

15th Nov 2022

Clerk to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not available for today. Last chance is given to the appellant to ensure presence of his counsel and to argue the case on the next date failing which the case will be decided on the available record without the arguments. To come up for arguments on 14.12.2022 before D.B at camp court Abbottabad.



(Salah Ud Din)
Member (Judicial)



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

19th Oct., 2022

Nemo for the appellant. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

This case pertains to Abbottabad and because of cancellation of tour the matter was fixed for arguments on 19.10.2022 at the Principal Seat. Because of cancellation of tour, the parties and their learned counsel might not have appeared. Notice be issued to appellant and his counsel for the next date. To come up for arguments on 15.11.2022 before the D.B. at Camp Court, ~~Abbottabad.~~



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman


21.04.2022

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 16.06.2022 before the D.B at Camp Court Abbottabad.



(Rozina Rehman)
Member (J)
Camp Court Abbottabad



(Salah-ud-Din)
Member (J)
Camp Court Abbottabad

16.06.2022

Appellant with counsel present.

Noor Zaman Khan Khattak, learned District Attorney alongwith Ghulam Murtazafor respondents present.

Former submitted rejoinder with a request for adjournment. Adjourned. To come up for arguments on 17.08.2022 before D.B at Camp Court, Abbottabad.



(Fareeha Paul)
Member (E)
Camp Court, A/Abad



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

16.06.2021

Due to cancellation of tour, Bench is not available. Therefore, case is adjourned to 30.09.2021 for the same as before.


Reader

30.09.2021

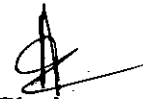
Nemo for appellant.

Muhammad Rasheed, learned Deputy District Attorney alongwith Syed Javid Ali S.D.F.O for respondents present.

Preceding date was adjourned on a Reader's note, therefore, appellant/counsel be put on notice for 19.01.2022 for arguments before D.B at Camp Court, Abbottabad.



(Rozina Rehman)
Member(J)
Camp Court, A/Abad



Chairman
Camp Court, A/Abad

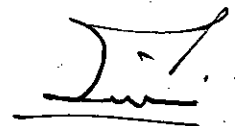
19.01.2022

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Previous date too, none was present on behalf of the appellant, therefore, it was ordered that notice for prosecution of the appeal be issued to the appellant as well as his counsel, however the notice has not been returned back either served or un-served, therefore, fresh notice be issued to the appellant as well as his counsel through registered post and to come up for arguments on 21.04.2022 before the D.B at Camp Court Abbottabad.



(Rozina Rehman)
Member (J)
Camp Court A/Abad



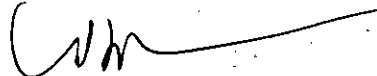
(Salah-ud-Din)
Member (J)
Camp Court A/Abad


21.10.2020

Appellant in person present.


Assistant Advocate General present.

Lawyers are on general strike, therefore, case is adjourned to 16.12.2020 for arguments before D.B.


(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, A/Abad


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

*Due to COVID-19 case is
adjourned to 17-03-2021*

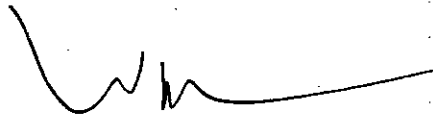

Riaz Khan


17.03.2021

Junior to counsel for the appellant present.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Former made a request for adjournment as senior counsel for the appellant is not in attendance; granted. To come up for arguments on 16/06/2021 before D.B at Camp Court Abbottabad.


(Atiq Ur Rehman Wazir)
Member (E)
Camp Court, A/Abad


Rozina Rehman)
Member (J)
Camp Court, A/Abad

Due to covid ,19 case to come up for the same on / /
at camp court abbottabad.

Reader

9 / 20 Due to summer vacation case to come up for the same on / / 5
at camp court abbottabad.

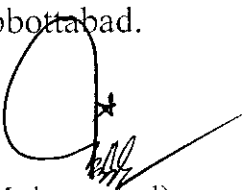

Reader


15.09.2020 .

Appellant alongwith his counsel Mr. Sultan Ahmad Jamshaid, Advocate is present. Mr. Usman Ghani, District Attorney alongwith Mr. Nisar Ahmad, SDFO for respondents present.

Learned counsel for the appellant stated at the bar that in a connected appeal against the same impugned order the next date of hearing has been fixed on 21.10.2020, therefore, this appeal may also be fixed with the refer^{red} to appeal for the purpose of convenience. The request is appropriate when two appeals have been filed against a single impugned order. Propriety demands that both of them should be heard simultaneously, therefore, the request is accepted and this appeal is also fixed alongwith referred to appeal on that very date.


Adjourned to 21.10.2020 for arguments before D.B at camp court Abbottabad.



(Mian Muhammad)
Member(E)


(Muhammad Jamal)
Member
Camp Court A/Abad

21.11.2019


Appellant in person present. Mr. Usman Ghani, District Attorney alongwith Mr. Masood ur Rehman, SDFO for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourn. To come up for arguments on 20.01.2020 before DB at camp court Abbottabad.



Member


Member
Camp Court Abbottabad

21.01.2020

Appellant in person present. Mr. Ziaullah, DDA alongwith Mr. Maqsood Ur Rehman, SDFO for respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 20.02.2020 before D.B at camp court Abbottabad.



Member


Member
Camp Court A/Abad

Post Script

20.05.2019


Later on representative of the department namely Mr. Farhan Riaz, Junior Clerk appeared and submitted written reply on behalf of respondents No. 1 to 4. Adjourned to 19.08.2019 for rejoinder and arguments before D.B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

19.08.2019

Counsel for the appellant and Mr. Muhammad Bilal, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 21.10.2019 before D.B


Member


Member
Camp Court A/Abad

21.10.2019

Appellant in person present. Mr. Usman Ghani, District Attorney alongwith Mr. Masood ur Rehman, SDFO for respondents present. Appellant seeks adjournment due to general strike of the bar. Adjourn. To come up for arguments on 21.11.2019 before D.B at Camp Court, Abbottabad.



Member



Member
Camp Court Abbottabad

22.02.2019

Counsel for the appellant Rustum Khan present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving as Forest Guard in Forest Department. It was further contended that the appellant was imposed major penalty of reduction of pay of one stage below in the time scale for a period of one year vide order dated 11.07.2017 on the allegation on inefficiency. It was further contended that the appellant filed departmental appeal on 06.08.2017 which was rejected on 06.05.2018 hence, the present service appeal on 25.08.2018. Learned counsel for the appellant further contended that neither proper inquiry was conducted nor the appellant was provided opportunity of personal hearing and defence therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 20.05.2019 before S.B at Camp Court Abbottabad.


Amount Deposited
Security & Process Fee


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

20.05.2019



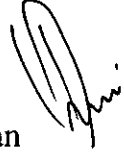
Appellant alongwith his counsel present. Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Neither written reply on behalf of respondent submitted nor representative of the department is present therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned to 08.07.2019 for written reply/comments before S.B at Camp Court Abbottabad.

(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1234/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/10/2018	<p>The appeal of Mr. Rustam Khan received today by post through Mr. Sultan Ahmad Jamshed Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 8/10/18</p>
2-	10-10-2018	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>21-12-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
21.12.2018		<p>Malak Muhammad Dildar Advocate for appellant present. States that learned senior counsel for the appellant is busy before the Hon'ble High Court, therefore, requests for adjournment.</p> <p>Adjourned to 22.2.2019 for preliminary hearing before S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Chairman Camp court, A/Abad</p>

The appeal of Mr. Rustam Khan Forest Guard presently at the office of the DFO siran District Mansehra received today i.e. on 25.08.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.
- 3- Annexure-A of the appeal is missing and annexure-B is incomplete.
- 4- Copy of impugned order dated 11.07.2017 is not attached with the appeal which may be placed on it. Order dated 09.5.2017 is show cause notice but not a final order.
- 5- Three more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1724 /S.T,


Dt. 25/8 /2018.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Sultan Ahmad Jamshed Adv.
High Court Abbottabad.

Sir,

All the objections raised by the office has been removed and complied with. I have attested the annexures flagged the same. Annexures A & B was inadvertently misunderstood however the same are correctly available on file. The impugned order dated 11.7.17 has also been attested the date was inadvertently incorrectly mentioned the correct date as 11.07.2017 has already been mentioned in para no IX at page no 6 and copies as required are being submitted.


Sultan Ahmad Jamshed
Advocate Supreme Court
Abbottabad.

BEFORE THE HONORABLE KPK SERVICE TRIBUNAL

PESHAWAR.

Service Appeal No. 1234/2018

Rustam Khan, Khan, Forest Guard, presently at the office of DFO Siran, District Mansehra.

...APPELLANT

V E R S U S

Provincial Govt of Khyber Pakhtunkhwa, through Secretary Forest Department, Peshawar. and Others.

...RESPONDENTS

SERVICE APPEAL

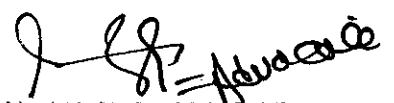
INDEX

S#	Description of Document	Annexure	Page No.
1.	Service Appeal alongwith Affidavit and certificate	--	1-9
2.	Condonation of delay application	--	10
3.	Copies of the daily diary bearing No.25 dated 20/08/2014 and copy of FIR No. 01 dated 09/02/2015 of PSAC Mansehra	"A" & "B"	12 - 13
4.	Copies of the alleged charge sheet, show cause notice, statement of allegations, inquiry report, impugned order dated 09/05/2017	"C, C-1, C-2, D & D-1"	C14 - 15 C15 - 16 C17 - 18 C18 - 19 D - 20 - 26 D1 - 27 - 31 32 - 33
5.	Copies of the departmental appeal/ representation and order of respondent No.2 dated 02/05/2018	"E & "F"	34 - 33
6.	Vakalat Nama	--	34

...PETITIONER

Through:

Dated:- _____/2018


(SULTAN AHMED JAMSHED)
Advocate Supreme Court.
Of Pakistan..

