

**BEFORE THE HONORABLE SERVICE TRIBUNAL, JUDICIAL
COMPLEX (OLD) KHYBER ROAD PESHAWAR**

Appeal No. 454 of 2022

Kashif Awais

(Appellant)

Versus

1. Divisional Forest Officer, Haripur Forest Division, Haripur
2. Conservator, Lower Hazara Forest Circle, Abbottabad.

(Respondents)

Written comments on behalf of respondent No. 01 & 02

Objections on Facts:

1. Correct to the extent that the accused officials namely Mr. Kashif Awais Forest Guards was posted as In-charge Kohmal Beat of Makhnial Sub-Division from 28/12/2020 and remained there till 05/01/2022 respectively.
2. Correct and relates to record.
3. Correct to the extent that the appellant submitted reply to show cause issued by respondent vide No. 4314/GE dated 26/03/2021.(Annexure-I)
4. Correct to the extent that as provided under the E&D Rules the petitioner was directed to appear before respondent No. 01 for personal hearing and cross examination on 15/04/2021 vide letter No. 4511-12/GE dated 12/04/2021(Annex-II).
5. Correct and relates to office record.
6. Correct to the extent that appeal against the order issued by respondent No. 01 was lodged before Conservator of Forests Lower Hazara Forest Circle Abbottabad.
7. Incorrect: Respondent No. 02 (Conservator of Forest Lower Hazara Circle Abbottabad) being appellate authority heard the appeal of

petitioner on 18/03/2022. Similarly, respondent No. 02 also directed respondent No. 01 to offer comments on appeal lodged by petitioner vide letter No. 6133/GE dated 17/12/2021 (**Annexure-III**). Respondent NO. 01 in reply offered his comments vide letter No. 4325/GE dated 28/02/2022 (**Annexure-IV**).

Accordingly respondent No. 02 (Conservator of Forests Lower Hazara Forest Circle Abbottabad) conducted personal hearing and cross examination of the petitioners on 18/03/2022 vide CF Abbottabad letter No.9008/GE dated 10/03/2022 (**Annex-V**)

After considering the evidence on record and other circumstantial evidence, respondent No. 02 rejected the appeal lodged by petitioner and upheld the order of respondent No. 01 of imposition of major penalty i.e. **“Reduction of his pay upto three lower stages in time scale”**. (Copy of o/o No.26 dated 23/03/2022 enclosed as (**Annexure –VI**).

Hence it is clear that the petitioner has deliberately concealed the complete record and facts of the case as elaborated in Para 07 of this reply.

Objections on Grounds:

- (a) Incorrect: The impugned order is as per law and nothing against the law and rules. All the proceedings have been in accordance with E&D rules 2011.
- (b) Incorrect: The petitioner badly failed in proceedings any reasonable and credible evidence/record to be considered for proving his stance, hence, penalty was rightly imposed as provided under E&D rules 2011.
- (c) Incorrect: That respondent No. 01 without plausible reason has badly failed in taking cognizance of offence of encroachment in Guzara Forests. Non cognizance of such like heinous offences results in huge loss in form

of Government land occupation by forest offenders.

Keeping in mind the gravity of offence and clear-cut encroachment of Guzara Forests, show cause notice was served upon the petitioner as provided in rule 07 of E&D rules, 2011. The competent authority (respondent No. 01) has rightly exercised the power entrusted to him under the above mentioned rule and the action is justified as per law, further drastic action is always warranted in offences of such like gravity.

(d) The petitioner cannot dictate the competent authority to proceed as per his sweet will so that he can get undue favour and relief. The competent authority has taken right decision keeping in mind the ground realities, express connivance of petitioner with the encroachers of Guzara forests land and provisions provided in E&D Rules for proceeding and such like circumstances/ situation.

(e) Incorrect: The appellate authority (respondent No. 02) as per rules has provided the petitioner sufficient time to prefer his stance and after going through the contents of reply and evidence in defense got comments of respondent No. 01. Further the appellate authority (respondent No. 02) also provided the petitioner with chance of personal hearing and cross examination of prosecution. Afterwards the appellate authority keeping in mind the evidence on record and prosecution and defense, passed order as provided under the rules, which is justified and as per law.

(f) The plea of the petitioner in light of above narrated facts needs not to be entertained as the petition is merit less, without any cogent legal reason.

