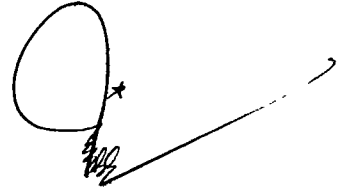


14.07.2022

Junior of learned counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for preliminary hearing on 15.09.2022 before S.B.

A handwritten signature in black ink, consisting of a large, stylized loop followed by a long, sweeping horizontal stroke that curves upwards at the end.

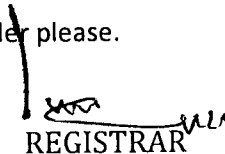


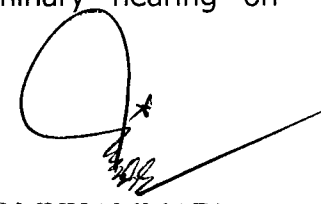
(MIAN MUHAMMAD)
MEMBER (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7882/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/12/2021	<p>The appeal of Mr. Shahzad Khan resubmitted today by Mr. Akhunzada Syed Pervez Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	09.02.2022	<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>09/02/22</u></p> <p> CHAIRMAN</p> <p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 26.04.2022 for the same as before.</p> <p> Reader</p>
	26.04.2022	<p>Appellant in person present.</p> <p>Appellant seeks adjournment as his counsel is not available today. Adjourned. To come up for preliminary hearing on 14.07.2022 before S.B.</p> <p> (MIAN MUHAMMAD) MEMBER(E)</p>

The appeal of Mr. Shehzad Khan S/O Amar Khan, R/O Moh. Ghari Jabbar Khan, P/O Pabbi Dag Baisud, District Nowshera received today i.e. on 07.12.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Address of the appellant is incomplete.
2. Rejection order dated 30-06-2021 mentioned in the heading of the appeal is not attached with the appeal.
3. Appointment order in respect of appellant annexed as annexure A is not attached with the appeal.


No. 2419 /S.T,

Dt. 07/12 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Akhonzada Syed Pervez Adv. Pesh.

Resubmitted after redressal of file


16-12-2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. 7882/2021

Shazad KhanAppellant

VERSUS

The Director I & Human Resourc & other Respondents

I N D E X

S.No	Description of Document	Annex	Pages
1	Grounds of Service Appeal alongwith affidavit		1-5
3	Copy of appointment & regularising order	A	6
4	Copy of the order of termination order 30.04.2021	B	7-9
5	Copy of the representation/appeal	C	10
6	Copy of rejection order dated 09.08.2021 along with letter dated 25.11.2021		11-12
7	WakalatNama		13


Appellant

Through

DATED 06.12.2021

Akhunzada Syed Pervez

&

Abid Ullah

Advocates, High Court Peshawar



1

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2021

Shahzad Khan S/O Amar Khan,

R/O Moh. Ghari Jabbar Khan P.O Pabbi Dag Baisud, District Nowshehra.

..... Appellant

1. The Director I & Human Resource Dev: & Mgt, Forest Department, Khyber Pakhtunkhwa, Peshawar.
2. Chief Conservator of Forests, Central Southern Forest Region-1 Khyber Pakhtunkhwa, Peshawar.
3. Secretary I & Human Resource Dev: & Mgt, Forest Department, Khyber Pakhtunkhwa, Peshawar.

..... Respondents

SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED OFFICE ORDER NO. 12 DATED 30.04.2021 OF RESPONDENT NO.1 WHEREBY THE APPELLANT IS TERMINATED FROM SERVICE AND OFFICE ORDER NO.432, DATED 30.08.2021 OF RESPONDENT. NO.2 WHEREBY THE PRESENTATION OF APPELLANT IS REJECTED.

Respectfully Sheweth:

1. That the Appellant very implore for permission to plead his grievances at the hands of respondents and seeks solace thereto, as follows:
2. That on 27.12.2018 the appellant was initially appointed Watchman (Chowkidar) on basis of fix pay and later on, keeping in view the performance of appellant the respondent's office vide Office Order No.24

Dated 02.05.2019 regularised the service of appellant as Chowkidar (BPS-03). **(Copy of appointment & regularising order is annexed "A")**.

