

BEFORE THE HONOURABLE SEREVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 2618/2023

Sami Ullah Khan

Versus

Govt. of Khyber Pakhtunkhwa and others


SERVICE APPEAL

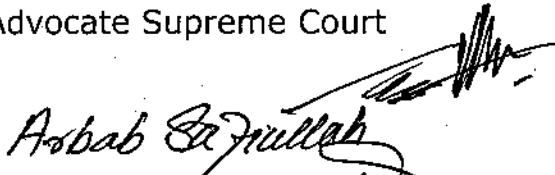
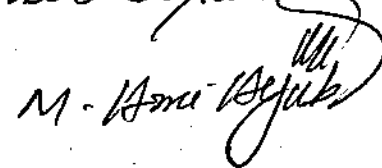
I N D E X



S. No.	Description of document	Annexure	Pages
1.	Rejoinder along with Affidavit	--	1-4
2.	Copy of appointment order of replying respondent#6	R/1	5
3.	Copies of Course Training documents	R/2	6
4.	Copies of the Rules	R/3	7-13
5.	Wakalat Nama	--	14

October 9, 2014

Your Humble Respondent#6


Jamal Abdul Nasir Awan
Advocate Supreme Court


Asbab Ali Jullah

M. Amir Begum


Muhammad Akram
Through counsel 

Arbab Bafi-Ullah
9
Muhammad Amir Begum

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 2618 of 2023

Khyber Pakhtunkhwa
Services Tribunal

Diary No. 17863

Dated 12-11-24

Sami Ullah Appellant

Versus

Government of KPK & others..... Respondents

SERVICE APPEAL

Subject: WRITTEN REPLY ON BEHALF RESPONDENT NO. 6
(MUHAMMAD IKRAM)

Respected Sir,

Respondent No. 6 humbly submits and replies the para wise contents of the appeal of the appellant as follows.

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action and locus standi.
2. That the appellant has not come to this tribunal with clean hands.
3. That the appellant is estopped to sue due to her own conduct.
4. That the appellant has concealed the real facts from this Honourable Tribunal.
5. That the appeal is not maintainable in its present form.
6. That the appeal is barred by law.
7. That the appeal of the appellant is hit by the provisions of limitation act and on the ground of limitation, the appeal of the appellant is liable for rejection.
8. That the replying respondent is entitled to receive special compensatory costs from the appellant.
9. That the appeal of the appellant is misfit for joinder and non-joinder of the necessary parties.

REPLY ON FACTS

- 1) That para #1 of the appeal is relating to the service of appellant, needs no reply.

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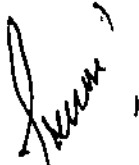
- 2) That para No. 2 of the appeal of the appellant totally pertains to the record and needs no detailed reply.
- 3) That para #3 is related to the official respondents, needs no reply.
- 4) That para #4 of the appeal of the appellant is totally incorrect and misconceived. The promotion of replying respondent was made in accordance with law. The replying respondent was appointed to the department on 01/08/2008, with a date of birth of 23/03/1982. On the other hand, the appellant was also appointed on 01/08/2008, with a date of birth of 06/03/1985. According to the service rules, if two employees are appointed on the same date, their seniority is determined based on their date of birth. Since the replying respondent is older than the appellant, the replying respondent is, therefore, senior to the appellant.
- 5) That para #5 of the appeal of the appellant is totally incorrect and not in accordance with the facts and law because the replying respondent was selected for the **Forest Guard/Wildlife Watcher Regular Course** based on his excellent performance, and he successfully completed the course during the session 2020-21. Two positions for Deputy Ranger Wildlife were vacant in the department, for which a formal Departmental Promotion Committee (DPC) was constituted. After fulfilling all legal formalities, the committee promoted the replying respondent to the position of Deputy Ranger. On the other hand, the appellant has not completed any relevant course or training and, therefore, is not entitled to promotion.
- 6) That para #6 of the appeal is incorrect and misconceived. The appellant submitted the departmental appeal with considerable delay and badly time barred, hence, is not entitled for any relief.
- 7) That the departmental appeal of appellant was dismissed in accordance with law.
- 8) That para #8 of the appeal is totally incorrect. The departmental appeal of the appellant by itself is not in accordance with law and is time barred and on this score too the appeal of the appellant is liable for dismissal.

