


2.11.2015 Mr.Faisal Khan, Advocate on behalf of appellant and Mr.Ijaz-ur-Rehman, SDFO alongwith Mr. Muhammad Zubair, Sr.GP for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 8.3.2016 at Camp Court Swat.


Chairman
Camp Court Swat

08.03.2016 Appellant in person and Mr. Amir Qadir, G.P for respondents present. Application for withdrawal of the instant appeal has been submitted as grievances of the appellant have been redressed.

Dismissed as withdrawn.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

ANNOUNCED
08.03.2016


Chairman
Camp Court Swat
08.03.16

17.04.2015

Annexed Connected
Security & Process Fee

Counsel for the appellant present. Learned counsel for the appellant argued that appellant was promoted as Deputy Ranger on 29.05.2013 though he was entitled to promotion w.e.f 15.04.2009 being first position holder and entitled to said promotion under the previous rules. That he preferred departmental appeal against the same impugned order on 16.01.2014 which was rejected on 05.09.2014 and hence the instant service appeal on 15.09.2014.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 15.07.2015 before S.B.


Chairman

15.07.2015

None present for appellant. Mr. Ijaz Anwar, SDFO alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 7.9.2015 at Camp Court Swat as the matter pertains to the territorial limits of Malakand Division.


Chairman

07.09.2015

Counsel for the appellant and Mr. Ijaz-ur-Rehman, SDFO alongwith Mr. Muhammad Zubair, Sr. GP for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 2.11.2015 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

2.
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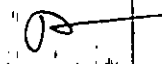
19.11.2014

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 03.02.2015 for the same.


Reader


3.
03.02.2015

Counsel for the appellant present. preliminary arguments partly heard. Since the matter required further clarification, therefore, pre-admission notice be issued to the AAG to assist the Tribunal on the point of maintainability as well as to contact the respondents for submission of complete record of the appellant. To come up for preliminary hearing on 17.03.2015.


Member

4.
17.03.2015



Counsel for the appellant and Asst. AG for the respondents present. Record not produced by the respondents. Last opportunity granted. To come up for preliminary hearing on 17.04.2015 before S.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1135 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15/09/2014	<p>The appeal of Mr. Sardar Saleh presented today by Mr. Bilal Ahmad Kakaizai 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	16-9-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>19-11-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

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

Service Appeal No. 1135 / 2014

SARDAR SALEH

V/s

Government of KPK etc.

I N D E X

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Annexure-"C"	Minutes of the Meeting dated 24.05.2013	17 - 18
Annexure-"D"	Promotion Orders of the Appellant	19
Annexure-"E"	Seniority List	20 - 22
Annexure-"F"	Departmental Appeal	23 - 25
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Annexure-"H"	Order dated 18.02.2013	28
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Annexure-"L"	Letter dated 14.07.2014	36
Annexure-"M"	Letter dated 21.08.2014	37
Wakalat Nama		



Appellant

Through:



BILAL AHMAD KAKAIZAI

(Advocate, Peshawar)

BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. 1135 / 2014

SARDAR SALEH,
Deputy Ranger / Range Forest Officer,
Dir Kohistan Forest Division, Shringal,
Upper Dir,

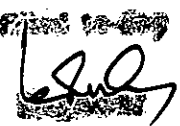
~~D. W. F. Division~~
~~Upper Dir~~
~~No. 1160~~
~~Dated 15/9/2014~~

..... Appellant

VERSUS

1. GOVERNMENT OF KHYBER PAKHTUNKHWA,
Through Secretary Environment,
Civil Secretariat, Peshawar.
2. CHIEF CONSERVATOR OF FORESTS, (CC-I)
Shami Road, KPK, Peshawar.
3. CONSERVATOR OF FORESTS,
Malakand West Circle, Timergara,
4. DIVISIONAL FOREST OFFICER,
Dir Kohistan, at Shiringle.

..... Respondents


15/9/14 APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974,
AGAINST SENIORITY LIST ISSUED IN THE MONTH OF OCTOBER 2013
AGAINST WHICH DEPARTMENTAL APPEAL DATED 16.01.2014 HAS
BEEN REJECTED VIDE ORDER NO. 09 DATED 05.09.2014.

Prayer: That, on acceptance of this Service Appeal, Impugned Order dated 05.09.2014 be declared illegal, unlawful, void and ineffective and Seniority List issued in the month of October 2013 be corrected / modified and Appellant be placed at Serial No. 8 instead of 25 with such other relief as may deem fit in the circumstances of the case may also be granted.

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:-

- 1) That, Appellant was promoted from the post of Forester to Deputy Ranger vide Order No. 62 dated 15.04.2009 in merit quota, copy of the Order is attached as Annexure A.
- 2) That, against the Promotion Order of the Appellant Mr. Nadir Khan Forester and others preferred their respective Service Appeals before this Honourable Tribunal which were decided on 22.02.2012 with the direction to reconsider the case of promotion against the vacant / available posts under the prescribed 25% quota on the basis of merit, copy of the Order dated 22.02.2013 in Appeal No. 1463 / 2009 is attached as Annexure B.
- 3) That, as per directions of the Tribunal, the Departmental Promotion Committee in its meeting held on 24.05.2013 considered the Appellant as well as other eligible candidates and recommended him fit for promotion, copy of the minutes of the meeting are attached as Annexure C. It is important to mention here that Mr. Nadir Khan and Abdul Wahid were promoted on the basis of seniority cum fitness while Appellant has been promoted on merit quota.
- 4) That, in consequence of Departmental Promotion Committee recommendations, the Competent Authority issued the Promotion Orders of the Appellant; copy of the same is attached as Annexure D.

- 5) That, thereafter in the month of October 2013 Final Seniority List of Deputy Rangers was issued whereby Appellant was placed at Serial No. 25 instead of Serial No. 8, copy of the Seniority List is attached as Annexure E.
- 6) That, the Department in order to save its skin did not circulate the Seniority List and Appellant received the same from one of his colleagues posted in the office of the Respondent No. 2, however Appellant preferred his Departmental Appeal on 16.01.2014 against the same, copy of the Appeal is attached as Annexure F.
- 7) That, the Competent Authority i.e. Respondent No. 3 rejected the Appeal of the Appellant on 05.09.2014, copy of the Impugned Appellate Order is attached as Annexure G. hence, this Service Appeal on the following amongst other grounds: –

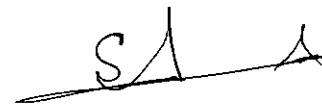
GROUNDS

- A. That, Impugned Seniority List, WHEREIN THE NAME OF THE Appellant is shown at Serial No. 25 instead of Serial No. 8 is illegal, unlawful, void and ineffective
- B. That, the same is against the principles of Natural Justice, also.
- C. That, Appellant has been considered and recommended by the Departmental Promotion Committee under the reserved merit quota while the other two incumbents i.e. Nadir Khan and Abdul Wahid have been considered and recommended by the Departmental Promotion Committee on the basis of seniority-cum-fitness.
- D. That, even otherwise the upper age limit of 35 years for the purpose of promotion, as mentioned in the Judgment, was deleted on 03.08.2009 and Appellant was eligible for promotion from 03.08.2009, as well.

