


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 24/11/22

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. Muhaminad 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 Adcel Butt, Addl: AG for respondents present.


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


(Fareeha Paul)
Member(Executive)


(Kalim Arshad Khan)
Chairman

9.11.2022


Since 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

21th July 2022

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


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


(Kalim Arshad Khan)
Chairman

12.09.2022

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


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


(Fareeha Paul)
Member (E)



01.03.2022

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


Reader

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.

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



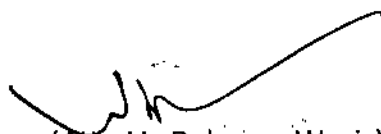
(Rozina Rehman)
Member (J)



Chairman

17.01.2022 Counsel for the appellant and Mr. Muihammad Riaz Khan Paindakhel, 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

~~3. Deleted entry on 10.05.2020 of a matter...~~

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

This case is adjourned to 18.02.2019 with connected appeal No. 238/2015.


Reader

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. 184/2015 & 238/2015,


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

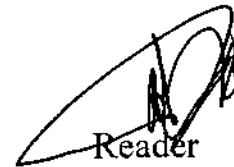
11.05.2018

This case is adjourned to 12.06.2018 with connected appeal No. 238/2015.


Reader

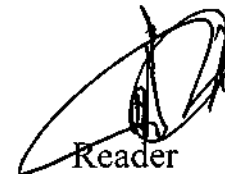
12.06.2018

This case is adjourned to 03.08.2018 with connected appeal No. 238/2015.


Reader

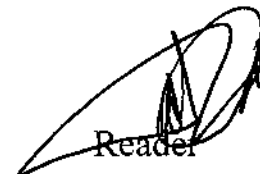
03.08.2018

This case is adjourned to 14.09.2018 with connected appeal No. 238/2015.


Reader

14.09.2018

This case is adjourned to 08.11.2018 with connected appeal No. 238/2015.


Reader

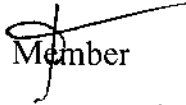
08.11.2018

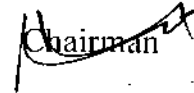
This case is adjourned to 21.12.2018 with connected appeal No. 238/2015.


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 23.04.2018 before D.B.


Member

23.04.2018

Junior to counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney alongwith Said Jamal Superintendent for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not available.. Adjourn. To come up for arguments on 10.05.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

19.07.2017


Clerk of the counsel for appellant present. Mr. Muhammad Hussain, DFO and Mr. Karim Dad, Junior Clerk alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Due to strike of the bar learned counsel for the appellant is not available today. Adjourned. To come up for rejoinder and 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 AAMIR NAZIR)
MEMBER

10.02.2017

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

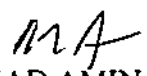

(ASHFAQUE TAHIR)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

13.06.2017

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


(GUL 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

03.09.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is punished twice on the same allegations regarding which appeal of the appellant bearing No. 185/2015 has already been admitted to regular hearing by this Tribunal.

In view of the above, this appeal is also admitted to regular hearing. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 28.10.2015 before S.B.

Appellant Deposited
Security & Process Fee




Chairman

28.10.2015

Counsel for the appellant and Mr. Syed Jamal, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 23.02.2016 before S.B.


Chairman

23.02.2016

Counsel for the appellant and Mr. Muhammad Hussain, DFO alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 27.4.2016 before S.B.


Chairman

27.4.2016

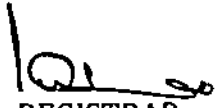


Agent of counsel for the appellant and Mr. Muhammad Hussain, DFO (Hqrs.) alongwith Addl: A.G for respondents present. Written reply by the respondents submitted. The appeal is assigned to D.B for rejoinder and final hearing for 18.08.2016.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 965/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25.08.2015	<p>The appeal of Mr. Muhammad Faique 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	25-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>27-8-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	27.08.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 3.9.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Muhammad Faique Khan Deputy Conservator Wild Life Division Peshawar received to-day i.e. on 31.07.2015 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days:-

Copy of departmental appeal against the impugned order is not attached with the appeal which may be placed on it.

No. 1146 /S.T.

Dt 31/7 /2015

Handwritten signature
**REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.**

Mr. Naveed Akhtar Adv. Pesh.

R/ Sir

Resubmitted after the necessary completion.

Handwritten signature
15-8-15

IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

Service Appeal No. 965 /2015

Muhammad Faique Khan Deputy Conservator Wild Life Division
Peshawar.....Appellant

VERSUS


Secretary Environment & Wild Life Khyber Pakhtunkhwa Peshawar and
othersRespondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Writ Petition		1-5
2.	Affidavit		6
3.	Addresses of Parties		7
4.	Copies of charge sheet, statement of allegations and reply are attached as	"A", "B", & "C"	8 - 19
5.	Copies of the questionnaire, its reply and the inquiry report are attached as	"D", "E" & "F"	20 - 37
6.	Copies of the show cause notice and reply are attached as	"G" & "H"	38 - 43
7.	Copy of the impugned order is attached as	"I"	44
8.	Copy of the corrigendum is attached as	"J"	45
9.	Copy of letter dated 6-12-2013 letter 24-10-13	"K"	46 - 47
10.	Wakalat Nama & Deptl. Appeal.		48 - 50

Through

Appellant


Naveed Akhtar
Advocate Supreme Court
Cell: 0290-9596181
0312-9055969

Date: ___/___/2015

IN THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR

Service Appeal No. 965 /2015

Muhammad Faique Khan Deputy Conservator Wild Life
Division Peshawar

.....Appellant

V E R S U S

1. Secretary Environment & Wild Life Khyber Pakhtunkhwa Peshawar
2. Chief Secretary Khyber Pakhtunkhwa Peshawar
3. Chief Minister Khyber Pakhtunkhwa through Principal Secretary Peshawar
4. Chief Conservator Wild Life Khyber Pakhtunkhwa Peshawar

.....Respondents

**APPEAL U/S 4 OF THE SERVICES
TRIBUNAL ACT, 1974 AGAINST THE
ORDER DATED 24-10-2013 BY THE
FORESTRY, ENVIRONMENT AND WILD
LIFE DEPARTMENT KHYBER
PAKHTUNKHWA WHEREBY A RECOVERY
OF RS. 112,700/- HAS BEEN ORDERED
FROM THE APPELLANT AND AGAINST
THE NON DISPOSAL OF DEPARTMENTAL
REPRESENTATION DATED 26-03-2015
AGAINST THE SAME ORDER**

Respectfully Sheweth:

1. That appellant is currently serving as Deputy Conservator Wild Life Division Peshawar in BPS-18.
2. That throughout his career the appellant has performed his duty in accordance with the law to the satisfaction of the Department and no chance of complaint has ever been given during this long tenure.
3. That the Department issued a charge sheet and statement of allegation 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; an 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 subsisted with the word "**minor penalty**" on 14-02-2014. (Copy of the corrigendum is attached as Annexure "J").
8. That the appellant filed a service appeal No. 186/2015 before this honourable Tribunal which is pending adjudication and is fixed for 13-08-2015.
9. That before the conclusion of inquiry and during pendency of the departmental proceedings a letter dated 24-10-2013 was issued wherein recovery of Rs. Rs. 112,700/-was ordered but the appellants were verbally told that since the inquiry was still pending therefore no recovery shall be made. (Copy of the letter dated 24-10-2013 is Annexure "K").
10. That as is clear from the inquiry report, no finding has been given regarding recovery of the said amount nor any penalty regarding recovery has been imposed upon the appellant, filed a representation against the order dated 24-10-2013 which was not responded to, hence this appeal inter alia on the following grounds.

