


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 1297/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.10.2024	<p>The implementation petition of Mr. Muhammad Sajid submitted today by Mr. Khurshid Azam Advocate. It is fixed for implementation report before Single Bench at Peshawar on 01.11.2024. Original file be requisitioned. AAG has noted the next date. Parcha Peshi given to counsel for the petitioner.</p> <p>By order of the Chairman  REGISTRAR</p>

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

Execution Petition No. 1297/2024

In Service Appeal No. 2307/2023

Muhammad Sajid

.....Petitioner

VERSUS

The Government of KPK & others


..... Respondents

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Appellant

Through


Khursheed Azam Advocate
High Court of Pakistan.

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

Execution Petition No. _____/2024

In Service Appeal No: 2307/2023

Muhammad Sajid S/O Abdul Qayyum Sub-divisional Forest Officer Patrol
Squad Forest Division Central Forest Circle, Peshawar.PETITIONER

V E R S U S

1. The Government of Khyber Pakhtunkhwa, through Chief Secretary Civil Secretariate, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Climate change, Forestry, Environment & Wild Life Department, Civil Secretariate, Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa Establishment Department Civil Secretariate, Peshawar.
4. Chief Conservator of Forests Central-Southern Forest Region-I, Khyber Pakhtunkhwa, Shami Road Peshawar.

RESPONDENTS

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE JUDGMENT
DATED 01.07.2024 OF THIS HONOURABLE TRIBUNAL IN
LETTER AND SPIRIT.**

RESPECTFULLY SHEWETH: -

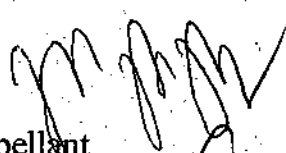
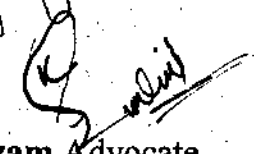
1. That the applicant/appellant filed a Service Appeal having No: 2307/2023, which was decided by this Hon'ble court vide judgment dated: 01.07.2024 (Ann-I)
2. That the said appeal of the petitioner was allowed by this Hon'ble tribunal in terms of Para-9 of the judgement as ready reference, which is reproduced as under:

As a sequel to above discussion, the instant service appeal is partially allowed and respondents are directed to fix the seniority of the appellant in accordance with their respective seniority with his batch mates. Appellant is not entitled for arrears of pay and back benefits. Costs shall follow the event. Consign.

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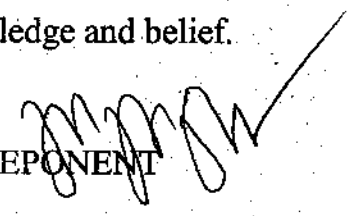
3. That the petitioner moved a request to the respondents for implementation on 06.09.2024 (Ann-II), but they failed to implement the judgement already passed by the Hon'ble Tribunal, dated: 01.07.2024.
4. That in-action and non-implementation of the judgment of this august Tribunal, is totally illegal and tantamount to disobedience and Contempt of Court.
5. That the judgment is still in field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to pass a formal and appropriate order.
6. That the petitioner has no other remedy but to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment, dated: 01.07.2024 of this august Tribunal in letter and spirit and any other remedy, which this august Tribunal may deem fit and appropriate, may also be awarded in favour of applicant/appellant.

Appellant 
Through 
Khurshed Azam Advocate
High Court of Peshawar.

AFFIDAVIT:

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.

DEPONENT 

Amex I (3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2307/2023

BEFORE: MR KALIM ARSHAD KHAN ... CHAIRMAN
MRS. RASHIDA BANO ... MEMBER (J)

Muhammad Sajid S/O Abdul Qayyum R/O Khwaja Bagh Near Mian Gul Kalay, Tehsil and District Mardan.

.... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Climate Change, Forestry, Environment & Wildlife Department, Civil Secretariat, Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar.
4. Chief Conservator Central Southern Forest Region-I, Khyber Pakhtunkhwa, Shami Road, Peshawar....(Respondents)

Mr. Hazrat Said
Advocate

... For appellant

Mr. Muhammad Jan
District Attorney

... For respondents

Date of Institution.....07.11.2023
Date of Hearing.....01.07.2024
Date of Decision.....01.07.2024

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“It is therefore, most humbly prayed that on acceptance of the instant appeal stand with cost, the respondents may

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kindly be directed to recommend the appellant with seniority/regular promotion in the cadre of SDFO (BPS-17) since the date of availability of the vacancy w.e.f 13.05.2015 under Promotion Quota, on the retirement of SDFO Jan Nisar and to restore his assigned seniority by the PCS after Muhammad Shakeel (currently serving as DFO Khyber BPS-18)."

2. Brief facts of the case are that appellant was appointed as Range Forest Officer (BPS-17) and was placed after his batch mate namely Muhammad Shakeel RFO; that vide Notification dated 15.01.2015, Muhammad Shakeel was promoted to the post of SDEO (BPS-17) on regular basis and the appellant was also promoted to the said post, however, he was granted promotion on acting charge basis; that one Jan Nisar, SDFO was retired from service on 13.05.2015 and his seat fell vacant; that Mr. Muhammad Shakeel was later on promoted to the post of DFO (BPS-18) while the appellant was still requesting for regular promotion to the post of SDFO (BPS-17); that for the purpose of granting regular promotion w.e.f the date of occurring of vacancy i.e. 13.05.2015, the appellant made application to the authority, however the same remained un-responded, hence, the instant service appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

5. The learned counsel for the appellant reiterated the facts and grounds

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[Signature]
 DISTRICT ATTORNEY
 DISTRICT COURT
 DISTRICT

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detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).

6. Appellant was consider for promotion on acting charge basis to the post of SDFO (BS-17) by the DPC in its meeting held on 20.11.2014 due to non-availability of regular post and notification in this respect was issued on 15.01.2015. Charge sheet was issued to him on 27.09.2016 and said inquiry was completed on 11.06.2020 wherein appellant was exonerated from charges. During this period, DPCs were conducted but appellant due to the pending inquiry, department had not submitted his case for regular promotion to the post of SDFO (BPS-17).

7. Learned Counsel for the appellant argued that appellant was promoted to the post of SDFO vide notification dated 08.12.2020 and his inter seniority was restored with effect from 13.12.2018 vide notification dated 14.06.2021 upon his application. Appellant along with Mr. Shakeel S/o Fazil Rehman was directly appointed Range Forest Officer vide order dated 23.06.2007 upon recommendation of Public Service Commission on the basis of merit order. Appellant was placed at Serial No.9 below the Mr. Shakeel his batch mates who stood at Serial No.8. Appellant was not regularly promoted due to non-availability of post in meeting held on 20.01.2014 and was recommended for promotion on acting charge basis who later on promoted as SDFO on 08.12.2020. but as regards the question of determination of seniority of the appellant or for that matter the persons selected in one combined competitive examination, they will squarely be belonging to the same batch and their inter se seniority was necessarily to be determined in accordance with their respective orders of merit prepared by the selection authority, as required by Section-8 of the Khyber Pakhtunkhwa Civil Servants Act.

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Khyber Pakhtunkhwa
Civil Servants Act

1973 and Rule 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Transfer and Promotion) Rules, 1989. Both the provisions are reproduced as under:

Khyber Pakhtunkhwa, Civil Servant Act, 1973:

"8. Seniority:- (1) For proper administration of a service, cadre or [post], the appointing authority shall cause a seniority list of the members for the time being of such service, cadre or [post] to be prepared, but nothing herein contained shall be construed to confer any vested right to a particular seniority in such service, cadre or [post] as the case may be.

(4) Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post; Provided that civil servants who are 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.

(5) The seniority lists prepared under sub-section(1), shall be revised and notified in the official Gazette at least once in a calendar year, preferably in the month of January.

Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989:

"(b) in the case of civil servants appointed otherwise, with reference to the dates 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.

Expulation-II.—If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted the person promoted first shall rank senior to person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain

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information or for incompleteness of record or for any other reason not attributing to his fault or demerit."

