

O R D E R

2<sup>nd</sup> November, 2022.

1. Petitioner in person present. Mr. Kabirullah Khattak, learned Additional Advocate General for the Respondents present and has been heard.

2. This is an application seeking implementation of the Judgment passed by this Tribunal on 17.12.2018.

3. It is contended in the application that appeal No.795/2015, filed by the Petitioner, was allowed with the directions to the respondents to conduct de novo enquiry strictly in accordance with law and rules within a period of 90 days from the date of receipt of judgment.

4. That after receipt of the judgment, the petitioner approached the respondents and submitted the attested copy of the same for implementation on 28.12.2018; that on 24.01.2019, the petitioner again approached the respondents and submitted an application for posting/joining in service but in vain, hence, this petition.

5. The respondents were put on notice.

6. The relief granted to the petitioner in the appeal as under:-

*“As a sequel to above, the impugned order dated 30.06.2016 in respect of appellants Abdul Manan, Umar Khan and Asghar Khan, order dated*

02.04.2015 in respect of the appellant Naseeb Khan and order dated 12.03.2015 in respect of appellants Jamair Khan and Muhammad Tariq Khan are set aside and the appellants are reinstated in service. The respondents are directed to conduct denovo enquiry strictly in accordance with law and rules within a period of 90 days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the denovo enquiry.”

7. The petitioner present in the court has stated at the bar that the desired relief had been granted to him except the proforma promotion. The learned AAG referred to a letter No.SO(ESTT)FE& WD/I-2/2022 dated 20.08.2022 and submitted that case/working paper for grant of proforma promotion to the petitioner had been prepared and submitted to the Establishment Department for placing the same before the PSB for consideration. Therefore, the substantial compliance of the judgment of the Tribunal seems to have been done and thus this application is filed. Consign.

8. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 2<sup>nd</sup> day of November, 2022.*

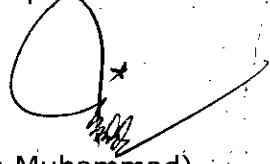


(Kalim Arshad Khan)  
Chairman

31.08.2022

Nemo for the petitioner. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Nazakat, Section Officer for the respondents present.

Representative of the respondents submitted copy of correspondence dated 20<sup>th</sup> August, 2022 whereby working paper has been submitted to the Establishment Department which is placed on file. Notice be issued to the petitioner and his counsel to attend the court on next date. Adjourned. To come up for implementation report on 04.10.2022 before S.B.

  
(Mian Muhammad)  
Member (E)

4<sup>th</sup> Oct, 2022

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

Petitioner seeks adjournment on the ground that his counsel is not available today. To come up for further proceedings on 02.11.2022 before S.B.

  
(Kalim Arshad Khan)  
Chairman

25<sup>th</sup> May, 2022

Petitioner in person present. Mr. Kabir Ullah Khattak,  
AAG for respondents present.

Petitioner submitted an application for adjournment.  
Application is placed on file. Adjourned. To come up for further  
proceedings on 29.06.2022 before S.B.



(Kalim Arshad Khan)  
Chairman

29.06.2022

None present on behalf of petitioner.

Notices be issued to the petitioner/counsel as  
well as respondents for the date fixed. To come up  
for implementation report on 10.08.2022 before S.B.



(Fareeha Paul)  
Member (E)

10.08.2022

Petitioner present in person. Mr. Kabir Ullah  
Khattak, Additional Advocate General for respondents  
present.

Learned Additional Advocate General requested  
for time to submit implementation report on the next date  
positively. Last chance is given. To come up for  
implementation report on 31.08.2022 before S.B.




(Fareeha Paul)  
Member (E)

*[Faint handwritten notes and signatures at the bottom of the page, including a date '29.06.2022' and some illegible text.]*

10.01.2022

Petitioner in person present. Mr. Zahoor Jan, Assistant alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned Additional Advocate General requested that some time may be granted for complete implementation of the judgment under execution. Adjoined. The needful in light of order sheet dated 03.11.2021 may be done and implementation report *be* produce on 18.01.2022 before the S.B.

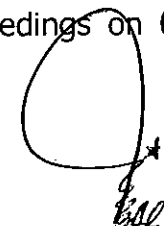


(Salah-Ud-Din)  
Member (J)

18.01.2022

Petitioner in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Muhammad Shakeeb, Dy: Director HRD Forest Department for respondents present.

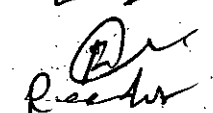
The Execution Petition in hand has constantly been adjourned on the request of learned AAG as is evident from previous order sheets. The only point remains in the implementation on part of the respondent-department is the grant of antedated promotion from BS-18 to BS-19. Respondent-department is therefore directed to come up with conclusive and final implementation report on the next date being a last chance. Adjoined. To come up for further proceedings on 03.03.2022 before S.B.



(Mian Muhammad)  
Member (E)

3-3-2022

Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 25-5-2022



08.12.2021

Petitioner in person present. Mr. Muhammad Adeel, Addl: AG alongwith Mr. Zahoor Jan, Office Assistant for respondents present.

Representative of the respondents seeks adjournment on the ground that the implementation under execution is under process and will be submitted on the next date. Request is acceded to. To come up for further proceedings on 23.12.2021 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

23.12.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Aitizaz Mahfooz, DFO for the respondents present.

On request of learned AAG to bring the thing in order before the next date, adjournment is granted. Case to come up on 10.01.2022 before S.B.

  
Chairman



03.11.2021

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Issue of financial benefits as discussed in order dated 05.08.2021 stands almost resolved. However, the petitioner has invited attention of the Bench to the order dated 11.01.2021 whereby a specific direction was issued for placing the case of the promotion of petitioner before the PSB for consideration. It was further directed by the said order that in case the needful is not done for placing the case of petitioner before PSB the respondent No. 3 i.e. the Secretary Environment Department would be held responsible. The order passed in the first month of the year 2021 is still awaiting the compliance while the year is closed to its end. Although it is a fit case to exercise the jurisdiction for coercive measures against the respondents on account of their aforementioned omission but as a matter of judicial restraint they are given another chance to implement the judgment and orders of this Tribunal for the remaining component i.e proforma promotion by placing the case of petitioner before PSB at the earliest but not later than the forthcoming date of hearing. Case to come up on 08.12.2021 before S.B.

  
Chairman

09.09.2021

Petitioner in person present.

Mr. Kabir Ullah Khattak, Addl. AG alongwith Jamshed Khan Budget & Accounts Officer for the respondents present.

According to letter dated 08.09.2019, copy whereof produced today, the implementation report is in progress. To come up for final report on 11.10.2021 before S.B.

  
Chairman

11.10.2021

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

Petitioner seeks adjournment due to General Strike of the Peshawar Bar Association. Adjourned. To come up for further proceedings before the S.B on 03.11.2021.

  
(MIAN MUHAMMAD)  
MEMBER (E)



EP 155/2019

05.08.2021

Petitioner in person and Mr. Kabirullah Khattak, Addl. AG alongwith Jamshed Khan, B&A Officer for the respondents present.

The representative of the respondents has furnished copy of letter dated 29.07.2021 addressed to Budget Officer-II, Government of Khyber Pakhtunkhwa Finance Department, Peshawar and placed on file. The reasons given for the needful in the said letter leave no room for any objection of Finance Department, if any, as verbally indicated by Mr. Jamsed Khan. The department is directed for hot pursuit of the said letter for making the availability of funds in the relevant heads of account mentioned in the said letter. If the department is faced with any exacting from the Finance Department, they are required to intimate this Tribunal forthwith, so that the Finance Department should be taken on board for implementation of judgment of this Tribunal in letter & spirit. Copy of this order be sent to the respondents as well as to the officer who is addressee of letter dated 29.07.2021. Case to come up on 09.09.2021 before S.B.

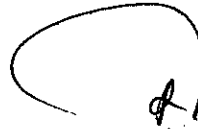
  
Chairman

9.07.2021

Petitioner in person present.

Muhammad Adeel Butt learned Additional Advocate General alongwith Abdul Akbar S.O, Jamshed Khan Budget & Accounts Officer and Zahoor Jan Assistant for respondents present.

Today, matter to the extent of payment of pension to the petitioner has been resolved and proper documents were handed over to the petitioner. The matter in respect of 50% of pay and other related issues will be resolved within 15 days. Therefore, case is adjourned with direction to the respondents to submit progress report on 05 / 08 / 2021 before S.B.



(Rozina Rehman)  
Member (J)

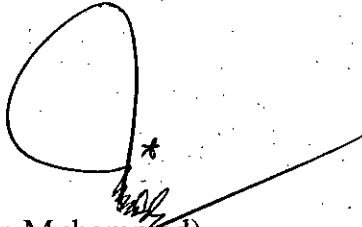
E.P. No. 155/2019

08.03.2021

Petitioner in person present. Addl: AG alongwith Mr. Zahoor Jan, Assistant, Mr. Muhammad Hamid, Assistant and Mr. Jamshaid Khan, B&AO for respondents present.

An interim execution report i.e Finance Department letter bearing No BO-II/FD/1-3/Forest/Grant/2020-21 dated 05.03.2021 was produced where-under Finance Department has asked the respondent-department to furnish certain information/documents. Since the matter is still under process and final/conclusive execution report is yet to be presented, learned AAG requested for reasonable time. The request is allowed but as a last chance.

23 20  
Adjourned to 12.04.2021 before S.B.

  
(Mian Muhammad)

14  
12.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 19.07.2021 for the same as before.

  
Reader

12.02.2021

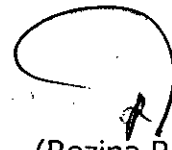
Petitioner in person present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Jamshaid Khan Budget & Accounts Officer, Muhammad Hamid Assistant and Zahoor Jan Assistant for respondents present.

Today, Jamshaid Khan Budget & Accounts Officer informed the Tribunal in respect of progress that the entire documents in respect of pension etc relating to the present petitioner would be discussed today with the Finance Department and accordingly budget would be released by the Finance Department. He requested for some time in order to produce proper progress in the case on part of the Finance Department as well as Department of Budget & Accounts Forest Department.

Hamid Khan also produced letter No.SO (Estt)FEWD/I-50 (69)/PF dated 08.02.2021 vide which Law Department was required for information in respect of promotion of the present petitioner.

Both the representatives are directed to show progress in respect of promotion, payment of pension etc of the petitioner on 08.03.2021 before S.B.



(Rozina Rehman)  
Member (J)

08.02.2021

Petitioner is present in person.

Kabir Ullah Khattak learned Additional Advocate General alongwith Zahoor Jan Assistant for respondents present.

Perusal of preceding order sheet dated 11.01.2021 would reveal that directions were issued for proper implementation report but today, again a request was made for adjournment. Petitioner admitted the receipt of two different cheques but no progress was shown in respect of payment of pension and his promotion. Today, Tribunal was informed by the representative of respondents that proper documentation has been done and will be submitted in the Budget Section. He is, therefore, directed to show progress on the next date alongwith relevant person from the Budget Section in order to apprise this Tribunal in respect of payment of pension etc.

Adjourned to 12.02.2021 before S.B.



(Rozina Rehman)  
Member (J)

11/01.2021

Petitioner is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Muhammad Ibrar, Senior Instructor for the respondents are also present.

According to the petitioner no meaningful action was taken by the respondents for giving effect to the factum of his promotion, resultantly the meeting of the Provincial Selection Board was held without making reference of his case to the board for consideration thus violating the mandate of the judgment resulting into derogation, therefore, he requested to initiate Contempt proceedings against the delinquent officials. According to petitioner he is running from pillar to post for redressal of his grievance but the officials at the helm of affairs are not paying any heed and thus he has become tired of the exercise. As regard the initiative taken by the department so far which he declared as satisfactory he submitted that problems lies at the level of the office of Secretary which is unduly delaying payment of pension and his promotion.

The learned Additional Advocate General submitted that a cheque to the tune of Rs. 810585/- has been sanctioned and approved by the competent authority which is going to be delivered to petitioner. As regard the payment of other cheques to the tune of Rs. 689658/- and Rs. 520700/- its payment is expected to be made within a period of two or three days. The reason for nonpayment of the aforesaid amount is due to non-availability of funds with the department concerned for which a demand has been made. The representative of the department submitted at this stage that since petitioner remained posted at various districts of the province, therefore, making of payment with regard to the liabilities of petitioner is the handiwork of the officials of that districts.

While keeping in view the submission made by the petitioner and the response put forth by the respondents it is not difficult to make an assessment that the case of petitioner for promotion of bringing it before the Provincial Selection Board for consideration, has been delayed considerably by the office of Secretary Government of Khyber Pakhtunkhwa Environment

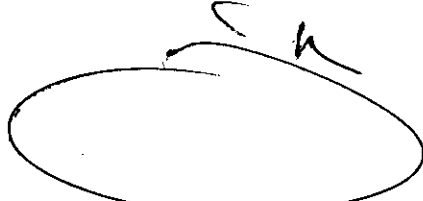
Peshawar who stands as respondent No. 3 who is directed to put in serious endeavors in bringing the matter before the PSB for consideration in the next meeting, efforts so made has to be communicated to this Tribunal in the form of documents failing which the aforesaid respondent <sup>has to</sup> ensure his personal attendance on 08.02.2021. As regard the payment of pension and other pensionary benefits and emoluments the respondent No. 4 is directed to ensure that the claim of petitioner is satisfied in its entirety without any further delay. The issue has to be taken seriously and progress so made has to be communicated to this Tribunal.

(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

17.12.2020

Petitioner is present in person. Mr. Muhammad Jan, Deputy District Attorney and Mr. Zahoor Jan, Assistant, for the respondents, are also present.

The attention of the learned Deputy District Attorney as well as the representative of respondents, was drawn to the preceding order sheet, in response thereof representative submitted notification No. SO(Estt)FE&WD/1-50(69)/PF: dated Peshawar, the 11<sup>th</sup> December, 2020 wherein the period where appellat rendered his duties/services has been specified and tabulated but the chequ<sup>e</sup> in respect of the outstanding amount has not been prepared for which time has been sought, time was allowed for the requisite purpose with the concurrence of petitioner directing learned Deputy District Attorney as well as representative and respondents to leave no stone unturned until the judgment is fully implemented, the efforts so made must be communicated in writing to the Tribunal. As regard pension and promotion of petitioner in this regard representative submitted letter dated 07.12.2020 on which no action has been taken so far. Respondents are directed to pursue it with hectic efforts till resolution of the matter by submitting report. File to come up for compliance on 11.01.2021 before S.B.

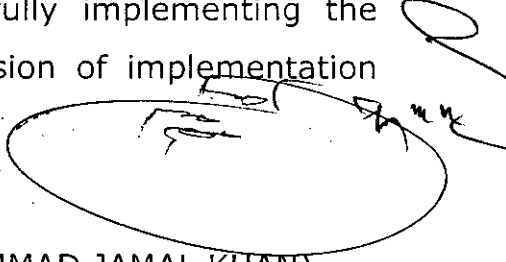
  
(MUHAMMAD JAMAL KHAN)  
/ MEMBER (JUDICIAL)



26.11.2020

Petitioner Muhammad Tariq is present in person. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Faiz-ur-Rehman, DFO, and Muhammad Sajid, SDFO, for the respondents are also present.

The respondents have neither given effect to the judgment passed by this Hon'ble Bench of this Tribunal nor they have put forward any documentary proof for the efforts so made till date in the matter. It seems that they are not taking the matter seriously and dealing in haphazard manner delaying the implementation of the judgment to the total chagrin of petitioner who is running from pillar to post for its realization. Respondents are directed to take the matter serious by putting in concerted efforts in fully implementing the judgment of this august Tribunal by submission of implementation report on 10.12.2020 before S.B.


  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

11.12.2020

Petitioner present in person.

Kabir Ullah Khattak learned Additional Advocate General alongwith Zia ur Rehman S.O and Abdul Akbar P.A for respondents present.

Representative of respondents informed that Cheque in respect of outstanding amount would be presented within two days whereas the matter regarding pension and promotion will be processed soon and the progress report will be presented on the next date positively. As such, date is adjourned to 17.12.2020 for proper implementation report in the shape of Cheque and promotion order, before S.B.

  
(Rozina Rehman)  
Member (J)

28.10.2020

Petitioner in person present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Sajid SDFO for respondents present.

On the preceding date, respondents were directed to accelerate the process and do the needful within shortest possible time, but till today, nothing was paid and no progress was shown except few letters which are placed on file. As such, representative of respondents is directed to make sure payment of outstanding amount to the petitioner before date, failing which, strict legal action will be taken against the defaulting officer/official.

Adjourned to 26.11.2020 before S.B.



(Rozina Rehman)  
Member (J)

11.09.2020

Petitioner in person and Addl. AG alongwith Faizur Rahman, DFO Upper Kohistan for the respondents present.

Representative of the respondents states that a cheque for Rs. 808667/- has been paid to the petitioner towards settlement of his G.P.Fund. The other payable will also be processed and finalized in favour of the petitioner shortly. The petitioner acknowledges the receipt of cheque.

In the circumstances, when payment in favour of the petitioner regarding other service emoluments/pension is no more disputed the respondents are required to accelerate the process and do the needful within shortest possible time.

Adjourned to 28.10.2020 for further proceedings.

  
Chairman

impugned order dated 12.03.2015 was set-aside and petitioner alongwith Jamair Khan were reinstated in service and respondents were directed to conduct de-novo inquiry strictly in accordance with law and rules within a period of 90 days from the date of the receipt of the judgment and the issue of back benefits shall be subject to the outcome of the de-novo inquiry. It was during the course of proceedings that petitioner get retired therefore, he was entitled to receive his back benefits as mandated by the law and the judgment and he cannot be deprived from its receipt. The process of the implementation has taken a lot of time and the matter has been protracted considerably, it seems that respondents are not serious in giving effect to the judgment of this august Tribunal therefore, without allowing them adjournment for a long time respondents are directed to process the pension case/back benefits of the petitioner expeditiously failing which respondent No. 4 i.e Chief Conservator Forests Central of Southern Forest Region-1 Peshawar, has to attend this Tribunal on 17.08.2020 if the process of pension/back benefits alongwith other emoluments to which petitioner is entitled is not expedited respondents shall expose themselves to initiation of appropriate legal action in accordance with law.

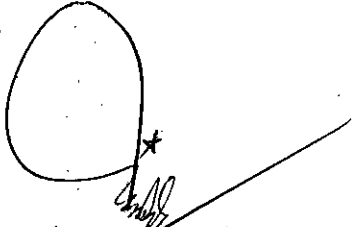
  
(MUHAMMAD JAMAL KHAN)  
MEMBER

17.08.2020

Petitioner in person present. Mr. Ziaullah, DDA alongwith Kifayat Ullah, DFO and Mr. Faiz Ur Rehman, DFO for respondents present.

Implementation report not submitted. Representative of the respondents stated that the implementation is in process and will be submitted in a short span of time. He is strictly directed to submit proper implementation report failing which coercive measures in the shape of stoppage of salary and civil imprisonment will be taken against them.

Adjourned to 11.09.2020 before S.B.

  
(Mian Muhammad)  
Member(E)

20.07.2020

Appellant in person is present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Final/counter arguments submitted by the appellant and placed on file. Time sought by the learned Additional AG for arguments on the ground of its perusal. Adjourned to 05.08.2020 on which to come up for arguments before S.B.

(MUHAMMAD JAMAL KHAN)  
MEMBER

05.08.2020

Petitioner Muhammad Tariq himself is present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Faiz-ur-Rehman, DFO are also present.

2. The petitioner while agitating his point of view argued that his case of gratuity and other pensionary emoluments is pending implementation since 14.03.2019 but the judgment of the august Tribunal has not been implemented so far. That respondents are using delaying tactics as a result of which implementation of the judgment has been delayed considerably due to which he can neither pay the school fees of his kids/children nor, is able to pay utility bills or other expenditure of day to day items and he is in severe financial crisis therefore, prayed for early implementation of the judgment, directing the respondents to prepare his case for allowing him to receive his pensionary benefits alongwith other emoluments.

3. On the other hand, the learned Additional AG for the respondents submitted that the case of the petitioner is under consideration and is to be processed for the payment of his pensionary benefits but time is required. At this moment Faiz-ur-Rehman DFO Kohistan submitted that they have made certain correspondence with Anti Corruption Establishment but response there from has not been received yet therefore, they may be given time enabling them to process the pension case and other benefits of the petitioner.

4. The record on file speaks volume of the facts that the judgment of the august Tribunal passed on 17.12.2018 has not been implemented so far. By virtue of the judgment of this august Service Tribunal the

E.P No. 155/2019


12.02.2020

Counsel for the petitioner and Mr. Usman Ghani, District Attorney alongwith Mr. Faiz-ur-Rehman DFO for the respondents present. Representative of the department submitted reply to written arguments. The same is placed on record. Learned counsel for the petitioner seeks adjournment. Adjourned to 18.03.2020 for further proceeding/arguments before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

18.03.2020

Nemo for the petitioner. Mr. Kabirullah Khattak learned Addl. AG alongwith Faiz-ur-Rehman DFO for the respondents present. Notice be issued to the petitioner and his counsel to attend the court on the next date of hearing. Adjourned. To come up for further proceedings/arguments on 27.04.2020 before S.B.

  
(Hussain Shah)  
Member

27.04.2020

Due to COVID19, the case is adjourned to 20.07.2020 for the same as before.

  
Reader

17.12.2019

Petitioner in person and Addl. AG alongwith Aitizaz Hassan, DFO for the respondents present.

Representative of respondents has produced copy of opinion furnished by Law Department Government of Khyber Pakhtunkhwa on 25.09.2019, and states that the emoluments of petitioner have been withheld in the light thereof. A copy of the opinion has been provided to the petitioner who requests for adjournment as his learned counsel is not available today due to general strike of the Bar. To come up for further proceedings on 09.01.2020 before S.B.

  
Chairman

09.01.2020

Petitioner in person and Addl. AG alongwith Faizur Rahman, DFO Upper Kohistan for the respondents present.

The petitioner has submitted written arguments pursuant to the last order. Copy of the same has been handed over to representative of respondents. To come up for further arguments by the respondents as well as on behalf of petitioner, if required, on 29.01.2020 before S.B.

  
Chairman

29.01.2020

Petitioner in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Faiz ur Rehman DFO for the respondents present. Lawyers community is on strike on the call of Khyber Pakhtunkhwa Bar Council. Request made for adjournment. Adjourn. To come up for further arguments on 12.02.2020 before S.B.

  
Member

13.11.2019

Petitioner alongwith counsel and Addl. AG alongwith Muhammad Anwar, SDFO for the respondents present. Mr. Rizwanullah, Advocate has submitted Wakalatnama on behalf of the petitioner and also provided a copy of notification dated 24.10.2019.

It is noted in the above notification that the petitioner has retired from government service with effect from 01.06.2019 on attaining superannuation. That, the issue of back benefits would be decided/settled after completion of judicial proceedings against the petitioner by Khyber Pakhtunkhwa Anti-Corruption Establishment. The representative of respondents appearing before the Tribunal today, when required to apprise regarding the proceedings by Anti-Corruption Establishment, was unable to provide any record/information and stated that he was before the Tribunal for only marking his attendance.

In the circumstances, respondent No. 4 shall be issued notice for appearance/representation through a properly authorized and instructed representative on next date who shall make available the record regarding the proceedings noted in notification dated 24.10.2019. The respondents shall also apprise the Tribunal regarding authority of law under which the issue of back benefits has been withheld till the completion of proceedings, if any, against the petitioner.

Adjourned to 17.12.2019 before S.B.



Chairman



23.09.2019

Petitioner in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Anwar Khan, SDFO for the respondents present.