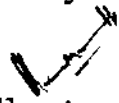
GROUNDS:

- A. That the impugned order dated 24-10-2013 is against the law and facts on the file.
- B. That inquiry report besides, being silent regarding any penalty of recovery against the appellant speaks of abundant malafidies against the appellant which was conducted long after the appellant was posted out as Deputy conservator Wild Life Mansehra .
- C. That the case was initiated against the appellant after three four years when the appellant was posted in the area and no heed was paid to the long time passed since the appellant was posted out of the area.
- D. That strangely the whole proceedings was silent as to how and whose complaint the inquiry has been initiated and how the govern exchequers suffered losses.
- E. That on one hand the inquiry has been based may be on spot inspection of the area while on the other hand the officer who was currently serving there, name Muhammad Hussain has been exonerated of the charges which speaks of malafide of the inquiry officer against the he appellant.
- F. That it is pertinent to bring into the notice of this Hon'ble Tribunal that the Department itself has expressed its concerns over the strange and novel proceedings of the inquiry officer vide the letter dated 06-12-2013 written by respondent No. 4 to the Establishment Department Govt. Of Khyber Pakhtunkhwa. (Copy of letter dated 6-12-2013 is attached as Annexure "L").

- G. That no opportunity of hearing was given to the appellant before passing the impugned order.
- H. That since the appellant is suffering monetary loss due to impugned order and the same being a recurring cause, the question of limitation therefore does not arise.
- I. That for the recovery of the amount neither any separate has been conducted nor any finding has been given in the main inquiry report.
- J. That appellant may kindly be allowed to bring additional documents/arguments at the time hearing of the instant appeal.

It is, therefore, humbly prayed that on acceptance of the instant appeal impugned order dated 24-10-2013 may kindly be set aside and the appellant may kindly be exonerated /exempted from recovery of the amount Rs. 112,700/-

Any other order / relief deemed proper and appropriate by this Honourable Tribunal, in circumstances of the case, may kindly be passed as well.


Appellant

Through


Naveed Akhtar
Advocate Supreme Court

Date: ___/___/2015

IN THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR

Service Appeal No. _____/2015

Muhammad Faique Khan Deputy Conservator Wild Life
Division Peshawar

.....Appellant

V E R S U S


Govt. of KPK through

1. Secretary Environment & Wild Life Khyber Pakhtunkhwa
Peshawar and others.....**Respondents**

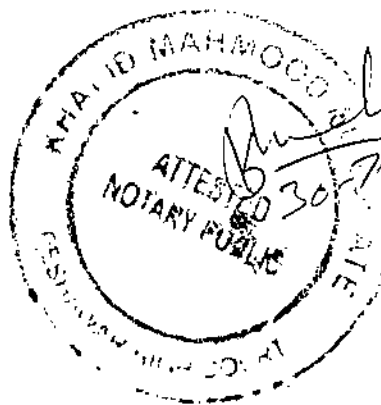
AFFIDAVIT

I, Muhammad Faique Khan, do hereby solemnly affirm and declare on oath that contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Identified by


DEPONENT


Naveed Akhtar
Advocate Supreme Court



IN THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR

Service Appeal No. _____/2015

ADDRESSES OF PARTIES

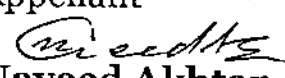
Muhammad Faique Khan Deputy Conservator Wild Life
Division Peshawar **Appellant**

V E R S U S

1. Secretary Environment & Wild Life Khyber Pakhtunkhwa
Peshawar
2. Chief Secretary Khyber Pakhtunkhwa Peshawar
3. Chief Minister Khyber Pakhtunkhwa through Principal
Secretary Peshawar
4. Chief Conservator Wild Life Khyber Pakhtunkhwa
Peshawar **Respondents**

Through

Appellant


Naveed Akhtar

Advocate Supreme Court

Date: ___/___/2015

CHARGE SHEET

13

Amirul H. Khan

6

8

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

5

AA

That, you remained posted as Divisional Wildlife Officer, Manshera from 17.03.2010 to 30.09.2010, committed the following acts of omissions:

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

Court report Boats

Horses

Grazing

AKSCO
M. Falque Khan

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


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

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


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

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


6. A statement of allegations is enclosed.

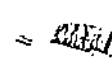

(JUSTICE (R) TARIQ PARVEZ KHAN)
CHIEF MINISTER, KHYBER PAKHTUNKHWA.

29.3.2013


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the developmental schemes by you.





DISCIPLINARY ACTION.

Annexure 10

I, Justice (R) Tariq Parvez Khan, Chief Minister, Khyber Pakhtunkhwa, as competent authority, am of the opinion that Mr. Muhammad Falque Khan, Deputy Conservator Wildlife (BS-18), Khyber Pakhtunkhwa Wildlife Department, has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

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

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


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

- i) Mr. Akbar Khan Marwat (PES E.G.B.S-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) FARIQ PARVEZ KHAN)
 CHIEF MINISTER, KHYBER PAKHTUNKHWA.
 29.3.2013

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(17) Annulment (12)

COPY OF CHARGE SHEET RECEIVED FROM MR. AKBER KHAN MARWAT
ADDITIONAL SECRETARY (OP) INQUIRY OFFICER GOVERNMENT OF KHYBER
PAKHTUNKHWA LAW DEPARTMENT

It is submitted that I emphatically deny all the charges leveled against me as incorrect, baseless, concocted and against the law and request that I may be exonerated from all of these charges on following grounds.

I remained DFO Mansehra from 17.3.2010 to 30.9.2010. During this period Secretary Environment visited Saif ul Malook National Park along with conservator wildlife south and other officers of Forest and Fisheries Departments. I gave them a briefing and both of them appreciated my performance. I yet to understand where from this charge sheet has popped up, as neither an inquiry has been conducted against me nor any explanation has been called upon in this regard, particularly after almost three year of my departure from the national Park. During my short tenure of six months I have tried my best in achieving the objectives of the National establishment. However in order to show my respect to the procedure and highlight some technical shortcoming in the charges I submit my explanation to the charges as under.

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 charge sheet does not seem justified.

However in order to earnestly comply with the set procedure and to honor the competent authority and inquiry officer I hereby submit following reply in serial form to the charges mentioned in the charge sheet issued vide Govt. of Khyber Pakhtunkhwa, Environment department notification No. SO (Estt)Env/2-50/2K12 dated 3rd April 2013 is furnished as under.

- a. Saif ul Malook National Park is situated in alpine region on communal land except the water body which is property of the government. In the national Park winter are harsh and long. In altitudinal Zonation of vegetation alpine and sub alpine ecosystem starts from 9000 feet to 12500 feet, in such type of ecosystem small plants like stunted trees, (at lower elevations of the Zone), shrubs, herbs and grasses grow. This short herbaceous vegetation is the only source of food for wildlife and livestock in summer. When these pastures are grazed, alpine pastures give look of bare ground. The

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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 Saif ul 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 happen (for example earthquake and fire take place).

Flora comprises of vegetation of the area. The vegetation cover before changing with the intensity of grazing and recoups quickly when grazing ceases. Similarly fauna comprises of wild animals 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 that is ecology, natural scenery, flora and fauna of Saif ul 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.

All of the tourist facilities and other structure mentioned in the charge sheet were erected and developed before my posting in the division. These structures were wisely placed in different zones according to its objectives and purpose. Kiosks, tuck shops and restaurants were erected in the service area along with parking developed at the entrance of the service area of the recreation zone to restrict the movement of vehicles to the brim of the lake which has considerably reduced the noise pollution, especially at the outlying points of the lake. Nevertheless, it was through my tireless efforts of keeping the Park area neat and clean environmentally by placing effective system of sanitation including installation of dust bins at different places and hiring of the sanitary workers. These workers were assigned the task of collection of waste from bins and its proper disposal at selected points away from the sight down in the ditch. I and my team did justice with our duties by facilitating the thousands of visitors by providing them services in clean and neat environment under proper management.

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regime. Staff was posted in different zones to facilitate and apprehend any violation of the Park instructions. In the presence of staff round the clock in the park the tourists were feeling secure and safe. Communities were getting economic boost through promotion of eco tourism. Track and trail were kept clean, horses and pedestrians were restricted to tracks to avoid trampling. Throwing of litter here and there was banned and staff was strictly asked to stop such sort of violations. Maintaining cleanliness, facilitation of tourists and handling the large number of service providers and tourists apart from my other duties of protection, conservation and management across the stretch of the division, comprising of two civil districts, this situation should have been treated as credit instead of framing a charge against me.