8. The appellant was promoted, therefore, the official respondents were bound to determine his seniority by following the provisions of section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 and Rule 17 (1) (b) Explanation-II of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, which, as the record reflects or/and the facts and circumstances brought before us, was never done.

9. As a sequel to above discussion, the instant service appeal is partially allowed and respondents are directed to fix the seniority of the appellant in accordance with their respective seniority with his batch mates. Appellant is not entitled for arrears of pay and back benefits. Costs shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 01st day of July, 2024.*


(KALIM ARSHAD KHAN)
Chairman


(RASHIDA BANO)
Member (J)

*M.Khan

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar
23-10-24

Khyber Pakhtunkhwa Service Tribunal, Peshawar
Application No. 291 Date 23-10-24
Name of Applicant Nayfed
Number of Words/Pages 5-3
Copying Fee 25/-
Urgent/Ordinary 8/-
Total 30/-
Name & Sign of Copyist Zeeshan
Date of Completion of Copy 23-10-24
Date of Delivery of Copy 23-10-24

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24.06.2024

1. Appellant alongwith his counsel present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Security fees have not been deposited, therefore, appellant is directed to deposit security fee within three days. To come up for arguments on 01.07.2024 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

(Rashida Bano)
Member (J)

KAMRAN HILLAH

ORDER

01.07.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan, learned District Attorney for official respondents present.

2. Vide our detailed judgment of today placed on file, the instant service appeal is partially allowed and respondents are directed to fix the seniority of the appellant in accordance with their respective seniority with his batch mates. Appellant is not entitled for arrears of pay and back benefits. Costs shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 01st day of July, 2024.*

(KALIM ARSHAD KHAN)
Chairman

(RASHIDA BANO)
Member (J)

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14.02.2024 01. Junior to counsel for the appellant present. Mr. Habib Anwar,

Additional Advocate General for the respondents present.

02. Reply/comments on behalf of respondents submitted which are placed on file. Copy of the same handed over to junior of learned

counsel for the appellant who sought time to go through the same.

Adjourned. To come up for preliminary hearing on 29.02.2024 before

S.B. P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

SCANNED
K.P.S.T
Peshawar
kamranullah

29.02.2024

1. Learned counsel for the appellant present. Mr. Habib Anwar,

Additional Advocate General alongwith Mr. Zahid Iqbal, Deputy

Director for the respondents present. Preliminary arguments heard.

2. Points raised need consideration. The appeal is admitted for regular hearing subject to all just and legal objections by the other

side. Appellant is directed to deposit security fee within ten days.

Reply/comments on behalf of respondents have already been

submitted. To come up for arguments on 01.07.2024 before D.B. P.P

given to the parties.

(Muhammad Akbar Khan)
Member (E)

SCANNED
K.P.S.T
Peshawar

kamranullah

Annex II

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**BEFORE THE KHYBER-PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR**



Service Appeal NO: 2307 /2023

Muhammad Sajid S/O Abdul Qayyum

R/O Khwaja Bagh Near Mian Gul Kalay,

Tehsil and District Mardan.....(Appellant)

Versus

- Service No. /2023
1. Government of Khyber-Pakhtunkhwa, through Chief Secretary, Civil Secretariat Peshawar.
 2. Secretary to Government of Khyber-Pakhtunkhwa, Climate Change, Forestry, Environment & Wildlife Department, Civil Secretariat, Peshawar.
 3. Secretary to Government of Khyber-Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar.
 4. Chief Conservator Central Southern Forest Region-I, Khyber-Pakhtunkhwa, Shami Road Peshawar.....(Respondents)

ATTESTED

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Service Tribunal
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23-10-2024

**SERVICE APPEAL U/S-04 OF THE
KHYBER-PAKHTUNKHWA SERVICES
TRIBUNAL ACT, 1974.**

Respectfully Sheweth:

1. That the appellant is a Master Degree holder in Forestry in the Session-2000-02 from Pakistan Forest Institute, University Campus, Peshawar (Ann-A).
2. That the appellant was recommended as Range Forest Officer (RFO) BPS-16 by the Khyber-Pakhtunkhwa Public Service Commission wherein: the appellant falls in the Merit Order after Muhammad Shakeel (RFO) BPS-16 (Ann-B).
3. That the appellant joined the Forest Department as a Regular Employee vide Office Order NO: 48, Dated: 20.08.2007 and as per the Commission Merit List was at Serial No: 02 (Ann-C).