Representative of the department produced copy of letter dated 19.09.2019 whereby the case for implementation of judgment in favour of the petitioner has been set in motion. He requests for further time for submission of implementation report. Adjourned to 17.10.2019 on which date implementation report shall positively be submitted. Else, punitive action would be initiated against the concerned respondents under the law.

  
CHAIRMAN

17.10.2019

Petitioner alongwith counsel and Addl. AG alongwith Muhammad Anwar, SDFO for the respondents present.

The representative of respondents states that the competent authority had approved the reinstatement of petitioner, however, a formal notification in that regard is yet to be issued. He therefore, requests for a short adjournment.

Adjourned to 29.10.2019 on which date the copy of requisite notification/implementation report shall positively be produced before the Tribunal. Else, the defaulting respondent shall be proceeded against in accordance with law.

  
Chairman

29.10.2019


Petitioner in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith representative Anwar Khan SDFO present. Representative submitted copy of Notification dated 24.10.2019 in relation to the implementation of judgment of this Tribunal and judgment of Apex Court. Petitioner seeks adjournment. Lawyers community is on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings on 03.12.2019 before S.B.

  
Member

05.07.2019

Counsel for the petitioner and Mr. Ziaullah, DDA alongwith Mr. Muhammad Anwar, SDFO for respondents present.

Representative of the respondents produced a copy of an application moved by Advocate on record, Supreme Court of Pakistan for early hearing of CPLA no. 168-P/2019 in the Supreme Court of Pakistan and the same is placed on record. As per practice invogue, respondents are directed to either get the judgment of this Tribunal date d 17.12.2018 suspended from the Supreme Court of Pakistan or produce provisional implementation order. Case to come up for further proceedings on 15.08.2019 before S.B.

  
(Ahmad Hassan)

Member

26.08.2019

Petitioner in person and Addl. AG alongwith M/S Faizullah, DFO and Muhammad Anwar Khan, SDFO for the respondents present.

The representative of the respondents states that CPLA submitted against the judgment under implementation stands dismissed by the Apex Court on 25.07.2019. Thereafter opinion of the S.O (Litigation) has been sought regarding implementation of the judgment of the Tribunal.

This Tribunal has no concern with the internal correspondence of the respondents. As a matter of fact the judgment under implementation has attained finality and warrants its execution in letter & spirit in accordance with law. The respondents are, therefore, required to submit an implementation report on next date of hearing, failing which punitive action would be taken against the concerned respondents under the law.

Adjourned to 23.09.2019 before S.B.

  
Chairman

15.05.2019

Petitioner with counsel present. Mr. Usman Ghani learned District Attorney present, states that in the present case, next date was fixed as 14.06.2019 and he had no knowledge of fixation of early date of hearing i.e. 15.05.2019. None present on behalf of respondents. Notice be issued to the respondents with the direction to submit implementation report on 14.06.2019. Adjourn. To come up for further proceedings/implementation report on 14.06.2019 before S.B.

*Handwritten notes:*  
p/1/1/19  
S.B.



Member

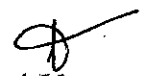
14.06.2019

Petitioner in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Anwar Khan, SDFO for the respondents present. Implementation report not submitted. Representative of the department is directed to furnish implementation report on the next date positively. Adjourned to 05.07.2019 for implantation report

05.07.2019

before S.B. Counsel for the petitioner and ~~Mr. A~~ Mr. Ziaullah, DDA (MUHAMMAD AMIN KHAN KUNDI) alongwith Mr. Muhammad Anwar, SDFO for respondents present.

Representative of the respondents produced a copy of an application moved by Advocate on record, Supreme Court of Pakistan for early hearing of CPLA no. 168-P/2019 in the Supreme Court of Pakistan and the same is placed on record. As per practice invogue, respondents are directed to either get the judgment of this Tribunal date d 17.12.2018 suspended from the Supreme Court of Pakistan or produce provisional implementation order. Case to come up for further proceedings on 15.08.2019 before S.B.



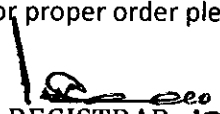

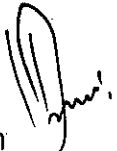
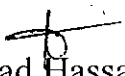
(Ahmad Hassan)

Member

**Form- A**  
**FORM OF ORDER SHEET**

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

Execution Petition No. 155/2019


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19.3.2019	<p>The execution petition of Mr. Muhammad Tariq submitted today by Mr. Babar Khan Yousafzai Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 19/3/19</p>
2-	21/3/19	<p>This execution petition be put up before S. Bench on <u>08/04/2019</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	08.04.2019	<p>Petitioner with counsel present.</p> <p>Notices of instant Execution Petition be issued to the respondents for 25.04.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	25.04.2019	<p>Petitioner in person and Mr. Usman Ghani, District Attorney alongwith Mr. Noor Rehman, Assistant for respondents present. Notices be issued to the respondents for submission of implementation report. Case to come up for further proceedings on 18.06.2019 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

The execution petition of Mr. Muhammad Tariq Khan Ex-DFO Environment department received today i.e on 14.03.2019 is incomplete on the following scores which is returned to the petitioner for completion and resubmission within 15 days.

- 1- Judgment attached with the petition is illegible attested copy of the same may be placed on it.
- 2- Annexures of the petition be flagged.

No. 424 /S.T,

Dt. 14/3 /2019

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Babar Khan Yousafzai Adv.

*Resubmitted after rectifying the above observations.*

*14/3/19*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,****PESHAWAR.***Execution Petition No. 155/2019*

C M No. \_\_\_\_\_/2019

In

Service Appeal No. 795 of 2015

Khyber Pakhtunkhwa  
Service TribunalDiary No. 400Dated 14/3/2019Muhammad Tariq Khan, Ex Divisional Forest Officer, Environment  
Department, Khyber Pakhtunkhwa.....Appellant*0300-8111711 Appellant No.***VERSUS**

1. ✓ The Chief Minister, Khyber Pakhtunkhwa, Chief Minister's  
Secretariat, Peshawar.
2. ✓ The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil  
Secretariat, Peshawar.
3. ✓ The Secretary, Government of Khyber Pakhtunkhwa, Environment  
Department, Peshawar.
4. ✓ The Chief Conservator of Forests, Central and Southern Forest  
Region-1, Peshawar.....Respondents

Application for implementation of the order and  
judgment dated 17.12.2018 passed by this  
Honourable Tribunal.

**Respectfully Sheweth: -**

- 1) That the applicant submitted an Appeal before this Hon'ble Tribunal  
against the impugned order dated 12.03.2015 for setting aside the said



order and to reinstate the applicant. The appeal was allowed by this honourable Tribunal with directions to respondents to conduct de-Novo enquiry strictly in accordance with law and rules within a period of 90 days from the date of receipt of this judgment. (Copy of the order dated 17.12.2018 is attached as annexure "A").

- 2) That after receiving the order of this Hon'ble Tribunal, the applicant approached the Department and submitted the attested copy of the said order for implementation of the said order on 28.12.2018. (Copy of the arrival report is attached as annexure "B").
- 3) That on 24.01.2019 the applicant once again approached to the respondent and submitted an application for posting/joining in to the service but in vain. (Copy of the application dated 24.01.2019 is attached as annexure "C").
- 4) That the order of this Hon'ble Tribunal was duly communicated to the respondents on time but they are not inclined to implement the orders of this honourable Tribunal.
- 5) That the applicant time and again requested the respondents to implement the order but they straightaway refused to do so. This act of the respondents by not implementing the order of this Hon'ble Tribunal amounts to contempt of Court, hence, the instant application.
- 6) That any other ground/documents, if any, will be produced at the time of arguments with the permission of this honourable Tribunal.

It is, therefore, most humbly prayed that on acceptance of this application, the respondent No.3 may kindly be directed to implement

the order dated 17.12.2018 passed by this Honourable Tribunal for the ends of justice.

Any other relief, with this Honourable Tribunal deemed just and proper may also be granted to the applicant not specifically prayed for herein.

*[Handwritten Signature]*  
Applicant

Through:

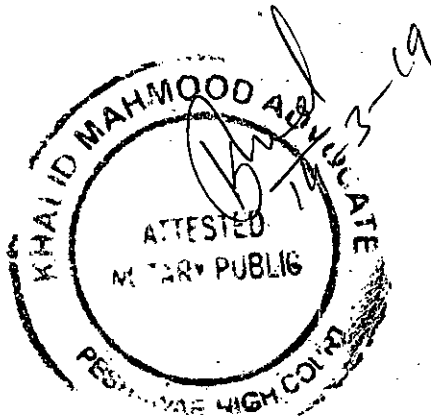
Dated: 11.03.2019

*[Handwritten Signature]*  
**(Babar Khan Yousafzai)**  
And

*[Handwritten Signature]*  
**(Muhammad Ali)**  
Advocates, Peshawar.

**AFFIDAVIT**

I, Muhammad Tariq Khan, Deputy Conservator of Forests, Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on Oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble Tribunal.



*[Handwritten Signature]*  
Deponent

4  
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 795/2015

Khyber Pakhtunkhwa  
Service Tribunal  
Diary No. 825  
Dated 10-7-2015

Muhammad Tariq,  
Ex Divisional Forest Officer,  
Environment Department Khyber Pakhtunkhwa.....Appellant

Versus

1. The Chief minister,  
Khyber Pakhtunkhwa,  
Chief Minister's Secretariat, Peshawar
2. The Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Civil secretariat, Peshawar
3. The Secretary,  
Government of Khyber Pakhtunkhwa,  
Environment Department, Peshawar
4. The Chief Conservator of Forests,  
Central and Southern Forest Region-I,  
Peshawar.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 12-03-2015 (Annex H) THEREBY IMPOSED A MAJOR PANALTY OF "DISMISSAL FROM SERVICE" AND RECOVERY OF RS. 15,48,200/- UPON APPELLANT WITH IMMEDIATE EFFECT AGAINST WHICH HE FILED REVIEW PETITION (Annex I) BEFORE THE RESPONDENT NO.1 THROUGH TCS VIDE DATED 26-03-2015 BUT THE SAME WAS NOT DISPOSED OFF WITHIN STATUTORY PERIOD OF NINTY DAYS.

Filed to file  
10/7/15

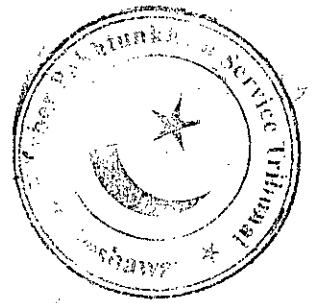
ATTESTED

Respectfully Sheweth,

The facts giving rise to the present appeal are as under:-

1. That appellant initially joined the Services of Forest Department as Forest Ranger in (BPS-16) in the year 1980, then promoted as Sub

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



5

12.11.2018

. Due to retirement of the Hon'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Abbottabad has been cancelled. To come up for the same on 17.12.2018 at camp court Abbottabad.

*[Signature]*  
A/Abad

**ORDER**

17.12.2018

Counsel for the appellant alongwith Mr. Usman Ghani, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today in connected service appeal no. 1244/2016 titled "Abdul Manan vs Govt: of Khyber Pakhtunkhwa, Peshawar and two others", the impugned order dated 12.03.2015 is set aside and the appellant is reinstated in service. The respondents are directed to conduct de-novo enquiry strictly in accordance with law and rules within a period of 90 days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. The appeal is disposed of accordingly. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.

*[Signature]*  
Chairman

*[Signature]*  
Member  
Camp Court Abbottabad

**Certified true copy**  
*[Signature]*  
Khalid  
Services Tribunal  
Peshawar

**ANNOUNCED**  
17.12.2018

Chairman Date of Presentation of Application 19-3-18

Number of Words 800

Copying Fee 6

Urgent 2

Total 8

Name of Copyist *[Signature]*

Date of Completion of Copy 19-3-18

Date of Delivery of Copy 19-3-18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
CAMP COURT ABBOTTABAD.

Service Appeal No. 1244/2016

Date of Institution ... 13.12.2016

Date of Decision ... 17.12.2018



Abdul Manan Forester, Upper Kohistan Forest Division, Dassu, District Kohistan.  
... (Appellant)

VERSUS

Chief Minister, Khyber Pakhtunkhwa, Peshawar and two others.  
... (Respondents)

-----  
MR. SHAD MUHAMAMD KHAN,

Advocate

MR. ABDUL SABOOR KHAN

Advocate

--- For appellant.

MR. USMAN GHANI,

District Attorney

--- For respondents

MR. AHMAD HASSAN,

MR. HAMID FAROOQ DURRANI

--- MEMBER (Executive)  
--- CHAIRMAN

JUDGMENT

AHMAD HASSAN, MEMBER:-

This judgment shall dispose of the instant service appeal as well as connected service appeal no. 927/2015 titled Jamair Khan, appeal no. 926/2015 titled Naseeb Khan, appeal no. 1247/2016 titled Asghar Khan, appeal no. 1246/2016 titled Umar Khan and service appeal no. 795/2015 titled Mohammad Tariq Khan as similar question of law and facts are involved therein.

**ATTESTED**

2.D. Arguments of the learned counsel for the parties heard and record perused.

FACTS

The brief facts are that the appellant was serving as Forester in Forest Division Kohistan. On the allegations of involvement in corrupt practices an enquiry was conducted and upon culmination major penalty of compulsory retirement was imposed on

**MEMBER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

him vide impugned order dated 30.06.2016. Feeling aggrieved he filed departmental appeal on 15.08.2016, which was not responded, hence, the instant service appeal on 13.12.2016.

### ARGUMENTS

4. Learned counsel for the appellant argued that he was proceeded departmentally and upon winding up of proceedings major penalty of compulsory retirement was imposed on him. Enquiry was not conducted in accordance with the spirit of E&D Rules 2011. The appellant and others through an application submitted a list of witnesses to the Chairman Enquiry Committee for examination but no heed was paid to it. He further argued that the appellant submitted an application to the Chairman Enquiry Committee that Mr. Shah Wazir Khan, Member Enquiry Committee had personal grudge against him and was hell bent to punish the appellant. A request was made to depute some other member for conducting the enquiry. This fact was also highlighted in para-9 of the reply to the show cause notice but was not considered by the competent authority. By not considering his requests, the inquiry report appeared to be biased and against the norms of fairness/justice.

5. Learned District Attorney, at the very outset raised objection on the maintainability of the appeal in hand. He stated that the impugned order was passed on 30.06.2016 while departmental appeal was filed on 15.08.2016, as departmental appeal was not filed within the given deadline, so the same was barred by time. He further argued that even on merits all the codal formalities were observed before passing the impugned order.

### CONCLUSION.

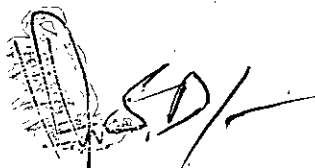
6. So far as the issue of maintainability of the present appeal is concerned, impugned order dated 30.06.2016 was received by the appellant on 05.08.2016, as is evident from a copy of the impugned order containing endorsements to the quarters concerned and

**ATTESTED**

**WAZIR**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

provided by the learned counsel for the appellant. Before touching the merits of the case, we deem it appropriate to touch the important issue of objections raised by the appellant on Mr. Shah Wazir, Member Enquiry Committee, but were not considered by the competent authority. It was also reiterated in reply to the show cause notice. He had given solid proof showing bias/prejudice of the above member towards the appellant and had made up his mind to punish him. The principle of natural justice demanded that his request should have been considered for the purpose of fair/transparent inquiry and to meet the ends of justice. By ignoring his request the enquiry report had not only become disputed but smacked of malafide, malice and distrust on the part of the said Member. On this score alone, it is a valid worth consideration case for de-novo enquiry. In these circumstances we would not like other dilate on other deficiencies in the inquiry report.

7. As a sequel to above, the impugned order dated 30.06.2016 in respect of appellants Abdul Manan, Umer Khan and Asghar Khan, order dated 02.04.2015 in respect of appellant Naseeb Khan and order dated 12.03.2015 in respect of appellants Jamair Khan and Muhammad Tariq Khan are set aside and the appellants are reinstated in service. The respondents are directed to conduct de-novo enquiry strictly in accordance with law and rules within a period of 90 days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. The appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.



(HAMID FAROQQ DURRANI)  
Chairman



(AHMAD HASSAN)  
Member  
Camp Court Abbottabad.

ANNOUNCED  
17.12.2018

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

(9)

Amr: B

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

Subject: ARRIVAL/ JOINING REPORT.

Respected Sir,

Enclosed please find herewith the detailed judgment of Honorable Services Tribunal Khyber Pakhtunkhwa Peshawar dated 17-12-2018, wherein, the impugned order No. SO(Estt)/FE&WD/1-8/Tariq DFO/2K14 dated 12-03-2018 is set aside and reinstated in service.

Therefore, I submit my arrival report to your office, submitted for your kind of information and further necessary action.

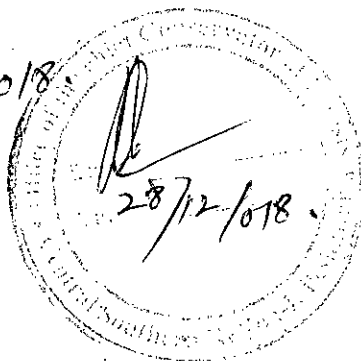
Thanks

Yours Obediently

Muhammad Tariq  
Deputy Conservator of Forests

Dated: 28-12-2018.

Received the above  
Along with attested copy  
of the Judgment to def  
on 28/12/2018



Attested



(10)

Amc: C<sup>2</sup>

TO

The Secretary,  
Environment Department,  
Govt: Of Khyber Pakhtunkhwa,  
Peshawar.

Subject: - REQUEST FOR PERSONAL HEARING AND POSTING

*Received one  
page application with  
proposed  
arranged  
25/1/2019*

Respected Sir,

Reference the judgement orders of honorable services tribunal Khyber Pakhtunkhwa dated 17<sup>th</sup> Dec: 2018 attached herewith.

Vide above orders Notification No. SO (Estt:) FE&W/1-8/Tariq DFO/2K14 dated 12<sup>th</sup> March, 2015 regarding my dismissal is set aside and reinstated in service therefore, I submitted my arrival report in the office of Chief Conservator of Forests on 28<sup>th</sup> January, 2019 for information and further necessary action.

It is brought to your kind notice that till date no Notification has been issued regarding my posting therefore it is requested that my posting orders may please be issued as early as possible keeping in view my seniority as per rules. It is also brought to your kind notice that there almost four months left to attain my superannuation age (Retirement).

Non-implementation of court orders counts towards contempt of court.

I tried my best to meet you in your office so many times but could not succeed. I will like to be heard in person

Yours Sincerely,  
Muhammad Tariq  
Deputy Conservator of Forests.

Dated: 24.01.2019

Copy forwarded to in advance to the private secretary to the Chief Secretary Khyber Pakhtunkhwa for information and further necessary action please.

Yours Sincerely,  
Muhammad Tariq  
Deputy Conservator of Forests.  
Dated: 24.01.2019

*Attest*

*25-1-19*

# WAKALATNAMA

In the Court of Khayber Pakhtunkhwa Service Tribunal, Peshawar

CM No \_\_\_\_\_ of 2019

in Service Appeal no 795/2015

Muhammad Tariq Khan

(Petitioner)

(Plaintiff)

(Appellant)

(Complainant)

(Decree-Holder)

## VERSUS

The Chief Minister etc

(Respondent)

(Defendant)

(Opponent)

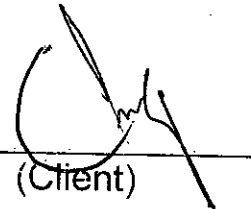
(Accused)

(Judgement-Debtor)

I/We Muhammad Tariq Khan

the above noted Applicant/Appellant do hereby appoint and constitute **Babar Khan Yousafzai & Muhammad Ali** Advocates as our/my Counsel in subject proceedings and authorize him to appear, plead etc compromise, withdraw or refer the matter for arbitration for me/us without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel at our/my expense and receive all sums and amounts payable to us/me and to all such acts which he may deem necessary for protecting our/my interests in the matter. He is also authorized to file Appeal, Revision, Review, Application for Restoration or Application for setting-aside exparte decree proceedings on our/my behalf.

Dated \_\_\_\_\_

  
(Client)

  
**Babar Khan Yousafzai**

And

  
**Muhammad Ali**

Advocates, Peshawar  
House No.1, Saddar Road,  
Opposite Cantt Railway Station,  
Peshawar Cantt  
Ph No 091-5284140  
091-5284147

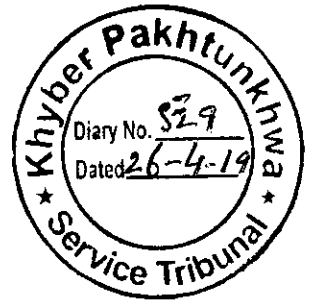
BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHAWA

Implementation Petition No. 155/019

Muhammad Tariq

VERSUS

Government of KPK etc



APPLICATION/REQUEST FOR FIXATION OF THE ABOVE NOTED CASE FOR EARLY HEARING

Respectfully Sheweth;

*put up to the court with relevant E. Petition*

*26/4/19.*

*Reader*

*Be accelerated to 15/5/19. Notice to all concerned.*

*30/4/19.*

That the above noted petition was fixed on 25<sup>th</sup>, April before this honourable tribunal which is adjourned for 18-06-2019.

2. That the petitioner appellant is going to be retired on 02-06-2019 and if his application for implementation is not decided prior to his retirement then it would be against the law and norms of justice and would be a futile exercise after his retirement.

It is also brought to your kind notice that other petitioners in the same case has also submitted implementation applications which is fixed on 3<sup>rd</sup>, May 2019 therefore may please be clumped with those applications.

That the implementation of judgement / order dated 17-12-2018 passed by this honourable tribunal prior to his retirement is pertinent because after his retirement the concerned authorities would linger on the fate of the petitioner on this and that pretext and he would suffer irreparable loss in time and energy.

It is therefore humbly prayed, that on acceptance of this application the above noted petition may kindly be fixed before this honourable tribunal as early as possible and the respondents be compelled to implement the judgement / order dated 17-12-2018 passed by this honourable tribunal as soon as possible.

Dated: -26-04-2019

Petitioner

Muhammad Tariq

Muhammad Tariq

VERSUS

Government KPK etc

AFFIDAVIT

I, Muhammad Tariq s/o Muhammad Yusuf r/o of house No.10 Mohalla Qafila Valley opposite to KFC university road Peshawar do hereby solemnly affirm and declare on oath that the contents of the accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.

Dated: -26-04-2019

Deponent

  
Muhammad Tariq



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

**Dated Peshawar the, 24<sup>th</sup> October, 2019**

**NOTIFICATION**

7454-58

**No.SO(Estt)FE&WD/1-50(69)/2019/PF:** In compliance with judgment dated 17.12.2018 of Khyber Pakhtunkhwa Service Tribunal in service appeal No.795/2015 and decision dated 25<sup>th</sup> July, 2019 of Supreme Court of Pakistan in Civil Petition No.168-P to 173-P of 2019, the competent authority is pleased to partially withdraw this department earlier Notification No.SO(Estt)FE&WD/1-8/Tariq DFO/2014/2826-30 dated 12.03.2015 to the extent of the major penalty of "Dismissal from Service w.e.f. 31<sup>st</sup> May, 2019 while Recovery of Rs. 15,48,200/- upon Muhammad Tariq, Ex-Divisional Forest Officer (BS-18) Khyber Pakhtunkhwa Forest Department will remain intact and will be referred to the Anti-Corruption Establishment for further necessary action in terms of FR-54(A) of the Fundamental Rules.

