

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT SWAT.

Service Appeal No. 1960/2019

Date of Institution ... 18.12.2019

Date of Decision ... 05.11.2021

Muhammad Rafiq (Forester) R/O Mohalla Nasar Khail behind Police Station Saidu Sharif, Swat.

... (Appellant)

VERSUS

Divisional Forest Officer, Swat Forest Division, Mingora and another.

... (Respondents)

MR. SHAMS-UL-HADI,
Advocate

--- For appellant.

MR. RIAZ AHMED PAINDAKHEL,
Assistant Advocate General

--- For respondents.

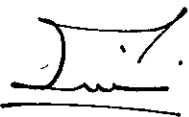
MR. SALAH-UD-DIN
MR. ATIQ-UR-REHMAN WAZIR

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts forming the background of the instant service appeal are that the appellant while serving as Forester was assigned additional duty of Forest Public Prosecutor Swat. During the course of his service, the appellant was proceeded against departmentally on the allegations that an appeal was decided against the department in case titled "Hussain Shah Versus Government of Khyber Pakhtunkhwa through Chief Secretary and others" vide judgment dated 27.03.2007 passed by Additional District Judge-II Swat, however the



appellant did not report the decision to the concerned office and kept the high-ups in darkness due to which the remedy, which was to be availed by the department through filing of revision before the august Peshawar High Court, Peshawar, became time barred, resulting in huge loss to the government. On conclusion of the inquiry, the appellant was awarded major penalty of compulsory retirement from service vide order dated 23.05.2019 passed by the competent Authority. The appellant being aggrieved of the same filed departmental appeal, which was also rejected vide order dated 28.11.2019, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the contention of the appellant.

3. Learned counsel for the appellant has contended that the appellant performed his duty with honesty and devotion, which can be affirmed from his service record; that the appellant at the relevant time was serving as Forest Guard, who was assigned additional duty of Forest Public Prosecutor to appear as representative of the department in court cases; that the appellant did not show any laxity in the discharge of his duties and did not commit any act which could be termed as misconduct or inefficiency; that the concerned appeal was decided against the department way back in the year 2007, however the high-ups of Forest Department wrongly and illegally conducted inquiry against the appellant by making him a scapegoat for saving their own skin; that the concerned DFO as well as SDFO were well aware of the decision rendered against the department in the concerned appeal, however they did not challenge the same in the higher forum, however when the decision of the concerned case was challenged by a private person namely Amir Khan S/O Aman Gul through filing of application under section 12(2) CPC, the competent Authority initiated inquiry against the appellant just to cover the blunder committed by the concerned officers/officials of the Forest Department by not challenging

J. I.

the concerned decision of the court before the higher forum; that the inquiry has not been conducted in an impartial manner and the appellant has wrongly been declared as guilty for the wrongs committed by the dealing officers/officials of the Forest Department; that the relevant rules of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 have not been complied with, resulting in causing of prejudice to the appellant. In the last he requested that the impugned orders being wrong and illegal may be set-aside and the appellant may be reinstated in service with all back benefits.

4. On the other hand, learned Assistant Advocate General for the respondents has contended the appellant was deputed as Forest Public Prosecutor for pursuing cases of the department but he intentionally did not report the decision of the appeal to the DFO or SDFO concerned due to which, the remedy to be availed by the department became time barred, resulting in huge loss to the government; that the charges of misconduct, inefficiency and corruption stood proved against the appellant in a regular inquiry, therefore, he has rightly been retired compulsorily from service; that the appellant was provided opportunity of personal hearing as well as defense, however he has been unable to rebut the allegations leveled against him. In the last he requested that the impugned orders may be kept intact and the appeal in hand may be dismissed with costs.

5. We have heard the arguments of learned counsel for the appellant as well as learned Assistant Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that the appellant at the relevant time was serving as Forest Guard and was also assigned additional duty of Forest Public Prosecutor. The appellant was proceeded against departmentally on the allegations that an appeal was decided against the department in case titled "Hussain Shah Versus Government

of Khyber Pakhtunkhwa through Chief Secretary and others" vide judgment dated 27.03.2007 passed by Additional District Judge-II Swat, however the appellant did not report the decision to the DFO or SDFO and kept the high-ups in darkness due to which the remedy, which was to be availed by the department through challenging the decision before the higher forum became time barred, resulting in huge loss to the government. Muhammad Waseem SDFO was appointed as inquiry officer in the matter. A perusal of the inquiry report submitted by the inquiry officer to the competent Authority would show that all that was done by the inquiry officer during the inquiry was that he had put certain questions to the appellant as well as to the departmental representative and on the basis of the same he came to the conclusion that the appellant was guilty of the allegations leveled against him. The inquiry officer did not even record the statements of the appellant as well as departmental representative. The mode and manner of inquiry so adopted by the inquiry officer has been disapproved in various judgments rendered by august Supreme Court of Pakistan. While answering question No. 2 put to the appellant by the inquiry officer, the appellant has categorically mentioned that copy of the application submitted by the appellant for procuring copies of the concerned judgment was annexed with the reply of show-cause submitted by the appellant. Copy of the said application is also annexed with the documents submitted by the respondents. Similarly, answering question No. 1, the appellant has categorically mentioned that the judgment of the concerned appeal was submitted by him in the Divisional Office. The appellant has thus taken categorical stance that he had informed the department and had also provided copy of the concerned judgment to the department. So far as non-production of acknowledgement receipt in this respect is concerned, nothing has been produced by the respondents which could show that any officer/official of the Forest Department used to issue acknowledgement receipts to the



appellant regarding the handing over or taking over of any copy of judgments rendered by the courts.

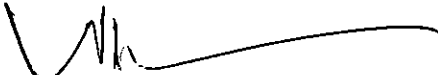
7. In order to appreciate the matter in a proper manner, it seems appropriate to give a brief history of the litigation of the concerned Civil Suit No. 153/1 of 2004 filed by Hussain Shah etc against the Government. The said suit was initially dismissed by the learned trial court vide judgment dated 19.11.1996, however the same was challenged through filing of appeal, which was accepted by the then Additional District Judge Swat vide judgment dated 17.07.1998 and the suit was decreed in favour of the plaintiffs. The department challenged the same through filing of Civil Revision before august Peshawar High Court, which was allowed and the case was remanded back to the learned trial court with the directions that the Provincial Government through Secretary Forest shall conduct inquiry under Section 29 (3) of Forest Act, 1929 through any impartial officer or preferably through District Officer Revenue/Collector within a period of 02 months and to submit report in the trial court; that the parties may produce further evidence in support of their respective contentions, if they so desire. The Provincial Government did not bother to comply the directions of the august Peshawar High Court, Peshawar regarding conducting of the inquiry till the decision of the concerned case passed in favour of the plaintiffs Hussain Shah etc by the learned Senior Civil Judge Swat vide judgment dated 18.04.2005. Non compliance of directions of worthy Peshawar High Court, Peshawar was one of the main reason for decision of the case against the government. An inquiry was later on conducted after considerable long period and the report was produced during hearing of the appeal filed by the Government against the judgment dated 18.04.2005 passed by the trial court, however learned Additional District Judge, while dismissing the appeal vide judgment dated 27.03.2007 has observed that the same could not be relied upon as the same was produced after lapse of about 03 years of passing of the judgment by the




august Peshawar High Court, Peshawar. It is thus clear that the respondents showed slackness in proper pursuing of the concerned case before the courts. No action was taken by the respondents against anyone in the year 2007 but later on one Amir Khan S/O Aman Gul challenged the judgment and decree passed in favour of Hussain Shah etc through filing of application under section 12(2) CPC, which again brought the controversy into lime light and prompted the respondents to initiate inquiry against the appellant regarding the issue pertaining to the year 2007. It appears that the respondents in order to save their skin, initiated inquiry against the appellant and he was thus made a scapegoat.

8. In view of the foregoing discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant stands reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
05.11.2021


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT SWAT


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT SWAT

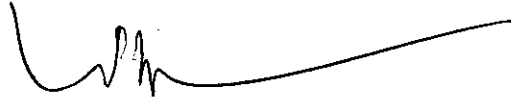
05.11.2021

Appellant alongwith his counsel Mr. Shams-ul-Hadi, Advocate, present. Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

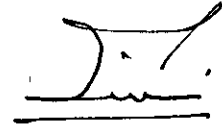
Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed by setting-aside the impugned orders and the appellant stands reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

05.11.2021



(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court Swat



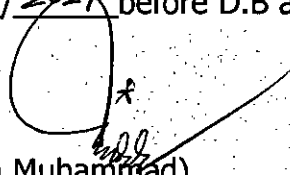
(Salah-Ud-Din)
Member (J)
Camp Court Swat

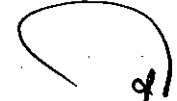
02.03.2021

Appellant in person present.

Noor Zaman Khan Khattak learned District Attorney alongwith Abdul Ghafoor Forest Guard for respondents present.

Lawyers community is on strike, therefore, case is adjourned. To come up for arguments on 7/4/2021 before D.B at Camp Court, Swat.


(Mian Muhammad)
Member (E)
Camp Court, Swat


(Rozina Rehman)
Member (J)
Camp Court, Swat

06.10.2020

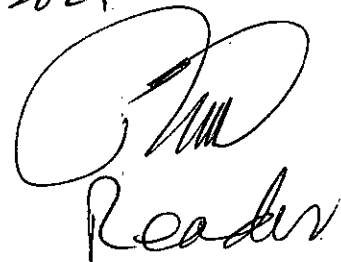
Appellant is present in person. Mr. Usman Ghani, District Attorney alongwith representative of the department Mr. Abdul Ghafoor, Forest Guard are also present.

Representative of the department submitted written reply on behalf of respondents No. 1 & 2 which is placed on record. File to come up for rejoinder and arguments on 08.12.2020 before D.B at Camp Court, Swat.


(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT SWAT

08-12-2021

Due to COVID-19 case is
adjourned to 02-02-2021

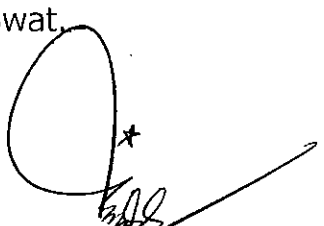

Reader


02.02.2021

Appellant with counsel present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Abdul Ghafoor Forest Guard for respondents present.

An application was filed by respondents for placing on file certain documents. As such, all the documents are placed on file. A request for adjournment was made, therefore, case is adjourned to 02.03.2021 for arguments before D.B at Camp Court, Swat.


(Mian Muhammad)
Member (E)
Camp Court, Swat


(Rozina Rehman)
Member (J)
Camp Court, Swat

02.06.2020 Due to Covid-19, the case is adjourned. To come up for the same on 07.07.2020, at camp court Swat.



Reader

08.07.2020 Bench is incomplete. Therefore, the case is adjourned. To come up for the same on 07.09.2020, at camp court Swat.



Reader

07.10.2020 Appellant in person present.

Mr. Riaz Paindakhel learned Assistant Advocate General alongwith Mr. Najeebullah SDFO for the respondents present.

Written reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to file written reply/comments; granted. To come up for written reply/comments on 06.10.2020 before S.B.



Member (J)
Camp Court, Swat

03.03.2020

Appellant in person present and seeks adjournment as his counsel busy before Hon'ble Peshawar High Court Darul Qaza Bench. Adjourn. To come up for preliminary arguments on 05.03.2020 before S.B at Camp Court, Swat.

Member
Camp Court, Swat.

05.03.2020

Counsel
Appellant with *✓* for the appellant present. Preliminary arguments heard.

The appellant (Forester) has filed the present service appeal against the order dated 23.05.2019 whereby major penalty of compulsory retirement from service was imposed upon him and against the order dated 28.11.2019 through which his departmental appeal was rejected.

Submissions made by the learned counsel for the appellant, need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 07.04.2020 before S.B at Camp Court, Swat.

Appellant Deposited
Process Fee

9/3/20

Member
Camp Court, Swat.

*Due to corona virus hold to camp court
swat has been cancelled. To come up for
the same on 02-06-2020*

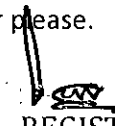


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Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1960/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/12/2019	<p>The appeal of Mr. Muhammad Rafiq presented today by Mr. Shamsul Hadi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 18/12/19</p> <p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>04-02-20</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>04.02.2020</p> <p>Appellant in person present. Lawyers are not attending the courts today on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come for preliminary hearing on 03.03.2020 before S.B at Camp Court, Swat.</p> <p style="text-align: right;"> Member Camp Court, Swat.</p>

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 1960/2019.

Muhammad Rafiq.....Appellant

V E R S U S

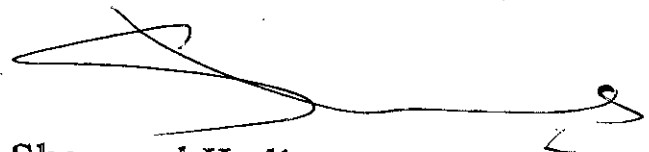
Divisional Forest Officer Swat and others.....Respondents

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S.N	Description of Documents	Annex	Pages
1.	Memo of Appeal.		1--- 3
2.	Affidavit.		4
3.	Addresses of the Parties.		5
4.	Copy of appointment order .	A	6-
5.	Copy of impugned office order dated:23.05.2019.	B	7
6.	Copy of Departmental Appeal and impugned order dated:28.11.2019.	C	8-11
8.	Wakalat Nama		12

Appellant

Through


Shams ul Hadi

Dated: 12/12/2019.

Advocate, Peshawar.

Office: Swat Shopping Mall, Opposite Peshawar High
Court (Mingora Bench), Swat
Cell No.0347-4773440

BEFORE THE KHYBER PAKHTOON KHWA SERVICES
TRIBUNAL, PESHAWAR

Service Appeal No. 1960/2019.

Khyber Pakhtunkhwa
Service Tribunal

Case No. 2058

Date 18/12/2019

Muhammad Rafiq (Forester)

R/O Mohalla Nasar Khail behind police station

Saidu Sharif, Swat.....Appellant

V E R S U S

1. Divisional Forest Officer

Swat Forest Division, Mingora

2. Conservator of Forests

Malakand East Forest Circle, at Shagai Sadu Sharif, Swat.

.....Respondents

**APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE IMPUGNED OFFICE
ORDERS DATED: 23.05.2019 & 28.11.2019.**

PRAYER IN APPEAL:

On acceptance of this appeal, impugned Orders dated: 23.05.2019 & 28.11.2019 regarding major penalty i-e Compulsory retirement from service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Respectfully Sheweth:

1. That initially the appellant joined the respondent/department since long as Forest guard in the year 1982 and as such performed his duties with zeal and zest. (Copy of appointment order is annexure-A)

Filed to-day
Registrar
18/12/19

2. That during his service period without caring for and rules, the appellant was assigned an additional charge for pursuing cases before the various courts of law where the appellant pursued the cases with due care and responsibility but in one of case a one sided inquiry initiated against the appellant on the allegation that the appellant has properly handle the civil cases before the court so without observing legal formalities through impugned office order dated:23.05.2019 the appellant was awarded major penalty in shape "Compulsory retirement from service" .(Copy of impugned office order dated:23.05.2019 is annexure-B)
3. That against the said impugned illegal order, the appellant filed departmental appeal before the competent authority but the same was rejected through impugned office order dated:28.11.2019.(Copies of departmental appeal and impugned office order dated:28.11.2019 are annexure-C)

That being aggrieved from the impugned order, the appellant approached this Hon'ble Tribunal on the following grounds amongst other inter alia:

GROUND:

- A. - That the impugned office orders are against the facts, law and procedure, hence, untenable being unjust and unfair.
- B. That the appellant was not treated in accordance with law and rules, thus acted in violation of the relevant laws laid down for the purpose.
- C. That according to law it was not the job and legal responsibility of the appellant to pursue cases before the courts of law because the appellant was a forester and according to rules his main task was to perform duties in field/forest circles but when the respondent assigned

additional duties to appellant in shape of pursuing cases in courts where the appellant with due care and responsibility performed such task and allegation regarding filing appeal and not pursued the case till logical end is baseless because legally it was not the sole responsibility of the appellant to file appeal etc in the court of law and litigation wing of the govt/department was responsible for such task.

- D. That the whole departmental proceedings against the appellant was based on personal ill will and with ill intention a harsh and illegal penalty was imposed on the appellant.
- E. That no opportunity in shape of personal hearing was afforded to the appellant nor the legal procedure was adopted while removing the appellant from service.

It is, therefore, most humbly prayed that On acceptance of this appeal, impugned Orders dated: 23.05.2019 & 28.11.2019 regarding major penalty i-e Compulsory retirement from service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Or

Any other relief which this Hon'ble Tribunal deems appropriate in circumstances of the case may kindly be awarded to the appellant.

Appellant

M
Muhammad Rafiq (Forester)

Through

[Signature]
Shams ul Hadi
Advocate, Peshawar.

Dated: 12/12/2019

4

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2019.

Muhammad Rafiq.....Appellant

V E R S U S

Divisional Forest Officer Swat and others.....Respondents

AFFIDAVIT

I, **Shams ul Hadi**, Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the 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 Court.



BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2019.

Muhammad Rafiq.....Appellant

V E R S U S

Divisional Forest Officer Swat and others.....Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Rafiq (Forester)

R/O Mohalla Nasar Khail behind police station Saidu Sharif, Swat.

Cell No. .

RESPONDENTS:

1. Divisional Forest Officer

Swat Forest Division, Mingora

2. Conservator of Forests

Malakand East Forest Circle, at Shagai Sadu Sharif, Swat.

Appellant

Through

Shams ul Hadi

Advocate, Peshawar.

Dated: 12/12/2019

6
Answer
A2

The following are hereby appointed as Forest Guards in the National Guard State of Mississippi and shall discharge all duties under the rules and regulations of the Department of Forest Conservation:

- 1. John S. [Name] State of Mississippi
- 2. [Name] State of Mississippi
- 3. [Name] State of Mississippi
- 4. [Name] State of Mississippi
- 5. [Name] State of Mississippi

The appointments are purely temporary and can be terminated at any time upon written notice of the Department of Forest Conservation of any State or of the Department of the United States Government.

The appointment is subject to the production of the following certificates:

- 1. Medical fitness certificate issued by the Medical Department, State.
- 2. Moral/Characterization certificate issued by any officer of the State or a Department of the State or a Department of the State.
- 3. Character certificate.

Copy furnished to:
Mississippi Department of Forest Conservation
Jackson, Mississippi

3423-2103

- Copy forwarded to:
- 1. All the candidates mentioned above.
- 2. Information and necessary records to be prepared by the State and forwarded to the State of Mississippi.
- 3. Forward file of the candidates.
- 4. List of candidates mentioned above.

ATTESTED
to be true copy
Advocate

[Signature]
Mississippi Department of Forest Conservation
Jackson, Mississippi

Office order No. : 126

Dated Mingora the 30/06/1982

BY MR. JALAL UD DIN DIVISIONAL FOREST OFFICER SWAT FOREST
DIVISION MINGORA.

