

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	07.02.2019	<p align="center"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b>  <b><u>At Camp Court Swat</u></b>  Appeal No. 529/2018</p> <p>Date of Institution ... 13.04.2018  Date of Decision ... 07.02.2019</p> <p align="center">Muhammad Rehman-II Forest Guard Shamerdin Forest Check Post of Forest Sub-Division Timergara.</p> <p align="right">-----Appellant</p> <ol style="list-style-type: none"> <li>Government of Khyber Pakhtunkhwa through Secretary Forestry, Environment and Wildlife Department Peshwar.</li> <li>Chief Conservator of Forests, Malakand Forest Region-III at Saidu Sharif Swat.</li> <li>Conservator of Forests, Malakand West Forest Circle at Timergara Lower Dir.</li> <li>Divisional Forest Officer, Lower Dir Forest Division at Timergara Lower Dir.</li> <li>Sub Divisional Forest Officer, Jandool Forest Sub-Division at Samerbagh.</li> </ol> <p align="right">-----Respondents</p> <p><b>Mr. Muhammad Hamid Mughal.....Member(J)</b>  <b>Mr. Hussain Shah.....Member(E)</b></p> <p align="center"><b><u>JUDGMENT</u></b>  <b><u>HUSSAIN SHAH, MEMBER:-</u></b> Learned counsel for the appellant and Mr. Mian Amir Qadir, District Attorney for the respondents present.</p> <ol style="list-style-type: none"> <li>This judgment also disposes off the service appeal No. 546/2018 preferred by Khalid Khan, having the same facts and grounds with similar prayer.</li> <li>The appellant was posted at Shamerdin Forest Check Post lower dir when he was placed under suspension vide order No.30 dated 09.10.2017 on account of willful absence from Government</li> </ol>

duty on 7-8/10/2017. A charge sheet and statement of allegation were issued to the appellant on account of facilitating of smuggling of illicit timber and also charged for being absent on the above mentioned date without any approval of the competent authority. He was asked to submit his written defense against the charge/allegations to the inquiry officer. As regarding charge No.1 the appellant in his written defense stated that he was present at the check post on 7/10/2017 and no vehicle, loaded with timber past the check post. As regarding absence from duty the appellant stated that due to the wedding of his daughter he sought leave on telephone from SDFO at the evening of the same date. On 8/7/2017 he went to Heart Specialist due to pain I chest and to prove this fact he alleged that he provided medical prescription along with his written defense. The inquiry officer gave opportunity of hearing and questioner was given to answer. The Enquiry Officer submitted his report wherein he recommended minor penalty for m/S Khalid khan and Afzal Ahmad Forest Guards. The competent authority issued show cause notice to the appellant which was replied. The process concluded with the imposition of two penalties i.e. withholding promotion with the period of two years and the penalty of withholding two annual increments for two years with accumulative effect. The appellant, feeling aggrieved, preferred departmental appeal to the respondent No.3 which is not replied with in due time hence the instant service appeal before the tribunal.

4. The learned counsel for the appellant contends that the

appellant has been condemned unheard and not been properly associated with the inquiry proceeding the competent authority nor the inquiry officer disclosed to the appellant the evidence of the charges/allegations. Further contended that the allegations/charges have not been proved by inquiry officer with certainty. Further contends that on 07-08/10/2017 the appellant was on routine station leave as per the practice in vogue in lower dir forest division regarding the check posts stop avail routine station leave turn by turn by mutual understanding and as such no prior approval of SDFO or any other authority. He further argued that the appellant has been subjected to two types of penalties which is against the law and constitution. As the impugned order is illegal hence the appeal may be accepted and the impugned order dated 18.12.2017 of the respondents No.4 may be set aside. He placed on record two judgments viz, 2007 SCMR 152 and 2007 SCMR 1769 regarding the two penalties.

5. The learned District Attorney contested the facts, ground of the appeal and arguments of the learned counsel for appellants and contended that all the formalities prescribed in the Khyber Pakhtunkhwa (Efficiency and Disciplinary) Rules, 2011 have been observed at each stage of the proceeding under rules ibid during the proceeding in the instant case. Charge sheet/statement of allegations were issued which were duly replied by both the appellants in their written defense. A formal inquiry was constituted wherein the appellants participated. The inquiry officer asked written questioned

which were duly replied. The inquiry officer after taking statements of all the relevant witness and the appellants examined the charges/ statement of allegations and recommended minor penalty to be imposed upon the appellant. The competent authority issued show cause notices which were duly replied; personal hearing was given and subsequently issued the impugned order. The tribunal confronted the District Attorney regarding the two minor penalties. Which were not appropriately responded.

6. Arguments heard. File perused.

7. This Tribunal perused the record on file, examined the arguments and counter arguments of both the parties and found that the appellants were proceeded according to the Khyber Pakhtunkhwa (Efficiency and Disciplinary) Rules, 2011 and almost all the prescribed formalities were full filled. However the impugned order is in violation of the relevant law and against the spirit of the multiple judgments of the Superior Court as well as the tribunal.

8. This tribunal is constrained to set aside the impugned order and remand the case to competent authority to issue fresh order according to relevant laws. The present service appeal is disposed off in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(Muhammad Hamid Mughal)  
Member




(Hussain Shah)  
Member  
At Camp Court Swat

ANNOUNCED  
07.02.2019

09.01.2019

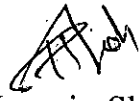
Appellant alongwith his counsel present. Mr. Abdul Hakeem, Senior Clerk alongwith Mr. Mian Amir Qadir, District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 07.02.2019 before D.B at Camp Court Swat.


  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member  
Camp Court Swat

07.02.2019

Learned counsel for the appellant and Mr. Mian Amir Qadir District Attorney for the respondents present. Vide separate judgment of today of this tribunal placed on file this tribunal is constrained to set aside the impugned order and remand the case to competent authority to issue fresh order according to the relevant laws. The present service appeal is disposed off in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member

ANNOUNCED  
07.02.2019

04.09.2018

Appellant Muhammad Rehman in person present. Mr. Abdul Hakeem, Supdt alongwith Mr. Usman Ghani, District Attorney for respondents present. Written reply not submitted. Representative of the respondents sought some time to submit written reply/comments. Granted. Case to come up for written reply/comments on 02.10.2018 before S.B at camp court Swat.

  
Chairman  
Camp Court Swat

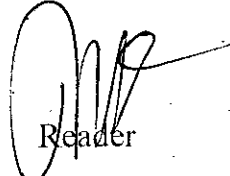
02.10.2018

Appellant Muhammad Rahman in person alongwith his counsel Qazi Farid Ahmad, Advocate present. Mr. Abdul Hakim, Senior Clerk alongwith Mr. Usman Ghani, District Attorney for the respondents present. Written reply filed. To come up for rejoinder, if any, and arguments on 08.11.2018 before the D.B at camp court, Swat.

  
Member  
Camp Court Swat

08.11.2018

Due to retirement of the Hon'ble Chairman Service Tribunal is incomplete. Tour to Camp Court Swat has been cancelled. To come up for the same on 09.01.2019 at camp court Swat.

  
Reader

08.06.2018

Appellant Muhammad Rahman in person alongwith Qazi Farid Ahmad Advocate present and heard.

Contends that the appellant has been punished for absence whereas in fact he never absented himself from duty and imposition of two penalties of withholding of promotion for two years alongwith two annual increments for two years with cumulative effect are against law.

Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections if raised by the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 4.07.2018 before S.B at camp court, Swat.

Appellant Deposited  
Security & Process Fee

  
Chairman  
Camp Court, Swat

04.07.2018

Appellant Muhammad Rehman in person present. Mr. Usman Ghani learned District Attorney for official respondents present. Written reply not submitted. Adjourned. To come up for written reply/comments on 06.08.2018 before S.B at camp court Swat.

  
Chairman  
Camp Court, Swat

06.08.2018



Appellant in person present. Due to summer vacation the case is adjourned to 04.09.2018 for the same at camp court Swat.

  
Reader

**Form-A**  
**FORM OF ORDERSHEET**

Court of \_\_\_\_\_

Case No. 529/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	13/04/2018	<p>The appeal of Mr. Muhammad Rehman-II presented today by Qazi Farid Ahmad Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.-</p> <p style="text-align: right;"> REGISTRAR 13/4/18</p>
2-	24-4-2018	<p>This case is entrusted to Touring S. Bench at Swat for preliminary hearing to be put up there on <u>03-06-2018</u></p> <p style="text-align: right;"> MEMBER</p>



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 529 /2018.

Muhammad Rehman-II Forest Guard Shamerdin Forest Check  
Post of Forest Sub-Division Timergara. .... (Appellant).

*Versus*

Government of Khyber Pakhtunkhwa through Secretary  
Forestry, Environment and Wildlife Department Peshawar  
and 4 others. ....(Respondents)

S.No.	Description of the documents	Annexure	Page. No.
1	Memo of Appeal		1 - 4
2	Affidavit & Addresses		5 -- 6
3	Copy of order dated 09.10.2017	"A"	7
4	Copy of Show cause and Reply	"B "	8 -11
5	Copy of order dated 18.12.2017	"C"	12 - 13
6	Copy of departmental appeal	"D"	14 - 18
7	Copy of Affidavit	"E"	19
8	Wakalat nama		20

Appellant

Through



Qazi Farid Ahmad Advocate Swat  
Office: Main Bazar, Mingora Swat.  
Cell: 0333-9481685

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 529/2018

①

Muhammad Rehman-II Forest Guard Shamerdin Forest Check  
Post of Forest Sub-Division Timergara.

(Appellant).  
Khyber Pakhtunkhwa  
Service Tribunal

**Versus**

Diary No. 561

Dated 13-4-2018

- 1- Government of Khyber Pakhtunkhwa through Secretary Forestry, Environment and Wildlife Department Peshawar.
- 2- Chief Conservator of Forests, Malakand Forest Region-III at Saidu Sharif Swat.
- 3- Conservator of Forests, Malakand West Forest Circle at Timergara Lower Dir.
- 4- Divisional Forest Officer, Lower Dir Forest Division at Timergara Lower Dir.
- 5- Sub Divisional Forest Officer, Jandool Forest Sub-Division at Samerbagh.

.....(Respondents).

SERVICE APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE ORDER NO.52 DATED 18.12.2017 ISSUED BY RESPONDENT NO. 4 WHEREBY THE RESPONDENT NO. 4 IMPOSED THE PENALTY OF WITH HOLDING FURTHER PROMOTION FOR THE PERIOD OF TWO YEARS ALONGWITH TWO ANNUAL INCREMENTS FOR TWO YEARS i.e. 2017 AND 2018 WITH ACCUMULATIVE EFFECT IMPOSED UPON APPELLANT WHICH IS AGAINST THE LAW, RULES AND FACTS AND WITHOUT FULFILLING THE CODEL FORMALITIES AND IS LIABLE TO BE SET A SIDE.

Filed to-day  
13/4/18  
Registrar

**PRAYER**

That on acceptance of this appeal the impugned order may very kindly be set a side.

**Respectfully Sheweth:**

**FACTS:**

1. That appellant is serving as Forest Guard in Lower Dir Forest Division Timergara and is presently performing duty at Shamardin Forest Check Post of Timergara Forest Sub- Division.
2. That the appellant was put under suspension vide order No.30 dated 09.10.2017 for releasing three trucks loaded with FDC timber consignment from Chitral to Chakdara on an expired challan. Copy of the order dated 09.10.2017 is enclosed as annexure-"A".
3. That the appellant was issued a show cause notice vide No.2776-78/Acctt: dated 29.11.2017 on the above alleged mentioned baseless charges. The appellant submitted a detail reply to the same. Copy of the show cause notice and reply are enclosed as annexure- "B".
4. That the appellant submitted a detailed reply but the same was not found satisfactory and penalty was imposed upon the appellant vide the impugned order No.52 dated 18.12.2017 without adopting the proper course of law. Copy of the order dated 18.12.2017 is enclosed as annexure-"C".
5. That feeling aggrieved the appellant preferred departmental appeal to the respondent No.3, but till now no order has been passed by the respondent No.3, to the departmental appeal of the appellant. Copy of the Departmental Appeal is enclosed as annexure-"D"
6. That still feeling aggrieved and having no other option this honorable Tribunal is approached on the following grounds.

**GROUND**

- a. That the appellant has been condemned unheard and has not been properly associated with the inquiry proceedings. The appellant has never been afforded an opportunity to defend himself neither is his defence plea nor considered at all. Moreover, the evidence used against the appellant has never shown to him neither given him any opportunity to rebut the

same by way of cross examination to trash its veracity, thus the appellant has not been treated in accordance with the law.

- b. That the appellant is made to suffer on the basis of a baseless inquiry, which was only an eye wash with a pre-concluded and pre-decided outcome, thus the same is not sustainable in the eye of law.
- c. That appellant has not committed any act of commission or omission which may constitute any offence under any law.
- d. That the appellant has been condemned as unheard.
- e. That the penalty imposed by the respondent No.4 is very much harsh in relation to the charges leveled against the appellant.
- f. That the allegations have not been proved with certainty by the inquiry officer.
- g. That many factual controversies are involved in the charge but no evidence was produced in support of the charge level against the appellant therefore the impugned order is liable to be set a side.
- h. That on 7-8/10/2017 the appellant was on routine station leave it is an irrefutable fact and open secret of the department, particularly Lower Dir Forest Division that all the staff posted on the Check Posts are avail routine station leave turn by turn being managed by the mutual understanding of the staff of the check posts and no prior approval of SDFO or any other authority has been in practice uptill now. However, the official on routine station leave remains stand by for calling any time by the staff for duty. Therefore the routine station leave could not be termed to obtain prior approval of the competent authority. But the respondent ignored all the above mentioned facts and imposed the penalty upon appellant which is not liable to maintain but liable to be set a side.

