



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar, KPK Service Tribunal and not to any official by name.

No. 1092 /ST Dated 6 / 4 /2023

Ph:- 091-9212281
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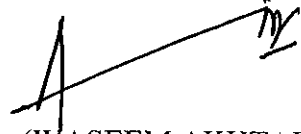
To:

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

SUBJECT:- JUDGMENT IN SERVICE APPEAL NO. 15579/2020, TITLED ASGHAR KHAN VERSUS FOREST DEPARTMENT

I am directed to forward herewith a certified copy of judgment dated 06.02.2023, passed by this Tribunal in the above mentioned appeal for strict compliance.

Encl. As above.

For 
(WASEEM AKHTAR)
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 15579/2020

BEFORE: MRS. ROZINA REHMAN ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Asghar Khan, Forester (BPS-10) Lower Kohistan Forest Division,
Pattan. (Appellant)

Versus

1. The Secretary Forestry, Environment & Wildlife Department,
Khyber Pakhtunkhwa, Peshawar.
2. The Chief Conservator of Forests Central Southern Forest Region-I,
Khyber Pakhtunkhwa, Peshawar.
3. The Conservator of Forests Upper Hazara Forest Circle, Manshra.
4. The Divisional Forest Officer, Lower Kohistan Forest Division,
Pattan. (Respondents)

Mr. Taimur Ali Khan,
Advocate ... For appellant

Mr. Naseerud Din Shah,
Assistant Advocate General ... For respondents

Date of Institution..... 24.11.2020

Date of Hearing..... 06.02.2023

Date of Decision..... 06.02.2023

JUDGEMENT

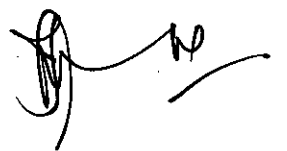
FAREEHA PAUL, MEMBER (E): Through this single judgment, we intend to dispose of instant appeal as well as connected Service Appeal No. 15877/2020, titled "Umar Khan Forest Guard (BPS-08) Upper Kohistan Forest Division, Dassu Versus the Secretary, Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa, Peshawar and others" as common questions of law and facts are involved in both the appeals.



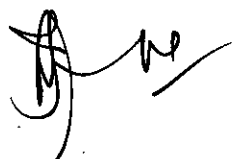
SCANNED
K.P.S.T.
Peshawar

2. The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 to consider the appellant for promotion to the post of Deputy Ranger (BPS-12) with effect from 01.03.2017, when his juniors namely Altaf Qureshi and Zia-ud-Din were promoted to the post of Deputy Ranger (BPS-12) and for promotion to the post of Forest Ranger (BPS-16) with effect from 14.04.2020 when Altaf Qureshi was further promoted to the post of Forest Ranger (BPS-16) and against not taking action on the departmental appeal of the appellant within the statutory period of ninety days. It has been prayed that on acceptance of the appeal, the respondents might be directed to consider the appellant for promotion to the post of Deputy Ranger (BPS-12) with effect from 01.03.2017, when his junior Altaf Qureshi and Zia-ud-Din were promoted and for promotion to the post of Forest Ranger (BPS-16) with effect from 14.04.2020, when Altaf Qureshi was further promoted to the post of Ranger (BPS-16), with all back and consequential benefits alongwith any other remedy which this Tribunal deems fit and appropriate.

3. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was working on the post of Forester (BPS-10) in the respondent department and was performing his duty up to the entire satisfaction of his superiors and no complaint had been filed against him. The appellant was at Serial No. 5 of the seniority list of Foresters issued on 31.12.2013, while Altaf Qureshi & Zia-ud-Din were at serial No. 6 & 7

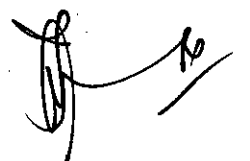


respectively in that seniority list. As per promotion rules, the post of Deputy Ranger (BPS-12) would be filled 75% by promotion on the basis of seniority-cum-fitness from amongst the Foresters (BPS-10) having five years service and the post of Forest Ranger (BPS-16) would be filled one-third by promotion on the basis of seniority-cum-fitness from amongst holders of the post of Deputy Forest Ranger (BPS-12). While serving in the said capacity, the appellant was served with a charge sheet. No proper and regular inquiry was conducted against him to dig out the reality about those baseless allegations and on the basis of that irregular inquiry, he was compulsory retired from service vide order dated 30.06.2016 which was challenged by the appellant in the Service Tribunal in Service Appeal No. 1247/2016. During the pendency of service appeal of the appellant, respondent No. 3 passed an order dated 01.03.2017, whereby juniors to the appellant namely Altaf Qureshi and Zia-Ud-Din were promoted to the post of Deputy Ranger (BPS-12). The Service Appeal No. 1247/2016 of the appellant was finally decided alongwith other connected appeals on 17.12.2018. The Tribunal set aside the impugned order of compulsory retirement of the appellant and reinstated him into service and directed the respondents to conduct de-novo inquiry, strictly in accordance with law and rules within a period of 90 days from the receipt of the judgment. CP No. 170-P/2019 filed by the respondent department against the judgment dated 17.12.2018 was also dismissed by the Apex Court on 25.07.2019. The respondent department did not reinstate the appellant in service as per judgment dated 17.12.2018, therefore, he filed Execution Petition No.



174/2019 in the Service Tribunal during the pendency of which, an order dated 24.10.2019 was passed, whereby the notification dated 30.06.2016 was withdrawn and the appellant was reinstated in service with immediate effect. The reinstatement order further stated that the issue of back benefits would be decided after the outcome of denovo inquiry. In the meantime, junior to the appellant, namely Altaf Qureshi, was further promoted from the post of Deputy Ranger (BPS-12) to the post of Forest Ranger (BPS-16) vide order dated 14.04.2020. Denovo inquiry was conducted against the appellant alongwith other officials in which charges of corruption were not proved against the officials, but despite that, minor punishment of stoppage of two annual increments for the period of two years was imposed upon the appellant, alongwith other officials, and the intervening period with effect from 01.07.2016 to 23.10.2019 was treated as leave on half pay vide order dated 24.07.2020. Feeling aggrieved, the appellant filed departmental appeal on 07.08.2020 for promotion to the post of Deputy Ranger (BPS-12) w.e.f. 17.03.2018 and Forest Ranger (BPS-16) w.e.f. 14.04.2020 which was not responded within the statutory period of ninety days; hence the instant service appeal.

5. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.



6. Learned counsel for the appellant, after presenting the case in detail, contended that not taking action on the departmental appeal of the appellant within the statutory period of ninety days and not promoting him to the post of Deputy Ranger (BPS-12) w.e.f. 13.03.2018 and Forest Ranger (BPS-16) w.e.f. 14.04.2020 were against the law and rules. He further contended that the appellant was reinstated in service from the date of compulsory retirement i.e. 30.06.2016 meaning thereby that the appellant was on the same position as before the order of penalty and it was his legal right to be promoted to the post of Deputy Ranger (BPS-12) and Forest Ranger (BPS-16) from the dates when his juniors were promoted. He further contended that the allegations of corruption on which the appellant was compulsory retired from service were not proved in the denovo inquiry. The appellant was at Serial No. 5 of the seniority list of 2013, while the officials who were promoted were at serial No. 6 & 7 respectively in the seniority list. He further contended that as per Superior Courts' judgments when an official was dismissed/removed or compulsory retired from service and reinstated into service after the allegations were not proved against him in the inquiry, then such official was entitled for all back benefits, including promotion, because absence of the official during dismissal/removal or compulsory retirement was not voluntary on his part but it was due to the order of his high ups which restrained him from attending his job/duty and as such the appellant was entitled for legal right of promotions from the dates when his juniors were promoted. He requested that the appeal might be accepted as prayed.



7. Learned Assistant Advocate General, while rebutting the arguments of learned counsel for the appellant, contended that while the appellant was serving in Harban Forest Sub-Division during 2013 there was an incident of theft of 18000 Cft precious species of deodar within his administrative jurisdiction. As a result of departmental inquiry initiated under the provisions of Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011, the appellant was compulsorily retired from service vide notification dated 30.06.2016 which was subsequently challenged before the Tribunal through Service Appeal No. 1247/2016. Since the appellant was not in service during the year 2017, therefore, the mentioned senior most Foresters having satisfactory record and those fulfilling other pre-requisites/criteria were promoted to the rank of Deputy Ranger (BPS-12) by respondent No. 3 on 01.03.2017 which was quite correct and justified under the provisions contained in Promotion Policy 2009 promulgated by the Government of Khyber Pakhtunkhwa. The appellant was reinstated in service vide notification dated 24.10.2019 after receipt of the decision of Apex Court dated 25.07.2019 and completion of other codal formalities. He further contended that though the charge of corruption was not established against the appellant but the charge of inefficiency was proved against him by the denovo inquiry committee on the basis of which minor punishment was awarded to him vide order dated 27.07.2020, treating the intervening period as half pay under the provisions contained in Khyber Pakhtunkhwa Leave Rules 1981, as admitted by the appellant. He further contended that the



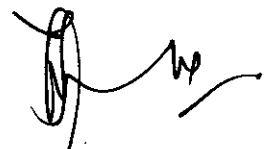
appellant had been promoted to the rank of Deputy Ranger on the recommendation of DPC vide office order dated 25.01.2021. His seniority in the cadre of Deputy Ranger had been restored vide Conservator of Forests, Upper Hazara Forest Circle Mansehra office order dated 05.04.2021. He had subsequently been promoted to the rank of Forest Ranger (BPS-16) on the recommendation of Departmental Promotion Committee by respondent No. 2 vide office order dated 02.02.2022. So far as his stance regarding promotion to the rank of Deputy Ranger (BPS-12) with effect from 17.03.2018 and then as Forest Ranger (BPS-16) with effect from 14.04.2017 was concerned, admittedly he was not in service on 17.03.2018 when his juniors were promoted to the rank of Deputy Ranger while he was Forester (BPS-10). He invited the attention to Para-VI of the Promotion Policy 2009 promulgated by the Provincial Government which stated that promotion would always be notified with immediate effect and hence his request for promotion from retrospective dates was contrary to the rules and policy, therefore not entertainable. He requested that the appeal might be dismissed.

8. From the record and arguments presented before us, it transpires that the appellant while working as Forester in the Forest Department was proceeded against departmentally on certain allegations and was awarded the penalty of compulsory retirement. His service appeal No. 1247/2016 before this Tribunal was decided on 17.12.2018 whereby the order of compulsory retirement was set aside, he was reinstated in service and the respondents were directed to conduct de-novo inquiry. Issue of back benefits was subject



to the outcome of denovo inquiry. The denovo inquiry was conducted in which no charges could be proved against the appellant, but still he was awarded penalty of stoppage of two annual increments, falling due on 01.12.2020 and 01.12.2021, for a period of two years, alongwith treating the period he remained out of service as leave on half pay, by the DFO Upper Kohistan vide his order dated 24.07.2020. During the hearing, learned counsel for the appellant produced a copy of an order dated 11.12.2020 of the Conservator Forests, Upper Hazara Forests Circle, Mansehra which indicates that a departmental appeal was submitted to him by the appellant against the order dated 24.07.2020 of DFO, Upper Kohistan. The Conservator Forests, Mansehra has termed the penalty imposed on the appellant as "hypothetical and arbitrary in nature", and states that he cannot support the punishment awarded to the accused which is purely against the norms of justice and therefore he accepted the appeal in favour of the appellant.

9. During the pendency of Service Appeal No. 1247/2016, respondents promoted Altaf Qureshi and Zia-ud-Din, who were junior to the appellant, to the post of Deputy Ranger (BS-12) on 01.03.2017 and later on 14.04.2020, Altaf Qureshi was further promoted to the post of Forest Ranger (BS-16). The present appeal is for considering the appellant for promotion to Deputy Ranger and Forest Ranger from the dates when his juniors were promoted. Record is clear about the reinstatement of appellant for denovo inquiry,




converting his compulsory retirement to minor punishment and later on setting aside the order of minor punishment also.

10. In view of all the above mentioned facts, there is no second opinion that when all the penalties, major and minor, have been set aside and the appellant has been reinstated from the date he was compulsory retired from his service, he is entitled to all the service benefits to which he was entitled had he not been compulsory retired. The order dated 11.12.2020 of the Conservator of Forests, Mansehra clearly indicates that the appellant was compulsory retired from service for a fault that was not committed by him, a fact that was proved with evidence in the denovo inquiry, and to which his appellate authority agreed and set aside all the penalties. This Tribunal in its various judgments has declared such reinstatements effective with all back benefits, which inter-alia include seniority also, and when seniority of any officer/official is restored from any back date, he is entitled to promotions also, with effect from that date.

11. In view of the above discussion, the appeal in hand, as well as connected appeal mentioned above, is allowed as prayed for. Parties are left to bear their own costs. Consign.

12. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 06th day of February, 2023.*


(FARIHA PAUL)
Member (E)



(ROZINA REHMAN)
Member (J)

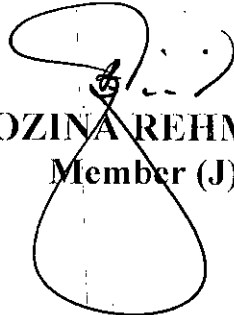
SA No. 15579/2020

06th Feb. 2023 Mr. Taimur Ali Khan, Advocate for appellant present. Mr. Naseerud Din Shahi, Assistant Advocate General for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgement consisting of 09 pages, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 06th day of February, 2023.*

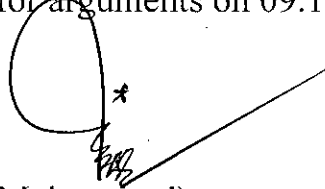

(FARZEHA PAUL)
Member (E)


(ROZINA REHMAN)
Member (J)

03.11.2022

Appellant alongwith his counsel present. Mr. Muhammad Jan,
District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment in
order to properly assist the court on the next date. Adjourned. To
come up for arguments on 09.12.2022 before the D.B.



(Mian Muhammad)
Member (E)

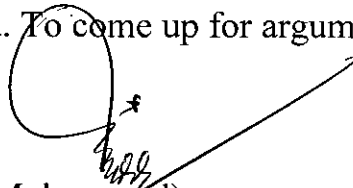


(Salah-Ud-Din)
Member (J)


09.12.2022

Learned counsel for the appellant present. Mr. Muhammad Jan,
District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on
the ground that he has not made preparation for arguments.
Adjourned. To come up for arguments on 06.02.2023 before the D.B.



(Mian Muhammad)
Member (E)



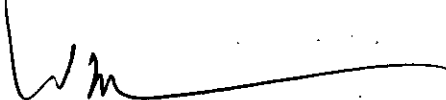
(Salah-Ud-Din)
Member (J)

**SCANNED
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Peshawar**

20.01.2022

Clerk to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for respondents present.


Reply/comments on behalf of respondents are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Last opportunity is granted to respondents to furnish reply/comments on or before next date, failing which their right to submit reply/comments shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 26.05.2022.



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

26th May, 2022

Counsel for the appellant present. Mr. Asif Masood, Deputy District Attorney alongwith Mr. Sajid, SDFO for respondents present.

Written reply/comments on behalf of respondent submitted which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. Counsel for the appellant seeks time to argue the case on the next date. Last opportunity granted. To come up for arguments on 11.08.2022 before D.B.


(Fareeha Paul)
Member(E)


(Kalim Arshad Khan)
Chairman

11.8.2022 Proper DB not available the case is adjourned to 3-11-2022


Reader

15579/20

13.07.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. Subject to all just and legal objections, including limitation, this appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 02.12.2021 before the D.B.

Appellant Deposited
Security & Process Fee

23/7/21


Chairman

02.12.2021

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Written reply/comments not submitted. Leaned AAG seeks time to contact the respondents for submission of written reply/comments. Adjourned. To come up for written reply/comments on 20.01.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)


17.03.2021

Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 24.06.2021 before S.B.


Reader

08.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 13.07.2021 for the same as before.

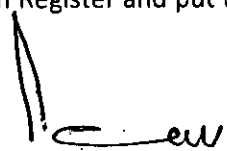



READER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 15579 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/12/2020 SCANNED KPST Peshawar	<p>The appeal of Mr. Asghar Khan resubmitted today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/01/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>18.01.2021</p> <p>Nemo for appellant.</p> <p>Case is adjourned to 17.03.2021 for preliminary arguments before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

The appeal of Mr. Asghar Khan Forester Lower Kohistan Forest Division Pattan received today i.e. on 24.11.2020 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

Page No. 8 of the appeal is illegible which may be replaced by legible/better one.

No. 3914 /S.T,

Dt. 25/11 /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.


25/11/2020

Mr. Taimur Ali Khan Advocate, Pesh.

Respected Sir,

Page NO. 8 of the appeal is has made better copy
copy

Resubmitted after
compliance


4/12/2020

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2018

Asghar Khan

VERSUS


Secretary Forestry, Environment & Wildlife Department, KPK.

INDEX

S.NO.	Documents	Annexure	Page No.
1.	Memo of appeal	-----	01-05
2.	Copies of seniority list & rules	A&B	06-16
3.	Copy of order dated 30.06.2016	C	17
4.	Copy of order dated 01.07.2017	D	18
5.	Copies of judgment dated 17.12.2018 and 25.07.2019	E&F	19-23
6.	Copy of notification dt: 24.10.2019	G	24
7.	Copy of order dated 14.04.2020	H	25
8.	Copies of inquiry report and order dated 24.07.2020	I&J	26-51
9.	Copy of departmental appeal	K	52-54
10.	Vakalat Nama	-----	55

APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,
&
(ASAD MAHMOOD)
ADVOCATE PESHAWAR

Room No. Fr-8, 4th Floor,
Bilour Plaza, Peshawar Cantt:
Contact No. 0333-9390916

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 15579/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15523

Dated 24/11/2020

Asghar Khan, Forester (BPS-10),
Lower Kohistan Forest Division, Pattan.

(APPELLANT)

VERSUS

1. The Secretary Forestry, Environment & Wildlife Department, Khyber Pakhtunkhwa Peshawar.
2. The Chief Conservator of Forests Central Southern Forest Region-I, Khyber Pakhtunkhwa Peshawar.
3. The Conservator of Forests Upper Hazara Forest Circle Mansehra.
4. The Divisional Forest Officer Lower Kohistan Forest Division Pattan.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF DEPUTY RANGER (BPS-12) WITH EFFECT FROM 01.03.2017, WHEN HIS JUNIORS NAMELY ALTAF QURESHI AND ZIA-UD DIN WERE PROMOTED TO THE POST OF DEPUTY RANGER (BPS-12) AND FOR PROMOTION TO THE POST OF FOREST RANGER (BPS-16) WITH EFFECT FROM 14.04.2020 WHEN ALTAF QURESHI WAS FURTHER PROMOTED TO THE POST OF FOREST RANGER (BPS-16) AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE WITHIN THE STATUTORY PERIOD NINETY-DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY KINDLY BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF DEPUTY RANGER (BPS-12) WITH EFFECT FROM 01.03.2017, WHEN HIS JUNIOR NAMELY ALTAF QURESHI

Filed to-day
ew,
Registrar
24/11/2020

Re-submitted to-day
and filed.

Registrar
ew
24/11/2020

AND ZIA-UD-DIN WERE PROMOTED AND FOR PROMOTION TO THE POST OF FOREST RANGER (BPS-16) WITH EFFECT FROM 14.04.2020, WHEN ALTAF QURESHI WAS FURTHER PROMOTED TO THE POST OF RANGER (BPS-16) WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant is working on the post of Forster (BPS-10) in the respondents department and is performing his duty up to the entire satisfaction of his superiors and no complaint has been filed against him. The appellant was at serial No.5 of the seniority list of the forester issued on 31.12.2013, while Altaf Qureshi & Zia Ud Din were at serial No.6&7 respectively in that seniority list and as promotion rule, the post Deputy Ranger (BPS-12) will be filled by 75% by promotion on the basis of seniority-cum-fitness from amongst Forester (BPS-10) having five years service and the post of Forest Ranger (BPS16) will be filled by one-third by promotion on the basis of seniority-cum-fitness from amongst holders of posts of Deputy Forest Ranger (BPS-12). (Copies of seniority list & rules are attached as Annexure-A&B)
2. That the appellant while serving in the said capacity, charge sheet was issued to him on some baseless allegations and no proper and regular inquiry was conducted against the appellant to dig out the realty about those baseless allegations and on the basis of that irregular inquiry, the appellant was compulsory retired from service vide order dated 30.06.2016 which was challenged by the appellant in this august service Tribunal in Service appeal No.1247/2016. (Copy of order dated 30.06.2016 are attached as Annexure-C)
3. That during the pendency of service appeal of the appellant, respondent No.3 passed an order dated 01.03.2017, whereby juniors to the appellant namely Altaf Qureshi and Zia Ud Din were promoted to the post of Deputy Ranger (BPS-12). (Copy of order dated 01.03.2017 is attached as Annexure-D)

4. That service appeal No.1247/2016 of the appellant was finally decided along with other connected appeals on 17.12.2018. The Honourable was kind enough to set aside the impugned order of compulsory retirement of the appellant and reinstated him into service and directed the respondents to conduct de-novo inquiry strictly in accordance with law and rules within the period of 90 days from the receipt of the judgment and CP No.170-P/2019 filed by the respondent department against the judgment dated 17.12.2018 was also dismissed by the Apex Court on 25.07.2019. (Copies of judgment dated 17.12.2018 and 25.07.2019 are attached as Annexure-F&F)
5. That the respondent department did not reinstated into service as per judgment dated 17.12.2018, therefore he filed execution petition No.174/2019 in this august Service Tribunal which still pending before this august Tribunal and during the pendency of execution petition, an order dated 24.10.2019 was passed, whereby the notification dated 30.06.2016 has withdrawn with immediate effect and the appellant was reinstated into service with immediate and the issue of back benefits will be decided after the outcome of de-novo inquiry. (Copy of notification dated 24.10.2019 is attached as Annexure-G)
6. That junior to the appellant namely Altaf Qureshi was further promoted from the post Deputy Ranger (BPS-12) to the post of Forest Ranger (BPS-16) vide order dated 14.04.2020. (Copy of Order dated 14.04.2020 is attached as Annexure-H)
7. That de-novo inquiry was conducted against the appellant along with other officials in which charge of corruption were not proved against the officials, but despite that minor punishment of stoppage of two annual for the period of two years has been imposed upon the appellant along other officials and his intervening period with effect from 01.07.2016 to 23.10.2019 was treated leave on half pay vide order dated 24.07.2020 (Copies of inquiry report and order dated 24.07.2020 are attached as Annexure-I&J)
8. That no charge of corruption has been established against the appellant in denovo inquiry and the appellant was reinstated into service from the date of compulsory retirement i.e 30.06.2016 and juniors to him were promoted to the post of Deputy Ranger (BPs-12) and Ranger (BPS-16), therefore he filed departmental appeal on 07.08.2020 for promotion to the post Deputy Ranger (BPS-12) w.e.f

*Dep. appeal to
conservation
Forest
order - 2020
11-12-2020*

17.03.2018 and Forest Ranger (BPS-16) w.e.f 14.04.2020 which was not responded within the statutory of 90 days. (Copy of departmental appeal is attached as Annexure-K)

9. That the appellant has no other remedy for redressal of his grievance, but except to file the instant appeal on the following grounds amongst others.

GROUND:

- A) That not taking action on the departmental appeal of the appellant within the statutory period of ninety days and not promoting the appellant to the post of Deputy Ranger (BPS-12) w.e.f 17.03.2018 and Forest Ranger (BPS-16) w.e.f 14.04.2020 are against the law, promotion rules, material on record and principle of natural justice and fair play.
- B) That the appellant was reinstated into service from the date of compulsory retirement i.e 30.06.2016 meaning by that the appellant was on the same position as before penalty order and it is his legal right to be promoted to the post of Deputy Ranger (BPS-12) and Forest Ranger (BPS-16) from the date, when his juniors were promoted.
- C) That the allegation of corruption on which the appellant was compulsory retired from service has not proved in the denovo inquiry which shows that the appellant was remained out of service for the fault of the others and as such the appellant could not be deprived from his legal right of promotions on the fault of others.
- D) That the appellant was at serial No.5 of the seniority list of 2013, while the officials who were promoted to Deputy Ranger (BPS-12) and Forest Ranger (BPS-16) were at serial No.6&7 respectively in that seniority list and which shows that the officials who were promoted were juniors to the appellant and if the appellant was not compulsory retired from service for the fault of the others he would be promoted along with his juniors.
- E) That as per Superior Courts judgments when a official person was dismissed/removed or compulsory retired from service and reinstated into service after not proving allegations against by the inquiry, then such official is entitle for all back benefits including promotion because absence of the official during dismissal/removal or compulsory retirement was not voluntary on his part but it was due to the order of his high ups which restrained him from attending his job/duty and as such the appellant is entitle for legal right of promotions from the date when his juniors were promoted.