The following are hereby posted as forest Guard in the National Pay scale No. 1
(Rs. 250-5-280/6-340) with usual allowances as admissible under the rules against
the temporary vacancies Swat forest Division:

S/No.	Name and Percentage with permanent address
1.	Mr. Mohd Rafiq S/o Fazal Rahman of Said Sharif Swat
2.	Mr. Mohammad Alam S/o Abdul Hakim of Haji Soba Minra Swat
3.	Mr. Abdul Aziz S/o Ahmad Shah of cowlard, Matta Swat
4.	Mr. Muhammad Zeb S/o Amir Hassan Buner
5.	Mr. Muhammad Khan S/o Samandar Khan Gahr Shal Naira, Buner

The appointments are purely temporary and can be terminated at any time
with one month's notice without month's salary in lieu of the noticed.

The appointment is subject to the production of the following certificates.

1. Medical Fitness certificate is signed by the Medical superintendent Swat.
2. Middle/matriculation certificates is original or copy thereof attested by the Head Master of School or a Magistrate 1st Class.
3. Character Certificate.

Sd/-
Jalal ud Din
Divisional Forest Officer,
Swat Forest Divisional, Mingora.

No. 3423-29/C,

Copy forwarded to that:

1. All the candidates mentioned above for information and necessary action with reference to the test and interview held on 17/06/1982.
2. Personal file of the candidates.
3. Need Clerk/divisional Accountant for information

Sd/-
Jalal ud Din
Divisional Forest Officer,
Swat Forest Divisional, Mingora.

OFFICE ORDER NO. 230 DATED MINGORA THE: 23/5/2019 ISSUED BY MR. RAEES KHAN DIVISIONAL FOREST OFFICER SWAT FOREST DIVISION MINGORA SWAT.

Read with.

1. This office letter No.1876-79/G, dated 07.06.2018.
2. Inquiry officer letter No.07/A, dated 13.07.2018.
3. This office order No.34 dated 31.07.2018.
4. Inquiry Report of the inquiry officer.
5. Show cause notice served vide this office No.8131/E, dated 26.04.2019.
6. Reply furnished by the official

(7) Answer
B²

Whereas, Mr. Muhammad Rafiq Forester (BPS-10) was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency and Disciplinary) Rules, 2011, for the charges as mentioned in the charge sheet and statement of allegations framed vide this office endst: No.1877-79/G, dated 07.06.2018.

AND whereas, Mr. Muhammad Waseem, SDFO Patrol Squad was asked vide office order No.1876/G, dated 07.06.2018 to conduct the enquiry against the said accused under efficiency and disciplinary rules, 2011.

AND whereas, the enquiry officer after examining the reply of the accused official, evidence on record and personal hearing, wherein the above named Forester guilty of charges level beyond against him.

AND whereas, the enquiry officer after giving full opportunity for defence to the accused official has submitted report vide No.47/A, dated 30.10.2018, wherein the charges leveled against the appellant i.e in-efficiency and corruption have not been proved.

Findings:

1. That the concerned officers/office was of the viewpoint that to file appeal against the judgment of the honorable Peshawar High Court in the august court but case for filing appeal was not pursued till logical end.
2. The DFO Swat office did not approach DOR Swat office for necessary amendment in entries made in revenue record in favour of department after judgment of honorable Peshawar High Court.
3. That the learned court of ADJ-II Swat has passed impugned order despite the fact that Forest Settlement Board enquiry report submitted to the said court during case proceedings and it was cleared from the said report that land in question is the property of Government of NWFP and is protected forest. Thus case has not been decided on merit.
4. That the accused has no written evidence/acknowledgment certificate which can prove that he has submitted judgment of the ADJ-II Swat well in time to the DFO office.
5. That the accused has not submitted judgment copy of ADJ-II Swat office well in time due to which the office did not get opportunity of filling appeal against the said judgment/impugned order passed by ADJ-II Swat in the honorable Peshawar High Court due to which case become time barred and appeal cannot be made in the next appellant court.
6. That the accused has not delivered services of forest public prosecutor in the best interest of state due to which claimants got opportunity of transferring government land measuring 331 kanals and 1 marlas on their names in the revenue record.
7. That the accused had kept DFO Swat office in dark for his ulterior motive.
8. That the concerned officer/office was silent in this case for 11 years which is not absorbable being enquiry officer.
9. That precious and valuable property of government has lost due to criminal negligence.
10. That before the year 2011. to send progress report of litigation cases to the office of the conservator of forests was not in practice.

Decision:

AND whereas, the earlier enquiry officer Mr. Muhammad Waseem SDFO Patrol Squad has recommended major penalty in the form of compulsory retirement for the accused.

AND WHEREAS, the competent authority, after considering the Inquiry Report and other related documents of the case, served show case notice upon the said official to which he replied and provide him opportunity of personal hearing but failed to defend his case.

NOW THEREFORE, the undersigned being competent authority, after having considered the charges leveled and enquiry report of the enquiry officer, major penalty in the form of compulsory retirement from service, is herewith ordered.

Sd/-
(Raees Khan)
Divisional Forest Officer
Swat Forest Divn: Mingora

No. 8510-14 /E,

Copy forwarded to the:

1. Conservator of Forests, Malakand Forest Circle East Saidu Sharif for favour information with reference to his office letter No.9866/E, dated 14.05.2019, please.
2. SDFO Patrol Squad Forest Division at Shagai for information and necessary action with reference to his No. cited above.
3. SDFO Mingora Sub Division for information and necessary action.
4. Mr. Muhammad Rafiq Forester C/O SDFO Mingora for information and necessary action.
5. Head Clerk/Accountant for information and necessary action.

A
ED
BY

[Handwritten signature]

To,

The Worthy Conservator of Forests,
Malakand East Forest Circle, at Shagai
Saidu Sharif Swat.

8. Annexure
CC 2

Subject:- *APPEAL AGAINST THE DFO SWAT OFFICE ORDER NO. 230
DATED 23.05.2019.*

Respected Sir,

APPEAL IS SUBMITTED AS UNDER:-

- 1) That the appellant was appointed as Forest Guard in Forest Department vide DFO Swat office order No.126 dated 30.6.1982 and later on promoted to the rank of forester vide DFO Swat office order No.240 dated 08.5.2015 Copies annexed as annexure- "A".
- 2) That the DFO Swat called my explanation vide his letter No.1877-79/G, dated 07.6.2018 that the court of Additional Session Judge-II Swat passed order and decided the case titled "*Hussain Shah V/S Government*" against the department on 27.03.2007. It is astonishing and regrettable that after lapse of 11 years the DFO Swat office is awakened and blamed me that I have not provided the court decision will in time. In fact the negligence shown by the dealing hand of DFO Swat Office for his ulterior motives and concealed facts. For protection himself & shifted his responsibility/burden to my shoulders and kept his superiors in dark beside the DFO Swat office also escaped and given Safeway to his colleague and the plaintiff. In this regard I would like to brought in your kind noticed that I am served as Forest Public Prosecutor since 1992 no receipt was given/handed over by me from the DFO Swat office In any case it is evident from the record of the DFO office that a 1000 of casus were decided in favour and against of the department but no receipt/acknowledgement was given by the dealing hand to the FPP after delivery a court decision or any other related documents.
- 3) That the appellant performed his official duty with honesty and devotedly it is evident from the promotion order of the appellant and not showed any negligence, mis-conduct and inefficiency in the whole service career. It is the proof of my sincerity with official duty and performed as Forest Public Prosecutor since long.
- 4) I would like to clarified here that duties and responsibilities of FPP does not allow a Forest Guard to correspond direct with Divisional Forest Officer and the Forest Guard qualification is matric not Law graduate to correspond each and every court matter in writing. The FPP (Forest Guard) role is to assist the Forest Standing Counsel as *Munshi (Assistant of Advocate)* i.e provide case file note date hearing in case of adjournment and direction etc. of the court to the FSC verbally and also provided services as Munshi to make of photo copies from the court file etc for FSC record.
- 5) That when someone institute a case against the department, the court concerned issued notice/summon in the name of respondents and one of them DFO Swat was also a party. The DFO Swat through official letter informs FSC to depend the case with copy to FPP to assist the FSC. 100 of letters are available in office record of DFO Swat. Few of which are being presented here as proof that it is not my duty to attend the court, represent the department and make evidence in the court, being out f depending documents and oral evidence:-

FSC
Forest Standing
Council

~~RESTRICTED~~
to be true copy
Advocate

No.9299/G, dated 26.6.1993, No.805/G, dated 24.8.1993, No.9302/G, dated 26.6.1993, No.8902/G, dated 00.6.1993, No.1682/G, dated 16.10.1993, No.209/G, dated 17.7.1993, No.531/G, dated 29.7.1997, No.2665/G, dated 25.11.1997, No.1057/G, dated 25.5.1997, No.508/G, dated 28.7.1997, No.5889/G, dated 09.4.1997, No.2761/G, dated 28.11.1997, No.3241/G, dated 26.12.1997, No.5889/G, dated 09.4.1997, No.3337/G, dated 30.12.1997, No.2409/G, dated 12.11.1997, No.5828/G, dated 24.2.2014, No.2693/G, dated 24.2.2013, No.3278/G, dated 21.2.2014, No.5812/G, dated 21.2.2014, No.3213/G, dated 13.2.2014, No.3051/G, dated 10.2.2014. Copies annexed as annexure- "B". The above quoted letters are directly addressed to the Forest Standing Counsel and copy of the same to me with the direction to "for information and necessary action he is directed to obtain a copy of the plaint from the court file and submit the same to this office for record and further necessary action.

- 6) That it is evident from the DFO Swat letter No.8902/G, dated 26.6.1993, No.1682/G, dated 16.10.1993, No.209/G, dated 17.7.1993, No.4522/G, dated 29.3.1997, No.2694-95/G, dated 24.12.2013. Copies annexed as annexure- "C" and similar 100 of letters are available in the office record of the DFO Swat under which direct correspondence were made with the FSC remarks mentioned that the "Court decided the case against in favour of the department he is requested to obtain attested copies of the court order for record and further appeal etc. In the presence of the above proofs despite the appellant awarded major penalty is clear crystal that the appellant is not responsible for obtaining court order and delivery in the Divisional Office". Particularly if your goodself perused DFO Swat letter No.2762/G, dated 28.11.1997 under which mentioned that "It has been reported by Mr. Muhammad Rafiq Forest Guard/FPP that the subject case decided in favour of Government" but the dealing hand not given acknowledge in that case also. So that It is crystal cleared that the dealing hand of DFO Swat office has shown laxity/rigidity and not given any receipt/acknowledgement in court matters. Copy annexed as annexure- "D".
- 7) That in 1995 similar nature case the issue was raised, when I delivered FSC letter No.338/FSC dated 19.5.1995 in Divisional Office in response to DFO Swat letter No. 8250/G, dated 02.5.1993 with the request to give me acknowledgement letter but the dealing hand refused my request and not provided case file nor acknowledgement letter. Due to stressed and lethargic behavior of dealing hand the then Forest Standing Counsel (Late Muhammad Khan) made written complaint. Copy annexed as annexure- "E".
- 8) That the then SDFO Mingora Mr. Muhammad Farooq Khan also reported vide his office letter dated 08.05.2007 that the case was discussed with the Advocate General NWFP and he expressed opinioned that an appeal may be filed against the decision of the Peshawar High Court before the Supreme Court of Pakistan. But the DFO Swat office was ignored the report of the above SDFO and not file any appeal etc in the August Supreme Court of Pakistan despite of the Advocate General expressed opinion. But it is surprising that no action has been taken against the delinquent office staff of DFO Swat so far the above huge mistake. Copy annexed as annexure- "F".
- 9) That the DFO Swat was not satisfied from my reply of the explanation and issued charge sheet and Mr. Muhammad Waseem SDFO Alpuri was appointed as inquiry officer. After the submission of the charge sheet and reply furnished to the charges of allegations to the enquiry officer he called me for personal hearing. But the enquiry officer not considered my proofs and recommended me for major punishment which is against the justice and law and basic right.

ATTESTED

To be true copy
Advocate

- 10) That the DFO Swat agreed with the recommendations of the inquiry office issued show cause noticed to me and direct to file reply of the notice within 7 days. In response I filed reply of the show case within a time limit Copy annexed as annexure- "G". But the DFO Swat is once again not satisfied from my reply nor considered my proofs, documents and explanations and issued my compulsory retirement order No. 230 dated 23.05.2019, which is against the natural justice and my basic rights. Copy annexed as annexure- "H".
- 11) As per Forest Manual volume-II, the subject case is not the duty and responsibility of a Forest Guard cadre post. The Forest Manual has clearly showed to duties and responsibility. Copy annexed as annexure- "I".

In view of the above it is humbly requested in your kind honour that I may very kindly be reinstate in service and set aside the impugned order of DFO Swat. Being I am a cancer patient and the only supporter of my 8 family members for which I shall be highly obliged for your this act of kindness and will pray for your long life and prosperity. (Copies of medical treatment is attached).

Yours Obediently,

M
 MUHAMMAD RAFIQ
 Ex- Forester Swat Forest
 Division, Mohallah Nasarkhel
 behind Police Station Saidu
 Sharif Swat.
 Cell # 0344 9755663

Received

(Signature)

18-6-2019

(Signature)
 ATTESTED

to be copy copy
 18/6/2019

(11)

OFFICE ORDER NO. 13 DATED SAIDU SHARIF THE: 28/11/2019 ISSUED BY
MR. MUHAMMAD RIAZ, CONSERVATOR OF FORESTS, MALAKAND FOREST CIRCLE EAST,
SAIDU SHARIF SWAT.

WHEREAS, Mr. Muhammad Rafiq Forester of Swat Forest Division was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 for the charges of In-efficiency, Mis-conduct and Corruption, as an outcome of enquiry the competent authority (DFO Swat) imposed major penalty of compulsory retirement from service vide officer order No.230 dated 23/5/2019.

WHEREAS, the Ex-official being aggrieved preferred departmental appeal before the appellate authority (Conservator of Forests Malakand Forest Circle East). The DFO Swat was asked vide this office letter No.10879/E, dated 20/6/2019 for comments and report. In compliance the DFO Swat vide his letter No.165/E, dated 15/7/2019 offered his detailed comments.

WHEREAS, the DFO Swat was asked vide this office letter No.2086-87/E, dated 29/8/2019 to produce relevant record and direct Ex-official to appear before the undersigned on 04/9/2019 in connection with personal hearing. Accordingly the ex-official was heard in person. During the course of personal hearing, the Ex-official produced record in connection with the subject case, but the documents did not satisfied the undersigned, as being FPP it was his primary duty to inform the DFO concerned and Divisional office regarding court order, judgment and any other progress made therein, but the Ex-official failed to inform DFO concerned and Divisional office about the decision of the subject case, although he was responsible to pursue the case up till its logical/positive end, but in instant case he utterly failed to obtained attested copies of judgment and hand over to Divisional office/DFO concerned due to which they remained unable to file appeal in next higher court against the impugned order passed by Additional District Judge-II Swat. Resultantly huge loss occurred to the Government due to the lost of precious piece of Protected Forest land.

NOW THEREFORE, having considered the charges, evidence on record, written statement of the Ex-Forester and hearing him in person I, Muhammad Riaz Conservator of Forests, Malakand Forest Circle East in the capacity of appellate authority do hereby reject the appeal in hand.

Sd/-
(MUHAMMAD RIAZ)
CONSERVATOR OF FORESTS,
MALAKAND FOREST CIRCLE EAST,
SAIDU SHARIF SWAT.


No. 5002-03/E,

Copy forwarded to the:-

- 1- Divisional Forest Officer, Swat Forest Division, Mingora for information and necessary action with reference to his letter No. cited above.
- 2- Mr. Muhammad Rafiq Ex-Forester, Muhallah Nasar Khel behind Police Station Saidu Sharif Swat for information with reference to his appeal dated 18/6/2019.

~~ATTESTED~~

10/11/2019 BY
10/11/2019


CONSERVATOR OF FORESTS,
MALAKAND FOREST CIRCLE EAST,
SAIDU SHARIF SWAT.

Mr. Rafiq
Forester

بعدالت کسوس لٹریبیونل شاور صبر و کتو کو

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مخانب Petitioner

۱۲ دسمبر ۲۰۱۹

مورخہ

مقدمہ محمد رفیق بنام ڈی، ایف او۔ سوان و سیم

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنے طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام کسوس لٹریبیونل کے لئے شمس الہادی ادرٹوکیل مقرر کر کے قیام کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دہیا و اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف اپیل کی برآمدگی اور منسوخ مذکور کے مکمل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

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۱۲ دسمبر

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المقوم

العبد

گواہ شد

العبد
محمد رفیق

العبد

گواہ شد

العبد

کیلئے منظور ہے۔

کسوس لٹریبیونل

بمقام

ATTESTED

Shams-ul-Hadi Adh

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1960/2019

Muhammaad Rafiq (Forester)..... **Appellant**

Versus

- 1) Divisional Forest Officer, Swat Forest Division Mingora, Swat.
- 2) Conservator of Forests, Malakand East Forest Circle Saidu Sharif Swat

Respondents...

PRELIMINARY OBJECTIONS.

- 1) That the appellant has no cause of action or locus standi vide the present appeal
- 2) The appeal is not maintainable in its present form
- 3) That the present appeal is time bored
- 4) That the appellant has filled the instant appeal in malafidi motive

PRAYERS IN APPEAL.

1. Both orders passed by the authority and appellate authority are under the prevailing rules and penalty of compulsory retirement from service awarded to the appellant is favorable.

Respectfully sheweth

1. It is correct.
2. Plea of the appellant is incorrect. The appellant was posted as Prosecutor to asses the Forest Standing Council in pursuing the Government Civil and other forest offence in the court of Forest Magistrate and other courts. Preliminary duties of the prosecutor are to provide all relevant record to the Standing Council and inform the department about decision of the court so arrival.
3. It is correct that against the order of the authority, the appellant has filed departmental appeal before the appellate authority, who after detail hearing of the appeal rejected the same on the basis of facts figures as well as solid flaws in appeal of the appellant.


GROUNDS.

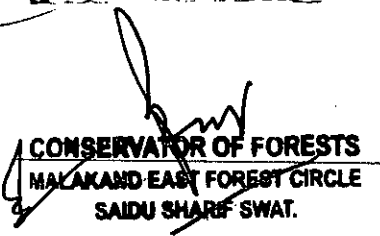
- A. Incorrect. The action taken by the authority and appellate authority is strictly in accordance with the provision of E&D Rules, 2011.
- B. Incorrect. All sort of rules and procedures applicable in the case of appellant were fulfilled and after completing coddles formalities disciplinary action has been initiated against him.
- C. Stance it is incorrect. Since he was posted as F.P.P and this was the responsibility of FPP as per TOR to pursue the courts cases and to bring the status and outcome in the notice of Divisional Forest Officer. In the instant case he had shown lethargy and Gross negligence by ignoring this important case and had never shared the outcome timely and therefore had inflicted loss to the Government and had guilty.
- D. Incorrect. Enquiry proceedings and other action initiated against the appellant were strictly in accordance with the standing rules provided in the E&D Rules, 2011.
- E. Incorrect. All the prevailing rules and regulations on the subject as discussed above have been adopted and compulsory retirement of the appellant from service has been ordered strictly after fulfillment of coddle formalities.

Therefore, it is requested that appeal of the appellant being baseless may kindly be rejected in view of above explicit narrative, please.

Respondents:

1. Divisional Forest Officer
Swat Forest Division, Mingora Swat.
2. Conservator of Forests,
Malakand East Forest Circle East
Saidu Sharif Swat.


Divisional Forest Officer
Swat Forest Divn. Mingora


CONSERVATOR OF FORESTS
MALAKAND EAST FOREST CIRCLE
SAIDU SHARIF SWAT.

