

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 2505/2023

Muhammad Arif

VS

Chief Conservator of Forest etc.

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Muhammad Arif *Muhammad Arif*
RESPONDENT NO. 04&05.

THROUGH:-

M. Asif Yousafzi
(M. ASIF YOUSAFZI)
ASC

S. Noman Ali Bukhari
(S.NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT
OF PESHAWAR

Hilal Zubair
&
(HILAL ZUBAIR)
ADVOCATE

Room No.FR-08, 4th Floor,
Bilour Plaza Peshawar Cantt:
Cell # 0312-9103240

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BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 2505/2023

Muhammad Arif Forester North Waziristan Forest Division Bannu
Township, Southern Circle Bannu.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12430

Dated 29.04.24

VERSUS

1. Chief Conservator of Forests Central Southern Region-I Peshawar.
2. Conservator of Forests Southern Circle Bannu.
3. Division Forest Officer North Waziristan Forest Division Bannu.
4. Ihsan Ullah Dawar Forester North Waziristan Forest Division Bannu.
5. Ihsan Ullah Wazir Forester North Waziristan Forest Division Bannu.
6. Muhammad Ishaq Shah Forester North Waziristan Forest Division.
7. Muhammad Iqbal Forester D.I.Khan Forest Division.
8. Conservator Forests Central Southern Region KPK-I Peshawar.

**PARA-WISE COMMENTS ON BEHALF OF
RESPONDENT NO. 04,05**

RESPECTFULLY SHEWETH:-

Preliminary Objections:

1. The appeal is barred by time.
2. The appellant has got no locus standi and no cause of action to file the instant appeal.
3. The appeal has not come to this Honorable Court with clear hands.
4. This Honorable Tribunal has no jurisdiction to entertain the instant appeal.
5. That the appeal is liable to be dismissed on the ground of mis-joinder/non-joinder of necessary parties.
6. That the appellant is stopped by his own conduct to file the instant appeal.
7. The appellant had never challenged the order dated 01.06.1998.

FACTS:-

1. Incorrect while ,Pertain to record.

2. Incorrect hence denied. That the appellant was appointed as Forester vide DFO-III Bannu Office order No. 42 dated 03.11.1994 under a developmental scheme titled "*Strategic Afforestation in North Waziristan Agency Phase-III*" which was purely temporary bases seats ,Mover over the appellant was regularized and adjust against the SNE post in 1998 ,(which is permanent post) ,was created due to the retirement of MR. Shahadat Khan (Forester Vide DFO FATA -III Bannu office order no.33 Date 31-12-1998 , therefore his seniority was consider from the date of re gulations. 31-12-1998. **Copy of appointment order date 03-11-1994 and regularization order is annexed as annexure-A&B.**
3. Incorrect hence denied, the appellant concealed the real facts, moreover, the private respondent No. 04 & 05 were appointed against the SNE post on regular basis vide order dated 20.06.1996, which were permanent post. **Copy of order dated 20-06-1996 is annexed as annexure C.**
4. Incorrect hence denied while already explained in above paras.
5. Incorrect hence denied ,mover over the seniority of the appellant was corrected, when the appellant file appeal for his seniority on dated 5 -12- 2022, while the seniority were counted from the dated of his regular appointment , where in the appellant was regularized from the date 31-12-1998 ,when the post was fall vacant on the retirement of Mr shahdat Khan.
6. Incorrect hence denied ,that seniority was counted from the dated of regularization ,wherein the private respondents NO 04 & 05 were appointed against SNE posts , in 1996 which were permanent post while the appellant was regularized in year 1998 .i.e much after of replying respondents regular appointments.
7. Incorrect hence denied already explained above .
8. Incorrect, pertained to record.
9. Incorrect, pertain to record. The departmental appeal is time barred. Therefore instant service appeal is also barred by time.

GROUNDS:-

- A. Incorrect, pertain to record no rights of appellant are violated.
- B. Incorrect, misleading already explained above.
- C. Incorrect. While the official respondents give logical reason along with the proof of documents.
- D. Incorrect, while the seniority list was issued according to rules and record.
- E. Incorrect already explained above.
- F. Incorrect and denial. The final seniority list has been prepared and based on the decision of a high level Committee duly constituted vide CF Southern Circle Bannu Office Order No. 01 dated 5.12.2022 for the said purpose all the concerned officials including appellant and respondents were heard by the committee.
- G. Incorrect.
- H. Incorrect.
- I. Incorrect.
- J. Incorrect the appellant has been treated as per law and rules.
- K. No comments.