REPLY ON GROUNDS

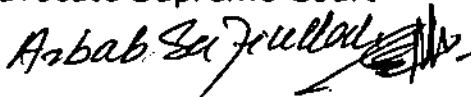
- a. Incorrect. The official respondents issued the promotion order of replying respondent in accordance with law.
- b. Incorrect. As the appointment orders were effective from 01/08/2008, therefore the replying respondent#6 preferably was placed senior to the appellant on the basis of age.
- c. Incorrect. The promotion committee recommended the replying respondents for promotion being senior than appellants on the basis of age and in accordance with law.
- d. Incorrect. Detail reply is given in supra paras.
- e. Incorrect & misconceived.
- f. Incorrect. The promotion of replying respondent has been made in accordance with prevailing service rules and promotion policy of the government.
- g. Incorrect. When the appeal of the appellant by itself is illegal then she cannot claim any protection of law from this Honourable forum.
- h. No reply.
- i. Incorrect, The departmental appeal of the appellant by itself is not in accordance with law and is time barred and on this score too the appeal of the appellant is liable for dismissal.
- j. Incorrect & misconceived, hence, vehemently denied.
- k. Incorrect & misconceived, hence, vehemently denied.

In wake of submissions made above, this Honourable Tribunal is humbly requested to dismiss the appeal of the appellant with costs throughout and any other relief which could be extended under the law in favour of replying respondent may please be allowed.

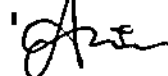
October 9, 2024



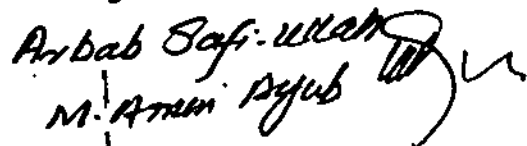
Jamal Abdul Nasir Awan
Advocate Supreme Court



Your Humble Respondent#6



Muhammad Akram
Through counsel



Arbab Safiullah
M. Armin Syub

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 2618 of 2023

Sami Ullah Appellant

Versus

Government of KPK & others.....Respondents

SERVICE APPEAL

VERIFICATION

Verified this _____ day of October, 2024 that the contents of this written reply are true and correct and that nothing has been concealed from this Honourble Court.

Replying Respondent#6

COUNTER AFFIDAVIT

I, **Muhammad Akram**, do hereby solemnly affirm & declare on oath that the contents of this written reply are true & correct to the best of my knowledge and belief, nothing has been concealed from this Honourable Court and contents of the service appeal and the affidavit thereon are false.



Akram
Deponent

Annexure P/1 (5)

OFFICE ORDER NO. 91/WL, DATED DIKhan THE 29, 7, 2008, ISSUED BY
MR. ABDUL HALEEM KHAN DIVISIONAL FOREST OFFICER WILDLIFE DIVISION D.I.KHAN.

Mr. Muhammad Akram S/O Muhammad Aslam Resident of Khairabad Colony District D.I.Khan, who had been appointed temporarily against post of Community Wildlife Watcher under the scheme "Management of Waterfowl in NWFP" at Wildlife Division D.I.Khan vide office order No.60/WL, dated:07/02/2007 but on the completion of above scheme he was terminated from his service w.e.f. 30/06/2008. He has subsequently preferred appeals to the Conservator Wildlife Southern Circle Peshawar and the Chief Conservator Wildlife NWFP Peshawar who have recommended his case for appointment as Wildlife Watcher against the vacant post vide their letter No.2517/WL, (SC) dated:09/05/2008 and No.92/WL, dated:07/07/2008 respectively. Thus taking into consideration the recommendations of the higher authorities and availability of vacant post of Wildlife Watcher incumbent, concerned as mentioned above is hereby appointed as Wildlife Watcher in (BPS-05) purely on contract basis Rs.2780-135-6830 w.e.f. 01/08/2008 subject to following terms and conditions:-

1. The appointment is purely on temporary basis and initially for one year can be terminated at any time without assigning any reason or notice.
2. His appointment has been made on probation basis for the period of one year subject to his work and conduct if found satisfactory otherwise liable to removal from service.
3. His service will be on contract basis and will not be count for pension and gratuity
4. His service will be liable to termination immediately in case his Academic Certificate is found fake.
5. He will undergo prescribed training course at Sarhad Forest School Abbottabad at Thal on allotment of seat and nomination made for said training course, if failed he will be terminated from service.
6. In case of resignation, he will give 14 days advance notice otherwise his pay equal to 14 days will be forfeited to Government.
7. He will be governed by such rules and regulation as may be prescribed by the government from time to time for the category of government service from which he belong.
8. If he found indulged in any mis-conduct / illegal activities and such proves on him through a committee will be terminated from service.
9. Appointment is subject to production of Medical Fitness Certificate from District Head Quarter Hospital at D.I.Khan.

ATTESTED

No. 91-95 WL.