AFFIDAVIT.

It is solemnly stated on oath that all the contents of these reply/comments is true and correct to the best of my knowledge and nothing has been concealed from this honorable tribunal.


Divisional Forest Officer
Swat Forest Divn: Mingora

Vetted copy

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1960/2019

Muhammaad Rafiq (Forester)..... **Appellant**

Versus

- 1) Divisional Forest Officer, Swat Forest Division Mingora, Swat.
- 2) Conservator of Forests, Malakand East Forest Circle Saidu Sharif Swat

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Respectfully sheweth

1. It is correct.

2. Plea of the appellant is incorrect. The appellant was posted as Prosecutor to asses the Forest Standing Council in pursuing the Government Civil and other forest offence in the court of Forest Magistrate and other courts. Preliminary duties of the prosecutor are to provide all relevant record to the Standing Council and inform the department about decision of the court so arrival.

3. It is correct that against the order of the authority, the appellant has filed departmental appeal before the appellate authority, who after detail hearing of the appeal rejected the same on the basis of facts figures as well as solid flaws in appeal of the appellant.

R
3/11/2020

Before The KP Services Tribunal Peshawar.
Camp Court, Swat.

Sub: Permission for placing of necessary
document on case file regarding
S. Appeal No 1960/2019 titled
Muhd Rafique - vs Govt of KP.

Sir

The applicant/Respdt submits & under:
1) That the above-titled case is fixed
for arguments for today's date - i.e
2/2/2021.

2) That certain documents are necessary
for appraisal and just conclusion
of the said Service Appeal.

It is, therefore, requested that
order may be passed accordingly.

Date 2/2/2021

District Forest
Officer Swat
through AAG
22/2/2021

Vetted copy

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1960/2019

Muhammaad Rafiq (Forester)..... **Appellant**

Versus

- 1) Divisional Forest Officer, Swat Forest Division Mingora, Swat.
- 2) Conservator of Forests, Malakand East Forest Circle Saidu Sharif Swat

Respondents...

PRELIMINARY OBJECTIONS.

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3. It is correct that against the order of the authority, the appellant has filed departmental appeal before the appellate authority, who after detail hearing of the appeal rejected the same on the basis of facts figures as well as solid flaws in appeal of the appellant.

A
(3/9/2020)

GROUND.

- A. Incorrect. The action taken by the authority and appellate authority is strictly in accordance with the provision of E&D Rules, 2011.
- B. Incorrect. All sort of rules and procedures applicable in the case of appellant were fulfilled and after completing coddles formalities disciplinary action has been initiated against him.
- C. Stance it is incorrect. Since he was posted as F.P.P and this was the responsibility of FPP as per TOR to pursue the courts cases and to bring the status and outcome in the notice of Divisional Forest Officer. In the instant case he had shown lethargy and Gross negligence by ignoring this important case and had never shared the outcome timely and therefore had inflicted loss to the Government and had guilty.
- D. Incorrect. Enquiry proceedings and other action initiated against the appellant were strictly in accordance with the standing rules provided in the E&D Rules, 2011.
- E. Incorrect. All the prevailing rules and regulations on the subject as discussed above have been adopted and compulsory retirement of the appellant from service has been ordered strictly after fulfillment of coddle formalities.

Therefore, it is requested that appeal of the appellant being baseless may kindly be rejected in view of above explicit narrative, please.

Respondents:

- 1. Divisional Forest Officer
Swat Forest Division, Mingora Swat.
- 2. Conservator of Forests,
Malakand East Forest Circle East
Saidu Sharif Swat.

[Signature]
Divisional Forest Officer
Swat Forest Divn. Mingora

[Signature]
CONSERVATOR OF FORESTS
MALAKAND EAST FOREST CIRCLE
SAIDU SHARIF SWAT

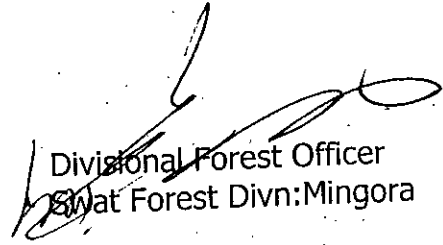
*Vetted subject to
necessary connection
attachment of annexure
and affidavit*

[Signature]
Additional Advocate General
Khyber Pakhtunkhwa
High Court Peshawar

*please not
Ant 1st
3/11/2020*

AFFIDAVIT.

It is solemnly stated on oath that all the contents of these reply/comments is true and correct to the best of my knowledge and nothing has been concealed from this honorable tribunal.


Divisional Forest Officer
Mat Forest Divn:Mingora

Before The KP Services Tribunal Peshawar.
Camp Court Swat.

Sub: Permission for placing of necessary document on case file regarding S. Appeal No 1960/2019 titled Wahid Rafique - vs Govt of KP.

Sir
The applicant/Respdt submits & under:
1) That the above-titled case is fixed for arguments for today's date - i.e 2/2/2021.

2) That certain documents are necessary for appraisal and just conclusion of the said Service Appeal.

It is, therefore, requested that order may be passed accordingly.

Date 2/2/2021

District Forest
Officer Swat
through AAG.
22/2/2021

DISCIPLINARY ACTION.

I, Mr. Muhammad Iqbal Khan, Divisional Forest Officer, Swat Forest Division as competent authority, am of the opinion that, **(Muhammad Rafiq Forester the then Forest Public Prosecutor, Swat)**, has rendered himself liable to proceeded against, as he committed the following acts/omission, within the meaning of Section-3 of Khyber Pakhtunkhwa, Government Servants (Efficiency and Disciplinary) Rules, 2011.

STATEMENT OF ALLEGAIONS.

- (i) A Case titled "Hussain Shah of Parona Jambil Versus Government of Khyber Pakhtunkhwa, Forestry, Environment and Wildlife Department etc was decided by the Court of Additional District Session Judge-II Swat on 27/03/2007 against the Department. Being a Forest Public Prosecutor, it was your prime responsibility to inform Divisional Office/Sub Divisional Office regarding the decision of the above mentioned case, but you have deliberately not reported the decision of the above case to the aforesaid Offices and kept your high ups in Dark, and your this act the case has become time barred, which clearly reveals that you are directly involved in this dirty game and you have provided full opportunity to the opposite party and sustained great lost to the Government for your ulterior motives.
- 2 For the purpose of enquiry against the said accused with reference to the above allegation, **Mr. Muhammad Waseen SDFO Alpuri** is hereby appointed as enquiry Officer under the Rules-10(i)(a) of the ibid rules.
- 3 The enquiry Officer/Committee shall, in accordance with the provision of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of his 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/Committee.


Divisional Forest Officer,
Swat Forest Divn: Mingora.

(1)

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ENQUIRY REPORT IN CASE CR. NO.591/98 TITLE "GOVERNMENT OF NWFP
VERSUS HUSSAIN SHAH ETC.

In compliance with the orders of honourable Peshawar High Court, Environment Department Govt. of NWFP constituted a Forest Settlement Board under Section 29(5) of the NWFP Forest Ordinance 2002, vide Govt. of NWFP Environment Department Notification No.SO(LIT)/ED/X-986/2004 dated 9-8-2006 consisting of the following:

- | | | |
|-----|---|----------|
| (1) | District Officer Revenue Swat | Chairman |
| (2) | Divisional Forest Officer Swat | Member. |
| (3) | Maulana Mohammad Shafiquddin s/o Meftabuddin,
Nazim Union Council Jambil | Member |

Terms of reference (TOR) of the above board is that to enquire into and determine the existence nature, extent and extent of any rights rights alleged to exist in favour of the petitioners of the aforementioned CR over the protected forest.

After detailed discussion, the Board was of the opinion to conduct spot inspection of the disputed site. The site was jointly inspected by the board. Relevant documents pertaining to the disputed property were perused and examined on the spot.

The Working Plan and other relevant documents of the Forest Department show the disputed site as Protected Forests area falling in Jambil Compartment No.6 and thus during the settlement operation in the year 1986 the entries were incorporated in the revenue record from the Working Plan/Pointation of the Forest Department and therefore in the revenue record the entries were made in favour of the Forest Department. }

The perusal of Working Plan reveals that in 1928-31 rights of the local inhabitants pertaining to the state Forests and Private land were settled and the same settlement was accepted by the then ruler of Swat State vide his letter No.213 dated 17-3-1930 to address of Political Agent Malakand. The resume of the settlement as recorded in the aforesaid Working Plan is as under:

With in the demarcated forests no fresh cultivations, whether permanent or temporary will be permitted.

The customary rights and privileges were allowed and as enjoyed by the locals which has been protected through a notification No.SOFT (FAD)V-168/71 (i).

rights/privileges have been adopted and recorded by land settlement Department (Wajid Arz) and are still being enjoyed by the right holders.

In 1928 forest boundaries adjacent to private lands were demarcated through Chain and Compass survey by erecting loose stone temporary boundary pillars. Para-7 of the Working Plan for the Forest of Swat and Swat Kohistan (1965-80) under the heading "State of Boundaries" states that during field work 1960, the boundary pillars were found dismantled and shifted by the locals. In 1962 un-number loose stone pillars measuring 5'x2'x3' were raised along the lower boundary at each observation point but the same were again replaced by locals.

From the inspection of site it was found that the disputed area is almost non-cultivable and most of the area is consisting of "Dhaka Charagah & Banjar Qadeem".

Spot inspection of Jambil compartment No.6 show some cultivation but the survey map prepared in 1960s, does not exist any cultivation within the designated forests. The claim of the plaintiff is within the boundaries of the designated forests which is encroachment upon the state land.

From the spot inspection it was also found that no conifer trees were found standing thereon. But the general contention of the non-foresters is incorrect that forest land shall only cover with conifer trees necessarily. As per Section-16 of the NWFP Forest Ordinance 2002, the definition of forests is reproduced below:

"Forest" means a tract of land mostly or predominantly covered with trees and other woody vegetation, and declared as forest by Government through a notification issued under this Ordinance or rules made thereunder"

The disputed area is consisting of the following Khasra Numbers in the revenue record:

- 1) Khasra No.3412
- 2) Khasra No.3416
- 3) Khasra No.3427
- 4) Khasra No.3439
- 5) Khasra No.3440
- 6) Khasra No.3430
- 7) Khasra No.3454 &
- 8) Khasra No.3436

6

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record/Working Plan which has been prepared during the Ex. State regime was authorized by the State authorities.

During the Ex: Swat State the protection of forest and state land was possible through good governance and the effective enforcement of the prevailing land tenure by legal and social control.

After merger of Swat State the existing old governance system was abolished and was not readily replaced by an efficient and responsive system of governance, hence a vacuum was created. Forest and land settlement could not be immediately undertaken. Forests were cut down under the prevailing system of "free riders" "who comes first gets more". The period from 1971-77 is termed as a tragedy of the commons" New terraced land expanded for in to Protected Forests due to lack of respect for forest boundaries or lack of forest boundaries permanently demarcated. Time series of Swat State enclosed).

The disputed land is one of the examples of the above mentioned historical rights which is part of Protected Forest lands. Hence if allowed to Mr. Hussain Shah, will open a new era of encouraging the locals to start ruthless cutting of Protected Forest and encroachment upon forest land

Perusal of the relevant record and spot inspection the Forest Settlement Board is of the firm opinions that the disputed property of all with the boundaries of protected Forest Compartment No.6 and the claim of the plaintiff is not based on facts.

Report is submitted for further necessary action, please.

(CHAIRMAN)

DISTRICT OFFICER
REVENUE/CHAIRMAN FOREST
SETTLEMENT BOARD SWAT

18/1/07

(MEMBER)

DIVISIONAL FOREST OFFICER
SWAT FOREST DIVN. MINGORA
MEMBER OF FOREST SETTLEMENT
BOARD SWAT

18/1/07

(MEMBER)

MAULANA MULLANAHAD OLLAH
NAZIM UNION COUNCIL JAMBIL

6

حکومت پاکستان

ادنیٰ قلمیہ کے لئے رقم کی درخواست
میں نے 3 مارچ کو پیش کیا تھا

0-24
9.3.5

میں نے 24 مارچ کو درخواست کی تھی کہ
میں نے 24 مارچ کو درخواست کی تھی کہ
میں نے 24 مارچ کو درخواست کی تھی کہ

0-24
21.3.5

علی محمد لکھی



میں نے 24 مارچ کو درخواست کی تھی کہ
میں نے 24 مارچ کو درخواست کی تھی کہ
میں نے 24 مارچ کو درخواست کی تھی کہ

0-24
24.3.5

میں نے 24 مارچ کو درخواست کی تھی کہ
میں نے 24 مارچ کو درخواست کی تھی کہ
میں نے 24 مارچ کو درخواست کی تھی کہ

0-24
25.3.5

میں نے 24 مارچ کو درخواست کی تھی کہ
میں نے 24 مارچ کو درخواست کی تھی کہ
میں نے 24 مارچ کو درخواست کی تھی کہ

0-24
5.4.5

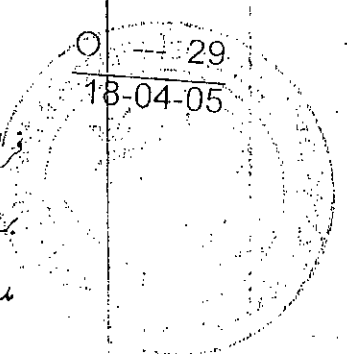
علی محمد لکھی

(مؤید 7)

۵-۲۸
۱۶-۰۴-۰۵
۱۸-۰۴-۰۵

کونین سوات

اعلیٰ عدالت سوات



فریقین حاضر۔ فیصلہ سنایا گیا۔ بحوالہ فیصلہ مفصل مشمولہ مسل محررہ امروزہ مدعیان اپنا دعویٰ برخلاف مدعا علیہم بلا شک و شبہ ثابت کرنے میں کامیاب رہے ہیں۔ لہذا ڈگری مستعدیہ بحق مدعیان برخلاف مدعا علیہم بمعہ خرچہ صادر شد۔ مسل بعد از تکمیل و ترتیب داخل دفتر ہوئے۔

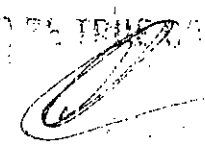
اصغر شاہ خلجی
سینئر سول جج / اعلیٰ علاقہ قاضی سوات
18-04-05

پیر محمد نوری نقی

حکم سنایا گیا
18-04-05

اصغر شاہ خلجی
سینئر سول جج / اعلیٰ علاقہ قاضی سوات

REGISTERED TO THE TRIBUNAL



04-6-18

(صفحہ نمبر 1)

بعدالت اصغر شاہ خلجی سینئر سول جج / اعلیٰ علاقہ قاضی سوات

حسین شاہ ولد سید سیفور میاں وغیرہ ساکنان پروٹہ تحصیل بابوزی منضلع سوات۔ (مدعیان)



(مدعا علیہم)

حکومت صوبہ سرحد بذریعہ چیف سیکرٹری پشاور سیکرٹریٹ وغیرہ۔

سال: 2004

مقدمہ نمبر: 153/1

تاریخ فیصلہ: 18-04-2005

تاریخ ابتدائی رجوعہ: 18-07-1989

دعویٰ استقرار حق

فصلہ: 18-04-2005

1- مدعیان نے دعویٰ لہذا برائے استقرار حق حکم امتناعی دوا می و بصورت متبادل دخلیابی دائر کر کے استدعا کی ہے کہ اراضی متداعو یہ مشتمل برکھاتہ و خسرہ نمبرات درج عنوان عرضی دعویٰ مورث مدعیان نے بروئے تمسکات محرمہ 12-02-1935 و 01-07-1936 بیع قطعی خریدی ہے۔ یہ کہ مورث مدعیان کی وفات کے بعد مدعیان اراضی متداعو یہ پر اپنے حصص ملکیت پر قابض ہیں اور چند تعمیرات بشکل کوٹھہ جات وغیرہ بھی کئے ہیں۔ یہ کہ بدوران بندوبست مدعا علیہم 1 تا 6 نے اہلکاران بندوبست کیسا تھ ساز باز کر کے مدعیان کی ملکیتی اراضی کو محکمہ جنگلات کے نام درج کیا ہے جو کہ غلط، خلاف قانون و حقوق مدعیان پر کالعدم وغیرہ موثر ہے۔ یہ کہ اراضی متداعو یہ جنگل نہیں ہے اور اس بابت بار بار مدعا علیہم کو کہا گیا کہ وہ اراضی متداعو یہ کو مدعیان کی ملکیت تسلیم کر کے کاغذات مال میں درستگی کریں مگر انکار پر دعویٰ لہذا دائر کیا گیا۔

2- مدعا علیہم کو سمن کیا گیا جنہوں نے حاضر ہو کر جواب دعویٰ داخل کیا اور دعویٰ مدعیان کی نفی کرنے

جاری

(صفحہ نمبر 2)

ہوئے کچھ قانونی و تقابلی عذرات اٹھائے۔

فریقین کے معروضات سے درج ذیل تحقیقات وضع کئے گئے۔

تحقیقات:

- (1) کیا مدعیان کو بنائے دعویٰ حاصل ہے؟
- (2) کیا دعویٰ بشکل موجودہ ناقص ہے؟
- (3) کیا دعویٰ اندر میعاد ہے؟
- (4) کیا کورٹ فیس درست تشخیص شدہ ہے؟
- (5) کیا دعویٰ بوجہ شمولیت / عدم شمولیت فریقین ناقص ہے؟
- (6) کیا عدالت لٹڈا کو اختیار سماعت حاصل ہے؟
- (7) کیا مدعیان مستعدیہ ڈگری کے حقداران ہیں؟
- (8) دادری۔

تحقیقات وضع کرنے کے بعد شہادت فریقین قلمبند کی گئی اور ایک لوکل کمشنر کا تقرر بھی کیا گیا۔ بعد ازاں وکلاء فریقین کی بحث سماعت کرنے کے بعد اس وقت کے سول جج / علاقہ قاضی سوات نے بحوالہ حکم مورخہ 19-11-1996 دعویٰ مدعیان کو خارج کر دیا۔ حکم مذکورہ کے خلاف مدعیان نے عدالت ایڈیشنل سیشن جج / اضافی ضلع قاضی سوات میں اپیل دائر کی جو کہ منظور ہو کر بحوالہ حکم مورخہ 17-07-1998 دعویٰ مدعیان ڈگری کیا گیا۔ مدعا علیہم نے فیصلہ ایڈیشنل سیشن جج / اضافی ضلع قاضی کے خلاف عدالت عالیہ میں نگرانی دائر کی جو کہ منظور ہو کر بحوالہ حکم مورخہ 30-04-2004 کو اس ہدایات کے ساتھ ریماڈ کیا گیا کہ سوبانی حکومت بذریعہ سیکرٹری فارسٹ زریں دفعہ (3) فارسٹ ایکٹ 1927 انکوآری کسی غیر جانبدار اہلکار یا تریبہ جج بذریعہ ضلعی ایڈیشنل سیشن جج / اضافی ضلع قاضی سوات کو پیش کریں۔ نیز فریقین کو بھی یہ موقع دیا گیا کہ اگر وہ چاہیں تو اپنے موقف کی تائید میں مزید شہادت بھی پیش کر سکتے ہیں۔ مقدمہ لٹڈا عدالت عالیہ سے موصول ہونے کے بعد مدعیان نے مزید گواہان APW-7 APW-1 پیش کئے۔ جبکہ کوئی انکوآری زیر دفعہ (3) فارسٹ ایکٹ 1927 نہیں کی گئی تھی۔ مدعا علیہم نے مزید ایک گواہ کو بطور ADW-1 پیش کیا۔ بعد ازاں بحث منجانب وکلاء فریقین سماعت ہو کر سب ملاحظہ شد۔ درج بالا تحقیقات پر ریکارڈ و شہادت فریقین کی روشنی میں عدالت لٹڈا کی مفصل بحث درج ذیل ہے۔

