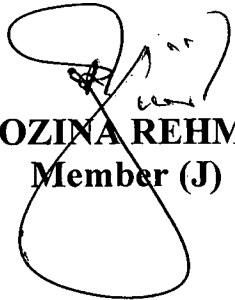


Service Appeal No. 7708/2021

1. Mr. Taimoor Ali Khan, Advocate for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present. Arguments heard and record perused.

2. Vide our detailed judgement containing 06 pages, we arrived at a conclusion that the instant appeal is allowed and minor penalty of stoppage of three annual increments imposed upon the appellant vide order dated 07.10.2021 is set aside and respondents are directed to give effect of the increments to the appellant from the date they were stopped . Parties are left to bear their own costs. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 13th day of September, 2022.*

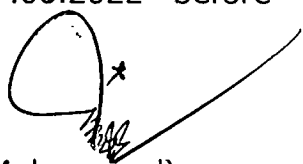

(ROZINA REHMAN)
Member (J)


(FAREEHA PAUL)
Member (E)

16.05.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Abid Hussain, Superintendent for the respondents present.


Written reply/comments on behalf of respondents submitted which is placed on file. Copy of the same is handed over to the learned counsel for the appellant. To come up for rejoinder if any, and arguments on 27.06.2022 before D.B.



(Mian Muhammad)
Member (E)

27.06.2022

Mr. Mujeeb-ur-Rehman, (junior of learned counsel for the appellant) present. Touheed Iqbal, Assistant Director alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 13.09.2022 before the D.B.


(Rozina Rehman)
Member (J)


(Salah-ud-Din)
Member (J)

24.01.2022

Appellant in person present. Mr. Kabirullah Khattak,
Addl. AG for respondents present.

Reply/comments on behalf of official respondents are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Last opportunity is granted to respondents to furnish reply/comments. To come up for reply/comments before the S.B on 15.02.2022. In the meanwhile, the operation of impugned order shall remain suspended, if not acted upon earlier.



(Atiq-Ur-Rehman Wazir)
Member (E)

15.02.2022

Due to retirement of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 01.03.2022 for the same as before.



Reader

1-3-2022

Due to retirement of the Honorable
Chairman the case is adjourned to
come up for the same as before
on 16-5-2022



Reader

20.12.2021

Appellant present through counsel.

Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. To come up for written reply/comments on 14.01.2022 before S.B.

Appellant Deposited
Process Fee

21/12/21

Annexed with the memo of appeal is an application for interim relief. Notice of this application be issued to respondents. In the meanwhile, the operation of impugned order shall remain suspended, if not acted upon earlier.

(Rozina Rehman)
Member (J)

14.01.2022

Appellant in person present.

Reply/comments on behalf of respondents not submitted. Case was fixed for today but office has issued notice inadvertently for 24.01.2022, therefore, case to come up for reply/comments on 24.01.2022 before S.B.



(Atiq-Ur-Rehman Wazir)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 7708 /2021 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/10/2021	<p>The appeal of Mr. Zargul Khan presented today by Mr. Taimur Ali Khan 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;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>20/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 7708/2021

BEFORE: **MRS. ROZINA REHMAN** ... **MEMBER(J)**
 MISS. FAREEHA PAUL ... **MEMBER(E)**

Zar Gul Khan Deputy Director (BPS-18), Non Timber Forest Products, Malakand Forest Region, Swat.

... (*Appellant*)

Versus

1. The Government of Khyber Pakhtunkhwa, through Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Forest, Environment & Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
4. The Chief Conservator of Forests, Central Southern Forest Region-I, Peshawar.
5. The Director Non-Temiber Forest Products, Khyber Pakhtunkhwa, Peshawar.

... (*Respondents*)

Mr. Taimoor Ali Khan
Advocate

...

For appellant

Mr. Muhammad Adeel Butt
Addl. Advocate General

...

For respondents

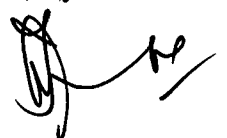
Date of Institution.....29.10.2021

Date of Hearing.....13.09.2022

Date of Decision.....13.09.2022

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned order dated 26.04.2021 whereby minor penalty of



stoppage of three (3) increments without cumulative effect has been imposed upon the appellant and order dated 07.10.2021 communicated to the appellant on 14.10.2021 whereby review petition has been rejected. The appellant has prayed for setting aside the impugned orders with all back benefits as well as consequential benefits.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant is working as Deputy Director in Forest, Environment & Wildlife Department of Khyber Pakhtunkhwa, Peshawar. Three officials namely Muhammad Nazir, Sabir-ur-Rehman and Akram-ud-Din were appointed as Assistant Sericulture Development Officers (BPS-11) in Sericulture Wing of Ex-FATA Forest Department on contract basis for a period of one year in a project vide order dated 02.07.2004 by one Dr. Syed Qasim Shah, Assistant Director Sericulture, FR Peshawar. All the three officials were adjusted in different projects and their services were extended from time to time in different projects. When the appellant was transferred as Assistant Director in FATA on 09.05.2007, he also extended their service just like his predecessor. The appellant was transferred from FATA and his services were placed at the disposal of Provincial Government, Khyber Pakhtunkhwa Forest, Environment & Wildlife Department vide notification dated 11.11.2013. Even after transfer of the appellant other Assistant Directors extended the services of above named officials. One of the above mentioned officials, Muhammad Nazir alongwith others filed writ petition No. 2050-P/2013 in Hon'able Peshawar High Court for regularization of their services which was dismissed on 11.06.2014. That judgment was challenged in august Supreme Court of Pakistan by Muhammad Nazir which was also



dismissed on 16.10.2014. The above mentioned officials, Muhammad Nazir, Sabir-ur-Rehman and Akram-ud-Din, still working in different projects, filed other writ petitions in the Hon'ble Peshawar High Court for regularization of their services which were allowed in their favor. In the meantime, competent authority issued an order dated 13.05.2020 through which inquiry was initiated against Iftikhar Ahmad, Zar Gul Khan and Ahmad Mansoor on different charges which included, inter-alia, unlawful adjustment of project employees (Muhammad Nazir, Sabir-ur-Rehman and Akram-ud-Din) on regular posts of Assistant NTFP Development Officer (BPS-11) against the rules and regulations. Inquiry was conducted and on the basis of that, penalty of stoppage of three increments without cumulative effect was imposed upon the appellant through an order dated 26.04.2021. Feeling aggrieved, he filed review petition on 04.05.2021 which was rejected on 07.10.2021 and the same was communicated to him on 14.10.2021. Aggrieved from the notification dated 26.4.2021 and rejection order dated 07.10.2021, the appellant filed the instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General and perused the case file with connected documents in detail.

4. Learned counsel for the appellant at the very onset contended that appellant had been discriminated and that the inquiry had been conducted without fulfilling the legal formalities of providing opportunity of defense and cross examination to him. He invited the attention to the report of inquiry committee in which it was recommended to initiate disciplinary action against



the officers who were responsible for making illegal appointments/adjustments of Mr. Sabir Ur Rehman, Mohammad Nazir and Mr. Ikram Ud Din in other projects and later on adjustment against regular/budget posts. Based on that report, only appellant had been indentified and penalized which was a clear discrimination. He further contended that on the basis of false allegations, penalty of stoppage of three increments, without cumulative effect, was imposed on the appellant vide notification dated 26.04.2021 without considering that the appellant would retire from government service on attaining the age of super-annuation on 31.01.2023, whereas other two accused who were found guilty in the report were exonerated through another notification dated 26.04.2021. On his appeal against the impugned notification the Chief Conservator of Forests had clarified in his letter dated 09.08.2021 that the period of service of the appellant in FATA/Merged Districts was up to 14.11.2013 and during his stay in FATA, the officials who had been adjusted through various extensions had already filed a writ petition for regularization of their project service in Hon'ble Peshawar High Court in 2013, which was dismissed; their appeal had also been rejected by the Supreme Court. The same response further indicated that during 2019 those officials agitated the same issue in Peshawar High Court which was decided in their favour. The learned counsel for the appellant contended that in the same letter of Chief Conservator it was clearly stated that there was no role of the appellant in the matter as he was transferred from FATA/Merged Districts to Environment Department on 11.11.2013. Based on that he requested that impugned orders might be set aside.



5. The learned Additional Advocate General admitted that the officials were appointed by the predecessor of the appellant, but after expiry of their project they were adjusted by the appellant on the current budget for which he was issued charge sheet and statement of allegations. He argued that proper inquiry was conducted and appellant was given an opportunity to present his points before the inquiry committee.


6. After going through the record present before us, it is clear that there were three officials namely Muhammad Nazir, Sabir Ur Rehman and Akram Ud Din who were appointed in a project by one Dr. Syed Qasim Shah vide order dated 02.07.2004. Later the services of the three officials were adjusted through different notifications on different dates by different officers which included Nisar Muhammad, Zar Gul Khan, Muhammad Tayyab and Ahmad Mansoor, all Assistant Directors, NTFP, FATA. These orders pertain to the year 2008 and 2010 to 2016, after their initial appointment of 2005. It has been noted that all these orders have been signed by different officers who remained on the post of Assistant Director. The appellant was transferred from Kuram Agency to FR Bannu as Assistant Director Sericulture. Vide order dated 01.06.2021 signed by the appellant, which is available on record and presented before us, one of the officials Muhammad Nazir, Assistant NTFP Development Officer FR Bannu was adjusted against vacant post of Assistant NTFP North Waziristan for the purpose of pay and allowances till further orders. Another order dated 27.06.2013 signed by the appellant indicated adjustment of other official, Akram Ud Din, against the vacant position of Assistant NTFP in current budget and for the purpose of pay and



allowances till further order. Between 2011 to 2013 another order dated 01.03.2012 is available on file adjusting the official Sabir Ur Rehman against vacant post of Mechanic lying vacant against normal budget for the purpose of pay and allowance and that order has been signed by Assistant Director Muhammad Tayyab. From the perusal of record available before us it transpires that during his stay in FATA/Merged Districts the appellant issued two orders one for Muhammad Nazir on 01.06.2011 and the other for Akram Ud Din on 14.06.2013, whereas rest of the orders were issued by other Assistant Directors which included orders dated 15.05.2008 and 02.11.2010 by Muhammad Nisar, 01.03.2012 and 25.11.2016 by Muhammad Tayyab and 23.12.2014, 24.07.2015 and 14.03.2016 by Ahmad Mansoor. It is strange to note that rest of Assistant Directors who committed the same wrong were exonerated and only one Assistant Director was penalized, which is a clear discrimination.

7. In view of the above, the instant appeal is allowed and minor penalty of stoppage of three annual increments imposed upon the appellant vide order dated 07.10.2021 is set aside and respondents are directed to give effect of the increments to the appellant from the date they were stopped . Parties are left to bear their own costs. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 13th day of September, 2022.*


(ROZINA REHMAN)
Member (J)


(FARIEHA PAUL)
Member (E)

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

Case Title: Tal Gul Khan vs Govt. of KP etc.

S.#	Contents	Yes	No
1.	This appeal has been presented by: <u>Taimur Ali Khan</u>	/	
2.	Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents?	/	
3.	Whether Appeal is within time?	/	
4.	Whether the enactment under which the appeal is filed mentioned?	/	
5.	Whether the enactment under which the appeal is filed is correct?	/	
6.	Whether affidavit is appended?	/	
7.	Whether affidavit is duly attested by competent oath commissioner?	/	
8.	Whether appeal/annexures are properly paged?	/	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	/	
10.	Whether annexures are legible?	/	
11.	Whether annexures are attested?	/	
12.	Whether copies of annexures are readable/clear?	/	
13.	Whether copy of appeal is delivered to A.G/D.A.G?	/	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	/	
15.	Whether numbers of referred cases given are correct?	/	
16.	Whether appeal contains cuttings/overwriting?	/	
17.	Whether list of books has been provided at the end of the appeal?	/	
18.	Whether case relate to this Court?	/	
19.	Whether requisite number of spare copies attached?	/	
20.	Whether complete spare copy is filed in separate file cover?	/	
21.	Whether addresses of parties given are complete?	/	
22.	Whether index filed?	/	
23.	Whether index is correct?	/	
24.	Whether Security and Process Fee deposited? on	/	
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on	/	
26.	Whether copies of comments/reply/rejoinder submitted? on	/	
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on	/	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

Taimur Ali Khan

Signature:

[Signature]

Dated:

29/10/2021

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 7708/2021

Zar Gul Khan

V/S

Govt: of KP

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	01-06
2.	Affidavit	-----	07
3.	Suspension application	-----	08-09
4.	Copy of order dated 02.07.2004	A	10-11
5.	Copies of adjustment order, order dated 09.05.2007 and adjustment orders	B,C&D	12-18
6.	Copies of judgments dated 11.06.2014 and 16.10.2014	E&F	19-25
7.	Copies of notification dated 11.11.2013, orders and judgments	G,H&I	26-47
8.	Copies of charge sheets and reply to show cause notice	J&K	48-58
9.	Copy of inquiry report	L	59-81
10.	Copies of show cause notice and reply to show cause	M&N	82-87
11.	Copy of notification dated 26.04.2021 and notification dated 26.04.2021	O&P	88-89
12.	Copies of review petition, comments and rejection order dated 07.10.2021	Q,R&S	90-97
13.	Copy of (E&D) 2020	T	98-110
14.	Vakalat Nama	-----	111

APPELLANT

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,
Contact No. 0333-9390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7841

Dated 29/10/2021

SERVICE APPEAL NO. 7708 2021

Mr. Zar Gul Khan, Deputy Director (BPS-18)
Non-Timber Forest Products Malakand Forest Region, Swat.

(APPELLANT)

VERSUS

1. The Government of Khyber Pakhtunkhwa through principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Environment, Forest & wildlife Department, Khyber Pakhtunkhwa, Peshawar.
4. The Chief Conservator of Forests, Central Southern Forest Region-I, Peshawar.
5. The Director Non-Timber Forest Products, Khyber Pakhtunkhwa, Peshawar.

(RESPONDENTS)

Filed to-day

W
Registrar
29/10/2021

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 26.04.2021, WHEREBY MINOR PENALTY OF STOPPAGE OF THREE INCREMENTS WITHOUT CUMULATIVE EFFECT HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST THE ORDER DATED 07.10.2021 COMMUNICATED TO THE APPELLANT ON 14.10.2021, WHEREBY THE REVIEW PETITION OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL THE ORDER DATED 26.04.2021 AND 07.10.2021 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY PLEASE BE DIRECTED TO RESTORE THE THREE INCREMENTS OF THE APPELLANT "WHICH WERE STOPPED THROUGH IMPUNGED NOTIFICATION DATED 26.04.2021" WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant is working as Deputy Director in respondent department and performing his duty with the entire satisfaction of his superior.
2. That Muahmmad Nazir, Sabir Ur Rehman and Akram Ud Din were appointed as Assistant Scriculture Development Officer (BPS-11) in Scriculture Wing of Ex-FATA Forest Department on contract basis for a period of one year in a project vide order dated 02.07.2004 by appellant's predeceesor Dr. Syed Qasim Shah. **(Copy of order dated 02.07.2004 is attached as Annexure-A)**
3. That Muahmmad Nazir, Sabir Ur Rehman and Akram Ud Din were adjusted in different projects and their service were extended from time to time in different projects and when the appellant was transferred as Assitant Director in FATA on 09.05.2007, he also extended their service just like his predecessors and even after the transfer of the appellant other Assistant Directors extended the services of above name officials. **(Copies of adjustment order, order dated 09.05.2007 and adjsutment orders are attached as Annexure-B,C&D)**
4. That Muhammad Nazir along with others filed writ petition No.2050-P/2013 in the Honourable Peshawar High Court Peshawar for regularization of their service, which was dismissed on 11.06.2014 and that judgment was challenged in Supreme Court of Pakistan by Muhammad Nazir etc which was also dismissed by the Honourable Supreme Court on 16.10.2014. **(Copies of judgments dated 11.06.2014 and 16.10.2014 are attached as Annexure-E&F)**

5. That the appellant was transferred from FATA and his service was placed at the disposal of Provincial Government Khyber Pakhtunkhwa Environment department vide notification dated 11.11.2013 and after the transfer of the appellant, Muahmmad Nazir, Sabir Ur Rehman and Akram Ud Din were still working in different projects, then they filed again writ petitions in the Honourable Peshawar High Court Peshawar for regularization of their services and the writ petitions were also allowed in their favour. **(Copies of notification dated 11.11.2013, adjustment orders and judgments are attached as Annexure-G,H&I)**
6. That charge sheet was issued to the appellant along with two other officials namely Iftikhar Ahmad, Director (BPS-18) NTFP and Ahmad Mansoor Deputy Director (BPS-18) NTFP on the issue of the case of regularization of Muahmmad Nazir, Sabir Ur Rehman and Akram Ud Din. The appellant submitted his detail reply to charge sheet, denied the alleagtions mentioned in the charge sheet and gave the real facts about of the issue and clearly mentioned that appointment and extension of the above mentioned officer were made by his predecessors and even he was transferred from the FATA to provincial Governemnt before filling of case by the above officails for their regularization. **(Copies of charge sheets and reply to show cause notice are attached as annexure-J&K)**
7. That inquiry was conducted against the appellant, Iftikhar Ahmad and Ahmad Mansoor by the inquiry committee in which no proper oppertunity of defence was provided to the appellant as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination, the inquiry committee gave different recommendations, however no role has ben assigned to the appellant in that recommendation. It is pertinent to mention here that that Iftikhar Ahmad and Ahmad Mansoor were found guilty in that inquiry report. **(Copy of inquiry report is attached as Annexure-L)**
8. That show acuse notice was issued to the appellant along with two other officials namely Iftikhar Ahmad, and Ahmad Mansoor which was duly replied by the appellabt in which he again denied the allegations and gave the real facts about the issue. **(Copies of show cause notice and reply to show cause are attached as Annexure-M&N)**
9. That on the basis of baseless allegations, penalty of stoppage of three increments without accumulative effect has been imposed upon the appellant vide notification dated 26.04.2021 without observing that

the appellant will be retired on attaining the age of superannuation on 31.01.2023, while Iftikhar Ahmad, Director (BPS-18) NTFP and Ahmad Mansoor Deputy Director (BPS-18) NTFP were exonerated by passing another notification dated 26.04.2021. **(Copy of notification dated 26.04.2021 and notification dated 26.04.2021 are attached as Annexure-O&P)**

10. That the appellant filed review petition on 04.05.2021 against the impugned notification dated 26.04.2021. Comments were called from respondent No.4 which was submitted in which it was clearly mentioned that the appellant has no role and requested to decide the review petition of the appellant on merit, but despite that review petition of the appellant was rejected on 07.10.2021 and the same was communicated to the appellant on 14.10.2021. **(Copies of review petition, comments and rejection order dated 07.10.2021 are attached as Annexure-Q,R&S)**
11. That the appellant has no other remedy except to file the instant appeal in this Honourable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUND:

- A) That the impugned notification dated 26.04.2021 and rejection order dated 07.10.2021 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the inquiry was not conducted according to the prescribed procedure as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination, which is violation of law and rule and as such the impugned notification/order are liable to be set aside.
- C) That Muahmmad Nazir, Sabir Ur Rehman and Akram Ud Din were appointed as Assistant Sciculture Development Officer (BPS-11) in Sciculture Wing of Ex-FATA Forest Department on contract basis for a period of one year in a project vide order dated 02.07.2004 by appellant's predecessor Dr. Syed Qasim Shah and their service was extended by the predecessors of the appellant and when the appellant transferred to FATA he extended their service like his predecessors as practice in vogue, which means that the appellant has no role in the

appointment of above mentioned officials nor extended their service on his own, but despite that he was punished for no fault on his part.

- D) That no action has been taken against the predecessors of the appellant who appointed Muhammad Nazir, Sabir Ur Rehman and Akram Ud Din and also extended their service and even the inquiry committee did not bother to called them in the inquiry proceeding, while the appellant who has no role in the case of the regularization of above mentioned officials was punished which is against the norms of justice and fair play.
- E) That Muhammad Nazir, Sabir Ur Rehman and Akram Ud Din who filed case in the year 2013 in the Honourable High Court Peshawar for their regularization has been dismissed and the appellant has been transferred from FATA to Provincial side before they filed another cases for their regularization in the year 2019 and as such the appellant has no role in the issue but despite he has punished which is against the interest of justice and not permissible under the law.
- F) That the appellant was discriminated as other officials namely Iftikhar Ahmad and Ahmad Mansoor who were proceeded in the same inquiry were exonerated vide notification dated 26.04.2021, while the appellant who has no role in the matter was punished which is clear violation of Article-25 of the Constitution of Pakistan.
- G) That it is clearly mentioned in comments submitted on the review petition on the appellant that the appllenat has no role in the issue, but despite that his review petition has been rejcted for no ground which is against the norms of justice and fair play.
- H) That the penalty of stoppage of three annual increments cannot be implemented praticaly as the penalty imposed upon the appellant on 26.04.2021, whereas the appellant will be retired on 31.01.2023 within the period of penalty. Moreover rule 4 (2) (b) of E&D Rules 2020 provided that penalty of withholding of increments shall not be imposed upon a civil servant who has reached the maximum of his pay scale or will superannuate within the period of penalty, but without observing the retirement of the appellant on atatining the age of superannuation on 31.01.2023, penalty of stoppage of three annual incremnts has imposed upon the appellant which cannot be implemented practically and as such the impugned order are liable to be set aside. **(Copy of (E&D) 2020 rules is attached as Annexure-T)**

- I) That charge sheet was issued by the Chief Secretary, while the penalty was imposed upon the appellant by the Chief Minister, which is against the law and rules.
- J) That the appellant has not been treated according to law and rules and has been punished for no fault on his part.
- K) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT
Zar Gul Khan

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2021

Zar Gul Khan

V/S

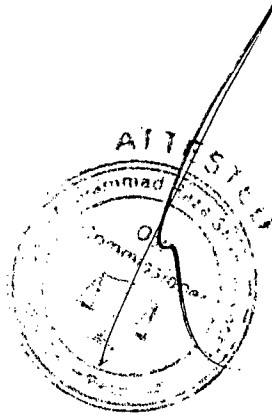
Govt: of KP

.....

AFFIDAVIT

I, Zar Gul Khan, Deputy Director (BPS-18) Non-Timber Forest Products Malakand Forest Region, Swat, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honourable Tribunal.


DEPONENT



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

Zar Gul Khan

V/S

Govt: of KP

**APPLICATION FOR SUSPENDING THE
OPERATION OF IMPUGNED NOTIFICATION
DATED 26.04.2021 TILL THE DECISION OF
MAIN APPEAL.**

RESPECTFULLY SHEWETH

1. That the appellant has filed an appeal along with this application in which no date is fixed so for.
2. That Muahmmad Nazir, Sabir Ur Rehman and Akram Ud Din were appointed as Assistant Scriculture Development Officer (BPS-11) in Scriculture Wing of Ex-FATA Forest Department on contract basis for a period of one year in a project vide order dated 02.07.2004 by appellant's predeceesor Dr. Syed Qasim Shah and their service was extended by the predecessors of the appellant and when the appellant transferred to FATA he extended their service like his predecessors as practice in vogue, which means that the appellant has no role in the appointment of above mentioned officials nor extended their service on his own, but despite that he was punished for no fault on his part.
3. That Muhammad Nazir, Sabir Ur Rehman and Akram Ud Din who filed case in the year 2013 in the Honourable High Court Peshawar for their regularization has been dismissed and the appellant has been transferred from FATA to Provincial side before they filed another cases for their regularization in the year 2019 and has no role in the issue but despite he has punished which is against the interest of justice and not permissible under the law.
4. That the appellant was discriminated as other officials namely Iftikhar Ahmad and Ahmad Mansoor who were proceeded in the same inquiry were exonerated vide notification dated 26.04.2021, while the

appellant who has no role in the matter was punished which is clear violation of Article-25 of the Constitution of Pakistan.

5. That the penalty of stoppage of three annual increments cannot be implemented practically as the penalty imposed upon the appellant on 26.04.2021, whereas the appellant will be retired on 31.01.2023 within the period of penalty. Moreover rule 4 (2) (b) of E&D Rules 2020 provided that penalty of withholding of increments shall not be imposed upon a civil servant who has reached the maximum of his pay scale or will superannuate within the period of penalty, but without observing the retirement of the appellant on attaining the age of superannuation on 31.01.2023, penalty of stoppage of three annual increments has imposed upon the appellant which cannot be implemented practically and as such the impugned order are liable to be suspended.
6. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.
7. That the grounds of main appeal may also be considered as integral part of this application.

It is therefore most humbly prayed that on the acceptance of this application the operation of the impugned notification dated 26.04.2021 may kindly be suspended till the decision of main appeal.

