

Date of Order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL CAMP COURT ABBOTTABAD

1. Appeal No. 1154/2014 Muhammad Rafique and
2. Appeal No. 1204/2014, Versus Secretary Environment  
Department, Government of Khyber Pakhtunkhwa Peshawar etc.

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

Counsel for the appellants and Mr. Muhammad Siddique.

Senior Government Pleader alongwith M/S Riasat Khan, SDFO.

Muhammad Aqeel, SDFO and Nasir Gul, Accountant for  
respondents present.

2. This judgment will dispose of the instant service appeal  
No. 1154/2014, titled "Muhammad Rafique Versus Secretary  
Environment Department, Government of Khyber Pakhtunkhwa,  
Peshawar etc." and service appeal No. 1204/2014, titled "Saifur  
Rahman Versus Government of Khyber Pakhtunkhwa through  
Secretary Forests, Peshawar etc." as identical questions of facts  
and law are involved in both the appeals.

3. Brief facts of the case of the appellants are that the  
appellants were serving as Forest Guards when subjected to  
enquiry and vide impugned order dated 12.5.2014 appellants were

17.10.2016

compulsory retired from service and recovery of Rs. 950241/- was ordered to be recovered from ~~both~~<sup>the</sup> appellants respectively where-against departmental appeals of the appellants were not responded and hence the instant service appeals preferred by appellants Muhammad Rafiq on 10.09.2014 and Saifur Rahman on 09.09.2014 respectively.

4. Learned counsel for the appellants has argued that appellant Muhammad Rafique was once exonerated in the enquiry while appellant Saifur Rahman exonerated twice. That the subsequent enquiry was not conducted in the mode and manners prescribed by rules as no evidence whatsoever was collected nor appellants were associated with the enquiry. That the copy of the enquiry report was not supplied to the appellants in violation of Rule-14 of Government Servants (E&D) Rules, 2011.


5. Learned Senior Government Pleader has argued that the earlier enquiry reports were not accepted by the competent authority as such no benefits of such reports could be extended to the appellants. That the enquiry was conducted in the prescribed manners and there-after the impugned orders were passed. That according to the findings of the enquiry committee the appellants were found guilty and as such the impugned orders warrant no interference.

6. We have heard arguments of learned counsel for the parties and perused.

7. According to the material placed on record the enquiry committee has submitted enquiry report according to which the appellants were found guilty and as such recommended for compulsory retirement from service alongwith recovery of loss incurred to the government ex-chequer. A perusal of the said enquiry report would suggest that the appellants were not associated with the enquiry. No witness whatsoever was examined by the enquiry committee in support of the allegations nor any opportunity was extended to the appellants for pleading their defence. In the absence of evidence which should have been collected in the mode and manners prescribed by the rules by examining the relevant witnesses and affording opportunity of cross-examination to the appellants the enquiry report is not found worth reliance. As such we are left with no option but to accept the instant appeals and set aside the impugned orders dated 12.05.2014 and reinstate the appellants in service with the direction the respondents to conduct denovo enquiry within a period of 2 months from the date of receipt of this judgment and where-after order deemed appropriate be passed by the competent authority. Parties are left to bear their own costs. File be consigned to the record room.

16.03.2016


Appellant in person and Mr. Muhammad Saddique, Sr.G.P for respondents present. Written reply not submitted despite last opportunity which was further extended subject to payment of cost of Rs.1000/- as such no further opportunities could be allowed to respondents for submission of written statement. Request of learned Sr.G.P for further adjournment for submission of written reply declined. The appeal is assigned to D.B for final hearing for 17.10.2016 at Camp Court A/Abad.

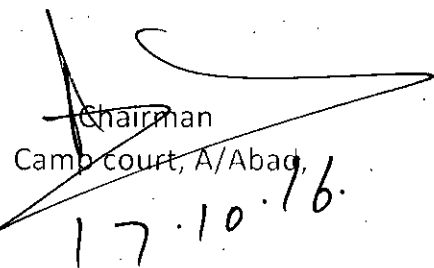
  
Chairman  
Camp Court A/Abad

17.10.2016

Appellant with counsel and Mr. Muhammad Siddique, Senior Government Pleader alongwith M/S Riastat Khan, SDFO, Muhammad Aqeel, SDFO and Mr. Nasir Gul, Accountant for respondents present. Arguments heard. Record perused.

Vide our detailed judgment of to-day placed in connected service appeal No. 1154/2014, titled " Muhammad Rafique Versus Secretary Environment Department, Government of Khyber Pakhtunkhwa Peshawar etc." we accept the present appeal also as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

  
Member


  
Chairman  
Camp court, A/Abad,  
17.10.16.

ANNOUNCED  
17.10.2016



18.08.2015

Appellant in person and Mr. Atezaz Mehfooz, SDFQ alongwith Mr. Muhammad Tahir Aurangzeb, GP for respondents present. Requested for adjournment. To come up for written reply/comments on 19.10.2015 before S.B at camp court A/Abad.

  
Chairman  
Camp Court Abbottabad

19.10.2015

Counsel for the appellant and Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 14.12.2015 before S.B at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

14.12.2015

Appellant in person and Mr. Naseer Gul, Accountant alongwith Mr. Muhammad Siddique, Sr. G.P for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 1000/- which shall be borne by the respondents No.2 to 4 from their own pockets. To come up for written reply/comments and cost on 16.3.2016 before S.B at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

22.4.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Forest Guard when vide impugned order dated 12.5.2014 he was compulsorily retired from service regarding which he preferred departmental appeal on 31.5.2014 where-after the instant service appeal was filed on 9.9.2014.

That an inquiry was conducted in the year 2008 in which the appellant was exonerated but in another inquiry in the year 2013 the appellant was awarded the penalty of compulsory retirement on the same allegations and grounds.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 17.6.2015 before S.B at camp court A/Abad. Notice of stay application be also issued for the date fixed.

  
Chairman  
Camp Court A/Abad

5 17.06.2015

Appellant in person and Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Submitted application for deletion the names of respondents No. 5 and 6 from the panel of respondents. The application is accepted. Respondents No.5 & 6 stand deleted from the panel of respondents. Entries be made accordingly. Notices be repeated to respondents No.1 to 4 for 18.8.2015 before S.B at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

Appellant Dependent  
Security & Process Fee


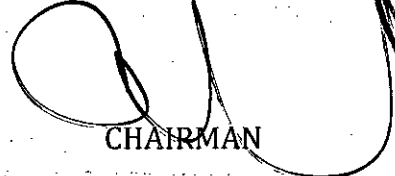



Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1204 /2014

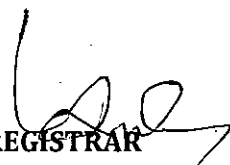
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30/09/2014	<p>The appeal of Mr. Saif-ur-rehman resubmitted today by Mr. Dildar Ahmad Khan Lughmani Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR 30/9/14</p>
2	3-10-14	<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up there on <u>16-3-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	16.3.15	<p>None present for appellant. Notice to counsel for the appellant be issued for preliminary hearing before SB for 22.4.2015 at camp court A/Abad.</p> <p style="text-align: right;"> Chairman Camp Court A/Abad</p>

The appeal of Mr. Saif-ur-Rehman Forest Guard Upper Hazara Forest Division Mansehra received today i.e. on 09.09.2014 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Address of respondent No.3 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Law under which appeal is filed is not mentioned.
- 3- Annexures of the appeal may be attested.
- 4- One spare copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1347 /S.T,

Dt. 10/9 /2014.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Dildar Ahmad Khan Lughmani Adv.  
Supreme Court of Pakistan Mansehra.

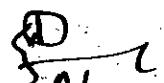
To,

The Registrar Service Tribunal  
K. P. K. Peshawar.

Re-submission of the case file.

It is requested that the instant  
case file is Re-submitted after  
Removal of the objections.

Dated  
20.9.14

  
Dildar Ahmed Khan  
Advocat S.C.

Dildar Ahmed Khan Lughmani  
Advocate Supreme Court Of  
Pakistan Mansehra



BEFORE THE HONOURABLE SERVICE  
TRINBUAL, KPK PESHAWAR

Appeal no. 1-2011/2014

Saif-ur-Rehman.....Appellant

VERSUS

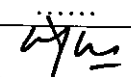
Chief Minister, Khyber Pakhtun Khwa,  
Peshawar and others .....Respondents

SERVICE APPEAL


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Dated 30.08.2014

  
Saif-ur-Rehman  
...Appellant

Through

  
DILDAR AHMED KHAN LUGHMANI,  
Advocate Supreme Court,  
Of Pakistan.

BEFORE THE HONOURABLE SERVICE TRIBUNAL,

KPK PESHAWAR.

Appeal No. 1204/2014

Saif-ur-Rehaman son of Mir Ahmad resident of Namli Maira,  
Tehsil and District Abbottabad presently posted as Forest  
Guard, Petrol Squad Upper Hazara Forest Division,  
Mansehra.....Appellant

VERSUS

1. Chief Minister, Khyber Pakhtun Khwa, Peshawar.
2. Government of Khyber Pakhtun Khwa through Secretary Forest, Peshawar.
3. Chief Conservator Region-I, Shami Road, Peshawar.
4. Chief Conservator of Forest, Northern Region-II, Hazara Division, Abbottabad.
5. Mr. Abdul Jameel, Chief Conservator of Forests Central Southern Forest Region, Khyber Pakhtun Khwa Peshawar/Chairman of the Committee.
6. Mr. Jannat Gul, Additional General Secretary, Irrigation Department Peshawar (Member of the Committee).....Respondents.

Respondent no. 1  
826 deleted  
vide order sheet  
No. 5 dt. 17/4/15

~~Handwritten signature~~  
9/9/14

SERVICE APPEAL UNDER SECTION 4 OF  
THE K.P.K SERVICE TRIBUNAL ACT, 1974  
AGAINST THE NOTIFICATION BEARING  
NO.SO(ESTT) ENVT/1-50(43)2K12 VIDE  
ENDST NO. SO(ESTT)ENVT/1-50(43)2K10  
2133-2140 DATED 12.5.2014 PASSED BY  
RESPONDENT NO.1 VIDE WHICH THE  
APPELLANT WAS COMPULSORY  
RETIRED FROM THE SERVICE AND AN  
ORDER WAS ALSO PASSED BY  
RESPONDENT NO. 1 FOR RECOVERY

as submitted to  
and filed.

