

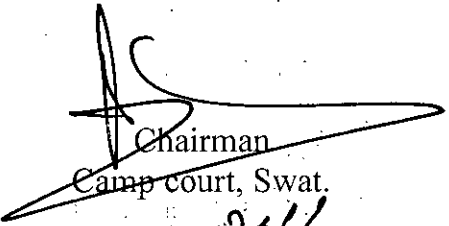
Appeal No. 1109/2014 Akhtar Muhammad

01.08.2016

Appellant with counsel and Mr. Abdul Hakeem, Senior Clerk alongwith Mr. Muhammad Zubair, Sr.GP for the official respondents and counsel for private respondents No. 4 & 5 present. Appellant informed this court that he has been promoted as Forester (BPS-10) vide order dated 13.04.2016. Submitted an application for withdrawal of the appeal.

Dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED
01.08.2016


Chairman
Camp court, Swat.
01.08.2016.

03.08.2015

Appellant in person, Mr. Abdul Hakim, Senior Clerk alongwith Mr. Muhammad Zubair, Sr.G.P for official respondents and private respondents No. 8 & 9 with counsel present. Written statement on behalf private respondents No. 8 & 9 also submitted. The appeal is assigned to D/B for rejoinder and final hearing for 3.11.2015 at Camp Court Swat.



Chairman
Camp Court Swat

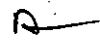
03.11.2015

Appellant in person, Mr. Abdul Hakim, Senior Clerk alongwith Mr. Muhammad Zubair, Sr.GP for official respondents No. 1 to 5 and private respondents No. 8 and 9 in person present. Arguments could not be heard due to non-availability of D.B. To come up for rejoinder and final hearing before D.B on 2.2.2016 at Camp Court Swat.

02.02.2016

Counsel for the appellant, Mr. Abdul Hakim, Senior Clerk alongwith Mr. Muhammad Zubair, Sr.G.P for official respondents No.1 to 5 and private respondents No.8 and 9 with counsel present. Learned counsel for the appellant submitted Wakalat Nama and requested for adjournment. To come up for rejoinder and final hearing before D.B on 01.08.2016 at Camp Court Swat.


Chairman
Camp Court Swat


Member

4.5.2015

Appellant in person, Mr. Abdul Hakim, Senior Clerk alongwith Mr. Muhammad Zubair, Sr. G.P for official respondents No.1 to 5 and private respondents No.8 & 9 in person present. Other private respondents No.6 & 7 are not in attendance despite service. Proceeded ex-parte. To come up for written reply/comments on 01.6.2015 at camp court Swat.



Chairman

1.6.2015

Appellant in person, Mr. Abdul Hakim, Senior Clerk alongwith Mr. Anwar-ul-Haq, G.P for official respondents No.1 to 5 and private respondents No. 8 and 9 with counsel present. Written reply submitted on behalf of official respondents No.1 to 5 while private respondents No.8 & 9 requested for adjournment. To come up for written reply/comments on behalf of private respondents No. 8 & 9 on 3.8.2015 at camp court Swat.

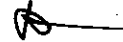


Chairman
Camp Court Swat



31.03.2015

Counsel for the appellant and Asstt: AG for the respondents present. Since the appeals pertains to Malakand Division, therefore, as per decision of the Worthy Chairman, the appeal should be heard at Swat, hence be placed for appropriate order.



Member

31.03.2015

Appellant in person present. In view of the observations of the Learned Member, the appeal is to be heard at Swat as the same pertains to the territorial limits of Malakand Division. Notice be issued to the respondents for 4.5.2015 at Camp Court Swat.


Chairman


Appeal No. 1109/2014
Mr. Akhtar Muhammad

04.03.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant had filed application for his promotion to the Chief Conservator of Forest Khyber Pakhtunkhwa Peshawar, who sent the same to respondent No.5 through a letter No. 50/E dated 05.08.2009 to decide the same according to the rules, but that was not decided. That the appellant filed Writ Petition bearing No. 2597/2009 which was decided by the Hon'able Division Bench of Peshawar High Court vide order/judgment dated 01.12.2009, directed the respondent No. 5 to decide the representation/appeal of the appellant according to law and rules and to observe eligibility criteria positively within one month. That the appellant filed second Writ Petition No. 3396/2013 for implementation of the earlier order/judgment of the said court alongwith the C.O.C No. 380/2013, which were disposed off by the Hon'able Division Bench of Peshawar High Court and hence the instant service appeal on 19.08.2014.

Counsel for the appellant further contended that juniors to the appellant have been promoted and the appellant has been ignored without any justification or reasons.

Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 31.03.2015. Notice of stay application as well as application for condonation of delay be also issued for reply/arguments for the date fixed. Till then status-quo will be maintained.


Member

Appellant deposited security amount



3

14.10.2014

Arbab Yasir Khan, Advocate present on behalf of counsel for the appellant, and requested for adjournment due to pre-occupation of learned counsel for the appellant in Dar-ul-Qaza, Swat. Request accepted. To come up for preliminary hearing on 18.12.2014.


Member

4

27.10.2014

Counsel for the appellant present and filed an application for early hearing. Case file requisitioned. Application allowed. To come up for preliminary hearing on 01.12.2014 instead of 18.12.2014.


Member

5

Reader Note:

01.12.2014

Appellant in person present. Since the Tribunal is incomplete, therefore, case is adjourned to 22.12.2014 for the same.



Reader

6

Reader Note:

22.12.2014

Appellant in person present. Since the Tribunal is incomplete, therefore, case is adjourned to 04.03.2015 for the same.




Reader



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1109/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04/09/2014	<p>The appeal of Mr. Akhtar Muhammad resubmitted today by Malik Muhammad Ajmal Khan 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	8-9-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>14-10-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Akhtar Muhammad Forest Guard Dir Forest Division at Timergra received today i.e. on 19.08.2014 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- ✓ 1- Copy of application mentioned in para-1 of the memo of appeal is not attached with the appeal which may be placed on it.
- ✓ 2- Copy of transfer order of respondent No.6 is not attached with the appeal which may be placed on it.
- ✓ 3- Copy of departmental appeal against the impugned transfer & promotion orders of respondent No.6, 8 & 9, are not attached with the appeal which may be placed on it.


No. 1228/S.T.

Dt. 20/8/2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Malik Muhammad Ajmal Khan Adv. Pesh.

Objections with replies R/ci

- ① - the objection regarding no 1 - the same is attached as Annexure A page 18 along with better copy on (19)
 - ② - At S.No 2 - the copy of the transfer order in respect of Mr. perhezgar is attached on page 40-41/1 and 42 with a better copy.
 - ③ - objection regarding serial no 3 with the appointment/promotion orders of respondent no 8 and 9 are already attached ~~annexure~~ page 41 and 42 respectively. whereas departmental appeal is on page 45 along with better copy on page 45.
- Therefore resubmitted after removal of objections
- 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. 1109 /2014

Akhtar Muhammad. Appellant

Versus

Chief Secretary to Govt. of Khyber Pakhtunkhwa
at Civil Secretariat, Peshawar & others. Respondents

I N D E X

S.No	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal		1-9
2.	Affidavit		10
3.	Petition for Suspension & Affidavit		11-13
4.	Petition for Condonation of Delay & Affidavit		14-15
5.	Addresses of the parties		16-17
6.	Copies of application alongwith Writ Petition and order on the same	"A"	18-27
7.	Copies of so-called compliance report, C.O.C.No.23/2010, reply to the same, relevant order sheets and order of Peshawar High Court dated 30.11.2010	"B"	28-39
8.	Copies of the Writ Petition, C.O.C order/ judgment on the same dated 15.01.2014, review petitions No.12 & 13 of 2014 and orders/ judgments	"C"	40-79
9.	Copy of order dated 23.07.2014	"D"	80
10.	Wakalatnama		81

Appellant

Through


Malik Muhammad Ajmal Khan

Advocate, Peshawar

Dated: 19.08.2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1109 /2014

1096
19-8-2014

Akhtar Muhammad S/o Said Muhammad
R/o Haider, P.O Khanpur, Tehsil Adenzai,
District Lower Dir, presently serving as Forest Guard
(BPS-07) Dir Forest Division at Timergara.Appellant

Versus

1. Chief Secretary to Govt. of Khyber Pakhtunkhwa at Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Environment Department at Civil Secretariat, Peshawar.
3. Chief Conservator of Forest, Khyber Pakhtunkhwa, Peshawar.
4. Conservator Forest, Malakand Circle at Timergara.
5. Divisional Forest Officer, Lower Dir Forest Division at Timergara.
6. Parhezgar, Forester District Government Swabi.
7. Muhammad Fayaz, working as Forest Guard, Timergara Range District Lower Dir at Timergara.
8. Muhib Shah, Forest Guard, Dir Lower Forest Division at Timergara.
9. Muhammad Israr, Forest Guard, Dir Lower Forest Division at Timergara. Respondents

Respondent No
627 Presented
Ex-Parte Cash
dt 4.5.15

Recd

⑥
⑦

19/8/14

19/8/14

re-submitted to-day
and filed.

14/9/14

B

SERVICE APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974 WITH ALL AMENDMENTS AGAINST THE IMPUGNED ORDER OF TRANSFER OF RESPONDENT NO.6 FROM DISTRICT GOVERNMENT SWABI TO DISTRICT DIR LOWER FOREST DIVISION AT TIMERGARA AND APPOINTMENT/PROMOTION OF RESPONDENTS NO.8 & 9 AS FORESTER INSTEAD OF THE APPELLANT, BEING MOST SENIOR AS PER SENIORITY LIST ISSUED BY RESPONDENTS.

PRAYER: On acceptance of the instant appeal, the impugned orders of transfer and adjustment, appointment and promotion of respondents No.6, 8 & 9 to the post of Forester instead of the appellant, be declared as illegal, unlawful, without lawful authority, based on favouritism, nepotism, malafide exercise of colored jurisdiction.



Respectfully Sheweth:

1. That initially the appellant filed application, addressed to the Chief Conservator of Forest Khyber Pakhtunkhwa at Peshawar, who sent the same to respondent No.5 through a letter No.50/E dated 05.08.2009 to decide the same according to the rules, but that was not decided, ultimately, the appellant filed a Writ Petition bearing No.2597/2009, which was decided by the Honourable Division Bench of Peshawar High Court consist on Mr. Justice Dost Muhammad Khan and Mr. Justice Liaqat Ali Shah the then was vide order/ judgment dated 01.12.2009, directed the respondent No.5 to decide the representation/ appeal of the appellant according to law and rules and eligibility criteria positively within one month and to report compliance. (Copies of ^{Letter # No 50/E} ~~Letter # No 50/E~~ alongwith Writ Petition and order on the same are attached as annexure "A").
2. That the above said order was not complied with and the said respondents filed a so-called compliance report in a zigzag and ambiguous words, which was self-contradictory in nature and one para against the other, therefore, the appellant

3
1

filed Contempt of Court Petition bearing No.23/2010 before the Peshawar High Court, wherein the notices were issued on 30.03.2010 and on their appearance they filed their reply, which was ultimately disposed of on 30.11.2010 with certain directions the relevant portion of the said order/judgment is reproduced for ready reference as under:

“If any vacancy occurs in the setup in future then, the petitioner must be considered for promotion on the desired seat but according to his seniority and on his own turn and he shall not be discriminated in any manner. It is further directed that in case any subsequent vacancy occurs in future then, it shall not be filled up through transfer of any other person from any other district or area because of the notification of the Establishment Department, Government of Khyber Pakhtunkhwa and also held by this court in the earlier judgment.”

(Copies of the so-called compliance report, C.O.C bearing No.23/2010, reply to the same, relevant order sheets and order of Peshawar High Court dated 30.11.2010 are attached as annexure “B”).

3. That, even then, when the respondents authority concerned issued the order of appointment of

3-11

respondents No.8 & 9 bearing No.22 dated 01.10.2013 in respect of Muhib Shah and No.23 dated 01.10.2013 in respect of Muhammad Israr, the appellant once again approached the Peshawar High Court, Peshawar through a Writ Petition bearing No.3396/2013 for implementation of the earlier order/ judgment of the said court alongwith the C.O.C.No.380/2013, which were disposed of by the Honourable Division Bench of Peshawar High Court, taking the plea of jurisdiction vide order/ judgment dated 15.01.2014, whereafter, the appellant filed Review Petitions against both the orders/ judgments bearing No.12/2014 and 13/2014, which too met the same fate, like the Writ Petition and C.O.C, hence the instant appeal on the following amongst others. (Copies of the Writ Petition, C.O.C, order/ judgment on the same dated 15.01.2014, review petitions No.12 & 13 of 2014 and orders on the same are attached as annexure "C").

G R O U N D S:

- A. That the impugned order of transfer and adjustment in respect of respondent No.6 is highly illegal, unlawful, without lawful authority and jurisdiction,

3-7
U

against the law on the subject followed by the rules alongwith notification, issued by the concerned Department and in support of order/judgment of the Peshawar High Court, Peshawar, wherein it was declared so, hence be set aside on this score alone.

B. That the appointment and promotion of the respondents No.8 & 9 are totally illegal, unlawful and against the seniority list issued and maintained by the authorities concerned, whereby no such point was raised at the time of the reply to the contempt petition and Writ Petition in respect of ACRs, which was one of the ground to the said petition, but not replied by anyone of the respondents till the disposal of the said.

C. That once the seniority list was issued and maintained by the authorities concerned, which was further not been modified alter rectified, especially when the appellant was at S.No.2, being the most senior, because the person at S.No.1's appeal was already dismissed by this Honourable Tribunal due to certain reasons, which was not appealed against before the august Supreme Court of Pakistan and attained finality then there was no such reason

3-5

except the reasons best known to the authorities concerned to ignore the present appellant, who served the respondents' Department for more than 28/29 year without any stigma or complaint, whatsoever, from any quarter concerned.

- D. That such act of omissions and commissions on behalf of the respondents is highly colourful, derogatory in nature, based on favouritism and wishes of the wills of the respondents, but not according to the law and rules on the subject, nor the judgment in field till date, which was not appealed against and attained finality.
- E. That it is the case of extreme nepotism and malafide on behalf of the respondents, which is floating on the surface of the whole record prima facie and there is nothing to explain, where they have already exceeded the authorities and exercised the jurisdiction and functions not vested and have failed to exercise the same in the manner provided by law.
- F. That, recently, one of the post is still lying vacant after the order bearing No.5 dated 23.07.2014 issued by respondent No.4 in respect of Mr. Wasil Khan and Muqaid Ullah, who are promoted to the post of

13-4
11

Deputy Rangers and the respondents have no other option except to accede to the legal demand of the appellant. (Copy of the order is attached as annexure "D").