(ABDUL HALEEM KHAN)
DIVISIONAL FOREST OFFICER
WILDLIFE DIVISION D.I.KHAN

Copy forwarded to the :-

1. Chief Conservator Wildlife NWFP Peshawar for favour of information please.
2. Conservator Wildlife Southern Circle Peshawar for favour of information please.
3. Mr. Muhd: Akram S/O Muhammad Aslam R/O Khairabad Colony District DIKhan.
4. Sub-Divisional Forest Officer Wildlife DIKhan.
5. Head Clerk / Accountant Wildlife Division DIKhan.

Serial No. 779

Reg: No. 04/84th FG/2021/KPFS

CERTIFICATE



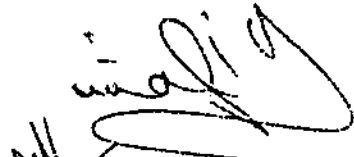
This is to Certify that

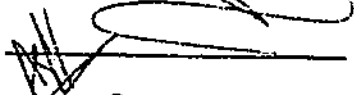
Mr. Muhammad Akram Khattak S/O Aslam Khattak
CNIC #: 12101-0977653-1

trainee of *Khyber Pakhtunkhwa Forest School Thai, Abbottabad*
has passed the *84th Forest Guard/Watcher Regular Course, Session 2021*
(*January 2021 - December 2021*)

Obtaining 854 Marks out of 1750 Marks and Placed in 'D' Grade with 64th Position.

The Examination was taken as a Whole/~~In Parts~~

Prepared by: 

Checked by: 

Dated: 23-12-2021

PRINCIPAL

KHYBER PAKHTUNKHWA FOREST
SCHOOL THAI, ABBOTTABAD

DIRECTOR

I & HUMAN RESOURCE DEVELOPMENT
& MGT. DIRECTORATE PESHAWAR

1	80% and above	A+
2	70% or above & below 80%	A
3	60% or above & below 70%	B

4	50% or above & below 60%	C
5	40% or above & below 50%	D
6	33% or above & below 40%	E

KHYBER PAKHTUNKHWA
FOREST SCHOOL
THAI, ABBOTTABAD

Amir / B

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AWP R/3 ⑦

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P/11
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 10th OCTOBER, 2018.

GOVERNMENT OF NWFP,
FORESTRY, FISHERIES & WILDLIFE DEPARTMENT.

NOTIFICATION

Dated Pesh: the 26.1.1993

No. SO(FT: II)/AD/I-465/88/Vol-IV, in pursuance of the provision contained in sub-rule (2) of rule 3 of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, and in supersession of all previous rules made in this behalf, the Forests, Fisheries & Wildlife Deptt: in consultation with the Services & General Admn: Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in columns 3 to 5 of the Appendix to this Notification, which shall be applicable to posts in column-2 of the said Appendix in the Forest Department.

Sd -
Secretary to Govt. of NWFP
Forestry, Fisheries & Wildlife
Department

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Printed and published by the Manager,
State Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar.

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S #	Nomenclature of posts	Minimum qualification, for appointment by initial recruitment.	Age limit for initial recruitment	Method of recruitment
1	2	3	4	5
WILDLIFE WING				
PART - I PROFESSIONAL POSTS				
1.	Conservator of Forests.	(i) M.Sc Forestry or B.Sc (Hons.) in Forestry from a recognized University; and (ii) Twelve years' job experience in Grade-17 and above in wildlife or selected field. No Preference will be given to candidates who have contributed significantly to the profession/practice of wildlife and its allied fields by way of preparing management plans, research studies, survey and feasibility reports for assessing and husbanding renewable natural resources for economic and social benefits, etc.	35 to 45 years.	(a) By promotion, on the basis of seniority-cum-fitness, from amongst holders of posts of Divisional Forest Officers and Deputy Conservator of Forests, Wildlife, having at least twelve years' service in BS-17 and above, who have successfully completed such training or passed such departmental examination as may be prescribed by Government for the purpose; or (b) If no suitable person is available for promotion, by initial recruitment.
2.	Divisional Forest Officer/ Deputy Conservator of Forests (BPS-18).			By promotion, on the basis of seniority-cum-fitness, from amongst holders of posts of Assistant Conservator of Forests and Divisional Forest Officers, Wildlife, having at least five years' service as such, who have successfully completed such training or passed such Departmental Examination as may be prescribed by Government for the purpose.
3.	Assistant Conservator of Forests/ Divisional Forest Officer (BPS-17).	(i) B.Sc Forestry or BVSc./B.Sc. Animal Husbandry/ DVM from a recognized University or Institute; or (ii) M.Sc. Zoology/Botany from a recognized University.	21 to 28 years.	(a) Fifty per cent by initial recruitment; and (b) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst holders of posts of Wildlife Rangers with at least seven years' service as such. No Appointment of candidates selected for the posts by the Public Service Commission shall be subject to the following conditions:- (i) The candidates shall undergo and successfully complete the training at the Pakistan Forest Institute