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4. That as per the Notified Service Rules-2007, Twenty Percent (20%) Quota is reserved for Promotion of the officials of the Forest Department (Ann-D).
5. That as per the final seniority list of RFOs, endorsed by the Chief Conservator of Forests, Central Southern Forest Region-I, Khyber Pakhtunkhwa, Peshawar vide endorsement No. 542-45/E, dated; 01.09.2014, shows that Muhammad Shakeel is at S# No. 08 and the appellant at S# No. 09 after Muhammad Shakeel (Ann-E).
6. That according to the Said Rules the Departmental Selection Committee (DPC) meeting was held on 20.11.2014, whereby the Working Paper highlighted **Eighty Nine (89)** sanctioned posts of Sub-Divisional Forest Officers (SDFOs) BPS-17 in which **Fifty One (51)** posts were already filled/ working on the said posts while **Thirty Eight (38) new posts of SDFOs** were created (Ann-F).
7. That Muhammad Shakeel (RFO) senior to the appellant was at Serial No: 08 in the seniority list of (RFOs) was promoted by the DPC held on 20.11.2014 to the post of SDFO (BPS-17) on regular basis vide Notification NO: SO (Estt)ENVT/1-3/2k15;, Dated: 15th January, 2015 (Ann-G).
8. That at the time of holding of the DPC i.e 20.11.2014, the appellant was at Serial No: 09 and having no other Regular Post available; the appellant was promoted to the rank of SDFO (BPS-17) on Acting Charge Basis (ACB) vide Notification NO: SO (Estt)ENVT/1-3/2k15/204-211: Dated: 15th January, 2015 (Ann-H).
9. That in the meanwhile, when the appellant was performing his duty as SDFO on ACB, one Mr. Jan Nisar a regular SDFO (BPS-17) of PROMOTION QUOTA promoted in the same DPC held on 20.11.2014 under **S.NO: 06**, got retired on Superannuation on 13.05.2015 as such from 13.05.2015, the appellant got right for the Regular Promotion (Ann-J).
10. That the appellant was senior and was having all the requisite competency and fitness for regular promotion on the date of retirement of Mr. Jan Nisar i.e **13.05.2015** and besides that also possessed the neat and more than qualified length of service record for **07 Years, 08 Months and 24 Days**, the Department did not promote the appellant on regular basis as SDFO (BPS-17) due to non-conduction of DPC for a number of Years from 21.11.2014 to 2018, while having no Financial burden on the Department despite the fact that a

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Regular Seat/Post under Promotion Quota after retirement of Mr. Jan Nisar was available.

11. That the appellant submitted an application for the redressal of his grievances, so the stance of appellant is evident from the correspondence of the respondents, whereas it has been conceded for regular promotion w.e.f 13.05.2015 after retirement of Mr. Jan Nisar by the Department vide Chief Conservator of Forests, Central Southern Forest Region-I, Khyber Pakhtunkhwa, Peshawar letter NO:1024/E, Dated:11.08.2023 (**Ann-K**).
12. That the Secretary to Government of Khyber-Pakhtunkhwa, Climate Change, Forestry, Environment & Wildlife Department (**Respondent NO: 02**), Civil Secretariat, Peshawar has admitted the right of the appellant in his letter addressed to the Secretary Establishment (**Respondent NO: 03**), Civil Secretariat, Peshawar for seeking advice vide NO: SO(Estt)/FE&WD/1-50(174)/PF, Dated: 20.09.2023, that unfortunately the (**Respondent NO: 03**) ignored the said letter on the simple ground of opening of the Pandora Box and compelled the appellant for an un-necessary litigation/ interference of this Honorable Tribunal, despite decisions/ judgments of the August High Court and Supreme Court of Pakistan on the availability of a vacancy and extending the benefit in identical cases even to Non-litigants to avoid wastage of energies and precious time of the Honorable Courts and ensure dispensing of justice to the appellants (**Ann-L, M, N & P respectively**).
13. That the Department initiated an enquiry against the appellant in the Year 2016 which has been closed and the appellant has been exonerated as such the linking of promotion with charge sheet/Initiation of enquiry from 27.09.2016 is in contradiction with the fact that vacancy under Promotion Quota was available on 13.05.2015 as referred above. As a matter of fact, the promotion should have been with immediate effect just after the availability of the vacancy. The fault for not holding of DPC shows the malafide on the part of the Department due to which the appellant has been deprived of his due right till date i.e since last 08 Years (**Ann-Q**).