(صفحہ نمبر 3)

تشریح نمبر 7:

کیا مدعیان متنازعہ ڈگری کے حقداران ہیں؟

۵۔ تشریح لفظ کے سلسلے میں مدعیان اور اس کے پیش کردہ گواہان کا موقف ہے کہ اراضی متنازعہ ان کے مورث نے بروئے تسکات محررہ 12-02-1935، EX PW 2/3، و تسکات محررہ 01-07-1936، EX PW 2/4 خریدی ہے۔ ان تسکات کی بابت کسی گواہ کو پیش نہیں کیا گیا۔ وکیل مدعیان کا اس بابت موقف تھا کہ وہ فوت ہو چکے ہیں۔ مدعیان نے تسکات کو ثابت کرنے کیلئے وراثت نامہ بائجان کو بطور APW-6، APW-7، APW-3، APW-4 و APW-3 گواہان پیش ہو کر بیانی تھے کہ وہ اراضی متنازعہ پر منجانب مدعیان بطور کاشتکار آباد ہیں اور مدعیان کو حاصلات اداء کرتے ہیں۔ یہ گواہان مزید بیانی تھے کہ اراضی پر سکول، مسجد اور نئے رہائشی کونٹھہ جات موجود ہیں۔ اور یہ کہ اراضی جنگل نہ ہے۔ علاوہ ازیں مدعیان نے ایک گواہ فضل محمد انچارج محافظ خانہ سوات کو بطور APW-2 پیش کیا جس نے ریکارڈ بابت بیعتنامہ محررہ 01-07-1936 پیش کیا جو کہ EX APW-2/1 ہے جبکہ بیعتنامہ محررہ 12-02-1935 کے بارے میں بیانی تھا کہ اسکا ریکارڈ سال 1935 کے رجسٹر میں موجود نہیں ہے۔ مدعیان نے پٹواری حلقہ کو بطور APW-1 پیش کیا جس نے فرد جمعیعی بابت اراضی متنازعہ 1/1 EX APW، 1/2 EX APW، عکس شجرہ کشتوار 1/3 EX APW و انتقالات بابت جائیداد متنازعہ 1/4 EX APW پیش کئے۔ پٹواری مذکورہ بیانی تھا کہ مدعیان اراضی متنازعہ میں بروئے ریکارڈ مال بطور کاشتکار درج ہیں۔ یہاں یہ بات قابل ذکر ہے کہ عدالت نے مقدمہ لفظ کے تصفیہ کیلئے ایک لوکل کمنشنر کا تقرر بھی کیا تھا جسکو یہ ذمہ داری سونپی گئی تھی کہ وہ معلوم کرے کہ اراضی متنازعہ تسکات محررہ 12-02-1935 اور 01-07-1936 کے خسرات متنازعہ میں واقع ہے کہ نہیں؟ کیا جائیداد متنازعہ کیپارٹمنٹ کے اندر ہے اور کون سے کیپارٹمنٹ میں ہے؟ کیا اراضی متنازعہ میں کوئی جنگل ہے یا نہیں؟ اس بابت لوکل کمنشنر نے رپورٹ دی کہ اراضی متنازعہ تسکات مذکورہ بالا کے خسرات متنازعہ میں واقع ہے۔ یہ کہ جائیداد متنازعہ کیپارٹمنٹ نمبر 6 میں واقع ہے اور یہ کہ اراضی متنازعہ میں کوئی جنگل نہیں ہے اور نہ ہی کسی جنگلی درخت کے آثار ملے ہیں البتہ اراضی متنازعہ کے صدر ید پر چند پھلدار درخت موجود ہیں جو کہ کافی پرانے ایبتادہ ہیں۔

۶۔ مدعا علیہم نے اپنی موقف کی تائید میں اراضی متنازعہ کی نسبت درکنگ پلان 1/1 EX DW اور ہسٹری شیٹ 1/2 EX DW پیش کئے۔ مدعا علیہم نے مزید ایک گواہ کریم خان ریچ آفیسر سوات کو بطور ADW-1 پیش کیا جو کہ بیانی تھا کہ اراضی متنازعہ کیپارٹمنٹ نمبر 6 میں واقع ہے اور جنگل ہے اور درست طور پر ریکارڈ مال میں بنام محکمہ جنگلات درج ہے۔ اس گواہ نے اپنی جرح میں کہا کہ مقدمہ لفظ عدالت عالیہ سے رہا ہوئے سے

(صفحہ نمبر 4)

قبل اس میں انکوآری ہو چکی ہے جو کہ EX ADW-1/X-1، EX ADW-1/X-2، EX ADW-1/X-3 ہے یہ گواہ مزید بیانی تھا کہ EX ADW 1/X-1 اورنگ پلان کے متعلق ہے جس سے لوگوں کے حقوق متعین کئے گئے ہیں۔ جبکہ اورنگ پلان سے جنگل کے حدود کا تعین کیا گیا ہے۔ گواہ مزید بیانی تھا کہ ملک اللہ یار خان نے سال 1928-30 کو ایک ریزروٹ بنا کر وائس سوات کو پیش کی تھی جسکو بروئے لیس نمبر 213 مورخہ 13-07-1930 Settlement گردانا جا کر اورنگ پلان عمل میں لایا گیا ہے۔ یہ Settlement برطانیہ پیرا (10) EX ADW 1/X-1 اب دستیاب نہیں ہے۔ اس گواہ نے اپنی شہادت میں یہ بات تسلیم کی ہے کہ اورنگ پلان سال 1964 میں بنایا گیا تھا اور یہ برطانیہ رواج بنایا گیا تھا کیونکہ فارسٹ ایکٹ اس وقت سوات میں نافذ العمل نہیں تھا اور فارسٹ ایکٹ 1927 مورخہ 29-05-1974 کو سوات میں نافذ العمل ہوا۔

ان حالات و واقعات میں یہ بات ثابت ہوتی ہے کہ مدعیان اپنے آپ کو اراضی متداومیہ کا بروئے تسکات EX PW 2/3 و EX PW 2/4 مالکان بتلاتے ہیں اور اس بابت گواہان بھی پیش کر چکے ہیں۔ جبکہ دوسری جانب مدعا علیہم کا موقف ہے کہ اراضی متداومیہ جنگل ہے اور اسکو درست طور پر ڈیمارکیشن فارسٹ قرار دیا گیا ہے۔ عدالت عالیہ نے اپنے حکم مورخہ 30-04-2004 میں ہدایت کی تھی کہ صوبائی حکومت زیر دفعہ (3) فارسٹ ایکٹ انکوآری کرانے۔ اس بابت مدعا علیہم کا موقف تھا کہ EX ADW-1/X-1 انکوآری ہے جو کہ سال 1964 میں ہو چکی ہے اور مزید انکوآری کی ضرورت نہ ہے۔ EX ADW-1/X-1 کے ملاحظہ سے پتہ چلتا ہے کہ یہ اورنگ پلان کی بابت ہے۔ دفعہ (3) فارسٹ ایکٹ 1927 کے تحت انکوآری کا مقصد حکومت اور پرائیوٹ لوگوں کے حقوق متعین کرنا ہیں۔ اس بات کا تعین کرنا کہ جنگلات کے حدود کون کون سے ہیں اور اس کے اندر یا گرد و نواح میں کون کون سے لوگ آباد ہیں اور آیا کسی پرائیوٹ اشخاص کی کوئی ملکیتی زمین تو پر ڈیمارکیشن فارسٹ قرار نہیں دی جا رہی اور کون سے اشخاص اس سے متاثر ہو سکتے ہیں۔ وغیرہ وغیرہ۔ ان سب باتوں کا تعین ہونے کے بعد حکومت بذریعہ نوٹیفیکیشن زیر دفعہ 29 فارسٹ ایکٹ 1927 کسی جنگل کو پر ڈیمارکیشن فارسٹ قرار دے سکتی ہے۔ مدعا علیہم EX ADW-1/X-1 کو انکوآری قرار دے رہے ہیں جس کے ملاحظہ سے پتہ چلتا ہے کہ آسٹریلیا جنگل کی بابت چند شرائط و اصول درج ہیں کہ جنگل ریاست کی ملکیت ہوتی ہے اور لوگ جلانے اور تعمیر کیلئے لکڑی حاصل کر سکتے ہیں۔ چند ٹیکسوں کے نام بمعہ تفصیل درج ہیں۔ یہ کہ لوگ اپنے مال مویشی جنگل میں چرا سکتے ہیں اور حکومت کی اجازت کے بغیر درختوں کو کاٹنا منع ہے وغیرہ وغیرہ۔ مدعا علیہم کے پیش کردہ اس انکوآری میں کہیں بھی یہ درج نہیں ہے کہ یہ فلاں اراضی / جنگل یا فلاں خسرہ نمبرات کی بابت ہوئی ہے۔ اس سبب انکوآری میں پرائیوٹ لوگوں یا جنگل جنگلات کی ملکیت بابت اراضی متداومیہ کچھ درج نہ ہے۔ لہذا اس سبب انکوآری کو کسی بھی صورت انکوآری زیر دفعہ (3) فارسٹ ایکٹ 1927 بابت اراضی متداومیہ قرار نہیں دیا جاسکتا۔ جب معزز عدالت عالیہ نے صریحاً اس بات کی وضاحت کی تھی کہ مقدمہ ہذا میں انکوآری نہیں ہوئی اور زیر دفعہ (3) فارسٹ ایکٹ 1927 صوبائی

جاری

(صفحہ نمبر 5)

حکومت کو انکوائری کی ہدایات جاری کیں تو صوبائی حکومت کو برطانیہ ہدایات عدالت عالیہ انکوائری کرنی چاہئے تھی۔
انکوائری سے نہ صرف یہ پتہ چل جاتا کہ برائے لوگوں کے حقوق کہاں تک محدود ہیں بلکہ خود حکمہ جنگلات کی ملکیت
بھی متعین ہو جاتی۔ مگر انکوائری نہ کر کے حکمہ جنگلات کی مبینہ ملکیت کو بھی متنازعہ بنا دیا گیا ہے۔ اس کے مقابلے میں
مدعیان کی ملکیت اراضی متداعوہ پر ثابت ہو چکی ہے۔ جسکو مدعا علیہم Rebutt کرنے میں ناکام رہے ہیں اور کسی
ی طور یہ ثابت نہیں ہو سکا کہ اراضی متداعوہ جنگل ہے۔ گواہان مدعیان، تمسکات پیش کردہ رپورٹ لوکل کمشنر سے یہ
بات ثابت ہوتی ہے کہ اراضی جنگل نہ ہے بلکہ قابل کاشت اراضی ہے اور مدعیان ہی اس کے مالکان و قابضان ہیں۔
لہذا ان بناء پر وہ ڈگری مستدعیہ کے حقداران ہیں۔ تنقیح مثبت میں فیصلہ شد۔

نتیجہ نمبر 1:

کیا مدعیان کو بنائے دعویٰ حاصل ہے؟

۸۔ درج بالا تنقیح پر عدالت کے مفصل بحث کی روشنی میں یہ بات ثابت ہوتی ہے کہ مدعیان کو بنائے
دعویٰ حاصل ہے۔ تنقیح مثبت میں فیصلہ شد۔

نتیجہ نمبر 2:

کیا دعویٰ بشکل موجودہ ناقص ہے؟

۹۔ تنقیح کا بار ثبوت مدعا علیہم پر تھا جسکو وہ ثابت کرنے میں ناکام رہے۔ لہذا تنقیح نفی میں فیصلہ شد۔

نتیجہ نمبر 3:

کیا دعویٰ اندر میعاد ہے؟

۱۰۔ دعویٰ ہذا سال 1989 میں دائر کردہ ہے۔ جس میں اندراجات بند دست 1985-86 کو چیلنج
کیا گیا ہے۔ آرٹیکل 120 قانون میعاد کے مطابق دعویٰ ہذا اندر عرصہ چھ سال میں تب دائر کیا جاسکتا ہے جب
اندراجات کاغذات مال حقوق مالکان سے متصادم پائیں جائیں۔ مدعیان نے سال 1985-86 کے اندراجات کو
سال 1989 میں چیلنج کیا ہے۔ لہذا دعویٰ اندر میعاد ہے۔ تنقیح مثبت میں فیصلہ شد۔

نتیجہ نمبر 4:

کیا کورٹ فیس درست تشخیص شدہ ہے؟

۱۱۔ استقرار یہ دعویٰ کورٹ فیس سے مستثنیٰ ہے لہذا تنقیح یوں ہی فیصلہ شد۔

جاری

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18-04-2005
مستند شماره 18-04-2005
تاریخ 18-04-2005
موضوع: ...

81-9-40
81-9-40
81-9-40

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تقدیراتی خانہ کے لئے منظور شدہ (6) رقمی پتہ ہے۔
تعمیراتی مقاصد کے لئے

18-04-2005

مقامی

18-04-2005
مستند شماره 18-04-2005
تاریخ 18-04-2005
موضوع: ...

تعمیراتی مقاصد کے لئے منظور شدہ (6) رقمی پتہ ہے۔
تعمیراتی مقاصد کے لئے منظور شدہ (6) رقمی پتہ ہے۔

تعمیراتی مقاصد کے لئے



تعمیراتی مقاصد کے لئے منظور شدہ (6) رقمی پتہ ہے۔
تعمیراتی مقاصد کے لئے منظور شدہ (6) رقمی پتہ ہے۔

تعمیراتی مقاصد کے لئے

تعمیراتی مقاصد کے لئے منظور شدہ (6) رقمی پتہ ہے۔
تعمیراتی مقاصد کے لئے منظور شدہ (6) رقمی پتہ ہے۔

تعمیراتی مقاصد کے لئے

(6) رقمی پتہ

پیر ۱۰ مئی ۱۹۸۹

لکھنؤ ضلع - احمد شاہ خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت

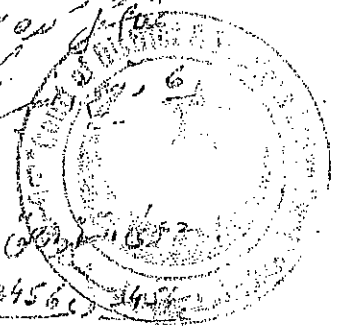
دیوبند ریجنل ہدف 153/1 رجوعہ 5/10 1989ء 18/7 رجوعہ 4/18 2005ء

د. حسین شاہ نے احمد سلطان 3 سلطان شاہ پیران میں مسعودیوں کا تاج طوی میان -
د. شاہ احمد میان پیران میں احمد خاندان کا نشان پیرانہ قبیلہ باپوزی سورت (معمان)

نہام

د. حکومت احمد علیہ نیر احمد خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت (صوبہ اہل)

د. حکم حضرت نیر احمد خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت
د. حکم حضرت نیر احمد خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت
د. حکم حضرت نیر احمد خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت



(صدا علیہ)

د. احمد شاہ خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت
د. احمد شاہ خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت
د. احمد شاہ خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت

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د. احمد شاہ خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت

د. احمد شاہ خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت
د. احمد شاہ خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت
د. احمد شاہ خلیفی مینسٹر سول سروسز / اعلیٰ علامہ خلیفی صاحب سورت

تاریخ: 18/05/2005
 عدالت کی طرف سے جاری کیا گیا

بناٹہ حکومتی لبریری
 عدالت کی طرف سے جاری کیا گیا
 18/05/2005

مبلغ		توضیح	مبلغ	
روپے	پے		روپے	پے
-	-	دستاویز عدالت کی	-	-
-	-	دستاویز عدالت کی	-	-
-	-	دستاویز عدالت کی	-	-
-	-	دستاویز عدالت کی	-	-
-	-	دستاویز عدالت کی	-	-
-	-	دستاویز عدالت کی	-	-
-	-	دستاویز عدالت کی	-	-
-	-	دستاویز عدالت کی	200	-
-	-	دستاویز عدالت کی	-	-
-	-	دستاویز عدالت کی	-	-
-	-	دستاویز عدالت کی	200	-

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30-5-08
 04-6-18

29 جولائی 2005
 18.4.2005
 عدالت کی طرف سے جاری کیا گیا۔
 عدالت کی طرف سے جاری کیا گیا۔
 عدالت کی طرف سے جاری کیا گیا۔

18 جولائی 2005
 عدالت کی طرف سے جاری کیا گیا۔

اعلیٰ عدالت
 عدالت کی طرف سے جاری کیا گیا۔

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04-6-18

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بعدالت جناب سید اختر شاہ ایڈیشنل ڈسٹرکٹ جج / اضافی جج / ضلع قاضی روٹم، سوات

140/13 سال 2006

دیوانی اپیل نمبر

17-05-2005

اصل رجوعہ

18-11-2006

تاریخ منتقلی

27-03-2007

تاریخ فیصلہ

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حکومت صوبہ سرحد وغیرہ..... (اپیل کنندہ گان)

پیشام

حسین شاہ وغیرہ..... (مستقل الیئم)



فیصلہ

27-03-2007

(1) اپیل حکومت صوبہ سرحد وغیرہ نے منظور شدہ اپیل برخلاف فیصلہ ڈسٹریکٹ عدالت سینٹر پول جج / اعلیٰ درجہ عدالت سوات صدر درجہ 18-04-2005ء کو کی گئی ہے جسکی رو سے عدالت ماتحت نے ڈسٹریکٹ عدالت / اسپیشل سیشن ڈگری کیے ہیں۔ منظور شدہ اپیل بد اپیل سیشن اسپیشل سیشن استعدا کوہ ہیں کہ عدالت ماتحت کا فیصلہ ڈگری صدر درجہ 18-04-2005ء کو منسوخ اور اعدہ قرار دیا جائے ڈسٹریکٹ عدالت / اسپیشل سیشن بمعہ خرچہ خارج فرمایا جائے۔

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27.3.07
ADP, D. 571

(2) درمیان / اسپیشل سیشن نے مورخہ 18-07-1989 کو ایک ڈگری استغاثہ اراضی بد میں طور دائر کیا کہ درمیان اراضی الموسومہ پتہ کھارہ کھارہ نمبر 600/905 جسے ڈگری 3454 3456 تعدادی 29 کنال 2 مرے، 62 کنال 11 مرے جسے ڈگری 3412 الموسومہ اشارے ہے تعدادی 60 کنال 11 مرے جسے ڈگری 3416 الموسومہ کنڈرٹف تعدادی 33 کنال 16 مرے جسے ڈگری 3427 الموسومہ سرگے تعدادی 6 کنال 17 مرے جسے ڈگری 3439 الموسومہ شیوں ہے تعدادی 16 کنال 18 مرے، جسے ڈگری 3440 الموسومہ پر ہے ہے تعدادی 21 کنال 3 مرے جسے ڈگری 3430 الموسومہ کورے