- G. That any other ground, which has not specifically been taken and is fit in the circumstances of the case in favour of the appellant against the respondents, may also be allowed to be argued at the time of arguments. Moreover, the instant appeal is well within time because of the decision of the Peshawar High Court, Peshawar pendency of writ and review petition and specifically, when any order is void and illegal then there is no time limit to impugned the same as per judgment of the superior courts of this country.

It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned orders of transfer and adjustment, appointment and promotion of respondents No. 8 & 9 to the post of Forester instead of the appellant, be declared as illegal, unlawful, without lawful authority, based on malafide, favouritism, nepotism and exercise of colored jurisdiction.

13 - 2
1

Moreover, the newly vacant post on the promotion of Wasil Khan and Muqaid Ullah not be filled through any other person, except the appellant alongwith the promotion and appointment of the appellant be considered from the date of transfer and adjustment of respondent No.6 alongwith all back benefits and in alternate from the date of the appointment and promotion of respondents No.8 & 9.



Appellant

Through



Malik Muhammad Ajmal Khan
Advocate, Peshawar

Dated: 19.08.2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2014

Akhtar Muhammad. Appellant

Versus


Chief Secretary to Govt. of Khyber Pakhtunkhwa
at Civil Secretariat, Peshawar & others. Respondents

AFFIDAVIT

I, Akhtar Muhammad S/o Said Muhammad R/o Haider,
P.O Khanpur, Tehsil Adenzai, District Lower Dir, presently
serving as Forest Guard (BPS-07) Dir Forest Division at
Timergara, do hereby solemnly affirm and declare on
oath that the contents of the accompanying **Service
Appeal** are true and correct to the best of my knowledge
and belief and nothing has been kept concealed from
this Hon'ble Tribunal.



DEPONENT

ATTESTED
A. 08. 2014
Mian Sibghat Ullah Shah
Advocate
Notary Public/Cash Commissioner
High Court Peshawar 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

C.M.No._____/2014

In

Service Appeal No._____/2014

Akhtar Muhammad. Appellant/Petitioner

Versus

Chief Secretary to Govt. of Khyber Pakhtunkhwa
at Civil Secretariat, Peshawar & others. Respondents

**PETITION FOR SUSPENSION OF THE
OPERATION OF IMPUGNED ORDERS
OF APPOINTMENT AND PROMOTION
BEARING NO.22 & 23 DATED
01.10.2013 IN RESPECT OF
RESPONDENTS NO.8 & 9 ALONGWITH
FILLING OF THE NEWLY CREATED
VACANCY THROUGH ANY OTHER
PERSON EXCEPT THE PETITIONER/
APPELLANT TILL THE FINAL DECISION
OF THE MAIN APPEAL.**

Respectfully Sheweth:

1. That the title Service Appeal is being filed today before this Honourable Tribunal, wherein no date has yet been fixed.



2. That all the three ingredients like strong prima facie case, balance of convenience and irreparable loss are best inclined in favour of the petitioner/ appellants against the respondents.
3. That if the operation of the impugned orders are not suspended, the parties will involve into an endless litigation and petitioner will suffer an irreparable loss which shall not be calculated in a shape of coins.
4. That the grounds taken in the enclosed appeal may also be considered as an integral part of the instant petition.

It is, therefore, most humbly prayed that on acceptance of the instant petition; operation of the impugned orders may very graciously be suspended alongwith filling of the newly created vacancy through any other person except the petitioner/ appellants till the final decision of the main appeal.



Petitioner/Appellant

Through



Malik Muhammad Ajmal Khan
Advocate, Peshawar

Dated: 19.08.2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

C.M.No. _____/2014

In

Service Appeal No. _____/2014

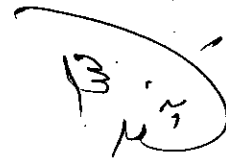
Akhtar Muhammad. Appellant/Petitioner

Versus

Chief Secretary to Govt. of Khyber Pakhtunkhwa
at Civil Secretariat, Peshawar & others. Respondents

AFFIDAVIT

I, Akhtar Muhammad S/o Said Muhammad R/o Haider,
P.O Khanpur, Tehsil Adenzai, District Lower Dir, presently
serving as Forest Guard (BPS-07) Dir Forest Division at
Timergara, do hereby solemnly affirm and declare on
oath that the contents of the accompanying **Petition for
Suspension** are true and correct to the best of my
knowledge and belief and nothing has been kept
concealed from this Hon'ble Tribunal.



DEPONENT

ATTESTED


Mian Sibghat Ullah Shah
Advocate
Notary Public/Oath Commissioner
High Court Peshawar



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M.No._____/2014

In

Service Appeal No._____/2014

Akhtar Muhammad. Appellant/Petitioner

Versus

Chief Secretary to Govt. of Khyber Pakhtunkhwa
at Civil Secretariat, Peshawar & others. Respondents

PETITION FOR CONDONATION OF DELAY, IF ANY

Respectfully Sheweth:

1. That the title Service Appeal is being filed today before this Honourable Tribunal, wherein no date has yet been fixed.
2. That the delay, if any, in filing the accompanying service appeal is not intentional and deliberate, but due to the confusion of the orders/judgments of the Peshawar High Court, Peshawar dated 01.12.2009.
3. That the law favors adjudication on merits, rather than on mere technicalities, therefore, the delay, if any, may be condoned in the best interest of just, fair play and equity.



It is, therefore, most humbly prayed that on acceptance of this application, the delay, if any, in filing the above titled appeal may kindly be condoned in the interest of justice.

Through Petitioner/Appellant


Malik Muhammad Ajmal Khan
 Advocate, Peshawar


Dated: 19.08.2014

AFFIDAVIT

I, Akhtar Muhammad S/o Said Muhammad R/o Haider, P.O Khanpur, Tehsil Adenzai, District Lower Dir, presently serving as Forest Guard (BPS-07) Dir Forest Division at Timergara, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Petition for Condonation of Delay** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.


 DEPONENT

ATTESTED


 Mian Sibghat Ullah Shah
 Advocate
 Notary Public/Off. Commissioner
 High Court Peshawar



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

Service Appeal No. _____/2014

Akhtar Muhammad. Appellant

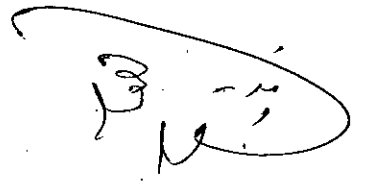
Versus

Chief Secretary to Govt. of Khyber Pakhtunkhwa
at Civil Secretariat, Peshawar & others. Respondents**ADDRESSES OF THE PARTIES****APPELLANT:**

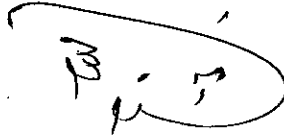
Akhtar Muhammad S/o Said Muhammad
R/o Haider, P.O Khanpur, Tehsil Adenzai,
District Lower Dir, presently serving as Forest Guard
(BPS-07) Dir Forest Division at Timergara.

RESPONDENTS:

1. Chief Secretary to Govt. of Khyber Pakhtunkhwa at Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Environment Department at Civil Secretariat, Peshawar.
3. Chief Conservator of Forest, Khyber Pakhtunkhwa, Peshawar.
4. Conservator Forest, Malakand Circle at Timergara.
5. Divisional Forest Officer, Lower Dir Forest Division at Timergara.

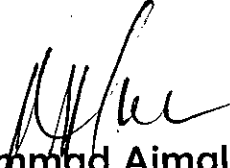


6. Parhezgar, Forester District Government Swabi.
7. Muhammad Fayaz, working as Forest Guard, Timergara Range District Lower Dir at Timergara.
8. Muhib Shah, Forest Guard, Dir Lower Forest Division at Timergara.
9. Muhammad Israr, Forest Guard, Dir Lower Forest Division at Timergara.



Appellant

Through



Malik Muhammad Ajmal Khan
Advocate, Peshawar

Dated: 19.08.2014

Amexure

A
18

OFFICE OF THE CHIEF CONSERVATOR OF FORESTS, N.W.F.P. PESHAWAR.

The Divisional Forest Officer
Lower Dir Forest division
at Timergara;

NO. 501/E;

Dated Peshawar the 5/8/2009.

Subject: APPLICATION FOR PROMOTION.

Memorandum

Enclosed please find herewith photo copy of the application of Mr. Akhtar Muhammad Forest Guard for information and n/action.

You are requested to process the promotion case on merit as per provision in the rules and finalize the issue as early as possible.

For info
above.

m/s 18
CHIEF CONSERVATOR OF FORESTS
N.W.F.P. PESHAWAR.

Copy forwarded for information and n/action to the Conservator of Forests Malakand Circle Saidu Sharif Swat.

CHIEF CONSERVATOR OF FORESTS
N.W.F.P. PESHAWAR.

ATTESTED
etc
etc

OFFICE OF THE CHIEF CONSERVATOR OF FORESTS N.W.F.P. PESHAWAR.

The Divisional Forest Officer
Lower Dir Forest Division
Timergara.

NO. 501 / E,

Dated Peshawar the 5/8/2009

Subject :- APPLICATION FOR PROMOTION ;

Memorandum:

Enclosed please find herewith photo copy of the application of Mr. Akhtar Muhammad Guard for information and n/action.

Sd/-

CHIEF CONSERVATOR OF FORESTS
N.W.F.P., PESHAWAR.

Encl:

As above.

_____/E,

Copy forwarded for information and n/action to the Conservator of Forest Malakand Circle Saidu Sharif Swat.

CHIEF CONSERVATOR OF FORESTS
NWFP, PESHAWAR.

ATTESTED
14/8/09



IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P.No. 2597 /2009

Akhtar Muhammad S/o Said Muhammad
R/o Haider Post Office Khanpur Tehsil Adenzai
District Dir Lower, Presently working as Forest
Guard with Divisional Forest Officer Lower
Dir Forest Division at Timergara

.....Petitioner

Versus

1. Chief Secretary to Govt. of NWFP, Civil Secretariat, Peshawar.
2. Secretary to Govt. of NWFP Forest Environment Department, Peshawar.
3. Chief Conservator of Forest. NWFP, Peshawar.
4. Conservator Forest Malakand Circle at Saidu Sharif Swat.
5. Divisional Forest Officer Lower Dir Forest Division at Timergara.
6. Ehsanullah Khani Deputy Range Forest Officer, Chakdara Range District Dir Lower.
7. Parhezgar Forester District Govt. Swabi,
8. Muhammad Fayaz BPS-05 working as Forest Guard Timergara Range District Dir Lower at Timergara.

.....Respondents

Attested
by Counsel

ATTESTED

Writ Petition under Article 199 of the
Constitution of Islamic Republic of
Pakistan, 1973 for

- a) Declaring that the transfer order No. 30 dated 09.09.2009 of Respondent No. 7 by Respondent No. 3 is void-ab-initio, illegal, unlawful and without lawful authority as well as based on malafide intentions of the Respondents.
- b) Declaring that the name of Respondent No. 8 suggesting by Respondent No. 5 and placing the same before the Departmental Promotion committee for the post of Forester without fulfilling the criteria is illegal, unlawful against the rules, regulations governing the subject matter, hence ineffective upon the Fundamental legal/valuable rights of the petitioner.
- c) Any other relief which deems fit in the circumstances of the case and not specifically been asked for may also be awarded in favour of petitioner against the respondents with cost.

Respectfully Sheweth:

1. That the petitioner is a Resident of Village Haider P.O. Khanpur Tehsil Adenzai District Dir

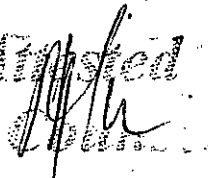
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(2A)

Lower. (Copy of the CNIC is attached as Annexure-'A').

2. That after passing his Matriculation the petitioner was appointed as a Forest Guard BPS-02 in the year 1995 and was subsequently promoted to BPS-05.
3. That the petitioner was promoted to PBS-07 on 1.12.2000 on the basis of Selection Grade and still working in BPS-07 for the last 8/9 years.
4. That as per new seniority list issued by Respondent No. 5 on 31.10.2007 the petitioner is at S.No. 2 while Respondent No. 8 is at s.No. 9 with BPS-05.
5. That petitioner is an honest, dedicated and hardworking which is evident from the list of prizes awarded to him. (Copy of the list is attached as Annexure-'B').
6. That in the light of the above respondent No. 2 directed respondent No. 3 to ensure the merits when the petition was moved for his promotion, who sent the same to Respondent No. 5 with the request to process the promotion case on merit as per provision in the rules and finalized the issue as early as possible vice order No. 50/E dated 05.08.2009. (Copy of order dated 05.08.2009 is attached as Annexure-'C')
7. That astonishingly Respondent No. 5 sent the case of Respondent No. 8 who is at S.No. 09 of the seniority list for promotion instead of

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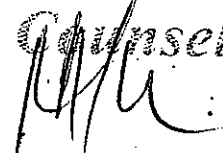

the petitioner to one of the member of departmental promotion committee at Peshawar who refused the same being without merit.

8. That not only the high ranking officials/respondents but central President of Forest Guards/Foresters and Deputy Rangers Association NWFP (Registered) sent an application to Respondent No. 3 (CCF) with the request for promotion of the petitioner being most senior and eligible forest guard but in vain hence the instant petition on the following amongst other.

Grounds

- a) That the petitioner has not been dealt with in accordance with law nor equal protection of law has been given to him.
- b) That as per seniority list issued on 31.10.2007 the petitioner is at S.No. 2 and being eligible for the post of promotion as per rules, regulations governing the subject matter which has totally been violated by Respondent No. 5 DFO concern due to his malafide intention.
- c) That the appeal of person who is at S.No. 1 of the seniority list appeal has already been turned down by the competent authority as well as by the Service Tribunal.
- d) That as stated in the above para the Respondent No. 5 was transferred to the present post on 25.07.2009 while he called

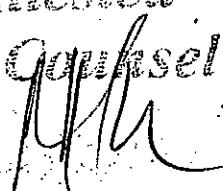
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Attested
by Counsel


(94)

the meeting of departmental promotion committee on 29.07.2009.

- e) That before the Departmental Promotion Committee only the record/papers/cases of the three employees be placed for promotion but in the present case the record of 10 persons was placed before the DPC just to include the name of Respondent No.8.
- f) That when the Respondent No. 5 was not succeeded in his attempt to fill the vacant post of Forester, he transferred Respondent No. 7 from District Govt. Swabi to the post of Forester in the office of DFO District Dir Lower. (Copy of the order is attached as Annexure-'D').
- g) That although two posts of Forester were lying vacant due to the death of late Muslehuddin and promotion of one Wasil Khan Forester to the post of Deputy Range Forest Officer, however the post of late Muslehuddin has illegally been filled by Respondent No. 5 (DFO) through the appointment of his son/Madudin S/o late Muslehuddin in BPS-07 as a forester which is not permissible. (Copy of the appointment order of Madudin is attached as Annexure-'E').
- h) That from the date of initial appointment of the petitioner his ACR, are good and the ACR of 2008 was also the same, but later on was changed from the category of good to poor by one Ehsanullah DRFO. Respondent No. 6 on the directions of Respondent No.5.