- F) That the appellant was reinstated for the purpose of denovo inquiry on 24.10.2019 and after denovo inquiry the respondent department passed an order dated 24.07.2020 wherein intervening period of compulsory retirement from service i.e 30.06.2016 till his reinstatement i.e 24.10.2019 was treated on as leave on half pay which show that there is no break in the service of the appellant and the appellant is fully entitle for promotions from the date when his juniors were promoted. ✓
- G) That although allegations were not proved on the appellant during inquiry proceeding, but despite that minor punishment of stoppage on two annual increments were imposed upon the appellant, however minor punishment cannot be made hurdle in the way of promotion as per superior court judgments and such as the appellant cannot be deprived from his promotions on this ground.
- H) That depriving the appellant from his legal right of promotions from the date when some juniors to him were promoted will suffer a lot the appellant, both in promotion chances as well as monetary benefits in the shape of pension and gratuities.
- I) That the appellant has not been treated according to law and rules and has been kept deprived from his genuine right of promotion to the post of Deputy ranger (BPS-12) w.e.f 17.03.2018 and Forest Ranger (BPS-16) w.e.f 14.04.2020 by the respondents in an arbitrary manner.
- J) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT
Asghar Khan

THROUGH:

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

(ASAD MAHMOOD)
ADVOCATE PESHAWAR

&

(ABDUL WAHID)
ADVOCAT

31-12-13

A/B

SENIORITY LIST OF FORESTER IN UPPER HAZARA FOREST CIRCLE MANSEHRA 31-12-2013

S.#	Name of Official	Qualification	Home District	Any test passed	Date of Birth	Date of appointment in		Cadre	Remarks
						Govt. Service	Present grade		
1.	Mr. Mohammad Rangeen	Matric	Battagram	Trained	15/05/1956	01/03/1983	01/03/1983	Hazara Tribal Forest Division	Promoted as Deputy Ranger on regular basis w.e.f 08/10/2013.
2.	Mr. Gulfráz-I/s/o Mayoor	Matric	Kohistan	-do-	04/01/1957	27/09/1981	27/09/1981	Upper Kohistan Forest Division	--do--
3.	Mr. Muhammad Maqbool	Matric	Abbottabad	-do-	10/04/1960	22/08/1978	22/08/1978	Hazara Forestry Project Mansehra	
4.	Mr. Rustam Khan	F.A	Kohistan	-do-	01/03/1959	27/09/1981	27/09/1981	--do--	
5.	Mr. Muhammad Asghar	F.A	Kohistan	-do-	21/11/1962	27/09/1981	27/09/1981	--do--	
6.	Mr. Iltaf Quareshi	Matric	Kohistan	-do-	05/03/1961	01/10/1983	01/10/1983	--do--	
7.	Mr. Zia-ud-Din	Matric	Kohistan	-do-	06/09/1961	01/10/1983	01/10/1983	--do--	
8.	Mr. Anwar Khan	Matric	Kohistan	-do-	01/05/1965	01/10/1983	01/10/1983	--do--	
9.	Mr. Siraj-ud-Din	B.A	Kohistan	-do-	25/09/1966	23/06/1986	23/06/1986	--do--	
10.	Mr. Mohammad Yousaf	Matric	Battagram	-do-	17/04/1956	13/06/1975	08/05/1994	Hazara Tribal Forest Division	
11.	Mr. Umer Sharif	Matric	Battagram	-do-	01/10/1957	07/03/1979	01/06/1995	--do--	
12.	Mr. Saif-ul-Malook	Matric	Battagram	-do-	01/01/1956	17/05/1978	26/10/1997	--do--	
13.	Mr. Mohib-ul-Haq	F.A	Battagram	-do-	13/06/1961	12/07/1979	27/04/2002	--do--	
14.	Mr. Iftikhar	B.A	Battagram	-do-	23/04/1975	21/03/2007	21/03/2007	--do--	
15.	Mr. Gul Nasseem	F.Sc	Mansehra	-do-	02/04/1984	12/12/2007	12/12/2007	Agror Tanawal Forest Division	
16.	Mr. Nazmeen Khan	M.A	Mansehra	-do-	20/03/1986	12/12/2007	12/12/2007	--do--	
17.	Mr. Naseem Khan	F.Sc	Mansehra	-do-	16/06/1987	12/12/2007	12/12/2007	--do--	

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18.	Mr. Sher Bahader	Matric	Mansehra	Un-trained	03/02/1959	17/01/1978	04/09/2009	Agror Tanawal Forest Division
19.	Mr. Muhammad Faridooon	Under Matric	Mansehra	-do-	12/10/1959	17/01/1980	04/09/2008	--do--
20.	Mr. Javed Iqbal	F.Sc	Kohistan	Trained	20/04/1986	03/03/2009	03/03/2009	Lower Kohistan Forest Division.
21.	Mr. Sardar Khan	Matric	Battagram	Trained	01/12/1959	11/11/1982	12/06/2009	Hazara Tribal Forest Division
22.	Mr. Ummer Khan	F.A	Kohistan	-do-	15/12/1956	17/05/1976	30/06/2009	Lower Kohistan Forest Division.
23.	Mr. Muhammad Zakir	F.Sc	Battagram	-do-	29/12/1983	23/10/2009	23/10/2009	Hazara Tribal Forest Division
24.	Syed Zubair Shah	B.Sc	Battagram	-do-	28/03/1984	23/10/2009	23/10/2009	--do--
25.	Mr. Fateh Muhammad	F.Sc	Battagram	-do-	01/03/1989	23/10/2009	23/10/2009	--do--
26.	Mr. Abdul Ghani	Matric	Kohistan	-do-	01/05/1960	04/04/1979	27/05/2010	Upper Kohistan Forest Division
27.	Mr. Bahadur Shah	Middle	Kohistan	-do-	16/06/1950	05/04/1979	14/11/2011	--do--
28.	Mr. Faqir Mohammed	Matric	Mansehra	Un-trained	29/12/1957	02/07/1977	15/10/2012	Agror Tanawal Forest Division
29.	Mr. Mohammad Farid	Matric	Mansehra	-do-	18/11/1956	30/11/1981	15/10/2012	--do--
30.	Mr. Dost Muhammad	Matric	Mansehra	Trained	27/09/1957	02/02/1977	24/01/2013	Agror Tanawal Forest Division
31.	Mr. Muhammad Riaz	Matric	Mansehra	-do-	08/11/1961	22/11/1981	24/01/2013	--do--
32.	Mr. Sain Mohammad	Matric	Mansehra	-do-	02/02/1957	17/02/1982	13/12/2013	Hazara Tribal Forest Division
33.	Mr. Abdul Kafi	B.A.	Kohistan	-do-	15/07/1979	19/05/2014	19/05/2014	Upper Kohistan Forest Division

Conservator of Forests
Upper Hazara Forest Circle
Mansehra

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Handwritten signature and date: 15/10/2013

.....
NOTIFICATION:

No. SO(FT:II)/AD/1-465/88/Vol:IV, In presence of the provision contained in sub-rule (2) of rule 3 or the NWFP Civil Servants (Appointment promotion and transfer rules 1989, and in supersession of all previous rules aside in this behalf, the Forest, Fisheries and Wildlife Department in consultation on the service & General Admn: Department and the finance Department, hereby lays down the method of recruitment qualification and other conditions in the columns 3 to 5 of the appendices to this notification, which will be applicable to post in column-2 of the said appendix in the Forest Department.

Secretary to Govt. of NWFP
Forestry, Fisheries and Wildlife
Department

Endst: No. (FT:II)/AD/1-465/88/Vol:IV/720-27 Dated 26.1.1993.
copy forwarded to:-

- 1 to 4. XXXXXXXXXXXXXXXXXXXXX.
5. Chief Conservator of Forests (North) Peshawar.
6 to 8. XXXXXXXXXXXXXXXXXXXXX.

.....
No. 1058-63/E, Dated Peshawar the 31/1/1993.

Copy for alongwith copy of its enclosures forwarded to all conservator of Forests/ Project Directors in North for information and necessary action.

Encl:

As above.

Chief Conservator of Forests
North at Peshawar

1993 J.D. 03/23

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FORESTRY, FISHERIES AND WILDLIFE DEPARTMENT
PESHAWAR THE 26.1.1993.

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NOTIFICATION.

No. SO (FP: II) / AD / 1-465 / 88 / Vol-IV. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the NWFC Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, and in supersession of all previous rules made in this behalf, the Forests, Fisheries and wildlife department in consultation with the Service & Adm. Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions as laid in columns 3 to 5 of the appendix to this notification, which shall be applicable to posts in column-2 of the said appendix in the Forest Department.

Secretary to Govt. of NWFC,
Forestry, Fisheries and Wildlife
Department.

Lndst: No. SO (FP: II) / AD / 1-465 / 88 / Vol: IV / 720-27 dated 26.1.1993.

Copy forwarded to:-

- 1 to 4. x x x x x xxxxxxxxxxxx
- 5. Chief Conservator of Forests (North) Peshawar.
- 6 to 8. x x x x x xx x xx xx x xxx x

No. 1058-63/E, Dated Peshawar the 31 / 1 / 1993.

Copy for along with copy of its enclosures forwarded to all Conservator of Forests / Project Directors in North for information and necessary action.

Encl:
As above.

CHIEF CONSERVATOR OF FORESTS
NORTH - PESHAWAR.

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APPENDIX

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1. Nomenclature of posts.	3. Minimum qualification, for appointment by initial recruitment.	4. Age limit for initial recruitment.	5. Method of recruitment.
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FOREST WING

PART - I PROFESSIONAL POSTS.

1. Chief Conservator of Forests.			By promotion, on the basis of selection on merit, from amongst four senior most Conservators of Forests with at least five years service as such.. Seniority being considered only in the case of Officers of practically the same standard of merit.
2. Conservator of Forests.	(i) M.Sc.Forestry or B.Sc. (Hons.) in Forestry from a recognised University; and (ii) twelve years job experience in BPS-17 and above in Forestry or related field.	35 to 45 years.	(a) By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Divisional Forest Officers (BPS-18) and Deputy Conservator of Forests having at least twelve years service in BPS-17 and above, who have successfully completed such training or passed such departmental examination as may be prescribed by Government for the purpose; or (b) if a suitable person is available for promotion, by initial recruitment.

Note.- Preference will be given to candidates who have contributed significantly to the profession/practice of Forestry and its allied fields by way of preparing management plans, research studies, survey and feasibility reports for assessing and husbanding renewable economic and social benefits, etc.

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2.

Divisional Forest Officer/
Deputy Conservator of
Forests.

3.

Assistant Conservator of
Forests/Divisional Forest
Officer (BPS-17).

Second Class Bachelor's Degree
in Science, Agriculture or
Forestry from a recognised
University.

21 to 28
years.

- (a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst holders of posts of Forest Rangers with at least ten years' service as such; and
- (b) fifty per cent by initial recruitment.

Note.- Appointments of candidates selected for the posts by the Public Service Commission shall be made subject to the following conditions:-

- (i) The candidate shall undergo and successfully complete the training at the Pakistan Forest Institute leading to M.Sc. Forestry Degree.
- (ii) The candidates shall produce certificate from the Standing Medical Board regarding their physical fitness for performing the duties required of them.
- (iii) The candidates shall execute bonds to the effect that on successful completion of the training they shall serve the Government for at least five years or in default shall refund all the expenses incurred in connection with their training and education.

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(a) Intermediate (2nd Division) from a recognized Board with two or more of the following subjects:-

- (i) Mathematics;
- (ii) Physics;
- (iii) Chemistry;
- (iv) Biology;
- (v) Zoology;
- (vi) Botany.

(b) Holders of B.Sc. Degree (Second Class) who have studied any two of the above subjects are also eligible.

18 to 25 years.

*Four years made
Govt. of NWFP Env. Deptt.
No. 1-4657-2-14/S dated
20.12.2006*

(a) One-third by promotion, on the basis of seniority-cum-fitness, from amongst holders of posts of Deputy Forest Rangers, with seven years' experience as such and having received one year's training at the Forest School; and

(b) two-third by initial recruitment.

Note.- Appointments of candidates selected for the posts by the Public Service Commission shall be subject to the following conditions:-

- (i) the candidates shall undergo and successful the training at the Pakistan Forest Institute leading to B.Sc. Forestry Degree;
- (ii) the candidates shall produce certificate from Standing Medical Board at Peshwar regarding their physical and mental fitness for performing the duties required of them; and
- (iii) the candidates shall execute bonds to the effect that on successful completion of the training they shall serve the Government for at least five years or in default shall refund all the expenses incurred in connection with their training and education.

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PART-II SUB PROFESSIONAL POSTS.

Forest Ranger.

(a) seventy-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Foresters in the Circle where the vacancies occur with five years service as such, who have successfully completed such training or passed such Departmental Examination as may be prescribed by the Government for the purpose; and

(b) twenty-five per cent by promotion, on the basis of selection on merit, from amongst Foresters who have secured first position in Foresters training course at the Forest School with five years service or have secured five consecutive excellent annual reports and are below 35 years of age.

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Forester.

- (i) Secondary School Certificate with Science or equivalent qualification (Second Division) from a recognized Board; 18 to 25 years.
- (ii) successful completion of Forester training course from school of Forestry; and
- (iii) possessing minimum physical standard prescribed by Government.

- (a) Fifty per cent by initial recruitment; and
- (b) fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst holders of post of Forest Guards of the Forest Division where the vacancies occur, who have at least five years' service as such and have passed such departmental examination as may be prescribed by Government for the purpose.

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2. rest Guard.

3. Secondary School Certificate from a recognised Board or equivalent qualification from Pakistan Army.

4. 18 to 25 years.

5. By initial recruitment.

PART - III MINISTERIAL POSTS.

perintendent.

By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Regional Accountant or if no suitable Regional Accountant is available, from amongst Assistants/Stenographers (B-15) with at least five years' service as such.

Regional Accountant.

By promotion, on the basis of seniority-cum-fitness, from amongst holders of posts of Assistants and Senior Scale Stenographers with at least ten years' experience in Accounts who have successfully completed such training or passed such Departmental Examination as may be prescribed by the Government for the purpose.

tant.

Degree from a recognised University.

18 to 25 years.

- (a) Twenty-five per cent by initial recruitment; and
- (b) twenty-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst holders of posts of Senior Clerks, with at least five years' service as such.

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Clerk.

- (i) Secondary School Certificate or equivalent qualification from a recognized Board; and
- (ii) a speed of 30 words per minute in typing.

18 to 25 years.

Stenographer (BPS-15).

- (i) Secondary School Certificate or equivalent qualification from a recognised Board; and
- (ii) a speed of 120 words per minute in shorthand in English and 40 words per minute in typing.

18 to 25 years.

Stenographer (BPS-12).

- (i) Secondary School Certificate or equivalent qualification from a recognized Board; and
- (ii) a speed of 100 words per minute in shorthand in English and 40 words per minute in typing.

18 to 25 years.

By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Junior Clerks/Storekeeper with at least three years' service as such.

- (a) Eighty per cent by initial recruitment; and
- (b) twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Daftri and Naib Qasid, who possess Secondary School Certificate from a recognized Board, with at least two years' service as such.
- (a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst holders of posts of Stenographer (BPS-12) with at least five years' service as such, who have passed such test as may be prescribed by Government for the purpose; and
- (b) fifty per cent by initial recruitment.

By initial recruitment.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

~~Appendix 7~~ 209/13
(15)

NOTIFICATION

Dated Peshawar the 14th March, 2013

No.SO(Estt)Envt/1-465/2k12 In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, the Environment Department, Government of Khyber Pakhtunkhwa, in consultation with the Establishment and the Finance Department, hereby directs that in the Forestry, Fisheries and Wildlife Department's Notification No.SO(FT.II)1-465/88/Vol:IV dated 26.1.1993, the following further amendments shall be made, namely;

AMENDMENTS

In the Appendix, under the heading "Forest Wing" in "PART-II SUB PROFESSIONAL POSTS", for the existing entries against S.No. 1, 2 & 3, the following shall be substituted in respective columns namely:-

#	Nomen-clature of the post	Qualification for appointment by initial recruitment	Age limit	Method of recruitment
1	Deputy Forest Ranger (BPS-11)	a) B.Sc, Degree (atleast 2 nd Division) from a recognized University; and b)Physical Fitness: b(i) Height 5-6, ft (minimum); and (ii) Chest Size: 34-36, inches (minimum) Note:- Candidate Will qualify Marathon race of 2-Km within 20 minutes	21 to 32 years	a). Twenty-five percent by initial; recruitment; and b) Seventy-five percent by promotion, on the basis of seniority-cum-fitness, from amongst Foresters (BPS-9) having five years service, who have successfully completed such training or passed such departmental examination as may be prescribed by the Government from time to time. Note:- The candidates who have been recruited will have to undergo the prescribed training for Forester at Khyber Pakhtunkhwa Forest School Thai Abbottabad; and
2	Forester (BPS-9)	a) Bachelor's Degree with FSc (atleast 2 nd Division) from a recognized University; and b)Physical Fitness: b(i) Height 5-6, ft (minimum); and (ii) Chest Size: 34-36, inches (minimum) Note:- Candidate Will qualify Marathon race of 2-Km within 20	21-32 years	a) Twenty-five percent by initial; recruitment; and b) Seventy-five percent by promotion, on the basis of seniority-cum-fitness, from amongst Forest Guards of the Forest Division with atleast five years service as such, have passed such departmental examination as may be prescribed by the Government from time to time. Note:- The candidates who have been recruited will have to undergo two years certificate course in Forestry at Khyber Pakhtunkhwa Forest School Thai Abbottabad.

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3	Forest Guard (BPS-7)	<p>a) Intermediate with Matric Science (at least 2nd Division) from a recognized Board; and</p> <p>b) Physical Fitness:</p> <p>b(i) Height 5-6, ft (minimum); and</p> <p>(ii) Chest Size: 34-36, inches (minimum)</p> <p>Note:- Candidate Will qualify Marathon race of 2-Km within 20 minutes</p>	18-28 years	<p>By initial recruitment.</p> <p>Note:- The candidates who have been recruited will have to undergo one year training course of Forest Guards at Khyber Pakhtunkhwa Forest School Thai Abbottabad."</p>
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SECRETARY TO GOVT: OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT.

213-2213

Endst: NO.SO(Estt)/Envt/I-465/2K:

Dated Peshawar the 14th March, 2013.

Copy is forwarded for information to:-

- 1) All Administrative Secretaries, Govt: of Khyber Pakhtunkhwa.
- 2) Accountant General, Khyber Pakhtunkhwa.
- 3) All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 4) Chief Conservator of Forests, Khyber Pakhtunkhwa.
- 5) Chief Conservator Wildlife Khyber Pakhtunkhwa.
- 6) All Conservators of Forests Khyber Pakhtunkhwa.
- 7) All Deputy Conservators/Divisional Forest Officer in Khyber Pakhtunkhwa. *ccf-II Abbottabad*
- 8) All District Coordination Officers in Khyber Pakhtunkhwa.
- 9) Registrar Peshawar High Court/Service Tribunal, Khyber Pakhtunkhwa.
- 10) Secretary, Khyber Pakhtunkhwa Public Service Commission.
- 11) All Executive District Officers Finance in Khyber Pakhtunkhwa.
- 12) Director Budget & Accounts Cell, Environment Department.
- 13) All District Accounts Officers in Khyber Pakhtunkhwa.
- 14) Librarian, Government of Khyber Pakhtunkhwa, Establishment Department.
- 15) Manager Government Printing Press, Khyber Pakhtunkhwa, Peshawar for publication in the Official Gazette with the request that twenty printed copies of the notification, when published may be furnished to this department.
- 16) PS to Secretary Environment Department Khyber Pakhtunkhwa.
- 17) PA to Additional Secretary Environment Department.
- 18) PA to Deputy Secretary-I & II, Environment Department.
- 19) Master file.
- 20) Concerned file.

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[Signature]
(FIDA-UL-KARIM)
SECTION OFFICER (ESTT:)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Pesh: 30th June, 2016

NOTIFICATION

No.SO(Estt)FE&WD/1-8/Tarig DFO/2k14: WHEREAS, Mr. Muhammad Asghar, Forester (BPS-09), 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 25/12/2013, served upon the said officer;

AND WHEREAS, Enquiry Committee comprising Mr. Tarig Rashid, (SG BS-19), Reforms Coordinator, Finance Department and Mr. Shah Wazir Khan (BS-19), Managing Director, Forest Development Corporation, to conduct the inquiry against the said accused official

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 official 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 official 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 official, and hearing him in person and exercising his powers under Rule-14(5)(ii) read with Rule 4(1)(b)(i) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose a major penalty of "Compulsory retirement from service"; upon and "Recovery of Rs. 21,98,500/-" from Mr. Muhammad Asghar, Forester (BPS-09) of Forest Department, with immediate effect.

CHIEF MINISTER,
KHYBER PAKHTUNKHWA

Endst: No. SO(Estt)FE&WD/1-8/Tarig DFO/2k14-1568-71 Dated Pesh: 30th June, 2016.

Copy is forwarded to:-

- 1) PSO to Chief Minister, Khyber Pakhtunkhwa.
- 2) PS to Secretary Forestry, Environment & Wildlife Department.
- 3) Chief Conservator of Forests, Central and Southern Forest Region-I, Peshawar.
- 5) Director Budget and Accounts Environment Department.
- 6) Official concerned C/O Chief Conservator of Forests, Central & Southern Forest Region-I Peshawar.
- 7) Master file.
- 8) Office order file.

S. U. (SYED KAZIM HUSSAIN SHAH)
SECTION OFFICER (ESTT)

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OFFICE ORDER NO. 24 DATED MANSEHRA THE 01/03/2017, ISSUED BY
ZAFAR ALI KHAN CONSERVATOR OF FORESTS UPPER HAZARA FOREST CIRCLE MANSEHRA

As recommended by Departmental Promotion Committee in its meeting held on 17-02-2017, under the Chairmanship of Chief Conservator of Forests Central Southern Forest Region-I Khyber Pakhtunkhwa Peshawar, the following Forester are hereby promoted to the rank of Deputy Ranger in BPS-12 (Rs. 11140-800-35140) with immediate effect on regular basis against the existing vacancies of Deputy Rangers in Upper Hazara Forest Circle Mansehra.

1. Mr. Altaf Qureshi Upper Kohistan Forest Division
2. Mr. Zia-ud-Din Lower Kohistan Forest Division

The order is purely temporary and will not confer any right for continuity on abolition of the posts and the official will be liable to reversion to original post without any notice.

The Deputy Ranger will be on probation for a period of one year in terms of section 6(2) of the KP Civil Servant ACT, 1973 read with rule 15(1) of the KP Civil Servant (Appointment Promotion and Transfers Rules, 1989).

The Deputy Rangers are allowed to continue their services at the present place of posting till further orders.

Sd/-

(Zafar Ali Khan)
Conservator of Forests
Upper Hazara Forest Circle
Mansehra

Copy forwarded to the:-

1. Chief Conservator of Forests Central Southern Forest Region-I, Khyber Pakhtunkhwa Peshawar with reference to his letter No.2354-59/E dated 01/03/2017.
2. Chief Conservator of Forests Northern Forest Region-II, Abbottabad
3. Section Officer (Establishment) Forestry Environment and Wildlife Department Peshawar
4. Divisional Forest Officer Upper Kohistan Forest Division Dasso
5. Divisional Forest Officer Lower Kohistan Forest Division Pattan

Conservator of Forests
Upper Hazara Forest Circle
Mansehra

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
CAMP COURT ABBOTTABAD.

Service Appeal No. 1244/2016

Date of Institution ... 13.12.2016

Date of Decision ... 17.12.2018



Abdul Manan Forester, Upper Kohistan Forest Division, Dassu, District Kohistan.
... (Appellant)

VERSUS

Chief Minister, Khyber Pakhtunkhwa, Peshawar and two others.
... (Respondents)

MR. SHAD MUHAMAMD KHAN,

Advocate

MR. ABDUL SABOOR KHAN

Advocate

For appellant.