**CHIEF MINISTER  
KHYBER PAKHTUNKHWA**

**Endst: No: SO (Estt)FE&WD/1-50(69)/2019/PF:**

**Dated Pesh 24<sup>th</sup> October, 2019**

Copy is forwarded to:-

- 1) Chief Conservator of Forests, Central Southern Forest Circle, Peshawar.
- 2) Chief Conservator of Forests, Northern Forest Region-II, Abbottabad.
- 3) Director, Budget and Accounts Cell, FE&W department.
- 4) PS to Secretary, FE&W Department, Khyber Pakhtunkhwa.
- 5) Muhammad Tariq, Ex-Divisional Forest Officer C/o CCF-I, Peshawar.
- 6) Master file.
- 7) Office order file.

  
**(Zia-ur-Rahman)**  
**SECTION OFFICER (ESTT)**



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

**Dated Peshawar the, 24<sup>th</sup> October, 2019**

**NOTIFICATION**

*7464-68*

**No.SO(Estt)FE&WD/1-50(69)2019/PF:** In compliance with judgment dated 17.12.2018 of Khyber Pakhtunkhwa Service Tribunal in service appeal No.795/2015, decision dated 25<sup>th</sup> July, 2019 of Supreme Court of Pakistan in Civil Petition No.168-P to 173-P of 2019 and this department Notification of even number dated 24.10.2019, the competent authority is pleased to reinstate in service Mr. Muhammad Tariq, Ex-Divisional Forest Officer (BS-18) Khyber Pakhtunkhwa Forest Department, w.e.f. 31<sup>st</sup> May, 2019.

Consequent upon above, Muhammad Tariq, Ex-Divisional Forest Officer (BS-18) Khyber Pakhtunkhwa Forest Department stand retired from government service w.e.f 1<sup>st</sup> June, 2019 on attaining the age of superannuation under Section-13 of Khyber Pakhtunkhwa Civil Servants Act 1973. The issue of back benefits would be decided /settled after completion of judicial proceedings against the above named Ex-officer by the Khyber Pakhtunkhwa Anti-Corruption Establishment as per above judgment of Khyber Pakhtunkhwa Service Tribunal.

**CHIEF MINISTER  
KHYBER PAKHTUNKHWA**

**Endst: No: SO (Estt)FE&WD/1-50(69)/2019/PF:**

**Dated Pesh 24<sup>th</sup> October, 2019**

Copy is forwarded to:-

- 1) Chief Conservator of Forests, Central Southern Forest Circle, Peshawar.
- 2) Chief Conservator of Forests, Northern Forest Region-II, Abbottabad.
- 3) Director, Budget and Accounts Cell, FE&W department.
- 4) PS to Secretary, FE&W Department, Khyber Pakhtunkhwa.
- 5) Muhammad Tariq, Ex-Divisional Forest Officer C/o CCF-I, Peshawar.
- 6) Master file.
- 7) Office order file.

  
**(Zia-ur-Rahman)**  
SECTION OFFICER (ESTT)

To

The Assistant Director Crimes,  
Anti-Corruption Establishment,  
Mansehra.


No. 13370 /ACE, dated 28/08/2018.

Subject: OPEN ENQUIRY NO. 10/2013-FOREST AGAINST THE CONCERNED STAFF OF FOREST DEPARTMENT, DISTRICT KOHISTAN AND CONTRACTORS.

Reference your report dated 15.08.2018.

The subject enquiry has been filed. Record be completed accordingly. The enquiry file is returned herewith in original for record.

Enclose. (Enquiry file)

  
Assistant Director (Complaint),  
Anti-Corruption Establishment,  
Khyber Pakhtunkhwa,  
Peshawar.

No. /ACE, dated /08/2018.

Copy forwarded to the:-

1. District Police Officer, Kohistan w/r to his letter No. 2897/PI, dated 26.09.2013.
2. SA, ACE, Peshawar.

Assistant Director (Complaint),  
Anti-Corruption Establishment,  
Khyber Pakhtunkhwa,  
Peshawar.

① OE # 10/2013 Against Forest Dept. Kohistan etc

About 15000 cft (Cubic Feet Timber) was stolen/lifted away from the various depots by unknown persons with the connivance of forest staff Kohistan. On the report of forest guards FIR No. 73 dated 28-8-2013 u/s 409, 379, 109, 34 PPC in P.S. Sazim was registered but later on it was surrendered to ACE Kohistan on the opinion of Prosecution.

② Several enquiries on the issue was conducted by PIT and Forest department wherein the respondents mentioned in final report of CO ACE Kohistan were held responsible for negligence and lack supervision. They were awarded major/minor punishment by the competent authority and their appeals are subjudice in Tribunal.

③ During course of enquiry, statements of respondents and others were recorded where it was observed that the alleged timbers (wood) was the ownership of inhabitants of Kohistan wherein Govt has 20% share and the same timbers were brought by unknown civil and deposited in depots.

④ Final report dated 09-8-18 of CO ACE Kohi

PTO



AOC MA report are worth perusal.  
Due to threats at the hands of militants  
to the forest staff and non-cooperation  
of local police, the timbers owned by  
inhabitants of Kohistan were lifted  
from the depots by unknown civilians.  
The matter was reported to ~~forest~~ local police  
by forest officials but none of civilians  
was apprehended by police and referred  
the case to A.C.E. In the departmental  
enquiry, chief minister KP has awarded  
punishment to the defaulter officials. as  
The alleged lifted timbers have been  
returned by civilians and deposited in  
depots for further action.

As suggested by field staff, there is  
no major loss to Govt, OE may be  
filed if approved please.

  
A.O.C.  
25-8-2078

W-DAC P/2



**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE SH. AZMAT SAEED  
MR. JUSTICE UMAR ATA BANDIAL

**CIVIL PETITION NO.168-P TO 173-P OF 2019**

(On appeal from the judgment dated 17.12.2018 of the  
Khyber Pakhtunkhwa Service Tribunal, Peshawar passed  
in Service Appeals Nos.1244/2016, 927/2015, 926/2015,  
1247/2016, 1246/2016 and 795/2015 respectively)

Chief Minister through its  
Principal Secretary, Khyber  
Pakhtunkhwa Peshawar & others

... Petitioner (s)

Versus

1. Abdul Manan (In CP No.168-P/2019)
2. Umar Khan (In CP No.169-P/2019)
3. Asghar Khan (In CP No.170-P/2019)
4. Muhammad Tariq (In CP No.171-P/2019)
5. Naseeb Khan (In CP No.172-P/2019)
6. Jamair Khan (In CP No.173-P/2019)

For the Petitioner (s) : Barrister Qasim Wadood, Addl. AG KPK

Respondent (s) : N.R.

Date of Hearing : 25.07.2019

**ORDER**

**SH. AZMAT SAEED, J.**-We have heard the learned Addl. Advocate General, KPK and perused the available record. It appears that the learned Service Tribunal has remanded the matter for *de novo* inquiry. In this view of the matter, no substantial question of law of public importance could be raised so as to warrant

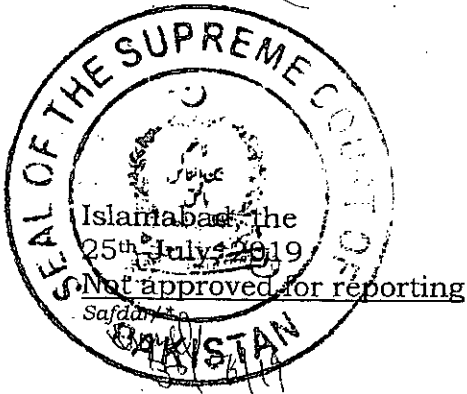
**ATTESTED**

Court Associate  
Supreme Court of Pakistan

exercise of jurisdiction of this Court under Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973. Hence, these Civil Petitions must fail.

2. The allegation in these cases pertains to the misappropriation of timber. We have asked the learned Addl. Advocate General as to whether any criminal proceedings have been initiated against the culprits. He states that he will seek instructions in this behalf and make sure that the law of the land would be implemented.

3. Be that as it may, these Civil Petitions being without substance are dismissed and leave declined.



Sd/-J

Sd/-J

Certified to be True Copy

Court Associate  
Supreme Court of Pakistan  
Islamabad

GR No: 15660/19 Civil/Criminal

Date of Presentation: 26-7-19

No of Words: 6

No of Pages: 6

Required Fee: 5000/-

Court Fee: 2000/-

Costs: 5000/-

Stamp: 2077/19

Date: 01-8-19

*[Handwritten signature]*

Before the Honorable Chairman,  
KPK Service Tribunal,  
Peshawar.

بعدالت

Execution Petition  
No. 155/2019

(Petition) 2019  
بنام

Muhammad Tariq  
VS.  
Chief Minister & others

موزخه  
مقدمہ  
دعوی  
ج.م

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی دکن کاروائی متعلقہ  
Rizwanullah Ady Peshawar

آن مقام مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
دیکل صاحب کو رضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک دروپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ

پر واختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانشین التوائے مقدمہ کے سبب سے ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 29

واہ العہ

Att. Sh. Akbar Khan

Peshawar

بمقام

2010 S C M R 1554

[Supreme Court of Pakistan]

Present: Sardar Muhammad Raza Khan and Raja Fayyaz Ahmad, JJ

MUHAMMAD ZAHEER KHAN---Appellant

Versus

GOVERNMENT OF PAKISAN through Secretary, Establishment and others---Respondents  
*Civil Appeal No.762 of 2002, decided on 9th October, 2009. (On appeal from the judgment, dated 6-11-2000 of the Federal Service Tribunal, Islamabad passed in Appeal No.1142(R) of 1998).*

### Fundamental Rules---

----R. 54-A---ESTACODE, R. 6(3)---Disciplinary proceedings---Attaining the age of superannuation---Effect---Principle of audi alteram partem---Applicability---**Civil servant was dismissed from service on the charge of misconduct and dismissal order was maintained by Service Tribunal---Plea raised by civil servant was that during departmental inquiry he was condemned unheard as he was not provided any opportunity to cross-examine the witnesses who appeared against him---Validity---Whether Estacode provided to an officer under inquiry any opportunity of hearing or not, was altogether immaterial because even if not provided (which it had), the principle of audi alteram partem was to be read as a part of every statute.**

Rule or Regulation---Pending disciplinary proceedings against civil servant abated if the latter had attained the age of superannuation---Such civil servant was entitled under Fundamental Rule, 54-A to retire with full pensionary benefits and period of suspension was bound to be treated as period spent on duty---Civil servant was condemned unheard and the order of his dismissal from service suffered from mala fides of law---Supreme Court declined to send the matter back to department for holding de novo inquiry and set aside the judgment and order passed by Service Tribunal and authorities respectively---Appeal was allowed.

Tulsi Ram Patel's case AIR 1985 SC 1416; National Bank of Pakistan v. Muhammad Iqbal 1986 SCMR 234; Rana Muhammad Sarwar v. Government of Punjab 1990 SCMR 999; Deputy Director Food v. Akhtar Ali 1997 SCMR 343; Secretary to Government of N.-W.F.P. v. Saifur Rehman 1997 SCMR 1073; Syed Sajjad Haider Kazmi's case 2007 SCMR 1643; Bilquis Nargis' case 1983 PLC (C.S.) 1141; Abdul Wali's case 2004 SCMR 678 and Muhammad Akhtar's case 2007 PLC (C.S.) 400 rel.

Abdul Rahim Bhatti, Advocate Supreme Court for Appellant.

Agha Tariq Mehmood, D.A.-G. for Respondents.

Date of hearing: 9th October, 2009.

### JUDGMENT

**SARDAR MUHAMMAD RAZA KHAN, J.**--- The appellant, with leave of court, has filed this appeal against the judgment dated 6-11-2000 of the learned Federal Service Tribunal Islamabad,

whereby, his appeal against dismissal dated 16-7-1998 from service on charges of misconduct and corruption, was dismissed.

2. On the allegations mentioned in para-5 of the impugned judgment, Muhammad Zaheer Khan, former Chairman State Life Insurance Corporation of Pakistan was proceeded against. The Inquiry Officer Muhammad Hassan Bhutto, Secretary Labour etc., submitted his inquiry report (PP:64-84) and in conclusion held him guilty of misconduct. As a result, thereof, the appellant was dismissed from service.

3. The only grievance strongly alleged by the appellant before the Inquiry Officer, before the Tribunal and also before this court is that he was grossly condemned unheard, that none of the witnesses holding him guilty were examined by the Inquiry Officer and so none of them was cross-examined by the appellant. That the golden principle of audi alteram partem was blatantly violated thereby condemning him through mala fide political victimization. In order to ascertain the truth or otherwise of the contentions, one has to revert to the very inquiry report.

4. It is conclusively proved, rather admitted that for the allegations levelled against the appellant, the Inquiry Officer had sent interrogatories to different concerned officers of the Corporation. That the answers to such interrogatories were made basis of the findings. Para-iii at P:68 of the inquiry report indicates the names of as many as fourteen officers who were sent the interrogatories, in answer where to their statements were placed as appendix 4 to 17. Quite amazing it is to observe that despite the fact that all allegations constituted extensive questions of fact (appendix 4 to 17 concerning such questions of fact), not a single officer from amongst those fourteen was examined by the inquiry officer. The opportunity of cross-examining them being besides the point, even their examination-in-chief was never recorded. Nothing could be a better example of condemnation unheard where no witness was examined and cross-examined by the inquiry officer before arriving at such a serious conclusion relating to extensive questions of fact.

5. Rule 6(3) of Civil Establishment Code makes it mandatory for an Inquiry Officer to afford opportunity to the accused officer of cross-examining the witnesses appearing against him. Interestingly, in the instant case no witness had even appeared and had given his statement in respect of the interrogatories. Throughout, the matter remained between the Inquiry Officer and the witnesses who never subjected themselves to be cross-examined by the appellant.

6. Whether the Estacode provides to an officer under inquiry such opportunity or not, is altogether immaterial because even if not provided (which it is), the principle of audi alteram partem is to be read as a part of every statute, Rule or Regulation. We have been looking for the history of the concept of audi alteram partem and could find no better analysis than the one provided, in its wider amplitude, by the Supreme Court of India in Tulsi Ram Patel's case AIR 1985 SC 1416, in following words:-

"....audi alteram partem rule, in its fullest amplitude means that a person against whom an order to his prejudice may be passed should be informed of the allegations and charges against him, be given an opportunity of submitting his explanation thereto, have the right to know the evidence, both oral or documentary, by which the matter is proposed to be decided against him, and to inspect the documents which are relied upon for the purpose of being used against him, to have the witnesses who are to give evidence against him examined in his presence and have the right to cross-examine them, and to lead his own evidence, both oral and documentary, in his defence...."

7. The above case is mentioned only with reference to the centuries old history of audi alteram partem. So far as the principle, as such, is concerned, there is no dearth of cases where the violation of the principle was seriously condemned. A full Bench of this Court in National Bank of Pakistan v. Muhammad Iqbal 1986 SCMR 234 had refused to grant leave to

the Bank where the respondent officer was denied opportunity to cross-examine the witnesses. Where mandatory procedural requirements by the authority concerned are not satisfied, this Court in case of Rana Muhammad Sarwar v. Government of Punjab 1990 SCMR 999 declared it to be a mala fide of law. Same view was held in Deputy Director Food v. Akhtar Ali 1997 SCMR 343 and in Secretary to Government of N.-W.F.P. v. Saifur Rehman 1997 SCMR 1073 where the non-affording of opportunity to cross-examine was condemned as inherent legal defect. This view is maintained in our latest judgment in Syed Sajjad Haider Kazmi's case 2007 SCMR 1643. In the circumstances and in view of the abundance of case-law, we hold that the appellant was condemned unheard and the inquiry proceedings being void ab initio, could not be used against the appellant.

8. It may be recalled at this juncture that this appeal is fixed for rehearing, having already been accepted by a full Bench of this Court. In the earlier hearing, we were confronted with a legal question as to whether the matter should be sent back to the department concerned for initiating de novo proceedings or not. While writing the judgment it was felt that the arguments addressed in this behalf might not have been sufficient. Normally, in the given circumstances, the Court and the Tribunal do remand the cases for de novo inquiries but the distinguishing feature in the instant case was that the appellant, only about a month or so after inquiry, happened to retire on superannuation. On this crucial point we have fully satisfied ourselves by resorting to rehearing.

9. The learned counsel for the appellant in that behalf referred us to F.R.54-A which, for ready reference is reproduced below as inserted by S.R.O.1143(I)/80 dated 10th November, 1980:--

"[54A. If a Government servant, who has been suspended pending inquiry into his conduct attains the age of superannuation before the completion of inquiry, the disciplinary proceedings against him shall abate and such government servant shall retire with full pensionary benefits and the period of suspension shall be treated as period spent on duty.]"

10. From the plain reading of the above Rule it become abundantly clear that what to talk of sending the case back to the department, even the pending disciplinary proceedings against an officer abate if the latter attains the age of superannuation. The Rule entitles such officer to retire with full pensionary benefits and period of suspension is bound to be treated as period spent on duty. In the circumstances, the question of now sending the matter back to the department for holding de' novo inquiry stands out of question. It may be stated at this juncture that the appellant has stated at the Bar that he is not interested in claiming any back benefits and that he is only interested in getting the stigma removed.

11. The question relating to retirement during disciplinary proceedings has not remained restricted to the rule aforesaid but various forums have also taken notice of it. In Bilquis Nargis' case 1983 PLC (C.S.) 1141, the Punjab Service Tribunal held such proceedings to have abated if the officer retired during the course of action. In case of Deputy Director Food v. Akhtar Ali (supra), it was held by a full Bench of this Court that an officer superannuating during disciplinary proceedings ceases to be a civil servant as was rightly so excluded by section (2)(1)(b) of Punjab Service Tribunals Act, 1974. In case of Abdul Wali 2004 SCMR 678(b), it was again held that an employee could not be proceeded against after superannuation. The principle was reiterated in Sajjad Haider Kazmi's case (supra) where the officer was not only condemned unheard but also had retired. The holding of fresh inquiry was, therefore, disapproved, Muhammad Akhtar former headmaster was proceeded against by the department after one year of his retirement. It was condemned by this Court in Muhammad Akhtar's case 2007 PLC (C.S.) 400, The fundamental principle laid down in FR.54-A duly supported by the aforementioned cases decided by this Court leads us to the only unescapable conclusion that the case of the present appellant cannot be remanded back to the authority for holding de novo proceedings, after eleven years of his superannuation.



12. As a sequel to the above discussion we hold that the appellant was condemned unheard at the order dated 16-7-1998 of his dismissal suffered from mala fide of law. The appeal is hereby accepted and the C impugned judgment dated 6-11-2000 of the learned Tribunal is set aside along with the order dated 16-7-1998 impugned before the Tribunal.

M.H./M-9/SC

Appeal allowed.

To

The Honorable Chairman,  
Services Tribunal Khyber Pakhtunkhwa,  
Peshawar.

Subject:- Written ARGUMENTS/APPLICATION THEREOF

Respected Sir,

Arguments

- The Notification issued by the respondents dated 24<sup>th</sup> Oct, 2019 is not with the letter and spirit of the orders of the honorable Services Tribunal dated 17.12.2018. Implement the court orders partially by the respondents is clear violation of the court orders and misuse of authority.
- The recovery mentioned in the Notification is the recommendation of the inquiry which is set aside by the honorable this Services Tribunal. Therefore, the recovery mentioned and referring the same to Anti-corruption Establishment is unlawful, unjust and violation of the orders of the honorable Services Tribunal dated 17.12.2018.
- The FR-54(A) mentioned in the Notification is reproduced as Under:  
([54A. If a Government servant, who has been" suspended pending inquiry into his conduct attains the age of superannuation before the completion of inquiry, the disciplinary proceedings against him shall abate and such Government servant shall retire with full pensionary benefits and the period of suspension shall be treated as period spent on duty.)
- It is brought to your kind notice that as per order of the honorable Services Tribunal denove inquiry was done and they all are exonerated from the charges of corruption and misconduct and recommended stoppage of two increments without accumulative effect.
- All the other appellants are reinstated and their postings are made.
- Further mover it is added that in the denove inquiry it is clearly mentioned that no loss is occurred to govt: exchequer and the theft timber is retrieved.

PRAYERS

Respected Sir,

I and my family members are suffering badly from hardship, mental torture since last six years mere on an unlawful, unjust dismissal orders and biased inquiry report.

It is humbly prayed that the respondents may please be order to pay me all the back benefits, pay and emoluments as early as possible with in specific period as deemed fit by this honorable court.

Appellant  
Muhammad Tariq  
(R) DFO BPS-18

9/1/20

The Honorable Chairman,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Subject:- REPLY TO THE WRITTEN AURGUMENT/APPLICATION THEREOF.


Respected Sir,

Para-wise reply is furnished as under:-

- Notification is issued by the Administrative Department in the light of approval accorded by competent authority. The honorable court vide order dated 17.12.2018 has directed for denovo inquiry against the petitioners but the appellant has been retired from service on superannuation age while denovo inquiry has been initiated against other petitioners.
- The recovery mentioned in the notification is quite justified as the honorable court has never prohibited the department for effecting recovery as notified.
- The stance of appellant is incorrect. As per Service and General Administration Department (S&GAD) notification dated 22.8.1998 clearly indicates that if some pecuniary loss caused to the Government is likely to be recovered against a government servant, who superannuates before decision of the case against him, an FIR should be lodged against him for judicial proceedings immediately after the date of superannuation and exclusion of his name from the departmental inquiry.
- It is incorrect. Denono inquiry is still under process of completion.
- It is correct to the extent of that all others appellants are reinstated in service but except Mr. Mohammad Asghar Forester, the remaining 04 officials are attached with Divisional Office.
- As explained above, the denovo inquiry is still under process of completion.

The request of applicant is contrary to the rules and decision of the competent authority which may be dismissed.

Divisional Forest Officer  
Upper Kohistan Forest Division  
Dassu

Chief Conservator of Forests Central Southern Forest Region-1 Khyber Pakhtunkhwa Peshawar		Shami Road Peshawar Phone # 091-9212177 Fax # 9211478 E-mail: <a href="mailto:ccfforests.pesh@gmail.com">ccfforests.pesh@gmail.com</a>
No. <b>1342</b> /E,	Dated	Peshawar the <b>08</b> / 09/2020

To **PF**

The Director  
Research & Development  
Peshawar


Subject: **IMPLEMENTATION OF COURT ORDERS**

Memo:- Reference in continuation of this office letter No. 1306/e dated 07/09/2020

Following documents provided by Muhammad Tariq Ex-Divisional Forest Officer are enclosed herewith for further course of action at the earliest convenience being Court matter:

1. Service History profile.
2. Photograph (3-copies)
3. Photocopy of CNIC (3-copies)
4. Option form for direct credit of Pension through Bank Account
5. Indemnity Bond
6. Affidavit.
7. List of family members.

Any other documents whenever required, contact the Ex-Divisional Forest Officer on his cell.

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

**Encls: As above**

**Most Immediate**  
**Through Fax**



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

NO.SO(ESTT)/FE&WD/1-50 (69)PF  
Dated Peshawar the, 8<sup>th</sup> September, 2020

To

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

**Subject: - EXECUTION PETITION FILED BY MUHAMMAD TARIQ ETC VERSUS**  
**GOVERNMENT OF KHYBER PAKHTUNKHWA IN KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL**


I am directed to refer to your letter No: 856/E, dated 13<sup>th</sup> August, 2020 on the subject captioned above.

In this regard, it is to state that the government may withhold or withdraw a pension or any part of it under 1.8 Pension Rules, if the pensioner is convicted in serious crime or found to have been guilty of grave misconduct either during or after the completion of his service".

