

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1001/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/08/2018	<p>The appeal of Mr. Zarfareen presented today by Mr. Bilal Ahmad Kakaizai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR - 13/8/18</p>
2-	15-8-2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24-9-2018</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	24.09.2018	<p>Counsel for the appellant, Mr. Bilal Ahmad Kakaizai, Advocate present and produced a copy of order passed by the competent authority whereby denovo enquiry has been ordered against him. The learned counsel for the appellant requested to allow him to withdraw the present appeal with permission to file fresh appeal, if he is not satisfied of the order passed after completion of denovo enquiry.</p> <p>Request is accepted. The appeal is dismissed as withdrawn. File be consigned to the record room.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman 24.9.2018</p> <p style="text-align: center;"><u>ANNOUNCED</u></p> <p style="text-align: center;">24.09.2018</p>

REPORT ON SERVICE TRIBUNAL HEARINGS

Service Appeal No: _____, 2018

DATE: _____ V/s _____ Government of Karnataka

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2	Annexure "A" - Postal Receipt
3	Annexure "B" - dated 04.02.2018
4	Annexure "C" - Departmental Appeal & Representation
5	Annexure "D" - Impugned Order dated 12.04.2018.
6	Annexure "E" - Reply to the Show Cause Notice.
7	Annexure "F" - Show Cause Notice.
8	Annexure "G" - Family Register No. 21-2-2018
9	Annexure "H" - Affidavit of Service Application
10	Annexure "I" - 12.8.2018

Appellant:

Through:

BILAL AHMAD KAKIZAI

(Advocate, Petitioner)

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: 1001 / 2018

ZARFAREEN

V/s

Government of KPK etc.

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Wakalat Nama		nil

Appellant

Through:


BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

STATE OF MICHIGAN DEPARTMENT OF CONSERVATION

OFFICE OF THE COMMISSIONER OF FORESTRY

ANN ARBOR, MICHIGAN

FOR THE YEAR ENDING DECEMBER 31, 1954

STATE OF MICHIGAN DEPARTMENT OF CONSERVATION

OFFICE OF THE COMMISSIONER OF FORESTRY

1954

STATE OF MICHIGAN DEPARTMENT OF CONSERVATION

OFFICE OF THE COMMISSIONER OF FORESTRY

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ANN ARBOR, MICHIGAN

STATE OF MICHIGAN DEPARTMENT OF CONSERVATION

OFFICE OF THE COMMISSIONER OF FORESTRY

(Handwritten initials and signature)

STATE OF MICHIGAN DEPARTMENT OF CONSERVATION
OFFICE OF THE COMMISSIONER OF FORESTRY
ANN ARBOR, MICHIGAN
FOR THE YEAR ENDING DECEMBER 31, 1954

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1281

Dated 13-8-2018

Service Appeal No: 1001 / 2018

ZARFAREEN,

Forest Guard, Pashto Range,

C/o Range Officer, Pashto Range,

..... Appellant

VERSUS

1. **GOVERNMENT OF KHYBER PAKHTUNKHWA,**
Through Secretary,
Forest, Environment & Wildlife Department,
Civil Secretariat, Peshawar.

2. **CHIEF CONSERVATOR OF FORESTS,**
Khyber Pakhtunkhwa, Peshawar.

3. **CONSERVATOR OF FORESTS,**
Upper Hazara Forest Circle,
Mansehra.

4. **DIVISIONAL FOREST OFFICER,**
Hazara Tribal Forest Division, Battagram.

..... Respondents

**APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974
AGAINST ORDER NO. 83 DATED 12.04.2018 RECEIVED BY
THE APPELLANT ON 03.05.2018 WHEREBY PENALTY OF
RECOVERY OF SHARED AMOUNT I.E. 929437/-ALONG WITH**

Filed to-day
13/8/18

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REDUCTION IN PAY TO FIVE LOWER STAGES FOR THE PERIOD OF FOUR YEARS HAVE BEEN IMPOSED AND THE DEPARTMENTAL APPEAL / REPRESENTATION DATED 04.05.2018 HAS NOT BEEN RESPONDED DESPITE THE LAPSE OF REQUISTE 90 DAYS PERIOD.

Prayer: That on acceptance of this Service Appeal, the impugned penalty Order dated 12.04.2018 be set-aside being illegal, unlawful, void and ineffective moreover Appellant's Pay be restored to its original position and recovery, if any, initiated and deducted may please be recovered with such other relief as may deem fit in the circumstances of the case may also be granted.

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:-

1. That, during the course of employment as Forest Guard, Appellant was summoned for joining Enquiry Proceedings pending against Mr. Fateh Muhammad Forester, Incharge Pashto Forest Range.
2. That, Appellant joined the Enquiry Proceedings, in good faith, because as per law his obligation was to answer any question put before him in order to clarify / proof the veracity of charges against the accused against whom the Enquiry was pending. It is clarified that the Enquiry Officer never questioned the Appellant.
3. That, surprisingly vide Enquiry Report dated 27.11.2017, the Enquiry Officer, apart from the accused in the said Enquiry Proceedings, recommended punishments against

the Appellant as well, copy of the Enquiry Report is attached as Annexure A.