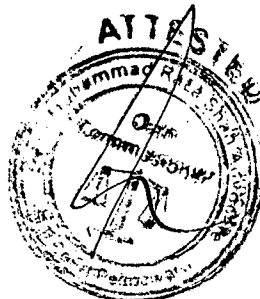

APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is solemnly affirmed that the contents of this application are true and correct and nothing has been concealed from this Honourable tribunal.




DEPONENT

(13)

Amir B. A 10
A 9

OFFICE ORDER NO. _____ DATED PESHAWAR THE 21/ 7/2004 ISSUED BY
MR. ABDULLAH KHAN KHATTAK, CONSERVATOR OF FORESTS (PATA) PESHAWAR.

Consequent upon the recommendations of the Departmental Selection Committee in its meeting held on 28-4-2004, the following candidates are hereby appointed as Assistant Sericulture Development Officer (BPS-11) in the Sericulture Wing of PATA Forest Department on contract basis for a period of one year or on the expiry of the project which ever is earlier, with immediate effect.

- ✓ 1. Mr. Pervez Iqbal S/o Muhammad Din Khan C/o Agency Education Officer, Civil Colony Khar, Bajaur Agency.
- 2. Mr. Wali Khan S/o Shahi Khan Village Golo Dheri, Salarzai Bajaur Agency.
- 3. Mr. Muhammad Nazir S/o Misal Khan C/o Sartaj Medical Store, opposite RHC Domail, P/o Domail Bannu.
- 4. Mr. Ali Marjan S/o Bismillah Jan Village Bhitani Shadi Khel, P/o Tajori, District & Tehsil Lakki Marwat.
- 5. Mr. Sabir-ur-Rahman S/o Gumbat Khan Tribe Shalobar Qambar Khel, Tapa Wand Garay, Shahkass, P/o Jamrud Khyber Agency.
- 6. Mr. Akram-ud-Din S/o Imran-ud-Din Mohallah Muqbal, village Ghoz Ghari, P/o Parachinar, Tehsil Upper Kurram, District Kurram Agency.
- 7. Mr. Said Muhammad S/o Saif-ur-Rahman Village & P/o Harichand, Tehsil Tangi, District Charsadda.
- 8. Mr. Anwar Khan S/o Gul Maider Mohallah Umarabad, Babu Tang Road, Hangu, P/o, Tehsil & District Hangu.
- 9. Mr. Kifayatullah S/o Abdul Hameed C/o Zahid-ur-Rahman Lecturer in G.P. Bannu Township, Bannu.

They will be governed by the following terms and conditions:

- i) The terms and conditions of their appointments to the post(s) shall be governed/regulated by the instructions issued by the Govt of NWFP S&GAD vide No. SOR-I(S&GAD)4-7/86c, dated 18-10-1988 as amended upto date.
- ii) Their appointments shall be purely on temporary basis and their services shall be terminated on 14-days notice without any reasons being assigned at any time, irrespective of the fact that they are holding the post other than the one to which they were originally recruited or on the payment of 14-days salary in lieu of the notice or on the winding up of the project/posts.
- iii) In case they wish to resign at any time one month notice will be necessary or in lieu thereof a month pay shall be forfeited.
- iv) They shall be entitled to all facilities relating to pay, leave, TA and medical attendance etc. as may be admissible to the Govt Servants of equivalent status to which they belong.
- v) They shall be liable to and governed by the Government of NWFP Government Servants (Conduct) Rules 1987, NWFP Government Servants (Efficiency & Discipline) Rule, 1973 and the Removal from Service (Special Powers) Ordinance, 2000 as amended up to 2001 and all other orders/instructions of the Government in this behalf.
- vi) Their appointment to the above post shall not confer on them any right of regular appointment/absorption against the post and nor their services shall count towards seniority/promotion/pension.

U

(14)

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No. 10-12

Peshawar 2/17/2004

Copy forwarded to

- 1- PA to Conservator of Forests, South-FATA Circle, Peshawar.
- 2- Officials concerned
- 3- Office order file.

ASSISTANT DIRECTOR AGRICULTURE
FRONTIER REGION PESHAWAR

at

Attest

TB 12 @ 41

OFFICE ORDER NO. 43 DATED 14/11/2005 ISSUED BY DR. SYED QASIM SHAH ASSISTANT
DIRECTOR SERICULTURE, FRONTIER REGION, PESHAWAR.

On approval of the Scheme titled "Promotion of Mazri in Kurram Agency" in ADSC meeting held on 15-09-2005 under the chairmanship of Political Agent Kurram Agency, and approval for the Scheme vide letter No. 4 dated 22-09-2005, the services of Mr. Akram-ud-Din Assistant Sericulture Development Officer are hereby retained w.e.f. 01-07-2005 for a period of two years or on the expiry of the project whichever is earlier.

He will be governed by the following terms and conditions:

- i) The terms and conditions of his appointment to the post will be governed/regulated by the instructions issued by the Government of NWFP S&GAD vide No. SOR-I(S&GAD)4-7/86c, dated 18-10-1988 as amended upto date.
- ii) His appointment will be purely on temporary basis and his services will be terminated on 14-days notice without any reasons being assigned at any time, irrespective of the fact that he is holding the post other than the one to which he was originally recruited or on the payment of 14-days salary in lieu of the notice on the winding up of the project/post.
- iii) In case he wishes to resign at any time one month notice shall be necessary or in lieu thereof a month's salary shall be forfeited.
- iv) He will be liable to and governed by the Government of NWFP Government Servants (Conduct) Rule, 1987, NWFP Government Servants (Efficiency & Discipline) Rule, 1973 and the Removal from Service (Special Powers) Ordinance, 2000 as amended up to 2001 and all other orders/instructions of the Government in this behalf.
- v) His appointment to the above post will not confer on him any right of regular appointment/absorption against the post and nor his service will count towards seniority/promotion/pension.
- vi) The offer shall be valid for thirty days, if the Terms & Conditions are acceptable to him, he may report for duty within the prescribed period.
- vii) The offer is subject to the condition that he will execute an agreement with the Assistant Director Sericulture Frontier Region Peshawar.
- viii) He shall have no right for their adjustment on conversion of the said scheme to current Budget with a satisfactory report of the undersigned.

Sd/-
(Dr. Syed Qasim Shah)
Assistant Director Sericulture
Frontier Region Peshawar

608-11
No. /ADS/FR, dated Peshawar the 14/11 /2005.

Copy forwarded to:

1. The Official concerned.
2. Office order file.
3. Disburser FR Peshawar.
4. Personal files of the official.

Qasim
Assistant Director Sericulture
Frontier Region Peshawar

4



Establishment Section

CIVIL SECRETARIAT (FATA)
(ADMINISTRATION DEPARTMENT)
WARSAK ROAD PESHAWAR

NOTIFICATION :-

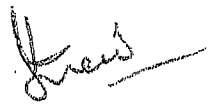
No. CS/E/100-1 (Vol-17) 4024-11 . Mr. Zar Gul Khan Sericulture Development Officer (BS-16) Kurram Agency is hereby transferred and posted as Assistant Director (Sericulture) (BS-17) FR Bannu on current charge basis against the vacant post with immediate effect, in the interest of public service.

ADDITIONAL CHIEF SECRETARY (FATA)

Dated 4/15/2007

Copy to :-

1. Conservator of Forests (FATA)
2. Political Agent Kurram Agency
3. District Coordination Officer Bannu
4. Assistant Director (Sericulture) Kurram Agency
5. Assistant Director (Sericulture) FR Bannu
6. Agency Accounts Officer Kurram Agency
7. District Accounts Officer Bannu
8. Officers concerned


IA (IHSANULLAH KHAN)
Section Officer (Estab)

Annex II

D
ANNEX II
10
14

OFFICE ORDER NO. 71 DATED 15/5/05/2008, ISSUED BY MR. NISAR MUHAMMAD
ASSISTANT DIRECTOR SERICULTURE FATA HEADQUARTER PESHAWAR

Mr. Akram-ud-Din S/O Mr. Imran-ud-Din was appointed as Assistant Sericulture Development Officer (BPS-11) on contract basis under the scheme titled "Cultivation, promotion & Conservation of Non-Timber Forest Products in Kurram Agency" vide this office endorsement No. 4-06 dated 02-07-2007.

The scheme titled "Cultivation, Promotion & Conservation of Non-Timber Forest Products in Kurram Agency" is approaching to expire on 30-06-2008, hence the official being experienced one in NTFP is hereby adjusted against the vacant post of Assistant Sericulture Development Officer (BPS-11) under the scheme titled "Medicinal Plants Promotion in Kurram Agency" on contract basis w.e.f. 01-05-2008 on the same terms and conditions as envisaged in this office order No. endorsement No. 4-06 dated 02-07-2007.

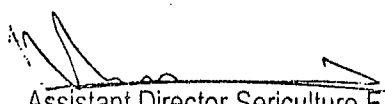
Sd/-
(Nisar Muhammad)
Assistant Director Sericulture FATA
Headquarter Peshawar

No. 915-18 ADS/ H.Qtr/Office Order/ dated Peshawar the 15/5/2008.

Copy forwarded to:

1. ✓ The Incharge Sericulture Center Kurram Agency.
2. The official concerned.
3. The Disbuser Sericulture FATA, Headquarter Peshawar.
4. Office order file.

For information and necessary action


Assistant Director Sericulture FATA
Headquarter Peshawar


Assistant Director NTFP
Marged Areas Peshawar



Amir II

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Disburser

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OFFICE ORDER NO. 11 DATED 2/11/2010 ISSUED BY NISAR MOHAMMAD
ASSISTANT DIRECTOR NTFP FATA, PESHAWAR.

The services of the following officials are hereby placed against the revised scheme titled "Promotion of NTFP (for NA-37 & NA-38) in Kurram Agency" with the provision of Pay etc. as envisaged in the revised scheme w.e.f. 01-07-2010:

1. Mr. Akram ud Din Assistant NTFP Development Officer
2. Mr. Yahya Hussain NTFP Supervisor

Sd/-
(Nisar Mohammad)
Assistant Director NTFP
FATA, Peshawar

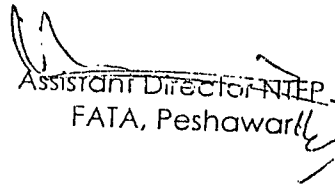
No. 187-81
/O/O

dated Peshawar the

2/11/2010.

Copy forwarded to:

1. The Incharge NTFP Centre Kurram Agency.
2. The officials concerned.
3. Disburser NTFP FATA, Headquarter, Peshawar
4. Personal files.
5. Office Order file.


Assistant Director NTFP
FATA, Peshawar



Assistant Director NTFP
Marged Areas Peshawar

Annex VI

16
15

OFFICE ORDER NO. 124 DATED 01/06/2011 ISSUED BY MR-ZAR GUL KHAN ASSISTANT DIRECTOR NTFP SOUTH FATA BANNU.

Annex
C

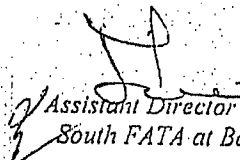
Mr-Muhammad Nazir Assistant NTFP Development Officer FR Bannu is here by adjusted w.e.f 01/06/2011 against the vacant post of Assistant NTFP Development Officer North Waziristan Agency Miranshah for the purpose of pay and allowances till further orders.

Sd/- (Zar Gul Khan)
Assistant Director NTFP,
South FATA at Bannu.

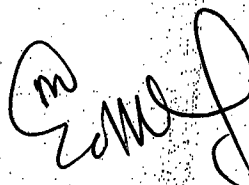
Endst: No. 523-26 Dated Bannu the 01/06/2011.

Copy forwarded to:-

1. Mr-Muhammad Nazir Assistant NTFP Development Officer FR Bannu.
2. Incharge NTFP Centre Miranshah.
3. Disburser Head Quarter Bannu.
4. Personal File.


Assistant Director NTFP,
South FATA at Bannu.

^{up}
Attested


Assistant Director NTFP
Peshawar



17

OFFICE ORDER NO. 42 DATED 01/03 /2012 ISSUED BY MOHAMMAD TAYYAB
ASSISTANT DIRECTOR NTFP FATA, PESHAWAR.

Mr. Sabir ur Rehman Assistant NTFP Development Officer is here by adjusted against the
vacant post of Mechanic lying vacant under normal budget in his own pay and scale for the
purpose of pay and allowances till further order.

Sd/-

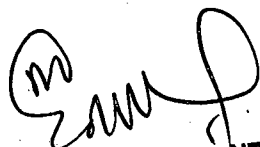
(Muhammad Tayyab)
Assistant Director NTFP
FATA Peshawar.

Endst. No. 409-11 /E dated Peshawar the 01/03/2012.

Copy forwarded for information to:

1. Mr. Sabir ur Rehman Assistant NTFP Development Officer Head Office ,Peshawar.
2. Disburser Head Office Peshawar.
3. Personal File of the official.

Assistant Director NTFP
FATA Peshawar


Assistant Director NTFP
FATA Peshawar

OFFICE ORDER NO. 31 ^{Amrap 21} DATED 27 / 6 / 2013, ^{Annexure V} ISSUED BY
MR. ZAR GUL KHAN ASSISTANT DIRECTOR NTFP FATA PESHAWAR. 18


Mr. ~~Akram-U-Din~~ Assistant Development Officer NTFP Kurram Agency Parachinar is hereby adjusted against a vacant post of Assistant Development Officer NTFP on current budget for the purpose of pay and allowance with immediate effect till further order.

Sd/-(Mr. Zar Gul Khan)
Assistant Director NTFP,
FATA Peshawar.


Endst.No ⁶⁰⁵⁻⁰⁷ /E, dated

Copy for information forwarded to :-

1. Official concerned w/r to his application dated 14/6/2013.
2. Disburser FATA Peshawar.
3. Office order File.


Assistant Director NTFP,
FATA Peshawar.

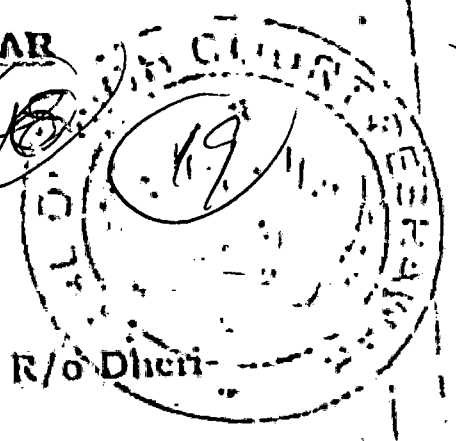
Attested


Assistant Director NTFP,
Marginal Areas (Ex-FATA),
Peshawar


Assistant Director NTFP
Marginal Areas Peshawar

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

AMULET XIII E



Writ Petition No. 2052-2013

1. Wali Khan Assistant NTFP Development Officer R/o Dheri Salarzai, Bajaur Agency.
2. Muhammad Nazir Assistant NTFP Development Officer R/o Dornail Bannu.
3. Syed Mikhhar Ali Shah Computer Operator R/o Tehsil and District Nowshera.
4. Fazal Rahim Junior Clerk r/o Khar Bajaur Agency.
5. Muhammad Jan NTFP Supervisor R/o Salarzai Bajaur Agency
6. Fazal Shah NTFP Supervisor R/o Ato Khel, Mohmand Agency.
7. Muhammad Zaheer NTFP Supervisor R/o Mohmand Agency.
8. Shadi Khan NTFP Supervisor R/o Tajori, District Lakki Marwat.
9. Imran NTFP Supervisor R/o Bannu City District Bannu.
10. Shaukat Hussain Mali R/o Bajaur Agency.....(Petitioners)

Regd. Office, Government of Khyber Pakhtunkhwa, Peshawar. File No. 16-1-2013.

VERSUS

1. Chief Secretary of Government of Khyber Pakhtunkhwa.
2. Secretary Environment Department, Government of Khyber Pakhtunkhwa.
3. Additional Chief Secretary FATA, Peshawar.
4. Director NTFP (Non-Timber, Forest Product) Khyber Pakhtunkhwa Peshawar.....Respondents

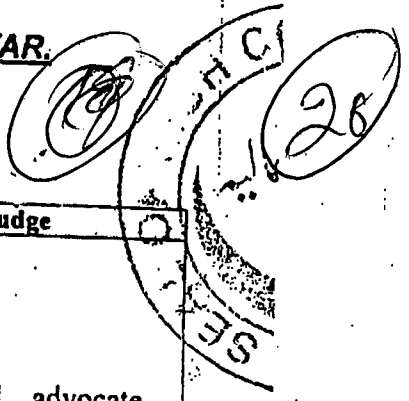
FILED TODAY
Deputy Registrar

[Signature]
Assistant Director NTFP
Marginal Areas Peshawar

ATTESTED
EXAMINER
Peshawar High Court,
24 JULY 2013

PESHAWAR HIGH COURT, PESHAWAR.

**FORM 'A'
FORM OF ORDER SHEET**



Date of order.	Order or other proceedings with the order of Judge
11.6.2014.	<p><u>W.P. 2050-P of 2013.</u></p> <p>Present: Mr.Fawad Ahmad Utmankhel, advocate for petitioner.</p> <p>Mr.Rab Nawaz Khan, AAG for respondents.</p> <p>—</p> <p><u>MUSARRAT HILALI, J.-</u> Petitioners, through instant petition, seeks issuance of an appropriate writ directing the respondents to regularize their services from the date when they became eligible for the same.</p> <p>2. According to the petitioners, they are presently serving as contract employees on various posts in the respondent/department. The respondents floated advertisement in the daily newspaper inviting applications for filling up certain posts. The petitioners applied for the same and after due process were selected/appointed on various posts. It is asserted that services of petitioners 1, 3, 6 and 10 were terminated through Notifications/office orders in the year, 2005, however, they were retained in service vide order dated 14.11.2005 after approval of the scheme called "Introduction of Apiculture in Bajaur Agency" & "Promotion of Medicinal Plants in Bajaur</p>

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Attested.

[Handwritten signature]

[Handwritten signature]
Assistant Director NTFP
Merged Areas Peshawar

Assistant Director NTFP,
Merged Areas (Ex-FATA)
Peshawar.

(Handwritten initials)

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Agency" in the meeting held on 24.9.2005. As per contents of petition, petitioner No.1 was adjusted against a vacant post of Assistant Sericulture Development Officer Apiculture vide order dated 30.3.2007, however, his services were dispensed with vide order dated 2.7.2007, whereafter vide order dated 1.11.2007 he was reinstated in service. The petitioners are still working on contract basis since their appointments in the year, 2004/2005. They requested the respondents for regularization of their service verbally as well as through written applications, which have not been decided as yet, hence necessitated the filing of this constitutional petition.

Comments were sought from respondents 1 to 4, which have been received and placed on file.

3. A look at Annex-B, which is office order dated 17.6.2004 attached with the comments, would reveal that the petitioners were appointed on contract basis against various posts for a period of one year or on the expiry of the project, which ever is earlier, with immediate effect. As per clause-vi of the said order, it is clearly mentioned that appointment to the posts held by petitioners shall not confer on them any right of regular appointment/absorption against

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(Handwritten initials)

Assistant Director MTFP
Merged Areas Peshawar

Attested
(Handwritten signature)

Assistant Director MTFP,
Merged Areas (Ex-FATA)
Peshawar.

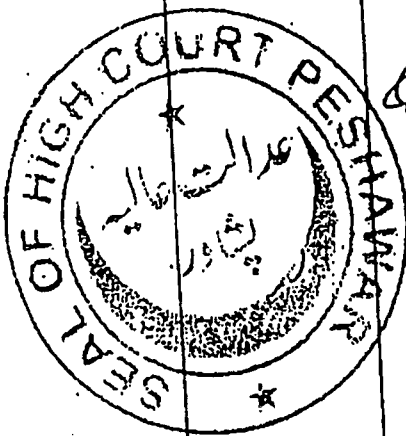
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the post nor their services shall count towards seniority/promotion/pension.

4. In this view of the matter, once the petitioners accepted the terms and conditions of their contractual employment including others, then under the law they cannot ask for regularization of their such status. No discriminatory treatment or violation of law is pointed out by learned counsel representing the petitioners, which can be enforced through issuance of an appropriate writ.

For the aforementioned reasons, this petition has no legal substance, which is hereby dismissed.

Mr. Misir Hussain Khan
Ms. Musarat Ali



Attested:

[Signature]

Assistant Director NTBP,
Merged Area (Ex-FATA)
Peshawar.

CERTIFIED TO BE TRUE

Peshawar District Court
Authorized Officer
The District Court
24 JUN 2014

20863

12/6/2014

Date of Presentation
No of Pages
Copying fee
Urgent Fee
Total
Date of
Date Closed
Date of Delivery
20/6/2014
24/6/2014
24/6/2014
24/6/2014

[Signature]

Assistant Director NTFP
Merged Areas Peshawar

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

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PRESENT:

Mr. Justice Jawwad S. Khawaja
Mr. Justice Iqbal Hameedur Rahman
Mr. Justice Dost Muhammad Khan

Civil Petition No.1661 of 2014

(On appeal from the order dated
11.06.2014 passed by Peshawar High
Court, Peshawar in W.P.2050-P/2013)

Wali Khan & others

Petitioners

VERSUS

Chief Secretary, Government of KPK and others

...Respondents

For the petitioners: Mr. Ijaz Anwar, ASC
Mr. M.S. Khattak, AOR

For respondents: N.R.

Date of hearing: 16.10.2014

JUDGMENT

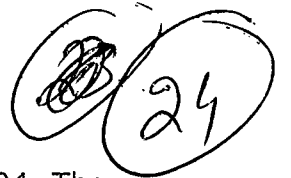
DOST MUHAMMAD KHAN, J.— The petitioners seek leave to appeal against the order dated 11.06.2014 passed by the Peshawar High Court, Peshawar, dismissing writ petition No.2050-P/2013.

2. Grievance of the petitioners is that they are working on contract basis in the respondent departments since their appointments in the year 2004/2005 but their services have not been regularized.

3. Brief but relevant facts of the case are that the petitioners were appointed as contract employees on various posts mentioned against their names, duly advertised by the

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad



respondent department in the newspaper dated 23.03.2004. The services of petitioners No.1,3,6 and 10 were terminated through different notifications/office orders in the year 2005, however, on approval of the scheme titled, "Introduction of Apiculture in Bajaur Agency" & Promotion of Medicinal Plants in Bajaur Agency" their services were retained w.e.f. 1.07.2005 for a period of two years vide various office orders dated 14.11.2005. Petitioner No.1 was adjusted against a vacant post of Assistant Sericulture Development Officer Apiculture vide order dated 30.3.2007 but his services were dispensed with on 2.7.2007, whereafter vide order dated 1.11.2007 he was reinstated in service. So was the position of the other petitioners. The petitioners requested for their regularization verbally as well as through written applications, which have not been decided. Feeling aggrieved, the petitioners approached the High Court by filing writ petition, which was dismissed vide impugned judgment. Hence this petition for leave to appeal.

4. Admittedly, the petitioners were project employees as they were attached to a project, therefore, as a matter of right they could not claim regularization of their services because the lifeline of their services was attached to the project and nothing more. The various appointment orders of the petitioners, issued by the respondents, clearly reflect that they were project employees and their services could be terminated at any point of time without assigning any reason. Thus, the petitioners, *prima facie*, were having no case/right, much less fundamental in

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

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nature to enforce the same through extra-ordinary jurisdiction of the High Court under Article 199 of the Constitution.

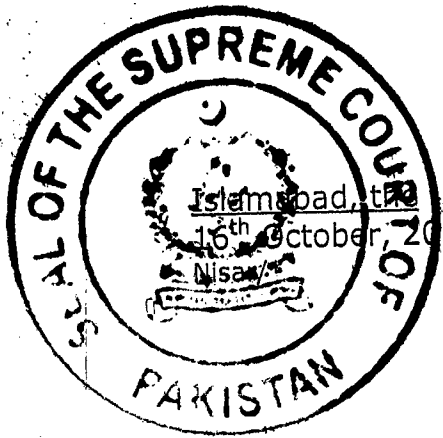
5. As the impugned judgment does not suffer from any illegality, jurisdictional defect or serious legal infirmity to justify interference by this Court, hence, this petition is found devoid of all legal merits.

Accordingly, the petition is dismissed and leave to appeal is refused.

