

24. Thereafter on dated 14.05.2018, the both the prosecutions were failed to prove the allegations and charges against the petitioner, and the respondent No. 2, the then competent Authority (CCF-I Peshawar) could not follow the procedure provided in Clause (i) of the Sub Rule 5 of Rule 14, of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, and then may issue an order in writing (Exonerate the petitioner), therefore the then CCF-I did not decide as per the direction for proceedings in the Judgment dated 19.03.2018, of this August Tribunal Court.....[ 12 ]

25. That the petitioner had submitted an Appeal dated 10.07.2018, the then competent Authority *(CCF-I Peshawar) could have followed the procedure provided in Sub Rule 5 (i) of Rule 14 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011*, and then may issue an order in writing (Exonerate the petitioner) and Appellate Authority reject Appeal on dated 20.12.2018.

**(Copies of the Appeal, request for time are attached as Annexure.....Z-2)**

26. That the Judgment dated 19.03.2018, of this Hon'ble Service Tribunal Court had attained Finality to decide before 25.05.2018. ....[ 13 ]

27. That the above [13] points and conduct of the respondents are explained against the Facts and Law, therefore to direct the respondents to implement the judgment dated 19.03.2018, and the judgment attained finality, and the impugned order dated 25.08.2014, being in violation of notification dated 29 august, 2012, and clause (c) of the sub rule (2) of the rule - 4 Rules, of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfers) Rules 1989, and Rule 2 (1) (c) (f)" (E&D) rules 2011, and again same impugned charge sheets were issued, volatile of Article 13

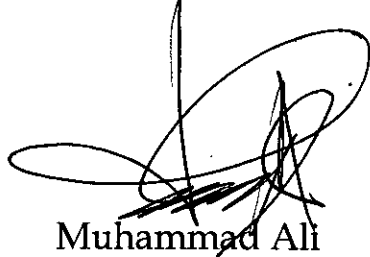
(Double Jeopardy), of the Constitution of Republic of Pakistan, and the impugned office order No. 172 dated 06/06/2018 was passed for de-novo inquiry proceedings, as illegal, unlawful and without lawful authority being in violation of clause (i) of the sub rule (5), and sub rule (3) & (6) of the rule 14 of the Khyber Pakhtunkhwa government servants (efficiency and discipline) rules 2011, and section 24 a (2) of the general clauses act, 1897, which may kindly be set aside, and the petitioner be reinstated with all back benefits, and the respondents after the judgment of this august tribunal is tantamount to contempt of court.

28. That the petition is having no other remedy to file this Execution Petition once again.

It is, there for most humbly prayed that the respondents may be directed to obey the Judgment Dated 19.03.2018, of the August Tribunal in letter and spirit and impugned order Dated 25.08.2014, issued by incompetent authority without hearing the petitioner may very kindly be set-aside and the petitioner be reinstated with all back benefits.

Any other remedy which this August Tribunal deems fit and appropriate that, may also be awarded in the favor of petitioner.

**Petitioner in Person**

A handwritten signature in black ink, appearing to be 'Muhammad Ali', written over a horizontal line. The signature is stylized and somewhat messy.

Ex- Forest Range Office,

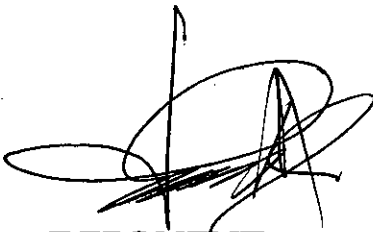
Date: 14/09/2020,

Cell No. 0315-3199931

Near Sethy House and Degree College for Girls kunj Ground Abbottabad

**AFFIDAVIT**

Muhammad Ali s/o Anwar Ajaz Ali Ex-Range Forest Officer Kohistsan Water Shad Forest Division Besham, do hereby solemnly affirmed declare on Oath that all the contents of the accompanied Execution Petition are true and correct to the best of my knowledge and noting has been concealed or withheld from this Honorable Court.

  
DEPONENT

**ATTESTED**



14 SEP 2020

To,

The Chief Conservator of Forests,

Central Southern Forest Region-I

Peshawar

**Subject: APPEAL TO IMPLEMENT THE JUDGMENT DATED 19.03.2018, OF THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR, IN SERVICE APPEAL NO. 30/2017, AND IMPUGNED ORDER VIDE NO. 17, DATED 25.08.2014, WHICH MAY KINDLY BE SET ASIDE AND APPELLANT BE RE-INSTATED WITH ALL BACK BENEFITS.**

Respected Sir,

1. That the Appellant had been Compulsory Retired from Service by incompetent authority (Sardar Muhammad Sultan) the then CCF-II Abbottabad, without conducting any personal hearing and issuing Impugned Order vide office No. 17, on dated 25.08.2014, being in violation of *Notification dated 29<sup>th</sup> August, 2012*, and Sub clause (i), of clause (c), of Sub rule (2), of Rule 4, of the Civil Servant Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules, 1989, *ibid* is very much clear in this regard.

(Copies of the letter vide No. 2010 dated 23.09.2019, and Personal Hearing on 29.07.2013, and Note Sheet of the then CCF-II dated 11.02.2014, 05.03.2014, and 24.04.2014, and Notification is attached as Annexure A)

2. That the August Tribunal Court Directed in Judgment dated 19.03.2018, to the Competent Authority (the then CCF-I) *to resume the proceedings from the stage as mentioned above and decide the same within 60 days from the receipt of this Judgment failing which the appellant shall be deemed to have reinstated in service.*

(Copy of the Judgment dated 19.03.2018 is attached as Annexure B)

3. That the Judgment 19.03.2018, in the service appeal No. 30/2018 *was not the assailed by the Department in the Next Higher Court against by way of appeal the finality, to submit an appeal which was not consider by the court below.*
4. That in compliance the Judgment dated 19.03.2018, of the Hon'able Khyber Pakhtunkhwa Service Tribunal Peshawar, the appellant had been submitted charge sheet Reply on dated 26.04.2018, and appeared in person before personal hearing and submitted written preliminary objection along with annexure defense documents on 12.05.2018, and 14.05.2018, *the prosecutions had failed to prove the alleged allegations and charges during the personal hearing proceedings, and the then competent Authority (CCF-I Peshawar) could have followed the procedure provided in sub rule 5 (i) of Rule 14 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, and then may issue an order in writing (Exonerate the appellant).*
5. That the impugned order for De-novo Enquiry Proceedings, vide No. 172 dated 06/06/2018 was passed by the CCF-1 **against the Law and without Re-instate the appellant.**
6. That the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar has *decided the Execution Petition No. 263/2018 in service appeal No. 30/2017, merely on technical grounds and in a slip shod manner without appreciating the material available on case file.*
7. That the appellant have been filed the Civil Petition for Leave to Appeal under Article 212 (3) of the constitution of Islamic Republic of Pakistan, 1973, against the impugned judgment, order and decision dated 08.02.2019, passed by the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar in Execution Petition No. 263/2018 in service appeal No. 30/2017, in the Hon'able Supreme Court of Pakistan Islamabad.
8. That the institution of CPLA, the worthily Institution Officer, of the Hon'able Supreme Court of Pakistan has returned my CPLA on 09.04.2018, on the ground of incorrect year on the execution petition No. mentioned as 263/2019, instated of Execution Petition No.

PROMOTION & TRANSFERS) RULES 1989, AND RULE 2 (1) (C) (F)" (E&D) RULES 2011, AND AGAIN SAME IMPUGNED CHARGE SHEETS WERE ISSUED, VOLATILE OF ARTICLE 13 (DOUBLE JEOPARDY), OF THE CONSTITUTION OF REPUBLIC OF PAKISTAN, AND THE IMPUGNED OFFICE ORDER DATED 06.06.2018 WAS PASSED FOR DE-NOVO INQUIRY PROCEEDINGS, AS ILLEGAL, UNLAWFUL AND WITHOUT LAWFUL AUTHORITY BEING IN VIOLATION OF CLAUSE (i) OF THE SUB RULE (5), AND SUB RULE (3) & (6) OF THE RULE 14 OF THE KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY AND DISCIPLINE) RULES 2011, AND SECTION 24 A (2) OF THE GENERAL CLAUSES ACT, 1897, WHICH MAY KINDLY BE SET ASIDE, AND THE PETITIONER BE REINSTATED WITH ALL BACK BENEFITS, AND THE RESPONDENTS AFTER THE JUDGMENT OF THIS AUGUST TRIBUNAL IS TANTAMOUNT TO CONTEMPT OF COURT.

**Respectfully Sheweth;**

1. That the petitioner has submitted written appeal to the respondents and the Convener Enquiry Committee, on dated 23.07.2020, for implementation of Judgment dated 19.03.2018, through registry postal along with AD card and one registry of the Convener Enquiry Committee, was came back on dated 30.07.2020, due his retirement.....[ 1 ]

(Copies of the Appeal dated 23.07.2020, Registered Receipt & Returned Registry are attached as Annexure.....A)

2. That the petitioner has submitted written appeal to the respondent No.2, on dated 16.11.2019, against the order for De-novo proceedings.

3. That the Convener Enquiry Committee was given Notices to the petitioner, on dated 17.06.2019, and CCF-I was also given Final Notice on dated 03.07.2019, for submission of 2<sup>nd</sup> Reply to the same charge sheets.