4. That, on the basis of above mentioned Enquiry Report, a Show Cause Notice dated 19.12.2017 was issued to the Appellant by the Respondent No. 4 wherein Appellant was required to response / clarify his position regarding the commission of alleged acts and omissions of In-efficiency, Misconduct and Corruption , copy of the Show Cause Notice dated 27.12.2017 is attached as Annexure B.
5. That, since the whole proceedings leading towards the Show Cause Notice was illegal, irregular and incorrect; hence Appellant submitted his reply wherein he factually responded to the Show Cause Notice and clarified his position, copy of the Reply to the Show Cause Notice is attached as Annexure C.
6. That, on 12.04.2018 Impugned Order of Penalty was issued, received by the Appellant on 03.05.2018, whereby Appellant was awarded penalty of Recovery of Shared Amount of Rs. 929437/- along with reduction in pay to five lower stages for a period of 4 years, copy of the Impugned Order is attached as Annexure D.
7. That, as per Law applicable Appellant submitted his Departmental Appeal / Representation before the Appellate Authority on 04.05.2018 through Courier, copy of the Departmental Appeal is attached as Annexure-E & Postal Receipt is attached as Annexure F.
8. That, despite lapse of mandatory 90 days period, the Departmental Appeal / Representation of the Appellant is still undecided, hence, this Service Appeal on the following amongst other grounds: -

- I. That, since the Appellant was not part and parcel of the Charge Sheet and Statement of Allegations issued against Mr. Fateh Muhammad, Forester, therefore, any proceedings, and any adverse action / order against the Appellant has neither got any evidential value neither the same has any effect upon the service career of the Appellant hence the same is nullity in the eyes of law.
- J. That, the actual and factual reason of loss of plants i.e. drought, An Act of God, was willfully not stated by the Enquiry Officer in his Enquiry Report which speaks volumes of malafides against the Appellant.
- K. That, no Show Cause Notice could be issued to a Civil Servant on the basis of Enquiry Proceedings pending or finalized against some other officer / official of the Department.
- L. That, Appellant was not handed over the requested documents before or even after the Enquiry Proceedings which have been used against the Appellant for inflicting the harm / punishment, copy of the request for providing documents is attached as Annexure G.
- M. That, as per information and knowledge of the Appellant bogus signatures and writings, similar to the Appellant, have been effected on the Muster-Roll however it is added that no payment have been made on the basis Muster-Roll prepared and signed by the Appellant himself.
- N. That, the Enquiry Officer did not adopt proper procedure as required under the law nor Appellant was

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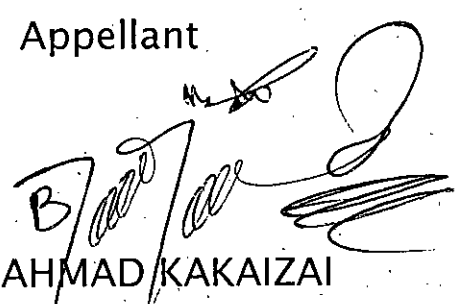
confronted with any documentary evidence to this effect neither any witnesses were produced before the Appellant, against him.

- O. That, there is nothing on record nor any thing was produced before the Enquiry Officer to the effect that Appellant was directly involved in any alleged allegations or anything done was due to his willful intention or Mensrea.
- P. That, Appellant is innocent and falsely punished without having any solid prove.

It is, therefore, requested that Appeal be accepted as prayed for.

Appellant

Through,


BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

BEFORE NWFP SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: _____ / 2018

ZARFAREEN

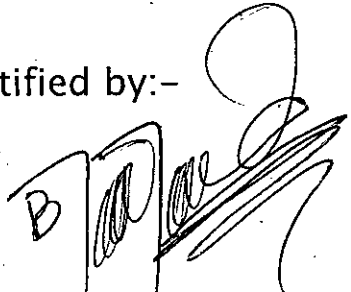
V/s

Government of KPK etc.

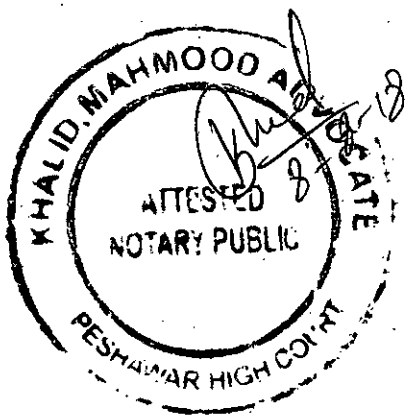
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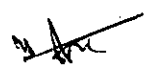
I, ZARFAREEN, Forest Guard, Pashto Range, C/o Range Officer, Pashto Range, Appellant, do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

Identified by:-



BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)




Deponent.

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BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: ____ / 2018

ZARFAREEN V/s **Government of KPK etc.**

ADDRESSES OF PARTIES.

PETITIONER:

ZARFAREEN, Forest Guard, Pashto Range, C/o Range Officer,
Pashto Range.

RESPONDENTS

1. Government of Khyber Pakhtunkhwa, Through Secretary,
Forest, Environment & Wildlife Department, Civil Secretariat,
Peshawar.
2. Chief Conservator of Forests, Khyber Pakhtunkhwa,
Peshawar.
3. Conservator of Forests, Upper Hazara Forest Circle,
Mansehra.
4. Divisional Forest Officer, Hazara Tribal Forest Division,
Battagram.

Appellant

Through,


BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

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Muhammad Siddique Divisional Forest Officer		Agror Tanawal Forest Division Oghi Phone # 0997-321244
No. 4283 /GE		Dated 27 /11/2017

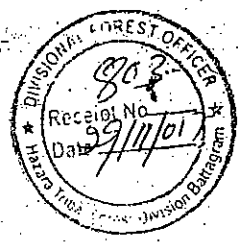
The Divisional Forest Officer
 Hazara Tribal Forest Division
 Battagram

Subject: DISCIPLINARY PROCEEDINGS AGAINST M/S FATEH MUHAMMAD FORESTER, MUHAMMAD ANWAR FOREST GUARD, AHMED RIZWAN FOREST GUARD, ZARFAREEN FOREST GUARD AND MUHAMMAD SALEH FOREST GUARD (RTD.)