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میدان تعدادی 100 کنال 4 مرے، واقع دررقبہ موضع جانیل تحصیل باہری سوات کے مالکان و قابضان ہیں، جو کہ مورثان مدعیان سے بڑے تمسکات تحریرہ 12-02-1935، 01-07-1936 نمبر 44/45 و نمبر 269 بج قضی شرعی ہیں، مدعا علیہم مجاز اور خدائیں کہ وہ مدعیان کے ملکیت جائیداد باقبضہ سے انکار کریں یا اس میں کسی قسم کی دخل مداخلت کریں۔ نیز اندراج درکہ غذات مال بابت اراضی مذکورہ دولتی نام مدعا علیہم 1931 ناپ۔ غیر قانونی اور سازشی ہونے کے قابل منسوخی ہیں اور حقوق مدعیان پر غیر موثر اور کالعدم ہیں۔ اندراج مذکورہ کی تصحیح کیا جا کر اراضی مندرجہ مدعیان کے نام درج ہو کر کھاتے کستونی دلائی جائے۔ اسکے ساتھ مدعیان نے سپرد حکم امتنانی دوائی کی جس استدعا کی۔

(۳) مدعا علیہم کو طلب عدالت کیا گیا، مدعا علیہم 1932 اور مدعا علیہم اس نے علیحدہ علیحدہ جواب دعوے داخل کئے۔ عدالت ماتحت نے فریقین کی pleadings کی روشنی مورخہ 02-05-1990 کو تحقیقات وضع کیس اور فریقین کی شہادت قلمبندی مورخہ 30-03-1994 کو مدعیان نے درخواست بھراڈتھری اہل کمیشن پیش کی۔ عدالت ماتحت نے بڑے حکم مصدرہ 18-05-1994 کو اقبال خان ایڈووکیٹ کو اہل کمیشن مقرر کیا۔ اہل کمیشن نے مورخہ 07-07-1994 کو اپنا رپورٹ پیش کیا جس پر عدالت ماتحت نے فریقین سے عذرات طلب کئے۔ عدالت ماتحت نے بڑے حکم مصدرہ 30-05-1995 کو رپورٹ اہل کمیشن بوجہ نہ ہونے شہادت فریقین انفرم کی۔ عدالت ماتحت نے بڑے فیصلہ فیصلہ حکم مصدرہ 19-11-1996 کو ڈپٹی مدعیان خارج کی۔ جس کے خلاف اہل دائر کی مئی، جناب محمد شہزاد خان ایڈیشنل ڈسٹرکٹ جج صاحب نے بڑے فیصلہ حکم مصدرہ 17-07-1998 کو فیصلہ دے کر عدالت ماتحت منسوخ کرتے ہوئے ڈگری مسترد ہوئے بحق مدعیان برخلاف مدعا علیہم صادر کی۔ جس کے خلاف دیوانی نگرانی عدالت عالیہ میں دائر کی گئی۔ پشاور ہائی کورٹ پشاور نے بڑے فیصلہ حکم مصدرہ 30-04-2004 کو دیوانی نگرانی منظور کرتے ہوئے منٹل عدالت ماتحت (نوائس کورٹ) کو بدین ہدایت ریٹائر کیا کہ وہ فریقین کی اضافی شہادت قلمبند کرے اور انکو انری انفرم کی رپورٹ وصول ہونے کے بعد مقدمہ کا فیصلہ پرکھیں اور ساتھ ہی صوبائی حکومت کو یہ حکم بھی صادر کیا کہ وہ دفعہ 29(3) Forest Act, 1927 کے تحت کسی غیر جائیداد سرکاری انفرم نہ چھوڑے ڈسٹرکٹ ریونیو ایسٹ ڈسٹرکٹ کلکٹر سوات کے ذریعے انکو انری کر لیں اور یہ بھی ہدایت کی کہ انکو انری انفرم اپنی رپورٹ لازماً دو ماہ کے اندر داخل کورٹ۔ بعد از ریٹائر مدعیان کی اضافی

Age
27-3-07
[Signature]
AD8]

شہادت قائمہندگی گئی جبکہ درعنا علیہم نے مورخہ 21-06-2004 کو رو برو عدالت بیان دیا کہ وہ سابقہ قائمہندہ
 شدہ شہادت پر اٹھارہ گرتے ہیں۔ مورخہ 31-07-2005 کو درعنا علیہم نے اضافی شہادت پیش کرنے کی
 اجازت طلب کی جو منظور کی گئی اور درعنا علیہم کی اضافی شہادت مورخہ 25-03-2005 کو قائمہندگی گئی جبکہ
 گواہ پر جرح مورخہ 05-04-2005 کو کی گئی۔ عدالت ماتحت نے مورخہ 23-06-2004 کو حسب
 احکم عدالت عالیہ انکوائری رپورٹ طلب کی لیکن انکوائری رپورٹ تاریخ فیصلہ مصدرہ
 18-04-2005 تک پیش نہ کی گئی اور اسی تاریخ پر عدالت ماتحت نے ڈگری مستدعویہ بحق مدعیان برخلاف
 درعنا علیہم صادر کی۔ اس فیصلے کے خلاف موجودہ اپیل دائر کی گئی۔

(۱۱۶)

(۴) کیل اپیلانٹ نے موقف اختیار کیا کہ عدالت ماتحت نے عدالت عالیہ کے احکامات کو تسلیم نہیں کیا
 اور بغیر انکوائری رپورٹ اپنا فیصلہ اجلاس میں صادر کیا جس سے اپیلانٹس کی حق تلفی ہوئی۔ مدعیان نے جن
 تسکات کا حوالہ دیا جس کی رو سے اسکے مورثین نے جائیداد مستدعویہ میں بطور خریدی اس میں دہی گئی حدودات
 جائیداد مستدعویہ کے حدودات سے مختلف ہیں۔ جائیداد مستدعویہ کمپارٹمنٹ نمبر 6 جائیداد کا حصہ ہے اور ورکنگ
 پلان ExDW-1/1 اور بسنی ٹیٹ ExDW-1/2 سے ثابت ہے۔ اور یہ کہ مہنرجات کاغذات مال
 بحق اپیلانٹس درست اور صحیح ہیں۔

Age
 27-3-07
 (116)
 ADS

(۵) اس کے برعکس مسئول ایہم کو رو پیداران مدعیان جو وفات پا چکے ہیں کے ورثہ کی جانب سے اسکے
 کیل نے موقف اختیار کیا کہ جائیداد مستدعویہ مورث مدعیان نے بروئے تسکات نمبر 12-02-1935،
 01-07-1936 نمبر 44/45 اور نمبر 269 قسطی خریدی ہیں جو اس وقت سے لیکر اب تک مدعیان
 اور ان سے قبل اسکے مورثین کے قبضہ میں چلی آ رہی ہے۔ جائیداد مستدعویہ کی تقسیم مورث مدعیان نے اپنے
 حین و حیات میں کی اور اراضی خسرد نمبر 3454 اور 3456 مدعی نمبر 1، اراضی خسرد نمبر 3412 مدعی نمبر 2،
 اراضی خسرد نمبر 3416 مدعی نمبر 3، اراضی خسرد نمبر 3427، 3440، 3440 مدعی نمبر 4، اراضی خسرد نمبر 32430
 مدعی نمبر 5 کے حصہ میں آئے۔ عدالت ماتحت نے ایسے درجہ اور سہ اور صحیح ہے اور استدعا کرتے ہیں کہ اپیل بمعہ
 خرچ خارج فرمایا جائے۔

(۶) میں نے بحث کا خلاصہ لکھیں۔ اس وقت کی اور پیش ملاحظہ فرمائیے۔

29

ملاحظہ مشکل سے عیاں ہے کہ عدالت عالیہ نے Civil Revision No.591-1993 سال 1993ء

جو برخلاف فیصلہ و ڈگری سول جج سوات مصدرہ 19-11-1996 اور فیصلہ حکم عدالت ایڈیشنل ڈسٹرکٹ

جج صاحب سوات مصدرہ 17-07-1998 کی گئی کا فیصلہ کرتے ہوئے عدالت ماتحت کے فیصلہ جات کو

منسوخ کیا اور فیصلہ کے پیرا نمبر 1r میں ضوابطی حکومت کو حکم دیا کہ دفعہ 29(3) Forest Act,

1927 کے تحت انکوائری کریں اور انکوائری کیلئے کسی غیر جانبدار افسر ڈیپارٹمنٹ ڈور / ڈسٹرکٹ کلکٹر سوات کو

انکوائری افسر مقرر کریں اور مزید حکم دیا کہ انکوائری افسر اندر دہ مادہ اپنی رپورٹ عدالت میں پیش کرے اور مثل

عدالت ماتحت / ٹرائل کورٹ کو بدین ہدایت ریفرنڈ کیا کہ وہ فریقین کی اخلاقی شہادت قلمبند کریں اور انکوائری

افسر کی رپورٹ موصول ہونے کے بعد مقدمے کا فیصلہ میرٹس پر قانون کے مطابق کریں۔ عدالت ماتحت نے

بعد از ریفرنڈ فریقین سے شہادت طلب کی مگر صرف مدعیان نے سات گواہان کی اخلاقی شہادت پیش کی جبکہ

مدعا علیہم نے مورخہ 21-06-2004 کو بیان دیا کہ وہ اخلاقی شہادت نہیں پیش کرنا چاہتے اور اپنے پہلے

سے قلمبند شدہ شہادت پراٹھا کرتے ہیں۔ مورخہ 31-07-2005 کو مدعا علیہم نے اخلاقی شہادت پیش

کرنے کی اجازت طلب کی جو منظور کی گئی اور مدعا علیہم کی اخلاقی شہادت مورخہ 25-03-2005 کو قلمبند

کی گئی جبکہ گواہ پر جرح مورخہ 05-04-2005 کو کی گئی۔ عدالت ماتحت نے مورخہ 23-06-2004

کو مدعا علیہم سے انکوائری رپورٹ طلب کی مگر مورخہ 16-04-2005 تک یعنی تقریباً دو ماہ حکم عدالت

ماتحت گزار جانے کے بعد بھی انکوائری رپورٹ داخل نہ کی گئی جبکہ بروئے حکم عدالت عالیہ انکوائری رپورٹ

دفعہ 29(3) Forest Act، 1927 کے تحت عدالت عالیہ مورخہ 30-06-2004 کو پیش کیا جانا لازمی تھا۔ عدالت ماتحت نے

مدعا علیہم (موجودہ ایپلینٹس) کو مورخہ 23-06-2004 اور 30-06-2004 کو رپورٹ انکوائری افسر

پیش کرنے کے بابت کہا اور مورخہ 10-07-2004 کو Secretary Environment

822/SCJ-Swat کو بذریعہ چٹھی نمبر Deptt: Govt. of NWFP

محررہ 10-07-2004 اور چٹھی نمبر Swat6797-98/SCJ مورخہ 20-07-2004 رپورٹ

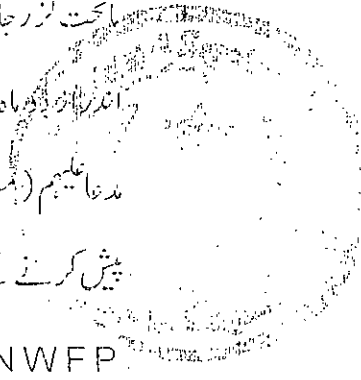
پیش کرنے کیلئے کہا جس کا جواب Section Officer Letigation, Environment

Deptt: Govt. of NWFP نے یہ دیا کہ ان کا محکمہ فیصلہ عدالت عالیہ دردیوانی نگرانی

نمبر 591 سال 1998 مصدرہ 26-04-2004 کے خلاف عدالت عظمیٰ میں اپیل دائر کر رہا ہے۔

115

Age
207-307
(میرا افسر شاہ)
ADSI, II Swat.



31

موریہ 04-10-2004 کو عدالت ماتحت نے بروئے چھٹی پشاور ہائی کورٹ پشاور سے رہنمائی طلب کی۔
جس کے جواب میں رجسٹرار پشاور ہائی کورٹ پشاور نے بروئے چھٹی نمبر 12053/Ad مورہ
20-10-2004 میں ہدایت فرمائی۔

(Pb)

"I am to refer to your Endst:No.6135, dated 6.10.2004, on the subject noted above and to say that it is for the trial court to have informed High Court about the reasons of not deciding the case within stipulated time. The High Court has not got nothing to do with referred matters.

Age
27.3.07
(سیاہ انگریزی)
ADSJ, II STAGE.

عدالت ماتحت نے انگریزی رپورٹ کو بار باطلب کیا مورہ 16-04-2005 تک رپورٹ انگریزی
اینسز زیر دفعہ 29(3) Forest Act, 1927 منہاں نہ ہوئی اور عدالت ماتحت نے اسی روز بحث پر
مقدمہ سماعت کرنے کے بعد مورہ 18-04-2005 کو بروئے فیصلہ و ڈگری مدعیان کے حق میں ڈگری
مسترد ہوئے برخلاف مدعا ملیم صادر کی۔

(۸) مدعیان کے دعوئی کا اختصار بی نامہ جات ExPw-2/4 حررہ 12-02-1935 اور بی نامہ
ExPw-2/3 حررہ 01-07-1936 پر ہے۔ دونوں دستاویزات کے مطابق بی سے معلوم ہوتا ہے کہ یہ
اراضیات داغ کشیاڑ جا میں ہیں۔ یکے از مدعی حسین شاہ جو کہ دیگر مدعیان کا مختار ہے کا بیان
بطور Pw-1 قلمبند ہوا جس سے ترجمہ میں ایک سوال کیا گیا جس کا جواب اس نے ان الفاظ میں دیا:

Some portion of the land mentioned in sale deeds ExPw-2/3 and ExPw-2/4 have been entered in the name of the palintiffs and the disputed land portion of the said sale deeds have not been entered in our names.

یہ بات تسلیم شدہ ہے کہ دونوں بیعتنامہ جات کے گواہان حاشیہ وفات پائے ہیں۔ ان دستاویزات کو ثابت کرنے کیلئے مدعیان نے منسل محمد کو بطور APW-2 پیش کیا جس نے نقل بیع نامہ در رجسٹر بیع نامہ جات وغیرہ سال 1936، نمبر 70-269 حررہ 01-07-1936 پیش کی جو ExAPW-2/1 ہے۔ جبکہ بیع نامہ نمبر 44 حررہ 12-02-1935 کے بابت گواہ رجسٹر 1935 ساتھ لایا مگر بیانی ہے کہ اس میں متذکرہ بیعتنامہ کے متعلق اندراج نہیں لگا۔ APW-3 محمد ثنی نے بیان کیا کہ وہ اراضی متذعو یہ پر مدعیان اور ما قبل مورث مدعیان کی طرف سے کاشت کار چلا آ رہا ہے اور اس نے یہ بھی کہا کہ اراضی متذعو یہ میں آباد کوٹہ جات میں وہ ہمراہ دیگر چار کاشت کار ان رہائشی ہے اور اراضی متذعو یہ پر انہوں ایک مسجد آباد کی ہے اور اسکے علاوہ ایک سکول بھی تعمیر کیا ہے۔ اسی طرح کا بیان APW-4 حضرت سر نے بھی دیا۔ حسین شاہ جو یکے از برٹی اور دیگر مدعیان کا مختار ہے کا اضافی بیان بطور APW-5 قلمبند کیا گیا جس میں اس نے کہا کہ دستاویزات ExPW-2/3 اور ExPW-2/4 کے بائعان اور گواہان حاشیہ فوتہ شدہ ہیں مگر بائعان کے درثناء اس وقت عدالت میں موجود ہیں اور اس نے عدالت سے استدعا کی اسکے بیانات قلمبند کئے جائیں اور بدیں طور محمد بال ولد دوست محمد خان کا بیان بطور APW-6 قلمبند کیا گیا۔ دستاویز ExPW-2/4 میں بائع نمبر 3 دوست محمد خان درج ہے اور گواہ اس کا بیٹا ہے اس نے بیان کیا کہ اس کے والد اور دیگر ماکان نے مدعیان کے حق میں جائیداد بیع قطعی فرخواست کی۔ جرح میں اس نے یہ تسلیم کیا کہ بیعتنامہ جات نسبت اراضی متذعو یہ اسکی یاداشت سے قبل زمانے کے ہیں مگر اس نے اپنے والد اور دیگر مشران سے سنا کہ اراضی متذعو یہ انہوں نے بروئے تحریری بیع نامہ جات مدعیان فریق کو فروخت کی ہے۔ اسی طرح APW-7 سلطنت خان نے بیان کیا کہ اراضی متذعو یہ اسکے مشران نے فروخت کی ہے اور اراضی متذعو یہ اسکے دادا کی اراضی تھی جو اس نے بروئے تمسکات مدعیان پر فروخت کی ہے۔ البتہ گواہ نے اپنے دادا کا نام اپنے بیان میں کبھی نہیں بتایا۔

Age
27.3.07
ADSI, B.S.M.