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- i. That the respondent No.4 has imposed both the penalties i.e. with holding of promotion for two years and withholding two annual increments which is contrary to the rules, have the office order of the respondent No.4 is not in accordance with rules and law.
- j. That the appellant has performing his duty perfectly, honesty for last 30 years which is also evident from the service record of the appellant.
- k. That Mr. Tela Muhammad S/O Amir Muhammad Khan the allege smuggler of timber has given affidavit regarding the innocency of the appellant which is self explanatory. Copy of the Affidavit is annexed as annexure- "E".
- l. That the appellant will be attaining the age of superannuation on 30.12.2018. Therefore no proceeding could be initiated against the appellant.

It is, therefore, most humbly prayed that on acceptance of this appeal, orders dated 18.12.2017 of the respondents No. 4 may very kindly be set aside.

Any other relief deems appropriate in the circumstances may very kindly be granted.

Appellant



Muhammad Rehman-II  
Forest Guard,  
Through Counsel,



Qazi Farid Ahmad  
Advocate Swat.

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. \_\_\_\_\_/2018.

Muhammad Rehman-II Forest Guard Shamerdin Forest Check Post of Forest Sub-Division Timergara. .... (Appellant).

*Versus*

Government of Khyber Pakhtunkhwa through Secretary Forestry, Environment and Wildlife Department Peshawar and 4 others. ....(Respondents)

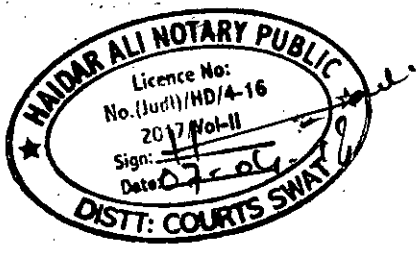
AFFIDAVIT

It is solemnly stated on Oath that all the contents of this service appeal are true and correct to the best of my knowledge and belief and nothing has either been misstated or concealed thereto.

DEPONENT

Muhammad Rehman -II  
Forest Guard Timergara  
Forest Sub Division Lower Dir.

No 153  
07-04-18



6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. \_\_\_\_\_/2018.

Muhammad Rehman-II Forest Guard Shamerdin Forest Check Post of Forest Sub-Division Timergara. .... (Appellant).

*Versus*

Government of Khyber Pakhtunkhwa through Secretary Forestry, Environment and Wildlife Department Peshawar and 4 others. ....(Respondents)

ADDRESSES OF THE PARTIES.

**(Appellant).**

Muhammad Rehman-II Forest Guard Shamerdin Forest Check Post of Forest Sub-Division Timergara

*Versus*

**(Respondents).**

- 1- Government of Khyber Pakhtunkhwa through Secretary Forestry, Environment and Wildlife Department Peshawar.
- 2- Chief Conservator of Forests, Malakand Forest Region-III at Saidu Sharif Swat.
- 3- Conservator of Forests, Malakand West Forest Circle at Timergara Lower Dir.
- 4- Divisional Forest Officer, Lower Dir Forest Division at Timergara Lower Dir.
- 5- Sub Divisional Forest Officer, Jandool Forest Sub-Division at Samerbagh.
- 6- Inspector General of Police Khyber Pakhtunkhwa, Peshawar.

Appellant

Through

Qazi Farid Ahmad  
Advocate Swat.

ANNEXURE : A

7

OFFICE ORDER NO. 30 DATED TIMERGARA THE 09/10/2017 ISSUED BY MUHAMMAD SALEEM KHAN MARWAT DIVISIONAL FOREST OFFICER LOWER DIR FOREST DIVISION TIMERGARA.

M/S Khalid Khan, Muhammad Rahman-II and Afzal Ahmad Forest Guards are hereby placed under suspension on account of willful absence from Govt: duty on 07-08/10/2017 and releasing three trucks loaded with FDC Timber consignment of Chitral to Chakdara on expired challans. The official will be attached with Divisional Office till further order in the interest of public service with immediate effect.

Sd/-

(Muhammad Saleem Khan Marwat)  
Divisional Forest Officer,  
Lower Dir Forest Division,  
Timergara.

No 1592-95/E.

Copy forwarded to the:

- 1- Conservators of Forests Malakand West Circle Timergara for favour of information please.
- 2- SDFO Timergara for information and further necessary action. He is requested to deploy suitable staff with local arrangement under intimation to this office.
- 3- Official Concerned.
- 4- Divisional Accountant for information and necessary action.

Divisional Forest Officer,  
Lower Dir Forest Division  
Timergara

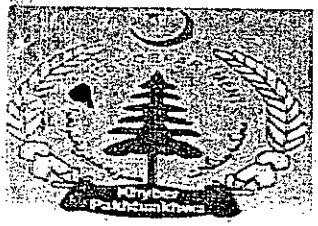


خواجہ ۱۵/۲۰۱۶ کو سائیل چک پست مر موجود تھا۔

(۱۱)

اور ہم یہ

AMMUNITION: B (8)



OFFICE OF THE  
DIVISIONAL FOREST OFFICER,  
LOWER DIR FOREST DIVISION,  
TIMERGARA  
Phone No.0945-9250105

No 2776-78 /Acctt: Dated Timergara the 29/11/2017

To


- 1. Mr.Muhammad Rahman-II Forest Guard.
- 2. Mr.Khalid Khan Forest Guard.
- 3. Mr.Afzal-Ahmad Forest Guard.

Subject:- **SHOW CAUSE NOTICE.**

Memo:

Enclosed please find herewith Show Cause notices served upon you for further necessary action. You are further directed to submit proper reply to the show cause notices within the stipulated period and also explained whether you are heard in person or otherwise.

Encls:as above:

  
 Divisional Forest Officer,  
 Lower Dir Forest Division,  
 Timergara

SHOW CAUSE NOTICE

9

4


I Muhammad Saleem Khan Marwat, as competent authority under the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) rules, 2001, do hereby serve you, Mr. Muhammad Rahman-II Forest Guard as follows:

- 1- i- That consequent upon the report of enquiry officer constituted vide Divisional Forest Officer Lower Dir Forest Division Timergara Office Order No. 35 dated 07-10-2017, it has been proved that you were found involved in illegal transportation of timber and have active connivance with the timber smuggler which was crossed Shammardin Forest Check Post. Subsequently, the timber apprehended, by SDFO Timergara and his party at Odigram Bridge on 29-09-2017.
- ii- Similarly, the charge of absent from Govt: duty on 7-8/10/2017 was also proved against you.
- iii- You have been recommended for major penalty by the enquiry officer.

Keeping in view above enquiry outcome, I am satisfied that you have committed the following acts/omissions specified in Rule – 3 of the said rules:-

- a. In – efficiency
- b. Misconduct
- c. Corruption

- 2 As a result thereof, I as competent authority have tentatively decided to impose upon you the penalty of **Compulsory Retirement** under rule – 4 (b) of the said rules.
- 3 You, are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and else intimate whether you desire to be heard in person.
- 4 If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it should be presumed that you have no defense to put in that case an ex parte action should be taken against you.
- 5 A copy of the report of committee is enclosed herewith.

  
Divisional Forest Officer  
Competent Authority  


جن۔ انگریزی اسپر ہاٹل SDFO جنرل

رہنوی۔ وہاں ہی بیان بابت چارج شیٹ

حوالہ چھٹی ۵۴ مورخ ۱۷/۱۰/۱۶

جن۔ عالی۔

گزارشات دہل ہے

(i) سائل عرصہ دو سال سے ستمبر میں ایک پوسٹ پر ایسی ڈیوٹی انجام دے رہا تھا جس دوران میں انھیں منصفی کی ادارت میں کسی قسم کی کوئی کام نہ کیا گیا ہے۔ اور یہی اس کے بارے میں کسی قسم کی شکایت کا موقع بنا ہے۔ وقوعہ کے شبہ لہجے سائل ایک پوسٹ پر ایسی ڈیوٹی انجام دے رہا تھا جس کا نام نہ آ رہا ہے۔ ایک پوسٹ سے نیچے طویل ناہلہ پر مقام اور ڈیوٹی پر ایک پوزیشن تھی ہے۔ ایک سے نیچے رابطہ کرنے کے سلسلے میں موجود ہے۔ نیز گاوردہ سے بندر پر سفر کرنے کا سبب یہ ہے کہ علاقہ زر میں علاقوں کو آتا ہے جو کہ اس کے سلسلے میں ہے۔ اور عرصہ کے اس عرصہ میں اس طرح کے کسی نام پر عہدہ نہ کیا جا رہا ہے۔ اس لیے اس بات کا نقل یقین ہے کہ ناچاراً انگریزی ایک پوسٹ سے ایسی ڈیوٹی کے رابطہ کرنے سے پرہیز ہے۔

درج بالا وضاحت کے روشنی میں سائل عرصہ گزارا ہے کہ ان کے لیے اس بات سے پرہیز کرنے کی ضرورت ہے۔ تاہم سائل اپنے منصفی پوری ایمان داری اور عہدہ سونپنے کے ساتھ ان کے درجہ کو مورخ ۰۶/۱۰/۱۶ کو سائل ایک پوسٹ ڈیوٹی پر مقرر کیا گیا ہے اور ان کے مورخ ۰۸/۱۰/۱۶ کو سینے میں تکلیف کے باعث مایہ زاری میں ایک عہدہ لیا۔ ڈاکٹر کا عہدہ ایک ٹیسٹ و عہدہ لیا ہے۔

(عالمی)

(۱۱)

(۱۳)

بہر سائل کو ذاتی طور پر سب سے کامیاب رہا ہے اور سائل اپنے دفاع میں رہے

تو اچھے پیش کردہ کامیاب ٹھہرا رہتا ہے

سید احمد  
محمد رفیق  
نارسنگ گارڈ

الہ آباد

ADME 2017 C (12)

**OFFICE ORDER NO. 52 DATED TIMERGARA THE 18/12/2017 ISSUED BY MUHAMMAD SALEEM KHAN MARWAT DIVISIONAL FOREST OFFICER LOWER DIR FOREST DIVISION TIMERGARA.**

**READ WITH**

1. DFO Lower Dir letter No.1561/G&L, dated 06.10.2017.
2. DFO Lower Dir letter No.1601/G&L, dated 09.10.2017.
3. DFO Lower Dir office order No.30 dated 09.10.2017.
4. DFO Lower Dir office order No.35 dated 17.10.2017.
5. SDFO Timergara letter No.96-97/T, dated 01.11.2017.
6. SDFO Timergara letter No.79/T, dated 10.10.2017.
7. Charge Sheet served on the accused official.
8. Reply/Personal Hearing of the accused official.
9. Enquiry Report of Enquiry Officer.

**BACK GROUND OF THE CASE.**

The accused official Mr. Muhammad Rahman-II Forest Guard while posted on Shammardin Forest Check Post was placed under suspension vide DFO Lower Dir office order No.30 dated 09.10.2017 on account of willful absence from government duty on 7-8/10/2017, resultantly releasing three (03) trucks loaded with FDC Timber consignment of Chitral to Chakdara on expired challans. Similarly, a truck (Dumper) loaded with 106 illicit scants of Kail species and subsequently apprehended by SDFO Timergara and his staff on 29/09/2017 at Odigram Bridge. Accordingly the accused official was Charge Sheeted and the Enquiry was entrusted to Mr.Nadar Khan SDFO Jandool vide DFO Lower Dir office order No.35 dated 17/10/2017. The accused official was proceeded under E&D Rules, 2011 and charged for the following:

- i. In efficiency.
- ii. Misconduct.
- iii. Corruption.

**DISCUSSION.**

The Enquiry Officer obtained written reply of the accused official to the Charge Sheet served upon him and recorded personal hearing on 25/10/2017. The Enquiry Officer while conducting enquiry stated that there is contradiction in the written reply to the Charge Sheet and verbal statement by the accused official with regard to smuggling of timber. So far absence from government duty is concerned, it was found that the accused official was on routine leave but failed to produce prior permission from the competent authority nor there is any provision for routine leave.

The Enquiry Officer has recommended the accused official Mr. Muhammad Rahman-II Forest Guard for Major Penalty. Thus the accused was served with Show Cause notice bearing No.2776-78/Acctt, dated 29.11.2017. Accordingly the accused official submitted his reply to the Show Cause notice and also conducted personal hearing on 14.12.2017 in the instant case.

13

From perusal of the record it was found that the said accused official failed to advance any statement in his defense and repeated the verbal and written statements previously furnished before the Enquiry Officer.

**CONCLUSION.**

The case was examined from various angles and found contradiction in the written statement and personal hearing regarding apprehension of illegal timber on 29.09.2017 and absence from government duty on 7-8/10/2017, besides, the charge of smuggling of timber has been proved against the accused official as the illegal timber was obtained from Toormang and subsequently apprehended by SDFO Timergara and his staff at Odigrame Bridge. Furthermore, there is no Forests/illegal stock exists in Rabat.