MR. USMAN GHANI,

District Attorney

For respondents

MR. AHMAD HASSAN,

MR. HAMID FAROOQ DURRANI

MEMBER (Executive)
CHAIRMAN

JUDGMENT

AHMAD HASSAN, MEMBER:-

This judgment shall dispose of the instant service appeal as well as connected service appeal no. 927/2015 titled Jamair Khan, appeal no. 926/2015 titled Naseeb Khan, appeal no. 1247/2016 titled Asghar Khan, appeal no. 1246/2016 titled Umar Khan and service appeal no. 795/2015 titled Mohammad Tariq Khan as similar question of law and facts are involved therein.

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2.

Arguments of the learned counsel for the parties heard and record perused.

FACTS

The brief facts are that the appellant was serving as Forester in Forest Division Kohistan. On the allegations of involvement in corrupt practices an enquiry was conducted and upon culmination major penalty of compulsory retirement was imposed on

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him vide impugned order dated 30.06.2016. Feeling aggrieved he filed departmental appeal on 15.08.2016, which was not responded, hence, the instant service appeal on 13.12.2016.

ARGUMENTS

4. Learned counsel for the appellant argued that he was proceeded departmentally and upon winding up of proceedings major penalty of compulsory retirement was imposed on him. Enquiry was not conducted in accordance with the spirit of E&D Rules 2011. The appellant and others through an application submitted a list of witnesses to the Chairman Enquiry Committee for examination but no heed was paid to it. He further argued that the appellant submitted an application to the Chairman Enquiry Committee that Mr. Shah Wazir Khan, Member Enquiry Committee had personal grudge against him and was hell bent to punish the appellant. A request was made to depute some other member for conducting the enquiry. This fact was also highlighted in para-9 of the reply to the show cause notice but was not considered by the competent authority. By not considering his requests, the inquiry report appeared to be biased and against the norms of fairness/justice.

5. Learned District Attorney, at the very outset raised objection on the maintainability of the appeal in hand. He stated that the impugned order was passed on 30.06.2016 while departmental appeal was filed on 15.08.2016, as departmental appeal was not filed within the given deadline, so the same was barred by time. He further argued that even on merits all the codal formalities were observed before passing the impugned order.

CONCLUSION.

6. So far as the issue of maintainability of the present appeal is concerned, impugned order dated 30.06.2016 was received by the appellant on 05.08.2016, as is evident from a copy of the impugned order containing endorsements to the quarters concerned and

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Chysoo Pakhtunkhwa
Service Tribunal,
Peshawar

(21)

provided by the learned counsel for the appellant. Before touching the merits of the case, we deem it appropriate to touch the important issue of objections raised by the appellant on Mr. Shah Wazir, Member Enquiry Committee, but were not considered by the competent authority. It was also reiterated in reply to the show cause notice. He had given solid proof showing bias/prejudice of the above member towards the appellant and had made up his mind to punish him. The principle of natural justice demanded that his request should have been considered for the purpose of fair/transparent inquiry and to meet the ends of justice. By ignoring his request the enquiry report had not only become disputed but smacked of malafide, malice and distrust on the part of the said Member. On this score alone, it is a valid worth consideration case for de-novo enquiry. In these circumstances we would not like other dilate on other deficiencies in the inquiry report.

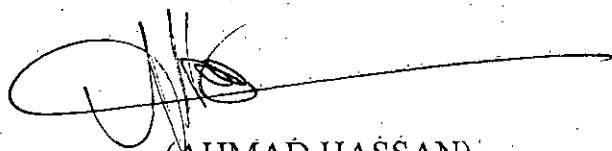
7. As a sequel to above, the impugned order dated 30.06.2016 in respect of appellants Abdul Manan, Umer Khan and Asghar Khan, order dated 02.04.2015 in respect of appellant Naseeb Khan and order dated 12.03.2015 in respect of appellants Jamair Khan and Muhammad Tariq Khan are set aside and the appellants are reinstated in service. The respondents are directed to conduct de-novo enquiry strictly in accordance with law and rules within a period of 90 days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. The appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.



(HAMID FAROQQ DURRANI)
Chairman

ANNOUNCED
17.12.2018

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(AHMAD HASSAN)
Member
Camp Court Abbottabad.

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE SH. AZMAT SAEED
MR. JUSTICE UMAR ATA BANDIAL

CIVIL PETITION NO.168-P TO 173-P OF 2019

(On appeal from the judgment dated 17.12.2018 of the
Khyber Pakhtunkhwa Service Tribunal, Peshawar passed
in Service Appeals Nos.1244/2016, 927/2015, 926/2015,
1247/2016, 1246/2016 and 795/2015 respectively)

Chief Minister through its
Principal Secretary, Khyber
Pakhtunkhwa Peshawar & others

... Petitioner (s)

Versus

- | | |
|-------------------|-----------------------|
| 1. Abdul Manan | (In CP No.168-P/2019) |
| 2. Umar Khan | (In CP No.169-P/2019) |
| 3. Asghar Khan | (In CP No.170-P/2019) |
| 4. Muhammad Tariq | (In CP No.171-P/2019) |
| 5. Naseeb Khan | (In CP No.172-P/2019) |
| 6. Jamair Khan | (In CP No.173-P/2019) |

For the Petitioner (s) : Barrister Qasim Wadood, Addl. AG KPK

Respondent (s) : N.R.

Date of Hearing : 25.07.2019

ORDER

SH. AZMAT SAEED, J.-We have heard the learned Addl. Advocate General, KPK and perused the available record. It appears that the learned Service Tribunal has remanded the matter for *de novo* inquiry. In this view of the matter, no substantial question of law of public importance could be raised so as to warrant

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Court Associate

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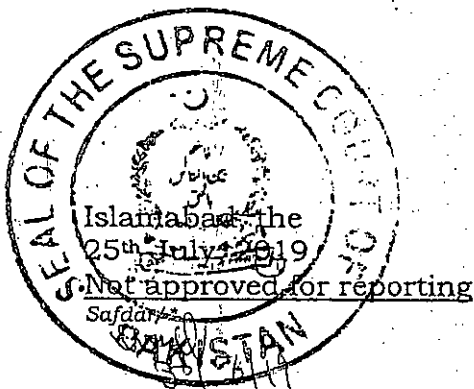
CP No.169-P-2019 etc.

2

exercise of jurisdiction of this Court under Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973. Hence, these Civil Petitions must fail.

2. The allegation in these cases pertains to the misappropriation of timber. We have asked the learned Addl. Advocate General as to whether any criminal proceedings have been initiated against the culprits. He states that he will seek instructions in this behalf and make sure that the law of the land would be implemented.

3. Be that as it may, these Civil Petitions being without substance are dismissed and leave declined.



Sd/-J

Sd/-J

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Court Associate
Supreme Court of Pakistan
Islamabad

GR No: 15660/19 Civil/Criminal
Date of Presentation: 26-7-19
No of Words: 50
No of Pages: 6
Required Fee: 5000
Cost: 2000
C. No: 5000

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[Signature]

20/7/19
21-8-19

[Signatures]

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT**

Dated Peshawar the, 24th October, 2019

NOTIFICATION

7469-53

No.SO(Estt)FE&WD/1-50(69)/2019/PF: In compliance with judgment dated 17.12.2018 of Khyber Pakhtunkhwa Service Tribunal in service appeal No:1247/2016 and decision dated 25th July, 2019 of Supreme Court of Pakistan in Civil Petition No.168-P to 173-P of 2019, the competent authority is pleased to withdraw this department earlier Notification No.SO(Estt)FE&WD/1-8/Tariq DFO/2014/2868-71 dated 30.06.2016 imposing thereby the major penalty of "Removal from Service and Recovery of Rs. 21,98,500/- from Muhammad Asghar, Forester (BS-09) Khyber Pakhtunkhwa-Forest Department with immediate effect.

Consequent upon above, the competent authority is further pleased to reinstate in service Muhammad Asghar, Forester (BS-09) Khyber Pakhtunkhwa Forest Department with immediate effect. The issue of back benefits will be decided/settled after the outcome of the de novo inquiry.

**CHIEF MINISTER
KHYBER PAKHTUNKHWA**

Dated Pesh 24th October, 2019

Endst: No: SO (Estt)FE&WD/1-50(69)/2019/PF:

Copy is forwarded to:-

- 1) Chief Conservator of Forests, Central Southern Forest Circle, Peshawar.
- 2) Chief Conservator of Forests, Northern Forest Region-II, Abbottabad.
- 3) Director, Budget and Accounts Cell, FE&W department.
- 4) PS to Secretary, FE&W Department, Khyber Pakhtunkhwa.
- 5) Muhammad Asghar, Forester, Khyber Pakhtunkhwa Forest Department C/o. CCF-I, Peshawar.
- 6) Master file.
- 7) Office order file.

**(Zia-ur-Rahman)
SECTION OFFICER (ESTT)**

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OFFICE ORDER NO. 140 DATED PESHAWAR THE 14 /04/2020 ISSUED BY
MR. A G KHAN, CHIEF CONSERVATOR OF FORESTS CENTRAL SOUTHERN FOREST
REGION-I, KHYBER PAKHTUNKHWA PESHAWAR.

On the recommendations of Departmental Promotion Committee, the following Deputy Rangers (BPS-12) are hereby appointed to the post of Forest Rangers (BPS-16) on acting charge basis, with immediate effect:-

1. Mr. Altaf Qureshi. ✓
2. Muhammad Nazir.
3. Mr. Nisar Ahmad.
4. Mr. Khurshid Khan.
5. Muhammad Riasat
6. Muhammad Asad.
7. Mr. Jehangir Said.

B.S 16

This order is purely temporary and will not constitute any right for continuity in case of abolition of the post. In such an eventuality they will automatically stand reverted to original post without any notice.

On their promotion the following postings /transfers are hereby ordered in the interest of public service with immediate effect:-

S.No.	Name and Designation	From	To
1.	Mr. Altaf Qureshi	On appointment to the post of Forest Ranger	To continue on Jalkot Range of Upper Kohistan Forest Division
2.	Muhammad Nazir	--do--	To continue on Siran Watershed Sub Division of Kunhar Watershed Division
3.	Muhammad Riasat	--do--	To continue on Satora Range of Haripur Forest Division
4.	Muhammad Asad	--do--	To continue on litigation forest sub division of Upper Dir Forest Division.
5.	Mr. Jehangir Said	--do--	To continue on Mardan Forest Sub Division of Mardan Forest Division.

Posting order of M/S Nisar Ahmad and Khurshid Khan Forest Rangers list at S.No. 3 and 4 above will be issued separately.

Sd/-

(A.G. Khan)

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

No. 4125-31 /E

Copy forwarded for information and necessary action to the:-

1. Chief Conservator of Forests Northern Forest Region-II, Abbottabad.
2. Chief Conservator of Forests Malakand Forest Region-III Saidu Sharif Swat.
3. Conservator of Forests Lower Hazara Forest Circle Abbottabad.
4. Conservator of Forests Upper Hazara Forest Circle Manshra.
5. Conservator of Forests Southern Forest Circle Peshawar.
6. Budget & Accounts Officer, Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Peshawar.
7. Section Officer (Establishment) Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Peshawar.

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

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[Signature]

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نور عالم

**DISCIPLINARY PROCEEDINGS/ENQUIRY REPORT CONDUCTED AGAINST
M/S: 1-MUHAMMAD ASGHAR FORESTER 2- ABDUL MANAN FOREST
GUARD 3-UMER KHAN FOREST GUARD 4-NASEEB KHAN FOREST GUARD
AND 5-JAMIR KHAN FOREST GUARD OF HARBAN FOREST SUB DIVISION
- UPPER KOHISTAN FOREST DIVISION-**

Read With:

- 1- Office Order No.17 dated 4/11/2019 issued by DFO Upper Kohistan Forest Division Dasso along with its enclosures.
- 2- Memo of Allegation/Charge Sheet against Mr.Muhammad Asghar, Forester enclosed with above office order.
- 3- Memo of Allegation/Charge Sheet against Mr.Abdul Mannan, Forest Guard. enclosed with above office order.
- 4- Memo of Allegation/Charge Sheet against Mr.Umar Khan, Forest Guard enclosed with above office order.
- 5- Memo of Allegation/Charge Sheet against Mr.Naseeb Khan, Forest Guard. enclosed with above office order.
- 6- Memo of Allegation/Charge Sheet against Mr.Jamir Khan, Forest Guard.
- 7- Written Statements/Defense Replies along with enclosures of above 5 accused.(sr.No.2 to 6 as above).
- 8- Govt. of Khyber Pakhtunkhwa Environment Department Notification No.SO (Estt:)/Envt/1-8/Tariq DFO/2k14 dated 2/6/2015.
- 9- Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad Judgment dated 17/12/2018.
- 10- S.O (Establishment) Govt. of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department letter No.SO (Estt:)FE & WD/1-50(69/2019 dated 24/10/2019 regarding restoration in Service & de novo enquiry of each accused official.
- 11- August Supreme Court of Pakistan Decision/Order dated 25/7/2019.
- 12- Enquiry Report conducted by M/S:Shah Wazir Khan the then Managing Director Forest Development Corporation and Tariq Rashid, Secretary Benevolent Fund, Peshawar dated 8/9/2016.
- 13- Enquiry Report conducted by Mr.Farhad Ali, the then Divisional Forest Officer Agror Tanawal Forest Division Mansehra assigned to him vide DFO Upper Kohistan Forest Division letter No.1887/GL dated 10/10/2013.
- 14- S.O (Establishment) Govt. of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department letter NO.SO (Estt:)FE & WD/1-50(69/Appeals/2016 dated Peshawar 27/2/2017 addressed to Mr.Azhar Ali Khan, Conservator of Forests, Lower Hazara Forest Circle, Abbottabad.
- 15- And comments by the Conservator of Forests, Lower Hazara Forest Circle thereon above Sr.No.11 dated even duly signed by the Conservator of Forests, Lower Hazara Forest Circle (Chairman) & Mr.Shaukat Fiaz, DFO Patrol Squad (Member).
- 16- Enquiry Report conducted by Anti-Corruption Establishment Mansehra Region duly certified vide letter No.328/ADC/Mans, dated Mansehra 26/11/2019 addressed to DFO Upper Kohistan in response to his letter No.915/GL dated 25/11/2019.
- 17- Letter No.8574/GE dated Mansehra 22/6/2018 addressed to CCF Region-II by CF Upper Hazara Forest Circle wherein Mr.Muhammad Sho'ib, the then DFO Lower Kohistan was with drawn and Mr.Muhammad Aqeel DFO Lower Kohistan was

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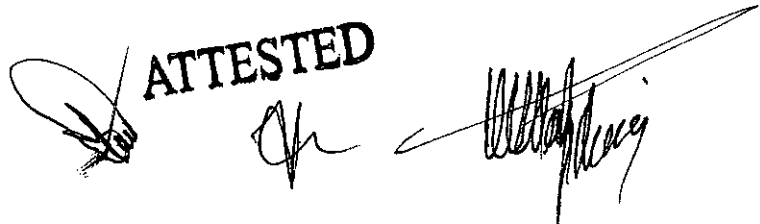
- appointed as Technical Officer to assist the Open Enquiry Committee No.6/2012 and 10/2013.
- 18- Statement of Mr.Muhammad Anwar, SDFO, Pattan, Technical Officer with Anti-Corruption Establishment Mansehra Region deputed vide DFO Lower Kohistan Pattan as per statement of SDFO, before the Enquiry Officer/Committee.
 - 19- Letter No.60/SDFO(H) dated 15/12/2014 addressed to DFO Upper Kohistan.
 - 20- Statement of present SDFO Harban (Mr.Sajjad Shah) dated 26/11/2019 before the Enquiry Officer/Committee.
 - 21- Question & Answers & Statement of Prosecutor/Departmental Representative i.e. Mr.Noor Rehman, Office Assistant/Head Clerk dated 27/11/2019 before the Enquiry Committee.
 - 22- Transport Pass No.121 dated Dassu 23/2/2017 issued to Mr.Muhammad Aslam Khan S/O Ayun Khan of Basha Tehsil Dassu through Managing Director Took Forest Harvesting Cooperative Society Ltd.
 - 23- Application For FIR lodged by the accused in P.Station Sazin.
 - 24- Damage Reports No.32/50 dated 25/8/2013, 72/45 dated 25/8/2013, No.15/61 dated 25/8/2013 and No.73/Harban dated 27/8/2013.
 - 25- Affidavit of owners on Stamp Papers (3 Nos.)regarding recovery of Timber in question.
 - 26- O.O.No.4 dated 26/8/2013 issued by the DFO Upper Kohistan Forest Division Dassu for blocking the transportation of illegal timber to Northern areas.
 - 27- DFO Upper Kohistan letter No.101/GL dated 15/7/2013 addressed to District Police Officer Kohistan Dassu.
 - 28- Letter No.252/PSO dated 23/8/2013 issued by DPO Kohistan.
 - 29- Letter No.1707-10/GL dated 4/9/2013 issued by DFO Upper Kohistan to DPO Kohistan.
 - 30- Minutes of the Meeting held under the Chairmanship of DCO Kohistan in his office on 26/6/2012 regarding critical Law and Order situation.

Brief History of the Case

M/S: Muhammad Asghar, Forester, Abdul Mannan, Umer Khan, Naseeb Khan and Jamir Khan Forest Guards (hereinafter referred as accused) of Upper Kohistan Forest Division Dassu were alleged that being In Charge SDFO, B.O, Beat In Charge of their respective Forest Sub Division, Blocks and Beats and depots (detail as per memo of allegations of each individual) committed the following irregularities and resultantly 18000 Cft Illicit timber was pilfered/shifted and transported to Northern areas and all the aforementioned accuseds were accordingly charge-sheeted and served with memo of allegations against the charges of In-efficiency, Mis-conduct & Corruption under Rule-3 of Khyber Pakhtunkhwa Govt. Servants (E & D) Rules, 2011. Detail as under:-

- 1- Being In Charge SDFO, Block Officer, Beat Guard and Depot Forest Guard of Harban, Bhasha and Sazin-KKH Roadside depots failed to protect timber lying in their respective jurisdiction and the same was admixed with the timber transported to Northern areas under the Northern Area Amnesty Policy, 2013.

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- 2- The accused failed in adopting preventive measures against admixture of timber of Kohistan origin in timber of Northern Area and hence they severally and jointly responsible for recovery of losses sustained to Govt./Public exchequer and all mishap occurred due to their involvement with timber mafia and thus 18000 cft timber was illegally transported to Northern area.

Divisional Forest Officer Upper Kohistan Forest Division constituted the instant Enquiry Committee vide his office, O.O.17 dated 4/11/2019 consisting of the undersigned in consequence of the Judgment of Worthy Service Tribunal Khyber Pakhtunkhwa Camp Court Abbottabad dated 17/12/2018 wherein all the accused have been re-instated in service after setting aside the earlier penalties imposed upon them as contained in S.O (Establishment) Govt. of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department letter No.SO (Estt:)FE & WD/1-50(69)/2019/PF dated Peshawar 24/10/2019 and through the instant Judgment of the worthy Service Tribunal it was directed to conduct the de-novo enquiry to meet the norms of justice and to settle the issue of back benefits of the service of the accused or otherwise. August Supreme Court of Pakistan did not entertain the Civil Petition No.168-P to 173-P of 2019 of the Provincial Government of Khyber Pakhtunkhwa vide order dated 25/7/2019 as the Provincial Govt. proceeded against the verdict of Khyber Pakhtunkhwa Service Tribunal as referred above.

The instant enquiry is the outcome of prolong litigation on the subject matter both departmental enquiries/disciplinary proceedings and Civil Litigation in the proper Court of Law as depicted in Read With above. Hence, needs thorough investigation/examination and on the spot verification, which may lead to the rational and logical end.

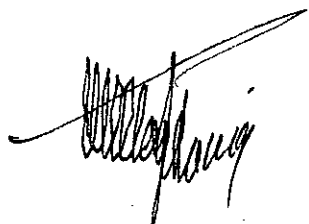
Proceedings/Discussions:

Consequently, the Enquiry Committed/Officer called upon the accused officials to submit their Defense Replies/Written Statements alongwith all relevant records/supporting material in view of the Memo of Allegations and Charge Sheets served upon them and delivered to them vide Divisional Forest Officer Upper Kohistan Forest Division Office Order No.17 dated 4/11/2019 vide Enquiry Officer/Committee letter No.18/WP dated 6/11/19 and No.01-6/Camp dated 14/11/2019 . The accused officials submitted their defense replies/written statements alongwith supporting documents wherein they rebutted the charges on the following Grounds:-

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I- Accused Mr.Muhammad Asghar, Forester, the then In Charge SDFO Harban Forest Sub Division stated that:-

- a) Harban Forest Sub Division is situated at a far flung area of Upper Kohistan Forest Division where Law and Order situation is highly critical and Writ of the Government is just nominal there.
- b) That he on 13/7/2013, informed the Divisional Forest Officer, Upper Kohistan Forest Division in letter and spirit about the illegal movements of the timber in question upon which the DFO wrote a letter to District Police Officer Kohistan for immediate action but right after one month and eight days the DPO directed the DSP Shatial Circle for assistance and help of the Department vide his letter No.252/PSO dated 23/8/2013 whereas the mis-hap happened on 24/8/2013.
- c) The accused stated that in between the night of 24 th and 25 th of August, 2013 some of the outlaws/miscreants have forcibly taken the said timber across the river and ins pite of hectic efforts he could not stop the culprits and intensively tried to contact the DFO but failed due to lack of the communication means and got suspended the illegal transportation of timber henceforth. However, the forest field staff of Northern areas across the river apprehended the timber and took into their custody under proper Supardnama and the Conservator of Forests, Gilgit Circle informed the Conservator of Forests Upper Hazara Forest Circle vide his letter No.CF-3(45)2013 dated August, 2013 that fourteen (14) Tractors/Jeeps loaded with sleepers have illegally transported the timber from Kohistan to Darel which have been taken into custody by the staff and lying in their jurisdiction under superdnama and the DFO concerned may be directed to shift the said timber to their own jurisdiction. Which was accordingly endorsed to the DFO Upper Kohistan vide CF Upper Hazara Forest Circle No.1242/GL dated 2/9/2013. He further submitted that he had given an application to the local Police Station for lodging of FIR against the culprits but the police did not lodge FIR against the real culprits but contrarily lodged the said FIR against the staff of Harban Forest Sub Division to shift the responsibility from their shoulders and the said FIR was later on referred to the Anti-Corruption Establishment for enquiry. In response the Anti-Corruption Establishment conducted detailed enquiry and filed it accordingly. Hence the allegations leveled against him are baseless, the accused further stated.



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- d) On humble submission of the accused, the locals of the area helped him and the timber was shifted to safe-side from the road side as a safety measures. To this effect, the accused stated, that until his full satisfaction the transportation was suspended and all the check posts were directed to be vigilant upon the illegal transportation of timber under Amnesty Policy from Kohistan to Northern area.
- e) The accused further stated that after his transfer, the SDFO Harban informed the DFO in writing that the timber stolen from Harban, Sazin and Bhasha has been recovered/retrieved which is supported by the Superdnama of the owners. Detail break up of the timber recovered/retrieved depicted as per his defense reply attached.
- f) He further added that on transfer of the forest guards, the timber recovered from Sazin i.e. 7000 cft was handed over to Mr.Muhammad Aslam Forest Guard by Nasib Khan, Forest Guard on 14/4/2015 and similarly on 16/4/2015, Mr.Jamir Khan, Forest Guard handed over the 3000 cft timber to Imran Forest Guard and afterwards from the timber of Bhasha Depot 5000 cft timber was transported vide TP No.121 dated 23/2/2017 and the rest of the timber is lying in Harban Depot. Besides this, Muhammad Anwar, SDFO and Farhad Sajid, the then SDFO have also certified in their reports that all the timber has been recovered/retrieved, and also favouring the recovery, the owners have given affidavits. Hence, in the light of above facts and figures, the allegations leveled against him are baseless, he prayed.

II Accused Mr.Abdul Manan, Forest Guard stated that during the occurrence of instant mis-hap, he proceeded on 15 days leave by the prior permission of SDFO Harban. However, during leaves he also requested/suggested the SDFO Harban to acquire the help of local police, which the SDFO agree and wrote letter to DFO Upper Kohistan for seeking the help of local police. He stated that some of the miscreants forcibly transported the timber to northern areas which was later on recovered/retrieved back to Upper Kohistan Forest Division. He further stated that the Anti-Corruption Establishment also conducted the enquiry and concluded that the theft timber, has been recovered. Furthermore, the owners of the timber have also testified the said recovery by giving affidavits which are available on record.

