


09<sup>th</sup> Dec. 2022

Nemo for the appellant. Mr. Nāseerud Din Shah, Assistant Advocate General alongwith Syēd Jamal shah, Superintendent and Karim Dad, Assistant for the respondents present.

*Counsel for the Appellant was informed telephonically on 26/1/2023*

Since 9<sup>th</sup> November 2022 was declared as public holiday and the date was changed on the note reader, therefore, it is deemed appropriate to issue notices to appellant and his learned counsel for the next date as last chance. Adjourned to 02.02.2023 for arguments before the D.B.

**SCANNED**  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman


02.02.2023

Clerk of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Syed Jamal Shah, Superintendent for the respondents present.

**SCANNED**  
KPST  
Peshawar

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 08.03.2023 before the D.B.


  
(FAREEHA PAUL)  
Member(E)


  
(SALAH-UD-DIN)  
Member (J)

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

None for the appellant present. Mr. Muhammad Adcel Butt, Addl: AG for respondents present.


This case was heard by us on 11.05.2022 and judgment was reserved for 13.05.2022, but because of non-availability of the bench on 13.05.2022 the order could not be recorded and announced. The matter was fixed for today but in view of the judgment of the august Supreme Court of Pakistan reported as 1996 SCMR 669, the matter was to be reheard. Therefore, the appeal be fixed for its rehearing by fixing on 09.11.2022 before D.B.

  
(Fareeha Paul)  
Member(Executive)

  
(Kalim Arshad Khan)  
Chairman

9.11.2022


Since 9<sup>th</sup> November has been declared as public holiday, case is adjourned to 09.12.2022 for the same as before.

  
Reader

20<sup>th</sup> June, 2022


Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant AG for the respondents present.

Because of other multifarious engagement we could not record the judgment. To come up on 27.07.2022 for order.


  
(Fareeha Paul)  
Member(E)

  
(Kalim Arshad Khan)  
Chairman

27<sup>th</sup> July 2022

 Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Muhammad Jamal, Superintendent for respondents present.


Since the bench is not available/complete today, therefore, be fixed before the bench concerned for 12.09.2022.

  
(Kalim Arshad Khan)  
Chairman

12.09.2022

Counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General for respondents present.

File to come up alongwith connected Service Appeal No. 238/2015 titled "Iftikhar-uz-Zaman Vs. Secretary Environment" on 11.10.2022 before D.B.

  
(Fareeha Paul)  
Member (E)

01.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 11.05.2022 for the same as before.

  
Reader

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

Mr. Naveed Akhtar, Advocate for appellant present. Mr. Muhammad Rasheed, DDA for respondents present.

Arguments heard. To come up for order/consideration on 13.05.2022 before this D.B.

  
**(Fareeha Paul)**  
Member(E)

  
**(Kalim Arshad Khan)**  
Chairman

ORDER  
13.05.2022

Deleted for reconstitution of Bench. To come up for order on 26.05.2022.

Reader

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

Counsel for the appellant present. Mr. Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

To come up for order on 20.06.2022 before D.B.

  
**(Fareeha Paul)**  
Member(E)

  
**(Kalim Arshad Khan)**  
Chairman

28.06.2021 Junior to counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present.

The Worthy Chairman is on leave, therefore, the Bench is incomplete. To come up for arguments on 15.09.2021 before the D.B.

  
(Rozina Rehman)  
Member(J)

15.09.2021 Nemo for appellant.

Javid Ullah learned Assistant A.G alongwith Said Jamal Superintendent and Karimdad Assistant for respondents present.

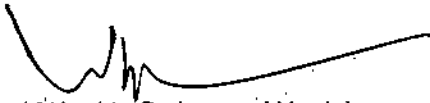
File to come up alongwith connected Service Appeal No.238/2015 on 17.01.2022 before D.B.

  
(Rozina Rehman)  
Member (J)

  
Chairman

17.01.2022 Counsel for the appellant and Mr. Muhammad Riaz Khan Painsdakhel, Asstt. AG alongwith Said Jamal, Superintendent and Karim Dad, Asstt. for the respondents present.

Former seeks adjournment to further prepare the brief. Request accorded. To come up for arguments on 01.03.2022 before the D.B.

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

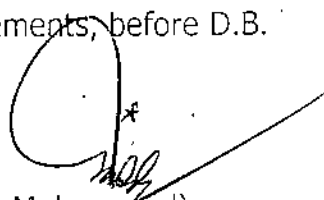
  
Chairman


14.10.2020

Nemo for appellant.

Mr. Usman Ghani learned District Attorney alongwith Said Jamal Superintendent for respondents present.

Notice be issued to appellant and his counsel for 24.12.2020 for arguments, before D.B.

  
(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member (J)

24.12.2020

Due to summer vacation, case is adjourned to 29.03.2021 for the same as before.


  
Reader


29.03.2021

Nemo for appellant.

Riaz Khan Paindakheil learned Assistant Advocate General alongwith Said Jamal Superintendent and Karimdad S.C for respondents present.

Preceding date was adjourned no a Reader's note, therefore, appellant/counsel be put on notice for 28/06/2021 for arguments, before D.B.

  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

13.02.2020

Counsel for the appellant present. Asst: AG alongwith Mr. Ahmad Jan, Supdt for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned To come up for arguments on 09.03.2020 before D.B.

  
Member

  
Member

09.03.2020

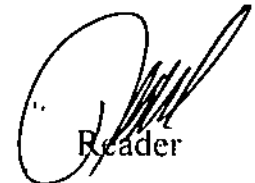
Iftikhar uz Zaman appellant in the connected service appeal on behalf of appellant present. Mr. Usman Ghani learned District Attorney present. Appellant seeks adjournment as learned counsel is not available. Adjourned by way of last chance. To come up for arguments on 22.04.2020 before D.B.

  
Member

  
Member

22.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 28.07.2020 before D.B.

  
Reader

28.07.2020

Due to COVID19, the case is adjourned to 14.10.2020 for the same as before.

  
Reader

14.05.2019 Clerk to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Due to leave of the worthy Chairman the case is adjourned to 23.07.2019 for arguments before D.B.


  
(Hussain Shah)  
Member

23.07.2019 Junior counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Syed Jamal, Superintendent for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel is not available today. Adjourned to 10.10.2019 for arguments before D.B.

  
(HUSSAIN SHAH)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

10.10.2019 Due to official tour of Hon'ble Members to Camp Court Swat, instant appeal is adjourned to 19.12.2019 for the same.

  
Reader

19.12.2019 Lawyers are on strike as per the decision of Peshawar Bar Association. Adjourn. To come up for further proceedings/arguments on 13.02.2020 before D.B. Appellant be put on notice for the date fixed.

  
Member

  
Member



21.12.2018

Learned counsel for the appellant Mr. Muhammad Jan, learned Deputy District Attorney alongwith Mr. Muhammad Niaz DFO for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come for arguments on 18.02.2019 before D.B.

  
(Hussain Shah)  
Member

  
(Muhammad Amin Kundi)  
Member

18.02.2019

Counsel for the appellant and Mr. Muhammad Jan, DDA for the respondents present.

Learned counsel for the appellant requests for adjournment. Adjourned to 21.03.2019 before the D.B alongwith connected appeals No. 185/2015, 963/2015, 964/15, 965/2015.

  
Member

  
Chairman

21.03.2019

Nemo for appellant. Addl. AG for the respondents present.


Due to second day of the strike on the call of Bar Council, instant matter is adjourned to 14.05.2019 before the D.B.


  
Member

  
Chairman

12.06.2018


None for the appellant present. Mr. Kabir Ullah Khattak, learned AAG alongwith Mr. Said Jamal, Supdt for respondents present. Adjourned. To come up for arguments on 03.08.2018 before D.B.


  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

03.08.2018

Appellant in person present. Learned counsel for the appellant is absent. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Israr, Deputy Conservator for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 14.09.2018 before D.B.


  
(Ahmad Hassan)  
Member (E)

  
(Muhammad Hamid Mughal)  
Member (J)

14.09.2018

Junior to counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Mr. Muhammad Israr DFO for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 08.11.2018 before D.B

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member

08.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 21.12.2018.

  
READER

19.12.2017

Counsel for the appellant and Asst: AG alongwith Syed Jamal, Supdt for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 19.2.2018 before D.B.

  
Member

  
Chairman

19.02.2018

Due to non availability of D.B. Adjourned. To come up on ~~11.05~~ 2018 before D.B.

Member

11.05.2018


Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for the same on 12.06.2018.

  
Reader

02.06.2018

Counsel for the appellant present. Mr. Kabir Ullah Khattak, learned AAG alongwith Mr. Said Jamal, Supdt for respondents present. Adjourned. To come up for arguments on 03.08.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

19.07.2017

Clerk of the counsel for appellant present. Mr. Muhammad Hussain, DFO and Mr. Karim Dad, Junior Clerk alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Rejoinder submitted. Due to strike of the bar learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 23.08.2017 before D.B. Till then no recovery be made from the appellant.

(Gul Zeb Khan)  
Member

(Muhammad Amin Khan Kundi)  
Member

23/8/2017

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Muhammad Hussain, DFO for the respondents present. Arguments could not be heard due to non-availability of DB. To come up for arguments on 17/11/2017 before DB. Till then no recovery be made from the appellant.

(GUL ZEB KHAN)  
MEMBER

17.11.2017

Appellant alongwith counsel and Mr. Ziaullah, DDA alongwith Muhammad Hussain, DFO for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 19.12.2017 before the D.B. Till then no recovery be made from the appellant.

MA  
Member

Chairman

09.01.2017

Counsel for the appellant and Mr. Muhammad Hussain, DFO alongwith Addl. AG for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for rejoinder and arguments on 10.02.2017. Till then no recovery be made from the appellant.

  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

10.02.2017

Mr. Hayat Khan, Junior counsel for appellant and Mr. Muhammad Hussain, DFO (Headquarter) alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Rejoinder not submitted. Junior counsel for appellant stated that learned senior counsel for appellant is busy before the Hon'ble Peshawar High Court, Peshawar and requested for adjournment. Adjourned. To come up for rejoinder and arguments on 13.06.2017 before D.B. Till then no recovery be made from the appellant.

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

13.06.2017

Junior counsel for the appellant present. Mr. Muhammad Hussain, DFO alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that senior counsel for the appellant is busy before the Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for rejoinder and arguments on 19.07.2017 before D.B. Till then no recovery be made from the appellant.

  
(GUL ZEE KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

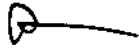
10.06.2016

Counsel for the appellant and Mr. Muhammad Hussain, DFO alongwith Addl: AG for respondents present. The learned Member (Judicial) Mr. Muhammad Aamir Nazir is on leave, therefore, Bench is incomplete. To come up for arguments on 10.08.2016 before D.B. Till then no recovery be made from the appellant.

  
MEMBER

10.08.2016

Agent to counsel for the appellant and Mr. Karim Dad, Junior Clerk alongwith Addl. AG for respondents present. Arguments could not be heard due to general strike of the bar. To come up for arguments on 29-9-16. Till then no recovery be made from the appellant.

  
Member

  
Member

29.09.2016


Counsel for the appellant and Addl, AG alongwith Mr. Muhammad Hussain, DFO (Hqrs) for the respondents present. Counsel for the appellant requested for adjournment. To come up for final hearing before the D.B on 09.1.2017. Till then no recovery be made from the appellant.


  
Member

  
Chairman

03.03.2016

Counsel for the appellant and Mr. Hussain, DFO alongwith Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to shortage of time. Therefore, the case is adjourned to 06.04.2016 for arguments. Till then no recovery be made from the appellant.

  
Member

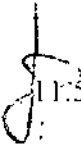
  
Member

06.04.2016

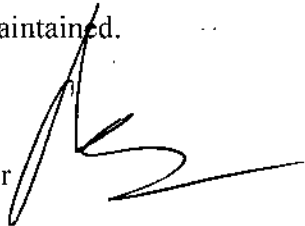
Appellant in person and Mr. Syed Jamal, Supdt. alongwith Addl. AG for respondents present. Counsel for the appellant is not in attendance, therefore, case is adjourned to 11-5-16 for arguments. Till then no recovery be made from the appellant.

  
Member

  
Member

  
11.5.2016

Appellant in person and Mr. Usman Ghani, Sr. GP for respondents present. Appellant requested for adjournment as his counsel was busy before the august Supreme Court of Pakistan. Adjourned for arguments on 10.6.2016. Till then 11-5-16 status-quo be maintained.

  
Member

  
Member

16.11.2015

Counsel for the appellant, M/S Syed Jamal, Supdt. and Muhammad Niaz, Deputy Conservator alongwith Addl. A.G for respondents present. Learned counsel for the appellant submitted application for suspension of the impugned notification/order dated 19.10.2015 issued by the Chief Conservator Officer Wild Life, which is placed on file. Notice of the said application be issued to the respondents. To come up for reply/arguments on application and rejoinder/arguments on main appeal on 9-12-15. Till then no recovery be made from the appellant.