**ORDER.**



On the basis of the above facts I Mr. Muhammad Saleem Khan Marwat Divisional Forest Officer Lower Dir Forest Division Timergara (Competent Authority) found the accused official viz Mr. Muhammad Rahman-II Forest Guard guilty of the charges of Misconduct, In-efficiency and Corruption and liable himself to Major Penalty, but keeping in view his long services and poor financial conditions, lenient penalty of with holding his further promotion for the period of two (02) year along-with holding of two (02) annual increments for two years i.e 2017 and 2018 with accumulative effect are imposed upon him. He is further warned to be careful in future.

Sd/-  
(Muhammad Saleem Khan Marwat)  
Divisional Forest Officer,  
Lower Dir Forest Division,  
Timergara.

No 3072-76 /G,

Copy forwarded for favour of information to the:

1. Chief Conservator of Forests Malakand Forest Region-III Saidu Sharif Swat.
2. Conservators of Forests Malakand West Circle Timergara.
3. SDFO Jandool/Timergara for information and necessary action.
- ✓ 4. Mr. Muhammad Rahman-II Forest Guard C/O SDFO Timergara.
5. Divisional Accountant for information and necessary action.

  
Divisional Forest Officer  
Lower Dir Forest Division  
Timergara 

BEFORE THE CONSERVATOR OF FOREST MALAKKAND WEST FOREST CIRCLE  
THROUGH PROPER CHANNEL.

SUBJECT: DEPARTMENT APPEAL AGAINST OFFICE ORDER  
NO. 53 DATED 18.12.2017 ISSUED BY DFO.

LOWER DIR FOREST DIVISION TENERGARA

Respected Sir,

It is humbly stated that :-

1) The appellant is serving as Forest Guard in Lower Dir Forest Division Tengerara and presently performed duty at Chamaid Forest Check Post of Tengerara Forest Sub-Div.

The appellant was proceeded under Whyber Pakhtun Khwa Govt. Servant (Efficiency & Discipline) Rules, 2011 and minor penalty has been imposed upon the appellant vide DFO Lower Dir office order no. 53 dated 18.12.2017 (Copy enclosed)

2) The office order issued by the DFO is irregular, illegal and not in accordance with the provisions of rules & regulations, hence not tenable. The allegations have not been proved with certainty by the Enquiry Officer, therefore, the penalty order of the DFO is irregular and illegal due to the reasons given below.



3) On 29.9.2017 a minitruck <sup>(15)</sup> loaded with illegal timber (106 rkhail beams = 394.97 cft) was apprehended by the SDF Tinneryara and his staff near Odigram bridge (Tinneryara). The vehicle was apprehended far away from Shamardin Forest Check post, however all the staff posted on Shamardin Forest Check Post were suspended and disciplinary action was initiated under FTD Rules against all the officials including the appellant.

(4) It is pointed out that I vigilantly performed duty on the night of 29.9.2017 and no illegal timber crossed the barrier during his duty time. Moreover, the appellant performed duty upto midnight (12:00 PM) and then he entrusted the check post to Mr. Muhammad Rehman - II Forest Guard. It is pertinent to mention here that the truck might have been loaded from Rabbits which is a notorious station for dumping

and smuggling of illegal timber. The Enquiry Officer has incorrectly stated in the Enquiry Report that the timber was originated from two of two Forests (with out any proof & evi. level). The Statement of the Enquiry Officer is not based on facts.

- (5) On 7-8/10/2017 the appellant was on routine station leave. It is an irrefutable fact and open secret of the Department, particularly Lower Dir Forest Division that all the staff posted on the check posts are availing routine station leave turn by turn being managed by the mutual understanding of the staff of the check posts and no prior approval of SDF or any other authority is in practice up till now. However, the official on routine station leave remains stand-by for calling any time by the staff for duty, therefore, the routine station leave could not be termed to casual leave or any other leave to obtain prior approval of the competent authority.

b) The penalty imposed on the appellant is not in accordance with the provision of Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules, 2011. The minor penalty as defined under Rule-4 (ii) of the said rules is reproduced as under:-

"Withholding, for a specific period, promotion or increment, otherwise than for unsuitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post?"

In the instant case of the appellant, both the penalties i.e. withholding of promotion for two years and withholding of two annual increments have been imposed which is contrary to the above rules, hence the office order of the DFO is not in accordance with the rules and illegal, irregular and not tenable.

D) The appellant has performed his duty perfectly, honestly with the best satisfaction of his superior officers and has never indulged in any malpractices which is also evident from his service records. During

(13)

(7) The appellant has served in the Department for more than thirty (30 years) and has performed his duties perfectly ~~with~~ honesty with the best satisfaction of his superior officers and has never indulged in such like malpractices which is also evident from his service record. During his entire service a single explanation has not been called for any negligence/irregularity. The instant case has been initiated and finalized in a days for the purpose to deprive the appellant from promotion and sustain financial loss at the last edge of his service.

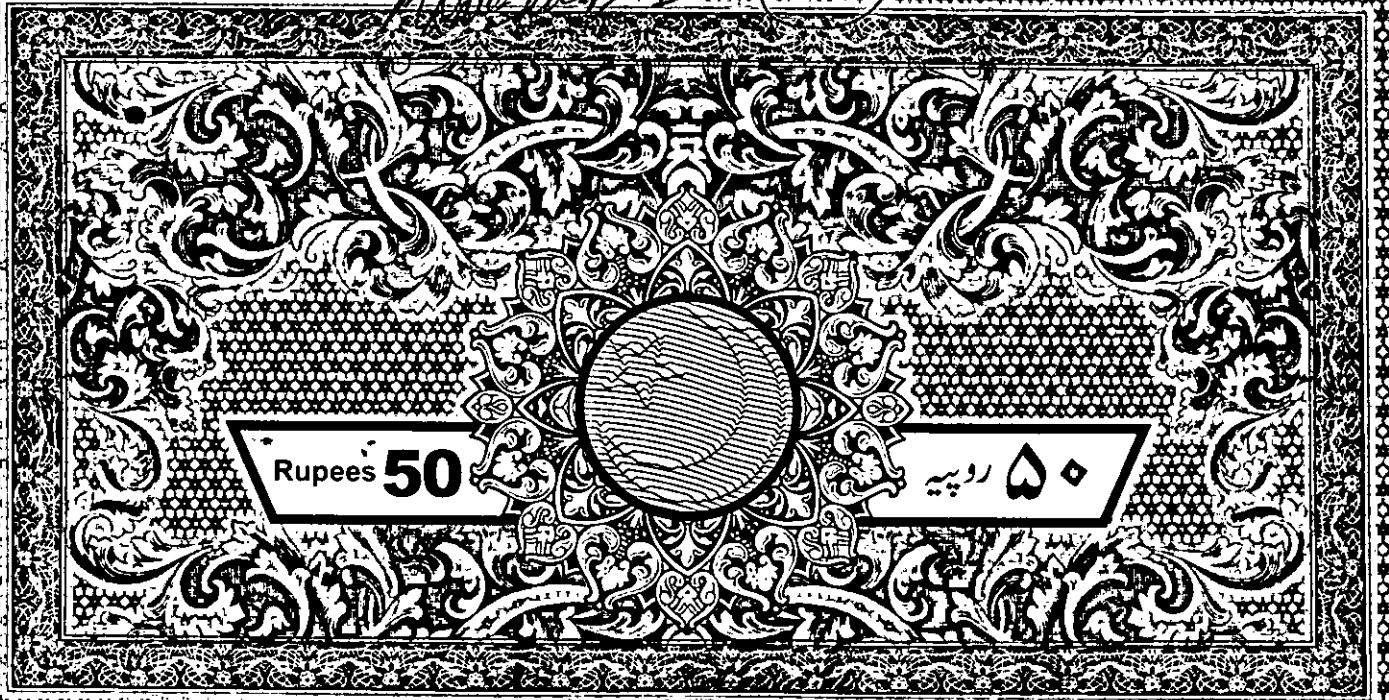
In view of the explanation furnished above, it is quite clear that the allegations against the appellant are baseless without any solid evidence and proofs, therefore, office order no. 52 dated 18.12.2017 is irregular/illegal and may be set aside and the promotion as well as increments of the appellant be restored. For this act of kindness the appellant will be highly obliged and thank ful to your kind honour, please

Yours obediently,  
 Muhammad Rehman-II  
 Forest Guard

Advance Copy forwarded to the Conservator of Forest Malakand West Forest Circle at Tumes gora for favour of information & reaction please

Muhammad Rehman-II  
 Forest Guard





### بیان حلفی

مایا تاجہ طلا محمد ولد امیر محمد خان ساکن نواح کوہے سید عرب کلمے ڈاکخانہ تورڈھیر، بھادر خان ولد محمد عارف ساکن گوتم تحصیل منڈہ ضلع دیرپائین برحلف اقرار کر کے لکھ دیتے ہیں کہ بمورخہ 29/09/2017 بمقام اڈو گرام پل دیر روڈ لوڈ گاڑی از قسم لکڑی کائیل (سائیز) تعدادی 106 عدد جو کہ 357.94 ٹکسٹ جو کہ SDFO تمبر گرہ نے پکڑا تھا ہم نے درج بالا لکڑی مقام رباط سے بھر کر بغرض سنگلنگ تمبر گرہ برائے لوکل استعمال لا رہے تھے۔ چونکہ ٹرک نمبر 1125 راستے میں پکڑا گیا تھا اس میں شمردین فارسٹ چیک پوسٹ والے ملوث نہ تھے اور ہم۔ نہ کسی فارسٹ والوں کو کسی قسم کا کوئی رشوت دیا ہے۔ ہم مسیابن طلا محمد اور بھادر خان برحلف اقرار کرتے ہیں اور ہم کسی بھی جگہ شہادت دینے کیلئے تیار ہیں۔

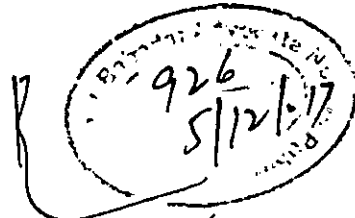
المرقوم: 05/12/2017

GNIC No: 16102-1880531-1

بھادر خان

طلا محمد

Tula-m



No. 8025  
5/12/17 R:50

Handwritten text in Urdu script, likely a title or address, written vertically.

16102-1880 531-1

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GOVT. TREASURY  
MARDAN  
STAMP OFFICE

(1)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

SERVICE APPEAL NO.529/2018

MUHAMMAD RAHMAN-II FOREST GUARD

SHAMARDIN FOREST CHECK POST

OF FOREST SUB DIVISION TIMERGARA.....APPELLANT.

**VERSUS.**

1. GOVERNMENT OF KHYBER  
PAKHTUNKHWA THROUGH  
SECRETARY FORESTRY, ENVIRONMENT  
& WILDLIFE DEPARTMENT PESHAWAR.
2. CHIEF CONSERVATOR OF FORESTS,  
MALAKAND FORES REGION-III SAIDU  
SHARIF SWAT.
3. CONSERVATOR OF FORESTS,  
MALAKAND WEST FOREST CIRCLE  
AT TIMERGARA LOWER DIR.
4. DIVISIONAL FOREST OFFICER  
LOWER DIR FOREST DIVISION  
AT TIMERGARA LOWER DIR.
5. SUB DIVISIONAL FOREST OFFICER  
JANDOO FOREST SUB DIVISION  
AT SAMARBAGH.. .....RESPONDENTS.

**SERVICE APPEAL UNDER SECTION 4**  
**OF THE SERVICE TRIBUNAL ACT 1974.**

**PARA WISE COMMENTS/WRITTEN REPLY**  
**ON BEHALF OF RESPONDENT NO.1 TO 5.**

**RESPECTFULLY SHEWEETH.**

The Respondents No.1 to 5 respectfully submit as under :-

**PRELIMINARY LEGAL OBJECTION.**

- a) That the appellant has no cause of action or locus standi to file the instant appeal, as such the same is liable to be dismissed.
- b) That the appellant filed departmental representation/appeal against the office order No.54 dated 18/12/2017 issued by respondent No.4 on the recommendation of Enquiry Committee after going through the record of the all incumbent as such appeal is not maintainable and liable to be dismissed.(Copy is attached)
- c) That without prejudice to the above the order dated 18/12/2017 has been challenged with out lawful justification no ground has been mentioned on the basis of which the order has been challenged, as such it is evident that the appeal is based on mala fide and liable to be dismissed.
- d) That the appellant filed departmental appeal which was hopelessly time barred as such in the circumstances the present appeal is also not maintainable and liable to be dismissed on this ground alone.



**FACTS.**

- 1) That the contents of Para No. 1 pertain to record.
- 2) That the contents of Para No.2 are denied. The appellant concealed the facts from this Hon'ble tribunal, the fact is clearly mentioned in the office order whereby the appellant was suspended on account of willful absence from Government duty on 07-08/10/2017 due to which three trucks loaded with FDC timber from Chitral to Chakdara on expire challans whereas due to absence one truck (Dumper) loaded with 106 illicit scants of kail species which was apprehended by the SDFO Timergara on 29/09/2017 as such the averment contrary to the above are denied.
- 3) That the contents of Para No.3 are not denied to the extent of show cause on the basis of above mentioned charges but rest of the contents are vehemently denied. The reply to the show cause was not satisfactory even the contradiction is clear on personal hearing as such the order was passed according to the law.
- 4) That the contents of Para No.4 are not denied to the imposition of penalty and passing of the office order No.54 dated 18/12/2017, rest of the contents are denied, all the legal course was adopted before passing of the order.
- 5) That the contents of Para No.5 are denied, the departmental appeal of the appellant before competent authority was some thing else even the allegations which were proved during the course of enquiry were not challenged and an other concocted story was narrated as such the appellant used the present appeal as tool of pressure on the department and nothing else.
- 6) That the contents of Para No.6 are denied, no ground is available to the appellant to challenge the lawful order before this Hon'ble tribunal. Moreover the respondents No.1 to 5 reserve their right to argue any other point at the time of hearing of this appeal with the permission of this Hon'ble tribunal.