In case of availing, the right of promotion from the date of availability of the vacancy i.e. 13.05.2015, the seniority of the appellant as per the Khyber Pakhtunkhwa Public Service Commission's merit order would automatically get restored after **Muhammad Shakeel**, who is batch fellow of the appellant, currently serving as **DFO Khyber (BPS-18) since 2022** on regular basis (**Ann-R**).

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According to Part-VI Rule-17(1) (a) of the Khyber-Pakhtunkhwa Government Servants (Appointment, Promotion and transfer) Rules 1989, the seniority Inter-se of Civil Servants (appointed to a service, cadre or post) shall be determined in accordance with the order of merit assigned by the Public service commission (**Ann-S**).

14. That the appellant has been dragged in the so called enquiry for more than 03 Years, 08 Months and 14 Days, which is the violation of Rule-11 (07) of the E&D Rules, 2011. According to this, the enquiry proceedings must have been ended within 30 days (**Ann-T**).

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15. That the appellant has been acquitted after 04 Years from the charges leveled against the appellant vide Notification No: SO(Estt)/FE&WD/1-50(31)/PF, Dated: 11.06.2020, represents that the appellant has been victimized just for nothing so for on his part and a number of promotions/ Inductions have been made and the seniority of the appellant has been violated (**Ann-U**).

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16. That the Respondents are going to hold Provincial Selection Board (PSB) in the near future for the promotion of the officials of the Forest Department as is evident from the letter No. SO(PSB)ED/1-25/2023(01), dated; 28.09.2023 of the Section Officer (PSB), Establishment Department Khyber Pakhtunkhwa, Peshawar (**Ann-V**).

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That having no other adequate remedy, the appellant submits the instant appeal on the following grounds inter alia:

GROUND:

A: That the appellant was recommended for appointment by the Khyber-Pakhtunkhwa Public Service Commission and rendering his services to the Department honestly with full devotion and zeal since 20.08.2007 to till date for more than **16 Years** on regular basis and his promotion/seniority has been bypassed with malafide intention violating the Laws, Rules and Regulations, as such has no weightage in the eyes of the Law hence is not binding on the appellant.

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Service Tribunal
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B: That although, the Department has admitted that the appellant is on the top of seniority list from the date of the promotion of the appellant on ACB vide

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Notification, dated: 15.01.2015 and the vacancy under Promotion Quota was available on 13.05.2015, soon after 04 months of his promotion on ACB, thus the appellant was entitled for promotion from the date of occurrence of vacancy. The Department (**Respondents**) kept him working on ACB as SDFO, instead of regular promotion on regular basis by not extending him his due right, which is based on malafide & ill will, against the norms of justice, fair play as such is not binding on the appellant.

- C. That the appellant was/ is fulfilling all the criteria for promotion against the available post, having **08 Years'** service with neat and clean service record and no stigma at all, which speak loudly about the right of the appellant.
- D. That immediate senior to the appellant (**Mr. Shakeel has become DFO in the PSB held in 2021 and promoted to the post of DFO, BPS-18 on regular basis**) and as a Principle of justice the appellant should have been promoted and now falls on S.NO: 15 of current seniority list of SDFOs, having no chances of getting Grade-18 as DFO in the near future, which shows the malafide intention of the Respondents.
- E. That the appellant has already moved a mercy appeal to the Respondents for redressal of his grievances but his representation is still to be entertained and not deciding it in the stipulated time (**90 days**), indicating their evil will.
- F. That there was no deficiency on the part of the appellant hindering him from promotion and was fit for promotion both in terms of seniority cum fitness, as such not promoting the appellant speaks about the mal-administration of the Respondents.
- G. That the Department admits that the appellant has been deprived from promotion w.e.f 13.05.2015 after availability of vacancy on the retirement of Mr. Jan Nisar SDFO under Promotion Quota, but they did not fulfill their duties.
- H. That holding of any PSB by the Respondents without considering the senior official i.e. appellant is not tenable in the eyes of the Law and will have no effect on the promotion/ seniority of the appellant as such like PSB is illegal, against Services Rules and Regulations.