In view of the above, it is requested to kindly take up a self contained case with the Director Budget & Accounts Cell, FE&W department to process the pension case in respect of Muhammad Tariq, Ex DFO (BS-18) as per the judgment of the Khyber Pakhtunkhwa Service Tribunal dated 5<sup>th</sup> August, 2020 in the subject case. However, out of his total pension, the amount worth Rs: 1548200/- shall be withheld under 1.8 of the Pension Rules, till completion of the inquiry by the ACE. In case, pending judicial proceedings are decided in his favour by the ACE, the remaining withheld amount of pension will be released.

It is further requested to indicate a vacant post of BPS-18 for the purpose of authorization of the above officer to draw his salaries w.e.f 12<sup>th</sup> March, 2015 to 1<sup>st</sup> June, 2019. In case of unavailability of the vacant post, then a self contained case may be furnished to this department to take up the case with Finance Department for creation of supernumerary post in the matter, please.

**Being court matter, the case may be treated on top priority basis.**

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

**Endst: No. & Date even**

Copy is forwarded for information to:-

1. Section Officer (Lit), FE&W department, Khyber Pakhtunkhwa.
2. Director Budget & Accounts Cell, FE&W department, Khyber Pakhtunkhwa.
3. PS to Secretary, FE&W department, Khyber Pakhtunkhwa.

SECTION OFFICER (ESTT)

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



Shami Road Peshawar  
Phone # 091-9212177 Fax # 9211478  
E-mail: [ccfforests.pesh@gmail.com](mailto:ccfforests.pesh@gmail.com)

No. 2066 /E Dated Peshawar the 13 /10/2020

To A.ble

The Conservator of Forests  
Upper Hazara Forest Circle  
Mansehra

Subject: **DISCIPLINARY PROCEEDINGS AGAINST MUHAMMAD TARIQ EX-Divisional Forest Officer (BPS-18) FOREST DEPARTMENT – FIR THEREOF**

Memo: This office letter No. 1569/E dated 18.9.2020

Attention is invited to the above cited letter and it is once again requested to please let this office know the response of Assistant Director Crime, Anticorruption Establishment Mansehra on Divisional Forest Officer Upper Kohistan letter No. 153/E dated 21.7.2020.

The certificate already asked for vide this office letter under reference to the effect that <sup>Subject</sup> ~~subject~~ <sup>of</sup> ~~subject~~ has been retrieved and is presently exists under the custody of concerned staff of Forest Department be also furnished enabling the undersigned to proceed further as suggested by you vide letter No. 2096/E dated 9.9.2020.

Being Court matter, prompt action is requested.

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


No. 2067-69/E,

Copy in continuation of this office letter No. 1570-72/E dated 18.9.2020 forwarded for information and necessary action to the:

1. Chief Conservator of Forests Northern Forest Region-II, Abbottabad.
2. Section Officer (Establishment) Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Peshawar.
3. Divisional Forest Officer, Upper Kohistan Forest Division at Dasso for immediate response.

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

Court  
copy

Chief Conservator of Forests Central Southern Forest Region-1 Khyber Pakhtunkhwa Peshawar		Shami Road Peshawar Ph: 091-9212177 Fax # 9211478 E-mail: ccforests.pesh@gmail.com
No. <b>1912-14</b> /E	Dated Peshawar the <b>06</b> /10/2020	

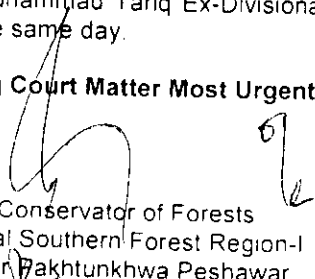
- To
- A/c file**
1. The Chief Conservator of Forests  
Northern Forest Region-II,  
Abbottabad
  2. The Chief Conservator of Forests  
Malakand Forest Region-III,  
Saidu Sharif Swat
  3. The Conservator of Forests  
Forestry Planning & Monitoring Circle  
Peshawar

**Subject: - ADJUSTMENT FOR THE PURPOSE OF PAY**

Memo.- Reference this office letter No. 1226-30/E, dated 01/09/2020 and No. 1540-43/E, dated 16/09/2020.

Your personal attention are invited to the above cited letters and it is once again requested to report vacant positions of BPS-18 for the period from 12/03/2015 to 01/06/2019 as early as possible but not later than 20/10/2020 well before next date of hearing fixed as 28/10/2020 in the Execution Petition filed by Muhammad Tariq Ex-Divisional Forest Officer wherein implementation report has been demanded on the same day.

**Being Court Matter Most Urgent.**

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

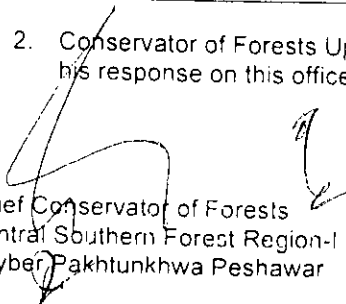
No **1915-16** /E.


Copy forwarded for information and necessary action to the:-

1. Section Officer (Establishment) Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Peshawar with reference to his letter No. SO(Estt)/FE&WD/1-50(69)/PF, dated 08/09/2020. He is requested to process the promotion case of Muhammad Tariq Ex-DFO so that the Judgment of Khyber Pakhtunkhwa Service Tribunal could be implemented in full. This office also pursuing the vacant position for the period from 12/03/2015 to 01/06/2019 with lower formation and in response the Chief Conservator of Forests Northern Forest Region-II, Abbottabad vide his letter No. 2190/GE(62) dated 22/09/2020 has reported vacant position in the cadre of DFO (BPS-18) as per the following position:-

S#	Name of Division	Name of Post	Period	
			From	To
1	Kunhar Watershed Division Mansehra	DFO (BPS-18)	March, 2015	June, 2015
2	Kohistant Watershed Division Besham	-do-	June, 2015	October, 2015

2. Conservator of Forests Upper Hazara Forest Circle Mansehra. He is also requested to furnish his response on this office letter No. 1569/E, dated 18/09/2020 immediately.

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

Chief Conservator of Forests Central Southern Forest Region-1 Khyber Pakhtunkhwa Peshawar		Shami Road Peshawar Ph: 091-9212177 Fax # 9211478 E-mail: <a href="mailto:ccforests.pesh@gmail.com">ccforests.pesh@gmail.com</a>
No. 2274 /E	Dated Peshawar the 23 /10/2020	

To  
P.F  
M. Tariq  
Ex-DFO  
The Section Officer (Establishment)  
Government of Khyber Pakhtunkhwa  
Forestry, Environment & Wildlife Department  
Peshawar

Subject: ADJUSTMENT FOR THE PURPOSE OF PAY

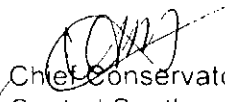
Memo:- Reference in continuation of this office letter No. 1915-16/E, dated 06/10/2020.

The Chief Conservator of Forests Northern Forest Region-II, Abbottabad vide his letter No. 2587/GE dated 2.10.2020 has intimated vacant position in the cadre of Divisional Forest Officer (BPS-18) as per following detail:

Name of Division/DDO	Name of post	Period	
		From	To
Divisional Forest Officer Patrol Squad Division Mansehra	DFO (PS-18)	01.05.2015	31.05.2016
Divisional Forest Officer Lower Kohistan Forest Division Pattan	---do---	22.08.2015	05.10.2017

is therefore requested to please issue proper order for pay adjustment in respect of Muhammad Tariq Ex-Divisional Forest Officer in order to implement the decision of Khyber Pakhtunkhwa Service Tribunal. It is further requested to please process the promotion case of the incumbent Ex-Divisional Forest Officer so that the judgment of Khyber Pakhtunkhwa Service Tribunal could be implemented in full. It is pertinent to mention that this office is regularly pursuing to find vacant position of Divisional Forest Officer (BPS-18) for the remaining period i.e from 06.10.2017 to 01.06.2019.

An early is requested please.


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

No. 2275-76 /E.

Copy in continuation of this office letter No. 1912-14/E, dated 06.10.2020 forwarded for information to the -

1. Chief Conservator of Forests Malakand Forest Region-III, Saidu Sharif Swat.
2. Conservator of Forests Forestry Planning & Monitoring Circle Peshawar.

They are once again requested to submit the requisite report on proper format at the earliest convenience for transmission to Administrative Department in order to implement the judgment of Khyber Pakhtunkhwa Service Tribunal and furnishing implementation report on next date of hearing i.e 28.10.2020

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



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](mailto:ccfforests.pesh@gmail.com)

No. 2527 /E

Dated Peshawar the 10 /11/2020

To A-10/e

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

Subject: - EXECUTION PETITION FILED BY MUHAMMAD TARIQ ETC VS GOVT. OF KHYBER PAKHTUNKHWA IN KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Memo:- Reference this office letter No. 856/E, dated 13/08/2020, No.1570-72/E, dated 18/09/2020 and No.2067-69/E, dated 13/10/2020.

The subject case was fixed for hearing on 28/10/2020 which was attended by Muhammad Sajid SDFO Harban of Upper Kohistan Forest Division and as per his report the court emphasized for implementation of the judgment of Khyber Pakhtunkhwa Service Tribunal dated 17/12/2018 (copy of the report furnished by SDFO concerned is enclosed herewith for ready reference).

The final payment of G.P Fund has since been decided in favor of the Ex-DFO vide Order No. B&A/GP. Fund/P.File/799-03, dated 09/09/2020 issued by Internal Audit Officer Govt of Khyber Pakhtunkhwa Forestry Environment and Wildlife Department, but his promotion to BPS-19, salary for the period from 13/03/2015 to 01/06/2019 as well as sanctioned of pension case are in balance.

On the advice/directive of Administrative Department contained in letter No.SO(Estt)/FE&WD/1-50(69)PF, dated 08/09/2020, on one hand vacant position have been demanded from the lower formation while on the other hand the Conservator of Forests Upper Hazara Forest Circle Mansehra and Director Research & Development Peshawar were asked for processing pension case as well as final report regarding Judicial proceedings in Anti-Corruption Establishment Department against the Ex-Divisional Forest Officer. In response, the Divisional Forest Officer Upper Kohistan had already submitted a comprehensive case alongwith reports of Assistant Director Crimes, Anti-Corruption Establishment Mansehra vide letter No.153/e, dated 21/07/2020, wherein the subject matter has been filed for favour of perusal of connected Annexures from Page.01 to 27.

Date \_\_\_\_\_

The response of lower formaton regarding vacant position in BPS-18 have been received as per the following position:-

S.No	Period	Name of Post where vacancy is available
1	03/2015 to 06/2015	Kunhar Watershed Mansehra
2	07/2015 to 10/2015	Kohistan W/Shed Besham
3	11/2015 to 05/2016	Patrol Squad Mansehra
4	06/2016 to 05/11/2017	Lower Kohistan, Pattan
5	06/10/2017 to 31/11/2017	Not decided as yet
6	01/12/2017 to 31/12/2017	DFO W/Plan Unit-I, Abbottabad
7	01/01/2018 to 31/03/2018	Dir Kohistan Forest Division Sheringal
8	01/04/2018 to 31/05/2018	Deputy Director R&D
9	01/06/2018 to 30/08/2018	DFO W/Plan Unit-I Abbottabad
10	01/09/2018 to 30/11/2018	Deputy Director R&D
11	01/12/2018 to 31/01/2019	Dir Kohistan Forest Division Sheringal
12	01/02/2019 to 29/09/2019	Deputy Director R&D
13	01/03/2019 to 01/06/2019	Dir Kohistan Forest Division Sheringal

Furthermore, a draft working paper regarding promotion of the Ex-DFO is sent herewith for further necessary action and approval of Administrative Department, so that the same may be placed before the Provincial Selection Board to implement the judgment in the subject case: ✓

It is therefore requested to issue adjustment order of the above named Ex-DFO for the purpose of pay for the decided period listed at serial No. 1,2,3,4,6,7,8,9,10,11 & 12, while the remaining period will be decided on receiving the report from Chief Conservator of Forests Malakand Forest Region-III, Saidu Sharif Swat, so that compliance report could be placed before the Honorable Court on the next date of hearing on 26/11/2020.

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

No. 2528-33 /E,

Copy forwarded for information and necessary action to the:-

1. Chief Conservator of Forests Northern Forest Region-II, Abbottabad.
2. Chief Conservator of Forests Malakand Forest Region-III, Saidu Sharif Swat.
3. Conservator of Forests Upper Hazara Forest Circle Mansehra. He is requested to furnish a certificate to the effect that the Timber of the subject case has already been retrieved and is lying under the custody of concerned staff. This is with reference to this office letter No. 1569/E, dated 18/09/2020 and 2066/E, dated 13/10/2020.
4. Director Research & Development Peshawar. He is requested to expedite the pension case of Muhammad Tariq Ex-DFO for which the Khyber Pakhtunkhwa Service Tribunal is pressing very hard.
5. Section Officer (Litigation) Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Peshawar.
6. Director Budget & Accounts Officer Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Peshawar.

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

Date \_\_\_\_\_

**FINAL/COUNTER ARGUMENTS BEFORE THE HONORABLE SERVICES TRIBUNAL KHYBER PUKHTUNKHAWA PESHAWAR**

Respected Sir,

The case was fixed for final arguments but then after no hearing could take place. The reply by the department to the written arguments by the undersigned on 9<sup>th</sup>, Jan 2020 are baseless, malafide and with ill-intentions. Counter arguments to these are detailed as under:

**Recovery of Rs. 15,48,200/-**

- This recovery was suspended by the honorable services Tribunal orders dated 14.07.2015 stating that till further orders recovery shall not be made. (Annex- A)
- This recovery was the recommendation of the enquiry committee which was declared biased and set aside by the Honorable Services Tribunal orders dated 17.12.2018. The secretary Environment has misused his authority by not implementing the orders of the Honorable Court.
- It is incorrect that pecuniary losses are made to the government exchequer which very much evident by the report of de-nove enquiry committee already submitted to the honorable court that all theft timber is recovered and no loss is occurred to government exchequer. The said timber was not property of the department even.
- It is incorrect. The enquiry was completed before the submission of the written arguments of the department. The show cause notice dated 4.03.2020 (Annex-B) has already been issued to all the staff and was exempted from the charge of corruption. Nor in the enquiry report neither in show cause notice any recovery is mentioned, only stoppage of two annual increments without accumulative effect.
- Sir, as already submitted that all the staff members were re-instated and their postings were made and are drawing their pay and emoluments regularly but only I am targeted due to ill-intentions of the high-ups.
- Sir, the ill-intention and giving me torture is also clear from the letter written by the secretary environment to Ant-corruption giving them an impression that the honorable Services Tribunal has ordered to lodge FIR against the appellant. For this misguiding and false statement, they are liable to be penalized.

## FACTS

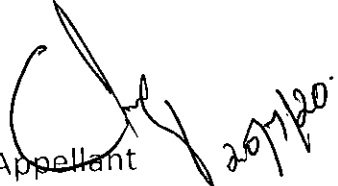
- I. In the whole proceedings only, I was put under suspension illegally for more than one and half years and was reinstated by the Honorable High Court Peshawar.
- II. Then immediately after reinstatement I was given harsh and maximum penalty (dismissal from service) contrary to the services rules and rulings/decisions of the honorable Supreme Court and also the biased enquiry report. The other staff members were given the same penalty ( compulsory retirement) after two years.
- III. Now, all the staff members are enjoying their posting and are getting pay and emoluments but I am still suffering and attending this honorable court since last six years.

## Prayers

Respected Sir,

I and my whole family members are suffering from mental torture, hardship to meet the lively wood, defamation since last six years mere on an unjust and unlawful dismissal orders based on a biased illegal enquiry report.

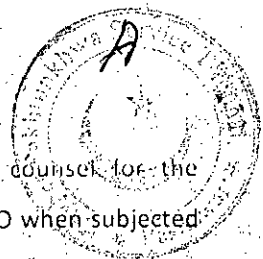
It is humbly prayed that the respondents may please be ordered to implement the court orders in letter and spirit pay me all my monthly pay and emoluments, all my back benefits, pension and gratuity as early as possible within a specific period as deemed fit by the honorable court.

  
Appellant

Muhammad Tariq

(R) Deputy Conservator of Forests

BPS-18



14.07.2015

3

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as DFO when subjected to inquiry and dismissed from service vide impugned order dated 12.3.2015 regarding which he preferred departmental representation on 26.3.2015 which was not responded within the statutory period and hence the instant service appeal on 10.7.2015.

That the inquiry was not conducted in the prescribed manners and no opportunity of hearing was afforded to the appellant and, moreover, the punishment is in excess to the one mentioned in the show cause notice.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 10.8.2015 before S.B. Notice of stay application be also issued for the date fixed. Till further orders the recovery shall not be made from the appellant.

  
Chairman

*Consented to be filed as copy*  
S. B. Kulkarni  
Chairman  
Service Tribunal  
Channarayana

Date of Filing of Application	15.7.2015
Number of Pages	800
Page Fee	6
Stamp	2
Chall	8
Number of Copies	7
Date of Completion of Copy	19.7.2015
Date of Filing of Copy	15.7.2015

4 to  


B

<p><b>Faiz-ur-Rehman</b> DIVISIONAL FOREST OFFICER UPPER KOHISTAN FOREST DIVISION DASSU Ph. &amp; Fax H. 0998-407022</p>		<p>NO. <u>1752/E</u> Dated <u>04/03/2020</u></p>
--	---	--

Mr. Mohammad Asghar Forester,  
C/O Divisional Forest Officer,  
Lower Kohistan Forest Division  
Pattan.

Subject: DISCIPLINARY PROCEEDINGS – SHOW CAUSE NOTICE THEREOF.

I, Faiz-ur-Rehman Divisional Forest Officer Upper Kohistan Forest Division Dassu as competent authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you Mohammad Asghar Forester as follows:

- i. That consequent upon the completion of inquiry conducted against you by the enquiry officer/enquiry committee for which you were given opportunity of personal hearing, and
- ii.
- iii. On going through the findings and recommendations of the enquiry Officer/enquiry committee, the material on record and other connected documents including your defense before the enquiry officer/enquiry committee.

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

- i. **In-efficiency**
- ii. **Mis-Conduct**

As a result, I, as competent authority, have tentatively decided to impose the following penalty i.e

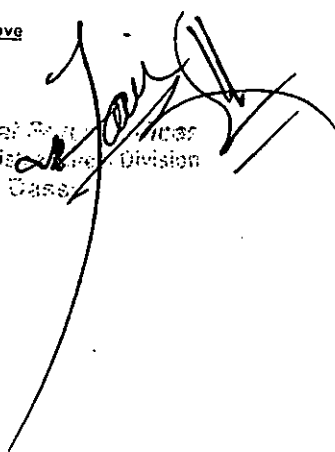
- i. **Stoppage of two Annual Increment without accumulative effect falling due on 01/12/2020 & 01/12/2021.**

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.

If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case exparte action shall be taken against you.

A copy of findings of the enquiry officer/enquiry committee is enclosed.

Encl: As above

  
Divisional Forest Officer  
Upper Kohistan Forest Division  
Dassu

To

The Divisional Forest Officer,  
Upper Kohistan Forest Division,  
Dassu.

No. 31 /WP dated Mansehra the 18 /02/2020

Subject: **DISCIPLINARY PROCEEDINGS AGAINST M/S; MUHAMMAD ASGHAR FORESTER, ABDUL MANAN FOREST GUARD, UMER KHAN FOREST GUARD, NASEEB KHAN FOREST GUARD AND JAMIR FOREST GUARD**

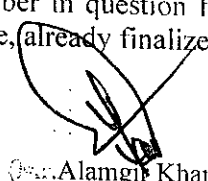
Memo: Reference your letter No.1560/E dated 12/2/2020.

The undersigned along with co-member have gone through the contents of the report of checking Committee constituted for the purpose vide your office order No.31 dated 12/12/2019 which proves that the timber in question i.e. 12000-13000 cft has been procured/retrieved giving strength to the outcome of the enquiry committee report already submitted to you vide No.10/WP dated 09/12/2019. It is undoubtedly a part and parcel of enquiry report as the Competent Authority has constituted it accordingly and satisfied with the initiative taken by you to this effect.

It is further proved by the report of subsequent committee that the community/stakeholders are forcibly hindering the measurement of timber in question which can easily be measured/authenticated at the time of implementation of policy as and when announced by the Provincial Government, for its disposal, hence it may be finalized accordingly, please.

Enquiry File from page No.1 to 361 with addition to subsequent committee report from page No.1-9 and relevant photographs of the timber in question from page No.1-5 are also enclosed herewith being part of the enquiry file, (already finalized, please.

(Altaf Qureshi)  
SDFO Komila Forest Sub Division  
Upper Kohistan Forest Division  
Dassu  
(Member Enquiry Committee)

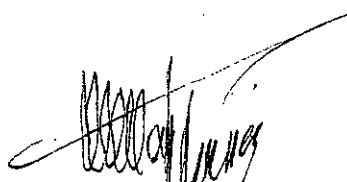
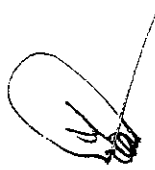
  
(Alamgir Khan)  
Sub Divisional Forest Officer  
Working Plan  
(Chairman Enquiry Committee)

1

**DISCIPLINARY PROCEEDINGS/ENQUIRY REPORT CONDUCTED AGAINST**  
**M/S: 1-MUHAMMAD ASGHAR FORESTER 2- ABDUL MANAN FOREST**  
**GUARD 3-UMER KHAN FOREST GUARD 4-NASEEB KHAN FOREST GUARD**  
**AND 5-JAMIR KHAN FOREST GUARD OF HARBAN FOREST SUB DIVISION**  
**- UPPER KOHISTAN FOREST DIVISION-**

Read With:

- 1- Office Order No.17 dated 4/11/2019 issued by DFO Upper Kohistan Forest Division Dasso along with its enclosures.
- 2- Memo of Allegation/Charge Sheet against Mr.Muhammad Asghar, Forester enclosed with above office order.
- 3- Memo of Allegation/Charge Sheet against Mr.Abdul Mannan, Forest Guard. enclosed with above office order.
- 4- Memo of Allegation/Charge Sheet against Mr.Umar Khan, Forest Guard enclosed with above office order.
- 5- Memo of Allegation/Charge Sheet against Mr.Naseeb Khan, Forest Guard. enclosed with above office order.
- 6- Memo of Allegation/Charge Sheet against Mr.Jamir Khan, Forest Guard.
- 7- Written Statements/Defense Replies along with enclosures of above 5 accused.(sr.No.2 to 6 as above).
- 8- Govt. of Khyber Pakhtunkhwa Environment Department Notification No.SO (Estt: )/Env/1-8/Tariq DFO/2k14 dated 2/6/2015.
- 9- Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad Judgment dated 17/12/2018.
- 10- S.O (Establishment) Govt. of Khyber Pakhtunkhwa. Forestry. Environment & Wildlife Department letter No.SO (Estt: )FE & WD/1-50(69/2019 dated 24/10/2019 regarding restoration in Service & de novo enquiry of each accused official.
- 11- August Supreme Court of Pakistan Decision/Order dated 25/7/2019.
- 12- Enquiry Report conducted by M/S: Shah Wazir Khan the then Managing Director Forest Development Corporation and Tariq Rashid, Secretary Benevolent Fund, Peshawar dated 8/9/2016.
- 13- Enquiry Report conducted by Mr.Farhad Ali, the then Divisional Forest Officer Agror Tanawal Forest Division Mansehra assigned to him vide DFO Upper Kohistan Forest Division letter No.1887/GL dated 10/10/2013.
- 14- S.O (Establishment) Govt. of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department letter NO.SO (Estt: )FE & WD/1-50(69/Appeals/2016 dated Peshawar 27/2/2017 addressed to Mr.Azhar Ali Khan, Conservator of Forests, Lower Hazara Forest Circle, Abbottabad.
- 15- And comments by the Conservator of Forests, Lower Hazara Forest Circle thereon above Sr.No.11 dated even duly signed by the Conservator of Forests, Lower Hazara Forest Circle (Chairman) & Mr.Shaukat Fiaz, DFO Patrol Squad (Member).
- 16- Enquiry Report conducted by Anti-Corruption Establishment Mansehra Region duly certified vide letter No.328/ADC/Mans, dated Mansehra 26/11/2019 addressed to DFO Upper Kohistan in response to his letter No.915/GL dated 25/11/2019.
- 17- Letter No.8574/GE dated Mansehra 22/6/2018 addressed to CCF Region-II by CF Upper Hazara Forest Circle wherein Mr.Muhammad Shoaib, the then DFO Lower Kohistan was with drawn and Mr.Muhammad Aqeel DFO Lower Kohistan was





appointed as Technical Officer to assist the Open Enquiry Committee No.6/2012 and 10/2013.

