29.11.2022 Mr. Muhammad Kamran, Advocate as proxy for learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Mr. Muhammad Kamran, Advocate requested for adjournment on the ground that learned counsel for the appellant has telephonically informed him that he is proceedings to District Mardan due to some domestic engagement. Adjourned. To come up for arguments on 25.01.2023before the D.B.

(Mian Muhammad)
Member (Executive)

(Salah-Ud-Din)
Member (Judicial)

25-1-23 Proper DB is not available the case is adjourned to 5-5-2023

Reader

24.06.2022 Mr. Muhammad Maaz Madni, Advocate as proxy for learned counsel for the appellant present. Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Mr. Muhammad Maaz Madni, Advocate sought adjournment on the ground that learned counsel for the appellant has informed him as he is busy in the august Peshawar High Court, Peshawar, therefore, adjournment may be granted. Adjourned. To come up for arguments on 13.09.2022 before the D.B.

(Mian Muhammad)
Member (E)

(Salah-ud-Din)
Member (J)

13.09.2022 Mr. Taimur Ali Khan, Advocate, as proxy for learned counsel for the appellant present. Mr. Muhammad Riaz Khan, Paindakhel, Assistant Advocate General for the respondents present.

Mr. Taimur Ali Khan, Advocate, sought adjournment on the ground that learned counsel for the appellant has informed him that he is not feeling well and is unable to appear before the Tribunal today. Adjourned. To come up for arguments before the D.B on 29.11.2022.

(Mian Muhammad)
Member (Executive)

(Salah-Ud-Din)
Member (Judicial)

29.07.2021 Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Former made a request for adjournment. Request is accorded. To come up for arguments on 16.12.2021 before D.B.

(Rozina Rehman)
Member (J)

Chairman

16.12.21

DB is on Tour case to come up for the Same on Dated. 31-3-22

Reader

31.03.2022 Junior of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is out of station today. Adjourned. To come up for arguments on 24.06.2022 before the D.B.

(Rozina Rehman)
Member (J)

(Salah-ud-Din)
Member (J)

25.08.2020 Due to summer vacation case to come up for the same on 29.10.2020 before D.B.

Reader

29.10.2020 Junior to counsel for the appellant, Addl. AG for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 06.01.2021 for hearing before the D.B.

(Atiq-ur-Rehman Wazir)
Member

Chairman

06.01.2021 Due to COVID 19, the case to come up for hearing on 14.4.2021 before the D.B.

Reader

14.04.2021 Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 29.07.2021 for the same as before.

Reader

17.01.2020 Appellant in person present. Abdul Hakeem DFO representative of the respondent department present. Lawyers community is on strike on the call of Khyber Pakhtunkhwa Bar Council. Learned Member (Executive) is not available. Adjourned for 25.03.2020 before D.B.

Member

25.03.2020 Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 12.6.2020 before D.B.

Reader

12.06.2020 Bench incomplete. Therefore, the case is adjourned. To come up for the same on 25.08.2020 before D.B.

Reader

188/19

11.09.2019 Counsel for the appellant and Addl. AG for the respondents present.

Learned AAG requests for further time. Adjourned to 04.10.2019 on which date the requisite reply/comments shall positively be submitted before S.B.

Chairman

04.10.2019 Appellant alongwith counsel and Mr. Kabirullah Khattak, Additional AG for the respondents present.

Representative of respondents absent, therefore, fresh notices be issued to them for submission of written reply/comments.

Adjourned to 01.11.2019 before S.B.

CHAIRMAN

01.11.2019 Appellant in person and Addl. AG alongwith Ijazur Rahman, DFO for the respondents present.

Representative of the respondents has furnished reply of the respondents. Placed on record. The appeal is assigned to D.B for arguments on 17.01.2020. The appellant may submit rejoinder, within a fortnight, if so advised.

Chairman

22.05.2019 Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Sub Divisional Forest Officer) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, and made impugned the order dated 13.09.2018 whereby minor penalties of withholding of two (02) annual increments for two (02) years alongwith recovery of pecuniary loss, to be calculated by the Forest Department, was imposed upon the appellant. The appellant has also assailed the order dated 17.12.2018 through his departmental appeal was rejected.

Appellant Deposited
Security & Process Fee

23/5/19

Points urged need consideration. The appeal is admitted for regular hearing subject to all the 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 18.07.2019 before S.B.

Member

18.07.2019 Appellant in person and Mr. Muhammad Riaz Khan Paindakhel, Assistant A.G alongwith Nadar Khan, SDFO for the respondents present.

Representative of the respondents seeks time for submission of written reply. To come up for written reply/comments on 11.09.2019 before S.B.

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 188/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/2/2019	The appeal of Mr. Muhammad Rashid presented today by Mr. Muhammad Ijaz Sabi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR 8/2/19
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 14-3-19. CHAIRMAN
	14.03.2019	None present on behalf of the appellant. Notice be issued to appellant and his counsel for attendance and preliminary hearing for 15.04.2019 before S.B. (MUHAMMAD AMIN KHAN KUNDI) MEMBER
	15.04.2019	Appellant in person present and seeks adjournment as his counsel is not in attendance. Adjourn. To come up for preliminary hearing on 22.05.2019 before S.B Member

The appeal of Mr. Muhammad Rashid SDFO Forestry Environment and Wildlife Department received today i.e. on 24.01.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Annexures of the appeal may be attested.
2- Annexures of the appeal may be flagged.
3- Memorandum of appeal may be got signed by the appellant.
4- Affidavit may be got attested by the Oath Commissioner.
5- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal
6- Wakalat name in favour of appellant be placed on file.
7- In the memo of appeal many places have been left blank which may be filled up.
8- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 161 /S.T,

Dt. 24/1/2019.

24/1/19

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Adnan Aman Adv. Pesh.

Respected Sir,

Resubmitted after removing the objections raised by your good office therefore the instant appeal be placed before the Hon'ble Court for its preliminary hearing.

8/02/2019

29.07.2021 Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Former made a request for adjournment. Request is accorded. To come up for arguments on 16.12.2021 before D.B.

(Rozina Rehman)
Member (J)

Chairman

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 188 /2019

Mohammad Rashid.....**Appellant**

VERSUS

The Chief Secretary to Government of Khyber Pakhtunkhwa & others.....**Respondents**

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Appellant

Through

Muhammad Ijaz Khan Sabi
Advocate Supreme Court

&

Adnan Aman
Advocate High Court

Dated 18.09.2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No._____/2019

Mohammad Rashid
Sub-Divisional, Forest Officer,
Forestry, Environment & Wildlife Department, Peshawar
.....**Appellant**

VERSUS

1. The Chief Secretary to Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
2. The Secretary Forests, Environment & Wildlife department to Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
3. The Chief Conservator of Forests, Central Southern Region-I, Khyber Pakhtunkhwa, Peshawar
4. The Divisional Forest Officer, Lower Dir Forest Division, Timergara.....**Respondents**

SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974, AGAINST THE ORIGINAL ORDER DATED 13.09.2018 WHEREBY MINOR PENALTIES OF WITHHOLDING OF TWO INCREMENTS FOR TWO YEARS ALONGWITH RECOVERY OF PECUNIARY LOSS TO BE CALCULATED BY THE FOREST DEPTT; **WAS IMPOSED AND THE DEPARTMENTAL APPELLATE AUTHORITY**

Filed to-day
Registrar
24/1/19

ORDER DATED 17.12.2018 WHICH WAS CONVEYED TO THE APPELLANT ON 26.12.2018 VIDE WHICH THE DEPARTMENTAL APPEAL WAS REJECTED.

Prayer

BY ACCEPTING THIS APPEAL, THE IMPUGNED ORIGINAL ORDER DATED 13.09.2018 AND ORDER OF APPELLATE AUTHORITY DATED 17.12.2018, WHICH WAS CONVEYED TO THE APPELLANT ON 26.12.2018 MAY PLEASE BE SET ASIDE AND CONSEQUENTLY THE APPELLANT MAY PLEASE BE EXONERATED/ABSOLVED OF ALL THE CHARGES LEVELED AGAINST HIM.

Respectfully Sheweth:

1. That the appellant was inducted in the respondents Department (Forestry, Environment & Wildlife Department) way back in the year 2014 and recently he is performing his duties as Sub-Divisional Forest Officer (SDFO), Hangu Forest Sub Division, Kohat Forest Division.

2. That the appellant while posted as Sub-Divisional forest Officer (SDFO), Timergara an enquiry was initiated and charge sheet/statement of allegations was served upon the appellant and an enquiry committee was constituted to conduct disciplinary proceedings under section 5(1) of The Khyber Pakhtunkhwa Civil Servants Efficiency & Disciplinary Rules, 2011 (Copies of statement of allegations and notification regarding constitution of enquiry committee are attached as Annexure – **"A" & "B"**).

3. That the appellant submitted his detailed reply in response to the aforesaid allegations with solid, cogent and convincing evidence and all the allegations leveled against the appellant were rebutted. (Copy of reply to the charge sheet is attached as annexure **"C"**).

4. That despite providing every single detail to the enquiry committee during to course of enquiry proceedings, the enquiry was decided against the appellant, and a show cause notice was issued under the Khyber Pakhtunkhwa, Civil Servants Efficiency &

Disciplinary Rules, 2011. (Copies of enquiry report and Show Cause Notice is available as annexure-**"D" & "E"**).

5. That in response to the show cause notice, the appellant submitted his detail reply and once again all the charges leveled were rebutted with valid reasons and justifiable grounds. (Copy of reply to the show cause is attached as annexure – **"F"**).

6. That it is pertinent to mention that during the course of enquiry proceedings, the Chief Conservator of Forests, Malakand, Swat was directed through letter dated 16th July 2018 to calculate the amount of pecuniary loss accrued to the Forest Department in the case of appellant. (Copy of the letter dated 16th July 2018 is attached as annexure **"G"**).

7. That Divisional Forest Officer, Lower Dir Forest Division through his letter dated 27/08/2018 submitted his detailed report in response of the (Annexure **"G"**) after holding a detailed enquiry through Mr. Rafiqullah, Sub Divisional Forest Officer, Timergara Forest Sub Division and Mr. Raza Khan, Forest Guard of Timergara

Forest Sub Division, wherein it was submitted with documentary proof that **no financial loss has been accrued to the department in the instant case.** (Copy of the letter dated 27/08/2018 is attached as Annexure – **"H"**).

8. That despite the aforementioned exhaustive explanations, the competent authority i.e. (Chief Secretary, Government of Khyber Pakhtunkhwa), even then imposed **"minor penalty of withholding of two increments for two (2) years alongwith recovery of pecuniary loss to be calculated by the Forest Department.** (Copy of the impugned order dated 13.09.2018 is attached as annexure – **"I"**).

9. That the appellant being aggrieved of the impugned order preferred his departmental appeal dated 11.10.2018 which was rejected vide impugned order dated 17.12.2018 conveyed to the appellant on 26.12.2018. (Copies of the departmental appeal dated 11.10.2018 and order dated 17.12.2018 conveyed on 26.12.2018 are attached as annexures **"J" & "K"**).

10. That the appellant now prefers this service appeal before this Hon'ble Tribunal for the following amongst other grounds:

GR OUNDS:

a) That as stated in the body of the appeal that all the allegations made in the statement of allegations/charge sheet were rebutted and denied with cogent, convincing and solid reasons but even then the appellant had been punished with the impugned penalty which is liable to be set aside.

b) That throughout the course of enquiry proceedings, the enquiry committee was requested to pay personal visit to the areas mentioned in the charge sheet to dug out the truth, but they based their enquiry report only on personal assumptions and presumptions which their act/repot is against the norms of justice and is liable to be set aside.

c) That it is established on the face of the record that the subject plantation was made on the site but unfortunately the same was flooded away and again the same was replanted but even then the appellant was saddled with his inefficiency and inaction which requires the interference of this Hon'ble Tribunal.

d) That it is also established on record and as reported by the inquiry committee comprising of Rafiq Ullah, SDFO Timergara and Razi Khan, Forest Guard that no Financial loss has accrued to the Forest Department but even then the appellant was burdened with the impugned Penalty and thus on this score too, the impugned order is liable to be set aside.

e) That it is floating on the face of the record that the allegations leveled against the appellant are evasive and having no substance as the same is abundantly refuted through many documentary evidence as well as pictures of the subject site therefore, this Hon'ble Tribunal needs to step in for the rescue of the appellant.

f) That keeping in view the aforesaid submissions, the impugned orders dated 13.09.2018 and 17.12.2016 (conveyed to the appellant on 26.12.2018 are illegal, unlawful and against the record and are thus liable to be struck down.

g) That the appellant has been treated against the law and he has also been deprived of equal protection of law.

h) That any other ground not specifically mentioned here will be raised at the time of arguments with the permission of this Hon'ble Tribunal.

It is therefore most humbly prayed that by accepting this appeal, the impugned original order dated 13.09.2018 whereby minor penalties of withholding of two increments for two years, alongwith recovery of pecuniary losses to be calculated by forest department and impugned order of appellate authority dated 17.12.2018 (conveyed to the appellant on 26.12.2018) may please be set aside and consequently the appellant may please be exonerated/absolved of all the charges leveled against him.

Appellant

Through

Muhammad Ijaz Khan Sabi
Advocate Supreme Court

&

Adnan Aman
Advocate High Court

Dated 18.09.2019

(9)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No._____/2019

Mohammad Rashid.....**Appellant**

VERSUS

The Chief Secretary to Government of Khyber Pakhtunkhwa & others.....**Respondents**

AFFIDAVIT

I, Mohammad Rashid Sub-Divisional, Forest Officer, Forestry, Environment & Wildlife Department, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT

(10)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No._____/2019

Mohammad Rashid.....**Appellant**

VERSUS

The Chief Secretary to Government of Khyber Pakhtunkhwa & others.....**Respondents**

ADDRESSES OF PARTIES

APPELLANT:

Mohammad Rashid
Sub-Divisional, Forest Officer,
Forestry, Environment & Wildlife Department, Peshawar

RESPONDENTS"

1. The Chief Secretary to Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
2. The Secretary Forests↑ Environment & wildlife department; to Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
3. The Chief Conservator of Forests, Central Southern Region-I, Khyber Pakhtunkhwa, Peshawar
4. The Divisional Forest Officer, Lower Dir Forest Division, Timergara

Appellant

Through

Muhammad Ijaz Khan Sabi
Advocate Supreme Court

&

Adnan Aman
Advocate High Court

Dated 18.09.2018

(11)

DISCIPLINARY ACTION

I, Abid Saeed, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, am of the opinion that Muhammad Rashid, Sub Divisional Forest Officer (BPS-17) Timergara Forest Sub Division has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

ANNEXURE "A"

STATEMENT OF ALLEGATION

2) That he while posted as Sub Divisional Forest Officer (BPS-17), Timergara Forest Sub Division committed the following irregularities:

i) Whereas he was called upon to explain vide Conservator of Forests, Malakand West Forest Circle letter dated 19th August, 2016, the reply furnished by him vide letter dated 23rd August, 2016 was not upto the mark and was accordingly communicated to him vide Conservator of Forest, Malakand West Forest Circle letter dated 04th October, 2016. But till date, no satisfactory reply received from his side.

ii) As per report of Divisional Forest Officer, Lower Dir Forest Division letter dated 14th April, 2017, that due to his negligence/inefficiency, various shortfall have been noticed in planting stock;

iii) It has been learnt that the plants distributed by him under free distribution was not in transparent manner;

iv) During visit of Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa on 08th April, 2017, Nasafa Enclosure Compartment No: 17, Goats and Sheep's grazing in the said enclosure were seen. No Neghaban was present/available there. An explanation in this regard was also called from him, but no response has been received from his side till date.

v) Forms of large size gates, doors and windows i.e. total 15 numbers of manufacture of Deodar timber were found in redundant from his official residence, situated adjacent to his functional office, but during checking, the same was neither found in the record i.e. Form No: 5 & 6, nor was present in the Prosecution Cases Register, Compensation Cases Register and Damage Book Register;

vi) He explained before the raiding team that he has purchased the same during auction, but he could not produce any documentary evidence in his defence/claim before the Chief Conservator of Forests.

vii) During visit of Sher Palam plantation, it was found that due to his failure/negligence, the entire plantation was failed. While the rest of pits were completely devoid of any plant or sowing. The pits were very small in size and were hardly visible on the ground. The charged area was 24 hectare while it was not more than 10 hectare on ground. The payment made in excess need to be recovered from him.

3) For the purpose of Enquiry against the said accused with reference to the above allegations, an Enquiry Officer/Enquiry Committee, consisting of the following is constituted under rule 10 (1) (a) of the ibid rules:-

i- Mr. Tasleem

ii- Mr. Noor Alam

4) The Enquiry Officer/Enquiry Committee shall, in accordance with the provisions of the rules ibid, provide reasonable opportunity of hearing to the accused, record its findings and make recommendations, within thirty days of the receipt of this order, as to punishment or other appropriate action against the accused.

5) The accused and a well conversant representative of the department shall jointly proceed on the date, time and place fixed by the Enquiry officer/Enquiry Committee.

Chief Secretary,
Khyber Pakhtunkhwa
(Competent Authority)

ANNEXURE "B" (12)

GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar the , 04th July, 2017

NOTIFICATION

No: SO(Estt)Envt/1-50 (183)/PF/ 2015: The Competent Authority has been pleased to constitute an Enquiry Committee comprising Mr. Tashfeen Haider (PMS BS-18), P.D Establishment of Housing Foundation for Government Servants, Housing Department (as Convener) and Mr. Sher Nawaz, Chief Conservator of Forests (BS-20)/Managing Director, Forest Development Corporation, Khyber Pakhtunkhwa (as member) to conduct disciplinary proceedings under Section-5(1) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 against Muhammad Rashid, Sub Divisional Forest Officer (BS-17), Timergara Forest Sub Division of Dir Lower Forest Division, for the charges/allegations leveled against him in the Charge Sheet and Statement of Allegations:-

2. The Enquiry Committee shall submit its findings within 30 days positively.

Sd/-
CHIEF SECRETARY
KHYBER PAKHTUNKHWA

6283-91

No: SO (Estt)Envt/1-50 (183)/PF/ 2015: **Dated Peshawar the, 04th July, 2017**

Copy alongwith copies of the Charge Sheets/Statement of Allegations are forwarded to:-

1) Mr. Tashfeen Haider (PMS BS-18), P.D Establishment of Housing Foundation for Government Servants, Housing Department (Convener of the Enquiry Committee).
2) Mr. Sher Nawaz, Chief Conservator of Forests (BS-20)/Managing Director, Forest Development Corporation, Khyber Pakhtunkhwa (Member of the Enquiry Committee).
3) Muhammad Rashid, Sub Divisional Forest Officer (BS-17), Timergara Forest Sub Division of Dir Lower Forest Division C/o Conservator of Forests, Malakand West Forest Circle, Dir, Timergara with the direction to appear before the Enquiry Committee on the date, time and place to be fixed by the Enquiry Committee for the purpose of inquiry proceeding.