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 and boating right were leased out to the contractor after signing an agreement with him. After the assumption of the charge of the division I was briefed that the leasee has obtained order of the court for maintaining the status quo. Boating was banned in spite of the strong community opposition and pressure. We resisted strongly and requested the District coordination officer through letter N.O 110/WL-M 28-07-2010 and District police officer was request vide my office letter N.O. 25/WL-M dated 09-07-2010 for assistance and sought their help to extradite the boats out of the lake.

During ban the community demanded for leasing out the boating right, cancellation of the earlier contract and the increase in number of boats in the lake. Due the status quo granted by the court our hands were tied, I did nothing and no progress was made during my tenure for termination of status quo. Community demands were genuine as their livelihoods were strongly linked with the lake and economic activities generated each year in the National ^{park} with huge influx of tourists.

Although under heavy pressure of communities and lack of resource, I could 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. The above explanation bear testimony in favor of our efforts to stop illegal boating and horse riding. The charge against me is therefore not based on facts and may kindly be dropped.

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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 but they were never allowed for pony/joy riding neither they were allowed to graze in the periphery of the lake. Those who violated, they were put into task by chalking Challans and sending them back out of the Park. Many efforts were made to register all the service providers including jeeps, horses, tuck shops and hoteliers but on every front the community resisted due to fear of losing stake in the park. Under the PC-1 provisions I was bound to take the community on board for co management of the park. I had kept the struggle to achieve the project objectives by remaining in loop with communities at all level. In this regard I had hold meetings with communities and the owners including chief of Kaghan, Ahmad Shah the then minister and major stakeholder in terms of ownership and other notables of the area the names of those I do not remember by know. My Monthly diary contains details of my informal meetings with owners of the Parks. (Copies are enclosed)

Different enterprises were discussed for registration, development and promotion of ecotourism with them including fixing of fee for entry on tourists, marketing of traditional products. conduction of guided tours, tracking, Rock climbing, mountaineering, boating, pony riding/joyriding, parking, Hoteling and transport but those could not have been materialized during my time period as I had got only 4 months for concentration on the park affairs. Active season in Naran especially on Saif ul Malook starts in mid of June when the snow melts and glaciers are removed and the season stays up to September, that's why I believe that there is was no issue of mismanagement and of lose administration but the process of organization, motivation and participation was a lengthy social process for which consensus of the all the stake holder was required to come up on the same page, having common platform in the form of Community organization, having conservation fund and authority to exercise their powers and participate in collaborative management of Park resources. This could only have been possible if there would have been approved management plan. Without having legal document in hand and mutual understanding of the communities it would have been quite difficult rather impossible to go far strict implementation of the prescription which has not been approved, having no legal binding on the community to comply with.

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As explained earlier the ground flora comprises of shot 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 has never been allowed in the premises of the core zone and recreation zone.

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. It is not true that I failed to control haphazard boating within the lake. It is also not correct that there were 35 boats in the park in my period. Actually there were only four boats originally plus on rescue boat but later 4 additional boats were thronged in the lack. They did all this to show their grievances on keeping the boating banned in the park. This accident was happened in reaction of the status quo order in favor of the contractor. I resisted strongly and team of wildlife staff headed by the Range Officer was directed to have a raid, stop boating and proceed against the offenders according to the law. The team raided in the park seized all the boats, Challans were chalked against the offenders. ^(copies challans attached) Upon the resistance shown by some of them the letters were wrote to District coordination officer and district police officer for information and they were requested for full support, assistance to extradite the boats out-of the lack. (Copies of Correspondence attached as annexure). Resultantly Elite Force of Kaghan police station valley along with range Officer and other wildlife staff visited the park and the boating was stopped by force. The boats were dragged out of the lake and were locked.

Although under heavy pressure of communities and lack of resource, I could not have allowed a single boat to operate in the lake. It is not true that I failed in maintaining the status quo granted by the court. The above explanation bear testimony in favor of our efforts in stopping illegal boating and horse riding. The charge against me is therefore not based on facts and may kindly be dropped. (Copies of 40 No's of Challans)

I had also been rigorously perusing the cases in various courts to streamline management activities regarding boating. It is further added that once the courts dispose of 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 are also main obligation of any official in discharging his official duties (No of Challans are

enclosed).

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c. It is again not true that number of horses have been increased from 50 to 200. There years back there were less than 50 horses. The process of registration of pony horses was not started by that time as the negotiations, with the community organization for formation and establishment of VCC, establishment of Conservation fund and preparation of Management plan, were under way. Various consultative meetings were held and one consultative workshop was also organized for out lining the management plan for the Saif ul Malook National Park. In fact it was due to my strict management that pony riders were restricted to the tracks, they were banned on free roaming in the park. Proper sanitation mechanism was in place for collection and disposal of the feces of the horses. It is again not true that horses were uncontrolled and played havoc with the ecological values of the park without giving any reason for the charge. These are mere statements not supported by evidence. Such, generalized charges having no proofs and sound footings are mainly framed on the basis of ocular observation being made after three year of my departure from the division seems un justified and baseless therefore I may please exempted from such charges.

(Copies of minutes of meetings & ^{Report of} Consultative workshop is attached)

d. Again the charges of cattle grazing mentioned in charge sheet is baseless and having no proofs and sound footings. On contrary to this allegation I not only banned movements of herders in core zone but also restricted the local livestock keepers to their habitation despite of the fact that National park has been established on communal lands and no official demarcation by revenue department could have been done due to litigation cases. Due to cur intensive management in puts grazing was fully controlled in my period, no complaint or observation regarding free grazing and depletion of Natural flora and fauna was made during tenure of the undersigned. I categorically deny this charge and submit that in my period grazing and herding was remained strictly banned, therefore I may be exonerated from the charge.

e. It is not true that I failed in recuperating the overall ecology of the park and improving tourists' facilities. It is also totally in corrected that in my period Rs. 7.242 million had gone down the drain because during my period I had only spent total of Rs, 1,470,000 in two financial years. During the first year of the project titled "Development and establishment of wildlife parks in Khyber Pakhtunkhwa only Rs, 1,350,000 was spent on the following activities.

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1st year (2009-10)

S.No	Particulars	Amount
i.	Pay and allowances of officers.	Rs. 90,000
ii.	Pay and allowances of other staff	Rs. 213492
iii.	Purchase of Motor Cycles (transport)	Rs. 174150
iv.	Rent of office building	Rs. 30000
v.	Travelling allowance	Rs. 29200
vi.	Honoraria of community watchers and sanitation workers	Rs. 240000
vii.	Biological surveys	Rs. 150,000
viii.	Consultative workshops, community Meetings and etc.	Rs. 150000
ix.	Others, activities	Rs. 300,000
	Grand total	Rs. 1,350,000

2nd year(2010-11)

S.No	Particulars	Amount
1.	pay of Community watchers:	Rs. 120,000

All the expenditure was strictly spent in accordance to the provisions of approved PC-1 for 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. Keeping in view the above mentioned break up of expenditure of Rs. 1.47 M in total was spent in two financial years which clearly invalidate the charge and hence it is not true that I had eroded Rs. 7.242M in connection with developmental schemes. It is therefore humbly requested that I may be exonerated from the charge which is baseless. Copy of actual from April 2010 to (September 2010 are annexed)

f. It is not true that the park was facing any threat of ecological disaster neither I had ever compromised on the ecological significance of the Park. During my period Zonation was strictly adhered, violators were proceeded against according to the law. Sanitation system was in place. Signage, publicity boards and dustbins were installed. Tracks were properly cleaned and maintained.

Some of the pectoral glimpses of the park are given below for assessing my reply and analysis in light of the photo graphic record.

Various biological surveys have been conducted including botanical, zoological, environmental and social survey to gather base line information about the flora and fauna. Wildlife Department had also conducted bird survey in Saif ul Malook

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with technical assistance of Pakistan Wet Land program. (Reports are annexed.)

At the end let me place few lines which would not be out of context I hope, that Saif ul 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, award of acquisition, resolution of the conflict among various stake holders, approval of the management plan from the competent authority, recognizing their traditional use rights which they are availing since centuries and enhancement of protective and management staff.

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.

2. As explained in the aforementioned facts, the undersigned has not committed any misconduct, inefficiency or corruption under rule -3- of the Khyber Pakhtunkhwa Government servant (Efficiency & disciplinary) rules 2011. I humbly request to kindly exonerate me of all charges given in the charge sheet.