- 18- Statement of Mr. Muhammad Anwar, SDFO, Pattan, Technical Officer with Anti-Corruption Establishment Mansehra Region deputed vide DFO Lower Kohistan Pattan as per statement of SDFO, before the Enquiry Officer/Committee.
- 19- Letter No.60/SDFO(H) dated 15/12/2014 addressed to DFO Upper Kohistan.
- 20- Statement of present SDFO Harban (Mr. Sajjad Shah) dated 26/11/2019 before the Enquiry Officer/Committee.
- 21- Question & Answers & Statement of Prosecutor/Departmental Representative i.e. Mr. Noor Rehman, Office Assistant/Head Clerk dated 27/11/2019 before the Enquiry Committee.
- 22- Transport Pass No.121 dated Dassu 23/2/2017 issued to Mr. Muhammad Aslam Khan S/O Ayun Khan of Basha Tehsil Dassu through Managing Director Took Forest Harvesting Cooperative Society Ltd.
- 23- Application For FIR lodged by the accused in P. Station Sazin.
- 24- Damage Reports No.32/50 dated 25/8/2013, 72/45 dated 25/8/2013, No.15/61 dated 25/8/2013 and No.73/Harban dated 27/8/2013.
- 25- Affidavit of owners on Stamp Papers (3 Nos.) regarding recovery of Timber in question.
- 26- O.O.No.4 dated 26/8/2013 issued by the DFO Upper Kohistan Forest Division Dassu for blocking the transportation of illegal timber to Northern areas.
- 27- DFO Upper Kohistan letter No.101/GL dated 15/7/2013 addressed to District Police Officer Kohistan Dassu.
- 28- Letter No.252/PSO dated 23/8/2013 issued by DPO Kohistan.
- 29- Letter No.1707-10/GL dated 4/9/2013 issued by DFO Upper Kohistan to DPO Kohistan.
- 30- Minutes of the Meeting held under the Chairmanship of DCO Kohistan in his office on 26/6/2012 regarding critical Law and Order situation.

#### Brief History of the Case

M/S: Muhammad Asghar, Forester, Abdul Mannan, Umer Khan, Naseeb Khan and Jamir Khan Forest Guards (hereinafter referred as accused) of Upper Kohistan Forest Division Dassu were alleged that being In Charge SDFO, B.O, Beat In Charge of their respective Forest Sub Division, Blocks and Beats and depots (detail as per memo of allegations of each individual) committed the following irregularities and resultantly 18000 Cft Illicit timber was pilfered/shifted and transported to Northern areas and all the aforementioned accuseds were accordingly charge-sheeted and served with memo of allegations against the charges of In-efficiency, Mis-conduct & Corruption under Rule-3 of Khyber Pakhtunkhwa Govt. Servants (E & D) Rules, 2011. Detail as under:-

- 1- Being In Charge SDFO, Block Officer, Beat Guard and Depot Forest Guard of Harban, Bhasha and Sazin KKH Roadside depots failed to protect timber lying in their respective jurisdiction and the same was admixed with the timber transported to Northern areas under the Northern Area Amnesty Policy, 2013.

- 2- The accused failed in adopting preventive measures against admixture of timber of Kohistan origin in timber of Northern Area and hence they severally and jointly responsible for recovery of losses sustained to Govt./Public exchequer and all mishap occurred due to their involvement with timber mafia and thus 18000 cft timber was illegally transported to Northern area.

Divisional Forest Officer Upper Kohistan Forest Division constituted the instant Enquiry Committee vide his office, O.O.17 dated 4/11/2019 consisting of the undersigned in consequence of the Judgment of Worthy Service Tribunal Khyber Pakhtunkhwa Camp Court Abbottabad dated 17/12/2018 wherein all the accused have been re-instated in service after setting aside the earlier penalties imposed upon them as contained in S.O (Establishment) Govt. of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department letter No.SO (Estt: )FE & WD/1-50(69)/2019/PF dated Peshawar 24/10/2019 and through the instant Judgment of the worthy Service Tribunal it was directed to conduct the de-novo enquiry to meet the norms of justice and to settle the issue of back benefits of the service of the accused or otherwise. August Supreme Court of Pakistan did not entertain the Civil Petition No.168-P to 173-P of 2019 of the Provincial Government of Khyber Pakhtunkhwa vide order dated 25/7/2019 as the Provincial Govt. proceeded against the verdict of Khyber Pakhtunkhwa Service Tribunal as referred above.

The instant enquiry is the outcome of prolong litigation on the subject matter both departmental enquiries/disciplinary proceedings and Civil Litigation in the proper Court of Law as depicted in Read With above. Hence, needs thorough investigation/examination and on the spot verification, which may lead to the rational and logical end.

### Proceedings/Discussions:

Consequently, the Enquiry Committed/Officer called upon the accused officials to submit their Defense Replies/Written Statements alongwith all relevant records/supporting material in view of the Memo of Allegations and Charge Sheets served upon them and delivered to them vide Divisional Forest Officer Upper Kohistan Forest Division Office Order No.17 dated 4/11/2019 vide Enquiry Officer/Committee letter No.18/WP dated 6/11/19 and No.01-6/Camp dated 14/11/2019. The accused officials submitted their defense replies/written statements alongwith supporting documents wherein they rebutted the charges on the following Grounds:-

**I- Accused Mr. Muhammad Asghar, Forester, the then In Charge SDFO Harban Forest Sub Division stated that:-**

- a) Harban Forest Sub Division is situated at a far flung area of Upper Kohistan Forest Division where Law and Order situation is highly critical and Writ of the Government is just nominal there.
- b) That he on 13/7/2013, informed the Divisional Forest Officer, Upper Kohistan Forest Division in letter and spirit about the illegal movements of the timber in question upon which the DFO wrote a letter to District Police Officer Kohistan for immediate action but right after one month and eight days the DPO directed the DSP Shatial Circle for assistance and help of the Department vide his letter No.252/PSO dated 23/8/2013 whereas the mis-hap happened on 24/8/2013.
- c) The accused stated that in between the night of 24 th and 25 th of August, 2013 some of the outlaws/miscreants have forcibly taken the said timber across the river and ins pite of hectic efforts he could not stop the culprits and intensively tried to contact the DFO but failed due to lack of the communication means and got suspended the illegal transportation of timber henceforth. However, the forest field staff of Northern areas across the river apprehended the timber and took into their custody under proper Supardnama and the Conservator of Forests, Gilgit Circle informed the Conservator of Forests Upper Hazara Forest Circle vide his letter No.CF-3(45)2013 dated August, 2013 that fourteen (14) Tractors/Jeeps loaded with sleepers have illegally transported the timber from Kohistan to Darel which have been taken into custody by the staff and lying in their jurisdiction under superdnama and the DFO concerned may be directed to shift the said timber to their own jurisdiction. Which was accordingly endorsed to the DFO Upper Kohistan vide CF Upper Hazara Forest Circle No.1242/GL dated 2/9/2013. He further submitted that he had given an application to the local Police Station for lodging of FIR against the culprits but the police did not lodge FIR against the real culprits but contrarily lodged the said FIR against the staff of Harban Forest Sub Division to shift the responsibility from their shoulders and the said FIR was later on referred to the Anti-Corruption Establishment for enquiry. In response the Anti-Corruption Establishment conducted detailed enquiry and filed it accordingly. Hence the allegations leveled against him are baseless, the accused further stated.

- d) On humble submission of the accused, the locals of the area helped him and the timber was shifted to safe-side from the road side as a safety measures. To this effect, the accused stated, that until his full satisfaction the transportation was suspended and all the check posts were directed to be vigilant upon the illegal transportation of timber under Amnesty Policy from Kohistan to Northern area.
- e) The accused further stated that after his transfer, the SDFO Harban informed the DFO in writing that the timber stolen from Harban, Sazin and Bhasha has been recovered/retrieved which is supported by the Superdnama of the owners. Detail break up of the timber recovered/retrieved depicted as per his defense reply attached.
- f) He further added that on transfer of the forest guards, the timber recovered from Sazin i.e. 7000 cft was handed over to Mr.Muhammad Aslam Forest Guard by Nasib Khan, Forest Guard on 14/4/2015 and similarly on 16/4/2015, Mr.Jamir Khan, Forest Guard handed over the 3000 cft timber to Imran Forest Guard and afterwards from the timber of Bhasha Depot 5000 cft timber was transported vide TP No.121 dated 23/2/2017 and the rest of the timber is lying in Harban Depot. Besides this, Muhammad Anwar, SDFO and Farhad Sajid, the then SDFO have also certified in their reports that all the timber has been recovered/retrieved. and also favouring the recovery, the owners have given affidavits. Hence, in the light of above facts and figures, the allegations leveled against him are baseless, he prayed.

**II Accused Mr.Abdul Manan, Forest Guard** stated that during the occurrence of instant mis-hap, he proceeded on 15 days leave by the prior permission of SDFO Harban. However, during leaves he also requested/suggested the SDFO Harban to acquire the help of local police, which the SDFO agree and wrote letter to DFO Upper Kohistan for seeking the help of local police. He stated that some of the miscreants forcibly transported the timber to northern areas which was later on recovered/retrieved back to Upper Kohistan Forest Division. He further stated that the Anti-Corruption Establishment also conducted the enquiry and concluded that the theft timber has been recovered. Furthermore, the owners of the timber have also testified the said recovery by giving affidavits which are available on record.

**III Accused Mr.Umar Khan, Forest Guard defended** his allegations stating that the timber in question was neither actually on the charge of Upper Kohistan Forest

Division nor under his charge. No proper record has been maintained i.e. Form-5,6 and Monthly Progress Report etc are not available. Factually the illicit timber was the outcome of local retaliation against the prolonged ban on commercial fellings by the Provincial Govt and the locals had illicitly cut the timber and accumulated under their personal custody and forcibly managed to transport it to northern areas, in spite of hectic efforts adopted by him to protect the interest of Government.

He further stated that all that happened forcibly and due to critical condition of law and order and single Forest Guard could not overcome an aggravated mob of locals who in an irritant manner transported the same but the Forest Staff of Northern area apprehended the illegal timber and taken it to their safe custody and finally transported back to Kohistan Forest Division all the 18000 cft timber out of which 5000 cft transported under TP No.121 dated 23/2/2017. He stated that in such a critical state of affairs he adopted each and every protective/preventive measure in saving the cause of Government. SDFO Muhammad Anwar and Mr.Farhad Sajid, SDFO have also confirmed in their reports that the transported timber had been recovered and the Conservator of Forests, Mr.Azhar Ali, has also reported that 8000 cft timber has been transported out of 18000 cft timber under enquiry. Hence, in the light of above facts, he may be exempted from the allegations as leveled against him.

**IV Accused Mr.Jamir Khan, Forest Guard** mentioned the same causes in his defense as adopted above by Mr.Umar Khan in rebutting the charges and in the beginning of his reply he straight away denied that no timber was transported from his charge but in complimentary portion of his reply he admitted that 3000 cft timber stolen from his depot had been recovered/retrieved and handed over to Mr. Imran, Forest Guard as per charge report attached with his reply.

**V Accused Mr.Nasib Khan, Forest Guard** replied in greater resemblance with Umar Khan and Jamir Khan, Forest Guard having the plea that no timber was transported from his charge but in the last portion of his reply he admitted that upon his transfer 7000 cft timber was handed over to Mr.Muhammad Aslam, Forest Guard as per charge report attached with his reply.

From the perusal of foregoing replies of the accused in the light of relevant preliminary enquiries and proceedings conducted on the illegal transportation of 18000 cft timber

from Upper Kohistan Forest Division to Northern area, following facts/issues can not be denied:-

- 1- At the very threshold a detailed enquiry was conducted by a Senior Officer (Mr. Shah Wazir Khan, the then Managing Director FDC) in joint venture of other member, Mr. Tariq Rashid, Secretary Benevolent Fund Khyber Pakhtunkhwa (Chairman of the enquiry committee) during the year 2014, who after a thorough probe/investigation compiled a report and submitted to quarter concerned. The enquiry committee imposed major penalties upon the above accuseds besides cash recovery of loss sustained to the Govt. exchequer. Accordingly, the punishments recommended by the enquiry committee were implemented upon the accused officials against which they knocked the door of worthy Service Tribunal Khyber Pakhtunkhwa, Camp Court Abbottabad and succeeded in setting aside the penalties imposed upon them.
- 2- Whereas, the impugned orders dated 30/6/16, 2/4/2015 and 12/3/2015 issued for enforcement of penalties of the above committee was challenged in the Khyber Pakhtunkhwa Service Tribunal by all the accused officials and after trial, the impugned orders were set aside on the grounds as mentioned in the detailed judgment of worthy Service Tribunal, Khyber Pakhtunkhwa dated 17/12/2018 and all the accused were reinstated in service with the direction to respondent department to conduct de novo enquiry strictly in accordance with the law and rules within a period of 90 days from the date of receipt of Judgment. The issue of back benefits shall be subject to the outcome of the de novo enquiry.
- 3- During February, 2017 The Appellate Authority/Chief Minister, Khyber Pakhtunkhwa prior to passing any orders on the Review Petitions of officials concerned ordered "please assign the task to a senior officer preferably Conservator of Forests Lower Hazara to furnish his report and clarify that either the timber logs were in possession of Government or community and had the Forest Department officials reported missing of logs to Police or otherwise. It should also be clarified that either this timber woods falling in illicit policy or not".

Complying with the orders of the Chief Minister, Khyber Pakhtunkhwa/Appellate Authority, the Conservator of Forests, submitted his comments as under:-



A- **WHETHER THE TIMBER WAS IN POSSESSION OF DEPARTMENT**

Perusal of record i.e. initial damage reports, minutes of the meeting with District Administration and correspondence made by DFO Upper Kohistan with different quarters reveal that:

- i- The timber in question was part of the outcome of anarchic illicit forest cutting in a terrain, which is impervious to the writ of state and people have an interface convenience with Government as evident from a number of amnesty policies from 1998 to 2009 (Annex:A) promulgated for disposal of illicitly cut timber. In this area the instruments of enforcing governance are more of notional than operational significance. Thus writ of the Forest Department there, as well as, its possession of the illicit wood need to be profiled in such an extremely circumscribing context.
- ii- In such a situation taking cognizance by forest staff of such illicit cutting as per stipulated procedures restricted to chalking damage reports only. Neither anyone agreed to provide superdnama nor could the Department take the contraband timber to safe custody.
- iii- Although, the documentation and enlistment of illicit timber and applications to register FIR against theft give an impression as if the impugned timber was in the possession of Forest Department. but in the given circumstances, possession of timber stock did not qualify the same as impounded. Hence their possession was of de jure at best as they could not wield instruments of endorsement to qualify it as de facto.

B- **WHETHER FIR HAVE BEEN LODGED WITH THE LOCAL POLICE**

The record reveal that the petitioners preferred application on 25/8/2013 in local Police Station Sazin Harban Forest Sub Division for lodging of FIR (Annexure-4) against the unknown offenders for forceful theft of timber from Kohistan for admixing in GB's amnesty policy 2013. But instead the police registered formal FIR:07 dated 28/2013 against the officials of forest department for their alleged involvement in said theft (Annex-6). Nevertheless, it is clear that the staff endeavored to lodge FIR against unknown offenders for the said larceny.

C- **WHETHER THE TIMBER WAS INCLUDED IN ILLICIT POLICY**

As mentioned in the Damage Report No.73/45, 15/H, 72/45 and 32/50 chalked out against incidence of reported forceful theft timber occurred on 25/8/2013 (Annex-6) the

impugned timber belongs to Damage Reports Nos.94/42, 13/55, 98/42, 60/45 and 31/50 as per Annex-1, chalked out during 2007. A portion of this timber was already disposed off under Amnesty Policy 2009. The accounts of initially reported timber, disposal in Amnesty Policy, 2009 and that stolen on 24.25/8/2013 vis-à-vis subsequent re-measurements, supplied by representatives of DFO Upper Kohistan (Annexure-7), show that out of the 18000 cft impugned timber, timber measuring 8000 cft is included in the Policy 2016-17.

4- **OPEN ENQUIRY NO.10/2013-FOREST AGAINST THE CONCERNED STAFF OF FOREST DEPARTMENT DISTRICT KOHISTAN AND CONTRACTORS**

On the express request of Divisional Forest Officer Upper Kohistan vide his letter No.915/GL dated 25/11/2019, the Assistant Director Anti-Corruption Establishment Mansehra Region submitted above titled enquiry report vide his letter No.328/ADC/Mans. Dated 26/11/2019 containing the verdict of the Anti-Corruption Establishment about their thorough investigation about the theft timber in question that 18000 cft timber has been recovered in response to the FIR lodged against the officials of forest department of Harban Forest Sub Division, showing the detail of timber that the timber recovered has been stacked at five places and affixed damage report number on the each Chakka/dump, which has been accordingly filed by the Anti-Corruption Establishment Mansehra Region. It was also mentioned in the said enquiry that in the presence of Technical Officer from forest department, the owners have given their statements on affidavit on judicial stamp papers that the timber in question was their sole ownership and has been recovered.

During enquiry proceedings, the SDFO Pattan, appointed as Technical Officer, by the DFO Upper Kohistan detail as per statement of the SDFO, with Anti-Corruption Department stated that on 9/8/2018, he along with Inspector Anti-Corruption Establishment went to Shatial Harban and verified the spot. It was verified on the spot that 5000 cft timber was transported vide TP No.121 dated 23/2/2017 to Havalian Central Timber Depot and the remaining Timber was lying in the jurisdiction of Sazin Police Station. Technical Inspection was to be carried out for measurement of timber but it could not be carried out because of lack of resources/means. According to physical verification the timber was dumped at five (5) different places in Shatial Harban depots and each of the chakka contained affixation of damage reports numbers with black, blue and red colors and timber verified approximately 12000 to 13000 cft.

The SDFO Harban Forest Sub Division i.e. (Mr.Sajjad Shah) was called on by the Enquiry Committee on 26/11/2019 during the course of enquiry proceedings who stated that he took



over the charge of Harban Forest Sub Division on 14/2/2018 from Mr. Farhad Sajid, SDFO and enquired about the theft timber in question who told me the relevant record i.e. stamp papers of the owners and confirmed that 12000 – 13000 cft timber is lying on different places on Karra Kurrum Highway (KKH) and under the possessions of different tribes (Komes) lying in timber depot Harban and no official record thereof has been maintained except the affidavits given by the owners which are available on official record. The said timber is the sole ownership of the owners and however the department is strictly vigilant over the movement to save the illegal trafficking of the said timber. Letter No.60/SDFO (H) dated 15/12/2014 addressed to DFO Upper Kohistan proved that the said timber is present on spot and in the custody of concerned owners.

The Prosecutor stated that felling of trees is carried out according to the prescription of regular Working Plans of the areas in collaboration of the Harvesting Cooperative Society but for the transportation of illicitly cut timber, the Government has given Amnesty Policy under which the illicit timber was being transported.

The Prosecution further stated that the record of legalized felling is maintained in Divisional Office as well as in sub Divisional Office and similarly the record of damage reports pertaining to illicit cutting is also maintained in both Sub Divisional and Divisional Offices. After exhibiting the above stated damage reports to the prosecutor, he confirmed that neither record of further action on the said damage reports is available regarding prosecution case or compound cases, in Divisional Office nor in any Court of Law, which have been preferred by the accused officials. The prosecution exposed that as per past practice the chalked out damage reports against the forest offenders regarding illicit cutting are submitted in the court of law but due to un-availability of offenders the cases are lingered on and lying pending in courts for long time.

Upon the query of enquiry committee on TP No. 121 dated 23/2/2017, the prosecutor stated that the certified copy of the said TP is attached and furthermore authentication of timber transported under it can be asked from the SDFO concerned that as to whether the timber transported by this TP was the part of theft timber or otherwise which was got verified by the SDFO that the said timber was the part of recovered/retrieved timber.

Whereas, on the perusal of enquiry file it appeared that another enquiry initiated vide DFO Upper Kohistan No.1863-1880/GL, No.1887/GL dated 10/10/2013 for the same mis-hap has



also been got conducted by the then Divisional Forest Officer Agror Tanawal Forest Division and finalized accordingly and the accused officials were imposed with appropriate punishments i.e. major & minor penalties after due process of law. The instant Enquiry Committee has very pre-cautiously gone through the contents of that enquiry report along with other one already conducted by Mr. Shah Wazir Kha, M.D, FDC and Mr. Tariq Rashid, Secretary Benevolent Fund. From perusal of both the enquiry reports it is crystal clear that the grasp of prosecution over the situation was enfeebled which came forward in shape of bifurcation of enquiries in two parts. The point has also been referred in the enquiry finalized by the then DFO, Agror Tanawal Forest Division.

And whereas further scrutiny of the relevant record and the outcome of proceedings/discussions revealed that the Divisional Forest Officer Upper Kohistan Forest Division requested the District Police Officer Kohistan vide his letter No.101/GL dated 15/07/2013 before the occurrence of the mis-hap that a timber Policy is in operation from Northern Areas (Darel/Tangir and Chilas Forest Divisions of Gilgit Baltistan) through which timber is transported to down districts of the country. As there are stakes of timber in roadside depots at KKH Basha and Harban District Kohistan, therefore there is likelihood of admixture of this timber during transportation for which forest staff is already deployed to keep vigilance on illegal movement of timber but yet an active assistance is required from the police personals already deployed in the area of Harban & Sazin Police Stations, particularly on Darel and Tangir Bridges. The DFO Upper Kohistan further requested that the DPO may direct his subordinate formation to fully assist and cooperate with the forest staff so as to save the mal practices/pilferage of timber during the currency of policy i.e. 31/8/2013. It is estrange to note here that the police authorities right one day before the incidence addressed to DFO Upper Kohistan vide his No.252/PSO dated 23/8/2013 that special directions were issued to SDPO Shatial for assistance and help but no praiseworthy course of action is available on record. During enquiry proceedings it was also proved by the correspondence of DFO Upper Kohistan vide his No.1707-10/GL dated 4/9/2013 that police did not play their due role in curbing the mis-hap of illegal transportation of timber as is evident that there were two check posts of police right at the both bridge-gates where almost 4-5 police personals remained deployed for duty as compared to one or two forest guards on their check post, but it was regretted by the DFO Upper Kohistan that no efforts by the police were seen in the matter.