(9) اہل کمیشن کی رپورٹ مورخہ 07-07-1994 کو عدالت ماتحت میں پیش کی گئی جس کے مطابق اراضی متذعو یہ جس کی تفصیل تمسکات میں دی گئی ہے خسرات متذعو یہ میں واقع ہے، جائیداد متذعو یہ کپارمنٹ نمبر 6 میں واقع ہے اور جائیداد متذعو یہ میں کوئی جنگل نہیں ہے، جائیداد متذعو یہ کے حد برید پر چلدار درختان از قسم خوبانی، انجیر اور اخروت موجود ہیں جو کافی پرانے معلوم ہوتے ہیں، جبکہ جائیداد متذعو یہ



کے ارد گرد جو اراضیات ہیں وہ اپنے اپنے مالکان کے نام کا ثقات مال میں درج ہو چکی ہیں اور موقع پر جائیداد متدعوئیہ پر فصل جو اراضیات سے اور جائیداد متدعوئیہ پر جو کوئی جات آباد ہیں وہ بچاس ساٹھ سال پہلے تعمیر شدہ معلوم ہوتے ہیں۔ اس رپورٹ اہل کمیشن کے بابت دکھانے والی توثیقیں نے مورخہ 30-05-1995 کو عدالت کو مطلع کیا کہ انہیں اس پر کوئی مذرت ہے اور یہیں بھی رپورٹ اہل کمیشن اسی روز کنفرس کی گئی۔

(۱۰) یہ امر ثابت شدہ ہے کہ تحریری بیع نامہ جات نمبر 2/3 و 2/4 ExPw کے بائعان اور حاشیہ گولمان بابت شدہ ہیں۔ مدعیان اور سپانڈنس بیع نامہ 2/3 ExPw کو 2/1 ExAPw جو رجسٹر اقرار نامہ جات و نمبر 1936 کی نقل ہے سے بیع نامہ 2/3 ExPw کو ثابت کرنے میں کامیاب رہے ہیں۔ اگرچہ APW-2 فنڈل محمد انجمن خیرات کا اہل خانہ کے بیان کے مطابق بیع نامہ نمبر 44 مورخہ 12-02-1935 جو پہلے سے 2/4 ExPw ہے کا ذکر رجسٹر سال 1935 میں موجود نہیں۔ اس دستاویز کو مدعیان نے سپانڈنس بیان محمد بلال جو بطور APW-6 تسلیم کیا گیا ہے ثابت کرنے میں کامیاب رہیں۔ جس کے مطابق بائعان جن میں کو امام محمد بلال کا پناہ الدوست محمد خان سے بیع نامہ 2/3 میں درج ہے نے ^{محمد} محمد انجمن خیرات کو فروخت کی۔ رپورٹ اہل کمیشن جو بروئے حکم عدالت مصدرہ 30-05-1995 کنفرس کی گئی اور قضی حقیقت اختیار کرنے سے بھی ثابت ہے کہ اراضی متدعوئیہ پر کسی قسم کا جنگل موجود نہ ہے اور اسکی اطراف میں جتنی بھی اراضیات ہیں وہ دیگر پرائیویٹ مالکان کے ہیں اور انکے نام کا ثقات مال میں درج ہیں اور جائیداد متدعوئیہ پر مدعیان کی آبادیاں موجود ہے اور انکے زیر کاشت ہیں۔

Page 27-3

(۱۱) جہاں تک رپورٹ انوائٹری انیسر کا تعلق ہے تو اسے ثابت عدالت عالیہ کا حکم انجمن خیرات سے

- ↳ صوبائی حکومت کو حکم دیا گیا کہ وہ رپورٹ انوائٹری انیسر اور وہاں درج زمینوں کے بارے میں
- ↳ 1927 میں پیش کردہ رپورٹ انیسر کے حکم کے ایک سال بعد یعنی موجودہ ایپیلٹس/صوبائی حکومت سے رپورٹ
- ↳ عدالت ماتحت میں پیش کرے۔ باوجود انکے کہ انہیں کوئی بیع نامہ اور تحریری بیع نامہ بھی انہیں عدالت
- ↳ ماتحت نے انوائٹری رپورٹ پیش کرنے سے انکار کیا۔ عدالت ماتحت نے مزید احتیاط کرتے ہوئے پشاور ہائی
- ↳ کورٹ پشاور سے ریفرنس طلب کی اور رجسٹر پشاور ہائی کورٹ پشاور کی جانب سے جواب پیش کیا۔
- ↳ عدالت ماتحت نے ایڈووکیٹ جنرل کو 18-04-2005 کے فیصلہ و ڈیکری میں مصدرہ

۲۱۹

انگریزی مستند نمبر جن مدعیان برخلاف مدعا علیہ ہم سزا کرتے ہیں۔ ایڈیشن کے تحت عدالت ماتحت کے فیصلے کے مطابق

کے خلاف موجودہ ایڈیشن مورخہ 17-05-2005 کو دائر کی تو اس وقت بھی اسکے پاس رپورٹ انکوائری ایڈیشن

موجود نہ تھی بلکہ یہ رپورٹ مورخہ 19-03-2007 کو عدالت بذمہ ایڈیشن پیش کی تھی جو شمال مشرق کی گئی۔ یہ

رپورٹ عدالت عالیہ کے حکم کے تین سال بعد پیش کی گئی جس پر یہ عدالت کسی طور پر اکتفا نہیں کرتی۔

(۱۱) ان حالات میں عدالت ماتحت کا فیصلہ درست اور صحیح ہے جس میں یہ عدالت کسی قسم کی مداخلت

مناسب نہیں سمجھتی، لہذا ایڈیشن بذمہ ہونے کے بعد مزید خارج کرتی ہے۔ خرچہ بذمہ فریقین رکھا جاتا ہے۔ مثل

بعد از ترتیب دیکھیں کے داخل دفتر ہو۔

حکم سنایا گیا

27-03-2007

Signature
سید اکرم شاہ
ایڈیشنل سیکرٹری جج / انسانی شائع قاضی دوم،
ریاستہ المتفقہ شاہ
ADSI, II Swat.

تصدیق:


بہ فیصلہ 08 صفحات پر مشتمل ہے۔ تمام صفحات
پر ضروری تصحیح کے بعد پیرے دستخط نیت

Signature
سید اکرم شاہ
ایڈیشنل سیکرٹری جج / انسانی شائع قاضی دوم،
ریاستہ المتفقہ شاہ
ADSI, II Swat.

ADSI, II Swat

Signature
Magistrate or District Judge
Zilla Court Swat

12/5/07

<p>OFFICE OF THE CONSERVATOR OF FORESTS, MALAKAND FOREST CIRCLE EAST, SAIDU SHARIF SWAT.</p>		<p>Ph: 0946-9240281 Fax: 0946-9240239</p>
<p>No. <u>12506</u> /E, Dated Saidu Sharif, the: ___ / ___ /2018.</p>		

To

The Divisional Forest Officer,
Swat Forest Division, Mingora.

SUBJECT: ENQUIRY PROCEEDINGS AGAINST MR. MOHAMMAD RAFIQ FORESTER OF SWAT FOREST DIVISION.

Memo:

Reference your endst: No.1877-79/G, dated 07/6/2018.

Please regularly pursue the issue with enquiry officer and ensure completion of proceedings within prescribed time.

CONSERVATOR OF FORESTS,
MALAKAND FOREST CIRCLE EAST,
SAIDU SHARIF SWAT

BIC
Desique
DFO Swat
22/6/18

14570
Date 25-6-18

5



Tel/Fax: 0946-9240260
E-mail: dfoswat@gmail.com

OFFICE OF THE

DIVISIONAL FOREST OFFICER

SWAT FOREST DIVISION MINGORA

No. 7466/E, Dated Mingora the: 29/6/2018

To

Mr. Muhammad Waseem,
SDFO Alpuri Sub Division,
C/O DFO Alpuri Forest Division,
Alpuri.

Subject: ENQUIRY PROCEEDINGS AGAINST MR. MOHAMMAD RAFIQ FORESTER OF
SWAT FOREST DIVISION

Memo:

Reference this office letter No.1876/G, dated 07.06.2018.

Please refer to the above and you are requested to complete the enquiry proceedings and submit the findings/recommendations in accordance with the provision of the E&D Rules, 2011 within prescribed time.

Divisional Forest Officer
Swat Forest Divn: Mingora

OFFICE ORDER NO. 34 DATED MINGORA THE: 31/7/2018 ISSUED BY
MR. MUHAMMAD IQBAL KHAN, DIVISIONAL FOREST OFFICER SWAT FOREST DIVISION.

Mr. Anwar Ali Senior Clerk Incharge Lease and General Branch is hereby nominated as Prosecutor in the enquiry cases of Mr. Muhammad Rafiq Forester to properly prosecute the enquiry on behalf of the undersigned in the best interest of state.

Sd/-

(Muhammad Iqbal Khan)
Divisional Forest Officer
Swat Forest Divn: Mingora

224-26
No. /E,

Copy forwarded to the:

1. Conservator of Forests, Malakand Forest Circle East Said Sharif Swat for favour of information, please.
2. Sub Divisional Forest Officer, Alpuri Sub Division at Alpuri District Shangla for information and necessary action with reference to his office letter No.06/A, dated 13.07.2018.
3. Mr. Anwar Ali Senior Clerk Incharge Lease and General Branch for information and further necessary action. He is directed to attend office of SDFO Alpuri Sub Division at Alpuri when the date fixe for personal hearing by the Enquiry Officer and defend the cases on behalf of Department under intimation to this office.


Divisional Forest Officer
Swat Forest Divn: Mingora

سوال نمبر I: عین فنڈ کا Case آ رہا ہے DF سے

جواب: جی ہاں DF سے آ رہا ہے

سوال نمبر II: کیا آ رہا ہے فنڈ کا Case؟

جواب: جی ہاں فنڈ سے آ رہا ہے

سوال نمبر III: PSB انڈیا کی رپورٹ کے بارے میں جی ایم کے بارے میں پوچھا تو کیا آ رہا ہے DF سے؟

جواب: جی ہاں فنڈ سے آ رہا ہے

سوال نمبر IV: کیا آ رہا ہے فنڈ کا Case DF سے؟

جواب: جی ہاں فنڈ سے آ رہا ہے

سوال نمبر V: کیا آ رہا ہے فنڈ کا Case DF سے؟

جی ہاں فنڈ سے آ رہا ہے

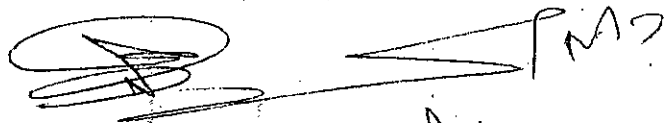
۴۱

Departmental representative

سوال 2: کیا FPP کے تحت آئے دفتر کیجیایا ہے ؟
جواب: نہیں۔ اس لئے کہ FPP کے ساتھ صرف Acknowledgment میں ہے۔

سوال 3: آیا PHC کے پاس ماتحت بورڈ اور ریگنڈ کا کو BB بنانے کے لئے آئے دفتر نے کوئی سٹیٹس دفت کی گئی ہے ؟
جواب: Forest Settlement Board دفتر میں تاحی موجود ہے۔

سوال 3: کیا اس کے لئے DFو سوات کے DOR اور رجوع کیا ہے Revenue
مقامی سرکاری زمینوں کے لئے (یا) رجوع کیا ہے Adj کے لئے اور کیا ہے
PHC کے لئے کی روٹس میں وہ اس میں تبدیل کیا ہے۔
کیا رجوع کی گئی ہے دفتر کے اس بارے میں کیا ہے ؟
جواب: یہاں Forest Settlement Board کے بنانے سے واضح ہے۔



Anwar Ali
S/C

بخدمت جناب SDFO صاحب اپورٹی سب ڈویژن اپوری (انکوآری آفیسر

مضمون: تادیبی کارروائی برخلاف محمد رفیق فارسٹر

عنوان: بحوالہ جناب مہتمم جنگلات سوات فارسٹ ڈویژن مراسلہ نمبر 1877-79/G مجریہ 07-6-2018

جناب عالی!

گزارش ہے کہ جناب ڈویژنل فارسٹ آفیسر سوات نے بندہ پرفرائض منصبی کے ادائیگی میں کوتاہی، غفلت، اور رشوت ستانے جیسے الزامات اس وجہ سے عائد کی ہے کہ من سائل نے عدالت کی حکم نامہ برخلاف محکمہ سے آفران بالا کو مطلع نہیں کئے ہیں۔ جسکے خاطر مجھ پر الزامات عائد کر کے جواب طلبی کی ہے۔ بندہ اس ضمن میں اپنا واضح بھوس اور زمینی حقائق پر مبنی جواب ذیل عرض گزار ہے۔

Statement of allegation کے جواب میں عرض یہ ہے کہ میں نے باقاعدہ طور پر ہر مقدمہ کے کارروائی سے آفیسر مجاز/متعلقہ دفتر کے اہلکاران کو آگاہ کیا ہے اور اس طرح مقدمہ حسن شاہ بنام حکومت خیبر پختونخواہ سے بھی واضح طور پر محکمہ ہذا کو باخبر رکھا ہے اور اطلاع بھی دی ہے جو کہ اس بات سے بھی واضح ہے کہ عدالت ایڈیشنل ڈسٹرکٹ جج سوات میں محکمہ ہذا کے خلاف فیصلہ سنایا تھا۔ جو کہ میں نے بروقت محکمہ ہذا کو اطلاع دی تھی اور اس طرح اس بنیاد پر محکمہ ہذا نے حسین شاہ مذکورہ کے خلاف عدالت عالیہ پشاور ہائی کورٹ میں دیوانی نگرانی نمبری 591/1998 دائر کی تھی جو کہ اس کے بنیاد پر مقدمہ ریمانڈ ہو کر دوبارہ محکمہ کے خلاف جناب ایڈیشنل ڈسٹرکٹ جج ii نے فیصلہ بدیں طور صادر فرمایا کہ پشاور ہائی کورٹ نے اپنے حکم میں غیر جانبدار سرکاری ریونیو آفیسر کے ذریعے انکوآری کرنے اور اسی بنیاد پر فیصلہ صادر کیا تھا جبکہ مذکورہ انکوآری رپورٹ پیش نہیں کی گئی حالانکہ محکمہ تمام حقیقت مقدمہ سے بدیں طور باخبر تھا محکمہ ہذا نے پشاور ہائی کورٹ کے حکم کے نسبت انکوآری مقرر کرنے کے خلاف سپریم کورٹ میں اپیل دائر کرنے کا موقف بار بار عدالت ایڈیشنل سیشن جج میں اٹھایا لیکن سپریم کورٹ میں اپیل دائر نہیں کی جو کہ ایڈیشنل سیشن ii کے فیصلے سے بھی واضح ہے مزید یہ کہ برآمد آرڈر شیڈ سینئر سول جج سوات سے بھی واضح ہے کہ محکمہ ہذا نے نہ تو انکوآری رپورٹ پیش کی ہے اور نہ سپریم کورٹ آف پاکستان سے Stay حاصل کی ہے۔ اور انکوآری رپورٹ اور Stay کیلئے بار بار مہلت طلب کی ہے۔ اس سے بھی واضح ہے کہ محکمہ ہذا تمام مقدمہ اور اس کے نوعیت و فیصلہ سے باخبر تھا۔ مزید یہ کہ میں نے ہر ایک عدالتی حکم/فیصلہ سے محکمہ ہذا کو اطلاع دی ہے۔ اور متعلقہ اہل کاران/افسران محکمہ ہذا کو بالکل اطلاع تھی اسلئے گیارہ سال بعد اپنے خامیوں کو چھپانے کی

خاطر مجھ پر بے بنیاد طور الزامات لگانا درست نہ ہے۔ نیز میرے خلاف اس قسم کے کوئی تحریری ثبوت نہ ہے۔ جس سے یہ واضح ہو کہ سائل نے محکمہ کو اطلاع نہیں دی ہے۔ نیز ہر ایک مقدمہ کے متعلق بروقت کارروائی کرنا اپنے آپ کو خبر رکھنا محکمہ ہذا کے متعلقہ اہل کاران / افسران کے ذمہ داری تھی لیکن اس سے متعلقہ اہل کاران / افسران نے گیارہ سال میں اپنے آپ کو بے خبر رکھ کر اب غیر قانونی طور پر اپنے خامیوں کو چھپانے کے خاطر مجھ پر بے بنیاد، من گھڑت اور تعصب کے طور پر سائل کے خلاف الزامات تیار کئے ہیں۔ جو کہ بالکل بے بنیاد اور غیر قانونی ہے۔ (تمام فیصلہ جات کے نقولات برائے ثبوت ملاحظہ پیش خدمت ہے)۔ اس سلسلے میں مجھے زبانی بحث (Parsonal Hearing) کا بھی مجھے موقع دیا جائے۔

لہذا استدعا ہے۔ کہ بلا مزید کارروائی سائل کے خلاف مذکورہ انکوائری داخل دفتر فرمایا جائے۔

الع
رض

محمد رفیق فارسیٹر

سوات فارسیٹ ڈویژن

لہذا صحت کے ساتھ ساتھ باقی تمام امور

چھوڑنے سے ہم صحت

سکھائیں

دوستانہ اور عطیہ کے لئے لکھنؤ، صبح، نیس ڈاک

عدالت ای. ایف. ایف. صبح 27-03-07

صحت کے لئے! صحت کے لئے!

انہی کے ساتھ ساتھ ان کے لئے عدالت ای. ایف. ایف. صبح

27-3-07 کو صبح 10 بجے

بجائے لکھنؤ کی انٹرنیٹ

کے لئے ای. ایف. ایف. صبح لکھنؤ، صبح

صحت کے لئے

اللہ

اللہ کے لئے

حسب ضابطہ لکھنؤ کے ضابطہ

27/03/2007
صحت کے لئے
اللہ کے لئے

الٹ جناب گل مراد سول جج اول رجج فیملی کورٹ برینٹ کنٹرولر علاقہ قاضی بمقام گل

مقدمہ 3

رہنہ

حکومت سرحد

بنام

حسن مراد

استقرار حق

دہلی

حکم رکارروائی

تاریخ

10/5/89

مشعل بیحد ریٹائرڈ عدالت عالیہ پشاور ہائی کورٹ پشاور موصول شد
 ملاحظہ سے چاہا گیا کہ مقدمہ ہذا ضمنی نکلاں اختیار کیا ہے۔ جو کہ
 عدالت ہذا کے دائرہ اختیار میں نہیں ہے۔ لہذا مقدمہ ہذا برائے
 مناسب کارروائی قابل احترام جناب ڈائریکٹ آف ایڈمینیسٹریشن/جج/ضلع
 قاضی سوات کو مہرسل کیا جاتا ہے۔

گل مراد خان
 سول جج اول علاقہ قاضی
 ضلع سوات

حکم پر عمل پیرا ہے۔ مقدمہ 7 بجے کو پیمانہ ہے۔
 اس سے اقتداء کے لئے اس کے لئے اس کے لئے اس کے لئے
 Juris dicta
 At a

10/5/89

مسئلہ عدالت عالیہ سے رجوع فرمایا اور فیصلہ دیا کہ عدالت عالیہ کے فیصلے سے رجوع نہیں کیا جائے گا۔
 عدالت عالیہ کے فیصلے سے رجوع نہیں کیا جائے گا۔
 عدالت عالیہ کے فیصلے سے رجوع نہیں کیا جائے گا۔

0 —
 10.5

21-5-04

شعبہ عدالت عالیہ علاقہ قاضی
 ہرات

Handwritten signature

مدعیان بزرگ فقیر حافظ - غامد مدعا علیہ و دہن مدعا علیہ محمد خان ایروڈیٹ حافظ -
 حسب العدالت عالیہ فریقین کو برائے کجانی سے کہ اگر وہ یہ مزید شہادت پیش
 کرنا چاہتے ہیں تو مستقر 25/5/04 کو جدید فرسٹ ٹورین داخل کریں۔

0 - 2
 21-5-04

شعبہ عدالت عالیہ علاقہ قاضی
 ہرات

فریقین حسب مذکورہ فیصلہ عدالت عالیہ سے رجوع نہیں کیا جائے گا۔
 عدالت عالیہ کے فیصلے سے رجوع نہیں کیا جائے گا۔
 عدالت عالیہ کے فیصلے سے رجوع نہیں کیا جائے گا۔

0 —
 25.5

شعبہ عدالت عالیہ علاقہ قاضی
 ہرات

مدعیان حسب مذکورہ فیصلہ عدالت عالیہ سے رجوع نہیں کیا جائے گا۔
 عدالت عالیہ کے فیصلے سے رجوع نہیں کیا جائے گا۔
 عدالت عالیہ کے فیصلے سے رجوع نہیں کیا جائے گا۔

0 — 4
 3.6.04.