3. I also request that I should be heard in person, please.

Muhammad Faique Khan
Deputy Conservator Wildlife

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Note: Despite request for personal hearing
petitioners were condemned unheard:-

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QUESTIONIAIR

During your posting as D.F.O. Wildlife Mansehra from 17.3.2010 to 30.9.2010 what steps you have taken in the light of following questions:-

1. The Saiful Maliik National Park was declared as National Park in year 2003 vide Notification bearing No.SO(Technical)/VII-Gen/2003, dated 28.4.2003. What was the status of land escape of area declared as National Park especially pertaining to its scenic beauty flora, Fauna including the lake and its surrounding area?
2. 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. Has proper permission/approval been granted by Higher Authorities for making agreement with one particular person for plying boats in Saiful Malook lake?
4. How the number of boats increased from 4 to 35 or more?
5. Has proper approval been granted by any higher authority for Registration of Horses for riding of Tourists in Saiful Malook National Park?
6. You have admitted that additional 4 boats were thronged in lake, as reaction by community. What steps you have taken to control this situation?
7. How the number of Horses increased from registered 50 numbers to 200?
8. What measures you have taken to control from trampling of flora, collection and disposal of animal wastes?
9. What measures you have taken to control haphazard and free illegal cattle grazing in Saiful Malook National Park area?

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10.

You have spent 7.242 million out of two projects launched for development of tourist facilities in Saiul Malook National Park. What achievements you have made from this expenditure?

11.

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?

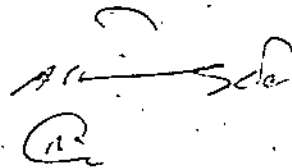
While responding to these questions you should specifically submit any documentary proof of your tenure.

Intimate whether you desire to be heard in person?



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

Muhammad Faique
D.F.O. Wildlife, Mansehra.



A m l u k e t e ?
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REPLY TO THE QUESTIONNAIRE RECEIVED FROM Mr. AKBAR KHAN
MARWAT, ADDITIONAL SECRETARY (OP)/ENQUIRY OFFICER LAW
DEPARTMENT VIDE LETTER No. AS (OP)/LD/ENQ/1-1/2013/8145-46 DATED
24-05-2013

1. The question pertains to the month of April 2003 and the undersigned took over the charge in march, 2010 almost after 7 years . I cannot comment on the status of the landscape of that time by my own without having sufficient available data regarding various aspects of the ecosystem. However to comments on the basis of the institutional memory I had gained during my tenure as DFO Mansehra the following few lines are added to the text.

This question pertains to the knowledge and understanding of those officers who remained involved in the preliminary stages of its establishment. Anyhow according to the available information and common understanding prevailed in the department, Lake Saif ul 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, haphazard and mushroom growth of hotels and kiosks, unregulated boating in the lake and horses in the park, etc. The department while realizing the aforementioned threats to the landscape and implicated harms to the biological resources declared the lake and surrounding area measuring 4 614 ha as National Park.

The department conducted monitoring surveys of floral species found in the Park in 2003 and recorded 25 species of flora initially. Thereafter the area was managed as National park by the department under proper management prescription through various inputs of the developmental initiatives and management interventions like posting of staff, conduction of biological surveys, placing sanitation system through hiring sanitation worker, installation waste bins and disposal sites, regulating tourism activities, restriction and removal of haphazard development of Kiosks, hotels and other structures resulted in significant improvement in the overall condition of the park specially in and around the Lake.

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 (During the period of undersigned) and recorded 82 species. It is pertinent to mention that plant community flourished from 25 to 82 floral species in 2011. It is needless to mention that the ecological principal's dictates direct proportion between the habitat and the associated wildlife species. The department has not monitored the wildlife species so far in the park due to some obvious reasons. Major

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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 altitude species 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 the 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 Zone

Recreation zone was further divided into three distinct areas

- a. Service area
- b. Parking area
- c. Tracking 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. Efforts were initiated for the preparation of Management plan through conducting consultative workshop of all the stake holder particularly the custodian communities, service providers, NGO and line government departments. (Copy of the minutes of Workshop is annexed).
- vii. Maintenance of the already developed tourist facilities including camping sites, walking tracks, information centre, trash bins, bridge, emergency service and public toilets.
- viii. Already Iron Bridge built at Mansehra by my predecessor was transported and installed.
- ix. The reinstallation of the Kiosks, restaurant and tuck shops were monitored during the period in manner already agreed with them.
- x. Opening and clearance of road at various places which was closed due to land slide and heaps of snow.
- xi. Conducted various studies including about floral, faunal and social surveys in the National Park. Two students of Malakand University were also facilitated in conduction of their studies about the potential aspects of ecotourism in National park. Copy of the same has already been provided with my earlier reply; however the minutes of the community meeting is attached again.

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- xii. Conducted various community sessions and consultative meeting for organization and motivation of the communities for collaborative management of the National park and its resources
- 3. This has been a practice in vogue before my taking over the charge and the agreements were signed in 2005 and followed by agreements made in 2006, 2007, 2008 and 2009. During my tenure the court has ordered the status quo in favor of the contractor and bared the department for leasing out the rights through open tender for boating till the decision of courts. The undersigned had lifted no option except to ban the boating. The undersigned have no knowledge about getting permission from any higher authority as during my period no agreement was made with any one.
- 4. In the month of June 2010 the undersigned hired Quid e Azam university graduate for conducting social survey of the Lack Saif ul Malook National Park before the formal start of the tourist season. It was found through that study that there were total nine boats in the park but by that time the boating was not started. All the boats were parked on bank of the lake including the boats originally allowed through an agreement along with the rescue boat. Upon the onset of the season the owners of the boats contacted the undersigned on different occasions for granting rights either through open tender or realization of fee of Rs, 25000/ boats. They were of the view that some of them were allowed during the last year by my predecessor upon the realization of Rs.25000 fee as compensation on Challans chalked against them. The divisional office record duly supports their stance that they were fined by Rs. 25000 each on every boat plying. The undersigned strongly rejected their option because the court has ordered for maintaining the status quo in favor of the existing lessee. After not allowing them for boating as result they thronged their boats in the lake. After getting information through reports of the field staff about the incident the following steps were taken.
 - i. Range officer was directed to immediately stop the boating and evacuate the boats out of the lake. In compliance the Range officer went there and attempted to stop the boating but he met with strong resistance offered by the boat owners.
 - ii. Upon verbal communication about the resistance shown by the people the undersigned wrote letters to the DCO and District police officer for seeking their help to stop boating. (Copies are already annexed with my earlier reply).
 - iii. The range officer raided the park with team of elite force of Kaghan police station. All the boats were evacuated from the lake and locked them up on the bank of the lake.
 - iv. Challans have been chalked against the offenders and their cases were sent to court for trial. Copies of the Challans are already attached with my earlier reply.
 - v. Litigation cases were actively pursued during my period.
 - vi. Community organization and mobilization was initiated with the local stake holders for streamlining of the tourists activities, outlining management plan and sharing benefits of the resources in sustainable manner with the aim to keep the park in pristine condition by maintaining the ecological sanctity of the park.
- 5. I had never made any registration of the horses during my period.

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6. As explained vide serial No. 4 above
7. The undersigned totally deny that number of the horses increased from 50-200 during my tenure.
8. Following measure have been taken by the undersigned during the period.
 - i. Project staff was strictly directed to regulate tourist activities and discourage overcrowding in the grassy areas so as to avoid unnecessary trampling
 - ii. Tracking/bridal paths developed to stream line tourist along flora free parts of the park.
 - iii. Horse riding was restricted to the bridal paths and did not allow roaming in the core zone of the park.
 - iv. Proper sanitation mechanism was put in place by hiring sanitation workers, arranging collection drives through students and general masses.
 - v. The number of horses were kept below 50
 - vi. Grazing was strictly banned in around the lake Saif ul Malook.
9. Intensive protection provided through independent Range officer, deputy Rangers and other wildlife watchers, there was no question of grazing in core zone i.e. Lake and its periphery where the land was owned by the Government.

