


09th Dec. 2022


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

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

Since 9th 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)

11th Oct. 2022

None for the appellant present. Mr. Muhammad Adeel 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 9th November has been declared as public holiday, case is adjourned to 09.12.2022 for the same as before.


Reader

20th 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

27th 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.

Since the bench is not available/complete, therefore, the order could not be announced today. Adjourned. To come up for order 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

11th May, 2022

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

Arguments heard. To come up for order on 13.05.2022 before the D.B.


(Fareeha Paul)
Member(E)


Chairman

ORDER
13.05.2022


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

Reader

26th May, 2022

Counsel for the appellant present. Mr. Riaz Khan Paindakheil, 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.

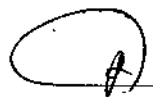


(Rozina Rehman)
Member(J)

15.09.2021 Nemo for appellant.

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

Notice be issued to appellant/counsel for 17.01.2022 for hearing before D.B.



(Rozina Rehman)
Member (J)



Chairman

17.01.2022 Counsel for the appellant and Mr. Miuhammad 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)



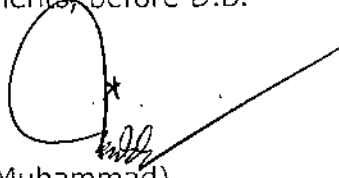
Chairman

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

Appellant in person present. Mr. Usman Ghani learned District Attorney present. Appellant seeks adjournment as his 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

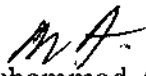


Member

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

Service Appeal No. ~~7347245~~

03.08.2018

Appellant in person present. Learned counsel for the appellant is absent. Mr. Muhammad Jan, Deputy District Attorney along with 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.

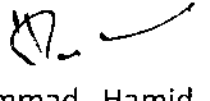

(Ahmad Hassan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

14.09.2018

Junior to counsel for the appellant and Mr. Riaz Khan Painsakheil learned Assistant Advocate General along with 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

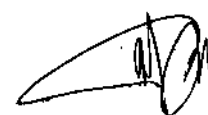
19.02.2018

Due to non availability of D.B. Adjourned. To come up on ~~19.02~~ 11.05.2018 before D.B.


(Gul Zeb Khan)
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

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.


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 AMIR 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 AMIR NAZIR)
MEMBER

13.06.2017

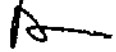
Junior counsel for the appellant present. Mr. Muhammad Hussain, DFO alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that senior counsel for the appellant is busy before the Hon'ble Peshawar High 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 ZEB 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.



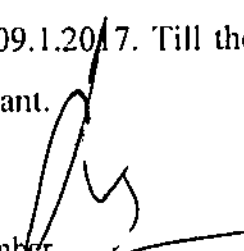
Member



Member

29.09.2016

Counsel for the appellant and Addl, AG alongwith Mr. Muhammad Hussain, DFO (Hqs) 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.

11.05.2016

11.05.2016



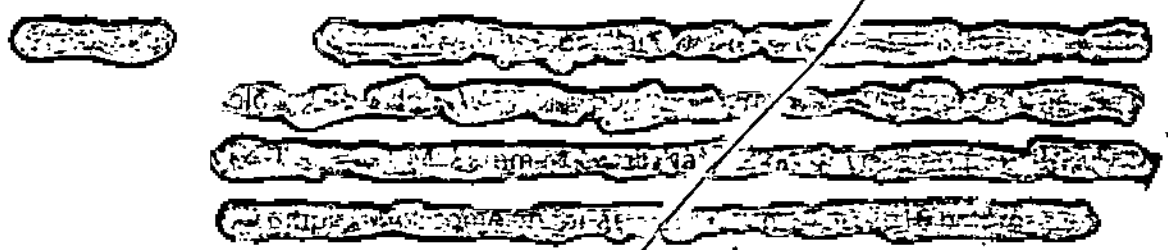

Member
Counsel for the appellant and Mr. Usman Ghani Sr. GP for respondents present. Counsel for the appellant requested for adjournment. Request accepted the case. To come up for arguments on 10.6.2016. Till then no recovery be made from the appellant.


Member

دیس


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 15-1-16. Till then no recovery be made from the appellant.



15.01.2016

Counsel for the appellant and Mr. Muhammad Siaz DFO alongwith Mr. Ziaullah, GP for respondents present. Since court time is over, therefore, the case is adjourned to 3-3-2016 for arguments. Till then no recovery be made from the appellant.



Member



Member

3. 25.03.2015

Appellant Deposited
Security & Process Fee



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.


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. 238/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20.03.2015 SCANNED! KPST Peshawar	<p>The appeal of Mr. Iftikhar-uz-Zman resubmitted 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		<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>25.3.2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Iftikhar-uz-Zaman Deputy Conservator Wildlife Division Peshawar received to-day i.e. on 13.03.2015 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of charge sheet and statement of allegations in respect of appellatant are not attached with the appeal which may be placed on it.
- 2- Annexure-C of the appeal is incomplete which may be completed.
- 3- Copy of rejection order of departmental appeal mentioned in para-8 of the memo of appeal is not attached with the appeal which may be placed on it.
- 4- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.

No. 336 /S.T,


Dt. 16/3 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Naveed Akhtar Adv. Pesh.

R1 sir

Resubmitted after the necessary
completion.


20/3/15

NOTE:

R/Sir

Similarly and identical two appeals
No. 185/2015 and 186/2015 have already
fix on 25/3/2015 on this honorable Court.

mi. eed/As
13-3-15

IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,

PESHAWAR

Service Appeal No. 238/2015

Iftikhar-uz-Zaman.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"	17-26
8.	Copy of questionnaire	"D"	27-28
9.	Copy of reply	"E"	29-33
10.	Copy of inquiry report	"F"	34-43
11.	Copy of show cause notice	"G"	44
12.	Copy of reply	"H"	45-52
13.	Copy of impugned order dated 28.01.2014	"I"	53
14.	Copy of the corrigendum	"J"	54
15.	Copy of the departmental appeal	"K"	55-57
16.	Copy of letter dated 08.07.2014	"L"	58
17.	Copy of the order of Peshawar High Court, Peshawar	"M"	59-70
18.	Copy of letter dated 06.12.2013	"N"	71
19.	Wakalatnama		72

Appellant

Through


NAVEED AKHTAR

Advocate Supreme Court

Dated: 13.02.2015

0322-9055969

IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,

PESHAWAR

Service Appeal No. 237 /2015

Iffikhar-uz-Zaman
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

**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").

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.

Handwritten mark in the top right corner.

IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Service Appeal No. _____/2012

Miftakhar-uz-Zaman 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.

Handwritten signature of the deponent.

DEPONENT
13101-041920-2

ATTESTED
High Court Peshawar
OATH COMMISSIONER
Advocate
Said Kamal
2012

IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

C.M.No. _____/2015

In

S.A.No. _____/2015

Iftikhar-uz-Zaman. 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;

G R O U N D 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.

J.D. Ma

Applicant/Appellant

Through

Naveed Akhtar

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

Iftikhar-uz-Zaman. 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.

Said Kamal

DEPONENT

13101-0971952-9

ATTESTED*Mian Sibghat Ullah Shah*
AdvocateOATH COMMISSIONER
High Court Peshawar

IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2015

Iftikhar-uz-Zaman.Appellant

Versus

Secretary Environment & Wildlife & others. . . Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Iftikhar-uz-Zaman
Deputy Conservator,
Wildlife Division, Peshawar.

RESPONDENTS:

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

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

That, you remained posted as Divisional Wildlife Officer, Manshera from 01/01/2006 to 12/9/2006, 15/8/2008 to 31/12/2008 and from 30/9/2010 till date, 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 obtain appropriate administrative approval from the competent authority / forum for erecting a barrier in the park to collect entry fee from the visitors. Through your illegitimate act, you also developed differences with the district administration. Instead of having a workable liaison, you developed an environment of confrontation and mudslinging with the district administration and they were left with no choice except to intervene and control the situation by imposing section-144 in the National Park.
- c. That you without any authorization and approval of the competent authority / forum had utilized the entry fee to a tune of Rs. 24,000 on POL.
- d. 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.
- e. 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.