III Accused Mr.Umar Khan, Forest Guard defended his allegations stating that the timber in question was neither actually on the charge of Upper Kohistan Forest

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Division nor under his charge. No proper record has been maintained i.e. Form-5,6 and Monthly Progress Report etc are not available. Factually the illicit timber was the outcome of local retaliation against the prolonged ban on commercial fellings by the Provincial Govt and the locals had illicitly cut the timber and accumulated under their personal custody and forcibly managed to transport it to northern areas, in spite of hectic efforts adopted by him to protect the interest of Government.

He further stated that all that happened forcibly and due to critical condition of law and order and single Forest Guard could not overcome an aggravated mob of locals who in an irritant manner transported the same but the Forest Staff of Northern area apprehended the illegal timber and taken it to their safe custody and finally transported back to Kohistan Forest Division all the 18000 cft timber out of which 5000 cft transported under TP No.121 dated 23/2/2017. He stated that in such a critical state of affairs he adopted each and every protective/preventive measure in saving the cause of Government. SDFO Muhammad Anwar and Mr.Farhad Sajid, SDFO have also confirmed in their reports that the transported timber had been recovered and the Conservator of Forests, Mr.Azhar Ali, has also reported that 8000 cft timber has been transported out of 18000 cft timber under enquiry. Hence, in the light of above facts, he may be exempted from the allegations as leveled against him.

IV Accused Mr.Jamir Khan, Forest Guard mentioned the same causes in his defense as adopted above by Mr.Umar Khan in rebutting the charges and in the beginning of his reply he straight away denied that no timber was transported from his charge but in complimentary portion of his reply he admitted that 3000 cft timber stolen from his depot had been recovered/retrieved and handed over to Mr. Imran, Forest Guard as per charge report attached with his reply.

V Accused Mr.Nasib Khan, Forest Guard replied in greater resemblance with Umar Khan and Jamir Khan, Forest Guard having the plea that no timber was transported from his charge but in the last portion of his reply he admitted that upon his transfer 7000 cft timber was handed over to Mr.Muhammad Aslam, Forest Guard as per charge report attached with his reply.

From the perusal of foregoing replies of the accused in the light of relevant preliminary enquiries and proceedings conducted on the illegal transportation of 18000 cft timber




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from Upper Kohistan Forest Division to Northern area, following facts/issues can not be denied:-

- 1- At the very threshold a detailed enquiry was conducted by a Senior Officer (Mr. Shah Wazir Khan, the then Managing Director FDC) in joint venture of other member, Mr. Tariq Rashid, Secretary Benevolent Fund Khyber Pakhtunkhwa (Chairman of the enquiry committee) during the year 2014, who after a thorough probe/investigation compiled a report and submitted to quarter concerned. The enquiry committee imposed major penalties upon the above accuseds besides cash recovery of loss sustained to the Govt. exchequer. Accordingly, the punishments recommended by the enquiry committee were implemented upon the accused officials against which they knocked the door of worthy Service Tribunal Khyber Pakhtunkhwa, Camp Court Abbottabad and succeeded in setting aside the penalties imposed upon them.
- 2- Whereas, the impugned orders dated 30/6/16, 2/4/2015 and 12/3/2015 issued for enforcement of penalties of the above committee was challenged in the Khyber Pakhtunkhwa Service Tribunal by all the accused officials and after trial, the impugned orders were set aside on the grounds as mentioned in the detailed judgment of worthy Service Tribunal, Khyber Pakhtunkhwa dated 17/12/2018 and all the accused were reinstated in service with the direction to respondent department to conduct de novo enquiry strictly in accordance with the law and rules within a period of 90 days from the date of receipt of Judgment. The issue of back benefits shall be subject to the outcome of the de novo enquiry.
- 3- During February, 2017 The Appellate Authority/Chief Minister, Khyber Pakhtunkhwa prior to passing any orders on the Review Petitions of officials concerned ordered *"please assign the task to a senior officer preferably Conservator of Forests Lower Hazara to furnish his report and clarify that either the timber logs were in possession of Government or community and had the Forest Department officials reported missing of logs to Police or otherwise. It should also be clarified that either this timber woods falling in illicit policy or not"*.
Complying with the orders of the Chief Minister, Khyber Pakhtunkhwa/Appellate Authority, the Conservator of Forests, submitted his comments as under:-



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A- **WHETHER THE TIMBER WAS IN POSSESSION OF DEPARTMENT**

Perusal of record i.e. initial damage reports, minutes of the meeting with District Administration and correspondence made by DFO Upper Kohistan with different quarters reveal that:

- i- The timber in question was part of the outcome of anarchic illicit forest cutting in a terrain, which is impervious to the writ of state and people have an interface convenience with Government as evident from a number of amnesty policies from 1998 to 2009 (Annex:A) promulgated for disposal of illicitly cut timber. In this area the instruments of enforcing governance are more of notional than operational significance. Thus writ of the Forest Department there, as well as, its possession of the illicit wood need to be profiled in such an extremely circumscribing context.
- ii- In such a situation taking cognizance by forest staff of such illicit cutting as per stipulated procedures restricted to chalking damage reports only. Neither anyone agreed to provide superdnama nor could the Department take the contraband timber to safe custody.
- iii- Although, the documentation and enlistment of illicit timber and applications to register FIR against theft give an impression as if the impugned timber was in the possession of Forest Department, but in the given circumstances, possession of timber stock did not qualify the same as impounded. Hence their possession was of de jure at best as they could not wield instruments of endorsement to qualify it as de facto.

B- **WHETHER FIR HAVE BEEN LODGED WITH THE LOCAL POLICE**

The record reveal that the petitioners preferred application on 25/8/2013 in local Police Station Sazin Harban Forest Sub Division for lodging of FIR (Annexure-4) against the unknown offenders for forceful theft of timber from Kohistan for admixing in GB's amnesty policy 2013. But instead the police registered formal FIR:07 dated 28/2013 against the officials of forest department for their alleged involvement in said theft (Annex-6). Nevertheless, it is clear that the staff endeavored to lodge FIR against unknown offenders for the said larceny.

C- **WHETHER THE TIMBER WAS INCLUDED IN ILLICIT POLICY**

As mentioned in the Damage Report No.73/45, 15/H, 72/45 and 32/50 chalked out against incidence of reported forceful theft timber occurred on 25/8/2013 (Annex-6) the


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impugned timber belongs to Damage Reports Nos.94/42, 13/55, 98/42, 60/45 and 31/50 as per Annex-1, chalked out during 2007. A portion of this timber was already disposed off under Amnesty Policy 2009. The accounts of initially reported timber, disposal in Amnesty Policy, 2009 and that stolen on 24,25/8/2013 vis-à-vis subsequent re-measurements, supplied by representatives of DFO Upper Kohistan (Annexure-7), show that out of the 18000 cft impugned timber, timber measuring 8000 cft is included in the Policy 2016-17.

4- **OPEN ENQUIRY NO.10/2013-FOREST AGAINST THE CONCERNED STAFF OF FOREST DEPARTMENT DISTRICT KOHISTAN AND CONTRACTORS**

On the express request of Divisional Forest Officer Upper Kohistan vide his letter No.915/GL dated 25/11/2019, the Assistant Director Anti-Corruption Establishment Mansehra Region submitted above titled enquiry report vide his letter No.328/ADC/Mans. Dated 26/11/2019 containing the verdict of the Anti-Corruption Establishment about their thorough investigation about the theft timber in question that 18000 cft timber has been recovered in response to the FIR lodged against the officials of forest department of Harban Forest Sub Division, showing the detail of timber that the timber recovered has been stacked at five places and affixed damage report number on the each Chakka/dump, which has been accordingly filed by the Anti-Corruption Establishment Mansehra Region. It was also mentioned in the said enquiry that in the presence of Technical Officer from forest department, the owners have given their statements on affidavit on judicial stamp papers that the timber in question was their sole ownership and has been recovered.

During enquiry proceedings, the SDFO Pattan, appointed as Technical Officer, by the DFO Upper Kohistan detail as per statement of the SDFO, with Anti-Corruption Department stated that on 9/8/2018, he along with Inspector Anti-Corruption Establishment went to Shatial Harban and verified the spot. It was verified on the spot that 5000 cft timber was transported vide TP No.121 dated 23/2/2017 to Havalian Central Timber Depot and the remaining Timber was lying in the jurisdiction of Sazin Police Station. Technical Inspection was to be carried out for measurement of timber but it could not be carried out because of lack of resources/means. According to physical verification the timber was dumped at five (5) different places in Shatial Harban depots and each of the chakka contained affixation of damage reports numbers with black, blue and red colors and timber verified approximately 12000 to 13000 cft.

The SDFO Harban Forest Sub Division i.e. (Mr.Sajjad Shah) was called on by the Enquiry Committee on 26/11/2019 during the course of enquiry proceedings who stated that he took

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over the charge of Harban Forest Sub Division on 14/2/2018 from Mr.Farhad Sajid, SDFO and enquired about the theft timber in question who told me the relevant record i.e. stamp papers of the owners and confirmed that 12000 – 13000 cft timber is lying on different places on Karra Kurrum Highway (KKH) and under the possessions of different tribes (Komes) lying in timber depot Harban and no official record thereof has been maintained except the affidavits given by the owners which are available on official record. The said timber is the sole ownership of the owners and however the department is strictly vigilant over the movement to save the illegal trafficking of the said timber. Letter No.60/SDFO (H) dated 15/12/2014 addressed to DFO Upper Kohistan proved that the said timber is present on spot and in the custody of concerned owners.

The Prosecutor stated that felling of trees is carried out according to the prescription of regular Working Plans of the areas in collaboration of the Harvesting Cooperative Society but for the transportation of illicitly cut timber, the Government has given Amnesty Policy under which the illicit timber was being transported.

The Prosecution further stated that the record of legalized felling is maintained in Divisional Office as well as in sub Divisional Office and similarly the record of damage reports pertaining to illicit cutting is also maintained in both Sub Divisional and Divisional Offices. After exhibiting the above stated damage reports to the prosecutor, he confirmed that neither record of further action on the said damage reports is available regarding prosecution case or compound cases, in Divisional Office nor in any Court of Law, which have been preferred by the accused officials. The prosecution exposed that as per past practice the chalked out damage reports against the forest offenders regarding illicit cutting are submitted in the court of law but due to un-availability of offenders the cases are lingered on and lying pending in courts for long time.

Upon the query of enquiry committee on TP No.121 dated 23/2/2017, the prosecutor stated that the certified copy of the said TP is attached and furthermore authentication of timber transported under it can be asked from the SDFO concerned that as to whether the timber transported by this TP was the part of theft timber or otherwise which was got verified by the SDFO that the said timber was the part of recovered/retrieved timber.

Whereas, on the perusal of enquiry file it appeared that another enquiry initiated vide DFO Upper Kohistan No.1863-1880/GL, No.1887/GL dated 10/10/2013 for the same mis-hap has



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also been got conducted by the then Divisional Forest Officer Agror Tanawal Forest Division and finalized accordingly and the accused officials were imposed with appropriate punishments i.e. major & minor penalties after due process of law. The instant Enquiry Committee has very pre-cautiously gone through the contents of that enquiry report along with other one already conducted by Mr. Shah Wazir Kha, M.D, FDC and Mr. Tariq Rashid, Secretary Benevolent Fund. From perusal of both the enquiry reports it is crystal clear that the grasp of prosecution over the situation was enfeebled which came forward in shape of bifurcation of enquiries in two parts. The point has also been referred in the enquiry finalized by the then DFO, Agror Tanawal Forest Division.

And whereas further scrutiny of the relevant record and the outcome of proceedings/discussions revealed that the Divisional Forest Officer Upper Kohistan Forest Division requested the District Police Officer Kohistan vide his letter No.101/GL dated 15/07/2013 before the occurrence of the mis-hap that a timber Policy is in operation from Northern Areas (Darel/Tangir and Chilas Forest Divisions of Gilgit Baltistan) through which timber is transported to down districts of the country. As there are stakes of timber in roadside depots at KKH Basha and Harban District Kohistan, therefore there is likelihood of admixture of this timber during transportation for which forest staff is already deployed to keep vigilance on illegal movement of timber but yet an active assistance is required from the police personals already deployed in the area of Harban & Sazin Police Stations, particularly on Darel and Tangir Bridges. The DFO Upper Kohistan further requested that the DPO may direct his subordinate formation to fully assist and cooperate with the forest staff so as to save the mal practices/pilferage of timber during the currency of policy i.e. 31/8/2013. It is estrange to note here that the police authorities right one day before the incidence addressed to DFO Upper Kohistan vide his No.252/PSO dated 23/8/2013 that special directions were issued to SDPO Shatial for assistance and help but no praiseworthy course of action is available on record.

During enquiry proceedings it was also proved by the correspondence of DFO Upper Kohistan vide his No.1707-10/GL dated 4/9/2013 that police did not play their due role in curbing the mis-hap of illegal transportation of timber as is evident that there were two check posts of police right at the both bridge-gates where almost 4-5 police personals remained deployed for duty as compared to one or two forest guards on their check post, but it was regretted by the DFO Upper Kohistan that no efforts by the police were seen in the matter.

CONCLUSION/OUTCOME

The Enquiry Officer/Committee, after due process of law/disciplinary proceedings in the light of Enquiry File/relevant record, Defense Reply of the accused officials, statements of the accused



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officials along with statement of prosecution, personal hearings & X-examinations in view of ground reality, has very cautiously reached to the conclusion that :-

- 1- The Timber in question was not actually under the custody of the department/ Kohistan Forest Division as is evident from the fore going proceedings and discussions and as contained in the comments furnished by the then Conservator of Forests Lower Hazara Forest Circle Abbottabad to the Chief Minister, Khyber Pakhtunkhwa wherein he stated that :-
 - i- "In such a situation taking cognizance by forest staff of such illicit cutting as per stipulated procedures restricted to chalking damage reports only. Neither anyone agreed to provide superdnama nor could the Department take the contraband timber to safe custody."
 - ii- "Although, the documentation and enlistment of illicit timber and applications to register FIR against theft give an impression as if the impugned timber was in the possession of Forest Department, but in the given circumstances, possession of timber stock did not qualify the same as impounded. Hence their possession was of de jure at best as they could not wield instruments of endorsement to qualify it as de facto."

Above exposition proved that the timber was there but lying in the custody of owners.

- 2- Law and Order situation in District Kohistan is also reported critical throughout above proceedings besides envisaged in the Minutes of meeting held under the Chairmanship of DCO Kohistan in his office on 26/6/2012. Local tribes are said to be forceful before the writ of Govt. as they often displayed willfully and as demonstrated during instant mis-hap while transportation of timber up-wards to northern area and down-wards to Kohistan. Upon which the different tribe's clans/individual owners had forceful possession.
- 3- It is also proved beyond any doubt that 5000 cft timber was transported to Havelian Central Depot out of the same 18000 cft timber in question and remaining 12000 – 13000 cft cft is lying in Harban Forest Sub Division under the traditional custody of owners and yet the forest department is keeping vigilance over it to protect the illegal movement of the said timber.
- 4- According to TP No.121 dated 23/2/2017, 4994.25 cft timber has been transported to Havelian Depot out of the timber under enquiry, and FDF thereof remitted to Govt.Treasury besides 20% share of the Govt. will be deducted on auction accordingly. And the remaining timber i.e 12000 to 13000 cft needs exact measurement for which the enquiry committee has no means and resources. The



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Divisional Forest Officer concerned may manage the exact measurement of the said timber and maintain record thereof accordingly.

5- So far the allegations against the accused officials are concerned is a matter of Law on one side, in view of prevailing Law and Order situation in Kohistan District and on the other hand question of fact proves that the mis-hap had occurred and the timber in question was transported to Northern area and recovered/retrieved back to Harban Forest Sub Division. It is proved that the accused officials have tried their best to block the illegal transportation but the angry mobbishes not only paralyzed the forest staff but the police staff also failed in blocking the way of miscreants/culprits.

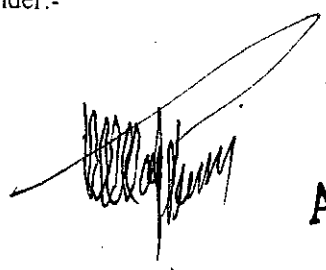
Charges of In-efficiency & Mis-conduct are partially proved against a few of above accused officials. However, the charge of Corruption does not stand established against none of the accused officials.

6- From the foregoing proceedings/discussions it is proved that one Mr.Abdul Manan left his place of duty by forwarding an application for 15 days leave before the happening of incident, though his SDFO but could not be found sanctioned leave by the Competent Authority which makes him liable to be proceeded against his irresponsible approach towards performance of official duty.

7- Above all episodes show, beyond any doubt, that Govt. Loass as alleged in the charge sheets/memo of allegations has been procured and all the forcibly stolen timber i.e. 18000 cft has been recovered/retrieved and transported back to its respective jurisdiction which is under vigilance of the department to the extent of illegal movement. however, the said timber is under custody of the owners.

RECOMMENDATIONS OF THE ENQUIRY COMMITTEE

We, 1- Alamgir Khan , SDFO, Working Plan in the capacity of Chairman Enquiry Committee & 2-Altaf Qureshi, SDFO Komila (Member EC) as vested in us under Rule-11(7) of Khyber Pakhtunkhwa Govt.Servants (Efficiency and Discipline) Rules, 2011 read with other clauses duly amended, hereby recommend that the following accused officials may be treated as under:-

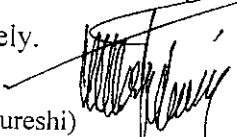



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- 1- From the foregoing facts/proceedings, the charges of In-efficiency and Mis-conduct are established against all the accused officials and taking an appropriate disciplinary action Two Annual Increments falling on 1/12/2019 and 1/12/2020 may be stopped of the following accused officials as mentioned against each:-
 - a) Muhammad Asghar, Forester the then SDFO Harban Forest Sub Division and Block Officer Shatial Block. (without accumulative effect).
 - b) Umar Khan, Forest Guard, the then Incharge Shatial checkpost and Gachurigah Beat (Without accumulative effect).
 - c) Abdul Manan, Forest Guard the then Incharge Block Officer of Harban and Bhasha Blocks (with accumulative effect).
 - d) Jamir Khan, Forest Guard, the then Incharge of Harban KKH depot (with accumulative effect).
 - e) Nasib Khan, the then Incharge Forest Guard of Sazin KKH depot (with accumulative effect).

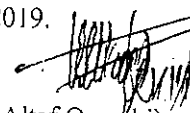
2- The intervening period of all the accused for which they remained out of service. May be treated as earned leave debitable to their Leave account in view of length of total service and the rest may be treated as Ex-tra ordinary leave without pay.

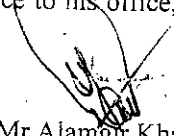
3- The remaining timber i.e 12000 to 13000 cft needs exact measurement The Divisional Forest Officer concerned either may manage the exact measurement of the said timber or have an authentication/certification from SDFO concerned and maintain record thereof accordingly. In case of any deficiency sorted out in the aforesaid timber may be calculated in logical order and recovered from all the above officials proportionately.


 (Altaf Qureshi)
 SDFO Komila Forest Sub Division
 Upper Kohistan Forest Division
 Dassu
 (Member Enquiry Committee)



 (Mr. Alamgir Khan)
 Sub Divisional Forest Officer
 Working Plan
 (Chairman Enquiry Committee)

No. 10 / WP dated the 09 / 12 / 2019
 Copy along with Enquiry file from page No.1 to 361 (each page signed by the Enquiry Committee) forwarded to the Divisional Forest Officer Upper Kohistan Forest Division for favour of information and further necessary action with reference to his office, O.O.No.17 dated 4/11/2019.


 (Altaf Qureshi)
 SDFO Komila Forest Sub Division
 Upper Kohistan Forest Division
 Dassu
 (Member Enquiry Committee)


 (Mr. Alamgir Khan)
 Sub Divisional Forest Officer
 Working Plan
 (Chairman Enquiry Committee)

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Received Enquiry file from P-1 to 361 along with Enquiry report in shape of confidential Envelop

 10/12

M. Asghar

J (40)

OFFICE ORDER NO. 03 /DATED DASSU THE 24 /7/2020, ISSUED BY
FAIZ-UR-REHMAN DIVISIONAL FOREST OFFICER UPPER KOHISTAN FOREST
DIVISION DASSU

Read With:

- 1- Office Order No.17 dated 4/11/2019 issued by DFO Upper Kohistan Forest Division Dassu along with its enclosures.
- 2- Memo of Allegation/Charge Sheet against Mr. Muhammad Asghar, Forester
- 3- Memo of Allegation/Charge Sheet against Mr. Abdul Mannan, Forest Guard.
- 4- Memo of Allegation/Charge Sheet against Mr. Umar Khan,
- 5- Memo of Allegation/Charge Sheet against Mr. Naseeb Khan, Forest Guard
- 6- Memo of Allegation/Charge Sheet against Mr. Jamir Khan, Forest Guard.
- 7- Written Statements/defense replies along with enclosures of above 5 accused.
- 8- Govt. of Khyber Pakhtunkhwa Environment Department Notification No. SO (Estt:)/Env/1-8/Tariq DFO/2k14 dated 2/6/2015.
- 9- Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad Judgment dated 17/12/2018.
- 10- S.O (Establishment) Govt. of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department letter No. SO (Estt:)FE & WD/1-50(69/2019 dated 24/10/2019 regarding restoration in Service & de novo enquiry of each accused official.
- 11- August Supreme Court of Pakistan Decision/Order dated 25/7/2019.
- 12- Enquiry Report conducted by M/S Shah Wazir Khan the then Managing Director Forest Development Corporation and Tariq Rashid, Secretary Benevolent Fund, Peshawar dated 8/9/2016.
- 13- Enquiry Report conducted by Mr. Farhad Ali, the then Divisional Forest Officer Agror Tanawal Forest Division Mansehra assigned to him vide DFO Upper Kohistan Forest Division letter No. 1887/GL dated 10/10/2013.
- 14- S.O (Establishment) Govt. of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department letter NO. SO (Estt:)FE & WD/1-50(69/Appeals/2016 dated Peshawar 27/2/2017 addressed to Mr. Azhar Ali Khan, Conservator of Forests, Lower Hazara Forest Circle, Abbottabad.
- 15- And comments by the Conservator of Forests, Lower Hazara Forest Circle thereon above Sr.No.11 dated even duly signed by the Conservator of Forests, Lower Hazara Forest Circle (Chairman) & Mr. Shaukat Fiaz, DFO. Patrol Squad (Member).
- 16- Enquiry Report conducted by Anti-Corruption Establishment Mansehra Region duly certified vide letter No. 328/ADC/Mans, dated Mansehra 26/11/2019 addressed to DFO Upper Kohistan in response to his letter No. 915/GL dated 25/11/2019.
- 17- Letter No. 8574/GE dated Mansehra 22/6/2018 addressed to Chief Conservator of Forests, Northern Forest Region-II by Conservator of Forests, Upper Hazara Forest Circle wherein Mr. Muhammad Shoaib, the then DFO Lower Kohistan was withdrawn and Mr. Muhammad Aqeel DFO Lower Kohistan was appointed as Technical Officer to assist the Open Enquiry Committee No. 6/2012 and 10/2013.
- 18- Statement of Mr. Muhammad Anwar, SDFO, Pattan, Technical Officer with Anti-Corruption Establishment Mansehra Region deputed vide DFO Lower Kohistan Pattan as per statement of SDFO, before the Enquiry Officer/Committee.
- 19- Letter No. 60/SDFO(H) dated 15/12/2014 addressed to DFO Upper Kohistan.
- 20- Statement of present SDFO Harban (Mr. Sajjad Shah) dated 26/11/2019 before the Enquiry Officer/Committee.
- 21- Question & Answers & Statement of Prosecutor/Departmental Representative i.e. Mr. Noor Rehman, Office Assistant/Head Clerk dated 27/11/2019 before the Enquiry Committee.
- 22- Transport Pass No. 121 dated Dassu 23/2/2017 issued to Mr. Muhammad Aslam Khan S/O Ayun Khan of Basha Tehsil Dassu through Managing Director Took Forest Harvesting Cooperative Society Ltd.
- 23- Application For FIR lodged by the accused in Police Station Sazin.
- 24- Damage Reports No. 32/50 dated 25/8/2013, 72/45 dated 25/8/2013, No. 15/61 dated 25/8/2013 and No. 73/Harban dated 27/8/2013.
- 25- Affidavit of owners on Stamp Papers (3 Nos.) regarding recovery of Timber in question.