10. The total expenditure during 2009-10 and 2010-11 during my tenure amounts to Rs. 1.47 million and not Rs. 7.242 Million. The detail break up of my expenditure as under

1st year (2009-10)

S.No	Particulars	Amount
i.	Pay and allowances of officers.	Rs. 90,000
ii.	Pay and allowances of other staff	Rs. 213492
iii.	Purchase of Motor Cycles (transport)	Rs. 174150
iv.	Rent of office building	Rs. 30000
v.	Travelling allowance	Rs. 29200
vi.	Honoraria of community watchers and sanitation workers	Rs. 240000
vii.	Biological surveys	Rs. 150,000
viii.	Consultative workshops, community Meetings and etc.	Rs. 150000
ix.	Others, activities including water supply scheme, installation and carriage Charges of iron bridge, etc	Rs. 300,000
	Grand total	Rs.1, 350,000

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2nd year (2010-11)
S.No Particulars

Amount

Rs. 120,000

1. Pay of Community watchers:


Achievements:

Following achievements have been made during the period

- i. Project staff (Range officer, Deputy Ranger, wildlife watchers and community watchers were hired during the period
 - ii. Sanitation worker engaged for garbage collection and disposal
 - iii. Consultative workshop for outlining management plan for SMNP
 - iv. Conducted social and biological surveys
 - v. Installation of iron bridge, cleaning of road, maintenance of paths
 - vi. Establishment of camp office
 - vii. Organization of village and valley conservation committee through community dialogues
11. Following activities have been made to streamline eco tourism in Saif ul Malook National Park.
- i. Training of staff and community based tourist guides through Adventure Foundation, Pakistan, Cleaning and collection of solid waste with safe disposal was exercised as part of training.
 - ii. The service area was declared and core area was protected from disturbance due to tourism influx. Number of horses and number of boats were confined to least to avoid disturbance.
 - iii. Campaigns of environmental awareness and conducting the tourists properly to avoid the core area from disturbance were the major activities of the staff and daily waged labor engaged.
 - iv. The improperly located tuck shops and kiosks were shifted through the owners to the service area marked for this purpose..
 - v. The bridal path was well marked for the horse riders around the lake.

The Snaps of the secretary visits to the park (Annexure I), presentation made to secretary (Annexure II), consultative workshop (Annexure III) and colored report of community meeting (Annexure IV) are annexed for your perusal and record please.

I also request to be heard in person also.


(Mr. Faique Khan)
Deputy Conservator Wildlife

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Annexure "F"

Enquiry Report

In compliance with the order bearing Notification No. SO(Estt)Env/2-S/20/2K-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-Ul-Malook in Mauza Kaghan Tehsil Babat District Mansehra. After this, preparatory work was started by Environment 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

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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 2008-2009 with total cost of 39.950 M was approved vide Administrative Order dated 03.04.2009 (Copy at Annexure-F). In this scheme, besides establishment of 3 National parks at other places, management of national park at Lake Saif-UI-Malook was also included. With this for management of National parks in Kaghan valley, especially for management and development of Lake Saif-UI-Malook National park, approximately 18 (M) were sanctioned.

4. The objectives enlisted in the first PC-I are reproduced below:

1. To rehabilitate endangered wildlife species of dry temperate ecosystem such as snow Leopard, Brown Bear, Weasel, Lynx, Himalayan Ibex, Snow Cock, Snow Partridge etc.
2. To preserve the serenity and 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.

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

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

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Hence total amount of Rs. 15.000M released.

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

<u>S.No.</u>	<u>Year</u>	<u>Total Expenditure</u>	<u>Remarks</u>
01	06/2005	8,58,000/-	Made by Iftekhar Uz Zaman as Range Officer
02	08/2005 to 09/2006	15,97,045/-	Made as DFO
03	10/2006 to 06/2008	19,08,071/-	Saed Kamal DFO
05	07/2008 to 2009	-	Funds not released
06	02/2009 to 03/2010	5,37,080/-	Made by Muhammad Husnain DFO
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, Saed 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 to Lake Saif-UI-Malook was made on 10.06.2013 as per visit programme at Annexure-E1.

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 Itekhhar-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	19,03,071	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
	Iftexhar-Uz-Zaman	10/2010 to 30.05.2012	20,65,185	16,37,578	4,27,607	-Do-

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

2. General Findings:

1. 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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Para- 8 ante refers

Charge Sheets and Statements of Allegations, duly signed by the Chief Minister, Khyber Pakhtunkhwa/Competent Authority, were served upon the following accused officers/officials (Flag-T).

1. Mr. Ifikhar-Uz-Zaman, Divisional Wildlife Officer (BS-18)
2. Mr. Muhammad Hussain Khan, Divisional Wildlife Officer (BS-18)
3. Mr. Muhammad Faique Khan, Divisional Wildlife Officer (BS-18)
4. Mr. Said Kamal, Divisional Wildlife Officer (BS-18)
5. Mr. Niaz Muhammad, Range Officer Wildlife (BS-16)
6. Mr. Muhammad Alam, Wildlife Watcher (BS-07)
7. Mr. Fiaz Ahmad, Wildlife Watcher (BS-07)
8. Mr. Nazar Shah, Wildlife Watcher (BS-07)

After perusal of the record and giving an opportunity of personal hearing to the Wildlife officers/officials, the Inquiry Committee has completed the inquiry (Flag-U) and the following recommendations (Flag-V) :-

1. Mr. Ifikhar-Uz-Zaman, Said Kamal and Muhammad Faique, Divisional Wildlife Officers (BS-18) shall deposit the unjustified expenditure made by them as per table at para-g of Specific/Charge-wise Findings reproduced below, and their three annual increments (annual increments for three years) shall be stopped :-

#	Name of Accused Officers/officials	Un-justified Expenditure
1.	Ifikhar-Uz-Zaman, DFO	RS. 14,05,022/-
2.	Muhammad Faique Khan, DFO	RS. 01,12,700/-
3.	Said Kamal, DFO	RS. 06,66,038/-

- 2- Mr. Niaz Muhammad, Range Officer may be exonerated from the charges levelled against him.
- 3- A minor penalty of Censure may be imposed upon Mr. Muhammad Hussain, DFO Wildlife.
- 4- A minor penalty of stoppage of four increments (annual increments for four years) may be imposed upon Messer Nazar Shah, Fiaz Ahmad and Muhammad Alam, Wildlife Watchers.

(11). The inquiry report has also recommended transfer of management of Saiful Maluk National Park from Wildlife Department to Forest Department and changes in acquisition of land for the park. These recommendations are beyond the scope of the inquiry. However, these points will be separately examined by the Environment Department on its merit.

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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.

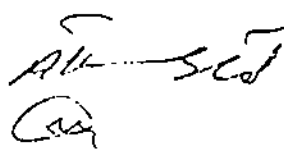
6. All the officers failed to actively pursue the case for taking possession of land after acquisition proceedings completed in year 2008 and mutation No. 14182 dated 29.11.2010 except one Muhammad Hussain DFO and Niaz Muhammad Range Officer, who made one attempt and made quarrel with the locals on spot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

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

Recommendations:

Accused officers Iftekhar-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 Iftekhar-Uz-Zaman, Said kamal, Muhammad Faique is also commended.

Muhammad Hussain DFO and Niaz RC are exonerated upto extent that they made justified expenditure while Muhammad Hussain had contributed Rs. 1,000/- on account of entry fee etc. Moreover, Niaz Muhammad RO had done commendable work during his short tenure of one month.



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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.

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Recommendations:

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

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

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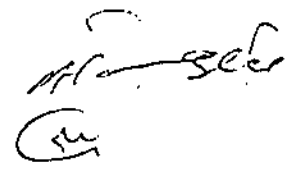
3. Muhammad Hussain DFO is hereby censured because charges at "d" & "e" had been proved after surprise visit.
4. Syed Nazar Hussain, Fiaz Muhammad and Muhammad Aalam wildlife watchers of Lake Saif-UI-Malook project have failed to perform their duties in respect of management of the park on spot. Therefore, 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 an entry gate/point. Visitors be strictly prohibited to carry food items or fruits inside the fenced area or to establish any camp.