#### CONCLUSION/OUTCOME

The Enquiry Officer/Committee, after due process of law/disciplinary proceedings in the light of Enquiry File/relevant record, Defense Reply of the accused officials, statements of the accused



Divisional Forest Officer concerned may manage the exact measurement of the said timber and maintain record thereof accordingly.

- 5- So far the allegations against the accused officials are concerned is a matter of Law on one side, in view of prevailing Law and Order situation in Kohistan District and on the other hand question of fact proves that the mis-hap had occurred and the timber in question was transported to Northern area and recovered/retrieved back to Harban Forest Sub Division. It is proved that the accused officials have tried their best to block the illegal transportation but the angry mobbishes not only paralyzed the forest staff but the police staff also failed in blocking the way of miscreants/culprits.

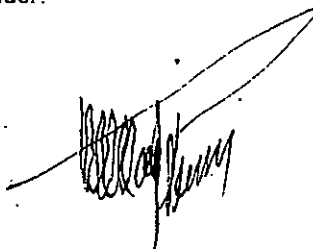
Charges of In-efficiency & Mis-conduct are partially proved against a few of above accused officials. However, the charge of Corruption does not stand established against none of the accused officials.

- 6- From the foregoing proceedings/discussions it is proved that one Mr. Abdul Manan left his place of duty by forwarding an application for 15 days leave before the happening of incident. through his SDFO but could not be found sanctioned leave by the Competent Authority which makes him liable to be proceeded against his irresponsible approach towards performance of official duty.

7- Above all episodes show, beyond any doubt, that Govt. Loass as alleged in the charge sheets/memo of allegations has been procured and all the forcibly stolen timber i.e. 18000 cft has been recovered/retrieved and transported back to its respective jurisdiction which is under vigilance of the department to the extent of illegal movement. however, the said timber is under custody of the owners.

#### RECOMMENDATIONS OF THE ENQUIRY COMMITTEE

We, 1- Alamgir Khan, SDFO, Working Plan in the capacity of Chairman Enquiry Committee & 2- Altaf Qureshi, SDFO Komila (Member EC) as vested in us under Rule-11(7) of Khyber Pakhtunkhwa Govt. Servants (Efficiency and Discipline) Rules, 2011 read with other clauses duly amended, hereby recommend that the following accused officials may be treated as under:-

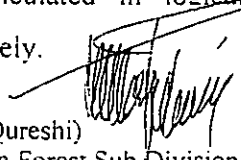



1- From the foregoing facts/proceedings, the charges of In-efficiency and Mis-conduct are established against all the accused officials and taking an appropriate disciplinary action Two Annual Increments falling on 1/12/2019 and 1/12/2020 may be stopped of the following accused officials as mentioned against each:-

- a) Muhammad Asghar, Forester the then SDFO Harban Forest Sub Division and Block Officer Shatial Block. (without accumulative effect).
- b) Umar Khan, Forest Guard, the then Incharge Shatial checkpost and Gachurigha Bear (Without accumulative effect).
- c) Abdul Manan, Forest Guard the then Incharge Block Officer of Harban and Bhasha Blocks (with accumulative effect).
- d) Jamir Khan, Forest Guard, the then Incharge of Harban KKH depot (with accumulative effect).
- e) Nasib Khan, the then Incharge Forest Guard of Sazin KKH depot (with accumulative effect).

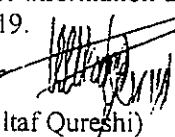
2- The intervening period of all the accused for which they remained out of service. May be treated as earned leave debitible to their Leave account in view of length of total service and the rest may be treated as Ex-ira ordinary leave without pay.

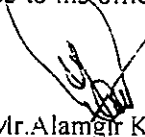
3- The remaining timber i.e 12000 to 13000 cft needs exact measurement. The Divisional Forest Officer concerned either may manage the exact measurement of the said timber or have an authentication/certification from SDFO concerned and maintain record thereof accordingly. In case of any deficiency sorted out in the aforesaid timber may be calculated in logical order and recovered from all the above officials proportionately.

  
(Altaf Qureshi)  
SDFO Komila Forest Sub Division  
Upper Kohistan Forest Division  
Dassu  
(Member Enquiry Committee)

  
(Mr. Alamgir Khan)  
Sub Divisional Forest Officer  
Working Plan  
(Chairman Enquiry Committee)

No. 10 1 WP dated the 09 12/ 2019  
Copy along with Enquiry file from page No.1 to 361 (each page signed by the Enquiry Committee) forwarded to the Divisional Forest Officer Upper Kohistan Forest Division for favour of information and further necessary action with reference to his office, O.O.No.17 dated 4/11/2019.

  
(Altaf Qureshi)  
SDFO Komila Forest Sub Division  
Upper Kohistan Forest Division  
Dassu  
(Member Enquiry Committee)

  
(Mr. Alamgir Khan)  
Sub Divisional Forest Officer  
Working Plan  
(Chairman Enquiry Committee)

(Member Enquiry Committee)

Dist. Govt. NWFP-Provincial  
District Accounts Office Charsadda  
Monthly Salary Statement (July-2016)



39

Personal Information of Mr WAHID ULLAH d/w/s of SHAH ZAMEER KHAN  
Personnel Number: 00658148 CNIC: 1710103177367 NTN:  
Date of Birth: 02.04.1972 Entry into Govt. Service: 21.12.2011 Length of Service: 04 Years 07 Months 012 Days

Employment Category: Active Temporary

Designation: CHOWKIDAR 80001026-DISTRICT GOVERNMENT KHYBE  
DDO Code: CA6009-DEPUTY DISTRICT OFFICER WATER SUPPLY SANITATION WORKS AND SERVICES  
Payroll Section: 001 GPF Section: 001 Cash Center:  
GPF A/C No: Interest Applied: Yes GPF Balance: 16,282.00  
Vendor Number: -  
Pay and Allowances: Pay scale: BPS For - 2016 Pay Scale Type: Civil BPS: 03 Pay Stage: 4

Wage type		Amount	Wage type		Amount
0001	Basic Pay	9,340.00	1000	House Rent Allowance	942.00
1210	Convey Allowance 2005	1,785.00	1300	Medical Allowance	1,500.00
1516	Dress/ Uniform Allowance	150.00	1567	Washing Allowance	150.00
1973	Adhoc Allowance 2011@ 50%	1,570.00	2148	15% Adhoc Relief All-2013	262.00
2199	Adhoc Relief Allow @10%	189.00	2211	Adhoc Relief All 2016 10%	934.00

Deductions - General

Wage type		Amount	Wage type		Amount
3003	GPF Subscription - Rs 522	-522.00	3501	Benevolent Fund	-120.00
3511	Addl Group Insurance	-3.00	3604	Group Insurance	-58.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till July-2016: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 16,822.00 Deductions: (Rs.): -703.00 Net Pay: (Rs.): 16,119.00

Payee Name: WAHID ULLAH  
Account Number: C/A 120031205  
Bank Details: ALLIED BANK LIMITED, 250600 Charsadda Road Eid Gah Peshawar Charsadda Road Eid Gah Peshawa, Peshawar

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City:

Temp. Address:

City:

Domicile: -

Email: wahid658148@gmail.com

Housing Status: No Official

DFA

Tariq

20.07.2020

Appellant in person is present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Final/counter argument submitted by the appellant. Time sought by the learned Additional AG for arguments on the ground of its perusal. Adjoined to 05.08.2020 on which to come up for arguments before S.B.

(MUHAMMAD JAMAL KHAN)  
MEMBER

Judgment Sheet

**LAHORE HIGH COURT AT LAHORE**

**JUDICIAL DEPARTMENT**

*WRIT PETITION No.5778 of 2007*

**JUDGMENT**

Date of hearing 20.6.2011

Petitioner (Parveen Javid) by Mr.Kashif Ali Chaudhri, Advocate.

Respondents (Chairman WAPDA etc) by Ch.Fayaz Ahmad Sanghera, Advocate.

**IJAZ UL AHSAN, J.-** This petition arises out of inaction on the part of the respondents to release pensionary benefits of the late husband of the petitioner. The petitioner was an employee of respondent No.1, who attained the age of superannuation on 19.11.1999, while he was employed as Line Superintendent, Baseer Pur, Sub-Division, Okara. In anticipation of his retirement, he wrote to the concerned Department of the respondent seeking clearance of his liabilities. Vide letter dated 03.12.1999, all relevant departments informed the late husband of the petitioner that all audit paras relating to the period of the tenure of his service stood verified and cleared and there was nothing outstanding due or payable. The petitioner retired and claimed his pensionary and other related benefits, which were denied to him for one reason or the other.

2. The learned counsel for the petitioner has pointed out that 10 years have elapsed since the petitioner's husband retired and died, yet his pensionary benefits have been withheld without lawful justification, which continues to cause grave hardship for his widow and children. My attention has been drawn to a Notification dated 17.04.1967, which provides that if there are any allegations against a retired official relating to misappropriation or otherwise, such proceedings must be initiated at least one year before his retirement and finalized at the most within one year after his retirement, failing which all departmental proceedings which empower the department to withhold his pensionary benefits stand abated. The said notification further provides that the official responsible for such abatement shall be held responsible for negligence on his part. In support of his contention, the learned counsel relies on Shaukat Ali and others Vs. Government of Pakistan through Chairman, Ministry of Railways and others (PLD1997 SC 342), Syed Abdus Salam Kazmi Vs. Managing Director, WASA, Multan and another [2005 PLC (CS) 244], Muhammad Anwar Bajwa Vs. Chairman, Agricultural Development Bank of Pakistan, Islamabad [2001 PLC (CS) 336] Zahid Ali, Assistant Excise and Taxation Officer (Retd) Vs. Secretary, Excise and Taxation Department and another [2007 PLC (CS) 413]; Mirza Muhammad Iqbal Vs. Additional Secretary (General), Government of the Punjab Education Department, (School Wing), Lahore and another



[2007 PLC (C.S.) 432] and Chief Secretary, Government and Sindh and another Vs. Umar-ud-Din [2007 PLC (C.S.) 662]

3. It is further pointed out that the matter was agitated by the petitioner before the Hon'ble Federal Ombudsman who issued a direction to the respondent department to clear the dues of the petitioner's late husband within sixty days. The respondent ignored the order of the learned Federal Ombudsman with impunity. The said order dated 20<sup>th</sup> of May, 2002 was not complied with and the respondents continue to withhold the lawful dues of the petitioner's husband, many years after his death while his family languishes.

4. The learned counsel has further relied on Haji Muhammad Ismail Memon Advocate Complainant (PLD 2007 SC 35) to point out that the Apex Court has taken serious exception to the trend of the Government departments to withhold lawful pensionary benefits of employees without any lawful justification, which causes hardship and inconvenience to the retired officials and their families. He, therefore, contends that the continued failure/inaction on the part of the respondents needs to be taken judicial notice of in view of the fact that the legal and constitutional rights of the petitioner guaranteed by Article 9 and 14 of the Constitution are constantly being violated.

5. The learned counsel for the respondents submits that the record of the late husband of the petitioner was questionable and blemished. He was charged with misappropriation of materials,

therefore, different audit paras were pending against him due to which his benefits were withheld. He argues that even if the issue of pending audit paras is not pressed, it cannot be denied that various penalties were imposed upon the petitioner by the competent authority which aggregates to a sum of Rs.2,47,305/-. In this regard he has drawn my attention to orders dated 30.4.2003, 31.5.2003 and 30.8.2006 passed by different functionaries of the department. When confronted with the fact that the late husband of the petitioner retired in 1999, how could penalties be imposed four years later, the learned counsel for the respondent did not have much to say. He submitted that the aforesaid orders were never challenged by the predecessor-in-interest of the petitioner and have attained finality. He therefore submitted that the orders in question were passed after due process of law and cannot be agitated or challenged through the present proceedings. What "**due process of law**" was followed by the department, is unfortunately shrouded in mystery because no such process is visible from the documents available on record. He has, however, candidly admitted that proceedings were not concluded against the petitioner's late husband within one year after his retirement

6. I have heard the learned counsels for the parties and have also gone through the record.

7. Although the petition has not yet been admitted to full hearing, as the learned counsels have been heard at considerable

length, this petition is treated as a *pacca* case and with their consent is being disposed of as such.

8. The petitioner's late husband worked as a Line Superintendent for the respondent/Company and retired from his job on 19.11.1999. Prior to his retirement he wrote letters to the concerned departments of the respondent seeking clearance. Such clearance was issued vide letter dated 3.12.1999 informing him that all audit paras relating to the period of his tenure of service stood verified and cleared and there was nothing outstanding, due or payable by him. Subsequent to his retirement the late husband of the petitioner received a letter from Chunian Sub-Division informing him that some audit paras were pending against him for the period between July-1997 to June-1998. The said paras were also settled and letter of clearance was issued by the department. However, despite the fact that there was no apparent reason to withhold his pensionary benefits, the same were not released to him. Further, he was also denied move over on the ground that his service book was incomplete and the deceased had to run to different departments to get his service book completed. It appears that while the aforesaid matters were pending, the petitioner's husband died in 2007. Since then the petitioner has been approaching the respondents for release of the pensionary benefits of her late husband but to of no avail.

9. The main question that requires determination is whether the respondents are justified in withholding pensionary benefits of

the husband of the petitioner despite the fact that at the time of his retirement and many years thereafter no disciplinary proceedings had been finalized that may have furnished some legal basis for the department to withhold his benefits. I have gone through the notification dated 17.4.1967 which provides that if there are any allegations against an employee relating to misappropriation or otherwise, such proceedings must be initiated at least one year before his retirement and finalized one year thereafter. If such proceedings are not finalized within the aforesaid time, the right of the department to withhold pensionary benefits stands abated.

10. It is settled law that an employee cannot be penalized for any action which is subject matter of an inquiry which was not completed before his retirement. Reference in this regard may also be made to rule 54-A of the Fundamental Rules of Service which provides that on attaining the age of superannuation disciplinary proceedings which have not been completed, automatically abate and the civil servant is entitled to receive all pensionary benefits. In this regard reference may usefully be made to the cases of Muhammad Anwar Bajwa, Executive Director, Agricultural Development Bank of Pakistan, 1-Faisal Avenue, Zero Point, Islamabad Vs. Chairman, Agricultural Development Bank of Pakistan, Faisal Avenue, Zero Point, Islamabad [2001 PLC (C.S.) 336], Bilquis Nargis Vs. Secretary to Government of the Punjab, Education Department (1983 PLC (C.S.) 1141), Syed Abdus Salam Kazmi Vs. Managing Director WASA, Multan and another [2005 PLC (C.S.) 244], Haji

Mhammad Ismail Memon Advocate Complianant (PLD 2007 SC 35) and Muhammad Zaheer Khan Vs. Government of Pakistan through Secretary, Establishment and others [2010 PLC (C.S.) 559], in which it has been held that the disciplinary proceedings against an employee must be completed before his date of retirement. An employee cannot be penalized for any action which was subject matter of an inquiry and was not completed before his retirement. Reference may also be usefully made to Muhammad Zaheer Khan Vs. Government of Pakistan, through Secretary Establishment and others [2010 PLC (CS) 559].

11. It is also significant to note that despite the fact that the petitioner's husband had retired on 19.11.1999; the orders relating to imposition of penalty were communicated to him four years later; a perusal of the aforesaid orders makes it abundantly clear that the orders were passed arbitrarily in order to cover up lacunas in the proceedings conducted by functionaries of the respondents and the petitioner was condemned unheard without affording him any opportunity to defend himself. The learned counsel for the respondent has specifically been asked if the employee was associated with any inquiry, given any opportunity to defend himself or heard before being condemned. His response is that he was called but he did not attend such proceedings. This is an unsatisfactory answer. There is nothing on record that may suggest that any *bona fide* effort was made to associate the petitioner's husband with any such proceedings. Even otherwise, the orders imposing penalties have been passed in a slip shod

and hasty manner and do not meet even the minimum standards required for a lawful and sustainable order. Neither any reason has been recorded nor any basis is given for imposition of penalty. None of these orders is sustainable at law. The orders are, therefore held to be devoid of any legal sanctity and do not furnish basis for an extreme action to withhold the pensionary benefits of the husband of the petitioner. The matter of alleged outstanding audit paras is equally devoid of any legally sustainable basis and cannot be allowed to stand in the way of release of lawful pensionary benefits to the family of an employee who served the department for the whole of his life. In recording the above findings, I am fortified by the principles laid down *inter alia* in the following judgments:-

In Syed Abdus Salam Kazmi Vs. Managing Director, WASA, Multan and another [2005 PLC (C.S.) 244], while examining questions similar to those raised in this petition, this court held:-

"This Court in "1995 PLC (C.S.) 817" held as under:-

"R. 108—Pension and gratuity—  
Withholding of—Inquiry pending against civil  
servant—Law required that the pension and  
other service benefits should be released to the  
retiring Government Servant and if any inquiry  
was pending against him same should be  
finalized within one year from the date of his  
retirement."

In "1983 PLC (C.S.) 832", it has been held that:-

"Pension—Cannot be withheld one year  
after retirement—Enquiry pending on date of  
retirement abates on completion of one year."

The Hon'ble Supreme Court of Pakistan in "PLD 1973 Supreme Court 514" held as under:-

"Pension—No longer a bounty but a right—cannot be reduced arbitrarily—Pension, however, not given as a matter of course and can be reduced if service not thoroughly satisfactory—Such power, however, exercisable only before pension actually sanctioned."

6. Admittedly in the instant case, inquiry was not concluded during petitioner's stay in service, who retired on superannuation and pensionary benefits were sanctioned, but after five years of his retirement through impugned letter pension has been stopped, which is against the spirit of law.

7. Similarly, inquiry could not continue against the petitioner after his retirement as after his retirement notification he was no more a Government employee. In this behalf learned counsel has rightly referred to a notification issued by the Government of the Punjab, Service, General Administration, Information Department No.S.O.(S), 12-12-/82 dated 17<sup>th</sup> of September, 1982, wherein it was notified as under:-

"after their retirement they are no longer Civil Servants, the disciplinary proceedings against them stand abated.

.....  
.....  
.....  
.....

Attention should be given to disciplinary proceedings against civil servants reaching the age of superannuation, particularly to the case of those who are to retire within one year."

This fact has further been approved by Service Tribunal Punjab in "1994 PLC (C.S.) 454", wherein it was held as under:-

“Person would remain a civil servant only so long as he was in service of Provincial Government and he would cease to be a civil servant on his retirement, removal and dismissal, etc. from service.”

In Muhammad Zaheer Khan Vs. Government of Pakistan through Secretary, Establishment and others [2010 PLC (C.S.) 599], the Honourable Supreme Court of Pakistan held as follows:-

9. The learned counsel for the appellant in that behalf referred us to F.R.54-A which, for ready reference is reproduced below as inserted by S.R.O.1143(I)/80 dated 10<sup>th</sup> November, 1980:-

“[54A. If a Government servant, who has been suspended pending inquiry into his conduct attains the age of superannuation before the completion of inquiry, the disciplinary proceedings against him shall abate and such government servant shall retire with full pensionary benefits and the period of suspension shall be treated as period spent on duty.]”

10. From the plain reading of the above Rule it become abundantly clear that what to talk of sending the case back to the department, even the pending disciplinary proceedings against an officer abate if the latter attains the age of superannuation. The Rule entitles such officer to retire with full pensionary benefits and period of suspension is bound to be treated as period spent on duty. In the circumstances, the question of now sending the mater back to the department for holding *de novo* inquiry stands out of question. It may be stated at this juncture that the appellant has stated at the bar that he is not interested in claiming any back benefits and that he is only interested in getting the stigma removed.



11. The question relating to retirement during disciplinary proceedings has not remained restricted to the rule aforesaid but various forums have also taken notice of it. In Bilquis Nargis' case 1983 PLC (C.S.)1141, the Punjab Service Tribunal held such proceedings to have abated if the officer retired during the course of action. In case of Deputy Director Food v. Akhtar Ali (supra), it was held by a full Bench of this Court that an officer superannuating during disciplinary proceedings ceases to be a civil servant as was rightly so excluded by section (2)(a)(b) of Punjab Service Tribunals Act, 1974. In case of Abdul Wali 2004 SCMR 678(b), it was again held that an employee could not be proceeded against after superannuation. The principle was reiterated in Sajjad Haider Kazmi's case (supra) where the officer was not only condemned unheard but also had retired. The holding of fresh inquiry was, therefore, disapproved, Muhammad Akhtar former Headmaster was proceeded against by the department after one year of his retirement. It was condemned by this Court in Muhammad Akhtar's case (2007 PLC (C.S.) 400."

In the case reported as PLD 2007 SC 35, Iftikhar Muhammad Chaudhry, C.J. writing for the court laid guidelines/issued directions to all government departments in the following terms:-

"It is pathetic condition that government servants, after having served for a considerable long period during which they give their blood and sweat to the department had to die in a miserable condition on account of non payment of pension/pensionary benefits etc. the responsibility, of course, can be fixed upon the

persons who were directly responsible for the same but at the same time we are of the opinion that it is an over all problem mostly in every department, where public functionaries failed to play their due role even in accordance with law. Resultantly, good governance is suffering badly. Thus every one who is responsible in any manner in delaying the case of such retired officers/official or widows or orphan children for the recovery of pension/gratuity and G.P. fund has to be penalized. As their such lethargic action is in violation of Articles 9 & 14 of the Constitution of Islamic Republic of Pakistan, 1973. Admittedly, it is against the dignity of a human being that he has to die in miserable condition and for about three years no action has been taken by the concerned quarters in finalizing the pension case and now when the matter came up before the Court, for the first time, they are moving in different directions just to show their efficiency and to clear their position before the Court. Such conduct on their behalf is highly condemnable and cannot be encouraged in any manner.

We, therefore, direct that all the Government Departments, Agencies and Officers deployed to serve the general public within the limit by the Constitution as well as by law shall not cause unnecessary hurdle or delay in finalizing the payment of pensionary/retirement benefits cases in future and violation of these directions shall amount to criminal negligence and dereliction of the duty

assigned to them. Thus having noticed such miserable condition prevailing in the department particularly relating to the payment of the pension to retired government servants or widows or orphan children, we direct all the Chief Secretaries of the Provincial governments as well as the Accountant Generals and the Accountant General Pakistan Revenue, Islamabad, to ensure future strict adherence of the pension rules reproduced hereinabove and clear such cases within a period not more than two weeks without fail.

Similarly, the Chief Secretaries shall also issue instructions along with the copy of this judgment to the Heads of the Departments including responsible officers to initiate and finalize the pension cases well in advance from the date of retirement of Government servant without fail as required by rule 5-2 of Chapter V of the West Pakistan Civil Servants Pension Rules, 1963.

The object in issuance of above directions to the concerned authorities is only to make them realize their duties and responsibilities, which they owe to the retiring government servants.

We also direct that in future if there is any delay in the finalization of the pension benefits cases of the government servants, widows or orphan children and matter is brought to the notice of this Court, the head of the concerned department shall also be held

liable for the contempt of the Court and shall be dealt with strictly in accordance with law.”

12. In view of my finding that the action of the respondents, insofar as, the pensionary benefits of the petitioner have been withheld, is illegal and without lawful justification, I allow this petition and direct the respondents to release all outstanding pensionary benefits of the petitioner which include release of salaries and other arrears from Chunian Division, grant of move over after completion of service book, release of 180 days leave encashment in Depalpur and such other amounts as may be found due and payable according to the terms and conditions of his service and in accordance with law. The petitioner shall also be entitled to costs of this petition.

JUDGE

APPROVED FOR RREPORTING

Announced in open Court on 05.07.2011.