  
MEMBER

  
MEMBER

09.12.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Learned counsel for the appellant requested for adjournment. To come up for arguments on 15.1.2016. Till then no recovery be made from the appellant.


  
MEMBER

  
MEMBER

15.01.2016

Counsel for the appellant and Mr. Muhammad Niaz, DFO alongwith Mr. Ziaullah, GP for respondents present. Since court time is over, therefore, the case is adjourned to 3-3-16 for arguments. Till then no recovery be made from the appellant.

  
Member

  
Member



3- 25.03.2015

Counsel for the appellant present. Learned counsel for the appellant argued that appellant while serving as Divisional Wildlife Officer at Saif-ul-Malook Lake was subjected to an enquiry for mis-managing the affairs of the park in the year 2013 and was ultimately punished by withholding of three increments for three years.

That the appellant was neither associated with the enquiry nor the same was conducted in the prescribed manners.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 26.05.2015 before S.B.

Appellant Deposited  
Security & Process Fee



  
Chairman

4 26.05.2015

Appellant in person and Mr. Syed Jamal, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written statement on 3.8.2015 before S.B.

  
Chairman

5 13.08.2015



Counsel for the appellant and Mr. Syed Jamal, Supdt. alongwith Assistant A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 16.11.2015.

  
Chairman

Form- A  
FORM OF ORDER SHEET

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

Case No. 184 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04.03.2015	<p>The appeal of Mr. Said Kamal presented today by Mr. Naveed Akhtar Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	9-3-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>25-3-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**

**PESHAWAR**

Service Appeal No. 84 /2015

Said Kamal. .... Appellant

Versus

Secretary Environment & Wildlife & others. ... Respondents

**I N D E X**

S.No	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal		1-7
2.	Affidavit		8
3.	Application for Condonation of Delay with Affidavit		9-11
4.	Addresses of the parties		12
5.	Copy of charge sheet	"A"	13 - 14
6.	Copy of statement of allegations	"B"	15 - 16
7.	Copy of reply	"C"	17 - 19
8.	Copy of questionnaire	"D"	20 - 21
9.	Copy of reply	"E"	22 - 23
10.	Copy of inquiry report	"F"	24 - 32
11.	Copy of show cause notice	"G"	33
12.	Copy of reply	"H"	34 - 36
13.	Copy of impugned order doted 28.01.2014	"I"	37
14.	Copy of the corrigendum	"J"	38
15.	Copy of the departmental appeal	"K"	39 - 41
16.	Copy of letter dated 08.07.2014	"L"	42
17.	Copy of the order of Peshawar High Court, Peshawar	"M"	43 - 55
18.	Copy of letter dated 06.12.2013	"N"	56
19.	Wakalatnama		57

Appellant

Through

  
**NAVEED AKHTAR**

Advocate Supreme Court

Dated: 13.02.2015

**IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**  
**PESHAWAR**

Service Appeal No. \_\_\_\_\_/2015

Said Kamal  
Deputy Conservator,  
Wildlife Division, Peshawar. . . . . Appellant

Versus

1. Secretary Environment & Wildlife,  
Khyber Pakhtunkhwa, Peshawar.
2. Chief Secretary,  
Govt. of Khyber Pakhtunkhwa, Peshawar.
3. Chief Minister, Khyber Pakhtunkhwa,  
Through Principal Secretary, Peshawar.
4. Chief Conservator Wildlife,  
Khyber Pakhtunkhwa, Peshawar. . . . . Respondents.

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**APPEAL U/S 4 OF THE SERVICES  
TRIBUNAL ACT, 1974 AGAINST THE  
ORDER DATED 28.01.2014, WHEREBY  
THE APPELLANT WAS AWARDED  
PUNISHMENT OF WITHHOLDING THREE  
INCREMENTS FOR THREE YEARS AND  
AGAINST THE NON-DISPOSAL OF HIS  
DEPARTMENTAL APPEAL DATED  
21.04.2014.**

**Respectfully Sheweth:**

1. That the appellant is currently serving as Deputy Conservator Wildlife Division, Peshawar in BPS-18.
2. That throughout his career, the appellant has performed his duties in accordance with the law to the satisfaction of the Department, and no charge of complaint has ever been given during his long tenure.
3. That the Department issued a charge sheet and statement of allegations to the petitioner on 29.03.2013, which was duly replied by the appellant. (Copies of charge sheet, statement of allegations and reply are attached as annexure "A", "B" & "C" respectively).
4. That, thereafter, an Inquiry Officer was appointed and so-called inquiry was conducted, wherein the appellant participated as and when required by the Inquiry Officer. (Copies of the questionnaire, its reply and the inquiry report are attached as annexure "D", "E" & "F" respectively).
5. That on conclusion of the so-called inquiry, the competent authority was pleased to issue the appellant a show cause notice on 28.10.2013 to the

effect of withholding of three annual increments for three years, which was duly replied too. (Copies of the show cause notice and reply are attached as annexure "G" & "H" respectively).

6. That to the astonishment of the appellant, the impugned order dated 28.01.2014 was issued, wherein a **major** penalty of withholding three annual increments for three years was imposed upon the appellant. (Copy of the impugned order is attached as annexure "I").
7. That, later on, a corrigendum was issued, wherein the word "**major penalty**" was substituted with the word "**minor penalty**" on 14.02.2014. (Copy of the corrigendum is attached as annexure "J").
8. That the appellant, inadvertently, filed a departmental representation before the Governor, Khyber Pakhtunkhwa, but later on, filed the same through proper channel before the competent authority i.e. the Chief Minister, Khyber Pakhtunkhwa. (Copy of the departmental appeal is attached as annexure "K").
9. That the appellant was not communicated result of the departmental representation, however, when he

approached the office of respondent No.4, he was given a copy of a letter dated 08.07.2014 regarding dismissal of departmental appeal. (Copy of letter dated 08.07.2014 is attached as annexure "L").

10. That feeling aggrieved, the appellant filed a Writ Petition before the Honourable Peshawar High Court, Peshawar, but the same was then withdrawn by the learned counsel for the petitioner. (Copy of the order of Peshawar High Court is attached as annexure "M").
11. That the appellant files the instant appeal, inter alia, on the following grounds;

**GROUND S:**

- A. That the impugned order is against the law and facts of the case, hence untenable.
- B. That the inquiry report prima facie speaks of malafide of the Inquiry Officer against the appellant, who has based his report on spot inspection of Lake Saif-ul-Malook in the year 2013, long after the appellant was posted out as Deputy Conservator Wildlife, Mansehra.

- C. That the inquiry has been conducted after three 3/4 years, when the appellant was posted in the area and the Inquiry Officer did not pay any heed to the longtime passed since the appellant was posted in the area.
- D. That the findings of Inquiry Officer are based on the observations of his nephew on the spot, a phenomena unprecedented in the official performances of public servants and that too after years the appellant was transferred from the area.
- E. That strangely the whole proceedings are silent as to how and on whose complaint the inquiry has been initiated and how the Government Exchequer suffered losses or how the Officer indulged in misconduct and that too after 3/4 years of the transfer of appellant from the area?
- F. That on one hand, the inquiry has been based mainly on spot inspection of the area, while on the other the Officer who was currently serving there namely, Muhammad Hussain has been exonerated of the charges, which speaks of malafide of the Inquiry Officer against the appellant.



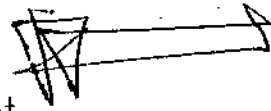
- G. That it is pertinent to bring into the notice of this Honourable Tribunal that the Department itself has expressed its concern over the strange and novel proceedings of the Inquiry Officer vide letter dated 06.12.2013, written by respondent No.4 to the Establishment Department, Government of Khyber Pakhtunkhwa. (Copy of letter dated 06.12.2013 is attached as annexure "N").
- H. That the impugned order or for that matter the whole proceedings are not sustainable in law.
- I. That the inquiry is defective in all respects, where no witnesses have been examined, not even a complaint has been brought to the surface and the appellant was left unheard on many vital issues.
- J. That strangely the Inquiry Officer took the appellant alongwith other Officers under inquiry for spot inspection to Naran and Lake Saif-ul-Malook, but based his findings on the observations of his nephew, recorded by him the next day of the spot inspection.
- K. That conduct of the Inquiry Officer during the whole proceedings does not appear to be above board and speaks of his malafide against the appellant.

- L. That the inquiry has been conducted at the back of the appellant.
- M. That no personal hearing was afforded to the appellant before passing the impugned order.
- N. That since the appellant is suffering monetary losses due to the impugned order and being a recurring cause the question of limitation does not arise in the instant case.
- O. That the appellant may kindly be allowed to adduce additional arguments/ documents at the time of hearing of the instant appeal.

It is, therefore, humbly prayed that on acceptance of instant appeal, the impugned order dated 28.01.2014 may kindly be set aside and the appellant may kindly be exonerated of the charges.

Through

Appellant



  
**NAVEED AKHTAR**

Advocate Supreme Court

Dated: 13.02.2015

IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,

PESHAWAR

Service Appeal No. \_\_\_\_\_/2015

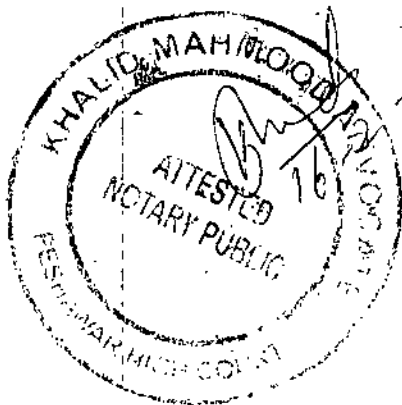
Said Kamal. ....Appellant

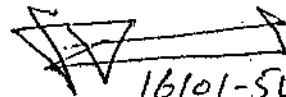
Versus

Secretary Environment & Wildlife & others. . . Respondents

AFFIDAVIT

I, Said Kamal, Deputy Conservator, Wildlife Division, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.



 16101-5490630-7

DEPONENT

**IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**  
**PESHAWAR**

C.M.No. \_\_\_\_\_/2015

In

S.A.No. \_\_\_\_\_/2015

Said Kamal. .... Applicant/Appellant

Versus

Secretary Environment & Wildlife & others. . . Respondents

**APPLICATION FOR CONDONATION OF DELAY, IF ANY**

**Respectfully Sheweth:**

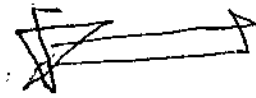
1. That the above tilted appeal is being filed today, which seems to be delayed by a few days.
2. That the appellant prays for condonation of delay, if any, inter alia, on the following grounds;

**GROUND S:**

- A. That the appellant has got a good prima-facie case on merits.
- B. That being a financial matter and recurring cause of action, therefore, delay in the same is condonable under the law and in view of the judgments of superior courts.

- C. That delay, if any, was not intentional on part of the appellant.
- D. That the law and the principles of justice enunciated so far prefer decision of cases on merits instead of technicalities.
- E. That otherwise, appellant has got a good case for interference by this Honourable Tribunal.
- F. That it will be lawful and in accordance with principle of justice that the delay, if any, is condoned.

It is, therefore, humbly prayed that on acceptance of the instant application, the delay, if any, may kindly be condoned and appeal may kindly be decided on its merits.



Applicant/Appellant

Through

  
**NAVEED AKHTAR**

Advocate Supreme Court

Dated: 13.02.2015

IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,

PESHAWAR

C.M.No. \_\_\_\_\_/2015

In

S.A.No. \_\_\_\_\_/2015

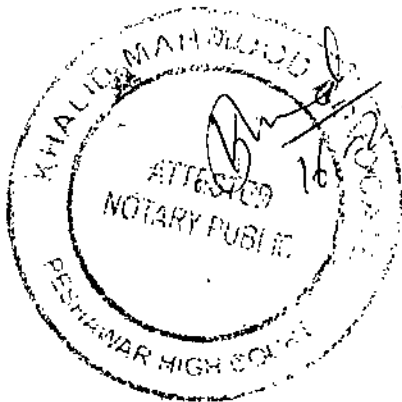
Said Kamal. .... Applicant/Appellant

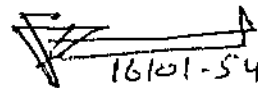
Versus

Secretary Environment & Wildlife & others. . . Respondents

AFFIDAVIT

I, Said Kamal, Deputy Conservator, Wildlife Division, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Condonation Application** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.





16101-5490630-7

DEPONENT



**IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**  
**PESHAWAR**

Service Appeal No. \_\_\_\_\_/2015

Said Kamal. . . . .Appellant

Versus

Secretary Environment & Wildlife & others. . . Respondents

**ADDRESSES OF THE PARTIES**

**A P P E L L A N T:**

Said Kamal  
Deputy Conservator,  
Wildlife Division, Peshawar.

**R E S P O N D E N T S:**

1. Secretary Environment & Wildlife,  
Khyber Pakhtunkhwa, Peshawar.
2. Chief Secretary,  
Govt. of Khyber Pakhtunkhwa, Peshawar.
3. Chief Minister, Khyber Pakhtunkhwa,  
Through Principal Secretary, Peshawar.
4. Chief Conservator Wildlife,  
Khyber Pakhtunkhwa, Peshawar.