(Copies of the Notices, are attached as Annexure.....B)

4. That the compliance of the Judgment dated 08.02.2019 of the Execution Petition 263/2018, in Service Appeal No. 30/2017, of this August Tribunal, the petitioner has submitted 2<sup>nd</sup> Reply to the same charge sheets on dated 11.07.2019. ... .. [ 2 ]

(Copy of the Reply to the charge sheet, is attached as Annexure.....C)

5. That the petitioner has filed 3<sup>rd</sup> Service Appeal No. 30/2017, in this August Tribunal, against the impugned order dated 25.08.2014, and dated 13.12.2016 and August Tribunal, directed in the Para No. 7, of the Judgment on 19.03.2018, that the respondent No. 2, (the then CCF-I, being competent authority of the petitioner),

*“ This Tribunal reaches the conclusion that the proceedings before the CCF-I culminating into order dated 22.08.2016 can not be sustained in the eyes of Law nor the departmental appellate authority could maintain the said order. [ a ] The CCF-I is therefore, directed to resume the proceedings from the stage as mentioned above and decide the same within 60 days from the receipt of this Judgment failing which the appellant shall be*

*deemed to have reinstated in service. The issue of back benefits in case of reinstatement shall be subject to the rules on the subject. Parties are left to bear their own costs. File be consigned to the record room."*

**(Copy of the Judgment 19.03.2018 is attached as Annexure.....D)**

6. That the respondent No.2, has being in violation of this August Tribunal Court Direction in Judgment dated 19.03.2018 by the (CCF-I) of Para No. 7, "to resume the proceedings from the stage as mentioned above "; And also explain proceedings against the petitioner in relevant portion of Para No.6 of the said Judgment" [ b ] procedure as follow,

*"Paradoxical situation is that order of 22.08.2016 was set aside by this Tribunal on 20.10.2016 then how could the departmental appellate authority uphold the order which was set aside by this Tribunal. Secondly, if this is taken to be a technical ground in the favour of the department then the department appellate authority himself accepted that it was not CCF-II but CCF-I who was the competent authority. The whole proceedings up to the enquiry were made on orders of the competent authority (Chief Conservator) but from the stage of submission of the enquiry report to CCF-II (incompetent authority) the whole proceedings vitiated thereafter. The CCF-I was then required to have seized the matter from the stage of submission of enquiry report. The CCF-I then required to have the sized the matter from the stage of submission of enquiry report. The next step was to issue show cause notice to the appellant tentatively deciding the imposing of penalty or otherwise by asking him to submit reply of the said show cause notice. And then should have afforded him personal hearing and thereafter should have decided the same. But the CCF-I did not issue show cause notice etc."*



(The above August Tribunal Court direction [ c ] Same procedure provided in Sub Rule 4 & 5 of Rule 14, and 15 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011. (Copies of the order dated 22.08.2016, 13.12.2016 & application dated 19.08.2019, letter 03.09.2019, are attached as Annexure.....E)

7. That the August Tribunal, directed to forward herewith a certified copy of Judgment dated 19.03.2018, vide No. 625/ST, on dated 26.03.2018, passed by August Tribunal on the above subject for strict compliance.  
(Copy of the covering letter is attached as Annexure.....F)
8. That the Judgment 19.03.2018, in the service appeal No. 30/2018 was not the assailed by the Department in the Next Higher Court against by way of appeal the finality, to submit an appeal which was not consider by the court below.
9. That the then CCF-I has issued Show Cause Notice to the petitioner, on dated 10.04.2018.  
(Copy of the Show Cause Notice, is attached as Annexure.....G)
10. That the charges proved against the petitioner and penalties were also recommended by the Enquiry committees, and Impugned order was issued on dated 25.08.2014, the then CCF-I has issued Same Impugned Charge Sheets once again to the petitioner, on dated 10.04.2018, so same charge sheets were issued once again is malice in Law and Facts. Besides that, no reasons have been provided for re-enquiry on account of witch impugned action of the competent authority is bad in law and is liable to be struck down, and against the Same direction the of said Judgment and volatile of Article 13 of the Constitution of Republic of Pakistan, (Double Jeopardy) no person shall be vexed twice for the same Charges.....[ 3 ]

(Copies of the Enquiry Report, & Impugned Order 25.08.2014, the Same Charge Sheets are attached as Annexure.....H)

11. That the order/judgment was Passed by this August Tribunal Court, and directed to proceed De-novo Enquiry, on the basis of Implementation report and without re-instatement of the petitioner in 2<sup>nd</sup> Execution Petition 263/2018, in Service Appeal No. 30/2017, on date 08.02.2019.

(Copy of the Decision date 08.02.2019 is attached as Annexure.....I)

12. That the respondents has issued impugned order dated 22.08.2016, through SDFO as implementation report on dated 20.10.2016, and this August Tribunal, directed in the Execution Petition No. 83/2016, in service appeal No. 100/2015, on dated 20.10.2016, inter-alia, in the following order;

*"It is observed with concern that the appellate authority as well as competent authority has decided the issue in the mode and manner destructive to the order of this Tribunal dated 16.02.2016. The said order cannot be therefore considered as an order in accordance with the Judgment of this Tribunal. The Judgment thus remained unimplemented. Salaries of respondent's No. 1 & 2 are therefore attached. In case the respondents fail to decide departmental appeal in the mode and manners required then further coercive measures including detention in civil prison will be considered against the defaulting officer."*

(Copy of the Order sheet dated 20.10.2016, is attached as Annexure.....J)

13. That the Civil Petition for Leave to Appeal Article 212 (3) of the Constitution of Islamic Republic of Pakistan, 1973 against the impugned judgment, order and decision dated 08.02.2019 passed by the Hon'ble

Khyber Pakhtunkhwa Service Tribunal Peshawar in execution petition No.263/2018 in service appeal No.30/2017, on dated 09.04.2019.

**(Copy of the CPLA, is attached as Annexure.....K)**

14. That the institution of CPLA, the worthy Institution Officer, of the Hon'able Supreme Court of Pakistan has returned my CPLA on 09.04.2018, on the ground of incorrect year on the execution petition No. mentioned as 263/2019 instated of Execution Petition No. 263/2018, and petitioner had through written requested to the Worthy Chairman Hon'able Khyber Pakhtunkhwa Service Tribunal Peshawar for correction of year on dated 10.04.2018, and the Worthy Chairman Hon'able Khyber Pakhtunkhwa Service Tribunal Peshawar, that the stipulated period of fourteen days had elapsed since the delivery of copy of the Judgment returned to the petitioner on dated 24.04.2019, without any justification was given on application dated 03.05.2019.

**(Copies of the Applications are attached as Annexure.....L)**

15. That the Hon'able Supreme Court of Pakistan has dismissed my CPLA on dated 08.07.2020, on the ground of Barred by 19 days that the petitioner has filed the CPLA in time but it was returned to him for removal of the objections. He contends that time was spent in seeking correction of record from the Service Tribunal.

**(Copy of the order dated 08.07.2020, is attached as Annexure.....M)**

16. That the respondent No. 2, thereafter, has issued Impugned De-novo Enquiry proceedings order on dated 06.06.2018, without reinstatement of the petitioner and justified the proceedings of the prosecution because the prosecutions did not prove any of the allegations against the petitioner on dated 12.05.2018 and 14.05.2018, which is unjust and unlawful when had attained the finality to decide before 25/05/2018,

(time barred) being in violation of direction for proceedings in the Judgment dated 19.03.2018, of this Hon'ble Service Tribunal Court... [ 4 ]  
 (Copy of the Order for De-novo Enquiry is attached as Annexure.....N)

**Impugned Order for De-novo Enquiry proceedings against the Law and Facts.**

- a. That the charges were proved and penalties were also recommended by Enquiry Committees, so the order of De-novo enquiry is malice in law as well as facts.
  - b. That without realizing the requirement of sub rule (3), which only empowers it to have recourse to sub rule (6), when charges have not been proved.
  - c. That the Requirements of Sub Rule (6) of the Rule 14 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, before passing an order for De-novo enquiry proceedings, after recording reasons in writing, it is in built requirement.
  - d. That the Competent Authority was required to record reason in support of his order, Section 24 A (2) of the General Clauses Act, 1897.
17. That the respondents Fraudulently and mis representation through concealed the proceedings of the personal hearings conducted on dated 12 & 14 May 2018, and same Charge Sheets from the August Tribunal Court in the Impugned Implementation Report ..... [ 5 ]  
 (Copy of the Implementation Report is attached as Annexure.....O)
18. That the respondents have been submitted Implementation report in Execution Petition No. 263/2018, and during proceedings on dated

08.02.2019, being in violation CCP Section of 12(2) and Judgment / Order on the Implementation Report of fraud and mis-representation.

19. That the respondent No. 2, the then competent Authority (CCF-I Peshawar) thereafter, has been called for Personal Hearing through letter date 07.05.2018 and shall be appeared before hearing in person on dated 11.05.2018.

**(Copy of the Letter date 07.05.2018, is attached as Annexure.....P)**

20. That the respondent No.2, Admitted in this letter No.4005-5/E Dated 09.04.2019, that he did not recorded the proceedings of the personal hearings on dated 12 & 14 May 2018, being in violation of the CCP- Section 142, authorities an Order and Notices to be in writing, In Powering Authorities by this Sub Rule (1) & (2) of the Rule 12 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

**(Copy of the Dated 09.04.2019, is attached as Annexure.....Q)**

21. That in compliance of the Judgment dated 19.03.2018, this August Tribunal Court , the petitioner had submitted 1<sup>st</sup> Reply to the same charge sheet on dated 26.04.2018, to the then CCF-I within time.