**(IJAZ UL AHSAN)  
JUDGE**



# IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No. D- 1179 of 2017

**Present:-**

**Mr. Justice Muhammad Iqbal Kalhoro**

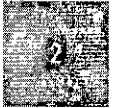
**Mr. Justice Adnan-ul-Karim Memon**

Date of hearing: 31. 01. 2019  
Date of decision: 06. 02. 2019  
Petitioner: Through Mr. Irfan Ahmed Qureshi, Advocate  
Respondent No.3: Through M. Arshad S. Pathan, Advocate  
Respondents No.2 & 4: Through Mr. Fayaz Ahmed Leghari, Advocate

## J U D G M E N T

**ADNAN-UL-KARIM MEMON, J:-** Through the captioned petition, the Petitioner claims commutation/pensionary benefits from GENECO-1 Jamshoro Power Company (JPC) on account of his attaining the age of superannuation i.e. 60 years.

2. Brief facts of the case as per pleadings of the parties are that the Petitioner was appointed as Junior Engineer vide appointment order dated 17.01.1978. During tenure of his service, he was promoted to the post of Senior Engineer in the year 1989, Resident Engineer in the year 2005, Chief Engineer in the year 2010 and Chief Executive Officer of GENECO-1/ Respondent No.4, in May, 2013. Due to certain allegations, Petitioner was implicated in NAB Reference No.08/2014 by the National Accountability Bureau and was arrested on 04.05.2014, against which he filed Writ Petition No.2368/2014 before the learned Islamabad High Court, for seeking his pre-arrest bail and the same was



disposed of with direction to the learned Trial Court to conclude the matter as mandated by Section 16(1) of NAB Ordinance, 1999 followed by another Writ Petition bearing No.3219/2015, which was dismissed thus he availed remedy before the Hon'ble Supreme Court of Pakistan through Civil Petition for Leave to Appeal No.11 of 2016. Petitioner has submitted that the Hon'ble Supreme Court vide order dated 02.03.2016 granted post arrest to him in the aforesaid NAB Reference. Petitioner has also averred in the petition that during his incarceration in prison he attained the age of superannuation, which was notified on 31.10.2014. The Petitioner was not departmentally proceeded on the charges leveled in the aforesaid NAB reference and nothing was done against him. However, Respondent-company without any rhyme and reason withheld his pensionary benefits and he being aggrieved by and dissatisfied with the aforesaid action, approached the learned Federal Ombudsman through complaint, in which proceedings Respondent-WAPDA filed their para-wise comments, admitted claim of the Petitioner regarding pensionary benefits, however, learned Federal Ombudsman vide order dated 20.02.2017, closed the complaint as being related to service matter. Petitioner next averred that finding no response, he filed an Appeal to Managing Director PEPCO/Respondent No.3, on 29.09.2016; followed by successive reminders dated 04.01.2019 & 20.01.2017, but to no avail.

3. Mr. Irfan Ahmed Qureshi learned counsel for the Petitioner has contended that since the Petitioner is retired officer of Respondent-company, who was not proceeded departmentally is not liable to be denied the pensionary benefits, on any ground whatsoever; that denial of NOC by Respondent No.3 is sheer malafide and colourful exercise of powers, which do not find support from the law related to the subject; that the criminal liability is distinct from the civil liability as held by superior Courts, as such nobody can be denied civil benefits



merely on the basis of any criminal liability; that even WAPDA E&D Rules 1977 do not provide any action against the retired officers; that the Hon'ble Supreme Court has held that the proceedings under E&D Rules cannot be continued beyond the age of superannuation and the same stood abated after superannuation. Learned counsel lastly contended that even the Office Memorandum issued by Government of Pakistan on 13.01.2017 clearly provides that no pension case should be withheld for completion of documents etc. and the anticipatory pension may be sanctioned under Article 922-926 of Civil Service Regulations; that Section 19(4) of Civil Servant Act, 1973 states as under:-

*"If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualifies for pension or gratuity; and any over payment consequent on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family."*

He further added that pension cannot be retained to recover Government dues if any. Learned counsel for the Petitioner argued that Government has no right to withhold or postpone the pensionary benefits. Once a person has retired his pension cannot be withheld on a finding of misconduct or negligence during the period of service; that the finding of misconduct has to precede the order adversely affecting the pension in any manner. The enquiry proceedings if any cannot continue indefinitely. Delay is enough to quash the proceedings. It has been vehemently argued that there is no right with the Government to withhold pension in anticipation of the exercise of its right to withhold or withdraw the pension. In the same strain the learned counsel argued that any amount due from the pensioner to the Government or any liability of the pensioner towards the



Government would not adversely affect the retiree in his entitlement for pension. State could exercise its right to recover its dues or enforces the liability of the pensioner or recover the pecuniary loss caused by the pensioner to the State in accordance with law, without affecting the pension.

4. M. Arshad S. Pathan, Learned counsel for Respondent No.3 has argued that administrative powers relating to retirement and encashment were devolved by Respondent No.3 to companies/Respondents No.2 & 4, by way of Office Memorandum dated 07.01.2013, therefore, Respondent No.3 has nothing to do with the subject matter.

5. Mr. Fayaz Ahmed Leghari, learned counsel for Respondents No.2 & 4 mainly resisted on the ground that denial of NOC for pensionary benefits to Petitioner by Respondents No.2 & 4 is due to pendency of NAB reference against him before the learned Trial Court. The learned counsel for the Respondents refuted the submissions made on behalf of the Petitioner. It was argued that the Government has retained the power to impose cut in pension both at the time of retirement i.e. before granting pension as well as after it has been granted i.e. after retirement. There is no limit provided for imposing cut in pension. The pension can be withheld or withdrawn in its entirety. It was vehemently contended that good conduct during service and after the service is a pre-requisite for granting pension or its continuity. Good conduct during the service is a pre-condition to earn pension for assessing pension and impliedly good conduct after granting of pension is a condition precedent for its continuance.

6. We have heard the learned counsel for the parties at length and have gone through material available on record.

7. The primordial questions in the subject petition are under:-



- i) Whether pensionary benefits of any civil/public servant can be withheld on account of pendency of disciplinary proceedings/ criminal case against him?
- ii) Whether the Respondents could continue with the departmental enquiry proceedings initiated prior to the retirement of the Petitioner?

8. To answer the first issue which we have framed for our consideration. Primarily, we may observe here that providing pension on retirement is one of the steps for implementation of the principles as set-forth in the Constitution. The Constitution expects the State to provide adequate means of livelihood when the health and strength for strenuous work starts failing. It is one of the safeguards against exploitation of elderly people of the society. The concept of pension is in conformity and in consonance with the concept of social justice and is an essential feature in a welfare state. It is one of the steps by which State attempts to secure living with dignity at the fag and of life. In a welfare State it is normal expectation that the State would provide the mechanism to protect the individuals against forced working unsuitable to one's health.

9. As to plea raised by the learned counsel for the Respondents with respect to withholding of pensionary benefits of the Petitioner due to pendency of NAB reference against him on the premise that Petitioner has not honorably been acquitted from the charges leveled against him, therefore, he is not entitled for pensionary benefits, we are of the considered view that Honorable Supreme Court has already dealt with this proposition of law in the case of Superintendent Engineer GEPCO Sialkot Vs. Muhammad Yusuf vide Order dated 23.11.2006 passed in Civil Petition No. 1097-1 of 2004.

10. In view of the dicta laid down by the Honorable Supreme Court in the case referred supra, we do not agree with the contention of the learned counsel for the Respondent-company.

11. The Fundamental Rule 54-A is clear and does not support the case of the Respondents, which provides as under:-

“If a Government servant, who has been suspended pending inquiry into his conduct attains the age of superannuation before the completion of inquiry, the disciplinary proceedings against him shall abate and such Government servant shall retire with full pensionary benefits and the period of suspension shall be treated as period spent on duty.”

12. As per Fundamental Rule 54-A read with Article 417-A of Civil Service Regulations, disciplinary proceedings cannot be continued or conducted as Petitioner ceased to be employee of the Respondent-company on attaining the age of superannuation on 31.10.2014. Law provides that the period of suspension followed by reinstatement or superannuation count towards qualifying service for pension.

13. Reverting to the right of the Government to withhold pension in certain cases. The Government reserves to itself right of withholding of withdrawing a pension or any part of it whether permanently or for a specified period, and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to the Government, if the pensioner is found in a departmental or judicial proceeding to have been guilty of grave misconduct or negligence, during the period of his service, within the time limit i.e. one year before his retirement under Pakistan Water and Power Development Authority pension Rules 1977, under Article 417-A of Civil Service Regulations and other circulars issued by the Federal Government from time to time in this regard. Notes No.1 & 2 of Rule-7 of Pakistan Water and Power Development Authority Pension Rules, 1977 are reproduced as under:-

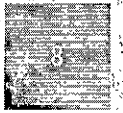
*1. All enquiries are to be initiated/ finalized within one year of the retirement of Wapda employee failing which full pension/ gratuity has to be sanctioned in favour of the retired wapda employee.*

2. *If an officer, who has been suspended pending inquiry into his conduct, attains the age of superannuation or dies during service before the completion of the inquiry, the disciplinary proceedings against him shall abate and such officer shall retire with full pensionary benefits and the period of suspension shall be treated as period spent on duty."*

An excerpt of Article 417-A of the Civil Service Regulations is also reproduced as under:-

*"If an officer, who has been suspended pending inquiry into his conduct attains the age of superannuation before the completion of the inquiry, the disciplinary proceedings against him shall abate and such officer shall retire with full pensionary benefits and the period of suspension shall be treated as period spend on duty."*

14. In our view the pension is neither bounty nor a matter of grace depending upon the sweet will of the employer. It creates a vested right subject to the statutory rules framed in exercise of powers conferred by the Constitution. It is indefeasible right to property. Pension cannot be termed as an ex-gratia payment instead it is a payment for the past service rendered. It is a part and parcel of the conditions of service. The right to get pension does not depend on the discretion or sweet will or pleasure of the Government, though it is subject to the statutory rules. The pension cannot be equated with a doll and quantum of pension is correlated to the average emoluments drawn and availability of the resources with the State. It is further observed that this right to property is granted with an object of setting up of political society with a goal to set up a welfare state in consonance with directive principles of the Constitution. The pension can be affected for the reasons provided by statutory rules. The pensionary or retiring benefits could not be refused solely on the ground of initiation or intending initiation of disciplinary proceedings. Thus we are of the view that the pension or commutation of it cannot be withheld, or postponed before a finding is returned



that retiree is guilty of causing loss to the state during tenure of his service. Mere pendency of enquiry or probability of the State exercising its power of withholding or withdrawing of pension by itself is not sufficient to withhold pension.

15. It may be observed here that the authorities dealing with applications for pensions under the rules should bear in mind that delay in the payment of pensions involves peculiar hardship. It is essential to ensure, therefore, that a Government servant begins to receive his pension on the date on which it becomes due. The responsibility for initiation and completion of pension papers is that of the Head of Department. The action should be initiated one year before a Government servant is due to retire so that pension may be sanctioned a month before the date of his/her retirement.

16. In cases in which the date of retirement cannot be foreseen, 6 months in advance, the Government servant may be asked to submit his pension application immediately after the date of his retirement is known; and a Government servant proceeding on leave preparatory to retirement in excess of 6 months may be asked to submit his/her application at the time of proceeding on such leave.

17. As a result of the above discussion, we would conclude that the Respondent-company has no right to withhold or postpone pension or the payment on account of commutation of pension. The Respondent-company is bound to release pension to the Petitioner at the time of superannuation i.e.31.10.2014.

18. In view of forgoing discussion, this petition is allowed in the terms whereby the competent authority of the Respondent-Company is hereby directed to calculate the pensionary benefits of the service of the Petitioner and other benefits as admissible under the law and delay in payment to the Petitioner if any

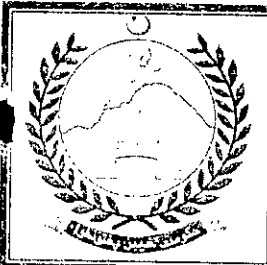


accrued on the withholding of the pensionary benefits, in accordance with rules and regulations. Such amount must be deposited with the additional registrar of this Court within a period of two months from the date of receipt of this Judgment and paid to the Petitioner on proper verification and confirmation.

JUDGE

JUDGE

karar\_hussain/PS\*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar the, 11<sup>th</sup> December, 2020

**NOTIFICATION**

**No.SO(Estt)FE&WD/1-50(69)/PF:** In compliance with the judgment dated 11<sup>th</sup> August, 2020 of Khyber Pakhtunkhwa Service Tribunal in Execution Petition No: 155/2019 filed by Muhammad Tariq, Ex DFO (BS-18) in service appeal No.795/2015, subsequent recommendations of CCF Region-I, Peshawar vide letters No: 2527/E, dated 10<sup>th</sup> November, 2020 and No: 2851/E, dated 25<sup>th</sup> November, 2020 and in continuation of this department notification of even No: (7464-68), dated 24<sup>th</sup> October, 2019, the competent authority is pleased to authorize Mr. Muhammad Tariq, Ex-DFO (BS-18), Forest Department, Khyber Pakhtunkhwa to draw his salary and allowances against the following vacant positions for the period as noted against each:

#	Name of vacant post	Period
1	Kunhar Watershed Division	12/3/2015 to 30/6/2015
2	Kohistan Watershed Division	1/7/2015 to 31/10/2015
3	Patrol Squad Mansehra	1/11/2015 to 31/5/2016
4	Lower Kohistan Pattan	1/6/2016 to 5/10/2017
5	Working Plan Unit-I, Abbottabad	1/12/2017 to 31/12/2017
6	Dir Kohistan Forest Division	1/1/2018 to 31/3/2018
7	Deputy Director R&D	1/4/2018/ to 31/5/2018
8	Working Plan Unit-I, Abbottabad	1/6/2018 to 30/8/2018
9	Deputy Director R&D	1/9/2018 to 30/11/2018
10	Dir Kohistan Forest Division	1/12/2018 to 31/1/2019
11	Deputy Director R&D	1/2/2019 to 29/2/2019
12	Dir Kohistan Forest Division	1/3/2019 to 1/6/2019

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

**Endst: No: SO (Estt) FE&WD/1-50 (69)/PF:** **Dated Pesh: 11<sup>th</sup> December, 2020**

Copy is forwarded to:-

- 1) Chief Conservator of Forests, CSFR-I, Peshawar w/r to his letters quoted above. **He is requested to indicate a vacant post for authorization of the above ex-officer to draw his salary and allowances for the remaining period w.e.f 6<sup>th</sup> October, 2017 to 30<sup>th</sup> November, 2017. Furthermore, an officer may be deputed to submit the same in the Service Tribunal by 14<sup>th</sup> December, 2020 positively, under intimation to this department.**
- 2) Additional Advocate General, Khyber Pakhtunkhwa Service Tribunal, Peshawar w/r to his letter No: 892-96, dated 20<sup>th</sup> August, 2020.
- 3) Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
- 4) Director R&D Directorate of Forest Department.
- 5) DFOs Kunhar Watershed/Kohistan Watershed, Patrol Squad, Mansehra, Lower Kohistan, Dir Kohistan Forest Divisions.
- 6) DFO Working Plan Unit-I, Abbottabad.
- 7) Section Officer (Lit), FE&W department, Khyber Pakhtunkhwa.
- 8) Muhammad Tariq, Ex-DFO C/o CCF-I, Peshawar.
- 9) Director Budget & Accounts Cell, FE&W department, Khyber Pakhtunkhwa.
- 10) PS to Secretary, FE&W department, Khyber Pakhtunkhwa.
- 11) Personal file of the ex-officer.
- 12) Master file.
- 13) Office order file.

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

15



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

No.SO(Estt)FE&WD/I-50 (69)/PF  
Dated Peshawar the, 7<sup>th</sup> December, 2020

To

The Secretary to Govt: of Khyber Pakhtunkhwa,  
Establishment Department,  
Peshawar.

Subject: **REQUEST FOR ADVICE**

Dear Sir,

I am directed to refer to the subject captioned above and to say that an inquiry was conducted against the following officer/officials of Forest Department, Khyber Pakhtunkhwa under Rule-5 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 on account of theft of timber of Kohistan origin to Northern area/down districts:-

- (i) Muhammad Tariq, Divisional Forest Officer (BS-18);
- (ii) Muhammad Asghar, Forester (BS-09);
- (iii) Mr. Abdul Manan, Block Officer (BS-07);
- (iv) Mr. Jamir, Forest Guard (BS-07);
- (v) Mr. Nasib Khan, Forest Guard (BS-07);
- (vi) Mr. Umar Khan, Forest Guard (BS-07)

2. On receipt of the inquiry report/findings of the said inquiry committee and after adopting all the codal formalities, different penalties were imposed upon them in terms of Rule-4 of the rules ibid as per the details given hereunder-

#	Name & Designation	Penalty imposed
i	Muhammad Tariq, DFO (BS-18)	Dismissal from service alongwith recovery of Rs: 1,548,200/-
ii	Muhammad Asghar, Forester (BS-09)	Compulsorily Retirement from service alongwith recovery of Rs: 2,198,500/-
iii	Mr. Abdul Manan, Block Officer (BS-07)	Compulsorily Retirement from service alongwith recovery of Rs: 897,900/-
iv	Mr. Jamir, Forest Guar (BS-07)	Dismissal from service alongwith recovery of Rs: 433, 500/-
v	Mr. Nasib Khan, Forest Guard (BS-07)	Dismissal from service alongwith recovery of Rs: 650, 300/-
vi	Mr. Umar Khan, Forest Guard (BS-07)	Compulsorily Retirement from service alongwith recovery of Rs: 464, 400/-

3. Feeling aggrieved, the aforesaid Ex-officer/officials filed separate Service Appeals before the Khyber Pakhtunkhwa Service Tribunal Peshawar to set aside the penalty orders and re-instate them in service with all back benefits.

4. On 17<sup>th</sup> December, 2018, the Tribunal issued orders to set aside the penalty orders and reinstated them in service and to conduct de-novo inquiry strictly in accordance with the law and rules within a period of 90 days. The issue of back benefits shall be subject to the outcome of the de-novo inquiry" (copy enclosed).

5. This department in consultation with Scrutiny Committee of Law Department, Khyber Pakhtunkhwa filed CPLA in the August Supreme Court of Pakistan against the said judgment of Service Tribunal dated 17<sup>th</sup> December, 2018. The Supreme Court of Pakistan through its order dated 25<sup>th</sup> July, 2019 dismissed the Civil Petitions being without substance and leave declined (**copy attached**).

6. It is worth mentioning that the senior most accused in the subject case namely Muhammad Tariq, Ex-Divisional Forest Officer (BS-18) reached the age of superannuation w.e.f 1<sup>st</sup> June, 2019. Therefore, his name was excluded from the de-novo inquiry proceeding and his case was sent to Anti Corruption Establishment (ACE) for lodging of FIR regarding initiation of judicial proceeding against him under FR-54 (a) of the Fundamental Rules.

7. Furthermore, his retirement order was issued subject to the condition that the issue of back benefit would be decided / settled after completion of judicial proceeding against him by the ACE as per the judgment of service tribunal (**copy enclosed**).

8. It is to point out that the above ex-officer filed Execution Petition in the Service Tribunal wherein the tribunal ordered to process his pension/back benefits alongwith other emoluments to which the petitioner is entitled.

9. Accordingly, the pension and GP Fund case of the above ex-officer as well as payment of salary for the period w.e.f March, 2015 to 1<sup>st</sup> June, 2019 is under process. Since the junior officers to the above officer were promoted to BS-19 w.e.f 11<sup>th</sup> November, 2018, therefore, he has also requested to process his case for promotion to BS-19 on regular basis.

10. In view of the above, advice of Establishment Department is requested whether the case of the above ex-officer for grant of proforma promotion to BS-19 could be placed before the PSB for consideration as per the judgment of Service Tribunal or otherwise.

**Encl: As above**

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

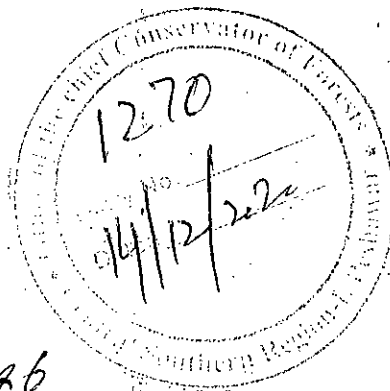
**Endst: No: & date even**

Copy is forwarded for information to:-

1. Chief Conservator of Forests, CSFR-I, Peshawar.
2. PS to Secretary, FE&W department, Khyber Pakhtunkhwa.

**SECTION OFFICER (ESTT)**

ESH  
Q  
CCFT



no. 1486

dt 14/12/20



GOVERNMENT OF KHYBER PAKHTUNKHWA

FOREST DEPARTMENT

Divisional Forest Officer  
Dir Kohistan Forest Division  
Sheringal.

Payee's A/C only

05/01/2021

NATIONAL BANK OF PAKISTAN

Dir.

Pay to Mr. Muhammad Tariq, D.F.O.  
Rupees One Million, Sixty Seven thousand, Six hundred & Eighty Eight only  
and charge the same against the account of D.F.O. Dir. Kohistan.

Divisional Forest Officer  
Dir Kohistan Forest Division  
Sheringal.

RS 1,067,688/=

303

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

**No.SO(Estt)FE&WD/I-50 (69)/PF  
Dated Peshawar the, 8<sup>th</sup> February, 2021**

To

The Secretary to Govt: of Khyber Pakhtunkhwa,  
Law, Parliamentary Affairs & Human Rights Deptt:  
Peshawar.

*Accepted*  
11/2/2021

Subject: **REQUEST FOR ADVICE**

Dear Sir,

I am directed to refer to the subject captioned above and to state that an inquiry was conducted against the following officer/officials of Forest Department, Khyber Pakhtunkhwa under Rule-5 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 on account of theft of timber of Kohistan origin to Northern area/down districts:-

- (i) Muhammad Tariq, Divisional Forest Officer (BS-18);
- (ii) Muhammad Asghar, Forester (BS-09);
- (iii) Mr. Abdul Manan, Block Officer (BS-07);
- (iv) Mr. Jamir, Forest Guard (BS-07);
- (v) Mr. Nasib Khan, Forest Guard (BS-07);
- (vi) Mr. Umar Khan, Forest Guard (BS-07)

2. On receipt of the inquiry report/findings of the said inquiry committee and after adopting all the codal formalities, different penalties were imposed upon them in terms of Rule-4 of the rules ibid as per the details given hereunder-

#	Name & Designation	Penalty imposed
i	Muhammad Tariq, DFO (BS-18)	Dismissal from service alongwith recovery of Rs: 1,548,200/-
ii	Muhammad Asghar, Forester (BS-09)	Compulsorily Retirement from service alongwith recovery of Rs: 2,198,500/-
iii	Mr. Abdul Manan, Block Officer (BS-07)	Compulsorily Retirement from service alongwith recovery of Rs: 897,900/-
iv	Mr. Jamir, Forest Guar (BS-07)	Dismissal from service alongwith recovery of Rs: 433,500/-
v	Mr. Nasib Khan, Forest Guard (BS-07)	Dismissal from service alongwith recovery of Rs: 650,300/-
vi	Mr. Umar Khan, Forest Guard (BS-07)	Compulsorily Retirement from service alongwith recovery of Rs: 464,400/-

3. Feeling aggrieved, the aforesaid Ex-officer/officials filed separate Service Appeals before the Khyber Pakhtunkhwa Service Tribunal Peshawar to set aside the penalty orders and re-instate them in service with all back benefits.

4. On 17<sup>th</sup> December, 2018, the Tribunal issued orders to set aside the penalty orders and reinstated them in service and to conduct de-novo inquiry strictly in accordance with the law and rules within a period of 90 days. The issue of back benefits shall be subject to the outcome of the de-novo inquiry" (copy enclosed).