Dated: 22.07.2013



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

22/7/2013





GOVERNMENT OF KHYBER PAKHTUNKHWA

SHOW CAUSE NOTICE

I, Pervéz Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Faique Khan, 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)Envt/ 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
CM

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

(44) *Annulment of H*

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REPLY TO THE SHOW CAUSE NOTICE SERVED UPON
MR. MUHAMMAD FAIQUE KHAN, DEPUTY CONSERVATOR WILDLIFE
KHYBER PAKHTUNKHWA WILDLIFE DEPARTMENT
BY MR. PERVIZ KHATTAK CHIEF MINISTER KHYBER PAKHTUNKHWA

Before: The honorable Chief Minister Khyber Pakhtunkhwa.

Through: Proper Channel

Reference: Government of Khyber Pakhtunkhwa Environment Department letter No. SO
(Est) Env/2-50(20)/2k6/579/WL dated 24-10-2013.

Kindly refer to the above and para wise reply is furnished before your honor in the following points as desired please.

1. The findings of the enquiry are based on visit made by the Enquiry Officer to Lake Saiful-Malook on 10-06-2013, which is almost three (3) years later than my transfer from Mansehra Wildlife Division and hence do not fulfill the demands of justice for leveling ground for legal action against me keeping in view the following realities:
 - a. The first portion of Charge "a" leveled against me has not been proved as the Enquiry Officer has recorded in his report. However the remaining portion of the charge related with number of boats and horses, the undersigned has submitted detail reply (Annexure 1). Unfortunately, the same had either been ignored or over sighted in deciding fate of the enquiry against the undersigned. During my period from 17th March 2013 to 30th September 2013, the horses had never been allowed in the premises of the Lake. These facts could be verified by the 48 challans chalked against the pony riding, out of which 45 were compounded and three cases were referred to the courts for trial. (Annexure 11). Regarding the number of boats I would simply submit that in my period the number boats had never been increased to 35. Actually before the onset of the tourist season in the national park the undersigned conducted four survey to ascertain the situation of Biological and social resources of the area. (All four survey reports, Annexure 114). According to the social survey there were nine boats in the lake which were left behind since preceding year. In my period not a single boat was added to the lake and neither the boats were allowed to ply. However attempts were made by the boat owners but they were stopped by force with the help of District Administration and police. The commissioner Hazara of that time also took keen interest and extended all possible help in proper management of the Saif ul Malik National Park. (Copy of Correspondence with District Administration, Annexure 115).

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Finding of the inquiry report about the position of tuck shops, hotels and Kiosks is confusing, in first place the reports says that these structures were not maintained properly and immediately after that the report writes that these structure were confined to the service area. That was actually the proper management that the all such scattered services centers were club together and confined to the services area. Some of the pectoral glimpses are attached with this reply to show how the management was by that time when I was holding the charge of the Division. (Pectoral Glimpses, Annexure V).

- b. Humbly submitted that the finding of the enquiry report submitted by Mr. Akbar Khan Marwat the enquiry officer does not commensurate with the charge leveled against the undersigned in charge sheet (Annexure-V1). In my period no barrier was erected neither there was any provision in the PC-I for this purpose.
- c. It is further humbly submitted that a very detailed reply to the charge sheet had been submitted by the undersigned (Annexure-1). Violation on 11-06-2013 as pointed out by the enquiry officer at serial No. d & e of findings/conclusions in his report have been illogically attributed to tenure of the undersigned, which passed three years before that day i.e. 11-06-2013 on which the enquiry official paid visit. How violation of present day could be associated with the management that passed three year ago without any solid or logical reason.
- d. As explained in para "e" above the control over cattle grazing in the area cannot be ascertained three years later to my transfer. First part of the finding validates our view point and admits that the ecological significance and its outstanding scenery, flora and fauna of Saif ul Malik Park has not been compromised. No ecological deterioration and disappearance of ground flora have been proved, therefore the charge stands disproved.
- e. The public money was utilized strictly in accordance with the rules and procedure and an arbitrary decision of few days visit after five years later to my transfer out of the area does not provide justification for pavement of the way to held me liable to recommended punishment. Also no detail has been provided as to the nature of amount which is unjustified and the report also lacks the financial and technical reasons for declaring the amount as unjustified. Hence charge "e" does not stand proved.

The undersigned has been penalized and convicted for the unjustified expenditure to the tune of Rs. 112,700 /- which was did not remain the scope of the enquiry nor the undersigned was asked for the same to reply to. However, taking the opportunity as far granted the undersigned would like to submit the detail of expenditure being incurred

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during my tenure along with the means of verification in the form of activity reports which were undertaken in accordance to the PC-I provisions.

The detail of the so called wrong and unjustified expenditure being reported by the enquiry officer is reproduce as under:

S. #	Name of Accused Officer	Period of Posting as DFO	Total Expenditure made	Justified	Unjustified	Remarks
1	Muhammad Faique Khan	04/2010 to 09/2010	913569/-	800.869	112700/-	Against the provision of PC-I

The detail of expenditure against the allocated budget under the project during 2009-10: Actual for the month of 06/2010 annexed-VII.

S. #	Name of activity as per PC-I	Project target	Revised allocation	Expenditure	Means of verification
1.	Establishment of VCC for National Park	1 No	20,000	20,000	Meeting and workshop reports (annexure VIII A & B)
2.	Hiring of Community Wildlife Watcher	10 Nos	122,000	122,000	Pay bills Hiring letters
3.	Preparation of Management Plan	1 No	150,000	150,000	The report of consultative workshop for out lining the Management Plan (annexure (IX))
4.	Preparation and installation of publicity boards	04	40,000	40,000	Prepared by my predecessor
5.	Development of Visitors/ Tourist Facilities (dry pit latrines, camping grounds, car parking, rain sun shed and etc)	Lump Sum	500,000	500,000	Iron bridge was prepared by my predecessor and had only transported and installed during my tenure
6.	Annual Monitoring Survey of Wildlife and habitats in National Park.	Lump Sun	50,000	50,000	Four survey report i. Zoological Survey. ii. Botanical Survey. iii. Environmental problems, pollution, processes and issues in the National Park. iv. Sociological survey (Annexure III A,B,C,D)
7.	Park Sanitation for Saif ul Maluk National Park for six months per year.	4 No	120,000	120,000	Wagers vouchers of the sanitary workers. Available on record which can be inspected by any time.

@

8.	physical interventions for Saiful VCC	L.S	250,000	250,000	One water supply scheme to the parking area was executed. The maintenance of the parking area and road was made.
9.	Camping equipments	Lump Sum	75,000	75,000	Various field gear and equipments were purchased. These items can be inspected and available on record.
Total Rs:-				1,327,000	

Note: As pointed by the enquiry report Rs. 537080 was spent by my predecessors and the remaining amount to the tune of Rs. 789920 was spent during my tenure on the above activities mentioned in the table in the first year of the project.

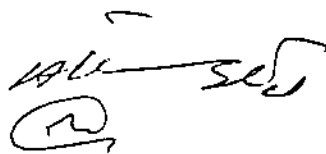
The detail of expenditure against the allocated budget under the project during 2010-11:

S. #	Name of activity as per PC-1	Project target	Allocation	Revised allocation	Expenditure	Means of verification
1	Hiring of Community Wildlife Watcher	10 No	480,000	0	120,000	Three months pay bill.

The undersigned does not agree with the finding of the enquiry officer on the above justification being given in tabulated form. There are lacunas and lack of justification for pointing out the unjustified expenditure. The enquiry officer has simply written that explanation is given in preceding paragraph "F", wherein no technically and financially grounds had been given to prove that how the expenditure was unjustified. By mere writing that the expenditure was unjustified does not seem logical and unjustifiable. Therefore, the charge does not stand proved.

For further explanation the statement of revised budget distribution and appendix of Conservancy and Works of the PC-1 titled "Establishment and Development of National Park in Khyber Pakhtunkhwa" is attached as annexure 10 & 11.

F. 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 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 for hard decision of the government is not justified in the eyes of law and hence the charge "F" does not seem to exist.



(S) ~~1/2~~ (43)

It is requested that your honor may review the findings exonerating me from the charges of inefficiency and misconduct, please.