Handwritten signature  
Registration  
30/9/14

(2)

**OF AN AMOUNT OF RS.9,50,241/-**  
**FROM THE APPELLANT.**

**PRAYER: -**

On acceptance of the instant service appeal, the impugned order passed by respondent No.1 may please be set aside and the appellant may please be re-instated in service with all back benefits.

Respectfully Sheweth!

1. That, the appellant was appointed as Forest Guard in Forest Department vide order dated 01.11.1984.

*(Copy of the appointment order is annexed as annexure "A").*

2. That, during the service since 1984 upto 2003, the appellant remained posted in different areas as Forest Guard and performed his duties regularly over there.
3. That, in the year 2003, the appellant was transferred from Kohistan Division Pattan to Goher Abad Sale depot Havelian and the appellant remained posted there from 2003 to 2007 as Forest Guard.

4. That, in the year 2007 the appellant was transferred from Gohar Abad Sale depot to Pattan Lower Kohistan Division and instead of the appellant, one Muhammad Ibrahim forest guard was posted and transferred at Gohar Abad Sale Depot Havelian and the appellant handed over the charge to said Muhammad Ibrahim Forest Guard.

*(Copy of the charge report is annexed as annexure "B").*

5. That, the appellant belongs to Lower Kohistan Forest Division, Pattan and appellant and other staff were responsible for protection of the timber of Kohistan Forest Division.
6. That, in the year 2010 an inquiry was initiated by the respondents/forest department against the appellant and six others, where the inquiry committee was constituted who conducted the proper inquiry against the appellant and others and submitted report to the competent authority i.e. Chief Minister, KPK Peshawar (Respondent No.1).

7. That, the competent authority/ respondent No.1 exonerated the appellant as well as other six officials vide his report dated 26.02.2011.

*(Copy of the report is annexed as annexure "C").*

8. That, in the year 2013 the competent authority i.e. respondent No.1 again initiated inquiry against the appellant and four others. During the inquiry, comments were asked from the D.F.O concerned i.e. Lower Kohistan Forest Division, Pattan whereby he also exonerated the appellant.

*(Copy of the comments is annexed as annexure "D").*

9. That, respondents No.5 and 6 were nominated as Inquiry Officers by the respondent No.1, who conducted the inquiry and submitted their report to respondent No.1 whereby one Pir Qaim Shah, DFO and Abdullah Khan the then SDFO now DFO were exonerated whereas appellant and Mr. Muhammad Iqbal now Deputy Ranger and Mr. Muhammad Rafique Forest Guard were recommended for compulsory retirement from service and the committee also passed an

order for recovery of the amount from appellant and others.

*(Copy of the Inquiry report is annexed as annexure "E").*

10. That, on the basis of report of the inquiry committee, respondent No.1 issued show cause notice to the appellant and above-mentioned Muhammad Iqbal and Muhammad Rafique.

*(Copy of the show cause notice of the appellant is annexed as annexure "F").*

11. That, ultimately respondent No.1 vide impugned notification/order terminated the services of the appellant and the order was also passed by the respondent No.1 for recovery of an amount of Rs.9,50,241/-.

*(Copy of the impugned notification/order is annexed as annexure "G").*

12. That, the appellant also filed his departmental appeal/representation to the concerned authority on 02.06.2014.

*(Copy of the departmental appeal/representation is annexed as annexure "H").*

13. That, the appellant being aggrieved from the impugned notification/ termination order seeks the gracious indulgence of this august court, inter alia, on the following grounds: -

**GROUNDS**

- i. That, the impugned notification/ termination order passed by the respondent No.1 is wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, without lawful authority, un-constitutional, against the fundamental rights of the appellant as guaranteed by the constitution which is not maintainable in any manner whatsoever and the same is liable to be struck down.
- ii. That, the appellant is serving in the Forest Department since the last 30 years. There is not even a single stigma on the service record of the appellant in this whole period as the appellant is a very honest and dutiful person. Appellant performed his duties during the whole period very regularly and honestly.

iii. That, previously in the year 2010 detailed inquiry was conducted by the Inquiry Committee comprising of Mr. Hussain Shah, Additional Secretary Health Department and Mr. Muhammad Ayaz Deputy Secretary Finance Department against the appellant and six others, on the basis of that inquiry respondent No.1 vide office order dated 26.02.2011 all the six persons including the appellant were exonerated of all the charges levelled against us.

iv. That, now in the year 2013, the authority again on the basis of same allegations issued the show cause notices to the appellant, Muhammad Rafique Forest Guard, Muhammad Iqbal Forester, Pir Qaim Shah, DFO and Abdullah DFO and again inquiry was conducted by Mr. Abdul Jameel Chief Conservator Forest, Mr. Jannat Gul Additional Secretary Irrigation Department, Peshawar and on the basis of inquiry report, the respondent No.1 issued/passed the impugned notification/order whereby the appellant was compulsory retired from services and order was also



passed for recovery of an amount of Rs.9,50,241/- while in the same inquiry report, the inquiry officers exonerated Mr. Pir Qaim Shah, DFO and Abdullah DFO while the appellant and other two forest guards were made scapegoat.

- v. That, depot No.569 is under Gallis Forest Division, as the appellant is the employee of Lower Kohistan Forest Division which has no concerned with depot No.569.
- vi. That, the total timber of T.P No.24 was sold out by the concerned quarter after fulfilling all the legal formalities.
- vii. That, the appellant when posted at Gohar Abad sale depot has never received any balance timber of T.P No.24, hence the appellant cannot be held responsible for any kind of loss to the balance timber of T.P No.24.
- viii. That, the D.F.O Lower Kohistan Forest Division Pattan issued the show cause notice to Mr. Muhammad Anwar son of Habib-ur-Rehman, the then Managing Director of Dobair Forest Harvesting Co-operative

9

society limited through letter No.2826-27/GE dated 24.06.2008 wherein it was stated by the said D.F.O that the entire timber 26071.92 C.ft. of T.P No.24 dated 23.12.2004 was taken to Gohar Abad Timber Market Havelian and subsequently the same was distributed amongst the concessionists/ government and there is no balance timber lying on the road side depot Dobair Kohistan.

*(Copy of the show cause notice is annexed as annexure "I").*

- ix. That, as per allegation of the authority against the appellant that 4985 C.ft. timber of T.P No.24 was transported to Gohar Abad Timber market Havelian from Dobair road side depot, actually, this quantity of the timber may have come to Gohar Abad timber market in the year 2008-09 but at the relevant time, the appellant was not posted there. The appellant was already transferred from Gohar Abad Timber Market to Lower Kohistan Forest Division, Pattan (Battaira Block).

- x. That, neither the inquiry officer nor the competent authority have ever issued the copy of the inquiry report to the appellant which was mandatory requirement of law for imposing the major penalty on the appellant.
- xi. That, the appellant was discriminately treated by the authority as the authority has exonerated Pir Qaim Shah DFO and Abdullah DFO. The appellant cannot be saddled with the responsibility of the disputed timber.
- xii. That, while imposing the major penalty on the appellant, the authority has transgressed his authority and violated the article-13 of the constitution of Pakistan and section 403 of the Criminal Procedure Code, as on the same allegations, the appellant has already been exonerated by the authority after conducting the full fledge inquiry, under the law, equity and principle of natural justice the appellant cannot be penalized on the basis of 2<sup>nd</sup> inquiry report.

(11)

xiii. That, whenever any timber is released from the Gohar Abad timber depot Havelian, the challan is prepared which is duly signed by the concerned DFO. No timber can be released or sent out from the said depot without the challan and signature of the D.F.O as this is the sole responsibility of the concerned D.F.O. It is admitted fact that the appellant is a forest guard and has no authority to release any timber from the concerned timber depot.

xiv. That, the appellant has never misappropriate any kind of timber and has never caused any loss to the government. All the proceedings against the appellant i.e. inquiry, show cause notice and impugned termination notification/order are wrong, illegal, against the law, facts and norms of justice.

xv. That, the appellant served in the department for about 30 years and performed his duties regularly, honestly, fairly and justly. There is no even a single stigma on the service record of the appellant and all the ACRs of the appellant are clear.

- xvi. That, as the appellant has already been exonerated in the previous inquiry and no fresh material/ allegations were levelled against the appellant in the subsequent inquiry. According to law and constitution no one can be vexed twice for the same offence or allegations. Both the charge sheets transpires that allegations of the charge sheets are the same. This act of the competent authority/inquiry officers amounts to double jeopardy which is not permissible under the law and Constitution of the country.
  
- xvii. That, there is no evidence against the appellant either documentary or oral which may connect the appellant with the allegations levelled against the appellant.
  
- xviii. That, the inquiry officers have never recorded the evidence during the course of inquiry and no opportunity of cross-examination was ever provided to the appellant and the appellant was penalized by the authority without any evidence.


- xix. That, the impugned notification/ order of compulsory retirement and recovery of amount is very harsh, unjust, unfair and the appellant was punished by the authority for no fault on my part.
- xx. That, the appellant was also discriminated while passing the impugned order as other persons who were charge sheeted in the previous inquiry were exonerated and similarly in the present inquiry proceedings, the two DFOs were also exonerated by the inquiry officers and competent authority.
- xxi. That, now the appellant is near to retirement and the respondents have taken the action against the appellant just to deprive the appellant from the benefits of the retirement/pension etc.
- xxii. That, the appellant is a very poor person and service in the low salary scale and he is absolutely unable to pay the proposed recovery of amount of Rs.9,50,241/-.

xxiii. That, the decision of the first inquiry has never been challenged by the authority and the same has got finality.


xxiv. That, the appellant has also filed a Writ Petition No.359-A/2014 before the Honourable Peshawar High Court, Bench Abbottabad which is pending there.

It is, therefore, most humbly prayed that on acceptance of the instant service appeal, the impugned order passed by respondent No.1 may please be set aside and the appellant may please be reinstated in service with all back benefits.