Attested
by Counsel


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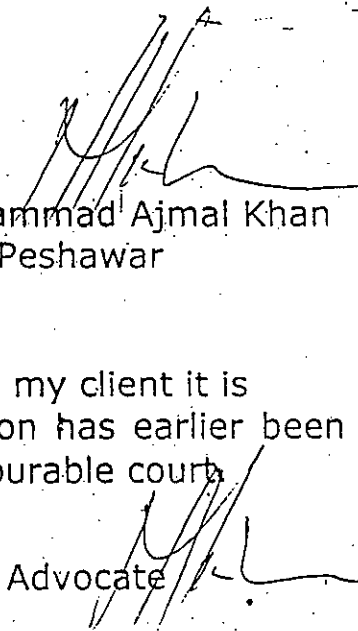

It is, therefore, most humbly prayed that on acceptance of the instant Writ Petition an appropriate writ may very graciously be issued as per prayer.

Interim Relief:

All the three ingredients like strong prima facie case, balance of convenience and irreparable loss are inclined in favour of the present petitioner against the respondents, therefore by way of an interim relief the transfer order bearing No. 30 dated 09.09.2009 of Respondent No. 7 may very graciously be suspended till final decision of the instant Writ petition.

Through Petitioner

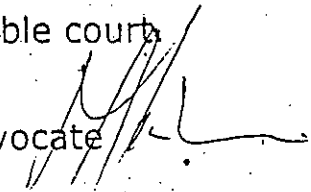
Malik Muhammad Ajmal Khan
Advocate, Peshawar



Certificate

As per information conveyed to me by my client it is Certified that no such like Writ Petition has earlier been filed by the petitioner before this honourable court.

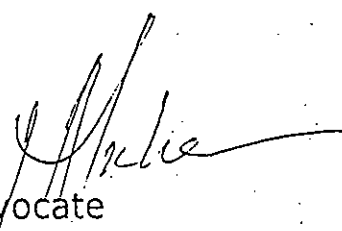
Advocate



List of Books

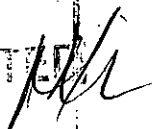
1. Constitution of Islamic Republic of Pakistan, 1973.
2. Manual of Forest Law/Rules
3. Any other law books as per need.

Advocate



Attested
by Counsel

ATTESTED



PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

26

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
01.12.2009.	<p><u>W.P.No. 2597/2009 with Interim Relief.</u></p> <p>Present: Malik Muhammad Ajmal Khan, Advocate, for the petitioner. ***</p> <p><u>DOST MUHAMMAD KHAN, J.-</u> Grievance of the petitioner is that he was eligible to be appointed on the post of Forester as he is serving Forest Guard in BPS-07, however, he was ignored by respondent No.3 due to transfer of respondent No.7 on the vacant post and in this way the vacancy was filled up, however, when respondent No.3 was approached through written representation, he wrote a letter No. 50/E dated 05.08.2009 to Divisional Forest Officer i.e. respondent No.5 and also sent his representation to him to decide the same according to the rules.</p> <p>2. Although respondent No.3 passed the earlier order, causing grievance to the petitioner but rectified the same while sending a representation/appeal of the petitioner to the Competent Authority i.e. respondent NO.5 (DFO) and that is pending before him, thus the respondent No.3 has delegated his powers, if any, to respondent No.5 to do</p>

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EXAMINER
Peshawar High Court

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justice to the petitioner.

3. In this view of the matter, we would direct respondent No.5 i.e. Divisional Forest Officer, to decide the representation/appeal of the petitioner according to law and rules and eligibility criteria positively within one month and to report compliance. This petition stands disposed of accordingly.

sd/ DOST Muz d Khan
sd/ Liaqat Ali Shah

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22/11/2010
Peshawar High Court Peshawar
Established Under Section 7-A of the

8068
22/11/2010
Pages 3
Folio 16
Preparation Copy 22/11/2010
Delivery of Copy 22/11/2010
Clerk

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by Counsel

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Amexure B

20/12

OFFICE OF THE DIVISIONAL FOREST OFFICER LOWER DIR FOREST DIVISION TIMERGARA.

To The Registrar Peshawar, High Court Peshawar

No. IG. dated Timergara the 11/12/2009.

Subject: W.P. NO. 2857/2009 OF MR. AKHTAR MOHAMMAD FOREST GUARD LOWER DIR FOREST DIVN. TIMERGARA

Memo:- It is submitted that the post of Forester was vacant due to promotion of Mr. Wasit Khan Forester to the rank of Deputy Ranger. Accordingly DPC was constituted for the purpose but in the mean time it was observed that the case was not falling under promotion quota. Therefore no one consider for promotion.

As per service rules, the post of forester should be filled 50% by initial recruitment and 50% by promotion on the basis seniority-cum-fitness, from amongst holders of post of Forest Guards of the Forest Division where the vacancies occur, who have at least five years service as such and have passed such departmental examination as may be prescribed by the Government for the purpose.

Since the vacancy was meant for initial recruitment, therefore, the promotion was dropped and Mr. Perhazgar Forester was transferred and adjusted against the said vacancy vide Chief Conservator of Forests NWFP Peshawar office order No. 30 dated 09.09.2009. Moreover the name of petitioner appeared at serial No.2 of the seniority list of Forest Guard of Lower Dir Forest Division (copy enclosed) therefore he is.

Similarly the vacancy caused due to the death of Mr. Muslahuddin forester during duty was filled in through the appointment of the son of deceased forester as provided under the NWFP Government servant (Appointment, promotion & transfer) rules 1989 and the Government policy on the subject.

Moreover presently no vacancy of forester exists in Lower Dir Forest Division therefore the promotion of Mr. Akhtar Mohammad will be consider on his turn strictly in accordance with the orders of honorable High Court Peshawar in accordance with law please.

Divisional Forest Officer, Lower Dir Forest Division, Timergara.

No. 1357-99-IG.

Copy forwarded to the :-

- 1. Chief Conservator of Forests NWFP Peshawar for favour of information please.
- 2. Conservator of Forests Malakand Circle Mingora for favour of information please
- 3. SDFO Timergara for information and necessary action
- 4. Mr. Akhtar Mohammad Forest Guard C/O SDFO Timergara for information with reference to his application dated 05.12.2009

Attested by Counsel

m. yousaf DIVISIONAL FOREST OFFICER LOWER DIR FOREST DIVISION TIMERGARA

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etc

OFFICE OF THE DIVISIONAL FOREST OFFICER LOWER DIR FOREST
DIVISION TIMERGARA.

To

The Registrar Peshawar.
High Court, Peshawar.

No. /G. dated Timergara the II/12/2009

Subject: W.P.259/2009 OF MR.AKHTAR MOHAMMAD
FOREST GUARD TOWER DIR FOREST DIVN.TIMERGARA.

Memo:-

It is submitted that the post of Forester was vacant due to promotion of Mr. Wasil Khan Forester to the rank of Deputy Ranger Accordingly DPC was constituted for the purpose but in the mean time it was observed that the case was not falling under promotion quota. Therefore no one consider for promotion.

As per service rules, the post of forester should be filled 50% by promotion on the basis seniority-cum-fitness, from amongst holders of post of Forest Guards of the Forest Division where the vacancies occur, who have at least five years service as such and have passed such departmental examination as may be prescribed by the Government for the purpose.

Since the vacancy was meant for initial recruitment, therefore, the promotion was dropped and Mr. Perhazgar Forester and adjusted against the said vacancy vide Chief Conservator of Forests NWFP Peshawar office order No.30 dated 09.09.2009. Moreover the name of petitioner appeared at serial No.2 of the seniority list of Forest Guard of Lower Dir Forest Division (copy enclosed) therefore he is.

Similarly the vacancy caused due to the death of Mr. Muslahuddin forester during duty was filled in through the appointment of the son of deceased forester as provided under the NWFP Government servant (Appointment, promotion & transfer) rules 1989 and the Government policy on the subject.

Moreover presently no vacancy of forester exists in Lower Dir Forest Division therefore the promotion of Mr. Akhtar Mohammad will be consider on his turn strictly in accordance with the orders of Honorable High Court Peshawar in accordance with law please.

Divisional Forest Officer,
Lower Dir Forest Division,
Timergara.

No. I387-99-IG,

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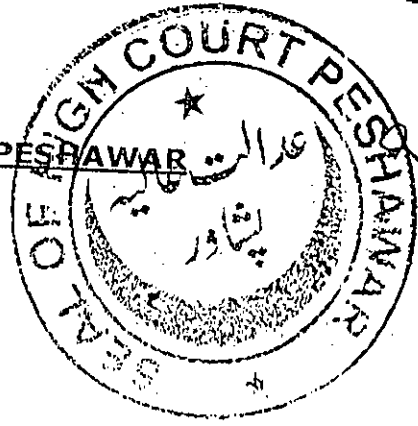
- 1- Chief Conservator of Forests NWFP Peshawar for favour of information please.
- 2- Conservator of Forests Malakand Circle Mingera for favour of information please.
- 3- SDFO Timergara for information and necessary action.
- 4- Mr. Akhtar Mohammad Forest Guard C/O SDFO Timergara for information with reference to his application dated 06.12.2009.

Sd/-xx
DIVISIONAL FOREST OFFICER
LOWER DIR FOREST DIVISION
TIMERGARA.

etc
N/C

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IN THE PESHAWAR HIGH COURT, PESHAWAR



C.O.C Petition.No 23 /2010

IN

Writ Petition No.2597/2009

Akhtar Muhammad S/O Said Muhammad
R/O Haider P.O Khanpur, Tehsil Adenzai, District Dir (Lower),
presently serving as Forest Guard with Divisional Forest Officer,
Lower Dir Forest Division at Timergara.Petitioner

Versus

1. Muhammad Nazir Khan Chief Conservator Forest N.W.F.P,
Peshawar.
2. Alamgir Khan Conservator Forest Malakand Circle Mingora
at Swat.
3. Muhammad Yousaf Divisional Forest Officer, Lower Dir
Forest Division at Timergara. . . .Contemnors/Respondents

=====
PETITION UNDER ARTICLE 204 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973 R/W RELEVANT PROVISIONS
OF CONTEMPT OF COURT ACT/ ORDINANCE
FOR INITIATING CONTEMPT OF COURT
PROCEEDINGS AND PUNISHING THE
CONTEMNORS ACCORDING TO LAW.
=====

22 JAN 2010

ATTESTED

EXAMINER
Peshawar High Court

ATTESTED

06.12.13

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Respectfully Sheweth:

1. That the petitioner filed the Writ Petition before this Honourable Court against the contemnors/ respondents alongwith other, which was numbered as 2597/09. (Copy of the Writ Petition is attached as annexure "A").
2. That the said Writ Petition was placed before the Honourable Division Bench consist on Mr. Justice Dost Muhammad Khan and Mr. Justice Liaqat Ali Shah.
3. That on 01.12.2009 the Writ Petition was disposed off with the directions to respondent No.5 here respondent/ contemnor No.3 to "decide the representation/ appeal of the petitioner according to law and rules and eligibility criteria positively within one month and to report compliance". (Copy of the order sheet is attached as annexure "B").
4. That the contemnor/ respondent No.3 vide endorsement No.1389-92-G dated 11.12.2009 without disposing the appeal of the petitioner sent his report to the Honourable Registrar, Peshawar High Court, Peshawar. (Copy of the same is attached as annexure "C").
5. That petitioner filing the instant petition on the following amongst others;

GROUNDS:

- A. That the contemnors have disobeyed the orders of this Honourable Court, which they were legally bound to obey. On this score alone they are liable to be punished.

FILED TODAY
Deputy Registrar
22 JAN 2010

ATTESTED

EXAMINER
Peshawar High Court

ATTESTED

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- 3
- B. That in Para No.1 of the said report, which is reproduced for the kind consideration of this Honourable Court;

"It is submitted that the post of forester was vacant due to promotion of Mr. Wasil Khan (Forester) to the rank of Deputy Ranger. Accordingly DPC was constituted for the purpose but in the meantime, it was observed that case was not falling under promotion quota therefore, no one considered for promotion".

- C. That In Para No.2 "As per Service Rules the post of Forester should be filled by 50% initial recruitment and 50% by promotion on the basis of seniority-cum-fitness from amongst holders of posts of forest guards of the Forest Division, where the vacancy occurred who have at least five years service as such and have passed such departmental examination as may be prescribed by the Government for the purpose.

- D. That the report of the contemnor/ respondent No.3 is Zigzag who also twisted the facts just to deprive the petitioner from the post of forester.

- E. That as it is evident from Para No.3 "that Mr. Perhazgar Forester was TRANSFERRED & ADJUSTED against the said vacancy vide chief conservator of Forest N.W.F.P, Peshawar office order No.3 dated 09.09.2009. "Moreover, the name of the petitioner appeared at S.No.2 of the seniority list of Forest Guard of Lower Dir Forest Division. "Copy enclose therefore he is" totally in contradiction with

22 JAN 2010

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EXAMINER
Peshawar High Court

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Para No.4, wherein it has been stated by him "Similarly the vacancy caused due to the death of Muslah-ud-Din Forester during duty was filled in through the appointment of the son of deceased forester as provided under N.W.F.P, Government Servant (Appointment, Promotion & Transfer) Rules 1989 and the Government Policy on the subject), which may be kindly read with ground "G" of Writ Petition. Moreover both the vacancies have been filled by the contemnor/ respondent No.3 through initial recruitment, which negate the stance of the contemnor taken by him in Para No.3.

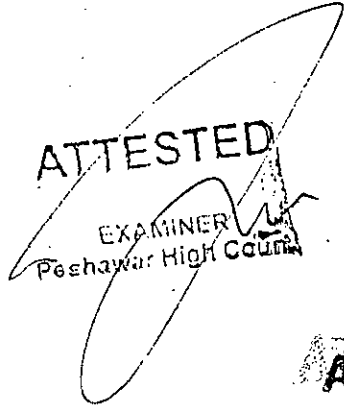
It is, therefore, most humbly prayed that on acceptance of the instant Petition, contempt of court proceedings may very graciously be initiated against the contemnors and they may kindly be punished in accordance with law.

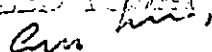
Petitioner
Through


Malik Muhammad Ajmal Khan
Advocate, Peshawar

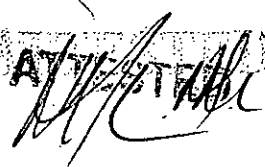
Dated: 21.01.2010

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EXAMINER
Peshawar High Court

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Deputy Registrar
22 JAN 2010

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(34) (95)

PESHAWAR HIGH COURT, PESHAWAR.
FORM 'A'
FORM OF ORDER SHEET

Court of.....