**(Copy of the 1<sup>st</sup> Reply dated 26.04.2018, attached as Annexure.....R)**

22. That the petitioner submitted written preliminary defense and objection, and also raised facts and figures verbally in each Enquiry Proceedings,

**(Copy of the Preliminary defense 12.05.2018, is attached as Annexure.....S)**

**4<sup>th</sup> session for Personal hearing**

23. That the Compliance of the Judgment dated 19.03.2018, of this August Tribunal, that the petitioner had appeared before hearing in person on

dated 12.05.2018, in the office of the respondent No.2, and during the personal hearing proceedings, petitioner submitted written preliminary defense and objection, and also raised facts and figures verbally in each Enquiry Proceedings, and rebut through documented evidence against the charges one by one i.e. the petitioner in *1<sup>st</sup> Enquiry* the Enquiry Committee, had been imposed Major Penalty without witnesses against appellant, inter-alia, in the following rebut in deface.

### **1<sup>st</sup> Enquiry**

**Rebut the Charges, through documents & grounds of defense offered by petitioner during the personal hearing.**

- a) That the petitioner had appeared before hearing in person on dated 12.05.2018, and during the personal hearing proceedings, the petitioner had stated on Oath that said payment Rs=36,800/- disbursed to the original Chowkidars, of the Dargahi Timber Depot (Namely Mr. Muhammad Nawaz s/o GulNawaz and Mr. Hazrat Muhammad s/o Taj Muhammad,) through Mr. Saifur Rehman Forest Guard (the then In charge Dargahi Timber Depot), and get his *initial on the Master Rolls*, and that;
- b) The respective Master roll vouchers already checked by the then accountant and Sanctioned by the then DFO, and thereafter no cash balance or any other outstanding against the appellant, as per said respective Forest Sub Division records and same one Master roll voucher for the month of June 2008, was maintained by successor SDFO, and submitted by petitioner for account and the Enquiry Committee, did not give any findings in their report against said SDFO and appellant as well.  
**(Copies of the Master Roll Vouchers for the months of June 2008 up to September 2008, are attached as Annexure..... T)**

- c) That the Enquiry committee, failed to record statement of the witness Mr. Saifur Rehman Forest Guard (the then In charge Dergahi Timber Depot), had appeared in person before the Enquiry **proceedings** and original Chowkidars (Mr. Muhammad Nawaz s/o Gul Nawaz and Mr. Hazrat Muhammad s/o Taj Muhammad,) did not appeared in person before Enquiry proceedings for their any personal losses, on dated 27.11.2010.
- d) That the respondent No. 2, has provide attested photo copy of the an application on dated 09.04.2019, as record and thereafter the facts are changed and the Enquiry Committee, report, that would be on the basis of fake written application was submitted by the then complainants Named Mr. Kamal Khan and Mr. Aawal Khan (without their ID No's) on dated 08.10.2009, and being Chowkidars as per Forest sub Division records, and did not appear in person before the **enquiry proceedings** on dated 27.11.2010, for their **any losses and grievances**, therefore the prosecution miserable failed to set up the charges against the petitioner and the Enquiry Committee, imposed Major Penalty on the basis of fake allegation against the Law and Justice.

**(Copy of the Fake application of the complainants is attached as Annexure.....U)**

### **2<sup>nd</sup> Enquiry**

- e) That the petitioner had submitted Written Enquiry Proceedings, and **in the Enquiry Proceedings the Prosecution did not prove their allegations**, and the Chairman only Enquiry Committee, imposed Major Penalty.

then DFO Sian) with regards to Government loss of 400 cft Deodar Wood, to the Dr. Nassem Javed the then Conservator of Forest Lower Hazara Circle, before issuing said charge sheet and CP has biased attitude and petitioner attached to DFO Circle Patrol squad Forest Division Abbottabad on dated 02.07.2011, against the facts and

Law.

(Copies of the Written Report, Attachment order are attached as Annexure.....W)

f) That the being rebut in the defense submitted 2nd Enquiry

Proceedings Report, and in this report prosecution did not

prove their allegations, and the copies of the News papers and application to SHO has shown concerned DFO conduct and the Enquiry Committee Imposed Major Penalty.

(Copies of the 2nd Enquiry Proceedings Report, News paper, Application to SHO, are attached.....X)

That the prosecution has failed to prove the memo of allegations

and charges of 2nd charge sheet eventually..... [e]

2nd session for Personal hearing

g) That the Sardar Muhammad Sultan the then CCF-II A. Abad had

taken over the charge and called for personal hearings on 11.02.2014, [Para No. 60] 02.03.2014, [Para No. 61] and 22.04.2014, [Para No. 66]

and the petitioner had appeared before hearing in person in the office

of said respondent No. 3 and adjourned, without conducting the

personal hearing of the petitioner and impugned order dated

22.08.2014, was issued by the said respondent No. 3, (Incompetent

Authority) being in violation of Notification dated 29 August 2012,



and clause (c) of the sub rule (2) of the rule - 4 Rules, of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfers) Rules 1989, and Rule 2 (1) (c) (f)" (E & D) Rules 2011.....[ 10 ]

(Copies of the Note sheet attached, Appointment Order 15.12.2007, Notification, 29.08.2012, Order 20.11.2014, Impugned Order 25.08.2014, Comments, dated 11.12.2019, & 14.10.2014, Rules 1989, are attached as Annexure.....Y)

**1<sup>st</sup> session for Personal hearing**

h) That the petitioner had appeared before personal hearings proceedings on dated 8.02.2013, 12.04.2013 & 29.07.2013, [Para No. 57 & 68] in the office of respondent No. 3 (Mr. Ali Asgher the then CCF-II A. Abad) 1<sup>st</sup> reply on dated 08.02.2013, along with all documented evidence as defense and reports delivered for said defense but the said officer was suspended, and the then CCF-II directed for Re-enquiry in his written personal hearings proceedings on dated 29.07.2013.....[ 11 ]

(Copies of the Personal hearings dated 29.07.2013 & submitted defense documents on dated 08.02.2013, letter, dated 23.09.2019, are attached as Annexure.....Z)

i) That the petitioner had submitted Appeal, complained, for conducting Re-inquiry for Facts Finding against the CCF-II Abbottabad, and the then DFO Siran on dated 11.02.2013 through Proper Channel to the Appellate Authority.

(Copies of the Appeal, Suspension Order's, are attached as Annexure.....Z-1)



GOVERNMENT OF KHYBER PAKHTUN KHWA  
DIRECTOR OF FOOD  
PESHAWAR

No 6715 /PF-Nizamul Mulk J.C

Dated 07/12/2016

u2

**STATEMENT OF ALLEGATIONS**


1 Mr. Asmatullah Khan Gundapur, Director Food Khyber Pakhtunkhwa, being competent authority, am of the opinion that Mr. Nizamul Mulk Junior Clerk Incharge PRCs Darosh and Gang Chitral has rendered himself liable to be proceeded against, as he committed the following acts/omissions, with in the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011:-

Physical Verification Committee headed by Assistant Director Malakand Division pin pointed shortage of 500 wheat bags at PRC Darosh Chitral. The Incharge PRC was put on a Notice to meet his deficiency but in vain. This tantamounts to criminal breach of trust on his part. The said Committee also pointed out that 469 wheat bags under his supervision lying at PRC Gang were damaged due to laxity and irresponsibility thereby causing losses to government exchequer.

2 For the purpose of inquiry against the said accused with reference to the above allegations, Mr. Nasir Khan Section Officer (General) Food Department Khyber Pakhtunkhwa Peshawar is appointed as Inquiry Officer under rule 10 (1) (a) of the ibid rules.

3 The Inquiry Officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record his findings and within thirty days of the receipt of this order, put forth his findings so that appropriate action could be taken against the accused.

4 The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

  
DIRECTOR FOOD,  
KHYBER PAKHTUN KHWA,  
PESHAWAR 07-12-16

**Endorsement No & date Even**

A copy of the above is forwarded to:-

- 1) Mr. Nasir Khan Section Officer (General) Food Department Khyber Pakhtunkhwa Peshawar for initiating proceeding against the accused under the provisions of the Khyber Pakhtunkhwa E&D Rules, 2011 (Copy of Charge Sheet along with Statement of Allegations is enclosed)
- 2) The District Food Controller Chitral for information with the directions to submit complete record to the Inquiry Officer for the purpose of the enquiry proceedings.
- 3) The District Food Controller, Torghar
- 4) Mr. Nizamul Mulk Junior Clerk Incharge PRCs Darosh and Gang Chitral with the direction to appear before the Inquiry Officer on the date/time/ place fixed by him for the purpose of enquiry proceedings.

DIRECTOR FOOD,  
KHYBER PAKHTUN KHWA,  
PESHAWAR.

Petition No. 263/2018 in Service Appeal No. 30/2017; and the direction given in the said judgment has been reproduced under Para-11 of the Parawise comments. It was added by the respondents after reproduction of the operative part of the judgment dated 08.02.2019 that it is clear enough to prove that the appellant/petitioner instead of cooperating the department/inquiry committee to finalize the proceedings in implementation of court order dated 19.03.2018, repeatedly interrupted in the inquiry proceedings either by non-furnishing replies or through filing irrelevant/untimely execution petition in this Tribunal and CPLA in August Supreme Court of Pakistan.

4. The Execution Petition by its contents is self speaking to support the said view of the respondents about instrumentality of petitioner in misdirecting the course of Execution of judgment dated 19.03.2018, *which if taken in simple terms of its operative part,*

5. In view of the above, the present Execution Petition is filed. File be consigned to the record room.

(AHMAD SULTAN TAREEN)  
Chairman

ANNOUNCED  
14.06.2021



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
FOOD DEPARTMENT

NO.SOG/F.D/8-1/2016/ 3673  
Dated Pesh: the.06.01.2017

To

The Director Food,  
Khyber Pakhtunkhwa.

Subject: - INQUIRY REPORT.

Dear Sir,

Reference is invited to your Office Order No. 6715/PF Nizamul-  
Mulk J.C dated 07-12-2016 and to enclose herewith the subject inquiry  
report for further necessary action, please.