1

BEFORE THE HONORABLE KPK SERVICE TRIBUNAL
PESHAWAR, CAMP COURT ABBOTTABAD

Service Appeal No. 1234/2018

Rustam Khan, Forest Guard, presently at the office of DFO
Siran, District Mansehra.

Khyber Pakhtunkhwa
Service Tribunal **APPELLANT**

VERSUS

Diary No. 1334

Dated 25-8-2018

1. Provincial Govt of Khyber Pakhtunkhwa, through
Secretary Forest Department, Peshawar.
2. Conservator of Forests, lower Hazara Forest Circle,
Abbottabad.
3. Divisional Forest Officer, Siran Forest Division,
Mansehra.
4. Range Forest Officer Hill Kot Forest Range Batal
District Mansehra.

... RESPONDENTS

=====

SERVICE APPEAL U/S 4 OF THE K.P.K SERVICE
TRIBUNAL ACT, 1974, VIDE WHICH THE APPEAL OF
APPELLANT PREFERRED TO RESPONDENT NO.2,
AGAINST THE ORDER OF RESPONDENT NO.3, WHO
HAD IMPOSED THE PENALTY OF ONE STAGE BELOW
IN TIME SCALE FOR A PERIOD OF ONE YEAR, IS
REJECTED VIDE ORDER NO. 23 DATED ABBOTTABAD,
THE 02/05/2018.

Filed
25/8/18
Registrar

Re-submitted to -day
and filed.

Registrar
8/10/18

PRAYER:

On acceptance of the instant Appeal, the impugned order and decision of respondent No.2 &3, may graciously be set aside and struck down and the alleged penalty imposed upon the appellant, may also be set aside by holding and considering the same as void ab-initio, unlawful, beyond to the merits, mis and non reading of the record concerned.

RESPECTFULLY SHEWETH:**FACTS:**

1. That, one daily diary report No.25 dated 20/08/2014, police station Battal was incorporated revealing therein that a private Datsun vehicle with certain timber scants affixed with number marks were apprehended which resulted into the filing of criminal anticorruption case through FIR No.01 dated 09/01/2015 with criminal sections 429/420/468/471 read with section 5(2) of P.C Act PS A.C Mansehra. (Copies of the daily diary bearing No.25 dated 20/08/2014 and copy of FIR No. 01 dated 09/0/2015 of PSAC Mansehra are annexed as annexure "A" * "B")

2. That, unfortunately, the applicant belongs to the lower Grade service cadre therefore, the respondents as their bureaucratic practice, tried their best to make the escape goat to the appellant and save their own skins from old type of risks although the nature of alleged offence itself reveals that neither the appellant nor Haroon Khan, the appellant of other appeal, could be considered as involved however, the respondents with connivance of each other as well as with local police and Anti-corruption police, preceded to initiate criminal as well as alleged disciplinary proceedings by initiating by issuing charge sheet etc. **(Copies of the alleged charge sheet, show cause notice, statement of allegations, inquiry report, impugned order dated 09/05/2017, are annexed as annexure "C, C-1, C-2, D & D-1")**
3. That, the appellant, preferred appeal /representation to respondent No.2 but after sufficient lapse of time, the same was rejected. **(Copies of the departmental appeal/ representation and order of respondent No.2 dated 02/05/2018, are annexed as annexure "E & "F")**
4. That, the impugned orders are being assailed on the following amongst other grounds:-

4 GROUNDS:

- i. That, the impugned order dated 02/05/2018 passed by respondent No.2 and order dated 09/05/2017 passed by respondent No.3, are against the law and merits of the case and record connected, void, ab-initio, without authority, beyond to the rightful exercise of authority.
- ii. That, the appellant is Forest Guard and by nature of the performance of the duty, the appellant has nothing to do neither with the issuance of permit, local and non-local, transportation nor with the possession of hammer mark therefore, the alleged proceeding and criminal case against the appellant are highly un-justified, without any rhyme and reason and unlawful.
- iii. That, the respondents has only authority to deal with the proceeding of considering and issuance of permit either local or non-local but being considering them as judges of their own cause, they succeeded to exonerate themselves by making the appellant as escape goat, while keeping in possession as well as the use and affixing the hammer mark is also not the job either legally or through practice in vogue.
- iv. That, it is also worth to mention that alleged timber scants allegedly apprehended also neither belongs to the forest area of appellant nor the respondents proved and established against the appellant that same timber was cut out from area falling in the supervision of appellant. There is no supporting proof

and respondents deliberately kept aside this material fact throughout.

- v. That, it is astonishing to note for worth consideration that the respondents version throughout alongwith of police officials that the alleged hammer mark allegedly found affixed on and allegedly found timber is fake and false , so when the same is fake and false then the driver of Datsun vehicle and the person who was beneficiary of the said timber, could have been dealt and proceeded as the falsity and fakeness of hammer mark was bound to be attributed to driver and beneficiary as this was not the case of misuse of the genuine hammer mark.
- vi. That, respondents are the guilty of mis and mal management and administration .inspite of this they, with connivance of each other, saved themselves.
- vii. That, not only the above mentioned facts and merits are revealing the appellants, are being made escape goat but also the appellant has been made victim of technical atrocities by respondents as not only the appellant has been dealt handedly neither proper opportunity of hearing, during the whole inquiry process, has been extended nor the version brought to the notice of the respondent was appropriately considered. It seems that respondents were bent upon to impose the alleged penalty.
- viii. That, neither inquiry was conducted as per law nor finding of the inquiry or in consonance of the merits of law and fact. Similarly respondent No.2 failed to

distinguish the alleged inquiry report and merits of law and fact connected thus, the impugned order passed by respondent No.2, has been blindly perpetuated. Furthermore, the rejection of departmental appeal is highly unreasonable and beyond to his authority.

- ix. That, respondents, who are expected to deal with and pass their respective orders in a transparent and equitable manner but for the consideration of the limitation period the respondents also failed to perform their duties as their offices were bound to perform as this alleged case pertains to the year i.e. 20/08/2014, as daily diary (Annexure 'A') reveals and show cause notice was allegedly issued on 06/04/2015 while the respondent No.3 allegedly imposed the alleged penalty on 11/07/2017 through his order No.4 while respondent No.3 rejected the appeal on 02/05/2018 in this way the respondents engaged the appellant technically with their verbal assurances that grievance of appellant be redressed. Therefore, this Hon'ble tribunal by considering the case of the appellants on merits is likely to be succeeded, the same was not properly communicated and prejudice caused to the right of increment and refusal to grant increment is a continuous wrong as well as case connected with pays, promotion and emoluments attracts no limitation period. (Copies of case law connected ~~with~~ ^{will be} ~~Produced~~ for reference). And hence if delay found a hurdle in the administration of justice, may be condoned.

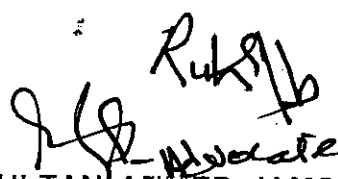
x. That, appeal is well within time.

It is therefore prayed that on acceptance of the present appeal, the impugned order and decision of respondent No.2 &3, may graciously be set aside and struck down and the alleged penalty imposed upon the appellant, may also be set aside by holding and considering the same as void ab-initio, unlawful, beyond to the merits, mis and non reading of the record concerned.

..... APPELLANT

Through:

Dated: ____ / ____ /2018


(SULTAN AHMED JAMSHED)
Advocate Supreme Court
Of Pakistan

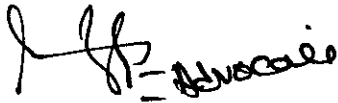
VARIFICATION

Verified that the contents of instant appeal are true and correct to the best of my knowledge and belief and no material facts has been concealed from this Honourable Court.

Dated: ____ / ____ /2018


DEPONENT
..... APPELLANT

IDENTIFIED BY:-


(SULTAN AHMED JAMSHED)
Advocate Supreme Court
of Pakistan.

BEFORE THE HONORABLE KPK SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. _____/2018

Rustam Khan, Forest Guard, presently at the office of DFO Siran District Mansehra.

...APPELLANT

VERSUS

Provincial Govt of Khyber Pakhtunkhwa, through Secretary Forest Department, Peshawar. and Others.

...RESPONDENTS

WRIT PETITION

AFFIDAVIT

I, Rustam Khan, Forest Guard, presently at the office of DFO Siran District Mansehra, ***Appellant***, do hereby solemnly affirm and declare on oath that the contents of instant ***Service Appeal*** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.


 DEPONENT

Dated: _____/2018



BEFORE THE HONORABLE KPK SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. _____/2018

Rustam Khan, Khan, Forest Guard, presently at the office of
DFO Siran District Mansehra.

...APPELLANT

VERSUS

Provincial Govt of Khyber Pakhtunkhwa, through Secretary
Forest Department, Peshawar. and Others.

...RESPONDENTS

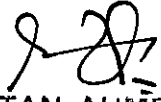
WRIT PETITION
CERTIFICATE

Certified that no such **Service Appeal** has earlier been
filed before this Hon'ble Tribunal.

...PETITIONER

Through:

Dated:- _____/2018


(SULTAN AHMED JAMSHED)
Advocate Supreme Court
Of Pakistan .