- E. That, although, the Honourable Tribunal in its Order dated 22.02.2013 discussed the Order dated 18.02.2013 but only set aside orders dated 15.04.2009 & 27.05.2009 and Order dated 18.02.2013 still holds the field whereby the Promotion Order of the Appellant was regularized with effect from 15.04.2009, copy of the Order dated 18.02.2013 is attached as Annexure H.
- F. That, on Appeal dated 16.01.2014 filed by the Appellant Comments were called from other Official Respondents, which were submitted vide Letter dated 14.04.2014 in which it was reiterated that the case of the Appellant is genuine in nature, therefore, he deserves the promotion from the year 2009, copy of the Letter dated 14.04.2014 along with Covering Letters and Office Note dated 29.05.2014 are attached as Annexure J.
- G. That, it is important to mention here that when the case of the Appellant was considered and recommended for promotion by the Departmental Promotion Committee, the Rules of Merit Quota were already deleted and amended even than the Appellant was considered for promotion under the old rules because he deserved to be promoted, copy of the Notification dated 14.03.2013 is attached as Annexure K.
- H. That, if the Appellant has been considered and recommended for promotion under the old rules having merit quota as well than he deserves to be promoted from the year 2009 and his seniority will take effect from the year 2009.
- I. That, vide Letter dated 14.07.2014 and 21.08.2014 once again the Competent Authority reaffirmed the stance taken in earlier Letters in favour of the Appellant, copy of the same are attached as Annexure L & M.
- J. That, the Competent Authority did not set aside the clarifications and directions given to him vide different letters / communications etc and arbitrarily passed the Impugned Appellate Order against the norms of justice.

- K. That, the acts and omissions on part of the Respondents whereby they denied the promotion of the Appellant from 2009 is discriminatory and victimizing.
- L. That, the Competent Authority / Department did not considered or given weight to the recommendations and advices.
- M. That, the acts and omission of the Respondents are against Article 4, 25 and 27 of the Constitution of Islamic Republic of Pakistan, 1973.
- N. That, the practice of the Respondents will demoralize the objective of Civil Servants who believe in hard work both in theory and practice.

It is, therefore, requested that Appeal be accepted as prayed for.



Appellant

Through,



BILAL AHMAD KAKAIZAI

(Advocate, Peshawar)

BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. _____ / 2014

SARDAR SALEH

V/s

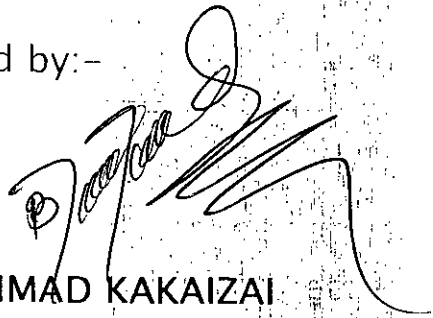
Government of KPK etc.

AFFIDAVIT

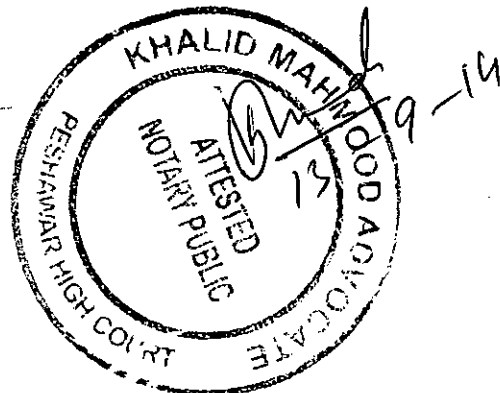
I, SARDAR SALEH, Deputy Ranger / Range Forest Officer Dir Kohistan Forest Division, Shringal, Upper Dir, Appellant, do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.


Deponent.

Identified by:-



BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)



BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. _____ / 2014

SARDAR SALEH V/s Government of KPK etc.


ADDRESSES OF PARTIES.

PETITIONER:


SARDAR SALEH, Deputy Ranger / Range Forest Officer Dir Kohistan
Forest Division, Shringal, Upper Dir,

RESPONDENT

1. Government of Khyber Pakhtunkhwa, Through Secretary
Environment, Civil Secretariat, Peshawar.
2. Chief Conservator of Forests, (CC-I), Shami Road, KPK,
Peshawar.
3. Conservator of Forests, Malakand West Circle, Timergara,
4. Divisional Forest Officer, Dir Kohistan, at Shiringle.


Appellant

Through,


BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

A (9) ~~2009~~

OFFICE ORDER NO 62 DATED SAIDU SHARIF THE 15 APRIL 2009 BY MR. ALAMGIR KHAN GANDAPUR,
CONSERVATOR OF FORESTS, MALAKAND CIRCLE, SAIDU SHARIF SWAT.

Mr. Sardar Saleh Forester of Dir Kohistan Forest Division was referred to the Departmental Promotion-Committee to consider him for promotion to the rank of Deputy Ranger against merit quota.

The D.P.C. in its meeting held on 19.02.2009 checked the record of the official wherein he was not found fit for promotion due to over age by two years and one month. The Secretary to Government of NWFP Environment vide order No. SO(ESTT)ENV/1-3/2K8/3950-53 dated 06.4.2009 has now granted age relaxation for two years and one month to the above named official. On issuance of age relaxation order, the official is entitled for promotion to the rank of Deputy Ranger as per remark recorded by the DPC in its minutes dated 19.02.2009. Therefore, he is hereby appointed/promoted to the rank of Deputy Ranger (BPS-9) against merit quota on acting charge basis against the vacancy occurred due to promotion of Deputy Rangers of Malakand Forest Circle to the rank of Forest Ranger with immediate effect.

The promotion is purely temporary and will not constitute any right for continuity. He will be on probation for a period of one year in terms of Section-6(2) of the NWFP Civil Servants Act 1973 read with Rule-15(1) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rule 1989.

Sd/-
(ALAMGIR KHAN GANDAPUR
CONSERVATOR OF FORESTS
MALAKAND CIRCLE SHAGAI
SAIDU SHARIF SWAT.

No. 11414-16 /E.

Copy forwarded to the:

1. Chief Conservator of Forests, NWFP Peshawar for favour of information with reference to endst. No.4486/E, dated 09.4.2009, please.
- ✓ 2. Divisional Forest Officer Dir Kohistan Forest Division Sheringal for information and further necessary action.
3. Official concerned for information.

A.M. Gandapur
CONSERVATOR OF FORESTS
MALAKAND CIRCLE SHAGAI
SAIDU SHARIF SWAT.

DKP

Attested

Better Copy

10

[Handwritten signature]

OFFICE ORDER NO.62 DATED SAIDU SHARIF THE 15 APRIL 2009 BY MR. ALAMGIR KHAN GANDAPUR CONSERVATOR OF FORESTS, MALAKAND CIRCLE, SAIDU SHARIF SWAT.

Mr. Sardar Saleh Forester of Dir Kohistan Forest Division was referred to the Departmental Promotion Committee to consider him for promotion to the rank of Deputy Ranger against merit quota. .

The D.P.C. in its meeting held on 19.02.2009 [REDACTED] checked the record of the official wherein he was not found fit For promotion due to over age by two years and one month. The Secretary to Government of NWFP Environment vide order No. SO(ESTT)ENV/1-3/2K8/3950-53 dated 06.04.2009 has now granted age relaxation for two years and one month to the above named official. On issuance of age relaxation order, the official is entitled for promotion to the rank of Deputy Ranger as per remarks recorded by the DPC in its minutes dated 19.02.2009. Therefore, he is hereby appointed/promoted to the rank of Deputy Ranger (BPS-9) against merit quota on acting charge basis against the vacancy occurred due to promotion of Deputy Rangers of Malakand Forest Circle to the rank of Forest Rangers with immediate effect.