Dated 30.08.2014

  
Saif-ur-Rehman  
.....Appellant

Through

  
**DILDAR AHMED KHAN LUGHMANI,**  
Advocate Supreme Court,  
Of Pakistan.

**AFFIDAVIT.**

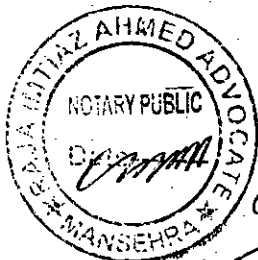
I, Saif-ur-Rehman son of Mir Ahmed resident of Namli Maira, Tehsil and District Abbottabad presently posted as Forest Guard, Petrol Squad Upper Hazara Forest Division, Mansehra, appellant, do hereby solemnly affirm and declare on oath that the contents of the foregoing Service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Dated 30.08.2014



Saif-ur-Rehman  
(DEPONENT)

**ATTESTED**



3/9/14



**BEFORE THE HONOURABLE SERVICE TRIBUNAL,  
KPK PESHAWAR**

Saif-ur-Rehman.....Appellant

**VERSUS**

Chief Minister, Khyber Pakhtun Khwa,  
Peshawar and others .....Respondents

**SERVICE APPEAL**

**APPLICATION FOR SUSPENSION OF  
OPERATION OF IMPUGNED ORDER PASSED  
BY RESPONDENT NO.1 TILL THE DISPOSAL  
OF MAIN SERVICE APPEAL.**

Respectfully Sheweth!

1. That, this application may please be considered as part and parcel of main service appeal.
2. That, the appellant has a prima facie case and there is every hope of its success.
3. That, the balance of convenience also lies in favour of the appellant.
4. That, if the operation of the impugned order passed by respondent No.1 has not been suspended, appellant would suffer an irreparable loss and purpose of above-titled appeal shall become infructuous.

It is, therefore, most humbly requested that the operation of the impugned order passed

by respondent No.1 may please be suspended till the disposal of main service appeal.

Dated 30.08.2014



Saif-ur-Rehman  
...Appellant

Through



**DILDAR AHMED KHAN LUGHMANI,**  
Advocate Supreme Court,  
Of Pakistan.

**AFFIDAVIT.**

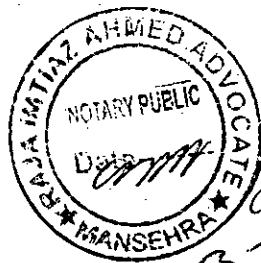
I, Saif-ur-Rehman son of Mir Ahmed resident of Namli Maira, Tehsil and District Abbottabad presently posted as Forest Guard, Petrol Squad Upper Hazara Forest Division, Mansehra, appellant, do hereby solemnly affirm and declare on oath that the contents of the foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Dated 30.08.2014



Saif-ur-Rehman  
(DEPONENT)

**ATTESTED**



30/8/14

**BEFORE THE HONOURABLE SERVICE  
TRINBUAL, KPK PESHAWAR**

Saif-ur-Rehman.....Appellant

**VERSUS**

Chief Minister, Khyber Pakhtun Khwa,  
Peshawar and others .....Respondents

**SERVICE APPEAL**

**CORRECT ADDRESSES OF THE PARTIES**


**APPELLANT**

Saif-ur-Rehman son of Mir Ahmed resident of  
Namli Maira, Tehsil and District Abbottabad  
presently posted as Forest Guard, Petrol Squad  
Upper Hazara Forest Division, Mansehra.

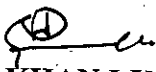
**RESPONDENTS**

1. Chief Minister, Khyber Pakhtun Khwa,  
Peshawar.
2. Government of Khyber Pakhtun Khwa through  
Secretary Forest, Peshawar.
3. Chief Conservator Region-I, Peshawar.
4. Chief Conservator Forest, Northern Region-II,  
Hazara Division, Abbottabad.
5. Mr. Abdul Jameel, Chief Conservator Forest,  
Central Southern Forest Region, Khyber Pakhtun  
Khwa Peshawar/Chairman of the Committee.
6. Mr. Jannat Gul, Additional General Secretary,  
Irrigation Department Peshawar (Member of the  
Committee.

Dated 30.08.2014

  
Saif-ur-Rehman  
...Appellant

Through

  
**DILDAR AHMED KHAN LUGHMANI,**  
Advocate Supreme Court,  
Of Pakistan.

**CERTIFICATE.**

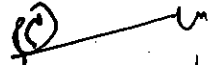
Certified that no such like appeal has ever been preferred nor decided from any court.

**Dated 30.08.2014**



Saif-ur-Rehman  
...Appellant

Through



**DILDAR AHMED KHAN LUGHMANI,**  
Advocate Supreme Court,  
Of Pakistan.

**LIST OF LAW BOOKS.**

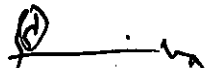
1. Service Law.
2. Other law books as per need.

**Dated 30.08.2014**



Saif-ur-Rehman  
...Appellant

Through



**DILDAR AHMED KHAN LUGHMANI,**  
Advocate Supreme Court,  
Of Pakistan.

The following candidates are hereby appointed as Forest Guard in Basic Pay Scale No. 1(440-10-640) alongwith usual allowances as admissible under the Rules. Their services will be on probation for (one) 1 year w.e.f. the date of arrival :-

- 1) Mr. Saeed Anwar S/O Mohammed Yaqub, Village Karchi, P.O. Chando Maira, Tehsil and District, Abbottabad.
- 2) Mr. Mohammad Riaz S/O Mohammad Zaman, Village Kasala, P.O. Nagri Bala, Tehsil and District, Abbottabad.
- 3) Mr. Saif-ur-Mehman S/O Mir Ahmad, Village, Namli Baira, Tehsil and Distt: A.P.D.
- 4) Mr. Mohammad Nazir S/O Mohammad Irfan, Village Chori, P.O. Tutni Tehsil and District, Abbottabad.
- 5) Mr. Abdur Rashid S/O Nawaz Khan, Village Kokriala Tehsil and District, A.P.D.
- 6) Mr. Mohammad Mustam S/O Mohammad Hussain, Village Sobangali Tehsil and District, A.P.D.
- 7) Mr. Zain Mohammad S/O Lal Khan village Nojalandi, P.O. Navelian, Tehsil and Distt: A'Abad.

Annexure  
"A"

Attested

Dildar (Chaman Khan) Leghmani  
Advocate Supreme Court Of  
Pakistan Manshera

The post which is offered is temporary and therefore their services/employment in the Forest Department is also purely temporary and as such their services can be terminated in accordance with the Government of West Pakistan Services and General Administration Deptt: Notification No. SOXVIII-1-8/66, dated 10-9-1968 at any time, irrespective of the facts that he is holding a post other than the one to which he was originally recruited or on the payment of one month's salary in lieu of the Notice.

- 1) They have to join by at their own expenses within (Ten) 10 days from the date of issue of this order. The offer is subject to the condition that they are domiciled in Abbottabad District.
- 2) In case they wishes to resign at any time one month's notice will be necessary or in lieu thereof one month's pay will be forfeited.
- 3) They will be governed by such rules and orders relating to leave, travelling allowance, medical attendance, pay etc. or may be issued by Government for the category of Govt: Servant to which they will belong.
- 4) The appointment is subject to the production of age and health certificate from Medical Superintendent District Head Quarter Hospital, Abbottabad as well production of their original testimonials.

Sd/- (Syed Khurshid Anwar),  
Divisional Forest Officer,  
UNICOR Income Generating Project,  
Soka Nullah watershed, Abbottabad.

Memorandum.

Copy forwarded to :-

- 1) The Conservator of Forests, Watershed Management Project, A'Abad for information.
- 2) The Head Clerk, UNICOR Income Generating Project Soka Nullah W/Shed, Abbottabad for information.
- 3) All concerned for information.

محمد ابراہیم - F9 - انکارے کوئی اور سبیل

غنتوان - کراچی

Annexure "B"

Attested

Date: [Signature] Director, Department of Education, Government of Punjab

جس کا - C.D.F.0 - نوٹس کوئی بیان میں افسانہ اور رول 49 صدمہ 16/3  
2007 کو - نوٹس کوئی بیان سبیل کو نوٹس کوئی بیان اور جو بیان افسانہ  
کا بیان ہے - آپ اپنا بیٹ کا طرز، آپہ تدریس کا طرز  
سبیل الرحمن F9 کے حوالہ میں اور خود سبیل الرحمن R9  
سے ملنے والے نوٹس کوئی بیان کا طرز میں - طرز  
نوٹس کوئی بیان کے بیان اور نوٹس کوئی بیان سے نوٹس کوئی بیان  
دے دار کا - نوٹس کوئی بیان

[Signature] 3/19/2007



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT

Dated Pesh: 26<sup>th</sup> February, 2011

22

Attested:

Annexure

"C"

ORDER

Dildar Ahmed Khan  
Advocate

No. SO(Estt)Env/1-50(40)/2k10: WHEREAS, Mr. Saif-Ur-Rehman, Forest Guard (BPS-07) was proceeded against under the NWFP Removal from Service (Special Powers) ordinance, 2000 (as amended from time to time) for the charges as mentioned in the Statement of Allegations dated 16/4/2010.

AND WHEREAS, Enquiry Committee, comprising of Mr. Hussain Shah, Additional Secretary, Health Department and Mr. Muhammad Ayaz, Deputy Secretary, Finance Department, constituted to conduct the inquiry against the said officer.

AND WHEREAS, the Enquiry Committee, after having examined the charges, evidence on record and explanation of the accused officer, submitted its report.

NOW THEREFORE, the Competent Authority, after having considered the charges, evidence on record, the explanation of the accused officer, and findings of the Enquiry Committee, in exercise of his powers under section-3 read with section-8 of the NWFP Removal from Service (Special Powers) ordinance, 2000 (as amended from time to time) has been pleased to EXONERATE Mr. Saif-Ur-Rehman, Forest Guard (BPS-07), of the charges levelled against him in the Statement of Allegations dated 16/4/2010.