**REPLY TO THE GROUNDS OF APPEAL**

- A) That the contents of ground (a) is incorrectly mentioned, the appellant was given opportunity of written reply to the show cause notice and further detail opportunity of personal hearing was provided and was also associated with enquiry procedure as such the question of condemned unheard does not arises.
- B) That the contents of ground (b) is also denied, the appellant being Government servant was duty bound to remain on check post and due to his negligence there was heavy loss to public exchequer as such he was rightly punished in a due course of law.
- C) That the contents of ground © is vehemently denied, detail has been given in the grounds supra.
- D) That the contents of ground (d) is denied, detail has been given in reply above, however the appellant was given full-fledged opportunity but he failed to reply satisfactorily as such due course was adopted against the appellant.
- E) That the contents of ground (e) is denied, the penalty was imposed according to the law.
- F) That the contents of ground (f) is denied, the allegations were crystal clear proved on record.
- G) That the contents of ground (g) is denied, no question of fact was involved as such leading of evidence was highly uncalled for. The charge was not only proved but the same was supported by concrete sort of evidence i.e interception of the truck, dumper and unlawful absence from the duty which goes against the appellant.
- H) That the contents of ground (h) is denied, the story is not known to the law and jurisprudence rather the story of ground H is against the appellant and sufficient for dismissal of the appeal.

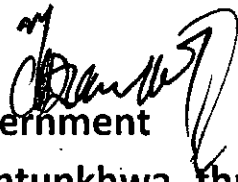
- I) That the contents of ground (i) is denied, every thing has been done according to the law and rules.
  
- J) That the contents of ground (J) is denied. As replied above.
  
- K) That the contents of ground (K) is denied. It is very astonishing that the appellant relied on the affidavit of smuggler which mean that the appellant is in league with the timber smuggler i.e. the appellant relied on his affidavit and show himself innocent this ground is sufficient for further enhancement of penalty to that of capital one.
  
- L) That the contents of ground (L) is denied, this would be imagination of appellant, he is involved in trafficking of timber with the collusion of timber mafia as such the appellant willfully and unlawfully absent from the duties and there is no provision of routine station leave nor station leave turn by turn being managed by mutual understanding of the staff is available in the law as such he is liable to be dealt for capital penalty on the face of the record by this Hon'ble tribunal.

It is accordingly respectfully prayed that the appeal being misconceived, may kindly be ordered to be dismissed with cost in the interest of justice.

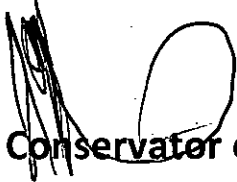
Respondent No. 1 to 5.

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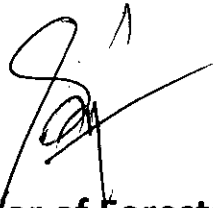
**Respondent No.1**

  
Government of Khyber  
Pakhtunkhwa through Secretary  
Forestry, Environment & Wildlife,  
Department Peshawar.

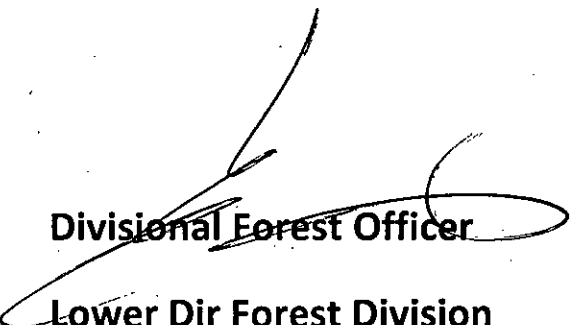
**Respondent No.2**

  
Chief Conservator of Forests,  
Malakand Forest Region-III  
At Saidu Sharif Swat.

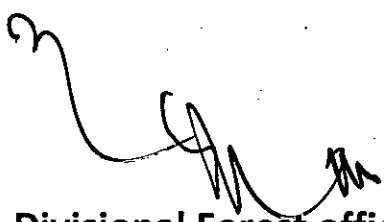
**Respondent No.3**

  
Conservator of Forests,  
Malakand West Forest Circle,  
At Timergara Lower Dir.

**Respondent No.4**

  
Divisional Forest Officer  
Lower Dir Forest Division  
At Timergara Lower Dir.

**Respondent No.5**

  
Sub Divisional Forest officer  
Jandool Forest Sub Division  
At Samarbagh.

OFFICE ORDER NO. 52 DATED TIMERGARA THE 18 /12/2017 ISSUED BY  
MUHAMMAD SALEEM KHAN MARWAT DIVISIONAL FOREST OFFICER LOWER DIR  
FOREST DIVISION TIMERGARA.

**READ WITH**

1. DFO Lower Dir letter No.1561/G&L, dated 06.10.2017.
2. DFO Lower Dir letter No.1601/G&L, dated 09.10.2017.
3. DFO Lower Dir office order No.30 dated 09.10.2017.
4. DFO Lower Dir office order No.35 dated 17.10.2017.
5. SDFO Timergara letter No.96-97/T, dated 01.11.2017.
6. SDFO Timergara letter No.79/T, dated 10.10.2017.
7. Charge Sheet served on the accused official.
8. Reply/Personal Hearing of the accused official.
9. Enquiry Report of Enquiry Officer.

**BACK GROUND OF THE CASE.**

The accused official Mr. Muhammad Rahman-II Forest Guard while posted on Shammardin Forest Check Post was placed under suspension vide DFO Lower Dir office order No.30 dated 09.10.2017 on account of willful absence from government duty on 7-8/10/2017, resultantly releasing three (03) trucks loaded with FDC Timber consignment of Chitral to Chakdara on expired challans. Similarly, a truck (Dumper) loaded with 106 illicit scants of Kail species and subsequently apprehended by SDFO Timergara and his staff on 29/09/2017 at Odigram Bridge. Accordingly the accused official was Charge Sheeted and the Enquiry was entrusted to Mr.Nadar Khan SDFO Jandool vide DFO Lower Dir office order No.35 dated 17/10/2017. The accused official was proceeded under E&D Rules, 2011 and charged for the following:

- i. In efficiency.
- ii. Misconduct.
- iii. Corruption.

**DISCUSSION.**

The Enquiry Officer obtained written reply of the accused official to the Charge Sheet served upon him and recorded personal hearing on 25/10/2017. The Enquiry Officer while conducting enquiry stated that there is contradiction in the written reply to the Charge Sheet and verbal statement by the accused official with regard to smuggling of timber. So far absence from government duty is concerned, it was found that the accused official was on routine leave but failed to produce prior permission from the competent authority nor there is any provision for routine leave.

The Enquiry Officer has recommended the accused official Mr. Muhammad Rahman-II Forest Guard for Major Penalty. Thus the accused was served with Show Cause notice bearing No.2776-78/Acctt, dated 29.11.2017. Accordingly the accused official submitted his reply to the Show Cause notice and also conducted personal hearing on 14.12.2017 in the instant case.

From perusal of the record it was found that the said accused official failed to advance any statement in his defense and repeated the verbal and written statements previously furnished before the Enquiry Officer.

**CONCLUSION.**

The case was examined from various angles and found contradiction in the written statement and personal hearing regarding apprehension of illegal timber on 29.09.2017 and absence from government duty on 7-8/10/2017, besides, the charge of smuggling of timber has been proved against the accused official as the illegal timber was obtained from Toormang and subsequently apprehended by SDFO Timergara and his staff at Odigrane Bridge. Furthermore, there is no Forests/illegal stock exists in Rabat.

**ORDER.**

On the basis of the above facts I Mr. Muhammad Saleem Khan Marwat Divisional Forest Officer Lower Dir Forest Division Timergara (Competent Authority) found the accused official viz Mr. Muhammad Rahman-II Forest Guard guilty of the charges of Misconduct, In-efficiency and Corruption and liable himself to Major Penalty, but keeping in view his long services and poor financial conditions, lenient penalty of with holding his further promotion for the period of two (02) year along-with holding of two (02) annual increments for two years i.e 2017 and 2018 with accumulative effect are impose upon him. He is further warned to be careful in future.

Sd/-  
(Muhammad Saleem Khan Marwat)  
Divisional Forest Officer,  
Lower Dir Forest Division,  
Timergara.

No 3072-76 IG,

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2. Conservators of Forests Malakand West Circle Timergara.
3. SDFO Jandool/Timergara for information and necessary action.
4. Mr. Muhammad Rahman-II Forest Guard C/O SDFO Timergara.
5. Divisional Accountant for information and necessary action.

Divisional Forest Officer  
Lower Dir Forest Division  
Timergara

529/18

11-10-17

(3)

## CHARGE SHEET

- 1) That Mr. Khalid Khan Forest Guard (BPS-08) while posted on Shamardin Forest Check Post, committed the following irregularities:
  - i) Where as you were called upon to explain your position regarding smuggling of timber through Truck having/loaded with illicit scants of Kail species apprehended by SDFO Timergara and his staff on 29.09.2017 at Odegram bridge and subsequently the timber seized in favour of Government vide DFO Lower Dir office letter No.1561/G&L, dated 06.10.2017 and No.1601/G&L, dated 09.10.2017 and SDFO Timergara letter No.78-79/T, dated 10/10/2017 but with no response from you which clearly shows your active involvement and connivance with timber smugglers.
  - ii) Similarly you were found absent on 07-08/10/2017 from Government duty without any prior approval from the competent authority and three truck loaded with FDC timber consignment of Chitral to Chakdara were released on expired challans. Which tantamount to In-efficiency, Mis-conduct and corruption.
- 2) By reason of the above, you appear to be guilty of in-efficiency, mis-conduct and corruption under Rules-3 of Khyber Pakhtunkhwa Government servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rules-4 of the Rules ibid.
- 3) You are therefore, required to submit your written defence within seven (07) days of the receipt of this charge sheet to the enquiry officer/committee, as the case may be.
- 4) Your written defence, if any, should reach to the enquiry officer/committee within the specified period, failing which it will be presumed that you have no defence to put in and that cases exparte action shall be taken against you.
- 5) Intimate whether you desired to be heard in person.
- 6) Statement of allegation is enclosed.

  
Competent Authority

DISCIPLINARY ACTION

1- Whereas Mr. Muhammad Saleem Khan Marwat Divisional Forest Officer, Lower Dir Forest Division Timergara as competent authority, am of the opinion that Mr. Khalid Khan Forest Guard has rendered himself liable to be proceeded against as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011.

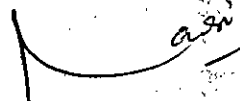
STATEMENT OF ALLEGATIONS

- i) Where as you were called upon to explain your position regarding smuggling of timber through Truck having/loaded with illicit scants of Kail species apprehended by SDFO Timergara and his staff on 29.09.2017 at Odigram bridge and subsequently the timber seized in favour of Government vide DFO Lower Dir office letter No.1561/G&L, dated 06.10.2017 and No.1601/G&L, dated 09.10.2017 and SDFO Timergara letter No.78-79/T, dated 10/10/2017 but with no response which clearly shows your active involvement and connivance with timber smugglers.
- ii) Similarly you were found absent on 07-08/10/2017 from Government duty without any prior approval from the competent authority and three truck loaded with FDC timber consignment of Chitral to Chakdara were released on expired challans. Which tantamount to In-efficiency, Mis-conduct and corruption.

2- For the purpose of inquiry against the accused with reference to the above allegations an inquiry Officer is appointed under Rule-10(a) of the ibid Rules.

Mr. Nadar Khan SDFO Jandool.

- 3- The inquiry Officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make within thirty (30) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.
- 4- The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry Officer.

  
 Divisional Forest Officer,  
 Lower Dir Forest Division,  
 Timergara



**CHARGE SHEET**

- 1) That Mr. Muhammad Rahman-II Forest Guard (BPS-08) while posted on Shamardin Forest Check Post , committed the following irregularities:-
  - iii) Where as you were called upon to explain your position regarding smuggling of timber through Truck having/loaded with illicit scants of Kail species apprehended by SDFO Timergara and his staff on 29.09.2017 at Odigram bridge and subsequently the timber seized in favour of Government vide DFO Lower Dir office letter No.1561/G&L, dated 06.10.2017 and No.1601/G&L, dated 09.10.2017 and SDFO Timergara letter No.78-79/T, dated 10/10/2017 but with no response from you which clearly shows your active involvement and connivance with timber smugglers.
  - iv) Similarly you were found absent on 07-08/10/2017 from Government duty without any prior approval from the competent authority and three truck loaded with FDC timber consignment of Chitral to Chakdara were released on expired challans. Which tantamount to In-efficiency, Mis-conduct and corruption.
- 2) By reason of the above, you appear to be guilty of in-efficiency, mis-conduct and corruption under Rules-3 of Khyber Pakhtunkhwa Government servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rules-4 of the Rules ibid.
- 3) You are therefore, required to submit your written defence within seven (07) days of the receipt of this charge sheet to the enquiry officer/committee, as the case may be.
- 4) Your written defence, if any, should reach to the enquiry officer/committee within the specified period, failing which it will be presumed that you have no defence to put in and that cases exparte action shall be taken against you.
- 5) Intimate whether you desired to be heard in person.
- 6) Statement of allegation is enclosed.