(Hafiz Abdul Jalil)
Section Officer (Estt)

Endst: No: & date even

Copy is forwarded to:-

1) Chief Conservator of Forests, Central Southern Forest Region-I, Peshawar.
2) Chief Conservator of Forests, Malakand Forest Region-III, Saidu Sharif, Swat with the direction to nominate/depute a departmental representative well conversant with the facts of the case alongwith relevant record to assist the Enquiry Committee during the disciplinary inquiry proceedings.
3) PS to Secretary, Forestry, Environment & Wildlife Department for information.
4) Personal files of the officers.
5) Master file.
6) Office order file.

Section Officer (Estt)

(13)

ANNEXURE "C"

BEFORE THE ENQUIRY COMMITTEE

Subject: - CHARGE SHEET – REPLY THEREOF.

It is stated that the charges mentioned in the instant charge sheet are totally baseless, hypothetical, unfounded and with malafide intentions having no ground reality which are explained para – wise as under:-

1.

i. The allegation is denied because most of River Side Plantation at Shamardin, Khal carried out in Spring 2016 was flooded away in April 2016. Subsequently the flooded area was replanted with suitable species which was reported vide Office Letter No. 70/T dated 23/08/2016. Reply to letter dated 4th October, 2016 was also communicated vide letter No. 84/T dated 07/10/2016. (**Annex – A and B**). Hence it is baseless to mention that no reply was communicated to Conservator of Forests, Malakand West Forest Circle.

ii. The allegation is denied because the short fall reported by Divisional Forest Officer, Lower Dir Forest Division vide his Letter No. 4466 – 68/E dated 14/04/2017 is related to entire Lower Dir Forest Division and is not only for Timergara Forest Sub Division which is baseless on the following grounds: -

Divisional Forest Officer, Lower Dir Forest Division has reported 21466000 plants raised in Departmental as well as in Private sector in his office letter No. 4466 – 68/E dated 14/04/2017. Despite the figure mentioned above he has also reported 19508100 Nos. of plants raised in both Departmental and Private sector vide his letter No. 2190/Acctt dated 08/12/2016 in the Action Plan for Spring Tree Planting Campaign 2017. It is clarified that there is a difference in number of plants raised in these letters itself. (**Annex – C & D**).

The short fall of 5847579 Nos. of plants mentioned in Divisional Forest Officer, Lower Dir Forest Division Office Letter No. 4466 – 68/E dated 14/04/2017 is also incorrect as fit planting stock has been deducted/subtracted from raised planting stock as is clear from the letter itself. Also there is no clarification in the letter referred above as where that short fall has been noticed. It is further added that in Divisional Forest Officer, Lower Dir Forest Division Office Letter No. 4466 – 68/E dated 14/04/2017 only clarification was sought for the resolution of realistic figures from all SDFO's in Lower Dir Forest Division.

Divisional Forest Officer, Lower Dir Forest Division in his Office Letter No. 3528 – 31/Acctt dated 30/06/2017 has reported 15618421 Nos. of plants utilized under various interventions (**Annex – C and Annex - E**).

Actually the short fall is only due to non availability of plants with private sector, and on the basis of this shortfall deduction will be made in payment accordingly. This has also been reported vide letter dated 24/04/2017. It is further clarified that in Billion Trees Afforestation Project, under Private Nurseries payment to private nurseries is made in three installments and final installment amounting to 50% of total amount is paid on actual receipt of plants.

The charge is therefore hypothetical and not physically enquired. Therefore the same is not maintainable.

iii. The point is baseless because distribution of plants under Billion Trees Afforestation Project was executed in transparent manner and data was recorded on proper format having CNIC No, Cell No, Name, Address and Number of plants issued/provided which has also been reported vide letter No. 147/T dated 04/04/2017 (**Annex – F**).

(14)

A

It is to mention that the charge is ridiculous, hypothetical and framed on heresay.

iv. The point is baseless because proper answer/reply to the explanation was communicated to Conservator of Forests, Malakand West Forest Circle, Timergara vide Letter No. 160/1 dated 05/05/2017. **(Annex – G)**

v. The allegation is denied because frames of doors and windows are the personal property of the father of undersigned which is legal timber and has been purchased under proper receipt. **(Annex – H)**

vi. The charge is baseless and hypothetical because the undersigned was not given the chance to present any proof to Chief Conservator of Forests, Malakand Forest Region III, Swat, Conservator of Forests, Malakand West Forest Circle, Timergara and Conservator of Forests, Malakand East Forest Circle, Swat.

vii. The allegation is denied because the charge is based on false assumptions and ocular estimations that the area of afforestation is not more than 10 Ha. The charged area of Shalfalam Afforestation is 20 Ha which was planted in Spring 2016 under Billion Trees Afforestation Project. 2 times monitoring of the area has been carried out by two different teams i.e. Working Plan Unit – VI, Swat and Billion Trees Afforestation Project team and all the data was recorded by them on proper formats. **(Annex – I)**. Failure is a natural phenomenon and continuous replacement of failed plants has been carried out from time to time according to ecological suitability. Currently the area is in good condition and site inspection may be done accordingly.

It is important to mention that in the past PC – 1's regular exercise of beating up of failure was carried out for three consecutive years which is not the case for BTAP.

The charges mentioned in the charge sheet are misleading and tinged with malice. These are only framed to victimize the undersigned.

Keeping in view the above factual position it is requested that the undersigned may kindly be exonerated from the charges leveled against him please.

I wish to be heard in person please.

MUHAMMAD RASHID
SUB DIVISIONAL FOREST OFFICER
(BPS – 17)

(15)

BEFORE THE ENQUIRY COMMITTEE

Memo:- Reference personal hearing dated 01/08/2017

Replies to the observations/discussion on the above referred date are furnished hereunder:-

1. The area mentioned in the Charge No. 1 is in good condition these days and site inspection may be done accordingly.
2. The report of Divisional Forest Officer, Lower Dir Forest Division is incorrect as the letter dated 14th April 2017 contains mathematical mistakes i.e. total planting stock raised in Lower Dir Forest Division vide letter No. 2190/Acctt dated 08/12/2016 in the Action Plan for Spring Tree Planting Campaign 2017 is 19508100 while in the letter dated 14th April 2017 the plants mentioned are 21466000 which is incorrect.
   Also the then DFO Upper Dir has reported a report in which over utilization of plants has been reported against the undersigned which is also incorrect.
   The enquiry committee was constituted by Conservator of Forests Malakand West Forest Circle, Timergara to probe into the matter of shortfall reported by DFO Lower Dir vide letter dated 14th April 2017 (which is incorrect) but regretfully the the same committee relied on the letter dated 14th April 2017 and the report of the monitoring committee constituted by DFO Lower Dir.
   It is pertinent to mention that SDFO Timergara submitted a report on 24/07/2017 (signed by all SDFO's in Lower Dir Forest Division) on the enquiry report to DFO Lower Dir which is enough for proving the charge baseless. **(Annex – A)**
3. In the personal hearing on 01/08/2017 it was desired by the enquiry committee to present Farm Forestry List of private nurseries (Having pages from 1 to 84) which is attached as **Annex – B**.
4. No grazing is permitted in the enclosures under Billion Trees Afforestation Project and the area which is reflected in the letter was left over area for grazing of local cattle.
5. It was discussed in the first personal hearing that if i wish to produce any witness in connection with the charge sheet. so it is requested that i wish to produce my father as witness before the enquiry committee for charges No. 5 as the frames are his legal property and purchased by him personally.
6. Already explained in reply to-Charge Sheet.
7. In the personal hearing on 01/08/2017 it was desired by the enquiry committee to present monitoring reports of Working Plan Unit - VI Swat and Project Monitoring Team so the same is furnished as **Annex – C**.

GENERAL OBSERVATIONS

1. No report against the undersigned has been communicated by DFO Lower Dir to higher ups and the charge sheet was also not communicated from DFO Lower Dir.
2. Only the undersigned has been held responsible for all the unfounded allegations.
3. Charge No. 3 is framed before any proper enquiry (facts finding enquiry), also it is important to disclose that payment to almost maximum number of nursery growers has not been made.
4. The timber purchased may not be considered as illegal as it has been purchased under proper invoice/bill and it has legal origin.

Report is submitted for favor of information and further necessary action please.

09/08/2017

MUHAMMAD RASHID
SUB DIVISIONAL FOREST OFFICER
(BPS – 17)

ANNEXURE "D"

(16)

ENQUIRY REPORT AGAINST MR. MUHAMMAD RASHID, SUB DIVISIONAL FOREST OFFICER (BPS-17) TIMERGARA FOREST SUB DIVISION.

BACK GROUND

Environment Department vide Notification NO. SO(Estt)/Envt/1-50((183)/PF/2015, dated 4th July, 2017, constituted Enquiry Committee comprising of Mr. Tashfeen Haidar, Project Director, Establishment of Housing Foundation for Government servants, Housing Department (as Convener) and Mr. Sher Nawaz, Chief Conservator of Forests/ Managing Director FDC (as member) to conduct disciplinary proceedings under Section-5(1) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 against Mr. Muhammad Rashid, Sub Divisional Forest Officer (SDFO), Timergara Forest , Sub Division, Lower Dir Forest Division.

PROCEEDINGS

On receipt of Notification, the committee held preliminary meeting, where in Mr. Muhammad Rashid, SDFO was directed to submit reply and attend the enquiry committee. He submitted his parawise reply to the charge sheet **(see Annexure-I).**

Later on 01.08.2017, he was also called for personal hearing copy of which is attached as **Annexure-II.** Prosecution statement regarding various queries is attached as **Annexure-III.** The record for the purpose of enquiry was thoroughly examined and finally after thorough deliberations on each charge the following conclusions were reached at:

CHARGES/ ALLEGATIONS.

Allegation (i) He was called upon to explain vide Conservator of Forests (CF), Malakand West Forest Circle letter dated 19th august 2016, the reply furnished by him vide letter dated 23rd August 2016 was not upto the mark and was accordingly communicated to him vide Conservator of Forest, Malakand West Forest Circle letter dated 04th October 2016, But till date, no satisfactory reply received from his side.

Reply of accused Officer:

The allegation is denied because most of River Side Plantation at Shamardin, Khal carried out in Spring 2016 was flooded away in April 2016, Subsequently the flooded area was replanted with

suitable species which was reported vide Office letter No. 70/T dated 23.08.2016. Reply to letter dated 4th October 2016 was also communicated vide letter No.84/T dated 07.10.2016 (Annex –A & B). Hence it is baseless to mention that no reply was communicated to Conservator of forests, Malakand West Forest Circle.

DISCUSSION:

Although the charge is denied by Accused Officer and true to the extent that replies to CF letters had been responded by him but it was not considered satisfactory by the CF office thus charging him for not submitting satisfactory reply to CF office. The replies submitted by accused was thoroughly examined and it was found that the afforestation site at Shamardin khel, i.e. river bed plantation over there was made on a site which was not feasible for plantation according to accused official quoted reasons mentioned by him in his reply to CF vide letter No. 70/T, dated 23.8.2016 (see Annexure-A) stating that:

(i) The unprecedented floods damaged the plantation. This fate was expected to occur because plantation was made in the line of fire on most exposed site to floods i.e. river bed. The site in the first place should not have been taken for plantation being vulnerable to flood damages and if this was not considered at the time of site selection then the SDFO is held responsible for selecting wrong planting site and risking govt/ public tax paid money and govt. property too.

(ii) That the site where plantation was done was having boulders, according to SDFO statement. Also that its soil was made of medium to coarse grain sand, gravel, pebble, cobble even boulders. He further states that there is air space between the sandy soil particles and larger amount of air under soil surface which means that it does not hold water or nutrients very well and water moves quickly through the soil and air replaces it quickly this resultantly makes the sandy soil dry out faster than other type soils, which resultantly makes it unfeasible for plantation.

(iii) Plantation season was off and he replaced it with new plants at a time when they were sure to die if not watered. In such cases water was nearby available in river and very easily it could have been watered by his staff through chowkidar, had he managed things wisely. At such like times he should have deferred the plantation till right season. Now

21/6/2017 March 2017

WWF report Site Selection DFO 4/2016. WWF

Searching for right seasons of planting i.e. November onwards did not matter now once the plants had dried up and govt. money had been lost just for wrong planning on part of SDFO.

All the above three factors narrated by the SDFO in his letter addressed to CF is a charge sheet prepared by the accused against himself for why the plantations failed. The amount spent on original plantation and later beating up done in wrong season be recovered from the SDFO.

The reply of SDFO if not considered satisfactory by CF was very right because the SDFO had himself carried out the plantation at the site and now the onus of damages lie on him and no one else.

Findings: **Charge stands proved.**

ALLEGATION (II)

As per report of Divisional Forest Officer, Lower Dir Forest Division letter dated 14th April, 2017, that due to his negligence/ inefficiency, various shortfall have been noticed in planting stock.

Reply :

The allegation is denied because the short fall reported by Divisional Forest officer, Lower Dir Forest Division vide his letter No.4466 – 68/E dated 14.4.2017 is related to entire Lower Dir Forest Division and is not only for Timergara forest Sub Division which is baseless on the following grounds:

(a) DFO Lower Dir Forest Division has reported 21466000 plants raised in Departmental as well as in Private sector in his office letter No. 4466 – 68/E dated 14.4.2017. Despite the figure mentioned above he has also reported 19508100 Nos. of plants raised in both Departmental and Private Sector vide his letter No. 2190/Acctt, dated 08.12.2016 in the Action Plan for Spring Tree Planting Campaign 2017. It is clarified that there is a difference in number of plants raised in these letters itself. (Annex – C & D).

(b) The short fall of 5847879 Nos. of plants mentioned in DFO, Lower Dir Forest Division Office letter No. 4466 – 68/E dated 14.4.2017 is also incorrect as fit planting stock has been deducted/ subtracted

from raised planting stock as is clear from the letter itself. Also there is no clarification in the letter referred above as where that short fall has been noticed. It is further added in DFO, Lower Dir Forest Division office letter No. 4466 – 68E, dated 14.4.2017 only clarification was sought for the resolution of realistic figures from all SDFO's in Lower Dir Forest Division.

(c) DFO Lower Dir Forest Division in his office letter No. 3528 – 31/Acctt, dated 30.6.2017 has reported 15618421 Nos. of plants utilized under various interventions (Annex – C and Annex –E).

(d) Actually the short fall is only due to non-availability of plants with private sector, and on the basis of this shortfall deduction will be made in payment accordingly. This has also been reported vide letter dated 24.4.2017, it is further clarified that in Billion Trees Afforestation Project, under Private Nurseries payment to private nurseries is made in three installments and final installment amounting to 50% of total amount is paid on actual receipt of plants.

(e) The charge is therefore hypothetical and not physically enquired. Therefore the same is not maintainable.

DISCUSSION:

The accused denies the allegation on the following ground that the letter referred to in charge No.II dated 14th April, 2017 refers to short fall of entire Lower Dir Forest Division and not Taimergara Sub Division only, which is true, but this letter also gives us the portion of shortage or excess of plants with each SDFO (see annexure -C).

(*). He points out a difference in two letter of DFO annexure as C&D in his defense statement/ reply to charge sheet. But actually this difference is because the two reports are generated at 4 months interval during which the planting stock might have increased in nurseries because 4 months is a great time for new seeds to sprout and sprouted ones to grow in size and thus increase the number in nurseries. In either case these reports were generated on information from field. In that case too the SDFO/RO's are responsible for wrong reporting to DFO.

He admits that a short fall exits which is due to non-availability of plants with private sector. But the facts on record speaks otherwise, he should have distributed less plants from private farmers being short in plants but on the contrary instead of distributing 20,00,085 No of plants received from private farmers, he has

shown free distribution of plants to a number of 40,01,700 to farmers. The figures on record do not support his statements of nursery stock. Also the enquiry on record made by DFO Hafiz Muqtada Shah & Mr. Raees Khan (copy attached as annexure-IV) concerning nursery stock produced and utilized according to available record of the Division shows that Mr. Rashid SDFO Taimergara has over utilized 2499696 (including 479070 plants issued to others) number of plants than available fit planting stock with him which could not be justified by him. He is saying that this shortfall is due to non-availability of plants with private sector. If so then why he give a wrong and exaggerated figure of plants to deptt as per his own record on plants received from private nursery owner. He has mislead his higher ups and concealed the true figures on planting stock available with him and thus giving exaggerated figures. Had the enquiry and this charge sheet not unveiled the facts on record the same could have been used to embezzle the govt. money for hiding facts on record.

Findings: **Charge stands proved.** recent report

ALLEGATION (III)

It has been learnt that the plants distributed by him under free distribution was not in transparent manner.

Reply: The point is baseless because distribution of plants under "Billion Trees Afforestation Project" was executed in transparent manner and data was recorded on proper format having CNIC No. and Cell No. Name, Address and Number of plants issued/ provided which has also been reported vide letter No. 147/T dated 04.04.2017 (Annex-F).

It is to mention that the charge is ridiculous, hypothetical and framed on here say.

DISCUSSION:

Response to this charge by the accused is that he had carried out distribution in transparent manner and for this statement to support; he has produced a long list of person comprising of 84 pages to whom he had distributed the plants. The very list he provided to enquiry committee in personal hearing shows that even list provided by him speaks against his transparent way of dealing things. Almost 1445844

numbers of plants were distributed either with missing father names, CNIC No, cell numbers or with no address at all which is almost 48.76% of the total distributed plants. Moreover not a single photo for record is produced with the report submitted by SDFO which is also a due requirement of BTAP (according to DFO Salim Marwat statement copy attached as annexure -III). It shows that print/ electronic media be engaged in documenting the free distribution functions and photos to be loaded on to BTAP website.

Moreover, it was mandatory on the SDFO to distribute the plants after verification by the monitoring committee which was not observed by him despite the verbal directives of the then DFO Farooq (see statement of Salim Marwat DFO as annexure-III)

Thus the codal formalities outlined by BTAP had not been followed by him in total and made him liable to be proceeded against.

Findings: **"charge is proved and wherever the documentation is incomplete recovery for that amount to the tune of numbers of plant be recovered from the SDFO".**

ALLEGATION (IV)

During visit of Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa on 08th April 2017, Nasafa Enclosure Compartment No. 17, Goats and Sheep's grazing in the said enclosure were seen. No Neghaban was present/available there. An explanation in this regard was also called from him, but no response has been received from his side till date.

Reply: The point is baseless because proper answer/reply to the explanation was communicated to Conservator of Forests, Malakand West Forest Circle Timergara vide letter No. 160/T, dated 05.05.2017 (Annex- G).