Sd/- Jawwad S.Khawaja, J
Sd/- Iqbal Hameedur Rahman, J
Sd/- Dost Muhammad Khan, J

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad



Not Approved For Reporting

20/10/14

GR No: 234-8/20 **Civil/Criminal**

Date of Presentation: 1-6-20

No of Words: 3

No of Folios: 5

Requisition Fee Rs: 5.00

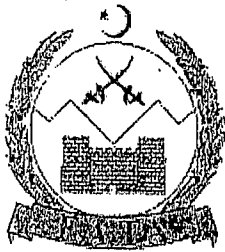
Copy Fee in: 5.08

Court Fee Stamps: 10.08

Date of Completion of Copy: 5/6/20

Date of delivery of Copy: 10-6-2020

Prepared by: [Signature]



~~AMIR~~
G 165
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FATA SECRETARIAT
(PRODUCTION & LIVELIHOOD DEVELOPMENT DEPARTMENT)
WARSAK ROAD PESHAWAR

Dated Peshawar the 11th of Nov, 2013

NOTIFICATION

NO. SO-II/P&LDD/FS/FORESTS/4-1/2013/5364-77 The competent authority has been pleased to order the following posting / transfer of Assistant Director (BPS-17) NTFP Sub-Sector FATA with immediate effect, in the best interest of public service and till further orders.

S.No.	Name of Officers	From	To
1.	Mr. Zar Gul Khan, Assistant Director (BPS-17) NTFP, FATA	Headquarter FATA, Peshawar.	Services are placed at disposal of Provincial Government, Khyber Pakhtunkhwa, Environment Department, Peshawar for further posting.
2.	Mr. Muhammad Tayyab, Assistant Director (BPS-17) NTFP, FATA	NTFP Directorate of South FATA, Bannu.	Assistant Director (BPS-17) NTFP Headquarter FATA, Peshawar. He will also hold Additional charge of the post of Assistant Director, (BPS-17) NTFP South FATA Bannu till further orders.

Additional Chief Secretary FATA

Copy forwarded for information to: -

1. The Secretary Government of Khyber Pakhtunkhwa, Environment Department, Peshawar.
2. The Chief Conservator of Forests, Central Southern Forests Region, Peshawar.
3. The Conservator of Forests FATA, FATA Secretariat, Peshawar.

No. 1396-97 /E dated Peshawar the 12 /11/2013

Copy forwarded to:

1. Assistant Director NTFP FATA H/Q Peshawar.
2. Assistant Director NTFP South FATA Bannu.

For information and strict compliance.

Conservator of Forests
FATA Peshawar.

Annex VII

H (27)

Annex VII

(11)

OFFICE ORDER NO. 4 DATED 23/12/2014, ISSUED BY MR AHMAD
MR. NSOOR KHAN ASSISTANT DIRECTOR NTFP SOUTH FATA BANNU.

Annex D

Keeping in view the experience gained and consequent upon approval of the competent authority, the services of Mr. Mohammad Nazir BPS-11 is hereby acquired as ADO with effect from 01/11/2014 till 30-06-2015 under the scheme titled "Promotion of Apiculture Activities in S.W. Agency" on fixed Pay @ Rs. 15000/- plus adhoc relief of 15% authorized by the Government. The offer is subject to execution of agreement with Assistant Director NTFP South FATA Bannu.

Sd/- (Mr. Ahmad Mansoor)
Assistant Director NTFP
South FATA at Bannu.

Endst. No. 283-86 Dated Bannu the 23/12/2014.

Copy forwarded to:

1. Official concerned.
2. Conservator of Forests FATA for information w/r to his letter No. 1409-13 dated 19/11/2014.
3. Disburser NTFP South FATA Bannu.
4. ADO NTFP S/WA. He is directed to submit his arrival report to this office for record please.

[Signature]
Assistant Director NTFP
South FATA at Bannu

Attested
[Signature]

Attested

Attested
[Signature]

Assistant Director NTFP
Marged Areas Peshawar

[Signature]

Annex VIII

12

OFFICE ORDER NO. 07 DATED 24/7/2015. ISSUED BY MR. AHMAD MANSOOR KHAN ASSISTANT DIRECTOR NTFP SOUTH FATA BANNU.

As directed/discussed with worthy Conservator of Forests FATA, on expiry of the Project titled "Promotion of NTFP in FR Bannu" Mr. Muhammad Nazir Khan Assistant NTFP Development Officer PBS-11 is hereby transferred to a vacant post of Assistant NTFP Development Officer PBS-11 in the Project titled "Promotion of NTFP Activities in N.W. Agency" for the purpose of pay and allowance in the best interest of public services with immediate effect.

Annex E

Sd/-(Mr. Ahmad Mansoor Khan)
Assistant Director NTFP,
South FATA at Bannu.

Endst. No. 25-27 /E, Dated Bannu the 24/7/2015.

Copy forwarded to:-

- 1. Conservator of Forests FATA w/r to direction/discussion.
- ✓ 2. Official Concerned.
- 3. Disburser South FATA Bannu.

M. Mansoor Khan
Assistant Director NTFP,
South FATA at Bannu.

Attested
M. Mansoor Khan

Attested

Attested
M. Mansoor Khan
Assistant Director NTFP
Marged Areas Peshawar

M

Annex

29

Annex

13

OFFICE ORDER NO. 20 DATED: 14/03/2016, ISSUED BY MR. AHMAD MANSOOR KHAN ASSISTANT DIRECTOR NTFP SOUTH FATA BANNU.

Keeping in view the experience gain in art of Apiculture, Mr. Muhammad Nazir Assistant Development Officer BPS-11 is hereby adjusted against a vacant post of Assistant Development Officer BPS-11 only for the purpose of pay and allowances till further order.

*Annex
F*

M.A.
Mr. Ahmad Mansoor
Assistant Director NTFP
South FATA Bannu

Enclst. No. /E, dated /2016.

Copy forwarded to :-

- 1. Official concerned.
- 2. Disburser NTFP South FATA Bannu.

M.A.
Assistant Director NTFP
South FATA Bannu

Attested

Attested

Attested

M.A.

M.A.

Assistant Director NTFP
Marged Areas Peshawar

M.A.

ATTNED

AWM/TV

~~Handwritten signature~~ "A" "36" (circled) (circled)

OFFICE ORDER NO. 25 DATED 11/7 /21016, ISSUED BY MR. MUHAMMAD TAYYAB ASSISTANT DIRECTOR NTFP FATA PESHAWAR.

On expiry of the project titled Promotion of NTFP for NA37 &38 in Kurram Agency on 30/6/2016, the service of Mr. Akramudin Assistant Development Officer BPS-11 is hereby acquired under the scheme titled Development of NTFP activities in FATA against a vacant post of Assistant Development Officer.

Sd/- (Mr. Muhammad Tayyab)
Assistant Director NTFP,
FATA Peshawar.

Endst.No 1-2 /E, dated /2016.

Copy forwarded to:-

- 1. Official concerned.
- 2. Disburser NTFP FATA Peshawar.

~~Handwritten signature~~
Assistant Director NTFP,
FATA Peshawar.

Attested
(M) Handwritten signature

ATTESTED
(M) Handwritten signature

Assistant Director NTFP
Marged Areas Peshawar

Handwritten signature

I (31)

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)

WP No. 2826-P/2019

JUDGMENT.

Date of hearing: 16.10.2019

Petitioner: Sabir-ur-Rahman by: m/s M. Akbar Khan

Respondents: Mr. Anshul Ahmad S.D.O. & District Manager
Khan. Asst. Director (NTFP)

WAQAR AHMAD SETH, CJ:- Petitioner, Sabir-

ur-Rehman son of Gumbat Khan, through the instant Writ Petition, seeks issuance of an appropriate writ declaring the acts and deeds of the respondents as incorrect, illegal, without lawful authority, without jurisdiction, without substance, in derogation of the relevant provision of law with direction to the respondents to regularize the service of petitioner against the post of Assistant Development Officer (BPS-12) from the date of his appointment in accordance with the relevant provision of law.

2. Brief facts of the case are that the petitioner, in pursuant to advertisement dated 28.01.2004, applied for the

ATTESTED

EXAMINER
Peshawar High Court

post of Assistant Sericulture Development Officer (BPS-11) through proper channel and after prescribed manner, he has been appointed against the said post on contract basis vide order dated 02.07.2004, however, subsequently, all the existing posts of Assistant Sericulture Development Officer have been upgraded & re-designated as Assistant Development Officer (BPS-12). According to the petitioner, he is performing his duty against a permanent post for the last fifteen (15) years and he has submitted application to the respondent for regularization of his services but the respondent turned deaf ear on his request; hence, the instant Writ Petition.

3. Respondents No. 2 & 3 have filed their comments and opposed the writ of petitioner.

4. Arguments heard and record perused.

5. At the very outset, learned counsel for the petitioner produced copy of order dated 30.05.2019 delivered

ATTESTED
EXAMINER
Peshawar High Court

33 95

by this Court in Writ Petition No. 1592-P/2019, whereby services of the writ petitioner, who was appointed in pursuant to advertisement dated 28.01.2004 against the post of Assistant Sericulture Development Officer (BPS-11) and subsequently, the said post was upgraded & redesignated to the post of Assistant Development Officer (BPS-12), have been regularized. The case of present petitioner being at par is also entitled for the same benefit. Even otherwise, the petitioner was appointed on 02.07.2004 on contract basis while NWFP Civil Servants (Amendment) Act, 2005 (NWFP Act No. IX of 2005) was promulgated on 23.07.2005 and according to subsection (2) of Section 2, a person though selected for appointment in the prescribed manner to a service or post on or after the 1st day of July, 2001; till the commencement of the said Act, but appointed on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on regular basis; thus,

ATTESTED
EXAMINER
Rachawar High Court

34/96

in view of which, the case of petitioner falls within the ambit of Act ibid.

6. Thus, we, while allowing the instant Writ Petition, direct the respondents to regularize the service of petitioner against the post of Assistant Development Officer (BPS-12) from date of his appointment within a period of one month, positively.

ANNOUNCED.
Dated: 16.10.2019

[Signature]
Chief Justice

[Signature]
Judge

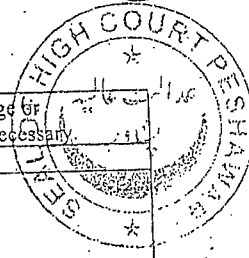
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GUARANTEED TO BE TRUE COPY
Sindh High Court, established under Article 175 of the Constitution of Pakistan Order 1979
30 OCT 2019

No. 10506
Date of Presentation of Application 25-10-19
No of Pages 11P
Copying fee ---
Total 44
Date of Preparation of Copy 30-10-19
Date of Delivery of copy 30-10-19
Received By [Signature]

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PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET



Date of order or proceedings 2.	Order or other proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary. 3.
30.05.2019	<p><u>WP No.1592-P/2019.</u></p> <p><u>Present:</u> Mr. Muhammad Tariq, Advocate for the petitioner.</p> <p>Syed Sikandar Hayat Shah, AAG along with Mr. Abdul Qayum, Deputy Secretary (Litigation) FATA and Mr. Ahmad Mansoor, Assistant Director, NTFP, merged areas, Peshawar for the respondents.</p> <p>*****</p> <p><u>QAISER RASHID KHAN, J.-</u> Through the petition in hand, the petitioner has prayed as under :-</p> <ol style="list-style-type: none"> i. Declare the acts and deeds of the respondents as incorrect, illegal, without lawful authority, without jurisdiction, without substance, in derogation of the relevant provision of law. ii. Consequently, direct the respondents to regularize the service of the petitioner in accordance with the relevant provisions of law. <p>2. As per averments made in the petition, it was pursuant to an advertisement in the daily</p>

Attest/Attested, PS

(Dd) Justice Qaiser Rashid Khan
Justice Tahira Ibrahim

Attested

ATTESTED
EXAMINER

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(12) 2 (36)

'Mashriq' dated 28.1.2004 when the petitioner applied for the post of Assistant Sericulture Development Officer (BPS-11) and after fulfilling all the codal formalities, he was appointed on contract basis for a period of one year, which was later on extended from time to time. Thereafter, the petitioner was adjusted against the vacant post of Assistant NTFP Development Officer in the erstwhile North Waziristan Agency, presently district North Waziristan at Miranshah vide office order dated 1.6.2011 and then the services of the petitioner were acquired as Assistant Development Officer vide office order dated 23.12.2014 whereafter he has been continuously serving against such post till date. It is further averred that the petitioner has to his credit a long service of over 15 years and several applications have been made for his regularization against the post of Assistant Development Officer but to no avail and that is how the petitioner is before the court with

Attest
PS

(DB) Justice Qaiser Rasheed Khan
Justice Ishaq Ibrahim

Attested

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[Signature]
EXAMINER

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his grievance.

3. In the comments furnished by the respondents, the stance of the petitioner qua regularization of his service has been recognized and acknowledged and more so, pursuant to the applications of the petitioner for his regularization in service, several SNEs have been moved to the competent authority for the creation of certain posts so as to regularize the services of the petitioner along with other contract / project employees.

4. During the course of submissions made before us, all the officers present in the court duly acknowledge the services of the petitioner rendered by him during the troubled times when the areas of erstwhile North and South Waziristan Agencies were practically hit by a wave of militancy. Further state that the petitioner used to perform his duties in the guise of a local and never abandoned his post and always attended to the call of his duty.

Atul Hussain, PS

DDJ Justice (Justice Rashid Khan Justice Ishfaq Ibrahim)

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EXAMINER

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Attested

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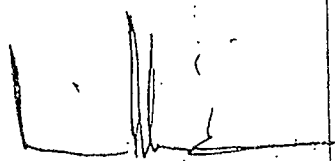
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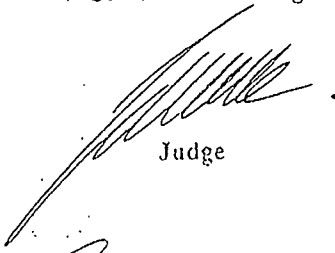
Where the petitioner has served during the troubled times and that too, when the area had been practically abandoned by other government officials serving over there and where he has been working diligently against the post for years, then we wonder as to why the respondents are reluctant to regularize the services of the petitioner.

5. Such being the case, we admit and allow this petition in terms of directing the respondents to regularize the services of the petitioner against the post of Assistant Development Officer (BPS-12) within a month.

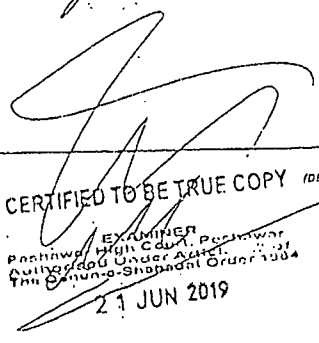
Announced.
Dated: 30.05.2019.



Senior Puisne Judge



Judge



CERTIFIED TO BE TRUE COPY (DB) Anko Chari Asstid Khan
Anko Tibiq Ibrahim
EXAMINER
Peshwar High Court, Peshwar
Quinted Under Sect. 107
The Punjab-Sindh Order 1954
21 JUN 2019

Chief Justice PS

Attested



BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. 2519/2019
Alongwith Interim Relief
(Service Regularization Matter)



Ikram-Ud-din S/O Imran-Ud-Din
R/O Ghuz Ghari, P.O Parachinar,
Tehsil Upper Kurram & Tribal District Kurram.....

...Versus...

1. Federation of Pakistan through Secretary SAFRON, S-Block, Pak Secretariat, Islamabad.
2. Government of Khyber Pakhtunkhwa through its Chief Secretary, Civil Secretariat, Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa, Environment, Forestry & Wildlife, Department, Civil Secretariat, Peshawar.
4. Conservator of Forest, Newly Merged Areas (NMA), FATA Secretariat, Warsak Road, Peshawar.
5. Director Non-Timber Forest Products (NTFP), Khyber Pakhtunkhwa, Shami Road, Peshawar.
6. Assistant Director, Non-Timber Forest Products (NTFP), Newly Merged Areas (NMA), Shami Road, Peshawar.

..... Respondents

WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973

ATTESTED

Respectfully Sheweth:

EXAMINER
Peshawar High Court

1. That petitioner is law abiding/peaceful citizen of Pakistan and permanent resident of tribal District Kurram. Moreover, he has successfully completed M.Sc (Bio Chemistry), in the year 2003, from Gomal University, Dera Ismail Khan.
(Copies of CNIC and CV, are attached as Annexure "A" & "B", respectively)

2. That the respondent department invited applications for the posts of different categories, including Assistant Sericulture Development Officer (ASDO) BPS-11), vide Advertisement, dated: 28.01.2004.

Deputy Registrar (Copy of Advertisement dated: 28.01.2004, is attached as Annexure "C")

20 APR 2019

WP2519-2019- Ikram Ud Din VS FOP F...
Yusufzai Law Chamber

40

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

W.P. No.2519-P/2019

Ikram Ud Din

Vs.

**Federation of Pakistan through Secretary
SAFRON, S-Block, Pak Secretariat, Islamabad
and others**

JUDGMENT

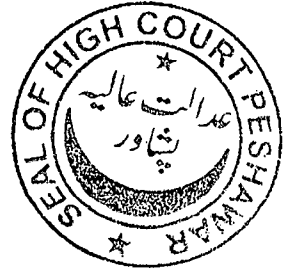
Date of hearing **18.03.2020**

Mr. Amin Ur Rehman Yousafzai, Advocate, for
the petitioner.

Syed Sikandar Hayat Shah, AAG, for the official
respondents, alongwith Mr. Moeen Ud Din,
Assistant Director, NTFP, Peshawar.

IJAZ ANWAR, J. Ikram Ud Din,
petitioner herein, through the instant
Constitutional petition under Article 199
of the Constitution of Islamic Republic of
Pakistan, 1973, has prayed for the
following relief:-

*“On acceptance of this writ
petition, petitioner may be
regularized in service with effect
from 29.08.2008 i.e. from the date
of Federal Cabinet Decision, with
all back benefits, in compliance of
the judgments dated 07.11.2013
and 25.01.2017 of this Hon’ble*



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EXAMINER
Peshawar High Court

41

Court in the best interest of justice and equity.

Any other relief, not specifically prayed for ad deemed appropriate to this Hon'ble Court, in the circumstances of the case, may also be granted".

2. Facts, in brief, leading to the instant writ petition are that petitioner, pursuant to advertisement dated 28.01.2004 floated by the Assistant Director, Sericulture FATA in Daily Mashriq newspaper, applied for the post of Assistant Sericulture Development Officer (BPS-11). Subsequently, on the recommendations of the Departmental Selection Committee, petitioner was appointed against the aforesaid post on contract basis vide appointment order dated 02.07.2004. After joining the Department, petitioner served many projects in the capacity of aforesaid position and thereafter, approached the respondent-Department time and again by means of application/appeals for his

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EXAMINER
Peshawar High Court

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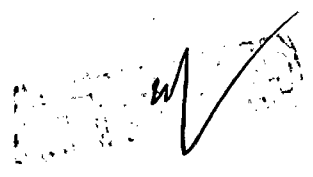
adjustment against the regular post but of no avail. Hence, this writ petition.

3. Keeping in view the averments of the petition in hand, this Court called comments from the respondents, who furnished the same accordingly, wherein, they opposed the issuance of desired writ as prayed for by the petitioner.

4. Arguments heard and record perused.

5. Perusal of the record reveals that petitioner, pursuant to advertisement issued by the respondents and after proper selection process, was appointed against the post of Assistant Sericulture Development Officer (BPS-11) in the Sericulture Wing of FATA, Forest Department on contract basis vide order dated 02.07.2004. The record further transpired that ever since his appointment, petitioner was given extension and till date, he is in the service of the respondent-Department. The respondents, in their comments, have

2/1



ATTESTED

EXAMINER
Peshawar High Court

43

raised objection that post of Assistant Sericulture Development Officer is to be filled in only by way of promotion according to the service rules; however, the rules, relied upon by the respondents, are not applicable to the case of the petitioner, because his appointment was made in the year, 2004; while the earlier rules were notified on 16.02.2009 which were amended vide Notification dated 23.02.2016, as such, it cannot be applied retrospectively to the case of the petitioner, when admittedly, at the relevant time, petitioner gone through the regular selection process.

6. It is pertinent to mention here that Section 19(2) of the Civil Servants (Amendment) Act, 2005 (Act No.IX of 2005), is relevant to the case of the petitioner, it is reproduced for convenience of reference.

19(1).....

(2) *A person though selected for appointment in the prescribed manner to a service or post on or after the 1st day of July, 2001, till the*

?

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ATTESTED

EXAMINER
Peshawar High Court

44

commencement of the said Act, but appointment on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on a regular basis. All such persons and the persons appointed on regular basis to a service or post in the prescribed manner after the commencement of the said Act shall, for all intents and purposes be civil servant, except for the purpose of pension or gratuity. Such a civil servant shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by him towards the Contributory Provident Fund alongwith the contributions made by Government to his account in the said fund, in the prescribed manner.

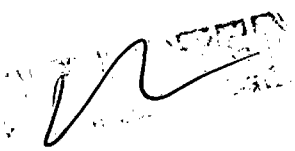
7. Admittedly, petitioner was appointed within the period referred in the Amendment Act and continued as such; therefore, within the meaning of Section 19(2) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 vide Civil Servants (Amendment) Act, 2005 (Act No.IX of 2005), petitioner attained the status of regular civil servant by operation of law. The record further

ATTESTED

EXAMINER
Peshawar High Court

45

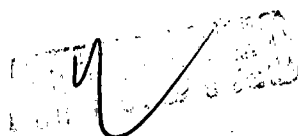
suggested that employees having similar matters came up before this Court in Writ Petitions Nos.917, 970, 971, 972, 1002, 1003, 1004, 1005, 1006, 1012, 1013, 1072, 1335 of 2007 and 2899 of 2009 which were allowed vide judgment and order dated 17.06.2010 and respondents were directed to regularize the services of the employees. Subsequently, the respondent-Department has challenged the aforesaid decision of this Court before the Hon'ble Supreme Court of Pakistan in Civil Petition Nos.437-P to 450-P of 2010 and it, vide judgment and order dated 28.03.2013 maintained the same. Thereafter, a review was filed before the Hon'ble Supreme Court of Pakistan, which too was dismissed vide judgment and order dated 15.09.2014. The record further suggests that one Sabir-ur-Rehman, Assistant Development Officer (BPS-12), having exactly similar matter, approached this Court by filing a W.P. No.2826-P/2019. The aforesaid writ

**ATTESTED****EXAMINER**
Peshawar High Court

46

petition was allowed vide judgment and order dated 16.10.2019 with direction to the respondents to regularize the service of the petitioner against the said post from the date of his initial appointment within a period of one month. Another similar matter was also allowed by this Court in Writ Petition No.1592-P/2019 decided on 30.05.2019. The record further transpired that even there is a decision of the Federal Cabinet for the regularization of the employees, which was duly conveyed vide Office Memorandum dated 29.08.2008 and it was made applicable to the contract employees, working in FATA, despite the same, it was not applied to the case of the petitioner and he, thus, remained on contract position till date.

8. In view of the Amendment Act No.IX of 2005, petitioner having been employed on contract basis within the stipulated period, as such, on promulgation of the aforesaid


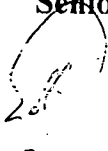
ATTESTED**EXAMINER**
Peshawar High Court

97

Amendment Act, he attained the status of regular civil servant from the date of his initial appointment and there was no need of any formal order of regularization.

9. For the foregoing reasons, this writ petition is allowed and petitioner shall be considered as regular employee with effect from the date of his initial appointment, with all back benefits.

Announced
Dt:18.03.2020

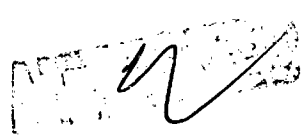

Senior Puisne Judge

Judge

(DB) Hon'ble Mr. Justice Qaiser Rashid Khan and Hon'ble Mr. Justice Ijaz Anwar

Muhamamdullah

No. 33624
Date of Presentation of Application 20/4/2020
No of Pages 9 p
Copying fee 36
Total 36
Date of Preparation of Copy 20/4/2020
Date of Delivery of Copy 20/4/2020
Received By [Signature]


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EXAMINER
Peshawar High Court
Authorized Under Article 203 of
The Qanun-e-Shahadat Order 1984
20 APR 2020



J (48)

NOTIFICATION

No.SO(Estt)FE&WD/1-10(08)/2009/PF: The competent authority hereby constitute an Enquiry Committee comprising Mr. Zahir Shah (PAS BS-20), Secretary Administration Department, Government of Khyber Pakhtunkhwa (as Convener) and Mr. Azhar Ali Khan, Conservator of Forests/Chief Conservator of Forests, Northern Forest Region-II, Abbottabad (as Member) to conduct inquiry against the following officers of NTFP Directorate of Forest Department, Khyber Pakhtunkhwa for the charges/allegations leveled against them in the respective Charge Sheets and Statement of Allegations :-

1. Mr. Iftikhar Ahmad, Director (BS-19) NTFP Directorate of Forest Department, Khyber Pakhtunkhwa.
 2. Mr. Zar Gul Khan, Deputy Director (BS-18) NTFP Malakand.
 3. Mr. Ahmad Mansoor, Deputy Director (BS-18), NTFP Head Office, Peshawar (presently under suspension).
2. The Enquiry Committee shall submit its findings/report within 30 days positively.