Yours faithfully,

*[Signature]*  
INQUIRY OFFICER/SECTION OFFICER (GENERAL)  
FOOD DEPARTMENT, KHYBER PAKHTUNKHWA

*Estb. Assistant.*

*Pl. Since the accused official  
will a final show cause  
notice.*

*4.*

*09.01.17.*

36/2021

DPA

S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	14.06.2021	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p style="text-align: center;">Execution Petition No. 132/2020</p> <p>Mr. Muhammad Ali son of Anwar Ajaz Ali, Ex-Range Forest Officer, Kohistan Water Shed Forest Division Besham, Khyber Pakhtunkhwa. ... (Petitioner)</p> <p style="text-align: center;"><u>Versus</u></p> <p>1. The Government of Khyber Pakhtunkhwa through Secretary Environment and Wildlife Department, Peshawar and two others. ... (Respondents)</p> <p>Petitioner in person and Mr. Muhammad Adeel Butt, Addl., AG for the respondents present.</p> <p>2. Parawise comments against the Execution Petition at hand have been received on behalf of the respondents, which are placed on file. Arguments heard and record perused.</p> <p>3. The petitioner in Paragraph-11 of his petition stated that the order/judgment was passed by this Tribunal, and directed to proceed de-novo enquiry, on the basis of implementation report and without reinstatement of the petitioner in second Execution Petition 263/2018 dated 08.02.2019. The said Paragraph in the given term<sup>s</sup> was ambiguously drafted giving no clue as to what the order/judgment dated 08.02.2019 was meant to <del>convey</del> <sup>impart</sup>. However, the respondents in reply to Paragraph-11 of the Execution Petition have admitted it correct to the extent that this Tribunal announced judgment dated 08.02.2019 in second Execution</p>



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

NO.SO(Estt)/FE&WD/1-43/2008/Vol-II 16/08-14  
Dated Peshawar the, 20<sup>th</sup> December, 2018

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

141

Subject: **SERVICE APPEAL NO. 30/2017 MUHAMMAD ALI (EX-FOREST RANGER) VERSUS GOVT. OF KHYBER PAKHTUNKHWA THROUGH SECRETARY FORESTRY ENVIRONMENT & WILDLIFE DEPARTMENT.**

I am directed to refer to your letter No. 1778-80/E dated 27.11.2018 on the subject noted above and to say that Rule-17(1) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 provides that "an accused who has been awarded any penalty under these rules may, within 30-days from the date of communication of the order, prefer departmental appeal to the appellent authority". Whereas the subject case is under process and no final orders have yet been issued by the appointing authority, therefore, the Ex Forest Ranger namely Muhammad Ali does not have the right to prefer departmental appeal against the office order No. 172, dated 06-06-2018 in which the de-novo enquiry has been constituted under Rule-14 (6) of E&D Rules, 2011 by the competent authority i.e., Chief Conservator of Forest Region-I, in light of decision of Khyber Pakhtunkhwa Service Tribunal.

However, the Appellate Authority has considered the departmental appeal of Muhammad Ali, Ex Forest Ranger and rejected. Therefore, it is advised that the Inquiry Committee may be directed to complete the de-novo inquiry proceedings as according to the Provincial Government instructions, the court and departmental proceedings may start from an identical charge(s) and can run parallel to each other.

(Hafiz Abdul Jalil)  
SECTION OFFICER (ESTT)

**Endst: No. & Date even**

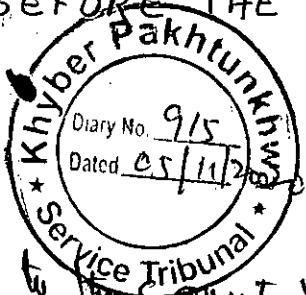
Copy is forwarded for information to:

1. Chief Conservator of Forests, Northern Forest Region-II, Abbottabad.
2. Sheikh Amjad, Conservator of Forest/Director CD&GAD/Chairman of Inquiry Committee.
3. Syed Muqtada Shah, Divisional Forest Officer, Patrol Squad Lower Hazara Forest Circle, Abbottabad/Member of Inquiry Committee.
4. Section Officer (Lit), FE&W Department, Khyber Pakhtunkhwa.
5. Muhammad Ali, Ex Forest Ranger, Forest Department c/o Muhammad Hafeez (R), Divisional Engineer Telephones, Near Degree College for Girls, Kunj Ground, Abbottabad. **He is directed to appear before the inquiry committee as and when asked by the inquiry committee.**
6. PS to Secretary, FE&W Department, Khyber Pakhtunkhwa.

  
SECTION OFFICER (ESTT)

Received  
26/12/2018

BEFORE THE HONORABLE KP SERVICE TRIBUNAL  
PESHAWAR



CMA.No. \_\_\_\_\_/2020

Put up to the court with  
requisite appeal.

In Execution Petition No. 132/2020  
In Service Appeal No 30/2017

Muhammad Ali vs Forest Department

~~5/11/2020~~  
5/11/2020

Application For Early Hearing & Notice to the Forest Dept.

Readw  
IN Titled Execution petition today dated 05/11/2020

Respectfully sheweth,

1. That the titled Execution Petition had Filed on 14/9/20  
before this Honorable Tribunal Court.

2. That the titled Execution Petition Date Fixed in  
17<sup>th</sup> December 2020.

3. That the right of life is guaranteed Fundamental  
right of the petitioner under Article (9) of the Constitution  
of Islamic Republic of Pakistan

It is therefore, most respectfully prayed that on acceptance  
of this CMA for early hearing and Notice to the Forest Dept.  
may graciously be Fixed to day dated 05/11/2020, being  
urgent in nature, in the best interest of Justice.

Petitioner in Person

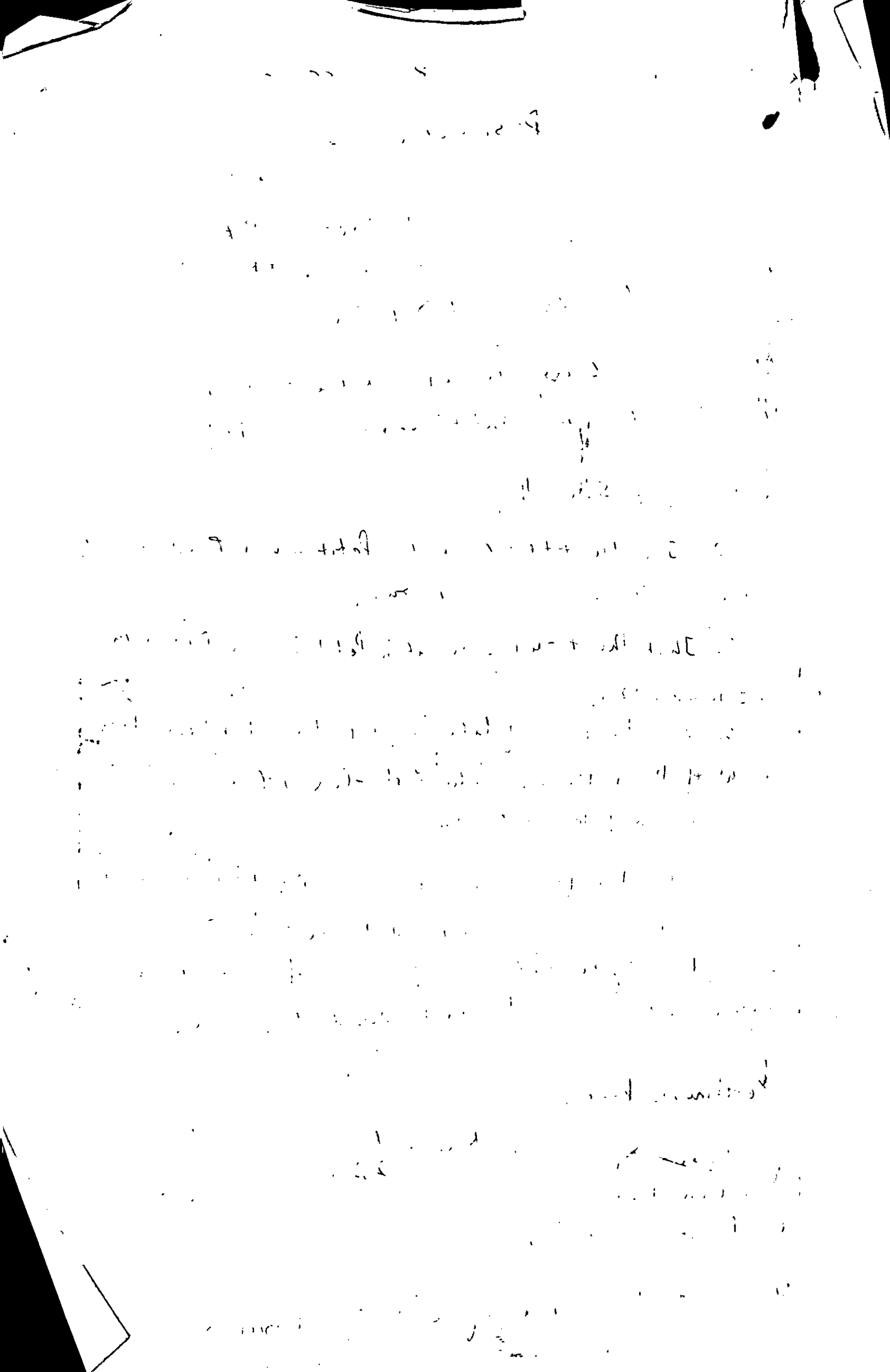
Muhammad Ali

Ex-Forest Range Officer

Date 05<sup>th</sup>  
2020

Be accelerated to  
17/11/2020 before SPS  
at Abbottabad.