Case No..... of.....

W. P. No. 2597/2009

Date of Order or Proceedings.	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
-------------------------------	--

30.3.2010.

COC No.23/2010 in W.P. No.2597/2009.

Present: Malik Akhtar Hussain, Advocate, for the petitioner.

Contends that the appeal although so far has not been decided as was directed by this court except a letter issued to the Registrar of this Court available on file. Learned counsel for the petitioner states that he is not satisfied with the report made in the letter ibid, further submitted as his appeal has not been decided within the period as directed in the judgment of this court dated 1.12.2009. Notice of the petition be issued to respondent No.3 for a date in office.

Sd/- Syed Sajjad Hassan Shah
Sd/- Saad Shaukat Hayat

JUDGE

JUDGE

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Examiner
Peshawar High Court Peshawar
Authorised Under Article 87 of
the Constitution Order 1984

06.12.13

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PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
*27.04.2010.	<p><u>C.O.C. No. 23/2010 in W.P.No. 2597/2009.</u></p> <p>Present: Malik Muhammad Ajmal Khan, Advocate, for the petitioner.</p> <p>Respondent No.3 in person. ***</p> <p>The latter wants time to file written reply.</p> <p>Allowed. May do so within a fortnight.</p> <p><i>sd/- Dost Muhammad Khan</i> <i>sd/- Yahya Akbari</i></p> <p>JUDGE JUDGE</p> <p>CERTIFIED TO BE TRUE COPY</p> <p>Examiner Peshawar High Court Peshawar Authorised Under Article 87 of the Qanun-e-Majlis-i-Tamgha-i-1984</p> <p>06-12-13</p>

sd/- 28/4

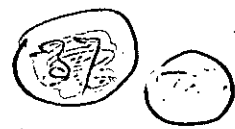
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PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

Date of order.	Order or other proceedings with the order of Judge
24.8.2010.	<p data-bbox="646 537 1182 606"><u>C.O.C. 23/2010 in W.P. 2597/2010.</u></p> <p data-bbox="639 621 1433 715">Present: Malik Muhammad Ajmal, advocate for applicant.</p> <p data-bbox="796 749 1130 805">Nemo for respondents.</p> <p data-bbox="608 868 1423 1166">Former wants time to further document the petition. May do so well before the next date. Adjourned to a date in office for which respondents shall be issued notices.</p> <p data-bbox="451 1116 592 1243">O/W 25/2597</p> <p data-bbox="487 1207 1370 1360">sd/- Saad-e-Shaukat Hayat - JUDGE</p> <p data-bbox="471 1335 1339 1488">sd/- Yahya Alzidi - JUDGE</p> <p data-bbox="937 1625 1339 1717">CERTIFIED TO BE TRUE COPY</p> <p data-bbox="879 1768 1298 1931">Examiner Peshawar High Court Peshawar Authorized Under Article 87 of the Constitution of Pakistan 1973</p> <p data-bbox="1157 1946 1354 2007">06-12-13</p> <p data-bbox="1088 2109 1354 2175">ATTESTED</p>



PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET

Date of Order or Proceedings.	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary.
1	2
3.11.2010	<p><u>COC NO-23/2010 in W.P No.2597/2009.</u></p> <p><u>Present:</u> Malik Muhammad Ajmal Khan, Advocate, for applicant.</p> <p>Mr. Muhammad Yousaf Khan, DFO, Lower Dir.</p> <p>****</p> <p>The latter states that one post which fell vacant was filled through adjustment on transfer as the one who was adjusted against the post was a senior Forester then the petitioner and further that the second vacancy was filled by appointing the son of a decd employee and that the petitioner is at serial No.2 and he will be appointed on his turn when the vacancy occurs strictly in accordance with rules.</p> <p>Learned counsel for applicant states that Mr.Muhammad Yousaf Khan, DFO, has concealed facts while making the above statement. Let the learned counsel should establish this fact through documentary evidence. Adjourned to 30.11.2010.</p> <p><i>sd/- Ziasat Ali Shah</i></p> <p><i>sd/- Syed Sajjad Hussain Shah</i></p> <p>JUDGE</p> <p>JUDGE</p>

ATTY/...

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Examiner

06-12-13

Peshawar High Court Peshawar.
 Authorised Under Article 87 of
 the Constitution of Pakistan Order 1984

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Judgment Sheet

**IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT**

C.O.C.No. 23/10 with C.M.No. 1210/10 in W.P.No. 2597/09.

JUDGMENT

Date of hearing.....30.11.2010.....

Petitioner. (Akhtar Muhammad) By Malik Muhammad Ajmal Khan, Advocate.

Respondents. (Muhammad Nazir Khan, Chief Conservator Forest NWFP Peshawar & 02 others) By Mr. Zahid Yousaf Qureshi, AAG along with Muhammad Yousaf / respondent No.3 former DFO, now posted in Forest Collect and Zahid Ali, SDFO.

DOST MUHAMMAD KHAN, J.- Muhammad Yousaf,

former DFO / respondent No.3, stated that under the rules 50% vacancies are filled up through direct recruitment from the eligible candidates while 50% vacancies are filled up through promotion. If it is so, then, the recruitment in promotion quota on 50% basis each must be strictly followed by all the Authorities, including the Selection Committee / Board and no one shall violate these rules under any circumstances. If any vacancy occurs in the set-up in future then, the petitioner must be considered for promotion on the desired seat but according to his seniority and on his own turn and he shall not be discriminated in any

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EXAMINER
Peshawar High Court

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manner. It is further directed that in case any subsequent vacancy occurs in future then, it shall not be filled up through transfer of any other person from any other district or area because of the Notification of the Establishment Department, Government of Khyber Pakhtunkhwa and also held by this Court in the earlier judgment.

This petition is accordingly disposed of in the above terms.

SPC Dost Muhammad Khan J
SPC Anwar Ali Shah J

Announced:
30.11.2010.

JUDGE

JUDGE

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1-12-10

Saif

PL *Issue*

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No. 8236
Date of Presentation of Application 06-12-13
No of Pages 12 P
Copying fee 1
Urgent Fee 24.00
Total 24.00
Date of Preparation of Copy 06-12-13
Date Given for Delivery 06-12-13
Place of Delivery of Copy 06-12-13
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Examiner
Peshawar High Court Peshawar
Notarised Under Article 87 of
the Constitution of Order 1981

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Annexure 40 C

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 18/9/2013

Meeting of the Departmental Promotion Committee constituted vide Divisional Forest Officer Lower Dir Forest Division office order No.15 dated 4/9/2013 was held in the office of DFO Lower Dir at Timergara on 18/9/2013 and the promotion case was discussed in length.

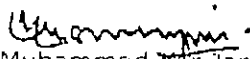
PROMOTION OF FOREST GUARD

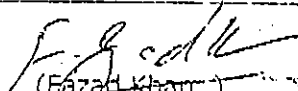
The committee was informed that there are total 17-posts of Foresters in the Lower Dir Forest Division. Presently 16-Foresters working against these posts. Resultantly one post of Forester is lying vacant, on regular side. Beside above, one post of Forester is temporary vacant due to appointment of Mr. Wasal Khan as Deputy Ranger (BS-11) on Acting Charge basis.

According to the Government of Khyber Pakhtunkhwa Environment Department Notification No. SO (Estt:) Env/1-465/2k12/2113-2213 dated 14/3/2013, Method of recruitment to the post of Forester is 75% posts of Forester have to be filled up through promotion of Forest Guards on the basis of seniority-cum-fitness and 25% through direct recruitment.

The committee examined the record of Forest Guards thoroughly, and took the following decisions in the promotion case as per seniority lists:-

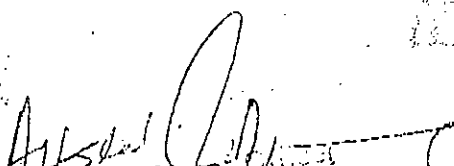
#	Name of Forest Guard	Remarks.
1.	Allmar Rahman FA with trained	The committee recommended his deferment for promotion to the post of Forester (BS-09) due to un-satisfactory service record. His ACRs for the year, 01/07/2010 to 31/12/2010 & 01/01/2011 to 31/12/2011 were found bogus signature of the present DFO Lower Dir, as certified by the DFO concerned. Besides above, his ACRs for the year, 1994, 1996, 1998 and 2005 are adverse and ACR for the period 01/01/2009 to 31/06/2009 is missing. A disciplinary action also under process against him.
2.	Akhtar Muhammad FA with trained	The committee recommended his deferment for promotion to the post of Forester (BS-09) due to un-satisfactory service record. His ACRs for the year, (1994, 1998, 2003, 2004, 2005, 2006) 2008 and 2011 are adverse or average. His ACR for the year 2001 is missing
3.	Mohib Shah Matric with trained	His service record is generally good. No disciplinary action is pending against him. He has completed required length of service for promotion to the post of Forester. The committee recommended him for promotion to the post of Forester (BS-09) on regular basis.
4.	Muhammad Israr-I FA with trained	His service record is generally good. No disciplinary action is pending against him. He has completed required length of service for promotion to the post of Forester. The committee recommended him for appointment to the post of Forester (BS-09) on acting charge basis, on the temporary vacancy of Mr. Wasal Khan, Deputy Ranger (Acting Charge).


(Muhammad Yar Jan)
Sub Divisional Forest Officer,
Timergara Forrest Sub Division
Member.


(Fazal Khan)
Section Officer (Estt)
Environment Department,
Member.


(Mr. Abdul Rashid)
Divisional Forest Officer,
Lower Dir Forest Division,
Timergara Chairman

etc
14/10


Divisional Forest Officer,
Lower Dir Forest Division,
Timergara

ATTESTED


Akhtar Muhammad

DFA

01.08.2016

Appellant with counsel and Mr. Abdul Hakeem, Senior Clerk alongwith Mr. Muhammad Zubair, Sr.GP for the official respondents and counsel for private respondents No. 4 & 5 present. Appellant stated that he has been promoted as Forester (BPS-10) vide order dated 13.04.2016. Submitted an application for withdrawal of the appeal.

Dismissed as withdrawn. File be consigned to the record room.

Chairman
Camp court, Swat.

ANNOUNCED
01.08.2016

*informed this
Court*

ENLISTMENT ORDER

In compliance of the order of Provincial Police Officer Khyber Pakhtunkhwa Peshawar vice his office Endst: No.28737/E-II, dated 21-11-2013. Maulana Sajjad Khan s/o Sar Zamin Khan r/o Moh: Bazar Khat Kallay PS Aza Khel District Nowshera is hereby enlisted as Constable time scale on three year probation period in BPS-05, with effect from 28-11-2013 and allotted constabulary No. 372

He will work as Iqbal Masjid Police Lines Nowshera.

His particulars are as under:-

Height 5 Feet 5 ¼ inch
Chest 36 ½ X 37 ½
Date of Birth 06-01-1983
Age on enrolment year 30 Months 10 Day 22
Qualification F.A

His services are purely on temporary basis and would be liable to terminate at any time without any notice.

OB No. 184

Dated 29.11.2013


District Police Officer,
Nowshera

OFFICE OF THE DISTRICT POLICE OFFICER, NOWSHERA

No. 1028-31 /OHC, Dated Nowshera the 3-12-2013.

- Copy to the:-
- 1 District Accounts Officer, Nowshera.
 - 2 Accountant.
 - 3 E,C NSR.
 - 4 F.M.C, NSR.

OFFICE ORDER NO. 30 DATED PESHAWAR THE 09 / 09 / 2009, BY
MR. NAZIR MUHAMMAD, CHIEF CONSERVATOR OF FORESTS, NWFP, PESHAWAR.

40/C1

An per NOO issued by Divisional Forest Officer Lower Dir Forest Division, Mr. Parhosgar Forester is hereby transferred from Distt: Govt: Swabi to Lower Dir Forest Division against the vacant post caused due to promotion of Mr. Wazil Khan Forester in the interests of public service with immediate effect.

SD/- (Nazir Muhammad)
Chief Conservator of Forests
NWFP, Peshawar.

No. 1018-2/E., Dated Peshawar the 09 / 09 / 2009.

Copy forwarded for information and necessary action to the :-

1. Conservator of Forests Malakand Circle, Saidou Khairif Shagid.
2. DCO Swabi.
3. EDO Agri: Distt: Govt: Swabi.
4. ✓ Divisional Forest Officer, Lower Dir Forest Division at Timargara with reference to his letter No. 544/C dated 7.9.2009.

Attested -

CHIEF CONSERVATOR OF FORESTS
NWFP, PESHAWAR.

[Handwritten signature]
Lower Dir Forest Division

[Handwritten initials EC]

[Handwritten initials DR]
10/9/09

[Handwritten initials M/K]

Better copy

13/09/2009
13/09/2009

40/C2



OFFICE ORDER NO.30 DATED PESHAWAR THE 09/09/2009, BY MR.NAZIR MUHAMMAD, CHIEF CONSERVATOR OF FORESTS NWFP, PESHAWAR.



As per NOC issued by Divisional Forest Officer Lower Dir Forest Division, Mr.Parhezgar Forester is hereby transferred from Distt: Govt: Swabi to Lower Dir Forest Division against the vacant post caused due to promotion of Mr.Wasil Khan Forester in the interest of public service with immediate effect.

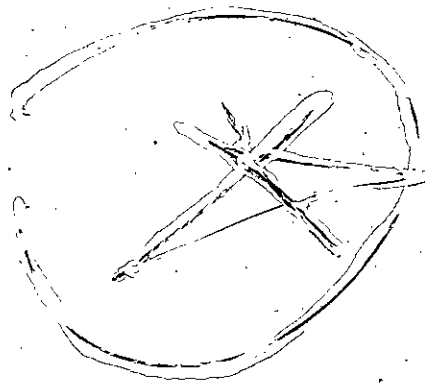
Sd/-(Nazir Muhammad)
Chief Conservator of Forests
NWFP, Peshawar

No. 1018-2 /E, dated Peshawar the 09/09/2009.

Copy forwarded for information and necessary action to the:-

1. Conservator of Malakand Circle, Saidu Sharif Shagai.
2. DCO Swabi
3. EDO Agri: Distt: Govt: Swabi
4. Divisional Forest Officer Lower Dir Forest Division at Timergara with reference to his letter No.544/G, dated 7.9.2009.