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- f. 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.
- g. 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.
- h. 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.

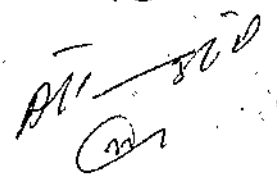
3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the enquiry officer/enquiry committee, as the case may be.

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.
 29.3.2023



DISCIPLINARY ACTION.

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I, Justice (R) Tariq Parvez Khan, Chief Minister, Khyber Pakhtunkhwa, as competent authority, am of the opinion that Mr. Iftikhar-Uz-Zaman, 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 obtain appropriate administrative approval from the competent authority / forum for erecting a barrier in the park to collect entry fee from the visitors. Through his illegitimate act, he also developed differences with the district administration. Instead of having a workable liaison, he developed an environment of confrontation and mudslinging with the district administration and they were left with no choice except to intervene and control the situation by imposing section-144 in the National Park.
- c. That he without any authorization and approval of the competent authority / forum had utilized the entry fee to a tune of Rs. 24,000 on POL.
- d. 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.
- e. 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

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- f. 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.
- g. 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.
- h. 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.

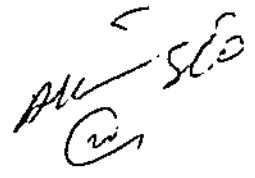
2. For the purpose of inquiry against the said accused with reference to the above allegations, an enquiry officer/enquiry committee, consisting of the following, is constituted under rule 10(1)(a) of the Rules ibid:

- i) MY. Akbar Khan Marwat (Pcs EG B5-19)
- 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



REPLY TO THE CHARGE SHEET RECEIVED FROM MR. AKBAR KHAN MARWAF,
ADDITIONAL SECRETARY (OP)/ENQUIRY OFFICER, GOVT. OF KHYBER
PAKHTUNKHWA, LAW DEPARTMENT

It is humbly submitted that I categorically deny the charges leveled against me as have neither legal footings nor technical soundness. My performance in the field has to be judged either by my immediate boss (Conservator wildlife south) and next higher authority (that is Chief Conservator Wildlife KP) or the public representatives in my jurisdiction.

The charges in the instant charge sheet are neither endorsed by the authorities in the attach department of wildlife nor there is any written complaint against me initiated by any MNA, MPA or the minister of the area. Under these circumstances the charges have no legal footings and hence not justified.

However in order to earnestly comply with the set procedure and to honor the competent authority and inquiry officer I humbly submit following reply in seriatim in response charge sheet issued vide Govt. of KP, Environment Department Notification No. SO (Estt) Env/2-50(20)/2K12 dated 3rd April 2013.

a. Saiful Malook National Park is situated in alpine region where winters are long and the ground remains under snow cover for six to eight months. The summers are short and the growing season for plants is also short. As a result only grasses and herbaceous vegetation grow on melting of snow in June and they complete their life cycle in 3-4 months i.e. before the snow fall in October and November. This short herbaceous vegetation is the only source of food for wildlife and livestock in summer. When grazed alpine pastures give look of bare ground. The alpine pastures are being grazed in the manner since centuries and there has been no change in their ecological character as can be seen in the vast areas around Saiful Malook lake. The ecology of the area does not change even in decade and this fact can be testified by subject specialist. Similarly natural scenery of an area comprises of natural geomorphologic features including plains, valleys, hills, peaks, vegetation, streams and lakes. These features are almost permanent and do not change unless some big destructive events (for example earthquake and fire) take place.

Flora comprises of vegetation of the area. The vegetation cover changes with the intensity of grazing and recoups quickly when grazing ceases. Similarly fauna comprises of wild animals

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and birds. In case of high disturbance the wild species move to safer places and come back when disturbance is over. This happens almost daily in a wilderness environment. Fauna remains same as long as there is no heavy hunting and the habitat is not lost.

All these elements of nature i.e. ecology, natural scenery, flora and fauna of Saiful Malook National Park are in place and can be verified by any subject specialist. None of actions or omissions has resulted in any loss to these components of nature and hence the charge stand disproved.

The only tourist facilities developed in the park through a PC-I include walking trails, camping sites, detachable rain and sun shelters (2, No's) and pit latrines. Except for trails and camping site which lie low on the ground level, the shelters and latrines are only detachable structures and do not in any way impair the park scenery. Similarly except for a forest hut built decades ago, no permanent structure has been built in the National Park. Most of the tuck shops and Kiosk are made of fiber glass and other collapsible material which is removed before winter snow and the owners reinstall these in the start of the next summer. It is only the periodic jumbling of kiosks and tuck shops in peak tourist season which cause temporary eye soar to a keen naturalist but exactly like an eye soar it disappear quickly. It is through my tireless efforts and supervision of my bosses of keeping the Park area neat and clean environmentally that the number of tourists have increased manifold and the seasonal economic activities for local communities gets the reciprocal boost in support of eco-tourism. These economic activities also support the long term objectives of the National Park and are endorsed as policy by the Attached Department of Wildlife. The situation in fact should be treated as a credit to me and my department instead of a charge.

Saiful Malook Lake is a pristine Lake. Many boats plied in the lake before its declaration as National Park but on declaration of the Park the numbers of boats were confined to two under an agreement. Later on this number was enhanced to four. However after the earth quake of 2005 the local communities thronged the lake with their boats in search of livelihood in their rehabilitation efforts. At the same time when the government had soft coraer for the earthquake hit communities the former contractor of boating in Saiful Malook move the court of Senior Civil Judge Manselhra for monopoly over boating in the lake. On oppositions of the Wildlife Department the court ordered status quo. In implementation of status quo the Wildlife Department stopped boating in the lake altogether. Although under heavy pressure of communities and lack of resource, I could not

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have translocated the boats from the National Park. Yet I did not allow a single boat to operate in the lake. It is not true that I failed in maintaining the status quo granted by the court. Numerous challans issued against the boatmen bear testimony to my efforts to stop boating. Similarly I managed to get imposed section 144 by district administration in this regard. The charge against me is therefore not based on facts and may kindly be dropped. (Photocopy of 40 No's of Challans , and List of court case are attached as annexure 1&2 respectively for ready reference).

Horses are a vital component of local pastoral economy. These are used for transportation of supplies by the herders and when not used as beast of burden roam free in the alpine pastures. The Wildlife Department did not place any restrictions on free range horses as in the case of pastoralist's herds of sheep and goats. However under the newly prepared Management Plan the number of horses used as joy riding horses by the tourists was reduced to 50 and those were registered. The free range horses must not be confused with joy ride horses around the lake. No doubt the horses are grazing animals and they do consume grasses yet the impact has to be compromised for the sake of tourism and local economy with in the overall prescriptions of management plan.

As explained earlier the ground flora comprises of short grasses and herbs. The scree-slopes with stones pebbles do not support this vegetation naturally but it is not possible to overlook green grasses and herbs else-where. The grazing pressure was maintained at the minimum possible level so as not to harm the flora permanently (photographs attached as annexure 3 for perusal).

My action and activities were therefore exactly in accordance with management prescription of the park, policy of the department and dictates of the court of law and hence I am not guilty of any of the charges leveled against me.

- b. The PC-I of Saif-ul Malook National Park provided for regulating the entry of tourists to the National Park. It was under this provision that the barrier was used to realize the entry fee. Since the PC-I titled "Management of National Park in Kaghan valley" was approved into the consensus of DDWP held on 12-01-2005 involving Administrative Department, P&DD and the Finance Department, the approval was deemed appropriate. Followed by another umbrella project the same provision was made for continuity of the management interventions and project activities. However, since the activity was vital to manage National

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Park on sustainable bases in accordance with the proposed management plan for next 5 years, therefore a case was submitted to Administrative Department through proper channel for formal approval. The approval from Administrative Department got delayed but the activity was continued in the public interest in accordance to provision of the PC-1 and wildlife act 1975. To augment my earlier stance written in the above text the following documents/correspondence letters are annexed with the reply for your kind perusal to assess about my efforts made for implementation of the project activities according to its spirit for effective protection, conservation and management of the National Park and its resources.