3. That on 30.04.2021 the respondent No.1 mercilessly issued termination order of appellant on ground of absence from service but the period of absence has not been specifically shown in impugned termination order. **(Copy of the order of termination order is annexure "B")**.
4. That the appellant aggrieved from said termination order has filed representation before Respondent No.2 but on 09.08.2021 the Respondent No.2 without hearing the appellant rejected the representation/appeal of Appellant. But the appellant came into know the rejection order when a few days before he had received letter dated 25.11.2021. **(Copy of the representation/appeal along with rejection order dated 09.08.2021 with letter dated 25.11.2021 is annexure "C" & "D" respectively)**
5. That feeling aggrieved from the act of the respondents now the appellant has no other adequate remedy except to file the instant Service Appeal on the following grounds amongst others:

GROUNDS:

- A. That the impugned termination Order dated 30.04.2021 of Respondent No.1 and office/rejection order dated 09.08.2021 of Respondent No.2 is illegal, wrong, based on malafide, without cogent reasons based on political high handedness and against the fundamental rights of the Appellant, hence liable to be struck down and reversed.
- B. That the impugned order is void ab-initio and without jurisdiction and in violation of fundamental rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973.
- C. That appellant never remain absent from his duty.
- D. That on 30.04.2021 the respondent No.1 mercilessly issued termination order of appellant on ground of absence from his service but the period of absence has not been specifically shown in impugned termination order.

- E. That the appellant has not been served upon any charge sheet/ statement of allegation, show cause notice, no inquiry officer has ever been notified, and no opportunity of personal hearing and reply have been given to the petitioner.
- F. That while awarding the major penalty, the inquiry is mandatory but the respondents failed to conduct any inquiry. Hence the impugned office orders are illegal and unlawful thus have no legal effect.
- G. That there were no disciplinary proceedings against appellant. It is worth to mention here that the Departmental Committee regularised the appellant post with due consideration of the unblemished and clear service record of the petitioner.
- H. That the illegal and arbitrary order of the respondents clearly proves their malafide and personal grudge against the appellant.
- I. That the petitioner has been condemned unheard and has not been treated according to law and rules.
- J. That no opportunity of personal hearing was provided to petitioner which is violation of law and rules.
- K. That no regular inquiry was conducted against the appellant before imposing major penalty of termination from service which is not permissible in law.
- L. That the case of the petitioner does not come under the gross misconduct therefore, not liable to be for major punishment i.e termination from his service.
- M. That the attitude and conduct of the department shows that they were bent upon to remove the appellant at any cost.
- N. That the impugned office / rejection order dated 09.08.2021 is on face of it ambiguous and uncertain.
- O. That neither any witness has been produced against the appellant nor the appellant was allowed to cross examine any of the witnesses, hence the

appellant has not been given a fair chance of hearing and he has been condemned unheard.

P. That the appellant has conducted no misconduct and he is innocent, nothing has been proved against the petitioner in the whole process/procedure under the E&D rules and is liable to be reinstated back to his service with all back benefits.

Q. That any other ground would be agitated at the time of argument with permission of this August court.

It is, therefore, humbly prayed that on acceptance of instant appeal the impugned Office Order No. 12, dated 30.04.2021 regarding to termination of the appellant from service of the appellant and rejection of appeal through Office Order No.432 dated 09.08.2021 passed by respondent No.2 may please be declared null and void and be set aside and the appellant may also be reinstated back to his service with all back benefits and with consequential benefits.

Any other relief avail in the circumstances of the case may also be granted to the petitioner.


Appellant

Through

DATED 06.12.2021

Akhunzada Syed Pervez

&

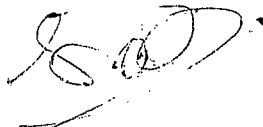
Abid Ullah

Advocates, High Court Peshawar

CERTIFICATE

It is, certified that, as per instruction of my client, no such like Appeal has earlier been filed or is pending before this Hon'ble Court.

