(S&GAD)4-1/75 dated Peshawar the 17.06.1989 has not been found followed properly.

RECOMMENDATIONS

In the light of foregoing facts and material on record, the committee recommend to Rollback the entire incomplete process adopted for appointment of Forest Guards and to direct the competent authorities for initiating the process a fresh as per rules.


(Rustam Khan)
Divisional Forest Officer
Unhar Watershed Division, Mansehra
(Chairman)


(Khurshid Ahmad)
Superintendent
Lower Hazara Circle, Abbottabad
(Member)

OFFICE OF THE CONSERVATOR OF FORESTS, UPPER HAZARA FOREST CIRCLE
MANSEHRA.

To,

Mr. Abdul Qadir s/o Malik Tajan
Residence Gabral Khandia Valley PO Komila.
Tehsil Dassu District Kohistan.

No: 4464 /GE dated Mansehra the 12/02/2013.

Subject: APPEAL OF MR. ABDUL QADIR S/O MALIK TAJAN THE DFO UPPER
KOHISTAN OFFICE ORDER NO 54, DATED 21/12/2012.

Memo: Reference your appeal dated 24/01/2013.

Upon termination from service of one Mr. Abdul Qadir s/o Malik Tajan preferred an appeal dated 24/01/2013 before the undersigned being appellate authority against the DFO Upper Kohistan office order No.54, dated 21/12/2012. The DFO Upper Kohistan offered comments upon the appeal vide No.1643/GE, dated 12/02/2013.

I, in the capacity of appellate authority in the instant case have gone through the relevant documents available on record upon which the order appealed against is based and found that:

A committee was constituted by CCF-II vide office order No.34, dated 13/04/2012 with the mandate to enquire in the Writ Petition No.533/2011 which recommended rolling back of entire recruitment process based on certain procedural flaws. Subsequently another enquiry committee on higher level was constituted by Administrative Department vide Notification No.SO(Lit)ED/2-165/2011, dated 14/06/2012 for the same purpose which detected further irregularities in addition to the flaws pointed out by previous committee. Based on the recommendation of above committee, the Administrative Department directed vide No. SO(Lit)ED/2-165/2011/1281-82, dated 11/12/2012 for implementation of recommendation of earlier committee.

In light of the absolute recommendations by the two successive committees, direction of the Administrative Department, and comments of the DFO/competent authority, the facts on which the termination order is based found established. Hence, the action taken vide office order No.54, dated 21/12/2012 is appropriate as no other action can satisfy the recommendations so made which is, therefore, neither excessive nor inadequate:

Keeping in view the above facts on record the appeal is rejected and order appealed against is confirmed.

Conservator of Forests
Upper Hazara Forest Circle
Mansehra

No: /GE

Copy forwarded to DFO Upper Kohistan Forest Division Dassu for information with reference to his letter cited above.

Conservator of Forests
Upper Hazara Forest Circle
Mansehra

(60)

Handwritten signature/initials

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

Abdul Qadir son of Malik Tajan, resident of Khandia District Kohistan.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhawa, through Secretary and others.

...RESPONDENTS

REJOINDER ON BEHALF OF APPELLANT

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<i>S #</i>	<i>Description</i>	<i>Page No</i>	<i>Annexure</i>
1.	Rejoinder alongwith affidavit	1 to 5	
2.	Copy of order dated 12/06/2015	6-10	"A"

...APPELLANT

Dated: 22/10 /2015

Through


(RAHEELA MUGHAL)
Advocate High Court, Abbottabad

①

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

Abdul Qadir son of Malik Tajan, resident of Khandia District Kohistan.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhawa, through Secretary and others.

...RESPONDENTS

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS:-

1. Para No. 1 is incorrect. Appellant has a valid cause of action.
2. That para 2 is incorrect.
3. That para No. 3 of preliminary Objection is incorrect. The appeal is maintainable in all respect.
4. That para No. 4 is incorrect.
5. That Para-5 of preliminary objection is incorrect.
6. That Para-6 is incorrect. Appellant has come to this Honourable Tribunal with clean hands.

FACTUAL OBJECTION:-

1. Para No. 1 needs no comments.
2. Para-2 needs no comments.
3. Para-3 needs no comments.
4. Para-4 needs no comments.
5. Para-5 needs no comments.
6. Para-6 needs no comments.
7. Para-7 being admitted needs no comments.
8. Para-8 of the comments is incorrect and that of the writ petition correct.
9. Para-9 needs no comments.
10. Para-10 needs no comments.
11. Para-11 as worded is incorrect.
12. Para-12 is correct.
13. Para-13 needs no comments.
14. Para-14 is accepted to the extent of dismissal of departmental appeal, rest of the para is incorrect.
15. Para-15 is incorrect. Appellants have valid cause of action.

ON GROUNDS

- a. Para-a of the comments is incorrect while that of appeal is correct.
- b. Para-b of the comments is incorrect while that of appeal is correct.
- c. Para-c of the comments is incorrect while that of appeal is correct.
- d. Para-d of the comments is incorrect while that of appeal is correct.
- e. Para-e of the comments is incorrect while that of appeal is correct.
- f. Para-f of the comments is incorrect while that of appeal is correct.
- g. Para-g of the comments is incorrect while that of appeal is correct.
- h. Para-h of the comments is incorrect while that of appeal is correct.
- i. Para-i of the comments is incorrect while that of appeal is correct.
- j. Para-j of the comments is incorrect while that of appeal is correct.
- k. Para-k of the comments is incorrect while that of appeal is correct.

4

- l. Para-1 of the comments is incorrect while that of appeal is correct. That it is pertinent to mention here that rest of effecties from the same termination order have been reinstated by the order of Honourable Court dated 12/06/2015. Copy of order dated 12/06/2015 is attached as Annexure "A".
- m. Para-m of the comments is incorrect while that of appeal is correct.
- n. Para-n needs no comments.

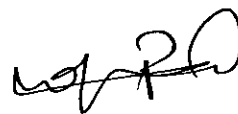
It is submitted for kind consideration of this Honourable Tribunal that this Honourable Tribunal vide judgment dated 12/06/2015 in similar nature appeals have ordered reinstatement of appellants into service with further direction that intervening period be treated as leave of the kind due. Same position in the present case. However, due to fixation of appeal of appellant at Abbottabad camp, the appellant could not be reinstated. It is also a matter of fact that appellant was also party in the appeal decided vide judgment *ibid*.

It is, therefore, humbly prayed that the titled appeal may graciously be accepted as prayed for.

...APPELLANT

Through

Dated: 22.10 /2015



(RAHEELA MUGHAL)

Advocate High Court, Abbottabad

5

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

Abdul Qadir son of Malik Tajan, resident of Khandia District Kohistan.

...APPELLANT

VERSUS

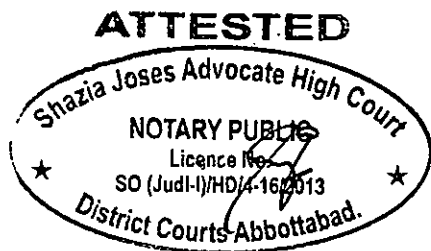
Govt. of Khyber Pakhtunkhawa, through Secretary and others.

...RESPONDENTS

REJOINDER ON BEHALF OF APPELLANT

AFFIDAVIT

I, Raheela Mughal Advocate High Court, Abbottabad, do hereby solemnly affirm and declare that the contents of forgoing rejoinder are true and correct as per information furnished by my client and nothing has been concealed therein.



22/10/15

DEPONENT