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Nigrah Paktokhwa
Service Tribunal
Peshawar

It is therefore, humbly prayed that on acceptance of this appeal with cost, the Respondents may kindly be directed to recommend the appellant with seniority/ regular promotion in the cadre of SDFO (BPS-17) since the date of availability of the vacancy

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w.e.f 13.05.2015 under Promotion Quota, on the retirement of SDFO Jan Nisar and to restore his assigned seniority by the PCS after Muhammad Shakeel (currently serving as DFO, Khyber BPS-18).

In addition to the above, any other relief, which this Honorable Court deems appropriate, may please be awarded to meet the end of justice.

[Signature]
Appellant

Through

Dated: 06 /11/2023

[Signature]
Hazrat Said Khan
Advocate Supreme Court of Pakistan

ATTESTED

[Signature]
W. S. ENAAMINER
Khyber Pakhtunkhwa
Sessions Tribunal
Peshawar

&

[Signature]
Muhammad Amin Khan
Advocate Peshawar

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1. Annex III (16)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**
Service Appeal NO.2307/2023



Muhammad Sajid S/O Abdul Qayyum R/O Khwaja Bagh Near Mian Gul Kalay,
Tehsil & District Mardan.....**PETITIONER**

VERSUS

1. The Govt of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
2. The Secretary, Government of Khyber Pakhtunkhwa Forestry, Environment and Wildlife Department Peshawar
3. The Secretary, Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariate, Peshawar.
4. Chief Conservator of Forests Central Southern Forest Region-I, Peshawar.....**RESPONDENTS**

Parawise comments on behalf of Respondent No.1 (Khyber Pakhtunkhwa Service Tribunal)

PRELIMINARY OBJECTIONS

Diary No. 11133

- i. The appellant has got no cause of action.
- ii. The appellant has no locus standi to file this Service Appeal.
- iii. The appellant is neither aggrieved by any order nor any discrimination done to him hence instant Service Appeal is not maintainable.
- iv. The appellant has not come to this Court with clean hands.
- v. There is no impugned order.

Dated 14-02-24

RESPECTFULLY SHEWETH: -

1. Pertains to record, hence needs no comments.
2. Pertains to record, hence needs no comments.
3. Correct to the extent that the appellant/petitioner was at Serial No. 5 of the merit order of Range Forest Officers (RFOs BS-16) who were recommended by Khyber Pakhtunkhwa Public Service Commission (KPPSC) for appointment in the year 2007 (copy attached as Annex-A). While serving in the capacity of RFOs, 02 numbers of RFOs, who stood senior to the petitioner/appellant i.e. Pervez Manan and Jane Alam got selected as SDFOs (BS-17) through KPPSC, hence they were removed from the seniority list of the RFOs. Besides, One of them i.e. Mr. Munawar Zeb did not join the Department in pursuance of the recommendation of KPPSC as RFOs dated 23.06.2007. Thus, the appellant got elevated in the seniority list of the RFOs at serial No. 09 just below Muhammad Shakeel (seniority list for the year 2014 in respect of RFO may be seen vide Annex-B).
4. Pertains to record, hence needs no comments.
5. As already explained in Para-3 above.
6. Pertains to record, hence needs no comments.
7. Pertains to record, hence needs no comments.