BEFORE THE HONORABLE KPK SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. _____/2018

Rustam Khan, Khan, Forest Guard, presently at the office of DFO
 Siran District Mansehra.

...APPELLANT

V E R S U S

Provincial Govt of Khyber Pakhtunkhwa, through Secretary Forest
 Department, Peshawar. and Others.

...RESPONDENTS

SERVICE APPEAL

 APPLICATION SEEKING PASSING OF ORDER FOR
 CONDONATION OF DELAY FOR THE SAKE OF PROPER
 ADMINISTRATION OF JUSTICE IN THE LIGHT OF LAW,
 JUSTICE AND PECULIAR FACTS OF THE CASE

Respectfully Sheweth,


1. That the above titled Service Appeal is being filed before this Honourable Tribunal, contents of the same may be treated as an integral part of this application.
2. That appellants had brought a good Prima-Facie case and balance of convenience also lies in his favour and there is every likelihood for their success.
3. That the applicant seeks the condonation of delay on the grounds mentioned below:-
 - i. That, this August Tribunal is competent to grant condonation for decision on merit and inherent Jurisdiction.

- ii. That, the impugned orders has never been properly communicated to appellant / petitioner.
- iii. That, fiscal matter, the right of pay, imbursement of pension, increment, is involved, which is a continuous wrong.
- iv. That, the appellant is innocent and alleged description of job, does not relate to the office and cadre of the appellant. i.e. question of performance and non performance, cannot be attributed to the petitioner.
- v. Inquiry report itself makes reference that the alleged penalties referred in impugned order dated 02/05/2018, shall not be imposed till the decision of learned Anti-corruption court.

It is, therefore, humbly prayed that, on acceptance of foregoing application, the order as prayed for extending condonation of delay, may graciously be passed and rigours of the petitioner's may please be redressed.

...APPELLANTS

Through:


(SULTAN AHMED JAMSHED)
Advocate Supreme Court
Of Pakistan..

Dated:- _____/2018

AFFIDAVIT:-

I, Rustam Khan, Khan, Forest Guard, presently at the office of DFO Siran District Mansehra, **Appellant** do hereby solemnly affirm and declare on Oath that the contents of foregoing **application** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Dated:- _____/2018


DEPONENT

انقل رست 25 روز مئی 1958

12/12/58 P-121
والدین مبارک 14/12/58 وقت 5:30 بجے میں فتح پور ایسٹ کے محلہ 23

بہ ازجہ یافتہ در فراست یا تہ متفرقہ خاندانہ جہاز سے والیووا پہنچا
جس کا نام ہے 14.11.58 روز بروز ورسہ پٹر اڈو ٹیم فاضل ویزو اور عدنان

1243 جی کی ڈیوٹنٹ کی بہن خانہ ولدہ علی
JFA

میں گہرے نیند کو کر رہا ہے۔ ڈیوٹنٹ بلدیہ سے نکلے گا۔ روانہ ہے۔
اور اس وقت تک ملے اور قسم پٹر بل ہے۔

یہ عدسی آہ کے نکلیا ہے۔ اور یہ ڈیوٹنٹ کی کڑی جانے کے لیے کہہ دیا
سے سازگار پٹر کے ڈیوٹنٹ روایت کے کیا ہے اور یہ ڈیوٹنٹ اس

سے 3 سکا ایسا اس طرح بلاتے ہیں اور میں اچھے حکم جتلات
سے مل کر کے گئے ہیں۔ پٹر کی اس ادلاج کو فہم جانے پٹر کے پٹر

ڈیوٹنٹ کے نام سے پٹر کی پٹر پٹر پٹر پٹر پٹر پٹر پٹر پٹر پٹر
14/12/58 ڈیوٹنٹ کی فاضل پٹر پٹر پٹر پٹر پٹر پٹر پٹر پٹر پٹر

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(۳) یہ کہ مابعد مسائل کے تعلقہ فارست سے رابطہ کیا جس پر متعلقہ حکم کے

Annex C

P-14

CHARGE SHEET

Attested
The one copy
Shahzad
Tribunal Sherida
14

I, Muhammad Riaz, Divisional Forest Officer Siran Forest Division Mansehra, as competent authority, hereby charge you Rüstam Khan Forest Guard (B.O) the then Incharge Battal Block of Hilkot Forest Sub-division as follows:

That you, while posted as Incharge Battal Block of Hilkot Forest Sub-Division committed the following irregularities.

- a. Whereas on the direction of Conservator of Forests Lower Hazara Forest Circle Abbottabad, the Divisional Forest Officer Patrol Squad Division held a meeting with SHO Battal on 2-9-2014 and discussed the issue regarding apprehension of fake hammer mark by Police. The SHO told that on 20-8-2014 when he was on patrol duty on KKH near Battal, a Datsun No. QAF-1243 loaded with 18 scants pertaining to non resident permit No. 16 dated 9-8-2014 of Mst: Nusrat Bibi wife of Shabir Ahmed of Mansehra was apprehended and the timber was hammer marked with fake hammer. Being skeptical about the hammer mark when the driver was interrogated and a fake hammer was recovered which was confiscated. The staff of Battal Sub-Division was called with their official hammer mark for comparison and the hammer mark was found fake. The statement of Rustam Block Officer was also taken along with copy of non resident permit. The Divisional Forest Officer Patrol Squad Division Abbottabad submitted his report to Conservator of Forests Lower Hazara Forest Circle Abbottabad vide his letter No. 223/PS dated 10-9-2014 with following recommendations which was received in this office vide Conservator of Forests Lower Hazara Circle Abbottabad endstt: No. 2431/GB dated 2-10-2014 (Copy annexed).
- b. That the DFO Siran Forest Division may be asked to immediately cancel all the hammer marks of Battal Sub-Division and to issue new hammer marks and send new photo print to this office for record and monitoring.
- c. That the DFO Siran Forest Division, to further enquire into the matter and taken action against the delinquent staff as this fake hammer mark was used for the more than one year and the staff never bothered to check it, rather they seem to be connived with.
- d. That all the timber under local permit No. 19, need to be confiscated and to be transported to Central Timber Depot Mansehra, beside taking stern action against the Incharge Forest Guard, Forester & SDFO who again misused the concession and replicated it for their ulterior motives. The Battal police was confiscating/transporting the local permit timber when Conservator of Forest Lower Hazara Circle Abbottabad, DFO Patrol Squad Lower Hazara Circle Abbottabad & DFO Siran were in the forests and this was very much embarrassing for all of us, and was only due to connivance, negligence and Inefficiency of local staff and they all need to be dealt with iron hands and they no doubt have committed height of crime/offence. In this regard Checking report of DFO Patrol Squad vide his letter No. 411/PS dated 22-10-2014 received through Conservator of Forests Lower Hazara Circle Abbottabad letter No. 5725/GL dated 1-12-2014.
- e. Whereas you were required to check the area of permit holder during the course of conversion of timber being Incharge of Block but you failed to do so and left the forests at the march of timber smugglers.
- f. Whereas you were required to affix the hammer mark in your presence or direct beat Guard to affix the hammer mark before the transportation of timber the permit.
- g. Whereas you being Incharge of Block was required to inspect the coupe where the permit was granted during work in progress. But you failed to perform your primary duty honestly and facilitated the timber smugglers for gaining your ulterior motives.
- h. Whereas you left the Forest at the mercy of a permit holder/ timber smugglers who himself affixed the fake hammer mark with your active connivance.

انرجو

- 15
- P-15
- i. Whereas you instead of protecting the Forest resource joined hands with the permit holder/timber smugglers and facilitated them in illegal trade of timber causing irreparable huge loss to the state. Creating bad name to the Department.

Keeping in view the above exposition you were suppose to defend/follow following three points:-

1. To defend the permit at any level as the same has been issue under your SDFO signature if it was the genuine one.
2. You were responsible to affix the hammer mark on the completion of harvesting of permit trees.
3. You were suppose to oppose the hammer mark as affix bogus on the said timber.

Un-fortunately you found failed to perform your duties earnestly and honestly which lead you to the charges of In-efficiency, Misconduct & Corruption.

2. By reason of the above, you appear to be guilty of Inefficiency, Misconduct & Corruption under rule 3 of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline Rules, 2011 and therefore you have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.
3. You are, therefore, directed to submit your written defence within seven days of the receipt of this charge sheet direct to the Inquiry Officer/ Committee. Failing it shall be presumed that you have nothing to defend you and an ex-parte action shall be taken against you
4. Intimate whether you desire to be heard in person.
5. A statement of allegations is enclosed.

Sd/-(Muhammad Riaz)
Divisional Forest Officer
Siran Forest Division Mansehra

No. 914649 /GE Dated Mansehra the 13/04/2015
Copy of the above is forwarded to:-

1. The Conservator of Forests, Lower Hazara Forests Circle, Abbottabad for information and necessary action with reference to his No. 2431/GL dated 2-10-2014 & 3253/GL dated 10-11-2014 please.
2. Mr. Farruk Sair Divisional Forest Officer Torgar Forest Division Inquiry Officer/ Committee. He is requested to initiate proceedings against the accused strictly under the provisions of Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 and complete within stipulated period. Enquiry file from P-01 to _____ is enclosed herewith.
3. Sub-Divisional Forest Officer Mansehra Forest Sub-Division for information and necessary action. He is directed to join the disciplinary proceedings on the date, time and venue fixed by the Inquiry committee and vigorously defend Govt interest as prosecutor.
4. Rustam Khan Forest Guard the then Incharge Battal Block C/O SDFO Mansehra Forest Sub-Division for information and compliance. He is directed to submit his reply to the Charge Sheet served upon you directly to the Inquiry Committee within 7 days of receipt of this charge sheet and also appear before the Inquiry Committee on the date, time and venue to be fixed by the Inquiry Committee for the purpose of inquiry proceedings.