The promotion is purely temporary and will not constitute any right for continuity. He will be on probation for a period of one year in terms of Section- 6(2) of the NWFP Civil Servants Act, 1973 read with Rule- 15(1) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

Sd/-
(ALAMGIR KHAN GANDAPUR)
CONSERVATOR OF FORESTS,
MALAKAND CIRCLE SHAGAI,
SAIDU SHARIF SWAT.

Copy forwarded to the:

1. Chief Conservator of Forests. NWFP Peshawar for favour of Information. With reference to his Endst. No.4486/E, dated 09.4.2009, please.
2. Divisional Forest Officer Dir Kohistan Forest Division Sheringal for information and further necessary action.
3. Official concerned for information.

AS
Attended

Sd/-
(CONSERVATOR OF FORESTS,
MALAKAND CIRCLE SHAGAI,
SAIDU SHARIF SWAT.

11 B



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL NO. 1463/2009

Date of institution ... 26.08.2009
Date of decision ... 22.02.2013

Nadir Khan, Forester,
Dir Kohistan Forest Division,
Dir Lower.

(Appellant)

VERSUS

1. The Secretary Environments, KPK Peshawar.
 2. The Chief Conservator of Forests, KPK Peshawar.
 3. The Conservator of Forests, Malakand Circle, Saidu Sharif Swat.
 4. The DFO Dir Lower.
 5. Mr. Sardar Saleh, Dy: Forest Ranger, Dir Kohistan Forest Division Dir Lower.
- (Respondents)

ATTESTED

EX-AMINER
Khyber Pakhtunkhwa Service Tribunal
Peshawar

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT 1974 AGAINST THE PROMOTION ORDER DATED 15.4.2009 WHEREBY THE JUNIOR MOST PRIVATE RESPONDENT HAS BEEN PROMOTED IN VIOLATION OF RULES BY IGNORING THE APPELLANT AND AGAINST NOT TAKING ACTION ON THE APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS.

Mr. Muhammad Asif Yousafzai,
Advocate.

For appellant

Mr. Arshad Alam, G.P
Mr. Sultan Ali Shah, Advocate

For official respondents No. 1 to 4
For private respondent No.5

Mr. Qalandar Ali Khan
Mr. Sultan Mehmood Khattak

Chairman
Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:-

As identical questions are

involved in this appeal and Appeal No. 1464/09 by Syed Abdul Wahid, Appeal No. 1634/09 by Nadir Khan, Appeal No. 1635/09 by Syed Abdul Wahid and Appeal No. 1768/09 by Mujtaba Khan, this single judgment will also dispose of the mentioned appeals.

2. All the aforementioned five appeals have been lodged by the appellants against the promotion of private respondents, namely, Sardar Saleh and Wisal

Attest

Khan on 15.4.2009 and 27.5.2009, respectively. The impugned promotion orders have been assailed on the ground that the appellants joined service as Foresters in the Forest Department either earlier than the private respondents or were senior in merit than the latter and were placed senior to private respondents in the seniority list. They claimed that they had also qualified the departmental examination at Thai School. According to the relevant rules, the criteria laid down for promotion of Foresters to the posts of Deputy Forest Rangers was as under:-

- “(a) Seventy-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Foresters in the Circle where the vacancies occur with five years service as such, who have successfully completed such training or passed such Departmental Examination as may be prescribed by the Government for the purpose; and
- (b) twenty-five per cent by promotion, on the basis of selection on merit, from amongst Foresters who have secured first position in Foresters training course at the Forest School with five years service or have secured five consecutive excellent annual reports and are below 35 years of age.”

ATTESTED
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

The appellants alleged that in utter violation of the aforesaid rules and in order to accommodate blue eyed, the respondent-department issued promotion orders whereby private respondents were promoted, though they were junior to the appellants and also not eligible for promotion. The appellants, therefore, preferred departmental appeals against the impugned promotion orders, and when received no response from the departmental authority within the statutory period, they lodged these appeals, inter-alia, on the grounds that the impugned

promotion orders were against law, rules, facts, norms of justice and material on record, therefore, not tenable; that the appellants have not been treated according to law and despite being eligible, they were not considered for promotion and thus legal right of promotion was denied to them; that despite the fact that private respondents were junior and had not secured first position in the prescribed examination, they were promoted in total violation of the rules; and that upper age was relaxed in the matter of first appointment, but in order to give undue advantage to the private respondents, the respondent-department adopted a wrong procedure for age relaxation.

3. The appeals were resisted both by the official respondents No. 1 to 4 as well as private respondent No. 5 by filing written replies/comments wherein a number of legal and factual objections were raised. This fact could not be denied by the respondents that appellants were senior to private respondents in the seniority list but they claimed that private respondents have been promoted on merit regardless of the seniority. While admitting this position that neither of the parties secured first position in the Foresters course, the respondents claimed that private respondent, Wasil Khan, secured first position in 10th up-gradation course. It was vehemently contended by the respondents that private respondents were promoted against 25 % promotion quota on the basis of selection on merit as they had secured five consecutive excellent annual confidential reports with five years service and that as compared to them, the appellants were not eligible for promotion. They further claimed that rules regarding age limit had been relaxed by the competent authority on the recommendations of standing service rules committee in its meeting held on 29.4.2009.

4. The appellants also filed rejoinders wherein besides refuting allegations of the private respondents, they reiterated their case; where-after arguments of the

ATTESTED
 Khairul Momin
 Service Tribunal
 Peshawar

learned counsel for the appellants, learned Govt. Pleader and learned counsel for private respondents were heard, and record perused.

5. It is an admitted fact that private respondents have been promoted against 25% quota for promotion on the basis of selection on merit from amongst Foresters who either secured first position in the Foresters training course at the Forest School with five years service or secured five consecutive excellent annual reports and were below 35 years of age. It is also an admitted position that neither the appellants nor private respondents secured first position in the Foresters course at the Sarhad Forest School Abbottabad at Thal. The respondents claimed that private respondent, Wasil Khan, secured first position in the 10th upgradation course for Foresters from 17.6.2005 to 4.10.2005, an upgradation course for less than four months; but they miserably failed to show that this is the same course prescribed in the rules for promotion on merit. Apart from the fact that no such claim has been made in respect of the other private respondent, namely, Sardar Saleh, the impugned promotion orders appear to be mainly based on the second ground of securing five consecutive excellent annual reports. In such an event when the promotion was being made on the basis of merit, it was incumbent upon the department, especially Departmental Promotion Committee (DPC), to have also considered ACRs of other eligible Foresters having five years service and were below 35 years of age, particularly those who were senior to the private respondents; instead of picking and choosing junior ones even on the false pretext of securing first position in the prescribed training course. Needless to say that respondents have not shown on record anything to the effect that the appellants were not eligible for promotion against the quota in question either on account of having less than prescribed service or their ACRs fell short of threshold of five excellent annual reports. In such a situation, the

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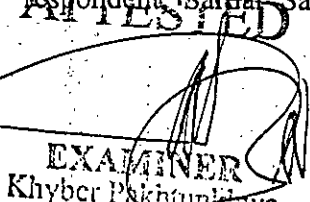
Kinshir J. Nair
Sd/- Kinshir J. Nair
Jalapur

consideration of only selected persons on merit, without placing ^{their} ~~his~~ cases in juxtaposition with the cases of other eligible and senior contenders, would obviously amount to contravention of the rules itself, to say the least.