  
Appellant

Through

  
**NAVEED AKHTAR**  
Advocate Supreme Court

Dated: 13.02.2015

(13)

Annul. c.A. 11

CHARGE SHEET

I, Justice (R) Tariq Parvez Khan, Chief Minister, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Mr. Said Kamal, Deputy Conservator Wildlife (BS-18), Khyber Pakhtunkhwa Wildlife Department, as follows:

That, you remained posted as Divisional Wildlife Officer, Manshera from 12.09.2006 to 15.08.2008, committed the following acts of omissions:

- a. That you failed to safeguard the interest of the government in managing the Saiful Malook National Park in a way to preserve its ecological significance and its outstanding scenery, flora and fauna in a natural state. Similarly, the tourist facilities and other buildings within the park have been developed in a way, which is impairing the objectives of the park. The kiosks and tuck shops have been developed outside the service area and those too were giving a disorderly look. A large number of boats were there in the pristine lake, which was again definitely beyond the capacity of the lake. A large number of horses were freely roaming all around the lake and its surrounds. The ground flora was also not observed due to intense grazing. All these factors contributed towards compromising the outstanding scenery of the park.
- b. That you failed to control haphazard boating within the lake. In the light of status quo granted by the court, the number of boats should have been kept at the level when the status quo was granted (3-4 boats). However the number of boats within the lake increased to 35 or more. This indicates that you failed to limit the number of boats within the park. Your ineffective management not only altered the natural values of the park but in doing so you also violated the status-quo granted by the court.
- c. That due to your loose administration and poor management, the number of horses within the park could not be controlled to the lowest possible number. Initially you made registration of fifty horses, however later-on the number of horses increased upto 200 during the peak tourist season. This uncontrolled horse riding played havoc with the ecological values of the park by wiping out the entire ground flora and in absence of any animal waste disposal arrangements, these dropping / feces of horses were spread all over the park area and was also contaminating the pristine lake of the national park.
- d. That due to your loose administration, cattle grazing could not be checked. Due to this free grazing, the ecological values of the park were further deteriorated and all this contributed towards disappearance of ground flora.
- e. That you failed to utilize the public money for recuperating the overall ecology of the park and improving the tourist facilities within the park. Two developmental schemes were executed with a total expenditure of Rs. 16.064 Million, to check the mushroom growth of kiosks, tuck shops and restaurants; regulate boating in the lake and ensure cleanliness in the park. These schemes should have resulted in some improvement within the national park. But the miserable condition of the park clearly indicates that an amount of Rs. 7.242 million has gone down the drain due to poor execution of the developmental schemes by you.

*SAID KAMAL*  
(w)



- f. That due to your loose administration and ineffective management the park has been exposed to multiple disturbances and irrational development, resulting in compromising the ecological significance of the park. As such, there is no hope that the park can fulfil its objectives in protecting its scenery, flora or fauna.

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

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

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

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

6. A statement of allegations is enclosed.

(JUSTICE (R) TARIQ PARVEZ KHAN)  
CHIEF MINISTER, KHYBER PAKHTUNKHWA.

29.3.2013

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**DISCIPLINARY ACTION.**

I, Justice (R) Tariq Parvez Khan, Chief Minister, Khyber Pakhtunkhwa, as competent authority, am of the opinion that Mr. Saïd Kamal, Deputy Conservator Wildlife (BS-18), Khyber Pakhtunkhwa Wildlife Department, 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**

- a. That he failed to safeguard the interest of the government in managing the Saiful Malook National Park in a way to preserve its ecological significance and its outstanding scenery, flora and fauna in a natural state. Similarly, the tourist facilities and other buildings within the park have been developed in a way, which is impairing the objectives of the park. The kiosks and tuck shops have been developed outside the service area and those too were giving a disorderly look. A large number of boats were there in the pristine lake, which was again definitely beyond the capacity of the lake. A large number of horses were freely roaming all around the lake and its surrounds. The ground flora was also not observed due to intense grazing. All these factors contributed towards compromising the outstanding scenery of the park.
- b. That he failed to control haphazard boating within the lake. In the light of status quo granted by the court, the number of boats should have been kept at the level when the status quo was granted (3-4 boats). However the number of boats within the lake increased to 35 or more. This indicates that he failed to limit the number of boats within the park. His ineffective management not only altered the natural values of the park but in doing so he also violated the status-quo granted by the court.
- c. That due to his loose administration and poor management, the number of horses within the park could not be controlled to the lowest possible number. Initially he made registration of fifty horses, however later-on the number of horses increased upto 200 during the peak tourist season. This uncontrolled horse riding played havoc with the ecological values of the park by wiping out the entire ground flora and in absence of any animal waste disposal arrangements, these dropping / feces of horses were spread all over the park area and was also contaminating the pristine lake of the national park.
- d. That due to his loose administration, cattle grazing could not be checked. Due to this free grazing, the ecological values of the park were further deteriorated and all this contributed towards disappearance of ground flora.
- e. That he failed to utilize the public money for recuperating the overall ecology of the park and improving the tourist facilities within the park. Two developmental schemes were executed with a total expenditure of Rs. 16.064 Million, to check the mushroom growth of kiosks, tuck shops and restaurants; regulate boating in the lake and ensure cleanliness in the park. These schemes should have resulted in some improvement within the national park. But the miserable condition of the park clearly indicates that an amount of Rs. 7.242 million has gone down the drain due to poor execution of the developmental schemes by him.

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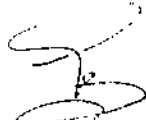
f. That due to his loose administration and ineffective management the park has been exposed to multiple disturbances and irrational development, resulting in compromising the ecological significance of the park. As such, there is no hope that the park can fulfil its objectives in protecting its scenery, flora or fauna.

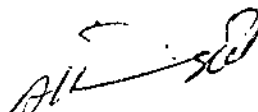
2. For the purpose of inquiry against the said accused with reference to the above allegations, an enquiry officer/enquiry committee, consisting of the following, is constituted under rule 10(1)(a) of the Rules ibid:

- i) Mr. Akbar Khan Marwat (PES EG BS -19)
- ii) \_\_\_\_\_

3. The inquiry officer/inquiry 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 days of the receipt of this order, recommendations as to punishment or other appropriate action 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 enquiry officer/enquiry committee.

  
 (JUSTICE (R) TARIQ PARVEZ KHAN)  
 CHIEF MINISTER, KHYBER PAKHTUNKHWA.  
 29.3.2013

  
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Annexure "C"

It is submitted that before responding to the charges mentioned in the charge sheet it is pertinent to mention here that I have never received any explanation in this regard nor have been offered any opportunity of personal hearing before framing the charges against me.

However, serially reply to the charges mentioned in the charge sheet issued vide Govt. of Khyber Pakhtunkhwa, Environment Department Notification No. SO (Estt)Env/2-50(20)/2k12 dated 3<sup>rd</sup> April 2013 is furnished as under:

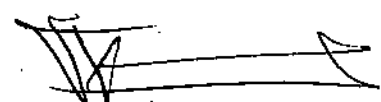
- a. The undersigned remained posted as Divisional Forest Officer Wildlife Mansehra from 12/09/2006 to 15/08/2008 and had taken over the charge of said position from my predecessor i.e Mr. Iftikhar-Uz-Zaman. The undersigned tried his level best to maintain and preserve ecological significance, outstanding scenery, flora and fauna of Saiful Malook National Park to the best possible manner. The development works and tourists facilities so executed were as per government approved PC-I titled "Management of National Park in Kaghan Valley". However during implementation of the project due attention was given to maintain the ecology of the park through least disturbance to flora, fauna and scenic beauty of the park. The Kiosk and Tuck shops were not encouraged but managed in a manner to restrict them to the service area. The boats were restricted to four (4) in numbers which was providing healthy recreational facilities to the tourists on one hand and was not burden on ecological aspect of the lake on the other. The horses of the local communities were managed keeping in view balance between their livelihood opportunities and the undisturbed ecology of the park. Attempts for controlled over grazing were yielding the flora of the locality in an established and effective manner.
- b. During my tenure, boats were restricted to four (4) only and were properly leased out to the contractor (photocopy of agreement annexed). The ambiguity that the contractor created through the status quo order by the court of law does not relate to my period of posting, please.

AKH-SUD  
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- c. During tenure of undersigned, the number of horses were never allowed to exceed minimum permissible limit i.e fifty (50) horses at a time. Horses were circumscribed and confined only to the recreation zone of the park and were never allowed to the core zone of the National Park to protect the natural vegetation and soil from the adverse impacts of compaction, grazing and defecation of the horses. Proper sanitation staff was in place for proper collection and subsequent disposal of the feces of the horses. The violators were properly proceeded against and challans were chalked out against them (List of Challans attached). Had the situation been other way around the complaints would have been registered during visits of VIPs and dignitaries. But with the grace of Allah no such incident were reported during the tenure of the undersigned.
- d. No free grazing was allowed in the premises of the lake and the core area of 302 Kanal was acquired during the tenure of undersigned. No cattle were allowed within the premises of the scenic lake to avoid negative repercussion of grazing on soil and fresh water of the lake. Due to these intensive efforts grazing was fully controlled and flora of the periphery of the lake flourished resultantlly. No complaint or observation regarding free grazing and depletion of natural flora and fauna were made during tenure of the undersigned.
- e. The project "Management of National Park in Kaghan Valley" had been under implementation well before taking over the charge of Mansehra Wildlife Division by the undersigned. An expenditure to the tune of Rs.3,336,744/- including Pay of staff worth Rs.796,836/- and other expenditure of Rs.2,539,908/- were incurred on various developmental activities strictly in lieu with the provisions of the PC-I. Each penny was properly utilized for the betterment of the National Park. Hence no question of misappropriation or embezzlement arises during tenure of undersigned. (Breakup of expenditure annexed).

Ali-Soor  
(M)

1. As explained above, during my tenure all the developmental activities were carried out according to the provision of PC-I. No activities to the detriment of the objective of establishment of National Park were allowed during the period and hence no adverse impacts on natural ecology, flora and fauna and scenic value of lake were allowed to happen during tenure of the undersigned.
2. As explained in the aforementioned facts, the undersigned has not committed any misconduct, inefficiency and corruption under Rule-3 of the Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules 2011, I humbly request to kindly exonerate me of all the charges given in the charge sheet.
3. I also request for personal hearing, please.



(Said Kamal)  
Deputy Conservator  
Wildlife

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QUESTIONIAR

Annex. a D

During your posting as D.F.O Wildlife Mansehra from 12.9.2006 to 15.8.2008 (Approximately two years) what steps you have taken in the light of following questions:-

1. The Saiful Maliik National Park was declared as National Park in year 2003 vide Notification bearing No.SO(Technical)/VII-Gen/2003, dated 28.4.2003. What was the status of land escape of area declared as National Park especially pertaining to its scenic beauty flora, Fauna including the lake and its surrounding area?
2. In what condition the Saiful Malook National Park especially pertaining to its complete disarray distribution of Kiosks and Tuck Shops all around the lake was handed over to you by your predecessor?
3. What steps you have taken to preserve the outstanding scenery flora, fauna including the systematic developments i.e. Kiosks, Truck, Shops and other tourist facilities?
4. Has proper permission/approval been granted by Higher Authorities for making agreement with one particular person for plying boats in Saiful Malook lake?
5. How the number of boats increased from 4 to 35 or more?
6. Has proper approval been granted by any higher authority for Registration of Horses for riding of Tourists in Saiful Malook National Park?
7. How the number of Horses increased from registered 50 numbers to 200.
8. What measures you have taken to control from trampling of flora, collection and disposal of animal wastes?
9. Have you been granted permission by higher authorities to increase the registration of Horses for local people in order to keep their livelihood in better condition?

*MIL SDE*  
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- 10. What measures you have taken to control haphazard and free illegal cattle grazing in Saiful Malook National Park area?
- 11. You have spent 7.242 million out of two projects launched for development of tourist facilities in Saiul Malook National Park. What achievements you have made from this expenditure?
- 12. What steps you have taken administratively to overcome the disturbance caused due to tourist inflow and irrational development for protection of ecological significance of the park?

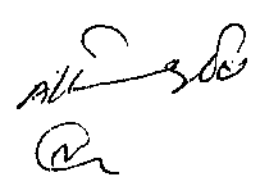
While responding to these questions you should specifically submit any documentary proof of your tenure.

Intimate whether you desire to be heard in person?



(Akbar Khan Marwat)  
 Addl: Secretary (OP)/Enquiry Officer  
 Law Department.

Said Kamal  
 D.F.O. Wildlife, Mansehra.