It is, therefore, humbly prayed that the Service appeal of the appellant may be dismissed with cost throughout.

Musawwar Muneer
RESPONDENT NO. 04&05

THROUGH:

M. Asif Yousafzi
(M. ASIF YOUSAFZI)
ASC

S. Noman Ali Bukhari
(S.NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT
OF PESHAWAR

Hilal Zubair
(HILAL ZUBAIR)
ADVOCATE

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

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AFFIDAVIT

I, Ihsan Ullah Wazir, and Forester of North Waziristan Forest Division Bannu Township, Southern Circle Bannu, for (Respondent No. 05) do hereby affirm that the contents of this para wise Comments are true and correct and nothing has been concealed from this Honorable Tribunal. *it is further stated that, the answering respondents have been placed ex-parte, not their defence have been state off.*

DEPONENT

Ihsan Ullah Wazir

IDENTIFIED BY:

**(M. ASIF YOUSAFZI)
ASC**

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A

(5)

ORDER NO. 42 DATED BANNU THE 3/11/1994, ISSUED BY ABRARULLAH WAZIR, DIVISIONAL FOREST OFFICER, FATA FOREST DIVISION-II BANNU

Consequent upon the recommendation of the Departmental selection committee constituted under the N.W.F.P. Civil Servant (Appointment, Promotion and Transfer Rules, 1959 vide this office Order No.22 dated 4-1-7994, the following candidates are hereby appointed as Forester in basic pay scale No. 7 Viz: Rs. 1480-81-2695) at Rs.1480/-per month with usual allowance as admissible under the rules against the Schemes noted below with effect from the date of their arrival report for duty. Their appointment are purely temporary and can be terminated at any time on fourteen days notice or on payment of fourteen days pay in lieu of the notice:

S No	Name & Address	Name of Scheme
1.	Mr. Zer Gula Jan S/o Haji Aman Ullah Khan North Waziristan Agency	Afforestation in North Waziristan Agency (SNE)
2.	Mr. Muhammad Arif S/o Saadat Khan North Waziristan Agency	Strategic Afforestation in North Waziristan Agency (Phase-III)
3.	Mr Muhammad Ishaq Shah S/o Mohammad Siddique Shah North Waziristan Agency	Afforestation in North Waziristan Agency (SNE)

Their appointment is further subject to the following conditions:-

1. They will join their duties on their own expenses. They will produce a medical fitness certificate from medical Superintendent and good character certificate from the concerned authority.
2. Till completion of successful training at Sarhad Forest School, Abottabad Thal, they shall be entitled to minimum of the scale of Forester.
3. Their appointment is subject to the continuation of the scheme noted above. The services of the appointee would be liable to termination- on the expiry of the project period and on expiry/completion of the project, services of newly resulted shall not confer on the individual any right if absorption elsewhere or regularization of their services
4. They will have to govern all the rules acts and ordinance of their cadre clause applicable to them.

(ABRARULLAH WAZIR)
DIVISIONAL FOREST OFFICER
FATA FOREST DIVISION-III BANNU

No. 1132-34/E-III

Copy forwarded to the:-

- 1- Conservator of Forest, FATA/Social Forestry Circle, Peshawar in favour of information with reference to his office letter No. dated 26.10.1994 please.
- 2- All concerned for information.
- 3- Head clerk / Divisional Accountant for information.

DIVISIONAL FOREST OFFICER
FATA FOREST DIVISION-III BANNU

ATTESTED

Annex-I A

(5)

Consequent upon the recommendation of the Departmental Selection Committee constituted under the New Civil Servants (Appointment, Promotion and Transfer Rules, 1953) vide this Office Order No. 22 dated 04-10-1994, the following candidates are hereby appointed ~~temporarily~~ in basic pay scale No. 7 (Viz. Rs. 37,200) at Rs. 1400/- per month with usual allowances as admissible under the rules against the selection noted below with effect from the date of their arrival report for duty. Their appointments are purely temporary and can be terminated at any time on fourteen days notice or on payment of fourteen days pay in lieu of the notice:-

S.No.	Name & Designation	Station
1-	Farhan Gula Jhon s/o Sajid Mansoor North Administration Agency.	Afforestation in North Administration Agency (A.R.A.)
2-	Muhammad Arif s/o Mansoor Khan North Administration Agency.	Afforestation in North Administration Agency (A.R.A.)
3-	Muhammad Ishaq Shah s/o Mohammad Siddique Shah South Administration Agency.	Afforestation in South Administration Agency (S.A.)

