

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, ABBOTTABAD.

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

Service Appeal No. 910/2022

Abdul Razzaq S/O Muhammad Ishaq, Forest Guard, presently posted in
 Gallies Forest Division, Abbottabad.....(Appellant)
 Versus

1. Chief Conservator Hazara Forest Region-II, Abbottabad.
2. Conservator of Forest, Lower Hazara Circle, Abbottabad.
3. Divisional Forest Officer, Galis Forest Division, Abbottabad.
 (Respondents)

Sardar Aamir Qadir,
 Advocate

... For appellant

Mr. Asif Masood Ali Shah,
 Deputy District Attorney

... For respondents

Date of Institution.....31.01.2022
 Date of Hearing.....25.09.2024
 Date of Decision..... 25.09.2024


JUDGEMENT

FAREEHA PAUL, MEMBER (E): Instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the final seniority list issued vide endorsement dated 13.01.2021 and against the order of respondent No. 1 dated 08.11.2021 whereby departmental appeal of the appellant was rejected. It has been prayed that on acceptance of the appeal, the impugned final seniority list dated 13.01.2021 be set aside and the appellant be placed at proper place in the seniority list dated 23.08.2019 alongwith any other remedy which the Tribunal deemed appropriate.

02. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was initially appointed in the respondent department on 17.08.1987 in Soka Nullah Water Shed Initiative, Forest Circle Abbottabad. On winding up of the said project, the appellant, alongwith others, became surplus and was adjusted/absorbed in Natural Resource Conservation Galiyat vide office order dated 18.09.1996. Due to winding up of the project, he was adjusted in District Government vide order dated 25.09.2004 against a vacant post of Gallis Forest Division Abbottabad. Vide order dated 13.04.2005, the appellant was transferred to Gallies Forest Division Abbottabad where he was serving as Forest Guard till the date of hearing of the service appeal. The respondent department issued seniority list of Forest Guards serving in Gallis Abbottabad on 23.08.2019 in which the appellant was placed at serial no. 24. Another seniority list was issued on 13.01.2021 wherein the incumbents adjusted in Gallis Forest Division later from the appellant were placed at serial no. 8, 11, 17, 19 and 24 while the appellant was placed at serial no. 25 in the seniority list. Feeling aggrieved, he preferred departmental appeal to respondent No. 1 on 29.01.2021 which was rejected on 08.11.2021; hence the instant service appeal.

03. 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.

04. Learned counsel for the appellants, after presenting the case in detail, argued that the appellant was subjected to injustice and his case was not



dealt under the principles of fair play. According to him, the seniority list of 2021 was erroneous and those personnel inducted at a later stage were made senior and placed above the appellant just to deprive him from his vested right of promotion and other service benefits. He requested that the appeal might be accepted as prayed for.

05. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellants, argued that the appellant was initially appointed in Soka Nullah Water Shed Initiative Forest Circle Abbottabad in the year 1987. On the winding up of the project, he was adjusted/absorbed in Natural Resource Conservation project Galiyat vide office order dated 18.09.1996 and after its winding up, he was later on adjusted in District Government Abbottabad vide order dated 25.09.2004. According to him, the appellant had no right to claim seniority for the period he served in the defunct projects. He argued that seniority list of Forest Guards as it stood on 31.12.2020 was circulated against which the appellant preferred an application for its rectification. His application was duly responded vide letter dated 11.02.2021 in the light of a meeting held on 05.10.2020 under the chairmanship of Chief Conservator of Forests, Northern Forest Region, Abbottabad. In that meeting, it was clarified, in pursuance of a letter of Establishment Division Islamabad dated 31.01.2014, that the seniority of the Forest Guards adjusted in any division due to termination of project or rendered surplus in Watershed Management Project should be considered on the basis of date of adjustment in the respective Forest Division. According to the learned DDA, the appellant was placed in the seniority list based on





his adjustment in the Gallis Forest Division and was rightly placed at serial no. 25 in the seniority list. He requested that the appeal might be dismissed.

06. Through the appeal in hand, the appellant had impugned final seniority list of Forest Guards as it stood on 31.12.2020 which was circulated by the respondent department through a letter dated 13.01.2021. Arguments and record presented before us transpired that the appellant was appointed as Forest Guard in the respondent department on 17.08.1987 in Soka Nullah Water Shed Initiative Forest Circle Abbottabad. On the winding up of the said project, the appellant became surplus and was adjusted/absorbed in Natural Resource Conservation Galiyat vide office order dated 18.09.1996. Lateron, his services were regularized on 03.05.2005, as Forest Guard in Gallis Forest Division and he was rightly placed at Serial No. 25 in the seniority list based on the date of regularization of his service in that Division.

07. In view of the above discussion, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

08. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal on this 25th day of September, 2024.*


(FAREEHA PAUL)
Member(E)
Camp Court Abbottabad


(KALIM ARSHAD KHAN)
Chairman
Camp Court, Abbottabad

Fazle Subhan, P.S


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25.09 2024

01. Sardar Aamir Qadir, 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 04 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 25th day of September, 2024.*


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


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

Fazle Subhan PS