Reference: Your office letter No. 1283-85/GE dated 21.11.2016, No.1286-88/GE dated 21.11.2016 and No.1514/G dated 21.12.2016.

Enclosed please find herewith enquiry report in respect of M/S Fateh Muhammad Forester, Muhammad Anwar Forest Guard, Ahmed Rizwan Forest Guard, Zarfareen Forest Guard and Muhammad Saleh Forest Guard (Rtd) duly completed by the undersigned alongwith enquiry file from page-01 to 118 for information and further course of action in your office.


 Divisional Forest Officer
 Agror Tanawal Forest Division
 Oghi



Encl: As Above

① E c

ENQUIRY REPORT AGAINST M/S FATEH MUHAMMAD FORESTER, MUHAMMAD ANWAR FOREST GUARD, AHMED RIZWAN FOREST GUARD, ZARFAREEN FOREST GUARD AND MUHAMMAD SALEH FOREST GUARD (Rtd.)

READ WITH:

- (i) DFO Hazara Tribal Forest Division Battagram constituted Enquiry Committee vide his office endorsement Nos; 1283-85/GE dated 21.11.2016 and No.1286-88/GE dated 21.11.2016.
- (ii) Charge Sheet plus memo of allegation was served upon the accused vide office endorsement Nos; referred above.
- (iii) DFO Hazara Tribal Forest Division Battagram vide his office letter No.1514/GE dated 21.12.2016 requested the enquiry officer for inclusion of other connected allegations against the main accused & others.
- (iv) DFO Agror Tanawal Forest Division Vide his office letter No.1773-24/GE dated 25.11.2016 directed the accused to submit their defense statements.
- (v) DFO Agror Tanawal Forest Division vide his office letter No. 2276-77/GE dated 30.12.2016 reminded the accused to submit their defense statements.
- (vi) The accused submitted their defense replies dated nil.
- (vii) DFO Agror Tanawal Forest division vide his office order No.338 dated 25.4.2017 constituted a sub-committee to assess, measure and verify the deficient plantation areas as entailed at SNO.13 to 17 of the office letter No.1514/GE dated 21.12.2016 of the Divisional Forest Officer Hazara tribal Forest Division Battagram.
- (viii) Divisional forest officer Agror Tanawal Forest Division vide office letter No.5129-31/GE dated 04.5.2017 directed other accused of the connected case to submit their defense replies.
- (ix) Latest statement of expenditure incurred on these plantation areas was provided by DFO Hazara Tribal Forest Division Battagram.
- (x) Latest monitoring & evaluation report was sought from DFO Hazara Tribal Forest Division Battagram vide DFO Agror Tanawal Forest division office letter No.5500/GE dated 2.6.2017 which was provided and appended in enquiry file.
- (xi) The sub-committee submitted its report on 11.11.2017.
- (xii) DFO Agror Tanawal Forest Division vide his office letter No.3084-87/GE dated 16.11.2017 directed all the accused to appear for recording their personal hearing/cross-examination on 23.11.2017.
- (xiii) The personal hearing/cross-examination of all the accused was conducted in presence of prosecutor on 23.11.2017.

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BRIEF HISTORY OF THE CASE

Mr. Fateh Muhammad Forester (here in after called as accused) while posted as incharge Pashto Forest Range committed many irregularities as entailed at length in the "Charge Sheet" and "Monitoring & Evaluation report" communicated/endorsed to him vide DFO Hazara Tribal Forest Division Battagram office endorsement No.1283-85/GE dated 21.11.2016 and No.1515/GE dated 21.12.2016 respectively.

Likewise, M/S Muhammad Anwar Forest Guard, Ahmed Rizwan Forest Guard, Zarfreen Forest Guard and Muhammad Saleh Forest Guard (Rtd:) were/are the individuals who were the immediate spot incharges of these argumentative plantation areas as noted against them in the "Statement of Expenditure" appended on page - 55 of the enquiry file.

The heart of all these allegations is configurated, designed and reproduced as under.

- (i) The charged plantation areas in question were reported deficit by the monitoring & Evaluation team.
- (ii) The Survival Percentage of these plantation areas was/is poor rather dismal.
- (iii) The choice of site (s) was not appropriate and exposed to **anthropogenous** influences manifold.
- (iv) The choice of species was/is not according to the prescribed requirements of Ecological zone of the plantation areas.
- (v) The spacings were/are abnormal
- (vi) The aggregate effect of these preceding shortfalls critically resulted into worst and substandard "**Quality & Quantity of work**" by any stretch of imagination.

Due to aforestated shortcomings, lacunas and omissions, the Government kitty sustained a colossal loss.

By reasons of above, the leading accused and his accomplices are found guilty of Mis-Conduct, In-efficiency and Corruption as encapsulates in Rule-3 of the E&D Rules, 2011 and thus they have rendered themselves

liable to all or any of the penalty as specified in Rule-4 of the said Rules amended vide Establishment and Administration Department Notification No.SO(REG-VI)E&AD/2-6/2010 dated 18 July,2012.

In order to scrutinize the conduct of all the accused within the meaning of above allegations, DFO Hazara Tribal Forest Division as competent authority and power conferred on him vide Rule-10 (1) (a) of the Rules ibid constituted an enquiry committee comprising of:-

Mr. Muhammad Siddique, Divisional Forest Officer Agror Tanawal Forest Division Oghi (Enquiry Committee)

PROCEEDING/DISCUSSION.

While investigating these sensitive allegations in question, the enquiry committee judiciously valued / thumbed up all the natural principles of justice and equality and provided full opportunity of participation to the accused in consonance with the permissible yardsticks as conclusively envisaged in the E&D Rules-2011.