1. Most humbly submitted that helping hand of the August office of Chief Minister Khyber Pakhtunkhwa could not point out the lacunas and the discrepancy between the charge sheet and the enquiry findings due to which the undersigned has suffered.
2. Taking advantage of the show cause opportunity by August office of the Chief Minister, it is humbly stated that the enquiry officer was highly incompetent, biased and illogical in conducting the enquiry. Therefore, it is humbly requested that another enquiry may be conducted by an enquiry committee comprised by officers possessing technical knowledge about Protected Areas Management and Biodiversity Conservation.
3. It is further humbly stated that the undersigned may also be given the opportunity to be heard in person, please.

~~(Muhammad Farque Khan)~~
~~Deputy Conservator Wildlife~~

~~Signature~~
~~CM~~

49

Annual

(I)

44



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

Dated Pesh: 28th January, 2014

NOTIFICATION

No. SO(Estt)Env/2-50(20)/2k12: WHEREAS, Mr. Muhammad Faique Khan, 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. Muhammad Faique Khan, Divisional Wildlife Officer (BPS-18), Wildlife Department, with immediate effect.

CHIEF MINISTER,
KHYBER PAKHTUNKHWA

Dated Pesh: 28th January, 2014.

Endst: No. SO(Estt)Env/2-50(20)/2k10 473-480

Copy is forwarded to:-

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

(MIR ZALI KHAN)
SECTION OFFICER (ESTT)

Amrullah e J

CORRIGENDUM

GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

Dated Pesh: 14th February, 2014

25

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)/2k12/502-509 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

979-986

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) Officer concerned C/O Chief Conservator Wildlife, Khyber Pakhtunkhwa.
- 6) Personal file of the officer concerned.
- 7) Master file.
- 8) Office order file.

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

*This is good to know, anyhow
penalty is penalty, penalty is not a give or take
considering the documents by which being
submitted. Penalty would be challenged at appropriate
forum for seeking relief. Please open a personal
file of this in my
account.*

24/02/2014.

Mir Zali Khan
Secy

(70)

Annul
c L 2

(16)

OFFICE OF THE CHIEF CONSERVATOR WILDLIFE
KHYBER PAKHTUNKHWA
PESHAWAR

To

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

No. 3273 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 initialing 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

10/11-5400
(1)

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

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

6/12
Chief Conservator Wildlife
Khyber Pakhtunkhwa
Peshawar

No. 3224 /WL(E)

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

6/12
Chief Conservator Wildlife
Khyber Pakhtunkhwa
Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
 ENVIRONMENT DEPARTMENT
 NO.SO(Estt)/Env/H-6/2K13
 Dated Pesh: 24th October, 2013

Annul. (C)
 47

The Director,
 Budget & Accounts Cell,
 Environment Department.

SUBJECT: DISCIPLINARY PROCEEDINGS AGAINST OFFICERS /OFFICIALS KHYBER PAKHTUNKHWA WILDLIFE DEPARTMENT.

I am directed to refer to the subject cited above and to say that the Chief Minister Khyber Pakhtunkhwa being competent authority, on submission of case to him through Ministry, has desired to ensure the recovery of unjustified expenditure from the three officers as indicated by the inquiry committee in its report. Copies of the relevant documents/summary for CBI & inquiry report are attached for further necessary action.

I am accordingly directed to ask that immediate necessary action in the matter of recovery of unjustified expenditure from the three officers, as mentioned at para-10(1) of the summary, may be taken and this department may also be apprised about progress.

Encls: No. & Date even *6-1-602 / 1000*

SECTION OFFICER (ESTT)

Copy is forwarded to:-

1. To the Chief Conservator of Wildlife, Peshawar copies of the relevant documents are also enclosed for similar necessary action.
2. To Secretary, Environment Department.

No. 2152-60 (W.D.F.E)

Dated Peshawar

SECTION OFFICER (ESTT)

the 28/10/2013.

Copy forwarded for information and necessary action to the:-

1. Conservators Wildlife Southern Circle Peshawar alongwith a copy of enquiry proceeding
2. Mr. Iffiknar-uz-Zaman DFO Wildlife Kohistan.
3. Mr. Muhammad Hussain DFO Wildlife Mansehra.
4. Mr. Muhammad Farque Khan DFO Wildlife Abbottabad.
5. Mr. Saad Karim DFO Wildlife Buner.
6. Mr. Ghaz Muhammad Range Officer Wildlife Batagram.
7. Mr. Muhammad Alam Wildlife Watcher
8. Mr. Fiaz Ahmad Wildlife Watcher.
9. Mr. Nazar Shah Wildlife Watcher.

The enquiry report has already been sent to the concerned officers/officials at No.2 to 8 No.9 by the Administrative Department with their show cause notice.

Handwritten signature/initials

Better copy

47

To

The Director,
Budget & Accounts Cell,
Environment Department .

Subject:

^{proceeding}
DISCIPLINARY ACTION AGAINST OFFICERS /
OFFICIALS KHYBER PAKHTUNKHWA WILD LIFE
DEPARTMENT.

I am directed to refer to the subject cited above and to say that the Chief Minister Khyber Pakhtunkhwa being competent authority on submission of case to him through summary has desired to ensure the recovery of unjustified expenditure from the three officers as imitated by the inquiry committee in its report. Copies of the relevant documents/summary for CM & inquiry report are attached for further necessary action.

I am accordingly directed to ask that immediate necessary action in the matter of recovery unjustified expenditure from the three officers are mentioned at Para-10(1) of the summary may be taken and this department may also be apprised about progress.

Endst: No & date even:

Section Officer (Estt)

Copy is forwarded to:

1. The Chief Conservator of wildlife Peshawar copies of the relevant documents are also enclosed for similar action.
2. PS to Secretary Environment Department.

Section Officer (Estt)

No. 2152-60 Dated Peshawar the 28/10/2013

Copy forwarded for information and necessary action to the

1. Conservator wildlife Southern Circle Peshawar along with a copy of enquiry proceeding.
2. Mr. Ifthekhar-uz-Zaman DFO Wildlife Kohistan.
3. Mr. Muhammad Hussain DFO Wildlife Mansehra.
4. Mr. Muhammad Faique Khan DFO Wildlife Abbottabad.
5. Mr. Said Kamal DFO Wildlife Buner.
6. Mr. Niza Muhammad Range Officer Wildlife Batagram
7. Mr. Muhammad Alam Wildlife Watcher.
8. Mr. Fiaz Ahmad Wildlife Watcher.
9. Mr. Nazar Shah Wildlife Watcher

The enquiry report has already been sent to the concerned officer/officials at S.No 2 to S.No. 9 by the Administrative Department with their show cause notice.

To

The Honorable Chief Minister
Khyber Pakhtunkhwa Province
Peshawar

48

Subject: Representation/Review against the Letter No. SO (Estt)/Envt/2501201 dated: 24-10-2013 by Forestry Environment and Wildlife Department Khyber Pakhtunkhwa issued on the directives of the competent authority

Respected Sir

The undersigned in receipt of the above mentioned letter wherein recovering an amount of Rs. 112,700 has been ordered to make from undersigned on the directives of the competent authority. Following submissions are hereby made for withdrawal of the same inter alia on the following grounds.


Grounds

- a). that the undersigned remained posted as DFO Wildlife Mansehra with effect from 18-03-2010 to 30-10-2010.
- b). that without any complaint, proceeding was initiated against the undersigned on 29-3-2013 by issuance of a charge sheet and statement of allegation followed by a questionnaire, all duly replied to.
- c). that a so-called Enquiry was conducted and on the recommendation of the said Enquiry a show cause notice was issued to the undersigned which too was replied.
- d). that the case was not yet concluded and the above mentioned letter issued which was not acted upon as the case had yet to be finally concluded by the competent authority.
- e). that ultimately the undersigned vide a notification dated: 28-1-2014 was imposed upon a penalty of withholding annual three increments for a specific periods (three years) followed by a corrigendum dated: 14-2-2014 whereby the words "major penalty" were replaced with "minor penalty".
- f). that the undersigned was pursuing his lawful remedy i.e. appeal before the service tribunal where the above impugned letter was issued.
- g). that nowhere in the whole departmental proceeding, the final order or any other occasion the issue of recovery was ever agitated or the undersigned was able to put on notice to explain his position.