6. Besides, in order to accommodate the private respondents, the authority went to extent of granting relaxation in the upper age limit simply on the basis of proposed amendments in the service rules of Deputy Rangers (BPS-9) by the Standing Service Rules Committee in its meeting held on 29.4.2009, without waiting for approval of the proposed amendments and notification by the competent authority, which was subsequently issued on 3.8.2009, thus showing indecent haste in pushing through the promotion case of the private respondents. There can hardly be a second opinion about the contention of the learned counsel for the appellants that relaxation in upper age limit is normally granted in cases of initial appointment/recruitment and that in the instant case the Standing Service Rules Committee cleared/approved proposed amendment for deletion of 35 years age limit from the service rules prescribed for promotion against merit quota and not relaxation in upper age limit.

7. The learned counsel for the appellants pointed out that private respondents have been promoted on acting charge basis against the declared policy of the government that appointment on acting charge shall be made either against posts which are likely to fall vacant for a period of six months or more and further when a most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service; but, according to the learned counsel for the appellants, the promotions in question do not meet either of the said two conditions. The learned counsel maintained that the concerned authority again violated the rules when private

respondent, Sardar Saleh, was regularized as Deputy Ranger in BPS-11 with

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

16

retrospective effect i.e 15.4.2009 vide order dated 18.2.2013 i.e during pendency of the appeals, and just few days before the final date of hearing, without placing the matter before DPC. In short, neither rules have been followed at the time of consideration of the case of promotion of the private respondents nor prescribed procedure has been observed before issuance of the impugned orders, which would render such orders void and illegal.

8. Consequently, on the acceptance of the appeals, the impugned promotion orders dated 15.4.2009 and 27.5.2009, are set-aside and the case is remanded/sent back to the respondent-department for reconsideration of case of promotion against the vacant/available posts under the prescribed 25% quota on the basis of merit while taking into consideration all eligible Foresters who fulfill the criteria laid down in the relevant rules, within reasonable time, but in no case later than ninety days from the receipt of this judgment/order. There shall, however, be no order as to costs.

M. Balender Ali Khan
Chairman
Sd/- Sultan Mahmood Khan
Member

ANNOUNCED
22.2.2013

Certified to be true copy

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

A
Attested

Date of Presentation of Application 9-9-2014
Number of Petitions 2400
Copy Fee 14-00
Urgent 2
Total 16
Name of Officer [Signature]
Date of Completion 9-9-2014
Date of Delivery of Copy 9-8-2014

Fax: (17) C

**MINUTES OF THE DPC MEETING HELD ON 24/5/2013 AT 11.00 HOURS IN THE OFFICE OF
CHIEF CONSERVATOR OF FORESTS CENTRAL SOUTHERN FOREST REGION KHYBER
PAKHTUNKHWA PESHAWAR**

A meeting of the DPC was held on 24/5/2013 at 11:00 Hours under the chairmanship of Chief Conservator of Forests Central Southern Forest Region Khyber Pakhtunkhwa Peshawar. The following attended:-

1. Mr. Mohammad Younus Khan
Chief Conservator of Forests Central Southern
Forest Region Khyber Pakhtunkhwa Peshawar In Chair
2. Mr. Shah Wazir Khan
Conservator of Forest Malakand West
Forest Circle Timargara Member
3. Mr. Fida-ul-Karim
Section Officer (Estt.)
Govt. of Khyber Pakhtunkhwa
Environment Department Peshawar Member

The DPC considered the following cases of Khyber Pakhtunkhwa Forest Department and took decisions recorded in each case, as under:-

**PROMOTION/APPOINTMENT OF FORESTERS TO THE POST OF DEPUTY RANGERS BPS-11 ON
REGULAR BASIS IN RESPECT OF MALAKAND WEST FOREST CIRCLE AT TAIMARGARA**

There are 6 posts of Deputy Ranger in Malakand West Forest Circle against which two Deputy Rangers are available namely Umar Hakim and Mohammad Yousaf resulting that 4 posts are vacant at present. Secondly one Mr. Fazal Khaliq Forest Ranger has been down graded from BPS-16 to BS-15 vide Govt. of Khyber Pakhtunkhwa Environment Department order dated 5/4/2011 for 3 years and his name has been included in the list of Deputy Ranger issued by CCF-1 on 30/4/2013.

As such, the following Forester on seniority cum fitness as well as merit quota are recommended for promotion/appointment to the post of Deputy Ranger (BS-11) in light of Khyber Pakhtunkhwa Service Tribunal decision dated 22/2/2013.

S. No	Name of Forester	Recommendation
1	Nadir Khan	The DPC cleared him for promotion to the post of Deputy Ranger (BS-11) on regular basis. ✓
2	Abdul Wahid	The DPC cleared him for promotion to the post of Deputy Ranger (BS-11) on regular basis. ✓
3	Sardar Saleh	The DPC cleared him for promotion to the post of Deputy Ranger (BS-11) on regular basis (in light of Service Tribunal decision)

A
Attest

18

4	Wasil Khan	The DPC cleared him for appointment to the post of Deputy Ranger (BS-11) on acting charge basis till the availability of <i>regular post.</i>
---	------------	---

Shah Wazir Khan
Mr. Shah Wazir Khan
Conservator of Forest Malakand
West Forest Circle Timargara
(Member)

Fida-ul-Karim
Mr. Fida-ul-Karim
Section Officer (Estt.)
Govt. of Khyber Pakhtunkhwa
Environment Department
Peshawar
(Member)

Mr. Mohammad Younus Khan
Chief Conservator of Forests Central Southern
Forest Region Khyber Pakhtunkhwa Peshawar
(Chairman)

A
Attested

(19) D

OFFICE ORDER NO. 35 DATED TIMERGARA THE: 29/05/2013 ISSUED BY MR. SHAH WAZIR KHAN 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 Forest Region (Region-I) Khyber Pakhtunkhwa Peshawar on 24.05.2013, the following Foresters of Malakand Forest Circle West are hereby promoted to the rank of Deputy Ranger (BPS-11) on regular basis with immediate effect.

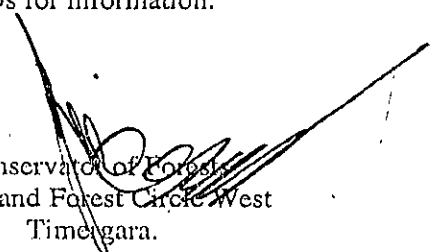
S.No.	Name of Forester.
1)	Mr. Nadar Khan. ✓
2)	Mr. Abdul Wahid.
3)	Mr. Sardar Saleh. ✓

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 Servant Act 1973 read with section-5(1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1939.

Sd/-
(Mr. Shah Wazir Khan)
Conservator of Forests
Malakand Forest Circle West
Timergara.

Copy forwarded to the:-

- 1) Chief Conservator of Forests, Central Southern Region (Region-I) Peshawar for favour of information with reference to his letter No.3781/E, dated 29.05.2013 please.
- 2) Chief Conservator of Forests, Malakand Forest Region (Region-III) Shagai, Saidu Shadif, Swat for favour of information please.
- 3) Divisional Forest Officer, Lower Dir Forest Division Timergara for information and necessary action.
- 4) Divisional Forest Officer, Upper Dir Forest Division Dir for information and necessary action.
- 5) All above named Officials C/O their respective DFOs for information.