Secretary to Govt: of Khyber Pakhtunkhwa
Forestry, Environment & Wildlife
Department

243-49
Endst: No.SO (Estt) FE&WD/ I-10 (08)/2009/PF/ Dated Peshawar the, 13th May, 2020

Copy alongwith copies of the Charge Sheet/Statement of Allegations and other relevant documents are forwarded for further necessary action to:-

- 1) Mr. Zahir Shah (PAS BS-20), Secretary Administration Department, Government of Khyber Pakhtunkhwa (as Convener).
- 2) Mr. Azhar Ali Khan, Conservator of Forests/Chief Conservator of Forests, Northern Forest Region-II, Abbottabad (as Member).
- 3) Chief Conservator of Forest Region-I, Peshawar. He is requested that an officer well conversant with the facts of the case alongwith all relevant record may be deputed to assist the inquiry committee during inquiry proceedings.
- 4) All the accused officers C/O CCF-I, Peshawar with the direction to appear before the Enquiry Committee on the date, time and place to be fixed by the Enquiry Committee for the purpose of inquiry proceedings.
- 5) PS to Secretary, FE&W Department, Khyber Pakhtunkhwa for information.

[Signature]
SECTION OFFICER (ESTT)

No. 4216 /E, Dated Peshawar the 15 /05/2020.

Copy alongwith copy of charge sheet forwarded to the Director NTFP, Peshawar for information and necessary action.

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

*Handled case to
Zar Gul Khan
[Signature]*

*Sy. Fakh / AD
PI endorsed to
DD / Malakand
[Signature]*

Endst: No. 2125 Dir-NTFP / Estt:

Dated: 18/05/2020

Copy of the above along with its enclosures is forwarded, to Mr. Zar Gul Khan, Deputy Director NTFP, Malakand Forest Region, Swat for information and further necessary action within stipulated time, please.

[Signature]
Director
Non Timber Forest Products
Khyber Pakhtunkhwa
Peshawar

CHARGE SHEET

49

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, hereby charge you **Mr. Zar Gul Khan**, the then Assistant Director NTFP FATA and now Deputy Director NTFP Malakand (BPS-18) as follows:-

That you while posted as Assistant Director NTFP FATA has committed the following irregularities:-

- (i) That Muhammad Nazir, Mr. Sabir-ur-Rehman and Mr. Akram-ud-Din were appointed as Assistant Sericulture Development Officer (BS-11) on contract basis in the Sericulture Wing of FATA Forest Department in the year, 2004 for a period of one year.
- (ii) That as per the policy, on expiry of the project, the services of the project employees shall stand terminated, however, contrary to this, you had irregularly adjusted the above contractual employees in different schemes without adopting the prescribed procedure.
- (iii) That later-on you had unlawfully adjusted the said project employees against regular posts of Assistant NTFP Development Officer in violation of the rules/regulations and then their services were acquired as Assistant NTFP Development Officer, which is a gross misconduct on your part.
- (iv) That you by issuing the above illegal orders provided them a base for filing writ petitions in the PHC for regularization of their services against the posts of Assistant NTFP Development Officer and the court by considering the above, the PHC through its judgments dated 30th May, 2019 (in case of Muhammad Nazir) and 16th October, 2019 (in case of Mr. Sabir-ur-Rehman), decided the cases in favour of the above petitioners and directed the respondents to regularize their services against the posts of Assistant NTFP Development Officers.

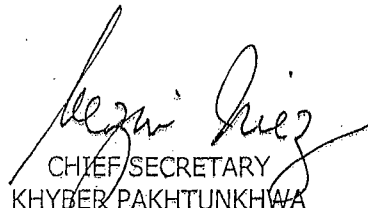
2. By reason of the above, you appear to be guilty of in-efficiency, misconduct and corruption under rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule-4 of the rules ibid.

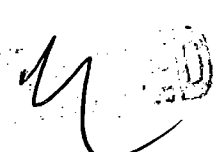
3. You are therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the enquiry officer/enquiry committee, as the case may be.

4. Your written defense, if any, should reach the enquiry officer/committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.


CHIEF SECRETARY
KHYBER PAKHTUNKHWA
(Competent Authority)





GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar the, 13th May, 2020

50

NOTIFICATION

No.SO(Estt)FE&WD/1-10 (08)/2009/PF:

The competent authority hereby constitute an Enquiry Committee comprising Mr. Zahir Shah (PAS BS-20), Secretary Administration Department, Government of Khyber Pakhtunkhwa (as Convener) and Mr. Azhar Ali Khan, Conservator of Forests/Chief Conservator of Forests, Northern Forest Region-II, Abbottabad (as Member) to conduct inquiry against the following officers of NTFP Directorate of Forest Department, Khyber Pakhtunkhwa for the charges/allegations leveled against them in the respective Charge Sheets and Statement of Allegations :-

1. Mr. Iftikhar Ahmad, Director (BS-19) NTFP Directorate of Forest Department, Khyber Pakhtunkhwa.
2. Mr. Zar Gul Khan, Deputy Director (BS-18) NTFP Malakand.
3. Mr. Ahmad Mansoor, Deputy Director (BS-18), NTFP Head Office, Peshawar (presently under suspension)

2. The Enquiry Committee shall submit its findings/report **within 30 days** positively.

Secretary to Govt: of Khyber Pakhtunkhwa
Forestry, Environment & Wildlife
Department

243-49

Endst: No.SO (Estt) FE&WD/ I-10 (08)/2009/PF: Dated Peshawar the, 13th May, 2020

Copy alongwith copies of the Charge Sheet/Statement of Allegations and other relevant documents are forwarded for further necessary action to:-

- 1) Mr. Zahir Shah (PAS BS-20), Secretary Administration Department, Government of Khyber Pakhtunkhwa (as Convener).
- 2) Mr. Azhar Ali Khan, Conservator of Forests/Chief Conservator of Forests, Northern Forest Region-II, Abbottabad (as Member).
- 3) Chief Conservator of Forest Region-I, Peshawar. **He is requested that an officer well conversant with the facts of the case alongwith all relevant record may be deputed to assist the inquiry committee during inquiry proceedings.**
- 4) All the accused officers C/O CCF-I, Peshawar with the direction to appear before the Enquiry Committee on the date, time and place to be fixed by the Enquiry Committee for the purpose of inquiry proceedings.
- 5) PS to Secretary, FE&W Department, Khyber Pakhtunkhwa for information.

SECTION OFFICER (ESTT)

No.

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Dated Peshawar

the

15

/05/2020.

Copy alongwith copy of charge sheet forwarded to the Director NTFP, Peshawar for information and necessary action.

CHARGE SHEET

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, hereby charge you **Mr. Iftikhar Ahmad**, Director NTFP as follows:-

That you while posted as Director NTFP Directorate of Forest Department has committed the following irregularities:-

- (i) That on 16th October, 2019, the Peshawar High Court Peshawar decided the writ petition No. 2826-P/2019 in favour of the petitioner Mr. Sabir-ur-Rehman and directed the respondents for regularization of his services as Assistant NTFP Development Officer (BS-11) in NTFP Directorate of Forest Department.
- (ii) That the said decision was delivered/received by your office 30th October, 2019, however, **after lapse of forty two (42) days i.e., on 13th December, 2019**, you had taken up the case with Chief Conservator of Forests for advice regarding fitness of the case for filing CPLA in the Supreme Court of Pakistan against the said judgment dated 16th October, 2019 of PHC.
- (iii) That since you had delayed the case inordinately, therefore, the Scrutiny Committee of Law Department in its meeting held on 15th January, 2020 declared the case unfit for filing CPLA in the Supreme Court of Pakistan **being time barred**.
- (iv) That the above irregularity was also observed by the Supreme Court of Pakistan **in another similar nature case of Muhammad Nazir, Assistant NTFP Development Officer** vide judgment dated 6/12/2019 wherein the **CP No: 634-P of 2019** filed the department was dismissed being time barred and the court directed the learned Advocate General Khyber Pakhtunkhwa to enquire about such aspect of the matter and then recommend taking of action against the person(s) responsible in the commission of delaying in filing of this petition.
- (v) That you being Head of the NTFP Directorate was solely responsible for timely submission of the case regarding filling of Appeal/CPLA in the Apex Court, however, due to your negligence/inefficiency, the case was delayed which resulted in dismissal of the above Civil Petition by the Supreme Court of Pakistan.

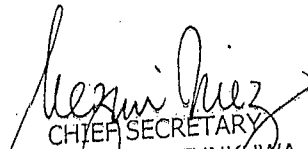
2. By reason of the above, you appear to be guilty of in-efficiency, misconduct and corruption under rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule-4 of the rules ibid.

3. You are therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the enquiry officer/enquiry committee, as the case may be.

4. Your written defense, if any, should reach the enquiry officer/committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.


CHIEF SECRETARY
KHYBER PAKHTUNKHWA
(Competent Authority)

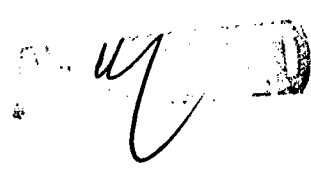
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GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar the, 13th May, 2020

NOTIFICATION

No.SO(Estt)FE&WD/1-10 (08)/2009/PF:

The competent authority hereby constitute an Enquiry Committee comprising Mr. Zahir Shah (PAS BS-20), Secretary Administration Department, Government of Khyber Pakhtunkhwa (as Convener) and Mr. Azhar Ali Khan, Conservator of Forests/Chief Conservator of Forests, Northern Forest Region-II, Abbottabad (as Member) to conduct inquiry against the following officers of NTFP Directorate of Forest Department, Khyber Pakhtunkhwa for the charges/allegations leveled against them in the respective Charge Sheets and Statement of Allegations :-

1. Mr. Iftikhar Ahmad, Director (BS-19) NTFP Directorate of Forest Department, Khyber Pakhtunkhwa.
2. Mr. Zar Gul Khan, Deputy Director (BS-18) NTFP Malakand.
3. Mr. Ahmad Mansoor, Deputy Director (BS-18), NTFP Head Office, Peshawar (presently under suspension)

2. The Enquiry Committee shall submit its findings/report within 30 days positively.

Secretary to Govt: of Khyber Pakhtunkhwa
Forestry, Environment & Wildlife
Department

Endst: No.SO (Estt) FE&WD/ I-10 (08)/2009/PF/

Dated Peshawar the, 13th May, 2020

Copy alongwith copies of the Charge Sheet/Statement of Allegations and other relevant documents are forwarded for further necessary action to:-

- 1) Mr. Zahir Shah (PAS BS-20), Secretary Administration Department, Government of Khyber Pakhtunkhwa (as Convener).
- 2) Mr. Azhar Ali Khan, Conservator of Forests/Chief Conservator of Forests, Northern Forest Region-II, Abbottabad (as Member).
- 3) Chief Conservator of Forest Region-I, Peshawar. He is requested that an officer well conversant with the facts of the case alongwith all relevant record may be deputed to assist the inquiry committee during inquiry proceedings.
- 4) All the accused officers C/O CCF-I, Peshawar with the direction to appear before the Enquiry Committee on the date, time and place to be fixed by the Enquiry Committee for the purpose of inquiry proceedings.
- 5) PS to Secretary, FE&W Department, Khyber Pakhtunkhwa for information.

SECTION OFFICER (ESTT)

CHARGE SHEET

53

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, hereby charge you **Mr. Ahmad Mansoor** the then Assistant Director NTFP and now Deputy Director NTFP (BPS-18) as follows:-

That you while posted as Assistant Director NTFP Merged Areas Peshawar has committed the following irregularities:-

- (i) That on a complaint lodged by M/S Sherin Gul S/O Khaista Khan, Abdul Wahid S/O Muhammad Hanan and Shahanzaib S/O Muhammad Nawaz Ex-Supervisors against you, an inquiry committee was constituted to conduct a fact finding inquiry into the allegations levelled in the referred complaint.
- (ii) The allegations of the referred complaint and findings of the inquiry committee are reproduced below:

Allegations	Findings of inquiry committee
You have embezzled 365.08 million during the last five years 2014-15 to 2018-19.	The committee asked you to furnish PC-I, however, you did not provided nor review of the project were perused due to non-availability of complete record.
You have misappropriated million of rupees on procurement of Zafran (Saffron), Mushrooms and different type of NTFP plants without any tender on fake bills whereas nothing has been done on ground.	The files/record provided by you contained comparative statements of supplies without any signature of the procurement committee or any concerned officer mentioning just the quantity of supply and amount in rupees having no legal status and lack advertisements in Newspaper, constitution of procurement committee, quotations, call deposits/CDR, record of approval, procurement bills stock entry and further distribution. This shows that all procurement were made without fulfilling codal formalities in vogue.
You have recruited/appointed 40-50 employees without adopting the procedure as laid down in the prescribed rules/policy and most of them are your relatives and that too remains absent from duty.	The record provided by you shows that the appointment orders of 13 officials were issued by you, without advertisement in the newspaper and fulfilling the codal formalities for which you were not competent under the rules during 2013-16. The record of other officials appointed after 2016 was not provided to the committee which has more relevant facts about the complaint and required to be scrutinized/ examined.
You have seven numbers of different government vehicles under your personal use without maintaining log book and POL.	The committee demanded the following documents/justifications which were not provided by you, intentionally:- <ol style="list-style-type: none">i. Allotment order of vehicles to the officer.ii. Posting order of Drivers for each vehicle.iii. Log books for verification of repair, and intendance and POL record.iv. Stock register of the office, andv. Tour diaries of the officers
On the orders of the Administrative Department, the Director NTFP being competent authority issued posting order of ministerial staff vide office order No.27, dated 14/11/2019 which has not been implemented by you up till date.	The Director NTFP informed the committee that he had issued posting/transfer orders of ministerial staff in compliance with the orders of the Administrative Department and dispatched it to you, however, the same were not implemented by you.
You have spent and embezzled a huge amount of Rs: 76.689 million during 2018-19 for procurement of Zafran (Saffron), Mushrooms and different type of NTFP plants.	The available record regarding spending of an amount Rs.76.689 million prepared by you in a careless manner which shows that units of activities have been shown achieved both in physical and financial columns but the progress achievement has been reflected as "zero".

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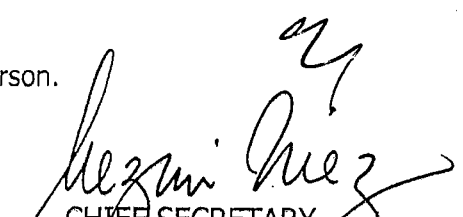
	<p>Furthermore, no annual plan, progress report/activity report for above spending amount was provided to the committee constituted for the purpose.</p> <p>The training vouchers lacks nominations procedure, training materials, detail of trainer/resource persons, impact of the activity and training reports. The bills for vehicles hired for transportation of the trainees lacks registration numbers and other details. Furthermore, codal formalities regarding purchase of Bee Boxes and other procurement were not fulfilled. The record lacks advertisement, formation of recruitment committee, signed comparative statements and bill/vouchers. Thus the issue stands proved and require detailed probe in addition to disciplinary proceedings.</p>
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Muhammad Nazir, who was appointed as Assistant Sericulture Development Officer (BS-11) on contract basis, had filed a writ petition No.1592-P/2019 in PHC for regularization of his services as Assistant NTFP Development Officer.

- (iv) That on one hand, in the parawise comments submitted to the court, you had fully supported and recognized the stance of the petitioner qua regularization of his services and more so, pursuant to the applications of the petitioner for his regularization in service, ~~several SNEs have been moved to the competent authority for creation of certain posts to the purpose of regularization of the services of petitioner.~~ The court by considering the above facts decided the case in favour of the above petitioner on 30/5/2019.
- (v) That on the other hand, although the said decision was received by you on 21/6/2019 and **after lapse of one month i.e., on 22/7/2019**, you submitted the case to the administrative department for filling CPLA in the Supreme Court of Pakistan against the above judgment of PHC dated 30/5/2019.
- (vi) On 7/8/2019, the Scrutiny Committee of Law Department declared the case fit for filling CPLA in the Supreme Court of Pakistan, however, the **Supreme Court of Pakistan in its judgment dated 6/12/2019 dismissed the CP No: 634-P of 2019 filed the department against the said order dated 30/5/2019, being time barred.** The apex court noticed that the **petition seems to have been purposely delayed ad the learned Advocate General Khyber Pakhtunkhwa shall enquire about such aspect of the matter and then recommend taking of action against the person(s) responsible in the commission of delaying in filling of this petition.**

That you are responsible in commission of delaying the above court case for more than one month in your office, which resulted in dismissal of the said Civil Petition by the Apex Court.

2. By reason of the above, you appear to be guilty of in-efficiency, miss-conduct and corruption under rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule-4 of the rules ibid.
3. You are therefore, required to ~~submit~~ your written defense within seven days of the receipt of this Charge Sheet to the enquiry officer/enquiry committee, as the case may be.
4. Your written defense, if any, ~~should~~ reach the enquiry officer/committee within the specified period, failing which it shall be ~~presumed~~ that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegation is ~~enclosed~~.


 CHIEF SECRETARY
 KHYBER PAKHTUNKHWA
 (Competent Authority)

DISCIPLINARY ACTION

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that he Mr. Ahmad Mansoor the then Assistant Director NTFP and now Deputy Director NTFP (BPS-18) has rendered himself liable to proceeded against, as he committed the following acts/omission, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

That he while posted as Assistant Director, NTFP Merged Areas Peshawar committed the following acts of omissions / commissions.

STATEMENT OF ALLEGATIONS

- (i) That on a complaint lodged by M/S Sherin Gul S/O Khaista Khan, Abdul Wahid S/O Muhammad Hanan and Shahanzaib S/O Muhammad Nawaz Ex-Supervisors against him, an inquiry committee was constituted to conduct a fact finding inquiry into the allegations levelled in the referred complaint.
- (ii) The allegations levelled against him in the referred complaint and findings of the inquiry committee are reproduced below.

<u>Allegations</u>	<u>Findings of inquiry committee</u>
He has embezzled 365.08 million during the last five years 2014-15 to 2018-19.	The committee asked him to furnish PC-I, however, he did not provided nor review of the project were perused due to non-availability of complete record.
He has misappropriated million of rupees on procurement of Zafran (Saffron), Mushrooms and different type of NTFP plants without any tender on fake bills whereas nothing has been done on ground.	The files/record provided by him contained comparative statements of supplies without any signature of the procurement committee or any concerned officer mentioning just the quantity of supply and amount in rupees having no legal status and lack advertisements in Newspaper, constitution of procurement committee, quotations, call deposits/CDR, record of approval, procurement bills stock entry and further distribution. This shows that all procurement were made without fulfilling codal formalities in vogue.
He has recruited/appointed 40-50 employees without adopting the procedure as laid down in the prescribed rules/policy and most of them are his relatives and that too remains absent from duty.	The record provided by him shows that the appointment orders of 13 officials were issued by him without advertisement in the newspaper and fulfilling the codal formalities for which he was not competent under the rules during 2013-16. The record of other officials appointed after 2016 was not provided to the committee which has more relevant facts about the complaint and required to be scrutinized/ examined.
He has seven numbers of different government vehicles under his personal use without maintaining log book and POL.	The committee demanded the following documents/justifications which were not provided by him intentionally:- i. Allotment order of vehicles to the officer. ii. Posting order of Drivers for each vehicle. iii. Log books for verification of repair, and maintenance and POL record. iv. Stock register of the office, and v. Tour diaries of the officers
On the orders of the Administrative Department, the Director NTFP being competent authority issued posting order of ministerial staff vide office order No.27, dated 14/11/2019 which has not been implemented by him up till date.	The Director NTFP informed the committee that he had issued posting/transfer orders of ministerial staff in compliance with the orders of the Administrative Department and dispatched it to him, however, the same were not implemented by him.
He has spent and embezzled a huge amount of Rs: 76.689 million during 2018-19 for procurement of Zafran (Saffron), Mushrooms and different type of NTFP plants.	The available record regarding spending of an amount Rs.76,689 million prepared by him in a careless manner which shows that units of activities have been shown achieved both in physical and financial columns but the progress achievement has been reflected as "zero".

procurement has been reflected as "zero".

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Para wise statement of Mr. Zar Gul Khan Deputy Director NTFP, recorded before the Inquiry Committee in response of the charges of allegations framed by the competent Authority / Inquiry Committee are clarified as under;

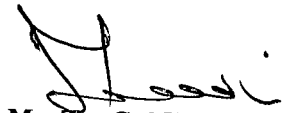
Q.#	Charges of Allegation	Replies
i.	That Muhammad Nazir, Mr. Sabir Ur Rehman and Mr. Akram Ud Din were appointed as Assistant NTFP Development Officer (BPS-11) on Contract Basis in the Sericulture Wing of FATA Forest Department in the Year, 2004 for a period of One year.	I had taken over the charge of Assistant Director NTFP South FATA at Bannu on dated: 14-05-2007. None of the mentioned officials in the charge sheet are recruited / appointed by the undersigned. Previously, they had already been adjusted by the then Assistant Director NTFP (Ex-Sericulture) from time to time during the intervening period from 07-2004 to 14-05-2007. Copy of their appointment order having their names at Sr. No. 3,5 and 6 Annex-I . However, in their appointment order they have agreed / accepted the terms and conditions at Serial No. 6 which is reproduced as such: <i>"Their appointment to the above post shall not confer on them any right of regular appointment / absorption against the post nor their services shall count towards seniority / promotion / pension"</i> .
ii.	That as per policy, on expiry of the project, the services of the project employees shall stand terminated, however, contrary to this, you had irregularly adjusted the above contractual employees in different schemes without adopting the prescribed procedure.	As explained in Para-1 above, none of the officials were adjusted by me. Detail wise adjustment of the officials is here under: i. Mr. Sabir Ur Rahman was adjusted by the then Assistant Director Mr. Muhammad Tayyab vide office order No. 42, dated: 01-03-2012 Annex-II . ii. Mr. Muhammad Nazir was also adjusted by the then Assistant Director Dr. Syed Qasim Shah from time to time up-till my arrival in FATA on 14-05-2007. Being a precedent made by the above Assistant Directors, the official was adjusted in the project by the undersigned vide office order No. 124, dated: 01-06-2011 Annex-III , keeping in view the Para-6 of their appointment order as already explained in Para-I, above, which was later on adjusted in another scheme by Mr. Ahamd Mansoor, Assistant Director NTFP, vide his office order No. 4, dated: 23-12-2014 Annex-IV and office order No. 07, dated:24-07-2015 Annex-V . iii. Mr. Ikram Ud Din was earlier adjusted from time to time against the project post by the then Assistant Director NTFP Mr. Nisar Muhammad vide his office order No. 71, dated: 15-05-2008 Annex-VI , & No. 11, dated: 02-11-2010 Annex-VII and by Mr. Muhammad Tayyab Assistant Director NTFP vide his office order No. 25, dated: 01-07-2016 Annex-VIII .
iii.	That later-on you had unlawfully adjusted the said project employees against regular posts of Assistant NTFP Development Officer in violation of the rules / regulations and then their services were acquired as Assistant NTFP Development Officer, which is a gross misconduct on your part.	As explained in Para-i and ii above, none of the above officials were adjusted by the undersigned on regular posts. Detail wise adjustment of the officilas as per available record is here under: i. Mr. Sabir Ur Rahman was adjusted on regular post by Mr. Muhammad Tayyab, Assistant Director NTFP vide office order No.42, dated: 01-03-2012 Annex-V . ii. Mr. Muhammad Nazir was adjusted on regular post by Mr. Ahmad Mansoor, Assistant Director NTFP vide his office order No. 20, dated:14-03-2016, Annex-IX . iii. Mr. Ikram Ud Din was adjusted by the undersigned vide office order No. 31,dated: 27-06-2013 Annex-X as already

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		<p>precedent by the then Assistant Directors. He was adjusted on regular post for a short period as his scheme was under revision. Then I was transferred from FATA to settled Districts in 10-2013. Later on, the scheme was approved and he was again repatriated to the project post by Mr. Muhammad Tayyab Assistant Director NTFP and on expiry of his parent scheme on dated: 30-06-2016 he was again re-adjusted by the afore mentioned Assistant Director vide his office order No.25, dated: 01-07-2016 and he is still working as a project employee not on regular side Annex-XI.</p>
<p>iv.</p>	<p>That you by issuing the above illegal orders provided them a base for filing writ petition in the PHC for regularization of their services against the post of Assistant NTFP Development Officer and the court by considering the above, the PHC through its Judgments dated: 30th May 2019 (in Case of Mr. Muhammad Nazir) and 16th October (In case of Mr. Sabir Ur Rahman), decided the cases in favor of the above petitioners and directed the respondents to regularize their services against the posts of Assistant NTFP Development Officers.</p>	<p>The para is very significant and of public importance which need elaboration / explanation in detail. During my tenure in Megeed Areas, the aforementioned officials Mr. Muhammad Nazir and Mr. Sabir Ur Rahman have already filed Writ petition for their regularization in Peshawar High Court Peshawar vide writ petition No. 2050-P/2013 thereby a breach of the TORs at Serial No. 6 of their appointment order, wherein they are at serial No. 2 and 11 as petitioners respectively versus Chief Secretary K.P., Director NTFP, and others as respondent and their petition has been dismissed prejudicially vide detail Judgment dated: 11-06-2014 with the verdict of the said judgment reproduced as such: <i>"In this view of the matter, once the petitioners accepted the terms and conditions of their contractual employment including others, then under the law they cannot ask for regularization of their such status. No discriminatory treatment or violation of law is pointed out by learned counsel representing the petitioners, which can be enforced through issuance of an appropriate writ.</i> <i>For the aforementioned reasons, this petition has no legal substance, which is hereby dismissed".</i> Annex-XII. They have agitated the same judgment of PHC in Supreme Court of Pakistan vide CP No. 1661, dated: 16-10-2014, and the same has also been dismissed by the Apex Court. Copy as Annex-XIII.</p>
<p>v.</p>	<p>By reason of the above, you appear to be guilty of inefficiency miss-conduct and corruption under the rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule-4 of the rules ibid.</p>	<p>As explained in Para i,ii,iii and iv above, no loss to the Govt. had been accrued by the undersigned, nor any inefficiency, misconduct and corruption on my part. As per rules / law a legal question once decided by the court / dismissed are barred prejudicially in any court of law. By arising the same cause of action by the petitioners, a fresh which had already been denied by the PHC and apex forum i.e. Supreme Court of Pakistan thereby concealing the above facts by the petitioners being Govt. Servant is a malafide on their part which needs serious action. On the other hand complete record of the above decided case along with Judgment of Peshawar High Court Peshawar and Supreme Court of Pakistan, Peshawar were available on record in the office of the Assistant Director NTFP Merged Area and Director NTFP as well, both being parties in the earlier dismissed cases in Para-iv above and in the instant case as respondents. The petitioners being barred by the court of law, by arising the same legal question which has already been denied / refused by the court. The Assistant Director NTFP and Director NTFP</p>

		<p>should be asked to clear their position as to why the earlier judgments were concealed intentionally, malafidely, negligently and used delay tactics for one reason or the other and not mentioned the same in their Para wise comments in the present case being respondents, thereby caused a loss to the sanctity of the Government Writ and embarrassed situation of the Govt. Functionaries for which both of them have already been charge sheeted / under suspension.</p>
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Position being such, keeping in view the above facts on record, I may kindly be exonerated from the charges levelled against the undersigned. I may also be called for hearing in person before the inquiry committee, please.