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			<p>leading to M.Sc. Forestry Degree or an equivalent degree in Wildlife Management from a Foreign University; and</p> <p>(ii) The candidates shall execute bonds to the effect that on successful completion of the training course, they shall serve the government for at least five years or in default shall refund the expenses incurred in connection with their training and education.</p>
<p>4. Forest Ranger, Wildlife</p>	<p>(i) Intermediate (Second Division) from a recognized Board with two or more of the following subjects, namely:</p> <ul style="list-style-type: none"> (i) Mathematics, (ii) Physics, (iii) Chemistry, (iv) Biology, (v) Zoology, (vi) Botany, or <p>(ii) Second Class B Sc Degree from a recognized university with any two of the subjects as laid down for B Sc at (i) above.</p>	<p>18 to 25 years</p>	<p>(a) One-third by promotion, on the basis of seniority-combination, from amongst holders of posts of Wildlife Deputy Rangers who have at least twelve years service, as such and have received one year's training at Forest School and</p> <p>(b) Two-third by initial recruitment</p> <p>No Appointment of candidates selected for the posts by the Public Service Commission shall be subject to the following conditions:</p> <p>(i) The candidates shall undergo and successfully complete the training at Pakistan Forest Institute leading B Sc Forestry Degree.</p> <p>(ii) The candidates shall produce certificate from the Standing Medical Board at Peshawar regarding their Physical and mental fitness for performing the duties required of them, and</p> <p>(iii) The candidates shall execute bonds to the effect that on successful completion of the training they shall serve the government for at least five years or in default shall refund all the expenses incurred in connection with their training and education.</p>

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PART-II SUB PROFESSIONAL POSTS

1.	Wildlife Deputy Ranger.	(i) Secondary School Certificate with science or equivalent qualification (Second Division) from a recognized Board; (ii) Successful completion of Foresters Training Course from a School of Forestry; and (iii) Possessing minimum physical standard prescribed by government.	18 to 25 years.	(a) Fifty per cent by initial recruitment; and (b) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Head Watchers with at least five years' service as such.
2.	Head Watcher.			By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Wildlife Watcher with at least five years' service as such.
3.	Wildlife Watcher.	Preferably Middle standard level education	18 to 35 years.	By initial recruitment.
4.	Cameraman.	(i) Secondary School Certificate with Science from a recognized Board; and (ii) At least three years' experience in still and movie photography.	18 to 30 years.	By initial recruitment.
5.	Boatman.	Five years' experience of boating in major rivers.	18 to 35 years.	By initial recruitment.
6.	Wildlife Chowkidar.	Intimate knowledge of local wildlife and habitats.	18 to 35 years.	By initial recruitment.

PART-III MINISTERIAL POSTS

1.	Superintendent.			By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Assistant/ Stenographers (B-15) with at least five years' service as such.
2.	Assistant.	Degree from a recognized University.	18 to 25 years.	(a) Twenty-five per cent by initial recruitment; and (b) Seventy five per cent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Senior Clerks with at least five years' service as such.
3.	Senior clerk.			By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Junior clerks/ Storekeepers with at least three years' service as such.

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4.	Junior Clerk/ Storekeeper.	(i) Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) A speed of 30 words per minute in typing.	18 to 25 years.	(a) Eighty percent by initial recruitment; and (b) Twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst holders of posts of Daflari and Naib Qasid, who possess Secondary School Certificate and have at least two years' service as such.
5.	Stenographer (BPS-15).	(i) Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) A speed of 120 words per minute in shorthand in English and 40 words per minute in typing.	18 to 25 years.	(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Stenographers (BPS-12) with at least five years' service as such who have passed such test as may be prescribed by Government for the purpose; and (b) Fifty percent by initial recruitment.
6.	Stenographer (BPS-12).	(i) Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) A speed of 100 words per minute in shorthand in English and 40 words per minute in typing.	18 to 25 years.	By initial recruitment
OTHER MISCELLANEOUS POSTS COMMON TO ALL WINGS.				
1.	Girdawar/ Vernacular Clerk.	--	--	(a) By promotion, on the basis of seniority-cum-fitness, from amongst holders of posts of Patwari in the Wing concerned with at least five years' service as such; or (b) By transfer.
2.	Patwari.	(i) Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) Training in Land record from Patwar School.	18 to 25 years.	By initial recruitment.
3.	Driver (Heavy Vehicles).	(i) Preferably literate; and (ii) Possessing a valid heavy vehicle driving license and having three years' driving experience.	20 to 45 years.	By initial recruitment.
4.	Driver (Light Vehicles).	(i) Preferably literate; and (ii) Possessing a valid light vehicle driving license and having three years' driving experience.	20 to 45 years.	By initial recruitment.
5.	Naib Qasid/ Chowkidar/ Bhisti/Mali/ Cleaner/ Sweeper.	Preferably literate.	18 to 45 years.	By initial recruitment.