Conservator of Forests
Malakand Forest Circle West
Timergara.

Attest

To,

(23)

F

THE CHIEF CONSERVATOR OF FORESTS,
REGION-I, PESHAWAR

Subject: APPEAL FOR RESTORATION OF SENIORITY FROM RETROSPECTIVE DATE

RESPECTED SIR,

Most respectfully I beg to state that during the year 2009, the conservator of forests Malakand Forest Circle was processed the promotion case of foresters to the post of Deputy Ranger in the said Circle. Due to overage the undersigned preferred an appeal to the Chief Minister Khyber Pakhtunkhwa, being competent authority, for relaxation in upper age limit. The Chief minister approved my appeal through a summary and the Administrative department issued necessary order with the direction that his case for promotion may be processed. (annexure A).

The department^{al} promotion committee considered me for promotion to ~~of~~ ^{on the} post of deputy ranger and the Conservator of Forests Malakand issued my promotion order with the condition that the promotionⁱ will be on probation for a period of 1 year. (Annexure B).

Later on the undersigned preferred another appeal to the worthy secretary environment for consideration of his promotion on regular basis w.e.f 15/04/2009. (Annexure C).

The Administrative Department accepted my appeal and the Conservator of Forests Malakand West Circle was issued my promotion order from retrospective date i.e. 15/04/2009. (Annexure D).

In the mean time two foresters namely Mr. Abdul Wahid and Mr. Nadir Khan gone to the services tribunal with a Service Appeal against undersigned promotion orders. After a lapse of 4 years the services tribunal decided the subject appeal and directed the department that the subject promotion case may be reconsidered



24

through Departmental Promotion Committee a fresh, as well as 25% merit quota may also be considered. (Annexure E).

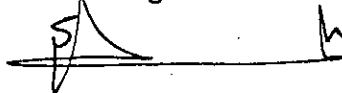
In light of services tribunal directions the meeting of the departmental promotion committee held under the chairman ship of Chief Conservator of Forest Region – 1 Peshawar and the undersigned was again promoted against 25% merit quota with a post of Deputy Ranger. (Annexure F).

In view of the above forgoing paras the departmental promotion committee withhold the previous decision of the committee and the undersigned promoted again in the subject committee meeting. Now the undersigned is requesting that the post of deputy ranger against 25% merit quota was lying vacant w.e.f 15/04/2009 and the undersigned worked / performed his duties against the said post from that date. The departmental promotion committee, in light of services tribunal directions also considered the ACRs of the previous working paper considered by the Departmental Promotion Committee of that time, as well as against 25% merit quota.

It is therefore, requested that the undersigned may be promoted from 15/04/2009 under the promotion policy 2009 and my inter-se seniority may be restored from retrospective date i.e. 15/04/2009.

A
Attested

Undersigned



Mr. SARDAR SALEH 16-1-014

Deputy Ranger /


Range Forest Officer

Shringal Dir Kohistan

Forests Division

25

243


Chief Conservator of Forests Central Southern Forest Region-I Khyber Pakhtunkhwa Peshawar		Shami Road Peshawar Phone # 091-9212177 Fax # 9211478 E-mail: chief_forest@gmail.com
No. 2458 /E A-XII-4CB1		Dated Peshawar the 6 /2/2014


The Chief Conservator of Forests
Malakand Forest Region-III Saidu Sharif Swat

Subject: APPEAL FOR RESTORATION OF SENIORITY FROM RETROSPECTIVE DATE

Memo:

Enclosed please find herewith photo copy of the appeal in respect of Mr. Sardar Saleh Deputy Ranger alongwith connected documents for your comments at an early date.


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


Attested

OFFICE ORDER NO. 09 DATED 05/09/2014 ISSUED BY PIR QAIM SHAH
CONSERVATOR OF FORESTS MALAKAND FOREST CIRCLE WEST AT TIMERGARA.

Mr. Sardar Saleh was promoted to the rank of Deputy Ranger vide Conservator of Forests Malakand West Office Order No.35, dated 29.05.2013 with immediate effect. He preferred an appeal against the Office Order No.35, dated 29.05.2013 to the Chief Conservator of Forests Central Southern Region (Region-I) Peshawar that he may be promoted from 15.04.2009 under the promotion policy 2009 and his inter se seniority may be restored from retrospective date i.e. 15/04/2009.

From the perusal of record Mr. Sardar Saleh was promoted vide Conservator of Forests Malakand Office Order No.62, dated 15.04.2009 and Mr. Wasli Khan was promoted vide Conservator of Forests Malakand Camp office order No.01, dated 27.05.2009 on the recommendation of the minutes of the meeting of the DPC held on 24/05/2009 to the post of Deputy Ranger.

Whereas M/S Nadar Khan and Syed Abdul Wahid preferred appeals to Service Tribunal Khyber Pakhtunkhwa Peshawar against the Conservator of Forests Malakand Office Order No.62, dated 15.04.2009 and Camp Order No.01, dated 27.05.2009.

Whereas on acceptances of appeal the Service Tribunal Khyber Pakhtunkhwa set aside the Office Order No.62, dated 15.04.2009 and Office Order No.01, dated 27.05.2009 vide detailed judgment announced on 22.02.2013 reproduced below:

Vide detailed judgement of today, placed on connected appeal No.1463/09 titled "Nadir Khan v/s Secretary Environments, KPK, Peshawar etc" on the acceptance of the appeal, the impugned promotion order dated 15.04.2009 is set aside and the case is remanded/sent back to the respondent- department for re-consideration of case of promotion against the vacant/available posts under the prescribed 25% quota on the basis of merit while taking into consideration all eligible foresters who fulfil the criteria laid down in the relevant rules, within reasonable time, but in no case later than ninety days from the receipt of this judgement/order. There shall, however, be no order as to costs.

Whereas in compliance to the decision of the honorable Service Tribunal Khyber Pakhtunkhwa Peshawar the Conservator of Forests Malakand Forest Circle East Saidu Sharif Swat withdrawn/set aside the above promotion orders i.e. (Office Orders No.62, dated 15.04.2009 and Camp No.01, dated 27.05.2009) vide his office order No.42, dated 11.04.2013 and fresh working paper for promotion of Forester to the post of Deputy Ranger was prepared.

Whereas on production of working papers for the Departmental Promotion Committee meeting held on 24.05.2013, while in Final Seniority list of Foresters as stood on 30.04.2013

Attested

KID WEST TIMERGARA

prepared/issued vide Conservator of Forests Malakand West No.5261-6A/E, dated 02.05.2013
 M/S. Nadir Khan was at Serial No.01, Syed Abdul Wahid at S/No.02, Mr. Wasil Khan at S/No.03 and
 Mr. Sardar Salih was at S/No.14 and accordingly to the DPC meeting, the aforementioned office
 order No.35, dated 29.05.2013 was issued with immediate effect.

(27)

Whereas under the ESTA CODE Khyber Pakhtunhwa (Revised edition 2013) under the rules *Khyber Pakhtunhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, Part - VI Seniority at S.No.17*

(1) the seniority inter se of civil servants ⁵⁵(appointed to a service, cadre or post) shall be determined:-

(a) In the case of persons appointed by initial recruitment, in accordance with order of merit assigned by the commission ⁵⁶ [or as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection; and

(b) In the case of civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.