0-4
3.6.04

سوائے جرح بیان APW-1 وقتاً بوقت

مدعیان مورخہ 6/04 کو پیش ہوئے

شعبہ خزان
سنٹر سول جج / اعلیٰ عدالت قاضی
حوات

0-5
9.6.04

مدعی حاضر - نمائندہ مدعا علیہم بیڑہ - وکیل حاضر جرح

بہر بیان APW-1 قلمبند شد۔ گواہ انجارج حافظ خانہ
حاضر ہو کہ بیانی ہے کہ طلبیدہ ریٹائرڈ کا صرف مورخہ
درج سے اور غیر وغیرہ درج نہ ہے۔ یہیں وہ
طلبیدہ ریٹائرڈ ریشو کرتے سے حاضر ہے۔ لہذا انقولات
طلبیدہ ریٹائرڈ بیڑہ سمجھ لے لیا جا کر حافظ خانہ
سے مورخہ 15/04 کیلئے طلب ہو۔ تاریخ معترضہ کو
جملہ شہادت مدعیان بھی لے لی ضروری ریشو ہوئے

شعبہ خزان
سنٹر سول جج / اعلیٰ عدالت قاضی

0-6
15.6.04

مدعی بیڑہ وکیل حاضر۔ نمائندہ مدعا علیہم حاضر۔ بیانات

APW-2 تا APW-4 قلمبند شد۔ بیڑہ نہ بیٹ وکیل
مدعا علیہم جرح کیلئے صلیت طلب شد۔ دیکھا کہ مثل حذا
پر لے گئے ہیں و بقایا شہادت مدعیان مورخہ 16/04

شعبہ خزان
سنٹر سول جج / اعلیٰ عدالت قاضی

0-7
16.6.04

حاضری حسب سابق۔ جرح پر گواہان APW-3، APW-4 قلمبند شد
مثل حذا بزرگ بقایا شہادت مدعیان مورخہ 17/04 کو پیش ہوئے

شعبہ خزان
سنٹر سول جج / اعلیٰ عدالت قاضی

فریقین پیراہ و کلاد حاضر۔ شہادت مدعیان قلمبند
 بیوکر فتم شدہ۔ مثل ہزار پیر کے شہادت پیری علیچ
 مورخ $\frac{21}{54}$ کو پیش کر کے۔

شعیب خان
 منتر سول جج / اعلیٰ علاقہ قاضی
 سوات

فریقین پیراہ و کلاد حاضر۔ وکیل مری علیچ نے بیان
 قلمبند کر دیا کہ وہ سابقہ قلمبند شدہ شہادت پیر اخصار
 کرتا ہے اور وہ شہادت دے گا کہ میں جانتا ہوں
 اپنا مشفق ہزار پیر کے بحث پر مقدمہ مورخ $\frac{23}{54}$

شعیب خان
 منتر سول جج / اعلیٰ علاقہ قاضی
 سوات

فریقین حاضر۔ رپورٹ انٹرویو حسب الحکم عدالت عالیہ سوات وصول نہ شد۔ بہ دستکار
 انٹرویو رپورٹ منتر $\frac{30}{54}$ کو پیش کر کے۔

شعیب خان
 منتر سول جج / اعلیٰ علاقہ قاضی
 سوات

فریقین حاضر۔ انٹرویو رپورٹ وصول نہ شد۔ بہ دستکار انٹرویو
 مورخ $\frac{7}{54}$ کو پیش کر کے۔

شعیب خان
 منتر سول جج / اعلیٰ علاقہ قاضی
 سوات

فریقین حاضر۔ انٹرویو رپورٹ سوات عالیہ وصول نہ شد۔ بروئے جہتی انٹرویو مشمولہ شہ
 حجازہ حکام سے بابت انٹرویو استفسار کیا گیا۔ بہ دستکار جو اب جہتی و انٹرویو

شعیب خان
 منتر سول جج / اعلیٰ علاقہ قاضی
 سوات

0-13
20-7-04

مدعی پیرہہ دیکھل خود حاضر - محمد خان ایڈووکیٹ وکیل مدعا علیہم حاضر - جمعہ جوالم آڈر سنٹ
نمبر 12 کا جواب حوصلہ نہ شد - مکرر جمعہ حسب سابق بنام سیکرٹری حکمہ جنٹلمن
سبقت 11/9/04 کیلئے جاری ہے۔ کہ مثل برائے مذکورہ کارروائی تاریخ مقررہ پر
جیشن ہے۔

مشرف مولانا / اعلیٰ علاقہ قاضی
حوائج

0-14
11-9-04

حاضری حسب سابق - جمعہ مذکورہ 13-0 کا جواب حوصلہ نہ شد - سلائی جواب
حکمہ متعلقہ عدالت عالیہ کے متعلقہ کے خلاف عدالت عظمیٰ میں پیدل کر رہے ہیں۔
مکرر جمعہ بنام حکمہ مذکورہ سبقت 18/9/04 کو عدالت عظمیٰ سے stay order
جیشن کیا جا رہا ہے۔ باوجود یہ کہ عدالت عالیہ کے حکم کی
خلاف ورزی پر ایک خلاف "Adverse" نتیجہ اخذ کرنے کے لئے دعویٰ اعدا
کیا متعلقہ کیا جاوے۔

مشرف مولانا / اعلیٰ علاقہ قاضی
حوائج

18.9.04

فریقین کے درمیان عدالت عالیہ کے حکم کی خلاف ورزی پر
مستویں میں نہ ہو۔ 4 کو پیش ہو۔

0-15
4-10-04

مدعی حاضر - مدعا علیہم پیرہہ غائبہ و وکیل خود حاضر - بروہہ جمعہ انٹرنیٹ مشمولہ مثل عدالت
عالیہ سے رہنمائی طلب کی گئی ہے۔ بہ انتظار جواب مثل سبقت 16/10/04 کو پیش ہوگا۔

مشرف مولانا / اعلیٰ علاقہ قاضی
حوائج

16.10.04

فریقین کے درمیان عدالت عالیہ کے حکم کی خلاف ورزی پر
مستویں میں نہ ہو۔ 4 کو پیش ہو۔

مشرف مولانا / اعلیٰ علاقہ قاضی
حوائج

0-17
26-10-04

23/04

فریقین حافظ - جواب حاصل نہ شد - برائت خوار راہنما فی عدالت عالیہ سبتمبر

کو پیش بر - ال

شعبہ عدالت
صدر سول جج / اعلیٰ عدالت

0-18
23.11.04

فریقین حافظ و سول جج کے درمیان ہونے والی عدالت عالیہ میں 12/11/04 کو پیش ہونے والی

اعلیٰ عدالت عالیہ
سوات

0-19
4.12.04

فریقین حافظ و سول جج کے درمیان ہونے والی عدالت عالیہ میں 4/12/04 کو پیش ہونے والی

فریقین حافظ و سول جج کے درمیان ہونے والی عدالت عالیہ میں 12/11/04 کو پیش ہونے والی

صدر سول جج / اعلیٰ عدالت عالیہ
سوات

0-20
20.12.04

فریقین حافظ و سول جج کے درمیان ہونے والی عدالت عالیہ میں 20/12/04 کو پیش ہونے والی

فریقین حافظ و سول جج کے درمیان ہونے والی عدالت عالیہ میں 20/12/04 کو پیش ہونے والی

20.11.04

(صفحہ نمبر 7)

0-28 ... فریقین حاضر - بحدت بر مقدمہ ہماکت ہو کر

16.04.05

حاصل خلاف فرزند - حاصل برائے حکم بر مقدمہ 18/05/04

کو پیشی سوات

سینئر سول جج / اعلیٰ علاقہ قاضی سوات

0 -- 29
18-04-05

فریقین حاضر - فیصلہ سنایا گیا۔ بحوالہ فیصلہ مفصل مشمولہ مسل محررہ امروزہ مدعیان اپنا دعویٰ برخلاف مدعا علیہم بلا شک و شبہ ثابت کرنے میں کامیاب رہے ہیں۔ لہذا ڈگری مستدعیہ بحق مدعیان برخلاف مدعا علیہم بمعہ خرچہ صادر شد۔ مسل بعد از تکمیل وترتیب داخل دفتر ہوئے۔

اصغر شاہ خلیجی

سینئر سول جج / اعلیٰ علاقہ قاضی سوات
18-04-05

پیر ڈگری لقمہ لہ شد

حکم سنایا گیا

18-04-05

اصغر شاہ خلیجی
سینئر سول جج / اعلیٰ علاقہ قاضی سوات

OFFICE OF THE SUB DIVISIONAL FOREST OFFICER PATROL SQUAD FOREST DIVISION MALAKAND CIRCLE AT SHAGAI.

The Divisional Forest Officer,
Swat Forest Division.

No. /PS Saidu Sharif Shagai the dated: 30/11/2018

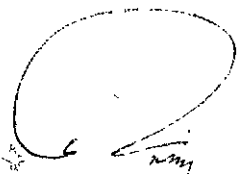
Subject: ENQUIRY AGAINST Mr. MUHAMMAD RAFIQUE FORESTER/FPP

Memo:

Reference your office letter No.1877-79/G, dated: 07/06/2018

Enclosed herewith please find the subject enquiry report along with original case file for favour of information and further necessary action.

Encl: As above.



MUHAMMAD WASEEM
SUB DIVISIONAL FOREST OFFICER
(ENQUIRY OFFICER)

*Discuss EIC / Scapp
+ bring a
M DFO Swat 19.12*

1869
18-12-18

INQUIRY REPORT REGARDING CHARGES LEVELED AGAINST MR. MUHAMMAD RAFIQUE FORESTER/FOREST PUBLIC PROSECUTOR SWAT FOREST DIVISION

BRIEF HISTORY OF THE CASE:

- 1- Mr. Hussain Shah etc filed a civil suit in the court of senior civil judge swat which was dismissed by the said learned court in favour of government of NWFP on 19-11-1996
- 2- Feeling aggrieved with the decree of the said learned court, Mr. Hussain shah etc filed appeal in the court of additional district session judge swat which was allowed and decided on 17-7-1998 against government of NWFP.
- 3- Being not contented with the judgment of ADJ swat, government of NWFP through Swat Forest Division filed revision petition in the honorable Peshawar high court and Peshawar High Court after proper proceedings remanded case to the lower court on 30-04-2004 with the direction to allow both parties to adduce further evidences in support of their claims and to decide case on merit in light of forest settlement board enquiry report.
- 4- The learned trial court due to absence of enquiry report of forest settlement board decided the case against government in favour of Mr. Hussain shah etc on 18-04-2005.
- 5- The government of NWFP through Swat Forest Division filed appeal against the decree of the learned trial court in the court of additional district session judge-ii swat but ADJ-ii swat agreed with the decision of the learned trial court and decided case against government on 27-03-2007.
- 6- When an application is preferred by Mr. Amir khan S/O Aman gul of Jambil about illegal purchased of land of protected forests by M/S inayat shah and Anwar shah of Buner shah of Jambil; DFO swat office came to know that FPP has not submitted decision copies of three same nature cases instituted in various courts, two decided in favour of department and one against department.
- 7- Muhammad Rafique Forester/Forest Public Prosecutor did not bother to inform DFO swat office from the said decision to file appeal in the honorable Peshawar High Court due to which land measuring 331 kanals and 1 marla protected forest/government land have been lost and possession of the said land transferred to Mr. Hussain Shah etc.
- 8- DFO Swat for this criminal negligence issued charge sheet to the accused vide office letter No.1877-79/G, dated: 07-06-2018.

ENQUIRY PROCEEDINGS:

In response to DFO swat Office letter No. cited above, the accused submitted written reply in his defense against memo of allegations to the undersigned.

Perusal of written reply of the accused reveals that:

- 1- That the accused has timely informed the concerned forest officers/office about the case proceedings.
- 2- That on his information/intimation of judgment of Additional District Judge swat, the department has filed revision petition No.591/1998 in the honorable Peshawar High Court, due to which the honorable Peshawar High Court remanded case to the lower court but,

next

- later on the case was decided against department by court of ADJ-ii swat due to absence of enquiry report.
- 3- That department was well aware of the case proceedings which is evident from order sheet of ADJ-ii swat that department was in want of filing appeal in the august supreme court against judgment of honorable PHC but nor appeal was filed nor stay granted.
 - 4- That department was well aware of the intensity of the said case that's why action was not taken in time and has initiated enquiry proceedings against the accused after lapse of 11 years.
 - 5- That allegation leveled against the accused are baseless and was just for the purpose of own skin saving.
 - 6- That no written evidence is available on record from which it can be ascertained that department has been kept in dark from the case proceedings.
 - 7- That it is responsibility of the concerned officers to keep themselves aware of the case proceedings.

The undersigned provided opportunity to the accused to be heard in person vides this office letter No.47/A, dated: 30-10-2018 in the presence of departmental representative. During personal hearing, few questions were asked from the accused as well as departmental representative, which are as under:

Question: Have you submitted copy of the judgment of ADJ-ii swat in case title Hussain Shah etc vs government to the DFO swat Office?

Accused: Yes.

Question: have you applied for decision copy in the said case to the ADJ-ii swat court?

Accused: yes I have applied. Copy of the same enclosed.

Question: had you requested in written to DFO swat Office for asking progress of forest settlement board enquiry report being desired to the learned courts?

Accused: the department was well aware of the intensity of the said case.

Question: when you submitted decision copy of ADJ-ii swat court to DFO swat office, had you asked for progress of filing appeal in the next appellate court?

Accused: to take further necessary action on decision of the said court was responsibility of the concerned officers and office.

Question: do you have any written evidence which can prove that you have submitted decision copy of the said court to the DFO swat office well in time?

Accused: No.

Question: has the accused submitted decision copy to your office?

3. Mr. Muhammad
necessary action.

Divisional Forest Officer
Swat Forest Division

Divisional Forest Officer

Dept Rep: no because the accused has no acknowledgment certificate.

Question: what was progress of your office for constitution of Forest settlement board after PHC remanded case to learned trial court?

Dept Rep: yes efforts have been made in this regard and as a result FSB constituted.

Question: DFO swat requested DOR for changing entries in favour of department and in the light of PHC judgment in the case of Aman Gul being same nature case, have same efforts been made in this case?

Dept Rep: yes, this is cleared from constitution of FSB.

FINDINGS:

- 1- That the concerned officers/office was of the viewpoint that to file appeal against the judgment of the honorable PHC in the august supreme court but case for filing appeal was not pursued till logical end.
- 2- That DFO swat Office did not approach DOR swat office for necessary amendment in entries made in revenue record in favour of department after judgment of honorable PHC.
- 3- That the learned court of ADJ-ii swat has passed impugned order despite the fact that FSB enquiry report submitted to the said court during case proceedings and it was cleared from the said report that land in question is the property of government of NWFP and is protected forest. Thus case has not been decided on merit.
- 4- That the accused has no written evidence/acknowledgment certificate which can prove that he has submitted judgment of the ADJ-ii swat well in time to the DFO office.
- 5- That the accused has not submitted judgment copy of ADJ-ii Swat to the DFO swat office well in time due to which the office did not get opportunity of filing appeal against the said judgment/impugned order passed by ADJ-ii swat in the honorable Peshawar High Court due to which case become time barred and appeal cannot be made in the next appellate court.
- 6- That the accused has not delivered services of forest public prosecutor in the best interest of state due to which claimants got opportunity of transferring government land measuring 331 kanals and 1 marlas on their names in the revenue record.
- 7- That the accused had kept DFO swat Office in dark for his ulterior motive.
- 8- That the concerned officer/office was silent in this case for 11 years which is not absorbable being enquiry officer.
- 9- That precious and valuable property of government has lost due to criminal negligence.
- 10- That before the year 2011, to send progress report of litigation cases to the office of the conservator of forests was not in practice.

CONCLUSION:

Keeping in view the above facts and findings, it has been found that the accused has not submitted judgment copy of the ADJ- ii Swat well in time to DFO swat office due to which the

3. Mr. Munam
necessary action.

Divisional Forest Officer
Swat Forest Division
and
Mr. Munam

Divisional Forest Officer
Swat Forest Division

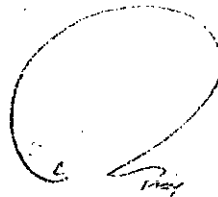
concerned officer/office did not get opportunity for filling appeal against the impugned order passed by the said court and as a result huge and precious government land has been lost. Thus the accused found guilty of the allegations/charges leveled against him.

RECOMMENDATION:

The undersigned in the capacity of enquiry officer recommends major penalty in the form of compulsory retirement for the accused.

SUGGESTIONS:

- 1- Competent, honest and loyal forest official should be posted as FPP in best interest of state as well as public.
- 2- The concerned forest officers/office should take interest in litigation cases instituted in various courts especially those having serious nature and should take progress of such cases from FPP on weekly basis or at least on monthly basis. Cases should be properly pursued by concerned officers/office.
- 3- Serious nature litigation cases should not be left on the mercy of FPP so that to avert such drastic consequences and to avoid losses to the government in future.
- 4- If possible post of SDFO litigation should be created in Swat forest division so that to secure interest of state in litigation cases.
- 5- Sincere efforts should be made for retrieval of encroached land in wake of forest settlement board report.



MUHAMMAD WASEEM
SUB DIVISIONAL FOREST OFFICER
(ENQUIRY OFFICER)

3. necessary action...

Divisional Forest Officer
Swat Forest Divn. Mirgora



Tel/Fax: 0946-9240260
E-mail: dfoswat@gmail.com

OFFICE OF THE DIVISIONAL FOREST OFFICER,
SWAT FOREST DIVISION MINGORA.

No. 8131/E, Dated Mingora the: 26/4/2019

SHOW CAUSE NOTICE.

I, Raees Khan, Divisional Forest Officer, Swat Forest Division as competent authority, under Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011, do hereby serve you Mr. Muhammad Rafiq Forester (BPS-10) as follows:-

- i. That consequent upon the completion of enquiry conducted against you by the Enquiry Officer, for which you were given opportunity of hearing; and
- ii. On going through the findings and recommendations of the Enquiry Officer, the material on record and other connected papers including; your defense the Enquiry Officer:

I am satisfied that you have committed the following acts/omissions specified in the Rules-8 of the said Rules:

1. In-efficiency
2. Mis-conduct
3. Corruption

As a result thereof, I as Competent Authority, have tentatively decided to response upon you the penalty of;

1. Major penalty in the form of compulsory retirement, remove from service or dismissal.

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

If not reply to this notice is received within seven days of the receipt by you, it shall be presumed that you have no defense to put in and in that case, an ex-parte action shall be taken against you.

A copy of the findings of the Enquiry Officer is enclosed.

Encl: As above.

No. 8132-34/E,

(Raees Khan)
Divisional Forest Officer
Swat Forest Divn: Mingora

Copy forwarded to the:-

1. Conservator of Forests, Malakand Forest Circle East Saidu Sharif Swat for favour of information, please.
2. Mr. Muhammad Waseem SDFO Patrol Squad for information with reference to his letter No.nil dated 30.11.2018.
3. Mr. Muhammad Rafiq Forester C/O SDFO Mingora Sub Division for information and further necessary action.

Divisional Forest Officer
Swat Forest Divn: Mingora

The Divisional Forest Officer
Swat Forest Division, Mingora

Subject: **SHOW CAUSE NOTICE**

Reference Your Office No: 8131/E dated : 26.04.2019

It is humbly requested that , I have been served with show cause notice by your good self (**Competent Authority**) under Khyber Pakhtunkhwa Government Servant E&D Rules 2011, as a resulted of partial and impugned Enquiry Report of Enquiry Committee. The charges leveled against me are not proved with certainty. There are many doubts, a lot of ambiguities and indistinctness in the instant hearing. The Enquiry Committee has not provided me any opportunity and benefit of doubt or ambiguity and any relaxation thereof.

I am completely innocent in the case. The available documents on case file is supporting me on every point, but contrary the Enquiry Committee has ignored it. I therefore through this written statement before your good self. I am of firm opinion that you will totally exonerate me on the strength of following facts and grounds and will allow me to continue in service honorably.

A. Facts

- a. The duties and responsibilities of FPP, does not allow a Forest Guard to have direct correspondence with Divisional Forest Officer.
- b. The FPP Forest Guard is not so educated, to record each and every in writing. The FPP always depends upon verbal communication with dealing hands of DFO office, or SDFO office.
- c. The role of FPP is to assist the FSC (as **Munshi to advocate**), provide case file to FSC, note the date hearing in case of adjournment by court and to communicate it to FSC, inform the FSC to arrange and present the case witness and no more.
- d. Make copies of documents required by FSC either from departmental file or court file.
- e. To attend the case, where specially empowered by DFO as a result of Authority Letter issued in his name on behalf of DFO.