ADVOCATE



5

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2021

Shazad KhanAppellant

VERSUS

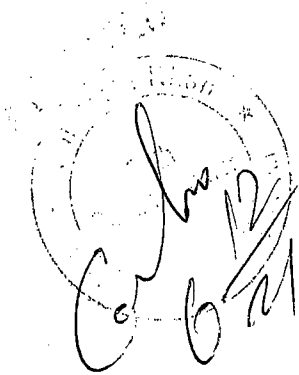
The Director I & Human Resourc & other Respondents

AFFIDAVIT

I, Shahzad Khan S/O Amar Khan, R/O Moh. Ghari Jabbar Khan P.O Pabbi Dag Baisud, District Nowshehra., do hereby solemnly affirm and declare that the contents of the attached Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed or withheld from this Honorable Court.

Identified by
S P D Advocate

شہزاد
DEPONENT





DIRECTORATE OF
INSTITUTIONAL & HUMAN RESOURCE DEVELOPMENT & MANAGEMENT KHYBER
PAKHTUNKHWA FOREST DEPARTMENT

Shami Road, Peshawar Phone No. (091) 9212459, Fax No. (091) 5243293

OFFICE ORDER NO. 24

DATED PESHAWAR THE

2/05/2019

The following officials were engaged on fix pay work charge basis, a committee of the Officers was constituted vide office order No. 14 dated 27/12/2018 to scrutinize the documents and conduct interview. The committee after scrutinizing the documents of the officials, held interviews and recommended the officials for selection against the vacant position of Drivers in BPS-6 (10620-560-27420) and Chowkidar in BPS-3 (9610-390-21310):-

1. Mr. Zeeshan Ali Shah S/O Mubarik Shah as Driver (BPS-6)
2. Mr. Muhammad Amjid S/O Salah-ud-Din as Driver (BPS-6)
3. Mr. Abbas Khan S/O Ziaullah as Driver (BPS-6)
4. Mr. Shahzad Khan S/O Amar Khan as Chowkidar (BPS-3)

TERMS & CONDITION

- 1- They shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973, and all other laws applicable to the Civil Servants and the rules made there-under.
- 2- They shall, initially, be on probation for a period of one year extendable for further one year in accordance with Section 6(2) of the KP Civil Servants Act-1973 read with rule 15(i) of KP Civil Servant (Appointment, Promotion and Transfer) Rules 1989.
- 3- Their appointment is purely temporary and shall be liable to termination at any time without assigning any reason thereof before the expiry of the period of probation/extended period of probation. If their performance during this period is not found satisfactory or any adverse remarks received from his superior officer.
- 4- In case they wish to resign at any time, one month prior notice shall be necessary or in lieu thereof, one month's pay shall be forfeited.
- 5- They shall not be entitled to any TA/DA on their first appointment.
- 6- They will produce Medical fitness Certificate from Civil Surgeon, Police Services Hospital Peshawar.
- 7- Their appointment is subject to satisfactory report of verification of character/antecedents from concerned Police Station.
- 8- If the above terms and conditions are acceptable to them, they should report the Director I&HRD&M Directorate Shami Road Peshawar, for duty within 14 days after issuance of this order if the appointees failed to join the duty within stipulated time their order will be considered as cancelled.

Sd/-
(Muhammad Junaid Dayar)
Director

I & Human Resource Dev. & Mgt:
Forest Deptt: Peshawar

No. 1925-26 I&HRD&M/Estt:


Copy forwarded for information and necessary action to the:-

1. Deputy Director, I&HRD&M, Peshawar.
2. Account and Establishment Assistant, I&HRD&M, Peshawar.
- ✓ 3. Officials Concerned.