Near Sethy House and Degree College for Girls King Ground  
Abbottabad





**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL, PESHAWAR**

Application No. \_\_\_\_\_/\_\_\_\_/01/2021

in

Execution Petition No. 132/2020

Muhammad Ali S/o Anwar Ajaz Ali Ex- Range Forest Officer  
Kohistan Water Shed Forest Division Besham, Khyber  
Pakhtunkhwa. **...PETITIONER**

**VERSUS**

1. The Government of Khyber Pakhtunkhwa through Secretary to Government Environment Department, KPK, Peshawar.
2. The CCF-I, Central Southern Forest Region -I, Peshawar.
3. The CCF-II Northern Region-II, Abbottabad, **...RESPONDENTS**

**APPLICATION FOR SUSPENSION OF 2<sup>nd</sup> SHOW CAUSE  
NOTICE AND ENQUIRY REPORT DATED 29/12/2020 WAS  
PASSED AGAINST THE LAW AND FACTS.**

***Respectfully Sheweth;***

1. That this August Tribunal Court directed in the Judgment 19.03.2018, to the CCF-I is therefore, directed to resume the proceedings from the stage as mentioned above and decide the same within 60 days from the receipt of this Judgment failing which the appellant shall be deemed to have reinstated in service.  
(Copy of the Judgment 19.03.2018 is attached in E\_P as Annexure.....D)
2. That the charges proved against the petitioner and penalties were also recommended by the Enquiry committees, and Impugned order was issued on dated 25.08.2014, the then CCF-I has issued **1<sup>st</sup> show cause notice along with Same Impugned Charge Sheets once again** to the

petitioner, on dated **10.04.2018**, so same charge sheets were issued once again is malice in Law and Facts. Besides that, no reasons have been provided for re-enquiry on account of witch impugned action of the competent authority is bad in law and is liable to be struck down.

**(Copies of the 1<sup>st</sup> show cause notice along with Same Charge Sheets are attached in E\_P as Annexure.....H)**

3. That in compliance of the Judgment dated **19.03.2018**, this August Tribunal Court , the petitioner had submitted **1<sup>st</sup> Reply** to the same charge sheet on dated **26.04.2018**, to the then CCF-I within time.

**(Copy of the 1<sup>st</sup> Reply dated 26.04.2018, attached as Annexure.....R)**

4. That the respondent No.2, Admitted in this letter No.4005-5/E Dated 09.04.2019, that he did not recorded the proceedings of the personal hearings on dated 12 & 14 May 2018, being in violation of the CCP- Section 142, authorities an Order and Notices to be in writing, In Powering Authorities by this Sub Rule (1) & (2) of the Rule 12 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

**(Copy of the Dated 09.04.2019, is attached in E\_P as Annexure.....Q)**

5. That the respondent No. 2, the then competent Authority (CCF-I Peshawar) thereafter, has been called for Personal Hearing through letter date 07.05.2018 and shall be appeared before hearing in person on dated **11.05.2018**.

**(Copy of the Letter date 07.05.2018, is attached in E\_P as Annexure.....P)**

6. That the petitioner had been appeared in person before personal hearing and submitted written preliminary defense and objection, and also raised facts and figures verbally in Enquiry Proceedings,

**(Copy of the Preliminary defense 12.05.2018, is attached in E\_P as Annexure.....S)**

7. That the petitioner had been appeared in person before personal hearing and submitted written preliminary defense and objection, and also raised facts and figures verbally in Enquiry Proceedings,

**(Copy of the Preliminary defense 14.05.2018, is attached in E\_P as Annexure.....V)**

8. Thereafter on dated 14.05.2018, the both the prosecutions were failed to prove the allegations and charges against the petitioner, and the **(CCF-I Peshawar) could not follow the procedure provided in Sub Section (5) of Section 5 of the SPO 2000,** therefore the then CCF-I has (9) left before 25.05.2018, and did not decide as per the direction for proceedings in the Judgment dated 19.03.2018, of this August Tribunal Court.
9. That the respondent No. 2, thereafter, has issued **Impugned De-novo Enquiry proceedings order on dated 06.06.2018,** without reinstatement of the petitioner and justified the proceedings of the prosecution because the prosecutions did not prove any of the allegations against the petitioner on dated 12.05.2018 and 14.05.2018, which is unjust and unlawful when had attained the finality to decide before 25/05/2018, (De-novo order was barred by 09 days) being in violation of direction for proceedings in the Judgment dated 19.03.2018, of this Hon'ble Service Tribunal Court.  
(Copy of the Order for De-novo Enquiry is attached in E\_P as Annexure.....N)
10. That the respondents concealed the above Facts and Law from August Tribunal Court during the Execution Petition No. 263/2018, through Implementation report.
11. That the petitioner had received the 2<sup>nd</sup> Impugned Show Cause Notice along with Enquiry report on dated 11.01.2021.  
(Copy of the Show Cause Notice is attached in E\_P as Annexure..... )
12. That the balance of convince is available to the petitioner.
13. That incase the ***Impugned Show Cause Notice along with Enquiry report is not suspended then the petitioner shall face irreparable loss*** and the petitioner shall be involved in multiplicity of proceedings/ litigation which is the main motive of the department?
14. That the appellant is ***running from pillar to post since year 2014 for the hunt of justice and even after having won the service appeals thrice,*** the appellant is still deprived of its fruit.

**PRAYED:**

On acceptance of this application, it is therefore, humbly prayed that the de-novo inquiry so conducted by the Forest Department *may kindly be suspended, till the decision of titled execution petition.*

**Appellant in Person**

Muhammad Ali

Ex- Forest Range Officer

Date : 12/01/2021

0315-3199931

Posting address: Near Shethy House Melton Public School kunj ground  
Abbottabad

**AFFIDAVIT**


Muhammad Ali s/o Anwar Ajaz Ali Ex-Range Forest Officer Kohistsan Water Shad Forest Division Besham, do hereby solemnly affirmed declare on Oath that all the contents of the accompanied Execution Petition are true and correct to the best of my knowledge and noting has been concealed or withheld from this Honorable Court.

**DEPONENT**

Receipt

Received Chief Conservator of  
Forest CSFR-I Peshawar  
Letter No. 3532/E, D-29/12/2020  
(Colonists Show Cause & Enquiry Report)

M. Mohammed Ali  
Ex-Forest Ranger  
Dated. 11/01/2021

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:ccfforests.pesh@gmail.com">ccfforests.pesh@gmail.com</a>
No. 3532 /E	Dated Peshawar the 29 /12/2020	

To,

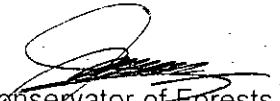
Muhammad Ali Ex-Forest Ranger,  
Near Shethy House and Melton Public School  
Kehal Abbottabad.

**Subject: - DISCIPLINARY PROCEEDING - SHOW CAUSE NOTICE THEREOF.**

Memo:-

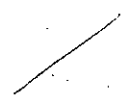
Enclosed please find herewith a Show Cause Notice with the directives to furnish your reply within stipulated period for further necessary action.

**Encl: As above.**

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

No. /E,

Copy forwarded to the Chief Conservator of Forests Northern Forest Region-II, Abbottabad. A copy of show cause notice meant for the addressee is enclosed herewith for handing over to the Ex-Forest Ranger through a special messenger under proper receipt which should be sent to this office for record and further necessary action.

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

## SHOW CAUSE NOTICE

I, Ali Gauher Khan, Chief Conservator of Forests, Central Southern Forest Region-I, Khyber Pakhtunkhwa Peshawar as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Muhammad Ali Ex-Forest Ranger (BPS-16) as follows :-

1.

- I) That consequent upon the completion of enquiry conducted by the Enquiry Committee, for which you were given opportunity of hearing and
- II) From perusal the findings and recommendations of the Enquiry Committee, the material on record and other connected papers including your non defence before the said Enquiry Committee.

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


- a. Inefficiency.
- b. Misconduct.
- c. Corruption.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the major penalty **Removal from Service** as specified in para-4(b) of the said Rules:-

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the enquiry committees is enclosed.

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

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**ENQUIRY REPORT OF PROCEEDINGS AGAINST MR. MUHAMMAD ALI, EX-FOREST  
RANGER OF KP FORSET DEPARTMENT**

**READWITH**

- Office order No 17 dated 25-8-2014
- Office order No 15 dated 22-08-2016 by Chief Conservator of Forests, Central Southern Forest Region - I, KP, Peshawar,
- Services Tribunal Peshawar Judgment/order dated 19-3-2018,
- Office Order 172 dated 06-06-2018 by Chief Conservator of Forests, Central Southern Forest Region - I, KP, Peshawar
- Charge sheet and statement of allegations against Mr. Muhammad Ali Ex- Forest Ranger,
- Enquiry Committee member Letters No 1213/PS dated 20-6-2018, No 92/PS dated 30-7-2018, No 159/PS dated 20-8-2018, No 192/PS dated 04-9-2018, No 261/PS dated 28-9-2018, No 277/PS dated 02-10-2018,
- Reply/request of the accused dated 11-10-2018,
- C C F Region - I, KP, Peshawar Letter No 2529/E dated 11-01-2019
- Services Tribunal Peshawar Judgment/order dated 08-02-2019 in execution Petition.
- Enquiry Committee Letter No 277/PS dated 02-10-18.
- Reply/communication of accused dated 11-7-2019

**RIEF HISTORY**

As per enquiry file/record, the accused Mr. Muhammad Ali (Ex Forest Ranger) was awarded major penalty of compulsorily retirement from service in a disciplinary proceeding under E& D Rules, vide competent authority office order No 15 dated 22-08-2016, and the appellate authority, on departmental appeal, also maintained the said penalty order.