Divisional Forest Officer
Siran Forest Division Mansehra

SIRAN FOREST DIVISION
MANSEHRA FOREST DEPARTMENT
KHYBER PAKHTUNKHWA
Ph. & Fax #. 0997-920140



NO. 9107-8 /GE

Dated 9 /05/2017

1. ✓ Rustam Khan F/Guard
2. Muhammad Haroon F/Guard
C/O
Range Forest Officer
Hilkot Range

Attended by
Shahidullah Khan
Advocate High Court
and Federal Shariat Court of Pakistan
CHAMBERS PLAZA ABBOTTABAD
16

Subject: DISCIPLINARY PROCEEDING AGAINST M/S MIAN TAHIR HUSAIN
SHAH FORESTER, RUSTAM KHAN AND MUHAMMAD HAROON
FOREST GUARDS.

Reference: Office order No.26 dated 06.09.2016

I, Muhammad Riaz Divisional Forest Officer, Siran Forest Division Mansehra as competent authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 do hereby serve you Mr. Rustam Khan Forest Guard the then Block Officer Battal Block and Muhammad Haroon Forest Guard the then Incharge Neelban Guzara Beat of Hilkot Range as follow:

- 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,
- ii. On going through the findings and recommendations of the enquiry Officer/Enquiry Committee, the material on record and other connected documents including your defense reply before the enquiry officer/enquiry committee, and
- iii. On receipt of clarification from Administrative Department vide Section Officer Establishment letter No. SO (Estt:)/FE&WD/1-31/Inquiry File/1289-91 dated 24.04.2017.

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

i. Inefficiency.

As a result, I as competent authority have tentatively decided to impose one of Major penalty i.e **Reduction of Pay Tow stages below in time scale for a period of Two years** as defined in Rule- 4(b) of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.

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 (07) days or not more than Fifteen (15) days of its delivery, it shall be presumed that you have nothing to put in your defense 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
Siran Forest Division Mansehra

No. /GE

Copy forwarded to the Range Forest Officer, Hilkot for infoatmion and necessary action. Please deliver the attached letters to the addressees under proper receipt and send the same to this office for further course of action at an early date.

Divisional Forest Officer
Siran Forest Division Mansehra

1 A



بخدمت جناب DFO صاحب سرن فارسٹ ڈویژن مانسہرہ

P-17

عنوان! جواب بحوالہ شوکاژ نوٹس نمبری 9107-8/96 بحریہ 09.05.2017

ATTACHED TO BE
True copy
Shahid Jinnah
Advocate General
GOVT
The Federal Shariat Court of Pakistan
LAWYERS CHAMBER PLAZA APART
(2 sheets)

جناب عالی! درخواست ذیل عرض ہے۔

گزارش ہے کہ فدوی کو ایک انکوٹری مکمل ہونے پر انکوٹری آفیسر صاحب کی جانب سے کیس میں (In-efficiency) کا قصور وار ٹھہرایا گیا ہے اور جناب نے بحوالہ متذکرہ شوکاژ نوٹس جاری کر کے جواب طلب فرمایا دو سال تک دو درجہ تنزیلی کی انتہائی سزا دینے کا نوٹس جاری کر کے جواب طلب کیا ہے۔ فدوی جناب کی خدمت میں درج ذیل وضاحت، حقائق پیش کر کے سفارش کردہ سزا کو ختم کرنے کی استدعا کرتا ہے۔

۱۔ یہ کہ جس انکوٹری میں انکوٹری آفیسر صاحب نے In-efficiency کا ذمہ دار ٹھہرایا ہے فدوی نے اپنا تفصیلی تحریری جواب دیا تھا کہ فدوی کا جعلی موس ملزم سے اور لوڈ شدہ ڈائن میں پکڑی جانے والی لکڑی کا کوئی تعلق اور واسطہ نہ ہے۔

۲۔ یہ کہ جب بھی کوئی ملزم غیر قانونی کاروبار یا دھندہ کرتا ہے تو اس کے لئے راستے بھی ڈھونڈ نکالتا ہے اس طرح ملزم نے جعلی نوٹس تیار کر کے غیر قانونی لکڑی پر لگا کر پرمٹ نمبر 16 کی کاپی حاصل کر کے لکڑی Smuggle کرنے کی کوشش کی جو پولیس نے پکڑ لی۔

۳۔ یہ کہ پرمٹ نمبر 16 بھی چیرائی کے مراحل میں تھا اور اس کی لکڑی جنگل میں بیوقوف پر پڑی تھی ڈھلائی ہی نہیں ہوئی تھی یہ لکڑی جو ڈائن میں اوڈ کر کے لائی گئی تھی یہ لکڑی ہمارے جنگل کے

ساتھ ماتھے جنگل ہزارہ ٹرائیبل سے لوڈ لے کے لائی گئی تھی جو کہ غیر قانونی تھی اور پولیس والوں نے پکڑی۔

۱۳۔ یہ کہ عالی جناب کو بھی علم ہے کہ آجکل پاکستان کی ہر مارکیٹ میں جعلی ادویات، خوردنوش کی جعلی اشیاء حتیٰ کے پاکستان کی کرنسی اور ڈالر تک جعلی مارکیٹ میں گردش کرتے ہیں اور آئے روز پکڑے جاتے ہیں۔ مہنگی سے مہنگی ادویات انسانی جانوں سے کھیل کر تیار کی جاتی ہیں۔ گزشتہ دنوں ہمارے سینٹ کے اجلاس میں دل کے جعلی اسٹڈوں کا معاملہ زیر بحث آیا جس پر کافی پرسیر بحث کی گئی۔ چہ جائیکہ ایک لوہے کا ہتھوڑا (موس) جو کہ ایک عام ویلڈر اور خردی بھی بنا سکتا ہے ایک اسمگلر سے برآمد ہونے پر فدوی کو سزاوار ٹھہرایا گیا ہے جو کہ غیر اخلاقی، غیر قانونی اور انصاف کے تقاضوں کے خلاف ہے۔

۵۔ یہ کہ جس سائیز وارہ کا انکوائری آفیسر صاحب نے پرمٹ پر درج ہونے کا ذکر کیا ہے وہ کسی بھی سرکاری اہلکار نے یعنی نارسٹ گارڈ من بلاک آفیسر نے تحریر کیا اور نہ ہی اس پر دستخط ثبت شدہ پایا گیا۔ فدوی انکوائری آفیسر صاحب کو اپنے تحریری جواب اور زبانی بھی اپنے بے تصور ہونے کا تحریری ثبوت دیا تھا لیکن انکوائری آفیسر صاحب نے فدوی کے جواب کو یکسر نظر انداز کر کے اپنی خواہش کے مطابق رپورٹ بنائی ہے جو کہ انصاف کے خلاف، غیر شرعی اور غیر قانونی ہے۔

استدعا کی جاتی ہے کہ فدوی کو شوکانز اولس متذکرہ بالا کی سزا سے بری فرمایا جاوے اور اصلتا بھی پیش ہو کر وضاحت کرنے کی اجازت مرحمت فرمائی جاوے۔

المرقوم 01.06.2017

ارضی

۲۹۔

رستم خان نارسٹ گارڈ ہلکوٹ نارسٹ ریجن ہٹل

ATTORNEY
 TO THE GOVERNMENT
 S. P. ADVOCATE HIGH COURT
 AND FEDERAL SHAWN COURT OF PAKISTAN
 LAWYER'S CHAMBERS PLAZA ABBOTTABAD
 DISCIPLINARY ACTION
 P-18

I, Muhammad Riaz Divisional Forest Officer Siran Forest Division, as a competent authority, am of the opinion that Rustam Khan Forest Guard (B.O) the then Incharge Battal Block of Hilkot Forest Sub-Division has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011:-

STATEMENT OF ALLEGATIONS

- i. Whereas on the direction of Conservator of Forests Lower Hazara Forest Circle Abbottabad, the Divisional Forest Officer Patrol Squad Division held a meeting with SHO Battal on 2-9-2014 and discussed the issue regarding apprehension of fake hammer mark by Police. The SHO told that on 20-8-2014 when he was on patrol duty on KKH near Battal, a Datsun No. QAF-1243 loaded with 18 scants pertaining to nonresident permit No. 16 dated 9-8-2014 of Mst: Nusrat Bibi wife of Shabir Ahmed of Mansehra was apprehended and the timber was hammer marked with fake hammer. Being skeptical about the hammer mark when the driver was interrogated and a fake hammer was recovered which was confiscated. The staff of Battal Sub-Division was called with their official hammer mark for comparison and the hammer mark was found fake. The statement of Rustam Block Officer was also taken alongwith copy of nonresident permit. The Divisional Forest Officer Patrol Squad Division Abbottabad submitted his report to Conservator of Forests Lower Hazara Forest Circle Abbottabad vide his letter No. 223/PS dated 10-9-2014 with following recommendations which was received in this office vide Conservator of Forests Lower Hazara Circle Abbottabad endstt: No. 2431/GB dated 2-10-2014 (Copy annexed).
- ii. That the DFO Siran Forest Division may be asked to immediately cancel all the hammer marks of Battal Sub-Division and to issue new hammer marks and send new photo print to this office for record and monitoring.
- iii. That the DFO Siran Forest Division to further enquire into the matter and taken action against the delinquent staff as this fake hammer mark was used for the more than one year and the staff never bothered to check it, rather they seem to be connived with.
- iv. That all the timber under local permit No. 19, need to be confiscated and to be transported to Central Timber Depot Mansehra, beside taking stern action against the Incharge Forest Guard, Forester & SDFO who again misused the concession and replicated it for their ulterior motives. The Battal police was confiscating/transporting the local permit timber when Conservator of Forest Lower Hazara Circle Abbottabad, DFO Patrol Squad Lower Hazara Circle Abbottabad & DFO Siran were in the forests and this was very much embarrassing for all of us, and was only due to connivance, negligence and Inefficiency of local staff and they all need to be dealt with iron hands and they no doubt have committed height of crime/offence. In this regard Checking report of DFO Patrol Squad vide his letter No. 411/PS dated 22-10-2014 received through Conservator of Forests Lower Hazara Circle Abbottabad letter No. 5725/GL dated 1-12-2014 (copy enclosed)
- v. Whereas he was required to check the area of permit holder during the course of conversion of timber being Incharge of Sub-Division but he failed to do so and left the forests at the mercy of timber smugglers.
- vi. Whereas he was required to affix the hammer mark in his presence or direct beat Guard to affix the hammer mark before the transportation of timber the permit.
- vii. Whereas he being Incharge Block was required to inspect the coupe where the permit was granted during work in progress. But he failed to perform his primary duty honestly and facilitated the timber smugglers for gaining their ulterior motives.
- viii. Whereas he left the Forest at the mercy of a permit holder/ timber smugglers who himself affixed the fake hammer mark with his active connivance.