CHIEF SECRETARY  
KHYBER PAKHTUNKHWA

72087

Endst: No. SO(Estt)Env/1-50(40)/2k10

Dated Pesh: 26/2/2011

Copy is forwarded to:-

- 1) PS to Secretary Environment Department.
- 2) Chief Conservator of Forests Khyber Pakhtunkhwa.
- 3) Director Budget and Accounts Environment Department.
- 4) Conservator of Forests Lower Hazara Circle, Abbottabad.
- 5) Conservator of Forests Upper Hazara Circle, Mansehra.
- 6) Official concerned C/O Chief Conservator of Forests Khyber Pakhtunkhwa.
- 7) Master file.
- 8) Office order file.

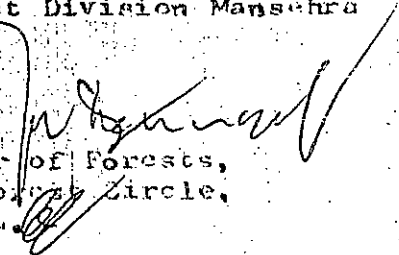
MT  
MUTAHIR SHAH  
(MUTAHIR SHAH)  
SECTION OFFICER (ESTT)

Bc  
New to  
20 Feb

No. 5287-88/GK, dated Manshra the 21 /03/2011.

Copy forwarded to the:

1. Divisional Forest Officer, Lower Kohistan Forest Division Pattan
2. Divisional Forest Officer-Patrol Squad Forest Division Manshra  
For information.

  
Conservator of Forests,  
Upper Hazara Forest Circle,  
Manshra.

27-115



MUHAMMAD SHUAIB

DIVISIONAL FOREST OFFICER

LOWER KOHISTAN FOREST DIVISION, PATTAN

0998512203

0998405203

No. 690 /GE

Dated 09/01/2014



To

Conservator of Forests  
Upper Hazara Forest Circle  
Mansehra

Attested

Annexure

"D"

Didar Ahmed Khan Lughmani  
Advocate Supreme Court Of  
Pakistan Mansehra

SUBJECT SHOW CAUSE NOTICE - Comments thereof:

Reference: Your office No. 3140/GL, dated 04/12/2013.

The incumbent employee Mr. Saif ur Rehman, Forest Guard was then posted as incharge Timber Sale Depot Goharabad of Lower Kohistan Forest Division. Disciplinary proceedings were initiated against him, which also included the then DFO Lower Kohistan Forest Division and Range Forest Officer, Pattan.

Enquiry was conducted by enquiry committee constituted by the Chief Secretary Khyber Pakhtunkhwa vide No. SO(Estt)/Envt/1-50/(40)/2k5/1891-94/EC, dated 16/04/2010.

The official was exonerated, as allegations were not proved against him. Also the record of this office reveals that the timber in question was lying in balance in roadside depot of Lower Kohistan Forest Division, which was then transported under the legal cover of TP No. 24 dated 23/12/2004 and relevant chailans there-under.

Therefore, as per record of this office and findings of the enquiry committee the official viz Mr. Saif-ur-Rehman Forest Guard was exonerated vide Chief Secretary Govt. of Khyber Pakhtunkhwa Peshawar Order No. SO (Estt)/Envt/1-50/(40)/2k10/780-87, dated 26/02/2011 (Copy enclosed).

The employee has correctly received the timber in sale depot and incorporated in relevant timber record. As far as depot No. 569 is concerned, it relates to Galis Forest Division and hence not in responsibility of the accused official.

The timber in question was in balance right from roadside depot Lower Kohistan to timber sale depot Goharabad as evident from timber Form No. 5 of depot at Kohistan and that in sale depot Goharabad besides record of all the 08 Nos. of check posts in between Kohistan and Havelian depot.

Therefore, comments are submitted for favour of perusal and necessary action, please.

Received  
DIVISIONAL FOREST OFFICER  
LOWER KOHISTAN FOREST DIVISION  
PATTAN

Attested

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**Dildar Ahmad Khan Lughman**  
 Advocate, Supreme Court Of  
 Pakistan Mansehra

**INQUIRY REPORT**  
**INTRODUCTION**

**Annexure "E"**

Pursuant to the Chief Minister Khyber Pakhtunkhwa (competent authority) orders an Inquiry Committee was constituted vide Govt. of Khyber Pakhtunkhwa Environment Department Notification No. SO (Estt) Env/1-50 (43)/2K.6/20-27, dated 4/1/2013 (Annexure-I) comprising Mr. Abdul Jamil Conservator of Forests Lower Hazara and Mr. Janat Gul Afridi Additional Secretary Irrigation Department to conduct Inquiry into the charges/ allegations levelled against the following officers/officials of Khyber Pakhtunkhwa Forest Department as per charge sheets and statement of allegations (Annex-II) under the Khyber Pakhtunkhwa Efficiency and Discipline Rules, 2011.

1. Pir Qaim Shah, Divisional Forest Officer (BS-18)
2. Mr. Abdullah Khan, Sub Divisional Forest Officer (BS-17, later-on promoted to BS-18).
3. Mr. Mohammad Iqbal, Forester (BS-09).
4. Mr. Mohammad Rafique, Forest Guard (BS-07).
5. Mr. Saif-ur-Rehman, Forest Guard (BS-07)

**BACKGROUND**

- i. Timber to the tune of Rs. 3495 Fir/Spruce scants = 26071.92 cft was obtained from Chary Compartment No. 4 (ii) of Lower Kohistan Forest Division through Dobair Forest Harvesting Cooperative Society and transported from Dobair road side depot to Gohar Abad Depot (Gallis Forest Division) under Transport Pass No. 24 dated 23/12/2004 issued by DFO Lower Kohistan Forest Division.
- ii. The timber under TP No. 24 was then transported in two instances as under:-

Quantity of timber as per TP No. 24 dated 23/12/2004			Total quantity of timber of 1 <sup>st</sup> consignment of TP No. 24 dated 23/12/2004 upto 11/2/2005 and then after extending vide DFO Lower Kohistan letter No. 70/G dated 13/7/2005		Distribution				Distribution released vide office order No. and dated by DFC Lower Kohistan Forest Division.
Species	No. of scants	Volume in cft	No. of scants	Volume in cft	20% of G Share		80% owner share		
					Nos of scants	Volume in cft	Nos of scants	Volume in cft	
Fir spruce	3495	26071.92	1942	14324.99	239	2865.19	1703	11459.80	O/O No. 2 dated 11/2/2005
			1353	11746.93	215	2349.94	1338	9396.99	O/O No. 0 dated 13/8/2005
Total	3495	26071.92	3495	26071.92	454	5215.13	3041	20856.79	

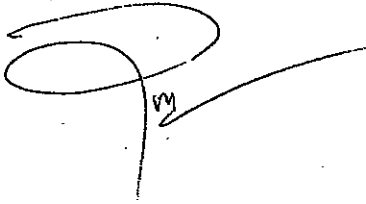
*[Handwritten signature]*

*P. Porcers -  
sd(E)  
8/07/2013*

*[Handwritten initials]*

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- iii. The consignment received as per distribution record during 1<sup>st</sup> instance to the tune of 1941 scants = 14324.99 cft was distributed and released by DFO Lower Kohistan Forest Division vide his office order No. 29 dated 11/2/2005 as per procedure.
- iv. The consignment received as per distribution record during 2<sup>nd</sup> instance to the tune of 1553 scants = 11746.93 cft after extending the period of TP No. 24 dated 23/12/2004 vide DFO lower Kohistan letter No. 70/G, dated 13/7/2005 was released vide DFO Lower Kohistan office order No. 04 dated 13/8/2005.
- v. By the time a sale depot bearing No. 569 was registered under sale, sawing and processing of timber rules 2004 by DFO Galis Forest Division vide office order No.75 dated 7/4/2005 in favour of Haji Khoidad Khan of Sultan Pur Havelian the nominee of timber contractor and Timber Merchant Association Havelian and the owner share (80%) of released timber vide DFO Lower Kohistan office order No. 04 dated 13/8/2005 was shifted to sale depot No. 569 for further disposal to down districts, under challan No. 85 of book No. 2/LK, of Lower Kohistan Forest in one lot.
- vi. As per record maintained in Form No. 5 and Form No. 6 of Goharabad sale depot of Galis Forest Division, which is mandatory for maintenance of record of receipt and disposal of timber by the staff of Galies Forest Division posted at Goharabad sale depot check post reveals that:-
  - a. Form No. 5 (receipt register) of Goharabad sale depot shows a balance of consignment, consigned from Dubair road side depot to Goharabad sale depot to the tune of 779 scants = 4984.97 cft, say 4985 cft yet to be transported from Dubair road side depot of Lower Kohistan Forest Division to Goharabad sale depot.
  - b. Form No.6(Disposal register) shows a complete disposal of all the consignment of 80% owner share to the tune of 1338 scants=9396.99 cft from depot no.569 leaving a nil balance
- vii. After lapse of a period of more than 3 years, Managing Director Dobair Forest Harvesting Cooperative Society requested DFO Lower Kohistan for grant of extension in the period of TP No.24 dated 23.12.2004 for carriage of balance timber to the tune of 513 scants=4985 cft from Dobair road side to Goharabad which was extended by the DFO Lower Kohistan vide his letter no.2712/GL, dated 3.6.2008 and the same consignment was transported to



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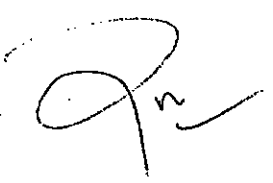
Goharabad sale depot under challan No.66 to 72 of Challan Book No.73/K. While transporting the same timber to the tune of 5985 cft was seized and confiscated by the then Conservator of Forests Abbottabad Forest Circle considering it as illegal, vide his office order No.121 dated 12.6.2008 and auctioned by a committee headed by DFO Lower Kohistan Forest Division in compliance with the order of Civil Judge-I Abbottabad and sale proceeds, so fetched were remitted into P-deposit of DFO Lower Kohistan Forest Division, Pattan.

On the basis of Conservator of Forests Abbottabad office order No. 121 dated 12.6.2008, M/S Hafizul Islam and Qazi Shabir Ahmad I/C DFO & SDFO Lower Kohistan alongwith their field staff were proceeded against. As a result of enquiry conducted by Mr. Hussain Shah Additional Secretary Health Department and Mr. Muhammad Ayaz Deputy Secretary Finance Department the following recommendations were submitted.