- i. Section 16 of Khyber Pakhtunkhwa Wildlife (protection, preservation, conservation and management) Act, 1975 as annexure 4.
- ii. Photo copy of the relevant portion of the PC-1 which has justification and provision for entry fee and other regulations is annexed as 5.
- iii. Collection of the entry fee from visitors visiting Ayubia National Park since last 5-6 years which was later regularized vide No. SO (G)/ED/4-28/2011 dated 20-07-2011 annexed as 6.
- iv. Request for granting approval for levying entry fee and other collections vide various letters Nos. 288/WL.-M dated 22-10-2011, 567/WL.-M dated 20-01-2012, 768/WL.-M dated 24-03-2012 and 711/WL.-M dated 28-03-2012 as annexure 7.
- v. Seeking verbal approval from Conservator wildlife Southern circle and chief Conservator wildlife Khyber Pakhtunkhwa which has also been documented vide letter No.996/WL.-M dated 15-06-2012 before levying the entry fee as annexure 8.
- vi. Case submitted to concerned quarters annexed as 18

The difference with the District Administration cropped up due to their demand for share in the revenue generated from the Park resources which was not possible for me to agree with. However, the undersigned suggested the District Administration to approach my Administrative Department for the purpose. I assume that my straight forwardness was not tolerated and was mistaken for non cooperation and disobedience. Resultantly, the District Administration misused their powers and not only defamed my administration but also caused a blow to the park management.

Later differences with the district government have been resolved amicably and therefore this charge has lost its significance (photo copy of letter of meeting attached as annexure 9). None of my actions in relations to the National Park were undertaken in my personal capacity. These were rather guided by the Departmental policy and plan prescriptions. I

may therefore be exonerated of these charges.

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e. Since no release of funds was made for meeting the expenditure on routine and inevitable activities including patrolling, transportation of staff and necessary equipments, conducting visits of controlling officers, emergency service etc, the utilization of funds from revenue had been made under a legal provision of the Treasury Rules - 1980. A copy as a reference is attached as annexure 10 for your perusal.

Keeping in view the inevitable expenditure incurred a public interest and appropriately accounted for and therefore does not constitute a charge (detail of collection and remittance enclosed as annexure 11)

d. It is not true that I failed to control haphazard boating within the lake. All boats remained seized to ply in lake due to the status quo in favor of one person by the court and non agreement with the department. Numbers of Challans against offenders are testimonies to this effect. As explained earlier in detail, that on my request DCO Mansobra imposed section 144 on plying boating, however, due to unknown reasons section-144 could not implemented by the concerned (letters written to District Police are attached as annexure 18). On the other hand despite lack of requisite manpower, I succeeded to implement the section - 144 for which I had been appreciated by all my seniors. However, due to litigation cases on establishment of National Park, acquisition of land and on inviting open tenders/bids to regularize boating the number of boats have been increased from time to time since 2007. I had been rigorously pursuing the cases in various courts to streamline the activities regarding boating. It is further added that once the courts dispose off cases it will be a non issue to manage this activity accordingly. Needless to mention that obeying status quo and other orders of the honorable courts (annexed as 12) are also main obligation of any official in discharging his official duties (No of Challans, Copy of section 144, List of court Cases are attached for perusal please).

e. It is again not true that number of horses have been increased from 50 to 200. In fact it was my management through which for the first time registered horses up to fifty and distributed them to different areas of the National Park for economic benefits of local communities. It is again not true that horses were uncontrolled and played havoc with the

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ecological values of the park. Such sweeping charges which have no proofs and sound footings are not justified at all.



f. Again charges of cattle grazing mentioned in charge sheet is baseless and having no proofs. Despite the fact that National park has been established on communal lands (Notification attached as annexure 13) and no official demarcation by revenue department could have been done due to litigation cases, I not only banned movements of herders in core zone but also restricted the local livestock keepers to their habitation. It is therefore evident that the charges are highly baseless.

g. It is not true that I failed in recuperating the overall ecology of the park and improving tourists' facilities. Two PC-I schemes mentioned in the charge sheet which were implemented in the national Park by various officers in their tenures had following objectives:

- To rehabilitate endangered wildlife species of dry temperate ecosystems.
- To preserve the serenity and pristine values of the alpine lake including the legendary Saiful Malook, Lulu Ser and Dodhipet Ser.
- To promote education and awareness among the masses for conservation of Nature and Natural resources.
- To develop and improve the management of National park.
- To promote sustainable and environmental friendly ecotourism.
- To enlist participation of local communities in Management of National Park.

Following achievements were made under both the projects with meager resources. The achievements were rightly acknowledged by general public, conservationist and conservation based organizations.

- 302 kanals of land along the periphery of lake was acquired to ensure effective protection of the lake and control of visitor's access to lake waters.
- Park divided into various zones such as core zone, recreation zone, service area and parking area mainly to restore natural scenic beauty.
- All shabby structures and kiosks were dismantled and shifted to the service area.
- A comprehensive plan of garbage collection and disposal with the help of "Adventure

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foundation, WWF and other organizations was implemented.

- To manage eco-tourism, various facilities have been provided including dry pit latrines, sun/rain shelters, camping sites and walking tracks.
- Tourist attractions were enhanced, through introducing cultural and historical values, horse riding and boating on a limited scale.
- A tented information centre developed to disseminate information regarding biological resources of the area.
- Various scientific reports regarding biological resources, eco tourism, social profile etc have been prepared which has provided baseline for management plan and other similar activities
- A comprehensive management plan for next five years has been developed through consultation of various stake holders which is under process for approval from competent authority.
- Local communities have been organized to enlist their support in management and conservation of the National Park, however, all of the differences could not have been resolved and some of the communities members knocked the door of the courts to challenge establishment of the national Park and acquisition of land around the lake.
- It would not be out of context to mention here that Saiful Malook National Park is first ever example of National Park established on communal land where only water body belongs to the government and hence full enforcement of the law can only be possible after disposal of the litigation cases, resolution of the conflict among various stake holders and recognizing their traditional use rights which they are availing since centuries.
- It has been tried to regulate eco-tourism and link this activity with the livelihood of local communities. Therefore various activities have been planned through management plan for next five years so that conservation can be linked up with the rural development.

It may kindly be particularly noted that,

- No permanent structure was erected around Saiful Malook lake.
- The following Managerial/ Protection staff was recruited for the park
 - i. Range Office
 - ii. Deputy Rangers
 - iii. Wildlife Watchers
 - iv. Sanitation workers.
- The project period ended on 30/6/2012.

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- Despite best efforts made by myself and regular supervision by my bosses the project was not converted to non developmental budget with the result that all the protection and managerial staff was suddenly withdrawn creating a vacuum in the management of the park. This resulted in Chaos and reversal of the achievement made under the projects jeopardizing efforts and thereby all investments.

This was an utter failure of the people who are at helm of the affairs. I myself and the Wildlife Department were helpless and disgusted seeing all over achievements goes into the drains. Wildlife and nature conservations involve human resources for protection and management instead of cement – concrete. The project initiated in Wildlife Sector must continue as regular budget to support human resources as against other department who complete construction of bridges, roads and schools.

Sensing the gravity of the situation that after termination of the project the management gape will create, I had taken following actions/correspondence with the higher authorities speaks about my commitment in discharge of official obligations.

- Letters No-567/WL-M dated 20/1/2012, No 645/WL-M dated 16/2/2012, No 744 WL-M dated 16/3/2012 and No 768 WL-M dated 24/3/2012, N0919/WL-M dated 16/5/2012 and No 934 dated 24/5/2012 (all annexed as 14) written to the concerned authorities regarding issues of the management after 30th June 2012.
- An SNE prepared and sent to Govt. for approval during first week of January so that continuity of the project activities may be ensured (annexed as 15).
- Management Plan developed and submitted to concerned quarters for necessary approval to invoke management prescriptions for next five years (copy attached as annexure 16).
- PC-IV prepared and submitted well in time so that the Govt may extend existing project to continue the management activities (annexure 17).

The sad story started on 30th June 2012, when the project titled "Establishment and development of National Parks in Khyber Pakhtunkhwa" ended and the finance department did not approve the SNE of the project, Consequently the following field staff "recruited under the project was laid off.