Keeping in view of the above ex position it is cleared that there is no ground to accept the appeal of Mr. Sardar Saleh Deputy Ranger, hence rejected.

Sd/-

(Pir Qaim Shah)
 Conservator of Forests,
 Malakand Forest Circle West
 Timergara.

No. 1203-5 /E.

Copy forwarded to the:-

1. Chief Conservator of Forests Central Southern Region (Region - I) at Peshawar for favour of information with reference to his office letter No.3637/E, dated 25.04.2014, please
2. Chief Conservator of Forests Malakand Forest Region (Region - III) at Saidu Sharif Swat for favour of information with reference to his office No.629/E, dated 21.08.2014, please
3. Mr. Sardar Saleh Deputy Ranger Sheringal Forest Range c/o of DFO Dir Kohistan Forest Division at Sheringal for information.


No:- 806 /G dated:- 5.09.2014
 Mr. Sardar Saleh DR 1/c Sheringal Forest
 Range for information

5/9/2014
 Conservator of Forests,
 Malakand Forest Circle West
 Timergara.

DFO DK
 05-09-2014

Attested

29 J

Conservator of Forests. Malakand Forest Circle West		Timergara, Lower Dir
		<input type="checkbox"/> Ph. 0945-9250120 <input type="checkbox"/> Fax. 0945-9250118
Email: cf mkd w@yahoo.com		

No. 5922 /E. Dated Timergara thc: 14 /04/2014.

To
 The Chief Conservator of Forests,
 Malakand Forest Region (Region-III)
 Shagai, Saidu Sharif, Swat.

Subject:- APPEAL FOR RESTORATION OF SENIORITY FROM RETROSPECTIVE DATE.

Memo: P. 175
 Reference your endst. No.3335/E, dated 11.02.2014.

<<<<<>>>>

Para wise comments furnished by the Divisional Forest Officer, Dir-Kohistan Forest Division Sheringal are as under:-

- 1) Need no comments. The office order No.62 dated 15.04.2009 was issued against merit quota by Conservator of Forests Malakand Forest Circle and the appellant was promoted to the Rank of Deputy Ranger.
- 2) Need no comments. The competent Authority granted age relaxation vide Administrative Department No.SO(Est) Env/1-3/2k8 dated 06.04.2009 and similarly granted exemption from probation vide Administrative Department No.SO(Est) Env/1-3.2k12 dated 08.02.2013. Thus Conservator of Forests Malakand Forest Circle West rightly issued office order No.30 dated 18.02.2013 for granting promotion from the retrospective dated i.e. 15.04.2009.
- 3) Need no comments being honorable court decision dated 22.02.2013 in service appeal No.1463/2009. The concluding para of decision is reproduced as:
 (8 consequently on acceptance of the appeal, the impugned promotion order dated 15.04.2009 and 27.05.2009, are set aside and the case is remind sent back to respondent department for reconsidering of case of promotion against the vacant post available post under the prescribed 25% quota on the basis of merit while taking into consideration all eligible Forester who fulfill the criteria laid down in the relevant Rules, within reasonable time, but in no case later than ninety days from the receipt of this judgment order. There shall however no order as to cost).
- 4) In compliance to decision of service tribunal, amongst other the appellant was reconsidered for promotion to the Rank of Deputy Ranger against 25% Merit Quota and was promoted to the Rank of Deputy Ranger vide Conservator of Forests, Malakand Forest Circle West Officer order No.35 dated 29.05.2013 with immediate effect i.e. from 29.05.2013.

D
 Attested

(28) H

OFFICE ORDER NO. 30 DATED TIMERGARA THE: 18 /02/2013
ISSUED BY MR. HASHAM ALI KHAN CONSERVATOR OF FORESTS
MALAKAND WEST FOREST CIRCLE TIMERGARA.

As per directive contained in the letter of Administrative Secretary of Khyber Pakhtunkhwa Environment Department bearing No.SO(Estt)/Env/1-3/2K12/537/WC, dated 08.02.2013 addressed to the Chief Conservator of Forests Central Southern Forest Region (Region -I) Peshawar received with his office letter No.2300/E:BXII-4(B), dated 13.02.2013, the promotion on Acting Charge Basis of Mr.Sardar Saleh Deputy Ranger is hereby regularized in BPS - 11 (Rs.6600-460-20400) in the best interest of public service with retrospective effect i.e. 15.04.2009.

Sd/-

(Hasham Ali Khan)
Conservator of Forests
Malakand West Forest
Circle Timergara.

No. 3735-40 /E.

Copy forwarded to the:-

- 1) Chief Conservator of Forests Central Southern Forest Region (Region-I) Peshawar for favour of information with reference to his letter quoted above, please.
 - 2) Chief Conservator of Forests, Malakand Forest Region (Region-III) Shagan, Saidu Sharif, Swat for favour of information please.
 - 3) Section Officer (Estt), Environment Department Khyber Pakhtunkhwa Peshawar with reference to his letter quoted above.
 - 4) Divisional Forest Officer, Dir Kohistan Forest Division Sheringal.
 - 5) Mr. Sardar Saleh Deputy Ranger at Sheringal.
 - 6) Office order file.
- For information and necessary action.

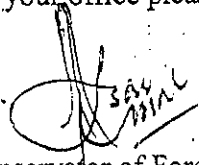
Hasham Ali 18/2/2013
Conservator of Forests
Malakand West Forest
Circle Timergara.

Attested

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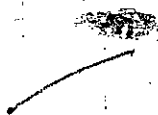
- 5) The appellant has to be placed in the Seniority list of Deputy Ranger considering his date of promotion at proper place in the light decision of Service Tribunal.
- 6) As the promotion of the appellant amongst the other was in compliance to Honourable Court (Service Tribunal) decision otherwise Merit Quota was not withstanding in 2013. The appeal deserves to be accepted and the appellant deserves to be promoted from the date of previous order i.e. 15.04.2009 and subsequently accommodated at proper series of Seniority List of Deputy Rangers.

Submitted for favour of further necessary action in your office please.

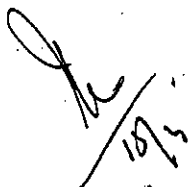

Conservator of Forests,
Malakand Forest Circle West
Timergara.


No. _____/E,

Copy forwarded to the Divisional Forest Officer, Dir-Kohistan Forest Division Sheringal for information with reference to his letter cited above.


Conservator of Forests,
Malakand Forest Circle West
Timergara.

SENT
for approval of Director


10/13
CD-111-1211


Attested

(31)

OFFICE OF THE CHIEF CONSERVATOR OF FORESTS MALAKAND FOREST REGION
(REGION-III) SAIDU SHARIF SWAT.

To

The Chief Conservator of Forests,
Central Southern Forest Region-1,
Khyber Pakhtunkhwa Peshawar.

No. 4375 /E, Dated Saidu Sharif the 17/04/2014.

SUBJECT:- APPEAL FOR RESTORATION OF SENIORITY FROM
RETROSPECTIVE DATE.

Memo:

Reference your letter No.2458/E, dated 06/2/2014.

As desired, parawise comments on the subject appeal have been furnished by Conservator of Forests, Malakand West Forest Circle vide his letter No.5922/E, dated 14/4/2014 a copy of which is enclosed herewith for favour of further necessary action in your office, please.


Encl: As above

CHIEF-CONSERVATOR OF FORESTS
MALAKAND FOREST REGION (REGION-III)
SAIDU SHARIF SWAT.