- h). that the whole departmental proceeding culminated into withholding of increments, therefore, the above impugned letter for recovery is illegal, unlawful, and therefore not sustainable.
- i). that the undersigned has served the department since the very inception to best of his abilities and has never given a chance of complaint to anyone including his high ups.
- j). that even the Chief Conservator Wildlife Khyber Pakhtunkhwa has expressed his reservation to the manner to which the enquiry was conducted which was full of lacunas and irregularities.
- k). that the undersigned has been subjected to the grass in justice, mal-treatment and personal disliking throughout in these proceedings.
- l). that ironically on conclusion of the proceedings the appellant penalty was finally concluded to be a "minor penalty" but in the mid-way before conclusion of the proceedings a major penalty was imposed upon the undersigned and that too against the law and procedure on the subject.
- m). that the impugned order NO.SO(Estt)/Envt/2-50(20)/2K13 dated: 24-10-2013 is the result of misreading, non-reading, and non-comprehension of the material on record. Hence, untenable at law and facts.
- n). that the impugned order is tantamount to malice in law as the undersigned was required to be properly served with show-cause notice and then any appropriate order would have been passed.
- o). that the order of recovery of the alleged amount has passed in haphazard manner without fulfilling the legal formalities which is liable to be set aside.
- m). that the impugned letter in view of the above fact prima facia seems to have been issued without bringing it into the notice of the competent authority which calls for interference by your goodself.

It is therefore, humbly requested that on acceptance of this representation/review petition the impugned letter No. SO (Estt)/Envt/2501201 dated:24-10-2013 may kindly be ordered to be withdrawn.

Yours Obedient Servant


 Muhammad Faique Khan
 Deputy Conservator Wildlife
 26-03-15

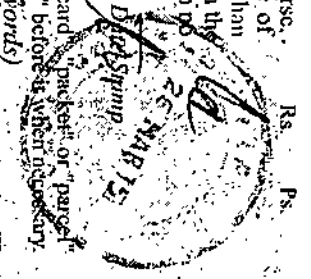
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10.234

For Insurance Notices see reverse.

Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgment is due.

Insured for Rs. (in figures) 100
Name and address of sender Mr. A. K. Ghosh
Weight 100 Kilo 100 Grams
Insurance fee Rs. 10 Ps. (in words) ten

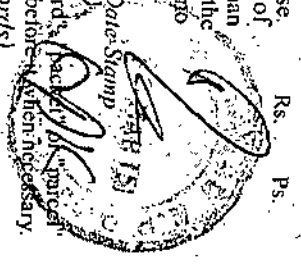


236



For Insurance Notices see reverse.

Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgment is due.

Insured for Rs. (in figures) 100
Name and address of sender Mr. A. K. Ghosh
Weight 100 Kilo 100 Grams
Insurance fee Rs. 10 Ps. (in words) ten



Name and address of sender Mr. A. K. Ghosh
Weight 100 Kilo 100 Grams
Insurance fee Rs. 10 Ps. (in words) ten

		<p>7191</p>
<p>ایڈووکیٹ ارشد خان</p> <p>بار کونسل ایبار ایسوسی ایشن پشاور</p> <p>رابطہ نمبر: ۰۳۰۰۰ ۲۵۶۱۸۱</p>	<p>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</p>	

بعدالت جناب:

<p>منجانب: <u>ایڈووکیٹ</u></p> 	<p>دعویٰ:</p> <p>طاعت نمبر:</p> <p>مورخہ:</p> <p>جرم:</p> <p>تھانہ:</p> 
<p>بابت تحریر آگے</p>	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام سے کئی روز پہلے نور احمد کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقریر کا حال و فیصلہ برطنت دینے جو جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز ضرورت میں پیروی بنیاد پر کسی ایک طرف یا اہل حق کی برآمدگی اور منسوخی، نیز دائر کرنے اہل نگرانی و نظریاتی و پیروی کرنے کا اختیار ہوگا اور ضرورت میں مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ماخضہ پورا اختتام منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جہان التوا سے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف کو سونپ کر کے کا مختار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی بنیاد کو روک کر لیں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم:

نور احمد
ایڈووکیٹ

العبد _____ واہ شاد _____ العبد

مقام

(Handwritten signature)

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Appeal No.965 of 2015

Mr. Muhammad Faique Khan
Deputy Conservator Wildlife

.....Appellant

VERSUS

1. Secretary, Government of Khyber Pakhtunkhwa,
Forestry, Environment and Wildlife Department
2. Chief Secretary Khyber Pakhtunkhwa Peshawar
3. Chief Minister Khyber Pakhtunkhwa through
Principal Secretary Peshawar
4. Chief Conservator Wildlife Khyber Pakhtunkhwa 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 appellant is working as Deputy Conservator Wildlife (BPS-18) at Mansehra.
2. In-correct. This pertains to service record
3. Correct to the extent of charge sheet and statement of allegation and its reply which was thoroughly examined by the enquiry officer and fulfilled all the codal formalities during enquiry proceedings.
4. In-correct. It was a proper enquiry under the Khyber Pakhtunkhwa Government Servant "E&D" Rules 2011 by the approval of the competent authority. His reply was properly examined during the course of enquiry.
5. In-correct as per para-4. Furthermore after receiving the reply of appellant and the show cause notice, the appellant repeated the reply of charge sheet in the reply of show cause notice. There was no plausible reason on part of the appellant, but still the competent authority gave the opportunity of personal hearing which was availed by the appellant. However he did not give any satisfactory answer in his defense.
6. In-correct. In this connection, a corrigendum was issued timely.
7. Correct as explained in para-6.
8. Correct to the extent that the appellant filed a service appeal No.185/2015 before the services tribunal against the minor penalty imposed upon him.

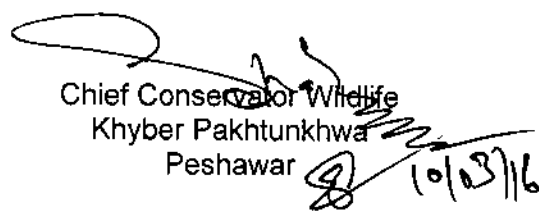
9. In-correct. On the recommendation of the enquiry officer, the competent authority was pleased to issue an order regarding recovery. It is also not correct that he was verbally communicated any information. All official transactions are made through proper correspondence as per law.
10. In-correct. The enquiry officer recommended the recovery/deposit, of the un-justified expenditure made by the appellant and other as per table of para-G of specific/charge-wise findings in said enquiry report.

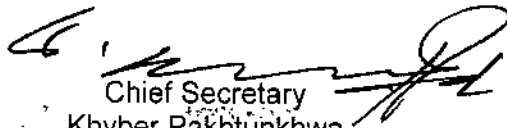
Grounds

- A. In-correct. Order has been passed after adopting proper procedure. Hence tenable, as per law.
- B. In-correct. As per para-10 of Facts. It has been clearly mentioned in the recommendation of enquiry report for recovery of un-justified expenditure and competent authority has accordingly issued orders for recovery which has not yet recovered.
- C. In-correct. There is no bar for conducting of enquiry or taking disciplinary action after more than three-four years against the official relates to his previous posting under the rules.
- D. In-correct. Complaint for disciplinary action against any Govt. servant is not requirement under the rules. The competent authority can initiate such action any time.
- E. In-correct. The enquiry officer explained the role of all accused officers and has narrated the respective action logically in the enquiry report.
- F. 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 on respective tenures.
- G. In-correct. Proper opportunity of personal hearing was provided to the appellant which was availed.
- H. In-correct. The Govt. loss by the officials is recoverable and the action in this regard has properly been taken.
- I. In-correct. The detail is available in the finding of enquiry report.
- J. The respondents seek permission to raise additional grounds at the time of arguments.

In view of above facts, the appeal may be dismissed on merit.


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


Chief Conservator Wildlife
Khyber Pakhtunkhwa
Peshawar


Chief Secretary
Khyber Pakhtunkhwa
Peshawar