Their appointment is further subject to the following conditions:-

- 1- They will join their duties on their own expenses.
- 2- They will produce a medical fitness certificate from medical superintendent and good character certificate from the concerned authority.
- 3- Till completion of successful training at Forest School, Abbottabad Trani, they shall be entitled to benefits of the grade of Forester.
- 4- Their appointment is subject to the continuation of the scheme noted above. The services of the appointees would be liable to termination on the expiry of the project period and on expiry/completion of the project, services of newly recruited shall not confer on the appointees any right of absorption elsewhere or regularization of their services.
- 5- They will have to govern all the rules and ordinances of their cadre class applicable to them.

(Approved and signed)
 DIVISIONAL FORESTER,
 DIVISIONAL FOREST OFFICE, 111

No. 1132-34/111

- Copy forwarded to:-
- 1- Conservator of Forests, P.W./Social Forestry Circle, please for favour of information with reference to this office letter No. 112/111 dated 04-10-1994 please.
 - 2- All concerned for information.
 - 3- Head Clerk/Divisional Accountant for information.

(Signature)
 DIVISIONAL FORESTER,
 DIVISIONAL FOREST OFFICE, 111

ATTESTED

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OFFICE ORDER NO. 33 DATED BANNU THE 31.12/1998 ISSUED BY MR. RASOOL NAWAZ KHAN, DIVISIONAL FOREST OFFICER, FATA-III

Mr. Shahadat Khan Forester has been retired from service vide office order No. 31 dated 24.12.1998 and services of Mr. Mohammad Arif Forester are hereby converted to Non-Developmental Budget with immediate effect on seniority basis in this Division.

(RASOOL NAWAZ KHAN)
DIVISIONAL FOREST OFFICER,
FATA-III FOREST DIVISION,
BANNU.

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No. 944-47/F,III

Copy forwarded to the:-

1. Range Forest Officer, North Waziristan Agency for information and necessary action.
2. Head Clerk/Divisional Accountant for information.
3. Mr. Mohammad Arif Forester C/o Range Forest Officer, North Waziristan Agency Range Miranshah for information.
4. Personal file.

DIVISIONAL FOREST OFFICER,
FATA-III FOREST DIVISION,
BANNU.

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ATTESTED

OFFICE ORDER NO. 33 DATED BANNU THIS 31/12/1998, I WAS BY
MR: RAJOOOL SAMAZ KHAN, DIVISIONAL FOREST OFFICER, FATA-III FOREST
DIVISION, BANNU.

Annex-7

B

6

Mr: Shanadat Khan Forester has been retired from service
vide Office Order No. 51 dated 24-12-1998 and services of
Mr: Mohammad Arif Forester are hereby converted to Non-Developmental
Budget with immediate effect on seniority basis in this Division.

Schn

(RAJOOOL SAMAZ KHAN)
DIVISIONAL FOREST OFFICER,
FATA-III FOREST DIVISION,
BANNU.

No. 944-47 / F, III

Copy forwarded to the:-

- 1- Range Forest Officer North Waziristan Agency for information and necessary action.
- 2- Head Clerk/Divisional Accountant for information.
- 3- Mr: Mohammad Arif Forester C/O Range Forest Officer, North Waziristan Agency Range Miranshah for information.
- 4- Personal file.

[Signature]
DIVISIONAL FOREST OFFICER,
FATA-III FOREST DIVISION,
BANNU.

ATTESTED

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ORDER NO. 108 DATED BANNU THE 20.06.1996, ISSUED BY MUHAMMAD SAADI, DIVISIONAL FOREST OFFICER, FATA FOREST DIVISION-II BANNU

Consequent upon the recommendation of the Departmental selection committee constituted under the N.W.F.P. Civil Servant (Appointment, Promotion and Transfer Rules, 1959) vide this office Order No. 99 dated 17.06.1996, the following candidates are hereby appointed as Forester in basic pay scale No. 7 Viz: Rs. 1480-81-2695) at Rs. 1480/- per month with usual allowance as admissible under the rules against the Schemes noted below with effect from the date of their arrival report for duty. Their appointment are purely temporary and can be terminated at any time on fourteen days notice or on payment of fourteen days pay in lieu of the notice:

S No	Name & Address	Name of Scheme
1.	Mr. Hidayatullah S/o H. Malik Mohammad Zahor Khan Village Khadri Mohmamad Khel FR Bannu.	Strategic afforestation in FR Bannu
2.	Mr. Laiq Shah S/o Sakhidar Village Ashrar Kot South Waziristan Agency	Strategic afforestation in South Waziristan Agency (Phase-III)
3.	Mr Mohammad Khalid Alam S/o Mohammad Alam Shah, South Waziristan Agency	-do-
4.	Ihsanullah S/o Shalawar Village Hassu Khel North Waziristan	Afforestation in North Waziristan Agency (SNE)
5.	Ihsanullah S/o H. Akbar Ali Jan North Waziristan	-do-
6.	Abraham Abdullah S/o Mohammad Anwar Khan North Waziristan Agency	Strategic Afforestation in North Waziristan Agency Phase-III

Their appointment is further subject to the following conditions:-

1. They will join their duties on their own expenses.
2. They will produce a medical fitness certificate from medical Superintendent and good character certificate from the concerned authority.
3. Till completion of successful training at Sarhad Forest School, Abottabad Thal, they shall be entitled to minimum of the scale of Forester.
4. Their appointment is subject to the continuation of the scheme noted above. The services of the appointee would be liable to termination- on the expiry of the project period and on expiry/completion of the project, services of newly resulted shall not confer on the individual any right if absorption elsewhere or regularization of their services
5. They will have to govern all the rules acts and ordinance of their cadre clause applicable to them.

(MOHAMAMD SAADI)
DIVISIONAL FOREST OFFICER
FATA FOREST DIVISION-III BANNU

No. 3080-82/F-III

Copy forwarded to the:-

- 1- Conservator of Forest, FATA/Social Forestry Circle, Peshawar in favour of information with reference to his office letter No. dated 26.10.1994 please.
- 2- All concerned for information.
- 3- Head clerk / Divisional Accountant for information.

DIVISIONAL FOREST OFFICER
FATA FOREST DIVISION-III BANNU

Annex-1

Consequent upon the recommendation of the Departmental Selection Committee constituted under the NWFP Civil Servants (Appointment, Promotion and Transfer Rules, 1989 vide this office order No. 99 dated 17-3-1996, the following candidates are hereby appointed as Forester in Basic Pay Scale No. 7 (Viz: Rs. 1480-21-2695) at Rs. 1480/- per month with usual allowances as admissible under the rules against the Scheme/S.N.E. noted below with effect from the date of their arrival report for duty. Their appointments are purely temporary and can be terminated at any time on fourteen days notice or on payment of fourteen days pay in lieu of the notice:-

S.NO.	NAME & ADDRESS.	NAME OF SCHEME/S.N.E.
1-	Mr. Rizqiyatullah S/O B. Malik Mohammad Zahir Khan village Khadri Mohammad Khel F.R. Bannu.	Strategic Afforestation in F.R. Bannu.
2-	Mr. Iqbal Shah S/O Sakhdar village Ashkur Kot Teh. Hakeem South Waziristan Agency.	Strategic Afforestation in South Waziristan Agency (Phase-III)
3-	Mr. Mohammad Khalid Alam Shah S/O Mohammad Alam Shah village Kandigurram South Waziristan Agency.	-do-
4-	Mr. Ihsanullah S/O Shalwazan village Hassu Khel North Waziristan Agency Hiran Shah.	Afforestation in North Waziristan Agency (S.N.E.)
5- ✓	Mr. Ihsanullah S/O M. Akbar Ali Jan village Mirali Teh. Hakeem North Waziristan Agency.	-do-
6-	Mr. Ibrahim Abdullah S/O Mohammad Anwar Khan village Padani Killa Teh. Hiran Shah North Waziristan Agency.	Strategic Afforestation in North Waziristan Agency Phase-III.

Their appointment is further subject to the following conditions:-

- 1- They will join their duties on their own expenses.
- 2- They will produce a Medical Fitness Certificate from Medical Superintendent and good character certificate from the concerned authority.
- 3- Till completion of successful training at Serhad Forest School Abbottabad, they shall be entitled to minimum of the scale of Forester.
- 4- Their appointment is subject to the continuation of the Scheme/SNE noted above. The service of the appointee would be liable to termination on the expiry of the project period and on expiry/completion of the project, services of newly recruited shall not confer on the individual any right of absorption elsewhere or regularization of their services.
- 5- They will have to govern all the rules, acts and ordinance of their cadre class applicable to them.

(MOHAMMAD SAADI)
DIVISIONAL FOREST OFFICER,
FATA FOREST DIVISION-III BANNU.

No. 308a-82/F, III

Copy forwarded to:-

- 1- Conservator of Forests, FATA/Social Forestry Circle, Peshawar for favour of information please.
- 2- All concerned for information.

ATTESTED