DISCUSSION:

Regarding this charge the SDFO has rebutted the charge and he further states that reply to the explanation had been responded by him vide letter No. 160/T dated 05.05.2017 to CF C/O DFO Timergara (copy produced as annexure-G). On query it was found that the same letter has not been received in DFO office rather direct reply

had been submitted to CF (copy of receipt attached as annexure-V). The Chief Conservator of Forests, Malakand-III Mr. Qazi Mushtaq on 07.09.2017 was contacted by Mr. Sher Nawaz enquiry member on cell number of CCF Mr. Qazi Mushtaq i.e. 0345-9585289 dated 11.53 AM through his cell No. 0349-5181626 to comment on the reply to explantation by SDFO. The Chief Conservator of Forests Mr. Qazi Mushtaq totally denied the facts that the areas where the grazing was going on was outside enclosure. He stated that we had entered the enclosure and were inspecting the regeneration in enclosure where we encountered the animals grazing the enclosure area and that the statement of SDFO is totally false and misleading. At that time when the CCF enquired from the SDFO on the grazing going on over there at Nasafa and enclosure i.e. Comptt. No. 17 he submitted no reply to me and kept quiet because he had no reply to convince me (written statement of Mr. Qazi Mushtaq is attached as annexure-VI). Had the chowkidar being performing his function, he would have obstructed the animals entering the enclosure. Compartment boundaries are very well defined in working plans. If it was either to the left or right of Compartment No. 17 then it must be have been 16 & 18 Nos of comportments. In any case grazing is altogether unwanted in forest areas. Community land can be used for this purpose by communities if needed at all. The reply of accused is not convincing and enquiry committee feels that the responsible staff at the range had not fulfilled their responsibilities and hence the CF/ DFO Lower Dir were placed in an embarrassing position at the time of tour of Secretary Forests to area. Reply of accused is doubtful and not accepted.

Findings: **Charge seems to hold true.**

ALLEGATION (V)

Forms of large size gates, doors and windows i.e. total 15 numbers of manufacture of Deodar timber were found in redundant from his official residence, situated adjacent to his functional office, but during checking, the same was neither found in the record i.e. Form No. 5 & 6, nor was present in the persecution Cases Register, Compensation Cases Register and Damage Book Register.

Reply: The allegation is denied because frames of doors and windows are the personal property of the father of undersigned which is legal timber and has been purchased under proper receipt. (Annex-H).

DISCUSSION:

Since in the allegation No. vi it has been stated that the accused made a statement that he had purchased the said timber found in his house in auction, therefore it is out of question that the timber would be present on official record of range i.e. form 5 & 6 or prosecution case or compensation case register or damage report register. Hence this charge holds no relevance and sense. However the ownership of timber is discussed in the preceding para i.e. allegation No. (vi).

Findings: **See findings of next charge against accused i.e. allegation No. (vi).**

ALLEGATION (VI)

He explained before the raiding team that he has purchased the same during auction, but he could not produce any documentary evidence in his defense/ claim before the Chief Conservator of forests.

Reply: The charge is baseless and hypothetical because the undersigned was not given the chance to present any proof to Chief Conservator of Forests, Malakand Forest Region III, Swat, Conservator of Forests, Malakand West Forest Circle, Timergara and Conservator of Forests, Malakand East Forest Circle, Swat.

DISCUSSION:

The charge has been denied by the accused in reply to the allegation. However his change in statements has made things confusing and suspicious. Before the raid party his statement was that he had purchased it in an auction. When asked to produce the documented proof he could not do so. When enquired on the subject about the purchase track of the said timber by enquiry committee, he referred to his reply to the allegation in his defense statement on the subject charge sheet. He stated that it was the rightful property of his father which he had purchased from legal source. He also presented his father before the enquiry committee as a defense witness in the case. His father gave a statement to the committee (copy enclosed as annexure-VII) that the timber in question was his property and not his son property. He also stated that it was legal timber purchased from legal source. In support of his statement he produced a receipt of timber purchased (see Annexure-H). The source when verified from DFO

Lower Dir i.e. Timergara was found to be illegal (Answer to question No.5 of DFO Saleem Marwat attached as annexure-III). The DFO states that the sale depot of Rehman Wood Industries was registered with Dir Lower Forest Divsiion vide o/o No. 53 dated 28.02.2012, but till date he failed to renew his annual registration. The owner of the sale depot was served with notices via letter No. 1956-57/G & L, dated 02.04.2014, No. 2143-45/G&L dated 2.4.2015 & No.1979-81/G&L, dated 01.01.2016 to renew his registration but he failed to do so. Therefore the timber business carried out by Rehman Wood Industries is illegal and action as per Forest Ordinance 2002 is being initiated against the owner of sale Depot. Thus the timber purchased by father of SDFO Rashid if at all is illegal and keeping illegal timber in his house is an offence in itself. He should be dealt with under the Law for keeping illegal timber at his residence without issuing a damage report against the offender.

Findings: **Charge stands proved.**

ALLEGATION (VII)

During visit of Sher Palam plantation, it was found that due to his failure/ negligence, the entire plantation was failed. While the rest of pits were completely devoid of any plant or sowing. The pits were very small in size and were hardly visible on the ground. The charged area was 24 hectare while it was not more than 10 hectare on ground. The payment made in excess need to be recovered from him.

Reply :

The allegation is denied because the charge is based on false assumptions and ocular estimations that the area of afforestation is not more than 10 Ha. The charged area of Shalfalam Afforestation is 20 ha which was planted in spring 2016 under Billion Trees Afforestation Project. 2 times monitoring of the area has been carried out by two different teams i.e. Working Plan Unit –VI, Swat and Billion Trees Afforestation Project team and all the data was recorded by them on proper formats. (Annex-I). Failure is a natural phenomenon and continuous replacement of failed plants has been carried out from time to time according to ecological suitability. Currently the area is in good condition and site inspection may be done accordingly.

it is important to mention that in the past PC –I is regular exercise of beating up of failure was carried out for three consecutive years which is not the case for BTAP.

The charges mentioned in the charge sheet are misleading and tinged with malice. These are only framed to victimize the undersigned.

DISCUSSION:

The accused denied the allegation stating that it was ocular estimation on part of charge framing authorities while the fact is that two monitoring reports, one by W/plan Unit VI Swat (See Annexure-L) and other by BTAP monitoring official (Annexure-VIII) narrates otherwise picture of the site at Sharpalam. According to W/Plan Unit IV official responsible for monitoring the project the site was reported to be 27 hectare on 18.05.2016 and when monitored it came out to be 29 hectare. This report showed overall survival as 63% at the site. Another report generated by BTAP monitoring officer on 27.11.2016 states that the area reported by staff is 27 hectare but on monitoring it came out to be 26.61%. This report showed an overall survival %age of 60 – 65%. These two reports differ on area measured. Also there is species composition difference Working Plan officer showing species as Eucalyptus, Chir, Phulai & Robinia whereas BTAP monitoring officials shows species of Eucalyptus, Chir, Phulai and Ailanthus. Both these monitoring reports do not tally with one another and also with actual one which has recently been carried out by DFO Lower Dir Mr. Saleem Marwat which report the area to be 20 hectare measured through GPS with coordinates (see question answer 6 of annexure-III). The area if any extra charged in muster roll since day one be calculated from Accounts of DFO office & recovered from the SDFO concerned. This has made the monitoring reports doubtful both generated by w/plan circle and also by BTAP officials. An independent agency be given the task to monitor cent percent areas in this division for validation of plantation of the remaining BTTAP plantations so as to know the factual position and ground reality because sampling some times lead to very misleading results. Enquiry committee takes the recent most report of DFO Mr. Saleem Marwat to be near to ground reality. Thus the original assumption of land being almost 10 hectare by charge framing authorities cannot be altogether discarded because the present monitoring by DFO Lower Dir has nullified the area assessment made by earlier monitoring reports. May be so that later on the SDFO has increased the area to 20 hactre i.e. the present status. Even if not charged and only reported to higher ups still the SDFO has committed a blunder by wrong reporting which became a part of official

report. The progress report generated by higher ups became doubtful when such like irresponsible attitude of the field formation takes place. Even the current situation is not that good with still almost 70% replacement of failures been undertaken. The very fact that the recently beated up area with eucalyptus has failed once again. Whereas comparatively other areas close to it have given much better results because the chowkidar working in other close by areas are performing their job very well i.e. beating up failures in time and providing necessary water to plants. It is recommended that the watch & ward of plantation and amount/ value of afforestation on beating up which has failed be recovered from the SDFO and his subordinate staff.

Findings: **Charge partially holds true.**

(Sher Nawaz)
Managing Director
Khyber Pakhtunkhwa
Forest Development Corporation
(Member)

(Tashfeen Haidar)
Project Director,
Establishment of Housing Foundation for
Govt. servants, Housing Department,
Govt. of Khyber Pakhtunkhwa
(Convenor)

(27) ANNEXURE "E"

GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIORNMENT & WILDLIFE DEPARTMENT

SHOW CAUSE NOTICE

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Muhammad Rashid, Sub Divisional Forest Officer (BS-17) as follows:

(i) that consequent upon the completion of enquiry conducted against you by the Enquiry Committee, for which you were given opportunity of hearing vide office communication No.SO(Estt)FE&WD/1-50 (83)/PF/2015/6283-9, dated 04th July, 2017: **and;**

(ii) on going through the findings of the Enquiry Committee, the material on record and other connected papers including your defence before the Enquiry Committee:

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

(iii) Inefficiency.
(iv) Misconduct.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalties of Removal from service

under rule-14(4)(b) of the Rules ibid.

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

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

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

(Muhammad Azam Khan)

(28)

ANNEXURE "F"

BEFORE THE HONORABLE CHIEF SECRETARY, GOVERNMENT OF KHYBER PAKHTUNKHWA

(Through Proper Channel)

Subject: **SHOW – CAUSE NOTICE.**
Memo: Reference is made to Section Officer Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Letter No. SO(Estt)FE&WD/1-50(183)/2017 dated 14th December, 2017.

Respectfully showeth,

With humble submissions, I have the honor to bring in your kind notice that a show – cause notice as per above quoted memo has been served upon me consequent to recommendations of the enquiry committee concerned.

Respected Sir,

Through recommendations of the enquiry committee seven charges have been inquired/investigated against me and wishfully concluded as under:-

CHARGE NO. 1

I was implicated for planting over improper site i.e. along River Panjkora at "*Shamardin*", a place in Dir Lower District. It has further been alleged that success percentage of plantation was low.

Respected Sir,

Plantation being adaptive science is a matter of trial and error i.e. replacement of failed plants. The practice prevailed and as evident from recent Monitoring and Evaluation Report of WWF Pakistan, 92% success has been reported (F/A). Also on the directives of Conservator of Forests, Malakand West Forest Circle, Timergara, Sub Divisional Forest Officer, Timergara inspected the site on 22/11/2017 and submitted his report which is too appreciable having survival percentage of 91% (F/B).

Secondly, the afforestation was carried out as an integrated function and in a good faith. The afforestation is adjacent to the main Dir – Chitral high way which has severely been damaged due to river action during last year flood. The intended purpose was to provide safety to road in terms of Soil Stabilization.

"As neither latest reports of the area have been consulted (F/A & F/B) nor any visit paid, therefore the findings of the learned committee are at variance to the facts".

CHARGE NO. 2

It is submitted that the learned enquiry committee formed its opinion on the basis of enquiry report by Divisional Forest Officer, Hafiz Muqtada Shah and Mr. Raees Khan Divisional Forest Officer. This report has been found to be against the facts on ground and record and under this situation the Conservator of Forests, Malakand West Forest Circle, Timergara reconstituted a committee vide Office Order No. 10 dated 11/10/2017 (F/C).

The newly constituted enquiry committee submitted its report on 11/12/2017 and conceded to the number of plants already communicated by me and no difference was reported. The said report was endorsed to Divisional Forest Officer, Lower Dir Forest Division vide Conservator of Forests, Malakand West Forest Circle, Timergara letter No. 3036/B&A dated 12/12/2017 for his views/comments (F/D) who also confirmed the figures of the newly constituted committee vide his letter No. 3018/Acctt: dated 14/12/2017 (F/E).

"Since the report of Divisional Forest Officer Muqtada Shah, and Divisional Forest Officer Raees Khan has already been proved against the record by the newly constituted committee and confirmed by the sitting Divisional Forest Officer, Lower Dir, therefore the opinion formed by the learned committee based on an incomplete report is also against the norms of justice".

CHARGE NO. 3

The committee formed its opinion on the following points:-

i. That 48.76% CNIC, address and Cell Numbers of the farmers are missing.

ii. That the photog aphs have not been presented

iii. That the distribution photos have not been uploaded on BTAP website.

Respected Sir,

It is most humbly stated that the figure mentioned as 48.76% is incorrect; also the learned committee did not ask me to provide photographs. Had it been desired by the committee I would have presented the photos of the plants distribution ceremonies. Also being a technical matter the committee did not verify facts on ground. The distribution functions have been uploaded on the social media which can be verified even now from the website. In fact what is written in the enquiry report has never been discussed.

Furthermore free distribution of plants is fully evidenced in the following:-

i. During distribution process most of the local councilor of villages concerned has been involved. Proper record has been kept updated for monitoring purpose of both internal and external agencies.

ii. The then Divisional Forest Officer, Lower Dir addressed a letter to District Nazim, Dir Lower wherein it was requested to involve the local councilors regarding verification of sapling freely distributed at each village.

iii. The sitting Divisional Forest Officer, Lower vide office order No. 24 dated 12/09/2017 **(F/F)** Dir has constituted a committee for verification of the distribution of plants in Timergara Forest Sub Division so that payment could be made. The committee so constituted accordingly has been submitting its report to Divisional Forest Officer, Lower Dir and uptil now no irregularity has been noticed.

"The enquiry committee did not bother to pay visit to Timergara Sub Division for verification of this technical aspect of "Billion Trees Afforestation Project", rather they only relied on papers. Had it been visited by the committee, the findings might not have been the same. Also if there was any irregularity, the committee constituted by Divisional Forest Officer, Lower Dir, for verification of plants and final payment to the private nursery growers (F/F), would have reported the same but they could not find anything after proper verification. *Furthermore, it was reported in writing and also during personal hearing, the committee was informed that payment has not been made to nursery grower but they did not verify that and recommended recovery from the undersigned*".

CHARGE NO. 4

The charge is baseless. In fact, the closure area was much above the site where Worthy Secretary Forestry, Environment & Wildlife Department had paid visit.

The learned enquiry committee has formed its opinion on the telephonic conversation and report of the Chief Conservator of Forests, Malakand Region – III, Swat. The learned committee in its findings wrote "***Charge seems to be hold true***", this finding does not hold the charge squarely proved but seems to hold true which appears to be inconclusive.

The Chief Conservator of Forests, Malakand Region – III, Swat is his statement, as recorded by the learned committee, concedes that the compartment boundaries are very well defined in the Working Plans. This very statement irrevocably confirms that the Chief Conservator of Forests, Malakand Region – III, Swat did not see the actual boundaries on spot.

The factual position is that the closure has been made in consultation with the local Village Development Committees (VDC) and the Scrub areas have been left out for grazing of the local animals in consultation with VDC.

> **"The committee enquired only from Chief Conservator of Forests, Malakand Region – III, Swat who formulated my charge sheet. Had it been enquired from the then Divisional Forest Officer, Lower Dir, (because he was my superior at that time) he would have agreed to my stance as he knows the basics of Lower Dir Forest Division and the circumstances might not have been the same as reported by enquiry committee. This shows biasness on part of enquiry committee".**

CHARGE NO. 5 & 6

These charges pertain to doors' and windows' frames. This timber as conceded by the committee under discussion of allegation No. 6 that my father presented a genuine receipt of timber purchased from a sale depot. The committee in its statement under discussion narrates that the Divisional Forest Officer, Lower Dir confirmed that the depot from where the timber had been purchased was registered with Divisional Forest Officer, Lower Dir vide office order No. 53 dated 28/02/2012 but till date the owner of the sale depot failed to renew his registration. Therefore the timber business carried out by Rehman Wood Industries is illegal and legal action is being initiated against the sale depot owner.

> **"The timber purchased was not for commercial purpose rather that was for domestic use. Proper procedure was adopted and covered under legal documents. Also that was a meager amount and onus of guilt cannot be attributed through any accepted legal standard. Furthermore the registration of sale depot has not been cancelled as per provision of the Forest Ordinance 2002 (Section 69 of Forest Ordinance, 2002 (F/G) and Clause 3 sub – clause 5 of Sales, Sawing and Processing of Timber Rules, 2004) and rules made thereunder (F/H). Therefore the timber purchased cannot on any score be termed as illegal because it has been purchased from a functional sale depot".**

Therefore the findings of the learned enquiry committee are biased in the light of law/rules on the subject.

CHARGE NO. 7

The allegation is quite contrary to the fact that severe drought was witnessed in the year 2016. Heavy failure occurred as a result of no rain shower but continuous efforts were resumed towards improvement in the afforestation area. Latest monitoring report submitted by Divisional Forest Officer, Lower Dir to enquiry committee shows that the area is now in a pretty good condition. Also failure is a natural phenomena and continuous replacement of plants is done after failure in afforestation site.

Furthermore the enquiry committee in its report has conceded to the fact that the area of the afforestation site is not more than the charged area. Also it is mentioned that replacement of failure has been made which also concedes to the efforts of me and my staff.

The learned committee has also mentioned in their findings that the charge partially holds true. This itself speaks of uncertainty on part of the committee.

> **"It was the duty and responsibility of enquiry committee to visit the said afforestation but they did not do so. Also the enquiry committee rejected the report submitted by Divisional Forest Officer, Lower Dir (departmental representative) and recorded their own observations in a**

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doubtful manner. It is worth mentioning that proper maintenance has been carried out and the area of the said afforestation is complete which clarifies that there is no irregularity on part of me and my staff.

Respected Sir,

It is, therefore, most humbly prayed that on the acceptance of reply to instant show-cause, the show-cause may be set aside and I may kindly be exonerated from the above charges, please.

It is further prayed that I wish to be heard in person for more elaboration of facts, if allowed please.

Dated: 22/12/2017

MUHAMMAD RASHID
SUB DIVISIONAL FOREST OFFICER
BPS – 17

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ANNEXURE "G"

GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

NO.SO(Estt)/FE&WD/1-50 (183)/PF
Dated Peshawar the, 16th July, 2018

To

The Chief Conservator of Forests,
Malakand Forest Region-III,
Saidu Sharif, Swat.

Subject: - **DISCIPLINARY PROCEEDINGS AGAINST MR. ASFI ALI SHAH AND MUHAMMAD RASHID, SUB DIVISIONAL FOREST OFFICERS (BS-17), FOREST DEPARTMENT, KHYBER PAKHTUNKHWA**

I am directed to refer to your letter No: 7836/E, dated 06th June, 2017 on the subject captioned above and to say that the competent authority has imposed minor penalty of withholding of two increments for a period of two years alongwith recovery of pecuniary losses accrued to the Forest Department, Khyber Pakhtunkhwa due to negligence/inefficiency of Mr. Asif Ali Shah and Muhammad Rashid, Sub Divisional Forest Officers (BS-17).

2. In view of above, it is, therefore, requested that the actual amount of pecuniary loss accrued to the Forest Department in the subject case due to the negligence/inefficiency of the said officers may be calculated as per the findings of the inquiry report **(copy enclosed for ready reference)** and furnished to this department **on priority basis** for further course of action, please.