Aggrieved with the punishment order, the accused filed service appeal No. 30/2017 before Services Tribunal Peshawar. The same appeal was decided vide Judgment dated 19/03/2018, wherein it was concluded by the Tribunal that the proceedings culminating in order dated 22-08-2016 by CCF - I cannot be sustained in the eyes of law nor the departmental appellate authority could maintain the said order. CCF-I was directed to resume the proceedings from the stage mentioned above and to decide the same within 60 days from the receipt of judgment.

In compliance with the decision of Services Tribunal, Peshawar, the competent authority, Chief Conservator of Forests, Central Southern Forest Region - I, KP, Peshawar, vide Office Order No 172 Dated 06-06-2018, vide provision of rule 14(6) of the KP Govt. Servants (E&D) Rules 2011, initiated a Denovo enquiry against Mr. Muhammad Ali (Ex Forest Ranger) for the earlier same charges of In-efficiency, Miss-conduct and Corruption. Charge sheet along with statement of allegations was served upon accused and an Enquiry Committee comprising of Sheikh Amjad Ali CF (as convener) and Syed Muqtada Shah DFO (as member) constituted to conduct enquiry and submit findings.

**PROCEEDINGS**

- A- The accused was intimated through registered post from DFO Patrol Squad office Abbottabad at his home address to submit reply. The accused, after repeated reminders, although responded on 11-10-2018 but instead of offering his defense through submission of proper reply to the memo of allegations/charge sheet, intimated that he has filed an execution petition in the Services Tribunal Peshawar Judgment/order dated 19-3-2018



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pertaining to the instant enquiry proceeding and requested for status quo till outcome in the said petition.

Therefore progress and findings of the enquiry proceedings were submitted to CCF Region – I Peshawar and the competent authority advised vide Letter No 2529/E dated 11-01-2019 to wait till decision of the Services Tribunal in the execution petition.

- B- The execution petition of the accused was decided on 08-2-2019 by the Services Tribunal Peshawar with the remarks that the prayer of the petitioner for reinstatement with back benefits at present appears to be premature. The execution proceedings in hand, therefore, are consigned to record room on the said account. The Petitioner shall, however, be at liberty to have resort to appropriate proceedings upon conclusion of Denovo departmental proceedings and passing of any order to his detriment.

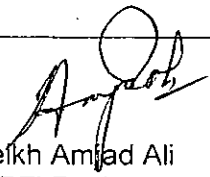
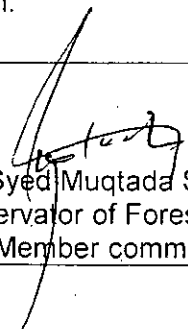
Since then the accused was time and again intimated by the Enquiry Committee to join disciplinary proceedings, submit his defense reply to the charge sheet and appear for personal hearing before the committee. However, in the meanwhile, the accused filed a CPLA before the Honorable Supreme Court of Pakistan, Islamabad against the Judgment of Services Tribunal in his execution petition and communicated his reply to the Chairman Departmental Enquiry Committee on 11-7-2019 with copies to Registrar/Chief Justice Supreme Court of Pakistan, Islamabad, Secretary Forestry, Environment and Wild life Department, CCF - I Peshawar for information.

Reply of the accused was again not relevant to the allegations of the charge sheet and instead of offering defense the accused has again focused on his earlier stance with following prayer;

"On acceptance of this detail reply/appeal, it is therefore humbly prayed that the CCF- I (Competent Authority) may be directed to reinstate the appellant with all back benefits and the Denovo enquiry sought to be initiated may kindly be suspended and quashed the Denovo enquiry, till the decision of CPLA filed before the Honorable Supreme Court of Pakistan, Islamabad.

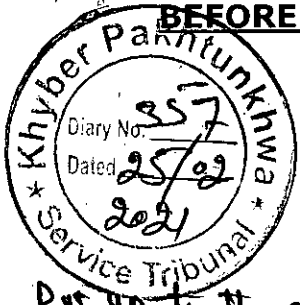
### FINDINGS & CONCLUSIONS

The accused is not willing to facilitate the furtherance and conclusion of the departmental enquiry proceedings. Instead he is waiting for the outcome of the CPLA pending before the Honorable Supreme Court of Pakistan. Therefore proceedings could not be finalized by the Enquiry Committee. The enquiry proceedings are therefore paused and case file return to the competent authority for soliciting legal advice from the competent forum.

 Sheikh Amlad Ali DG PFI Peshawar (Convener committee)	 Syed Muqtada Shah Conservator of Forests/DCCF (Member committee)
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Enclosure: Enquiry File (Page 1 - 205)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**



Application No. \_\_\_\_\_/2021

In Execution Petition No. 132/2020

In Service Appeal No. 30/2017

*Put up to the court with relevant app-als.*

*25/2/2021*

Reacho  
Muhammad Ali, Near Sethy House and Degree College For Girls Kunj Ground  
Abbottabad. .... Petitioner

Versus

Secretary & Others .... Respondents

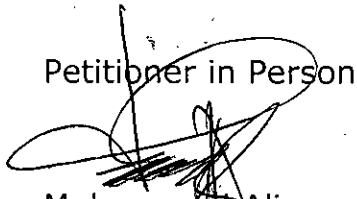
**APPLICATION FOR EARLY HEARING IN TITLED EXECUTION PETITION.**

Respectfully Sheweth,

- 1: That, the titled Execution Petition is pending for adjudication in this Honorable Tribunal Court for today i.e 25.02.2021 and in which the date next date of hearing is fixed as 29.04.2021.
2. That the respondents stopped/withheld salary since from six (6) years of the petitioner which is the only source of living of the **petitioner and 04 dependents family member**, against the law and facts, therefore, the prosecutions did not proved any single charge against petitioner during the four (04) sessions of the personal hearings, and in three round of the Service Appeal Decisions in this august Tribunal.
3. That, the right of life is guaranteed fundamental right of the petitioner under **Article (9) of the constitution of Islamic Republic of Pakistan**. Respondents are deliberately and intentionally depriving the petitioner and his family members.

It is, therefore, most respectfully prayed that on acceptance of this application for early hearing may glacially be fixed preferably during the 1<sup>st</sup> week of March 2021, being urgent in nature, in the best interest of justice.

Petitioner in Person



Muhammad Ali

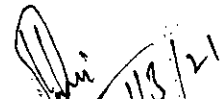
Ex-Forest Range Officer,

Nearly Sethy House and Degree College for Girls Kunj Ground Abbottabad.

Dated 25.02.2021,

Cell No. 0315-3199931

*At Preliminary  
stage Hearing be  
accelerated to a date  
in last week of March 2021.*



*31/02*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL****PESHAWAR****EXECUTION PETITION NO. 132/2020**

Muhammad Ali s/o Anwar Ejaz Ex-Forest Ranger Kohistan Watershed  
Forest Division Besham, Khyber Pakhtunkhwa.

**Petitioner**

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary to Government Environment & Wildlife Department KPK, Peshawar.
2. The CCF-I, Central Southern Forest Region-I Peshawar
3. The CCF-II Northern Region-II Abbottabad.

**Respondents**

Parawise comments are furnished as under please.

1. It is correct that upon dismissal of CPLA by august Supreme Court of Pakistan on 8.7.2020, an application dated 23.7.2020 was submitted by the petitioner.
2. Need no comments as no proof annexed to the petition.
3. It is correct that reminders/letters were issued to the Appellant/Petitioner by the Convener Enquiry Committee to furnish reply to Charge Sheet served upon him for processing denovo enquiry in implementation of the judgment of Honorable Khyber Pakhtunkhwa Services Tribunal Peshawar dated 19.3.2018.
4. It is correct that the appellant/petitioner furnished reply to the Convener on 11.7.2019, but the same was irrelevant wherein instead of furnishing defense statement to the allegations mentioned in the charge sheet, the appellant/petitioner focused that *"the CCF-I (competent authority) may be directed to reinstate the appellant with all back benefits and the denovo enquiry sought to be initiated may*

*kindly be suspended and quashed the de-novo inquiry, till the decision of filed the CPLA before Honorable Supreme Court of Pakistan Islamabad".* On the other hand, the appellant/Petitioner submitted an application dated 19.8.2019 (just after one month of previous application dated 11.7.2019, copy of which is annexed with Petition at Page-41) to the Respondent No. 1 Secretary FE&W Department for provisions of attested photo copies of the documents under RTI Act for submission of detail reply of Charge Sheet, which is nothing except confusing the Enquiry Committee/department and creating hindrances in implementation of the judgment passed by the Honorable Khyber Pakhtunkhwa Services Tribunal Peshawar dated 19.3.2018.

5. It is correct. The appeal No. 30/17 filed by the appellant/petitioner was decided by the Honorable KPK Services Tribunal on 19.3.2018.
6. It is incorrect. No violation was made; the proceedings were started in implementation of the judgment dated 19.3.2018 of the Honorable KPK Services Tribunal to which the appellant/Petitioner furnished an irrelevant reply as mentioned in para-4 of the Petition.
7. It is correct.
8. It is correct that the Department has not criticized the judgment of KP Services Tribunal dated 19.3.2018 in next higher Court rather in implementation of the judgment started denovo inquiry proceedings against the appellant/Petitioner by Constituting a Committee comprising of M/S Sheikh Amjad Ali CF the then Director CDE&GAD and Syed Muqtada Shah the then DFO Patrol Squad Lower Hazara Circle Abbottabad.
9. It is correct. On completion of enquiry proceedings and on going through the findings/recommendations of the Committee, Show cause notice as specified in Section-3 of Special Powers Ordinance-2000 was served upon the appellant/Petitioner vide Competent Authority letter No. 3922/E dated 10.4.2018.