"In view of the aforementioned discussions, the charges leveled against the above mentioned officers/officials are not proved. Therefore they are required to be exonerated. The committee further recommends that an enquiry may be conducted against the staff posted of Galis Forest Division at Goharabad."

Accordingly, in order to examine the case of transportation of 4985 cft through fake and fraudulent documents involving both disciplinary and criminal liabilities against the concerned officers/officials of Galis Forest Division posted at Goharabad Depot, a Fact finding inquiry Committee comprising Mr. Shah Wazir Khan Conservator of Forests and Malik Javed DFO was constituted by Govt. of Khyber Pakhtunkhwa Environment Department. The said committee after probing the matter recommended as under:-

- i) Mr. Mohammad Iqbal Forester the then incharge of Goharabad Depot (now posted in Patrol Squad Abbottabad) failed in performance of his duty in the affairs of depot including its record i-e Form 5&6 etc. Due to his connivance with owner the instant fraud occurred. His involvement is proved beyond any doubt and he is responsible for 50% liability both disciplinary and criminal.
- ii) Mr. Mohammad Rafiq Forest Guard of Galies Forest Division while posted at Goharabad Depot also failed in detection of the irregularity in the Depot with active connivance with the owner resulted in the fraud. He is responsible for 20% liabilities both disciplinary and criminal.



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...of 4072002 and nothing was left in balance in the Dabair road Depot...  
...of 1982 at timber during June 2002 through extension of the same TP was not justified and  
...also denied that any loss to the Govt. has been secured on his part and that the blame on  
...prosecution of the case both during the earlier inquiry conducted by Mr. Hameed Shah Additional  
...Secretary Health Department and Mr. Mohammad Ayaz Deputy Secretary Finance Department as well  
...in the court of law where the MID of the Dabair harvesting society (owner of the timber) had filed a  
...suit against Conservator of Forests Appointed for confiscating the said timber

Moreover be also referred to the correspondence exchanged between Conservator of Forests  
Appointed, Chief Conservator of Forests and Administrative Department during October 2002 to the  
effect that Mrs. Farqam Shah and Mr. Imdad Ahmad DFO, and Mr. Abdul Wahid Khan SDFO were  
connection with the illegal transportation vide TP No 24 of Lower Kohistan extended on 3.6.2002.

He also relied on the findings/observations of the earlier inquiry committee that staff of Gais  
Forest Division posted at timber market Goharabad seems at fault in allowing excess timber to exit the  
Goharabad Timber Market by ignoring the constabulary authority of the distribution order No 4 dated  
13.2.2002 of Lower Kohistan Forest Division. His replies to the charge sheets and questionnaires are  
available at annex-V.

MIR ABDUL WAHID KHAN SDFO

The charge sheet against Mr. Abdul Wahid Khan SDFO vide charge sheet served on him on the same  
date as against Mr. Farqam Shah DFO. Hence he has submitted an identical reply to the said allegations and has  
denied in his written replies to the charge sheets and during his personal  
hearing that he has any role in the illegal transportation of the said consignment. Though he has mentioned  
that as per record of the Muzim and Sailed check posts and of form 2 of Goharabad Timber Market  
there was a balance of 4982 cft timber of TP No 24 at the roadside depot Dabair but he said that it was  
only book balance and the consignment of the said TP was actually brought in full upto 30.07.2002. In  
this way he termed the transportation of 2982 cft timber from Dabair roadside depot during June 2002  
vide extension of TP No 24 dated 23.7.2004 from Lower Kohistan as illegal and put the blame for this  
on the concerned staff of the Lower Kohistan Forest Division.

He also relied on the findings report of earlier inquiry wherein the staff of Gais Forest Division posted  
at Goharabad timber market was held responsible for the exit of 4982 cft timber from Goharabad timber

- 27
- iii) Mr. Saifur Rehman Forest Guard of Kohistan Forest Division also failed in detection in bringing the factual position in the notice of his superiors. Due to his in-efficiency and concealment of facts, the DFO Lower Kohistan accorded extension in the period of TP No. 24 dated 23.12.2004 even after a lapse of three years. This proved involvement in the fraud and is responsible for 20% disciplinary liability.

M/S Abdullah Khan the then SDFO Abbottabad (now DFO Direction Peshawar) and Pir Qaim Shah the then DFO Galis failed in supervision of their subordinate staff are responsible for 10 % disciplinary liability.

Based on the recommendations of the Fact finding inquiry report, the competent authority issued the charge sheets of the accused officers/officials as mentioned in para 1 above.

### PROCEDURE

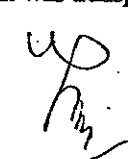
On receipt of the Govt. of Khyber Pakhtunkhwa Environment Department Notification regarding constitution of inquiry committee (Annex-I) on 10.01.2013, all the accused were directed vide Conservator of Forests Lower Hazara Circle letter No. 3442-46/GE dated 11/1/2013 and subsequent reminder No. 3702-6/GE dated 24/1/2013 (Annex-III) to submit replies to the charge sheets. Their replies were received from 29.01.2013 to 31.01.2013.

The replies were perused and scrutinized by the Inquiry Committee and the accused were personally heard at Peshawar on 11.2.2013 and each of the accused was given a questionnaire (Annex-IV) in addition to examining them personally. They were directed to prepare written replies to the questions alongwith documentary evidence and bring them along for examining and further hearing on 17.2.2013. After perusing their replies and cross questioning all the accused on 17/2/2013, the inquiry committee deliberated on the subject on 18&19.2.2013 to reach the finding/conclusion, where after the report writing task was undertaken which also involved handling of huge record.

### DISCUSSION

#### 1. PIR QAIM SHAH DFO

In his replies to the charge sheet, replies to the questionnaire and during his personal hearing/questioning he explained that the consignment of TP NO.24 dated 23.12.2004 of Lower Kohistan was transported in



full by 30.7.2005 and nothing was left as balance at the Dubair roads Depot and therefore subsequent carriage of 4985 cft timber during June, 2008 through extension of the same TP was not justified and warranted. He also denied that any loss to the Govt: has been accrued on his part and put the blame on poor prosecution of the case both during the earlier inquiry conducted by Mr. Hussain Shah Additional Secretary Health Department and Mr. Mohammad Ayaz Deputy Secretary Finance Department as well as in the court of law where the MD of the Dubair harvesting society (owner of the timber) had filed a suit against Conservator of Forests Abbottabad for confiscating the said timber.

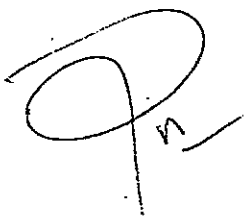
Moreover he also referred to the correspondence exchanged between Conservator of Forests Abbottabad, Chief Conservator of Forests and Administrative Department during October 2009 to the effect that M/S Pir Qaim Shah and Raja Imtiaz Ahmad DFOs and Mr. Abdullah Khan SDFO have no connection with the illegal transportation vide TP No.24 of Lower Kohistan extended on 3.6.2008.

He also relied on the findings/recommendations of the earlier inquiry committee that staff of Galis Forest Division posted at timber market Goharabad seems at fault in allowing excess timber to exit the Goharabad Timber Market by misusing the contents/authority of the distribution order No.4 dated 13.8.2005 of Lower Kohistan Forest Division. His replies to the charge sheets and questionnaire are available at annex-V.

2. MR.ABDULLAH KHAN SDFO

The charges/allegations against Mr. Abdullah Khan SDFO vide charge sheet served on him are the same as against Pir Qaim Shah DFO. Hence he has submitted an identical reply to the said allegations and has denied in his written replies to the charge sheets replies to the questionnaire and during his personal hearing that he has any role in the illegal transportation of the said consignment. Though he has admitted that as per record of the Mirpur and Salhad check posts and of form 5 of Goharabad Timber Market there was a balance of 4985 cft timber of TP No. 24 at the roadside depot Dubair but he said that it was only book balance and the consignment of the said TP was actually brought in full upto 30.07.2005. In this way he termed the transportation of 5985 cft timber from Dubair roadside depot during June,2008 vide extension of TP No.24 dated 23.2.2004 from Lower Kohistan as illegal and put the blame for this on the concerned staff of the Lower Kohistan Forest Division.

He also relied on the findings report of earlier inquiry wherein the staff of Galis Forest Division posted at Goharabad timber market was held responsible for the exit of 4985 cft timber from Goharabad timber



market implying that only the lower staff and not himself was responsible for this irregularity. His replies to the charge sheet and questionnaire are available at Annex-VI.

3. Mohammad Iqbal Forester & Mohammad Rafique Forest Guard.

Both the above officials of Galis Forest Division, who were I/C of Goharabad Timber Market and were responsible for entry of the consignment of timber each and every Truck coming into and going out of the Market in Form No. 5 & 6 respectively denied their role in the exit of 5985 cft timber of TP No.24 of Lower Kohistan Forest Division from the Market. Both in their replies to Charge Sheets and replies to the questionnaire and personal hearing have put the blame on the staff of Lower Kohistan Forest Division. The replies of both these officials are identical and both claim that the entire consignment of TP No. 24 had been received in the Goharabad Timber Market upto 30/7/05 and the timber brought during June 2008 from the Dubair Road side depot through extension of the said TP to the tune of 5985 cft was not genuine. In their defense they quoted the entries Form No. 5 & 6 of Private depot No. 569 and office order No. 4 dated 13/8/2005 of DFO Kohistan regarding distribution of timber into Govt: Share and owner share in full, meaning thereby that no timber was left in roadside depot at Dubair. Their replies to Charge Sheet and Questionnaire are available at Annexure-VII and VIII respectively.