Sd/-Chief Conservator of Forests
NWFP Peshawar.



c/c
M/CL

OFFICE ORDER NO 22 DATED TIMERGARA THE 1/10 /2013 ISSUED BY MR
ABDUL RASHID DIVISIONAL FOREST OFFICER LOWER DIR FOREST DIVISION
TIMERGARA

As recommended by Departmental Promotion Committee (DPC) in its meeting held under the Chairmanship of Divisional Forest Officer Lower Dir Forest Division Timergara on 18/9/2013, Mr. Mohib Shah Forest Guard is hereby promoted to the rank of Forester BPS-09 (6200-380-17600) on the regular basis with immediate effect.

In case of abolition of the post the newly promoted Forester will be reverted to his original cadre. The promotion is purely temporary and will not confer any right for continuity. He will be on probation for a period of one (1) year in terms of section 6(2) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-15 (1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989

Sd/- (Mr. Abdul Rashid)
Divisional Forest Officer,
Lower Dir Forest Division,
Timergara.

No 637427G

Copy forwarded to the

- 1- Conservator of Forests Malakand West Circle Timergara for favour of information please.
- 2- SDFO Jandool for information and necessary action.
- 3- Official concerned for information and necessary action.
- 4- Divisional Head Clerk/Accountant for information and necessary action.

Attested
Divisional Forest Officer
Lower Dir Forest Division
Timergara

Divisional Forest Officer,
Lower Dir Forest Division,
Timergara

etc
Attested



OFFICE ORDER NO 23 DATED TIMERGARA THE 01/10 /2013 ISSUED BY MR. ABDUL RASHID DIVISIONAL FOREST OFFICER LOWER DIR FOREST DIVISION TIMERGARA

As recommended by Departmental Promotion Committee (DPC) in the meeting held under the Chairmanship of Divisional Forest Officer Lower Dir Forest Division Timergara on 18/9/2013, Mr. Muhammad Israr-I Forest Guard is hereby appointed as Forester BPS-09 (6200-380-17600) on Acting Charge basis till the availability of regular post with immediate effect.


The appointment is purely temporary and will not confer any right for continuity.


Sd/- (Mr. Abdul Rashid)
Divisional Forest Officer,
Lower Dir Forest Division,
Timergara.

No 643-46 IG,

Copy forwarded to the :

- ✓ 1- Conservator of Forests Malakand West Circle Timergara for favour of information please
- 2- SDFO Jandool for information and necessary action.
- 3- Official concerned for information and necessary action.
- 4- Divisional Head Clerk/Accountant for information and necessary action.


Divisional Forest Officer,
Lower Dir Forest Division,
Timergara


Divisional Forest Officer,
Lower Dir Forest Division,
Timergara



ATTESTED


43

GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NOTIFICATION

Dated Peshawar the 14th March, 2013

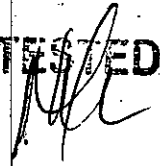
No.SO(Estt)Envt/1-465/2k12 In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, the Environment Department, Government of Khyber Pakhtunkhwa, in consultation with the Establishment and the Finance Department, hereby directs that in the Forestry, Fisheries and Wildlife Department's Notification No.SO(FT.II)1-465/88/Vol:IV dated 26.1.1993, the following further amendments shall be made, namely;

AMENDMENTS

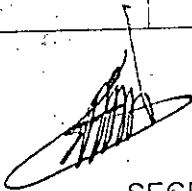
In the Appendix, under the heading "Forest Wing" in "PART-II SUB PROFESSIONAL POSTS", for the existing entries against S.No. 1, 2 & 3, the following shall be substituted in respective columns namely:-

#	Nomenclature of the post	Qualification for appointment by initial recruitment	Age limit	Method of recruitment
1	Deputy Forest Ranger (BPS-11)	a) B.Sc, Degree (atleast 2 nd Division) from a recognized University; and b)Physical Fitness: b(i) Height 5-6, ft (minimum); and (ii) Chest Size: 34-36, inches (minimum). <u>Note:-</u> Candidate Will qualify Marathon race of 2-Km within 20 minutes	21 to 32 years	a) Twenty-five percent by initial; recruitment; and b) Seventy-five percent by promotion, on the basis of seniority-cum-fitness, from amongst Foresters (BPS-9) having five years service, who have successfully completed such training or passed such departmental examination as may be prescribed by the Government from time to time. <u>Note-</u> The candidates who have been recruited will have to undergo the prescribed training for Forester at Khyber Pakhtunkhwa Forest School Thai Abbottabad; and
2	Forester (BPS-9)	a) Bachelor's Degree with FSc (atleast 2 nd Division) from a recognized University; and b)Physical Fitness: b(i) Height 5-6, ft (minimum); and (ii) Chest Size: 34-36, inches (minimum) <u>Note:-</u> Candidate Will qualify Marathon race	21-32 years	a) Twenty-five percent by initial; recruitment; and b) Seventy-five percent by promotion, on the basis of seniority-cum-fitness, from amongst Forest Guards of the Forest Division with atleast five years service as such, have passed such departmental examination as may be prescribed by the Government from time to time. <u>Note-</u> The candidates who, have been recruited will have to undergo two years certificate course in Forestry at Khyber Pakhtunkhwa Forest School Thai Abbottabad.

ATTESTED



3	Forest Guard (BPS-7)	<p>a) Intermediate with Matric. Science (at least 2nd Division) from a recognized Board; and</p> <p>b) Physical Fitness:</p> <p>b(i) Height 5-6, ft (minimum); and</p> <p>(ii) Chest Size: 34-36, inches (minimum)</p> <p>Note:- Candidate Will qualify Marathon race of 2-Km within 20 minutes</p>	18-28 years	<p>By initial recruitment.</p> <p>Note:- The candidates who have been recruited will have to undergo a year training course of Forest Guard at Khyber Pakhtunkhwa Forest School, Abbottabad.</p>
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SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT.

Endst: NO.SO(Estt)/Envt/1-465/2K:

Dated Peshawar the 14th March, 2013.

Copy is forwarded for information to:-

- 1) All Administrative Secretaries, Govt. of Khyber Pakhtunkhwa.
- 2) Accountant General, Khyber Pakhtunkhwa.
- 3) All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 4) Chief Conservator of Forests, Khyber Pakhtunkhwa.
- 5) Chief Conservator Wildlife Khyber Pakhtunkhwa.
- 6) All Conservators of Forests Khyber Pakhtunkhwa.
- 7) All Deputy Conservators/Divisional Forest Officer in Khyber Pakhtunkhwa.
- 8) All District Coordination Officers in Khyber Pakhtunkhwa.
- 9) Registrar Peshawar High Court/Service Tribunal, Khyber Pakhtunkhwa.
- 10) Secretary, Khyber Pakhtunkhwa Public Service Commission.
- 11) All Executive District Officers Finance in Khyber Pakhtunkhwa.
- 12) Director Budget & Accounts Cell, Environment Department.
- 13) All District Accounts Officers in Khyber Pakhtunkhwa.
- 14) Librarian, Government of Khyber Pakhtunkhwa, Establishment Department.
- 15) Manager Government Printing Press, Khyber Pakhtunkhwa, Peshawar for publication in the Official Gazette with the request that twenty printed copies of the notification, when published may be furnished to this department.
- 16) PS to Secretary Environment Department Khyber Pakhtunkhwa.
- 17) PA to Additional Secretary Environment Department.
- 18) PA to Deputy Secretary-I & II, Environment Department.
- 19) Master file.
- 20) Concerned file.


(FIDA-UL-KARIM)
SECTION OFFICER (ESTT:)

لکھوتے خباب سکھوں صاحبہ ماسوس نے صوبہ سرحد / 14/12/14 لکھوتے

84

مشابہ عالی !
گزشتہ دن سے، نوٹروم فارسٹ ڈومین بمطابق سناریٹی لسٹے
سٹرٹل غیبے پر ہے۔ اور سیریل نبرا صلح ارمان کوسروس
ٹریبونل نے پروویوشن سے رکھو اس پر ہے۔

17
23/2015 پر عدالت عالیہ لکھوتے میں گورنمنٹ نے

منصفین سناٹے ہوئے دسر فارسٹ ڈومین میں فارسٹ کے آسامی
ضامی ہونے پر کسی دوسرے ڈومین / ضلع سے فارسٹ کو تبدیل /
بھرتی نہ کرنے اور ضامی آسامی پیدا ہونے پر اسٹریٹریٹ فارسٹ گارڈ
کو پروویوشن کرنے کا منصفین سناٹا۔

17
اچے چونکہ دسر پاس فارسٹ ڈومین میں ورثہ $\frac{5}{2013}$ 29 اگست اور
نمبر 35 کے مطابق نبرا نادر خان (دی سیدہ الوالد باج) کا پروویوشن ہوا ہے
اور ڈو بوسٹے ضامی ہو گئے تھے۔

غائب عالی DFDO دسر نے عدالت کا منصفین نظر انداز کر کے
غیرک فیڈ سٹا ہ اجرا محمد اسرار فارسٹ گارڈ کو شرفی دی
اور بندہ بقیہ شرفی ہو گیا

اس لیے اچے صاحبان کے عدالت میں عرض ہے کہ اچے صاحبان میرا ہمارے
بندہ کو اپنے سناریٹی کے مطابق پروویوشن و عطاء فرمائیں کہ
کو سیدہ باجی ہوگی۔

الغرض

17
امکان ہے دررا محمد فارسٹ گارڈ دسر نوٹروم فارسٹ ڈومین میں پروویوشن

TESTEST

46



Total Number of sanctioned strength. = 64
 1) Normal = 35
 2) S.N.E. = 24
 3) District Government. = 05

SENIORITY LIST OF FOREST GUARD IN RESPECT OF LOWER DIR FOREST DIVISION AS STATED ON 30.6.2008.

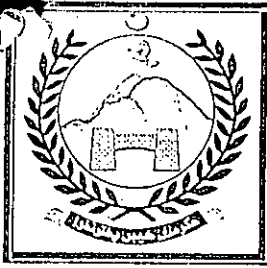
S.NO	Name of Forest Guard	Domestic	Date of birth	Educational qualification	Technical qualification.				Present post/ Adjustment.	Present grade	Remarks.
					Basic training	Up-gradation Training	Initial recruitment.				
1.	Alimur Rehman	Lower Dir	1957	FA	Trained	Trained	12.7.1981	12.7.1981	7		
2.	Akhtar Mohammad	-do-	08.4.1967	Matric	Trained	Un-trained	19.9.1985	19.9.1985	7		
3.	Mohib Shah	-do-	01.01.1963	Matric	Trained	Un-trained	30.10.1985	30.10.1985	5		
4.	Mohammad Israr-I	-do-	01.4.1967	FA	Trained	Un-trained	24.8.1986	24.8.1986	5		
5.	Mishajuddin	Upper Dir	01.8.1967	FA	Trained	Un-trained	25.8.1986	25.08.1986	5		
6.	Noor Mohammad	Lower Dir	18.9.1961	Matric	Trained	Un-trained	26.8.1986	26.8.1986	5		
7.	Khurshid Mumtaz	-do-	28.10.1965	Matric	Trained	Trained	28.8.1986	28.8.1986	5		
8.	Ehsaid Khan	Upper Dir	09.06.1968	FA	Trained	Un-trained	28.8.1986	28.8.1986	5		
9.	Mohammad Fayaz	Lower Dir	05.08.1968	BA	Trained	Un-trained	28.8.1986	28.8.1986	5		
10.	Iltbar Khan	-do-	16.1.1965	Matric	Trained	Un-trained	19.07.1987	19.07.1987	5		
11.	Sanaullah	-do-	20.10.1967	BA	Trained	Un-trained	20.7.1987	20.7.1987	5		
12.	Muhammad Amin	-do-	28.12.1958	FA	Trained	Un-trained	20.7.1987	20.7.1987	5		
13.	Dileer Wahid	-do-	01.5.1962	FA	Trained	Un-trained	23.7.1987	23.7.1987	5		
14.	Basit Nawab Jan	-do-	05.1.1963	Matric	Trained	Un-trained	23.11.1987	23.11.1987	5		
15.	Mohammad Rehman-I	-do-	21.4.1968	Matric	Trained	Un-trained	23.11.1987	23.11.1987	5		
16.	Jamshid Khan-I	-do-	20.1.1961	Matric	Trained	Un-trained	27.12.1987	27.12.1987	5		
17.	Nowsherawan	-do-	25.5.1963	Matric	Trained	Un-trained	27.11.1988	15.11.1989	5		
18.	Jilaram Khan	-do-	01.01.1964	Matric	Trained	Un-trained	21.11.1989	21.11.1989	5		
19.	Mohammad Israr-II	-do-	01.01.1967	Matric	Trained	Un-trained	21.11.1989	21.11.1989	5		
20.	Races Khan	-do-	20.2.1967	Matric	Trained	Un-trained	21.11.1989	21.11.1989	5	Working in Distt. Govt.	
21.	Ali Mohammad-I	-do-	03.05.1970	D.Com.	Trained	Un-trained	21.11.1989	21.11.1989	5		
22.	Ghulam Hussain	-do-	01.12.1967	FA	Trained	Un-trained	21.11.1989	21.11.1989	5		
23.	Kitayvallah	-do-	01.4.1971	BA	Trained	Un-trained	22.11.1989	22.11.1989	5		
24.	Muzafar Khan	-do-	09.3.1971	FA	Trained	Un-trained	23.11.1989	23.11.1989	5		
25.	Ali Haidar	-do-	06.03.1968	FA	Trained	Trained	23.11.1989	23.11.1989	5		
26.	Azizur Rehman	-do-	15.03.1968	Matric	Un-trained	Un-trained	26.11.1989	26.11.1989	5		
27.	Mohammad	-do-	14.04.1952	Matric	Trained	Un-trained	13.01.1990	13.01.1990	5		
28.	Nisar Ahmad	-do-	01.12.1962	Matric	Trained	Trained	15.01.1990	15.01.1990	5	Working in Distt. Govt.	
					Un-trained		29.01.1990	29.01.1990	5		