*(Signature)*

Competent Authority

DISCIPLINARY ACTION

- 1- Whereas I Mr. Muhammad Saleem Khan Marwat Divisional Forest Officer, Lower Dir Forest Division Timergara as competent authority, am of the opinion that Mr. Muhammad Rahman-II Forest Guard has rendered himself liable to be proceeded against as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- I- Where as you were called upon to explain your position regarding smuggling of timber through Truck having/loaded with illicit scants of Kail species apprehended by SDFO Timergara and his staff on 29.09.2017 at Odigram bridge and subsequently the timber seized in favour of Government vide DFO Lower Dir office letter No.1561/G&L, dated 06.10.2017 and No.1601/G&L, dated 09.10.2017 and SDEO Timergara letter No.78-79/T, dated 10/10/2017 but with no response which clearly shows your active involvement and connivance with timber smugglers.
- II- Similarly you were found absent on 07-08/10/2017 from Government duty without any prior approval from the competent authority and three truck loaded with FDC timber consignment of Chitral to Chakdara were released on expired challans. Which tantamount to In-efficiency, Mis-conduct and corruption.

- 2- For the purpose of inquiry against the accused with reference to the above allegations an inquiry Officer is appointed under Rule-10(a) of the ibid Rules.

Mr. Nadar Khan SDFO Jandool.

- 3- The inquiry Officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make within thirty (30) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.
- 4- The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry Officer.

  
 Divisional Forest Officer,  
 Lower Dir Forest Division,  
 Timergara

# بخدمت جناب انکوآبری آفیسر صاحب / SDFO صاحب جندول

عنوان: جواب چارج شیٹ / سٹیٹمنٹ آف الیکیشنز مشمولہ SDFO TMC چھٹی نمبر 22-1820

جناب عالی!

گزارش ہے کہ چھٹی مذکورہ بالا کے ساتھ مشمولہ چارج شیٹ / سٹیٹمنٹ آف الیکیشن کے متعلق وضاحتی بیان

ذیل میں پیش خدمت ہے۔

۱۔ یہ کہ میں عرصہ 31 سال سے محکمہ ہذا میں بحیثیت فارسٹ گارڈ خدمات انجام دے رہا ہوں۔ میں نے اپنی پوری ملازمت کے دوران پوری ایمانداری اور دیانت داری کے ساتھ اپنے فرائض انجام دے دیے ہیں۔ اور کبھی افسران بالا کو شکایت کا موقع نہیں دیا ہے۔ جس کے لئے میرا ریکارڈ شاہد ہے۔ سٹیٹمنٹ آف الیکیشن کے پیرا نمبر ۱ کے متعلق عرض ہے کہ جیسا کہ میں نے اپنے پہلے جواب میں واضح کیا ہے کہ میں نے چیک پوسٹ پر پوری مستعدی کے ساتھ ڈیوٹی انجام دی ہے اور کوئی گاڑی / ٹمبر لوڈ سپیران واہ گزار نہیں ہوئی ہے جس کا میں وثوق کیساتھ حلفیہ یقین دلاتا ہوں۔

پیرا نمبر ۲ کے متعلق عرض ہے کہ وقوعہ کی دن میری بیٹی کی شادی تھی جس میں میری موجودگی ضروری تھی۔ اس لئے میں نے جناب SDFO صاحب سے ٹیلیفون پر رخصت لی تھی۔ نیز FDC کے ٹرک اسی چالانوں پر دو ضلعوں سے ہو کر آئے تھے۔ میں اپنے مندرجہ بالا بیان کے تائید میں زبانی وضاحت بھی کرنا چاہتا ہوں موقع دیا جائے۔  
عین نوازش ہوگی۔

مورخہ 23-10-2017

العارض

خالد خان فارسٹ گارڈ  
شمر دین فارسٹ چیک پوسٹ میجر کولہا ڈویژن

ص- انگریزی اسکول ہدایت SDFO جدول

دیکھو۔ وہاں ہی بیان بہت چارج شیٹ

جو الہ بھٹی 4-01 مورخ  $\frac{10}{17}$

ص- عالی

گزارشات ذیل ہے

۱۱۔ سائل عمریہ دو سال سے سترہین جیک پوسٹ پر اپنی ڈیڑھ لاکھ اخام کے ساتھ ہیں  
دوران و انفن سبھی کی ادائیگی میں کسی قسم کی کوئی کا اڑ گیا ہے نہیں ہے۔ اور نہ ہی اس بل لاگو کسی قسم کی شکایت  
کی موقع پر ہے۔ وقوعہ کے وقت لکھی گئی پوسٹ پر اپنی ڈیڑھ لاکھ لاکھ کی ساتھ ساتھ ساتھ بلنگہ نمازی  
نے آ رہے ہیں پوسٹ سے بچے کو دل ماہی پر مقام اور ڈیڑھ لاکھ بل پر لکھی گئی ہے۔ جب سے بچے کے طریقہ کار  
مشورہ ہو رہے ہیں کی کارکردگی سے بددعا پر لکھی گیا ہے کہ سبب ان کی ڈھلان کے بعد ان علاقوں کو لے جانے  
کو اور اس نظر کے علم میں ہے۔ اور اس کے بعد میں اس طرح کے کہنے یا یا کر حضرت کا  
بار بار مہوہ ہے میں سن کر اور بھی اس کے کما کل یقین ہے کہ ماہی کے انگریزی جیک پوسٹ  
سے ہیں لڑکی بلکہ رطوبت کے کسی مقام سے لڑنے ہے۔

درج بالا وضاحت کے روشنی میں سائل عمریہ کو آ رہے کہ لکھی گئی ہے اس کے ساتھ ساتھ  
عمر اور ماہی کے ماہی کے ان فن سبھی کی لڑکی اپنی اپنی اور لڑکیوں کے ساتھ اور ان کے  
(ii) مورخ  $\frac{10}{17}$  کو سائل جیک پوسٹ ڈیڑھ لاکھ کو موجود ہے۔ نقل ڈیڑھ لاکھ لکھی اور ماہی کو  
روٹین کی کئی لکھی لکھی ہے۔ مورخ  $\frac{10}{17}$  کو سائل میں لکھی گئی ہے ان کے ساتھ ساتھ  
بہ چاہے لکھی۔ ڈاکٹر کا عہدہ جیک پوسٹ پر لکھی ہے۔

بہر سائل کو ذاتی طور پر کلمہ سے کاغذ پر لکھو اور سائل اپنے دفاع میں لکھو  
مستوا پر پیش کردہ کاغذ کو محفوظ رکھو

مستوا پر پیش  
مستوا پر پیش  
مستوا پر پیش

مستوا پر پیش

سوال نمبر 1۔ کیا ڈیوٹی کیا ہے؟

جواب۔ میرا ڈیوٹی لکھتے ہیں مارٹس، ٹیکسٹ بک اور ایف ڈی

سوال نمبر 2۔ 17-9-2017 کو ڈیوٹی پر کون آیا ہے۔ کیا تم اسی دن ڈیوٹی پر تھے؟

جواب۔ جی ہاں میں اسی دن ڈیوٹی پر آیا ہوں اور وہاں رہا تھا۔

سوال نمبر 3۔ کیا باج ڈرائیو فہمات میں کمرشل درجہ ہوا ہے جس کو گاڑی کے برائے سٹینڈ ڈھلائی کرتے ہیں۔

جواب۔ جی نہیں ہے۔

سوال نمبر 4۔ آپ نے اپنے چارج شیٹ کے جواب میں کہا کہ اس سے تعلق نہیں ہے۔

سلیپر کی ڈھلائی کا ذکر کیا گیا ہے۔ آیا یہ سبب ہے؟

جواب۔ جی نہیں ہے لیکن ایسا ہی سبب ہے۔

سوال نمبر 5۔ ناظم سٹری جو کہ مقام اڈ ڈیوٹی پر آیا ہے اسے اسی ہی بارے میں آپ سے وضاحت طلب کی تھی کیا آپ اس کا وضاحت دیا ہے؟

جواب۔ جی ہاں میں نے جواب طلبی کی وضاحت پر وقت دیا۔ SDFO 7/6/2017

سوال نمبر 6۔ مورخ 7/8/10/2017 کو آپ اپنے ڈیوٹی سے علیحدہ ہوئے تھے اس کی نوٹیفکیشن ضابطہ نمبر 10/10/2017 میں کیا ہے اور ساتھ ہی اور نامی میں اپنے تاثرات درج کئے گئے ہیں۔

جواب۔ ضابطہ میں 10/2017 میں اپنی ڈیوٹی پر موجود ہونے کی اطلاع دی گئی ہے۔

مترجم اسی دن میں بیمار ہوا تھا جس کے ثبوت میں اس کی طبیعت کی رپورٹ ہے۔

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۱۔ آپ یہ بتا سکتے ہیں کہ روٹس کی چھٹی ٹوٹی قانونی صحت رکھتا ہے۔  
یہ استدلال ہے کہ یہ سلسلہ چلا آ رہا ہے جو کہ افسران ہارنگ ٹوٹس میں  
بھی ہے۔

سوال نمبر ۱۸۔ کیا ۲۹/۱۷ پر آپ اکیلے ڈیوٹی کر سکتے ہیں یا توٹی اور سالٹی میں جو رہتا ہے؟  
۱۔ ۳۔ میں اکیلے ڈیوٹی کر سکتا ہوں۔ اور ساتھ ہی اس کا اطلاع میں ہے SDFO میں  
کو بھی دیا گیا ہے۔  
تصدیق کی جاتی ہے کہ درج بالا سوالات اور جوابات میرے ذہن میں  
کی گئی جو کہ میرے علم کے مطابق درست اور صحیح ہے۔

*Muhammad*  
Mr. Muhammad Rahman-II  
Forest Guard.

W035 Question in connection with enquiry  
proceedings against Khalid Khan P. Muhammad  
Khan P. Afzal Ahmad P. and was 16 Day  
Barman on 25-10-2017.

Q-1. Muhammad Khan P. do you have any  
cross Question.

Ans. ~~no~~ I have no cross Question.

~~25/10/2017~~

Q-2. Khalid Khan do you have any  
cross Question.

Ans. ~~no~~ I have no Question.

~~25/10/2017~~

Q-3. Do you have any cross Question.

Ans. ~~no~~ I have no any cross Questions.

25/10/2017

25/10/2017

P.D.



Q. 6 Do you have any more questions

Ans. I have no more questions

F. A. D. A. S.

Dr. A. S. D. A. S.

ENQUIRY REPORT AGAINST M/S KHALID KHAN, MUHAMMAD RAHMAN-II, AFZAL AHMAD FOREST GUARDS AND NASIB DAR BARRIER MAN. 67

READ WITH:-

1. Divisional Forest Officer Lower Dir letter No.1561/G&L, dated 06.10.2017
2. Divisional Forest Officer Lower Dir Office Order No.30 dated 09.10.2017.
3. Divisional Forest Officer Lower Dir letter No.1601/G&L, dated 09.10.2017.
4. SDFO Timergara letter No.78-79/T, dated 10.10.2017.
5. Divisional Forest Officer Lower Dir Office Order No.35 dated 17.10.2017.

BRIEF HISTORY OF THE CASE:-

M/S Khalid Khan, Muhammad Rahman-II, Afzal Ahmad Forest Guards and Nasib Dar Barrier Man were placed under Enquiry proceeding on account of illegal transportation of timber through Truck No.1125-E dated 29.09.2017 and subsequently apprehended at Odegram bridge by SDFO Timergara and his staff and recovered 106 Nos. of Kail scants =357.94 cft. Similarly they were also found absent from Government duty on dated 7-8/10/2017. Resultantly, the under signed appointed Enquiry Officer to probe into the matter vide Divisional Forest Officer Lower Dir Forest Division Office Order No.35 dated 17/10/2017.

PROCEEDING:-

The accused officials were directed to submit their written replies to the Charge Sheet/statement of allegations and appear before the Enquiry Committee on 25.10.2017 vide letter No.1-4/Camp, dated 17.10.2017. The said accused officials submitted their written replies and also appeared before the Enquiry Officer. The replies furnished by the accused officials as well as personal hearing conducted are discussed one by one.

DISCUSSION:-

1. Mr.Khalid Khan Forest Guard.

The reply as well as examination of the accused official were scrutinized in length where as he stated in his reply to the charge sheet that no illegal timber has crossed Shamardir Forest Check Post while during personal hearing he stated that he was on routine leave. Hence contradiction was found in written and verbal statement. So far, absence from duty is concerned both his written and verbal statement reveals that he was on routine leave which was also brought in the notice of SDFO concerned. Although there is no provision of routine duty under the rules, as well as he failed to produce prior written permission from the competent authority.