الحق

P/19

- ix. Whereas he instead of protecting the Forest resource joined hands with the permit holder/timber smugglers and facilitated them in illegal trade of timber causing irreparable huge loss to the state. Creating bade name to the Department.

Keeping in view the above exposition he was supposed to defend/follow following three points:-

- 1. To defend the permit at any level as the same has been issued under his ^{SDF} signature if it was the genius one.
- 2. He was responsible to affix the hammer mark on the completion of harvesting of permit trees.
- 3. He was supposed to oppose the hammer mark as affixed bogus on the said timber.

Un-fortunately he found failed to perform his duties earnestly and honestly which lead his to charges of In-efficiency, Misconduct & Corruption.

- 2. Therefore, for the purpose of scrutiny of the conduct of the accused and initiating an inquiry against him, with reference to the above allegations, an inquiry officer/ committee, comprised of Mr. Farruk Sair Divisional Forest Officer Torgar Forest Division is hereby constituted under rule 10 (1) (a) of the rules ibid:-
- 3. The inquiry officer/committee shall, in accordance with the provisions of the rules ibid, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
- 4. The accused official and a representative of the Department, well versed with the case, shall join the proceedings on the date, time and venue fixed by the inquiry officer/committee.

Sd/- (Muhammad Riaz)
Divisional Forest Officer
Siran Forest Division Mansehra

No. 9142-45 /GE Dated Mansehra the 13/04/2015
Copy of the above is forwarded to:-

- 1. The Conservator of Forests, Lower Hazara Forests Circle, Abbottabad for information and necessary action with reference to his No. 2431/GL dated 2-10-2014 & 3253/GL dated 10-11-2014 please
- 2. Mr. Farruk Sair Divisional Forest Officer Torgar Forest Division Inquiry Officer/ Committee. He is requested to initiate proceedings against the accused strictly under the provisions of Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 and complete within stipulated period.
- 3. Sub-Divisional Forest Officer Mansehra Forest Sub-Division for information and necessary action. He is directed to join the disciplinary proceedings on the date, time and venue fixed by the Inquiry committee and vigorously defend Govt interest as prosecutor.
- 4. Rustam Khan Forest Guard the then Incharge Battal Block c/o SDFO Mansehra Forest Sub-Division for information and compliance. He is directed to submit his reply to the allegations leveled against him directly to the Inquiry Committee within 7 days of receipt of this memo and also appear before the Inquiry Committee on the date, time and venue to be fixed by the Inquiry Committee for the purpose of inquiry proceedings.

Divisional Forest Officer
Siran Forest Division Mansehra

Annex D
120

Jalil Khan
Advocate
and Public Officer
Chamber of Attorneys

**ENQUIRY REPORT AGAINST M/S MIAN TAHIR HUSSAIN SHAH FROESTER
MUHAMMAD RUSTAM AND MUHAMMAD HAROON FOREST GUARDS OF
SIRAN FOREST DIVISION MANSEHRA**

Brief History of the Case: Brief facts of disciplinary action against M/S Mian Tahir Hussain Shah Forester (the then I/C SDFO Hilkot Forest Sub-Division), Muhammad Rustam Forest Guard (the then Block Officer Battal Block) and Muhammad Haroon Forest Guard (the then I/C Neelban Guzara Beat) (hereinafter called the accused officials) are mentioned as under:-

That on 20/08/2014 during Patrol duty on KKH near Battal, SHO police Station Battal apprehended a pick up Datsun No. $\frac{1243}{QAF}$ loaded with 18 scants of Fir pertaining to non resident right holder permit No.16 dated 09/08/2014 of Mst Nusrat Bibi wife of shabbir Ahmed of (Ghazikot) Mansehra.

The timber in Datsun was hammer marked with a fake hammer kark. Being skeptical about hammer mark on the scants, the driver of Datsun was interrogated by SHO Police Station Battal and a fake hammer mark was recovered from his custody and subsequently confiscated.

The staff of Battal Forest Sub-Division was called with their official hammer mark for comparison and after comparison the hammer mark was found fake. The statement of Rustam Block Officer was recorded alongwith original copy of non resident permit.

Later on the DFO Patrol Squad Abbottabad had a meeting with SHO Battal police station and discussed the whole issue with him on the direction of Conservator of Forests Lower Hazara Forest Circle Abbottabad on 02/09/2014 and submitted his report vide letter No.223/PS dated 10/09/2014 with concrete recommendations. Charge sheets alongwith statement of allegations were framed and served upon the accused officials vide DFO Siran Forest Division Mansehra No's 9134-37/GE, 9138-41/GE, 9142-45/GE, 9146-49/GE, 9150-53/GE and 9154-57/GE dated 13/04/2015.

The undersigned was appointed as enquiry Officer/Committee under rule-10 (i) (a) of the Government of Khyber Pakhtunkhwa E&D Rules 2011 to initiate disciplinary proceedings against the accused officials, and submit report.

In the capacity of enquiry officer, undersigned directed the accused officials to submit reply to the statement of allegations vide letter No.377-79/GE dated 08/10/2015, No.404-06/GE dated 21/10/2015, No. 559-61/GE dated 20/11/2015 and No.892-94/GE dated 03/02/2016. Resultantly, replies of accused official were received.

The accused officials were directed vide letter No.1274-76/GE dated 14/04/2016 to appear for personal hearing and personal hearing was conducted on 18/04/2016, in presence of prosecutor.

21.

The accused officials have rebutted all the charges in their replies leveled against them and stated that they have no role in affixing of fake hammer mark, on the scants.

Main points narrated in defence statement of accuseds are given below:-

1. Mian Tahir Hussain Shah Forester the then incharge SDFO Hilkot stated that:-

- (i) That the allegation about use of fake hammer for the past one year is baseless. Neither any timber of fake hammer mark was apprehended before the incident, nor any information was given from any source.
- (ii) That the allegation and subsequent recommendation of DFO Patrol Squad about confiscation of permit timber and further transportation to central sale depot Mansehra is incorrect.

The permit was issued on 09/08/2014 and illicit timber in Datsun was apprehended on 20/08/2014 which shows that apprehended timber did not belong to permit No.16 dated 09/08/2014 because trees allowed in permit No.16 were in the stage of sawing. The timber apprehended by police was brought from Hillan Forests.

- (iii) As far as fake hammer mark is concerned, the same might be procured by the forest offenders from some old forest contractor who some times used to keep fake hammer marks in their custody in the old forest contract system before year 1974.

- (iv) The allegation about timber of local permit No.19 in para-d is unfounded. The timber of local permit No.19 was properly hammer marked, which the permit holder was bringing to home when intercepted by the officials of police station Battal. The consignment of permit No.19 was allowed to go after verification from the accused official. Nothing wrong or illegal was found in the permit consignment.

- (v) The allegation in para-e is against the facts. Detail reply was submitted to the DFO Siran at that time.

- (vi) The allegation in para-f is against the facts. The accused has personally checked felling and conversion of permit trees and directed the incharge Forester and Forest guard for strict supervision of work. As stated earlier the timber of permit No.16 was within the forest on 20/08/2014 and not transported outside.

- (vii) The allegation in para-g is also baseless. No hammer mark was affixed on the permit timber.

- (viii) The allegation in para-h is baseless. The accused official has inspected the permit work on spot and no irregularity was noticed. Similarly, the incharge Forest guard was regularly supervising the permit work and nothing wrong was found.

- (ix) The allegation about non defence of permit is incorrect and contrary to the facts. The accused told the police that permit No.16 is genuine but the apprehended timber did not belong to the permit.

In this context an application was moved by accused in the court of special Forest Magistrate about custody of vehicle and illicit timber apprehended by the police.

The case was defended in the Session court also. The forest offenders moved an application in the court of session Judge Mansehra under section 22A for release of Datsun , which was rejected when the whole situation was brought in the notice of honourable court by the accused. Later on the case of illicit timber with fake hammer mark was forwarded to Director Anti Corruption through DPO Mansehra for investigation which was endorsed to circle officer Anti Corruption for investigation. The accused alongwith co-accuseds recorded his statement with all proofs of actions, he initiated in the instant case. As a result the accused was absolved in the inquiry whereas FIR No.01 dated 09/01/2015 ,was chalked against his co-accuseds.

- (x) It is necessary to clarify that during whole process of investigation neither it has been said that permit No.16 is fake nor the apprehended timber belongs to permit No.16.