(1) - Contd

47

29	✓	Khali Ahmad	-do-	01.01.1967	FA	Trained	Un-trained	08.11.1990	08.11.1990	5	-
30	✓	Zakrullah	-do-	12.3.1967	FA	Trained	Un-trained	10.11.1990	10.11.1990	5	-
31	✓	Mohammad Islam	-do-	15.06.1971	FA	Trained	Un-trained	10.11.1990	10.11.1990	5	-
32	✓	Niaz Mohammad	-do-	01.4.1972	BA	Trained	Un-trained	10.11.1990	10.11.1990	5	-
33	✗	Zuban Shah	Upper Dir	16.01.1963	Matric	Un-trained	Un-trained	11.11.1990	11.11.1990	5	-
34	✓	Munawar Shah	Lower Dir	03.10.1971	Matric	Un-trained	Un-trained	11.11.1990	11.11.1990	5	Working in Distt. Govt.
35	✓	Shah Hussain	-do-	15.01.1971	MA	Trained	Trained	17.12.1991	17.12.1991	5	-
36	✓	Lal Badshah	-do-	15.04.1969	Matric	Un-trained	Un-trained	17.12.1991	09.02.1995	5	-
37	✓	Ali Mohammad-II	-do-	20.01.1971	Matric	Un-trained	Un-trained	17.11.1990	01.11.1995	5	-
38	✓	Khista Nabi	-do-	12.02.1969	BA	Un-trained	Un-trained	18.12.1989	06.10.1996	5	-
39	✓	Fazal Rabi	-do-	16.04.1970	Matric	Un-trained	Un-trained	21.02.1989	11.05.1998	5	-
40	-	Fakhrul Islam	-do-	17.02.1961	FA	Trained	Trained	15.12.1981	23.10.2000	7	-
41	✓	Mehamad Rehman-II	-do-	30.12.1958	FA	Un-trained	Un-trained	12.12.1979	04.06.2001	5	-
42	✓	Abdul Jamil	-do-	15.06.1965	FA	Trained	Un-trained	15.03.1982	06.08.2002	7	-
43	✓	Perviz Khan	-do-	16.03.1964	MA	Trained	Trained	15.06.1983	14.05.2003	7	-
44	✓	Hazrat Mohammad	-do-	03.07.1965	Matric	Trained	Un-trained	05.05.1984	14.12.2005	7	-
45	✓	Ahmad Wahid Jan	-do-	01.01.1964	Middle	Un-trained	Un-trained	16.06.1983	01.01.2002	5	-
46	✓	Zahir Shah	-do-	11.05.1961	Matric	Un-trained	Un-trained	18.02.1988	01.01.2006	7	-
47	✓	Ahmad Hussain	-do-	04.08.1965	BA	Trained	Un-trained	21.02.1988	01.07.2006	7	-
48	✓	Amir Hassan	-do-	13.02.1968	Matric	Un-trained	Un-trained	24.02.1988	01.07.2006	7	-
49	-	Mohammad Nacem	-do-	01.01.1963	Matric	Un-trained	Un-trained	01.03.1988	01.07.2006	5	-
50	✓	Macehuddin	-do-	24.03.1967	BA	Un-trained	Un-trained	05.03.1988	01.07.2006	5	-
51	✓	Jamshid Khan-II	-do-	01.01.1970	Matric	Un-trained	Un-trained	05.04.1988	01.07.2006	5	-
52	-	Wahid Zaman	-do-	23.03.1968	Matric	Trained	Un-trained	27.11.1989	01.07.2006	5	-
53	✓	Bakhtiar Ahmad	-do-	12.12.1957	BA	Un-trained	Un-trained	10.01.1980	02.07.2007	5	-
54	✓	Hukam Pass	-do-	01.06.1960	Matric	Un-trained	Un-trained	15.02.1982	02.07.2007	5	-
55	-	Mohammad Yaseen	-do-	1960	Matric	Un-trained	Un-trained	04.04.1988	02.07.2007	5	-
56	✓	Mohammad Farid	-do-	15.04.1962	Matric	Un-trained	Un-trained	16.04.1988	02.07.2007	5	-
57	✓	Shah Nawaz	-do-	01.05.1965	Matric	Un-trained	Un-trained	15.12.1988	02.07.2007	5	-
58	✗	Dost Mohammad	-do-	20.03.1971	Matric	Un-trained	Un-trained	05.11.1989	02.07.2007	5	Working in Distt. Govt.
59	✗	Mohammad Jan	-do-	04.12.1960	BA	Un-trained	Un-trained	26.04.1988	03.07.2007	5	-do-
60	✓	Ibrahim	-do-	02.01.1965	Matric	Un-trained	Un-trained	01.08.1988	04.07.2007	5	-
61	✓	Faramanullah	-do-	20.02.1987	Matric	Un-trained	Un-trained	05.07.2007	05.07.2007	5	-
62	✓	Ihsanullah	-do-	02.02.1963	Matric	Un-trained	Un-trained	04.04.1988	11.07.2007	5	-
63	✓	Ghulam Mustafa	-do-	30.08.1969	Matric	Un-trained	Un-trained	19.06.1990	13.07.2007	5	-
64	✓	Shah Room	NKD Agency	12.10.1967	Matric	Un-trained	Un-trained	21.02.1988	25.07.2007	5	-

(48)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NO.SO(Estt)Envt/1-3/2013/Lower Dir 1076/02

Dated Pesh:26th Nov. 2013

To

The Divisional Forest Officer,
Lower Dir Forests Division.

SUBJECT APPLICATION

I am directed to refer to the subject noted above and to enclose herewith a copy of an application in respect of Mr. Akhtar Mohammad, Forest Guard which is self-explanatory for urgent comments/views please.

[Handwritten Signature]
SECTION OFFICER (ESTT)

Endst:No.and date even.

Copy is forwarded for information to:-
1- The PS to Secretary Environment Department.

SECTION OFFICER (ESTT)

ATTESTED
[Handwritten Signature]

(49)

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 3396/2013

Akhtar Muhammad S/o Syed Muhammad
R/o Haider, P.O Khanpur
Tehsil Adenzai, District Dir Lower
Presently serving as Forest Guard
with Divisional Forest Officer, (DFO)
Lower Dir Forest Division at Timergara ...Petitioner

V E R S U S

1. Secretary to Govt. of Khyber Pakhtunkhwa,
Environment Department, at Civil Secretariat,
Peshawar
2. Divisional Forest Officer, Lower Dir, Forest
Division at Timergara.
3. Muhib Shah Forest Guard Dir (L)
Forest Division at Timergara
4. Muhammad Israr Forest Guard Dir (L)
Forest Division at TimergaraRespondents

**WRIT PETITION UNDER ARTICLE
199 OF THE CONSTITUTION OF
THE ISLAMIC REPUBLIC OF
PAKISTAN 1973, READ WITH
ALL THOSE OTHER PROVISIONS
OF LAW GOVERNING THE
SUBJECT MATTER.**

ATTESTED
[Signature]

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Respectfully Sheweth:-

1. That the petitioner was initially appointed as a forest guard in BPS-2 in the year. 1985 which has now been enhanced from 2 to 7.
2. That petitioner is at S.No.2 of the seniority list maintained by respondents while at S.No.1 Haleem ur Rehman case has already been decided by the authorities concerned /Khyber Pakhtunkhwa Service Tribunal, that's why he is on the top of the merit list.
3. That first time when the posts of Forester were because vacant the petitioner was ignored and Mr. Perhez Gar was transferred from District Government Swabi to Dir (lower) and the other post was filled through deceased employee's son quota through Imdad-ud-Din S/o Muslehddin (late) he filed an application addressed to the respondent No.2 who directed respondent No.3 in the following terms "*process the promotion case on merit as per provision in the rules and finalized the issue as early as possible vide order No.50/E dated 05.08.2009*" who sent the same to respondent No.5.
4. That then the petitioner filed a writ petition bearing No.2597/2009 for his grievance which

ATTESTED




was disposed of by the Hon'ble Chief Justice Mr. Justice Dost Muhammad Khan and Justice Liaqat Ali Shah vide order/judgment dated 01.12.2009. (Copies of the writ petition and order./judgment dated 01.12.2009 are attached as annexure "A").

5. That in the light of the said judgment the so called compliance report was submitted by the then DFO namely Muhammad Yousaf before this Hon'ble Court. (Copy of the said report is attached as annexure "B").
6. That when the judgment /order of this Hon'ble Court was not complied with the petitioner filed C.O.C No.23/2010 which was disposed of by his lordship Mr. Justice Dost Muhammad Khan Hon'ble the Chief Justice and Mr. Justice Liaqat Ali Shah vide order /judgment dated 30.11.2010. (Copies of C.O.C order / judgment are attached as annexure "C").
7. That the respondent promoted two Foresters to the posts of DRFO namely Nadar Khan and Abdul Wahid Bach and filled the said vacancies

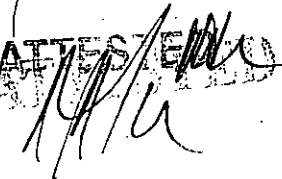
ATTESTED
[Signature]

through Mohib Shah and Muhammad Israr who are at S.No.3 and four of the seniority list and dropped the name of the petitioner. (Copy of the Seniority list is attached as Annexure C/1)

8. That once again the order of this Hon'ble Court has been violated and frustrated intentionally by the respondents with the malafide intention just to deprive the petitioner from his legal and fundamental rights who are not ready to provide the. Copies of their appointment /promotion order for which the petitioner applied (Copy of the application is attached as annexure "D").
9. That now the petitioner approaches this Hon'ble Court through the instant constitutional petition having no other adequate, alternate efficacious and speedy remedy (be read together) on the following amongst other grounds.

GROUND S:-

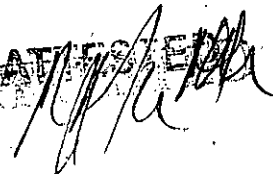
1. That to enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen wherever he may be, and of every other person for the time being within Pakistan.

ATTES TED


- 2. In particular
 - a. No action, detrimental to the life, liberty, body, reputation or property of any person, shall be taken except in accordance with law.

Under the above written article an executive authority can exercise only their powers/functions behind which there is force of some law, and whenever those actions are challenged, it is for the executive authority to establish under what law those powers were exercised and it is further on the courts to check the correct application of law.

- B. That all citizens are equal before law and are entitled to equal protection of law, which is the wordings and language of article 25 of the constitution. Discrimination works in the three ways but the matter of the petitioner is covered by the 2nd one i.e. where there is discrimination in the administration of law (law has been applied discriminatory) where the law gives wide discretion to public functionaries) (it is the in between stage, which is floating on the surface of the whole record.

ATTESTED




C. That there is a safe guard against discrimination in service provided by article 27 in a shape of an important fundamental right which is reproduced for easy reference as under

“No citizen, otherwise qualified for appointment in the service of Pakistan, shall be discriminated against, in respect of any such appointment, on the ground only of race, religion, caste, sex, residence or place of birth, but it has totally been ignored by the respondents along with the directions of this Honourable Court in a writ petition and C.O.C.

D. Any other ground may be taken at the time of arguments, with the kind permission of this Honourable Court.

For the aforesaid reasons, it is, therefore, humbly prayed that on acceptance of the instant petition, the respondent be directed to consider the petitioner being fit eligible and to fill the post/vacancy of Forester through him.

ATTESTED



INTERIM RELIEF:

That all the three ingredients like strong prima facie case, balance of convenience and irreparable loss are best inclined in favour of the Petitioner against the Respondents, hence, by way of an Interim Relief, the process of promotion to the post of Forester initiate by the Respondents be suspended till the final decision of the main case.

Petitioner
Through
Malik Mohammad Ajmal Khan
Advocate High Court

Dated: __/12/2013

Certificate

As per instructions of my client, it is certified that writ petition No. 2597/2009 has earlier been filed by the Petitioner before this Honourable Court followed by COC No. 23/2010 which were decided on 1/12/2009 and 30/11/2010 respectively by Mr. Justice Dost Mohammad and Mr. Justice Pir Liaqat Ali Shah (the then was).


Advocate

List of Books

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Case Law as per need.

Note:

Writ Petition No. 2597/2009 followed by COC No. 23/2010 were decided by Mr. Justice Dost Mohammad Khan and Mr. Justice Pir Liaqat Ali Shah (the then was), hence, the present Writ Petition may also be placed before his lordship. The COC No. 380/2013 has already been fixed for 15/1/2014. The present Writ Petition is also for the implementation of the Order/Judgment dated 1/12/2009 in Writ Petition No. 2597/2009, hence, be clubbed with COC No. 380/2013.


Advocate



IN THE PESHAWAR HIGH COURT, PESHAWAR

C.O.C No. 380-P/2013
In
W.P. No. 3597/2009
Decided on 01.12.2009



Akhtar Muhammad S/o Syed Muhammad
R/o Haider Post Office Khanpur,
Tehsil Adenzai, District Lower Dir
Presently Serving as Forest Guard BPS-7
Dir Forest Division at Timergara.....Petitioner

V E R S U S

1. Abdul Rashid presently serving as Divisional Forest Officer, Lower Dir Forest Division at Timergara
2. Fazad Khan presently serving as Section Officer, Environment Department at Civil Secretariat, Peshawar
3. Muhammad Yar Jan presently serving as Sub-Divisional Forest Officer, Timergara Forest Sub-Division at Timergara

.....Contemnors/Respondents

Petition under Article 204 of the Constitution of the Islamic Republic of Pakistan, 1973 read with section 3, 4, of the contempt of court Act/ ordinance and all those other provisions of law governing the subject matter

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Deputy Registrar

07 DEC 2009

ATTESTED
[Signature]

ATTESTED

EXAMINER
Peshawar

20 JAN 2010

(57)

for initiating contempt of court proceedings or punished the contemnors summarily.

Respectfully Sheweth:-

1. That the petitioner is the resident of the above given address, citizen of this mother land Pakistan who was initially appointed as Forest Guard BPS-2 in the year 1985 and subsequently promoted to BPS-7 on 01.12.2000.
2. That as per seniority list issued/maintained by the respondent No.1 on 31.10.2007 the petitioner has been shown at S.No.2, on the other hand the petitioner earned awards/prizes due to his hard work, dedication and honesty. (Copies of the certificates/awards are attached as annexure "A").
3. That the petitioner moved an application/representation/appeal to the secretary of his own department who Directed Chief Conservator of Forest to ensure the merits, who forwarded it to the then DFO (Divisional Forest Officer) concerned namely Muhammad Yousaf Khan to "Process the promotion case on merit as per provision in the rules and finalized the issue as early as possible

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EXAMINER
Peshawar High Court,
20 JAN 2014

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vide order No.50/E dated 05.08.2009, where after the said official sent the case of Muhammad Fayaz Forest Guard BPS-5 who was at S.No.9 of the said seniority list instead of the petitioner. (Copy of an application/representation is attached as annexure "B").

4. That the petitioner then filed a writ petition No.3597/09 which was disposed of by the Honourable D.B. consist on Mr. Justice Dost Muhammad Khan and Mr. Justice Liaqat Ali Shah (the then was) vide order/judgment dated 01.12.2009 with the directions to the then DFO to decide the representation/appeal of the petitioner according to the law and rules and eligibility criteria positively within one month and to report compliance. (Copy of the writ petition and order/judgment dated 01.12.2009 are attached as annexure "C").
5. That the said writ was filed on 10.10.2009 where in one of the ground i.e. (H) was specifically regarding the annual confidential report of 2008 which too were change later on due to his application for promotion and order thereon dated 05.08.2009.