No. /E,

Copy forwarded to the Conservator of Forests, Malakand West Forest Circle at Timergara for information with reference to his letter cited above.

CHIEF CONSERVATOR OF FORESTS
MALAKAND FOREST REGION (REGION-III)
SAIDU SHARIF SWAT.


A. U. J. A.

OFFICE OF THE CHIEF CONSERVATOR OF FORESTS CENTRAL SOUTHERN FORESTS REGION KHYBER PAKHTUNKHWA PESHAWAR.

(32)

The Chief Conservator of Forests Malakand Forest Region-III Swat.

No. 3637/E,
B-211-4(B)

Dated Peshawar the 25/4/2014.

Subject: APPEAL FOR RESTORATION OF SENIORITY FROM RETROSPECTIVE DATE.

Memorandum: Reference your letter No. 4375/E, dated 17.4.2014.

P-197

In the subject case of Malakand West Circle Timergara is the competent authority, therefore being initiating authority for promotion of Forester to the rank of D/Ranger the CF concerned may decide the case accordingly on merit.

CHIEF CONSERVATOR OF FORESTS CENTRAL SOUTHERN FOREST REGION KHYBER PAKHTUNKHWA PESHAWAR.

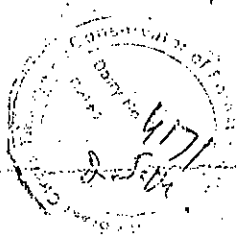
No. 4664/E,

Dated Saidu Sharif the 30/04/2014.

P-333

Copy in continuation of this office endst: No. 4376/E, dated 17/4/2014 forwarded to the Conservator of Forests, Malakand West Forest Circle at Timergara for information and further necessary action as desired above under intimation to this office.

699



6/4
215

CHIEF CONSERVATOR OF FORESTS MALAKAND FOREST REGION (REGION-III) SAIDU SHARIF SWAT

CF, Malakand (W) -

put up with with reference for your kind perusal and further order please.

Dr. Speaks
09/5

Attested

West.

CF Malakand (W)

Mr. Sardar Saleh, Forester was promoted to the rank of Deputy Ranger against the merit quota on acting charge basis vide CF, Malakand Circle Mingora office order No.62 dated 15.04.2009. But the senior most Foresters M/S Nadar Khan and Abdul Wahid of Lower Dir Forest Division ^{P-275} aggrieved had filed appeals in the Khyber Pakhtunkhwa Service Tribunal Peshawar against the promotion of Mr. Sardar Saleh to the rank of Deputy Ranger.

In the meantime the Deputy Ranger submitted an application/appeal to the worthy Secretary, Govt. of Khyber Pakhtunkhwa Environment Department for regular promotion w.e.f. 15.04.2009 with all back benefits. The competent Authority after perusal of relevant record has approved that the promotion of the official is to be regularized with retrospective effect vide Administrative Department No.SO(Estt©/Env/1-3/2k12/537 dated 08.02.2013 received through CCF, Central Southern Region Khyber Pakhtunkhwa Peshawar letter No.2300/E, dated 13.12.2013, and accordingly the official was promoted on regular basis with retrospective effect i.e. 15.04.2009 vide CF, Malakand Forest Circle West office order No.30 dated 18.02.2013. ^{P-282}

Later on the Service Tribunal accepted the appeal and setaside the impugned office order dated 15.04.2009 vide Khyber Pakhtunkhwa Service Tribunal Peshawar decision dated 22.02.2013 and the case is remanded/sent back to the respondent-department for re-consideration of case of promotion against the vacant/available posts under the prescribed 25% quota on the basis of merit while taking into consideration all eligible foresters who fulfill the criteria laid down in the relevant rules, within reasonable time, but in no case later than ninety days from the receipt of this judgment/order.

In the light of decision dated 22.02.2013 revised working papers for promotion of Foresters to the rank of Deputy Rangers were submitted to CCF-III, Swat vide this office letter No.5260/E, dated 02.05.2013. Departmental Promotion Committee meeting held on 29.05.2013 and recommended Mr. Sardar Saleh as regular Deputy Ranger (BPS-11) in the light of Service Tribunal decision).

Mr. Sardar Saleh prepared an appeal for seniority from retrospective date to the Chief Conservator of Forests, Central Southern Forest Region-I, Peshawar which was further endorsed to this office for comments vide CCF-III, Swat endst. No.3335/E, dated 11.02.2014. The appeal was further sent to DFO, Dir-Kohistan for comments. In response DFO, Dir-Kohistan furnished his comments which was sent to CCF-III, Swat vide this office letter No.5922/E, dated 14.04.2014 for onward submission to CCF-I, Peshawar. In response the CCF-I, Peshawar letter No.3637/E, dated 25.04.2014 authorized the CF, Malakand Forest Circle West to decide the case accordingly on merit.

In the light of above ex-position, if your goodself is agreed the seniority of the appellants be restored with retrospective effect i.e. 15.04.2009, please.

P-2

P-273

pl discuss

spah

29/5/2014

Attested

GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NOTIFICATION

Dated: Peshawar the 14th March, 2013

34 K

No. SO (ES&S) Serv./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) 1-465/98/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:-

#	Nomen- clature 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) <u>Physical Fitness:</u> (i) <u>Height:</u> 5-6, ft (minimum); and (ii) <u>Chest Size:</u> 34-36, inches (minimum) Note:- 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. Note- The candidates who have been recruited will have to undergo the prescribed training for Forester at Khyber Pakhtunkhwa Forest School Thal Abbottabad; and
2	Forester (BPS-9)	a) Bachelor's Degree with FSc (atleast 2 nd Division) from a recognized University; and b) <u>Physical Fitness:</u> (i) <u>Height</u> 5-6, ft (minimum); and (ii) <u>Chest Size:</u> 34-36, inches (minimum) Note:- Candidate Will qualify Marathon race of 2-Km within 20	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. Note- The candidates who have been recruited will have to undergo two years certificate course in Forestry at Khyber Pakhtunkhwa Forest School Thal Abbottabad.

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13/13

Attested

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Forest Guard (OPS-7)	a) Intermediate with Matric Science (at least 2 nd Division) from a recognized Board; and b) <u>Physical Fitness:</u> <u>(i) Height</u> 5-6, ft (minimum); and <u>(ii) Chest Size:</u> 34-36, inches (minimum) Note:- Candidate Will qualify Marathon race of 2-Km within 20 minutes	18-28 years	By initial recruitment. Note:- The candidates who have been recruited will have to undergo one year training course of Forest Guards at Khyber Pakhtunkhwa Forest School Thal Abbottabad."
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[Handwritten signature]

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT.

2113-2213

Dated Peshawar the 14th March, 2013

Endst: NO.S0(Estt)/Env/II-465/2K:

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. *CCF-II Abbottabad*
- 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.

[Handwritten signature]
Attested

[Handwritten signature]
(MIDA-UL-KARIM)
SECTION OFFICER (ESTT.)

6000

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CONSERVATOR OF FORESTS,
MALAKAND FOREST CIRCLE WEST



TIMERGARA, LOWER DIR



Ph. 0945-9250120
Fax. 0945-9250118

Email: cf_mkd_w@yahoo.com

No 225 /E, Dated Timergara the 14/07/2014

To

The Chief Conservator of Forests,
Malakand Forest Region (Region-III),
At Saidu Sharif Swat.