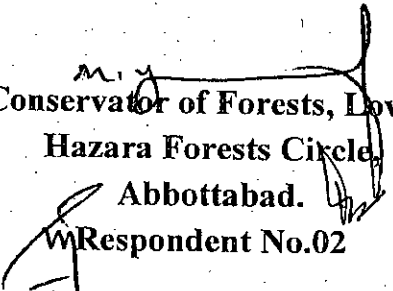
(g) Further clarification and arguments will be forwarded at the time of

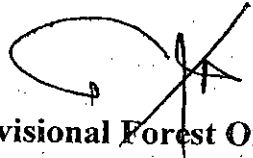
hearing and with the permission of honorable tribunal.

(h) Relates to law needs no comments.

It is, therefore, requested, in the light of above exposition, material on record and facts revealed it is humbly prayed that the appeal being meritless be dismissed with cost.

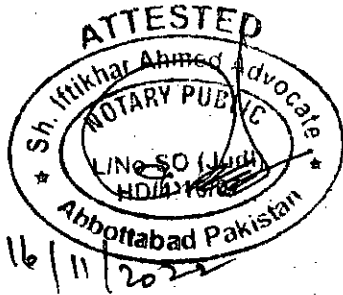
Signature of Respondents

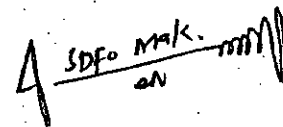

M. Y.
Conservator of Forests, Lower
Hazara Forests Circle,
Abbottabad.
Respondent No.02


Divisional Forest Officer,
Haripur Forest Division,
Haripur.
Respondent No. 01

Affidavit

*It is affirmed & declared that
the content of the reply/comments
are true & correct to the best
of my knowledge & belief*




SDFo MAK.
an
Deponent

**DIVISIONAL FOREST OFFICER
HARIPUR FOREST DIVISION
HARIPUR**

Office Tehsil Road Haripur
Phone & Fax # 0995-920044
4314- /GE, dated 26/03/2021

ANNEX-1

Special Messenger

Kashif Awais Forest Guard
Incharge Makhniai Beats
Through RFO Makhniai

Subject: **ENROACHMENT IN KOTLA GUZARA COMPARTMENT NO. 1 SHOW CAUSE
NOTICE/THEREOF**

I, Mr. Shaukat Fiaz Divisional Forest Officer Haripur Forest Division, in capacity of Authority, under the Khyber Pakhtunkhwa Government servants (*Efficiency and Discipline*) Rules 2011, under rule 07 of the said rules do hereby serve you with notice as follows:-

1. **WHEREAS** you are holding the charge of Kohmal Beat in Makhniai Block of Makhniai Forest Range since 14/01/2021.
2. **AND WHEREAS**, under the provisions of Forest Ordinance 2002 and job description, it is your primary responsibility to eradicate/detect encroachment, illicit cutting of trees and other offences concerning Forest conservancy but regrettedly neither you took cognizance of the encroachment being done by M/S "New Theme Park Monal" in Kotla Guzara nor bothered even to update your seniors verbally.
3. During orientation, on visit of the Conservator of Forests Lower Hazara Forest Circle Abbottabad alongwith the undersigned on 15/03/2021, road construction with huge RCC Pillars was noticed in Kotla Guzara Compartment No. 01.
4. **AND WHEREAS** you were directed on spot to seize the Roller, water tankers with hand trollies used in construction of road and to initiate action against the offenders under the relevant provisions of Forest Ordinance 2002.
5. **AND WHEREAS** you have issued damage report No. 20/2 and 21/2 dated 17/03/2021 mere for construction of path and throwing the debris damaging the regeneration respectively without seizing the machinery and tools used in commission of offence as advised/directed on spot.
6. **AND WHEREAS** examination of damage report referred to above reveals that the same is prepared against M/S Muhammad Atif s/o Muhammad Arif & Zahid Hussain Shah s/o Fazal Hussain Shah respectively which too neither show the quantum of offence committed, nor depict the real culprits Viz management of "New Theme Park Monal" and thus you have purposely concealed the facts, and betrothed the faith of the higher officers.
8. **AND WHEREAS** your above action leads to be believed that you have intentionally tried to protect the real offenders at the risk & cost of Forest conservancy and put the writ of the department at stake. Your this action further tantamounts to be a stigma on



EX

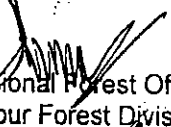
the face of the department. It is thus believed that the mal-practice were going on with your sweet accord, and rendered yourself to be proceeded against for:-

- * Mis-conduct
- * In-efficiency
- * Corruption

Now, therefore, under the powers vested in me vide Rule 07 of K.P, E&D Rules 2011, serve you with the notice to show cause as to why one of the following major penalties as specified in Rule 04 of the E&D rules may not be imposed upon you.