(HAFIZ ABDUL JALIL)
SECTION OFFICER (ESTT)

Endst: No: & date even

Copy is forwarded for information to:-

1. Chief Conservator of Forest, Central Southern Forest Region-I, Peshawar.
2. PS to Secretary, FE&W Department, Khyber Pakhtunkhwa.

SECTION OFFICER (ESTT)

OFFICE OF THE
DIVISIONAL FOREST OFFICER,
LOWER DIR FOREST DIVISION,
TIMERGARA
Phone No.0944-881715

No 543 /G: Dated Timergara the 08 / 8 /2018

To

1. SDFO Timergara.
2. Raza Khan Forest Guard.

SUBJECT: **DISCIPLINARY PROCEEDING AGAINST MR.ASIF ALI SHAH AND MUHAMMAD RASHID SUB DIVISIONAL FOREST OFFICERS (BPS-17) FOREST DEPARTMENT KHYBER PAKHTUNKHWA.**

Memo:.

Enclosed kindly find herewith Section Officer Litigation Government of Khyber Pakhtunkhwa Forestry, Environment and Wildlife Department letter No.SO(Esstt)/FE&WD/1-50 (183)/PF/7305-7 dated 16.07.2018 which is self contained and self explanatory. You are therefore, requested to asses the actual amount of pecuniary loss accrued to the Forest Department in the subject case, and may be calculated as per the findings of the enquiry report and furnished the same for further course of action.

Encls:as above.

Divisional Forest Officer,
Lower Dir Forest Division,
Timergara

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OFFICE OF THE SUB DIVISIONAL FOREST OFFICER TIMERGARA FOREST SUB DIVISION AT TIMERGARA.

To

The Divisional Forest Officer,
Lower Dir Forest Division,
At Timergara.

No. 21 /T Dated the Timergara 24 /08/2018

Subject: **DISCIPLINARY PROCEEDING AGAINST MR.ASIF ALI SHAH AND MUHAMMAD RASHID SUB DIVISIONAL FOREST OFFICERS (BPS-17) FOREST DEPARTMENT KHYBER PAKHTUNKHWA.**

Memo:

Reference your letter No.543/G: dated 08.08.2018.

Enclosed kindly find herewith detail report on the subject for favour of further necessary action in your office as desired please.

Encls:as above:

Sub Divisional Forest Officer,
Timergara forest Sub Division,
At Timergara

ANNEXURE "H"

(35)

OFFICE OF THE
DIVISIONAL FOREST OFFICER,
LOWER DIR FOREST DIVISION,
TIMERGARA
Phone No.0944-881715

No 780 /Acctt: Dated Timergara the 27/8/2018

To

The Conservator of Forests,
Malakand Forest Circle West,
At Timergara.

SUBJECT: **DISCIPLINARY PROCEEDING AGAINST MR.ASIF ALI SHAH AND MUHAMMAD RASHID SUB DIVISIONAL FOREST OFFICERS (BPS-17) FOREST DEPARTMENT KHYBER PAKHTUNKHWA.**

Memo:.

Reference your endorsement No. 671-72/E, dated 02.08.2018.

It is submitted that the subject mentioned case was endorsed to M/S Rafiqullah SDFO Timergara and Raza Khan Forest Guard to assess the actual amount of pecuniary loss accrued to the Forest Department in the subject case and may be calculated as per the findings of the enquiry report. In response they have submit their detail report which is self contained and self explanatory (Copy enclosed). From the perusal of the report it is clear that no financial losses have been accrued to the Department in the instant case.

Therefore, the report is submitted for favour of further necessary action in your office as desired please.

Encl.As.Above

Divisional Forest Officer,
Lower Dir Forest Division,
Timergara

DISCIPLINARY PROCEEDING AGAINST MR.ASIF ALI SHAH AND MUHAMMAD RASHID SUB DIVISIONAL FOREST OFFICERS (BPS-17) FOREST DEPARTMENT KHYBER PAKHTUNKHWA.

That the DFO Lower Dir directed M/S Rafiqullah SDFO Timergara and Raz Khan Forest Guard to asses the actual amount of pecuniary loss accrued to the Fores Department in the subject case and may be calculated in the light of findings of the Enquiry Repo furnished by the Enquiry Committee vide Divisional Forest Officer Lower Dir Forest Divisio Timergara letter No. 543/G: dated 08.08.2018.

From perusal of the findings of Enquiry Report, in the instant case we hav personally inspected the sites wherein irregularities detected/reported and Charge Sheet issue against Mr. Muhammad Rashid SDFO and the allegations are discussed one by one as under:-

1. **Allegation-I**

That the River Side Plantation Area at Shammardin planted during 01/2016 to the tune c 12 Ha Charged in 03/2016 vide Muster Roll No.171/2015-16 for Rs.241500/- was inspecte on 13.08.2018 personally and found that:-

- The area measured and found 13 Ha on ground.
- The area on plants is 11.66 Ha.
- Total number of plants is 12535 Nos.
- The overall survival %age is 80%.

Therefore, there are no financial losses accrued to the Govt: (Annexed-A).

2. **Allegation-II**

That the Divisional Forest Officer Lower Dir letter No.4466-68/E, dated 14.04.2017 wa issued direction to SDFO Timergara, Jandool and Chakdara and copy endorsed to Chie Conservator Forests Malakand-III and Conservator of Forests Malakand Forest Circle Wes at Timergara to clarify/justify the differences and detail so that the problem could b resolved based on realist figure duly accounted for (Annexed -B).

Accordingly, the Conservator of Forests Malakand Forest Circle West at Timergar constituted committee comprising of Divisional Forest Officer Upper Dir Forest Division an Divisional Forest Officer Dir Kohistan Forest Division with the following TORs.

i. To check the planting stock raised in Departmental and Privat Nurseries during Phase-II (2016).
ii. To check the record and ascertain the species wise planting stoc fit and un-fit.
iii. To check from record the further utilization of planting stock i Block Plantation, Woodlots and Free distribution.

The committee submitted his enquiry report with the direction that it should be ensured b Divisional Forest Officer Lower Dir that payment for the less/un-fit/non production c 6142672 Nos of Plants in Private Nurseries is not disbursed else to recover the same fron the defaulted Nursery Growers (Annexed-C). The Conservator of Forests Malakand Fores Circle West at Timergara endorsed the said report to Divisional Forest Officer Lower Di Forest Division for detail comments vide his office No.450/B&A, dated 19.07.2017 whic was further endorsed to all SDFOs by Divisional Forest Officer Lower Dir vide No.310 12/Acctt: dated 20.07.2017.(Annexed-D)

Similarly, all the SDFOs submitted their detail joint clarification report regarding plants raised in Departmental Nurseries and Private sector and subsequently utilization in Block Plantation, Woodlots and Farm Forestry (Annexed-E). Furthermore, the Divisional Forest Officer Lower Dir also agreed with the report of SDFOs and requested the Conservator of Forests Malakand Forest Circle West at Timergara for de-novo enquiry vide letter No.1607/Acctt: dated 09.10.2017 (Annexed-F).

Consequent upon the report of Divisional Forest Officer Lower Dir, the Conservator of Forests Malakand Forest Circle West Timergara re-constituted the committee comprising of Mr.Raees Khan DFO Upper Dir and Mr.Perveez Manan DFO Malakand vide Office Order No.10 dated 11.10.2017 (Annexed-G). Lastly the said committee checked all the relevant record and submit his detail report (Annexed-H). That the said report was endorsed to Divisional Forest Officer Lower Dir for comments vide Conservator of Forests Malakand Forest Circle West letter No.3036/B&A, dated 12.12.2017 (Annexed-I). Keeping in view the Divisional Forest Officer Lower Dir agrees with the report stated that the committee have incorporated the missing figure which encompasses all previous achievements of BTAP vide letter No.3018/Acctt: dated 14.12.2017 (Annexed-J). Thus there was found no losses to provincial ex-chequer.

3. **Allegation-III.**

That the Farm Forestry/Distribution of Plants under BTAP was also verified by the committee mentioned in detail under Allegation-II above. Thus no losses accrued to the Department on account of Farm Forestry.

4. **Allegation-IV.**

That during the visit of Worthy Secretary Forestry, Environment and Wildlife Department Government of Khyber Pakhtunkhwa on 08th April, 2017 to Nasafa Closure Compartment No.14 and appreciated the natural re-generation. The Goat and Sheep grazing in the area was allotted for grazing seen by the Chief Conservator of Forests Malakand Forest Region-III Swat and no damage done to the Closure and also justified by the VDC (His statement are enclosed)(Annexed-K). Furthermore, GPS Maps of Compartment/Closure are enclosed herewith (Annexed-L) which clearly speak the area reserved for grazing.

5. **Allegation-V**

That the allegation regarding Frame of large size Gates, Doors and Windows has partially been agreed by the committee hence, no assessment regarding damage to the Department is calculated.

6. **Allegation.VI.**

As mentioned under allegation-V above.

7. **Allegation-VII**

That we have inspected the Shalpalam Area on 13.08.2018 physically and found:

- That the area has been charged 20 Ha through Muster Roll No.39/2015-16 during 01/2016 a/c for 03/2016 for Rs.402500/-
- The area on GPS is 29 Ha.
- That total area on plants is 21 Ha.
- That the overall survival %age is 70%.

From perusal of the above, it clearly shows that no financial losses has been accrued to the Department (Copy of GPS Maps and Coordinate is enclosed herewith Annexed-M).

Therefore, the report is submitted for favour of further necessary action please.

Mr.Raza Khan
Forest Guard

Mr.Rafiqullah
SDFO Timergara

ANNEXURE "I"

(39)

GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar: 13th September, 2018

NOTIFICATION

9483-90

No.SO(Estt)FE&WD/I-50(183)/2k18: WHEREAS, Muhammad Rashid, Sub Divisional Forest Officer (BPS-17) Forest Department Khyber Pakhtunkhwa was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the charges as mentioned in the Charge Sheet and Statement of Allegations dated **19/06/2017**, served upon the said officer;

AND WHEREAS, an Enquiry Committee comprising Mr. Tashfeen (PMS BS-18), Project Director, Establishment of Housing Foundation for Govt: Servants, Housing Department Khyber Pakhtunkhwa and Mr. Sher Nawaz, Chief Conservator of Forests (BS-20)/Managing Director, FDC was constituted to conduct the inquiry against the said accused officer;

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

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

NOW, THEREFORE, the Competent Authority, after having considered the charges, evidence on record, findings of the Enquiry Committee, the explanation of the accused officer, hearing him in person and exercising his powers under Rule-14(5)(ii) read with Rule 4(1)(a) (ii) & (iii) of the ibid rules, has been pleased to impose minor penalties of ***"Withholding of two increments for two years alongwith recovery of the pecuniary loss to be calculated by the Forest Department"*** as per the findings of inquiry committee and recover the same from Muhammad Rashid, Sub Divisional Forest Officer (BPS-17) Forest Department.

CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

Endst: No.SO(Estt)FE&WD/I-50(183)/2k18 **Dated Peshawar: 13th September, 2018.**

Copy is forwarded to:-

1. Chief Conservator of Forests Central & Southern Forest Region-I, Peshawar due to negligence of the above named officer.
2. Chief Conservator of Forests, Malakand Forest Region-III, Swat w/r to his letter No: 917/E, dated 5th September, 2018 with the request to calculate and recover the amount of pecuniary loss sustained to Forest Department Khyber Pakhtunkhwa as per the findings of the inquiry committee and take up the case with B&A Cell for recovery of the same from the said officer.
3. Director Budget & Accounts Cell, Forestry, Environment & Wildlife Department.
4. Programmer, B&A Cell of FE&W Department.
5. PS to Secretary Forestry, Environment & Wildlife Department.
5. Muhammad Rashid, Sub Divisional Forest Officer C/O Deputy Director (Planning) Cell of FE&W Department. Please acknowledge receipt.
7. Personal file of the officer concerned.
8. Master file.
9. Office order file.

(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT)

BEFORE THE HONOURABLE CHIEF MINISTER, KHYBER PAKHTUNKHWA

Subject: - Appeal against Order passed by the Honourable Chief Secretary, Khyber Pakhtunkhwa vide Section Officer, Forestry, Environment & Wildlife Department Notification No. SO(Estt)FE&WD/1-50 (183)2k18/9482 – 90, dated 13th September 2018.

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Respectfully sheweth,

With humble submission, I have the honor to bring in your kind notice that I was implicated for 7 Nos. charges **(F/A)** at Timergara Forest Sub Division, Lower Dir Forest Division to which I remained posted. I submitted detailed explanations with justifiable reasons **(F/B)** but unfortunately the enquiry committee did not accede to my explanations and formed their valued opinion on personal assumptions without any irrevocable fact. Subsequently, on reception of show – cause notice from the competent authority **(F/C)**, wherein I was directed to explain as to why major penalty of removal from service may not be imposed upon me, I explained every single detail with cogent reasons & relevant facts in response to the show - cause notice served upon me **(F/D)**. The competent authority after considering the enquiry report submitted by the enquiry committee, finally imposed minor penalty of ***"withholding two increments for two years along with recovery of the pecuniary losses to be calculated by Forest Department"*** from me **(F/E)**.

Background

Before commenting on the charges proved by the enquiry committee unlawfully against me, I would like to elaborate that the enquiry committee constituted by the competent authority **(F/F)**, formed their opinions on their personal assumptions. It did not base the enquiry report on documentary proof nor did the departmental representative (prosecutor) provide any solid proof against me. From time to time, during the process of enquiry, every single detail had been shared with the enquiry committee but not even one was acceded to, and enquiry report **(F/G)** was submitted by the enquiry committee based on their own will and mere assumptions. It is further added that if any irregularity was involved, the concerned officials of Lower Dir Forest Division would have reported the same without any hesitation as out of 7 Nos. of charges in my charge sheet, in 5 Nos. of charges, government money had been directly involved. Enquiries are conducted by following proper procedures, but the enquiry conducted by the enquiry committee is a clear-cut proof of biasness and malafide. Also, after issuance of show – cause notice by the competent authority, every documentary proof was provided in response to the show – cause notice but the penalty imposed by the competent authority is at variance to the facts on ground.

It is pertinent to add that after finalization of enquiry, vide Section Officer (Estt.) FE&W Department Letter No. SO(Estt.)/FE&WD/1-50(183)/PF, dated 16th

July 2018 **(F/H)**, the Chief Conservator of Forests, Malakand Forest Region – III, Swat was requested to calculate the actual amount of pecuniary loss accrued to the Forest Department. In response the Divisional Forest Officer, Lower Dir Forest Division vide letter No. 780/Acctt: dated 27/08/2018 **(F/I)** submitted his detailed report wherein it is mentioned in every allegation that ***no financial losses have been accrued to Forest Department in the instant case.*** The same report was shared with Section Officer (Estt.) FE&W Department by the Chief Conservator of Forests, Malakand Forest Region – III, Swat vide letter No. 917/E, dated 5th September 2018, which clarifies that the enquiry was hypothetical and ridiculous. It is also added that when the subject notification **(F/E)** was issued, a copy of it was sent to the Chief Conservator of Forests, Malakand Forest Region – III, Swat to calculate and recover the amount of pecuniary loss sustained to Forest Department. The notification was then sent to Divisional Forest Officer, Lower Dir through Conservator of Forests, Malakand West Forest Circle, Timergara. The same response, which was sent vide **(F/I)** by Divisional Forest Officer, Lower Dir, was submitted to Conservator of Forests, Malakand West Forest Circle, Timergara through **(F/J)** who further transmitted it to the CCF – III, Swat vide **(F/K)**. All the aforementioned explanation justifies that the enquiry had been made on personal grounds and was conducted on mere assumptions.

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The charge wise explanation is given as under: -

CHARGE NO. 1

Originally the charge was about non-submission of replies to the explanations called by the Conservator of Forests, Malakand West Forest Circle, Timergara, which was replied with supporting documents through reply to charge sheet that proper responses had been communicated and therefore the charge was baseless and hypothetical. Afterwards, the charge was proved against me for planting over unsuitable site i.e. along River Panjkora at "Shamardin" in Timergara Forest Sub Division, Lower Dir Forest Division. It had further been alleged that survival percentage of the plantation was low. It is important to point out that despite providing all the relevant record to the enquiry committee and during personal hearings, the actual survival percentage of the riverside plantation was not taken into consideration which was 92% and 91% respectively, as reported by WWF in January, 2016 **(F/L)** and concerned Sub Divisional Forest Officer during the process of enquiry vide letter No. 99/T, dated 25/11/2017 **(F/M)**. It is also added that after finalization of the enquiry, when CCF – III was requested to calculate the amount of losses sustained to government, the DFO Lower Dir as mentioned in the allegation No. 1 of **(F/I)**, reported that <u>there are no financial losses accrued to the government</u>. The same report **(F/M)** which was submitted by the departmental representative during personal hearing and also by the undersigned in response to the show – cause notice, was enclosed with the report by the DFO, Lower Dir as proof of the riverside plantation having survival percentage of 92%. The aforementioned discussion clearly speaks biasness on part of

the enquiry conducted on personal grounds and the penalty imposed is at variance to the facts on ground.

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CHARGE NO. 2

Under this charge, I was implicated for shortfall in planting stock reported by Divisional Forest Officer, Lower Dir Forest Division vide letter No. 4466-68/E, dated 14/04/2017 **F/I(b)**. It was responded through reply to the charge sheet and also in response to the show-cause notice that the above-mentioned letter is not related specifically to Timergara Forest Sub Division and that the DFO Lower Dir had sought explanation from all the SDFOs' for resolution of realistic figures. It is added that in response of the letter mentioned above, the Conservator of Forests, Malakand West Forest Circle, West at Timergara constituted committee comprising DFOs' Upper Dir & Dir Kohistan to probe into the matter of shortfall in Lower Dir Forest Division. The committee submitted its enquiry report **F/I(c)** which was endorsed to DFO Lower Dir for detailed comments vide letter No. 450/B&A, dated 19/07/2018 which was further endorsed to all SDFOs vide DFO Lower Dir letter No. 310-12/Acctt: dated 20/07/2018 **F/I(d)**. Similarly, all the SDFOs submitted their detailed joint clarification report in respect of different activities carried out under Billion Trees Afforestation Project (BTAP) wherein the report of DFOs' Upper Dir & Dir Kohistan was bluntly negated **F/I(e)**. The DFO Lower Dir also agreed with the report of all SDFOs in his jurisdiction and requested the Conservator of Forests, Malakand West Forest Circle, Timergara for de-novo enquiry/reverification vide letter No. 1607/Acctt: dated 09/10/2017 **F/I(f)**. Consequent upon the report of DFO Lower Dir, the Conservator of Forests, Malakand West Forest Circle, Timergara reconstituted the committee comprising Mr. Raees Khan DFO Upper Dir & Mr. Pervez Manan DFO Malakand vide Office Order No. 10, dated 11/10/2017 **F/I(g)**. The said committee checked all the relevant record and submitted its detailed report **F/I(h)**. The said report was then endorsed to DFO Lower Dir for comments vide Conservator of Forests, Malakand West Forest Circle, Timergara letter No. 3036/B&A, dated 12/12/2017 **F/I(i)** which was agreed upon by DFO Lower Dir vide letter No. 3018/Acctt: dated 14/12/2017 **F/I(j)**.