ATTACHED

EX. NINE
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23-16-24

8. Pertains to record, hence needs no comments. 2 (17)
9. Correct to the extent that Mr. Jan Nisar, the then SDFO BS-17 was retired on the age of superannuation w.e.f 13/05/2015 vide A.Deptt; Notification No. SO(Estt)/FE&WD/1-50(144)/2K14/1194-1200, dated 13/07/2015, however no DPC.
10. Correct to the extent that DPC could not be held between 2014 to 2018. The process for the initiation of promotion case of Forest Ranger was started during February, 2017, which was ultimately materialized in 2018, after a series of correspondence with the concerned for the collection of requisite record. In the said DPC, the appellant was deferred from promotion to the post of SDFO due to enquiry proceedings against him. (copy of DPC minutes is enclosed) (Annex-C).
11. It is correct that the appellant had filed a Departmental appeal for the restoration of his seniority w.e.f 13/05/2015, the fate of which is yet to be decided by the competent forum as the Administrative Department seek advice from the Establishment Department, however response of the Establishment Deptt; is still awaited.
12. As explained in Para-11 above.
13. The appellant was promoted to the rank of SDFO vide Notification No.SO(Estt)/FE&WD/1-3/2020/5029, dated 08/12/2020 after his exoneration from the charges vide Notification No. SO(Estt)/FE&WD/1-50(31)/PF, dated 13/06/2020 as per rules. However, his seniority was restored vide Notification No. SO(Estt)/FE&WD/1-39//2019, dated 14/06/2021 w.e.f 13/12/2018.
14. Due to de-novo inquiry, it could not be finalized in the stipulated period. However, the delay in Inquiry proceedings has not affected his promotion as explained in Para 13 above.
15. Due to pending Inquiry under E&D Rules, 2011 against the appellant, his promotion case has not been delayed deliberately.
16. The Board discuss all promotion cases according to rules/policy

The Respondent Deptt; are also in the position to furnish their view points on the following grounds:-

GROUND

- A. Pertains to record, hence needs no comments.
- B. The appellant has been dealt in accordance with rules.

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Khyber Pakhtunkhwa
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C. The appellant was promoted to the post of SDFO (BPS-17) after his exoneration from the charges vide notification No. SO(Estt)/FE&WD/1-50(31)/PF, dated 13/06/2020.

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D. In correct and to clarified that Muhammad Shakeel was promoted to the post of SDFO (BS-17) on 15/01/2015 on regular basis and was further promoted to the post of DFO (BPS-18) on 06/01/2022 after lapse of six years, whereas the appellant is promoted to the post of SDFO (BS-17) on 08/12/2020 and after his promotion to the post of SDFO (BS-17), his seniority was also restored according to rules/policy w.e.f 13/12/2018 vide Notification No. SO(Estt)/FE&WD/1-39//2019, dated 14/06/2021 (Annex-D) and presently he is listed at S.No. 15 of the seniority list of SDFO (BPS-17).

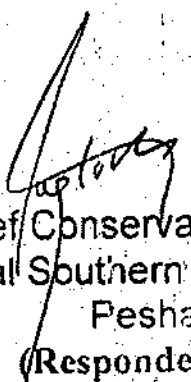
E. As explained in Para-11 of the facts.

F. In correct to say that no deficiency on the part of responding deptt. is available regarding processing the promotion case of the appellant to the post of SDFO (BPS-17), due to pending Inquiry his case of promotion was not materialized timely.

G. As explained in Para-13 above.

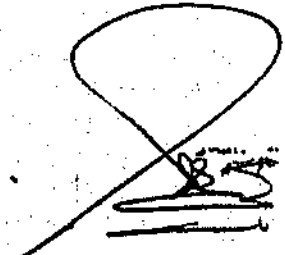
H. Pertains to record.

In view of the above explanation, it is humbly prayed that the instant Service Appeal being devoid of merits may kindly be dismissed.