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EXAMINER
Peshawar High Court,
20 JAN 2014

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6. That the then respondents when not complied the order/judgment of this Honourable Court . the C.O.C. No.23/10 was filed where in the notices were issued to them on 30.03.2010 where after they appeared and filed their written reply and the said COC was disposed of on 30.11.2010 with certain directions the relevant portion of the said order/judgment is reproduce for ready reference *"if any vacancy occurs in the set-up in future then, the petitioner must be considered for promotion on the desired seat but according to his seniority and on his own turn and he shall not be discriminated in any manner. It is further directed that in case any subsequent vacancy occurs in future then, it shall not be filled up through transfer of any other person from any other District or area because of the Notification of the Establishment Department, Government of Khyber Pakhtunkhwa and also held by this court in the earlier judgment"*. (Copies of the COC order sheets and order /judgment dated 30.11.21010 are attached as annexure "D").

7. That even today the contemnors are not ready to complied with the above referred order judgments because the contemnor No.1 sent a letter bearing

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EXAMINED
Peshawar High Court

20 JAN 2014

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No.434/E dated 06.09.2013 to contemnor No.2 which was duly replied by him through No.SO (Estt)ENVT/1-6/2011/4564 dated 16.09.2013. (Copy of letter is attached as annexure "E").

8. That in the light of the above the contemnor No.1 issued a promotion order bearing No.639-42/G dated 01.10.2013 of one Mohib Shah who was working as a Forest Guard to the post of Forester BPS-9 on the regular basis. (Copy of the order is attached as annexure "F"),
9. That the same was the case of Muhammad Israr Forest Guard BPS-7 who was at S.No.4 of the Seniority list was promoted on acting charge basis as a Forester and ignored again the petitioner and hence this petition on the following amongst others:

GROUND S:-

- A. That the contemnors/respondents have 'abused interfered with and intentionally disobeyed the orders/judgments of this Honourable Court in a cited writ petition and COC No.23/20101 and this Honourable Court has been empowered to punish any person who commits any of the acts mentioned in sub clauses of article 204.

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EXAMINER
Peshawar High Court
20 JAN. 2014

B. That any civilized community can not survive without well regularized laws, its therefore important to maintain the respect and dignity of the courts and its officer, whose task is to uphold and enforce the law, because without such respect, public faith in the administration of justice would be undermined and the law itself would fall into disrepute as cited as PLD 1996 SC 42 courts reflect the embodied force of the community whose rights they are appointed to protect.

C. That the courts/officers are not the associations of a few individuals claiming on their personal account special privileges and peculiar dignity by reason of their position like the contemnors in the present case of the petitioners the paramount importance must be given by every organ of a civilized government in which the administration of justice is retained as integral part of the machinery, to secure the courts, and in particular the superior courts of records from all attempts to interfere with them in the administration of justice, but it has been done in this matter.

D. That the contemnors are liable to be punished on the basis of available record and the contempt of

RECORDED
 Deputy Registrar
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ATTESTED
 EXAMINER
 Peshawar High Court
 20 JAN 2014



this Honourable Court floating on the surface of it which has been committed by them with their offensive acts many in numbers.

E. That the respondents are/were legally bound to obey the orders of this Honourable Court therefore comments a willful breach of an undertaking given to a court and with the intention to ends to bring the administration of law into disrespect and prejudice the process of law.

It is therefore, most humbly prayed that on acceptance of the instant petition an appropriate action be taken for the initiating of contempt of court proceeding OR

Punished the contemnors summarily through conviction and sentence of imprisonment and fine

Any other relief which has not specifically been asked for and is fit in the circumstances of the case may also be awarded in favour of the petitioner against the respondents.

ATTESTED

Through

Petitioner

Malik Muhammad Ajmal Khan
Advocate
High Court, Peshawar

Dated __/__/2013

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Deputy Registrar

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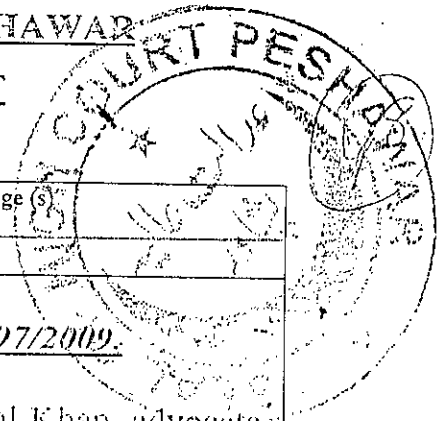
EXAMINER
Peshawar High Court.

20 JAN 2014

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PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET



Date of Order or Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
15.01.2014	<p><u>COC No.380-P/2013 in W.P. NO.3597/2009.</u></p> <p><u>Present:-</u> Malik Muhammad Ajmal Khan, advocate, for the petitioner.</p> <p>****</p> <p><u>ROOH-UL-AMIN KHAN, J.</u>-Through the instant petition under Article 204 of the Constitution of Islamic Republic of Pakistan, 1973, read with sections 3 and 4 of the Contempt of Court Act, petitioner Akhtar Muhammad seeks initiation of contempt of court proceedings against the respondents for alleged violation/non-compliance of the order dated 01.12.2009, passed by this court in W.P. NO.2597/2009.</p> <p>2. Learned counsel for the petitioner was heard at length and record appended with the petition gone through.</p> <p>3. It appears from the record that earlier the petitioner filed W.P. No.2597/2009 against the</p>

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ATTESTED *[Signature]*

ATTESTED *[Signature]*

respondents, which was decided by this court vide order dated 01.12.2009 and the following directions were given to the respondents:-

“In this view of the matter, we would direct respondent No.5 i.e. Divisional Forest Officer, to decide the representation/appeal of the petitioner according to law and rules and eligibility criteria positively within one month and to report compliance. This petition stands disposed of accordingly.”

4. Subsequently, the petitioner filed COC No.23/2010, which was disposed of on 30.11.2010. The operative part of the judgment is reproduced below:-

“If any vacancy occurs in the set-up in future then, the petitioner must be considered for promotion on the desired seat but according to his seniority and on his own turn and he shall not be discriminated in any manner. It is further directed that in case any subsequent vacancy occurs in future then, it shall not be filled up through transfer of any other person from any other district or area because of the Notification of the Establishment Department, Government of Khyber Pakhtunkhwa and also held by this

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EXAMINER
Peshawar High Ct

20 JAN 2014

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court in the earlier judgment.

This petition is accordingly disposed of in the above terms".

5. Record divulged that two vacancies of Forester BPS-09 occurred in the respondents' department, which have been filled up by promoting Mr. Mohib Shah and Mr. Muhammad Israr Forest Guards vide office orders Nos.22 and 23 dated 01.10.2013, by the Selection Committee strictly in accordance with law among the employees of the department without transfer of any other employee from other district as ordered by this court. Moreso, the promotion orders, have been challenged by the petitioner by filing W.P. No.3396-P/2013, which was also fixed today i.e. 15.01.2014, but met dismissal on the point of maintainability and jurisdiction.

6. From the bare reading of the orders of this court referred to above, it is manifest that the respondent/Divisional Forest Officer, had been directed to decide the representation/appeal of the petitioner, which has accordingly been decided.

Similarly, the respondents were also directed to fill up the vacant posts by promotion, in compliance whereof,

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EXAMINER
Peshawar

29 JAN 2014

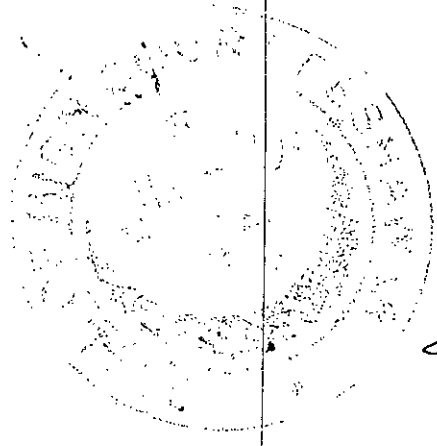
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the questioned posts have been filled by promotion. In this way, the orders of this court have been complied with by the respondents in letter and spirit. There is nothing in black & white to suggest that the respondents have violated the orders of this court which may call for taking legal action against them under the Contempt of court Act, resultantly, this petition being without any substance, stands dismissed in limine.

Announced:
15.01.2014

[Signature]
JUDGE
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JUDGE

sd Reehul Amin Khan
sd Abdul Latif Khan



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of Presentation of Application 20-1-14
 Pages 138
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 Examiner
 Peshawar High Court, Peshawar
 Authorized Under Article 87 of
 The Constitution of Pakistan 1973
 20 JAN 2014

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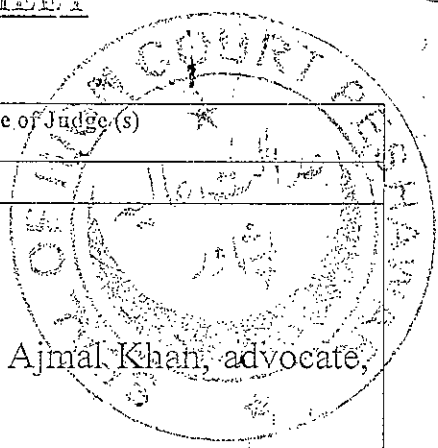
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PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

(62)

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge(s)
1	2
15.01.2014	<p><u>W.P. No.3396-P/2013</u></p> <p><u>Present:-</u> Malik Muhammad Ajmal Khan, advocate, for the petitioner.</p> <p>****</p> <p><u>ROOH-UL-AMIN KHAN, J.-Akhtar Muhammad</u> petitioner, who is Forest Guard in the respondents' department, is aggrieved from Office Order No.22 and 23 dated 01.10.2013, passed by respondent No.2/Divisional Forest Officer, Lower Dir, Forest Division at Timergara, whereby respondents No.3 and 4, have been promoted as Foresters BPS-09, thus, by way of the instant constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner seeks issuance of a writ to the effect that the impugned orders be set-aside and respondents be directed to consider him for promotion on the vacant post of Forester, being fit and eligible as well as on top of the seniority list.</p>



Rooh-ul-Amin Khan

ATTESTED *[Signature]*

ATTESTED
EXAMINED
Peshawar High Court
20 JAN 2014

2. We have gone through the impugned

orders of promotions but did not find a single word to show that the petitioner has been deprived of his alleged promotion on the ground of fitness or otherwise. By virtue of Section 4 (b) of Service Tribunals Act, 1973, no appeal shall lie to a Tribunal against an order or decision of a departmental authority, determining the fitness or otherwise of a person or hold a particular post or to be promoted to a higher grade. In case the petitioner had been denied the promotion on the basis of fitness, he could have filed a constitutional petition but in the instant case situation runs contrary. Undisputedly, the petitioner is serving the department as Forest Guard and falls in the category of a civil servant, therefore, the controversy pertaining to the terms and conditions of service would fall within the exclusive jurisdiction of the Service Tribunal. In such like cases, the jurisdiction of the High Court is barred by the express provisions of Article 212

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EXAMINER
Peshawar High Court

20 JAN 2014

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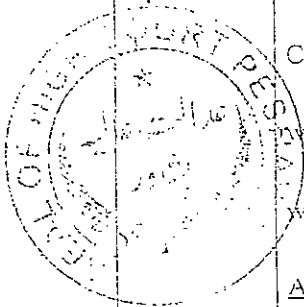
(2) of the Constitution of Islamic Republic of Pakistan, 1973, therefore, the proper course for the petitioner would be to knock at the door of the Service Tribunal for redressal of his grievance. Learned counsel for petitioner when confronted with the provisions of section 4 (b) of the Service Tribunals Act, 1973, and explicit bar contained in Article 212 (2) of the Constitution, he could not wriggle out of the situation. Service Tribunals have been established specifically for the matter pertaining to terms and conditions, enumerated in Chapter-II of the Civil Servant Act, 1973 which have exclusive jurisdiction in such matters.

3. In view of the constitutional bar, this Court has got no jurisdiction to entertain the instant writ petition, resultantly, the same is dismissed for want of jurisdiction in limine.

sd/- *Roohul Amin*
sd/- *Abdul Latif*
 JUDGE

Announced:
 15.01.2014

sd/-
 JUDGE

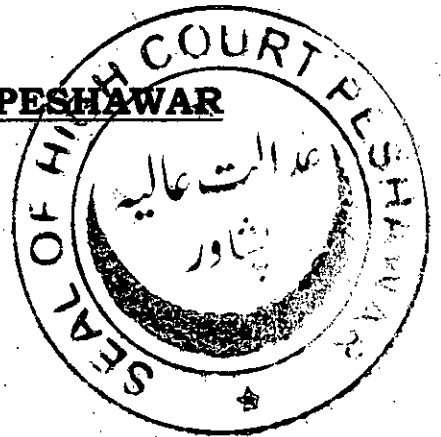


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 Date of Presentation of Application 20-1-14
 Pages 12
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Examined
 Peshawar High Court, Peshawar
 Authorized Under Article 87 of
 the Constitution of Pakistan Order 1984
 20 JAN 2014

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[Signature]

IN THE PESHAWAR HIGH COURT, PESHAWAR

Review Petition No. 12-P/2014
 In Writ Petition No.3396-P/2013

Akhtar Muhammad S/o Syed Muhammad
 R/o Haider, P.O Khanpur
 Tehsil Adenzai, District Lower Dir
 Presently serving as Forest Guard with
 Divisional Forest Officer, (DFO) Lower Dir
 Forest Division at Timergara**Petitioner**

VERSUS

1. Secretary to Govt. of Khyber Pakhtunkhwa,
 Environment Department, at Civil Secretariat,
 Peshawar
2. Divisional Forest Officer, Lower Dir, Forest
 Division at Timergara.
3. Muhib Shah Forest Guard Lower Dir
 Forest Division at Timergara
4. Muhammad Israr Forest Guard at Lower Dir
 Forest Division at Timergara**Respondents**

**Review petition in Writ Petition
 No.3396-P/2013 against the order/
 judgment dated 15.01.2014 passed
 by this Honourable Court whereby
 the titled writ petition was
 dismissed in limine which was filed**

FILED TODAY
 Deputy Registrar
 24 JAN 2014

ATTESTED
 EXAMINER
 Peshawar High Court,
 03 JUL 2014

for the implementation of an earlier order/judgment dated 01.12.2009 in writ petition No.2597/2009 disposed of by the Division Bench of this Hon'ble Court consist on Mr. Justice Dost Muhammad Khan & Mr. Justice Pir Liaqat Ali Shah (the Then was) and impugned order bearing No.22 and 23 of appointment /promotion dated 01.10.2013 in respect of the private respondent No.3 and 4 respectively.

Respectfully Sheweth:-

The facts giving rise to the instant review petition are as under:-

1. That the petitioner filed a writ petition alongwith COC No.380/2013 which were fixed before the Hon'ble Divisional Bench consist on Mr. Justice Roohul Amin Khan and Mr. Justice Abdul Latif Khan. (Copies of the writ petition & COC are attached as annexure "A").