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**Reply to the Questionnaire received from Mr. Akbar Khan Marwat, Additional Secretary (OP)/Enquiry Officer Law Department vide letter No. AS (OP)/LD/Enq/1-1/2013/8145-46 dated 24-05-2013**

1. The question pertains <sup>to</sup> April 2003 and the undersigned took over the charge in September 2006 after 3 years. I can not comment on the status of the landscape at that time.
2. Before my taking over the charge the land acquisition was not complete and the legal containment of the Kiosks and other such structures in certain patterns was an issue. The land acquisition process completed in January 2008 and then most of these structures were confined to service area declared as such in a short period before my transfer. Some of the Kiosks owners were also challaned who were not agreeing to move to service area.
3. Tourist facilities which could have a damaging look and effect on the outstanding scenery, flora, and fauna were not constructed by the department and were not allowed by any private party. After completion of acquisition proceeding of land, the service area was declared to have a systematic development of facilities like Kiosks, tuck shops, vehicle parking.
4. This has been a practice in vogue before my taking over the charge and the agreement were signed in 2005 and before which were then followed during 2006 and 2007. During May 2008, the Chief Conservator Wildlife directed the undersigned to execute agreement with boat operators in Lulu Pat lake on the pattern of Saif ul Maluk Lake. This is clear evidence of the permission/approval of the Higher Authorities.
5. The number of boats remained four during my tenure. I have no knowledge of any increase afterwards.
6. There has been no such formal order conveyed by higher ups during my tenure however, this planning of maximum number of 50 horses was contemplated and implemented as Divisional Forest Officer in consultation with lower staff, colleagues, and higher ups. This was never increased from 50 horses and the horses were also confined out of the core area during my tenure.
7. As explained vide serial number 6 above, this was never increased from 50 during my tenure.
8. The trampling of flora could be caused by horses but the horses were confined to recreational area and were allowed to be driven on defined routes well marked available to the horse drivers. Some violations did occur and challans were issued against them. In the recreation zone also where horses were plying proper labor was engaged for safe collection and disposal of animal waste.
9. As already explained there was no increase of horse registration during my tenure.
10. The core zone i.e. lake and its periphery where the land was owned by the govt no grazing was allowed of any kind whatsoever. There was no violation of any kind of grazing of livestock in this core area and the staff was particularly watchful about this.

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In the rest of the national park area which spread over large mountains and valleys, the land is owned privately and there have been no legal and formal institutional regulation to stop the grazing in these vast areas. This was yet to be made a subject of management plan to have been written with community participation. During my tenure the activities on this aspect were conducted to raise awareness among the communities about the objectives and benefits of national park.

11. The total expenditure during 2006-07 and 2007-08 during my tenure amount to Rs.3.33 million and not Rs.7.242 million, out of this Rs.3.33 million, Rs.2.53 million was spent on works and other overhead expenditures as per PC-1 provision and about Rs. 0.796 million were accounted for salaries.

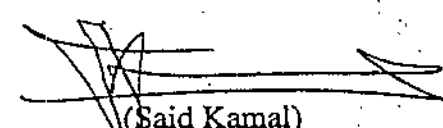
Some of the achievements are listed as follows:

1. Daily labor for cleaning and maintenance of the park
2. Construction/repairing of Naran Hut.
3. Construction of wooden bridge.
4. Development of service area and vehicle parking.
5. Construction of trails.
6. Construction of camping grounds.
7. Various publicity and awareness boards.
8. Land acquired

12. In the capacity of Divisional Forest Officer wildlife the following steps are worth mentioning to overcome disturbance due to tourist inflow. There was however, no irrational development which could be harmful to the ecological significance of the park.

1. Training of staff and community based tourist guides through Adventure Foundation, Pakistan, Cleaning and collection of solid waste with safe disposal was exercised as part of training.
2. The service area was declared and core area was protected from disturbance due to tourist influx. Number of horses and number of boats were confined to least to avoid disturbance.
3. Campaigns of environmental awareness and conducting the tourists properly to avoid the core area from disturbance were the major activities of the staff and daily waged labor engaged.
4. The improperly located tuck shops and Kiosks were shifted through the owners to the service area marked for this purpose.
5. The bridal path was well marked for the horse riders around the lake.

I also request to be heard in person.



(Said Kamal)

Divisional Forest Officer Wildlife



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Annexure-F

Enquiry Report

In compliance with the order bearing Notification No. SO(Estt)Envt/2-S/120/2K-12 dated 03.04.2013 of Environment department, issued after approval of Competent Authority (Notification is at Annexure-A), enquiry to the charges/allegations leveled against accused officers/officials mentioned in the above order was conducted. Detailed report is submitted as under:

Background

1. In April 2003, the Secretary to the Government of Khyber Pakhtunkhwa Environment Department exercising powers U/S-16(2) of NWFP Wildlife (Protection, Preservation, Conservation & Management) Act 1975 vide Notification No. SO(Technical)/VIII-Gen/2003 dated 28.04.2003 (Copy is at Annexure-B) declared/established a National Park on 12026 acres area on community land, around Lake Saif-UI-Malook in Mauza Kaghan Tehsil District Mansehra. After this, preparatory work was started by Wildlife department and prepared first proper PC-I. The first PC-I with total cost of 8.300 million for three years was approved by DDWP in meeting held on 15.03.2005. (Copy of minutes of meeting is at Annexure-C). Administrative approval was accorded by the competent authority on 09.04.2005 (Copy enclosed at Annexure-D).
2. Detail cost of the project as per first PC-I with break up is as under:
  1. Local Cost:
    - a. From Government = 4.900 M
    - b. From Local Sources = 3.400 M (to be generated)
  2. Foreign Exchange = Nil

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Total = 8.300 M

From Local Sources Rs. 1.7 M shall be annually generated with the following activities:

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- 1. Visitors' fee @ Rs.10/head (1,00,000 visitors per season) Rs. 10,00,000/-.
- 2. Parking Fee @ Rs. 10/Vehicle (50,000 Vehicles per season) Rs. 5,00,000/-.
- 3. Leasing of Boats per season (50,000 per season) Rs. 50,000/-.
- 4. Leasing of Camping Sites per season = Rs. 50,000/-.
- 5. Leasing of Restaurants and Tuck Shop = Rs.1,00,000/-.

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Total.= Rs. 1.700 (M)

This 1.700 M has been reflected in PC-I as recurring annual expenditure to be made for continuation of this project.

3. Implementation activities as per 1st PC-I started in year 2005. Later on, a revised PC-I with total cost of Rs. 1.02 M specifically for management of national parks in Kaghan Valley was approved on 13.12.2007 (copy enclosed as Annexure-E). Then another scheme namely Establishment and Development of National parks in NWFP ADP Schemes No. 633 for the period 2008-2009 with total cost of 39.950 M was approved vide Administrative Order dated 03.04.2009 (Copy at Annexure-F). In this scheme, besides establishment of 3 National parks at other places, management of national park at Lake Saif-UI-Malook was also included. With this for management of National parks in Kaghan valley, especially for management and development of Lake Saif-UI-Malook National park, approximately 18 (M) were sanctioned.

4. The objectives enlisted in the first PC-I are reproduced below:
- 1. To rehabilitate endangered wildlife species of dry temperate ecosystem such as snow Leopard, Brown Bear, Weasel, Lynx, Himalayan Ibex, Snow Cock, Snow Partridge etc.
  - 2. To preserve the serenity and prestinty of legendry Lake Saif-UI-Malook, Dulugar and Dodipatsar.
  - 3. To promote education and awareness among the masses for conservation of nature and natural resources.

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For achievement of these objectives following 15 activities were proposed to be performed for better management and development of National Park at Lake Saif-Ul-Malook.

1. Acquisition of 1000 Kanal of land around the three lakes.
2. Construction of information centre cum office.
3. Construction of public toilets.
4. Provision of 12 Nos. of rain/sun shelters for tourists.
5. Development of Camping Grounds.
6. Provision of Trash Bins/Dust Bins.
7. Construction of incinerator.
8. Publicity and awareness.
9. Repair and improvement of paths.
10. Removal of trash and garbage.
11. Paving of outlet with proper path and water storage regulation arrangement.
12. Development of parking area at Lake Saif-Ul-Malook.
13. Training of tourist guides.
14. Landscaping of restaurants and tuck shops.
15. Erection of signs and caution boards.

5. However, year wise amount released for management and Development of Lake Saif-Ul-Malook National park is given below:

S.No.	Year	Amount Released
01	2004-05	1.000M
02	2005-06	3.5000M
03	2006-07	0.600 M
04	2007-08	2.570M
05	2008-09	No Release
06	2009-10	2.336 M
07	2010-11	2.651 M
08	2011-12	2.749M
Total		15.000M

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Hence total amount of Rs. 15.000M released.

So, for performance of the above activities expenditures were incurred. The gist of total year wise detail expenditure under head of the account A-03970 without pay and allowances made by officers is given below:

<u>S.No.</u>	<u>Year</u>	<u>Total Expenditure</u>	<u>Remarks</u>
01	06/2005	8,58,000/-	Made by Iftekhar Uz Zaman as Range Officer
02	08/2005 to 09/2006	15,97,045/-	Made as DFO
03	10/2006 to 06/2008	19,08,071/-	Saed Kamal DFO
05	07/2008 to 2009	-	Funds not released
06	02/2009 to 03/2010	5,37,080/-	Made by Muhammad Husnain DFO
-	04/2010 to 09/2010	9,13,569/-	Muhammad Faique DFO
08	10/2010 to 06/2012	20,64,185/-	Iftekhar Uz Zaman as DFO
<b>Total</b>		<b>95,72,910/-</b>	

## PROCEEDING

1. Upon receipt of Notification at Annexure-A, accused officers/officials were summoned for 16.04.2013. Charge sheet and statement of allegations were handed over to them. On 24.04.2013, Iftekhar-Uz-Zaman, Saied Kamal and Muhammad Faique submitted detailed reply to the charge sheet and statement of allegations. One Niaz Muhammad Range Officer sent a reply through post. Muhammad Hussain DFO Wildlife Mansehra and three wildlife watchers submitted their replies on 23.04.2013. Representative of Department was busy in a workshop and hence did not attend on 24.04.2013. He was summoned for 29.04.2013. He was asked to furnish copies of all PC-Is, minutes of meeting of DDWP and administrative

*Muhammad Hussain*  
@

approval of PC-I's, Calendar of activities of DFOs during project period and internal and external audit reports of project. He furnished all the documents except calendar of activities. Perhaps the same has been misplaced from him during compilation and submission.

2. Replies to charge sheet and statement of allegations of officers and officials are from (Annexure G to N). Then questionnaires were drafted for each officer and official with the help of representative of Department (Copies from Annexure O to V). Questionnaires were sent/delivered to officers/officials through Chief Conservator Wildlife Department. The accused officers/officials submitted replies to questionnaire on post and at different dates. These are from Annexure-W to D1. Meanwhile, spot visit of Lake Saif-UI-Malook was made on 10.06.2013 as per visit programme at Annexure-E1.

3. As all the accused officers/officials and representative of Department Mr. Saifur Ah Shan Conservator Wildlife accompanied undersigned on 10.06.2013 so the situation on Lake Saif-UI-Malook was under control. But as boats in lake were 31 but were not plying on 10.06.2013. So, I sensed that other violations as per charge sheet might be made on spot. Therefore, on 11.06.2013, I made a surprise visit of Lake Saif-UI-Malook and observed quite different situation on spot. Though boats were not plying but its numbers were 30 to 32 at different locations on 11.06.2013 meaning by that these were stopped at the corner immediately where these were nearer to Lake Saif-UI-Malook corners after seeing my vehicle. The number of horses as enumerated through my real nephew Muhammad Iqbal were 165. Nearly 30 to 35 horses were roaming on open places in vicinity of outlet of lake. Moreover, lower staff were found busy in other activities. There was complete mismanagement all around bank of the lake (water body). A hotel was being run at the point where water was entering in lake and where horses are being hired by the visitors/tourists for a trip to Ansoo Lake.