4. SAIFUR RAHMAN FOREST GUARD

Mr. Saifur Rehman Forest Guard being staff member of Lower Kohistan Forest Division was responsible for receipt and dispatch of timber of TP. No. 24 at the sale depot of the said Forest Division at Goharabad Timber Market. In his written replies to the charge sheet as well as during personal hearing he has stated that the entire consignment of timber of TP. No.24 of Lower Kohistan Forest Division was not transported to the timber market Goharabad and the sale depot of Lower Kohistan Forest Division upto 30/7/2005. Rather there remained a balance of 5985 cft timber at Dubair Roadside depot. This he said is borne out from the record (Form No. 6) of Dubair Roadside depot and the record of all the check posts of Forest Department right from Kohistan upto Salhad Forest Check Post of Galis Forest Division. Also, as claimed by him the entries of Form No. 5 of Goharabad Timber Market maintained by the staff of Galis Forest Division supports this assertion. He also mentioned that the entries of Form No. 5 maintained by him timber at the timber sale depot of Lower Kohistan show a balance of 5985 cft timber back at Dubair Roadside depot. He further stated that as far as the entries in Form No. 6 of the sale depot of Lower Kohistan are concerned, though he had shown full disposal of the



timber of TP No. 24 to the private side depot No. 569 he had recorded a note in that register to the effect that a quantity of 5985 cft timber is in balance. He also took shelter under the findings/recommendations of the previous inquiry conducted by Mr. Shah Hussain Additional Secretary of Health Department and Mohammad Ayaz Deputy Secretary Finance Department whereby he was exonerated of the charges and his subsequent acquittal by the Chief Secretary Khyber Pakhtunkhwa.

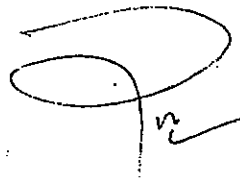
His written replies to the charge sheet is available at Annexure-IX.

#### FINDINGS

In their replies to the charge sheets, questionnaire and during personal hearings, the accused staff of Galis Forest Division viz. Pir Qaim Shah DFO, Mr. Abdullah Khan the then SDFO and now DFO, Mr. Mohammad Iqbal Forester and Mohammad Rafique Forest Guard have all denied their involvement in the transportation/exit of excess timber to the tune of 5985 cft of TP No. 24 dated 23/12/2004 of Lower Kohistan Forest Division and had put the blame for the irregularity on the shoulders of the staff of Lower Kohistan Forest Division claiming that the entire consignment of TP No. 24 had been transported to Goharabad timber Market upto 30/7/2005 and there was no balance timber left at Dubair roadside depot. Therefore, according to them the subsequent carriage of 4985 cft timber of the same TP through extension during June 2008 was not warranted and was illegal.

However their claim is refuted by the following facts.

- a. The record maintained at Dubair road side depot, as well as all the Forest check posts in the route from Lower Kohistan upto Galis Forest Division indicate that a balance of 4985 cft did exist at Dubair Roadside depot.
- b. The record of Goharabad timber Market (Form No. 5) also shows the receipt of 21087 cft timber of the said TP leaving balance of 4985 cft. This record is maintained by the staff of Galis Forest Division.
- c. The record (Form No.5) of timber maintained at the Lower Kohistan sale depot also shows a balance of 4985 cft back in the roadside depot.
- d. The Inquiry committee comprising Mr. Shah Hussain Additional Secretary Health Department and Mr. Mohammad Ayaz Deputy Secretary Finance Department has recommended exoneration of all the staff of Lower Kohistan Forest Division in the instant case and also recommended for proceeding against the staff of Galis Forest Division posted at Goharabad Timber Market, implying that the balance of 4985 cft




timber did exist at Dubair roadside depot and the irregularity occurred at Goharabad Timber Market.

e. Both Pir Qaim Shah DFO and Mr. Abdullah Khan the then SDFO in their defense defense through their written replies as well as personal hearing have quoted the order of the Chief Secretary Khyber Pakhtunkhwa whereby he while exonerating all the staff of Lower Kohistan Forest Division had ordered to conduct enquiry against the staff of Galis Forest Division posted at Goharabad Timber Market (Annexure-X. This implies replies that they consider themselves as innocent and they blame the Lower staff of Galis Forest Division i.e. Forester and Forest Guard I/C Goharabad Timber Market for the irregularity. In view of the above and the perusal of the relevant record and evidence the Inquiry Committee did not find Pir Qiam Shah DFO and Mr. Abdullah Khan the then SDFO and now DFO as guilty of misconduct inefficiency and corruption and the entire fault lies with the lower staff posted at Goharabad Timber Market as is evident from the following paras.

f. During examination by the Inquiry Committee Mr. Mohammad Iqbal Forester and Mr. Mohammad Rafiq Forest Guard the then I/C Goharabad Timber Market failed to satisfy the committee to absolve themselves of the charge that they were mainly responsible for the exit of the excess timber to the tune of 4985 cft from Goharabad Timber Market pertaining to TP No. 24 of Lower Kohistan Forest Division. The receipt of timber as per Form No. 5 maintained by them was timber to the tune of 21087 cft whereas according to the Form No.6 which was also maintained by them they allowed 26072 cft timber to leave the Goharabad Timber Market. It was their fore most responsibility to compare the entry and exit of the consignment of the same TP and check and take corrective measures regarding any discrepancy between receipt and dispatch of timber. Moreover they being overall I/C of the Timber Market and specifically of sale depot No. 569 are also responsible for the occurrence the said excess timber (4985 cft) within the market and its subsequent exit from the market. They were required to check the documents accompanying the said consignment with their own record and report the discrepancy to their higher ups for taking remedial and corrective measures. Thus they utterly failed to perform their basic duties and committed this grave irregularity in collusion with the Forest Guard of Lower Kohistan Forest Division for ulterior motives. Therefore the charges of misconduct, inefficiency and corruption are proved against the two officials of Galis Forest Division

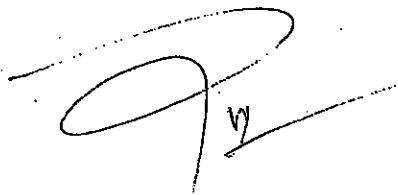
viz Mohammad Iqbal the then Forester and Mohammad Rafiq Forest Guard the then I/C of Goharabad Timber Market.

Though Mr. Saifur Rahman Forest Guard of Lower Kohistan Forest Division was recommended for exoneration by the previously constituted Inquiry Committee as mentioned above and subsequently his exoneration was also ordered by the competent authority, he has again been implicated in the instant Inquiry and has been served with the charge sheet. This is due to the reason that he was I/C of the timber sale depot of Lower Kohistan Forest Division and was responsible for receipt and disposal of timber from the sale depot. He has received 21087 cft timber in the said sale depot as per Form No.5, leaving a Balance of 4985 cft. However as per Form No. 6 which was also maintained by him, he has shown full disposal of owner share including 4985 cft (the book balance). He prepared sizewara of the entire stock of owner share and delivered the same to M.D of the society/owner providing an opportunity to him to lift the entire stock of the said TP through admixture from some other dubious source. Thus he also fully connived in the occurrence of the irregularity which resulted into loss of timer to the tune of 4985 cft. Thus Mr. Saifur Rahman Forest Guard of lower Kohistan Forest Division has also been proved to be guilty of misconduct inefficiency and corruption the charges levied against in the charge sheet served on him.

It is evident that timber measuring 4985 cft of Fir/Spruce pilfered was liable for confiscation and thus would have become the property of Govt; its pilferage has caused loss to the Govt: equivalent to its sale value.

The total loss worked out in the charge sheets served on the accused comes to Rs. 3988000/-. The rate per cft according to this calculation it comes to Rs. 800/-. This seems an arbitrary assessment as the prevailing market rate of Fir/Spruce at Goharabad Timber Market during January 2013 (The time when the Inquiry was constituted against the accused officers/officials) was Rs. 635/40 (Annexure-XI). At this rate the total value of 4985 cft comes to Rs. 3167470/- which is required to be recovered as per detail given below.

12669880



RECOMMENDATIONS

33

In view of the foregoing discussions and findings the following actions are recommended by the Inquiry Committee:-


1. Pir Qaim Shah DFO and Abdullah Khan the then SDFO and now DFO may be exonerated.
2. All the three remaining officials viz Mr. Mohammad Iqbal the then Forester and now Deputy Ranger, Mr. Mohammad Rafique and Mr. Saifur Rehman Forest Guards may be compulsorily retired from service. Moreover the loss caused to the Govt. as elaborated above may be recovered from the three officials as under:-
  - i) 40% amounting to Rs. 1266988/- from Mr. Mohammad Iqbal the then Forester and now Deputy Ranger.
  - ii) 30 % amounting to Rs. 950241/- from Mr. Mohammad Rafique Forest Guard.
  - iii) 30% amounting to Rs. 950241/- from Mr. Saifur Rehman Forest Guard.



Mr. Abdul Jamil  
Chief Conservator of Forests  
Central Southern Forest Region  
Khyber Pakhtunkhwa Peshawar  
(Chairman of the Committee)



Mr. Janat Gul  
Additional Secretary  
Irrigation Department  
(Member of the Committee)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT

Annexure  
"F"

*Attested.*

*Dildar Ahmad Khan Lughmani*

Pakistan (Mansehra)

**SHOW CAUSE NOTICE**

I, Justice (R) Tariq Parvez Khan, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Saifur Rehman, Forest Guard (BPS-07) Forest Department, as follows:

1. (i) that consequent upon the completion of enquiry conducted against you by the Enquiry Committee, for which you were given opportunity of hearing vide office communication No.SO(Estt)Envt/1-50(43) /2k6/28-31 dated 4/1/2013; and
- (ii) on going through the findings and recommendations of the Enquiry Committee, the material on record and other connected papers including your defence before the Enquiry Committee.


I am satisfied that you have committed misconduct, inefficiency and corruption, as per details reflected in Enquiry Report in the case, in terms of rule-3 of the Rules ibid.

2. As a result, thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalties of ① Compulsory Retirement From Service ② Recovery of Loss Amounting to Rs. 9,50,241/- under rule-14(4)(b) of the Rules ibid.

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

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

5. A copy of the Enquiry Report is enclosed.



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



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT

35

*Attested.*

Dated Pesh: 12<sup>th</sup> May, 2014

**Annexure**  
**"G"**

Dildar Khan Lughmani

Pakistan Manshra

**NOTIFICATION**

No.SO(Estt)Envt/1-50(43)/2k12: WHEREAS, Mr. Saif-Ur-Rehman, Forest Guard (BPS-07) 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 04/01/2013, served upon the said official;

AND WHEREAS, Enquiry Committee comprising Mr. Abdul Jamil (BS-19), the then Conservator of Forests, Lower Hazara, Abbottabad and Mr. Janat Gul (PCS SG BS-19) Additional Secretary, Irrigation Department was constituted to conduct the inquiry against the said accused official and others;

AND WHEREAS, the Enquiry Committee, after having examined the charges, evidence on record and explanation of the accused official, 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; and recovery of loss amounting to Rs.09,50,241/-"** upon Mr. Saif-Ur-Rehman, Forest Guard (BPS-07) of Forest Department, with immediate effect.