10. Contention of appellant/Petitioner is incorrect. The charge sheets are always based on the allegations which can never be changed for denovo enquiry proceedings. Moreover, it had been understood that denovo enquiry was being conducted in compliance of Honorable Khyber Pakhtunkhwa Services Tribunal judgment dated 19.3.2018, therefore, no more reasons were needed to had been mentioned in the Charge sheets, hence no violation of law had occurred.
11. It is correct that Honorable KP Services Tribunal announced judgment dated 8.2.2019 in 2<sup>nd</sup> Execution Petition No. 263/2018 in service Appeal No. 30/2017, but directed as under:

*" It transpires from the record and also from the fact that the Petitioner acknowledges at the bar the receipt of letters of respondents noted hereinabove, that the denovo proceedings are required through the judgment under implementation, are still pending and no final order has been passed in that regard. It can also be seen that non-conclusion of denovo proceedings against the Petitioner, within time prescribed in the judgment under execution, is not solely attributable to the respondents. In the said circumstances, the prayer of the Petitioner for re-instatement with back benefits at present appears to be premature. The execution proceedings in hand are, therefore, consigned to record room on the said count. The Petitioner shall however, be at liberty to have resort to appropriate proceedings upon conclusion of denovo departmental proceedings and passing of any order to his detriment".*

From the above, it is clear enough to prove that the Appellant/Petitioner instead of cooperating the Department/Inquiry Committee to finalize the proceedings in implementation of Court orders dated 19.3.2018, repeatedly interrupted in the inquiry proceedings either by non furnishing replies or through filing irrelevant/untimely Execution Petition in the Honorable KP Services Tribunal and CPLA in august Supreme Court of Pakistan.

12. Irrelevant para which needs no comments as after the judgment of KP Services Tribunal dated 19.3.2018, the implementation is under process.

13. The appellant/Petitioner made interruption in execution proceedings by filing Petition/CPLA, which reflects that he is not fair in finalization of enquiry proceedings and implementation process.
14. The CPLA filed by the Petitioner in august Supreme Court was a violation of the judgment passed by Honorable KP Services Tribunal on 8.2.2019 rather interruption in implementation of KP Services Tribunal judgment dated 19.3.2018.
15. As commented in preceding para.
16. It is incorrect. In implementation of judgment of Honorable KP Services Tribunal dated 19.3.2018, the competent authority has constituted Inquiry Committee to conduct denovo enquiry against the appellant/Petitioner and completed all pre-requisites under the rules, but instead of cooperating the Inquiry Committee, the appellant/Petitioner has made interruption which is violation of KP Services Tribunal judgment dated 19.3.2018 and judgment 8.2.2019.
17. It is incorrect. The charge sheet has been served upon the appellant/petitioner in implementation of judgment of Honorable KP Services Tribunal judgment dated 19.3.2018.
18. Incorrect. The Implementation Report annexed with Petition is self explanatory and judgment of Honorable KP Services Tribunal dated 8.2.2019 is clear enough to prove the irrelevant stance of the Petitioner.
19. It is correct. The appellant/petitioner was afforded an opportunity of being heard in person by competent authority on 11.5.2018.
20. It is correct to the extent that competent authority informed the appellant/Petitioner that the documents i.e. Questions/Answers are not recorded at the time of personal hearing on 12 & 14 May 2018. However, it is an irrelevant/unsupportive paragraph having no legal footings in the eyes of law.

21. The Appellant/Petitioner should have furnished his reply to Inquiry Committee but he missed the relevant forum and furnished reply to Chief Conservator of Forests CSR-I.
22. This application was totally irrelevant, against the law/procedure having no legal footings rather creating hindrance in execution of Court orders.
23. The paragraph is totally irrelevant and need to have been agitated before the Inquiry Committee to probe the issues but the appellant/petitioner failed to prove him innocent of the charges leveled against him.
  - a. It is incorrect. No disbursement of daily wages had been made by the appellant/Petitioner to the Chowkidar of the Depot as no proof is available on record. Moreover, no thumb impression of the Chowkidar is affixed on Muster Roll in token receipt of the payment.
  - b. It is incorrect. The appellant/Petitioner has not recorded any disbursement certificate on the Muster Roll as required under disbursement procedure of daily wages to the laborers in Forest Manual Volume-II.
  - c. It is incorrect. Need not to record any statement in presence of documentary proof annexed with Petition by the appellant/petitioner himself vide page-76 to 79, which shows that neither any disbursement certificate is recorded by the Petitioner being Disbursing Officer as required under the rules nor any receipt showing thumb impression of concerned labor/Chowkidar is available on the Muster Rolls.
  - d. It is incorrect. The application is based on facts as no payment has been made by the appellant/petitioner to the labour/Chowkidar as explained in para-c above.

- e. It is incorrect. The Inquiry Committee has rightly recommended Major Penalty based on facts and ground realities. The competent authority CCF-I had called Prosecution witness with record during the course of personal hearing of appellant/petitioner as required under the rules/law.

**14.5.2018**

**1<sup>st</sup> Enquiry**

- a. The para is irrelevant, as no such allegation is mentioned in the charge sheet annexed with Petition at Page-46 Annexure-H. The Petitioner is just diverting the attention of the Honorable Court from the facts on record.
- b. The para is irrelevant. No such allegation is mentioned in the Charge sheet.
- c. It is incorrect. The allegations are proved against the appellant/Petitioner as he failed to make payment to the laborers despite getting release of funds from the DFO for the said purpose, but record is silent with regard to payment of wages to the labourers. Moreover, the Petitioner could not produce any proof in support of his stance.

**2<sup>nd</sup> Enquiry**


- d. The para is baseless, incorrect/irrelevant. The Petitioner is frustrating to divert the attention of Court from the allegations proved against him.
- e. The para is baseless/incorrect rather an attempt to divert the sequence of proceedings against him.
- f. It is incorrect. The allegations had been proved against the appellant/petitioner as per recommendations of the Enquiry Committee and rightly imposed major penalty upon the Petitioner.




- g. Irrelevant paragraph as the Honorable KP Services Tribunal has already decided and directed to conduct denovo enquiry proceedings against the appellant/petitioner, therefore, mentioning of previous stories is extraneous rather wastage of time of Honorable Tribunal.
  - h. The para is totally irrelevant to the directives contained in Honorable KP Services Tribunal judgment dated 19.3.2018 and 8.2.2019 as denovo enquiry has since been initiated and likely to finalize now in short time period.
  - i. As explained in preceding paras.
24. It is incorrect. The proceedings in light of directives contained in KP Services Tribunal judgment dated 19.3.2018 are underway. A showcause notice has been served upon the appellant/petitioner vide No. 32/Est dated 29.12.2020.
25. The appeal preferred by the appellant was illegal, untimely and nothing except to create hindrance in execution proceedings.
26. It is incorrect. As explained in preceding paras, the appellant/Petitioner has interrupted time and again in implementation proceedings by filing of Appeal/Petition/CPLA. Moreover, the petitioner wasted the time of Enquiry Committee for gaining decision of his own choice.
27. It is again an attempt to stop implementation proceedings by filing illegal, untimely and baseless appeals when the execution proceedings in compliance of the judgment of Honorable Tribunal are underway. Showcause notice has been served upon the Petitioner by Competent authority vide No.32/Est dated 29.12.2020 and an Implementation report is likely to be filed by the Department soon after completion of proceedings.

28. The Petition is illegal/unlawful and baseless, having no legal footings rather interruption in implementation process.

It is humbly prayed that the Petition may kindly be filed and the Petitioner be directed to wait the Implementation report in compliance of the judgment of Honorable Tribunal dated 19.3.2018 and 8.2.2019



Secretary to Government  
Khyber Pakhtunkhwa, Forestry  
Environment & Wildlife  
Department Peshawar



Chief Conservator of Forests  
Central Southern Region-I  
Peshawar

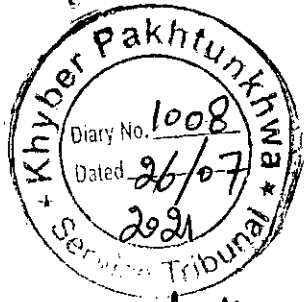


Chief Conservator of Forests  
Northern Forest Region-II  
Abbottabad



Divisional Forest Officer  
Siran Forest Division  
Mansehra

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**



Appication No. \_\_\_\_\_ 2021,

In Execution Petition 132 /2020

In Service Appeal No.30/2017,

Muhammad Ali S/o Anwar Ajaz Ali Ex- Range Forest Officer  
Kohistan Water Shed Forest Division Besham,....PETITIONER

**V E R S U S**

The Government of Khyber Pakhtunkhwa through Secretary to  
Government Forestry, Environment and wildlife Department,  
Peshawar, & others

...RESPONDENTS

**APPLICATION FOR EARLY DECISION OF 1<sup>st</sup> EXECUTION  
PETITION NO. 132/2020, 2<sup>nd</sup> CoC No. 166/2020, AND 3<sup>rd</sup>  
PETITION UNDER SECTION 12 (2) of CPC, NO. 159/2020.**

**Respectfully Sheweth,**

1. That the titled Execution Petition has filed on dated 14.09.2020, before this Hon'ble Tribunal Court contents of which may pleased be treated as integral part of the instant application.
2. That, the rights of life is guaranteed fundamental right of the petitioner under Article (9) of the Constitution of Islamic Republic of Pakistan. *The department is deliberately and intentionally depriving the petitioner and his family members.*

put up to the worthy chair-man  
along with relevant Ex. Petition

27/7/21.