The timber of permit No.16 was in the process of sawing at the time of incident. The timber was within the forest and not transported outside.

The allegations and charge sheet are the result of misunderstanding which were framed when fake hammer mark was recovered from the Datsun.

The apprehended timber does not belong to permit No.16 and was brought from Hillan forests.

2. Rustam Khan Forest guard the then Block Officer Battal Block has rebutted the charges against him and states that :-

- (a) The allegation about use of fake hammer mark in his block for the past one year is baseless and contrary to the facts. The accused took over the charge as Block officer Battal on 16/06/2016. The incident took place only two (02) months after his taking over the charge. During two months period after his taking over as B.O Battal, no timber having fake hammer mark was apprehended, neither he had knowledge about use of fake hammer mark.

- (b) Permit No.16 dated 09/08/2014 was sanctioned during his tenure. The accused and co-accused Forest guard were strongly directed by the then SDFO Hilkot to strictly supervise the work of sawing to avoid any irregularity. Trees of permit No.16 were marked on the identification of

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permit holder. Carving of permit No and affixing of hammer mark was carried out on the trees and strong directions were given to I/C Foerst guard for strict supervision of permit work. When the illicit timber with fake hammer mark was apprehended, the timber of permit No.16 was in the process of sawing and the timber was inside the forest which was closely supervised by incharge Forest guard. No irregularity was committed nor free hand was given to the owner.

(c) When Battal police apprehended the illicit timber, SHO police station Battal contacted him on mobile phone and stated that they have apprehended a vehicle loaded with illicit timber and inquired about its genuineness. The accused along with Beat guard inspected the timber. SHO police station Battal interrogated about official hammer mark which was produced before him. He examined the official hammer mark and compared it with the hammer mark recovered from the vehicle. On interrogation the accused showed ignorance about fake hammer mark, and stated that they have no knowledge about the fake hammer mark, they only use official hammer mark for affixing on permit timber. The apprehended timber had no relation with permit No.16 and the same was transported from adjacent forests of Hazara Tribal Forest Division which was illegal.

The accused in association with SDFO Hilkot and other staff has recovered and apprehended illicit timber and vehicles loaded with illicit timber and transported the same to police station and central sale depot Mansehra, which are on the record.

(d) The accused in association with SDFO Hilkot has defended the case under section 22-A for release of apprehended vehicle on supurdari in the court.

That all the allegations against the accused are baseless. If he had any connivance with the offenders, then he would not initiate action against them.

That instead of handing over Datsun No. $\frac{1243}{QAF}$ loaded with illicit timber alongwith fake hammer mark to the accused official, SHO sent the case alongwith his report to DPO Mansehra, who forwarded the case to Director Anti Corruption Peshawar for investigation, which was further endorsed to circle officer Anti Corruption Mansehra for investigation and FIR No 01 dated 09/01/2015 was registered against the accused after investigation.

That according to Article No.13 of the constitution of Pakistan no person shall be prosecuted or punished for the same offence more than once.

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That criminal proceedings are under progress in the anti corruption court against the accused in the same case and departmental charge sheet is in contradiction with Article-13(a) of the constitution which may be filed please.

3. Muhammad Haroon Forest guard the then incharge Neelban Guzara Beat has also rebutted the allegations and states that :-

(i) That allegation about use of fake hammer mark for the past one year against the accused is unfounded and without proof.

That two months after his taking over charge of the Beat the incidence happened. The accused marked the trees of permit No.16 dated 09/08/2014 in area of permit holder and regularly supervised the sawing of marked trees in order to avoid any irregularity.

That during his tenure on the beat, neither any fake hammer mark was used on any illicit timber, nor any information about fake hammer mark was received to him.

The accused has apprehended stocks of illicit timber in association with his Block Officer and SDFO which are available on record.

(ii) That the trees of permit No.16 were sawn under his supervision and he regularly supervised the work to avoid any irregularity.

(iii) That the timber of permit No.16 was inside the forest at the time of incidence and not transported outside. No hammer mark was affixed on its timber. The timber apprehended by police had no link with this permit which was transported from Hillan forests of Hazara Tribal Forest Division. During sawing of trees of permit No.16, he remained present all the time and supervised the work on the directives of SDFO Hilkot and B.O Battal Block, to avoid any irregularity.

That all the allegations leveled against him are unfounded.

When vehicle loaded with illicit timber alongwith fake hammer mark was apprehended by the officials of police station Battal, SHO Battal contacted the accused and stated that he has apprehended a vehicle of illicit timber and asked about its link with permit No.16. The accused in accompany of Block officer visited Battal police station, inspected the timber in vehicle and explained that the timber was illegal, and did not belong to permit No.16.

That SHO police station Battal then inquired about official hammer mark which was produced to him. He then stated that he has recovered a hammer mark from the vehicle and showed it to the accuseds. They explained that the hammer mark is fake and they have no knowledge about it.

That SHO Battal then forwarded the case to DPO Mansehra which was sent to Director Anti Corruption Peshawar for investigation.

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The case was marked to circle officer anti corruption Mansehra for investigation and as result of investigation FIR No.01 dated 09/01/2015 was registered against the accused.

In Article-13 of the constitution of Pakistan it has been clearly stated that "no person shall be prosecuted or punished for the same offence more than once".

The case under criminal proceedings is under trial against him in the court of anti corruption Peshawar, hence charge sheet against him is against Article-13 of the constitution which may be filed please.

The scrutiny of allegations, defence statement of accused officials and connected documents reveal the following facts:-

- ❖ The accused officials in their replies have stated that Datsun No. $\frac{1243}{QAF}$ was apprehended carrying illicit timber of Fir, affixed with fake hammer mark but in their statement of personal hearing they have refused the existence of copy of permit No.16 with the forest offenders.
- The record shows, that when Datsun No. $\frac{1243}{QAF}$ loaded with illicit Fir timber was apprehended, the forest offenders were having a copy of permit No. 16 dated 09/08/2016, on which size wara of extracted scants was duly written. The same was seized by police.
- ❖ The forest offenders were well aware of the species of timber allowed vide permit No.16, and they were smuggling timber of the same Fir species in the garb of permit No.16.
- ❖ Non residential permit No.16 was issued on 09/08/2016 and Datsun of illicit timber was apprehended on 20/08/2016, just after 11 days after the issuance of permit.
- ❖ Fake hammer mark was affixed on the timber to pass the consignment safely under the cover of permit No.16.

All the above facts reveal that accused Block officer and Forest guard were actively connived with timber smugglers. Their connivance has been proved in the instant case during inquiry of anti corruption department and an FIR No.01 dated 09/01/2015 has been registered against them by anti corruption establishment Mansehra.

Although involvement of the accused official Main Tahir Hussain Shah did not establish in this case because he took some measures like application in the court of special Forest Magistrate for taking custody of case properly and the plea against forest offenders in the court of Additional District and Session Judge, in case under section-22A but he as SDFO Hilkot did not play his role upto required mark as well as according to his job description. According to Lease Procedure, it was his sole responsibility of incharge Range or Sub-Division to affix passing

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hammer mark personally on the timber obtained under the authority of valid permit. However in case of any exigency, he has to authorize in writing to the Block Officer concerned to affix hammer mark on the timber of permit but he failed to make preventive measure with regard to misuse of authority by his subordinate for ulterior motives hence his partial inefficiency could not be ruled out.

- ❖ The allegation in para-d was not established against the accused officials which relates to local permit No.19 dated 06/09/2014 because the same was verified but no irregularity was noticed and consignment was allowed to be transported.

Conclusion: From the above discussion following inference is drawn:

The involvement of accused officials Rustam Khan and Muhammad Haroon Forest guards has been established but as stated in their replies and mentioned in Article-13 (a) of the Islamic Republic of Pakistan 1973 Constitution read with section 403 of Cr.Pc 1898 that No person shall be prosecuted or punished for the same offence more than once.

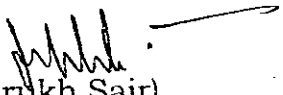
As the case under criminal proceedings is under trial in the anti corruption court Peshawar, and the court will decide their fate. Hence the court will decide about them.

However, the charges leveled against Mian Tahir Hussain Shah Forester the then incharge of Hilkot Sub-Division are not found proved except partial inefficiency.

Recommendation:

Following recommendations are made:

1. Imposition of minor punishment i.e "Censure" as defined in Para-4(a)(i) of KPK Government Servants (E&D) Rules 2011 upon Main Tahir Hussain Shah Forester the then Incharge Hilkot Forest Sub-Division.
2. Though the charge of Inefficiency against M/S Rustam Khan and Muhammad Haroon Forest Guards is proved for which they are liable to imposition one of the major penalty as defined in Rule-4(b) of the KPK Government Servants (E&D) Rules 2011 or as per decision of respective Court but it is recommended that further proceedings against them may be stopped till decision of Anti-Corruption Court Peshawar on FIR No. 01 dated 9.1.2015.