Mr. Zar Gul Khan
 Deputy Director
 Non Timber Forest Products
 Malakand Forest Region
 Swat



INQUIRY REPORT

4 (59)

Government of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department vide Notification No. SO(Estt)FE&WD/1-1 (08)/2009/PF dated 13.05.2020 constituted an inquiry committee comprising of Mr. Zahir Shah (PAS BS-20) Secretary Administration Department, Government of Khyber Pakhtunkhwa as Convener and Mr. Azhar Ali Khan, Conservator of Forest/Chief Conservator of Forest, Northern Forest Region-II Abbottabad as Member to conduct inquiry against the following officers of **Non-Timber-Forest-Product(NTFP)** Directorate of Forest Department, Khyber Pakhtunkhwa on charges/allegations leveled against them in the Charge Sheets and Statement of Allegations(**Annexure-I**);

- i. Mr. Iftikhar Ahmad, Director (BS-19) NTFP Directorate of Forest Department, Khyber Pakhtunkhwa.
- ii. Mr. Zar Gul Khan, Deputy Director (BS-18) NTFP Malakand.
- iii. Mr. Ahmad Mansoor, Deputy Director (BS-18) NTFP Head Office, Peshawar (presently under suspension).

Chief Conservator of Central Southern Forest Region (CTR)-I, Peshawar was authorized to depute an officer well conversant with the facts of the case along with all relevant record to assist the inquiry committee during inquiry proceedings. Accordingly Mr. Muhammad Tayyab, Deputy Director (BS-18) NTFP was nominated as Departmental representative.

It came to the notice of the Inquiry Committee in its first meeting that Mr. Muhammad Tayyab Deputy Director, NTFP was referred by Mr. Zar Gul Khan, Deputy Director (BS-18) NTFP Malakand in his written statement that he was responsible for some of the irregularities in the Directorate regarding recruitment, extension of contract period and adjustment of project employees against regular budgeted posts. Moreover, he was hesitant to provide details to the inquiry committee reason being not prepared.

Shah

[Signature]

ATTACHED
[Signature]

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The Inquiry Committee telephonically contacted Secretary Forestry, Environment & Wildlife Department to depute another senior officer who is well conversant with the facts of the case and remained not involved directly or indirectly in this case. Accordingly, the Department deputed Mr. Shafiullah Wazir (PAS BS-18), Additional Secretary FEW Department to assist the inquiry committee.

In the second meeting of the Inquiry Committee after three days, the Departmental representative again requested to give a week time for preparation and collection of the record, hence the request was acceded. The Inquiry Committee noted in all the meetings that Directorate of NTFP was reluctant to provide details apart from the details mentioned by the accused officers in their written statements. The same fact was also highlighted by the inquiry officers who conducted fact finding inquiries.

(I) CHARGES LEVELLED AGAINST MR. MR. IFTIKHAR AHMAD, DIRECTOR (BS-19) NTFP DIRECTORATE OF FOREST DEPARTMENT, KHYBER PAKHTUNKHWA.

The following charges were leveled against the officer in the Charge Sheet and Statement of Allegations **(Annexure-II)**;

- i. That on 16th October, 2019, the Peshawar High Court Peshawar decided the writ petition No. 2826-P/2019 in favour of the petitioner Mr. Sabir-ur-Rehman and directed the respondents for regularization of his services as Assistant NTFP Development Officer (BS-11) in NTFP Directorate of Forest Department.
- ii. That the said decision was delivered/received by your office 30th October, 2019, however, after elapse of forty two (42) days i.e., on 13th December, 2019, you had taken up the case with Chief Conservator of Forests for advice regarding fitness of the case for filing CPLA in the Supreme Court of Pakistan against the said judgment dated 16th October, 2019 of PHC.
- iii. That since you had delayed the case inordinately, therefore, the Scrutiny Committee of Law Department in its meeting held on 15th January, 2020

Shah

ATTACHED

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declared the case unfit for filing CPLA in the Supreme Court of Pakistan being time barred.

- iv. That the above irregularity was also observed by the Supreme Court of Pakistan in another similar nature case of Muhammad Nazir, Assistant NTFP Development Officer vide Judgment dated 06/12/2019 wherein the CP NO. 634-P of 2019 filed by the department was dismissed being time barred and the court directed the learned Advocate General Khyber Pakhtunkhwa to enquire about such aspect of the matter and then recommend taking of action against the person(s) responsible in the commission of delaying in filing of this petition.
- v. That you being Head of the NTFP Directorate was solely responsible for timely submission of the case regarding filing of Appeal/CPLA in the Apex Court, however, due to your negligence/inefficiency, the case was delayed which resulted in dismissal of the above Civil Petition by the Supreme Court of Pakistan.

(II). CHARGES LEVELED AGAINST MR. ZAR GUL KHAN, DEPUTY DIRECTOR (BS-18) NTFP MALAKAND.

The following charges were leveled against the officer in the Charge Sheet and Statement of Allegations **(Annexure-III)**;

- i. That Muhammad Nazir, Mr. Sabir-ur-Rehman and Mr. Akram-ud-Din were appointed as Assistant Sericulture Development Officer (BS-11) on contract basis in the Sericulture Wing of FATA Forest Department in the year, 2004 for a period of one year.
- ii. That as per policy, on expiry of the project the services of the project irregularly adjusted the above contractual employees in different schemes without adopting the prescribed procedure.

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62

- iii. That later-on you had unlawfully adjusted the said project employees against regular posts of Assistant NTFP Development Officer in violation of the rules/regulations and then their services were acquired as Assistant NTFP Development Officer, which is a gross misconduct on your part.
- iv. That you by issuing the above illegal orders provided them a base for filing writ petitions in the PHC for regularization of their services against the posts of Assistant NTFP Development Officer and the court by considering the above, the PHC through its judgments dated 30th May, 2019 (in case of Muhammad Nazir) and 16th October, 2019 (in case of Mr. Sabir-ur-Rehman), decided the case in favour of the above petitioners and directed the respondents to regularize their service against the posts of Assistant NTFP Development Officers.

(III) CHARGES LEVELED AGAINST MR. AHMAD MANSOOR, DEPUTY DIRECTOR (BS-18) NTFP HEAD OFFICE, PESHAWAR (PRESENTLY UNDER SUSPENSION).

The following charges were leveled against the officer in the Charge Sheet and Statement of Allegations (**Annexure-IV**);

- i. That on a complaint lodged by M/S Sherin Gul S/O Khaista Khan, Abdul Wahid S/O Muhammad Hanan and Shahanzaib S/O Muhammad Nawaz Ex-Supervisors against you, an inquiry committee was constituted to conduct a fact finding inquiry into the allegations leveled in the referred complaint.
- ii. The allegations of the referred complaint and findings of the inquiry committee are reproduced below:

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Allegations	Findings of inquiry committee
You have embezzled 365.08 million during the last five years 2014-15 to 2018-19.	The committee asked you to furnish PC-I, however, you did not provide nor review of the project were perused due to non-availability of complete record.
You have misappropriated million of rupees on procurement of Zafran (Saffron), Mushrooms and different type of NTFP plants without any tender on fake bills whereas nothing has been done on ground.	The files/record provided by you contained comparative statements of supplies without any signature of the procurement committee or any concerned officer mentioning just the quantity of supply and amount in rupees having no legal status and lack advertisements in newspaper, constitution of procurement committee, quotations, call deposits/CDR, record of approval procurement bills stock entry and further distribution. This shows that all procurement were made without fulfilling codal formalities in vogue.
You have recruited/appointed 40-50 employees without adopting the procedure as laid down in the prescribed rules/policy and most of them are your relatives and that too remains absent from duty.	The record provided by you shows that the appointment orders of 13 officials were issued by you without advertisement in the newspaper and fulfilling the codal formalities for which you were not competent under the rules during 2013-16. The record of other officials appointed after 2016 was not provided to the committee which has more relevant facts about the complaint and required to be scrutinized/examined.
You have seven numbers of different government vehicles under your personal use without maintaining log	The committee demanded the following documents/justifications which were not provided by you intentionally:- Allotment order of vehicles to the officer.

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<p>book the POL.</p>	<p>Posting order of drivers for each vehicle. Log books for verification of repair, and intendance and POL record. Stock register of the office, and tour diaries of the officers.</p>
<p>On the orders of the Administrative Department, the Director NTFP being competent authority issued posting order of ministerial staff vide office order No. 27, dated 14/11/2019 which has not been implemented by you up till date.</p>	<p>The Director NTFP informed the committee that he had issued posting/transfer orders of ministerial staff in compliance with the orders of the Administrative Department and dispatched it to you, however, the same were not implemented by you.</p>
<p>You have spent and embezzled a huge amount of Rs. 76.689 million during 2018-19 for procurement of zafran (Saffron), Mushrooms and different type of NTFP plants.</p>	<p>The available record regarding spending of an amount Rs. 76.689 million prepared by you in a careless manner which shows that units of activities have been shown achieved both in physical and financial columns but the progress achievement has been reflected as "Zero" Furthermore, no annual plan, progress report/activity report for above spending amount was provided to the committee constituted for the purpose. The training voucher lacks nominations procedure, training materials, detail of trainer/resource persons, impact of the activity and training reports. The bills for vehicle hired for transportation of the trainees lacks registration.</p>

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	<p>numbers and other details. Furthermore, codal formalities regarding purchase of the Bee boxes and other procurement were not fulfilled. The record lacks advertisement, formation of recruitment committee, signed comparative statements and bills/vouchers. Thus the issue stands proved and require detailed probe in addition to disciplinary proceedings.</p>
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- iii. Muhammad Nazir, who was appointed as Assistant Sericulture Development Officer (BS-11) on contract basis, had filed a writ petition No. 1592-P/2019 in PHC for regularization of his service as Assistant NTFP Development Officer.
- iv. That on one hand, in the para-wise comments submitted to the court, you had fully supported and recognized the stance of the petitioner qua regularization of his services and more so, pursuant to the applications of the petitioner for his regularization in service, several SNEs have been moved to the competent authority for creation of certain posts to the purpose of regularization of the services of petitioner. The court by considering the above facts decided the case in favour of the above petitioner on 30/05/2019.
- v. That on the other hand, although the said decision was received by you on 21/06/2019 and **after lapse of one month i.e., on 22/07/2019**, you submitted the case to the administrative department for filing CPLA in the Supreme Court of Pakistan against the above judgment of PHC dated 30/05/2019.
- vi. On 07/08/2019, the Scrutiny Committee of Law Department declared the case fit for filing CPLA in the Supreme Court of Pakistan, however, the **Supreme Court of Pakistan in its**

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judgment dated 06/12/2019 dismissed the CP No. 634-P of 2019 filed the department against the said order dated 30/05/2019, being time barred. The apex court noticed that the petition seems to have been purposely delayed ad the learned Advocate General Khyber Pakhtunkhwa shall enquire above such aspect of the matter and then recommend taking of action against the person(s) responsible in the commission of delaying in filing of this petition.

- vii. That you are responsible in commission of delaying the above court case for more than one month in your office, which resulted in dismissal of the said Civil Petition by the Apex Court.

PROCEEDINGS

1. All the accused officers submitted their written replies within stipulated time **(Annexure-V (a), (b) & (c))**. The Inquiry Committee heard the accused officers one by one in detail in the presence of the departmental representative. They were given further opportunity to produce any other documents in support of their statements.
2. During the proceedings, the Inquiry Committee framed written questions and ask the accused officers to give their written responses in a week time **(Annexure-VI)**.
3. The accused officers submitted their written answers **(Annexure-VII (a), (b) & (c))**.
4. The departmental representative was asked to produce the following documents for perusal of the committee;

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ANNEXURE

- i. Name of Projects and its detail in which Mr. Sabir Ur Rehman, Mr. Muhammad Nazir and Mr. Ikram ud Din were initially recruited on contract basis.
 - ii. To provide details of projects in which these project employees were adjusted after expiry of the original project.
 - iii. Detail of those regular posts against which these project employees were adjusted after expiry of the original project.
 - iv. Provide Writ Petitions, Para-wise comments submitted by the Department and Court decisions in respect of Mr. Sabir ur Rehman, Mr. Muhammad Nazir and Mr. Ikram ud Din.
 - v. Officers responsible for preparing Para-wise comments and submission of Court order for examination of Scrutiny Committee for filing of CPLA in the Supreme Court of Pakistan.
 - vi. Fact finding Inquiry Reports conducted by the Department.
5. The representative of Environment Department submitted the following documents;
- i. Inquiry report regarding delay in filing of CPLA in Supreme Court of Pakistan in W.P.No. 2826-P/2019 Sabir ur Rehman vs ACS FATA and others **(Annexure-VIII)**.
 - ii. Inquiry report regarding delay in filing of CPLA in Supreme Court of Pakistan in C.P No. 634-P/2019 Muhammad Nazir vs Government of Khyber Pakhtunkhwa **(Annexure-IX)**.
 - iii. Writ Petition, para-wise comments and Court order in case of Mr. Muhammad Nazir **(Annexure-X)**.
 - iv. Writ Petition, para-wise comments and Court order in case of Mr. Sabir Ur Rehman **(Annexure-XI)**.
 - v. Writ Petition, para-wise comments and Court order in case of Mr. Ikramud Din **(Annexure-XII)**.
 - vi. Report/Detail Audit of Accounts, newly merged areas (NMDs) South Bannu **(Annexure-XIII)**.

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- vii. Summary report regarding appellants plea, officer responsible for preparation of comments, direction of court and remarks of the Department (**Annexure-XIV**).
- viii. Complete service history of Mr. Sabir ur Rehman, Mr. Muhammad Nazir and Mr. Ikramud Din (**Annexure-XV**).

A. REPLY OF MR. IFTIKHAR AHMAD DIRECTOR, NTFP KHYBER PAKHTUNKHWA

The accused officer in his written reply to the charges leveled against him in the Charge Sheet and Statement of Allegations stated that (**Annexure-V (a) ibid**);

- i. Secretary Forest had constituted an Inquiry Committee (Fact Finding) regarding inordinate delay in filing of CPLA in case of Mr. Sabir ur Rehman; the report is self-explanatory, which concluded that the inordinate delay had been done at the office of Assistant Director, NTFP Merged Areas.
- ii. In case of Mr. Muhammad Nazir Civil Petition the Director NTFP was not a party. Moreover, at that time AD NTFP, Merged Districts was bound to report to Conservator of Forest, Merged Areas instead of Director NTFP, Khyber Pakhtunkhwa.
- iii. No delay on part of Director NTFP, Khyber Pakhtunkhwa was found in the fact finding inquiry.

The Committee after perusal of the record framed a questionnaire, which was responded by the accused officer as follows(**Annexure-VII (a) ibid**);

#	Question	Reply
1	Whether it is a fact that, AD NTFP Merged Districts initially was reporting to conservator of Forests Merged Districts instead	Yes

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69

	of Director NTFP?	
2	When the Government directed AD NTFP Merged Districts to report to Director, NTFP?	On 01.08.2019
3	Whether after Merger was it not your responsibility to timely submit court case to quarter concern?	Yes
4	What steps did you take to expedite the litigation cases of the officials under reference?	Authorized AD Merged District to pursue all the court cases till its logical end. Applied for early hearing in case of Mr. Muhammad Nazir vs Govt. of Khyber Pakhtunkhwa.
5	When it came to your notice that the case was delayed by your office?	After meeting of Scrutiny Committee in Law Department.
6	What action took against the delinquent officers, in case of Mr. Muhammad Nazir?	A Fact Finding Inquiry was constituted to probe the matter and fix responsibility.
7	That the employees under reference concealed facts from the apex court, and whether you brought these fact in the notice of the court or superiors?	I have taken over the charge of Director NTFP in April, 2019. The judgment is not in record of this office as the AD NTFP Merged Areas had neither delivered the above judgment nor brought the same into the notice of the then Director NTFP, the same was came to my notice in case of Mr. Wali Khan, wherein the AD Merged Areas drafted in his Para-wise comments that Mr. Wali Khan already approached Peshawar

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	High Court once. The same fact was again came to my notice in another case in respect of Mr. Iftikhar Ali Shah.
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B. REPLY OF MR. ZAR GUL KHAN, DEPUTY DIRECTOR (BS-18) NTFP MALAKAND.

The accused officer in his written reply to the charges leveled against him in the Charge Sheet and Statement of Allegations stated that **(Annexure-V (b) ibid)**;

- i. He took over the charge of AD NTFP South Bannu on 14.05.2007, and none of the mentioned employees were recruited by him.
- ii. Mr. Sabir ur Rehman was adjusted in another scheme by Mr. Muhammad Tayyab AD NTFP now DD NTFP. Mr. Muhammad Nazir was adjusted by Mr. Syed Qasim Shah the then AD, by the accused officer (Mr. Zar Gul) and later on by Mr. Ahmad Mansoor the then AD now DD NTFP. Mr. Ikramud Din was adjusted by Mr. Nisar Muhammad the then AD NTFP and later on by Mr. Muhammad Tayyab AD NTFP.
- iii. Mr. Sabir ur Rehman was adjusted against regular post by Mr. Muhammad Tayyab AD NTFP. Mr. Muhammad Nazir was adjusted against regular post by Mr. Ahmad Mansoor the then AD now DD NTFP and Mr. Ikramud Din was adjusted against regular post by the accused (Mr. Zar Gul the then AD now DD NTFP).
- iv. Mr. Muhammad Nazir and Mr. Sabir ur Rehman had already filed Writ Petition for their regularization in PHC, Peshawar in 2013. The petition was dismissed by PHC and later on by the Supreme Court of Pakistan.
- v. The employees approached the court by filling fresh petitions for their regularization and concealed the facts from the court that their earlier plea for regularization on the same grounds was dismissed once by the Peshawar

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High Court and Supreme Court of Pakistan, which is available on the record in the office of AD Merged Areas and Director NTFP, Khyber Pakhtunkhwa. AD Merged Areas and Director NTFP may be asked to clear their position as to why the earlier judgments were concealed intentionally.

The Committee after perusal of the record framed a questionnaire, which was responded by the accused officer (**Annexure-VII (b) ibid**). The accused officer in his reply to the questionnaire reiterated his earlier defence regarding adjustment of project employees in another schemes after expiry of their original project for which they were recruited on contract basis. Furthermore, the accused officer further stated that he made such orders on the basis of previous precedent of his colleagues who adjusted these employees in another scheme before him. He could not quote the law, rules or authority that allowed such adjustment.

The accused officer also avoided answering question regarding adjustment of these project employees against regular posts without mentioning rules or authority which allows such appointment/transfer. The accused officer again referred to the precedents set by his colleagues who served before him and issued transferred/adjustment orders of such project employees.

C. REPLY OF MR. AHMAD MANSOOR, DEPUTY DIRECTOR, NTFP KHYBER PAKHTUNKHWA

The Environment Department framed charge Sheet and Statement of Allegation in respect of Mr. Ahmad Mansoor, Deputy Director, NTFP on the basis of two different Fact-Finding Inquiries having different scope. The Inquiry Committee examined the charges framed in the charge sheet and observed that;

- i. Charge No. i & ii need proper phrasing for precise framing of charges, as in present form these give merely an impression of an information of findings of an inquiry committee.

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- ii. The subject matter of the instant formal Inquiry against three accused namely; Mr. Iftikhar Ahmad, Director (BS-19) NTFP Directorate of Forest Department, Khyber Pakhtunkhwa, Mr. Zar Gul Khan, Deputy Director (BS-18) NTFP Malakand and Mr. Ahmad Mansoor, Deputy Director (BS-18) NTFP Head Office, Peshawar is regarding irregular adjustments/appointments of project employees, Connivance of NTFP staff for regularization of these employees by concealing facts from the court in para-wise comments and delay in processing court orders for filling of CPLA. While the charge no. i & ii are regarding financial embezzlement and illegal recruitment.
- iii. Furthermore, an Inquiry Committee cannot probe into two different subject rather at the same time. E&D Rules, 2011 provided 30 days for completion of an inquiry. Therefore, it is not possible for the instant Inquiry Committee to probe into two different subjects at the same time and fix responsibilities against delinquent officers/officials.

In view of the above, the Inquiry Committee therefore, did not examine the written statement and reply of the accused officer against charge no. i & ii. This Inquiry Committee restricted itself to the charges leveled against Mr. Ahmad Mansoor at serial no. iii to vii only, being the same subject matter for other two accused officers.

The accused officer in his written reply to the charges (iii to vii) leveled against him in the Charge Sheet and Statement of Allegations stated that **(Annexure-V (c) ibid)**;

- i. It is correct that Mr. Muhammad Nazir who was appointed as Assistant Sericulture Development Officer on contract basis had filed a W.P No. 1592-P 2019 in PHC for regularization of his services as Assistant NTFP Development Officer.

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- ii. This is a baseless allegation against me. I was not the only respondent in the W.P no. 1592-P 2019 but the following were also respondents.
- Additional Chief Secretary, Merged Areas, FATA Secretariat Peshawar.
 - AD NTFP Merged Areas Peshawar.
 - Conservator of Forests Merged Areas Peshawar.
- iii. To run the activities of NTFP in Tribal Districts, it is essential to have necessary staff. For this purpose SNEs are prepared on regular and need basis in all departments for different cadres and numbers. However, these posts are not person specific.
- iv. As is evident from record, the judgment of the Honorable PHC was received by me on 01.07.2019, from the office of Conservator Forests. The accused officer on 02.07.2019 wrote a letter to the Conservator Forest, however, on 03.07.2019 the conservator Forests replied to take up the case with SO Lit: FE&WD vide his letter No. 29/E. In light of the above, I approached SO (Litigation) for legal opinion vide office No 12/E dated 04.07.2019. The SO (Litigation) vide his letter No. SO Lit/E.D/2-669/2019/1836-41, dated 09.07.2019, asked for history of the case and supported documents for filing CPLA. In response the undersigned provided the relevant documents on 22.07.2019. It is evident from the record that there has been no delay on the part of the undersigned, as CPLA is required to be submitted within 60 days after receipt of the judgment.