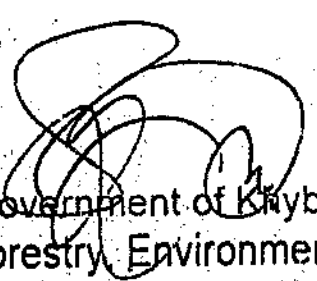

Chief Conservator of Forests
Central Southern Forest Region-I
Peshawar
(Respondent No. 4)
(SYED MUQTADA SHAH)

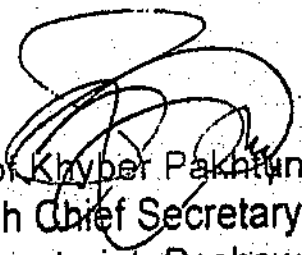
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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


Secretary, Government of Khyber
Pakhtunkhwa, Establishment
Department, Civil Secretariate,
Peshawar.
(Respondent No. 3)

14 FEB 2024


Secretary, Government of Khyber
Pakhtunkhwa Forestry, Environment and
Wildlife Department Peshawar
(Respondent No. 2)


Govt. of Khyber Pakhtunkhwa
through Chief Secretary, Civil
Secretariat, Peshawar
(Respondent No. 1)

ATTESTED

Attested
Oath
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Observation: Old contents are correct, nothing more left
Zahid Iqbal Khan
12 HRD Forest

Annex IV

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Divisional Forest Officer Patrol Squad Forest Division Central Forest Circle		Shami Road Peshawar Phone # 091-9214024
No 208 /PS-23		Dated Peshawar the 06 /09/2023

To

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

Subject:- REQUEST FOR RESTORATION OF SENIORITY IN THE CADRE OF SDFO (BPS-17) AFTER RETIREMENT OF MR. JAN NISAR SDFO (BPS-17) ON 13.05.2015.

It is kindly to intimate that the undersigned had moved a Service Appeal having No. 2307/2023 titled as, "Muhammad Sajid versus Govt. of Khyber Pakhtunkhwa & others" which was decided in my favor. Copy of the Judgment dated; 01.07.2024 is enclosed herewith as ready reference (Annex-I).

The Forest Department approached the Law, Parliamentary Affairs & Human Right Department through Administrative Department to lodge CPLA against the undersigned. But, the Scrutiny Committee did not allow the same being not fit for filing of CPLA. Minutes of the Meeting issued by the office of the Assistant Solicitor (Lit) Law, Parliamentary Affairs & Human Rights Department vide his letter No. SOL/Law/9-7(21)Env/2024/14466-70, dated; 06.09.2024 are enclosed herewith for favor of information and further processing of the subject case to restore seniority of the undersigned just after his batch mate Muhammad Shakeel. (Annex-II).

Therefore, you are kindly requested to approach the quarter concerned to implement the Judgment of the Services Tribunal Peshawar and restore my seniority in the subject captioned cadre of SDFO (BPS-17), please.


Divisional Forest Officer
Patrol Squad Forest Division
Central Forest Circle Peshawar

No. 209 /PS-23

Copy alongwith its enclosures forwarded (In Advance) to the P.S to the esteemed Secretary, Climate Change, Forestry, Environment and Wildlife Department Chief Conservator of Forests, Central Southern Forest Region-I, Khyber Pakhtunkhwa, Peshawar for favour of information & necessary action, please.


Divisional Forest Officer
Patrol Squad Forest Division
Central Forest Circle Peshawar

قیمت
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پشاور بار ایسوسی ایشن، سیر پختونخواہ

ایڈویٹ: Khurshid Azam

بار کونسل ایسوسی ایشن نمبر: BC = 23-8806

رابطہ نمبر: 0336-9392956



بعدالت جناب: سرساز ایشیونل KPC پشاور

منجانب: پشاور	دعویٰ: Execution
محمد ساجد	علت نمبر:
بنام	مورخہ:
گورنمنٹ KPC	جرم:
	تھانہ:

بامث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام پشاور کیلئے خواجہ شہداء اعظم و انبیا قمر الدین صاحب کو وکیل مقرر

کر کے اقرار کیا جاتا ہے کہ صاحب موصوفہ کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر چالنت و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی جرائز کی اور منسوخی، نیز دائر کرنے اپیل گزشتہ و نظر ثانی و پیروی گزشتہ کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار بنی دعویٰ کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ پر دستخط منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوا لے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا ہجرت ہوں گے کہ پیروی مذکورہ کریں، نیز اس کا وکالت نامہ لکھ دیا تاکہ مندرجہ

المرقوم: 1/20

العبد العبد العبد العبد
مقام پشاور