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- 26-Office order No.4 dated 26/8/2013 issued by the DFO Upper Kohistan Forest Division Dassu for blocking the transportation of illegal timber to Northern areas.
27-DFO Upper Kohistan letter No.101/GL dated 15/7/2013 addressed to District Police Officer Kohistan Dassu.
28-Letter No.252/PSO dated 23/8/2013 issued by DPO Kohistan.
29-Letter No.1707-10/GL dated 4/9/2013 issued by DFO Upper Kohistan to DPO Kohistan.
30-Minutes of the meeting held under the Chairmanship of District Coordination Officer Kohistan in his office on 26/6/2012 regarding critical Law and Order situation.

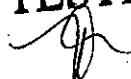
BRIEF HISTORY

M/S Muhammad Asghar Forester, Abdul Manan, Umer Khan, Naseeb Khan and Jamir Khan Forest Guards (hereinafter referred as accused) of Upper Kohistan Forest Division Dassu were alleged that being In Charge SDFO, Block Officer, Beat Incharge of their respective Forest Sub Division, Blocks and Beats and depots (detail as per memo of allegations of each individual) committed the following irregularities and resultantly, 18000 Cft illicit timber was pilfered/shifted and transported to Northern areas and all the aforementioned accuseds were accordingly charge sheeted and served with memo of allegations against the charges of In-efficiency, Mis-conduct & Corruption under Rule-3 of Khyber Pakhtunkhwa Govt. Servants (E & D) Rules, 2011. Detail as under:-

- 1- Being Incharge SDFO, Block Officer, Beat Guard and Depot Incharge of Harban, Bhasha and Sazin KKH Roadside depots failed to protect timber lying in their respective jurisdiction and the timber was transported to Northern areas under the Northern Area Amnesty Policy, 2013.
- 2- The accused failed in adopting preventive measures against admixture of timber of Kohistan origin in timber of Northern Area and hence they severally and jointly responsible for recovery of losses sustained to Govt./Public exchequer and all mis-hap occurred due to their involvement with timber mafia and thus 18000 cft timber was illegally transported to Northern area.

Consequent upon the judgment of Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad dated 17/12/2018 wherein all the accused have been re-instated in service after setting aside the earlier penalties imposed upon them. August Supreme Court of Pakistan did not entertain the CPLA No.168-P to 173-P of 2019 of the Provincial Government of Khyber Pakhtunkhwa vide order dated 25/7/2019 as the Provincial Govt. proceeded against the verdict of Khyber Pakhtunkhwa Service Tribunal as referred above. Accordingly, the Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Notification No. S.O (Estt.)FE&WD/1-50(69)/2019/PF/7407-11 dated 24/10/2019, No. S.O (Estt.)FE&WD/1-50(69)/2019/PF/7412-16, No. S.O (Estt.)FE&WD/1-50(69)/2019/PF/7417-21, No. S.O (Estt.)FE&WD/1-50(69)/2019/PF/7459-63 & No. S.O (Estt.)FE&WD/1-50(69)/2019/PF/744-48 of even date, M/S Mohammad Asghar Forester, Abdul Manan, Umer Khan, Naseeb Khan and

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Jamir Khan, Forest Guards, were re-instated in service with immediate effect and ordered to conduct de-novo inquiry to meet the norms of justice and to settle the issue of back benefits of the service of the accused or otherwise. Therefore, the Divisional Forest Officer, Upper Kohistan Forest Division, Dassu being competent authority, constituted Inquiry Committee comprising of M/S Alamgir Khan SDFO Working Plan Unit-V Mansehra & Mr. Altaf Qureshi, SDFO Jalkot Forest Sub Division vide office order No.17 dated 04/11/2019 & No.18 dated 05/11/2019 to conduct de-novo enquiry against all the above accused officials.

The instant enquiry is the outcome of prolong litigation on the subject matter both departmental enquiries/disciplinary proceedings and Civil Litigation in the proper Court of Law as depicted in Read With above. Hence, needs thorough investigation/examination and on the spot verification, which may lead to the rational and logical end.

PROCEEDINGS/DISCUSSIONS:

Consequently, the Enquiry Committee/Officer called upon the accused officials to submit their defense replies/Written Statements alongwith all relevant records/supporting material in view of the Memo of Allegations and Charge Sheets served upon them and delivered to them vide Divisional Forest Officer Upper Kohistan Forest Division Office Order No.17 dated 4/11/2019 vide Enquiry Officer/Committee letter No.18/WP dated 6/11/19 and No.01-6/Camp dated 14/11/2019. The accused officials submitted their defense replies/written statements alongwith supporting documents wherein they rebutted the charges on the following Grounds:-

- i- **Accused Mr. Muhammad Asghar, Forester, the then In Charge SDFO Harban Forest Sub Division stated that:-**
 - a) Harban Forest Sub Division is situated at a far flung area of Upper Kohistan Forest Division where Law and Order situation is highly critical and Writ of the Government is just nominal there.
 - b) That he on 13/7/2013, informed the Divisional Forest Officer, Upper Kohistan Forest Division in letter and spirit about the illegal movements of the timber in question upon which the DFO wrote a letter to District Police Officer Kohistan for immediate action but right after one month and eight days the DPO directed the DSP Shatial Circle for assistance and help of the Department vide his letter No.252/PSO dated 23/8/2013 whereas the mis-hap happened on 24/8/2013.
 - c) The accused stated that in between the nigh of 24th and 25th of August, 2013 some of the outlaws/miscreants have forcibly taken the said timber across the river and inspite of hectic efforts he could not stop the culprits, and intensively tried to contact the DFO but failed due to lack of the communication means and got suspended the illegal transportation of timber henceforth. However, the forest field staff of Northern areas across the river apprehended the timber and took into their custody under proper Supardnama and the Conservator of Forests, Gilgit Circle informed the Conservator of Forests Upper Hazara Forest Circle vide

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his letter No.CF-3(45)2013, dated August, 2013 that fourteen (14) Tractors/Jeeps loaded with sleepers have illegally transported the timber from Kohistan to Darel which have been taken into custody by the staff and lying in their jurisdiction under Supardnama and the DFO concerned may be directed to shift the said timber to their own jurisdiction which was accordingly endorsed to the DFO Upper Kohistan vide CF Upper Hazara Forest Circle No.1242/GL dated 2/9/2013. He further submitted that he had given an application to the local Police Station for lodging of FIR against the culprits but the police did not lodge FIR against the real culprits but contrarily lodged the said FIR against the staff of Harban Forest Sub Division to shift the responsibility from their shoulders and the said FIR was later on referred to the Anti-Corruption Establishment for enquiry. In response the Anti-Corruption Establishment conducted detailed enquiry and filed it accordingly. Hence the allegations leveled against him are baseless, the accused further stated.

- d) On humble submission of the accused, the locals of the area helped him and the timber was shifted to safe-side from the road side as a safety measures. To this effect, the accused stated that until his full satisfaction the transportation was suspended and all the check posts were directed to be vigilant upon the illegal transportation of timber under Amnesty Policy from Kohistan to Northern area.
- e) The accused further stated that after his transfer, the SDFO Harban informed the DFO in writing that the timber stolen from Harban, Sazin and Bhasha has been recovered/retrieved which is supported by the Supardnama of the owners. Detail breakup of the timber recovered/retrieved depicted as per his defense reply.
- f) He further added that on transfer of the Forest Guards, the timber recovered from Sazin i.e. 7000 cft was handed over to Mr. Muhammad Aslam Forest Guard by Nasib Khan, Forest Guard on 14/4/2015 and similarly on 16/4/2015, Mr. Jamir Khan, Forest Guard handed over the 3000 cft timber to Imran Forest Guard and afterwards from the timber of Bhasha Depot 5000 cft timber was transported vide TP No.121 dated 23/2/2017 and the rest of the timber is lying in Harban Depot. Besides this, Muhammad Anwar, SDFO and Farhad Sajid, the then SDFO have also certified in their reports that all the timber has been recovered/retrieved, and also favouring the recovery, the owners have given affidavits. Hence, in the light of above facts and figures, the allegations leveled against him are baseless.

ii **Accused Mr.Abdul Manan, Forest Guard** stated that during the occurrence of instant mis-hap, he proceeded on 15 days leave by the prior permission of SDFO Harban. However, during leave he also requested/suggested the SDFO Harban to acquire the help of local police, which the SDFO agree and wrote letter to DFO Upper Kohistan for seeking the help of local police. He stated that some of the miscreants forcibly transported the timber to Northern Areas which was later on

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recovered/retrieved back to Upper Kohistan Forest Division. He further stated that the Anti-Corruption Establishment also conducted the enquiry and concluded that the theft timber has been recovered. Furthermore, the owners of the timber have also testified said recovery by giving affidavits which are available on record.

iii **Accused Mr.Umar Khan, Forest Guard** defended his allegations stating that the timber in question was neither on the charge of Upper Kohistan Forest Division nor under his charge. No proper record has been maintained i.e. Form-5,6 and Monthly Progress Report etc. Actually, the illicit timber was the outcome of local retaliation against the prolonged ban on commercial felling by the Provincial Govt and the locals had illicitly cut the timber and accumulated under their personal custody and forcibly managed to transport it to Northern Areas, inspite of hectic efforts adopted by him to protect the interest of Government.

He further stated that all that happened forcibly and due to critical condition of law and order and single Forest Guard could not overcome an aggravated mob of locals who in an irritant manner transported the same but the Forest Staff of Northern area apprehended the illegal timber and taken it to their safe custody and finally transported back to Kohistan Forest Division all the 18000 cft timber out of which 5000 cft transported under TP No.121 dated 23/2/2017. He stated that in such a critical state of affairs he adopted each and every protective/preventive measure in saving the cause of Government. SDFO Muhammad Anwar and Mr.Farhad Sajid, SDFO have also confirmed in their reports that the transported timber had been recovered and the Conservator of Forests, Mr. Azhar Ali, has also reported that 5000 cft timber has been transported out of 18000 cft timber under enquiry. Hence, in the light of above facts, he may be exempted from the allegations as leveled against him.

iv **Accused Mr.Jamir Khan, Forest Guard** mentioned the same causes in his defense as adopted above by Mr.Umar Khan in rebutting the charges and in the beginning of his reply he straight away denied that no timber was transported from his charge but in complimentary portion of his reply he admitted that 3000 cft timber stolen from his depot had been recovered/retrieved and handed over to Mr. Imran, Forest Guard as per charge report attached with his reply.

v **Accused Mr.Nasib Khan, Forest Guard** replied in greater resemblance with Umar Khan and Jamir Khan, Forest Guard having the plea that no timber was transported from his charge but in the last portion of his reply he admitted that upon his transfer 7000 cft timber was handed over to Mr. Muhammad Aslam, Forest Guard as per charge report attached with his reply.

From the perusal of foregoing replies of the accused in the light of relevant preliminary enquiries and proceedings conducted on the illegal transportation of 18000 cft timber from Upper Kohistan Forest Division to Northern area, following facts/issues cannot be denied:-

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- 1- At the very threshold a detailed enquiry was conducted by a Senior Officer (Mr. Shah Wazir Khan, the then Managing Director FDC) in joint venture of other member, Mr. Tariq Rashid, Secretary Benevolent Fund Khyber Pakhtunkhwa (Chairman of the enquiry committee) during the year 2014, who after a thorough probe/investigation compiled a report and submitted to quarter concerned. The enquiry committee imposed major penalties upon the above accuseds besides cash recovery of loss sustained to the Govt. exchequer. Accordingly, the punishments recommended by the enquiry committee were implemented upon the accused officials against which they knocked the door of Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad and succeeded in setting aside the penalties imposed upon them.
- 2- Whereas, the impugned orders dated 30/6/16, 2/4/2015 and 12/3/2015 issued for enforcement of penalties of the above committee was challenged in the Khyber Pakhtunkhwa Service Tribunal by all the accused officials and after trial, the impugned orders were set aside on the grounds as mentioned in the detailed judgment of worthy Service Tribunal, Khyber Pakhtunkhwa dated 17/12/2018 and all the accused were reinstated in service with the direction to respondent department to conduct de novo enquiry strictly in accordance with the law and rules within a period of 90 days from the date of receipt of Judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry.
- 3- During February, 2017 The Appellate Authority/Chief Minister, Khyber Pakhtunkhwa prior to passing any orders on the Review Petitions of officials concerned ordered *"please assign the task to a senior officer preferably Conservator of Forests Lower Hazara to furnish his report and clarify that either the timber logs were in possession of Government or community and had the Forest Department officials reported missing of logs to Police or otherwise. It should also be clarified that either this timber woods falling in illicit policy or not"*.
Complying with the orders of the Chief Minister, Khyber Pakhtunkhwa/Appellate Authority, the Conservator of Forests, submitted his comments as under:-

A- **WHETHER THE TIMBER WAS IN POSSESSION OF DEPARTMENT**

Perusal of record i.e. initial damage reports, minutes of the meeting with District Administration and correspondence made by DFO Upper Kohistan with different quarters reveal that:

- i- The timber in question was part of the outcome of anarchic illicit forest cutting in a terrain, which is impervious to the writ of state and people have an interface convenience with Government as evident from a number of amnesty policies from 1998 to 2009 (Annex:A) promulgated for disposal of illicitly cut timber. In this area the instruments of enforcing governance are more of notional than

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operational significance. Thus writ of the Forest Department there, as well as, its possession of the illicit wood need to be profiled in such an extremely circumscribing context.

- ii- In such a situation taking cognizance by forest staff of such illicit cutting as per stipulated procedures restricted to chalking damage reports only. Neither anyone agreed to provide Supardnama nor could the Department take the contraband timber to safe custody.
- iii- Although, the documentation and enlistment of illicit timber and applications to register FIR against theft give an impression as if the impugned timber was in the possession of Forest Department, but in the given circumstances, possession of timber stock did not qualify the same as impounded. Hence their possession was of de jure at best as they could not wield instruments of endorsement to qualify it as de facto.

B- WHETHER FIR HAVE BEEN LODGED WITH THE LOCAL POLICE.

The record reveal that the petitioners preferred application on 25/8/2013 in local Police Station Sazin Harban Forest Sub-Division for lodging of FIR (Annexure-4) against the unknown offenders for forceful theft of timber from Kohistan for admixing in GB's amnesty policy 2013. But instead the police registered formal FIR:07 dated 28/2013 against the officials of forest department for their alleged involvement in said theft (Annex-6). Nevertheless, it is clear that the staff endeavored to lodge FIR against unknown offenders for the said larceny.

C- WHETHER THE TIMBER WAS INCLUDED IN ILLICIT POLICY.

As mentioned in the Damage Report No.73/45, 15/H, 72/45 and 32/50 chalked out against incidence of reported forceful theft timber occurred on 25/8/2013 (Annex-6) the impugned timber belongs to Damage Reports Nos.94/42, 13/55, 98/42, 60/45 and 31/50 as per Annex-1, chalked out during 2007. A portion of this timber was already disposed off under Amnesty Policy 2009. The accounts of initially reported timber, disposal in Amnesty Policy, 2009 and that stolen on 24,25/8/2013 vis-à-vis subsequent re-measurements, supplied by representatives of DFO Upper Kohistan (Annexure-7), show that out of the 18000 cft impugned timber, timber measuring 8000 cft is included in the Policy 2016-17.

4. OPEN ENQUIRY NO.10/2013-FOREST (CONDUCTED BY ANTI-CORRUPTION ESTABLISHMENT) AGAINST THE CONCERNED STAFF OF FOREST DEPARTMENT DISTRICT KOHISTAN AND CONTRACTORS.

On the express request of Divisional Forest Officer, Upper Kohistan vide his letter No.915/GL dated 25/11/2019, the Assistant Director Anti-Corruption Establishment Mansehra Region submitted above titled enquiry report vide his letter No.328/ADC/Mans. Dated 26/11/2019 containing the verdict of the Anti-Corruption Establishment about their thorough investigation about the theft of timber in question that 18000 cft timber has been recovered in response to the FIR lodged against the

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officials of Forest Department of Harban Forest Sub Division, showing the detail of timber that the timber recovered has been stacked at five places and affixed damage report number on each Chakka/dump, which has been accordingly filed by the Anti-Corruption Establishment Mansehra Region. It was also mentioned in the said enquiry that in the presence of Technical Officer from Forest Department, the owners have given their statements on affidavit on judicial stamp papers that the timber in question was their sole ownership and has been recovered.

During enquiry proceedings, the SDFO Pattan, appointed as Technical Officer, by the DFO Upper Kohistan detail as per statement of the SDFO, with Anti-Corruption Department stated that on 9/8/2018, he along with Inspector Anti-Corruption Establishment went to Shatial Harban and verified the spot. It was verified on the spot that 5000 cft timber was transported vide TP No.121 dated 23/2/2017 to Havalian Sale Depot and the remaining Timber was lying in the jurisdiction of Sazin Police Station. Technical Inspection was to be carried out for measurement of timber but it could not be carried out because of lack of resources/means. According to physical verification, the timber was dumped at five (5) different places in Shatial Harban depots and each of the chakka contained affixation of damage reports numbers with black, blue and red colors and timber verified approximately 12000 to 13000 cft.

The SDFO Harban Forest Sub Division i.e. (Mr. Sajjad Shah) was called on by the Enquiry Committee on 26/11/2019 during the course of enquiry proceedings who stated that he took over the charge of Harban Forest Sub Division on 14/2/2018 from Mr. Farhad Sajid, SDFO and enquired about the theft timber in question who told me the relevant record i.e. stamp papers of the owners and confirmed that 12000 - 13000 cft timber is lying on different places on Karra Kurrum Highway (KKH) and under the possessions of different tribes (Komes) lying in timber depot Harban and no official record thereof has been maintained except the affidavits given by the owners which are available on official record. The said timber is the sole ownership of the owners and however the department is strictly vigilant over the movement to save the illegal trafficking of the said timber. Letter No.60/SDFO (H) dated 15/12/2014 addressed to DFO Upper Kohistan proved that the said timber is present on spot and in the custody of concerned owners.

The Prosecutor stated that felling of trees is carried out according to the prescription of regular Working Plans of the areas in collaboration of the Harvesting Cooperative Society but for the transportation of illicitly cut timber, the Government has given Amnesty Policy under which the illicit timber was being transported.

The Prosecution further stated that the record of legalized felling is maintained in Divisional Office as well as in Sub Divisional Offices and similarly the record of damage reports pertaining to illicit cutting is also maintained in both Sub Divisional and Divisional Offices. After exhibiting the above stated damage reports to the prosecutor, he confirmed that neither record of further action on the said damage reports is available regarding prosecution case or compound cases, in Divisional Office nor in any Court of Law, which have been preferred

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by the accused officials. The prosecution exposed that as per past practice the chalked out damage reports against the forest offenders regarding illicit cutting are submitted in the court of law but due to unavailability of offenders the cases are lingered on and lying pending in courts for long time.

Upon the query of enquiry committee on TP No.121 dated 23/2/2017, the prosecutor stated that the certified copy of the said TP is attached and furthermore authentication of timber transported under it can be asked from the SDFO concerned that as to whether the timber transported by this TP was the part of theft timber or otherwise which was got verified by the SDFO that the said timber was the part of recovered/retrieved timber.

Whereas, on the perusal of enquiry file it appeared that another enquiry initiated vide DFO Upper Kohistan No.1863-1880/GL, No.1887/GL dated 10/10/2013 for the same mis-hap has also been got conducted by the then Divisional Forest Officer Agror Tanawal Forest Division and finalized accordingly and the accused officials were imposed with appropriate punishments i.e. major & minor penalties after due process of law. The de-novo Enquiry Committee has very pre-cautiously gone through the contents of that enquiry report along with other one already conducted by Mr. Shah Wazir Khan, M.D, FDC and Mr. Tariq Rashid, Secretary Benevolent Fund. From perusal of both the enquiry reports it is crystal clear that the grasp of prosecution over the situation was enfeebled which came forward in shape of bifurcation of enquiries in two parts. The point has also been referred in the enquiry finalized by the then DFO, Agror Tanawal Forest Division.

And whereas further scrutiny of the relevant record and the outcome of proceedings/discussions revealed that the Divisional Forest Officer Upper Kohistan Forest Division requested the District Police Officer Kohistan vide his letter No.101/GL dated 15/07/2013 before the occurrence of the mis-hap that a timber Policy is in operation from Northern Areas (Darel/Tangir and Chilas Forest Divisions of Gilgit Baltistan) through which timber is transported to down districts of the country. As there are stacks of timber in roadside depots at KKH Basha and Harban District Kohistan, therefore there is likelihood of admixture of this timber during transportation for which forest staff is already deployed to keep vigilance on illegal movement of timber but yet an active assistance is required from the police personals already deployed in the area of Harban & Sazin Police Stations, particularly on Darel and Tangir Bridges. The DFO Upper Kohistan further requested that the DPO may direct his subordinate formation to fully assist and cooperate with the forest staff so as to save the mal practices/pilferage of timber during the currency of policy i.e. 31/8/2013. It is strange to note here that the police authorities right one day before the incidence addressed to DFO Upper Kohistan vide his No.252/PSO dated 23/8/2013 that special directions were issued to SDPO Shatial for assistance and help but no praiseworthy course of action is available on record.

During enquiry proceedings it was also proved by the correspondence of DFO Upper Kohistan vide his No.1707-10/GL dated 4/9/2013 that police did not play their due rôle in curbing the mis-hap of illegal transportation of timber as is evident that there were two check

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posts of police right at the both bridge-gates where almost 4-5 police personals remained deployed for duty as compared to one or two Forest Guards on their check post, but it was regretted by the DFO Upper Kohistan that no efforts by the police were seen in the matter.

FINDINGS/RECOMMENDATION

The Enquiry Officer/Committee, after due process of law/disciplinary proceedings in the light of Enquiry File/relevant record, defense replies of the accused officials, statements of the accused officials along with statement of prosecution, personal hearings & X-examinations in view of ground reality, has very cautiously reached to the conclusion that :-

1- The Timber in question was not actually under the custody of the department/ Kohistan Forest Division as is evident from the fore going proceedings and discussions and as contained in the comments furnished by the then Conservator of Forests Lower Hazara Forest Circle Abbottabad to the Chief Minister, Khyber Pakhtunkhwa wherein he stated that :-

- i. "In such a situation taking cognizance by forest staff of such illicit cutting as per stipulated procedures restricted to chalking damage reports only. Neither anyone agreed to provide Supardnama nor could the Department take the contraband timber to safe custody."
- ii. "Although, the documentation and enlistment of illicit timber and applications to register FIR against theft give an impression as if the impugned timber was in the possession of Forest Department, but in the given circumstances, possession of timber stock did not qualify the same as impounded. Hence their possession was of de jure at best as they could not wield instruments of endorsement to qualify it as de facto."

Above exposition proved that the timber was there but lying in the custody of owners.

2- Law and Order situation in District Kohistan is also reported critical throughout above proceedings besides envisaged in the Minutes of meeting held under the Chairmanship of DCO Kohistan in his office on 26/6/2012. Local tribes are said to be forceful before the writ of Govt. as they often displayed willfully and as demonstrated during instant mis-hap while transportation of timber up-wards to northern area and down-wards to Kohistan. Upon which the different tribe's clans/individual owners had forceful possession.

3- It is also proved beyond any doubt that 5000 cft timber was transported to Havellian Central Depot out of the same 18000 cft timber in question and remaining 12000 - 13000 cft is lying in Harban Forest Sub Division under the traditional custody of owners and yet the forest department is keeping vigilance over it to protect the illegal movement of the said timber.

4- According to TP No.121 dated 23/2/2017, 4994.25 cft timber has been transported to Havellian Depot out of the timber under enquiry, and FDF thereof remitted to Govt. Treasury besides 20% share of the Govt. will be deducted on auction

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accordingly. And the remaining timber i.e. 12000 to 13000 cft needs exact measurement for which the enquiry committee has no means and resources. The Divisional Forest Officer concerned may manage the exact measurement of the said timber and maintain record thereof accordingly.

5- So far the allegations against the accused officials are concerned is a matter of Law on one side, in view of prevailing Law and Order situation in Kohistan District and on the other hand question of fact proves that the mis-hap had occurred and the timber in question was transported to Northern area and recovered/retrieved back to Harban Forest Sub Division. It is proved that the accused officials have tried their best to block the illegal transportation but the angry mobbishes not only paralyzed the forest staff but the police staff also failed in blocking the way of miscreants/culprits.

Charges of In-efficiency & Mis-conduct are partially proved against a few of above accused officials. However, the charge of Corruption does not stand established against none of the accused officials.