*Signature*  
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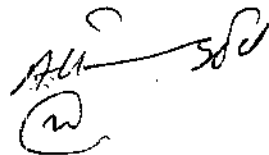
## FINDINGS/CONCLUSIONS

During the proceeding conducted in respect of the enquiry following findings/conclusions are drawn and submitted:

### 1. Specific/Chargewise:

- a. First portion of this charge could not be proved because the Department had not supported his version through video and visual means, the previous status of flora, fauna and scenery of Lake Saif-Ul-Malook at the time of framing of this part of charge. The remaining portion of this charge proved to the extent of number of horses and boats but the tuck shop kiosk and hotels, though not managed properly, but were confined to service area to some extent.
- b. The Charge at Serial (b) proved against all officers because no specific approval from competent authority for erection of barriers had been accorded.
- c. Rule-7-2- Clause-g of Central Treasury Rules, Vol-I gives protection to Iftekhhar-Uz-Zaman accused officer in respect of this charge. The same is reproduced below:  

"Rule-7 Sub-Rule-2 Clause-(g) "in case of cash received by the forest Department and utilized in the meeting immediate local expenditure"
- d. Charge at Sr. d stood proved after surprise visit on 11.06.2013.
- e. Ditto
- f. This charge stands proved upto the extent that the wildlife Department had very loose administration and management on account of many factors. The main one is that the community people had not yet mentally accepted the authority of the Government on their own landed property, though acquired.
- g. This charge is proved against the accused officers for unjustified expenditure made by them from the head of account A-03970 (Conservancy & Management). The detail of wrong and unjustified

*Ali Saeed*  




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expenditure except pay and allowances made by each officer is given in the table below:

S.No.	Name of Accused Officer	Period of posting as RO/DFO	Total Expenditure made	Justified	Unjustified	Remarks
01	Iftekhhar-Uz-Zaman	RO	85,800	87,700	7,60,300	Against provision of PC-I and no bathroom or shelter was found on spot
02	Iftekhhar-Uz-Zaman	As DFO 08/2005 to 09/2006	15,97,045	13,79,930	2,17,115	No activity due to the earthquake
03	Said Kamal	2006 to 2008	19,08,071	12,42,033	6,66,038	against provision of PC-I
04	Muhammad Hussain	02/2009 to 18.03.2010	5,37,080	5,37,080	Nil	All justified
05	Muhammad Faique	04/2010 to 09/2010	9,13,569	8,00,869	1,12,700	Against Provision of PC-I
06	Iftekhhar-Uz-Zaman	10/2010 to 30.05.2012	20,65,185	16,37,578	4,27,607	-Do-

It has been proved as explained in preceding paragraph (f).

**2. General Findings:**

- The declaration/establishment of Lake Saif-Ul-Malook National Park on community land vide Notification at Annexure-B was in sheer contravention of section 16(i) of NWFP Wildlife (Protection, preservation, conservation & Management) Act 1975. Section-16(i) of Act Ibid is reproduced below:

**Section 16(i) of NWFP Wildlife Act 1975**

*With a view to the protection and preservation of Scenery, Flora and fauna in the natural estate, Government may by Notification in official Gazette, declare any area which is property of Government or otherwise Government has propriety rights to be a National Park and may demarcate it in such manner as may be prescribed."*

With plain reading of above provision of law, the Notification for establishment of National Park at Lake Saif-Ul-Malook on community land was

*[Handwritten signature]*

illegal void and has no footings because the land as per Revenue record upon which Lake Saif-UI-Malook National Park has been established including the water body of lake is *Shamilat-e-Deh* as per ownership column of jamabandi and has an entry "Maqbooza Malikan" ( *موقوف مالکان* ) in cultivation column. As per Section 16(i) of wildlife Act 1975 the land of National Park of Lake Saif-UI-Malook even the water body of lake is not the property of Government and the Government has also no proprietary rights in it. Hence, the whole process i.e. establishment of National Park at Lake Saif-UI-Malook, preparation of PC-I for the project was futile exercise as per law and Revenue record before proper acquisition was made because the Land Acquisition process was started later on. The establishment of National Park at Lake Saif-UI-Malook and preparation of PC-I must be started after completion of land acquisition process and taking over the physical and constructive possession of the land acquired.

*This is not the scope of inquiry in case and substantial*  
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*2004*

Activities were not carried out as per first PC-I by all the officers and officials. No tangible achievements have been made against expenditure made on them. As per PC-I the Department has to construct a bathroom and 12 rain/sun shelters. In June-2005, the Department has made total expenditure of Rs. 7,60,300/- on construction of 8 bathrooms and 8 sun/rain shelters and one dispensary but on spot these were not constructed actually because their remains/scraps were not shown to the undersigned on spot and also at Naran, if as per version of DFO Iftekhar-uz-Zaman who was incharge Range Officer of Naran National Park project and that these have damaged due to earthquake but their remains and scraps must be available on spot and at Naran. Moreover, Iftekhar-uz-Zaman DFO in his reply to charge sheet and as per revised PC-I, no activities were performed in the whole year 2005. But it is astonishing that he had expenditure of Rs. 15,97,045/- including land acquisition compensation of Rs. 13,50,000/-. Now, if an amount of land compensation is deducted, then expenditure of Rs. 2,47,045/- made from /2005 to 06/2006 seems to be fake and unjustified and likely to be and from him. Moreover, he had also made unjustified expenditure of

*17/11/06*  
*[Signature]*

Rs. 4,27,607/- from 10/2010 to 06/2012. So, the aggregate amount of Rs. 14,35,052/- is recoverable from him.

4. All the accused officers/officials have utilized the resources/funds provided by the Government against activities of PC-I but utterly failed to fulfill the liabilities i.e. viz for generation of funds through local sources as per PC-I except one officer Muhammad Hussain who made expenditure of Rs. 5,37,080/- and recovered 4,11,000/- in head Entry Fee, which is also not upto the mark.

5. Mr. Said Kamal DFO has made expenditure of Rs. 19,08,071/- but did not generate funds from local sources besides the fact that he was the person to sign the agreement for leasing the boating rights with private parties. He also silently allowed the horse riding though each horse registered at Rs. 500/- per season. The number of horses and boats increased during his tenure which is now uncontrollable.

6. All the officers failed to actively pursue the case for taking possession of land after acquisition proceedings completed in year 2008 and mutation No. 14182 dated 29.11.2010 except one Muhammad Hussain DFO and Niaz Muhammad Range Officer, who made one attempt and made quarrel with the locals on spot as well.

7. Zonation on spot is not definite and it is fake and presumptive.

Recommendations:

1. Accused officers Iftekhār-Uz-Zaman, Said kamal, Muhammad Faique shall deposit the unjustified expenditure made by them as per table at Para g of Specific/Chargewise Findings. The stoppage of three annual increments of accused officers Iftekhār-Uz-Zaman, Said kamal, Muhammad Faique is also recommended.

2. Muhammad Hussain DFO and Niaz RO are exonerated upto extent that they had made justified expenditure while Muhammad Hussain had contributed Rs. 4,11,000/- on account of entry fee etc. Moreover, Niaz Muhammad RO had made commendable work during his short tenure of one month.

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SDO

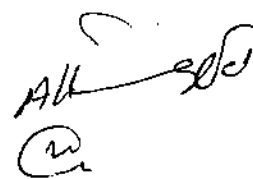
3. Muhammad Hussain DFO is hereby censured because charges at "d" & "e" had been proved after surprise visit.
4. Syed Nazar Hussain, Fiaz Muhammad and Muhammad Aalam wildlife watchers of Lake Saif-UI-Malook project have failed to perform their duties in respect of management of the park on spot. Therefore, minor penalty of stoppage of four increments (without accumulating effect) is to be imposed on each of them.
5. Control and management of Lake Saif-UI\_Malook National Park is to be taken from wildlife Department and be handed over to the Forest Department.
6. Acquisition of landed property of Khasra No. 5559/5553/219/2/2 measuring 190-K be withdrawn while possession of land acquired of Khasra No. 5559/5553/2/1 measuring 111K-16M be taken and be maintained. Then with the amount saved from compensation and unjustified expenditure recovered from accused officer, complete fencing of water body of lake bearing Khasra No. 220 measuring 912K-11M (Ghair Mumkin Talab) alongwith Khasra No. 5559/5553/219/2/1 measuring 111K-16M total area 1024K-07M be made with an entry gate/point. Visitors be strictly prohibited to carry food items or fruits inside the fenced area or to establish any camp.

Dated: 22.07.2013



Akbar Khan Marwat,  
Additional Secretary Law (Opinion),  
Khyber Pakhtunkhwa Law Department,  
Peshawar.

22/7/2013





GOVERNMENT OF KHYBER PAKHTUNKHWA

SHOW CAUSE NOTICE

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Said Kamal, Divisional Wildlife Officer (BPS-18), Wildlife Department, as follows:

- 1 (i) that consequent upon the completion of enquiry conducted against you by the Enquiry Officer, for which you were given opportunity of hearing vide office communication No.SO(Estt)Env/ 2-50(20)/2k12/2244-45 dated 03/04/2013; and
- (ii) on going through the findings and recommendations of the Enquiry Officer, the material on record and other connected papers including your defence before the Enquiry Officer;

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

1. Inefficiency.
2. Misconduct.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalties of Withholding of three annual increments for a specific period (for three years) under rule-14(4)(b) of the Rules ibid.

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

4. If no reply to this notice is received within seven days of its receipt by you, 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 Officer is enclosed.

Pervez Khattak  
(PERVEZ KHATTAK)  
CHIEF MINISTER,  
KHYBER PAKHTUNKHWA  
COMPETENT AUTHORITY  
08.10.2013

Said Kamal

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Annulment of H/1

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REPLY TO THE SHOW CAUSE NOTICE SERVED UPON SAID KAMAL  
DIVISIONAL FOREST OFFICER WILDLIFE VIDE GOVT OF KHYBER  
PAKHTUNKHWA ENVIRONMENT DEPTT: LETTER NO. SO (ES II) ENVT/2-  
50(20) /2K6 /585/WL DATED 24/10/2013.

It is submitted that view point with regard to the charges leveled against me in the charge sheet is that which I have explained in my reply. However it is once again clarified that:-

I have taken over the charge of Mansehra Wildlife Division on 12/09/2006 and remained on the said position till 15/08/2008. During the above mentioned period I have tried my best to maintain and preserve ecological significance, outstanding scenery, flora and fauna of Saifal Malok National Park. The Developmental activities under taken and other facilities provided to the Tourists were according to the provision of PC-I

In the charge leveled against me it has been disclosed that number of boats and horses were kept in the lake beyond the required limit. In this regard it is pointed out that during my tenure four boats owned to one Mahmood Ahmed Khan S/O Mohammad Zaman Khan of Balakot were registered under proper agreement with due permission granted by the Chief Conservator Wildlife vide his letter No.6113/WI (E) dated 11/05/2008 (photo copy attached as Annex-I). The number of boats so increased in the later stage is not known to me.

Similarly the numbers of horses in my tenure were 50 and were confined to recreational zone, just to protect natural resources. The number of 50 horses was acute need of the Tourist. So far lifting of dung and other wastes in the park is concerned, proper staff was recruited and they were bound to keep the park area clean for attraction of the visitors.

Further more free grazing in the premises of park has never been allowed. In case if any violation was noticed stern action has timely been initiated under the rules against the offenders as a result Rs.1821093/- were realized as revenue during the year 2006-07 & 2007-08 (statement of revenue is attached for ready reference as annex -II.)

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So for the issue of mismanagement of the park is concerned no tourist or higher ups during their visit to the park have ever complained for any discrepancies/ short comings in the management or arrangement of the park and adjacent areas.

It is also pertinent to point out here that almost all pre-requisites of the project were completed by my predecessor, 302 kanal land against the provision of 200 Kanal was acquired by me under section IV of the land acquisition Act 1894, which was properly protected from free grazing (photo copy is attached as annex-III).

In the Enquiry report, the enquiry officer has mentioned total release of my tenure as Rs.3170000/-. Out of which Rs.1908071/- has been shown as spent during the financial year 2006-07 & 2007-08. Beside out of the spent amount Rs.1242033/- has been reported as justified while Rs.666038/- as unjustified without mentioning any solid reasons in the remarks column to ascertain loss sustain to the Govt. exchequer

This calculation of the enquiry officer is totally in correct to the extent that during financial years 2006-07 and 2007-08 Rs.3242381/- were allocated / released , against which Rs.3242552/- were spent on the developmental activities and salary etc of the manpower engaged for the project activities against the sanctioned strength (For ready reference photo copies of the actual statements are attached as annexure IV) hence it is crystal clear that expenditure so incurred in my tenure were totally justified and no irregularities has been committed.

In this regard it is further clarified that proper audit of Govt. funds is conducted by External/Internal audit parties who had examined whole record of my period and no embezzlement/omissions except some minor observations have been pointed out which is clear witness that my performance both physically and financially was satisfactory and the question of unjustified expenditure worth Rs.666038/- pointed out by the enquiry officer does not arise. Any how all the record along with vouchers and other auditable documenters are on the record of DFO Wildlife Mansehra and can be verified for authentication of my statement.

*Signature*  
*(Initials)*

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More so the enquiry officer has confined the leveled charges against to his tour date i.e. 10/06/2013 whereas I have handed over the charge of Mansehra Wildlife Division on 15/8/2008, and it was difficult rather impossible for the enquiry officer to calculate and attribute the present shortfalls notices by him to my period. Taking into account such unavoidable situation the findings of the enquiry officer are contrary to the facts and figures and totally against the general justice.

During my tenure as DFO Wildlife Mansehra I have always kept in loop with the District Administration for taking in time action against the offenders and to discourage them to refrain from illegal encroachment of government property( for ready reference photo copies of the documents are attached as annexure V) My such and outstanding and devotional performance of official duties shows my efficiency and good conduct. because I have left no stone unturned in discharging of my official duties just to gain entire satisfaction of my superiors.

Keeping in view the above exposition and documentary proof on the subject issue, it is humbly prayed that charges of inefficiency and misconduct recommended by the enquiry officer against me may kindly be reexamined and exonerated from the unjustified charges enabling me to perform my future duties for the best interest of the state.