- Facts on ground were critically analyzed and available record on file was read out.
- Their replies were thoroughly perused.
- The Sites had been visited along with sub-committee.
- All the monitoring reports were deeply examined, compared and contrasted.
- Sub-Committee was constituted to intensively watch and assess the shortcomings on ground and to help the Enquiry Committee to draw righteous inferences/ Recommendations.
- Lastly personal hearing/ cross- examination of all the accused was conducted during the presence of prosecutor on 23-11-2017 and all doubts and ambiguities were waived off in the light of Record embodying the "depth & ditch" of the whole episode right from its emanation (21.11.2016) to conclusion (23.11.2017).

- It would not be out of landish to state that a reasonable length of time (one year) and several ample opportunities had been brotherly provided to the leading accused but sorry to argue that he badly failed to repair the damages and remove the "ails and evils" to the desired extent for the hidden reasons best known to him.

Hence keeping in view above exposition, facts and figures, these serious nature allegations are captioned, assessed and scrutinized as under:-

1. ISSUE OF DEFICIENT PLANTATIONS AREAS.

The leading accused has provided some GIS Maps which were verified and authenticated by the prosecutor. These maps reveal that the accused has voluntarily planted 134.80 hectare area at Tandol 1 to 5 and these not only neutralize the deficiency of plantation areas in question but also diffuses the overall deficit of Pashto Forest Range, leaving behind + 5 hectare as excess.

Now question arises for maintenance of this voluntarily planted sites (134.80 hectare) for which the accused/ RFO Pashto should be watchful to continue its maintenance for the period as provisioned in PC-1 of Phase-II of BTAP.

Thus this issue stands pulled out of equation for all the accused.

2. ISSUE PERTAINING TO CHOICE OF SITE, CHOICE OF SPECIES, SPACING AND QUALITY OF WORK ETC ETC.

All these issues were repairable and corrigible but the accused/ RFO Pashto could not get these corrected/ rectified through his subordinates/ co-accused in the instant case and thus being the supervisor of the Range, he cannot wash his hands of this responsibility also.

All these issues are also visibly seen in the report of the Sub-Committee.

Thus the main accused & other connected accused are equally responsible for all these lapses & gapes.

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3. ISSUE OF POOR SURVIVAL PERCENTAGE.

This issue is undoubtedly interlinked, interconnected and interweaven with the above issue No.2 because its cumulative effect leads to poor survival % age effective from its month of commencement of afforestation work to date as candidly transpired from the report dated 11.11.2017 of the Sub-Committee.

Neither the co-accused/Sub-ordinate staff improved the survival percentage nor the charismatic accused took even the pain to get driven the survival percentage to the optimum level through them.

Thus the major quantum of the expenditure incurred on this investment spoiled for which all these accused are equally responsible, in the eyes of law.

STATEMENT SHOWING THE LOSS INFLECTED TO THE NATIONAL EXCHEQUER BY THE PRIME & CO-ACCUSED

#	Name of plantation site	Survival percentage	Total amount incurred/claimed (Rs.)	Judicious amount incurred (Rs.)	Total Gobbled amount (Total-judicious) (Rs.)	Shared gobbled amount (Rs.)	Remarks
1	Para Pashto	35%	2174000/-	2174000x35/100=760900/-	2174000-760900=1413100/-	1413100/2=706550/- each	M/S Fateh Muhammad Forester & Muhammad Anwar Fg. are responsible.
2	Koshgram	40%	2175000/-	2175000x40/100=870000/-	2175000-870000=1305000/-	1305000/2=652500/- each	M/s Fateh Muhammad Forester and Ahmed Rizwan Fg are responsible
3	Para Rechari	60%	1286000/-	1286000x60/100=771600/-	1286000-771600=514400/-	514400/2=257200/- each	M/s Fateh Muhammad Forester and Ahmed Rizwan Fg are responsible
4	Musa Tangay	40%	1088000/-	1088000x40/100=435200/-	1088000-435200=652800/-	652800/3=217600/- each	M/S Fateh Muhammad Forester, Muhammad Anwar Fg and Saleh Fg (Rtd;) are responsible.
5	Kund	25%	2478500/-	2478500x25/100=619625/-	2478500-619625=1858875/-	1858875/2=929437/-	M/S Fateh Muhammad Forester & Zarfaren FG are responsible.
Total:					Rs.5744175/-		

The above statement clearly shows that:-

Mr. Fateh Muhammad Forester Incharge Pashto Forest Range is responsible for the loss sustained to the Governments treasury to the tune of Rs. **2763288/-** while M/S Muhammad Anwar Forest Guard, Ahmad Rizawn Forest Guard, Zarfaren Forest Guard and Saleh Forest Guard

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(Rtd:) are responsible to the tune of Rs.924150/-, Rs. 909700/- , 929437/- & Rs. 217600/- respectively.

This state of affair clearly transpires that the key accused as RFO Pashto has been badly failed to effectively execute the plantation campaign of the highly focused and flagship project of BTAP especially in the prevailing circumstances when the political opponents of PTI are leaving no stone unturned to trace out some loop holes in the project interventions and thus maculate the image of the Govt: of Khyber Pakhtunkhwa being leaded by the wordly famed celebrity – Mr. Imran Khan - a stubborn individual.

In such like circumstances, the retention of all these accused especially the pivotal accused as RFO Pashto becomes a big question mark (?) for top boss of the Department.

To sum up above commentary, it is easily inferred that "Neither Team Leader of the Pashto Forest Range has played his mandatory/ statutory role nor subordinate staff have been efficaciously supervised, goaded and guided to deliver their mandatory goods & services.