2. Muhammad Rahman-II Forest Guard.

The written reply to the charge sheet of the accused official was perused and it was stated the timber in question apprehended at far distance from Shamardin Forest Check Post moreover he stated that below Check Post there is Rabat Forest exists and further added that the illegal timber trade from Karo Valley to down area through Mules are common practice as well as that the said illegal timber was loaded from Rabat. Whereas, during personal hearing he totally denied the smuggling from Karo Dara and Rabat. Hence there is clear contradiction in his written and personal hearing statement. So far absence from duty on 7-8/10/2017 is concerned, the accused official stated both in writing and verbal statement that he was on routine leave. There is no provision of routine leave besides he could not produce written permission from the competent authority.

3. Afzal Ahmad Forest Guard.

In written reply the accused official stated that he has performed his duty well and no illegal timber crossed the Check Post during his duty timing and similarly, he stated in personal hearing that he was performing his duty midnight up to 12.00 PM and during his duty period he has not released any illegal timber. He further added that after 12.00 PM he has entrusted the Check Post duty to Mr. Muhammad Rahman-II Forest Guard. So far absence from duty on 7-8/10/2017 is concerned, the accused official stated both in writing and verbal statement that he was on routine leave. There is no provision of routine leave besides he could not produce written permission from the competent authority.

4. Nasib Dar Barrier Man.

The accused official stated in his written and verbal statements that he was on leave on the night of apprehension of illegal timber due to illness of his child. So far released FDC timber consignment on expire challan is concerned he stated that there was no official present at Check Post. However, the period was in hand in transport pass and the challan was not minded. There is no provision of routine duty he could not produce written permission from the competent authority. Furthermore, release of FDC timber on expired challan is against his job description.

5. Rafiqullah SDFO Timergara.

For further clarification with regard to apprehension of timber, the SDFO Timergara was requested through letter dated 31.10.2017 to clarify the following points/questions:-

- i. Timing of apprehension of illegal timber.
- ii. Place from where they were chasing the illegal timber.
- iii. Collection/obtained of illegal timber, place or otherwise.

In response to the above, the SDFO Timergara replied vide his letter No.96-977 dated 01.11.2017 with the following answer:-

**Answer:-**

- i. The illegal timber/Dumper was apprehended at 3.00 Am at Night.
- ii. We were chasing from location Rani.
- iii. Reportedly the Dumper was loaded at Gopalam and the timber were collected from Tormang and Karo valleys.

**Finding:-**

From perusal of relevant record i.e Charge Sheet, Statement of Allegation, Written replies of the accused official as well as personal hearing conducted in the instant case it was ascertained that:-

1. There is contradiction in the written statement and personal hearing statement regarding apprehension of illegal timber, while on 7-8/10/2017 he was found absent.
2. The written statement to the charge sheet/statement of allegation and verbal statement (personal hearing) furnished by Muhammad Rahman-II Forest Guard having variations pertaining to apprehension of illegal timber. Furthermore, as stated by Afzal Ahmad Forest Guard that the duty was entrusted to Muhammad Rahman-II Forest Guard after 12.00 PM besides it has also clarified by SDFO Timergara that the illegal timber was obtained from Gopalam chasing by them from Rani and subsequently apprehended at Odegram bridge at 3.00 Am. Moreover, the said accused was found absent from his duty on 7-8/10/2017 it is necessary to mention here that there is no illegal timber stock/trade between Shamara Forest Check post and Rani village.

- 83
3. Mr. Afzal Ahmad Forest Guard was present on duty on the date of apprehension of timber i.e. 29.09.2017 at 12.00 PM as verbally stated by him during personal hearing. Therefore, it is understood that the illegal timber was apprehended after his duty turn, whereas the said accused was found absent from Government duty on 7-8/10/2017.
  4. Mr. Nasib Dar Barrier Man was absent from Government duty without any prior approval from the competent authority on 29/09/2017. While he has been released the FDC timber consignment on expired challan as there was no official on duty beside him.

**Recommendation:-**

From perusal of relevant record i.e. Charge Sheet/Memo of Allegations, written replies of the accused officials, personal hearing statements and questioner responded by SDFC Timergara as well as examination of record from various angles, the undersigned/enquiry officer reached to the conclusion and categories for award of the following penalties:-

**Group-I**

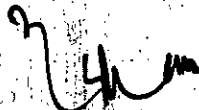
M/S Khalid Khan and Afzal Ahmad Forest Guards for minor penalty!

**Group-II**

Mr. Nasib Dar Barrier Man may be exonerated from charge of involvement in smuggling of timber and treated without pay on account of his absence from Government duty on 29.09.2017, besides issuing of warning for release of FDC timber consignment on expired challan.

**Group-III**

Muhammad Rahman-II Forest Guard for major penalty.

  
Mr. Nadar Khan  
Enquiry Officer

## SHOW CAUSE NOTICE


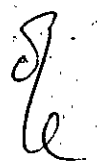
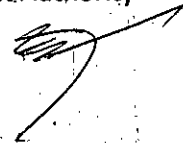
I Muhammad Saleem Khan Marwat, as competent authority under the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) rules, 2001, do hereby serve you, Mr. Muhammad Rahman-II Forest Guard as follows:

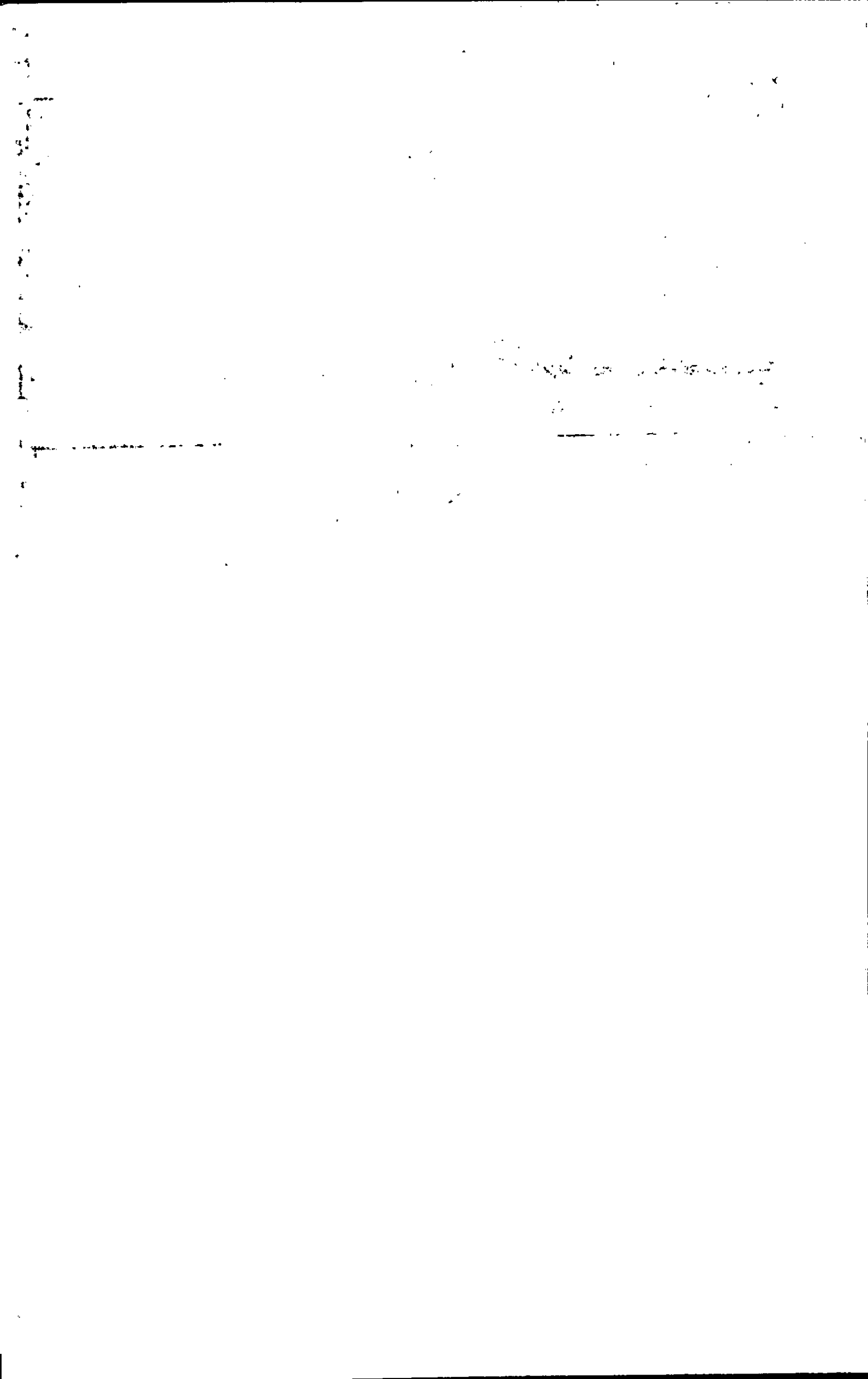
- 1- i- That consequent upon the report of enquiry officer constituted vide Divisional Forest Officer Lower Dir Forest Division Timergara Office Order No. 35 dated 07-10-2017, it has been proved that you were found involved in illegal transportation of timber and have active connivance with the timber smuggler which was crossed Shammardin Forest Check Post. Subsequently, the timber apprehended by SDFO Timergara and his party at Odigram Bridge on 29-09-2017.
- ii- Similarly, the charge of absent from Govt: duty on 7-8/10/2017 was also proved against you.
- iii- You have been recommended for major penalty by the enquiry officer.

Keeping in view above enquiry outcome, I am satisfied that you have committed the following acts/omissions specified in Rule – 3 of the said rules:-

- a. In – efficiency
  - b. Misconduct
  - c. Corruption
2. As a result thereof, I as competent authority have tentatively decided to impose upon you the penalty of **Compulsory Retirement** under rule – 4 (b) of the said rules.
  3. You, are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and else intimate whether you desire to be heard in person.
  4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it should be presumed that you have no defense to put in that case an ex parte action should be taken against you.
  5. A copy of the report of committee is enclosed herewith.

Divisional Forest Officer  
Competent Authority



## SHOW CAUSE NOTICE

I Muhammad Saleem Khan Marwat, as competent authority under the Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) rules, 2001, do hereby serve you, Mr. Khalid Khan Forest Guard as follows:

- 1 i- That consequent upon the report of enquiry officer constituted vide Divisional Forest Officer Lower Dir Forest Division Timergara Office Order No. 35 dated 07-10-2017, it has been proved that you were found absent from Govt. duty on 29/09/2017 and on 7-8/10/2017 wilfully without any prior permission from the competent authority.  
ii. You have been recommended for minor penalty by the enquiry officer.

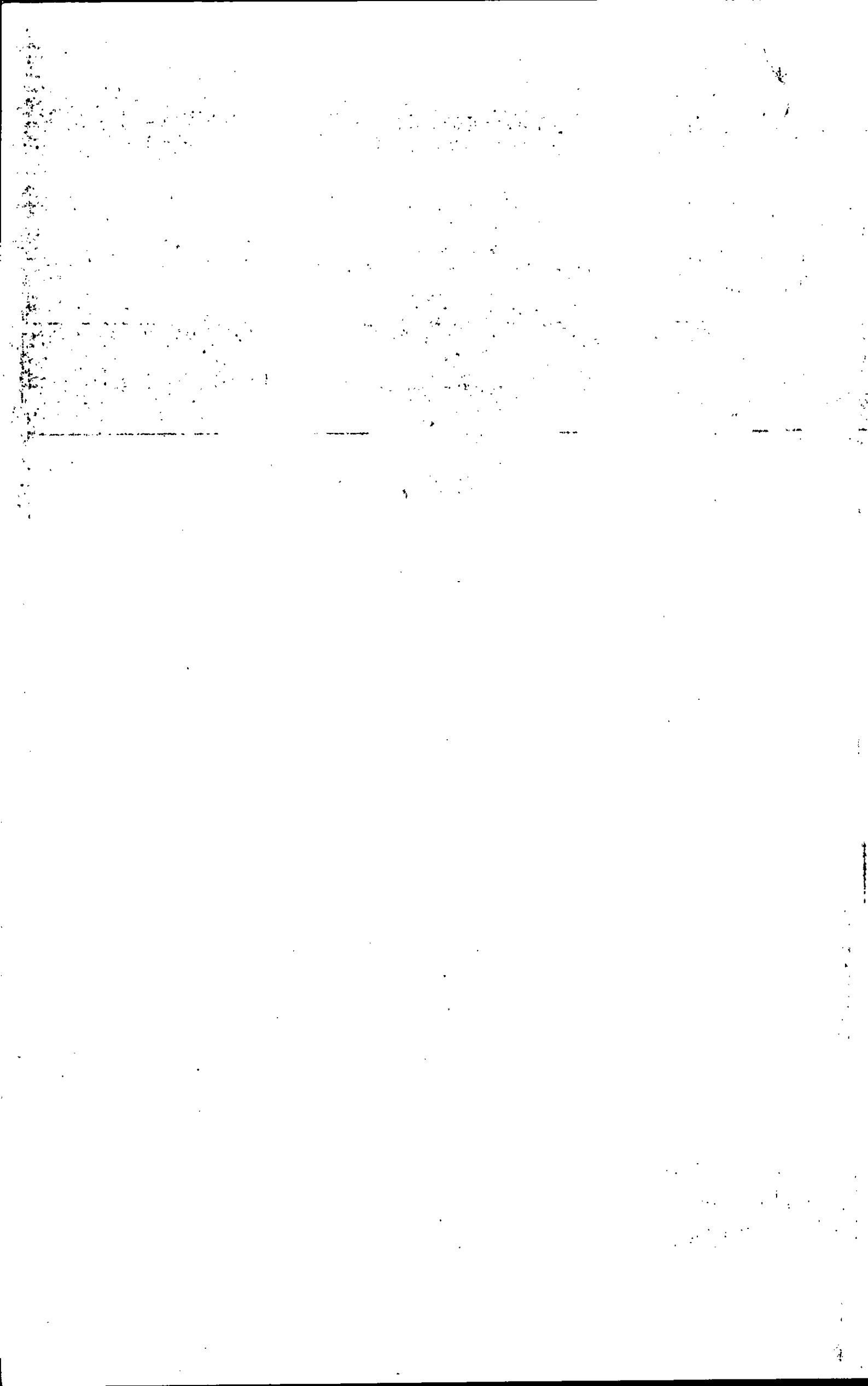
Keeping in view above enquiry outcome, I am satisfied that you have committed the following acts/omissions specified in Rule - 3 of the said rules:-

- a. In - efficiency
- b. Misconduct

2. As a result thereof, I as competent authority have tentatively decided to impose upon you the minor penalty specified under rule - 4 (a) of the said rules.
3. You, are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and else intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it should be presumed that you have no defense to put in that case an ex parte action should be taken against you.
5. A copy of the report of committee is enclosed herewith.

