

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, ABBOTTABAD.

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MISS FAREEHA PAUL ... MEMBER(1)

Service Appeal No. 02/2021

Sajjad Ahmad Forest Guard, Mansehra Forest Sub-Division, Mansehra.
.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Forestry, Environment and Wildlife Department, Peshawar.
2. Chief Conservator Hazara Forest Region-II, Abbottabad.
3. Conservator Hazara Forest Region-II, Abbottabad.
4. Divisional Forest Officer Siran Forest Division, Mansehra.
5. Mr. Ishtiaq Ahmad Forest Guard, Siran Forest Division, Mansehra.
6. Mr. Tahir Ayub Forest Guard, Siran Forest Division, Mansehra.
7. Mr. Muhammad Haroon Forest Guard, Siran Forest Division, Mansehra. (Respondents)

Mr. Muhammad Arif Jan,
Advocate

... For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney

... For official respondents

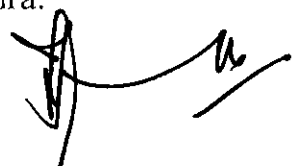
Date of Institution.....01.01.2021
Date of Hearing.....23.09.2024
Date of Decision..... 23.09.2024

Service Appeal No. 03/2021

Muhammad Mushtaq Forest Guard, Lower Siran Shinkhari Forest Division,
Mansehra.(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Forestry, Environment and Wildlife Department, Peshawar.
2. Chief Conservator Hazara Forest Region-II, Abbottabad.
3. Conservator Hazara Forest Region-II, Abbottabad.
4. Divisional Forest Officer Siran Forest Division, Mansehra.



5. Mr. Ishtiaq Ahmad Forest Guard, Siran Forest Division, Mansehra.
6. Mr. Tahir Ayub Forest Guard, Siran Forest Division, Mansehra.
7. Mr. Muhammad Haroon Forest Guard, Siran Forest Division, Mansehra.
..... (Respondents)

Mr. Muhammad Arif Jan,
Advocate

... For appellants

Mr. Asif Masood Ali Shah,
Deputy District Attorney

... For respondents

Date of Institution.....01.01.2021

Date of Hearing.....23.09.2024

Date of Decision..... 23.09.2024

CONSOLIDATED JUDGEMENT

FAREEHA PAUL, MEMBER (E): Through this single judgment, we intend to dispose of the instant service appeal as well as the connected service appeal No. 03/2021, titled “Muhammad Mushtaq Versus Government of Khyber Pakhtunkhwa through Secretary Forestry, Environment and Wildlife Department, Peshawar and others”, as in both the appeals common questions of law and facts are involved.

02. The service appeals have been instituted by the appellants under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned revised seniority list of Forest Guards BPS-08 in Siran Forest Division Mansehra vide letter/order dated 24.08.2020 against which departmental appeals were filed on 05.09.2020 but the same were not disposed within the statutory period. It has been prayed that on acceptance of the appeals, the impugned seniority list might be declared illegal, against the law and rules and the respondents be directed to prepare the correct, revised



final seniority list, alongwith any other relief which the Tribunal deemed appropriate.

03. Brief facts, as given in the memorandum of appeals, are that the appellants were serving as Forest Guard in the respondent department. Respondent No. 4 circulated the final seniority list of Forest Guard BPS- 08 in Siran Forest Division Mansehra as it stood on 31.12.2019 vide letter dated 24.08.2020 against which the appellants filed departmental appeals which were not disposed of within the statutory period; hence the instant service appeals.

04. Respondents were put on notice who submitted written replies/ comments on the appeals. We heard the learned counsel for the appellant and learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

05. Learned counsel for the appellants, after presenting the case in detail, argued that the appellants were transferred to Siran Forest Division in the year 2001 but respondent No. 4 intentionally placed respondents No. 5, 6 and 7 senior to them just to deprive them from their vested right of promotion and other service benefits. He requested that the appeal might be accepted as prayed for.

06. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellants, argued that the appellants were appointed as Forest Guard in Soka Nullah Watershed Project Abbottabad on 22.01.1990 and after the project became defunct, they were adjusted in Siran Forest Division; Mr. Sajjad Ahmad on 19.11.1996 and Mr. Muhammad Mushtaq on



01.06.2001. On the other hand, private respondents No. 5, 6 and 7 were adjusted on 27.07.1988, 15.07.1990 and 09.09.1996 respectively, therefore, appellants were junior to the private respondents No. 5, 6 & 7 and were placed in the seniority list accordingly. According to him, they had no right to claim seniority for the period they served in a defunct project. He argued that the date mentioned in the adjustment/appointment column of seniority list was the date from which service of the appellants was verified in Siran Forest Division and the date mentioned in remarks column was the date of office order.No. 43 under which the services of the appellant were regularized in that Division. He argued that seniority list of Forest Guard as it stood on 31.12.2019 was maintained according to Rule- 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989 and Forest Guards (Divisional) Service Rules, 1962. He further argued that no violation was done by the respondent department and the appellants were trying to mislead the Tribunal. He requested that the appeal might be dismissed.


07. Through the appeal in hand, the appellants have impugned final seniority list of Forest Guards as it stood on 31.12.2019 which was circulated by the respondent department through a letter dated 24.08.2020. Arguments and record presented before us transpired that the appellants were appointed as Forest Guard in 1990 in a project which later on became dysfunctional and their services were placed at the disposal of Siran Forest Division. The seniority list of 2019 impugned before us showed a column of appointment/adjustment according to which the appellant Mr. Sajjad was adjusted on 19.11.1996 whereas Mr. Mushtaq Ahmad on 01.06.2001 and




hence placed at serial no. 7 and 11 of the seniority list respectively. Perusal of seniority list showed that private respondents No. 5, 6 and 7 had been placed at serial no. 1, 5 and 6 of the seniority list based on their appointment/adjustment in the years 1988, 1990 and 1996 respectively, prior to the adjustment of the appellants. During the course of arguments, we were informed by the appellants, as well as the respondent department, that both the appellants, alongwith others, got promoted on 19.08.2023 to the post of Forester and that they had actualized their promotion also. In view of that scenario, when the promotion based on the seniority list of 31.12.2019 had been actualized by the appellants, we do not see any substance in the present appeals in which they have impugned seniority list based on which they already accepted their promotion. Their promotions and subsequent actualization of those promotions makes these appeals infructuous.

08. In view of the above discussion, the appeals in hand are dismissed being groundless. Cost shall follow the event. Consign. Copy of this judgment be placed on file of the connected appeal.

09. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal on this 23rd day of September, 2024.*


(FAREEHA PAUL)
Member(E)
Camp Court Abbottabad


(KALIM ARSHAD KHAN)
Chairman
Camp Court, Abbottabad


SA 02/2021


23.09 2024

01. Mr. Muhammad Arif Jan, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 05 pages, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

03. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal on this 23rd day of September, 2024.*


(FARHANA PAUL)
Member (E)
Camp Court, A/Abad


(KALIM ARSHAD KHAN)
Chairman
Camp Court, A/Abad

Fazle Subhan PS