FINDINGS/CONCLUSION.

The above discussion leads to the findings that:-

- i. The issue pertains to deficient plantation areas in question stands disposed off as the deficit in question was neutralized with 134 hectare leaving behind + 5 hectare as excess.
- ii. The shortfalls pertaining to site selection, choice of species, sub-standard quality & quantity of work etc etc render the leading accused more responsible than the co-accused/accomplices.
- iii. Likewise, knitting together Para-ii, the poor survival percentage of these contentitious plantation sites as assessed and reported by sub-committee in its **monumental report dated 11.11.2017** also make the key accused more accountable & impeachable than the co-accused in the eyes of law.

iv. The further retention of leading accused as RFO Pashto poses serious "threat & risk" for our bread earning Department.

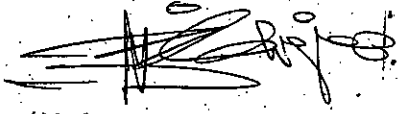
The above findings lead to the conclusion that:-

All the acts, omissions as elaborated at length in the "Discussion" constitute Mis-conduct, In-efficiency and Corruption beyond any shadow of doubt on part of all the accused:-

RECOMMENDATIONS.

The enquiry committee with sky high confidence recommend that;

(a)	(i)-	The shared amount i.e Rs. 2763288/- may be recovered from the key accused (Fateh Muhammad Forester)
	(ii)-	His pay may be reduced to four lower stages for a period of three years.
(b)	(i)-	The shared amount i.e Rs. 924150/- may be recovered from Muhammad Anwar Forest Guard.
	(ii)-	His pay may be reduced to five lower stages for a period of Four Years
(c)	(i)	The shared amount i.e Rs. 909700/- may be recovered from Ahmad Rizawan Forest Guard.
	(ii)	His pay may be reduced to five lower stages for a period of Four Years.
(d)	(i)	The shared amount i.e Rs. 929437/- may be recovered from Zarfareen Forest Guard.
	(ii)	His pay may be reduced to five lower stages for a period of Four Years
(e)	(i)	The Shared amount i.e Rs. 217600/- may be recovered from Saleh Mohammad Forest Guard (Rtd) within due course of law.


 (Mohammad Siddique)
 Divisional Forest Officer
 Agror Tanawal Forest Division
 Oghi (Enquiry Officer)

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B

Divisional Forest Officer
Hazara Tribal Forest Division
Battagram



Phone No: 0997-310017
Fax No: 0997-311710
E-mail: dfohazaratribal@gmail.com
No. ~~1111~~ /GE, dated: ~~11~~ /12/2017

1645 dt. - 27/12/2017

To: Zarfreon Forest Guard.
~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX~~

Subject: SHOW CAUSE NOTICE

I Sardar Farhad Ali Divisional Forest Officer Hazara Tribal Forest Division as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you as follows:

1. (i) that consequent upon the completion of inquiry conducted against you by the inquiry Officer/inquiry committee for which you were given opportunity of hearing and.
- (ii) on going through the findings and recommendations of the inquiry officer/inquiry committee, the material on record and other connected papers including your defense before the inquiry officer / Inquiry committee, -

I am satisfied that you have committed the following acts/ omissions specified in rule 3 of the said rules:

- (a) In-efficiency
- (b) Ms- conduct
- (c) Corruption

2. As a result thereof, I as competent authority, have tentatively decided to impose upon you any penalty under rule 4 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 also 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 shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
5. A copy of the findings of the inquiry, officer / inquiry committee is enclosed.

DIVISIONAL FOREST OFFICER
HAZARA TRIBAL FOREST DIVISION
BATTAGRAM

بخدمت جناب DFO صاحب ہزارہ ٹرانسٹ ڈویژن بگرام
بوناٹ جناب ریج آفیسر صاحب پاشتورنج

شمارہ: جواب بابت شوکار نوٹس نمبر 1645GE مجریہ 27/12/2017

جناب عالی!

- 1: گزارش ہے کہ اس ضمن میں قذوی کو حال کوئی جواب طلبی یا چارج شیٹ وغیرہ نہیں ملی ہے انکو ازری آفیسر صاحب نے قذوی سے کسی قسم کی پوچھ گچھ نہیں کی اور سادہ کاغذ پر قذوی سے دستخط لئے ہیں۔
 - 2: یہ کہ قذوی سے اس ضمن میں جناب کے دفتر میں کاغذات جو میرے نام سے منسوب کئے گئے ہیں، اس کے بابت ایک تحریری درخواست برائے مہدوقہ نقولات حسب قانون گزارگی تھی۔ جو کہ دفتر سے فراہم نہیں کئے گئے۔
 - 3: یہ کہ قذوی پر لگائے گئے جملہ الزامات من گھڑت اور بے بنیاد ہیں۔
 - 4: یہ کہ قذوی نے نہ کوئی مسٹرول وصول کیا ہے اور نہ کوئی مسٹرول مرتب کیا ہے اور نہ ہی کسی بھی مسٹرول کی رقم میرے موجودگی اور نشاندہی پر تقسیم کی گئی ہے۔
 - 5: یہ کہ جناب سے گزارش ہے کہ قذوی کے نام سے منسوب جملہ کاغذات کی نقولات فراہم کی جائے تاکہ اصل حقائق سامنے آسکے۔
 - 6: یہ کہ قذوی کو ذاتی شنوائی کیلئے موقع فراہم کیا جائے۔
- جناب سے گزارش ہے کہ قذوی پر جو الزامات انکو ازری اور شوکار نوٹس میں لگائے گئے ہیں، وہ بالکل بے بنیاد اور حقائق کے منافی ہیں۔ اور قذوی کو ان الزامات سے بری الزمہ قرار دے کے مٹھور فرماویں۔