M. Junaid
Director
I & Human Resource Dev. & Mgt:
Forest Deptt: Peshawar

7

Amir B
2021

	DIRECTORATE OF INSTITUTIONAL & HUMAN RESOURCE DEVELOPMENT & MANAGEMENT KHYBER PAKHTUNKHWA FOREST DEPARTMENT
	Shami Road, Peshawar Phone No. (091) 9212459 Fax (091) 5243293 Office Order. 12 Dated 30/04/2021

Whereas you were appointed vide this office order No.24 dated 02/05/2019 against the post of Chowkidar in the Directorate of I&HRD&M, Forest Department, Peshawar.

Whereas you have been found absent from government duty for so many times and you are time and again verbally warned to be careful in performing your official duty as you are a young man.

Whereas you seem to be habitual of absence from duty as reported by Muhammad Abrar Khan, Instructor, I&HRD&M dated 14-04-2021.

Whereas you were telephonically contacted to come to office for your duty, but you did not bother to come to office.

Whereas on 26-4-2021 you were asked by the Account Assistant to be vigilant during performing your duties as directed by Director I&HRD&M, but in the evening, you left the office and remained absent at night.

Whereas on 27-04-2021, you have suddenly come to office at morning and while inquiring for night absence, you have said that you are no more interested to continue your official duty and left the office, beside the fact that you were on duty on that day.

Whereas the security situation is always alarming as per instructions issued by the security agencies and your absence from duty till to date i.e., 01-05-2021 creates venerable security situation for this office.

Whereas your absence shows your poor performance and negligence towards your official duties.

Whereas you are still on probation period and as per clause 2 and 3 of your appointment order, your services can be terminated without assigning any reason.

Now, therefore, the competent authority vide clause 2&3 of the Government of Khyber Pakhtunkhwa Establishment Department letter No. SOR-VI(E&AD)1-3/2009/Vol-VIII dated 16-2-2010, terminate the services of Mr. Shahzad Khan (Chowkidar) w.e.f 01-05-2021.

Sd/-
(Muhammad Junaid Dayar)
Director
I & Human Resource Dev. & Mgt.
Peshawar

No. 1675 / I & HRD & M/Estt:

Copy forwarded for information and necessary action to:-

1. Deputy Director, I&HRD&M Directorate Peshawar.
2. Account Assistant I&HRD&M Directorate.
3. Mr. Shahzad Khan s/o Amir Ali, Muhalla Ghari Jabar Khan P.O. Pabbi Dag Balsud District Nowshera.

Director
I & Human Resource Dev. & Mgt.
Peshawar

بخدمت جناب چیف کنزرویٹر صاحب، ریجن، فارسٹ ڈیپارٹمنٹ پشاور

خیبر پختونخوا

8

درخواست، براد بھالی ملازمت، چوکیدار شہزاد خان ولد امر خان

جناب عالی!

سائل حسب ذیل عرض رساں ہے۔

- (1) یہ کہ من سائل بہ حیثیت چوکیدار محکمہ ہذا میں مورخہ 27-12-2018 سے بذریعہ آفس آرڈر نمبر 14 فکس پے ورک چارج پر خدمات سرانجام دے رہا تھا بعد ازاں مورخہ 02-05-2019 آفس آرڈر نمبر 24 کے ذریعے من سائل کو ریگولر ملازمت پر تعینات کیا گیا۔ (Annexure- A)
- (2) یہ کہ من سائل نے دفتر ہذا میں بہ حیثیت چوکیدار اپنے فرائض خوش اسلوبی اور ایمانداری سے سرانجام دیتے اور اس کے ساتھ جنیڈ صاحب ڈائریکٹر I&HRD کے سرکاری گھر میں قائم ورکشاپ میں پرانی گاڑیوں کو دوبارہ درست کرنے اور مرمت کا کام بھی بغیر معاوضہ کے کرتا رہتا تھا۔
- (3) یہ کہ بعد ازاں کرونا وباء کی وجہ سے جو اد PA نے ٹیلی فون پر کال کر کے کرونا وباء کی وجہ سے حاضری پچاس فیصد ہونے کی وجہ سے من سائل سے چاہیاں لیکر کہا کہ جب ہمیں ضرورت ہوگی تو ہم آپ کو بلا لیں گے۔
- (4) یہ کہ اس دوران بدینتی کی بنیاد پر من سائل کو بغیر کسی وجہ اور شوکاژ نوٹس کے بغیر اپنے سازشی منصوبے کے مطابق مورخہ 30-04-2021 کو ٹرمیٹ کیا گیا۔ (Annexure-B)
- (5) یہ کہ ڈائریکٹر صاحب مذکورہ کے ڈرائیور فضل دین کے بھانجے شیر آعظم کو من سائل کی پوسٹ پر بھرتی کیا گیا۔ فضل دین ڈرائیور کے گھر کے تین افراد بھرتی کیے گئے جو کہ ڈائریکٹر صاحب کے گھر میں نجی کام انجام دے رہے ہیں۔ اور ان کے دست راز ہے۔
- (6) یہ کہ من سائل نے بھالی ملازمت کے لئے چیف کنزرویٹر صاحب کو مورخہ 09-07-2021 کو درخواست گزاری لیکن کوئی شنوائی نہیں ہوئی۔ (Annexure-C)