It is important to mention that the same facts, explained by me throughout the course of enquiry which were not acceded to, were also explained by Divisional Forest Officer, Lower Dir Forest Division under allegation No. 2 of (F/I) that there are no losses sustained by the government in the instant case.

CHARGE NO. 3

This charge was related to the free distribution of plants. The enquiry committee formed it opinion on the basis of false assumptions and did not bother to pay visit to Timergara Forest Sub Division for verification of plants on ground. Throughout the proceeding of enquiry, every minute detail had been shared with the

enquiry officers, but no one assented to the basic facts on ground. It is to add that during tenure of the undersigned, free distribution of plants had been carried out but after abrupt unlawful suspension and initiation of enquiry proceedings, its verification and payment remained at the disposal of my predecessor who was not so naive to verify payment bills without verification of the plants on record under his jurisdiction. (43)

If losses were involved and if any irregularity was involved in respect of farm forestry/free distribution of plants, DFO Lower would not have reported under allegation No. 3 of the detailed report (F/I) that there are no losses involved in the instant enquiry, submitted in response of notification at (F/E).

CHARGE NO. 4

The charge was baseless and hypothetical; in fact, the area where Secretary Forestry, Environment & Wildlife Department had paid visit was much below the closure site. Under this charge, the enquiry committee formed its opinion on the pretext of telephonic discussion with Mr. Qazi Mushtaq the then Chief Conservator of Forests, Malakand Forest Region – III, Swat who framed my charge sheet on personal grounds, though he was not authorized to formulate my charge sheet. Also, the enquiry committee in its report mentioned that the "charge seems to be hold true" which does not hold the charge squarely proved and appears to be inconclusive. In reply to the show – cause notice, it was also explained that the CCF – III, in his statement, as recorded in the enquiry report, concedes that the compartment boundaries are very well defined in the Working Plans. This very statement irrevocably confirms that the CCF – III, did not see actual boundaries on spot. It was also reported that had it been enquired from the relevant officials, i.e. DFO Lower Dir and field staff, the circumstances would not have been the same.

Unnecessary details apart, though my explanations and documentary proof were not accepted, the DFO Lower Dir under allegation No. 4 of (F/I) conceded to my stance when he was assessing the losses sustained by the government under the subject case. He mentioned in his report that during visit of the Secretary FE&W Department, he appreciated the natural regeneration. The cattle grazing in the area were left for grazing and no damage had been done to the enclosure. Statement of concerned VDC & Map of the enclosure was also enclosed by the Divisional Forest Officer, Lower Dir which is available at F/I(k) & F/I(l).

CHARGE NO. 5 & 6.

This charge was related to doors' & windows' frames about which the enquiry committee, under discussion in the enquiry report conceded that a genuine

receipt of timber purchased from a registered sale depot was presented before the enquiry committee. The committee under discussion in the enquiry report further narrated that the DFO Lower Dir also confirmed that the depot from where the timber had been purchased was registered with DFO Lower Dir vide office order No. 53, dated 26/02/2012 **(F/N)** but till date the owner of the sale depot failed to renew his registration. Therefore, the timber business carried out by Rehman Wood Industries is illegal and legal action is being initiated against the sale depot owner. (44)

In reply to the show – cause notice, it was explained that the depot from where timber for domestic purpose had been purchased is a registered sale depot and its registration has not been cancelled as per provisions of the Forest Ordinance, 2002 and rules made thereunder. The prosecutor also did not present any documentary proof regarding cancellation of the Sale Depot. Therefore, the timber purchase cannot on any score be termed as illegal because it has been purchased from a functional sale depot.

It is to be noted that DFO Lower Dir while assessing damage sustained by the govt. narrates under allegation No. 5 of the report (F/I) that the allegation regarding frame of large size gates, doors, and windows has partially been agreed by the committee hence no assessment regarding damage to the department is calculated. This clarifies that the charge was hypothetical and ridiculous.

CHARGE NO. 7

This charge was framed on the basis of false assumptions and ocular estimations that the area of the afforestation site at Shalfalam is not more than 10 ha. Also it was reported in charge sheet that the area was completely failed. It was responded through reply to the charge sheet with documentary proof that the area of the afforestation site is more than the charged area. The committee was also requested to pay visit to the concerned afforestation site so that site inspection may be done. The enquiry committee under discussion in the enquiry report partially proved the charge on the basis of a report submitted by the departmental representative Mr. Saleem Marwat DFO and reported that although the area is complete but 70% replacement had been carried out in the afforestation area. This nature and report of the enquiry committee proves their biasness and partiality. It is added that in response to the show – cause notice, it was reported that the enquiry committee in its report had conceded to the fact that the area of the afforestation site is not more than the charged area. Also it was reported that replacement of failure had been carried out which also concedes to my efforts.

Though all the justifications & explanations provided during the course of enquiry proceedings, were not considered, but when the DFO, Lower Dir was directed to calculate the losses

sustained by the Govt. in the instant enquiry, he reported under allegation No. 7 "F/I (m)" that the charged area is 20 ha, measured area is 29 ha while the overall survival percentage is 70%. This very statement irrevocably confirms that the findings of the enquiry committee and the penalty imposed are at par to the facts on ground.

(45)

Respected Sir,

In light of the above narrated factual position, the enquiry conducted and penalty imposed is unlawful and unjustified. All the evidences and documentary proof provided during the course of enquiry were not accepted, but lately during verification of the losses sustained by the government, the same had been provided that no losses had been accrued in the instant case.

Respected Sir,

It is most humbly prayed that on the acceptance of the subject appeal, the enquiry report and subsequent decision may be set aside and the undersigned may be exonerated from the charges, please.

Dated: - 11/10/2018

MUHAMMAD RASHID
SUB DIVISIONAL FOREST OFFICER
(Attached with Deputy Director Planning,
Forestry, Environment & Wildlife Department)
(BPS – 17)

ANNEXURE "K"

GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

NO.SO(Estt)/FE&WD/I-50 (183)/2018
Dated Peshawar the, 17th December, 2018

(46)

To

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

P-331

Subject: - **APPEAL AGAINST NOTIFICATION NO: SO (ESTT)/FE&WD/1-50 (183)/2018/9482-90 AND SO (ESTT)/FE&WD/1-50 (183)/2018/9504-12, DATED 13TH SEPTEMBER, 2018**

I am directed to refer to your letter No: 1341/E, dated 22nd October, 2018 on the subject captioned above and to say that appeals of Muhammad Rashid, Sub Divisional Forest Officer (BS-17), the then SDFO Timergara Forest Sub Division now SDFO Hangu Forest Sub Division has been considered and rejected by the Appellate Authority.

(HAFIZ ABDUL JALIL)
SECTION OFFICER (ESTT)

Endst: No: & date even

Copy is forwarded for information to:-

1. Chief Conservator of Forests, Malakand Forest Region-III, Saidu Sharif, Swat.
2. Conservator of Forests, Malakand West Forest Circle, Timergara at Dir.
3. Mr. Muhammad Rashid, Sub Divisional Forest Officer, Hangu Forest Sub Division.
4. PS to Secretary, FE&W Department, Khyber Pakhtunkhwa.

1362
24.12.2018
SECTION OFFICER (ESTT)

No. 2199 /E, Dated Peshawar the 26 /12/2018.

Copy forwarded to Muhammad Rashid SDFO Hangu C/O Divisional Forest Officer Kohat Forest Division Kohat for information.

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

(47)

OFFICE OF THE SUB DIVISIONAL FOREST OFFICER TIMERGARA

FOREST SUB DIVISION

927
27-11-17

To

Divisional Forest Officer
Lower Dir Forest Division
At Timergara

No 99 /T Dated the Timergara 25/11/2017

SUBJECT: EXPLANATION OF SHOW CAUSE NOTICE THEREOF
Memo Reference your letter no 2241/Actt dated 16/11/2017

Enclosed please find herewith information regarding Shamardin River Side plantation on prescribed format in the subject case for favor of information and further necessary action, as desired please.

Sub Divisional Forest Officer
Timergara Forest Sub Division

Actt:
May be communicated to CF MKD W
24/11

48

MONITORING REPORT RIVER SIDE PLANTETION SHAMAREN

Activity type: River Side Plantetion Name of Inchareg:Khista Nabe

Forest Division: Lower Dir Forest Sub Division; Temergara

Location: Shamarden Planted Area 13 Hectares

Technical parameters							Remarks
i.	Central Co ordintes		X		Y		
			3105138		1185250		
ii.	Sample Plot 50 Feet		S.No	Number of Fit plants	Number of Failed Plants	Total Number Of Plants	Total Area 13 Ha Total Area On Plants 10.75 Ha
			1	50	06	56	
			2	73	07	80	
			3	56	04	60	
			4	78	03	81	
			5	47	05	52	
			6	48	10	58	
	A	Pits Density	65 Plants in 50 Feet pie diagram				Requrid 78 Plants
	B	Spacing	10*10				
	C	Species planted	Eucalyptus,papolar,velo,puli				
	D	Number of Total Plants	10510 Plants About				
iii.	Overall survival %age		91 %				
iv.	Monitoring Team		Mr.Raza khan Forest Guard &Rafeq Ullah SDFO Timergara Forest Sub Division				

It is submitted that We have visited to the River SidePlantetion Shamarden On 22 / 11 /2017 And measured and Assess theStatus of River Side Plantetionas Mentioned Above Monitoring Report are submitted for your kind information and further necessary action.

Raza Khan Forest Guard

Rafiullah.

SDFO Sub Division Temergara

(49)

OFFICE OF THE
DIVISIONAL FOREST OFFICER
LOWER DIR FOREST DIVISION,
TIMERGARA
Phone No.0945-9250105

No. 4466-68 Dated Timergara the 11/7/2017

To

1. SDFO Timergara
2. SDFO Jandool
3. SDFO Chakdara

SUBJECT: PLANTING STOCK.

Memo:

While checking record of this Forest Division following plants have been raised during the year 2016 in Lower Dir Forest Division.

Department Tube =	4211500
Department Bare Rooted=	721600.
Total =	4933100
Private Tube=	13150000
Private Bare Rooted=	1425000
Total =	21466000

As per final report furnish by SDFOs following detail is reported.

Tube=	13598500
Bar Root=	2146500
Total=	15745050

From the above the following short coming have been pointed coming as under.

Tube = 3763000

As per free distribution of plants the following were shown by you.

Timergara=	4001700
Chakdara=	5374070
Jandool=	2615601
Total=	11991371

From perusal of Monitoring report by the appointed team following plants were received from private nurseries.

Timergara=	2000085
Chakdara=	3981539
Jandool=	2448811
Total =	8430435

The difference of 3560936 may be justified.

You have made the following interventions.

Free Distribution of Plants =	11991371
Plantation 2204 Ha =	2369300
Wood Lot 1170 Ha =	1257750
Total =	15618421

The short falls of 5847579 calculated from the raised plants as it stood in July 2016 be clarified.

Prior to the above you have submitted the bills for private nurseries for payment contravening the Monitoring report.

You are therefore directed to clarify the same in detail so that the problem could be resolved based on realist figures dully accounted for.

Divisional Forest Officer,
Lower Dir Forest Division,
Timergara

No. 4469-70/G

Copy forwarded to the:-

1. Chief Conservator of Forest Malakand Forest Region-III Saidu Sharif Swat.
2. Conservator of Forest Malakand Forest Circle Timergara.

(50)

ENQUIRY REPORT REGARDING PLANTING STOCK RAISED UNDER BTAP IN LOWER DIR FOREST DIVISION

A committee of the following officers was constituted by Conservator of Forests Malakand Forest Circle West vide Office order No 15 dated 2/5/2017 to probe/check the planting stock of nurseries (Both Departmental & Private), raised during 2016 under BTAP phase - II in Lower Dir Forest Division with the TORs stated below and to submit its findings within 7 days.

Muqtada Shah DFO Upper Dir (Chairman)
Raees Khan DFO Dir - Kohistan (Member)

TORs

-To check the planting stock raised in Departmental and Private nurseries during Phase-II, (2016),

-To check the record and ascertain the spp: wise planting stock fit and unfit.

-To check from record the further utilization of planting stock for;

i. Block plantation
ii. Wood lots
iii. Free distribution

Proceedings

The committee held its meeting to proceed. As the planting stock raised in nurseries has already utilized and was not available for physically checking the same on spot therefore DFO Lower Dir was requested to supply requisite record for scrutiny and analysis vide letter and subsequent reminders No 5881/G, 6065/G & 93/G dated 18-5-2017, 30-5-2017 & 4-7-2017. To discuss statistics given in the requisite record, a meeting was also convened in the office of DFO Lower Dir Office. The record, supplied vide DFO Lower Dir letter No 85/Acctt dated 5-7-2017 was analyzed and following facts explored.

PRODUCTION OF PLANTING STOCK

Planting Stock shown in nurseries for Monsoon 2016 as per Divisional Progress report (on 28-5-2016)

S. No	Kind of Nursery	No of Plants raised	Remarks
1	Departmental	4952977	Munda, Gambir, Chakdara, Khanpurand Bandagai
2	Private (Additional 2015) nurseries	6000000	Temargarah, Chakdara and Jandool Sub Division
3	Private (Farmer etc)	8575000	-do-
	Total:-	19527977	

Planting Stock shown in nurseries for Spring 2017 as per Divisional Progress report (on 08-12-2016)

S No	Sub Division	Location	Plants raised	Fit Plants
1	Timargarah (Departmental)	Bandagai, Goro	1324550	1324550
2	Chakdara (Departmental)	Chakdara	2470600	2400600
3	Jandool (Departmental)	Munda ,Gambir	1137950	1137650
	Sub Total		4933100	4862800
	Private (All)		14575000	10329016
	G.Total:-		19508100	15192116

(51)

Unfit planting stock in departmental nurseries was 70000and in Private nurseries was 4245904.

UTILIZATION OF AVAILABLE PLANTING STOCK

Planting stock utilized during 12/2016 & 1/2017 as per Divisional BTAP fortnight progress report.

Activity	Months	Area(Ha)	Plants utilized
Departmental Plantation	12/2016 and 1/2017	536	576200

Balance Fit planting stock evaluated in **Private nurseries** as per monitoring report for spring 2017 (on 31-1-2017)

S. No	Sub Division	Fit Plants
1	Temargarah	2000079
2	Chakdara	3983438
3	Jandool	2448811
	Total	**8432328**

Against the 14575000 plants raised in private nurseries, plants production evaluated on 31-1-2017 is8432328 hence reported unfit/less/non production is 6142672 No plants.

Total available Fit planting stock in all nurseries while comparing with report for spring 2017, is as under.

Sub Division	Departmental nurseries	Private nurseries as on 31-1-2017	Total
Temargarah	1324550	2000079	3324629
Chakdara	2400600	3983438	6384038
Jandool	1137950	2448811	3586761
Utilized during 12/16 & 1/2017	--	576200	576200
	4862800	9008528	13871628

Against the above plants production, the SDFOs have reported production/utilization of planting stock till 30-6-2017 as under;

Sub Division	Deptt. planting	Woodlots	Farm Forestry	Beating up	Others	Total	Less production in private nurseries	G total
Temargarah	904075	258175	4001700	181305	479070	5824325	581175	6405500
Chakdara	415850	684045	3514878	-	-	4614773		4614773
Jandool	1000150	391100	2615601	150000	-	4156851		4156851
	2320075	1333320	10132179	331305	479070	14595949	581175	15177124

724321 no planting stock is shown utilized over and above than available fit planting stock at divisional level.

Variations in production/utilization of Stock is as under;

S.#	Sub Division	Plants production	Plants Utilization	Remarks
1	Temargarah	3324629	5824325	2499696 plants(including 479070 plants issued to others) are over Utilized than available fit planting stock
2	Chakdara	6334038	4614773	1769265 plants are un utilized/balance from available fit planting stock
3	Jandool	3586761	4156951	570090 plants are over utilized than available fit planting stock out of which 458168 plants received from Chakdara/Temargara
		576200		Plants Utilization by SDFOs included these plants also.
		13371626	14595949	

FINDINGS

- Over utilization of 2499696 plants in Temargarah and(570090-458168) 111922 in Jandool Sub Division than available fit planting stock needs justification
- 1769265 No Un- Utilized/balance fit planting stock in Chakdara Sub Division needs divisional & justification
- 724321 no planting stock shown utilized over and above than available fit planting stock at divisional level needs justification
- 70000 planting stock shown unfit in departmental nurseries should be utilized as and when become fit for planting.
- It should be ensured by DFO Lower Dir that payment for the Less/unfit production of 6142672 plants in private nurseries is not disbursed else to recover the amount from the defaulted nursery growers

Syed Muqtada Shah
Divisional Forest Officer
Upper Dir Forest Division
Kohistan
(Chairman)

Mr.Rasees Khan
Divisional Forest Officer
Lower Dir Forest Division
Kohistan
(Member)

(53)

:LOWER HAZARA CIRCLE FAX NO.: 09929310333 AM P1

Ph: 0992-9310425 Fax 0992-9310233		DIVISIONAL FOREST OFFICER PATROL SQUAD LOWER HAZARA CIRCLE ABBOTTABAD
No. 28 /PS	Dated Abbottabad the	14.7.2017

The Conservator of Forests
Malakand Circle West
at Timergara

Subject: **OFFICE ORDER NO.15 DATED 02-05-2017/ENQUIRY REPORT THEREOF**

Reference your office No. 6120-23/P&D, dated 02-05-2017

Enclosed please find herewith fact finding enquiry report conducted by the enquiry committee along-with enquiry file from page 01 to 112 for favour of further course of action please.

Encl: As above.

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

No. 450 /B&A dated 19/7/17.
Copy alongwith its enclosures forwarded to Dfo. Lower Dir for information and detail Comments.

C.F Malakand (West)

No. /PS.

Copy forwarded to the :-

(1)- Chief Conservator of Forests, Malakand Forest Region (Region-III) Saidu Sharif Swat for favour of information please.

(2) Divisional Forest Officer Lower Dir Forest Division Timergara for information and necessary action.

(3)- Mr. Raees Khan (Member Committee) Divisional Forest Officer Upper Dir Forest Division at Dodbah for information.

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

Please issue immediately.

(54)

OFFICE OF THE SUB DIVISIONAL FOREST OFFICER, TIMERGARA
FOREST SUB DIVISION, LOWER DIR FOREST DIVISION

To

Divisional Forest Officer
Lower Dir Forest Division
At Timergara

169
25/7/17

No. 04 /T Dated Timergara, Lower Dir the 24/07/2017

SUBJECT: OFFICE ORDER NO. 15 DATED 02/05/2017 – ENQUIRY REPORT THEREOF.