The Committee after perusal of the record framed a questionnaire, which was responded by the accused officer as follows **(Annexure-VII (c) ibid)**;

#	Question	Reply
1	Is it true that one Mr. Muhamamd	Keeping in view the experience of Mr.

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<p>Nazir was adjusted by you in another project/scheme after completion /expiry of the project in which they were recruited vide order dated 23.12.2014 and 24.07.2015, provide the rules provisions under which you did the adjustment?</p>	<p>Muhammad Nazir, his services were retained till 2014 by my predecessor (Mr. Zar Gull Khan). To continue the activities of NTFP in N.W. Agency, the services of Mr. Muhammad Nazir were again retained for the project "Promotion of Apiculture Activities in S.W. Agency" on need basis by me, vide office order No. 4, dated 23.12.2014 in light of the directions on the matter received from the then conservator of Forests, FATA vide his letter No. 1409-13 dated 19.11.2014.</p> <p>The services of Mr. Muhammad Nazir were only transferred from S.W. Agency to the Project "Promotion of NTFP activities in N.W. Agency, purely for the purpose of pay and allowances and not adjustment, as is evident from the office order No. 07 dated 24.07.2015. The orders were made after due consultations and directions of the then Conservator Forests, FATA and were duly intimated to his office.</p>
<p>2 Is it true that Mr. Mohammad Nazir was adjusted by you against a regular post after completion/expiry of the project in which they were recruited? Provide</p>	<p>As replied to, in reply of Question 01, Mr. Mohammad Nazir was appointed in 2004. His services till 2014 were kept on need basis under reference project by my predecessor (Mr. Zar Gul Khan). In his</p>

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<p>the rules provision under which you did the adjustment?</p>	<p>regard it is added that Mr. Mohammad Nazir Assistant Development Officer had submitted an application by quoting rules and regulations for his adjustment against a post of ADO on current budget side which had fallen vacant due to the retirement of Mr. Abdul Aziz Khan, Assistant Development Officer, purely for the purpose of pay and allowances and not for regularization.</p> <p>It is further added that the accused officer is empowered under rule 4 (3). (b) (ii) of the APT Rules 1989 read with instruction contained in the notification issued by Government of Pakistan, Cabinet Secretariat, Establishment Division No. 19/30/1008-R-II, dated Islamabad 29th August 2008, Para 2 (A).</p>
<p>3 Is it true that employees Mr. Sabir-Ur-Rehman, Mr. Muhammad Nazir and Mr. Ikram-Ud-Din concealed the facts from the Apex Court i.e. their writ petitions on the same grounds were earlier dismissed by the High Court and Supreme Court of Pakistan? Whether you brought these facts in the notice of your superior or Court in writing?</p>	<p>The accused officer had no concern with the court case related to HQ office Peshawar and further, that the undersigned was then posted as AD NTFP South FATA in Bannu against a project post.</p>

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A. FINDINGS

The Inquiry Committee after examining in detail written statements, reply to the questionnaire, record provided by the representative of the Department, Writ Petitions filed by Mr. Sabir ur Rehman, Mr. Muhammad Nazir and Mr. Ikramud Din, and court orders regarding regularization of these employees, after hearing the accused officers in person, the Inquiry Committee finds that;

- i. In light of the service history provided by the Environment Department **Mr. Muhammad Nazir** was recruited in the project titled, "Building & Grafting of Wild Ber in FR Bannu" on 02.07.2004. He was adjusted/appointed in another project titled, "Introduction of NTFP Activities in NWA (previously known as Introduction of apiculture in NWA" from 01.06.2011 to 22.12.2014. He was again adjusted in another project titled, "Promotion of Apiculture Activities in SWA" from 23.12.2014 to 23.07.2015. Later on once again adjusted/appointed in project titled, "Promotion of NTFP Activities in NWA" from 24.07.2015 to 13.03.2016. He remained on a regular post of Assistant Development Officer (BS-11) from 14.03.2016 till 27.01.2020. The department concluded that the action of the authority did not fulfill the legal/codal formalities while making the above mentioned adjustments/appointments (**Annexure-XV ibid**).
- ii. **Mr. Ikram ud Din** was appointed in the project titled, "Introduction of Apiculture in Kurram Agency" on 02.07.2004. He was later on adjusted / appointed in another project titled, "Medicinal Plants Promotion in Kurram Agency" from 24.05.2008 to 02.02.2010. He was again adjusted/appointed in project, "Promotion of NTFP for NA-37 & NA-38" from 03.02.2010 to 26.06.2013. He was then adjusted against regular post from 27.06.2013 to 30.06.2014. For the period from 01.11.2014 to 30.06.2016, he was adjusted in

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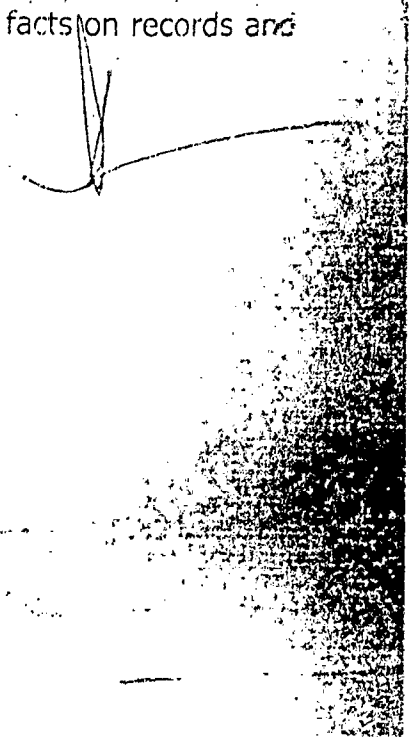
project titled, "Promotion of NTFP in NA-37 & NA-38". Presently, he is serving in a project titled, "Development of NTFP Activities in FATA" since 01.07.2016. The department concluded that the action of the authority did not fulfill the legal/codal formalities while making the above mentioned adjustments/appointments **(Annexure-XV ibid)**.

iii. **Mr. Sabir ur Rehman** was recruited in the project titled, "Introduction of Apiculture in Khyber Agency" on 02.07.2007 as Sericulture Development Officer (BS-11). He was later on adjusted in project titled, "Conservation/Development of NTFP in Khyber Agency" from 01.10.2007 to 28.02.2012. He was then adjusted against regular post of mechanic (BS-12) w.e.f 01.03.2012 and regularized as mechanic (BS-12) on court directions. The department concluded that the action of the authority did not fulfill the legal/codal formalities while making the above-mentioned adjustments/appointments orders **(Annexure-XV ibid)**.

iv. Mr. Muhammad Nazir and Mr. Sabir ur Rehman have filed Writ Petition in Peshawar High Court Peshawar, which was prejudicially dismissed by the court vide judgment dated 11.06.2014 **(Annexure-XVI)**. The orders of Peshawar High Court was agitated in the Supreme Court of Pakistan, the same was also rejected/dismissed by the apex court vide judgment dated 16.10.2014 **(Annexure-XVII)**. The official by concealing the fact from the court filed separate Writ Petitions no. 2826-P/2019 and 1592-P/2019 in Peshawar High, Peshawar by Mr. Sabir ur Rehman and Mr. Muhammad Nazir respectively. It is pertinent to note that the same fact was also concealed by the dealing officer in Directorate of NTFP, Khyber Pakhtunkhwa in order to facilitate these official to get regularized through court orders.

While limiting to the charges levelled against the accused vis-à-vis facts on records and pleas of the accused officers, the following findings are deduced:

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1. MR. IFTIKHAR AHMAD, DIRECTOR (BS-19) NTFP DIRECTORATE OF FOREST DEPARTMENT KHYBER PAKHTUNKHWA

The accused officer plea regarding preparing comments within the stipulated time is justified on the reason that the maximum time available for filing CPLA is 60 days. However, on receipt of the comments from concerned Assistant Director NTFP; the same was forwarded without noticing the remarks of the officer that;

"Therefore, no such grounds are available with the department to file CPLA against the instant judgment in the Supreme Court of Pakistan please" with "The Scrutiny Committee is hereby requested as whether the present case is fit for filing the CPLA otherwise"

The above reasons reveal the following points;

1. He was fully aware that the AD NTFP is helping Mr. Sabir-ur-Rehman under the table by delaying drafting appeal and preparing a weak case against him.
2. He failed to add any valid argument to the appeal to strengthen the comments of the department.
3. The substitution he made in the appeal is more to save himself and not for pleading the case.
4. In spite of the fact that he knew that delay and favoritism is done in the appeal, instead of personally pursuing the case for early hearing, he took it as a routine case probably due to influence of opponent party.

Hence the accused is guilty of committing inefficiency

2. MR. ZAR GUL KHAN, DEPUTY DIRECTOR (BS-18) NTFP MALAKAND

- i. The accused officer accepted that Mr. Sabir ur Rehman, Mr. Muhammad Nazir and Mr. Ikram ud Din were recruited on contract basis for period of one year however, Mr. Muhammad Nazir was adjusted in another scheme / project after

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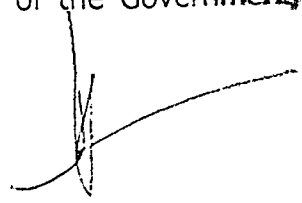
expiry of his original project for which his services were hired on 01.06.2011 by the accused officer, just because of the fact that his predecessors Dr. Syed Qasim Shah, Mr. Ahmad Mansoor, Mr. Nisar Muhammad and Mr. Muhammad Tayyab did the same before him.

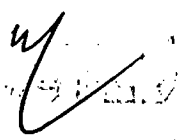
- ii. After completion of the project, all the contractual employees were required to be terminated, adjustment of these employees in another project is against the Project Policy, wherein it is clearly mentioned that all the project posts shall be advertised and recruitment will be made after due process.
- iii. The accused officer accepted that Mr. Ikramud Din was adjusted against budgeted/regular posts, because of the fact that Mr. Sabir ur Rehman, Mr. Muhammad Nazir and Mr. Ikramud Din were adjusted against budgeted/regular by his predecessor Mr. Muhammad Tayyab and Ahmad Mansoor before him.

Therefore, the accused officer committed Misconduct in case of Mr. Muhammad Nazir and Mr. Ikram-u-Din, who were project employees and were illegally adjusted / appointed against regular post in 2011 and 2013 respectively in utter violation of rules.

3. MR. AHMAD MANSOOR, DEPUTY DIRECTOR (BS-18) NTFP HEAD OFFICE, PESHAWAR

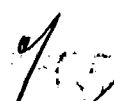
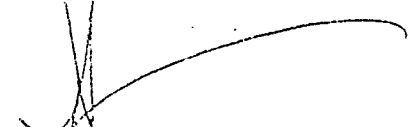
- i. The accused officer facilitated the petitioner in para-wise comments by stating that several SNEs have been moved to the competent authority for creation of certain posts for the purpose to regularize the services of the petitioner. This statement not only weaken the stance of the Government, but also caused loss to the Provincial Government.



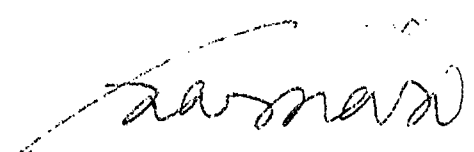
- ii. The accused officer is also responsible for concealment of facts from court that the petitioner's plea was once rejected by the Peshawar High Court Peshawar and Supreme Court of Pakistan on the same grounds.
- iii. It is evident that the accused officer submitted a weak case to higher ups, which remained in process between Assistant Director and Chief Conservator office for 42 days. Although, the Scrutiny Committee of Law Department declared the case fit for filing CPLA, but the Supreme Court of Pakistan dismissed the case with remarks to inquire the delay in filing of CPLA. As such an embarrassing situation was created for the Provincial Government. Therefore, vis-à-vis charges leveled the above, deductions are recapitulated as under;
 - i. Although mentioning of the SNEs in para "6" of the comments pertaining WP 1592-P/2019, was a deliberate attempt to support the petitioner.
 - ii. The remarks of the accused mentioned in the comments that, "*Therefore, no such grounds are available with the department to file CPLA against the instant judgment in the Supreme Court of Pakistan please*"
 - iii. However, submission of appeal to the Administrative Department one month before the expiry of the limitation period is not an inordinate delay, which may not be held as a sole cause of late submission of appeal in August Supreme Court of Pakistan which resulted dismissal of the case.
 - iv. The brief submitted for consideration of scrutiny committee without support of the relevant record. Furthermore, unnecessary correspondence within the department and NTFP directorate also lie on the part of dealing section / accused.

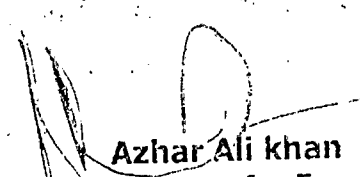
Hence the accused is guilty of misconduct




RECOMENNDATIONS;

1. The Environment Department may initiate separate Disciplinary case against the accused officer Mr. Mansoor Ahmad for the charges no. i & ii mentioned in the Charge Sheet & Statement of Allegation.
2. The Administrative Department may also initiate Disciplinary action against the officers who were responsible for making illegal appointments / adjustments of Mr. Sabir ur Rehman, Mr. Muhammad Nazir and Mr. Ikram ud Din in other projects and later on adjustment against regular / budgeted posts. The continuity of services/long tenure through these irregular orders of adjustment enabled them to claim regularization in court of law.
3. The Administrative Department to take measures for strengthening the litigation sections both at secretariat and directorate level, so that in future litigation cases may not be delayed and keep check on lower formation to avoid undue favor by them in para-wise comments either through mis-statements or concealing facts from the court.
4. Mr. Sabir ur Rehman, Mr. Muhammad Nazir and Mr. Ikramu Din who were regularized on court orders may also be proceeded under the relevant Disciplinary Rules for concealment of facts.


Zahir Shah
 Secretary Administration Department,
 Govt. of Khyber Pakhtunkhwa.


Azhar Ali Khan
 Conservator of Forest /
 Chief Conservator of Forest,
 Northern Forest Region-II
 Abbottabad.

ASSENTED


**MOST IMMEDIATE
THROUGH FAX**

M 82



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT**

No.SO(Estt)FE&WD/1-10 (8)/2009
Dated Peshawar the, 13th November, 2020

B file
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To ✓ The Chief Conservator of Forests,
CSFR-I, Peshawar.

Subject: **SHOW CAUSE NOTICES**

I am directed to refer to the subject noted above and to enclose herewith Show Cause Notices (**in duplicate**) duly signed by the Chief Minister, Khyber Pakhtunkhwa/competent authority, alongwith findings of the inquiry committee in respect of the following accused officers of NTFP Directorate of Forest Department, Khyber Pakhtunkhwa:-

#	Name of officers
1	Mr. Iftikhar Ahmad, Director NTFP (BS-19)
2	Mr. Ahmad Mansoor, Deputy Director NTFP (BS-18)
3	Mr. Zar Gul Khan, Deputy Director NTFP (BS-18)

In this regard, it is requested to deliver the show cause notices to the above officers and direct them to submit their replies thereon **within seven days**. Moreover, on receipt of their replies, the same alongwith your comments on annotated form may be furnished to this department **within stipulated period** for further necessary action, please.

Encl: as above

Zia-ur-Rahman
(ZIA-UR-RAHMAN)
SECTION OFFICER (ESTT)

Endst: No: & date even

Copy is forwarded for information to PS to Secretary, Forestry, Environment & Wildlife department, Khyber Pakhtunkhwa.



Estt (suplt \$300)
Seene.

CF I

[Signature]
19/11/2020

SECTION OFFICER (ESTT)

no. 1291
dt 19/11/2020

ATTACHED

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



Shami Road Peshawar
Ph: 091-9212177 Fax # 9211478
E-mail: ccfforests.peshawar@gmail.com

No. 2772-74 /E
To

Dated Peshawar the 20 /11/2020

1. **Mr. Iftikhar Ahmad**,
Director, Non-Timber Forest Products Peshawar
2. **Mr. Ahmad Mansoor**,
Deputy Director, Non-Timber Forest Products Peshawar.
3. **Mr. Zar Gul**,
Deputy Director, Non-Timber Forest Products Malakand

Subject: - SHOW CAUSE NOTICES.

Memo:-

Enclosed please find herewith show cause notices duly signed by the competent authority alongwith finding of the inquiry committee which are self-explanatory for further necessary action in your office.

You are therefore requested to furnish replies to the show cause notice within the limitation period most positively.




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

No. /E,

Copy forwarded to the Section Officer (Establishment) Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Peshawar for information with reference to his letter No.SO(Estt)FE&WD/1-10/(8)/2009, dated 13/11/2020.

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

Received on dt 23/11/2020
at 3:30 P.m.


23/11




84

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIORNMENT & WILDLIFE DEPARTMENT**

SHOW CAUSE NOTICE

I, Mahmood Khan, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, **Mr. Zar Gul Khan, Deputy Director NTFP (BS-18)**, NTFP Directorate of Forest Department, Khyber Pakhtunkhwa as follows:-

- (i) That consequent upon the completion of the inquiry conducted against you by the Inquiry Committee, for which you were given opportunity of hearing vide office communication No: SO (Estt)/FE&WD/1-10 (08)/2009/243-49, dated 13th May, 2020; **and**
- (ii) On going through the findings and recommendations of the Inquiry Committee, the material on record and other connected papers including your defence before the Inquiry Committee.

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

a) Misconduct

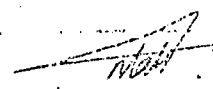
2. As a result thereof, I, as competent authority, have tentatively decided to

impose upon you the penalty of Reduction to lower pay grade for a period of two (02) years under Rule-4 of the said rules.


3. You are, therefore, 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 defence 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 Committee is enclosed.


(Mahmood Khan)
Chief Minister,
Khyber Pakhtunkhwa,
Competent Authority

ATTACHED

Office of the DIRECTOR Non-Timber Forest Products Khyber Pakhtunkhwa Peshawar		Khyber Pakhtunkhwa Forest Department E-mail: ntfp_2007@yahoo.com directorofntfp@gmail.com
No. <u>598</u> D-NTFP	Dated Khyber Pakhtunkhwa	<u>26</u> /11/2020.

To


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

Subject: REPLY TO THE SHOW CAUSE NOTICE.

Reference: Your office letter No. 2772-74, dated: 20-11-2020.

Enclosed please find herewith the reply to the show cause notice issued vide your office letter No. referred above, in respect of undersigned, for information and further necessary action in your office, please.


Encl: As above.


Deputy Director
Non Timber Forest Products
Malakand Forest Region
Swat


No. 599 DD-NTFP/Swat

Dated: 26 11 / 2020.

Copy forwarded for information to the Director Non Timber Forest Products, Khyber Pakhtunkhwa Peshawar, please.


Deputy Director
Non Timber Forest Products
Malakand Forest Region
Swat

*Forwarded
one
27/11/20*



STATEMENT / REPLY TO THE SHOW CAUSE NOTICE

86

Sir,

Read with enquiry report:

1. As per available record produced earlier, before the enquiry committee, I have never admitted the charge of recruitment / adjustment of Mr. Muhammad Nazir and Mr. Ikram Ud Din. (Annex-I).
 - i. As per order / notification issued by the Administrative Department, (Annex-II & III) neither Mr. Muhammad Tayyab and Mr. Ahmad Mansoor remained my predecessors, but successors, nor it is the issue as already endorsed by the Peshawar High Court, Peshawar and Supreme Court of Pakistan, Islamabad in the instant case. (Detail in Para-4 & 5 below).

Read with joint charge sheet / statement of allegation of all the Three (3) accused:

2. The specific and main significant issue highlighted as allegation vide punitive Para-iv, in all the accused officer's charge sheet(s) is the Writ Petition of the aforementioned officials filed by them in Peshawar High Court Peshawar, for regularization of their Project Services in the year 2019, which decided in favor of the petitioners due to weak defense / negligence and concealment of facts of the earlier Judgment of Peshawar High Court, Peshawar dated: 11-06-2014, and subsequent Judgment of Supreme Court of Pakistan, Islamabad dated: 16-10-2014 of the said issue.

The entire matrix of irregularities / illegalities and negligence is committed by the Respondent Department within the period onward 2014-2019, in which the role of undersigned is zero.

3. Priorly, in 2013, during my stay in FATA as Assistant Director NTFP, the aforementioned petitioners had earlier approached to Peshawar High Court, Peshawar for regularization of their services vide writ petition No. 2050-P/2013. Comments for respondent department were drafted by the undersigned on 08-11-2013 and personally pursued the same, vetted the Para-wise comments from Advocate General Peshawar, got signature of Director NTFP, Khyber Pakhtunkhwa, Worthy Secretary Environment, Additional Chief Secretary, FATA and Honorable Chief Secretary Khyber Pakhtunkhwa vide No. 4801, dated: 12-11-2013 within a least record time of three days and submitted before the court as a written defense for respondent department on the same day, then I relinquished the charge from FATA to Provincial side on dated: 14-11-2013, certified / attested copies of record note and comments, duly signed is attached as (Annex-IV).

Whether such like vigilance in the best interest of Government, as observed by the undersigned during 2013, in the instant case was not possible for respondent departments in 2019?

4. Considered the above comments, the court dismissed their Writ Petition vide detailed judgment, dated: 11-06-2014 as a verdict which is reproduced as such:

"In this view of the matter, once the petitioners accepted the terms and conditions of their contractual employment including others, then under the law they cannot ask for regularization of their such status. No discriminatory treatment or violation of law is pointed out by learned counsel representing the petitioners, which can be enforced through issuance of an appropriate writ.

For the aforementioned reasons, this petition has no legal substance, which is hereby dismissed" (Annex-V)

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87

5. Subsequently, the same Judgment of Peshawar High Court, Peshawar being up-held by the Supreme Court of Pakistan vide Judgment in Civil Petition No.1661 of 2014, dated:16-10-2014, which is narrated as under:

“As the impugned judgment does not suffer from any illegality, jurisdictional defect or serious legal infirmity to justify interference by this court, hence, this petition is found devoid of all legal merits.

Accordingly, the petition is dismissed and leave to appeal is refused.”(Annex-VI).

6. In light of the aforementioned verdicts of the various courts, respondent department were required to take remedial measures in its letter and spirit of the Judgment. Despitely, Mr. Muhammad Nazir was adjusted by Mr. Ahmad Mansoor (My successor not predecessor) vide office order No. 04, dated: 23-12-2014, office order No. 07, dated: 24-07-2015 and then adjusted him against a regular post vide office order No. 20, dated: 14-03-2016. The official is still working on that post in the Department (Annex-VII, VIII and IX).
7. Similarly Mr. Ikram Ud Din adjustment order was held in abeyance, by Mr. Muhammad Tayyab (My successor, not predecessor) vide his office letter No. 107/E, dated: 24-07-2014 and again adjusted him vide office order No. 25, dated: 01-07-2016. He is still working on that post in the Department (Annex-X & XI)
8. The incidence as explained in Para 6 & 7 above provided them (Petitioners) a base for filing Writ Petition afresh, in the Peshawar High Court Peshawar for regularization of their project contract services against the posts of Assistant NTFP Development Officer (BPS-11) in 2019, and the court by considering the above, decided the cases in favor of the petitioners vide judgments dated: 30th May, 2019 and 16th October, 2019. **Is this creating a space for any role of the undersigned?**

Explanation:

- i. As per procedural law of the court, question of law once decided by the court, shall not be re-agitated in any court afresh. The petitioners have concealed the facts from the apex court, though they are crystal barred by law.
- ii. The respondent department was bound mandatory to mention clearly in their Para-wise comments, the earlier judgment, dated: 11-06-2014, in writ petition No. 2050-P/2013, passed by Peshawar High Court, Peshawar and subsequently by Supreme Court of Pakistan vide judgment in CP No. 1661 of 2014, dated: 16-10-2014, but negligently respondent department failed to do so, thereby gripped the case loosely. The same cause has already been mentioned in the charge sheets issued to the respondent department's actual representatives, i.e. Mr. Ifikhar Ahmad, Director NTFP and Mr. Ahmad Mansoor Deputy Director NTFP, Merged Areas as well.

Pray:

Neither material loss to the Government, nor any embarrassed situation accrued to the department functionaries / elders / dignitaries, which loosened the sanctity of the official business on my part. It is therefore, humbly prayed to exonerate the undersigned from the charges leveled against me in the charge sheet, as the real accused of the subject issue have already been included in the disciplinary proceedings jointly.