I also wish to be heard in person please.

(Said Kamal)

Divisional Forest Officer  
Buner Wildlife Division  
Dagger

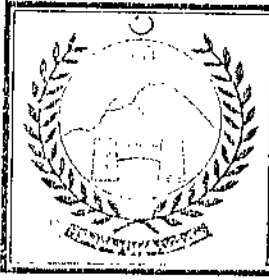
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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT

Dated Pesh: 28<sup>th</sup> January, 2014

NOTIFICATION

No. SO(Estt)Env/ 2-50(20)/2k12: WHEREAS, Mr. Said Kamal, Divisional Wildlife Officer (BPS-18) was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the charges as mentioned in the Charge Sheet and Statement of Alterations dated 29/3/2013, served upon the said officer;

AND WHEREAS, Enquiry Officer, Mr. Akbar Khan Marwat, PCS EG BS-19, Additional Secretary, Law Department was constituted to conduct the inquiry against the said accused officer and others;

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

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

NOW, THEREFORE, the Competent Authority, after having considered the charges, evidence on record, findings of the Enquiry Officer, the explanation of the accused officer, and hearing him in person and exercising his powers under Rule-14(5)(ii) read with Rule 4(1)(b)(i) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose a major penalty of "**Withholding of three annual increments for a specific period (for three years)**" upon Mr. Said Kamal, Divisional Wildlife Officer (BPS-18), Wildlife Department, with immediate effect.

CHIEF MINISTER,  
KHYBER PAKHTUNKHWA

Endst: No. SO(Estt)Env/2-50(20)/2k10

465-472

Dated Pesh: 28<sup>th</sup> January, 2014.

Copy is forwarded to:-

- 1) PSO to Chief Minister, Khyber Pakhtunkhwa.
- 2) PS to Secretary Environment Department.
- 3) Chief Conservator Wildlife, Khyber Pakhtunkhwa.
- 4) Director Budget and Accounts Environment Department.
- 5) Officer concerned C/O Chief Conservator Wildlife, Khyber Pakhtunkhwa.
- 6) Personal file of the officer concerned.
- 7) Master file.
- 7) Office order file

  
(MIR ZALI KHAN)  
SECTION OFFICER (ESTT)

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Annul & J



**CORRIGENDUM**

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT

Dated Pesh: 14<sup>th</sup> February, 2014

**CORRIGENDUM**

**NOTIFICATION**

No.SO(Estt)Env/2-50(20)/2k12: The word major penalty mentioned in this Department Notification bearing No.SO(Estt)Env/2-50(20)/2k12/473-480 dated 28.1.2014, may be corrected and read as "**minor penalty**" instead of "**major penalty**".

SECRETARY TO GOVT OF  
KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT.

Endst: No. SO(Estt)Env/2-50(20)/2k10

971-978

Dated Pesh: 14<sup>th</sup> February, 2014.

Copy is forwarded to:-

- 1) PSO to Chief Minister, Khyber Pakhtunkhwa.
- 2) PS to Secretary Environment Department.
- 3) Chief Conservator Wildlife, Khyber Pakhtunkhwa.
- 4) Director Budget and Accounts Environment Department.
- 5) Official concerned C/O Chief Conservator Wildlife, Khyber Pakhtunkhwa.
- 6) Personal file of the officer.
- 7) Master file.
- 8) Office order file.

  
(MIR ZALI KHAN)  
SECTION OFFICER (ESTT)

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To,

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Annul & K

THE HON'BLE CHIEF MINISTER  
KHYBER PAKHTUN KHWA

Through; Proper Channel

REVIEW PETITION AGAINST THE IMPUGNED  
ORDERS OF THE CHIEF MINISTER, DATED: 28-01-  
2014 AND 31-10-2013, WHEREBY UPON THE INQUIRY  
REPORT TWO FOLD PUNISHMENTS HAVE BEEN  
AWARDED TO THE PETITIONER, WHICH ARE AS  
UNDER:

- i. SHOW CAUSE NOTICE HAS BEEN SERVED UPON  
THE PETITIONER IN RESPECT OF WITHHOLDING OF  
THREE ANNUAL INCREMENTS FOR A SPECIFIC  
PERIOD (FOR THREE YEARS), WHERE BY IMPUGNED  
ORDER DATED 28 JAN 2014 HAS BEEN PASSED.
- ii. AN IMPUGNED ORDER DATED 31-10-2013 FOR THE  
DIRECT RECOVERY OF ALLEGED AMOUNT OF RS  
6,66,038/- HAS BEEN PASSED AGAINST THE  
PETITIONER WITH OUT GIVING PRIOR SHOW CAUSE  
NOTICE, WHICH IS ILLEGAL, UNLAWFULL,  
ARBITRARY AND AGAINST THE LAW ON THE  
SUBJECT.

**Worthy Sir,**

Most humbly submitted that the findings of the inquiry are based on visit made by the enquiry officer to Saiful Malook National Park on dated: 10.06.2013, which is almost Five years later then the transfer of the petitioner from Mansehra Wildlife Division and ignored all written and documentary proofs presented during enquiry proceedings and hence do not fulfill the demand of justice for leveling charges to initiate any legal action against the petitioner and for the recovery of alleged amount of Rs/- 6,66,038 mentioned in the enquiry report with out assigning financial/technical grounds.

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With due deference the charges leveled against the petitioner in the charge sheet was not proved in the enquiry report, but unfortunately due to misreading and non reading of the evidence on record, the petitioner was held guilty by the enquiry officer on dated 24-10-2013 and subsequently two fold punishments have been awarded to the petitioner. i.e. firstly Impugned Ordered dated 31-10-2013 for the recovery of alleged amount of Rs. 6,66,038/- for which no show cause Notice has been served to the petitioner, whatsoever (which is illegal and against the law), and is also with in contrast with the maxim of "Audi Altram Patram" (that no one should be condemned unheard) and secondly on dated 28-01-2014, impugned order of with holding three annual increments for a specific period (for three Years) has been passed.

The petitioner feeling aggrieved from the afore said impugned orders, the petitioner several times made requests/appeals to the high-ups of the Department but till date no fruitful result has been obtained, so being compelled of the situation and keeping in view the biased enquiry report, and the above mentioned impugned orders, the petitioner has no other remedy but to approach to your Honor for the redressal of his grievances on the following grounds inter alia:-

**GROUND:**

- A. That impugned order dated 28-01-2014, of illegal with holding of three annual increments for a specific period ( three years) and impugned order for the direct recovery of alleged amount of Rs 6,66,038/- dated: 24.10.2013 is against the law, facts and liable to be declared null and void.
- B. That the petitioner was not posted at the time of the visit and hence attributing time based mismanagement to the past, is unjust and inoperative upon the rights of the petitioner.
- C. That all controlling officers such as Conservator wildlife, Chief Conservator Wildlife etc have not been consulted during conclusion of the enquiry, which made the enquiry biased and the impugned orders passed in furtherance of it, is liable to be declared as null and void.
- D. That all expenditures incurred according to the provisions of approved PCI and duly verified by all controlling officers, however, during enquiry the Enquiry Officer could not consult the same officers due to reasons best known to him which also impugned the enquiry report as well as the above mentioned impugned orders based on it.
- E. That the enquiry report is based on various contradictions and discrepancies, which creates ambiguities in the pronouncing of the above

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(11)

mentioned impugned orders, hence liable to be dismissed on this score alone.


- F. That the impugned orders dated 28-01-2014 and 31-10-2013, is the result of misreading, non-reading and non-comprehension of the material on record, hence untenable at law and facts;
- G. That the petitioner is totally innocent but targeted for no fault whatsoever. As such, the impugned orders are wholly misconceived, against natural justice and against just rights of the petitioner.
- H. That the impugned orders are tantamount to malice in law as the petitioner was required to be properly served with show cause notice in case of direct recovery, in the impugned order dated 31-10-2013 and by illegally with holding three annual increments for a specific period of (Three years) dated 28-01-2014, is illegal and needs to be reversed.
- I. That the impugned orders of recovery of alleged amount and illegally with holding of three annual increments of the petitioner have been passed in haphazard manner, without fulfilling the legal formalities, which is liable to be set aside.
- J. That upon enquiry report the above mentioned impugned orders are not only the violation of law on the subject but also against the natural justice.

**PRAYER:**

Under the circumstances, it is respectfully prayed that the impugned order dated 28-01-2014 of with holding of the three annual increments of the petitioner and the impugned order of the direct recovery of alleged amount of Rs 6,66,038/- dated 31.10.2013 may kindly be set aside and the petitioner may kindly be exonerated from the charges leveled against.

Furthermore, the impugned orders issued unlawfully, without fulfilling codal/legal formalities, arbitrarily, perverse and consequently of no legal effect, therefore needs consideration.

Dated: 21/04/2014

Petitioner  
  
SAID KAMAL

Deputy Conservator Wildlife  
Khyber Putkhun Khwa Wildlife Department

(WV)

Amrullah L

"B"



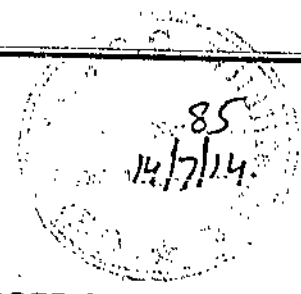
GOVERNMENT OF KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT

NC.SO(Estt)Env/2-50(20)/2K9 2857

Dated Pesh: 8<sup>th</sup> July: 2014

To

The Chief Conservator Wildlife,  
Khyber Pakhtunkhwa.



SUBJECT: NOTIFICATION (REPRESENTATION THROUGH PROPER CHANNEL)

P/885

I am directed to refer to your letter No.39/WL(E) dated 07/07/2014 on the above captioned subject; and to say that about the procedure; and necessary action thereof in the matter to be taken by the penalized officers directly under Rule 17 of E&D Rules, 2011 has already been intimated vide this department letter of even number dated 31/3/2014.

P-699

*Mir Zali Khan*  
(MIR ZALI KHAN)  
SECTION OFFICER (ESTT)

Encl: No. and date even

Copy is forwarded to PS to Secretary Environment Department.

*If agreed copy be enclosed*

SECTION OFFICER (ESTT)

No. 100 /WL (E), Dated Peshawar the 15/7 /2014.

Copy with reference to this office endst No. 5916-18/WL (E) dated: 10-04-2014 and No. 6244-46/WL (E) dated: 28-04-2014 forwarded for information and necessary action to the:-

1. Mr. Muhammad Faig Khan DFO Wildlife Abbottabad with reference to his letter No. 1812/WL-Atd dated: 21-04-2014.
2. Mr. Said Kamal DFO Wildlife Buner with reference to his letter No. 511/WL- BR dated: 22-04-2014.
3. Mr. Iftikhar Ur Zaman DFO Wildlife Kohistan.

*16/7*  
Chief Conservator Wildlife  
Khyber Pakhtunkhwa  
Peshawar.

*Mir Zali Khan*  
(MIR ZALI KHAN)

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IN THE PESHAWAR HIGH COURT, PESHAWAR



W.P No. 3014 of 2014

1. Muhammad Faique Khan  
Deputy Conservator Wildlife Division,  
Peshawar
2. Iftikhar-uz-Zaman,  
Deputy Conservator Wildlife Division,  
Peshawar
3. Said Kamal  
Deputy Conservator Wildlife Division,  
Peshawar..... Petitioners

**VERSUS**

1. Govt of KPK  
Through Secretary Environment & Wildlife,  
KPK, Peshawar
2. Akbar Khan Marwat,  
Through Addl: Secretary Law Department,  
KPK, Peshawar
3. Govt of KPK  
Through Chief Secretary,  
KPK, Peshawar
4. Govt of KPK through Chief Minister,  
Chief Minister Secretariat, Peshawar.. Respondents

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

FILED TODAY

Deputy Registrar

02 OCT 2014

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**ATTESTED**

**EXAMINER  
Peshawar High Court.**

02 FEB 2015

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Respectfully Sheweth:

1. That the petitioners are currently serving as Deputy Conservator Wildlife Division, Peshawar in BPS-18 to the best of their abilities and to the entire satisfaction of their high-ups.
2. That the petitioners were posted as Deputy Conservator Wildlife at Manshra in the year 2010 and served there for about 3 years with due devotion and zeal.
3. That during their tenure in Wildlife Division Manshra at Naraan, the petitioners left no stone un-turned not only to preserve rather to enhance the scenic beauty and environmental protection of Saif-ul-Malook Lake (Naraan at Manshra District).
4. That to the utter surprise of the petitioners, the respondent No.4 issued charge sheets to the petitioners and an inquiry was ordered to probe certain issues regarding Saif-ul-Malook Lake and other financial related matters: (Copy of Charge Sheets are Annexure "A").
5. That the petitioners then submitted a detailed reply to the charge sheets, rejecting all

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ATTESTED  
EXAMINER  
Peshawar High Court  
02 FEB 2015



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allegations levelled against the petitioners.  
(Copies of replies are Annexure "B").