~~ATTACHED~~



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

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NOTIFICATION

Peshawar, Dated 14th February, 2019

SO (Estt)/FEBWD/II-465/2018:- In pursuance of the provision contained in sub rule-2 of Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa in consultation with Establishment and Finance Departments, Khyber Pakhtunkhwa, hereby directs that in this Department's Notification No: SO(FI-II)At/1-465/88/Vol-IV, dated 26-01-1993, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix, under the heading "WILDLIFE WING", - IN PART-IV, 'TECHNICAL POSTS'-

- (a) the existing serial No. "3A" shall be renumbered as "3B" and before "3B" as so renumbered, serial No. "3A" shall be inserted;

*3A.	Sub-Engineer BPS-12.	At least Second Class Diploma of Associate Engineering in the relevant field (Civil/Electrical) from a recognized Board of Technical Education.	18 to 30 years	By Initial recruitment
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- (b) after the existing entries at serial No.4, the following new entries shall be inserted in the respective columns, namely;

*4A.	Electrician BPS-07	At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board with one year diploma from a Govt. Vocational Training Center or Institute alongwith skills in electric fittings.	18 to 30 years	By Initial recruitment
4B.	Painter BPS-07	At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board with skills in painting.	18 to 30 years	By Initial recruitment
4C.	Mason BPS-07	At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board with five years practical experience in masonry works.	18 to 30 years	By Initial recruitment
4D.	Carpenter (BPS-7)	At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board with one year diploma from a Govt. Vocational Training Center or Institute alongwith skills in carpentry	18 to 30 years	By Initial recruitment.

- (c) after the existing entries at serial No.5, the following new entries shall be added in the respective column's, namely:

1	2	3	4	5
*6.	Security Guard (Male) BPS-03	At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; Physical fitness.- I. Height: five feet and six inches (minimum); II. Chest Size: 33-34.5 inches (minimum); III. The candidate will have to qualify Marathon race of 1 Mile within 07 minutes.	18 to 30 years	By Initial recruitment. Preference shall be given to Ex service men of Military, Para Military or Civil Armed Forces.

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7.	Security Guard (Female) BPS-03	At least Second Class Secondary School Certificate or equivalent qualification from a recognized board. Physical fitness:- i. Height: five feet and one inch (minimum); ii. The candidate will have to qualify Marathon race of 1 kilometer within 07 minutes.	18 to 30 years	By initial recruitment. Preference shall be given to Ex-servicemen of Military, Para Military or Civil Armed Forces.
8.	Animal Keeper BPS-03	At least Second Class Secondary School Certificate or equivalent qualification from a recognized board, having knowledge about:- a. Animals and animal husbandry. Use of equipment necessary for fodder and feed preparation for the animals; b. symptoms of animal diseases and un-rest; and c. physically fit to handle wild animals.	18 to 30 years	By initial recruitment.

**SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA,
FORESTRY, ENVIRONMENT & WILDLIFE
DEPARTMENT.**

656-680

ENDST: SO (ESTT)/FE&WD/II-465/2018: DATED PESH: THE 14th February, 2019

Copy is forwarded for information to:-

- 1) All Administrative Secretaries, Govt: of Khyber Pakhtunkhwa.
- 2) Accountant General, Khyber Pakhtunkhwa.
- 3) Director General, Audit, Khyber Pakhtunkhwa.
- 4) Registrar Peshawar High Court, Peshawar.
- 5) Secretary Public Service Commission, Khyber Pakhtunkhwa.
- 6) Chief Conservator Wildlife, Khyber Pakhtunkhwa.
- 7) All Heads of Attached Department in Khyber Pakhtunkhwa.
- 8) Director/Conservator Wildlife, Zoo for Peshawar Division, Peshawar.
- 9) Director Budget & Account Environment Department.
- 10) Director Treasury Khyber Pakhtunkhwa.
- 11) 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 provided to this Department.
- 12) PS to Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa.
- 13) Master file.
- 14) Concerned file.


 (Hafiz Abdul Jalil)
 SECTION OFFICER (ESTT)

ATTESTED