I may also be given a chance for hearing in person, as per prevision under Rule-15 of the E&D Rules-2011, please.

Mr. Zar Gul Khan
Deputy Director
Non Timber Forest Products
Malakand Forest Region, Swat





GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Pesh: 26th April, 2021

07-10

88

NOTIFICATION

o.SO(Estt)FE&WD/I-10(08)/2009: WHEREAS, Mr. Zar Gul, Deputy Director (BS-18), TFP Directorate of Khyber Pakhtunkhwa Forest Department was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the charges as mentioned in the Charge Sheet and Statement of Allegations, served upon him;

AND WHEREAS, an Enquiry Committee comprising Mr. Zahir Shah (AS BS-20), Secretary Administration Department, Government of Khyber Pakhtunkhwa (convener) and Mr. Azhar Ali Khan, Chief Conservator of Forests Region-II Abbottabad, Forest Department, Khyber Pakhtunkhwa (member) was constituted to conduct the inquiry against the above accused officer;

AND WHEREAS, the Enquiry Committee, after having examined the charges, evidence on record and explanation of the accused officer, submitted its report; wherein the charges against the accused officer being of serious nature have been established beyond reasonable doubt;

AND WHEREAS, the Competent Authority, after considering the Inquiry Report and other related documents, of the case, served a Show Cause Notice upon the accused officer to which he replied, and provided him opportunity of personal hearing;

NOW, THEREFORE, the Competent Authority, after having considered the charges, evidence on record, findings of the Enquiry Committee, the explanation of the accused officer, hearing him in person and exercising his powers under Rule-14(5)(ii) read with Rule 4(1)(a) (ii) of the ibid rules, has been pleased to impose minor penalties of "**Stoppage of three increments without cumulative effect**" upon Mr. Zar Gul, Deputy Director (BS-18), NTFP Directorate of Khyber Pakhtunkhwa Forest Department, Khyber Pakhtunkhwa.

**CHIEF MINISTER,
KHYBER PAKHTUNKHWA**

Endst: No. SO (Estt)FEPWD/1-10(08)2009:

Dated Peshawar the, 26th April, 2021

Copy is forwarded to:-

- 1) Chief Conservator of Forests Region-I, Peshawar.
- 2) Conservator of Forests, Southern Circle, Peshawar.
- 3) Director NTFP Directorate of Forest Department.
- 4) Director, Budget and Accounts Cell, FE&W department.
- 5) PS to Chief Minister, Khyber Pakhtunkhwa.
- 6) PS to Chief Secretary, Khyber Pakhtunkhwa.
- 7) PS to Secretary, FE&W Department, Khyber Pakhtunkhwa.
- 8) Officers concerned **C/o CCF-I, Peshawar.**
- 9) Master file.
- 10) Office order file.


(ZIA-UR-RAHMAN)
SECTION OFFICER (ESTT)

Signature/Initials

Handwritten mark



GOVERNMENT OF KHYBER PAKHTUNKHWA **Annex-i**
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar the, 26th April, 2021

NOTIFICATION

No: SO(Estt)FE&WD/1-10(08)2009:- WHEREAS, the following officers of NTFP Directorate of Khyber Pakhtunkhwa Forest Department were proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the charges as mentioned in the respective charge sheets and statement of allegations, served upon them:

- (i) Mr. Iftikhar Ahmad, Director NTFP (BS-19)
- (ii) Mr. Ahmad Mansoor, Deputy Director NTFP (BS-18)

2. **AND WHEREAS**, an inquiry committee comprising Mr. Zahir Shah (PAS BS-20), Secretary Administration Department, Government of Khyber Pakhtunkhwa (convener) and Mr. Azhar Ali Khan, Chief Conservator of Forests Region-II Abbottabad, Forest Department, Khyber Pakhtunkhwa (member) was constituted to conduct inquiry against the above officers.

3. **AND WHEREAS**, the Enquiry Committee, after having examined the charges, evidence on record and explanation of the accused officers, submitted its report, wherein the charges were established against them.

4. **AND WHEREAS**, the competent authority subsequent to considering the contents of the inquiry report, served show cause notice upon the above accused officers to which they replied and provided them the opportunity of personal hearing.

5. **NOW, THEREFORE**, the Competent Authority, after having considered the charges, evidence on record, findings of the Enquiry Committee, the explanation of the accused officers and exercising his powers under Rule-4(1)(a) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 read with Rule-14(5)(i) of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 has been pleased to **Exonerate** Mr. Iftikhar Ahmad, Director NTFP (BS-19) and Mr. Ahmad Mansoor, Deputy Director NTFP (BS-18), Directorate of Khyber Pakhtunkhwa Forest Department from the charges levelled against them in the respective statement of allegations, with immediate effect..

**CHIEF MINISTER,
KHYBER PAKHTUNKHWA**


Endst: No. SO (Estt)FEPWD/1-10(08)2009:

Dated Peshawar the, 26th April, 2021

Copy is forwarded to:-

- 1) Chief Conservator of Forests Region-I, Peshawar.
- 2) Conservator of Forests, Southern Circle, Peshawar.
- 3) Director NTFP Directorate of Forest Department.
- 4) Director, Budget and Accounts Cell, FE&W department.
- 5) PS to Chief Minister, Khyber Pakhtunkhwa.
- 6) PS to Chief Secretary, Khyber Pakhtunkhwa.
- 7) PS to Secretary, FE&W Department, Khyber Pakhtunkhwa.
- 8) Officers concerned C/o CCF-I, Peshawar.
- 9) Master file.
- 10) Office order file.

(ZIA-UR-RAHMAN)
SECTION OFFICER (ESTT)

Office of the DPEUTY DIRECTOR Non-Timber Forest Products Malakand at Swat		Khyber Pakhtunkhwa Forest Department E-mail: ntfp_2007@yahoo.com
No. <u>668</u> DD-NTFP/P&D	Dated Swat the	<u>04</u> /05/2021.

To

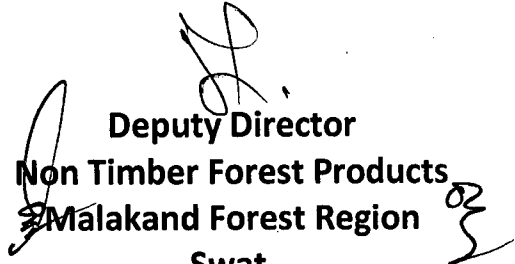
The Director,
Non Timber Forest Products,
Khyber Pakhtunkhwa,
Peshawar.


Subject: **REVIEW PETITION / APPEAL AGAINST THE IMPUGNED NOTIFICATION NO. SO (ESTT) / FE & WD / 1-10 (08) / 2009, DATED: 26th APRIL, 2021, REGARDING PUNISHMENT OF STOPPAGE OF 3 INCREMENTS WITHOUT COMMULATIVE EFFECT (ANNEX-I).**

Reference : Notification No. SO(Estt)/FE & WD/1-10 (08) / 2009, dated: 26-04-2021.

Enclosed please find herewith the review petition / appeal of undersigned against the subject notification is sent herewith for onward submission to the quarter concerned, please.

Encl: As Above


Deputy Director
Non Timber Forest Products
Malakand Forest Region
Swat.



Before the Honorable Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

Subject: REVIEW PETITION / APPEAL AGAINST THE IMPUGNED NOTIFICATION NO. SO (ESTT) / FE & WD / 1-10 (08) / 2009, DATED: 26th APRIL, 2021, REGARDING PUNISHMENT OF STOPPAGE OF 3 INCREMENTS WITHOUT COMMULATIVE EFFECT (ANNEX-I).

Respectfully Sheweth:

I have the honor to submit the following for favour of your kind and sympathetic consideration please:-

Read with findings of the joint enquiry report (Annex-II):

1. That, I had left FATA / Merged Area on dated: 11-11-2013, vide Administrative Department notification No. SO-II / P & LDD / FS / Forests / 4-1 / 2013 / 5364-77, Mr. Muhammad Tayyab and Mr. Ahmad Mansoor were my successor, not predecessors, as mentioned in the joint enquiry report. (Annex-III & IV).
 - i. As per available record produced earlier, before the enquiry committee, I have never admitted the charge of recruitment / adjustment of Mr. Muhammad Nazir and Mr. Ikram Ud Din at serial No. 3 and 6 of their office order dated: 02-07-2004 (Annex-V). Neither it is the actual issue as the adjustment of the project employee of FATA has already been approved by the Governor Khyber Pakhtunkhwa being competent authority vide detail summary in Para-3, sub Para-iv, issued on dated: 28-05-2013 (Annex-VI).

Read with joint charge sheet of all the Three (3) accused (Annex-VII):

2. The specific and main significant issue highlighted in the charge sheet, of the all Three (3) accused officer's is the Writ Petition of the aforementioned officials filed by them in Peshawar High Court Peshawar, for regularization of their Project Services in the year 2019, which decided by the court in favor of the petitioners.
3. It is worth mention that priorly, in 2013, during my stay in FATA as Assistant Director NTFP, the aforementioned petitioners had earlier approached to Peshawar High Court, Peshawar for regularization of their services vide writ petition No. 2050-P/2013.

Para wise comments for respondent department were drafted by the undersigned on 08-11-2013, personally pursued, vetted the comments from Advocate General Peshawar, got signature of respondents including Secretary Environment,



Additional Chief Secretary, FATA and Honorable Chief Secretary Khyber Pakhtunkhwa vide No. 4801, dated: 12-11-2013 within a least record time of three days and submitted before the court as a written defense for respondent department on the same day, then I relinquished the charge from FATA to Provincial Government on dated: 14-11-2013. (Certified / attested copies of record note and comments, duly signed are attached as (Annex-VIII). 92

4. Considered the above comments, the court dismissed their Writ Petition vide detailed judgment, dated: 11-06-2014 as a verdict which is reproduced as such:

“In this view of the matter, once the petitioners accepted the terms and conditions of their contractual employment including others, then under the law they cannot ask for regularization of their such status. No discriminatory treatment or violation of law is pointed out by learned counsel representing the petitioners, which can be enforced through issuance of an appropriate writ.

For the aforementioned reasons, this petition has no legal substance, which is hereby dismissed” (Annex-IX)

5. Subsequently, the same Judgment of Peshawar High Court, Peshawar being up-held by the Supreme Court of Pakistan vide Judgment in Civil Petition No.1661 of 2014, dated: 16-10-2014, which is stated as under:

“As the impugned judgment does not suffer from any illegality, jurisdictional defect or serious legal infirmity to justify interference by this court, hence, this petition is found devoid of all legal merits.

Accordingly, the petition is dismissed and leave to appeal is refused.”(Annex-X).

6. In light of the aforementioned verdicts of the various courts, respondent department were required to take remedial measures in its letter and spirit of the Judgment. Despitely, Mr. Muhammad Nazir was adjusted by Mr. Ahmad Mansoor being accused (My successor not predecessor) vide office order No. 04, dated: 23-12-2014, office order No. 07, dated: 24-07-2015, subsequently adjusted him against a regular post vide office order No. 20, dated: 14-03-2016. Furthermore, the official is still working on that post in the Department (Annex-XI, XII & XIII).

7. Similarly Mr. Ikram Ud Din adjustment order was issued, by Mr. Muhammad Tayyab (My successor, not predecessor) vide his office letter No. 107/E, dated:

24-07-2014 and again adjusted him vide office order No. 25, dated: 01-07-2016, the official is still working on that post in the Department. (Annex-XIV & XV).

93

8. Moreover, it is also added that the appellant / petitioner have served the department for last 35 years to the entire satisfaction of my superiors and shall be retired on 31-01-2023, whereas the period of punishment of stoppage of 3 increments in the aforementioned notification is up to 26-04-2024, which is beyond the date of superannuation of the undersigned.

The Civil Servants Efficiency & Disciplinary rules 2020, issued on December 11th of 2020, vide section-4, sub section-2(b), are crystal clear, which also support and favor the stance and plea of the undersigned, which is reproduced as below;


(b) With holding of increment or increments for a specific period, subject to a maximum of three years without cumulative effect.

Provided that the penalty of withholding of increment shall not be imposed upon a civil servant who has reached the maximum of his pay scale or will superannuate within the period of penalty; (Annex-XVI)

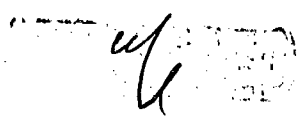
Pray:

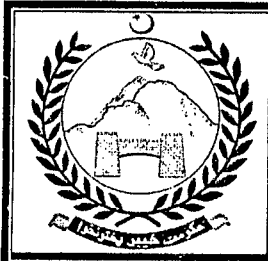
Neither material loss to the Government, nor any embarrassed situation accrued to the departmental functionaries, which loosened the sanctity of the official business on my part.

Keeping in view, my 35 years long services in the Department, it is therefore, humbly prayed to set aside the impugned notification and exonerate from the punishment imposed upon the undersigned, like others, in the join proceedings, please.

 04/05/2021

Appellant / Petitioner
Mr. Zar Gul Khan
Deputy Director
Non Timber Forest Products
Malakand Forest Region, Swat





GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

NO.SO(Estt)/FE&WD/1-10 (08)/PF
Dated Peshawar the, 28th June, 2021 14637

To

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

Subject:

**REVIEW PETITION/APEAL AGAINST THE IMPUGNED
NOTIFICATION DATED 26TH APRIL, 2021 REGARDING
PUNISHMENT OF STOPPAGE OF THREE INCREMENTS WITHOUT
CUMULATIVE EFFECT**

I am directed to refer to your letter No: 6020/E, dated 4th June, 2021 on the subject captioned above and to state that comments on the points raised in the Review Petition/Appeal by Mr. Zar Gul, Deputy Director NTFP may be shared with this department as required under Rule-17 (2) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, **within a week time** positively for further necessary action, please.

Zar Gul
SECTION OFFICER (ESTT)


Endst: No: & date even

Copy is forwarded for information to PS to Secretary, Forestry, Environment & Wildlife department, Khyber Pakhtunkhwa.

Zar Gul
SECTION OFFICER (ESTT)

Zar Gul

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<p>Office of the DIRECTOR Non-Timber Forest Products Khyber Pakhtunkhwa Peshawar</p>		<p>Khyber Pakhtunkhwa Forest Department Shami Road, Peshawar Ph: 091-9211480 Fax: 091-9213227 E-mail: ntfp_2007@yahoo.com directoratentfp@gmail.com</p>
<p>No. <u>1792</u> Dir-NTFP/ Khyber Pakhtunkhwa /, Dated Peshawar the <u>06</u> /05/2021</p>		

To

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

Subject: **REVIEW PETITION / APPEAL AGAINST THE IMPUGNED NOTIFICATION NO. SO (ESTT) / FE & WD / 1-10 (08) / 2009, DATED: 26th APRIL, 2021, REGARDING PUNISHMENT OF STOPPAGE OF 3 INCREMENTS WITHOUT COMMULATIVE EFFECT (ANNEX-I).**

Reference: Notification No. SO (Estt)/FE & WD/1-10 (08) / 2009, dated: 26-04-2021.

Enclosed please find herewith a review petition / appeal in original, in respect of Mr. Zar Gul Khan, Deputy Director, Non Timber Forest Products, Malakand Forest Region, Swat for information and onward submission to the quarter concerned.

It is added that as per statement of the petitioner, his period of services in FATA / Merged districts is up to 14-11-2013. During his stay in FATA, the officials had already filed a writ petition for regularization of their project services in Peshawar High Court, Peshawar in 2013, which was dismissed.

Subsequently, the appeal of the aforementioned officials had also been rejected by the Supreme Court of Pakistan at the apex level.

In 2019, they had again agitated the same issue in Peshawar High Court, Peshawar, which decided in favour of the officials, in which there is no role of the petitioner / appellant.


Moreover, as per Para-8 of the review petition, the appellant had 35 years long services in the Department. The rules he quoted also favours the petitioner.

In view of the above it is therefore, requested to decide the review petition on merit, please.

Encl: As Above.

[Handwritten signature]

[Handwritten signature]
Director
Non-Timber Forest Products
Khyber Pakhtunkhwa
Peshawar
[Handwritten initials]

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. 418 /E	Dated Peshawar the 09 / 08 /2021	

To **E. File**

The Section Officer (Establishment)
Government of Khyber Pakhtunkhwa
Forestry, Environment & Wildlife Department
Peshawar

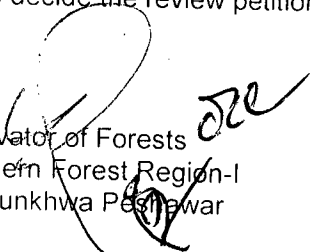
Subject: - REVIEW PETITION/APPEAL AGAINST THE IMPUGNED NOTIFICATION DATED 26TH APRIL, 2021 REGARDING PUNISHMENT OF STOPPAGE OF THREE INCREMENTS WITHOUT CUMULATIVE EFFECT.

Memo:- Reference your letter No. SO(Estt)/FE&WD/1-10(08)/PF/4437, dated 28/06/2021.

As desired the requisite comments are furnished as under:-

- i. The period of service of the petitioner in FATA/Merged districts is upto 14/11/2013 and during his stay in FATA, the Officials had already filed a Writ Petition for regularization of their project services in Peshawar High Court during the year 2013 which was dismissed. Subsequently, the appeal of the aforementioned officials had also been rejected by the Supreme Court of Pakistan at the apex level.
- ii. During the year 2019, they had again agitated the same issue in Peshawar High Court which was decided in favor of the Officials, in which there is no role of the petitioner/appellant, as he was transferred from FATA/Merged Areas to Provincial side on 11/11/2013

Since the appellant had 35 years long service in the department and the Rules quoted by him in para (8) of his petition also favors the petitioner, therefore in view of the above, it is therefore requested to decide the review petition on merit please.


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


RECEIVED



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

NO.SO(Estt)/FE&WD/I-10 (08)/2009
Dated Peshawar the, 7th October, 2021

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To

Mr. Zar Gul,
Deputy Director NTFP,
Malakand Forest Region-III, Swat.

C/o

CCF CSFR-I, Peshawar.

Subject: - REVIEW PETITION/APEAL AGAINST THE NOTIFICATION
NO.SO(ESTT)/FE&WD/1-10(08)/2009 DATED 26.4.2021
REGARDING PUNISHMENT OF STOPPAGE OF THREE
INCREMENTS WITHOUT ACCUMULATIVE EFFECT.

I am directed to refer to the subject captioned above and to state that your subject Review Petition /Appeal dated 4th May, 2021 has been considered and rejected by the Appellate Authority (Chief Minister) under Rule-17 (2) (a) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.


SECTION OFFICER (ESTT)

Endst: No: & date even

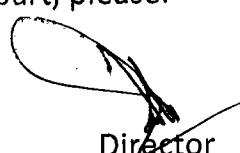
Copy is forwarded for information to:-

1. Chief Conservator of Forests, Central Southern Forest Region-I, Peshawar.
2. Director, NTFP Directorate of Forest Department.
3. Director, B&A Cell FE&W Department.
4. PS to Secretary, FE&W Department, Khyber Pakhtunkhwa.


SECTION OFFICER (ESTT)

Endst: No. 507 Dir-NTFP / ESTT: Dated: 14/10/2021

Copy of the above is forwarded to Deputy Director NTFP Malakand Forest Region, at Swat for information and further necessary action at your part, please.


Director
Non-Timber Forrest Products
Khyber Pakhtunkhwa
Peshawar



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REGISTERED No. M - 302
L.-7646

The Gazette  **of Pakistan**

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, FRIDAY, DECEMBER 11, 2020

PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN
CABINET SECRETARIAT
(Establishment Division)

NOTIFICATION

Islamabad, the 11th December, 2020

S. R. O. 1331(I)/2020.—In exercise of the powers conferred by sub-section (1) of section 25(1) of the Civil Servants Act, 1973 (LXXI of 1973), read with Notification No. S.R.O. No. 120(I)/1998, dated the 27th day of February 1998, the Prime Minister is pleased to make the following rules, namely:—

1. **Short title, commencement and application.**—(1) These rules shall be called the Civil Servants (Efficiency and Discipline) Rules, 2020.

(2) These shall come into force at once and shall apply to every Civil Servant.

2. **Definitions.**—(1) In these rules, unless there is anything repugnant in the subject or context requires otherwise,—

(2791)

Price: Rs. 20.00

[6503(2020)/Ex. Gaz.]





- (a) "Act" means Civil Servants Act, 1973 (Act No. LXXI of 1973);
- (b) "accused" means a civil servant against whom action is initiated under these rules;
- (c) "authority" means the appointing authority as prescribed in rule 6 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973:

Provided that where proceedings under these rules are to be initiated against two or more civil servants jointly, the authority in relation to senior most civil servant in rank shall be the authority in respect of all the accused:

Provided further that in all such cases where the President or the Prime Minister is the authority, all functions of the authority under these rules, except approval of initiating the disciplinary proceedings, appointment of a hearing officer and final decision on the report of inquiry officer or the inquiry committee, shall be performed by the respective cadre administrator.

- (d) "appellate authority" means the appellate authority as defined in the Civil Servants (Appeal) Rules, 1977;
- (e) "charges" means allegations framed against the accused relating to the acts of omission or commission cognizable under these rules;
- (f) "Government" means the Federal Government, Provincial Governments, Government of Azad Jammu and Kashmir or Government of Gilgit-Baltistan, as the case may be.
- (g) "hearing officer" means an officer, as far as possible senior in rank to the accused, appointed by the authority to afford an opportunity of personal hearing to the accused on behalf of the authority concerned;
- (h) "inefficiency" in relation to the discharge of duties of a civil servant means the failure to efficiently perform functions assigned to him;
- (i) "inquiry committee" means a committee consisting of two or more officers, headed by a convener, as may be appointed by the authority to inquire into charges of the accused under these rules;
- (j) "inquiry officer" means an officer appointed by the authority to inquire into charges of the accused under these rules;

(k) "misconduct" means conduct prejudicial to good order or service discipline or contrary to Government Servants (Conduct) Rules, 1964 or unbecoming of an officer and, a gentlemen and includes any act on the part of a civil servant to assert or attempt to assert political or other exterior influence directly or indirectly to bear on the Government or any Government officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a civil servant, or having entered into plea bargain under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices, voluntarily;

(l) "penalty" means a penalty as prescribed under these rules.

(2) Words and expressions used but not defined herein shall have the same meanings as are assigned thereto in the Civil Servants Act, 1973 (LXXI of 1973) and rules made thereunder or any other legal instrument, statutory order for the time being in force.

3. **Grounds for proceedings and penalty.**—A civil servant shall be liable to be proceeded under these rules by the authority, if he is—

(a) considered or reported to be inefficient or has ceased to be efficient;
or

(b) considered or reported to be guilty of misconduct; or

(c) considered or reported to be corrupt because—

(i) he or any of his dependents or any other person through him or on his behalf is in possession (for which he cannot reasonably account) of pecuniary resources or of property disproportionate to his known sources of income; or

(ii) he has assumed a style of living beyond his ostensible means;

(d) engaged, or is reasonably suspected of being engaged, in subversive activities or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any un-authorized person.

4. **Penalties.**—(1) The authority may, by an order, in writing showing reasons, impose one or more of the penalties, in accordance with these rules.

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(2) The following shall be various minor penalties, namely:—

- (a) censure;
- (b) withholding of increment or increments for a specific period, subject to a maximum of three years without cumulative effect:

Provided that the penalty of withholding of increment shall not be imposed upon a civil servant who has reached the maximum of his pay scale or will superannuate within the period of penalty;

- (c) reduction to a lower stage or stages, in pay scale, for a specific period, subject to a maximum of three stages without cumulative effect; and
- (d) withholding of promotion for a specific period, subject to a maximum of three years, otherwise than for unfitness for promotion in accordance with the rules or orders pertaining to the service or post:

Provided that this period shall be counted from the date when a person junior to the accused is considered for promotion on regular basis for the first time:

Provided further that penalty under this clause shall not be imposed upon a civil servant who has no further prospects of promotion or will superannuate during the period of the said penalty.

(3) The following shall be various major penalties, namely:—

- (a) recovery of embezzled money from civil servants convicted of embezzlement, recovery as provided under financial rules, from pay or any other amount payable to the accused, the whole or a part of any pecuniary loss caused to the Government or the organization in which he was employed or posted. If the amount due from any such civil servant cannot be wholly recovered from the pay or any other amount payable to him, such amount shall be recovered under the law for the time being in force;
- (b) reduction to a lower post and pay scale from the substantive or regular post, for a specific period, subject to a maximum of three years:

Provided that this penalty shall not be imposed upon the accused who is likely to be superannuated within the period of the penalty;

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- (c) compulsory retirement;
- (d) removal from service; and
- (e) dismissal from service

(4) The penalty of removal from service shall not but dismissal from service, under these rules, shall disqualify the civil servant for future employment of any kind under the Government.