Divisional Forest Officer  
Competent Authority







**FORM OF ORDER SHEET.**

Enquiry proceedings against Mr. Khakid Khan Forest Guard (BPS-08).

*Personal hearing on 14-12-2017*

Sl. No	Date of proceeding	Proceeding
1	14-12-17	<p>کڑال: 29 آگست 2017ء میں لاٹوٹا جاکر مگر ہزاروں ڈیم                      سمٹلے والے اب موجود ہے۔                      پورے - نہیں - اس میں بارشوں میں کھینچے گئے                      سوال: اب نے تو عمر ہی 90 سال ہے جاری شدہ تھا                      کہ میں نے اس میں دنوں سمٹلے میں موجود                      اور اس سمٹلے میں کوئی -                      19 - میں ہی اس سمٹلے سے تھیں اس میں ڈیموں                      کے پیمانے کوئی ٹیکہ نہیں موجود ہے                      سوال: اب اب ہر روز 7-8/17 پر موجود ہے                      موجود تھا -                      20 - جی نہیں میں کوئی پر موجود نہیں تھا۔ مگر اعلیٰ                      ہے۔</p> <p>تقریباً 40 سالہ ہے کہ دیر سے بارشوں میں موجود ہے                      اس میں وہ عمل میں لائی گئی ہے۔ وہ اس کے خلاف                      ہے اور دیکھیے۔</p> <p><i>[Signature]</i>                      خالد خان فاروقی</p>

Attested  
 DPO *[Signature]*

**FORM OF ORDER SHEET.**

Inquiry proceedings against Mr. Muhammad Rehman Forest Guard (BPS-08).

Personal hearing on 14-12-2017

S.No	Date of proceeding	Proceeding
1)	14-12-2017	<p>یہ کیا ہر دوران سماعت کے لیے ہر ایک ڈھیر اب                  کے ساتھ اور ساتھ میں موجود تھا یا ہم اللہ کے                  نام سے یہ دوران سماعت کے لیے اس میں درج                  میں آیا ڈیوٹی پر تھا۔</p> <p>دوران سماعت کے لیے ہر ایک ڈھیر اب                  گاڑنے اور آگ لگانے کے لیے ڈیوٹی پر تھا                  جو کہ اس کے ساتھ ساتھ وہ موجود نہیں تھا۔</p> <p>اس دوران میں اس کے افعال اور کاموں کا غیر متعلقہ                  ڈیوٹی پر تھا۔</p> <p>اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔                  اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔</p> <p>اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔                  اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔</p> <p>اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔                  اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔</p> <p>اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔                  اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔</p> <p>اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔                  اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔</p> <p>اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔                  اس دوران میں اس کے ساتھ ساتھ وہ موجود نہیں تھا۔</p>

Attested  
 17/12/17  
 محمد رحمان فارسی بگارد

OFFICE ORDER NO. 52 DATED TIMERGARA THE 18 /12/2017 ISSUED BY  
MUHAMMAD SALEEM KHAN MARWAT DIVISIONAL FOREST OFFICER LOWER DIR  
FOREST DIVISION TIMERGARA.

READ WITH

1. DFO Lower Dir letter No.1561/G&L, dated 06.10.2017.
2. DFO Lower Dir letter No.1601/G&L, dated 09.10.2017.
3. DFO Lower Dir office order No.30 dated 09.10.2017.
4. DFO Lower Dir office order No.35 dated 17.10.2017.
5. SDFO Timergara letter No.96-97/T, dated 01.11.2017.
6. SDFO Timergara letter No.79/T, dated 10.10.2017.
7. Charge Sheet served on the accused official.
8. Reply/Personal Hearing of the accused official.
9. Enquiry Report of Enquiry Officer.

BACK GROUND OF THE CASE.

The accused official Mr. Muhammad Rahman-II Forest Guard while posted on Shammardin Forest Check Post was placed under suspension vide DFO Lower Dir office order No.30 dated 09.10.2017 on account of willful absence from government duty on 7-8/10/2017, resultantly releasing three (03) trucks loaded with FDC Timber consignment of Chitral to Chakdara on expired challans. Similarly, a truck (Dumper) loaded with 106 illicit scants of Kail species and subsequently apprehended by SDFO Timergara and his staff on 29/09/2017 at Odigram Bridge. Accordingly the accused official was Charge Sheeted and the Enquiry was entrusted to Mr. Nadar Khan SDFO Jandool vide DFO Lower Dir office order No.35 dated 17/10/2017. The accused official was proceeded under E&D Rules, 2011 and charged for the following:

- i. In efficiency.
- ii. Misconduct.
- iii. Corruption.

DISCUSSION.

The Enquiry Officer obtained written reply of the accused official to the Charge Sheet served upon him and recorded personal hearing on 25/10/2017. The Enquiry Officer while conducting enquiry stated that there is contradiction in the written reply to the Charge Sheet and verbal statement by the accused official with regard to smuggling of timber. So far absence from government duty is concerned, it was found that the accused official was on routine leave but failed to produce prior permission from the competent authority nor there is any provision for routine leave.

The Enquiry Officer has recommended the accused official Mr. Muhammad Rahman-II Forest Guard for Major Penalty. Thus the accused was served with Show Cause notice bearing No.2776-78/Acctt, dated 29.11.2017. Accordingly the accused official submitted his reply to the Show Cause notice and also conducted personal hearing on 14.12.2017 in the instant case.

From perusal of the record it was found that the said accused official failed to advance any statement in his defense and repeated the verbal and written statements previously furnished before the Enquiry Officer.

**CONCLUSION.**

The case was examined from various angles and found contradiction in the written statement and personal hearing regarding apprehension of illegal timber on 29.09.2017 and absence from government duty on 7-8/10/2017, besides, the charge of smuggling of timber has been proved against the accused official as the illegal timber was obtained from Toormang and subsequently apprehended by SDFO Timergara and his staff at Odigrane Bridge. Furthermore, there is no Forests/illegal stock exists in Rabat.

**ORDER.**

On the basis of the above facts I Mr. Muhammad Saleem Khan Marwat Divisional Forest Officer Lower Dir Forest Division Timergara (Competent Authority) found the accused official viz Mr. Muhammad Rahman-II Forest Guard guilty of the charges of Misconduct, In-efficiency and Corruption and liable himself to Major Penalty, but keeping in view his long services and poor financial conditions, lenient penalty of with holding his further promotion for the period of two (02) year along-with holding of two (02) annual increments for two years i.e 2017 and 2018 with accumulative effect are impose upon him. He is further warned to be careful in future.

Sd/-

(Muhammad Saleem Khan Marwat)  
Divisional Forest Officer,  
Lower Dir Forest Division,  
Timergara

No 3072-76 IG.

Copy forwarded for favour of information to the:

1. Chief Conservator of Forests Malakand Forest Region-III Saidu Sharif Swat.
2. Conservators of Forests Malakand West Circle Timergara.
3. SDFO Jandool/Timergara for information and necessary action.
4. Mr. Muhammad Rahman-II Forest Guard C/O SDFO Timergara.
5. Divisional Accountant for information and necessary action.

Divisional Forest Officer  
Lower Dir Forest Division  
Timergara

**OFFICE ORDER NO. 54 DATED TIMERGARA THE 18 /12/2017 ISSUED BY  
MUHAMMAD SALEEM KHAN MARWAT DIVISIONAL FOREST OFFICER LOWER DIR  
FOREST DIVISION TIMERGARA.**

**READ WITH**

1. DFO Lower Dir letter No.1561/G&L, dated 06.10.2017.
2. DFO Lower Dir letter No.1601/G&L, dated 09.10.2017.
3. DFO Lower Dir office order No.30 dated 09.10.2017.
4. DFO Lower Dir office order No.35 dated 17.10.2017.
5. SDFO Timergara letter No.96-97/T, dated 01.11.2017.
6. SDFO Timergara letter No.79/T, dated 10.10.2017.
7. Charge Sheet served on the accused official.
8. Reply/Personal Hearing of the accused official.
9. Enquiry Report of Enquiry Officer.

**BACK GROUND OF THE CASE.**

The accused official Mr.Khalid Khan Forest Guard while posted on Shammardin Forest Check Post was placed under suspension vide DFO Lower Dir office order No.30 dated 09.10.2017 on account of willful absence from government duty on 7-8/10/2017, resultantly releasing three (03) trucks loaded with FDC Timber consignment of Chitral to Chakdara on expired challans. Similarly, a truck (Dumper) loaded with 106 illicit scants of Kail species and subsequently apprehended by SDFO Timergara and his staff on 29/09/2017 at Odigram Bridge. Accordingly the accused official was Charge Sheeted and the Enquiry was entrusted to Mr.Nadar Khan SDFO Jandool vide DFO Lower Dir office order No.35 dated 17/10/2017. The accused official was proceeded under E&D Rules, 2011 and charged for the following:

- i. In efficiency.
- ii. Misconduct.
- iii. Corruption.

**DISCUSSION.**

The Enquiry Officer obtained written reply of the accused official to the Charge Sheet served upon him and recorded personal hearing on 25/10/2017. The Enquiry Officer while conducting enquiry stated that there is contradiction in the written reply to the Charge Sheet and verbal statement by the accused official with regard to smuggling of timber. So far absence from government duty is concerned, it was found that the accused official was on routine leave but failed to produce prior permission from the competent authority nor there is any provision for routine leave.

The Enquiry Officer has recommended the accused official Mr.Khalid Khan Forest Guard for Minor Penalty. Thus the accused was served with Show Cause notice bearing No.2776-78/Acctt, dated 29.11.2017. Accordingly the accused official submitted his reply to the Show Cause notice and also conducted personal hearing on 14.12.2017 in the instant case.

From perusal of the record it was found that the said accused official failed to advance any statement in his defense and repeated the verbal and written statements previously furnished before the Enquiry Officer.

**CONCLUSION.**

The case was examined from various angles and found contradiction in the written statement and personal hearing regarding apprehension of illegal timber on 29.09.2017 and absence from government duty on 7-8/10/2017, besides the accused official admitted his in-efficiency before the undersigned while conducting personal hearing on 14/12/2017.

**ORDER.**

On the basis of the above facts I Mr. Muhammad Saleem Khan Marwat Divisional Forest Officer Lower Dir Forest Division Timergara (Competent Authority) found the accused official viz Mr. Khalid Khan Forest Guard guilty of the charges of Mis-conduct and In-efficiency, is hereby awarded minor penalty of withholding further promotion for period of two (02) years along-with holding of two (02) annual increments for two (02) years i.e 2017 and 2018 without accumulative effect. He is further warned to be careful in future.

Sd/-  
**(Muhammad Saleem Khan Marwat)**  
Divisional Forest Officer,  
Lower Dir Forest Division,  
Timergara.

No 3082-86/G,

Copy forwarded for favour of information to the:

1. Chief Conservator of Forests Malakand Forest Region-III Saidu Sharif Swat.
2. Conservators of Forests Malakand West Circle Timergara.
3. SDFO Jandool/Timergara for information and necessary action.
4. Mr. Khalid Khan Forest Guard C/O SDFO Timergara.
5. Divisional Accountant for information and necessary action.