- i. One range officer

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- ii. Two Deputy rangers
- iii. Three wildlife watchers
- iv. Ten Community wildlife watchers
- v. Six sanitation workers

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This created a huge and unprecedented gap in the management of the National Park and the whole system on site started to collapse and desperate efforts by the wildlife Department to get SNE, funds and staff for the park failed utterly.

To honor my professional duties toward protection of National Park, saving a huge sum of money invested in the shape of development project and saving of the image of the Government before the public at large, I squeezed my staff from other areas of the division and deputed it in Saiful Malook National park. However this staff was not enough to bridge the gap created by termination of the project staff.

It is not out of context to mention here that I remained posted as Divisional Forest Officer Mausehra from 01/01/2006 to 12/9/2006 which was time after drastic earthquake of October 2005 and hence all roads leading to the National Park remained closed and hence any management activity was out of question. Similarly during my second short tenure i.e. from 15/8/2008 to 31/12/2008 was slack period by virtue of the fact that national park is snow bound area having workable season from May to August only. However, from 30/9/2010 to 24/1/2013, I had considerable time to manage national park and left no stone unturned in conserving biological resources and lake of the park.

It is further added that I implemented a portion of the approved project during my tenure and following expenditure incurred during the period.

Pay and allowance	2,780 M
Commodities and services	0,480 M
Remuneration of C W/L W	1,000 M
Development of Management Plan	0,150 M
Development of Tourist Facilities	0,210 M
Annual monitoring survey of wildlife and habitat..	0,100 M
Park sanitation	0,240 M
Rent of Office	0,120 M
Total expenditure incurred.....	5,480 M

All the expenditure was strictly spent in accordance to the provisions of approved PC -I for

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achieving the desired objective hence the charge of failing to utilize the public money for recuperating the overall ecology of the park and improving the tourist facilities is totally baseless and mallafied. Keeping in view the above mentioned break up of expenditure of Rs. 5.48 M in total, it is not true that I eroded Rs. 7.24 m in connection with developmental schemes. It is therefore humbly requested that I may be exonerated from a 'highly baseless' charge.

ii. Non conversion of the project to the regular budget and sudden withdrawal of the staff and resources from the park created chaos and exposed the park to as many un-desirable disturbances as can be enumerated. I submitted the SNE, as conversion proposed in time and I struggled as much as I could but the Administrative Department and Finance Department were least moved.

(Management Plan, Photographs of the area, Biological, Social and ecotourism survey reports

2. As explained in the aforementioned facts, the undersigned has not committed any misconduct, inefficiency or corruption under Rule 3 of Khyber Pakhtunkhwa Government (Efficiency & Disciplinary) Rules 2011.

In view of the afore-made explanations I consider myself completely innocent and not guilty of all the charges against me and humbly request for exoneration and acquittal please.

3. I also request that I should be heard in person to explain myself in detail and provide other documentary evidences in my favor please.

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note:-

Ittikhar-uz Zaman
Deputy Conservator Wildlife

*despite personal request for personal hearing
petitioner was condemned unheard.*

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QUESTIONAIR

During your posting as D.F.O Wildlife, Mansehra, from (1) 01.01.2006 to 31.12.2006 (2) 15.10.2008 to 31.12.2008 & (3) 30.9.2010 till date, what steps you have taken in the light of following questions:-

The Saiful Malook 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?

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?

Under what authority you have started collection of entry fee at Saiful Malook National Park?

You have misappropriated the entry fee and spent it under the Head P.O.L

Has proper permission/approval been granted by Higher Authorities for making agreement with one particular person for plying boats in Saiful Malook lake?

How the number of boats increased from 4 to 35 or more?

Is there any documentary proof indicating illegal removal of timber by District Administration Mansehra from the area situated from Saiful Malook National Park?

Has proper approval been granted by any higher authority for the employment of Horses for riding of Tourist at Saiful Malook National Park?

of Mansehra District from

1. The Chief Wildlife Warden
2. The District Wildlife Officer

QUESTIONIAIR

During your posting as D.F.O Wildlife, Mansehra, from (1) 01.01.2006 to 12.09.2006, (2) 15.10.2008 to 31.12.2008 & (3) 30.09.2010 till date what steps you have taken in the light of following questions:-

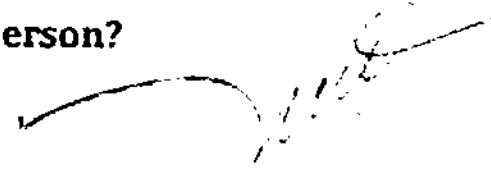
1. That Saiful Malik National Park was declared as National Park in year 2003 vide Notification bearing No.SO (Technical)/VII-Gen/2003, dated 28.04.2003. What was the status of land escape of area declared as National Park especially pertaining to its scenic beauty flora, Fauna including the lake and its surrounding area?
2. 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?
3. Under what authority you have started collection of entry free at Saiful Malook National Part?
4. You have misappropriated the entry fee and spent it under the head P.O.L.
5. Has proper permission/approval been granted by Higher Authorities for making agreement with one particular person for plying boats in Saiful Malook take?
6. How the number of boats increased from 4 to 35 or more?
7. Have you documentary proof including illegal demand of any share by District Administration Mansehra from revenue to be generated from Saiful Malook National Part?
8. Has proper approval been granted by any higher authority for Registration of Horses for riding of Tourists in Saiful Malook National Part?
9. How the number of Horses increased from registered 50 numbers to 200.
10. What measures you have taken to control from trampling of flora collection and disposal of animal wastes?

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- 11. What measures you have taken to control haphazard and free illegal cattle grazing in Saiful Malook National Park area?
- 12. You have spent 7.242 million out of two projects launched for development of tourist facilities in Saiful Malook National Park. What achievements you have made from this expenditure?
- 13. 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?

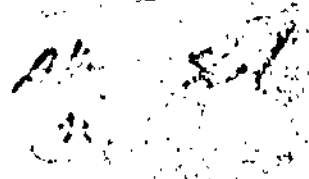
While responding to these questions you should specifically submit any documentary proof of your tenure.

Intimate whether you desire to be heard in person?



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

Mukhtar ur-Zaman
 D.F.O. Wildlife, Mansehra.



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

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

Intimate whether you desire to be heard in person?

Sd/-
(Akbar Khan Marwat)
Addl: Secretary (OP), Enquiry Officer
Law Department

Iftikhar ur Zaman
D.F.O Wildlife, Mansehra

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DEPARTMENT AND LETTER NO. WSP/MD/ENVQ-12017814-16 DATED 24-02-2013
 MARWAJI, ADDITIONAL SECRETARY (INQUIRY OFFICER) L.A.
 REPLY TO THE QUESTIONNAIRE RECEIVED FROM MR. ANBAR

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4. This question pertains to the knowledge and understanding of the Head of the Department or the Officer concerned in the preliminary work of declaration of the area as National Park. However according to the available literature, official information and common understanding prevalent in the Department, Lake Saiful Malook National Park and the surrounding fragile ecosystem was vulnerable to variety of disturbances and threats including uncontrolled tourism, pollution of both land and water, overgrazing of the range lands, herbivores and mammals, death of hoists and ticks all around the lake, unregulated boating in the lake and horses in the park, etc. the Government while realizing the aforementioned threats to the landscape and impacted harms to the biological resources declared the lake as a sanctuaries area measuring 1707 acres. Watersheds of the lake are partially covered. At times to five lakes government officials are conducting water quality monitoring which flows out of the lake. The lake number of plant species indicates the richness of forest diversity. Conditions suggest that more sensitive species have disappeared due to heavy grazing (Sardar, 2003).

After handing over the area to Government Wildlife Department the department has set following objectives to address the declining scenic beauty, flora and fauna of lake and its surroundings.

- i. To replicate and conserve wildlife species by providing adequate protection against wildlife poaching and poaching activities.
- ii. To preserve the scenic and aesthetic values of Saiful Malook lake.
- iii. To educate tourists and local awareness about national park and its resources through pamphlets, brochures, leaflets and information boards.
- iv. To develop co-existence with the entrepreneurship of local communities and developing linkages of cooperation with social mobilization of the area.