(Farukh Sair)
Divisional Forest Officer
Torghar Forest Division
Judbah
(Enquiry Officer)

*Attested
to be true*

OFFICE ORDER NO. D4 DATED MANSEHRA THE # 107/2017 ISSUED BY
MUHAMMAD RIAZ DIVISIONAL FOREST OFFICER SIRAN FOREST DIVISION
MANSEHRA

Chowdhury
DI
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READ WITH

- i. Non-resident permit No. 16 dated 9.8.2014 in the name of Mst Nusrat Bibi w/o Shabir Ahmad of Mansehra.
- ii. DFO Patrol Squad Abbottabad letter No. 223/PS dated 10.9.2014 addressed to CF Lower Hazara.
- iii. Conservator of Forests Lower Hazara letter No. 2431/GL dated 2.10.2014
- iv. DFO Siran letter No. 3167/GB dated 29.10.2014
- v. Conservator of Forests Lower Hazara letter No. 5725/GL dated 1.12.2014
- vi. FIR No. 1/24 dated 9.1.2015.
- vii. DFO Siran office order No. 124 dated 14.1.2015 regarding suspension of Muhammad Haroon Forest Guard.
- viii. Office order No. 128 dated 21.1.2015 regarding suspension of Rustam Khan Forest Guard.
- ix. Decision of Anti-corruption Judge KPK dated 13.02.2015
- x. Office order No. 161 dated 26.2.2015 regarding reinstatement of Muhammad Haroon Forest Guard.
- xi. Charge sheet No. 9138-41/GE with statement of allegations No. 9134-37/GE dated 13.4.2015 served upon Mian Tahir Hussain Shah Forester the then incharge Hiikot Sub-Division.
- xii. Charge sheet No. 9146-49/GE with statement of allegation vide No. 9142-45/GE dated 13.4.2015 served upon Rustam Khan Forest Guard the then incharge Battal Block.
- xiii. Charge sheet No. 9154-57/GE with statement of allegations vide No. 9146-49/GE dated 13.4.2015 served upon Muhammad Haroon Forest Guard the then incharge Neelban Guzara Beat.
- xiv. Reply to the charge sheet and statement of allegations furnished by Mian Tahir Hussain Shah Forester dated nil.
- xv. Reply to charge sheet and statement of allegations furnished by Rustam Khan Forest Guard (then Block Officer Battal) dated nil.
- xvi. Reply to the charge sheet and statement of allegations furnished by Muhammad Haroon Forest Guard dated nil.
- xvii. Statement of personal hearing in respect of Rustam Khan and Muhammad Haroon Forest Guards dated 18.4.2016.
- xviii. Statement of personal hearing in respect of Mian Tahir Hussain Shah Forester recorded by the Enquiry Officer dated 18.4.2016.
- xix. Enquiry report of Enquiry Officer vide letter No. 240/GE dated 29.5.2016
- xx. Section Officer (Establishment) letter No. SO(Estt:)/FE&WD/1-31/2012/Inquiry file/1289-91 dated 24.04.2017.
- xxi. DFO, Siran letter No.9107-08/GE dated 09.05.2017
- xxii. Personal hearing dated 04.04.2017.

BRIEF HISTORY OF THE CASE

On 20/08/2014 during Patrol duty on KKH near Battal, SHO Police Station Battal apprehended a pick up Datsun No. 1243/QAF loaded with 18 scants of Fir pertaining to non-resident right holder permit No. 16 dated 09/08/2014 on the name of Mst. Nusrat Bibi wife of Shabir Ahmed of (Ghazikot) Mansehra. The timber in Datsun was hammer marked with a fake hammer mark. Being skeptical about hammer mark on scants, the driver of Datsun was interrogated by SHO Police Station Battal and a fake hammer mark was recovered from his custody and subsequently confiscated.

The staff of Battal Forest Sub-Division was called for with regard to their official hammer mark for comparison. After comparison, the hammer mark affixed on the timber was found fake. The statement of Rustam Khan Block Officer was recorded alongwith original copy of non-resident permit.

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Consequently in pursuance with the directives of Conservator of Forests, Lower Hazara Circle Abbottabad, the DFO Patrol Squad Abbottabad convened a meeting with SHO Battal Police Station on 2.9.2014 and discussed the whole issue with concrete recommendations.

PROCEEDING

Charge sheets alongwith statement of allegations were framed and served upon the accused officials vide DFO Siran Forest Division Mansehra Nr: 9142-45/GE, 9146-49/GE, 9150-53/GE and 9154-57/GE dated 13/04/2015 and appointed Mr. Farrukh Sair DFO Torghar Forest Division as Enquiry Officer/Committee under rule-10 (1) (a) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011 to initiate disciplinary proceedings against the accused officials and submit report.

DISCUSSION

The accused officials furnished their replies to the statement of allegations and also heard in person on 18/04/2016 in presence of prosecutor/departmental representative.

The main points narrated by the accused officials in their defence statements are reproduced as under:

1. Rustam Khan Forest Guard the then Block Officer Battal Block in his reply to the statement of allegations states that:

- (a) The allegation about use of fake hammer mark in his Block for the past one year is baseless and contrary to the facts. The accused took over the charge as Block Officer Battal on 16/06/2016. The incident took place only after two (02) months of his taking over the charge. During two months period after his taking over as B.O Battal, the timber having fake hammer mark was neither apprehended nor did he have knowledge about use of fake hammer mark.
- (b) Permit No.16 dated 09/08/2014 was sanctioned during his tenure. The accused and co-accused Forest Guard was strongly directed by the SDFO Hilkot to strictly supervise the work of sawing to avoid any irregularity. Trees of permit No.16 were marked on the identification of permit holder. Carving of permit No and affixing of hammer mark was carried out on the trees and strong directives were given to I/C Forest Guard for strict supervision of permit work. When the illicit timber with fake hammer mark was apprehended, the timber of permit No.16 was in the process of sawing and the timber was inside the forest which was closely supervised by incharge Forest Guard. Neither any irregularity was committed nor free hand given to the permit holder.
- (c) When Battal Police apprehended the illicit timber, SHO Police Station Battal contacted him on mobile phone and stated that they have apprehended a vehicle loaded with illicit timber and inquired about its genuineness. The accused along with Beat Guard inspected the timber. SHO Police Station Battal interrogated about official hammer mark which was produced before him. He examined the official hammer mark and compared it with the hammer mark recovered from the vehicle. On interrogation the accused showed ignorance about fake hammer mark and stated that they have no knowledge about the fake hammer mark, they only use official hammer mark for affixing on permit timber. The apprehended timber had no relation with permit No.16 and the same was transported from adjacent forests of Hazara Tribal Forest Division which was illegal. The accused in association with SDFO Hilkot and other staff has recovered and apprehended illicit timber and vehicles loaded with illicit timber and transported the same to Police Station and Central Sale depot Mansehra, which are on the record.
- (d) The accused in association with SDFO Hilkot has defended the case under section 22-A for release of apprehended vehicle on superdari in the court.
- (e) That all the allegations against the accused are baseless. If he had any connivance with the offenders, then he would not initiate action against them.
- (f) That instead of handing over Datsun No. 1243/QAF loaded with illicit timber alongwith fake hammer mark to the accused official, SHO sent the case alongwith his report to DPO Mansehra, who forwarded the case to Director Anti-corruption Peshawar for

investigation, which was further endorsed to Circle Officer Anti-corruption Mansehra for investigation and FIR No 01 dated 09/01/2015 was registered against the accused after investigation.

- (g) That according to Article No.13 of the constitution of Pakistan no person shall be prosecuted or punished for the same offence more than once.
- (h) That criminal proceeding is under progress in the Anti-corruption Court against the accused in the same case and departmental charge sheet is in contradiction with Article-13(a) of the constitution which may be filed please.

2. Muhammad Haroon Forest guard the then incharge Neelban Guzara Beat in his reply to the statement of allegations states:

- (i) That allegation about use of fake hammer mark for the past one year against the accused is unfounded and without proof.
- (ii) That two months after his taking over charge of the Beat the incidence happened. The accused marked the trees of permit No.16 dated 09/08/2014 in area of permit holder and regularly supervised the sawing of marked trees in order to avoid any irregularity.
- (iii) That during his tenure on the beat, neither any fake hammer mark was used on any illicit timber nor any information about fake hammer mark was received to him.
- (iv) The accused has apprehended stocks of illicit timber in association with his Block Officer and SDFO which are available on record.
- (v) That the trees of Permit No.16 were sawn under his supervision and he regularly supervised the work to avoid any irregularity.
- (vi) That the timber of permit No.16 was inside the forest at the time of incidence and not transported outside. No hammer mark was affixed on its timber. The timber apprehended by Police had no link with this permit which was transported from Hillan forests of Hazara Tribal Forest Division. During sawing of trees of permit No.16, he remained present all the time and supervised the work on the directives of SDFO Hilkot and B.O Battal Block, to avoid any irregularity.
- (vii) That all the allegations leveled against him are unfounded. When vehicle loaded with illicit timber alongwith fake hammer mark was apprehended by the officials of Police Station Battal, SHO Battal contacted the accused and stated that he has apprehended a vehicle of illicit timber and asked about its link with permit No.16. The accused in accompany of Block Officer visited Battal Police Station, inspected the timber in vehicle and explained that the timber was illegal and did not belong to permit No.16.
- (viii) That SHO Police Station Battal then inquired about official hammer mark which was produced to him. He then stated that he has recovered a hammer mark from the vehicle and showed it to the accuseds. They explained that the hammer mark is fake and they have no knowledge about it.
- (ix) That SHO Battal then forwarded the case to DPO Mansehra which was sent to Director Anti-corruption Peshawar for investigation. The case was marked to Circle Officer Anti-corruption Mansehra for investigation and as result FIR No.01 dated 09/01/2015 was registered against the accused.
- (x) In Article-13 of the constitution of Pakistan it has been clearly stated that "no person shall be prosecuted or punished for the same offence more than once". The case under criminal proceedings is under trial against him in the Court of Anti-corruption Peshawar hence charge sheet against him is against Article-13 of the constitution which may be filed please.