Memo: -

Reference your letter No. 310 – 12 /Acctt. Dated 20/07/2017

It is submitted that the enquiry report received with your letter under reference was thoroughly checked/examined with regards to shortfall/deficiency of planting stock particularly received and utilized from private sector. The detailed point to point clarification is furnished as under:-

1. That the committee has taken the raised and subsequent fits planting stock from the record of DFO Lower Dir. It is imperative to mention that total utilization of plants from private sector is 11442074 Nos. of plants instead of 8432328 Nos. of plants reported by monitoring team constituted by DFO Lower Dir vide office order No. 19 dated 16/01/2017. Keeping in view 1198100 Nos. of plants have been shown utilized over and above than the reported fit planting stock. The said deficiency is occurred due to non actual calculation which was humanly not possible. Also utilization of fit plants was carried out after 3 or 4 months of the reporting which will definitely increase the number of fit planting stock.
2. That the utilization of available fit planting stock before monitoring and evaluation committee from Nov. (2016) upto January (2017) in Block Plantation, Woodlots and Farm Forestry has not been incorporated in the report. Besides the DFO Lower Dir also allotted the target under BTAP which also includes farm forestry to the tune of 354000 Nos. of plants vide his letter No. 960 – 62 /Acctt. dated 27/09/2016. Hence the following interventions have been undertaken prior to the visit of monitoring. The details of which is furnished as under:-

Name of Sub Division	Farm Forestry	Block Plantation	Woodlots	B/Up of failure	Total
Jandool	0	720250	172371	100000	992621
Timergara	354000	698750	188125	90000	1330875
Chakdara	0	376250	200000	110000	686250
Total	354000	1795250	560496	300000	3009746

Similarly in the above referred figures, the enquiry committee has not incorporated the already utilized plants. Furthermore the monitoring committee has not reported the plants utilized/disposed off before their visit despite the same task was also assigned to them as is evident from the report. It is further explained that the enquiry committee has reported the deficiency of 6142672 Nos. of plants in private sector. (Reported of divisional monitoring committee is subtracted from the fit planting stock).

3. Report of the committee regarding utilization of 14595946 Nos. of plants till 30/06/2017 by SDFO's against various interventions is incorrect. In fact the SDFO's have reported in writing to the committee which has not been incorporated the factual position. However the following targets have been achieved upto 30/06/2017 by various sub divisions in Lower Dir Forest Division. The detail of which is furnished as under:-

UTILIZATION OF PLANTING STOCK IN RESPECT OF LOWER DIR FOREST DIVISION							
Sub Division	Utilization						Total Utilization
	Block Plantation	Woodlots	Farm Forestry	Beating Up	Others	Total	
Chakdara	547145	685850	5374070	246921	90000	6943986	16375224
Timergara	904075	258175	4001700	197355	463070	5824375	
Jandool	908375	414950	2615601	221007	0	4159933	
Total	2359595	1358975	11991371	665283	553070	16928294	

4. Moreover the detail of fit planting stock so utilized/received from departmental and private nurseries are tabulated hereunder:-

DETAIL OF FIT PLANTING STOCK IN RESPECT OF LOWER DIR FOREST DIVISION					
Sub Division	Dept. Nurseries	Private Nurseries	Received from other sub division	Provided to other Sub Division	Total
Jandool	1138000	2522683	499250	0	4159933
Timergara	1313550	4510825	0	463070	5361305
Chakdara	2470600	4473386	0	90000	6853986
Total	4922150	11506894	499250	553070	16375224

5. **Overall position of Sub Divisions:-**

i. Overall utilization of fit planting stock available in respect of Timergara Forest Sub Division is 5361305 against 5824375 Nos. of plants. Thus the un-utilized plants were provided to Jandool Forest Sub Division and Warri Forest Sub Division (409250 to Jandool Forest Sub Division and 53820 to Warri Forest Sub Division).

ii. Similarly overall utilization in Jandool Forest Sub Division is 4159933 Nos. of plants against the available fit plants of 3660683 numbers. Hence 499250 Nos. of plants were received from Timergara and Chakdara Forest Sub Division *(Timergara – 409250 and Chakdara – 90000 = Total – 499250)*.

iii. Against 6943986 Nos. of fit planting stock available in Chakdara Forest Sub Division, 6853986 Nos. of plants were utilized in various interventions mentioned above and 90000 Nos. fit plants provided to Jandool Forest Sub Division.

6. Resultantly 3132926 Nos. plants were found less production/unfit in private sector *(Raised 14575000 Nos. of plants and 11442074 Nos. of fit/utilized plants = 3132926 Nos. of plants)*.

Therefore payment to the less production in planting stock with regard to private sector to the tune of 3132926 Nos. plants will not be paid.

The detailed report is submitted for favor of further necessary action as desired please.

Sub Divisional Forest Officer
Timergara Forest Sub Division

Sub Divisional Forest Officer
Chakdara Forest Sub Division

Sub Divisional Forest Officer
Jandool Forest Sub Division

Acn:
To discuss with production of all relevant record
24/7

(57)

OFFICE OF THE
DIVISIONAL FOREST OFFICER,
LOWER DIR FOREST DIVISION,
TIMERGARA
Phone No.0945-9250105

No 1607 ./Acctt: Dated Timergara the 09/10/2017

To

The Conservator of Forests,
Malakand Forest Circle West,
At Timergara.

Subject:- **OFFICE ORDER NO.15 DATED 02.05.2017-enquiry report thereof.**

Memo;

Reference your endorsement No.450/B&A dated 19.07.2017.

It is submitted that due to variation in Fit Planting stock of this division and subsequent utilization during Spring, 2017, your good office constituted a committee vide office order mentioned in the subject cited above. On receipt of enquiry report your good self endorsed the same for detail comments vide letter under reference.

Accordingly clarification/comments were asked from SDFOs vide this office No.310-12/Acctt, dated 20.07.2017. In response they have made their detail clarification jointly vide No.4/T, dated 24.09.2017 (Copy enclosed). Besides, this office also thoroughly checked the said committee report and found the following discrepancies;-

i. That the committee itself admitted that they have relied on the record provided by the DFO office as the planting stock were not available on ground during currency of enquiry. Contrary, they have not incorporated the figure/record provided whereas the Departmental Nurseries raised by SDFO Chakdara were not shown in the report.

ii. That the progress report provided by this office up to 30.06.2017 were also not incorporated in toto as this office has achieved the target of the following interventions with utilization of plants:-

S.No	Activity	Quantity	No of Plants Utilized
1	Departmental Plantation	2204 Ha	2369300
2	Wood Lot	1170 Ha	1257750
3	Farm Forestry	Nos.	11991371
		Total	15618421

iii. That the committee did not incorporate the plants utilized before visit of Monitoring.

Similarly, the findings of the report were also perused and found variations with the record of this office, which are given below:-

A. The Committee has shown over utilization of plants in Timergara and Jandool to tune of 2611618 and on the other hand stated 1769265 plants are still lying in balance in Chakdara Forest Sub Division without any justification, whereas the report furnished by SDFOs neither reflects over utilizations nor any balance planting stock in Chakdara Forest Sub Division.

B. At concluding para of the report, the committee recommended nonpayment of 6142672 plants to private sector and has supported the figure of initial Monitoring committee (total plants raised in Private sector 14575000 minus Monitoring report 8432328 the difference comes to 6142672 which definitely affects the achievements of this Division already reported.

Keeping in view, the above ex-position the Monitoring report is incomplete as they were directed to verify the stock on ground and disposed off if any but they have only reported the avliable stock on ground from the office record. Therefore, it is requested that denovo enquiry may be conducted in the instant case so as the issue could be settled once for all please.

Divisional Forest Officer,
Lower Dir Forest Division,
Timergara

(59)

OFFICE ORDER NO. 10 DATED 11 /10/2017 ISSUED BY MR.SHAUKAT FAYAZ CONSERVATOR OF FORESTS MALAKAND FOREST CIRCLE WEST TIMERGARA.

639
11/10/17

For analysation /verification, the observation of DFO Lower Dir over Committee report constituted vide this office order No. 15 dated 2/5/2017, the existing Committee constituted vide office order referred above, is hereby reconstituted. The Committee should verify the claim of DFO Lower Dir in the light of its previous report and record.

1) Mr. Rasees Khan DFO Upper Dir.
2) Mr. Pervez Manan DFO Malakand

Sd/-
(MR.SHAUKAT FAYAZ KHATTAK)
CONSERVATOR OF FORESTS
MALAKAND FOREST CIRCLE WEST
TIMERGARA.

No. 1836-39 /E,,
Copy forwarded to the:-

1. Chief Conservator of Forest Malakand Forest Region-III Saidu Sharif Swat for favour of information please.
2. Divisional Forest Officer Lower Dir Forest Division Timergara for information and necessary action. He is requested to provide the relevant record to the Committee as and when required..
3. Divisional Forest officer Upper Dir Forest Division Upper Dir for information and necessary action.
4. Divisional Forest Officer Malakand Forest Division at Batkhela for information and necessary action.

Act:
To Produce all relevant record to the Committee
11/10

CONSERVATOR OF FORESTS
MALAKAND FOREST CIRCLE WEST
TIMERGARA.

(60)

ENQUIRY REPORT REGARDING PLANTING STOCK RAISED AND UTILIZED UNDER BTAP IN RESPECT OF LOWER DIR FOREST DIVISION TIMERGARA.

Vide Conservator of Forests Malakand Forest Circle West Timergara office order No.15 dated 02.05.2017 the following committee was constituted to probe/check the planting stock of Nurseries (both Departmental and Private) raised under BTAP Phase-II in Lower Dir Forest Division Timergara.

1. Muqtada Shah — DFO Upper Dir (Chairman)
2. Raees Khan — DFO Dir Kohistan (Member)

The committee submitted its report vide DFO Patrol Squad Lower Hazara letter No.28/PS, dated 14.07.2017. the DFO Lower Dir vide his letter No.1607/Acctt:, dated 09.10.2017 raised certain observations on the said report, consequently Conservator of Forests Malakand Forest Circle West Timergara vide his office order No.10 dated 11.10.2017 constituted this committee comprising of the following officers to verify the claim/observation of the DFO Lower Dir in the light of the previous enquiry report.

1. Mr.Raees Khan — DFO Upper Dir.
2. Mr.Pervez Manan — DFO Malakand.

The committee met on 07.12.2017 and 08.12.2017 in the office of the DFO Lower Dir Forest Division Timergara scrutinized the relevant record including progress reports, planting stock reports, nursery journals, afforestation journals, Monitoring reports, previous enquiry report and relevant correspondence among the concerned and the following factual position has been explored.

Division	Nurseries Type	Plants Raised	Fit Plants	Utilization before Monitorin.						Plants per Monitorin g Report	Plants utilized after Monitoring					Total Utilization	Balance	
				Deptt/Pl antation	Beating Up	Wood lots	Farm Forestry	Provided to other Divn:	Total		Deptt: Plants	Beating Up	Wood lots	Farm Forestry	Total		Fit	Un-Fit
Timergara	Departmental	1313550	1313550	0	0	0	0	0	0	1313550	90625	0	70050	1116020	1276695	1276695	0	0
Chakdara		2470800	2470800	0	0	0	0	0	0	2470800	358270	335283	485850	1229126	2408529	2408529	0	0
Jandool		1138000	1138000	0	0	0	0	0	0	1138000	115450	30000	242579	848897	1236926	1236926	0	0
	9.Total	4922150	4922150	0	0	0	0	0	0	4922150	564345	365283	798479	3194043	4922150	4922150	0	0
Timergara	Private	6375000	4510425	698750	90000	188125	354000	53820	1384695	2000079	0	0	0	2531680	2531680	3916375	0	152539
Chakdara		5875000	4473344	370250	110000	200000	0	0	680250	3994438	0	0	0	4144944	4144944	4831194	0	35150
Jandool		3875000	2922688	720250	100000	172371	0	0	992621	2448811	0	0	0	1766704	1766704	2759325	0	512000
	9.Total	16125000	11906804	1789250	300000	560496	354000	53820	3063566	8443328	0	0	0	8443328	8443328	11506894	0	702689
	9.Total	21047150	16829954	1789250	300000	560496	354000	53820	3063566	13365478	564345	365283	798479	11637371	13365478	16429044	0	702689

Findings:

1. Relevant record reveals that 16375224 plants have been utilized by Lower Dir Forest Division while 53820 plants have been supplied to Warrai Forest Sub Division of Upper Dir Forest Division. Thus a total of 16429044 plants have been utilized.
2. In Departmental Nurseries 4922150 Nos of plants have been raised which has totally been utilized.
3. In Private Nurseries 14375000 plants have been raised out of which 11506894 Nos have been reported fit and have been utilized accordingly.
4. Figures of Fit planting stock and its subsequent utilization are properly reconciled.

Divisional Forest Officer,
Upper Dir Forest Division,
At Dodbah

Divisional Forest Officer,
Malakand Forest Division,
At Batkhela

(61)

Name of Sub Division	Nurseries Type	Plants Raised	Fit Plants	Utalization bef	
				Deptt:Plantation	Be Up
Timergara	Departmental	1313550	1313550	0	0
Chakdara		2470600	2470600	0	0
Jandool		1138000	1138000	0	0
	S.Total	4922150	4922150	0	0
Timergara	Private	5375000	4510825	698750	90C
Chakdara		5625000	4473386	376250	11C
Jandool		3575000	2522683	720250	10C
	S.Total	14575000	11506894	1795250	30C
	G.Total	19497150	16429044	1795250	30C

NOTE:

A. Total utalization is included 538.30 Plants provided to is come to 16375224 Plants.

B. Departmental Plants utalization 4922150

Private Nurseries Plants utalization 11506894

Total utalization . 1642

(62)

Annex J

OFFICE OF THE CONSERVATOR OF FORESTS, MALAKAND WEST FOREST CIRCLE TIMERGARA

BALAMBAT
COLONY LOWER DIR
TIMERGARA
Ph. 0945-9250120
Fax. 0945-9250119
cfmkdwest@gmail.com

No 3036 /B&A Dated Timergara the 12 /12/2017

To

The Divisional Forest officer,
Lower Dir Forest Division,
Timergara.

OFFICE OF THE DIVISION FOREST OFFICER DIARY NO. 987 DATED 12-12-17

SUBJECT: OFFICE ORDER NO.10 DATED 11/10/2017- ENQUIRY REPORT THEREOF.

Memo:

Reference DFO Upper Dir Endorsement No. 2972/G, dated 11/12/2017.

The subject enquiry report received from DFO Upper Dir letter No. 2971/G, dated 11/12/2017. In this regard you are requested to offer your views/ comments on the subject enquiry report to this office at an early date, so that further action could be taken accordingly.

Conservator of Forests,
Malakand West Forest Circle,
Timergara.

No. /B&A,

Copy forwarded to Divisional Forest Officer Upper Dir Forest Division Dir Upper for information with reference to his letter cited above.

Conservator of Forests,
Malakand West Forest Circle,
Timergara

Act:
Follow up reference.
12/12/17

(63)

Annex-J

OFFICE OF THE
DIVISIONAL FOREST OFFICER,
LOWER DIR FOREST DIVISION,
TIMERGARA
Phone No.0945-9250105

No 3078 /Acctt: Dated Timergara the 14/12/2017

To

The Conservator of Forests,
Malakand Forest Circle West,
Timergara.

Subject:- **OFFICE ORDER NO.10 DATED 11.10.2017-enquiry report thereof.**

Memo;

Reference your letter No.3036/B&A, dated 12.12.2017.

it is submitted that this office have raised certain observations on the previous report of the committee vide this office letter No.1607/Acctt, dated 09.10.2017. On perusal of the instant report of committee, it was found that they have incorporated the missing figures with regard to utilization of planting stock in various Forestry interventions like Block Plantation, Wood Lot, Beating up of Failure and Farm Forestry from relevant record of Divisional and Sub Divisional offices. Therefore, the figures mentioned in the table encompasses all previous achievements of BTAP progress reports please.

Divisional Forest Officer,
Lower Dir Forest Division,
Timergara

WAKALATNAMA
(Power Of Attorney)

(64)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Muhammad Rashid (Petitioner) (Plaintiff) (Applicant) (Appellant) (Complainant) (Decree Holder)

VERSUS

The Chief Secretary & others (Respondent) (Defendant) (Accused) (Judgment Debtor)

I/ We, The undersigned appeallant in the above noted Service appeal, do hereby appoint **Mr. Muhammad Ijaz Khan Sabi, ASC & Adnan Aman,** Advocates to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my /our counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/Counsel at my/our matter.

Attested & Accepted By.

Signature of Executants

Muhammad Rashid
(S.D.F.O)
Appeallant.

Muhammad Ijaz Khan Sabi
Advocate Supreme Court of Pakistan

Adnan Aman
Advocates High Court, Peshawar
B-15, Haroon Mansion, Khyber Bazar,
Peshawar Office: 091-2551553

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service appeal No. 188/2019

Muhammad Rashid
Sub Divisional Forest Officer
Forestry Environment and Wildlife Department,
Peshawar.
.....Appellant.

VERSUS

1. Chief Secretary to Govt: of Khyber Pakhtunkhwa,
   Civil Secretariat, Peshawar.

2. Secretary to Govt: of Khyber Pakhtunkhwa,
   Forestry, Envit: and Wildlife Department,
   Civil Secretariat Peshawar.

3. Chief Conservator of Forests, Central Southern,
   Region-I Khyber Pakhtunkhwa Peshawar.

4. Divisional Forest Officer, Lower Dir Forest,
   Division Timergara.
   .....Respondent.

INDEX.

Divisional Forest Officer
Lower Dir Forest Division
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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service appeal No. 188/2019

Muhammad Rashid
Sub Divisional Forest Officer
Forestry Environment and Wildlife Department,
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.....Appellant.

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1. Chief Secretary to Govt: of Khyber Pakhtunkhwa,
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2. Secretary to Govt: of Khyber Pakhtunkhwa,
   Forestry, Envit: and Wildlife Department,
   Civil Secretariat Peshawar.

3. Chief Conservator of Forests, Central Southern,
   Region-I Khyber Pakhtunkhwa Peshawar.

4. Divisional Forest Officer, Lower Dir Forest,
   Division Timergara.

.....Respondent.

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974, AGAINST THE ORIGINAL ORDER DATED 13.09.2018 WHEREBY MINOR PENALTIES OF WITHHOLDING OF TWO INCREMENTS FOR TWO YEARS ALONG-WITH RECOVERY OF PECUNIARY LOS TO BE CALCULATED BY THE FOREST DEPARTMENT WAS IMPOSED AND THE DEPARTMENTAL APPELLATE AUTHORITY ORDERED DATED 17.12.2018 WHICH WAS CONVEYED TO THE APPELLANT ON 26.12.2018 VIDE WHICH THE DEPARTMENTAL APPEAL WAS REJECTED.

RESPECTFULLY SHEWETH.