CHIEF MINISTER,  
KHYBER PAKHTUNKHWA

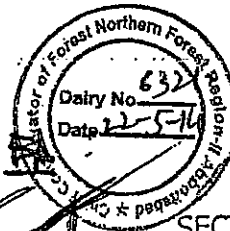
Endst: No. SO(Estt)Envt/1-50(43)/2k10

2133-2140

Dated Pesh: 12<sup>th</sup> May, 2014.

Copy is forwarded to:-

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



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

COPIES  
21/5

No. 9602 /E Dated Abbottabad the 22/5/2014

Copy alongwith Administrative Department Notification No.SO(Estt)/Env/1-50(43)/2133-2140 dated 12.5.2014(in-original) meant for Saif-ur-Rehman Forest Guard forwarded to the Conservator of Forests Upper Hazara Forests Circle Mansehra for information and necessary action. Please deliver the aforesaid notification to the Forest Guard concerned under proper receipt, which may be sent to this office for record and further necessary action.

~~Chief Conservator of Forests~~  
Chief Conservator of Forests  
Northern Forest Region-II Abbottabad  
Khyber Pakhtunkhwa

Encl: As above

*[Handwritten initials]*  
*[Handwritten initials]*

No: 3438 /GE, dated Mansehra the 26/05/2014.

Copy alongwith its enclosures/notification forwarded to DFO Patrol Squad Forest Division Mansehra for delivery to Mr. Saif-ur-Rehman Forest Guard under proper receipt which should be sent to this office for record and onward submission to high ups.

Encl: as above.

office

*[Handwritten signature]*  
Conservator of Forests  
Upper Hazara Forest Circle  
Mansehra

Annexure  
"H"

Attested.

  
Diidar Ahmed Khan Lughmani  
Advocate Supreme Court Of  
Pakistan Mansehra

To,

The Governor,  
Khyber Pakhtun Khwa,  
Governor House, Peshawar.  
(Appellate Authority).

Subject: REPRESENTATION/DEPARTMENTAL APPEAL  
AGAINST -THE ORDER DATED  
12.05.2014 PASSED BY THE CHIEF  
MINISTER KHYBER PAKHTUNKHWA  
WHEREBY THE PENALTY OF  
COMPULSORY RETIREMENT AND  
RECOVERY OF RS.9,50,241/- WAS  
IMPOSED UPON THE APPELLANT.

Respected Sir,

1. That, the petitioner was appointed as Forest Guard in Forest Department vide order dated 01.11.1984 and since then serving in the department very honestly, fairly and having no stigma on his service record throughout this period.

*(Copy of appointment order is annexed herewith).*

2. That, previously appellant alongwith six others were charged sheeted in the year 2010 in respect of the misappropriation of the timber measuring 4985 C.ft. was alleged regarding which proper inquiry was conducted, the appellant as well as six others were exonerated of the charge.



*(Copy of the exoneration order is annexed herewith).*

3. That, now in the year 2013, the department again charged sheeted the appellant alongwith four others in this inquiry, again Pir Qaim Shah DFO and Mr. Abdullah Khan SDFO now DFO were exonerated whereas major penalty of compulsory retirement and recovery of amount of Rs.9,50,241/- was imposed on the appellant as well as on Mr. Muhammad Iqbal retired Forestor and Muhammad Rafique Forest Guard. On the basis of this charge sheet, the competent authority issued the show cause notice to the appellant and others for imposing the above-mentioned major penalty.

*(Copy of the show cause notice is also annexed herewith).*

4. That, later on the competent authority vide its order dated 12.05.2014 which was received by the appellant on 29.05.2014 compulsory retired the appellant and also imposed the penalty for recovery of Rs.9,50,241/-.

*(Copy of the order is annexed herewith).*

5. That, the inquiry against the appellant was not conducted in accordance with the law and rules.
6. That, both the inquiry officers have not considered the record regarding the above-mentioned timber.
7. That, the DFO lower Kohistan Forest Division Pattan issued the show cause notice to Mr. Muhammad Anwar son of Habib-ur-Rehman Managing Director of the Dobair Forest Harvesting Co-operative Society Limited through letter No.2826-27/GE dated 24.06.2008 wherein it was stated by the said DFO that the entire timber 26071.92 C.ft. of T.P No.24 dated 23.12.2004 was taken to Gohar Abad timber Market Havelian and subsequently the same was distributed/released among the concessionists/government and there is no balance timber lying on the road side depot Dubair.
8. That, as per allegation against the appellant that 4985 C.ft. timber of T.P No.24 was transported to Gohar Abad timber market Havelian from

Dubair roadside depot. Actually this quantity of the timber may have come to the Gohar Abad timber market in the year 2008-09 but at that very time, the appellant was not posted there as the appellant was already transferred from Gohar Abad Timber Market to Lower Kohistan Forest Division, Pattan (Battaira Block).

9. That, neither the inquiry officers nor competent authority have ever issued the copy of the inquiry report to the appellant, which was mandatory for imposing the major penalty on the appellant.
10. That, the competent authority through a single order terminated the services of the appellant and two others and all the notifications issued in this respect bearing same number.
11. That, the appellant has never misappropriated any kind of timber and has never caused any loss to the government. All the proceedings i.e. inquiry, show cause notice and termination impugned order are wrong, illegal, against the law, facts and norms of justice.

(40)

12. That, the appellant served in the department about 30 years and performed his duties regularly, honestly, fairly and justly, there is no even a single stigma on the service record of the appellant and all the ACRs of the appellant are clear.
13. That, the appellant was already exonerated in the previous inquiry and no fresh material/allegations were levelled against the appellant in the subsequent inquiry. According to law and constitution, no one can be vexed twice for the same offence or allegations, both the charge sheets transpires that the allegations of the charge sheets are the same. This act of the competent authority/inquiry officers amounts to double jeopardy, which is not permissible under the law and constitution of the country.
14. That, there is no evidence against the appellant either documentary or oral which may connect the appellant with the allegations levelled against the appellant.
15. That, the impugned order of compulsory retirement and recovery of amount is very harsh, unjust and unfair and the

(41)

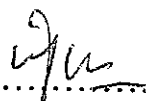
appellant was punished by the authority for no fault on his part.

16. That, the appellant was also discriminated while passing the impugned order as other persons who were charged sheeted in the previous inquiry were exonerated and similarly in the present inquiry proceedings, the two D.F.Os were also exonerated by the inquiry officers and competent authority.

17. That, during the course of subsequent inquiry, the DFO Lower Kohistan Division Pattan submitted comments on 09.01.2014 vide his office order No.690-GE, wherein he also stated that there is no fault on the part of the appellant and the appellant is not guilty in any manner whatsoever. *(Copy is annexed herewith).*

It is, therefore, most humbly prayed that the impugned order dated 12.05.2014 may please be set aside and the appellant be re-instated in service with all back benefits and penalty of recovery of amount Rs.9,50,241/- may also please be set aside.

Dated 31.05.2014

  
.....  
SAIF-UR-REHMAN  
Forest Guard (BPS-7),



N.W.F.P  
FOREST DEPARTMENT  
LOWER KOHISTAN FOREST DIVISION, PATTAN

LKFD

(42)

Phone No.0998-405203

Fax No.0998-405203

No. 2825 /GE, dated Pattan the 29 June, 2008  
To,

The Managing Director,  
Dubair Forest Harvesting,  
Cooperative Society Limited.

*Attested*

Dildar Ahmad Khan Lumbhani  
Advocate Supreme Court Of  
Pakistan Manshehra

Annexure  
"i"

SUBJECT

CARRIAGE OF TIMBER FROM DUBAIR 'ROADSIDE' DEPOT TO  
TIMBER MARKET GOHARABAD - SHOW CAUSE NOTICE

Memorandum

Whereas, you Mr Muhammad Anwar S/O Hibz-ur-Rehman, Managing Director, Dubair Forest Harvesting Cooperative Society Limited signed an agreement with NWFP Forest Department for the transportation of timber from Dubair Roadside Depot to Timber Market Goharabad (timber obtained from Charry Compartment No. 4 (ii) Pattan Sub division of Lower Kohistan Forest Division on 06/07/2004.

Whereas, you were granted T.P No. 24 dated 23/12/2004 for the transportation of Fir/Spruce = 3,495 scants = 26,071.92 cft from Dubair Roadside Depot to Timber Market Goharabad. The entire timber transported to Market and subsequently distributed/released amongst the concessionists/Government as under:-

Office Order No. & Date	Total Timber received in market	20% Govt. Share	80% Owner Share
29 dated 11/02/2005	1942 = 14324.99	239 = 2865.19	1703 = 11459.80
04 dated 13/08/2005	1553 = 11746.93	215 = 2349.94	1338 = 9396.99
TOTAL	3495 = 26071.92	454 = 5206.13	3041 = 20856.79

Whereas, from the perusal of above office order reveals that entire 3,495 scants = 26,071.92 cft timber of T.P No.24 dated 23/12/2004 stand reached the market and distributed into the appropriate share amongst the concessionists/Government leaving no balance at Roadside Depot.

Whereas, you have applied for grant of extension in the period of T.P.No.24 dated 23/12/2004 alongwith sizewara for the transportation of Fir/Spruce 513 scants = 4,984.97 cft and you deliberately violated clause 2(d) of the agreement.

Now therefore, under clause 2(d) of the agreement the illegal/illicit timber is liable to be confiscated to state in addition to fine imposed upon you.

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

You are therefore, directed to submit your written reply on the above show cause notice, which must reach this office within seven (07) days of the receipt of this notice. If no reply is received within stipulated period it will be presumed that you have nothing to say in your defence and ex parte action will be taken against you.

DIVISIONAL FOREST OFFICER  
LOWER KOHISTAN FOREST DIVISION  
PATTAN

No. 2826-27 /GE,

Copy forwarded to:-

1. Conservator of Forests, Hazara Forest Circle, Abbottabad for favour of information with reference to his No.2014/GL, dated 19/06/2008, please.
2. SDFO, Pattan for information and necessary action. He should handover the attached letter to the MD, Dubair under proper receipt, which should be sent to this office for record.