The department conducted a survey of forest species found in the park in 2003 and recorded 23 species of birds. The area was managed as National Park by the department and initiated following activities for effective management of the park:

- i. Regulation of visitors that they do not enter on the entry.
- ii. Regulation of the vehicles through confining the vehicle to the parking area.
- iii. Regulation and restriction of deer and the horses through restriction and MoU with the community.
- iv. Controlling pollution in the park through imposing penalty on the violation by the tourists and regular collection of garbage by hiring daily wages and subsequent disposal of the garbage to safe place.
- v. Regulation of ticks and other harmful insects through mutual understanding of the owners and

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establishment of the defined area.



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The steps taken as mentioned above have observable positive impact on the landscape and biological resource of the area. Visits of the senior officers including the Chief and the Conservator in particular and the general tourist in general and their satisfaction over improvement in preservation of the beauty of the park and its resources are evident of the effective management of the park. However, to record the impact of the activities afterwards declaration of the park the department conducted another monitoring of the biological resources in June 2010 and recorded 82 species. It is pertinent to mention that plant community flourished from 25 to 82 floral species in 2010 is mainly outcome of the effective management offered to Park resources during period. Similar surveys have also been conducted in 2011 and 2012 to monitor floral species in the area. Needless to mention that the ecological principal's dictates direct proportion between the habitat and the associated wildlife species. The department has not monitored scientifically the wildlife species so far in the park due to some obvious reasons. Major fauna found in the area including snow leopard, Himalayan Ibex, Brown Bear, Snow Cock, Snow Partridge and Monal pheasants. It is worth to mention and should be carefully noticed that said species are high altitudinal species and highly elusive and seasonal visitors to the park. These species visit the park in winter when the area is snow bound and therefore unapproachable. The department lacks proper equipments, resources and expertise to monitor these species during winter. Besides this, there is no chance of visiting the park during winter season by the species due to high disturbance.

2. Following steps have been taken for preservation and conservation of the park resources.
- i. Zonation of the Park was made to achieve the objective of the National Park establishment. The park was divided into three zones
 - a. Core Zone
 - b. Recreation Zone
 - c. Buffer ZoneRecreation zone was further divided into three distinct areas
 - a. Service area
 - b. Parking area
 - c. Trekking area
 - ii. Regulation and restriction of boating, horses and tourists
 - iii. Establishment of camp office for effective management and supervision by the park staff during the tourist season.
 - iv. Establishment of sanitation mechanism including regular collection and thereafter safe disposal of the solid waste and garbage.
 - v. Enforcement of wildlife act for maintaining the sanctity of the National Park.
 - vi. Preparation of the Five year Management plan for the Management of the National Park after expiry of the project.
 - vii. Development of tourist facilities including camping sites, walking treks, information centre, trash bins, bridge connecting service area to core zone, emergency service and public toilets.
 - viii. Memorandum of understanding was signed with Adventure Foundation for arranging sanitation drive during the currency of the season and after the end of the tourist season and similar understanding with CNFA to develop financial agreement with local communities to shift shabby structure to service area.
 - ix. Preparation of conservation education material for tourists, local communities and general public.

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x. Conducted various surveys during the period.

It is further added that 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.

3. Collection of entry fee, as stated in the earlier reply was started in consonance with the provision of the approved PC-1 and the subsequent management strategy documented through a proposed management plan for the National Park. It is pertinent to mention that the collection of the fee was logical owing to anticipated approval of the fee collection proposed by the Department to the Government and in analogy with the collection of the entry fee as approved by the Government in case of the Ayubia National Park in Abbottabad Wildlife division. Record to this effect has already been provided in the earlier reply as annexure 4, 5,6,7,8 and 18. The undersigned would like to express elegantly that the activity was started with the verbal approval of the Chief Conservator and Conservator. Besides, a very transparent record has been maintained for collection of the fee.
4. The expenditure incurred on POL was inevitable. A full time vehicle was maintained at the National Park for effective mobility of the staff and for immediate response to the demanding situation. It is pertinent to mention that the normal budget could not cater for the POL required for the field staff. Therefore in order to meet the unavoidable requirements of POL and to ensure effective management of the park the expenditure was inevitable. Besides, said expenditure was made in accordance with the provision of treasury rules, 1980. A copy of the said rules has already been provided with the earlier reply as annexure 10, as the same is also annexed herewith.
5. The undersigned did not make any agreement with any one for plying boats in Saif ul Malook National park.
6. The undersigned took over the charge of the division in October, 2010 which was off season and came to know in the tourist season started in June 2011 that the number of boats has increased. The undersigned is unable to comment on increase of the boats with the passage of time in the Park. However the undersigned did not miss the opportunity to highlight the issue before the higher offices and approached the DCO Manshara for help in this regard. As explained in the earlier reply the undersigned was successful in imposition of section 144 to halt plying of boats but unfortunately section 144 could not have been materialized by the governing agencies due to unknown reasons. Resultantly the undersigned had no other option to stop the activity forcefully through the field staff which raised a conflict between the department and the owners and resultantly the confrontation started between the parties which ended on the converging the situation into the allegation against the undersigned. The undersigned deny that the number of boats has increased in my period or due to undersigned failure in controlling the number of boats in the lake. However, it is pertinent to mention here that litigation case against acquisition of land remained the main reason in which owners transported boats and kept in construction outside the boundaries of acquired land from time to time.

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7. The issue is based on verbal conversation between the undersigned and the then DCO Mansehra. However, upon reporting the situation to higher offices the case was referred to the Secretary environment Govt of KP and then to the Wildlife Management board. The Wildlife Management board meeting chaired by then Chief Minister Khyber Pakhtunkhwa discussed the issue and instructed the Commissioner Hazara to look into the matter and resolve the issue. The Commissioner Hazara intervened and after evaluating the situation through meeting with the Department and the DCO concerned concluded to resolve the issue amicably. Finally DCO Manshra amicably resolved the issues and in light of the instructions of the Commissioners decided to evacuate boats from Saiful Malook National Park and keep tuck shops and hotels as minimum as possible with the help of the department.

It is further added that the situation rose due to misunderstanding on either side and the undersigned would like to express humbly that since the issue has been resolved with win-win situation, therefore, the same may kindly be dropped.

8. Regulation of horses was inevitable activity in the back drop of the foreseen negative implication of the unregulated and unrestricted horse riding activity in the park. In order to halt the harmful effects of horse riding there was no other option than to impose registration of the horses on emergency basis. approval (Annexure Simultaneously, self contained case was prepared and submitted to the concerned quarter for its approval from concerned quarters. Since a similar case for Ayubia National park in Abbottabad wildlife division had already been approved by the competent authority, it was anticipated that the approval of the case for Saif ul Malook National Park was synonymous and is only a formality. It is pertinent to mention that the undersigned wonders that why the approval has been delayed inordinately and has been suspended without informing this department. The unsigned deny that there has been any increase in number of the horses from 50 numbers during my tenure. The avoid trampling of flora 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. I totally deny the charges that the number of horses were increased from 50 during my tenure.

10. Following measure have been taken by the undersigned during the period.

- a. Project staff was strictly directed to regulate tourist activities and discourage overcrowding in the grassy areas so as to avoid unnecessary trampling
- b. Tracking/bridal paths developed to stream line tourist along flora free part of the park.
- c. Horse riding was restricted to the bridal paths
- d. Registration of horse invoked along with an agreement to restrict their activities within allowable ecological parameters.
- e. For cleanliness of designated trekking area staff and owners of the horses were made responsible.

As a matter of fact Conservator Wildlife Southern Circle visited the area in July and appreciated the cleanliness, maintenance of park, ecotourism regulation and protection on spot.

11. Intensive protection through project staff discouraged illegal cattle grazing during my

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tenure. Challans have also been chalked against the offenders; therefore, there was no question of illegal grazing in the presence of adequate park management staff headed by the independent range officer hired under the project.