The respondents No. 01 to 04 respectfully submitted as under:-

PRELIMINARY LEGAL OBJECTION.

a. That the appellant has no cause of action or locus standai to file the instant appeal, as such the same is liable to be dismissed.

b. That the appeal is not maintainable in its present form.

c. That the appellant has come to the tribunal with malafide intention.

d. That the appellant has been estopped by his own conduct to file the appeal.

F A C T S

1. Correct.

2. That the appellant while posted as Sub Divisional Forest Officer Timergara was rightly charge sheeted for the allegations/irregularities mentioned therein and also enquiry committee was constituted by the competent authority (Annexed. A&B).

3. That the reply of the appellant to the charge sheet was found not convincing having no documentary evidences/proofs hence the charges/allegation stood proved in the enquiry. (Copy of enquiry is Annexed-C)

4. That after proving the allegation/charges by the impartial enquiry committee and after fulfilling all the codal formalities, the appellant was issued show cause notice by the competent authority (Annexed-D).

5. That the reply to the show cause notice was found un-satisfactory by the competent authority and has rightly imposed minor penalty of withholding of two annual increments and recovery of pecuniary losses to be assessed against the appellant.

6. That the appellant has rightly been directed for the recoupment pecuniary losses sustained by him to the Government in the light of enquiry report of the enquiry committee constituted for the purpose.

7. That the report of Mr. Rafiqullah SDFO Timergara and Raza Khan Forest Guard was found incomplete and as such the said SDFO assessed and calculated the pecuniary losses sustained to the Government vide his letter No 192/T, dated 19.06.2019 which was subsequently up hold by respondent No. 04 vide letter No. 5375-77/Acctt: dated 28.06.2019 (Copy Annexed-E&F).

8. That the appellant has rightly been awarded minor penalty of withholding of two annual increments along-with pecuniary losses after observing all the codal formalities as required under the KP E&D Rules, 2011.

9. That the Departmental appeal of the appellant has rightly been rejected by the competent authority in the light of enquiry report of the enquiry committee as well as relevant record.

10. That the service appeal of the appellant may kindly be dismissed:-

GROUNDS

a. That the charges/allegations have been proved by the enquiry committee and subsequently awarded punishment by the competent authority after fulfilling all the codal formalities. Hence the impugned order is in accordance with law and rules.

b. In correct. The enquiry was conducted as per Rules, further there was documentary proof which was sufficient against the appellant, hence rightly imposed penalties against the appellant.

c. Incorrect. The area was found extremely deficit in the claimed plantation.

d. In correct.

e. That the Shalpalam Afforestation area has physically been checked by Rafiqullah SDFO Timergara and Raza Khan Forest Guard which was found 70%, hence need no further investigation (Copy Annexed-G).

f. That the appellant has rightly been awarded punishment vide Notification dated 13th September, 2018 and subsequently rejected departmental representation in the light of valid documentary proofs, hence the appeal of the appellant is liable to be dismissed.

g. That the appellant have provided full chance of his defense like reply to the charge sheet, personal hearing, show cause notice and personal hearing in connection with reply to the show cause notice and not deprived from his protection.

h. That in the light of above mentioned narrated facts the appellant is liable to be dealt with for capital penalty on the face of the record by this Honorable Tribunal.

It accordingly respectfully prayed that the appeal being mis-conceived, may kindly be ordered to be dismissed with cost in the interest of justice.

Respondent No. 01

Chief Secretary,
Government of Khyber Pakhtunkhwa
Peshawar

Respondent No. 02

Secretary to Government,
Forestry, Environment and Wildlife,
Department Peshawar.

Respondent No. 03

Chief Conservator of Forests,
Central Southern Forest Region-I,
Peshawar.

Respondent No. 04

Divisional Forest Officer,
Lower Dir Forest Division,
Timergara

(11)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service appeal No. 188/2019

Muhammad Rashid
Sub Divisional Forest Officer
Forestry Environment and Wildlife Department,
Peshawar.
.....Appellant.

VERSUS

1. Chief Secretary to Govt: of Khyber Pakhtunkhwa,
   Civil Secretariat, Peshawar.

2. Secretary to Govt: of Khyber Pakhtunkhwa,
   Forestry, Envit: and Wildlife Department,
   Civil Secretariat Peshawar.

3. Chief Conservator of Forests, Central Southern,
   Region-I Khyber Pakhtunkhwa Peshawar.

4. Divisional Forest Officer, Lower Dir Forest,
   Division Timergara.
   .....Respondent.

.....

AFFIDAVIT.

I Ejaz-ur-Rahman Division Forest Officer, Lower Dir Forest Division at Timergara do hereby affirm and state that the content of the comments/annexures are true and correct and nothing has been kept concealed from this Honorable Court.

Ejaz-ur-Rahman
Divisional Forest Officer,
Lower Dir Forest Division,
Timergara

DISCIPLINARY ACTION

Annex-D A

I, Abid Saeed, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, am of the opinion that Muhammad Rashid, Sub Divisional Forest Officer (BPS-17) Timergara Forest Sub Division has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATION

2) That he while posted as Sub Divisional Forest Officer (BPS-17), Timergara Forest Sub Division committed the following irregularities:

i) Whereas he was called upon to explain vide Conservator of Forests, Malakand West Forest Circle letter dated 19th August, 2016, the reply furnished by him vide letter dated 23rd August, 2016 was not upto the mark and was accordingly communicated to him vide Conservator of Forest, Malakand West Forest Circle letter dated 04th October, 2016. But till date, no satisfactory reply received from his side.

ii) As per report of Divisional Forest Officer, Lower Dir Forest Division letter dated 14th April, 2017, that due to his negligence/inefficiency; various shortfall have been noticed in planting stock;

iii) It has been learnt that the plants distributed by him under free distribution was not in transparent manner;

iv) During visit of Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa on 08th April, 2017, Nasafa Enclosure Compartment No: 17, Goats and Sheep's grazing in the said enclosure were seen. No Neghaban was present/available there. An explanation in this regard was also called from him, but no response has been received from his side till date.

v) Forms of large size gates, doors and windows i.e. total 15 numbers of manufacture of Deodar timber were found in redundant from his official residence, situated adjacent to his functional office, but during checking, the same was neither found in the record i.e., Form No: 5 & 6, nor was present in the Prosecution Cases Register, Compensation Cases Register and Damage Book Register;

vi) He explained before the raiding team that he has purchased the same during auction, but he could not produce any documentary evidence in his defence/claim before the Chief Conservator of Forests.

vii) During visit of Sher Palam plantation, it was found that due to his failure/negligence, the entire plantation was failed. While the rest of pits were completely devoid of any plant or sowing. The pits were very small in size and were hardly visible on the ground. The charged area was 24 hectare while it was not more than 10 hectare on ground. The payment made in excess need to be recovered from him.

3) For the purpose of Enquiry against the said accused with reference to the above allegations, an Enquiry Officer/Enquiry Committee, consisting of the following is constituted under rule 10 (1) (a) of the ibid rules:-

i- Mr. Tanfeen

ii- Mr. Sher Nawaz

Divisional Forest Officer
Lower Dir Forest Division
Timergara

4) The Enquiry Officer/Enquiry Committee shall, in accordance with the provisions of the rules ibid, provide reasonable opportunity of hearing to the accused, record its findings and make recommendations, within thirty days of the receipt of this order, as to punishment or other appropriate action against the accused.

5) The accused and a well conversant representative of the department shall jointly proceed on the date, time and place fixed by the Enquiry officer/Enquiry

I, Abid Saeed, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you Muhammad Rashid, Sub Divisional Forest Officer (BPS-17) as follow:-

1. That you while posted as Sub Divisional Forest Officer (BPS-17), Timergara Forest Sub Division, committed the following irregularities:

i) Whereas you were called upon to explain vide Conservator of Forests, Malakand West Forest Circle letter dated 19th August, 2016, the reply furnished by you vide letter dated 23rd August, 2016 was not upto the mark and was accordingly communicated to you vide Conservator of Forest, Malakand West Forest Circle letter dated 04th October, 2016. But till date, no satisfactory reply received from your side.

ii) As per report of Divisional Forest Officer, Lower Dir Forest Division letter dated 14th April, 2017, that due to your negligence/inefficiency, various shortfall have been noticed in planting stock;

iii) It has been learnt that the plants distributed by you under free distribution was not in transparent manner;

iv) During visit of Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa on 08th April, 2017, Nasafa Enclosure Compartment No: 17, Goats and Sheep's grazing in the said enclosure were seen. No Neghaban was present/available there. An explanation in this regard was also called from you, but no response has been received from your side till date.

v) Forms of large size gates, doors and windows i.e. total 15 number of manufacture of Deodar timber were found in redundant from your official residence, situated adjacent to your functional office, but during checking, the same was neither found in the record i.e., Form No: 5 & 6, nor were present in the Prosecution Cases Register, Compensation Cases Register and Damage Book Register;

vi) You explained before the raiding team that you have purchased the same during auction, but you could not produce any documentary evidence in your defence/claim before the Chief Conservator of Forests.

vii) During visit of Sher Palam plantation, it was found that due to your failure/negligence, the entire plantation was failed. While the rest of pits were completely devoid of any plant or sowing. The pits were very small in size and were hardly visible on the ground. The charged area was 24 hectare while it was not more than 10 hectare on ground. The payment made in excess need to be recovered from you.

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

3. You are, therefore, required to submit your written defense within seven days of the receipt of this charge sheet to the Enquiry Officer/Committee, as the case may be.

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

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

6. A statement of allegations is also enclosed.

19/6/2017

Divisional Forest Officer
Lower Dir Forest Division
Timergara

Chief Secretary,
Khyber Pakhtunkhwa
(Competent Authority)

Annexure B (17)

GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Peshawar the , 04th July, 2017

NOTIFICATION

No: SO(Estt)Envt/1-50 (183)/PF/ 2015: The Competent Authority has been pleased to constitute an Enquiry Committee comprising Mr. Tashfeen Haider (PMS BS-18), P.D Establishment of Housing Foundation for Government Servants, Housing Department (as Convener) and Mr. Sher Nawaz, Chief Conservator of Forests (BS-20)/Managing Director, Forest Development Corporation, Khyber Pakhtunkhwa (as member) to conduct disciplinary proceedings under Section-5(1) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 against Muhammad Rashid, Sub Divisional Forest Officer (BS-17), Timergara Forest Sub Division of Dir Lower Forest Division, for the charges/allegations leveled against him in the Charge Sheet and Statement of Allegations:-

2. The Enquiry Committee shall submit its findings within 30 days positively.

Sd/-
CHIEF SECRETARY
KHYBER PAKHTUNKHWA

6283-91

No: SO (Estt)Envt/1-50 (183)/PF/ 2015: **Dated Peshawar the, 04th July, 2017**

Copy alongwith copies of the Charge Sheets/Statement of Allegations are forwarded to:-

1) Mr. Tashfeen Haider (PMS BS-18), P.D Establishment of Housing Foundation for Government Servants, Housing Department (Convener of the Enquiry Committee).
2) Mr. Sher Nawaz, Chief Conservator of Forests (BS-20)/Managing Director, Forest Development Corporation, Khyber Pakhtunkhwa (Member of the Enquiry Committee).
3) Muhammad Rashid, Sub Divisional Forest Officer (BS-17), Timergara Forest Sub Division of Dir Lower Forest Division C/o Conservator of Forests, Malakand West Forest Circle, Dir, Timergara with the direction to appear before the Enquiry Committee on the date, time and place to be fixed by the Enquiry Committee for the purpose of inquiry proceeding.

(Hafiz Abdul Jalil)
Section Officer (Estt)

Endst: No: & date even

Copy is forwarded to:-

1) Chief Conservator of Forests, Central Southern Forest Region-I, Peshawar.
2) Chief Conservator of Forests, Malakand Forest Region-III, Saidu Sharif, Swat with the direction to nominate/depute a departmental representative well conversant with the facts of the case alongwith relevant record to assist the Enquiry Committee during the disciplinary inquiry proceedings.
3) PS to Secretary, Forestry, Environment & Wildlife Department for information.
4) Personal files of the officers.
5) Master file.
6) Office order file.

Divisional Forest Officer
Lower Dir Forest Division
Timergara

Section Officer (Estt)

ANNEXURE "C"

(16)

(19)

ENQUIRY REPORT AGAINST MR. MUHAMMAD RASHID, SUB DIVISIONAL FOREST OFFICER (BPS-17) TIMERGARA FOREST SUB DIVISION.

BACK GROUND

Environment Department vide Notification NO. SO(Estt)/Envt/1-50((183)/PF/2015, dated 4th July, 2017, constituted Enquiry Committee comprising of Mr. Tashfeen Haidar, Project Director, Establishment of Housing Foundation for Government servants, Housing Department (as Convener) and Mr. Sher Nawaz, Chief Conservator of Forests/ Managing Director FDC (as member) to conduct disciplinary proceedings under Section-5(1) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 against Mr. Muhammad Rashid, Sub Divisional Forest Officer (SDFO), Timergara Forest , Sub Division, Lower Dir Forest Division.

PROCEEDINGS

On receipt of Notification, the committee held preliminary meeting, where in Mr. Muhammad Rashid, SDFO was directed to submit reply and attend the enquiry committee. He submitted his parawise reply to the charge sheet (see Annexure-I).

Later on 01.08.2017, he was also called for personal hearing copy of which is attached as Annexure-II. Prosecution statement regarding various queries is attached as Annexure-III. The record for the purpose of enquiry was thoroughly examined and finally after thorough deliberations on each charge the following conclusions were reached at:

CHARGES/ ALLEGATIONS.

Allegation (i) He was called upon to explain vide Conservator of Forests (CF), Malakand West Forest Circle letter dated 19th august 2016, the reply furnished by him vide letter dated 23rd August 2016 was not upto the mark and was accordingly communicated to him vide Conservator of Forest, Malakand West Forest Circle letter dated 04th October 2016, But till date, no satisfactory reply received from his side.

Reply of accused Officer:

The allegation is denied because most of River Side Plantation at Shamardin, Khal carried out in Spring 2016 was flooded away in April 2016, Subsequently the flooded area was replanted with

Divisional Forest Officer
Lower Dir Forest Division
Timergara

ANNEXURE (17)

(21)

suitable species which was reported vide Office letter No. 70/T dated 23.08.2016. Reply to letter dated 4th October 2016 was also communicated vide letter No.84/T dated 07.10.2016 (Annex –A & B). Hence it is baseless to mention that no reply was communicated to Conservator of forests, Malakand West Forest Circle.

DISCUSSION:

Although the charge is denied by Accused Officer and true to the extent that replies to CF letters had been responded by him but it was not considered satisfactory by the CF office thus charging him for not submitting satisfactory reply to CF office. The replies submitted by accused was thoroughly examined and it was found that the afforestation site at Shamardin khel, i.e. river bed plantation over there was made on a site which was not feasible for plantation according to accused official quoted reasons mentioned by him in his reply to CF vide letter No. 70/T, dated 23.8.2016 (see Annexure-A) stating that:

(i) The unprecedented floods damaged the plantation. This fate was expected to occur because plantation was made in the line of fire on most exposed site to floods i.e. river bed. The site in the first place should not have been taken for plantation being vulnerable to flood damages and if this was not considered at the time of site selection then the SDFO is held responsible for selecting wrong planting site and risking govt/ public tax paid money and govt. property too.

(ii) That the site where plantation was done was having boulders, according to SDFO statement. Also that its soil was made of medium to coarse grain sand, gravel, pebble, cobble even boulders. He further states that there is air space between the sandy soil particles and larger amount of air under soil surface which means that it does not hold water or nutrients very well and water moves quickly through the soil and air replaces it quickly this resultantly makes the sandy soil dry out faster than other type soils, which resultantly makes it unfeasible for plantation.

(iii) Plantation season was off and he replaced it with new plants at a time when they were sure to die if not watered. In such cases water was nearby available in river and very easily it could have been watered by his staff through chowkidar, had he managed things wisely. At such like times he should have deferred the plantation till right season. Now

Divisional Forest Officer
Lower Dir Forest Division
Timergara

Searching for right seasons of planting i.e. November onwards did not matter now once the plants had dried up and govt. money had been lost just for wrong planning on part of SDFO.

All the above three factors narrated by the SDFO in his letter addressed to CF is a charge sheet prepared by the accused against himself for why the plantations failed. The amount spent on original plantation and later beating up done in wrong season be recovered from the SDFO.

The reply of SDFO if not considered satisfactory by CF was very right because the SDFO had himself carried out the plantation at the site and now the onus of damages lie on him and no one else.

Findings: Charge stands proved.

ALLEGATION (II)

As per report of Divisional Forest Officer, Lower Dir Forest Division letter dated 14th April, 2017, that due to his negligence/ inefficiency, various shortfall have been noticed in planting stock.

Reply : The allegation is denied because the short fall reported by Divisional Forest officer, Lower Dir Forest Division vide his letter No.4466 – 68/E dated 14.4.2017 is related to entire Lower Dir Forest Division and is not only for Timergara forest Sub Division which is baseless on the following grounds:

(a) DFO Lower Dir Forest Division has reported 21466000 plants raised in Departmental as well as in Private sector in his office letter No. 4466 – 68/E dated 14.4.2017. Despite the figure mentioned above he has also reported 19508100 Nos. of plants raised in both Departmental and Private Sector vide his letter No. 2190/Acctt, dated 08.12.2016 in the Action Plan for Spring Tree Planting Campaign 2017. It is clarified that there is a difference in number of plants raised in these letters itself. (Annex – C & D).

(b) The short fall of 5847879 Nos. of plants mentioned in DFO, Lower Dir Forest Division Office letter No. 4466 – 68/E dated 14.4.2017 is also incorrect as fit planting stock has been deducted/ subtracted

Divisional Forest Officer
Lower Dir Forest Division
Timergara

from raised planting stock as is clear from the letter itself. Also there is no clarification in the letter referred above as where that short fall has been noticed. it is further added in DFO, Lower Dir Forest Division office letter No. 4466 – 68E, dated 14.4.2017 only clarification was sought for the resolution of realistic figures from all SDFO's in Lower Dir Forest Division.

(c) DFO Lower Dir Forest Division in his office letter No. 3528 – 31/Acctt, dated 30.6.2017 has reported 15618421 Nos. of plants utilized under various interventions (Annex – C and Annex –E).

(d) Actually the short fall is only due to non-availability of plants with private sector, and on the basis of this shortfall deduction will be made in payment accordingly. This has also been reported vide letter dated 24.4.2017, it is further clarified that in Billion Trees Afforestation Project, under Private Nurseries payment to private nurseries is made in three installments and final installment amounting to 50% of total amount is paid on actual receipt of plants.

(e) The charge is therefore hypothetical and not physically enquired. Therefore the same is not maintainable.

DISCUSSION:

The accused denies the allegation on the following ground that the letter referred to in charge No.II dated 14th April, 2017 refers to short fall of entire Lower Dir Forest Division and not Taimergara Sub Division only, which is true, but this letter also gives us the portion of shortage or excess of plants with each SDFO (see annexure -C).