B. Grounds:

- a. When someone institute a case against the department, the court issue summon in the name of DFO and DFO through an official letter inform FSC to depend the case with copy to FPP to assist the FSC. 100 of letter are available in your office correspondence, few of which are being presented here as proof that it is not my duty to attend the court, represent the department and make evidence in the court. I refer to your office No:9299/G dated: 26.6.1993, No:805/G dated: 24.8.1993, No:9202/G dated: 26.6.1993, No:8902/G dated: 26.6.1993, No:1682/G dated: 16.10.1993, No:531/G dated: 29.7.1997, No:2665/G dated: 25.11.1997, No:1057/G dated: 25.8.1997, No:508/G dated: 28.7.1997, No:5830/G dated: 24.2.2014, No:5828/G dated: 24.2.2014, No:3278/G dated: 21.2.2014, No:5812/G dated: 21.2.2014, No:3213/G dated: 13.2.2014, No:3051/G dated: 10.2.2014, No:2693/G dated: 24.2.2013, No:5889/G dated: 09.4.1997, No:45822/G dated: 29.3.1997, No:209/G dated: 17.7.1993, No:2761/G dated: 28.11.1997, No:3241/G dated: 26.12.1997, No:3337/G dated: 30.12.1997, No:2409/G dated: 12.11.1997 **Annexure - 1**, with almost the same remarks reproduced below
"copy in continuation of this office endorsement No: dated forwarded to Mr. Muhammad Rafiq Forest Guard/FPP Swat for information and similar necessary action. He is directed to obtain a copy of the plaint from the court file and submit the same to this office for record and further necessary action"
- b. When there is some decision in the case, the FSC inform the DFO through his official letter, and deliver it to FPP for delivery in office for further course of action along with his recommendations for appeal in next higher court in case it is decided against the department and for implementation in case it is decided in favor of the department. 100 of letter of FSC are available in your office correspondence, few of which are being presented here as proof that it is not my

2. SDFO Patrol Sub-division
above.
3. SDFO Mingora Sub Division for information and necessary action.
4. Mr. Muhammad Rafiq Forester C/O SDFO Mingora for information and necessary action.
5. Head Clerk/Accountant for information and necessary action.

Divisional
Swat Fo

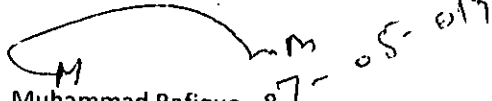
duty to communicate the court decision to DFO and make correspondence with department or get acknowledgement of FSC letter. I refer to your office No: 201/FSC d07.02.2019, No: 3351/G dated: 25.2.2014, No: Nil /FSC dated: 19.05.2018, 3039/G dated: 07.02.2014, No: 3388/G dated: 06.06.2013, No: 107/G dated: 03.07.2018, No: 4052/G dated: 30.05.2013, No: 3440/G dated: 04.03.2014, No: 2665/G dated: 25.11.1997 Annexure - 2 ,as proof that the court decision is always communicated by FSC and not by FPP.

c. In 1995 similar nature case was raised, when I delivered FSC counsel letter in response to DFO No: 8250/G dated 2.5.1993 in Swat Forest Division and the dealing hand not issued the acknowledgement letter and not delivered file to me. The FSC Counsel Swat (Late Muhammad Khan) made a written complaint. It is not new that neither, I demanded acknowledgement receipt and nor the dealing hands of DFO office refused and not given the acknowledgement receipt. It is past history track of department that low paid Forest Guard servants are not given any acknowledgement like the present case with me. On delivery of FSC letter the department has file appeal in the instant case next higher court but are reluctant to grant acknowledgement receipt. Muhammad Khan FSC is enclosed as Annexure 3 as proof of not issuing acknowledgement.

C. The department has the opportunity to file writ petition or condone the time period before the court, which is not being done since 11 years and the whole loaded is shifted to the lower low educated formation. To recover the case there is possibility for application under section 12(2) of PPC before the same court or writ petition before Peshawar High Court Darrul Qaza which is not being done.

D. The department was sleeping for 11 years in the instant case and after 11 years, when a private person Mr. Amir Khan son of Aman Gul of jambil being right holder of the suited land, filed application under section 12(2) of PPC and the case was de surfaced. I humbly request to kindly investigate and prosecute the right person. I am not the accused, the accused is dealing hands of DFO Office of the time.

I am a duty full and devoted person and pray that on the basis of facts and grounds narrated above it is humbly requested that I may be honorably exonerated in the case, the proceeding may be filed and any other relief may also be granted to me. I have always performed my duty to the best of capacity and with poor unhealthy conditions, which is known to you please.


Muhammad Rafique
Forester
Swat Forest Division
FPP Tehsil Babozai office

2. SDFO Paur
above
3. SDFO Mingora Sub. Division for information and
4. Mr. Muhammad Rafiq Forester C/O SDFO Mingora for information
5. Head Clerk/Accountant for information and necessary action.

Divisional
Swat For

11/11/97
OF THE DIVISIONAL FOREST OFFICER SWAT FOREST DIVN: MINGORA.

Mr. Muhammad Khan
Forest Standing Counsel
Swat.

No. /G, Dated Mingora the 28 /11/1997.

Subject: CIVIL SUIT FILED BY FAZAL REHMAN ETC
S/O MUHAMMAD RAZIQ OF DANGRAM.

Memo:

It has been reported by Mr. Muhammad Rafiq F/Guard/
FPF that the above subject case has been decided by the learned Distt
and Session Judge on 18/11/1997 in favour of Government. Therefore
you are requested to immediately obtain certify copy of the Judgement
alongwith decree sheet so that the concerned area may be vacated from
the encroacher, please.

Divisional Forest Officer,
Swat Forest Divn: Mingora.

No. 2762 /G,

Copy forwarded to Mr. Muhammad Rafiq Forest-Guard/FPF
Swat for information and necessary action.

Divisional Forest Officer,
Swat Forest Divn: Mingora.
28/11/97

CCCC

No 338 / P.S.C dt 19.5.95

~~Assessment~~
Page - 1

To

The DPO Sued.

Subj: Non availability of Court files and
non attendance of the representative of
your Division.

Mr.

Reference your letters no 8250 / 9 dt 2.5.1993
and 8555 dt 16.5.1993.

Mr Mohammed Rafiq F.R representative
of this Division is representing the Deptt in the
Court 5. He also has deposited files in the
Division, but - the dealing hand has not
given any receipt of the files. It is again
requested that the Civil Suit files may
kindly be handed over to Mr Rafiq F.R.

Ch
Mohammed Rafiq
P.S.C

The DFO Surat
Mar 17

Subjects - CR NO 598/98 AIRWP Forest
Deptt vs Hussain Shah
Rz Farooq, Tehsil Badkashi

Memo: Reference your no 2592/R of
17.4.07

The case was discussed with the
advocate General file regarding
enquiry / Constitution of Forests settlement
board under section 29(3) of the
Forest Act

We learned advocate General in his
opinion directed that an appeal
before the honorably Supreme
Court of Pakistan should be filed
against the order of Constitution of
board under 29(3) F.A

We asked to submit a case
based on certain instances to the
Office, through law department, whereby
an appeal could be preferred.
before the Supreme Court to words
such enquiry in the already settled
cases.

M Farooq/SDF

WLC
advocate 1000-11000
The case file 213
DFO
08/5

29/4/07

THE WEST PAKISTAN FOREST MANUAL

VOLUME - II

**(Relating to Establishment, Accounts and
Budget)**

- (i) To assist the Range Officer, to the best of his ability, to carry out the work of the department honestly and efficiently;
- (ii) To carry out all orders that may be given to him;
- (iii) To report to the Range Officer on all important happenings.
- (iv) Thoroughly to understand the rules for compounding forest offences and closely to observe them. Except as laid down in those rules he is forbidden to take money from the accused;
- (v) To prevent the Forest Guards under his control from misusing their authority, accepting bribes or harassing the propel.

2.7 Duties of Forests and Block Officer. Forester's post requires a technical knowledge of Forest operations. He is required to carry out the following works:-

- (i) Irrigation of plantations.
- (ii) Nursery works and plantations.
- (iii) Thinnings.
- (iv) Road and building construction.
- (v) Timber works in hills and plains.
- (vi) Wattbandi and drainage.
- (vii) Demarcation and map reading.
- (viii) Floating and rafting.
- (ix) Timber depot works.
- (x) Strictly to observe the rules for detecting and for compounding forest offences in his jurisdiction.

A Block Officer may be a Forester or a Forest Guard will be classed as a technical man with the following qualifications:-

- (a) Minimum service 5 years.
- (b) A certificate that he is expert to carry out at least 4 of operations required of a Forester in addition to item (x) above. His duties will be the same as that of a Forester.

2.8 Duties of Forest Guard. The Chief duties of a Forest Guard incharge of beat are:-

- (i) To be fully acquainted with his beat and to have knowledge of everything taking place herein.
- (ii) To be fully acquainted with and to possess a list of the rights, privileges and concessions, that may be exercised by the people in the forest of his beat.
- (iii) To observe the rules strictly for compounding forest offences.

- (iv) To carry out under orders of the Range Officer, repairs to the boundary pillars, roads and buildings in his beat;
- (v) To carry out, without orders.
 - (a) The maintenance of fences;
 - (b) Tending operations in regeneration areas and planting;
 - (c) Weeding of young plants, but not to incur expenditure on these works without the Range Officer's sanction.
- (vi) To see that the shooting rules are observed and to put a stop to illegal shooting and trapping.
- (vii) To regularly patrol all the forests in his beat and see that no illicit damage to the forest is caused and that no illicit encroachment on the forest land takes place. All breaches of forest rules should be reported immediately through the Guard Damage Report Book.

(b) **Resin Guard.** The duties of a Forest Guard incharge of a resin depot are:-

- (i) to recruit sufficient labour for resin work, both during the tapping season and for preparatory work during the winter;
- (ii) to maintain order and neatness in his depot, to see to the weighing, soldering, numbering and dispatch of resin tins as laid down in orders;
- (iii) to patrol his resin tapping areas and to see that the coolies are carrying out the tapping and collection to the best of their liability, and that the tapping rules are closely observed.

(c) **Guards on Special Works.** The duties of a Forest Guard employed on special work such as felling are:-

- (i) To carry out such work to the best of his ability and to protect the interest of Government.
- (ii) To be responsible for the protection of all forest produce and Government stores entrusted to his care.

(d) **River Guards.** The duties of a Forest Guard incharge of a river beat are:-

- (i) To patrol the part of the river in his charge and to prevent the theft of timber in transit;

- (ii) To be thoroughly conversant with the river rules and to detect and to report all breaches thereof immediately through the Guard Damage Report Book.
- (iii) To keep the river chhandas clear of all stranded timber. For this purpose, he will remain in touch with the mates appointed by the drift contractors, and will see that every piece of timber collected is sent to the nearest catching depot.
- (iv) To make every piece of timber received at the catching depot, according to the orders in force, and to enter it in the depot forms;
- (v) If required by the Range Officer to do so, to check all Rafts passing through his beat and to prevent the raftsmen collecting any stranded timber while in transit;
- (vi) To report on the legal position of any timber lying within the three miles limit, for which a permit to saw has been applied.

(e) **Depot Guards.** The duties of a Forest Guard employed in a Sale Depot are--

- (i) To check the rafts on their arrival at the landing that and to report to the Depot Officer any discrepancies detected;
- (ii) To supervise the carriage of timber from the landing that to the Sale Depot and to see that no timber is lost in transit;
- (iii) To check and count the timber as it is received in the Sale Depot;
- (iv) To supervise classification and stacking;
- (v) If required to do so, to take his turn at watching the depot by night;
- (vi) To supervise the removal of timber from the depot by purchasers and to see that none but timber marked with the sale hammer is removed.

2.9 (1) Technical posts. The following posts in the West Pakistan Forest Department which at the time of appointment require technical knowledge of forest operations are classed as technical posts:-

- (i) W.P.F.S., Class-I.
- (ii) W.P.F.S., Class-II.
- (iii) Forest Rangers
- (iv) Deputy Rangers.
- (v) Foresters.
- (vi) Forest Guards who have passed the Forest School Course.

(2) Forest Guards posts require no technical qualifications at the time of appointment, but after 5 years or so Forests Guards in the majority of

divisions acquire a knowledge of technical operations which entitles them to be classed as technical men.

A Forest Guard may be classed by his Conservator as a technical man when he possesses the following qualifications:--

- (a) Minimum service 5 years.
- (b) A certificate that he is expert in at least three of the following operations:-
 - (i) Irrigation of plantations.
 - (ii) Nursery work and plantations.
 - (iii) Thinnings.
 - (iv) Road and building construction.
 - (v) Timber works in the Hills.
 - (vi) Wattbandi and drainage
 - (vii) Demarcation and map reading.
 - (viii) Floating and rafting.
 - (ix) Timber Depot work.

-
- Note---If directly appointed then only when they have obtained the Forest School Certificate.
 - Note---A certificate will be given by a Divisional Forest Officer only after personal inspection of the Forest Guard's work.

CHAPTER-III

EXTERNAL AND INTERNAL RELATIONSHIPS

3.1 Relations with the Inspector General of Forests. Government will seek the advice of the Inspector General of Forests, where necessary, and he will be allowed to tour in the province with the previous consent of Government. Government has no objection to the Inspector General of Forests corresponding direct with the Chief Conservator on technical questions so as to keep himself in touch with development in the West Pakistan. The Chief Conservator may also correspond direct with the Inspector General of Forests on all matters of professional interests.

3.2 Relations of Silva with the Forest Research Institute. The Divisional Forest Officer, Silvicultural Research Division (Silva), is the Liaison Officer between the Forest Research Institute and the province for all research and experiments. The basis of his work is the triennial programme, prepared in accordance with the instructions laid down in the Experimental Manual and Statistical Code, which describe in detail the work, maintenance of records and the relations between the Central and Provincial Silviculturists.

3.3 Relations with district officials. Divisional Forest Officers are to administer the forests in the interest of the people of the district, in so far as

establishment except promotions to the gazetted rank, sales of Forest Produce, Working Plans, Research and Education and Inspection of Forests.

2.3 (i) **Duties of Conservator.** Subject to control by Government and by the Chief Conservator in matters with which he is competent to deal the Conservator has full control of Forest matters within his circle.

(ii) The Conservator, within his circle, controls the postings and transfers of officers in charge of ranges and of clerks and the transfers of all other subordinates between division.

(iii) The Conservator may correspond with Government on all administrative matters affecting his circle through Chief Conservator but questions of personnel, finance, policy and matters which affect the department or province as a whole will be referred to the Additional Chief Conservator who will also be consulted on all important matters, especially sales.

(iv) The Conservator will make frequent tours of inspection and visit once a year as many of the forests under his control as possible. During these tours the following points will receive particular attention, and, if necessary, be specially reported on to Government or the Chief Conservator/Additional Chief Conservator:-

- (a) Surveys and settlements, made or in progress, and their cost, extent to which they are still required, nature and adequacy of the maps and settlement records prepared, results of working under the settlement in force;
- (b) Working plans, already made or in progress, and their cost, extent to which plans are still required; results of working of plans in force;
- (c) Forest boundaries, their nature and state of repairs demarcation work in progress and its cost, demarcation work still to be done;
- (d) Roads, buildings, and other similar works in existence or under construction, their cost, state of repairs; new roads; buildings, or other works required;
- (e) Executive and protective staff, efficiency, state of discipline, etc.
- (f) Conditions of the forests, the methods of treatment employed; natural reproduction, causes which interfere with it, etc.
- (g) Protection of the forests from injury, by man, by cattle by fires, etc. breaches of the forest rules, their frequency and causes;
- (h) Works of reproduction and cultural improvements, extent, condition and cost of plantations made, conditions of

nurseries; new sowings or plantings required; thinning; creeper cutting, etc. extent to which carried on and required.

- (i) Method of working and management in force, advantages or otherwise of these methods, expenditure incurred on them outturn of the forests and financial results;
- (j) Timber depots, their situation and adequacy; condition in which kept; state of their records, etc.

(v) At the conclusion of each important tour of inspection the Conservator will write a self-contained note dealing with the policy, management and progress of the division which he has visited. The note is intended primarily for the information of the Chief Conservator, who will however, transmit a copy to Government with his comments, should the note be of sufficient interest or the Conservator desires him to do so. In addition to the full note brief notes may be written on individual forest or projects for the guidance of the Divisional Forest Officer. When of sufficient interest, duplicate copies of these notes may be sent for pasting in the compartment history files.

(vi) The Conservator will see that all money transaction are conducted in accordance with the rules in force; and will examine the cost of current works, and of those which have been spread over several years. He will also ascertain whether the Divisional Officers and other members of the controlling staff are conversant with their duties, that discipline is maintained, and that work is properly supervised.

(vii) A Conservator in control of an irrigated plantation must satisfy by personal inspection during the irrigation season that adequate arrangements have been made by the Divisional Forest Officer to irrigate each plantation.

(viii) The Conservator in charge of the heavy earth moving machinery bulldozers, sub-soilers, etc., will see that the machinery is properly maintained and controlled. He will give progress of the work of reclamation of ravined land by mechanical means in his inspection notes.

2.4 The Chief duties of the Officer in charge of a forest division are:-

- (i) To be responsible for the proper management of the forest business and for the finance of his division;
- (ii) To take an active part in all technical work;
- (iii) Subject to the orders of the working plan and his superior officers, to control the silviculture of his division and to be responsible for the correctness of all technical operations;
- (iv) To make himself thoroughly conversant with the Land Administration Manual and the Land Revenue Settlements of his division;

- (v) To have a wide knowledge of the people with whom he has to deal; to show sympathy for their requirements and to carry out the forest policy prescribed for him with fairness and common sense;
- (vi) To submit a monthly diary or progress report in which he will report briefly the progress of all works going on in the division and any other events of interest and importance. This diary or progress report will be submitted to the conservator who will record any remarks he may wish to make. Should the jurisdiction of the Divisional Forest Officer extend over more than one district, a separate diary or progress report will be written for each district. Any remarks made by the Conservator, except on technical matters, will be shown to the Deputy Commissioner.
- (vii) For Irrigated Plantation Divisions only. To ensure by personal inspection and adequate organization and control that each and every compartment in the plantation is properly watered.

2.5 Duties of Range Officer. The following are the chief duties of Officer in charge of forest ranges:-

- (i) To be responsible for all cash disbursements and expenditure within his range. All payments of pay and labour must, as far as possible, be made personally by him and he is personally responsible that labour is not employed for longer than necessary and that disbursements are made without delay;
- (ii) To communicate all orders and instructions to his subordinates, and to see that they understand them and carry them out;
- (iii) To check and control all work within his range, and to ensure that Government funds are used in the most economical and efficient way;
- (iv) To protect Government interests by insisting upon good work from all subordinates and labour, and by producing the highest revenue from his range consistent with the highest principles of forestry;
- (v) To collect, check and consolidate all returns and registers, to prepare the monthly range accounts and to carry out all office work promptly and correctly;
- (vi) To prevent any misuse of authority by subordinates particularly in compounding forest offences.

2.6 Duties of Range Assistant. The duties of Range Assistant are:-