12. The undersigned had spent Rs. 5.48 million during my tenure. Following is the break up to the expenditure being made during the tenure.
- a. Pay and Allowances.....2.780 Million
 - b. Commodities and Services.....0.480 Million
 - c. Remuneration of CWW.....1.000 Million
 - d. Development of Tourist Facilities.....0.21 Million
 - e. Park Sanitation.....0.240 Million
 - f. Rent of Office.....0.120 Million
 - Total Expenditure.....Rs. 5.180 Million

Physical achievements made through the expenditure are as under:

- i. Hiring of project staff including one Range Officer, two Deputy rangers and three Wildlife Watchers
 - ii. Hiring of ten community wildlife Watchers
 - iii. Hiring of six sanitation workers
 - iv. Zonation of the Park
 - v. Development of Parking area
 - vi. Establishment of the camp office
 - vii. Renovation of the inspection hut
 - viii. Establishment of movable information centre.
 - ix. Construction of bridge
 - x. Maintenance of tracking paths.
 - xi. Development of Management Plan.
 - xii. Construction of one and half kilometer road from main road to the service area.
 - xiii. Provision of other tourist facilities including sun rain shelter, trash bins, various sign boards.
 - xiv. Development of Conservation education material.
13. Tourists have been regularized through ticketing, zoning of National Park and invoking does and don'ts prescribed in Wildlife Act under section 16. Besides information centre, information boards and other similar activities were mainly to streamline the activities and raise awareness among general public.

I also humbly request to be heard in person please.

Iftikhar Uz Zaman
Deputy Conservator Wildlife

Annexure cc En

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Enquiry Report

In compliance with the order bearing Notification No. SO(Estt)Env/2-5/201/2K-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 Bala District Mansehra. After this, preparatory work was started by the 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

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/-.

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 2008-2010 with a 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 prestinity of legendry Lake Saif-UI-Malook, Lulusar 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-UI-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-UI-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-UI-Malook National park is given below:

<u>S.No.</u>	<u>Year</u>	<u>Amount Released</u>
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
07	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
Total		95,72,910/-	

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

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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. Babbar A. Shah 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.

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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 Iftekhar-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

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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	Iftexhar-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	Iftexhar-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	Iftexhar-Uz-Zaman	10/2010 to 30.12.2012	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

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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 "Maqbooz Malikan" (مقبوض 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.

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 by 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 2006. 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 06/2005 to 06/2006 seems to be fake and unjustified and likely to be made from him. Moreover, he had also made unjustified expenditure of

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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 on 19.11.2010 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 Iftexhar-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 Iftexhar-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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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 one 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

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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. Iftikhar-Uz-Zaman, 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.

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Annual "G"
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REPLY TO THE SHOW CAUSE NOTICE SERVED UPON IFTIKHAR UZ ZAMAN DIVISIONAL FOREST OFFICER WILDLIFE (BPS-18)

Before; The Honorable Chief Minister Khyber Pakhtunkhwa

Through; Proper Channel

Reference; Govt of Khyber Pakhtunkhwa Environment Dept: letter No. SO (Estt) Env/2-50(20) /2k6 /585/WL dated 24/10/2013.

Kindly refer to the above it is humbly submitted that the findings of the enquiry report submitted by Mr. Akbar Khan Marwat (Enquiry Officer) does not commensurate with the charges leveled against the undersigned in his charge sheet. Keeping in view the charge sheet and findings of the Enquiry Officer, I humbly submit the Para wise reply before your honor in the following points as desired please.

1. It is humbly submitted that a very detailed reply to the charge sheet had been submitted by me (Annex-01), unfortunately the same had either been ignored or over sighted in deciding fate of the enquiry against undersigned by the concerned Enquiry Officer.
2. The findings of the Enquiry are mainly based on visit by Enquiry Officer to Lake Saiful Malook on 10-06-2013, which is almost 1 year later then the expiry of the project and my transfer from Manselhra Wildlife Division and hence applying the same mismanagement of that time to the past times do not fulfill the demand of justice for leveling grounds for legal action against me on reviewing following realities.
 - a. Charge "a" leveled against me has not been proved as the Enquiry Officer has recorded by referring first portion of this charge in his findings/conclusions. Whereas, the Enquiry Officer acknowledged the existing of service area where all business activities have been confined and may be treated as the realization of the management of the Saiful Malook National Park. It has been proved that according to the PC-I and management objectives, the Saiful Malook National Park was actively divided into Service Area, Tourist Zone and Core Zone during my tenure. Parking of the vehicle in designated parking space and provision of the

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other facilities in Service Area was one of the major achievements of myself to manage Saiful Malook National Park. Besides, nos of the challans chalked out against illegal boating during my tenure (Annex-02) and seeking help of District Government by imposing Section 144 on illegal boating (Annex-03) are another undeniable facts which have been initiated by me to properly manage park and its resources.

It is further added that a comprehensive management plan have been developed during my tenure as a 'scientific management document' and initiated registering horses to regulate the business of local communities and develop linkages of conservation with rural economy.

(List of the horses registered during my tenure is annexed as Annex-04)

b. The enquiry report seems highly contradictory while dealing with the charge of erecting barrier and collection of visitor's fee on following grounds.

- i. The Enquiry Officer himself acknowledged the blanket approval of PC-I regarding collection of visitors and other fee as mentioned in the background of the enquiry report. The same justification had already been provided in detail to the enquiry officer by undersigned in his initial reply on his charge sheet.
- ii. The Enquiry Officer appreciated Mr. Muhammad Hussain I Divisional Forest Officer Wildlife, for erecting barrier and collecting visitor's fee of Rs. 411000/- which he has collected during visitor's season. Whereas the same Enquiry Officer not only over looked the collection of Rs. 517350/- made during my tenure. It is not out of context to mention here that this collection was generated during 27 days only and later on the same collection had been stopped by imposing unjustified section 144 by District Administration (Annex-5)

M. Hussain
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- c. The Enquiry Officer accepted the rule 7(2) clause-g of Central Treasury Rules Vol-I which has provided protection to me and hence exonerated from the charges.
- d. The charge at s. no. "d" could not be proved after surprise visit on 11/06/2013 which was not tenure of undersigned and surprisingly the officer who was managing resources at that very time has been exonerated. I had provided all relevant documents and proofs in my favor to Enquiry Officer which have been overlooked while deciding my fate. No's of challans are annexed as Annex-2 for your kind perusal please.
- e. As explained above please.
- f. Again the charge stands unjustified as the Enquiry Officer has tried to proved the mismanagement of past by a visit on 11-06-2013 and again exonerated the sitting Divisional Forest Officer Wildlife from all charges who was managing National Park at that time which is highly illogical, biased and do not fulfilled the demand of justice.
- g. The charge of unjustified expenditure has not been proved on me since all expenditure incurred during tenure was strictly according to the provision of the PC-I. The detail of unjustified expenditure mentioned at s. no. 01 of enquiry report is reproduced as under

S #	Name of Accused Officer	Period of posting as Ro/DFO	Total Expenditure made	Justified	Unjustified	Remarks
1	Iftikhar uz Zaman	R/O	84,8000	87,700	760300	Against provision Pc-I and no bathroom or shelter was found on spot

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As a matter of fact the expenditure made by the then Divisional Forest Officer (Wildlife) according to the PC-I provision to facilitate visitors visiting National Park. However, after earthquake of October, 2005 the same installations were damaged and which were duly reported to concerned authorities. After disastrous earthquake and laps of 8 years how the Enquiry Officer has observed that no shelters and other installations in the National Park were erected. Besides, the recovery proposed from undersigned by enquiry officer is highly illogical and unjustified on following grounds.

- i. Undersigned was working as Range Officer during the period, having no DDO powers and implementation of PC-I with respect to financial activities were the responsibilities of the then Divisional Forest Officer Wildlife.
- ii. Purchases were made by the then Divisional Forest Officer Wildlife and booked in his cash book.
- iii. The installations erected to facilitate the visitors were strictly in accordance to the PC-I provision.
- iv. Due to earthquake 2005 the same installations alongwith other infrastructures had been badly damaged.
- v. How come a person can judge a un justification of any expenditure made according to the provisions of the PC I after laps of 8 years.
- vi. Since I was not responsible in incurring expenditure in anyway then why a recovery of any kind should be made by me.