FILED TODAY
Deputy Registrar,
24 JAN 2014

ATTESTED
EXAMINER
Registrar High Court,
03 JUL 2014

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**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT**

Rev. Pet. No. 12 of 2014 in
WP 3396/13

JUDGMENT

Date of hearing: 24-6-2014

Petitioner(s): Akhtar Muhammed by Malik Muhammad Ajmal
Khan Adv.

Respondent(s): Govt etc by Mr Nisar Ali Shah A.A.C.

NISAR HUSSAIN KHAN, J.- Through instant petition, petitioner seeks review of the judgment of this Court dated 15.1.2014 passed in Writ Petition No.3396-P/2013.

2. We have heard learned Counsel for the parties and have gone through the record with their valuable assistance.

3. Perusal of order under review reflects that writ petition of petitioner was dismissed for want of maintainability being barred by express provision of Article 212 (2) of the Constitution of Islamic Republic of

03/06/2014

Pakistan, 1973 because he was seeking promotion as Forester (BPS-09). This Court while attending to all legal and factual aspects of the case, ultimately, dismissed the writ petition and held that since petitioner has not been deprived of his alleged promotion on the ground of fitness, on which, writ petition can be entertained and for seeking promotion and consideration of his case, he can legitimately approach the Service Tribunal. During the course of arguments, learned Counsel for petitioner has failed to point out any such ground for review of earlier order of this Court. Admittedly, scope of review is very much limited, in which, neither the party can re-argue the case on same merits nor can seek modification of judgment under review unless a new fact is brought on record which was not in the knowledge of Court at the time of disposal of petition or any material evidence or documents have been ignored at the time of rendering earlier judgment. Thus, learned counsel for petitioner has failed to point out any such infirmity in the judgment under review.

Am

ATTESTED

EXAMINER
 Registrar High Court

03 JUL 2014

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4. Resultantly, this petition for review fails and is accordingly, dismissed.

Announced.
Dated: 24.06.2014

sd/ SP Musab Hussain Khan J
sd/ Musabbat H. Khan J

28/6

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Examiner
Peshawar High Court, Peshawar
Authorized Officer No. 87/88
The Gazette of Peshawar Order 1984

03 JUL 2014

No. 22206

Date of Presentation of Application 28-6-14

No of Pages 5P

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Date of Preparation of Copy 03-7-14

Date Given For Delivery 03-7-14

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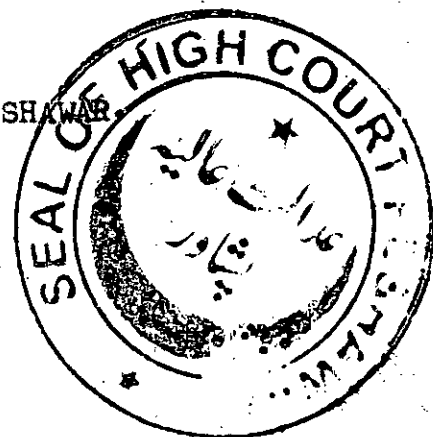
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IN THE PESHAWAR HIGH COURT, PESHAWAR.

Review petition No. 13-L 2014

IN

G.O.C. No. 389/2013



Akhtar Muhammad son of Syed Muhammad,
resident of Haider post office Khanpur Tehsil
Adenzai district Lower Dir presently serving as
Forest Guard in BPS-7 Dir Forest division at
Timergara petitioner

versus

1. Abdul Rasheed, presently serving as
divisional Forest Officer (DFO) Lower Dir
Forest division at Timergara.
2. Fazadkhan presently serving as section officer
Environment department at Civil Secretariat,
Peshawar.
3. Muhammad Yar Jan, presently serving as
Sub-divisional Forest Officer Timergara Forest
Sub-division at Timergara
..... Respondents.

REVIEW PETITION against the order/judgment
dated 15-01-2014 in G.O.C. No. 389/2013 in writ
petition No. 2597/09 by virtue of which this Hon'ble
Court dismissed the titled G.O.C. regarding the order/
judgment dated 01-12-09 passed by the Hon'ble Division
Bench consist on Mr. Justice Post Muhammad Khan,
Hon'ble Chief Justice and Mr. Justice Pir Liaqat Ali
Shah (His Lordship) the then was and order/judgment
dated 30-11-2010 in earlier G.O.C. No. 23/2010.

Respectfully sheweth:-

1. That the petitioner filed a titled G.O.C. No. 389/2013
against the respondents contenters before this Hon'ble
Court alongwith W.P.No. 3597/2013 for implementation of

ATTESTED
EXAMINER
Peshawar High Court.
03 JUL 2014

FILED TODAY
Deputy Registrar
24 JAN 2014

order/judgment dated 01-12-09 in writ petition No. 2597/09. (Copies of G.O.C. No. 380/2013, writ petition No. 3396/2013 and writ petition No. 2597/09 alongwith order/judgment dated 01-12-09 are attached as Annexure 'A').

2. That when an earlier order/judgment dated 01-12-09 in writ petition No. 2597/09 was not complied with the petitioner filed a G.O.C. No. 23/09 wherein the notice was issued to the then D.P.O. namely Muhammad Yousaf on 30-03-2010 followed by submission of his written reply in the court and undertaking to fill the vacant post through the petitioner. (Copies of the G.O.C. No. 23/2010 complete order sheets and order/judgment dated 30-11-2010 are attached as Annexure 'B').

3. That in the year 2013 the posts of Foresters were became vacant where by D.P.C. was constituted on 18-09-2013 and took the decision of promotion of respondent No.3 and appointment of respondent No.4 in the writ petition No. 3396-P/2013 through orders bearing No. 22 and 23 dated 1-10-2013 issued by respondent/contemner No.1 in violation of the orders/directions of this Hon'ble court in W.P.No. 2597/09 and G.O.C No. 23/2010.

4. That the petitioner filed writ petition No. 3396-P/2013 for implementation of the said order/judgments/directions of this Hon'ble Court alongwith the titled G.O.C. No. 380-P/2013.

5. That this Hon'ble Court dismissed the said G.O.C. and writ petition ignoring its earlier order/judgments on altogether different view/ground, hence the instant review petition on the following amongst other grounds :-

G R O U N D S

a) That the petitioner has filed no appeal against the order/judgment under review except the instant review.

EXAMINER
Peshawar High Court,
03 JUL 2014

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**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT**

Rev. Pet. No. 13 of 20/4 in
WP 2597/2009

JUDGMENT

Date of hearing: 24-6-2014

Petitioner(s): Akhtar Muhammed by Malik M. Ajmal Khan Adv.

Respondent(s): Abdul Rashid by Mr. Baiz Ali Shah A.A.B.

NISAR HUSSAIN KHAN, J.- Through

instant petition, petitioner seeks review of judgment of this Court dated 15.1.2014 passed in Contempt Petition No.380-P/2013 in Writ Petition No.2597/2009, which was dismissed.

2. We have heard learned Counsel for the parties and have gone through the record with their valuable assistance.

3. Perusal of the record suggests that initially while disposing of WP No.2597/2009, this Court vide order dated 1.12.2009 directed respondent No.5 i.e. Divisional Forest Officer to decide the representation / appeal of the

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EXAMINER
Peshawar High Court
03 JUL 2014

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petitioner, according to law and rules and eligibility criteria positively within one month. This initial order passed in WP No.2597/2009 was required to be implemented through contempt petition No.23/2010, in which some observations were made by this court. Later on, petitioner has filed another Contempt Petition No.380/2013, which was dismissed by observing that order of this Court has been complied with in letter and spirit and petitioner has not been promoted because other two eligible persons namely Mohib Shah and Muhammad Israr, Forest Guards have been promoted by the Selection Committee strictly in accordance with law.

4. The contempt petitions could have been filed, in case initial order passed in writ petition was not complied with, but office order dated 11.12.2009 addressed to the Registrar of this Court by the Divisional Forest Officer, Lower Dir, reflects that order of this Court dated 1.12.2009 was complied within a shortest possible time of ten days. After passage of that order, there was no need to file contempt petition but petitioner has time

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EXAMINER
Peshawar High Court.

03 JUL 2014

and again been filing different applications and the last one is the instant review petition, which is misconceived. In view of order passed by this Court, no case of review has been made out in light of record referred to herein above, because respondents were not directed to appoint or promote the petitioner but to decide his appeal / representation in accordance with law and in compliance thereof, they have acted legally and according to the rules and regulations, so no case of contempt was made out, as such, the same was rightly dismissed.

5. Likewise, no case of review has been made out because no such infirmity attracting review jurisdiction has been pointed out, hence, finding no merits, this review petition is dismissed.

Announced.
Dated: 24.06.2014

SP/ Nisat Hussain Khan J
SP/ Musabbat Hildebi J

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10.00

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Altaf Hussain, P.A.

Received by: *Altaf Hussain*

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court
Authorised Under Article 175 of
The Constitution of Pakistan

03 JUL 2014

Annexure D

OFFICE ORDER NO. 05 DATED 23/07/2014 ISSUED BY MR. PIR QAIM SHAH
CONSERVATOR OF FORESTS MALAKAND FOREST CIRCLE WEST TIMERGARA.

(80)

As recommended by Departmental Promotion Committee (DPC) in the meeting held under the chairmanship of Chief Conservator of Forests Central Southern Forests Region (Region-I) Khyber Pakhtunkhwa Peshawar on 10.06.2014, the following Forester of Malakand Forest Circle West are hereby promoted to the rank of Deputy Ranger (BPS-11) on regular basis with immediate effect:-

S#	Name of Forester
1	Wasil Khan
2	Muqaid Ullah

In case of abolition of the post (s) the newly promoted Deputy Ranger (s) will be reverted to their original cadre. The promotion is purely temporary and will not confer any right for continuity. They will be on probation for a period of one year in terms of section-5(2) of the Khyber Pakhtunkhwa Civil Servants Act 1973 read with Rule-15(1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1939.

Sd/-

(PIR QAIM SHAH)

CONSERVATOR OF FORESTS

MALAKAND FOREST CIRCLE WEST

TIMERGARA.

No. 119-23/G&L,

Copy forwarded to file:-

- 1) Chief Conservator of Forests, Central Southern Region (Region-1) Peshawar for favour of information with reference to his letter No.187-90/E, dated 18.07.2014 please.
- 2) Chief Conservator of Forests, Malakand Forest Region (Region-III) Shagai, Saidu Sharif, Swat for favour of information, please.
- 3) Divisional Forest Officers, Lower Dir Forest Division Timergara for information and necessary action.
- 4) All above named officials C/O their respective DFO for information.

CONSERVATOR OF FORESTS
MALAKAND FOREST CIRCLE WEST
TIMERGARA

ATTACHED

(Better Copy)

80

OFFICE ORDER NO. 05 DATED 23/07/2014 ISSUED BY
MR. PIR QAIM SHAH CONSERVATOR OF FORESTS MALAKAND
FOREST CIRCLE WEST TIMERGARA.

As recommended by Departmental promotion Committee (DPC) in the meeting held under the Chairmanship of Chief Conservator of Forests Central Southern Forests Region (Region-I) Khyber Pakhtunkhwa Peshawar on 10-07-2014, the following Forester of Malakand Forest Circle West are hereby promoted to the rank of Deputy Ranger (BPS-11) as regular basis with immediate effect.

S.No. : Name of Forests

1- Wasil Khan
2- Muqaid Ullah

In case of abolition of the post(s) the newly promoted Deputy Ranger(I) will be reverted to their original cadre. The promotion is purely temporary and will not confer any right for continuity. They will be on probation for a period of one year in terms of section (2) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(i) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rule, 1989.

Sd/---

(PIR QAIM SHAH)
CONSERVATOR OF FORESTS
MALAKAND FOREST CIRCLE WEST
TIMERGARA

No.419-2/2014/ G&L

- 1) Chief Conservator of Forests, Central Southern Region (Region-I) Peshawar for favour of Information with reference to his letter No.187/-90/B dated 18.07.2014 please.
- 2) Chief Conservator of Forest, Malakand Region (Region-I) Shangai Banda Sharif Swat for favour of information please.
- 3) Divisional Forest Officers, Lower Dir Forest Division + Timergara for information and necessary action.
- 4) All above named officials C/O their respective DFO for information.

Conservator of Forests
Malakand Forest Circle West
Timergara.

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WAKALATNAMA

IN THE Before the Iqbal Service Tribunal, Peshawar

Akhtar Muhammad (Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Appellant)
(Decree Holder)

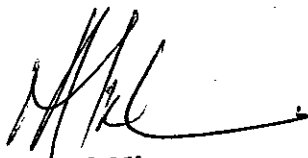
VERSUS

Chief Secretary & others (Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

I/We, Akhtar Muhammad S/o Syed Muhammad
at present serving as forest guard Distt Peshawar in the
above noted Service Appeal, do hereby appoint and constitute

Malik Mohammad Ajmal Khan Advocate, Peshawar to appear, plead, act,
compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel
in the above noted matter, without any liability for their default and with
the authority to engage/ appoint any other Advocate/ Counsel at my/ our
matter.


Attested & accepted



Malik Muhammad Ajmal Khan

Advocate C-10, Haroon Mansion,
Khyber Bazar, PESHAWAR
Cell#. 03339466004
0301-8866939

CLIENT/S



افترسی

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

C.M.No. _____/2014

In

Service Appeal No. _____/2014

Akhtar Muhammad. Petitioner/Appellant

Versus

Chief Secretary & others. Respondents

PETITION FOR FIXATION OF AN EARLY
DATE OF HEARING IN THE TITLED
SERVICE APPEAL.

Respectfully Sheweth:

1. That the titled service appeal is pending adjudication before this Honourable Tribunal and was fixed for 14.10.2014.
2. That on the said date, Civil Revision No.625/2011 titled "Munir Khan etc .Vs. Razia Bibi" was fixed before Peshawar High Court, Mingora Bench.
3. That due to the above reason, the case was adjourned to 18.12.2014.

*Advised - May be
fixed on 1-12-2014. 27/10/14*

*871
22-10-2014*

4. That there is a C.M with the main appeal which is for suspension of the operation of an impugned order and needs an early disposal, otherwise the said appeal will become infructuous.

It is, therefore, most humbly prayed that on acceptance of the instant petition, the titled service appeal may very graciously be fixed for an early date as convenient to this Honourable Tribunal.

Petitioner/Appellant

Through



Malik Muhammad Ajmal Khan
 Advocate, Peshawar

Dated: 17.10.2014

AFFIDAVIT

I, Malik Muhammad Ajmal Khan Advocate, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the instant **Petition** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.

ATTESTED


 22.10.2014
 Mian Sibghat Ullah Shah
 Advocate
 OATH COMMISSIONER
 High Court Peshawar




 DEPONENT

CNIC # -