(5) Subject to any restraining orders, passed by any court of competent jurisdiction, any proceedings under these rules shall not be discontinued merely on the grounds of the matter being sub-judice:

Provided that where the holding of departmental inquiry during judicial custody is not possible or side by side with the criminal proceedings may have the effect of impeding the course of justice or of prejudicing the trial, the inquiry may be deferred by the authority till release on bail or termination of criminal proceedings as the case may be.

5. **Suspension and leave.**—(1) The authority may place any civil servant under suspension or send him on leave, against whom proceedings are proposed to be initiated for an initial period not exceeding one hundred and twenty days at one time extendable in writing, by the authority for such period as it may deem appropriate or till conclusion of the proceedings, if in the opinion of the authority, suspension or sending civil servant on leave is necessary or expedient. If the period of suspension is not extended before the expiry of initial period of suspension, the suspension of such civil servant shall cease to have effect:

Provided that a civil servant who has been charged for a criminal offence and is committed to prison shall be considered as under suspension from the date of his arrest without the formal approval of Authority. In case such a civil servant is not arrested or is released on bail the Authority may suspend him by specific order.

(2) During suspension period the civil servant shall be entitled to his pay, allowance and other benefits in accordance with Fundamental Rule-53.

(3) If a civil servant is sent on leave in pursuance of an order under sub rule(1), such period shall be treated as on duty.

(4) In case a civil servant is absent from official duty during the proceedings, such period shall be treated as extra ordinary leave without pay.

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6. **Initiation of proceedings.**—Proceedings against the civil servant, in case where the authority decides that it is not necessary to hold an inquiry, shall be initiated from the date the accused is informed by an order in writing of the grounds of proceedings against him and where the authority decides to hold an inquiry against the accused, from the date of such order.

7. **Procedure where inquiry is dispensed with.**—If the authority decides that it is not necessary to hold an inquiry against the accused, it shall

- (a) inform the accused, by an order in writing, of the grounds for proceedings against him, clearly specifying the charges therein, along with apportionment of responsibility and penalty or penalties proposed to be imposed upon him;
- (b) give him a reasonable opportunity of showing cause against the proposed action, which should not be less than ten days and more than fourteen days, from the receipt of the order or within such extended period, as the authority may allow;
- (c) on receipt of reply of the accused, within the stipulated period or after the expiry thereof, if no reply is received, on the basis of available record or facts of the case, as the case may be, determine whether the charge or charges have been proved against the accused or not:

Provided that after receipt of reply to the show cause notice from the accused or in case where no reply is received the authority shall, except in such cases where the President or the Prime Minister is the authority, decide the case within a period of thirty days;

- (d) afford an opportunity of personal hearing, before passing any order of penalty under clause (f), if the charge or charges have been proved against him;
- (e) exonerate the accused, by an order in writing, if the charge or charges have not been proved against him; and
- (f) impose any one or more penalties, mentioned in rule 4, by an order in writing, if the charge or charges have been proved against the accused.

8. **Provision of record.**—After initiation of order of inquiry the authority shall ensure that relevant record of the case and other related documents should be supplied to the inquiry officer or the inquiry committee, as the case may be, within seven days or within such an extended period which the authority may allow.

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9. Procedure to be followed by authority where inquiry is necessary.—(1) If the authority decides that it is necessary to hold an inquiry against the accused, it shall pass an order of inquiry, in writing. An inquiry order shall include—

- (a) subject to sub-rule (2) the appointment of an inquiry officer or inquiry committee, provided that the inquiry officer or the convener of the inquiry committee, as the case may, shall as far as possible, be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall, as far as possible, be of a rank senior to the senior most accused;
- (b) the grounds for proceedings, clearly specifying the charges along with apportionment of responsibility which shall be communicated to accused within fourteen days, from the date of initiation of proceedings;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit his written defense to the inquiry officer or convener of the inquiry committee, as the case may be, within reasonable time which shall not be less than ten and more than fourteen days from the date of receipt of orders under clause (b) or within such an extended period as the authority may allow.

(2) In cases where more than one civil servants are accused in one case, a single inquiry officer or an inquiry committee shall be appointed and the inquiry officer or convener of the inquiry committee so appointed shall, as far as possible, be of a rank senior to the senior most civil servant accused in the particular case.

(3) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(4) In case where the inquiry officer or any of the members of the inquiry committee is required to be replaced for one reason or the other, the authority shall appoint another inquiry officer or the inquiry committee, as the case may be.

10. Procedure to be followed by inquiry officer or inquiry committee.—(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charge or charges and may examine such oral or documentary evidence in support of the charge or charges or

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105

in defense of the accused, as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry *ex-parte*.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day basis and no adjournment shall be given except for reasons to be recorded, in which case the adjournment shall not be of more than seven days.

(4) Statements of witnesses shall be recorded in the presence of accused and departmental representative.

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if thereafter he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such a manner as may be deemed expedient in the interest of justice.

(6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned by the authority on the recommendations of a registered authorized medical officer.

(7) The inquiry officer or the inquiry committee, as the case may be, shall complete the inquiry within sixty days or within such an extended period which the authority may allow on the request of inquiry officer or Inquiry Committee, as the case may be, for reasons to be recorded and shall submit his or its report to the authority within seven days of the date of completion of inquiry. The inquiry report must contain clear findings as to whether the charge or charges have been proved or not proved and specific recommendations regarding exoneration or imposition of minor or major penalty or penalties upon the accused:

Provided that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of the inquiry.

11. **Revision.**—(1) Subject to sub-rule (2), the authority may call for the record of any case pending before the inquiry officer or inquiry committee, as the case may be, and pass such order in relation thereto as it may deem fit.

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108

(2) No order under sub-rule (1) shall be passed in respect of an accused unless the authority has informed him in writing of the grounds on which it is proposed to make the order and has been given an opportunity of showing cause against it, including an opportunity of personal hearing if requested by the accused or is otherwise necessary in the interest of justice, in particular, when the authority contemplates to pass an order adverse to the interest of the accused:

Provided that no such opportunity shall be given where the authority, for reasons to be recorded, is satisfied that, in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity.

(3) In case, the authority decides to call for a case pending before an inquiry officer or inquiry committee or pending before or disposed of by the authorized officer in terms of the Government Servants (Efficiency and Discipline) Rules, 1973, the authority may do so in exercise of powers conferred under rule 6A of the said rules:

Provided that this power shall in no case be exercised after one year of disposal of such a case by the Authorized Officer.

12. Powers of the inquiry officer or inquiry committee.—(1) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act No. V of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

13. Rules 7 and 9 not to apply in certain cases.—Nothing in rule 7 or 9 shall apply to a case—

- (a) where the accused is dismissed or removed from service, on the ground of conduct which has led to a sentence of fine or of imprisonment; or

- (b) where the authority competent to dismiss or remove a person from service, or to reduce a person in lower post and pay-scale, is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

14. Proceedings before or during training, scholarship and leave.—

(1) In case where a civil servant who has been nominated for training or scholarship, is required to be proceeded against and he has not yet joined the training institute or institution, his nomination shall be withdrawn forthwith by the nominating authority under intimation to the training institute or institution concerned.

(2) In case where a civil servant has already joined the training or institution he shall be allowed to complete his training or scholarship, and the proceedings against him may be deferred till completion of the training or scholarship.

(3) No civil servant shall be denied training on account of ongoing proceedings for a period of more than one year.

(4) In case where a civil servant on leave, is required to be proceeded against, his leave shall be cancelled by the authority and shall be called back from the leave to join the proceedings.

15. Duties of the departmental representative.—(1) The departmental representative shall perform the following duties, namely:—

- (a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused and with the permission of the inquiry officer or the inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and
- (c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

(2) In case of failure to perform the assigned duties, the departmental representative shall be liable to departmental proceedings.

16. Order to be passed on receipt of report from the inquiry officer or inquiry committee.—(1) On receipt of report from the inquiry officer or the

46

inquiry committee, as the case may be, the authority shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the authority is satisfied under sub-rule (1) that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the authority is satisfied under sub-rule (2) that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the authority may like to give, or may order a *de novo* inquiry through different inquiry officer or inquiry committee.

(4) The authority may in such case specified under sub-rule (3) also require the inquiry officer or the inquiry committee, as the case may be, to explain as to why the inquiry has not been conducted in accordance with these rules, or as to why the facts or merits of the case have been ignored and on the receipt of reply, may determine that the omission or commission by the inquiry officer or the inquiry committee, as the case may be, was not in good faith and there are grounds to proceed against the inquiry officer or inquiry committee, as the case may be, under these rules.

(5) Where the charge or charges are determined not to have been proved, the authority shall exonerate the accused by an order in writing.

(6) Where the charge or charges are determined to have been proved against the accused, the authority shall issue a show cause notice to the accused providing him therewith a copy of inquiry report by which it shall—

- (a) inform him of the charge or charges proved against him and the penalty or penalties proposed to be imposed upon him;
- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 including the penalty of dismissal from service may not be imposed upon him and to submit additional defence in writing, if any, within a period which shall not be less than ten days and more than fourteen days from the day the charge or charges have been communicated to him by affording him an opportunity of personal hearing:

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109

Provided that the accused shall in his reply to show cause notice, indicate as to whether he wants to be heard in person or not; and

- (c) direct the departmental representative to appear with all the relevant record on the date of personal hearing, if any.

(7) After duly considering the reply of the accused to the show cause notice and affording personal hearing to the accused, as appropriate, the authority shall, keeping in view the findings and recommendations of the inquiry officer or the inquiry committee, as the case may be, facts of the case and defence offered by the accused if requested, by an order in writing—

- (a) exonerate the accused if charge or charges are not proved; or
(b) impose any one or more of the penalties specified in rule 4 if charges are proved:

Provided that—

- (i) where charge or charges of grave corruption are proved against an accused the penalty of dismissal from service shall be imposed, in addition to the penalty of recovery, if any; and
(ii) where charge of absence from duty for a period of more than one year is proved against the accused, the penalty of compulsory retirement or removal or dismissal from service shall be imposed upon the accused.

(8) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the authority, except where the Prime Minister himself is the authority, shall decide the case within a period of thirty days, excluding the time during which the post held by the authority remained vacant due to certain reasons.

17. **Personal hearing.**—Notwithstanding the proviso to clause (b) of sub-rule (6) of rule 16, the authority may, by an order in writing, call the accused and the departmental representative, along with relevant record of the case, to appear before him, or before a hearing officer, who shall as far as possible be senior in rank to the accused, appointed by the authority for personal hearing on the fixed date and time.

18. **Procedure of inquiry against civil servant on deputation or working in other Governments or organizations etc.**—(1) Where an authority determines to proceed against a civil servant who is on deputation to any other Government, department, corporation, body corporate, autonomous or semi-autonomous body, statutory body or any other organization or institution, hereinafter referred to as the borrowing organization, the authority of such civil servant in his parent department may—

40

- (a) ask the relevant Government or borrowing organization, to frame charges against the civil servant and forward the same to his parent department; or
- (b) initiate proceedings against him on its own under these rules.

(2) In case of members of All Pakistan Service posted in a Province, Establishment Division may refer a case to the Chief Secretary concerned for probe or fact finding inquiry and may initiate proceedings on the findings of that probe or fact finding inquiry, or on its own if no findings are received within two months:

Provided that in case of proceedings against any Chief Secretary of a Province, the Establishment Division shall frame the charges and initiate the disciplinary proceedings with approval of the Prime Minister.

19. **Appeal.**—A civil servant on whom a penalty is imposed shall have such right of appeal provided for as under the Civil Servants (Appeal) Rules, 1977:

Provided that, where the penalty is imposed by order of the President, there shall be no appeal but the civil servant concerned may apply for review of the order.

20. **Appearance of counsel.**—No party to any proceedings under these rules at any stage of the proceedings before the appellate authority, authority, inquiry officer or any inquiry committee as the case may be, shall be represented by an advocate or counsel.

21. **Repeal.**—(1) The Government Servants (Efficiency and Discipline) Rules, 1973, in their application to the civil servants to whom these rules apply, are hereby repealed but the repeal thereof shall not affect any action taken or anything done or suffered thereunder.

(2) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any civil servant under repealed rules shall continue under the repealed rules.

[F. No. 16/28/2000-R-II.]

MASROOR HUSSAIN,
Section Officer.

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VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Security Tribunal Peshawar

Zar Gul Khan (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt of KP etc (Respondent)
(Defendant)

I/We, Zar Gul Khan

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2021

[Signature]
(CLIENT)

ACCEPTED

[Signature]
TAIMUR ALI KHAN
Advocate High Court
BC-10-4240
CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar

BEFORE THE KP SERVICE TRIBUNAL PESHAWARAPPEAL NO. 7708 /2021

Zar Gul Khan Deputy Director NTFP (BPS-18)
Malakand Forest Region at, Swat..... (APPELLANT)

Versus

1. The Government of Khyber Pakhtunkhwa through principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Environment, Forestry & Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
4. The Chief Conservator of Forests , Central Southern Forest Region-I, Peshawar/
5. The Director Non-Timber Forest Products, Khyber Pakhtunkhwa, Peshawar.

(Respondents)**INDEX**

S.No	DOCUMETNS	ANNEXURE	PAGE
1.	Memo of Written Reply of the comments	01-02
2.	Affidavite	03
3.	Copy of adjustment orders	I	04-05
4	Copy of Charge Sheet	II	06
5.	Copy of Enquiry Notification	III	07



Deputy Director
 Non-Timber Forest Products
 Head Quarter ,Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.7708/2021

Zar Gul Khan Deputy Director NTFP (BPS-18)

Malakand Forest Region at, Swat..... (APPELLANT)

VERSUS

1. The Government of Khyber Pakhtunkhwa through principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Environment, Forestry & Wildlife Department, Khyber Pakhtunkhwa, Peshawar.
4. The Chief Conservator of Forests , Central Southern Forest Region-I, Peshawar/
5. The Director Non-Timber Forest Products, Khyber Pakhtunkhwa, Peshawar.

(RESPONDENTS)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 TO 5

PRELIMINARY OBJECTIONS.

1. The appeal is not maintainable in the present form.
2. The Appellant has no locus standi to bring the present appeal.
3. The Appellant is legally estopped by his own conduct to bring the present appeal.

RESPECTFULLY SHEWETH

Parawise comments are as under:

1. Pertaining to record.
2. Pertaining to record.
3. Correct to the extent that the officials were appointed by his predecessor. But after the expiry of their parent project, the aforementioned officials were adjusted by the appellant in current budget , for which he was properly charge sheeted and the charges were leveled against him in a statement of allegation. Consequently enquiry was constituted against him by the competent authority wide No. 4216/E dated: 15-05-2021, he was given opportunity to submit written reply/statement. But he could not satisfy the enquiry committee regarding adjustment of the officials on current budget for the purpose of pay and allowances(copy of adjustment order, charge sheet and order of constitution of enquiry committee are attached as Annex I,II & III).
4. Pertaining to record.
5. Pertaining to record.
6. Incorrect:-as explained in Para 3 above, full opportunity of submitting reply/ written statement and cross examination was given , wherein appellant could not satisfy the enquiry committee.
7. Incorrect as explained in Para 3&6 above

8. Incorrect as explained in Para 3 & 6 above, all the actions taken in the case of the appellant were according the relevant laws/rules. As the charges fixed against the appellant were different from the other two officers namely Mr. Iftikhar Ahamd Director NTFP and Mr. Ahmad Mansoor Deputy Director NTFP in the joint enquiry report .
9. Incorrect as explained in Para 8 above.
10. Correct to the extent that the appellant filed review petition which was rejected by the appellate authority under the law and as per norms and justice.
11. The appeal of the appellant may kindly be dismissed with cost on the following grounds.

GROUND:-

- A. Incorrect as explain in Paras above, all the actions taken in the case of appellant were according to law and Rules.
- B. Incorrect as explained in Para 3above.'
- C. Incorrect as per explanation in Para 3 above.
- D. Incorrect as commented in para 3 above hence no further comments.
- E. Incorrect as per explanation in Para 4 above.
- F. No comments keeping in view the explanation given in Para 3& 6 above.
- G. Incorrect as per explanation in para 10 above.
- H. Incorrect rightly action have been adopted as per law/rules in vogue which otherwise would have grass negative implication for the Department.
- I. Incorrect as explained in para (H) above
- J. Incorrect as explained in Para 3,8 above.
- K. That the respondents would advance any other grounds at the time of hearing/arguments.

In view of the above exposition, it is therefore most humbly prayed that on acceptance of this parawise reply, the instant service appeal may kindly be dismissed with cost.

RESPONDENTS



Director
Non Timber Forest Products
Khyber Pakhtunkhwa
Peshawar.
(Respondent No.5)



Chief Conservator of Forest
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar
(Respondent No.4)



Secretary
Forestry Environment, & Wildlife
Department Peshawar
(Respondent No.3)



Chief Secretary
Khyber Pakhtunkhwa
Peshawar
(Respondent No.2)



Principal Secretary to Chief Minister
Khyber Pakhtunkhwa Peshawar
(Respondent No.1)

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 7708 /2021

Zar Gul Khan Deputy Director NTFP (BPS-18) V/S Govt. Of KP

AFFIDAVIT

I ,Mr. Rashid Hussain Deputy Director (BPS-18) Non-Timber Forest Products Head Quarter Peshawar,(on behalf of Respondent) do hereby affirm and declare that the contents of this written reply/ statements are true and correct and nothing has been concealed from this Honorable Tribunal Peshawar.

DEPONENT



Mr. Rashid Hussain
Deputy Director
Non-Timber Forest Products
Head Quarter,Peshawr

Identified by

Muhammad
15/02/22

Additional Advocate General
Khyber Pakhtunkhwa
Service Tribunal Peshawar

AWM/V

16
16

OFFICE ORDER NO. 124 DATED 01/06/2011 ISSUED BY MR-ZAR GUL KHAN ASSISTANT DIRECTOR NTFP SOUTH FATA BANNU.

Mr-Muhammad Nazir Assistant NTFP Development Officer FR Bannu is here by adjusted w.e.f 01/06/2011 against the vacant post of Assistant NTFP Development Officer North Waziristan Agency Miranshah for the purpose of pay and allowances till further orders.

Annex
C

Sd/- (Zar Gul Khan)
Assistant Director NTFP
South FATA at Bannu.

Endst: No. 523-26 Dated Bannu the 01/06/2011.

Copy forwarded to:-

1. Mr-Muhammad Nazir Assistant NTFP Development Officer FR Bannu.
2. Incharge NTFP Centre Miranshah.
3. Disburser Head Quarter Bannu.
4. Personal File.

[Signature]
Assistant Director NTFP
South FATA at Bannu.

up attached

[Signature]
ASSISTANT DIRECTOR
Non-Timber Forest Products
Peshawa

[Signature]
Assistant Director NTFP
Wooded Areas Peshawar

OFFICE ORDER NO. 31 DATED 27 / 6 / 2013, ISSUED BY
MR. ZAR GUL KHAN ASSISTANT DIRECTOR NTFP FATA PESHAWAR.

Amey 21

Annexure V

(18)

Mr. Akram-u-Din Assistant Development Officer NTFP Kurram Agency Parachinar is hereby adjusted against a vacant post of Assistant Development Officer NTFP on current budget for the purpose of pay and allowance with immediate effect till further order.


Sd/-(Mr. Zar Gul Khan)
Assistant Director NTFP,
FATA Peshawar.

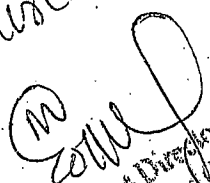
Endst.No 605-07 /E, dated

Copy for information forwarded to :-

1. Official concerned w/r to his application dated 14/6/2013.
2. Disburser FATA Peshawar.
3. Office order File.


ASSISTANT DIRECTOR
Non-Timber Forest Products
FATA Peshawar


Assistant Director NTFP,
FATA Peshawar.

Attested

Assistant Director NTFP,
Marginal Areas (Ex-FATA)
Peshawar


Assistant Director NTFP
Marginal Areas Peshawar

49

CHARGE SHEET

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, hereby charge you **Mr. Zar Gul Khan**, the then Assistant Director NTFP FATA and now Deputy Director NTFP Malakand (BPS-18) as follows:-

That you while posted as Assistant Director NTFP FATA has committed the following irregularities:-

- (i) That Muhammad Nazir, Mr. Sabir-ur-Rehman and Mr. Akram-ud-Din were appointed as Assistant Sericulture Development Officer (BS-11) on contract basis in the Sericulture Wing of FATA Forest Department in the year, 2004 for a period of one year.
- (ii) That as per the policy, on expiry of the project, the services of the project employees shall stand terminated, however, contrary to this, you had irregularly adjusted the above contractual employees in different schemes without adopting the prescribed procedure.
- (iii) That later-on you had unlawfully adjusted the said project employees against regular posts of Assistant NTFP Development Officer in violation of the rules/regulations and then their services were acquired as Assistant NTFP Development Officer, which is a gross misconduct on your part.
- (iv) That you by issuing the above illegal orders provided them a base for filing writ petitions in the PHC for regularization of their services against the posts of Assistant NTFP Development Officer and the court by considering the above, the PHC through its judgments dated 30th May, 2019 (in case of Muhammad Nazir) and 16th October, 2019 (in case of Mr. Sabir-ur-Rehman), decided the cases in favour of the above petitioners, and directed the respondents to regularize their services against the posts of Assistant NTFP Development Officers.

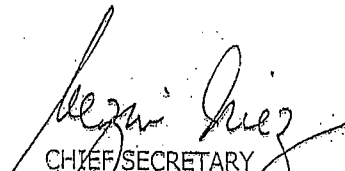
2. By reason of the above, you appear to be guilty of In-efficiency, misconduct and corruption under rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule-4 of the rules ibid.

3. You are therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the enquiry officer/enquiry committee, as the case may be.

4. Your written defense, if any, should reach the enquiry officer/committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.


CHIEF SECRETARY
KHYBER PAKHTUNKHWA
(Competent Authority)


ASSISTANT DIRECTOR
FOR Timber Forest Products
Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar the, 13th May, 2020

50

NOTIFICATION

No.SO(Estt)FE&WD/1-10 (08)/2009/PF:

The competent authority hereby constitute an Enquiry Committee comprising Mr. Zahir Shah (PAS BS-20), Secretary Administration Department, Government of Khyber Pakhtunkhwa (as Convener) and Mr. Azhar Ali Khan, Conservator of Forests/Chief Conservator of Forests, Northern Forest Region-II, Abbottabad (as Member) to conduct inquiry against the following officers of NTFP Directorate of Forest Department, Khyber Pakhtunkhwa for the charges/allegations leveled against them in the respective Charge Sheets and Statement of Allegations :-

1. Mr. Iftikhar Ahmad, Director (BS-19) NTFP Directorate of Forest Department, Khyber Pakhtunkhwa.
2. Mr. Zar Gul Khan, Deputy Director (BS-18) NTFP Malakand.
3. Mr. Ahmad Mansoor, Deputy Director (BS-18), NTFP Head Office, Peshawar (presently under suspension)

2. The Enquiry Committee shall submit its findings/report within 30 days positively.

Secretary to Govt: of Khyber Pakhtunkhwa
Forestry, Environment & Wildlife
Department

243-49

Endst: No.SO (Estt) FE&WD/ I-10 (08)/2009/PF: Dated Peshawar the, 13th May, 2020

Copy alongwith copies of the Charge Sheet/Statement of Allegations and other relevant documents are forwarded for further necessary action to:-

- 1) Mr. Zahir Shah (PAS BS-20), Secretary Administration Department, Government of Khyber Pakhtunkhwa (as Convener).
- 2) Mr. Azhar Ali Khan, Conservator of Forests/Chief Conservator of Forests, Northern Forest Region-II, Abbottabad (as Member).
- 3) Chief Conservator of Forest Region-I, Peshawar. He is requested that an officer well conversant with the facts of the case alongwith all relevant record may be deputed to assist the inquiry committee during inquiry proceedings.
- 4) All the accused officers C/O CCF-I, Peshawar with the direction to appear before the Enquiry Committee on the date, time and place to be fixed by the Enquiry Committee for the purpose of inquiry proceedings.
- 5) PS to Secretary, FE&W Department, Khyber Pakhtunkhwa for information.

Pashtun
ASSISTANT DIRECTOR
Non-Timber Forest Products
Peshawar

[Signature]
SECTION OFFICER (ESTT)

No. 4215 /E. Dated Peshawar the 15 /05/2020.

Copy alongwith copy of charge sheet forwarded to the Director NTFP, Peshawar for information and necessary action.