Similarly the recovery mentioned in enquiry report at s. no. 2 which is also reproduced as under.

S #	Name of Accused Officer	Period of posting as Ro/DFO	Total Expenditure made	Justified	Unjustified	Remarks
2	Iftikhar uz Zaman	As DFO 08/2005 to 09/2006	1597045	1379930	217115	No activity due to the Earthquake

Again recovery mentioned is highly unjustified on following grounds.

- i. Expenditure made strictly in accordance to the PC-I provisions

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- ii. All relevant recode and vouchers are available in the office of Mansehra Wildlife Division.
 - iii. Audit Party, has duly verified the expenditure alongwith relevant vouchers and registers made during the tenure.
 - iv. All monthly expenditures are reported to the office of the Chief Conservator Wildlife and Conservator Wildlife Southern Circle Peshawar being controlling offices

Furthermore the unjustified expenditure mentioned in enquiry report at s. no.6 which is reproduced as below.

S #	Name of Accused Officer	Period of posting as Ro/DFO	Total Expenditure made	Justified	Unjustified	Remarks
6	Iflikhar uz Zaman	As DFO 10/2010 to 30/06/2012	2065185	1637578	427607	Against Provision of PC-I

Again the recovery of Rs. 427407/- mentioned in the enquiry report is unjust and incorrect on following grounds.

- i. All Expenditure made were strictly in accordance to the provision of PC-I
- ii. All vouchers and relevant records is available for any review and perusal.
- iii. Audit party has reviewed the records of the tenure.
- iv. No financial miss appropriation has been made during tenure.
- v. All monthly expenditures are reported to the office of the Chief Conservator Wildlife and Conservator Wildlife Southern Circle Peshawar being controlling offices.

It is further added that the public money was utilized in accordance with the rules and procedures and hence a decision made on arbitrary visit of few days after my tenure (later then my transfer) does not provide any justification for any recovery or

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recommended punishment. Also no detail has been provided neither any reasons nor grounds have been given in the enquiry report through which the above mentioned expenditure could be treated as unjustified and recoverable from me.

Besides, the report is lacking financial and technical grounds and reasons and hence charge does not stand proved.

- h. That the general findings recorded by the Enquiry Officer at s. no. 2, it has been mentioned that the Notification of the government is not lawful and hence maintaining the authority over property of local people cannot be unilateral on behalf of the government. Keeping in view that aspect into consideration, penalizing a subordinate officer of hard decision of the government is not justified in the eyes of law and hence the charge "h" does not seem to exist.
3. As explained above it is humbly prayed that I may not be held guilty of the charges leveled against me and also *I request to be heard in person, please.*
4. It is not out of context here to point out various contradictions of enquiry report as solid grounds to review this enquiry by your honor and to provide justice to me while concluding this enquiry please.
- i. The Enquiry Officer mainly relied on his visit to National Park after my tenure (after lapse of considerable time).
- ii. The Enquiry Officer accepted the practical existence of various zones such as parking area, service area and tourist zones which were main achievements of me in managing park resources and hence ignored while penalizing me on same charge.
- iii. The Enquiry Officer gave credit to one accused for his collection from national park and ignored collection of undersigned during his recommendations.
- iv. The Enquiry Officer suggested all recoveries without assigning any financial or technical grounds. Furthermore figure of Rs. 760300/- mentioned against

Note:-

Personal Hearing not provided -

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- me, has neither been made expenditure nor had powers of DDO being a Range Officer at that time.
- v. To exonerate some of the officials from enquiry, the Enquiry Officer has not only changed facts but also relied on verbal statements which are highly unjustified and biased. Though being manager of the park I personally believe that none of colleague has left any stone unturned in managing park resources and all activities were made in accordance to the provisions of the P.C.1. However, justice demands that every accused must be treated with same yardstick.
 - vi. Facts written on serial no.6 are not true at all since the possession of the National Park was taken over by me through revenue department during my tenure which was later on challenged by owners. Surprisingly the same credit was given to others without reviewing record. It seems that Enquiry Officer was witness while recording findings at serial no 6 which is not true.
 - vii. The Enquiry Officer has denied my achievements which are best known to all my superiors in managing national park. Therefore, all controlling offices such as Conservator Wildlife and Chief Conservator Wildlife have not been consulted by the Enquiry Officer to unearth factual position and technical aspects while concluding this enquiry and providing justice to me.
 - viii. The enquiry Officer relied the figure of horses given by his real nephew as recorded in enquiry proceedings s.no. 3 which is not in accordance to the lawful proceedings as his nephew was not a part of the enquiry.
 - ix. All personal observations of 2005 and onward were made on his visit on dated 13.6.2013 and any time based mismanagement would have been attributed to the sitting DFO. However, astonishingly, the Enquiry Officer has given clean chit to the then Manager of the resources and attributed all time based mismanagement to my tenure and other accused which is highly illogical biased and unjust.

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4. Keeping in view the various contradictions and biasness mainly due to lacking technical capabilities in enquiry report, it is requested that your honor may kindly review the tentative decisions and exonerate me from the charges, please.

Iftikhar-Uz-Zaman
Deputy Conservator Wildlife

Iftikhar-Uz-Zaman
(Signature)

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

1416/WC
30-1-14

Dated Pesh: 28th January, 2014

NOTIFICATION

No. SO(Estt)Envl/ 2-50(20)/2k12: WHEREAS, Mr. Iftikhar-Uz-Zaman, 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 Allegations 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. Iftikhar-Uz-Zaman, Divisional Wildlife Officer (BPS-18), Wildlife Department, with immediate effect.

CHIEF MINISTER,
KHYBER PAKHTUNKHWA

Dated Pesh: 28th January, 2014.

Order No. SO(Estt)Envl/2-50(20)/2k10

457-464

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.

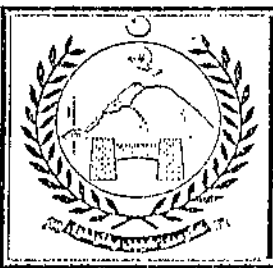
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(MIR ZALI KHAN)
SECTION OFFICER (ESTT)

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Annual "J"



CORRIGENDUM

GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

Dated Pesh: 14th 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)/2k12/173-180 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: 14th 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
(MIR ZALI KHAN)
SECTION OFFICER (ESTT)

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Amir K. (S)

(S)

(S)

The CHIEF MINISTER
KHYBER PAKHTUNKHWA

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 IMPUNGED 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 14,05,022/- 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 one year later than the transfer of the petitioner from Manshra 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 appellant and for the recovery of alleged amount mentioned in the enquiry report with out assigning financial/ technical grounds.

Amir K.
(S)

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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 Order dated 31-10-2013 for the recovery of alleged amount of Rs. 14,05,022/- 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 "Audit Altrām 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, 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 inter alia:-

GROUND:

- A. The 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. 14,05,022/- dated 24-10-2013 is against the law, facts ad 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 offices 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 order passed in furtherance of it, is liable to be declared as null and void.
- D. That all expenditures incurred accordance to the provisions of approved PC-I and duly verified by all controlling officers, however, during enquiry the Enquiry Officer could not consult the same offices due to reasons best known to him which also impugned the enquiry report as well as the above mentioned impugned orders based on it.

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- E. That the enquiry report based on various contradictions and discrepancies, which creates ambiguities in the pronouncing of the above mentioned impugned orders, hence liable to be reviewed 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. 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 appellant.
- 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 reviewed.
- I. That the impugned orders of recovery of alleged amount and illegally with holding three annual increments of the petitioner have been passed in haphazard manner, without fulfilling the legal formalities, which is liable to be a set aside.
- J. That upon enquiry report the above mentioned impugned orders is 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 that dated 28-01-2014 of with holding of three annual increments of the petitioner and the impugned order of the direct recovery of alleged amount of Rs. 14, 05,022/- dated 31-10-2013 may kindly be reviewed 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.

Petitioner

Dated: ___/___/2014.