  
Divisional Forest Officer,  
Lower Dir Forest Division  
Timergara  


BEFORE THE CONSERVATOR OF FORESTS MALAKAND  
WEST FOREST CIRCLE TIMERGARA (LOWER DIR)

THROUGH PROPER CHANNEL

SUBJECT: DEPARTMENT APPEAL AGAINST OFFICE  
ORDER No 54 dated 18.12.2017 ISSUED  
BY DFO LOWER DIR FOREST DIVISION TIMERGARA

Respected Sir,

It is humbly stated that -

- 1) The appellant is serving as Forest Guard in Lower Dir Forest Division and presently performed his duty at Shamsudin Forest Check Post of Timergara Forest Sub-Division. The appellant was proceeded under the Kyber Pakhtunkhwa Govt. Servant (Efficiency and Discipline) Rules, 2011 and minor penalty has been imposed upon the appellant vide Dfo Lower Dir office order mentioned in the subject (Copy enclosed).
- 2) The office order issued by the Dfo is irregular, illegal and not in accordance with the provision of rules and regulations, hence not tenable. The allegations have not been proved with certainty by the Enquiry Officer, therefore, the penalty order of the Dfo is irregular and illegal.
- 3) On 27.9.2017, a mini truck loaded with 106 Nos illegal lead beams (394.97 cft) was apprehended by

SDF Timoraga at 03:00 am near Adigran Bridge (Timoraga). The said vehicle was apprehended far away from Skamardin Forest Check Post. However, all the staff posted at Skamardin Forest Check Post including the appellant were suspended and disciplinary proceedings were initiated against all the officials.

(4) It is pointed out that the appellant was on Routine Station Leave on 29.9.2017. The Enquiry officer and the DFO (Authority) has also admitted that the appellant was on routine leave, however, it has been stated that the appellant failed to produce prior written permission of Competent authority. Since the appellant was not present at the check post on 29.9.2017, therefore, not involved in any timber smuggling.

As regard the routine station leave is concerned it is an irrefutable fact and open secret of the Department, particularly down in Forest Division that all the staff posted on the check posts are availing routine station leave turn by turn being managed by the mutual understanding of the check post and no prior approval of SDF or any other authority is in practice, still now. However, the official on routine station leave remains stand-by for calling any time by the staff for duty, therefore, the routine station leave could not be termed as casual leave or any other leave to obtain prior approval of the Competent authority.



5) on 7.10.2017, the appellant was present in the check post which is also evident from the duty register, however, on 8.10.2017, there was wedding ceremony of his daughter and the appellant got leave from S.O.P. Timeshara on phone. The appellant left the check post on 8.10.2017 at 07:00 am and was returned to the station at about 1 pm. Accordingly the allegation of absence from duty on 7.10.2017 is not based on fact.

6) The penalty imposed upon the appellant is not in accordance with the provisions of Hyber Pakhtun Khwa Govt. Servant (Efficiency and Discipline) Rules, 2017. The minor penalty as defined vide Rule 4(u) of the said rules is reproduced as under:-  
"withholding, for a specific period, promotion or increments, otherwise than for unfitness for promotion or financial advancements, in accordance with the rules or orders pertaining to the service or post"

In the instant case of the appellant, both the penalties i.e. withholding of promotion for two years and withholding of two annual increments have been imposed which is in violation and against the above rules, therefore, the office order of the S.O. Timeshara is irregular, illegal and not tenable.

7) It is pointed out that the appellant was appointed as Forest Guard in 1986 and has successfully

Completed the Forest Guard Training ~~at~~ course from Sahad Forest School Abbottabad. The Appellant has served in the Department for the last 31 YEARS. He has performed his duties perfectly, honestly with the best satisfaction of his Superior Officers and has never indulged in any mal-practices which is also evident from his service record. During his entire service a single explanation has not been called for any negligence / irregularity. The instant case has been initiated and finalized within a days after thought and purposefully in order to deprive the appellant from promotion and promote some Junior Forest Guards of the Division (being their favourite).

8) Respected Sir, presently the name of the appellant stand at serial no. 3 of the Seniority list of Forest Guards of lower sub forest Division where 1st and 2nd positions are holding by J/s Noor Muhammad and Khurshid Forest Guards. Two posts of Foresters have become vacant due to retirement of M/s Abdul Kadir and Ibrahim Khan Foresters which are to be filled-in through promotion and definitely both the above two Forest Guards will be promoted against the said vacancies. Accordingly the appellant will become on the top of the Seniority list of J/s Noor. Departmental Promotion Committee (DPC) has already been constituted for the purpose and its meeting will be held shortly.

60

9) It is pointed out that one Mr. Rahim Guler Forester is going to retire on 9.4.2018 on Superannuation and a vacancy of Forester will be created accordingly. Since, the appellants is deserving for promotion as Forester, keeping in view his long service and excellent service record, therefore, his career has been caused damage at the peak of his <sup>service</sup> ~~career~~ and the promotion of the appellants has been withheld purposefully and after thought so as to provide opportunity to the junior Forest Guards for their promotion out of turn in the Division. From the above facts and figures it is quite clear that some officers/officials of the Division has planned and managed a conspiracy against the appellants to deprive him from due right of promotion. The action of the DFO is against the name of justice. All the conspirators will definitely come into surface shortly which will confirm the plea of the appellants.

In view of the explanation furnished above, it is quite clear that the allegations against the appellants are baseless with out any solid evidence and proofs. The appeal may be accepted and office order No. 54 dated 18.12.2017 being illegal and irregular be set aside. The promotion as well as

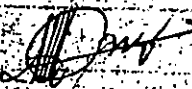
increments of the appeal and be satisfied for  
this act of kindness, the appellant will be  
highly obliged and thankful to your kind  
honour.

Yours obedient servant

Khalid Khan Ega  
Timgana Forest Sub-Division

Advance copy is forwarded to the Conservator  
of Forests, Malabar West Forest Circle, Timgana  
for favour of information and necessary action.

<sup>12</sup>  
Date 27/01/19

  
KHALID KHAN  
FOREST GUARD  
TIMGANA FOREST  
SUBDIVISION

OFFICE OF THE DIVISIONAL FOREST OFFICER LOWER DIR FOREST DIVISION TIMERGARA.

To

The Conservator of Forests,  
Malakand Forest Circle West,  
Timergara.

No. 4676 /E Dated Timergara the 26/03/2018.

Subject: DEPARTMENTAL APPEAL BY KHALID KHAN FOREST GUARD AGAINST  
OFFICE ORDER NO. 54 DATED 18/ 12/2017 ISSUED BY DFO LOWER DIR.

Memo:-

Reference your letter No. 3297/E, dated 11/01/2018.

Para-wise comments on the appeal of the appellant are as under :-

1. It is correct, as per record of this Forest Division.
2. It is correct. As it is evident from his personal hearing and written statement/reply, himself confessed that the truck was apprehended by SDFO Timergara on 29/09/2017 at Wadigram bridge at 3.00 AM, which was loaded with illicit Kail Scants = 106 Nos and cross the Shamardin Forest Check Post with active convince.
3. It is in-correct, that the official is replied that I was routine leave on 29/9/2017. With this regard at 0300 AM the illicit load truck of Kail Scants was apprehended and the timer was confiscated and the vehicle was compounded.
4. It is incorrect, that the accused official did not produce Notification/Circular/Rules regarding routine leave, hence the appeal is liable to be dismissed.

It is respectfully prayed that the allegations against the accused official Khalid Khan Forest Guard proved vide Divisional Forest Officer Lower Dir Forest Division office order No. 54 dated 18/12/2017 is rightly been issued and imposed the penalty. Therefore, the appeal of the appellant may kindly be dismissed in the interest of justice.

Divisional Forest Officer,  
Lower Dir Forest Division,  
Timergara.



BEFORE THE CONSERVATOR OF FOREST MAEMURAH WEST FOREST CIRCLE

THROUGH PROPER CHANNEL

SUBJECT: DEPARTMENT APPEAL AGAINST OFFICE ORDER

NO. 53 DATED 18.12.2017 ISSUED BY DFO.

LOWER DIR FOREST DIVISION TIMERGARA

Respected Sir,

It is humbly stated that :-

1) The appellant is serving as Forest Guard in Lower Dir Forest Division Timergara and presently performed duty at Channardu Forest Check Post of Timergara Forest Sub-Div.

The appellant was proceeded under by per Pakhtun Khwa Govt. Servant (Efficiency & Discipline) Rules, 2011 and minor penalty has been imposed upon the appellant vide DFO Lower Dir office order no. 53 dated 18.12.2017 (copy enclosed).

3) The office order issued by the DFO is irregular, illegal and not in accordance with the provisions of rules & regulations, hence not tenable. The allegations have not been proved with certainty by the Enquiry Officer, therefore, the penalty order of the DFO is irregular and illegal due to the reasons given below.

3) On 29.9.2017 a minitruck loaded with illegal timber (106 retail scanty = 394.97 cft) was apprehended by the SPFO Tiruvavara and his staff near Odigram bridge (Tiruvavara). The vehicle was apprehended far away from Shamardin Forest Check Post, however all the staff posted on Shamardin Forest Check Post were suspended and disciplinary action was initiated under E.O. Rules against all the officials including the appellant.

(4) It is pointed out that I vigilantly performed duty on the night of 29.9.2017 and no illegal timber crossed the barrier during his duty time. Moreover, the appellant performed duty upto midnight (12.00 am) and then he entrusted the check post to Mr. Muhammad Rehman - II Forest Guard. It is pertinent to mention here that the truck might have been loaded from Rabhat which is a notorious station for dumping

and smuggling of illegal timber. The Enquiry Officer has incorrectly stated in the Enquiry Report that the timber was originated from Two mangrove Forests (with out any proof & etc). The Statement of the Enquiry officer is not based on facts.

- (5) On 7-8/10/2017 the appellant was on routine station leave. It is an irrefutable fact and open secret of the Department, particularly Lower Dir Forest Division that all the staff posted on the check posts are availing routine station leave turn by turn being managed by the mutual understanding of the staff of the check posts and no prior approval of SDF or any other authority is in practice up till now. However, the official on routine station leave remains standby for calling any time by the staff for duty, therefore, the routine station leave could not be termed to casual leave or any other leave to obtain prior approval of the competent authority.



b) The penalty imposed on the appellant is not in accordance with the provision of Mysore Palantam (Mun. Govt. Servant (Efficiency + Discipline) Rules, 2011

The minor penalty as defined under Rule-4 (ii) of the said rules is reproduced as under:-

"With holding for a specific period, promotion or increment, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post?"

In the instant case of the appellant, both the penalties i.e. withholding of promotion for two years and withholding of two annual increments have been imposed which is contrary to the above rules, hence the office order of the DFO is not in accordance with the rules and illegal, irregular and is not tenable.

D) The appellant has performed his duty perfectly, honestly with the best satisfaction of his superior officers and has never indulged in any mal practices which is also evident from his service record. During

(7) The appellant has served in the Department for more than thirty (30 years) and has performed his duties perfectly ~~and~~ ~~has~~ ~~been~~ ~~honored~~ with the best satisfaction of his superior officer and has never indulged in such like malpractices which is also evident from his service record. During his entire service a single explanation has not been called for any negligence/irregularity. The instant case has been initiated and finalized in a days for the purpose to deprive the appellant from promotion and pension ~~and~~ ~~financial~~ ~~loss~~ at the last edge of his service.

In view of the explanation furnished above it is quite clear that the allegations against the appellant are baseless without any solid evidence and proofs, therefore, office order No. 52 dated 18.12.2012 is irregular/illegal and may be set aside and the promotion as well as increments of the appellant be restored. In this act of kindness the appellant will be highly obliged and thankful to your kind honor.  
Please

Yours obediently

Muhammad Rehman  
Forest Guard

Advance Copy forwarded to the Conservator Forest, Malakand West Forest Circle at Timergah for favour of information & reaction please.

Muhammad Rehman  
Forest Guard

OFFICE OF THE DIVISIONAL FOREST OFFICER LOWER DIR FOREST DIVISION TIMERGARA.

To

The Conservator of Forests,  
Malakand Forest Circle West,  
Timergara.

No. 4674 /E, Dated Timergara the 26/03/2018.

Subject: DEPARTMENTAL APPEAL BY MUHAMMAD RAHMAN-II FOREST GUARD  
AGAINST OFFICE ORDER NO. 53 DATED 18/12/2017 ISSUED BY DFO  
LOWER DIR.

Memo:-

Reference your letter No. 3297/E, dated 11/01/2018.

Para-wise comments on the appeal of the appellant are as under :-

1. It is correct, as per record of this Forest Division.
2. It is correct. As it is evident from his personal hearing and written statement/reply, himself confessed and he was present at that time when the truck was apprehended by SDFO Timergara on 29/09/2017 at Wadigram bridge at 3.00 AM, which was loaded with illicit Kall Scants = 106 Nos and cross the Shamardin Forest Check Post with active convince.
3. It is in-correct, that the official was present at the time of apprehension of truck No. 1125/E dated 29/09/2017 and appointed Enquiry Committee vide DFO Lower Dir Timergara office order No. 35 dated 17/10/2017.
4. It is incorrect, that the accused official did not produce Notification/Circular and Rules regarding routine leave, hence the appeal is liable to be dismissed.

It is respectfully prayed that the allegations against the accused official Muhammad Rahman-II Forest Guard proved vide Divisional Forest Officer Lower Dir Forest Division office order No. 53 dated 18/12/2017 is rightly been issued and imposed the penalty. Therefore, the appeal of the appellant may kindly be dismissed in the interest of justice.

  
Divisional Forest Officer,  
Lower Dir Forest Division,  
Timergara

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 650 /ST

Dated 1-4-2019

To


The Divisional Forest Officer,  
Government of Khyber Pakhtunkhwa,  
Lower Dir Forest Division at Timergra, lower Dir.

Subject: -

JUDGMENT IN APPEAL NO. 529/2018, MR. MUHAMMAD RAHMAN & OTHER.

I am directed to forward herewith a certified copy of Judgement dated 07.02.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.