SUBJECT: APPEAL FOR RESTORATION OF SENIORITY FROM RETROSPECTIVE DATE

Memo:

Reference your endst:No.4664/E, dated 30.04.2014.

Mr.Sardar Salih Deputy Ranger who is promoted vide CF Malakand West Forest Circle office order No.35, dated 29.05.2013 with immediate effect has preferred appeal to the Chief Conservator of Forests Central Southern Region (Region - I) against the above office order and has requested that he may be promoted from 15.09.2009 under the promotion policy 2009 and his inter seniority may be restored from retrospective date i.e. 15.04.2009.

To settle the appeal therefore the kind advice of the Chairman (Chief Conservator of Forests Central Southern Region (Region - I)) of DPC held on 24.05.2013 is solicited, whether his promotion is recommended with retrospective from 15.04.2009 or otherwise as the honourable Service Tribunal Peshawar vide decision No.1463/2009, dated 22.02.2013 has set aside all the previous orders CF Malakand Circle Mingora office order no.62, dated 15.04.2009 and camp No.01, dated 27.05.2009. Further more, is there any rule to consider promotion from date of creation of vacancy?

The concluding para of Service Tribunal Peshawar decision is reproduced as:

"consequently on acceptance of the appeal, the impugned promotion order dated 15.04.2009 and 27.05.2009, are set aside and the case is remind/sent back to respondent department for reconsidering of case of promotion against the vacant post/available post under the prescribed 25% quota on the basis of merit while taking into consideration all eligible forester who fulfill the criteria laid down in the relevant rules, within reasonable time, but in no case later than ninety days from the receipt of this judgment/order. There shall, however no order as to cost".

[Signature]
Attested

[Signature] 14.7.2014
Conservator of Forests,
Malakand Forest Circle, West
Timergara.

37 M

Attested. Sardar Saleh Roshan

OFFICE OF THE CHIEF CONSERVATOR OF FORESTS, MALAKAND FOREST REGION
(REGION-III) SHAGAI, SAIDU SHARIF, SWAT.

To

The Conservator of Forests,
Malakand Forest Circle West
Timergara.

No. 629 /E, Dated Saidu Sharif, the: 21 /08/2014.

Subject:- APPLICATION FOR RESTORATION OF SENIORITY FROM
RETROSPECTIVE DATE.

Memo:
Reference your letter No.225/E, dated 14.07.2014.

<<<<>>>>

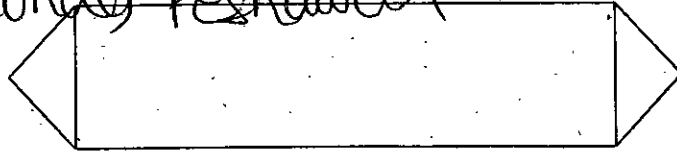
In this connection you are advised to follow the directives of the Chief Conservator of Forests, Central Southern Region-I Khyber Pakhtunkhwa Peshawra letter No.3637/E, dated 25.04.2014 in letter and spirit already endorsed vide this office No.4664/E, dated 30.04.2014 and decide the case on merit accordingly under intimation to this office.

CHIEF CONSERVATOR OF FORESTS
MALAKAND FOREST REGION (REGION III)
SAIDU SHARIF, SWAT.

CF
West Circle

Attested

Before Khyber Pakhtunkhwa
Service Tribunal Peshawar بعدالت



Appellant
Govt. of KPK
et

2ء منجانب
بنام Sardar Daloh

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام Peshawar کے لیے Bilal A. Kawaijal
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Accepted
Accepted
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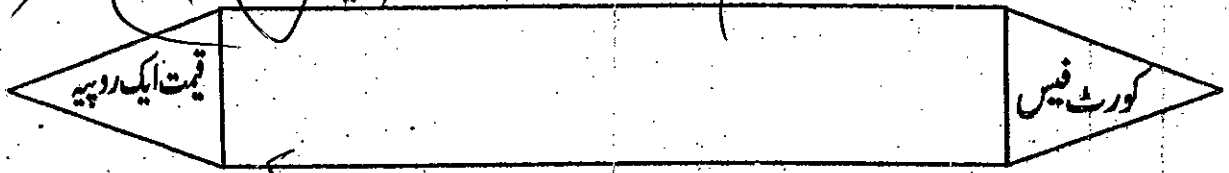
کراچی
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العبد العبد

کے لئے منظور ہے۔

مقام

بعدالت صواب صاحب سروس ٹریبونل علیا ملکہ کو



مورخہ 3 ستمبر 2012ء منجانب ایوان سلسلہ
مقدمہ سردار صالح بنام حکومت وٹیرہ

دعویٰ سر کی اپیل
جرم باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام ملکہ سردار صالح فیصلہ حال انہوں نے کی گئی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل احتیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کارروائی کے واسطے اور وکیل یا مشارق قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوا یہ مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سدر ہے

المرقوم 3 ماہ 2012ء

السید گواہ شاہ

بمقام ملکہ کھن و علی سردار کے لئے منظور ہے

الہ آباد ضلع، ضلع منشی لکھنؤ ٹی بی او ایف ایف اے K.P.K

A.W.F. Province
Service Tribunal
Diary No. 24
dated 12-1-16

سرکار، ضلع منشی لکھنؤ ٹی بی او ایف ایف اے K.P.K، ٹی بی او ایف ایف اے، ضلع منشی

ڈرافٹ نمبر 1135 with draw نمبر 1135 2014

جناب عالی، سید محمد علی (بی بی او ایف اے)

ایڈمنسٹریٹو ڈیپارٹمنٹ، ٹی بی او ایف ایف اے، ضلع منشی لکھنؤ ٹی بی او ایف ایف اے

Put up to the court with relevant appeal.

موزن 8 3/16 برائے جج ایف ایف اے، ٹی بی او ایف ایف اے، ضلع منشی لکھنؤ ٹی بی او ایف ایف اے

ریڈر 12/1/16 (نقل قضائی کارڈ نمبر 9)

put upon the date first

ڈرافٹ نمبر 1135 with draw نمبر 1135

ایڈمنسٹریٹو ڈیپارٹمنٹ، ٹی بی او ایف ایف اے، ضلع منشی لکھنؤ ٹی بی او ایف ایف اے

سید محمد علی

26-01-16

12-1-16 سرکار، ضلع منشی لکھنؤ ٹی بی او ایف ایف اے، ٹی بی او ایف ایف اے، ضلع منشی

N.W. 15701-4034790-90

OFFICE ORDER NO 54 DATED PESHAWAR THE 27. /01 /2016
ISSUED BY MR. MUHAMMAD SIDDIQUE KHAN KHATTAK CHIEF
CONSERVATOR OF FORESTS CENTRAL SOUTHERN FOREST REGION-I
KHYBER PAKHTUNKHWA PESHAWAR

On the recommendation of Chief Conservator of Forests Malakand Forest
Region-III Saidu Sharif Swat the competent authority is pleased to order restoration of
Inter-Se-Seniority of Mr. Sardar Saleh Deputy Ranger with effect from 16/04/2011.

Sd/-
(Muhammad Siddique Khan Khattak)
Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar

No. 2144-46 /E
A-File.

Copy forwarded for information and necessary action to the:-

1. Chief Conservator of Forests Malakand Forest Region-III with reference to his
letter No. 2434/E dated 22/10/2015.
2. Conservator of Forests Malakand West Forest Circle Timergara
3. Deputy Ranger Concerned.

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