(7) یہ کہ بعد ازاں من سائل وزیر صاحب محکمہ ہذا کے پاس گیا اور بحال ہونے کے لیے زبانی درخواست کی وزیر صاحب نے فون پر جنید صاحب سے بات کی اور کہا کہ تم نے شہزاد خان کو ملازمت سے کیوں ٹرمینٹ کیا ہے تو جنید صاحب نے جواب میں کہا کہ میں نے شہزاد خان کو ٹرمینٹ نہیں کیا ہے وہ جب چاہے ڈیوٹی پر آسکتا ہے جب من سائل آفس گیا تو جنید ڈائریکٹر صاحب نے کہا کہ وزیر صاحب تو چھوڑو اگر وزیر اعظم صاحب بھی آجائے تو تمہیں ملازمت پر بحال نہیں کر سکتا۔

(8) یہ کہ جنید صاحب نے اپنے اختیارات کا غلط طور پر استعمال کیا اور من سائل اپنے مفادات کے لئے ٹرمینٹ کیا اور اپنے ایک ہی گھر کے تین لوگوں کو بھرتی کیا۔

(9) یہ کہ من سائل ایک بال بچے دار شخص ہوں اور تنخواہ بندش کی وجہ سے گزراوقات بڑی مشکل سے ہو رہا ہے۔ من سائل کی مالی حالت کافی کمزور ہو چکی ہے۔ اور اخراجات پورے کرنا مشکل اور تکلیف دہ بن گیا ہے۔

(10) یہ کہ اس معاملے کی شفاف انکوائری کر کے من سائل کی دادرسی کی جائے اور ملازمت پر بحال کر کے انصاف دلایا جائے۔
(جملہ نقولات متعلقہ دستاویزات لف درخواست ہذا ہیں)

لہذا استدعا ہے کہ حسب منظوری درخواست ہذا من سائل کو فوری طور پر ملازمت مذکورہ پر بحال کرنے کا حکم صادر فرمائیں۔ تا عمر دعاگو اور شکر گزار رہونگا۔
المرقوم: 29-10-2021

سائل **شہزاد خان ولد امر خان** سکنہ محلہ گڑھی جبار خان، ڈاک خانہ پی ڈاک بیسود تحصیل پی ضلع نوشہرہ

CNIC No: 17201-1125417-9

Contact No: 0313-9219945

کاپی برائے اطلاع و ضروری کارروائی:

- (1) جناب وزیر اعلیٰ صاحب خیبر پختونخوا پشاور
- (2) جناب چیف سیکرٹری صاحب خیبر پختونخوا پشاور
- (3) جناب وزیر صاحب محکمہ جنگلات خیبر پختونخوا پشاور
- (4) جناب سیکرٹری صاحب محکمہ جنگلات خیبر پختونخوا پشاور

091-9210723-205

جناب چیف لنڈرو پیٹر صاحب فارسٹ ڈیپارٹمنٹ ہمپیر ٹنٹو کھوال پشاور

مفتوں : اپیل ہمدردی عالی نوکری چوکیدار
(10)