6- From the foregoing proceedings/discussions it is proved that one Mr. Abdul Manan left his place of duty by forwarding an application for 15 days leave before the happening of incident, through his SDFO but could not be found sanctioned leave by the Competent Authority which makes him liable to be proceeded against his irresponsible approach towards performance of official duty.

7- Above all episodes show, beyond any doubt, that Govt. Loass as alleged in the charge sheets/memo of allegations has been procured and all the forcibly stolen timber i.e. 18000 cft has been recovered/retrieved and transported back to its respective jurisdiction which is under vigilance of the department to the extent of illegal movement, however, the said timber is under custody of the owners.

CONCLUSION

On receipt of Enquiry Report and keeping in view the recommendation contained therein, show cause notices were served upon the accused officials, in response to which they furnished their replies and accordingly heard in persons. The concerned officials failed to prove themselves innocent, therefore the charge of In-efficiency found established.

ORDER

As per conclusion, the charges of In-efficiency stand established against all the accused officials. Therefore, I, Faiz-ur-Rehman, Divisional Forest Officer Upper Kohistan Forest Division Dassu in the capacity of Authority after considering de-novo inquiry report & other related documents of the case and in exercise of the powers vested in me under Rules-14(2)(4) read with Rules 4(1)(a)(ii) of the Khyber Pakhtunkhwa, Government

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Servant (Efficiency & Discipline) Rules, 2011 do hereby ordered to impose penalties upon the accused officials as noted against each:

S.#	Name and Rank	Extent of penalty.
1	Mr. Mohammad Asghar Forester ✓	Stoppage of two Annual Increments of each falling due on 01/12/2020 and 01/12/2021 for a period of two years.
2	Mr. Abdul Manan Forest Guard	
3	Mr. Umer Khan Forest Guard. ✓	
4	Mr. Naseeb Khan Forest Guard.	
5	Mr. Jamer Khan Forest Guard.	

However, the intervening period of all the accused for which they remained out of service as per recommendation of Enquiry Committee and in accordance with Civil Servant Revised Leave Rules, 1981 is hereby treated as under:-

S.#	Name of Officials	Leave on half pay	Extra ordinary Leave without pay.
1.	Mr. Mohammad Asghar Forester.	01/7/2016 to 23/10/2019 = 1240 days. ✓	---
2	Mr. Abdul Manan Forest Guard.	01/7/2016 to 23/10/2019 = 1240 days.	---
3.	Mr. Umer Khan Forest Guard.	01/7/2016 to 23/10/2019 = 1240 days.	---
4.	Mr. Naseeb Khan Forest Guard.	12/3/2015 to 30/11/2016 = 629 days	01/12/2016 to 23/10/2019 = 1087 days.
5.	Mr. Jamer Khan Forest Guard.	12/3/2015 to 30/11/2016 = 629 days	01/12/2016 to 23/10/2019 = 1087 days.

Sd/- (Faiz-ur-Rehman)
Divisional Forest Officer
Upper Kohistan Forest Division
Dassu

Copy forwarded to:

1. The Conservator of Forests, Upper Hazara Forest Circle Mansehra for favour of information.
2. Mr. Alamgir Khan Sub-Divisional Forest Working Plan Mansehra for information.
3. Divisional Accountant for further necessary action.
- ✓ 4. Mr. Mohammad Asghar Forester C/O DFO Lower Kohistan Forest Division Pattan for information and necessary action.
5. Mr. Abdul Manan Forest Guard for information and necessary action.
6. Mr. Umer Khan Forest Guard for information and necessary action.
7. Mr. Naseeb Khan Forest Guard for information and necessary action.
8. Mr. Jameer Khan Forest Guard for information and necessary action.

Divisional Forest Officer
Upper Kohistan Forest Division
Dassu

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D.A = 7/20



OFFICE OF THE
DIVISIONAL FOREST OFFICER
LOWER KOHISTAN FOREST DIVISION,
PATTAN

0998-405203

0998-405203

No. 165/E.,

Dated. 19/08/2020

To

The Conservator of Forests
Upper Hazara Forest Circle
Mansehra

Subject: PROMOTION OF FORESTER

Memo:-

Mr. Muhammad Asghar Forester preferred an appeal regarding re-instatement of his seniority in original place and promotion to the next position as per rules/laws. The appeal in original alongwith connected documents are enclosed herewith for favour of further necessary action please.

Enc: as above

[Signature]
DIVISIONAL FOREST OFFICER
LOWER KOHISTAN FOREST DIVISION
PATTAN

ATTESTED
[Signature]

بخدمت جناب چیف کنزرویٹر صاحب سدرن فارسٹ ریجن ایشیا

بوساطت: جناب ڈویژنل فارسٹ آفیسر صاحب لوئر کوہستان فارسٹ ڈویژن پٹن

عنوان: اپیل برائے ترقی فارسٹ سے ڈپٹی ریجنلر BPS-12 اور ڈپٹی ریجنلر سے فارسٹ ریجنلر BPS-16

جناب عالی!

- 1- مودبانہ گزارش ہے کہ فدوی سال 2013ء کی سنیا رٹی لسٹ میں نحسیت فارسٹ پانچویں نمبر پر تھا۔ بعد ازاں محکمانہ پروموشن میں دیگر مجھ سے سینئر چاروں فارسٹران پروموت ہوئے اور ریٹائرڈ بھی ہو گئے۔ اس طرح فدوی سیریل نمبر 1 پر بمطابق سنیا رٹی لسٹ آ گیا۔ سال 2013ء کی سنیا رٹی لسٹ لف ہذا ہے۔ (ضمیمہ نمبر 1)۔
 - 2- لیکن فدوی کو ایک محکمانہ انکوائری میں مورخہ 03-06-2016 کو بذریعہ نوٹیفیکیشن نمبر No. So (ESTT) FE & WD / 18 / Tariq / DFO / 2014 / 2868-71 کو ملازمت سے سبکدوش کر دیا گیا۔ کاپی لف ہے (ضمیمہ نمبر 2)۔
 - 3- مورخہ 24-10-2019 کو اپیل کنندہ کو بحوالہ نوٹیفیکیشن نمبر SP (ESTT) FE & DW / 1-50 (69) 2019 PF کو دوبارہ ملازمت پر بحال کر دیا گیا اور ساتھ دوبارہ انکوائری کا حکم دیا گیا۔ کاپی لف ہذا ہے (ضمیمہ نمبر 3)۔
 - 4- یہ کہ دوبارہ انکوائری کا فیصلہ بھی جناب DFO صاحب اپر کوہستان فارسٹ ڈویژن داسونے بحوالہ آفس آرڈر نمبر 3 مجریہ مورخہ 24-07-2020 کو جاری کر دیا۔ کاپی لف ہے (ضمیمہ نمبر 4)۔
 - 5- یہ کہ فدوی کے محکمہ ہذا سے باہر رہنے کا عرصہ 30-06-2016 تا 24-07-2020 پر محیط ہے۔ اس دوران محکمہ نے مجھ سے جو نیئر فارسٹران کو ڈپٹی ریجنلر اور پھر فوراً ڈپٹی ریجنلر سے فارسٹ ریجنلر کے عہدہ پر ترقی دی گئی۔ جس طرح کہ سنیا رٹی لسٹ کا ذکر اوپر پیرا گراف نمبر 1 میں کیا گیا ہے۔
 - 6- یہ کہ سال 2016ء کے بعد اپیل کنندہ سے جو نیئر فارسٹرسٹر الطاف قریشی جو کہ سنیا رٹی لسٹ میں چھٹے نمبر پر تھا اور ضیاء الدین فارسٹرسٹ ساتویں نمبر پر تھا۔ دونوں کو پروموت کر کے مورخہ 01-03-2017 کو آفس آرڈر نمبر 24 جاری کیا گیا۔ آفس آرڈر کاپی لف ہے (ضمیمہ نمبر 5)۔
- اور بعد ازاں مسٹر الطاف قریشی کو مزید پروموشن دے کر ڈپٹی ریجنلر سے بحوالہ آفس آرڈر نمبر 140 مورخہ 14-04-2020 کو فارسٹ ریجنلر (BPS-16) کی پوسٹ پر ترقی دی گئی۔ کاپی لف ہے (ضمیمہ نمبر 6)۔

جناب والا!

(ii) میں اپنے حقوق پروموشن کے سلسلے میں معروض ہوں کہ ہمارے ساتھ انکوائری کیس میں ایک ملازم شہیر خان فارسٹ گارڈ شامل تھا۔ جسے ہماری انکوائری سے دانستہ طور پر علیحدہ کر کے باعزت بری کر کے اُسے پروموشن بھی دی گئی۔ متعلقہ فارسٹ گارڈ کی چارج شیٹ اور بری کرنے کے سرکاری دستاویزات لف ہیں (ضمیمہ نمبر 7, 8)۔

Allesht

(ii) یہ کہ میری سروس سے براخواستگی اور اس پیریڈ کے دوران متعلقہ فورم (سروس ٹریبونل) اور سپریم کورٹ آف پاکستان کے حتمی فیصلے تک میرے لئے باقاعدہ میری سیٹ Vacant رکھی جاتی۔ لیکن محکمہ نے میری سیٹ خالی رکھنا تو درکنار بلکہ جو نیئر کو پروموشن دے کر مجھے میرے حق سے محروم رکھا گیا۔

چاہے تو یہ تھا کہ محکمہ عدالت سروس ٹریبونل اور سپریم کورٹ آف پاکستان کے آخری فیصلہ تک انتظار کرتی۔ عدالت جو بھی فیصلہ کرتی اس پر من و عن عمل کیا جاتا۔ لیکن سروس ٹریبونل اور سپریم کورٹ آف پاکستان نے بھی مجھے ملازمت پر بحال رکھا۔ فیصلہ سروس ٹریبونل اور فیصلہ سپریم کورٹ آف پاکستان لفت ہدایں (ضمیمہ نمبر 10,9)۔

عالیجاہ!

اپیل کنندہ کی ملازمت سے عدم موجودگی میں اس کے جو نیئر ترقی پا کر (BPS-16) تک جا چکے ہیں۔ مندرجہ بالا حقائق اور قواعد کے مطابق اپیل کنندہ کا حق بنتا ہے کہ وہ اب محکمہ میں عدالتی احکامات کی روشنی میں بحال ہو چکا ہے۔ اور مجھے میرے جملہ حقوق دیئے جائیں۔ لہذا اپیل کی جاتی ہے کہ اپیل کنندہ کو (BPS-12) میں ترقی دے کر اسکی سابقہ سنیا رٹھی لسٹ (BPS-12) میں بحال کر کے (یعنی الطاف قریشی) سے ایک نمبر پہلے اور ازاں بعد اپیل کنندہ کو (BPS-16) میں ترقی دی جائے۔

آپ کی عین نوازش ہوگی۔

14/07/2016

محمد اصغر فارسٹر

لوئر کوہستان فارسٹ ڈویژن پٹن

بعد الت

مردود سول لیسٹ

امیر خان 2 پنجاب
امیر خان بنام قلم صفات

موزجہ
مقدمہ
دعویٰ
جرم

باعث تحریر آئیکہ

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

آں مقام لیسٹ اور کیلئے عمومی خان اردو لیسٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز

وکیل صاحب کو رائی نامہ کرنے و تقریر ثالثہ فیصلہ برحلاف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل گرانے و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ

پرواخشہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا اوکالت نامہ لکھ دیا کہ سدر ہے۔

Accepted
Attorney

20

ماہ

المرقوم

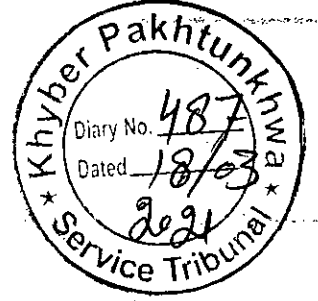
واہ الع

کے لئے منظور ہے۔

بمقام

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 15779/2020



Put up to the court with relevant appeal.

Asghar Khan

V/S

Forest deptt:

12/3/2021

APPLICATION FOR FIXING THE INSTANT APPEAL ON ANY
EARLY DATE INSTEAD OF 24.06.2021.

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal in this Honorable Tribunal to consider him for promotion to the post of Deputy Ranger BPS-12 and then Ranger BPS-16 from the date, when his juniors were promoted to the post of Deputy Ranger (BPS-12) and Ranger (BPS-16).
2. That the instant appeal was fixed on 18.01.2020 for preliminary hearing, however the appeal was not admitted to regular hearing due to the reason the counsel for the appellant was busy in the DB of this Honourable Tribunal and the case was adjourned to 17.03.2021.
3. That on 17.03.2021, the case was again adjourned to 24.06.2021 due to non availability of SB in the Honorable Tribunal.
4. That the two dates have been fixed in preliminary hearing in the instant appeal, but despite that the appeal was not admitted for regular hearing due to the above mentioned reason and the next date fixed for preliminary hearing is also too long.
5. That it will be in interest of justice to fix the instant appeal on any early date instead on 24.06.2021.

It is, therefore, most humbly prayed that on the basis of above submissions the instant application may kindly be accepted and the instant appeal may be fixed on an early date instead of 24.06.2021.

At preliminary stage. Be accelerated to a date in mid week of April, 2021.

THROUGH:-

APPELLANT

(TAIMUR ALI KHAN)

ADVOCATE HIGH COURT

08/04

19/3

AFFIDAVIT

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



DEPONENT

ATTESTED



Handwritten signature and date: 15-3-2021

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

Appeal No. 15779/2020

Asghar Khan

V/S


Forest deptt:

.....
**APPLICATION FOR FIXING THE INSTANT APPEAL ON ANY
EARLY DATE INSTEAD OF 24.06.2021.**
.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal in this Honorable Tribunal to consider him for promotion to the post of Deputy Ranger BPS-12 and then Ranger BPS-16 from the date, when his juniors were promoted to the post of Deputy Ranger (BPS-12) and Ranger (BPS-16).
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5. That it will be in interest of justice to fix the instant appeal on any early date instead on 24.06.2021.

It is, therefore, most humbly prayed that on the basis of above submissions the instant application may kindly be accepted and the instant appeal may be fixed on an early date instead of 24.06.2021.

APPELLANT
THROUGH:-

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



DEPONENT

ATTESTED



15-3-2021

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

Appeal No. 15779/2020

Asghar Khan

V/S

Forest deptt:

.....
**APPLICATION FOR FIXING THE INSTANT APPEAL ON ANY
EARLY DATE INSTEAD OF 24.06.2021.**
.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal in this Honorable Tribunal to consider him for promotion to the post of Deputy Ranger BPS-12 and then Ranger BPS-16 from the date, when his juniors were promoted to the post of Deputy Ranger (BPS-12) and Ranger (BPS-16).
2. That the instant appeal was fixed on 18.01.2020 for preliminary hearing, however the appeal was not admitted to regular hearing due to the reason the counsel for the appellant was busy in the DB of this Honourable Tribunal and the case was adjourned to 17.03.2021.
3. That on 17.03.2021, the case was again adjourned to 24.06.2021 due to non availability of SB in the Honorable Tribunal.
4. That the two dates have been fixed in preliminary hearing in the instant appeal, but despite that the appeal was not admitted for regular hearing due to the above mentioned reason and the next date fixed for preliminary hearing is also too long.
5. That it will be in interest of justice to fix the instant appeal on any early date instead on 24.06.2021.

It is, therefore, most humbly prayed that on the basis of above submissions the instant application may kindly be accepted and the instant appeal may be fixed on an early date instead of 24.06.2021.

APPELLANT
THROUGH:-


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



DEPONENT

ATTESTED



18-3-2021

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

Appeal No. 15779/2020

Asghar Khan

V/S

Forest deptt:

.....
**APPLICATION FOR FIXING THE INSTANT APPEAL ON ANY
EARLY DATE INSTEAD OF 24.06.2021.**
.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal in this Honorable Tribunal to consider him for promotion to the post of Deputy Ranger BPS-12 and then Ranger BPS-16 from the date, when his juniors were promoted to the post of Deputy Ranger (BPS-12) and Ranger (BPS-16).
2. That the instant appeal was fixed on 18.01.2020 for preliminary hearing, however the appeal was not admitted to regular hearing due to the reason the counsel for the appellant was busy in the DB of this Honourable Tribunal and the case was adjourned to 17.03.2021.
3. That on 17.03.2021, the case was again adjourned to 24.06.2021 due to non availability of SB in the Honorable Tribunal.
4. That the two dates have been fixed in preliminary hearing in the instant appeal, but despite that the appeal was not admitted for regular hearing due to the above mentioned reason and the next date fixed for preliminary hearing is also too long.
5. That it will be in interest of justice to fix the instant appeal on any early date instead on 24.06.2021.

It is, therefore, most humbly prayed that on the basis of above submissions the instant application may kindly be accepted and the instant appeal may be fixed on an early date instead of 24.06.2021.

APPELLANT
THROUGH:-


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



DEPONENT

ATTESTED



18-3-2021

PROFORMA FOR EARLY HEARING.

Form 'A'

Judicial Branch

To be filled by the Counsel.

Case Number	S. A # 15579/20					
Case Title	Asghar Khan vs Forest Deptt.					
Date of Institution						
Bench	SB		DB		✓	
Case Status	Fresh		Pending		✓	
Stage	Notice		Motion		PAN	
Urgency to be clearly stated.	Appellant will retire on attaining Superannuation in the month of Nov, 2022.					
Nature of the relief Sought.	Promotion					
Next date of hearing.	11 - 08 - 2022					
Alleged Target Date						
Counsel for.	Petitioner		Respondent		In Person ✓	

Signature of counsel/party

PESHAWAR HIGH COURT, PESHAWAR

PROFORMA FOR EARLY HEARING.

Form 'B'

Judicial Branch

Inst#.

Early Hearing. _____ -P/20 _____

In case No. 15579 -p/201 9

Asghar Khan vs Forest Deptt

Presented by Taimur Ali Khan on behalf of appellant/plaintiff.
Entered in the relevant registrar.

Put up alongwith main case Yes

Last date fixed	<u>26.5.22</u>
Reason(S) for last adjournment, if any by the Branch Incharge.	<u>Counsel seeks time to argue case on next date.</u>
Date(s) fixed in the similar matter by the Branch Incharge.	
Available dates HVC branch.	<u>NFA</u>

[Signature]
13/7/22
ASSTT: REGISTRAR (FIXATION).

Dated _____

DEPUTY REGISTRAR (J).

Dated _____

ADDITIONAL REGISTRAR (J).

Dated _____

Requetted.

[Signature]
13/7/22

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

Service Appeal No.15579/2020



Asghar Khan

VS

Forest Deptt:

**APPLICATION FOR FIXING THE INSTANT SERVICE APPEAL
ON AN EARLY DATE OF HEARING INSTEAD OF 11.08.2022**

RESPECTFULLY SHEWETH:

1. That the appellant petitioners has filed the instant service appeal in this Honourable Tribunal to consider him for promotion to the post of Deputy Ranger (BPS-12) w.e.f 01.03.2017 when his juniors were promoted and for promotion to the post of Forest Ranger (BPS-16) w.e.f 14.04.2020 when his juniors were further promoted to the post of Forest Ranger.
2. That the instant service appeal is fixed on 11.08.2022 before this Honourable Tribunal, but the appellant will retire on superannuation in the month of November 2022, therefore early hearing is requested in the instant appeal.
3. That the instant service appeal may kindly be fixed on any early date instead of 11.08.2022.

It is, therefore, most humbly prayed that on acceptance of this application, the instant service appeal may kindly be fixed on any early date instead of 11.08.2022 on the basis of above submission to meets the ends of justice

APPELLANT

THROUGH:


**TAIMUR ALI KHAN
ADVOCATE HIGH COURT**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL CAMP COURT ABBOTTABAD

APPEAL NO. 15579/2020

Asghar Khan Forester (BPS-10)
Upper Kohistan Forest Division, Dassu

(APPELLANT)

VERSUS

1. The Secretary Forestry, Environment & Wildlife
Department, Khyber Pakhtunkhwa Peshawar
2. The Chief Conservator of Forests
Central Southern Forest Region-I
Khyber Pakhtunkhwa Peshawar
3. Conservator of Forests,
Upper Hazara Forest Circle Mansehra
4. Divisional Forest Officer,
Lower Kohistan Forest Division Pattan
5. The Secretary Finance Department, Khyber
Pakhtunkhwa Peshawar

(RESPONDENTS)

Subject: **SERVICE APPEAL NO. 15579/2020 "ASGHAR KHAN
FORESTER (BPS-10 VS GOVT. OF KHYBER
PAKHTUNKHWA THROUGH SECRETARY FORESTRY,
ENVIRONMENT & WILDLIFE DEPARTMENT AND
OTHERS"**

Para wise Comments on behalf of Respondents No. 01 to 05

PRELIMINARY OBJECTIONS

1. The appellant has no cause of action.
2. That the appellant has no locus standi to file the appeal.
3. That the appeal is bad for non joinder of necessary parties and
mis-joinder or un-necessary parties.
4. That the appellant has been stopped by his own conduct to file
the appeal.
5. That the appeal is against the Law/Procedure.
6. That the appeal is not maintainable in its present form.

7. That the appellant has suppressed the original fact from this Honorable Tribunal hence not entitled for any relief and appeal is liable to be dismissed without any further proceeding.
8. That the appellant has not come to this honorable Court with clean hands.
9. That the appeal has been filed to pressurize the respondents.
10. That the appellant is estopped to sue through his own conduct.
11. That the appellant has already preferred a departmental appeal before appellate authority in this context which has already been decided after completion of legal formalities.
12. That the appeal of the appellant is badly time barred.

REPLY BY THE RESPONDENTS

1. It is correct to the extent that the appellant was working as Forester in Khyber Pakhtunkhwa Forest Department during the year 2013 and was at S.No. 5 of Seniority List which was published during 2013 when he was in service.
2. It is incorrect. The appellant while serving in Harban Forest Sub-Division during 2013 an incident regarding theft of 18000-Cft precious species of Deodar within his administrative jurisdiction was taken place with his connivance. As a result of departmental inquiry initiated under the provisions contained in Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011, resultantly the appellant was compulsorily retired from service vide Notification No.SO(Estt)FE&WD/1-8/Tariq DFO/2k14 dated 30.06.2016 (Annex-A) which was subsequently challenged before this honorable Court through Service Appeal No. 1247/2016.
3. It is correct. Since the appellant was not in service during the year 2017, therefore the mentioned senior most Foresters having satisfactory record and fulfilled other pre-requisites/criteria were promoted to the rank Deputy Ranger (BPS-12) by respondent No. 3 on 01.03.2017 which is quite correct and justified under the provisions contained in Promotion Policy/2009 promulgated by the Government of Khyber Pakhtunkhwa.

4. It is correct that the honorable Court vide judgment dated 17.12.2018 set-à-side the impugned order and reinstated the appellant in service subject to denovo inquiry. It is also correct that the Department filed a CP before the august Supreme Court of Pakistan against the decision of Service Tribunal in terms of approval accorded by the Scrutiny Committee Khyber Pakhtunkhwa Law Department but the same was dismissed vide judgment dated 25.07.2019.
5. It is incorrect. The appellant was reinstated in service vide Notification dated 24.10.2019 after receipt of the decision of Apex Court dated 25.07.2019 and completion of other codal formalities.
6. Mr. Altaf Qureshi, though was junior to the appellant in Forester cadre, but was promoted to the rank of Deputy Ranger (BPS-12) on 01.03.2017 on the recommendation of Departmental Promotion Committee (DPC) when the appellant was not in service and subsequently to the post of Forester Ranger (BPS-16) on 01.04.2020 when the appellant was still Forester and under inquiry (denovo) in terms of the directives of Honorable Service Tribunal contained in judgment dated 17.12.2018.
7. It is incorrect. Though the charge of corruption was not found established but the charge of inefficiency was proved by the Denovo Inquiry Committee on the basis of which minor punishment was awarded vide DFO Upper Kohistan Dassu office order No. 03 dated 27.07.2020(Annex-B) treating the intervening period as half pay under the provision contained in Khyber Pakhtunkhwa Leave Rules 1981, as admitted by the appellant.
8. The staff of Harban Forest Sub-Division has given a statement categorically mentioning that the theft timber for which an FIR bearing No. 07 dated 28.08.2013, was registered in PS Sazin has been retrieved which obviously proved that the timber in question which was lying under the administrative jurisdiction of appellant was actually theft, therefore, proceedings initiated against the appellant alongwith others thereafter the action taken against them by the competent authority on the

recommendations of Inquiry Committee was correct. So far as the departmental appeal as stated by appellant is concerned, after completion of departmental proceedings (denovo inquiry):

- i. He has been promoted to the rank of Deputy Ranger on the recommendation of Departmental Promotion Committee (DPC) vide Conservator of Forests, Upper Hazara Forest Circle office order No. 57 dated 25.01.2021 (Annex-C);
- ii. His seniority in the cadre of Deputy Ranger has been restored vide Conservator of Forests, Upper Hazara Forest Circle Mansehra office order No. 64 dated 05.04.2021 (Annex-D); and
- iii. He has subsequently been promoted to the rank of Forest Ranger (BPS-16) on the recommendation of Departmental Promotion Committee by Respondent No. 2 vide office order No. 143 dated 02.02.2022 (Annex-E).