5. This department in consultation with Scrutiny Committee of Law Department, Khyber Pakhtunkhwa filed CPLA in the August Supreme Court of Pakistan against the said judgment of Service Tribunal dated 17<sup>th</sup> December, 2018. The Supreme Court of Pakistan through its order dated 25<sup>th</sup> July, 2019 dismissed the Civil Petitions being without substance and leave declined (copy attached).

304

It is worth mentioning that the senior most accused in the subject case namely Muhammad Tariq, Ex-Divisional Forest Officer (BS-18) reached the age of superannuation w.e.f 1<sup>st</sup> June, 2019. Therefore, his name was excluded from the de-novo inquiry proceeding and his case was sent to Anti Corruption Establishment (ACE) for lodging of FIR regarding initiation of judicial proceeding against him under FR-54 (a) of the Fundamental Rules.

7. Furthermore, his retirement order was issued subject to the condition that the issue of back benefit would be decided / settled after completion of judicial proceeding against him by the ACE as per the judgment of service tribunal (copy enclosed).

8. It is to point out that the above ex-officer filed Execution Petition in the Service Tribunal wherein the tribunal ordered to process his pension/back benefits alongwith other emoluments as per entitlement.


9. Accordingly, the pension and GP Fund case of the above ex-officer as well as payment of salary for the period w.e.f March, 2015 to 1<sup>st</sup> June, 2019 is under process. Since the junior officers to the above officer were promoted to BS-19 w.e.f 11<sup>th</sup> November, 2018, therefore, he has also requested to process his case for promotion to BS-19 on regular basis.

10. Accordingly, the case was taken up with Establishment Department, Khyber Pakhtunkhwa for advice as to whether the case of the above ex-officer for grant of proforma promotion to BS-19 could be placed before the PSB for consideration as per the judgment of Service Tribunal or otherwise (copy enclosed).

11. However, the Establishment Department vide letter No: SOR.III (E&AD)2-2/2014, dated 18<sup>th</sup> January, 2021 (copy attached) has replied that advice of Law Department, Khyber Pakhtunkhwa may be solicited with regard to clarification of the Service Tribunal judgment in terms of Rule-12 (1) (a) (b) of Government Rules of Business, 1985.

12. In view of the above, advice of Law Department, Khyber Pakhtunkhwa is solicited in the matter, please.

Encl: As above

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

Encl: No: & date even

Copy is forwarded for information to:-

1. Chief Conservator of Forests, CSFR-I, Peshawar.
2. PS to Secretary, FE&W department, Khyber Pakhtunkhwa.

SECTION OFFICER (ESTT)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

No.B&A/Bud/20-21/Misc/Vol-IV/ 423

Dated Peshawar the 29-07-2021

To

The Budget Officer-II  
Govt: of Khyber Pakhtunkhwa,  
Finance Department, Peshawar.

Subject:

**MINUTES OF THE MEETING REGARDING RELEASE OF FUNDS  
AMOUNTING TO RS. 3,095,849/- UNDER PAY AND ALLOWANCES IN  
RESPECT OF MUHAMMAD TARIQ, EX-DFO HELD ON 6<sup>TH</sup> APRIL, 2021.**

I am directed to refer to your office letter No.BO-II/FD/1-3/Forest/Grant/202-21 dated 09-04-2021. The case has been re-examined by the CCF-I being of HAD, and the Section Officer (Estt;), FE & W Deptt; reported vide letter dated 16.07.2021 Annex-I).

In view of the report of SO (Estt;) FE & WD vide Annex-I, the case has been filed by the ACE and there is no need for further processing with the Law Department.

The funds released to the following DFOs on normal side under heads pay & allowances, during the current financial year 2021-22 are insufficient to meet the requirement as per court judgement and required to release additional funds during the current financial year 2021-22.

The DDOs wise detail under the relevant head is given as under;

BSH	Particulars	DFO Lower Kohistan Forest KD408	DFO P/Squad Mansehra MA4317	DFO Kohistan W/Shed Division SH4165	DFO Kunhar W/Shed Division MA4323	Total
A01101	Pay of officers	1350440	425330	59090	165323	2383183
A01202	HRA	65841	27111	3873	14070	126387
A01217	Medical Allw:	76194	31374	4432	13038	143016
A0120X	ARA 2010 50%	155415	83685	11955	43446	294501
	ARA 2011 15%	0	0	0	13038	13038
	ARA 2012 20%	0	0	0	33057	33057
A0121T	ARA 2013 15%	43225	47775	6825	24807	131732
A0121Z	ARA 2014 10%	4550	31850	4550	16538	57488
A0122C	ARA 2015 2.5%	30520	42533	5909	0	85066
A0122M	ARA 2016 10%	122784	0	0	0	153780
A0123Y	ARA 2017 10%	37152	0	0	0	75452
A0123G	ARA 2018	0	0	0	0	19150
<b>Total</b>		<b>1886121</b>	<b>689658</b>	<b>96684</b>	<b>323317</b>	<b>2995780</b>

The Chairman of the Honorable Service Tribunal has directed in the last hearing held on 19-07-2021 that payment of arrears may be paid to the concerned officer and report progress in the next hearing, which is scheduled to be held on 05.08.2021.

It is therefore requested that the demanded funds amounting to Rs. 2,995,780/- may kindly be released to the DDOs concerned, so that the payment could be made to the retired DFO and to implement instruction of the Khyber Pakhtunkhwa Service Tribunal.

  
**BUDGET & ACCOUNTS OFFICER**

No.B&A/Bud/20-21/Misc/Vol-IV/ 424-26

*A/c* Dated Peshawar the 29-07-2021

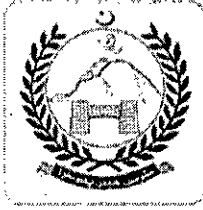
Copy is forwarded for information to;

1. The Chief Conservator of Forests, Central Southern Region-I, Peshawar.
2. The Section Officer (Estt;), FE&WD for information.
3. The Section Officer (Lit) FE&WD for information.

  
**BUDGET & ACCOUNTS OFFICER**

*A/c*

29/7/21



**KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

No. 167375/ST

Dated: 25/08/2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262


To

1. The Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Chief Minister Secretariat Peshawar .
2. Secretary Environment Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.
3. Chief Conservator of Forest Central and Southern Forest Region-1  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: ORDER IN EXECUTION PETITION NO. 155/2019 MR. MUHAMMAD TARIQ KHAN.

I am directed to forward herewith a certified copy of order dated 05.08.2021 passed by this Tribunal on the above subject for compliance please.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR



# GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar

<http://www.finance.gov.pk>

Facebook: www.finance.gov.pk

No. BO-II/FD/1-3/Fores/Grant/2020-21

Dated Peshawar, the 05.03.2021

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Forestry, Environment & Wildlife Department

SUBJECT: AUTHORITY FOR PAYMENT.

Dear Sir,

I am directed to refer your letter No.B&A/Bud/18-19/Misc/Vol-IV/4510 Dated 04.03.2021 on the subject noted above and to invite your kind attention to this Department letter of Even No. & Date, wherein the Administrative Department has been requested to furnish the following information/documents for further process:-

- 1) Findings of de-novo inquiry after considering the order dated 12.03.2015 as annul by Service Tribunal.
- 2) Reasons for non-completion of inquiry within service period of petitioner
- 3) Copy of judgment dated 17.12.2018.
- 4) Any advice taken from Law Department by the Administrative Department during course of proceedings and after judgment dated 11.08.2020 for further available remedies

Yours faithfully,

(FAZLE SUBHAN)  
BUDGET OFFICER-II

5/3/21

OK

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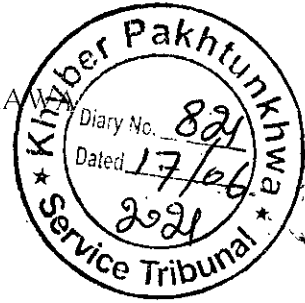
BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHAWA

Implementation Petition No. 155/019

Muhammad Tariq DFO®

VERSUS

Government of KPK etc



APPLICATION/REQUEST FOR FIXATION OF THE ABOVE NOTED CASE FOR EARLY HEARING

Respectfully Sheweth;

That the above noted petition was fixed on 12<sup>th</sup>, March 2021 before this honourable tribunal which was adjourned for 12-04-2021 on the request of respondents. Now it is adjourned for 19-07-2021 for almost more than 3 months.

That the petitioner appellant submitted execution/implementation petition almost two years ago and almost 7 years ago the main petition.

But the concerned authorities linger on the fate of the petitioner on this and that pretext and I am suffering irreparable loss in time and energy.

It is therefore humbly prayed, that on acceptance of this application the above noted petition may kindly be fixed before this honourable tribunal as early as, possible and the respondents be compelled to implement the judgement / order dated 11-08-2020 passed by this honourable tribunal as soon as possible.

Dated: ~~07~~-05-2021

Petitioner

Muhammad Tariq  
Divisional Forest Office  
(Retired)

*Put up to the court with relevant appeal.*

*Reader.*

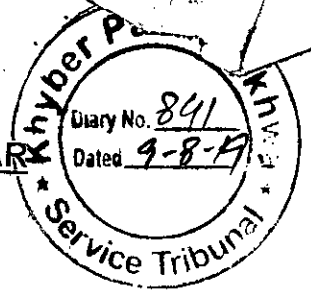
*18/6/2021*

*NFA  
24/6/2021*



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

EXECUTION NO.171



Abdul Manan and other **VERSUS** Forest Department.

SUBJECT: APPLICATION FOR FILLING THE INSTANT APPLICATION ON ANY EARLY DATE.

**Respectfully Sheweth:**

1. That the august the Tribunal passed judgment on dated 17.12.2018 denovo inquiry against the petitioners has been given and to be concluded the said inquiry within 90 days.
2. That after 90 days the petitioners filed the instant execution for implementation of judgement dated 17.12.2018, which is fixed on 15.08.2019 for further proceeding, however due to Eid Holidays, the case will not fix on date fixed.
3. That Supreme Court also dismissed CPLA filed by respondent on 25.08.2019 and the judgment of this august Tribunal finality, however after the lapse of 90 days neither the petitioners were reinstate nor conduct inquiry and the petitioners are still out of service.
4. That the petitioner are not reinstated into service, therefore, early date may kindly be fixed in the instant execution petition.

It is, therefore, most humbly prayed that on acceptance of this application, the instant execution petition may kindly be fixed on any early date.

*Be adjusted in the last week of August with notice to all concerned.*  
*[Signature]*  
*9/8/19*

Petitioner

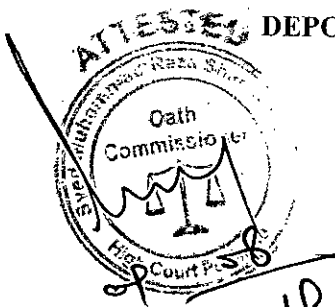
Through:

**TAIMOOR ALI KHAN**  
Advocate

**AFFIDAVIT**

*26/8/19*

It is solemnly affirms that the contents of this application is true and correct and nothing has been concealed from this against Tribunal.



*IP*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

No.B&A/Bud/20-21/Misc/Vol-IV/ 1701-03

Dated Peshawar the 08-09-2021

**IMMEDIATE**

To

1. The Divisional Forest Officer,  
Working Plan Unit-II,  
Abbotabad.
2. The Divisional Forest Officer,  
Lower Kohistan Forest Division,  
Pattan.
3. The Divisional Forest Officer,  
Patrol Squad,  
Mansehra.

Subject: **MINUTES OF THE MEETING REGARDING RELEASE OF FUNDS AMOUNTING TO RS. 3,095,849/- UNDER PAY AND ALLOWANCES IN RESPECT OF MUHAMMAD TARIQ, EX-DFO HELD ON 6<sup>TH</sup> APRIL, 2021.**

I am directed to refer to forward herewith photocopy of Finance department letter No.BO-II/FD/1-3/Forest/Grant/2021-22 dated 24-08-2021 on the subject noted above.

The Finance department Govt; of Khyber Pakhtunkhwa, Peshawar has agreed that the instant funding requirement of Rs. 2995780/- may be met out of the sanctioned budget 2021-22 under the relevant DDOs/object heads subject to fulfillment of the requirement directed through judgment of the Service Tribunal and observance of all codal formalities, Rules/Regulations, laid down procedure.

It is, therefore, requested that the outstanding amounts may be paid to the retired DFO, so as to implement instructions of the Khyber Pakhtunkhwa Service Tribunal immediately under intimation to this office

  
BUDGET & ACCOUNTS OFFICER

Dated Peshawar the 08-09-2021

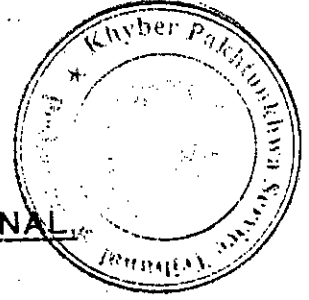
Endst: No.B&A/Bud/20-21/Misc/Vol-IV/ 1704-06 *A. ok*

Copy is forwarded to;

1. The Chief Conservator of Forest, Southern Forest Region-I, Peshawar, with the request to direct the DFOs concerned to make the payments to the retired DFO immediately.
2. The Section Officer (Estt;), FE&WD for information..
3. The Section Officer (L1+), FE&WD for information.

  
BUDGET & ACCOUNTS OFFICER

*A. ok*



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

Execution Petition No. 155/2019

C M No. \_\_\_\_\_/2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 400

In

Dated 14/3/2019

Service Appeal No. 795 of 2015

Muhammad Tariq Khan, Ex Divisional Forest Officer, Environment  
Department, Khyber Pakhtunkhwa, ..... Appellant

VERSUS

1. The Chief Minister, Khyber Pakhtunkhwa, Chief Minister's Secretariat, Peshawar.
2. The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary, Government of Khyber Pakhtunkhwa, Environment Department, Peshawar.
4. The Chief Conservator of Forests, Central and Southern Forest Region-1, Peshawar..... Respondents

Application for implementation of the order and  
judgment dated 17.12.2018 passed by this  
Honourable Tribunal.

Respectfully Sheweth: -

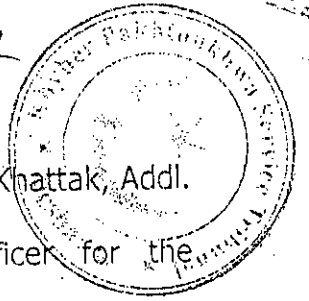
- 1) That the applicant submitted an Appeal before this Hon'ble Tribunal against the impugned order dated 12.03.2015 for setting aside the said

Certified to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

EP 155/2019

*Mr. Jamshed Khan vs Govt*



05.08.2021

Petitioner in person and Mr. Kabirullah Khattak, Addl.

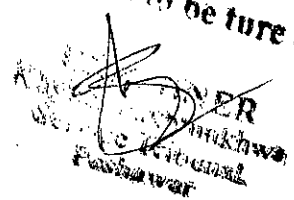
AG alongwith Jamshed Khan, B&A Officer for the respondents present.

The representative of the respondents has furnished copy of letter dated 29.07.2021 addressed to Budget Officer-II, Government of Khyber Pakhtunkhwa Finance Department, Peshawar and placed on file. The reasons given for the needful in the said letter leave no room for any objection of Finance Department, if any, as verbally indicated by Mr. Jamsed Khan. The department is directed for hot pursuit of the said letter for making the availability of funds in the relevant heads of account mentioned in the said letter. If the department is faced with any exacting from the Finance Department, they are required to intimate this Tribunal forthwith, so that the Finance Department should be taken on board for implementation of judgment of this Tribunal in letter & spirit. Copy of this order be sent to the respondents as well as to the officer who is addressee of letter dated 29.07.2021. Case to come up on 09.09.2021 before S.B.

*[Signature]*  
Chairman

Date of Presentation of Application 11/8/21  
 Number of Writs 00  
 Copying Fee 3/18/-  
 Urgent 3/19/-  
 Total 6/17/-  
 Name of Counsel \_\_\_\_\_  
 Date of Completion of Copy 11/8/21  
 Date of Delivery of Copy 11/8/21

**Certified to be true copy**



PROFORMA PROMOTION FROM BPS-18 TO BPS-19

*Handwritten signature and date: 02/11/2021*

Proforma promotion being my right as per rules and law I elaborate the position as detailed under:

1. In the subject matter the Chief Conservator of Forests Region -I submitted a draft working paper for my promotion from BPS-18 to BPS 19 vide letter No,2527/E dated. 10.11.2020 but the administrative department referred the case to Establishment department vide letter No.SO(Estt)FE&WD/1-50(69)/PF 4837 dated. 7/12.2020 for advice which was responded after months and it was stated that the law department should be approached for opinion. Then after the law department was approached vide letters No. SO(Estt)FE&WD/1-50(69)/PF dated. 08.02.2021 but astonishingly and using delaying tactics intentionally, in this letter only the order of Honorable Service Tribunal dated 17.12.2018 was mentioned which was regarding de-nove inquiry. While your office was supposed to submit the copy of order passed by the honorable Service Tribunal dated: 11.08.2020 where in it was ordered the appellant should be given Pension/back benefits immediately.

Therefore, the law department vide letter No. SO(OP-II/LD/5-5/2012-VOL-V/2208-10 dated:22.02.2021 replied that there is no direction of the Services Tribunal in the judgment dated 17.12.2018. proforma promotion to BS-19.

2. The honorable Service Tribunal KPK mentioned and directed administrative department on **12.02.2021** the to finalize the proforma promotion and submit the notification before the next date fixed on **8<sup>th</sup> April,2021** as mentioned in your office letter No. SO(Estt)FE&WD/1-50(69)/PF 8981-82 dated. 22.03.2021 but again the order dated: 11.08.2020 was not mentioned so the law department gave their opinion vide letter No. SO(OP-II/LD/5-5/2012-VOL-V/3706 dated:30.03.2021 that if the administrative department is still aggrieved from the orders of Service Tribunal then scrutiny committee of law deptt: may be approached for filling CPLA or otherwise.

3. After my repeated requests the copy of the order of honorable Service Tribunal KPK date 11.08.2020 was submitted to the law deptt: vide your office letter No. SO(Estt)FE&WD/1-50(69)/PF dated. 6.04.2021 which was is not responded till date.
4. The order sheets already submitted to administrative office clearly shows that the honorable Service Tribunal demanded progress in the case of promotion.
  - ✓ Order sheet dated 05.08.2020
  - ✓ Order sheet dated 11.12.2020
  - ✓ Order sheet dated 17.12.2020
  - ✓ Order sheet dated 11.01.2021
  - ✓ Order sheet dated 08.02.2021
  - ✓ order sheet dated 12.02.2021

5. As per Fundamental & Supplementary rule No.(F.R 17(I)) regarding proforma promotion is reproduced as under:

F. R. 17. (1) Subject to any exceptions specifically made in these rules and to the provisions of sub-rule (2), an officer shall begin to draw the pay and allowances attached to his tenure of a post with effect from the date when he assumes the duties of that post and shall cease to draw them as soon as he ceases to discharge those duties.

Provided that the appointing authority] may, if satisfied that a civil servant who was entitled to be promoted from a particular date was, for no fault of his own, wrongfully prevented from rendering service to the Federation in the higher post, direct that such civil servant shall be paid the arrears of pay and allowances of such higher post through proforma promotion or up-gradation arising from the antedated fixation of his seniority. The date from which a person recruited overseas shall commence to draw pay on first appointment shall be determined by the general or special orders of the authority by whom he is appointed.

I will also draw your attention a judgment made by two - Judges bench of the Honorable Supreme Court of Pakistan published in DAWN newspaper dated 30.042021

**ISLAMABAD:** The Supreme Court has held that civil servants when reinstated on merits cannot be deprived of back benefits as such deprivation would be against his/her constitutional rights.

“In case of reinstatement or restoration to a post on merits, the employee is entitled to full back benefits and there is no discontinuity of service,” observed Justice Syed Mansoor Ali Shah in a judgement he wrote.

The judgment by a two-judge Supreme Court bench consisting of Justice Manzoor Ahmad Malik and Justice Syed Mansoor Ali Shah was issued on Thursday on a set of appeals against the Dec 21, 2015 Punjab Service Tribunal Lahore order. The matter concerns the scope of entitlement of a civil servant to back benefits on their reinstatement in service after their wrongful removal or dismissal was set aside.

In its verdict, the Supreme Court also considered the treatment of the period spent by a civil servant away from duty (due to dismissal from service or absence from duty) and the purpose and meaning of the terms leave without pay or leave of the kind due granted to a civil servant

By virtue of a declaration given by the court, the judgement said, the civil servant was to be treated as being still in service and should also be given the consequential relief of back benefits (including salary) for the period he was kept out of service as if he were actually performing duties.

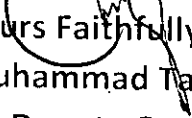
A civil servant once exonerated from the charges would stand restored in service as if he were never out of it and would be entitled to back benefits, Justice Shah emphasised.

One of the exceptions of not granting full back benefits is that if the reinstated employee had accepted another employment or engaged in any profitable business during the intervening period, the amount in such a case would be set off against the salary, the judgement explained.

It said that when the dismissed government servant was reinstated, the revising or appellate authority may grant him for the period of his absence from duty, if he is honourably acquitted, the full pay to which he would have been entitled if he had not been dismissed or removed and by an order to be separately recorded any allowance of which he was in receipt prior to his dismissal or removal. In this case, the period of absence from duty would be treated as a period spent on duty, the verdict said.

Thus the employee on reinstatement on merits cannot be deprived of back benefits and in case of reinstatement or restoration to a post on merits, the employee is entitled to full back benefits and there is no discontinuity of service, thus the question of intervening period does not arise in such a case, it added.

Therefore, it is humbly requested that my proforma promotion case should be expedited as soon as possible.

  
Yours Faithfully  
Muhammad Tariq  
(R) Deputy Conservator of Forests  
Khyber Pakhtunkhwa



To,


The Chairman,  
Services Tribunal KDK,

Subject: Adjournment of execution Petition No. 155/19.

R/Sir,  
My younger brother died accidentally,  
and people are coming to offer "Fatiha" and  
I cannot wait long.

Therefore it is requested that hearing  
may please be adjourned.

9/28/5/22

  
M. M. M. M.  
(R) Deputy Conservator  
of Forests.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

NO.SO(ESTT)FE&WD/I-2/2022  
Dated Peshawar the, 20<sup>th</sup> August, 2022

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Establishment Department,  
Peshawar.

Attention: - Section Officer (PSB)

Subject: GRANT OF PROFORMA PROMOTION TO MUHAMMAD TARIQ, EX DFO BS-18 TO  
THE POST OF CONSERVATOR OF FOREST BS-19 ON REGULAR BASIS

Dear Sir,

I am directed to refer to your Department's letter No. SO (PSB)/ED/I-7/2022/P-170, dated 27<sup>th</sup> June, 2022 on the subject captioned above and to enclose herewith Chief Conservator of Forests, CSFR-I, Peshawar self contained letter No. 509/E, dated 29<sup>th</sup> July, 2022 containing parawise reply on the observations of the Establishment Department.

2. In view of the above, seven sets of the subject working papers are re-submitted for kind perusal and placing it before the PSB for consideration, please.

Encl: As above

Yours faithfully,

SECTION OFFICER (ESTT)

Endst: No: & date even

Copy is forwarded for information to:-

- 1) Chief Conservator of Forests, CSFR-I, Peshawar w/r to his letter quoted above.
- 2) PS to Secretary, FE&W.Department, Khyber Pakhtunkhwa.

SECTION OFFICER (ESTT)