The Enquiry Officer after detailed enquiry has concluded that:

- The accused officials in their replies have stated that Datsun No. 1243/QAF was apprehended carrying illicit timber of Fir, affixed with fake hammer mark but in their statement of personal hearing they have refused the existence of copy of permit No.16 with the forest offenders. The record shows, that when Datsun in question loaded with illicit Fir timber was apprehended, the forest offenders were having a copy of permit No. 16 dated 09/08/2016, on which proper size wara of extracted scants was duly written. The same was seized by Police.
- The forest offenders were well aware of the species of timber allowed vide permit No.16 and they were smuggling timber of the same Fir species in the garb of permit No.16.
- Non-residential permit No.16 was issued on 09/08/2016 and Datsun of illicit timber was apprehended on 20/08/2016 after 11 days of the issuance of permit.

➤ Fake hammer mark was affixed on the timber to pass the consignment safely under the cover of permit No.16.

All the above facts reveal that both accused Block Officer and Forest Guard were actively connived with timber smugglers. Their connivance has been proved in the instant case during inquiry of Anti-corruption department and accordingly an FIR No. 01 dated 09/01/2015 has also been registered against them in this regard.

In pursuance with the conclusion of the enquiry, the Enquiry Officer has recommended that the involvement of accused officials Rustam Khan and Muhammad Haroon Forest guards has been established but as stated in their replies and mentioned in Article-13 (a) of the Islamic Republic of Pakistan 1973 Constitution read with section 403 of Cr. Pc 1898 that No person shall be prosecuted or punished for the same offence more than once. As criminal proceedings is subjudice in Anti-corruption Court Peshawar and the court will decide their fate.

The matter was referred to high ups for its clarification. In response the Section Officer Govt. of Khyber Pakhtunkhwa Forestry, Environment and Wildlife department vide No. SO(Estt)/FE&WD/1-31/2012/Inquiry/File/1289-91 dated 24.04.2017 clear the matter as under:

Departmental Proceedings Vis-à-vis Judicial Proceedings

The question as to whether or not a departmental inquiry and judicial proceedings can run parallel to each other against an accused officer/official has been examined in consultation with the Law Department.

2. It is hereby clarified that Court and Department proceedings may start from an identical charges and can run parallel to each other. They can take place simultaneously against an accused on the same set of facts and yet may end differently without affecting their validity. Even departmental inquiry can be held subsequently on the same charges of which independent servants have been acquitted by a Court. The two proceedings are to be pursued independent of each other and it is not necessary to pend departmental proceedings till the finalization of judicial proceedings.
3. It may also be clarified that court proceedings also include criminal proceedings pending against a civil servant.
4. The above instructions may please be brought to the notice of all concerned.

In the light of above mentioned clarification a Show Cause Notice bearing No.9107-08/GE dated 09.05.2017 was served upon the accused officials. In response both the accused officials have submitted their written reply wherein they have again denied the charges. Both the accused officials heard in person on 04.04.2017.

In reply to the Show Cause notice both the accused officials have reiterated that:

Rustam Khan Block Officer

The enquiry so initiated against him was un-justified and the relevant record has also been ignored during the proceeding. The timber so mentioned in the instant case has not been cut/transported from his area/jurisdiction and he has neither maintained Sizewara nor affixed hammer mark. The permit holder played the whole game for his ulterior motives and he is innocent in the said case. In reply to a question he has further stated that all this happened during the enquiry proceeding. He deemed uncomfortable to make a complaint to high-ups in this regard at that movement.

Muhammad Haroon F/Guard

When the permit in question was issued he was performing his official duty on barrier and also was incharge of Neelban and Sharkool Beats. He was unaware about the issuance of said permit, affixing of hammer mark and preparation of sizewara it was the prime responsibility of Block Officer. He is innocent and has no concern with the permit story. In reply to a question that why he failed to mentioned his plea in his written reply. The accused official stated that the said case was also under process in Anti Corruption Court and the current proceeding is un-justified and un-lawful in his mind and he relied on simple reply. In reply to another question he stated that he has not concealed anything from the enquiry officer. He has further stated that he is not satisfied with enquiry report, he is innocent, he has already been crushed in the instant case and has also requested for his exoneration as he has no concern with the instant incident.

CONCLUSION

Both the accused officials badly failed to provide substantial evidence in their defense and to rebut the charges leveled against them in statement of allegation. The charge of Inefficiency stands proved. The Enquiry Officer has conducted the disciplinary proceedings judiciously and his recommendations are quite appropriate.

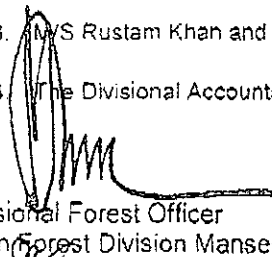
ORDER

The undersigned in the capacity of authority perused the whole record i.e report of checking party, charges leveled in the statement of allegations, replies furnished by the accused officials, statement of personal hearing as well as recommendations contained in the enquiry report and reached to the conclusion that the recommendations of the Enquiry Officer are quite appropriate. Therefore I Muhammad Riaz, DFO Siran Forest Division in the capacity of authority do hereby order to impose major penalty as defined in Rule-4(b) of Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011 i.e reduction of pay of both the accused officials i.e M/S Rustam Khan the then Block Officer Battal and Muhammad Haroon Forest Guard one stage below in time scale for a period of one year.

Sd/- (Muhammad Riaz)
Divisional Forest Officer
Siran Forest Division Mansehra

Copy forwarded to:

1. The Conservator of Forests, Lower Hazara Circle Mansehra for favor of information. This is with reference to his office letter No. 2431/GL dated 10.09.2014.
2. The Range Forest Officer Hilkot for information.
3. M/S Rustam Khan and Muhammad Haroon Forest Guard for information.
4. The Divisional Accountant for information.


Divisional Forest Officer
Siran Forest Division Mansehra

To,
Worthy Conservator of Forests
Lower Hazara Forest Circle
Abbottabad.

ATTACHED
To be done
copy
15/08/2017
ADVOCATE GENERAL HIGH COURT
OF PAKISTAN
SIRAN FOREST DIVISION MANSEHRA
-32

Through; - PROPER CHANNEL.

Subject; - APPEAL AGAINST OFFICE ORDER No. 04 dated 11.7.2017 ISSUED BY
DIVISIONAL FOREST OFFICER SIRAN FOREST DIVISION MANSEHRA.

Sir,

I beg to submit a few lines for your kind consideration that:-

- i. Permit No. **16/204** (Non resident right holder) was issued to the applicant on 29.8.2014 (Copy annex).
- ii. Vehicle No. 1243/QAF loaded with illicit timber coming from Hillan **was** apprehended by Police on 19.8.2014. Fake Hammer mark was affixed on the surface of timber scants.
- iii. Original Hammer Mark was cross checked and it was proved that hammer mark affixed as fake and fictitious.
- iv. It is not impossible for smugglers to get fake hammer mark from the Market specially in Pakistan, and that too in the Khyber Pakhtunkhwa Province.
- v. Forest Guard and Forester are not the custodians of the Hammer Marks as they do not have any office. These are kept in Range/Sub Divisional office hence responsibility lies on concerned Officers and the Chowkidar of the office having keys of the safe.
- vi. Sub Divisional Forest Officer Hilkot demanded seized timber from Incharge Police station Battal on 15.9.2014.
- vii. Disciplinary proceedings was started/initiated against three officials vide Divisional Forest Officer Siran No. 3741-43 dated 24.11.2015 and side by side Anticorruption Department issued FIR and case is in progress. In the eyes of law it is double jeopardy and for one offence case will have to be initiated by one Department or Agency.
- viii. How it is possible that when only Marking and felling had been carried out by the owners of the permit timer reached to Chhattar by an offender can be claimed as marked forest staff assisted police Department in apprehension of the vehicle as well as illicit timber and police acknowledged that.
- ix. No. sizewara was prepared/submitted at the time of apprehension of timber by police hence it cannot be proved that staff was involved in smuggling.
- x. Punishment awarded is harsh hence office order cited above may please be set-aside. I may also be heard in person please.

Yours obediently,

Rustam
Mr. Muhammad Rustam
Forest Guard
C/O Sub Divisional Forest Officer

06-8-2017

P.T.O

Forwarded to DFO Siran Forest Division
Mansehra for favour of perusal/information
for onward submission to Worthy Conservator
of Lower Hazara Circle Abbottabad please


Range Forest Officer
Hilko Forest Range
Batal
8/8/2017

HIGH COURT BAR ASSOCIATION
ABBOTTABAD BENCH

S. No.

Date of Issue 8-6-14

Name of Advocate

SULTAN AHAMAD JAMALI

B.C. No.

536

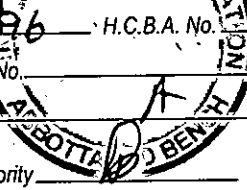
H.C.B.A. No.

68-A

Other Bar Adv's I.D. No.

Place of Practice

Sign. of Issuing Authority



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وکالت نامہ

بعدالت سر جسٹریٹوٹی اسپیڈ

بعدالت

بنام صاحب کورٹ اسپیڈ

رستم خان

عنوان:

منجانب: اسپیڈ

نوعیت مقدمہ:

باعث تحریر آنکہ

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

سید اللہ علیہ السلام کی رکنہ سیم کورٹ اسپیڈ

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب

موصوف کو کرنے راضی نامہ و تقرر حالت و فیصلہ بر حلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء

وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور

کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار

بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختم مجھ کو منظور و

قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا آمد سے باہر ہو تو وکیل صاحب موصوف

پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف

مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست برآمد تجارت ناشر بصیغہ مفلسی کے دائرہ کرنے اور اس کی

پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: ۱۶-۵۸-۵۱۸

بمقام: اسپیڈ

اسپیڈ

اسپیڈ

المرقوم

المرقوم