4. Reduction of lower stage in time scale
5. Removal from service
6. Dismissal from service

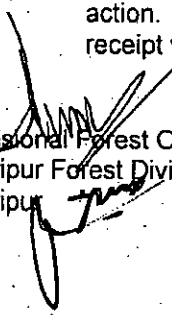
Your defense statement, if any must reach this office within **fourteen days** of receipt of this cause notice, else it will be presumed that you have nothing to say in your defense and action will be taken against you ex-parte. You are also advised to intimate as to whether you wish to be heard in person.


 Divisional Forest Officer
 Haripur Forest Division
 Haripur

No. 4315-14 GE dated 26 /03/2021.

Copy forwarded to the:

1. Conservator of Forests Lower Hazara Forest Circle Abbottabad for favour of information, with reference to our joint visit of Makhnial Forest Range on 15/03/2021, please.
2. RFO Makhnial alongwith the spare copy of the notice for information and necessary action. He is directed to handover the said notice to the addressee under proper receipt which may be sent to this office, for record.


 Divisional Forest Officer
 Haripur Forest Division
 Haripur

میں نے لہرے نمبر 4314 مورخہ 28³/₂₀₂₁ کو
 ہندوستان کے وقت 7:50 بجے قبول کیا گیا

میں نے لہرے نمبر 4314 مورخہ
 28³/₂₀₂₁ کو وقت 5:50 بجے
 کاتب اوس کا شمارڈ وڈ
 محمد حیدر علی نے یہ سند قبول کی

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 Pg



Annex-II

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DIVISIONAL FOREST OFFICER HARIPUR FOREST DIVISION HARIPUR	Office Tehsil Road Haripur Phone & Fax # 0995-920044 No. <u>US11-12</u> /GE, dated <u>12</u> /04/2021
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To

1. Hafeez Forester the then Incharge Makhnial Block
C/O SDFO Haripur
2. M/S Kashif Awais & Junaid Akhter Forest Guards
C/o RFO Makhnial

Subject: **DISCIPLINARY PROCEEDING**

You are hereby directed to appear before the undersigned (competent authority) for personal hearing in the office of the undersigned on 15/04/2021 at 10 A.M.

[Signature]
DIVISIONAL FOREST OFFICER
HARIPUR FOREST DIVISION
HARIPUR

No. US13-14 /GE dated 12 /04/2021

Copy forwarded to the:-

1. RFO Makhnial for information and necessary action. He is directed to personally attend the inquiry committee/meeting alongwith all relevant record about the subject case, so that proceeding could be finalized in stipulated period. He is further directed to deliver the said letters to concern under proper receipt which may send to this office for record.
2. SDFO Haripur for information and necessary action. He is directed to deliver the said letter to concern under proper receipt which may send to this office for record.

[Signature]
DIVISIONAL FOREST OFFICER
HARIPUR FOREST DIVISION
HARIPUR

*I received letter
No. US13-14/GE, 12-04-21
today i.e. on 12-04-21 at
12:PM
Adnan Khan
Forest Guard
Makhnial Block
Adnan Khan*

Annex: //

Muqtda Shah
Conservator of Forests
Lower Hazara Forest Circle
Abbottabad



Civil Offices Abbottabad
☎ 0992-9310232
Fax 0992-9310233
E-mail: cflhfc@gmail.com

No. 6133 /GE dated Abbottabad the 17/12/2021

Divisional Forest Officer
Haripur Forest Division,
Haripur

Subject: **APPEAL AGAINST OFFICE ORDER NO. 33, DATED 19-11-2021 ISSUED BY DIVISIONAL FOREST OFFICER HARIPUR FOREST DIVISION HARIPUR**

Memo,

Enclosed please find herewith a copy of appeal (Advance copy) alongwith connected documents preferred by Mr. Kashif Awais Forest Guard against office order No. 33 dated 19-11-2021, which is self explanatory.

You are therefore, directed to offer parawise comments and submit the same to this office alongwith enquiry file at an early date. Please also provide original appeal of the appellant for further necessary action.

Encl. As above
(in original)

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

EC put w/ DTG

reference duly flagged as desired please

DRK

**DIVISIONAL FOREST OFFICER
HARIPUR FOREST DIVISION
HARIPUR**



Office Tehsil Road, Haripur
Phone & Fax # 0995-920044
No. 4325 /GB(K-31), Dated
28/02/2022

To

The Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Subject: **APPEAL AGAINST OFFICE ORDER NO. 33 DATED 19/11/2021 ISSUED
BY DIVISIONAL FOREST OFFICER HARIPUR FOREST DIVISION
HARIPUR**

Reference: Your office letter No. 6133/GE dated 17/12/2021.