So far as his stance regarding promotion to the rank of Deputy Ranger (BPS-12) with effect from 17.3.2018 and then as Forest Ranger (BPS-16) with effect from 14.04.2020 is concerned, admittedly he was not in service on 17.03.2018 when his juniors were promotion to the rank of Deputy Ranger while he was Forester (BPS-10) when Altaf Qureshi Deputy Ranger was promoted to the rank of Forest Ranger. Moreover, Para-VI of the Promotion Policy 2009 promulgated by the Provincial Government is very clear in this respect as "Promotion will always be notified with immediate effect".

Hence his request for promotion from retrospective dates is contrary to the rules/policy, therefore not entertainable.

9. As explained above all the due benefits have been given to the appellant, hence the Service Appeal in hand needs to be turned down.

GROUNDS

- a. It is incorrect. As explained above, the appellant was not on role during 2017 when his juniors were promoted to the rank of Deputy Ranger. However, after completion of departmental proceedings all the due benefits have been given to the appellant as explained in para-8 above. As per Para-VI of the Khyber Pakhtunkhwa Promotion Policy 2009 promotions are notified with immediate effect and not with retrospective effect. Hence the claim of appellant is unjustified.
- b. As explained against Para-8 and A above.
- c. It is correct to the extent that charge of corruption was not proved in the denovo inquiry yet charge of inefficiency stand proved on the basis of which minor punishment i.e stoppage of two annual increments for a period of two years awarded by the competent authority on the recommendations of Denovo Inquiry Committee.
- d. As explained in Para-8 and A above.
- e. It is incorrect. It was upto appellant to provide substantial evidence before the Inquiry Committee to prove himself innocent but he failed on the basis of which the punishment regarding "compulsory retirement" was awarded by the competent authority. The appellant was not in service therefore the senior most Foresters as per seniority list notified during the year 2017 were promoted to the rank of Deputy Ranger (BPS-12) according to the rules which is quite correct and justified.
- f. All the due rights covered by rules/policy notified by the Government have been awarded to the appellant as explained in para-8 above.
- g. As explained above in Para-8 and A above.
- h. As explained in Para-8 above, the appellant has been promoted to the rank of Deputy Ranger, inter-se-seniority under Para-V(d)

of Promotion Policy, 2009 read with sub-section (4) of Section-8 of the Khyber Pakhtunkhwa Civil Servants Act 1973 has been restored in Deputy Ranger cadre on the basis of which he has subsequently been promoted to the rank of Forest Ranger (BPS-16). So far as the monetary benefits are concerned, as explained above in Para-A and as per Para-IV of Promotion Policy 2009 notified by the Provincial Government, the promotion always taken place with immediate effect and not from retrospective effect, hence his request is not entertainable.

- i. As explained in para-8, A and h above, all the legal benefits have been awarded to the appellant.
- j. As explained in Para-8, A, B & E above.

In view of above submission, it is requested that the appeal of appellant in hand being not based on facts may be dismissed with cost.

Secretary
Government of Khyber Pakhtunkhwa
Finance Department Peshawar
(Respondent No. 5)

Divisional Forest Officer
Lower Kohistan Forest Division
Patañ
(Respondent No. 4)

Conservator of Forests
Upper Hazara Forest Circle
Mansehra
(Respondent No. 3)

Chief Conservator of Forests
Central Southern Forest Region-I
Peshawar
(Respondent No. 2)

Secretary
Government of Khyber Pakhtunkhwa
Forestry, Environment & Wildlife
Department Peshawar
(Respondent No. 1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 15579/2020

Mr. Asghar Khan Forester
Lower Kohistan Forest Division Pattan.....**Appellant**

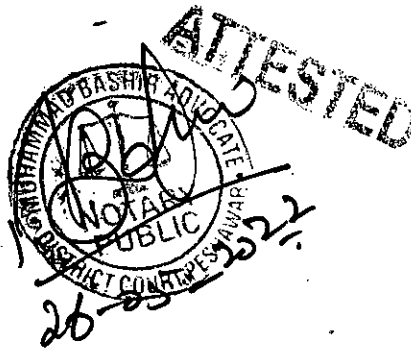
VERSUS

1. The Secretary to Govt. of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Peshawar.
 2. The Chief Conservator of Forests Central Southern Region-I Khyber Pakhtunkhwa Peshawar.
 3. The Conservator of Forests Upper Hazara Forest Circle Mansehra.
 4. The Divisional Forest Officer Lower Kohistan Forest Division Pattan.
 5. The Secretary to Finance Department , Khyber Pakhtunkhwa Peshawar.
-**Respondents**

COUNTER AFFIDAVIT

I the undersigned hereby solemnly affirm that the contents of para-wise comments are correct to the best of my knowledge and nothing has been concealed from the Honorable Tribunal/ Court.

Divisional Forest Officer
Lower Forest Division
Pattan



Amreschere (A)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

Dated Pesh: 30th June, 2016

NOTIFICATION

No. SO (Estt) FE&WD/1-8/Tarq DFO/2k14: WHEREAS, Mr. Muhammad Asghar, Forester (BPS-09) 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 25/12/2013, served upon the said officer;

AND WHEREAS, Enquiry Committee comprising Mr. Tarq Rashid, (SG BS-19), Reforms Coordinator, Finance Department and Mr. Shah Wazir Khan (BS-19), Managing Director, Forest Development Corporation, to conduct the Inquiry against the said accused official

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 official 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 official 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 official, and hearing him in person and exercising his powers under Rule-14(5)(ii) read with Rule 4(1)(b)(i) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose a major penalty of "Compulsory retirement from service"; upon and "Recovery of Rs. 21,98,500/-" from Mr. Muhammad Asghar, Forester (BPS-09) of Forest Department, with immediate effect.

CHIEF MINISTER,
KHYBER PAKHTUNKHWA

Endst: No. SO (Estt) FE&WD/1-8/Tarq DFO/2k14-2568-71, Dated Pesh: 30th June, 2016.

Copy is forwarded to:-

- 1) PSO to Chief Minister, Khyber Pakhtunkhwa.
- 2) PS to Secretary Forestry, Environment & Wildlife Department.
- 3) Chief Conservator of Forests, Central and Southern Forest Region-I, Peshawar.
- 5) Director Budget and Accounts Environment Department.
- 6) Official concerned C/O Chief Conservator of Forests, Central & Southern Forest Region-I Peshawar.
- 7) Master file.
- 8) Office order file.

5-11
(SYED KAZIM HUSSAIN SHAH)
SECTION OFFICER (ESTT)

CO

Annexure (B)

OFFICE ORDER NO. 03 /DATED DASSU THE 04 /7/2020. ISSUED BY
FAIZ-UR-REHMAN DIVISIONAL FOREST OFFICER UPPER KOHISTAN FOREST
DIVISION DASSU

Read With:

- 1- Office Order No.17 dated 4/11/2019 issued by DFO Upper Kohistan Forest Division Dassu along with its enclosures.
- 2- Memo of Allegation/Charge Sheet against Mr. Muhammad Asghar, Forester
- 3- Memo of Allegation/Charge Sheet against Mr. Abdul Mannan, Forest Guard.
- 4- Memo of Allegation/Charge Sheet against Mr. Umar Khan,
- 5- Memo of Allegation/Charge Sheet against Mr. Naseeb Khan, Forest Guard
- 6- Memo of Allegation/Charge Sheet against Mr. Jamir Khan, Forest Guard.
- 7- Written Statements/defense replies along with enclosures of above 5 accused.
- 8- Govt. of Khyber Pakhtunkhwa Environment Department Notification No.SO (Estt:)/Env/1-8/Tariq DFO/2k14 dated 2/6/2015.
- 9- Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad Judgment dated 17/12/2018.
- 10- S.O (Establishment) Govt. of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department letter No. SO (Estt:)FE & WD/1-50(69/2019 dated 24/10/2019 regarding restoration in Service & de novo enquiry of each accused official.
- 11-August Supreme Court of Pakistan Decision/Order dated 25/7/2019.
- 12-Enquiry Report conducted by M/S Shah Wazir Khan the then Managing Director Forest Development Corporation and Tariq Rashid, Secretary Benevolent Fund, Peshawar dated 8/9/2016.
- 13-Enquiry Report conducted by Mr. Farhad Ali, the then Divisional Forest Officer Agro Tanawal Forest Division Mansehra assigned to him vide DFO Upper Kohistan Forest Division letter No.1887/GL dated 10/10/2013.
- 14-S.O (Establishment) Govt. of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department letter NO.SO (Estt:)FE & WD/1-50(69/Appeals/2016 dated Peshawar 27/2/2017 addressed to Mr. Azhar Ali Khan, Conservator of Forests, Lower Hazara Forest Circle, Abbottabad.
- 15-And comments by the Conservator of Forests, Lower Hazara Forest Circle thereon above Sr.No.11 dated even duly signed by the Conservator of Forests, Lower Hazara Forest Circle (Chairman) & Mr. Shaukat Fiaz, DFO Patrol Squad (Member).
- 16-Enquiry Report conducted by Anti-Corruption Establishment Mansehra Region duly certified vide letter No.328/ADC/Mans. dated Mansehra 26/11/2019 addressed to DFO Upper Kohistan in response to his letter No.915/GL dated 25/11/2019.
- 17-Letter No.8574/GE dated Mansehra 22/6/2018 addressed to Chief Conservator of Forests, Northern Forest Region-II by Conservator of Forests, Upper Hazara Forest Circle wherein Mr. Muhammad Shoaib, the then DFO Lower Kohistan was withdrawn and Mr. Muhammad Aqeel DFO Lower Kohistan was appointed as Technical Officer to assist the Open Enquiry Committee No.6/2012 and 10/2013.
- 18-Statement of Mr. Muhammad Anwar, SDFO, Pattan, Technical Officer with Anti-Corruption Establishment Mansehra Region deputed vide DFO Lower Kohistan Pattan as per statement of SDFO, before the Enquiry Officer/Committee.
- 19-Letter No.60/SDFO(H) dated 15/12/2014 addressed to DFO Upper Kohistan.
- 20-Statement of present SDFO Harban (Mr. Sajjad Shah) dated 26/11/2019 before the Enquiry Officer/Committee.
- 21-Question & Answers & Statement of Prosecutor/Departmental Representative i.e. Mr.Noor Rehman, Office Assistant/Head Clerk dated 27/11/2019 before the Enquiry Committee.
- 22-Transport Pass No.121 dated Dassu 23/2/2017 issued to Mr. Muhammad Aslam Khan S/O Ayun Khan of Basha Tehsil Dassu through Managing Director Took Forest Harvesting Cooperative Society Ltd.
- 23- Application For FIR lodged by the accused in Police Station Sazin.
- 24-Damage Reports No.32/50 dated 25/8/2013, 72/45 dated 25/8/2013, No.15/61 dated 25/8/2013 and No.73/Harban dated 27/8/2013.
- 25-Affidavit of owners on Stamp Papers (3 Nos.) regarding recovery of Timber in question.

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- 26-Office order No.4 dated 26/8/2013 issued by the DFO Upper Kohistan Forest Division Dassu for blocking the transportation of illegal timber to Northern areas.
- 27-DFO Upper Kohistan letter No.101/GL dated 15/7/2013 addressed to District Police Officer Kohistan Dassu.
- 28-Letter No.252/PSO dated 23/8/2013 issued by DPO Kohistan.
- 29-Letter No.1707-10/GL dated 4/9/2013 issued by DFO Upper Kohistan to DPO Kohistan.
- 30-Minutes of the meeting held under the Chairmanship of District Coordination Officer Kohistan in his office on 26/6/2012 regarding critical Law and Order situation.

BRIEF HISTORY

M/S Muhammad Asghar Forester, Abdul Manan, Umer Khan, Naseeb Khan and Jamir Khan Forest Guards (hereinafter referred as accused) of Upper Kohistan Forest Division Dassu were alleged that being In Charge SDFO, Block Officer, Beat Incharge of their respective Forest Sub Division, Blocks and Beats and depots (detail as per memo of allegations of each individual) committed the following irregularities and resultantly 18000 Cft illicit timber was pilfered/shifted and transported to Northern areas and all the aforementioned accuseds were accordingly charge sheeted and served with memo of allegations against the charges of In-efficiency, Mis-conduct & Corruption under Rule-3 of Khyber Pakhtunkhwa Govt. Servants (E & D) Rules, 2011. Detail as under:-

- 1- Being Incharge SDFO, Block Officer, Beat Guard and Depot Incharge of Harban, Bhasha and Sazin KKH Roadside depots failed to protect timber lying in their respective jurisdiction and the timber was transported to Northern areas under the Northern Area Amnesty Policy, 2013.
- 2- The accused failed in adopting preventive measures against admixture of timber of Kohistan origin in timber of Northern Area and hence they severally and jointly responsible for recovery of losses sustained to Govt./Public exchequer and all mis-hap occurred due to their involvement with timber mafia and thus 18000 cft timber was illegally transported to Northern area.

Consequent upon the judgment of Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad dated 17/12/2018 wherein all the accused have been re-instated in service after setting aside the earlier penalties imposed upon them. August Supreme Court of Pakistan did not entertain the CPLA No.168-P to 173-P of 2019 of the Provincial Government of Khyber Pakhtunkhwa vide order dated 25/7/2019 as the Provincial Govt. proceeded against the verdict of Khyber Pakhtunkhwa Service Tribunal as referred above. Accordingly, the Government of Khyber Pakhtunkhwa Forestry, Environment & Wildlife Department Notification No. S.O (Estt.)FE&WD/1-50(69)/2019/PF/7407-11 dated 24/10/2019, No. S.O (Estt.)FE&WD/1-50(69)/2019/PF/7412-16, No. S.O (Estt.)FE&WD/1-50(69)/2019/PF/7417-21, No. S.O (Estt.)FE&WD/1-50(69)/2019/PF/7444-48 of even date, M/S Mohammad Asghar Forester, Abdul Manan, Umer Khan, Naseeb Khan and

Jamir Khan Forest Guards were re-instated in service with immediate effect and ordered to conduct de-novo inquiry to meet the norms of justice and to settle the issue of back benefits of the service of the accused or otherwise. Therefore, the Divisional Forest Officer, Upper Kohistan Forest Division, Dassu being competent authority, constituted Inquiry Committee comprising of M/S Alamgir Khan SDFO Working Plan Unit-V Mansehra & Mr. Altaf Qureshi, SDFO Jalkot Forest Sub Division vide office order No.17 dated 04/11/2019 & No.18 dated 05/11/2019 to conduct de-novo enquiry against all the above accused officials.

The instant enquiry is the outcome of prolong litigation on the subject matter both departmental enquiries/disciplinary proceedings and Civil Litigation in the proper Court of Law as depicted in Read With above. Hence, needs thorough investigation/examination and on the spot verification, which may lead to the rational and logical end.

PROCEEDINGS/DISCUSSIONS:

Consequently, the Enquiry Committee/Officer called upon the accused officials to submit their defense replies/Written Statements alongwith all relevant records/supporting material in view of the Memo of Allegations and Charge Sheets served upon them and delivered to them vide Divisional Forest Officer Upper Kohistan Forest Division Office Order No.17 dated 4/11/2019 vide Enquiry Officer/Committee letter No.18/WP dated 6/11/19 and No.01-6/Camp dated 14/11/2019. The accused officials submitted their defense replies/written statements alongwith supporting documents wherein they rebutted the charges on the following Grounds:-

- i- **Accused Mr. Muhammad Asghar, Forester, the then in Charge SDFO Harban Forest Sub Division stated that:-**
 - a) Harban Forest Sub Division is situated at a far flung area of Upper Kohistan Forest Division where Law and Order situation is highly critical and Writ of the Government is just nominal there.
 - b) That he on 13/7/2013, informed the Divisional Forest Officer, Upper Kohistan Forest Division in letter and spirit about the illegal movements of the timber in question upon which the DFO wrote a letter to District Police Officer Kohistan for immediate action but right after one month and eight days the DPO directed the DSP Shatial Circle for assistance and help of the Department vide his letter No.252/PSO dated 23/8/2013 whereas the mis-hap happened on 24/8/2013.
 - c) The accused stated that in between the night of 24th and 25th of August, 2013 some of the outlaws/miscreants have forcibly taken the said timber across the river and in spite of hectic efforts he could not stop the culprits and intensively tried to contact the DFO but failed due to lack of the communication means and got suspended the illegal transportation of timber henceforth. However, the forest field staff of Northern areas across the river apprehended the timber and took into their custody under proper Supardnama and the Conservator of Forests, Gilgit Circle informed the Conservator of Forests Upper Hazara Forest Circle vide

his letter No.CF-3(45)2013, dated August, 2013 that fourteen (14) Tractors/Jeeps loaded with sleepers have illegally transported the timber from Kohistan to Darel which have been taken into custody by the staff and lying in their jurisdiction under Supardnama and the DFO concerned may be directed to shift the said timber to their own jurisdiction which was accordingly endorsed to the DFO Upper Kohistan vide CF Upper Hazara Forest Circle No.1242/GL dated 2/9/2013. He further submitted that he had given an application to the local Police Station for lodging of FIR against the culprits but the police did not lodge FIR against the real culprits but contrarily lodged the said FIR against the staff of Harban Forest Sub Division to shift the responsibility from their shoulders and the said FIR was later on referred to the Anti-Corruption Establishment for enquiry. In response the Anti-Corruption Establishment conducted detailed enquiry and filed it accordingly. Hence the allegations leveled against him are baseless, the accused further stated.

- d) On humble submission of the accused, the locals of the area helped him and the timber was shifted to safe-side from the road side as a safety measures. To this effect the accused stated that until his full satisfaction the transportation was suspended and all the check posts were directed to be vigilant upon the illegal transportation of timber under Amnesty Policy from Kohistan to Northern area.
- e) The accused further stated that after his transfer, the SDFO Harban informed the DFO in writing that the timber stolen from Harban, Sazin and Bhasha has been recovered/retrieved which is supported by the Supardnama of the owners. Detail breakup of the timber recovered/retrieved depicted as per his defense reply.
- f) He further added that on transfer of the Forest Guards, the timber recovered from Sazin i.e. 7000 cft was handed over to Mr. Muhammad Aslam Forest Guard by Nasir Khan, Forest Guard on 14/4/2015 and similarly on 16/4/2015, Mr. Jamir Khan, Forest Guard handed over the 3000 cft timber to Imran Forest Guard and afterwards from the timber of Bhasha Depot 5000 cft timber was transported vide TP No.121 dated 23/2/2017 and the rest of the timber is lying in Harban Depot. Besides this, Muhammad Anwar, SDFO and Farhad Sajid, the then SDFO have also certified in their reports that all the timber has been recovered/retrieved, and also favouring the recovery, the owners have given affidavits. Hence, in the light of above facts and figures, the allegations leveled against him are baseless.

II Accused Mr.Abdul Manan, Forest Guard stated that during the occurrence of instant mis-hap, he proceeded on 15 days leave by the prior permission of SDFO Harban. However, during leave he also requested/suggested the SDFO Harban to acquire the help of local police, which the SDFO agree and wrote letter to DFO Upper Kohistan for seeking the help of local police. He stated that some of the miscreants forcibly transported the timber to Northern Areas which was later on

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recovered/retrieved back to Upper Kohistan Forest Division. He further stated that the Anti-Corruption Establishment also conducted the enquiry and concluded that the theft timber has been recovered. Furthermore, the owners of the timber have also testified said recovery by giving affidavits which are available on record.

III **Accused Mr. Umar Khan, Forest Guard** defended his allegations stating that the timber in question was neither on the charge of Upper Kohistan Forest Division nor under his charge. No proper record has been maintained i.e. Form-5,6 and Monthly Progress Report etc. Actually, the illicit timber was the outcome of local retaliation against the prolonged ban on commercial felling by the Provincial Govt and the locals had illicitly cut the timber and accumulated under their personal custody and forcibly managed to transport it to Northern Areas, inspite of hectic efforts adopted by him to protect the interest of Government.

He further stated that all that happened forcibly and due to critical condition of law and order and single Forest Guard could not overcome an aggravated mob of locals who in an irritant manner transported the same but the Forest Staff of Northern area apprehended the illegal timber and taken it to their safe custody and finally transported back to Kohistan Forest Division all the 18000 cft timber out of which 5000 cft transported under TP No.121 dated 23/2/2017. He stated that in such a critical state of affairs he adopted each and every protective/preventive measure in saving the cause of Government. SDFO Muhammad Anwar and Mr. Farhad Sajid, SDFO have also confirmed in their reports that the transported timber had been recovered and the Conservator of Forests, Mr. Azhar Ali, has also reported that 5000 cft timber has been transported out of 18000 cft timber under enquiry. Hence, in the light of above facts, he may be exempted from the allegations as leveled against him.

IV **Accused Mr. Jamir Khan, Forest Guard** mentioned the same causes in his defense as adopted above by Mr. Umar Khan in rebutting the charges and in the beginning of his reply he straight away denied that no timber was transported from his charge but in complimentary portion of his reply he admitted that 3000 cft timber stolen from his depot had been recovered/retrieved and handed over to Mr. Imran, Forest Guard as per charge report attached with his reply.

V **Accused Mr. Nasib Khan, Forest Guard** replied in greater resemblance with Umar Khan and Jamir Khan, Forest Guard having the plea that no timber was transported from his charge but in the last portion of his reply he admitted that upon his transfer 7000 cft timber was handed over to Mr. Muhammad Aslam, Forest Guard as per charge report attached with his reply.

From the perusal of foregoing replies of the accused in the light of relevant preliminary enquiries and proceedings conducted on the illegal transportation of 18000 cft timber from Upper Kohistan Forest Division to Northern area, following facts/issues cannot be denied:-

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1- At the very threshold a detailed enquiry was conducted by a Senior Officer (Mr. Shah Wazir Khan, the then Managing Director FDC) in joint venture of other member, Mr. Tariq Rashid, Secretary Benevolent Fund Khyber Pakhtunkhwa (Chairman of the enquiry committee) during the year 2014, who after a thorough probe/investigation compiled a report and submitted to quarter concerned. The enquiry committee imposed major penalties upon the above accuseds besides cash recovery of loss sustained to the Govt. exchequer. Accordingly, the punishments recommended by the enquiry committee were implemented upon the accused officials against which they knocked the door of Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad and succeeded in setting aside the penalties imposed upon them.

2- Whereas, the impugned orders dated 30/6/16, 2/4/2015 and 12/3/2015 issued for enforcement of penalties of the above committee was challenged in the Khyber Pakhtunkhwa Service Tribunal by all the accused officials and after trial, the impugned orders were set aside on the grounds as mentioned in the detailed judgment of worthy Service Tribunal, Khyber Pakhtunkhwa dated 17/12/2018 and all the accused were re-instated in service with the direction to respondent department to conduct de novo enquiry strictly in accordance with the law and rules within a period of 90 days from the date of receipt of Judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry.

3- During February, 2017 The Appellate Authority/Chief Minister, Khyber Pakhtunkhwa prior to passing any orders on the Review Petitions of officials concerned ordered "please assign the task to a senior officer preferably Conservator of Forests Lower Hazara to furnish his report and clarify that either the timber logs were in possession of Government or community and had the Forest Department officials reported missing of logs to Police or otherwise. It should also be clarified that either this timber woods falling in illicit policy or not".

Complying with the orders of the Chief Minister, Khyber Pakhtunkhwa/Appellate Authority, the Conservator of Forests, submitted his comments as under:-

A- WHETHER THE TIMBER WAS IN POSSESSION OF DEPARTMENT

Perusal of record i.e. initial damage reports, minutes of the meeting with District Administration and correspondence made by DFO Upper Kohistan with different quarters reveal that:

- i- The timber in question was part of the outcome of anarchic illicit forest cutting in a terrain, which is impervious to the writ of state and people have an interface convenience with Government as evident from a number of amnesty policies from 1998 to 2009 (Annex:A) promulgated for disposal of illicitly cut timber. In this area the instruments of enforcing governance are more of notional than

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operational significance. Thus writ of the Forest Department there, as well as, its possession of the illicit wood need to be profiled in such an extremely circumscribing context.