6. That respondent No.4 then appointed respondent No.3 as Inquiry Officer and directed the petitioners to submit detail reply of the questionnaire and to join the inquiry whatsoever. (Copy of questionnaires and reply by the petitioners are Annexure "C").

7. That the Inquiry Officer (respondent No.3) completed the inquiry in a very stranger manner and submitted a detailed report in shape of inquiry report, recommending penalties against the petitioners, wherein other officers, who were also charged with the same allegation, were exonerated. (Copy of inquiry reports are Annexure "D").

8. That respondent No.4 served with final office officer/ letter dated 08.10.2013 withholding three annual increments of the petitioners. (Copy of office order/ letter/ show cause notice dated 08.10.2013 "E").

9. That the petitioners then submitted detailed reply to the show cause notice. (Copy of reply to show cause notices are Annexure "F").

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ATTESTED

EXAMINER  
Neshawar High Court

02 FEB 2015

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- 10. That the petitioners then submitted departmental representation before respondent No.4, which is still un-responded. (Copy of departmental appeal is Annexure "G").
- 11. That the petitioners being aggrieved from the said letter/ office order dated 08.10.2013 & 29.03.2013 (impugned herein), assail the same before this Honourable Court, inter alia, on the following grounds:

**GR OUN D S:**

- A. That the impugned letter/ office orders dated 08.10.2013 & 29.03.2013 and inquiry report, are against law, facts and record of the case, hence untenable.
- B. That it is constitutional duty of each and every authority in Pakistan to exercise its power fairly, justly and transparently which has not been done in the case of the petitioners during inquiry and the petitioner have not been treated in accordance with law, rules and regulations, hence the entire proceedings needs to be reversed/ thrashed-out.
- C. That interestingly the inquiry has been conducted after 3/4 years of the transfers of the petitioners, wherein the factual spot position of

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Deputy Registrar  
02 OCT 2014

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ATTESTED  
EXAMINER  
Peshawar High Court  
02 FEB 2015

the Saif-ul-Malook Lake is not that it was in the period of petitioners.

D. That the detail factual position alongwith the snaps/ photographs, detail of financial expenditure and detail of court litigation over the property of Saif-ul-Malook Lake had not been taken into consideration and interestingly and most importantly the inquiry report has been based on the spot visits of the nephew of the Inquiry Officer, thus, the inquiry reports being malafide, has no legal and factual justification.

E. That the inquiry was not conducted through the officer of the department of the petitioners, rather an officer from third department was picked-up and appointed inquiry officer without consulting the departmental highups of the petitioners, thus, clearly bypassed relevant rules and regulations of the Wildlife and Environment Department.

F. That in this regard a letter was addressed by the Chief Conservator Wildlife and Environment Department contending that the inquiry is absolutely baseless and illegal as the relevant rules has been bypassed by following self-made rules, which has no legal justification.

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EXAMINER  
Peshawar High Court  
02 FEB 2015

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- G. That other officers of the department, who were also charged, were exonerated and the petitioners although having no concern/ relation with the allegations/ charges, were held liable ignoring all the legal and factual evidences.
- H. That throughout the tenure of the petitioners, the petitioners had the most maximum recovery even in shape of penalties, but even then were charged baselessly.
- I. That it clearly suggests that how the inquiry was conducted and how the spot relevant matters were ignored? And inquiry was based on opinion of third person, who was not part of the inquiry, thus, inquiry was absolutely illegal and baseless at all.
- J. That the petitioners have not been afforded with an opportunity of personal hearing, after issuance of final show cause notice and impugned office orders, thus, the petitioners have been condemned unheard.
- K. That the impugned office order, being ultra vires, without lawful authority, void ab-initio, against the law, hence not maintainable and thus liable to be struck down.

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 EXAMINER  
 Registrar, High Court  
 02 FEB 2015

L. That the competent authority has passed a mechanical order and the departmental authority also passed a similar order without application of mind, had both these authorities looked into the facts of the case deeply the nature of the inquiry finding would have been different at all.

M. That the petitioners are senior officials in BPS-18 and charging them without solid reasons and evidence amounts to abuse of process and power, which is not sustainable in the eyes of law as guaranteed by Article 25 of the Constitution of Islamic Republic of Pakistan, 1973.

N. That the no cogent and confidence inspiring evidence was brought on surface about the involvement of petitioners in charges levelled against them, but they were awarded major penalty of withholding of increment. So, such punishment is violation of fundamental rules and rights, therefore, such punishment is not sustainable in the eyes of law and is liable to be set aside.

O. That it is the legal right of an employee to defend him in a case, he is charged with any act of misconduct and such a act of misconduct is required to be proved through independent and impartial/ full-fledged inquiry with the active

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Deputy Registrar  
02 OCT 2014

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EXAMINER  
Peshawar High Court  
02 FEB 2014

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participation of the employees, neither full-fledged inquiry was conducted by respondents nor petitioners material/ documentary evidence taken into consideration, rather were outrightly rejected despite the fact these being the most important and relevant documents. Such a procedure adopted by the respondents are against K.P.K Govt Servant Rules; therefore, such an act is liable to be struck down.

P. That the impugned orders are based on malafide and personal grudges/ biasness, so, are liable to be set aside.

Q. That the petitioners were not provided any opportunity of being heard and they were condemned unheard, therefore, both competent authorities as well as Appellate Authority violated the principles of natural justice. So, imposition of punishment on petitioners without providing them a chance of hearing, is illegal and is liable to be set aside.

R. That similarly, the petitioners was not provided any opportunity to cross examine and defence, thus both authorities have violated the fundamental rights of the petitioner.

~~Deputy Registrar  
Peshawar High Court  
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EXAMINER  
Peshawar High Court  
02 FEB 2015

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- S. That the petitioners have been made victims of highhandedness of the respondents having no fault on their part, hence the attitude of the inquiry officer amounts to discrimination, thus finding of the inquiry and the impugned office orders needs to be recalled being illegal at all.
- T. That due to rules proprietary, fair-play and natural justice the impugned charge sheets/ office orders are required to be struck down.
- U. That any other ground may be adduced at the time of arguments, with kind permission of this Honourable Court.

For the aforesaid reasons, it is, therefore, most humbly prayed that on acceptance of this writ petition, the impugned letters/ office order dated 08.10.2013 & 29.03.2013 may graciously be set aside and the petitioners be released of the charges and the punishment so imposed be recalled accordingly.

Any other remedy which deems fit by this Honourable Tribunal may also be granted in favour of petitioner.

*[Signature]*  
 02.02.2015

*[Signature]*

ATTESTED  
 EXAMINER  
 Peshawar High Court  
 07 FEB 2015

40. (52)

**INTERIM RELIEF:**

By way of interim relief, this august Court may kindly be pleased to suspend the operation of the impugned office orders dated 08.10.2013 & 29.03.2013 and restrained the respondents not to stop increments in question, till the final disposal of the writ petition.

Through Petitioners

Mumtaz Ahmad

&

Muhammad Shahid  
Advocates, Peshawar

Date: \_\_/\_\_/2014

**CERTIFICATE:**

Certified on instructions of my client that petitioners have not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter.

ADVOCATE

**LIST OF BOOKS:**

1. Constitution of Islamic Republic of Pakistan, 1973
2. Any other law books according to need

FILED TODAY  
Deputy Registrar  
02 OCT 2014

ADVOCATE

ATTORNEY  
EXAMINEE  
Peshawar High Court  
02 FEB 2015

*Muhammad Shahid*

*[Signature]*



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12

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. 3014-P of 2014

Muhammad Faique Khan & others.....Petitioners

V E R S U S

Govt of KPK and others.....Respondents

ADDRESSES OF PARTIES

PETITIONERS:

1. Muhammad Faique Khan  
Deputy Conservator Wildlife Division, Peshawar
2. Iftikhar-uz-Zaman,  
Deputy Conservator Wildlife Division, Peshawar
3. Said Kamal  
Deputy Conservator Wildlife Division, Peshawar

RESPONDENTS:

1. Govt of KPK through Secretary Environment & Wildlife, KPK, Peshawar
2. Akbar Khan Marwat, Through Addl: Secretary Law Department, KPK, Peshawar
3. Govt of KPK through Chief Secretary, KPK, Peshawar
4. Govt of KPK through Chief Minister, Chief Minister Secretariat, Peshawar

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~~02 OCT 2014~~

Through Petitioners

*Mumtaz Ahmad*  
 Mumtaz Ahmad  
 Advocate, Peshawar

Date: \_\_\_/\_\_\_/2014

*Mumtaz Ahmad*  
*MA*

ATTESTED  
 EXAMINED  
 03 FEB 2014

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PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'  
FORM OF ORDER SHEET

S.No.	Date of order	Order or other proceedings with signature of the Judge
1	2	3
	25-11-2014	<p><u>WP No. 3014-P/2014 with LR</u></p> <p>Present: Assistant of counsel for the petitioner.</p> <p>Seeks adjournment as learned counsel for the petitioner has gone to the Bench of this Court at Mingora (Dar-ul-Qaza), Swat. Adjourned to a date in office.</p> <p><i>[Signature]</i> JUDGE</p> <p><i>[Signature]</i> JUDGE</p> <p>CERTIFIED TO BE TRUE COPY Examiner Peshawar High Court, Peshawar Inscribed Under Article 17 of the Constitution Order 1984. 02 FEB 2015</p> <p><i>[Signature]</i></p>

\*Nawab Shah\*

*[Handwritten signature]*

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PESHAWAR HIGH COURT, PESHAWAR  
FORM "A"  
FORM OF ORDER SHEET.



Court of .....  
Case No. ....

Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3

26.01.2015.

WP 3014-P/14 with IR.

Present:- Mr. Mumtaz Khan Advocate, for petitioner.

ABDUL LATIF KHAN, J:- Through instant petition, the petitioner has challenged the impugned letters/office order dated '8.10.2013 & 29.3.2013, passed by respondents.

2. At the very outset learned counsel for petitioner submitted that he wants to withdraw the instant petition.

3. In view of above submission of learned counsel for petitioner, this petition is dismissed as withdrawn.

Announced.  
26.1.2015.

*M. Latif Khan*  
*Asst. Secy. P. Secy. Slab.*  
JUDGE  
JUDGE

27/1/15

Checked by .....  
Peshawar High Court, Peshawar  
Authorized Signatory for the Chief Justice  
The Government of Punjab  
02 FEB 2015

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*SP*  
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"A. Qayum"

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OFFICE OF THE CHIEF CONSERVATOR WILDLIFE  
KHYBER PAKHTUNKHWA  
PESHAWAR

Amrullah N 21

To

The Section Officer (Establishment)  
Government of Khyber Pakhtunkhwa  
Environment Department  
Peshawar

No. 3223 WL(E)

Dated Peshawar the 6-12-2013.

Subject: SHOW CAUSE NOTICE

Reference: Your Endorsements No. SO(Estt) Env/2-50(20)2k6/ (580-81, 583-84, 586-87, 589-90, 592-93, 595-96 & 598-99, dated 24-10-2013

It is submitted that this department has never been consulted while framing/drafting of the charge sheets and initiation of the disciplinary proceedings against the accused officers/officials despite being Head of Attached Department and their controlling officer.

The Administrative Department acted directly merely on the basis of an enquiry conducted by a Conservator of Forest with all his professional rivalry and prejudice. Neither the enquiry officer involved this office during the course of enquiry nor has the report of the enquiry officer submitted by him been shared with the Khyber Pakhtunkhwa Wildlife Department.

As contained in the section 143 of the Manual of Secretariat and established procedure, either the Head of Attached Department initiates the proceedings against its officers and submit draft charge sheet for further processing or the Administrative Department asks the attached Department to draft and submit charge sheet for processing as was required in the instant case. Instead the Head of Attached Department was kept uninformed and isolated while initiating the process and the charge sheets were framed by the Administrative Department directly.

The undersigned has gone through the replies to the charge sheet submitted by the accused alongwith enquiry report which is clear indication of a bias and predetermined decision. Involvement of 04 senior officers in a petty case and ignoring all the norms of financial procedures and process of developmental projects speaks hidden hatred against the Department. This particular case has adversely affected the moral of all the officers of the Department and they are now hesitant to take initiatives and being proactive. This office is also of the view that imposing of any penalty on the officers without considering facts and figures in their replies will lead to frustration besides cropping up of the court cases.

P.T.O

Amrullah N 21

It is therefore proposed that before taking further action in the matter another committee may kindly be constituted to evaluate the enquiry report in the light of replies to the charge sheets and official recode of Wildlife Department to ensure justice to the accused.

The replies to the show cause notices alongwith enclosures submitted by the accused officers/officials are enclosed herewith please.