جناب عالی !
گزارش ہے کہ فدوی آب صاحبان کے زیر سابقہ دستہ ڈائریکٹر I&HRD
میں بحیثیت چوکیدار عرصہ سے خوش اسلوبی کے ساتھ ڈیوٹی سرانجام
دے رہا تھا ۔

مورثہ 30/4/021 کو سابقہ ڈائریکٹر صاحب I&HRD نے بغیر جواب
طلبی اور انکوائری کے ذاتیات کے بناء فدوی کو غیر حاضری کا
بیانہ بنا کر غیر قانونی طور پر فدوی کو نوکری سے برخاست
کر دیا ہے ۔ جو کہ سراسر ظلم ہے ۔

فدوی اب کلاس فور ملازم تھا اور بال بحیثیت دار ہونے کی وجہ سے
کافی پریشانی میں مبتلا ہے ۔

اسلئے آب صاحبان کی خدمت میں اپیل ہے کہ میر بانی فرما کر فدوی کو
دوبارہ نوکری بحال کرنے کا حکم صادر فرما کر مشکوہ فرمائیں ۔
فدوی تاہیات دعاؤں رہے گا ۔

المعارضین

لینڈر

آپ کا تالبدار شہزاد خان


سابقہ چوکیدار I&HRD ڈائریکٹریٹ

پشاور

Received
at 9/7/2021
[Stamp]

نواد خان
J/ Clerk

(11)

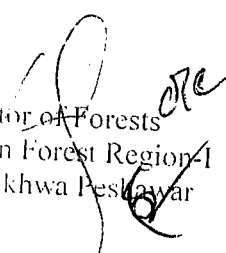
Chief Conservator of Forests Central Southern Forest Region-1 Khyber Pakhtunkhwa Peshawar		Shami Road Peshawar Ph: # 091-9212177 Fax # 9211478 F-mail:
No. <u>432</u> /E	Dated	Peshawar the <u>09</u> /08/2021
To <u>B-X-350</u>		

Mr. Shehzad Khan son of Amar Ali,
Mohallah Garhi Jabar Khan Post Office
Pabbi Baisudi District Nowshera

Subject: APPEAL FOR RE-INSTATEMENT IN SERVICE.

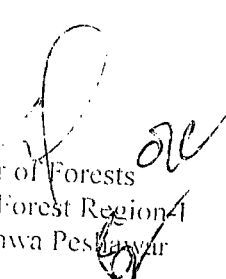
Memo: - Reference your appeal dated 07.10.2021.

In light of the comments furnished by Director I & HRD & M vide his letter No. 89/Estt (P) dated 04.08.2021; your appeal on the subject is hereby rejected.



Chief Conservator of Forests
Central Southern Forest Region-1
Khyber Pakhtunkhwa Peshawar

No. 433 /E

Copy forwarded to Director I & HRD & M Peshawar for information with reference to his letter cited above.


Chief Conservator of Forests
Central Southern Forest Region-1
Khyber Pakhtunkhwa Peshawar

12

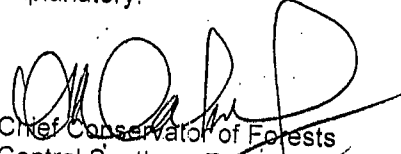
Chief Conservator of Forests Central Southern Forest Region-1 Khyber Pakhtunkhwa Peshawar		Shami Road Peshawar Ph: 091-9212177 Fax # 9211478 E-mail: ccfforests.pesh@gmail.com
No. <u>2333</u> /E	Dated Peshawar the <u>25</u> /11/2021	

To
Mr. Shehzad Khan,
S/O Amar Khan R/O Muhallah Gharhi
Jabbar Khan, PO Pubbi Dak Besood
Tehsil Pubbi District Nowshera

Subject: - **APPEAL FOR RE-INSTATEMENT IN SERVICE**

Memo:-

Photocopy of this office letter No.432/E, dated 09/08/2021 is sent herewith, which is self explanatory.


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