Ready

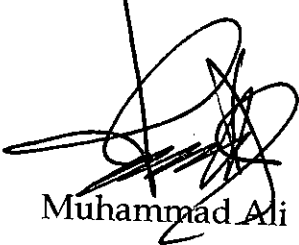
3. That the titled Execution Petition has been verbally announced on dated 14.06.2021, from the principal seat at Peshawar and written order is awaited.
4. That the appellant will be filed CPLA in the Honorable Supreme Court of Pakistan against the decision dated 14.06.2021, of the titled Execution Petition No. 132/2020,
5. That In the compliance of worthy Chairman Honorable K P Tribunal Court verbal order on dated 14.06.2021, to be joined personal hearing proceedings and the appellant have been appeared before hearing in person on dated 22.06.2021 in CCF-I office, and rebut all the charges through documentary evidence, and the same documentary evidence is submitted for the said defense and assistance.
6. That the prosecutions were absent on dated 22.06.2021, and many objections raised by the Superintendent CCF Office, and the appellant has been rebut all the memo of allegation and charges through documents, and the Superintendent CCF Office did not prove any of the allegations and charges against the appellant on dated 22.06.2021, did not decide final order being in violation of direction to the CCF-I in accordance with the Judgment dated 19.03.2018, of this Hon'ble Service Tribunal Court.
7. That valuable rights of the appellant are involved and that the appellant had sufficient cause for not preferring the appeal or making the application which shows circumstances were behind the control of the appellant due to the act of the learned CCF-I Peshawar, and the appellant had to his maximum exercised due care and attention in

wait for any valuable Order, for Implementation of the Judgment dated 19.03.2018, and direction in the Execution Petition.

8. That the stipulated period of sixty days for institution of CPLA in the Supreme Court of Pakistan and thirty days has already elapsed to file said CPLA.
9. That the previous CPLA has already been dismissed barred by 19 days, due to delay during the prosecution proceedings Execution Petition No. 162/2019, and the Honorable Supreme Court of Pakistan in his order "Though he has mentioned such facts in the application generally but has not explained each day's delay which is the requirement of the law."

It is therefore request fully prayed accordingly.

**Appellant in Person**



Muhammad Ali

26

Ex- Forest Range Office, Date: 15/07/2021,

Near Seathy House and Kunj Ground Abbottabad

Cell No. 0315-3199931



**KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

No. 1578 /ST  
Dated: 09/08 /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

The Chief Conservator of Forest-1,  
Central Southern Forest Region-1,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: JUDGMENT IN EXECUTION PETITION NO. 132/2020, MR. MUHAMMAD ALI.

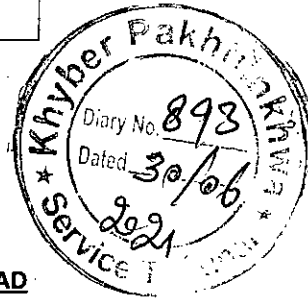
I am directed to forward herewith a certified copy of Judgement dated  
14.06.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

<p>MUHAMMAD ARIF          DIVISIONAL FOREST OFFICER          SIRAN FOREST DIVISION          MANSEHRA          Ph. &amp; Fax #. 0997-920140</p>		<p>NO. <u>13/28</u> /GE          Dated <u>04/05/2021</u></p>
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✓ The Worthy Registrar  
 KPK Service Tribunal  
 Peshawar




Subject: **EXECUTION PETITION NO. 132/20 FILED BY MR. MUHAMMAD ALI EX-FOREST RANGER VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF CONSERVATOR OF FORESTS, NORTHERN FOREST REGION-II, ABBOTTABAD**

It is submitted that Service Tribunal was attended by the representative of this office in subject petition and submitted his report along with latest order sheet of the subject case. The departmental representative narrated in his report that the petitioner has preferred an application in the court for early hearing of the subject case. Consequent upon the application of petitioner the honorable court has changed the date of hearing and fixed on 19.04.2021 without issuing the notice to this office. The report of the representative is substantiated by the order sheet dated 19.04.2021.

In view of above exposition it is requested to your good self that in future each and every date of either subject case or any of the case of this office which is subjudice in the honorable Service Tribunal Court Peshawar may kindly be intimated through proper notice so that the respondents/department could be able to attend the cases on fixed date please.

  
 Divisional Forest Officer  
 Siran Forest Division Mansehra

Placed on file

  
 30/6/2021

Reader

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Application No. \_\_\_\_\_/2020

In Execution Petition No. 132 / 2020

In Service Appeal No. 30 / 2017,

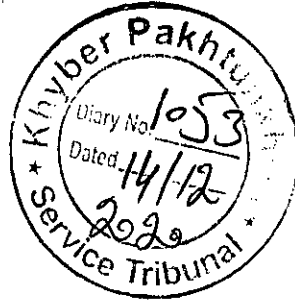
Put up to the court with relevant appeal.

Deodar

14/12/2020

Muhammad Ali, Near Sethy House and Degree College for Girls kunj Ground  
Abbottabad

.....PETITIONER



VERSUS

Secretary & Others

.....RESPONDENT

**APPLICATION FOR EARLY HEARING IN TITLED  
EXECUTION PETITION**

Respectfully Sheweth,

1. That, the titled **Execution Petition** had filed on dated **14.09.2020** before this Honorable Tribunal, Court contents of where may pleased be treated as integral part of the instant Petition.
2. That, the titled **Execution Petition** is pending at adjudication in this Honorable Tribunal Court and issued Notices to the respondents on dated 17.11.2010, and next date will fixed for **14.12.2020**, at camp Court Abbaoabad.
3. That this Honorable Tribunal Court canceled the Camp Court Abbottabad Proceedings due to COVID-19.
4. That the respondents stopped / withheld salary since from six (6) years of the petitioner which is the only source of living of the petitioner and 04 dependants family members , against the Law and Facts therefore the prosecutions did not proved any single charge against petitioner during the four (4<sup>th</sup>) sessions of the personal hearings, and in three rounds of the Service Appeal Decisions in this August Tribunal Court.
5. That, the right of life is guaranteed fundamental right of the petitioner under Article (9) of the constitution of Islamic Republic of Pakistan. Respondents are deliberately and intentionally depriving the petitioner and his family members.

Be fixed at  
Peshawar in  
2nd week of  
January, 2021.

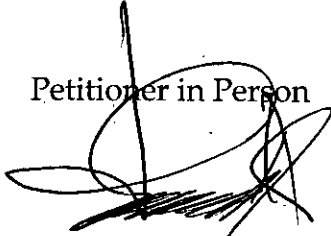
14/12/2020



6. That the petitioner is having no other remedy to file this application for early hearing may be fixed at Honorable Tribunal Court Peshawar, and the office of the Appellant Authority and Competent Authority at Peshawar.

It is therefore, most respectfully prayed that on acceptance of this application for early hearing may glacially be fixed preferably during the January 2021, being urgent in nature, in the best interest of Justice, and may kindly be Fixed at Honorable Tribunal Court Peshawar.

Petitioner in Person



Muhammad Ali

Ex- Forest Range Officer,

Near Sethy House and Degree College for Girls kunj Ground Abbottabad

Date: 14/12/2020,

Cell No. 0315-3199931

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

Application No. \_\_\_\_\_/2020

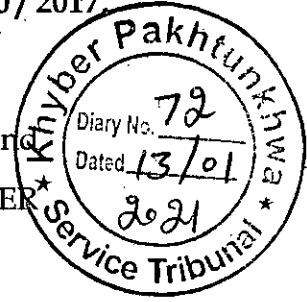
In Execution Petition No. 132 / 2020

In Service Appeal No. 30 / 2017.

Put up to the Court with  
relevant appals

Muhammad Ali, Near Sethy House and Degree College for Girls kunj Ground  
Abbottabad

.....PETITIONER



**VERSUS**

Secretary & Others

.....RESPONDENT

*Clubbing*  
**APPLICATION FOR ~~CWP~~ PETITION UNDER SECTION 12 (2)  
CPC AND CONTEMPT OF COURT UNDER SECTION 3 OF  
THE ORDINANCE IV OF 2003 ARE THE PART OF TITLED  
EXECUTION PETITION**

**Respectfully Sheweth,**

1. That, the titled **Execution Petition** had filed on dated **14.09.2020** before this Honorable Tribunal, Court contents of where may pleased be treated as integral part of the instant Petition.
2. That, the titled **Execution Petition** is pending at adjudication in this Honorable Tribunal Court and issued Notices to the respondents on dated 17.11.2010, and next date will fixed for **25.02.2021**, at **Hon'ble Court Peshawar**.
3. That the application for the early hearing in titled execution petition has been submitted on 14/12/2020 and the Hon'ble Chairman have been allowed and fixed for date: 12/01/2021
4. That the Petitioner had been submitted Petition in Under Section 12 (2) CPC Execution Petition No. 132/2020 to set aside the judgment/ order dated: 08/02/2019 foe Execution Petition NO. 263/2018 on 05/11/2020.

5. That the Petitioner have been submitted again contempt of Court in Execution Petition NO.132/2020 Under the Sections of the ordinance IV of 2003 contempt of Court on 17-11-2020 against the Mr. Muhammad Siddique Khan Khattak the then CCF-I Peshawar and Mr. Ali Gauher Khan the CCF-I Peshawar and the office of the applet authority and competent Authority at Peshawar.

(Appellate)

6. That the Petition under section 12 (2) CPC and contempt of Court are the Parts of Execution petition No. 132/2020

It is therefore, most respectfully prayed that on acceptance of this application may glacially be <sup>Clipped</sup> ~~clipped~~ Petition 12 (2) CPC & COC with the Execution Petition No.132/2020 fixed on 25/02/2021, in the best interest of Justice.

Petitioner in Person



Muhammad Ali

Ex- Forest Range Officer,

Near Sethy House and Degree College for Girls kunj Ground Abbottabad

Date: 13/01/2021

Cell No. 0315-3199931