(*) He points out a difference in two letter of DFO annexure as C&D in his defense statement/ reply to charge sheet. But actually this difference is because the two reports are generated at 4 months interval during which the planting stock might have increased in nurseries because 4 months is a great time for new seeds to sprout and sprouted ones to grow in size and thus increase the number in nurseries. In either case these reports were generated on information from field. In that case too the SDFO/RO's are responsible for wrong reporting to DFO.

He admits that a short fall exits which is due to non-availability of plants with private sector. But the facts on record speaks otherwise, he should have distributed less plants from private farmers being short in plants but on the contrary instead of distributing 20,00,085 No of plants received from private farmers, he has

Divisional Forest Officer
Lower Dir Forest Division
Timergara

own free distribution of plants to a number of 40,01,700 to farmers. The figures on record do not support his statements of nursery stock. Also the enquiry on record made by DFO Hafiz Muqtada Shah & Mr. Raees Khan (copy attached as annexure-IV) concerning nursery stock produced and utilized according to available record of the Division shows that Mr. Rashid SDFO Talmergara has over utilized 2499696 (including 479070 plants issued to others) number of plants than available fit planting stock with him which could not be justified by him. He is saying that this shortfall is due to non-availability of plants with private sector. If so then why he give a wrong and exaggerated figure of plants to deptt as per his own record on plants received from private nursery owner. He has mislead his higher ups and concealed the true figures on planting stock available with him and thus giving exaggerated figures. Had the enquiry and this charge sheet not unveiled the facts on record the same could have been used to embezzle the govt. money for hiding facts on record.

Findings: Charge stands proved. recent report

ALLEGATION (III)

It has been learnt that the plants distributed by him under free distribution was not in transparent manner.

Reply: The point is baseless because distribution of plants under "Billion Trees Afforestation Project" was executed in transparent manner and data was recorded on proper format having CNIC No. and Cell No. Name, Address and Number of plants issued/ provided which has also been reported vide letter No. 147/T dated 04.04.2017 (Annex-F).

It is to mention that the charge is ridiculous, hypothetical and framed on here say.

DISCUSSION:

Response to this charge by the accused is that he had carried out distribution in transparent manner and for this statement to support; he has produced a long list of person comprising of 84 pages to whom he had distributed the plants. The very list he provided to enquiry committee in personal hearing shows that even list provided by him speaks against his transparent way of dealing things. Almost 1445844

Divisional Forest Officer
Lower Dir Forest Division
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numbers of plants were distributed either with missing father names, CNIC No, cell numbers or with no address at all which is almost 48.76% of the total distributed plants. Moreover not a single photo for record is produced with the report submitted by SDFO which is also a due requirement of BTAP (according to DFO Salim Marwat statement copy attached as annexure -III). It shows that print/ electronic media be engaged in documenting the free distribution functions and photos to be loaded on to BTAP website.

Moreover, it was mandatory on the SDFO to distribute the plants after verification by the monitoring committee which was not observed by him despite the verbal directives of the then DFO Farooq (see statement of Salim Marwat DFO as annexure-III)

Thus the codal formalities outlined by BTAP had not been followed by him in total and made him liable to be proceeded against.

Findings: "charge is proved and wherever the documentation is incomplete recovery for that amount to the tune of numbers of plant be recovered from the SDFO".

ALLEGATION (IV)

During visit of Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa on 08th April 2017, Nasafa Enclosure Compartment No. 17, Goats and Sheep's grazing in the said enclosure were seen. No Neghaban was present/available there. An explanation in this regard was also called from him, but no response has been received from his side till date.

Reply: The point is baseless because proper answer/reply to the explanation was communicated to Conservator of Forests, Malakand West Forest Circle Timergara vide letter No. 160/T, dated 05.05.2017 (Annex- G).

DISCUSSION:

Regarding this charge the SDFO has rebutted the charge and he further tates that reply to the explanation had been responded by him vide letter No. 160/T lated 05.05.2017 to CF C/O DFO Timergara (copy produced as annexure-G). On query it as found that the same letter has not been received in DFO office rather direct reply

Divisional Forest Officer
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had been submitted to CF (copy of receipt attached as annexure-V). The Chief Conservator of Forests, Malakand-III Mr. Qazi Mushtaq on 07.09.2017 was contacted by Mr. Sher Nawaz enquiry member on cell number of CCF Mr. Qazi Mushtaq i.e. 0345-9585289 dated 11.53 AM through his cell No. 0349-5181626 to comment on the reply to explantation by SDFO. The Chief Conservator of Forests Mr. Qazi Mushtaq totally denied the facts that the areas where the grazing was going on was outside enclosure. He stated that we had entered the enclosure and were inspecting the regeneration in enclosure where we encountered the animals grazing the enclosure area and that the statement of SDFO is totally false and misleading. At that time when the CCF enquired from the SDFO on the grazing going on over there at Nasafa and enclosure i.e. Comptt. No. 17 he submitted no reply to me and kept quiet because he had no reply to convince me (written statement of Mr. Qazi Mushtaq is attached as annexure-VI). Had the chowkidar being performing his function, he would have obstructed the animals entering the enclosure. Compartment boundaries are very well defined in working plans. If it was either to the left or right of Compartment No. 17 then it must be have been 16 & 18 Nos of comportments. In any case grazing is altogether unwanted in forest areas. Community land can be used for this purpose by communities if needed at all. The reply of accused is not convincing and enquiry committee feels that the responsible staff at the range had not fulfilled their responsibilities and hence the CF/ DFO Lower Dir were placed in an embarrassing position at the time of tour of Secretary Forests to area. Reply of accused is doubtful and not accepted.

Findings: Charge seems to hold true.

ALLEGATION (V)

Forms of large size gates, doors and windows i.e. total 15 numbers of manufacture of Deodar timber were found in redundant from his official residence, situated adjacent to his functional office, but during checking, the same was neither found in the record i.e. Form No. 5 & 6, nor was present in the persecution Cases Register, Compensation Cases Register and Damage Book Register.

Reply: The allegation is denied because frames of doors and windows are the personal property of the father of undersigned which is legal timber and has been purchased under proper receipt. (Annex-H).

DISCUSSION:

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Lower Dir i.e. Timergara was found to be illegal (Answer to question No.5 of DFO Saleem Marwat attached as annexure-III). The DFO states that the sale depot of Rehman Wood Industries was registered with Dir Lower Forest Divsiion vide o/o No. 53 dated 28.02.2012, but till date he failed to renew his annual registration. The owner of the sale depot was served with notices via letter No. 1956-57/G & L, dated 02.04.2014, No. 2143-45/G&L dated 2.4.2015 & No.1979-81/G&L, dated 01.01.2016 to renew his registration but he failed to do so. Therefore the timber business carried out by Rehman Wood Industries is illegal and action as per Forest Ordinance 2002 is being initiated against the owner of sale Depot. Thus the timber purchased by father of SDFO Rashid if at all is illegal and keeping illegal timber in his house is an offence in itself. He should be dealt with under the Law for keeping illegal timber at his residence without issuing a damage report against the offender.

Findings: **Charge stands proved.**

ALLEGATION (VII)

During visit of Sher Palam plantation, it was found that due to his failure/ negligence, the entire plantation was failed. While the rest of pits were completely devoid of any plant or sowing. The pits were very small in size and were hardly visible on the ground. The charged area was 24 hectare while it was not more than 10 hectare on ground. The payment made in excess need to be recovered from him.

Reply : The allegation is denied because the charge is based on false assumptions and ocular estimations that the area of afforestation is not more than 10 Ha. The charged area of Shalfalam Afforestation is 20 ha which was planted in spring 2016 under Billion Trees Afforestation Project. 2 times monitoring of the area has been carried out by two different teams i.e. Working Plan Unit –VI, Swat and Billion Trees Afforestation Project team and all the data was recorded by them on proper formats. (Annex-I). Failure is a natural phenomenon and continuous replacement of failed plants has been carried out from time to time according to ecological suitability. Currently the area is in good condition and site inspection may be done accordingly.

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it is important to mention that in the past PC-I is regular exercise of beating up of failure was carried out for three consecutive years which is not the case for BTAP.

The charges mentioned in the charge sheet are misleading and tinged with malice. These are only framed to victimize the undersigned.

DISCUSSION:

The accused denied the allegation stating that it was ocular estimation on part of charge framing authorities while the fact is that two monitoring reports, one by W/plan Unit VI Swat (See Annexure-L) and other by BTAP monitoring official (Annexure-VIII) narrates otherwise picture of the site at Sharpalam. According to W/Plan Unit IV official responsible for monitoring the project the site was reported to be 27 hectare on 18.05.2016 and when monitored it came out to be 29 hectare. This report showed overall survival as 63% at the site. Another report generated by BTAP monitoring officer on 27.11.2016 states that the area reported by staff is 27 hectare but on monitoring it came out to be 26.61%. This report showed an overall survival %age of 60 – 65%. These two reports differ on area measured. Also there is species composition difference Working Plan officer showing species as Eucalyptus, Chir, Phulai & Robinia whereas BTAP monitoring officials shows species of Eucalyptus, Chir, Phulai and Ailanthus. Both these monitoring reports do not tally with one another and also with actual one which has recently been carried out by DFO Lower Dir Mr. Saleem Marwat which report the area to be 20 hectare measured through GPS with coordinates (see question answer 6 of annexure-III). The area if any extra charged in muster roll since day one be calculated from Accounts of DFO office & recovered from the SDFO concerned. This has made the monitoring reports doubtful both generated by w/plan circle and also by BTAP officials. An independent agency be given the task to monitor cent percent areas in this division for validation of plantation of the remaining BTTAP plantations so as to know the factual position and ground reality because sampling some times lead to very misleading results. Enquiry committee takes the recent most report of DFO Mr. Saleem Marwat to be near to ground reality. Thus the original assumption of land being almost 10 hectare by charge framing authorities cannot be altogether discarded because the present monitoring by DFO Lower Dir has nullified the area assessment made by earlier monitoring reports. May be so that later on the SDFO has increased the area to 20 hactre i.e. the present status. Even if not charged and only reported to higher ups still the SDFO has committed a blunder by wrong reporting which became a part of official

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report. The progress report generated by higher ups became doubtful when such like irresponsible attitude of the field formation takes place. Even the current situation is not that good with still almost 70% replacement of failures been undertaken. The very fact that the recently beated up area with eucalyptus has failed once again. Whereas comparatively other areas close to it have given much better results because the chowkidar working in other close by areas are performing their job very well i.e. beating up failures in time and providing necessary water to plants. It is recommended that the watch & ward of plantation and amount/ value of afforestation on beating up which has failed be recovered from the SDFO and his subordinate staff.

Findings: **Charge partially holds true.**

(Sher Nawaz)
Managing Director
Khyber Pakhtunkhwa
Forest Development Corporation
(Member)

(Tashfeen Haidar)
Project Director,
Establishment of Housing Foundation for
Govt. servants, Housing Department,
Govt. of Khyber Pakhtunkhwa
(Convenor)

Divisional Forest Officer
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Timergara

Annex-I

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GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIORNMENT & WILDLIFE DEPARTMENT

SHOW CAUSE NOTICE

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Muhammad Rashid, Sub Divisional Forest Officer (BS-17) as follows:

(i) that consequent upon the completion of enquiry conducted against you by the Enquiry Committee, for which you were given opportunity of hearing vide office communication No.SO(Estt)FE&WD/1-50 (83)/PF/2015/6283-9, dated 04th July, 2017: **and;**

(ii) on going through the findings of the Enquiry Committee, the material on record and other connected papers including your defence before the Enquiry Committee:

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

(iii) Inefficiency.
(iv) Misconduct.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalties of Removal from service

_____

_____ under rule-14(4)(b) of the Rules ibid.

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

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

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

Divisional Forest Officer
Lower Dir Forest Division
Timergara

Annexure E (91)

OFFICE OF THE SUB DIVISIONAL FOREST OFFICER TIMERGARA FOREST SUB DIVISION AT TIMERGARA

To

The Divisional Forest Officer,
Lower Dir Forests Division,
Timergara.

No. 192 /T Dated Timergara the 19/6/2019

Subject: **DISCIPLINARY PROCEEDINGS AGAINST MUHAMMAD RASHID SUB DIVISIONAL FOREST OFFICER (BPS-17) FOREST DEPARTMENT KHYBER PAKHTUNKHWA.**

Memo:

Reference your letter No. 4088/G, dated 28.03.2019 and No. 4269/G, dated 04.04.2019.

On perusal of enquiry report as well as detail physical enquiry conducted by the committee vide letter No. 21/T, dated 24.08.2018, it is ascertained that the following pecuniary loses sustained to the Forest Department have been assessed with regard to plantation carried out at Shalpalam and Shamardin River side which were found 70% and 80% respectively.

1. **Shalapalam Block Plantation.**
That the area of Shalpalam has been charged 20 Ha through M. Roll No. 39/2015-16 during 01/2016 a/c for 03/2016 whereas, the same during physically inspection was found 70%.

➢ Total expenditure incurred on account of planting charges	Rs. 402500/-
➢ Total cost of plants	Rs. 129000/-
➢ Total cost of Maintenance/watch and ward	Rs. 252000/-
Total.....	**Rs. 783500/-**
Pecuniary loses assessed	**Rs. 235050/-**
Divided by two i.e SDFO+ Muhammad Islam FG	Rs. 117525/- (Each)

2. **Shamardin River Side Plantation.**
That the area of Shamardin river side plantation has been charged 12 Ha through M. Roll No. 171/2015-16 during 01/2016 a/c for 03/2016 whereas, the same during physically inspection was found 80%.

➢ Total expenditure incurred on account of planting charges	Rs. 241500/-
➢ Total cost of plants	Rs. 77400/-
➢ Total cost of Maintenance/watch and ward	Rs. 126000/-
Total.....	**Rs. 444900/-**
Pecuniary loses assessed	**Rs. 88980/-**
Divided by two i.e SDFO+ Khaista Nabi FG	Rs. 44490/- (Each)

Divisional Forest Officer
Lower Dir Forest Division
Timergara

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G.Total of pecuniary loses assessed (1+2)	**Rs. 324030/-**
Total pecuniary losses assessed against Muhammad Rashid SDFO	Rs. 162015/-
Total pecuniary losses assessed against Muhammad Islam Forest Guard	Rs. 117525/-
Total pecuniary losses assessed against Khaista Nabi Forest Guard	Rs. 44490/-

The report is submitted for favour of further necessary action in your office as desired please.

Sub Divisional Forest Officer,
Timergara Forest Sub Division,
At Timergara

Divisional Forest Officer
Lower Dir Forest Division
Timergara

Annex. F

OFFICE OF THE
DIVISIONAL FOREST OFFICER,
LOWER DIR FOREST DIVISION,
TIMERGARA
Phone No.0945-9250105

No 5375 /Acctt: Dated Timergara the 28/6/2019

To

The Chief Conservator of Forests,
Malakand Forest Region-III,
Saidu Sharif Swat.

Subject:- **RECOVERY.**
Memo:

Reference your letter No. 4328/E, dated 26.03.2019.

It is submitted that pecuniary losses sustained to Government have been assessed by SDFO Timergara vide his letter No.192/T, dated 19/06/2019 Copy enclosed). Furthermore, the recovery calculated are furnished hereunder:-

1. **Shalpalam Block Plantation**
   - Muhammad Rashid SDFO Rs. 117525/-
   - Muhammad Islam Forest Guard Rs. 117525/-
2. **Shammardin River Side Plantation.**
   - Muhammad Rashid SDFO Rs. 44490/-
   - Khaista Nabi Forest Guard Rs. 44490/-

Total pecuniary losses assessed against Muhammad Rashid SDFO Rs. 162015/-

Keeping in view, the pecuniary losses assessed have been divided equally against the SDFO and concerned staff.

Encls:as above:

Divisional Forest Officer,
Lower Dir Forest Division,
Timergara

No. 5376-77 /Acctt:

Copy forwarded to the:-

1. Conservator of Forests Malakand Forest Circle West at Timergara for favour of information please.
2. SDFO Timergara for information and further necessary action. He is requested to direct the above named Forest Guards to deposit the pecuniary losses assessed against them into govt: treasury immediately and send the challan for adjustment in the account in hand.

Divisional Forest Officer
Lower Dir Forest Division
Timergara

Divisional Forest Officer,
Lower Dir Forest Division,
Timergara

FORESTRY, ENVI

Annex - G

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GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Pesh: 13th September, 2018

NOTIFICATION

No.SO(Estt)FE&WD/I-50(183)/2k18: 9182-90 WHEREAS, Muhammad Rashid, Sub Divisional Forest Officer (BPS-17) Forest Department Khyber Pakhtunkhwa was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the charges as mentioned in the Charge Sheet and Statement of Allegations dated 19/06/2017, served upon the said officer;

AND WHEREAS, an Enquiry Committee comprising Mr. Tashfeen (PMS BS-18), Project Director, Establishment of Housing Foundation for Govt. Servants, Housing Department Khyber Pakhtunkhwa and Mr. Sher Nawaz, Chief Conservator of Forests (BS-20)/Managing Director, FDC was constituted to conduct the inquiry against the said accused officer;

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

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

NOW THEREFORE, the Competent Authority, after having considered the charges, evidence on record, findings of the Enquiry Committee, the explanation of the accused officer, hearing him in person and exercising his powers under Rule-14(5)(ii) read with Rule 4(1)(a) (ii) & (iii) of the ibid rules, has been pleased to impose minor penalties of *"Withholding of two increments for two years alongwith recovery of the pecuniary loss to be calculated by the Forest Department"* as per the findings of inquiry committee and recover the same from Muhammad Rashid, Sub Divisional Forest Officer (BPS-17) Forest Department.

CHIEF SECRETARY,
KHYBER PAKHTUNKHWA

Endst: No.SO(Estt)FE&WD/I-50(183)/2K18 Dated Pesh: 13th September, 2018.

Copy is forwarded to:-

1. Chief Conservator of Forests Central & Southern Forest Region-I, Peshawar due to negligence of the above named officer.
2. Chief Conservator of Forests, Malakand Forest Region-III, Swat w/r to his letter No: 917/E, dated 5th September, 2018 with the request to calculate and recover the amount of pecuniary loss sustained to Forest Department Khyber Pakhtunkhwa as per the findings of the inquiry committee and take up the case with B&A Cell for recovery of the same from the said officer.
3. Director Budget & Accounts Cell, Forestry, Environment & Wildlife Department.
4. Programmer, B&A Cell of FE&W Department.
5. PS to Secretary Forestry, Environment & Wildlife Department.
6. Muhammad Rashid, Sub Divisional Forest Officer C/O Deputy Director (Planning) Cell of FE&W Department. Please acknowledge receipt.
7. Personal file of the officer concerned.
8. Master file.
9. Office order file.

7/9/18

(Hafiz Abdul Jalil)
SECTION OFFICER (ESTT)

Divisional Forest Officer
Lower Dir Forest Division
Timergara