(سائل تاحیات دعا گو ہے گا)

الغرض

12/03/2018

زر فرین فارمٹ گاڑ پاشتورنج

(19)

OFFICE ORDER NO. 83 DATED 12 /04/2018 ISSUED BY SARDAR FARHAD ALI
DIVISIONAL FOREST OFFICER HAZARA TRIBAL FOREST DIVISION BATTAGRAM

Whereas Mr. Fathe Muhammad Forester while posted as incharge Pashto Forest Range was issued charge sheet for In-efficiency, Mis-conduct and Corruption on account that he has planted 86,000 plants with species Poplar, Ailanthus, Kail and Rob;inia in 80 Ha area in Para Pashto plantation of Pashto Forest Range in Spring 2016 and charged Rs.18,41,000/- on account of block plantation alongwith watch and ward. The same was found totally failed during the course of checking by the then DFO Hazara Tribal Forest Division Battagram.

Whereas Mr. Muhammad Siddique Divisional forest Officer Agror Tanawal Forest Division Oghi was appointed as enquiry officer/committee vide Divisional Forest Officer Hazara Tribal Forest Division Battagram office letter No.1283-85/GE, dated 21/11/2016 under Rule-10(1)(a) (Efficiency & Disciplinary) Rules-2011.

Whereas on receipt of Regional Monitoring Officer Northern Forest Region-II monitoring report, Mr. Muhammad Siddique DFO Enquiry Officer was requested vide DFO Hazara Tribal Forest Division Letter No.1514/G, dated 21/12/2016 to include the allegations raised by the Team at S.No.13 to 17 in the said report with the allegations already levelled against Mr. Fathe Muhammad Forester in the charge sheet.

During the course of scrutinizing of the relevant record as well as shown in the statement of expenditure provided by Divisional Forest Officer Hazara Tribal Forest Division to the Enquiry Officer Mr. Zarfareen Forest Guard incharge of Kund Plantation area and he was included with above mentioned accused Mr. Fathe Muhammad in Enquiry proceedings by the Enquiry Committee.

Whereas the Enquiry Officer vide his No. 5129-31/GE dated 04/05/2017 directed the co-accused (Mr. Zarfareen Forest Guard) to submit his defense reply and also was heard in person on 23/11/2017.

Whereas the enquiry officer/committee after having examined the charges, evidence on record explanation of the accused Forest Guard and providing chance of personal hearing has submitted the recommendations vide his No.4283/GE, dated 27/11/2017 and concluded that:-

"The enquiry committee with sky high confidence recommend that:-

(d)-(i)- The shared amount i.e. Rs.9,29,437/- may be recovered from the co accused (Zarfareen Forest Guard).

(ii)- His pay may be reduced to Five lower stages for period of Four years".

In light of recommendation of the Enquiry Committee the Forest Guard was served with Show-Cause Notice vide this office No.1645/GE, dated 27/12/2017.

The accused Forest Guard submitted his reply dated 12/03/2018 and also requested to be heard in person received in the office of DFO Hazara Tribal Forest Division on 21/03/2018.

On 03/04/2018, the Forest Guard was heard in person alongwith other co accused.

After going through the recommendation of enquiry report, reply to show-cause notice and personal hearing the undersigned is satisfied that the allegations levelled against Mr. Zarfareen Forest Guard stands proved.

Therefore, the undersigned in the capacity of Authority under Rule 14(5)(ii) Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 hereby impose the following penalties specified in rule 4 of the said rules to Mr. Zarfareen Forest Guard:-

I- Recovery of shared amount i.e. Rs.9,29,437/-

II- His pay is hereby reduced to Five lower stages for period of Four years.

Sd/- (Farhad Ali)
Divisional Forest officer
Hazara Tribal Forest Division
Battagram

Memo:-

Copy forwarded to;

- 1- The Conservator of Forests Upper Hazara Forest Circle Mansehra for information please.
- 2- Mr. Zarfareen Forest Guard c/o Range Officer Pashto for information and necessary action.
- 3- Divisional Accountant for information and necessary action.



خدمت جناب کنزرویٹر صاحب محکمہ جنگلات اپر ہزارہ فارسٹ سرکل مانسہرہ

عنوان: اپیل برخلاف DFO ہزارہ ٹرائیکل فارسٹ ڈویژن بگرام آفس آرڈر نمبر 83 مورخہ 12-04-2018

موصول 03-05-2018

جناب عالی!

اپیل درج ذیل عرض خدمت ہے

یہ کہ بحوالہ آفس آرڈر نمبر 83 فدوی پر 929437 روپے کی ریکوری اور پانچ درجہ تنزیلی کا حکم جاری کیا ہے جو درج ذیل حقائق خلاف قانون خلاف ضابطہ اور بعید از قیاس و انصاف ہے۔