The comments on the subject appeal received vide your letter cited reference are as under:-

1. During the orientation visit of Conservator of Forests Lower Hazara Forest Circle Abbottabad on 15/03/2021, road construction with huge RCC Pillars was observed in Kotla Guzara No. 01.
2. On spot the accused were directed to seize the Roller, Water Tanker with hand trollies used in construction of road and initiate action against the offenders under relevant provision of Forest Ordinance 2002.
3. The accused has not complied the directives and intentionally avoided booking/seizure of the machinery and tools used in commission of offence in the damage report No. 20/2 and 21/2 dated 17/08/2021, which clearly depicts the accused is protecting the real offenders.

Enquiry files of Mr. Kashif Awais Forest Guard, alongwith connected documents are enclosed herewith for further course of action in your office, please.

**Divisional Forest Officer
Haripur Forest Division
Haripur**

Syed Muqtada Shah
Conservator of Forests
Lower Hazara Forest Circle
Abbottabad



ne Forest Offices Abbottabad
92-9310232
92-9310233
E-mail: cflhfc@gmail.com

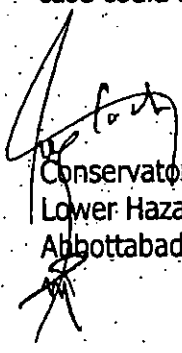
No. 4008 /GE dated Abbottabad the 10 /03 /2022


The Divisional Forest Officer
Haripur Forest Division, Haripur

Subject **APPEAL AGAINST OFFICE ORDER NO. 33 DATED 19-11-2021
ISSUED BY DIVISIONAL FOREST OFFICER, HARIPUR FOREST
DIVISION, HARIPUR**

Memo Reference your office letter No. 4325/GE dated 28-02-2022

Please direct Mr. Kashif Awais, Forest Guard to appear before the undersigned on 18/03/2022 at 11.00 hours for personal hearing in the subject case, so that enquiry case could be finalized


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad


DPV
11/3/22



Annex VI

OFFICE ORDER NO. 26 DATED ABBOTTABAD THE 23 /03/2022 ISSUED BY SYED MUQTADA SHAH, CONSERVATOR OF FORESTS, LOWER HAZARA FOREST CIRCLE ABBOTTABAD.

Readwith

- 1- Divisional Forest Officer, Haripur Forest Division, Haripur office order No. 33 dated 19-11-2021.
- 2- Appeal of Mr. Kashif Awais, Forest Guard dated 07-12-2021
- 3- Comments furnished vide DFO, Haripur letter No. 4325/GB dated 28-02-2022.
- 4- Personal hearing held on 18-03-2022.

Brief History

Mr. Kashif Awais, Forest Guard here-in-after called the appellant, preferred an appeal against the Divisional Forest Officer, Haripur Forest Division, Haripur office order No. 33, dated 19-11-2021 wherein awarded major penalty of "reduction of his pay upto 03 (three) Lower stages in the time scale." The comments of DFO, Haripur were obtained vide his letter No. 4325/GB dated 28-02-2022.

Discussion.

After perusal of the appeal with relevant documents, comments of DFO, Haripur vide letter cited above, and hearing of the appellant in person on 18-03-2022, the appellant could not produce any evidence of his innocence.

Order

In view of the above facts, I, Syed Muqtada Shah, Conservator of Forest, Lower Hazara Forest Circle Abbottabad, in the capacity of appellate Authority, hereby reject the appeal of Mr. Kashif Awais, Forest Guard.

Sd/-Syed Muqtada Shah
Conservator of Forests
Lower Hazara Forest Circle
Abbottabad
Memo.

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500
9/5/22

Copy forwarded to the:-

- 1- Divisional Forest Office, Haripur Forest Division, Haripur for information and necessary action with reference to his letter cited above. The enquiry file from page-01 to 55 received vide your letter under reference is returned herewith which may be acknowledged.
- 2- Mr. Kashif Awais Forest Guard C/G DFO, Haripur for information with reference to his appeal dated 07-12-2021.

Encl. As above

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad

Estt.

Letter handed over to Mr. Kashif
Awais under proper receipt, may be
seen & file placed

① Hand over
the copy of
the appeal
for the
necessary
action
with
reference
to
the
file
placed
in
the
file

[Handwritten signature]