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AM


I. Zaman
IFTIKHAR-UZ-ZAMAN

DEPUTY CONSERVATOR WILDLIFE
Khyber Pakhtunkhwa Wildlife Department

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Annul "L"

	GOVERNMENT OF KHYBER PAKHTUNKHWA
	ENVIRONMENT DEPARTMENT
	NO.SO(Estt)Env/2-50(20)/2K9 2857 Dated Pesh: 8 th July: 2014

To

The Chief Conservator Wildlife,
Khyber Pakhtunkhwa.

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14/7/14

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)
SECTION OFFICER (ESTT)

Encl: No. and date even.

Copy is forwarded to PS to Secretary Environment Department.

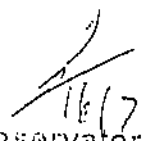
Copy agreed copy be enclosed

SECTION OFFICER (ESTT)

No. 5916-18/WL (E), Dated Peshawar the 10/7/2014

Copy with reference to this office enclst No. 5916-18/WL (E) dated: 10-04-2014 and No. 5244-46/WL (E) dated: 28-04-2014 forwarded for information and necessary action to the:-

1. Mr. Muhammad Faiq Khan DFO Wildlife Abbottabad with reference to his letter No. 1812/WL-Ald 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. Iflikhar Ur Zaman DFO Wildlife Kohistan.


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. 30th P 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

V E R S U S

- 1. Govt of KPK
Through Secretary Environment & Wildlife,
KPK, Peshawar
- 2. Akbar Khan Marwat,
Through Adll: 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 Manshara in the year 2010 and served there for about 3 years with due devotion and zeal.
3. That during their tenure in Wildlife Division Manshara 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 Manshara District).
4. That to the utter surprise of the petitioners, the respondent No.1 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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PESHAWAR
DISTRICT COURT
PESHAWAR

Attested

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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").

FILED TODAY
Deputy Registrar
02 OCT 2014

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ATTESTED
EXAMINER
Peshawar 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:

GROUNDS:

- 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
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ATTESTED
 EXAMINER
 Peshawar High Court
 02 FEB 2015

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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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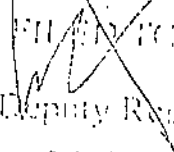
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EXAMINER
Resident Judge
02 FEB 2015


- 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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EXAMINER
Dombivli 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.

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ATTESTED
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.

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EXAMINER
Peshwar High Court
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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.

Petitioners
Through
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

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ADVOCATE

ATTORNEY
EXAMINED
Peshawar High Court
02 FEB 2015

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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

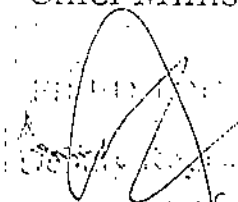
ADDRESSES OF PARTIES

PETITIONERS:

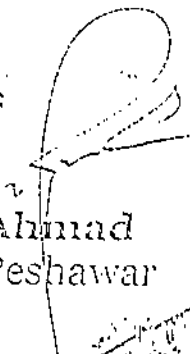
1. Muhammad Faique Khan
Deputy Conservator Wildlife Division, Peshawar
2. Iftikhar-uz-Zaman,
Deputy Conservator Wildlife Division, Peshawar
3. Said Kamal
Deputy Conservator Wildlife Division, Peshawar

RESPONDENTS:

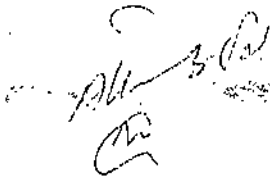
1. Govt of KPK through Secretary Environment & Wildlife, KPK, Peshawar
2. Akbar Khan Marwat, Through Addl: Secretary Law Department, KPK, Peshawar
3. Govt of KPK through Chief Secretary, KPK, Peshawar
4. Govt of KPK through Chief Minister, Chief Minister Secretariat, Peshawar

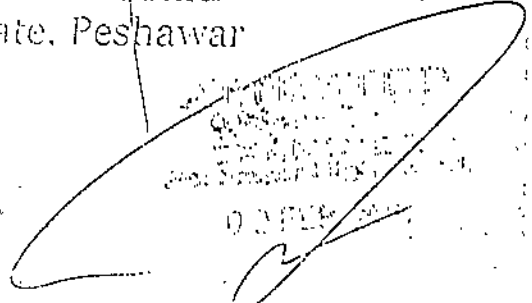

Date: / / 2014

Through
Petitioners


Muntaz Ahmad
Advocate, Peshawar







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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.
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1	2	3
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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.

Handwritten signatures and names of judges:
 Mr. Abdul Latif Khan, J. JUDGE
 Mr. Asad Ali Khan, J. JUDGE

Handwritten note: "Attyyuni" and date "27/1/15".

Official stamp and date: "02 FEB 2015".

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(71) (ED) (S) (A)

OFFICE OF THE CHIEF CONSERVATOR WILDLIFE
KHYBER PAKHTUNKHWA
PESHAWAR

Annulment No

To

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

No. 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

M. J. J. J.

ED

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.

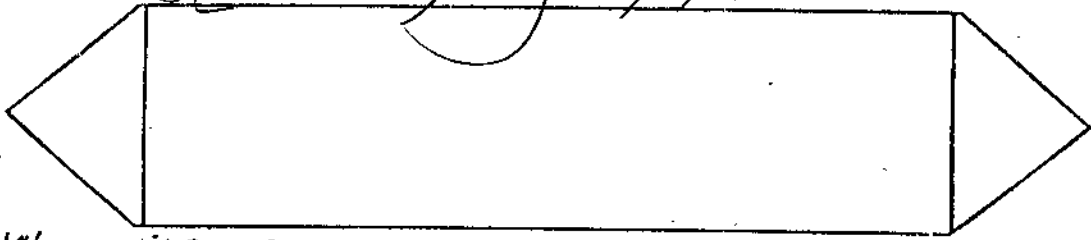
3/12
Chief Conservator Wildlife
Khyber Pakhtunkhwa
Peshawar

No. _____ /WL(E)

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

3/12
Chief Conservator Wildlife
Khyber Pakhtunkhwa
Peshawar

بعدالت سرویس ٹریڈنگ ہنڈل کو ذرا لسنی



اسلام آباد

2016 پنجاب

افطار الزمان سبم سٹیڈیو بنام

- موزخہ
- مقدمہ
- دعویٰ
- جرم

باعث تحریر آئنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام سید کیلئے خواجہ احمد ابراہیم مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و زویہ 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 کارروائی 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 ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

Accepted
M. A. Khan
2016

المرقوم _____ ماہ _____ 2016
_____ واہ الع

بمقام _____ کے لئے منظور ہے۔

افطار الزمان
13101-097958-9

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Appeal No.238 of 2015

Mr. Iftikhar-uz-Zaman
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.

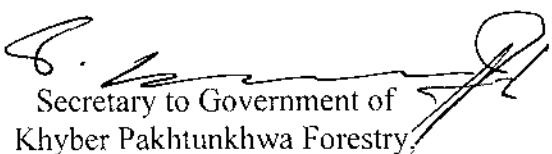
On facts

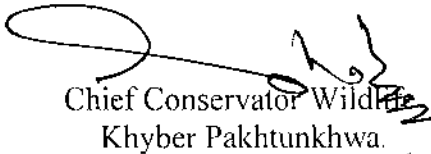
1. Incorrect, the officer is serving as Deputy Conservator Wildlife (BPS-18) in Kohistan Wildlife Division.
2. Pertains to record.
3. Correct
4. Proper enquiry was conducted as per law.
5. Correct to the extent that after proper enquiry, show cause notice was issued to the extent of with-holding of 3 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:

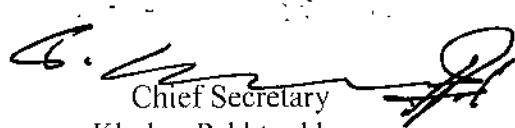
- A. In-correct. Order has been passed after adopting proper procedure hence tenable in law.
- B. In-correct. The appellant has questioned the conduct of enquiry officer for which this is not proper time and forum. The enquiry officer has followed the legal procedure without any malafide.
- C. Incorrect. 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. In-correct. Although the accused officer was not a Drawing & Disbursing Officer but he was a Disburser.
- P. 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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. 238/2015

Iftikhar Uz Zaman.....Appellant

VERSUS

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