- ۱- یہ کہ ایک انکوائری بابت شجرکاری (falour) برخلاف فتح محمد خان فارسٹ انچارج پاشتورنج محمد صدیق IDFO اگورتاول کے پاس چل رہی تھی۔
- ۲- یہ کہ فدوی کو فتح محمد فارسٹ انچارج پاشتورنج بطور گواہ مورخہ 23-11-2017 کو انکوائری آفیسر کے پاس ساتھ لے گیا۔
- ۳- یہ کہ انکوائری آفیسر نے ان سے بابت شجرکاری جو فتح محمد فارسٹ نے پاشتورنج میں کرائی تھی، پوچھ گچھ کی۔ انکوائری آفیسر نے دوران گواہی نہ تو ہمیں مسٹر بل اور کاغذ دکھایا بلکہ زبانی طور پر پوچھا گیا
- یہ کہ آذاں بعد فدوی کو DFO ہزارہ ٹرائیکل نے شوکاژنولس نمبر 1645/GE مورخہ 27-12-2017 کو جاری کرتے ہوئے وضاحت طلب کی کہ آپ نے کنڈر قبہ میں شجرکاری کی ہے، مانیٹرنگ رپورٹ کے مطابق موقع ہر تسلی بخش نہیں ہے۔
- ۴- یہ کہ شوکاژنولس پر فدوی کو معلوم ہوا کہ فدوی کو ایک ناکرودہ گناہ میں فتح محمد فارسٹ انچارج پاشتورنج کے ساتھ ملوث کیا گیا۔
- ۵- یہ کہ فدوی نے جناب DFO صاحب ہزارہ ٹرائیکل فارسٹ ڈویژن بگرام کو تحریری اور زبانی طور پر اپنے جواب میں عرض کی تھی کہ فدوی نے نہ کسی جگہ پلانٹیشن کی تھی اور نہ کوئی مسٹر بل وصول کیا نہ مزدوروں کی حاضری لگائی ہے نہ کوئی مانیٹرنگ میری موجودگی میں آئی ہے اور نہ فدوی کی موجودگی میں کسی مزدور وغیرہ کو ادائیگی ہوئی ہے، فدوی اس پورے مراحل میں بے خبر رکھ کر جناب فتح محمد صاحب فارسٹ انچارج پاشتورنج نے مسٹر بل میرے نام جاری کی ہے مزدوروں کے نام ڈالے ہیں DFO صاحب نے بلوں کی منظوری دی ہے چیک جاری کیا ہے اور رقم خزانہ سے نکالی ہے اور یہ ظلم بھی کیا گیا ہے کہ فدوی نے تحریری درخواست برائے نقولات حصول ریکارڈ گزارائی تھی فدوی کو کسی قسم کا کوئی ریکارڈ بابت انکوائری کوئی مسٹر بل کوئی مانیٹرنگ رپورٹ نہیں دیا گیا ہے حتیٰ کہ فدوی آج تک اس معاملہ سے بے خبر رکھا ہوا ہے۔
- ۶- یہ کہ فدوی جناب کو حلفاً اپیل کرتا ہے کہ فدوی نے نہ کوئی مسٹر بل وصول کیا ہے اور نہ بنائی ہے اور نہ کسی مزدور نے کسی ٹیکیدار کو کسی قسم کا بل بنا کر دیا ہے نہ کوئی شجرکاری کی نہ کوئی چوکیدار لگایا ہے۔

التماس ہے کہ فدوی کے نام اور دستخط کسی قسم کے انکھوٹے کی تصدیق آپ خود فریقین فتح محمد فارسٹ انچارج پاشتورنج کسی بھی مزدور کو طلب کر کے فدوی کی موجودگی میں کریں یا جملہ شجرکاری سے متعلقہ فدوی کے دستخط شدہ ریکارڈ کو لیبارٹری بھیج کر تصدیق کریں اگر فدوی کا دستخط درست ثابت ہو تو فدوی ہر سزا بھگتنے کو تیار ہے اگر غلط ثابت ہو تو نہ صرف مواخذہ کیا جائے بلکہ F.I.R درج کر کے کسی بھی تحقیقی ادارے انٹی کرپشن N.A.B , F.I.A کو پورا کیس بھیج کر، تاکہ دودھ کا دودھ اور پانی کا پانی ہو جائے۔

جناب سے اپیل ہے کہ فدوی پر ڈالی گئی 929437 رقم ریکوری کو معاف کی جائے اور پانچ درجہ تنزیلی کے آرڈر کو منسوخ فرمایا جائے اور فدوی کا ذاتی طور پر پیش ہو کر وضاحت کرنے کی اجازت دی جائے

العارض

4/5/2018

زر فرین فارسٹ گارڈ پاشتورنج ہزارہ ٹرائیکل فارسٹ ڈویژن بگرام

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ڈویژن بنگرام

بوساطت ریج آفیسر صاحب پاشتورنج
مضمون:- شوکا ز نوٹس

جناب عالی۔

مودبانہ گزارش ہے کہ سائل کو شوکا ز نوٹس بذریعہ ریج آفیسر موصول ہوا۔ اس بارے میں سائل عرض کرتا ہے کہ
سائل کو زیر کاغذات کے مصدقہ نقولات فراہم کرنے کے احکامات صادر فرمائیں جائیں تاکہ سائل
اسکے روشنی میں مفصل جواب لکھ کر اپنے دفاع میں پیش کر سکے۔
نمبر: 1 پلانٹیشن رقبہ کنڈ مسٹرول اور بل وغیرہ۔

العارض،

زر فرین فارسٹ گارڈ پاشتو فارسٹ ریج

وکالت نامہ

کورٹ فیس

Before KPR Service Tribunal, Peshawar

عنوان: نور فرین بنام حکومت خیبر پختونخوا

منجانب: Appellant

نوعیت مقدمہ: Service Appeal

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کارروائی متعلقہ آن مقام

جلد کے لیے بلال احمد کے زنی

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر حالت و فیصلہ بر حلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء

وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ دہر جانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا جہ سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواستی بمزاد تجارت ناشر بیخہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ مندرجہ۔

Attest
Accept

08.08.18

المرقوم:

B. J. J.

بمقام:

المستند

المستند

Ray Farren

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Whereas, following officials of Hazara Tribal Forest Division Battagram, hereinafter called appellants, preferred separate appeals against the decision of DFO Hazara Tribal Forest Division Battagram (Authority) as detail below whereby the penalties awarded to the appellants is noted against each:

S.#	Name of appellant	Extent of penalties awarded	O/O #	Date
1	Fateh Muhammad Forester	1. Recovery of Rs. 2980888/- 2. Reduction of pay four stages below in time scale for three years	80	12.4.2018
2.	Muhammad Anwar Forest Guard/B.O	1. Recovery of Rs. 924150/- 2. Reduction of pay five stages below for four years	81	12.4.2018
3	Ahmad Rizwan FG	1. Recovery of Rs. 909700/- 2. Reduction of pay five stages below for four years	82	12.4.2018
4.	Zar Fareen FG	1. Recovery of Rs. 929437/- 2. Reduction of pay five stages below for four years	83	12.4.2018

And whereas, the authority while offering comments on the appeals of individuals further justified the penalties imposed;

And whereas the appellants have successfully pleaded their appeal during personal hearing held on 29.08.2018;

And whereas the record available in the enquiry files as well as further authenticated by the appellants reveals that:

1. Mr. Fateh Muhammad Forester

The appellant disclosed that against the deficiency pointed out by the Monitoring Officer, an additional area measuring 134-ha has been planted up besides restocking of already planted areas. He has neither claimed the cost of additional plantation nor for the areas restocked except watch and ward. The sub-committee constituted by the Enquiry Officer has not explained whether survival percentage so mentioned in his report is or original work or after restocking.

2. Mr. Muhammad Anwar Forest Guard/Block Officer

The appellant disclosed that neither he acknowledged charge sheet nor furnished any reply. The reply available in the file is not signed by him. The reply to the charge sheet as well as signature affixed thereon is fictitious. The reply available in the enquiry file has not even been marked/initialed by the Enquiry Officer which confined the stance of appellant. He supervised plantation work Para Recharl and not Para Pashto. The area planted under his supervision exists for physical inspection by any responsible officer.

3. Mr. Ahmad Rizwan Forest Guard

Proper procedure regarding initiation of disciplinary proceedings has not been initiated against him. Neither Muster Roll for the work has been issued to him nor he prepared even disbursement of labor charges has not been made in his presence. He applied for provision of all relevant documents but his request has not been entertained.

4. Mr. Zar Fareen Forest Guard

Proper procedure regarding initiation of disciplinary proceedings has not been initiated against him. Neither Muster Roll for the work has been issued to him nor he prepared even disbursement of labor charges has not been made in his presence. He applied for provision of all relevant documents but his request has not been entertained.

DISCUSSION

As per provision contained in Sub-Section-a of Rule 10(1) of Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011, it was mandatory to hold joint enquiry against all the accused officials in accordance with Rule-5(b) and the procedure laid down in Rule-11 of Rules ibid.

Order No. 1514/G dated 21.12.2015 for entering it part of the already charge sheets served against Mr. Fateh Muhammad Forester exclusively without serving proper charge sheet along with statement of allegations against M/S Ahmad Rizwan and Zar Fareen Forest Guards which was pre-requisite.

Before proceedings against the accused officials, proper areas have not been ascertained as the appellants except Fateh Muhammad Forester disowned carrying out plantation on the areas shown against their names rather M/S Muhammad Anwar, Ahmad Rizwan and Zar Fareen totally disowned issuance of Muster Rolls, its preparation and subsequent disbursement of the labor charges amongst the labor in their presence.

The record demanded by the appellants in this regard through written requests has not been provided to them hence their legal right has been affronted.

All the appellants have stated that the areas planted up under their administrative supervision have been rehabilitated but their request has not been entertained after proper authentication through physical checking/verification of all the concerned plantation areas through a proper checking committee or personally by the competent authority.

CONCLUSION

Proper procedure as laid down in Government Servants (E&D) Rules for initiation of disciplinary proceedings against M/S Ahmad Rizwan and Zar Fareen Forest Guards has not been followed. The appellant Forest Guards have disowned maintenances of Muster Rolls for the areas allied to them for which they applied for provision of photocopy of instant record being legal right but their requests have not been honored/entertained. The appellants stated that the areas actually planted up under their supervision have been restocked with suitable species therefore, before finalizing the disciplinary proceedings the stance of appellants was required to be verified by the competent authority or through a technical committee which has been overlooked.


ORDER

Keeping in view the above deficiencies, the undersigned in the capacity of appellate authority accepted the appeals of M/S Fateh Muhammad Forester, Muhammad Anwar, Ahmad Rizwan and Zar Fareen Forest Guards in the capacity of appellate authority do hereby order to set-aside DFO Hazara Tribal office order No. 80, 81, 82 and 83 dated 12.4.2018 with the directives to initiate proper disciplinary proceedings against the accused official in the light of rules referred above by providing all the available evidences against the accused official through a competent and well versed departmental representative in the light of provision contained in Rule-13 of Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011 through Inquiry Officer/Committee in addition to the physical verification of planting sites in the presence of all appellants. The enquiry must be completed with thirty days as per provision contained in Rule-11(7) of Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011.

Sd/- (Muhammad Riaz)
Conservator of Forests
Upper Hazara Forest Circle
Mansehra

Copy forwarded to:

1. The DFO, Hazara Tribal Forest Division Battagram for information and necessary action.
2. M/S Fateh Muhammad Forester, Muhammad Anwar, Ahmad Rizwan and Zar Fareen Forest Guards C/o DFO Hazara Tribal for information and necessary action.
3. Office order file.


Conservator of Forests
Upper Hazara Forest Circle
Mansehra