- ii- In such a situation taking cognizance by forest staff of such illicit cutting as per stipulated procedures restricted to chalking damage reports only. Neither anyone agreed to provide Supardnama nor could the Department take the contraband timber to safe custody.
- iii- Although, the documentation and enlistment of illicit timber and applications to register FIR against theft give an impression as if the impugned timber was in the possession of Forest Department, but in the given circumstances, possession of timber stock did not qualify the same as impounded. Hence their possession was of de jure at best as they could not wield instruments of endorsement to qualify it as de facto.

B- WHETHER FIR HAVE BEEN LODGED WITH THE LOCAL POLICE.

The record reveal that the petitioners preferred application on 25/8/2013 in local Police Station Sazin Harban Forest Sub Division for lodging of FIR (Annexure-4) against the unknown offenders for forceful theft of timber from Kohistan for admixing in GB's amnesty policy 2013. But instead the police registered formal FIR:07 dated 28/2013 against the officials of forest department for their alleged involvement in said theft (Annex-6). Nevertheless, it is clear that the staff endeavored to lodge FIR against unknown offenders for the said larceny.

C- WHETHER THE TIMBER WAS INCLUDED IN ILLICIT POLICY.

As mentioned in the Damage Report No.73/45, 15/H, 72/45 and 32/50 chalked out against incidence of reported forceful theft timber occurred on 25/8/2013 (Annex-6) the impugned timber belongs to Damage Reports Nos.94/42, 13/55, 98/42, 60/45 and 31/50 as per Annex-1, chalked out during 2007. A portion of this timber was already disposed off under Amnesty Policy 2009. The accounts of initially reported timber, disposal in Amnesty Policy, 2009 and that stolen on 24,25/8/2013 vis-à-vis subsequent re-measurements, supplied by representatives of DFO Upper Kohistan (Annexure-7), show that out of the 18000 cft impugned timber, timber measuring 8000 cft is included in the Policy 2016-17.

4. OPEN ENQUIRY NO.10/2013-FOREST (CONDUCTED BY ANTI-CORRUPTION ESTABLISHMENT) AGAINST THE CONCERNED STAFF OF FOREST DEPARTMENT DISTRICT KOHISTAN AND CONTRACTORS.

On the express request of Divisional Forest Officer Upper Kohistan vide his letter No.915/CL dated 25/11/2019, the Assistant Director Anti-Corruption Establishment Mansehra Region submitted above titled enquiry report vide his letter No.328/ADC/Mans. Dated 26/11/2019 containing the verdict of the Anti-Corruption Establishment about their thorough investigation about the theft of timber in question that 18000 cft timber has been recovered in response to the FIR lodged against the

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officials of Forest Department of Harban Forest Sub Division, showing the detail of timber that the timber recovered has been stacked at five places and affixed damage report number on each Chakka/dump. which has been accordingly filed by the Anti-Corruption Establishment Mansehra Region. It was also mentioned in the said enquiry that in the presence of Technical Officer from Forest Department, the owners have given their statements on affidavit on judicial stamp papers that the timber in question was their sole ownership and has been recovered.

During enquiry proceedings, the SDFO Pattan, appointed as Technical Officer, by the DFO Upper Kohistan detail as per statement of the SDFO, with Anti-Corruption Department stated that on 9/8/2018, he along with Inspector Anti-Corruption Establishment went to Shatial Harban and verified the spot. It was verified on the spot that 5000 cft timber was transported vide TP No.121 dated 23/2/2017 to Havalian Sale Depot and the remaining Timber was lying in the jurisdiction of Sazin Police Station. Technical Inspection was to be carried out for measurement of timber but it could not be carried out because of lack of resources/means. According to physical verification, the timber was dumped at five (5) different places in Shatial Harban depots and each of the chakka contained affixation of damage reports numbers with black, blue and red colors and timber verified approximately 12000 to 13000 cft.

The SDFO Harban Forest Sub Division i.e. (Mr. Sajjad Shah) was called on by the Enquiry Committee on 26/11/2019 during the course of enquiry proceedings who stated that he took over the charge of Harban Forest Sub Division on 14/2/2018 from Mr. Farhad Sajid, SDFO and enquired about the theft timber in question who told me the relevant record i.e. stamp papers of the owners and confirmed that 12000 - 13000 cft timber is lying on different places on Karra Kurrum Highway (KKH) and under the possessions of different tribes (Komes) lying in timber depot Harban and no official record thereof has been maintained except the affidavits given by the owners which are available on official record. The said timber is the sole ownership of the owners and however the department is strictly vigilant over the movement to save the illegal trafficking of the said timber. Letter No.60/SDFO (H) dated 15/12/2014 addressed to DFO Upper Kohistan proved that the said timber is present on spot and in the custody of concerned owners.

The Prosecutor stated that felling of trees is carried out according to the prescription of regular Working Plans of the areas in collaboration of the Harvesting Cooperative Society but for the transportation of illicitly cut timber, the Government has given Amnesty Policy under which the illicit timber was being transported.

The Prosecution further stated that the record of legalized felling is maintained in Divisional Office as well as in Sub Divisional Offices and similarly the record of damage reports pertaining to illicit cutting is also maintained in both Sub Divisional and Divisional Offices. After exhibiting the above stated damage reports to the prosecutor, he confirmed that neither record of further action on the said damage reports is available regarding prosecution case or compound cases, in Divisional Office nor in any Court of Law, which have been preferred

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by the accused officials. The prosecution exposed that as per past practice the chalked out damage reports against the forest offenders regarding illicit cutting are submitted in the court of law but due to un-availability of offenders the cases are lingered on and lying pending in courts for long time.

Upon the query of enquiry committee on TP No.121 dated 23/2/2017, the prosecutor stated that the certified copy of the said TP is attached and furthermore authentication of timber transported under it can be asked from the SDFO concerned that as to whether the timber transported by this TP was the part of theft timber or otherwise which was got verified by the SDFO that the said timber was the part of recovered/retrieved timber.

Whereas, on the perusal of enquiry file it appeared that another enquiry initiated vide DFO Upper Kohistan No.1863-1880/GL, No.1887/GL dated 10/10/2013 for the same mis-hap has also been got conducted by the then Divisional Forest Officer Agror Tanawal Forest Division and finalized accordingly and the accused officials were imposed with appropriate punishments i.e. major & minor penalties after due process of law. The de-novo Enquiry Committee has very pre-cautiously gone through the contents of that enquiry report along with other one already conducted by Mr. Shah Wazir Khan, M.D, FDC and Mr. Tariq Rashid, Secretary Benevolent Fund. From perusal of both the enquiry reports it is crystal clear that the grasp of prosecution over the situation was enfeebled which came forward in shape of bifurcation of enquiries in two parts. The point has also been referred in the enquiry finalized by the then DFO, Agror Tanawal Forest Division.

And whereas further scrutiny of the relevant record and the outcome of proceedings/discussions revealed that the Divisional Forest Officer Upper Kohistan Forest Division requested the District Police Officer Kohistan vide his letter No.101/GL dated 15/07/2013 before the occurrence of the mis-hap that a timber Policy is in operation from Northern Areas (Darel/Tangir and Chilas Forest Divisions of Gilgit Baltistan) through which timber is transported to down districts of the country. As there are stacks of timber in roadside depots at KKH Basha and Harban District Kohistan, therefore there is likelihood of admixture of this timber during transportation for which forest staff is already deployed to keep vigilance on illegal movement of timber but yet an active assistance is required from the police persons already deployed in the area of Harban & Sazin Police Stations, particularly on Darel and Tangir Bridges. The DFO Upper Kohistan further requested that the DPO may direct his subordinate formation to fully assist and cooperate with the forest staff so as to save the mal practices/pilferage of timber during the currency of policy i.e. 31/8/2013. It is strange to note here that the police authorities right one day before the incidence addressed to DFO Upper Kohistan vide his No.252/PSO dated 23/8/2013 that special directions were issued to SDPO Shatial for assistance and help but no praiseworthy course of action is available on record.

During enquiry proceedings it was also proved by the correspondence of DFO Upper Kohistan vide his No.1707-10/GL dated 4/9/2013 that police did not play their due role in curbing the mis-hap of illegal transportation of timber as is evident that there were two check

posts of police right at the both bridge-gates where almost 4-5 police personals remained deployed for duty as compared to one or two Forest Guards on their check post, but it was regretted by the DFO Upper Kohistan that no efforts by the police were seen in the matter.

FINDINGS/RECOMMENDATION

The Enquiry Officer/Committee, after due process of law/disciplinary proceedings in the light of Enquiry File/relevant record, defense replies of the accused officials, statements of the accused officials along with statement of prosecution, personal hearings & X-examinations in view of ground reality, has very cautiously reached to the conclusion that :-

- 1- The Timber in question was not actually under the custody of the department/ Kohistan Forest Division as is evident from the fore going proceedings and discussions and as contained in the comments furnished by the then Conservator of Forests Lower Hazara Forest Circle Abbottabad to the Chief Minister, Khyber Pakhtunkhwa wherein he stated that :-
 - i. "In such a situation taking cognizance by forest staff of such illicit cutting as per stipulated procedures restricted to chalking damage reports only. Neither anyone agreed to provide Supardnama nor could the Department take the contraband timber to safe custody."
 - ii. "Although, the documentation and enlistment of illicit timber and applications to register FIR against theft give an impression as if the impugned timber was in the possession of Forest Department, but in the given circumstances, possession of timber stock did not qualify the same as impounded. Hence their possession was of de jure at best as they could not wield instruments of endorsement to qualify it as de facto."

Above exposition proved that the timber was there but lying in the custody of owners.
- 2- Law and Order situation in District Kohistan is also reported critical throughout above proceedings besides envisaged in the Minutes of meeting held under the Chairmanship of DCO Kohistan in his office on 26/6/2012. Local tribes are said to be forceful before the writ of Govt. as they often displayed willfully and as demonstrated during instant mis-hap while transportation of timber up-wards to northern area and down-wards to Kohistan. Upon which the different tribe's clans/individual owners had forceful possession.
- 3- It is also proved beyond any doubt that 5000 cft timber was transported to Havellian Central Depot out of the same 18000 cft timber in question and remaining 12000 - 13000 cft is lying in Harban Forest Sub Division under the traditional custody of owners and yet the forest department is keeping vigilance over it to protect the illegal movement of the said timber.
- 4- According to TP No.121 dated 23/2/2017, 4994.25 cft timber has been transported to Havellian Depot out of the timber under enquiry, and FDF thereof remitted to Govt. Treasury besides 20% share of the Govt. will be deducted on auction.

accordingly. And the remaining timber i.e 12000 to 13000 cft needs exact measurement for which the enquiry committee has no means and resources. The Divisional Forest Officer concerned may manage the exact measurement of the said timber and maintain record thereof accordingly.

5- So far the allegations against the accused officials are concerned is a matter of Law on one side, in view of prevailing Law and Order situation in Kohistan District and on the other hand question of fact proves that the mis-hap had occurred and the timber in question was transported to Northern area and recovered/retrieved back to Harban Forest Sub Division. It is proved that the accused officials have tried their best to block the illegal transportation but the angry mobbishes not only paralyzed the forest staff but the police staff also failed in blocking the way of miscreants/culprits.

Charges of In-efficiency & Mis-conduct are partially proved against a few of above accused officials. However, the charge of Corruption does not stand established against none of the accused officials.

6- From the foregoing proceedings/discussions it is proved that one Mr. Abdul Manan left his place of duty by forwarding an application for 15 days leave before the happening of incident, through his SDFO but could not be found sanctioned leave by the Competent Authority which makes him liable to be proceeded against his irresponsible approach towards performance of official duty.

7- Above all episodes show, beyond any doubt, that Govt. Loass as alleged in the charge sheets/memo of allegations has been procured and all the forcibly stolen timber i.e. 18000 cft has been recovered/retrieved and transported back to its respective jurisdiction which is under vigilance of the department to the extent of illegal movement, however, the said timber is under custody of the owners.

CONCLUSION

On receipt of Enquiry Report and keeping in view the recommendation contained therein, show cause notices were served upon the accused officials. in response to which they furnished their replies and accordingly heard in persons. The concerned officials failed to prove themselves innocent, therefore the charge of In-efficiency found established.

ORDER

As per conclusion, the charges of In-efficiency stand established against all the accused officials. Therefore, I, Faiz-ur-Rehman, Divisional Forest Officer Upper Kohistan Forest Division Dassu in the capacity of Authority after considering de-novo inquiry report & other related documents of the case and in exercise of the powers vested in me under Rules-14(2)(4) read with Rules 4(1)(a)(ii) of the Khyber Pakhtunkhwa, Government

Servant (Efficiency & Discipline) Rules, 2011 do hereby ordered to impose penalties upon the accused officials as noted against each:

S.#	Name and Rank	Extent of penalty.
1	Mr. Mohammad Asghar Forester.	Stoppage of two Annual Increments of each falling due on 01/12/2020 and 01/12/2021 for a period of two years.
2	Mr. Abdul Manan Forest Guard.	
3	Mr. Umer Khan Forest Guard.	
4	Mr. Naseeb Khan Forest Guard.	
5	Mr. Jamer Khan Forest Guard.	

However, the intervening period of all the accused for which they remained out of service as per recommendation of Enquiry Committee and in accordance with Civil Servant Revised Leave Rules, 1981 is hereby treated as under:-

S.#	Name of Officials	Leave on half pay	Extra ordinary Leave without pay.
1.	Mr. Mohammad Asghar Forester.	01/7/2016 to 23/10/2019 = 1240 days.	---
2	Mr. Abdul Manan Forest Guard.	01/7/2016 to 23/10/2019 = 1240 days.	---
3.	Mr. Umer Khan Forest Guard.	01/7/2016 to 23/10/2019 = 1240 days.	---
4.	Mr. Naseeb Khan Forest Guard.	12/3/2015 to 30/11/2016 = 629 days	01/12/2016 to 23/10/2019 = 1087 days.
5.	Mr. Jamer Khan Forest Guard.	12/3/2015 to 30/11/2016 = 629 days	01/12/2016 to 23/10/2019 = 1087 days.

Sd/-(Faiz-ur-Rehman)
 Divisional Forest Officer
 Upper Kohistan Forest Division
 Dassu

Copy forwarded to:

1. The Conservator of Forests, Upper Hazara Forest Circle Mansehra for favour of information.
2. Mr. Alamgir Khan Sub-Divisional Forest Working Plan Mansehra for information.
3. Divisional Accountant for further necessary action.
- ✓ 4. Mr. Mohammad Asghar Forester C/O DFO Lower Kohistan Forest Division Pattan for information and necessary action.
5. Mr. Abdul Manan Forest Guard for information and necessary action.
6. Mr. Umer Khan Forest Guard for information and necessary action.
7. Mr. Naseeb Khan Forest Guard for information and necessary action.
8. Mr. Jamer Khan Forest Guard for information and necessary action.

Divisional Forest Officer
 Upper Kohistan Forest Division
 Dassu

Annexure (E)

21

OFFICE ORDER NO. 143 DATED PESHAWAR THE 02/02/2022
ISSUED BY MR. EJAZ QADIR, CHIEF CONSERVATOR OF FORESTS CENTRAL
SOUTHERN FOREST REGION-I, KHYBER PAKHTUNKHWA PESHAWAR

On the recommendations of Departmental Promotion Committee (DPC), the following Deputy Rangers (BPS-12) are hereby promoted to the post of Forest Rangers (BPS-16) on regular basis, with immediate effect:-

1. Muhammad Riasat
2. Muhammad Asghar
3. Mr. Khurshid Khan
4. Muhammad Asad
5. Mr. Aurangzeb
6. Mr. Umar Farooq
7. Mr. Javed-ur-Rahman
8. Muhammad Ali Hilal
9. Muhammad Anwar
10. Muhammad Ghayoor
11. Mr. Shoukat Hussain
12. Mr. Ishfaq Ahmad
13. Mr. Baqir Hussain

This order is purely temporary and will not constitute any right for continuity in case of abolition of the post. In such an eventuality they will automatically stand reverted to original post without any notice.

They will remain on probation for a period of one year extendable for another one year in terms of Section-6 (2) of the Khyber Pakhtunkhwa Civil Servants Act, 1973, read with Rules 15 (1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989.

On their promotion the following postings /transfers are hereby ordered in the interest of public service with immediate effect:-

S.No	Name	From	To
1.	Muhammad Riasat	On promotion	The Forest Ranger is allowed to actualize his promotion against the post of Ghari Watershed Range of Kunhar Watershed Division for one day and there after he will continue on Abbottabad Watershed Sub-Division of Daur Watershed Division.
2.	Muhammad Asghar	--do--	The Forest Ranger is allowed to actualize his promotion against the post of Gidarpor Range of Agror Tanawal Forest Division for one day and there after he will continue on Pallan Forest Sub-Division of Lower Kohistan Forest Division.
3.	Khurshid Khan	--do--	The Forest Ranger is allowed to actualize his promotion against the post of Kandari Range of Torghar Forest Division for one day and there after he will continue on

			Haripur Forest Sub-Division Haripur Forest Division.
4.	Muhammad Asad	--do--	The Forest Ranger is allowed to actualize his promotion against the post of Darora Range of Upper Dir Forest Division for one day and there after he will continue as SDFO Litigation of Upper Dir Forest Division.
5.	Mr. Aurangzeb	--do--	The Forest Ranger is allowed to actualize his promotion against the post of Rustam Range of Mardan Forest Division for one day and there after he will continue on Mardan Forest Sub-Division of Mardan Forest Division.
6.	Umar Farooq	--do--	The Forest Ranger is allowed to actualize his promotion against the post of Kulachi Range of D.I.Khan Forest Division for one day and there after he will continue on Nizampur Forest Sub-Division of Peshawar Forest Division.
7.	Javed-ur-Rahman	--do--	Working Plan Unit-III Peshawar
8.	Muhammad Ali Hilal	--do--	To continue on FR Kohat Range of Orakzai Forest Division
9.	Muhammad Anwar	--do--	The Forest Ranger is allowed to actualize his promotion against the post of Garhi Range of Kaghan Forest Division for one day and there after he will continue on Komila Forest Sub-Division of Upper Kohistan Forest Division.
10.	Muhammad Ghayoor	--do--	Lower Kurram Range of Kurram Forest Division.
11.	Mr. Shoukat Hussain	--do--	Nawagai Range of Bajaur Forest Division
12.	Mr. Ishfaq Ahmad	--do--	To continue as RFO Working Plan Unit-VI Mingora Swat
13.	Mr. Baqir Hussain	--do--	The Forest Ranger is allowed to actualize his promotion against the post of Kohistan Range of Kohistan Watershed Division for one day and there after he will continue on Shergarh Watershed Sub-Division of Unhar Watershed Division.
14.	Mr. Shabir Ahmad Forest Ranger	Lower Kurram Range of Kurram Forest Division.	Utror Range of Kalam Forest Division

Sd/-

(Ejaz Qadir)

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

20/04/2010

Ammezche (C)

OFFICE ORDER NO 57 DATED MANSEHRA THE 25 /01/2021 ISSUED BY
EJAZ QADIR CONSERVATOR OF FORESTS, UPPER HAZARA FOREST CIRCLE MANSEHRA

As recommended by Departmental Promotion committee in its meeting held on 04.01.2021, under the chairmanship of Chief Conservator of Forests Central Southern Forest Region-I Peshawar, the following Forester are hereby promoted to the rank of Deputy Ranger in BPS-12 (13320-960-42120) with immediate effect on regular basis against the existing vacancies of Deputy Rangers in Upper Hazara Forest Circle Mansehra:

- | | |
|------------------------|---------------------------------------|
| 1. Mr. Muhammad Asghar | Lower Kohistan Forest Division Pattan |
| 2. Mr. Siraj-ud-Din | Upper Kohistan Forest Division Dassu |

The order is purely temporary and will not confer any right for continuity on abolition of the posts and the official will be liable to reversion to original post without any notice.


The Deputy Ranger will on probation for a period of one year in terms of section 6 (2) of the KP Civil Servant ACT, 1973 read with rule 15 (1) of the KP Civil Servant (Appointment Promotion and Transfers Rules, 1989).

The Deputy Rangers are allowed to continue their services at the present place of posting till further orders.

Sd/- (EJAZ QADIR)
Conservator of Forests
Upper Hazara Forests Circle
Mansehra

Copy forwarded to the:

1. Chief Conservator of Forests, Central Southern Forest Region-I Peshawar with reference to his letter No. 3923-25/E dated 25.01.2021.
2. Chief Conservator of Forest, Northern Forest Region-II Abbottabad for information.
3. Section Officer (Establishment) Government of Khyber Pakhtunkhwa Forestry, Environment and Wildlife Department Peshawar.
4. Division Forest Office Lower Kohistan Forest Division Pattan.
5. Divisional Forest Officer Upper Kohistan Forest Division Dassu.


Conservator of Forests
Upper Hazara Forests Circle
Mansehra

Annex chape no. (D)

OFFICE ORDER NO. 64 DATED MANSEHRA THE 05 /04/2021 ISSUED BY KIFAYAT ULLAH BALOCH, CONSERVATOR OF FORESTS, UPPER HAZARA FOREST CIRCLE MANSEHRA

In pursuance with the directives of Chief Conservator of Forests, Central Southern Region-I Peshawar contained in letter No. 2306/E dated 26.10.2020 received vide Chief Conservator of Forests, Northern Forest Region-II Abbottabad letter No. 3714/GB dated 9.11.2020 and No. 4555/E dated 8.3.2021 received vide Chief Conservator of Forests, Northern Forest Region-II Abbottabad letter No. 7176/E dated 19.3.2021 on the appeal of Muhammad Asghar the then Forester dated 7.8.2020 and in terms of Para-V(d) of Promotion Policy, 2009 read with sub-section (4) of Section-8 of the Khyber Pakhtunkhwa Civil Servants Act 1973, the inter-se-seniority of Mr. Muhammad Asghar Deputy Ranger is hereby restored on regular basis with effect from 01.03.2017 i.e the date his next juniors were promoted as Deputy Rangers on regular basis vide Conservator of Forests, Upper Hazara Forest Circle office order No. 24 dated 1.3.2017.

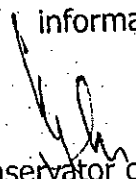
The intervening period i.e from 1.3.2017 to 5.01.2021 would count towards increment under FR-26(c) but without arrear.

Sd/- (Kifayat Ullah Baloch)
Conservator of Forests
Upper Hazara Forest Circle
Mansehra

Memo:

Copy forwarded to:

1. The Chief Conservator of Forests, Central Southern Forest Region-I Peshawar for favor of information.
2. The Chief Conservator of Forests, Northern Forest Region-II Abbottabad for favor of information. This is with reference to his office letter No. 7176/E dated 19.3.2021.
3. The DFO Lower Kohistan at Pattan for information.
4. Mr. Muhammad Asghar Deputy Ranger C/o DFO Lower Kohistan at Pattan for information.


Conservator of Forests
Upper Hazara Forest Circle
Mansehra

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

Appeal No. 15779/2020

Asghar Khan

V/S


Forest deptt:

.....
**APPLICATION FOR FIXING THE INSTANT APPEAL ON ANY
EARLY DATE INSTEAD OF 24.06.2021.**

.....
RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal in this Honorable Tribunal to consider him for promotion to the post of Deputy Ranger BPS-12 and then Ranger BPS-16 from the date, when his juniors were promoted to the post of Deputy Ranger (BPS-12) and Ranger (BPS-16).
2. That the instant appeal was fixed on 18.01.2020 for preliminary hearing, however the appeal was not admitted to regular hearing due to the reason the counsel for the appellant was busy in the DB of this Honourable Tribunal and the case was adjourned to 17.03.2021.
3. That on 17.03.2021, the case was again adjourned to 24.06.2021 due to non availability of SB in the Honorable Tribunal.
4. That the two dates have been fixed in preliminary hearing in the instant appeal, but despite that the appeal was not admitted for regular hearing due to the above mentioned reason and the next date fixed for preliminary hearing is also too long.
5. That it will be in interest of justice to fix the instant appeal on any early date instead on 24.06.2021.

It is, therefore, most humbly prayed that on the basis of above submissions the instant application may kindly be accepted and the instant appeal may be fixed on an early date instead of 24.06.2021.

APPELLANT
THROUGH:- 
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



DEPONENT

ATTESTED



Handwritten signature and date: 18-3-2021