*6/12*  
Chief Conservator Wildlife  
Khyber Pakhtunkhwa  
Peshawar

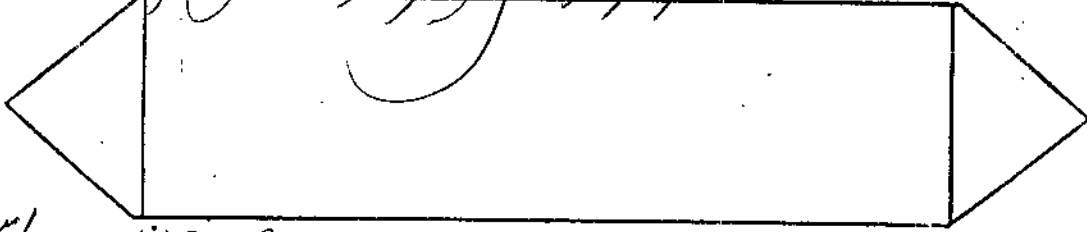
No.            /WL(E)

Copy forwarded to PS to Secretary to Govt. of Khyber Pakhtunkhwa Environment Department, Peshawar.

*6/12*  
Chief Conservator Wildlife  
Khyber Pakhtunkhwa  
Peshawar

*6/12*

# بعدالت سپرویزر کے ذریعہ درخواستیہ کیس



اسپرینٹ

کلا 2018ء پنجاب

سید علی حسین مسکین بنام

مورخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام سید علی حسین مسکین کیلئے نویسٹا سید علی حسین  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر حالت فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک دروپیدار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساتھ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔  
کوئی تاریخ پیشی متتام دورہ پر ہو یا حدت باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی کی  
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

الرقوم

ماہ 20

واہ الع

کے لئے منظور ہے۔

سید علی حسین

بمقام

مسریال

16101-54906302-7

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

C.M. No. \_\_\_\_\_/2015  
In  
Service Appeal No. 184/2015

A.W.F Province  
Service Tribunal  
Diary No. 1307  
Dated 13-11-15

Said Kamal.....(Appellant)

**VERSUS**

Secretary Environment and others.....(Respondents)

**APPLICATION FOR SUSPENSION OF**  
**THE IMPUGNED NOTIFICATION/**  
**ORDER DATED 19/10/2015 ISSUED**  
**BY CHIEF CONSERVATOR OFFICER**  
**WILD LIFE, TILL THE FINAL DISPOSAL**  
**OF THE MAIN APPEAL.**

**Respectfully Sheweth:**

1. That the above mentioned appeal is pending adjudication before this Hon'ble Court, where in fixed for 16/11/2015.
2. That on the face of it, the appellant has got a strong arguable case and is sanguine about its success.


3. That the balance of convenience is also in favour of appellant.
4. That if the operation of the impugned notification/order is not suspended that the appellant would sustain an irreparable loss.
5. That the recovery notice/ order is illegal, unlawful, against the law, liable to be set aside.

It is, therefore prayed that on acceptance of this application, the operation of the impugned notification/ order dated 19/10/2015 issued by Chief Conservator Officer Wild Life may kindly be suspended, till the final disposal of the main appeal.

Appellant/ Applicant

Through

Dated: 13/11/2015

  
**Naveed Akhtar**  
Advocate High Court,  
Peshawar.



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

C.M. No. \_\_\_\_\_/2015

In

Service Appeal No. 184/2015

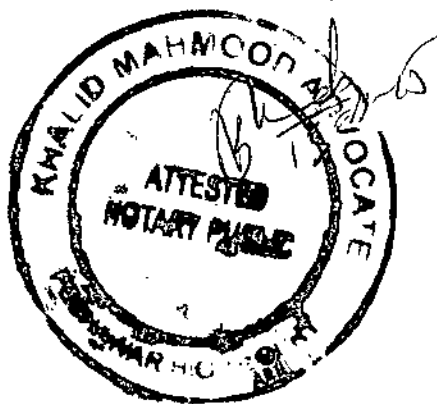
Said Kamal.....(Appellant)

**VERSUS**

Secretary Environment and others.....(Respondents)

**AFFIDAVIT**

I, **Naveed Akhtar** Advocate, Peshawar, as per instructions of my client, stated that contents of accompany Application are true and correct to the best of my knowledge and belief and that nothing has been concealed or misstated, deliberately.



*Naveed Akhtar*  
**DEPONENT**

3-9-15



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

No. B&A-3AD/Master File/ 2381  
Dated Peshawar the 19/10/2015

To: The Chief Conservator of Wildlife,  
Khyber Pakhtunkhwa, Peshawar.

Subject: DISCIPLINARY PROCEEDING AGAINST OFFICERS/OFFICIALS  
KHYBER PAKHTUNKHWA.

I am directed to refer to the subject noted above and to state that recovery of various amount was *not done* by the competent authority on the officers mentioned below:-

S.No.	Name of Officers	Designation	Recoverable amount
1.	Mr. Muhammad Faique	DFO(Wildlife)	Rs.112,700/-
2.	Mr. Saïd Kamal	DFO(Wildlife)	Rs.688,030/-
3.	Mr. Ihtikar-Uz-Zaman	DFO(Wildlife)	Rs 1,405,927/-

Latest position of the recovery may be intimate at your earliest please

DE

*B. S. B. A. G.*  
INTERNAL AUDIT OFFICER,  
FORESTRY, ENVY & WILDLIFE  
DEPARTMENT

2299-2302  
No. \_\_\_\_\_/WL. (B-X-5) dated Peshawar the 20/10/2015

Copy forwarded for information and necessary action to the:-

1. Conservators Wildlife Southern and Northern Circles, with reference to this office last reminder/endorsement No. 1583-85/WL. (B-X-5) dated 17-09-2015
2. Mr. Muhammad Faique DFO, Wildlife Mansehra with reference to this office last reminder No.1580-82/WL (B-X-5) dated 17-09-2015
3. Mr. Saïd Kamal DFO, Wildlife Hater with reference to this office last reminder No.1580-82/WL (B-X-5) dated 17-09-2015
4. Mr. Ihtikar-Uz-Zaman DFO, Wildlife Abbottabad with reference to this office last reminder No. 1580-82/WL (B-X-5) dated 17-09-2015

They are once again directed to submit latest position of the requisite recovery most immediately so as to inform the Administrative Department accordingly.

*This part up as prescribed/relevant*

*[Signature]*  
Chief Conservator Wildlife  
Khyber Pakhtunkhwa  
Peshawar

**BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA**  
**PESHAWAR**

**Appeal No.184 of 2015**

Said Kamal  
Deputy Conservator Wildlife ..... Appellant

**VERSUS**

1. Secretary Environment & Wildlife  
Khyber Pakhtunkhwa Peshawar
2. Chief Secretary  
Govt. Of Khyber Pakhtunkhwa, Peshawar
3. Chief Minister Khyber Pakhtunkhwa  
Through Principal Secretary, Peshawar
4. Chief Conservator Wildlife  
Khyber Pakhtunkhwa, Peshawar ..... Respondents

**Parawise comments on behalf of respondents.**

**Preliminary Objections:**

1. The appellant has no locus standi.
2. The appeal is time barred.
3. The appeal is not maintainable on the basis of non-joinder and mis-joinder.
4. The appellant has got no cause of action to file instant appeal.

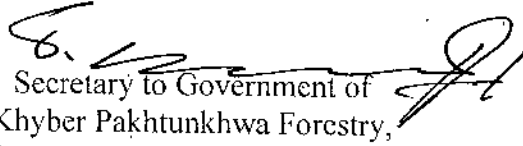
**On facts**

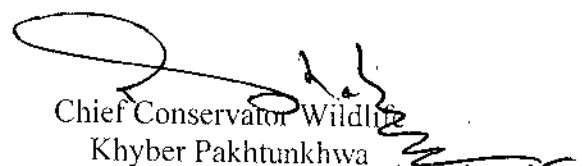
1. Incorrect, the officer is serving as Deputy Conservator Wildlife (BPS-18) in Buner Wildlife Division.
2. Pertains to record.
3. Correct
4. Proper enquiry was conducted as per law.
5. Correct to the extent that after proper enquiry, show cause notice was issued to the extent of with-holding of 3 annual increments for 3 years.
6. Correct
7. Correct
8. He was supposed to submit appeal to the competent authority as per E&D Rules 2011 and Appeal Rules, 1986.
9. Annexure (L) of the appeal is quite clear.
10. No comments
11. The appellant has no cause of action.

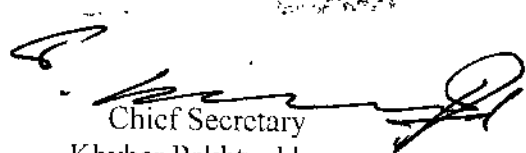
ON GROUNDS:

- A. In-correct. Order has been passed after adopting proper procedure hence tenable in law.
- B. In-correct. The appellant has questioned the conduct of enquiry officer for which this is not proper time and forum. The enquiry officer has followed the legal procedure without any malafide.
- C. Incorrect. The Government has the right to initiate enquiry any time if the case is suspicious.
- D. In correct. The enquiry officer has co-related the facts in the enquiry report.
- E. In-correct. The authority has the right to take cognizance and initiate enquiry about the irregularities in jurisdiction. In the instant case, the authority has signed the charge sheet which is sufficient for conducting the enquiry.
- F. In-correct. The enquiry officer explained the role of all accused officers and has narrated the respective actions logically in the enquiry report.
- G. In-correct. Anything stated and recorded during the enquiry are personal approach of the individuals, officers or witnesses which are placed on record for clarification of the issue before the competent authority and are weighed by the authority while deciding the fate of the case.
- H. In-correct. As stated at S.No.A above, the order by competent authority has been passed under the provisions of relevant law and rules.
- I. Incorrect. The enquiry procedure has been adopted under the relevant provisions of the law and rules.
- J. In-correct. Repetition of para-D above.
- k. Incorrect. The enquiry officer conducted the enquiry observing the ethics of civil service.
- L. In-correct. Proper opportunity of defense was provided to appellant.
- M. In-correct. Personal hearing of the accused officer was conducted as per procedure and rules.
- N. In-correct. The case is not only time barred but the appellant has also un-necessarily referred the case to High Court, although was a clear case relating to service matter falling in the jurisdiction of Services Tribunal.
- O. That the respondent may be allowed to raise additional grounds at the time of arguments.

The above mentioned comments clarify that the case is not maintainable and may kindly be dismissed with cost, please.

  
Secretary to Government of  
Khyber Pakhtunkhwa Forestry,  
Environment and Wildlife Department

  
Chief Conservator Wildlife  
Khyber Pakhtunkhwa  
Peshawar 06/07/10

  
Chief Secretary  
Khyber Pakhtunkhwa  
Peshawar

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

Service Appeal No. 184/2015

Said Kamal.....Appellant

**V E R S U S**

Secretary Environment and Others.....Respondents

**REJOINDER ON BEHALF OF THE APPELLANT**

**Respectfully Sheweth:**

1. Para-1 is incorrect the appellant being victim of the impugned action has every right to approach this Honorable Tribunal.
2. Para-2 is incorrect.
3. Para-3 of the comments is also incorrect. All the necessary parties have been impleaded.
4. Para-4 is also incorrect.

**ON FACTS:-**

1. Para 1, needs no reply as the appellant, is subject to transfer.
2. Para-2 needs no reply.
3. Para-3 also needs no reply as the same has been admitted.
4. Para-4 is incorrect to the extent of the inquiry being proper.
5. Para-5 is also incorrect to the extent of the inquiry being proper.
- 6-7 Para-6 & 7 need no reply as the same have been admitted correct.
8. Para-8 needs no reply the appellant relies on the contents of the Para-8 of his appeal.

9. Para-9 needs no reply as the appellant clarified the same in para-9 of the appeal.
10. Para-10 needs no comments.
11. The appellant has got cause of action.

**GROUND:-**

- A. Reply to Para A, is incorrect. No proper procedure was adopted against the appellant.
- B. Para B of the reply is incorrect. This Honorable Tribunal has the jurisdiction to look at every aspect, of the case.
- C. Para C is incorrect. There was no occasion to initiate the inquiry when there was neither any complaint nor any audit para against the appellant.
- D. Para D of the reply is incorrect. The respondents have avoided the answer to the plea raised against the irrelevant nephew of the inquiry Officer in the proceedings.
- E. Para E is incorrect and denied.
- F. Para F again is incorrect. The answering respondents are shying to answer the grounds raised in this para.
- G. Para G is again enough proof of the respondents inability to explain why the respondent No. 4 himself objected to inquiry proceedings.
- H. Para H of the reply is incorrect.
- I. Para I is also incorrect and denied.
- J. Para J of the reply is yet again a failure of the respondents to answer the involvement of an irrelevant private person in the inquiry proceeding.
- K. This para of the reply is denied as well.
- L. This para of the reply is denied as well.
- M. This para of the reply is denied being incorrect.

● N. Para N of the reply is denied as well.

O. Para O needs no reply.

It is therefore, humbly prayed that appeal of the appellant may kindly be allowed.

Appellant

Through



**Naveed Akhtar**

Advocate Supreme Court

Date: 19/7 /2017