DIVISIONAL FOREST OFFICER  
LOWER KOHISTAN FOREST DIVISION  
PATTAN

CHARGE SHEET

43

1. Javed Iqbal, Chief Secretary NWFP as Competent Authority, hereby charge you, Mr Saifur Rehman, Forest Guard (BPS-5) while as incharge Goharabad Depot Lower Kohistan Forest Division as follows: -

- i. Responsibility was lying upon you to control all the works/ incidents within your administrative jurisdiction but you failed to feel the responsibility and allow transportation of illegal / illicit timber 513 scants Fir/Spruce = 4984.97 Cft. You were duty bound to check the depot record thoroughly before allowing transportation of timber pertaining to the extension granted in T.P No.24.
- ii. You failed to control the affairs of Chakai Roadside Checkpost in the best interest of state. You allowed transportation of 1 No scant excess and 402.07 Cft illegal timber in addition to the above was allowed for transportation. This clearly indicates your active connivance to satisfy for ulterior motives.

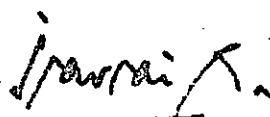
2. By reasons of the above, you appear to be guilty of In-efficiency, Misconduct and Corruption and under section-3 of the NWFP (Removal from Service) Special Powers Ordinance, 2000, and have rendered yourself liable to all or any of the penalties specified in section 3 of the ordinance ibid.

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

4. Your written defense, if any, should reach the Enquiry Officer / Committee within the specified period, failing which it shall be presumed that you have no defense to put in and that case exparty action shall follow against you.

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

6. A statement of allegations is enclosed.



CHIEF SECRETARY NWFP  
(COMPETENT AUTHORITY)

(44)

STATEMENT OF ALLEGATIONS

1. Javed Iqbal, Chief Secretary NWFP, as competent authority, am of the opinion that Mr Saifur Rehman Forest Guard (BPS-5) while posted as incharge Goharabad Depot Lower Kohistan Forest Division, has rendered themselves liable to be proceeded against as he committed the following acts / omissions within the meaning of section-3 of the North-West Frontier Province Removal from Service (Special Powers) ordinance, 2000

- I. You, while holding the charge of Gohar Abad Depot Lower Kohistan Forest Division failed to check and control the inflow and out flow of excess/illegal timber from registered sale depot No. 569.
- II. You were required to recommend issuance of proper Transport Passes for the transportation of timber from depot No. 569 to down Districts under section 7(b) of Sale, Sawing & Processing of Timber Rules, 2004 but you have failed to do so and allowed the depot holder to transport any timber under the cover of challans issued/signed by DFO Galies on your recommendation for personal gain.
- III. You were required to maintained the depot record in proper manner for verification and checking of the stock received, disposed off and balance available as provided under section 7(i) of the Sale, Sawing & Processing of Timber Rules, 2004 but you failed to act so with your ulterior motives.
- IV. As per depot record 3495 scants = 26071.92 Cft timber was transported to Timber Market at Goharabad vide T.P No.24 dated 23.12.2004 stand reached the market and then distributed into the appropriate share amongst the concessionists / Government.
- a) The record (Form-5) of Depot No 569 shows that whole consignment (80% share) 1338 scants = 9396.99 Cft vide challan No. 85 of book No. 2/LK was received and then after dispatched to down Districts but the timber was physically lying in the concerned Division depot
- b) In Form-5 of Goharabad depot shows a balance of 779 scants = 4984.97 Cft. The above exposition reveals that either the timber transported to markets was in excess actually shown in challans or counterfoils of these challans are used for excess timber transportation.
- c) If there was actually balance timber pertaining to T.P No. 24 then how it became possible to distribute and release the whole 80% concessionists share i.e. 1338 scants = 9396.99 Cft timber vide office order No. 04 dated 13.8.2005. This shows that you facilitated the depot holder registered bearing No 569 in transportation of excess/illegal timber with your ulterior motives as you have signed all the relevant papers record
- V. You have tempered all the depot record, which also proves your inefficiency.

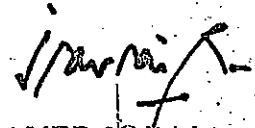
2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an enquiry committee consisting of the following is constituted under section-5 of the Ordinance:

- i- Mr. Hussain Ghale, Addl. Geny Health Deptt.
- ii- Mr. Muhammad Awan, D.S. Finance Deptt.



3. The Enquiry Committee shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry committee.



(JAVED IQBAL)  
CHIEF SECRETARY NWFP

GOVERNMENT OF NWFP  
ENVIRONMENT DEPARTMENT

Copy of the above is forwarded to :-

- 1-2) The Enquiry Committee (Comprising of Mr. Hussain Shah, Additional Secretary, Health Department, Mr. Muhammad Ayaz, Deputy Secretary Finance Department for initiating proceeding against the accused under the provisions of the NWFP Removal from Service (Special Powers) Ordinance, 2000 and to communicate the charge sheet and statement of allegations (enclosed herewith) to the accused officer.
- 3) Mr. Saif-Ur-Rehman, Forest Guard (BPS-5) C/O CCF NWFP with the directions to appear before the Enquiry Committee, on the date, time and place fixed by the Enquiry Officer for the purpose of enquiry proceedings.
- 4) The Chief Conservator of Forests, NWFP with the request to detail a departmental representative well conversant with the facts of the case alongwith relevant record to assess the Enquiry Committee during the enquiry proceedings.

*Mt Hussain Shah*  
SECTION OFFICER (ESTT)  
ENVIRONMENT DEPARTMENT

1891-94 / *mm*

No.SO(Estt)Envvt/1-50/(40)/2k5/

Dated 16/4/2010

# وکالت نامہ

بعدالت جناب محمد مسعود صاحب صوبائی سروسز ٹریڈنگ کمپنی  
صنف الٹریٹ بنام حیدر مسعود صاحب 1981ء ملاہ  
 دعویٰ یا جرم سروسز ٹریڈنگ مخانب اسلام آباد

باعث تحریر آنکہ

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی بمقام کمپنیاں اور ٹریڈنگ

## دلدار احمد خان لغمانی ایڈووکیٹ سپریم کورٹ آف پاکستان

بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہو اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ ساعت ہونے پر یا بروز پکھری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پرواختہ صاحب مشل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے، نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرانے کا ہر قسم بیان دینے اور سپردنالی و راضی نامہ و فیصلہ برخلاف کرنے و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخ ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا سنگی علیحدہ پیروی مختیار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل اور اپیل کے واسطے کسی دوسرے وکیل یا ایئر سٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختیار نامہ لکھ دیا ہے کہ سندر ہے۔

مضمون مختیار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

الرقوم..... 09/01/2014

بعد البعد البعد

ATTESTED & ACCEPTED

Dildar Ahmed Khan Lughmani  
 Advocate

DILDAR AHMED KHAN LUGHMANI,  
 Advocate Supreme Court,  
 of Pakistan.

مسعود صاحب

بعدالت جناب سروس ٹریبونل KPK پشاور کمپ کورٹ ایبٹ آباد۔

سیف الرحمن۔

--- سائل

بنام

حکومت وغیرہ

--- مسنول علیم

سروس اپیل

درخواست بمراد Delete فرمائے جانے ریپانڈنٹس۔ 1 عبد الجلیل۔ 2۔ جنت گل۔

جناب عالی! درخواست ذیل عرض ہے۔

۱۔ یہ کہ اپیل سروس ٹریبونل ایبٹ آباد کمپ کورٹ میں زیر تجویز ہے جس میں آج تاریخ پیشی برائے حاضری مقرر ہے۔

۲۔ یہ کہ ریپانڈنٹس عبد الجلیل و جنت گل کو مقدمہ میں سہواً فریق مقدمہ بنا دیا گیا تھا جو کہ دونوں فریقین کو Delete کرنا مقصود ہے جن کو فریق مقدمہ بنانے کی ضرورت ہی نہ ہے۔

لہذا استدعا ہے کہ بذمہ ریپانڈنٹس مذکورہ بالا کو Delete کرنے کا حکم صادر فرمایا جائے۔

المرقوم: 17/06/2015

سیف الرحمن  
اپیلانٹ

BEFORE THE HONOURABLE SERVICE TRIBUNAL,

KPK PESHAWAR.

Appeal No. 1204/2014

Saif-ur-Rehman son of Mir Ahmad resident of Namli Maira,  
Tehsil and District Abbottabad presently posted as Forest  
Guard, Petrol Squad Upper Hazara Forest Division,  
Mansehra.....Appellant

VERSUS

1. Chief Minister, Khyber Pakhtun Khwa, Peshawar.
2. Government of Khyber Pakhtun Khwa through Secretary Forest, Peshawar.
3. Chief Conservator Region-I, Shami Road, Peshawar:
4. Chief Conservator of Forest, Northern Region-II, Hazara Division, Abbottabad.
5. Mr. Abdul Jameel, Chief Conservator of Forests Central Southern Forest Region, Khyber Pakhtun Khwa Peshawar/Chairman of the Committee.
6. Mr. Jannat Gul, Additional General Secretary, Irrigation Department Peshawar (Member of the Committee).....Respondents.

Respondent no. 1  
is deleted  
side order sheet  
sent dt 17/4/15

~~Wahid~~  
Wahid  
9/9/14

is submitted to  
and filed.

Wahid  
30/9/14

SERVICE APPEAL UNDER SECTION 4 OF  
THE K.P.K SERVICE TRIBUNAL ACT, 1974  
AGAINST THE NOTIFICATION BEARING  
NO.SO(ESTT) ENVT/1-50(43)2K12 VIDE  
ENDST NO. SO(ESTT)ENVT/1-50(43)2K10  
2133-2140 DATED 12.5.2014 PASSED BY  
RESPONDENT NO.1 VIDE WHICH THE  
APPELLANT WAS COMPULSORY  
RETIRED FROM THE SERVICE AND AN  
ORDER WAS ALSO PASSED BY  
RESPONDENT NO. 1 FOR RECOVERY