



25th July, 2023

1. Clerk to learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondent present.

2. Clerk to learned counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 15.11.2023 before D.B. P.P given to the parties.

SCANNED
K.P.S.T
Peshawar


(Fareeha Paul)
Member (Executive)



(Kalim Arshad Khan)
Chairman

Adnan Shah

14th Dec. 2022

Due to strike of the Bar and Mrs. Rozina Rehman, learned Member (J) being on leave, this matter is adjourned to 02.03.2023 before the D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member(E)

2nd Mar, 2023

None for the appellant present. Mr. Muhammad Jan, District Attorney for respondents present.

Notices be issued to the appellant and his counsel. To come up for arguments on 11/5/2023 before DB. PP given to the parties.

SCANNED
KPST
Peshawar
On 07/05/23

Counsel was informed telephonically for the date fixed (11/05/23)

Encl
Mohamir



(Rozina Rehman)
Member (Judicial)



(Kalim Arshad Khan)
Chairman

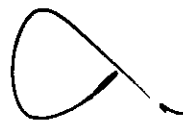
11th May, 2023

1. Nemo for appellant. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.

2. Counsel are on strike, therefore, the case is adjourned. Office is directed to notify the next date on the noticeboard as well as on the website. To come up for arguments on 25.07.2023 before D.B. P.P given to learned AAG.

SCANNED
KPST
Peshawar
Kaleem Ullah*


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

17th Oct., 2022

Junior to counsel for the appellant present. Mr. Muhammad Riaz Khan, Asstt. AG for the respondents present.

Request for adjournment was made due to engagement of learned counsel for the appellant in the Hon'ble Peshawar High Court today. Last opportunity is granted. To come up for arguments on 04.11.2022 before D.B.



(Fareeha Paul)
Member(E)


(Kalim Arshad Khan)
Chairman

4th Nov. 2022

Lawyers are on strike today.

To come up for arguments on 14.12.2022 before the D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.


(Fareeha Paul)
Member(E)

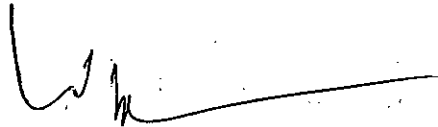

(Kalim Arshad Khan)
Chairman

20.12.2021

Nemo for the parties.

Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Both the parties be put on notice for 04.04.2022 for arguments before D.B.



(Atiq Ur Rehman Wazir)
Member (E)

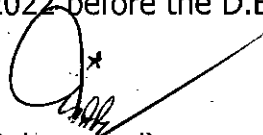


Chairman

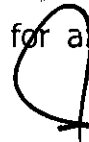
04.04.2022

Neither appellant nor his counsel is present. Clerk of counsel for the appellant present and seeks adjournment. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Former seeks adjournment due to engagement of learned senior counsel in Hon'ble High Court. Last opportunity is granted. To come up for arguments on 07.07.2022 before the D.B.



(Mian Muhammad)
Member(E)



Chairman

07.07.2022

Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 17.10.2022 before the D.B.



(Mian Muhammad)
Member (E)




(Salah-ud-Din)
Member (J)

08.03.2021

Counsel for the appellant and Assistant AG for the respondents present.

Former furnished rejoinder on behalf of appellant with regard to the parawise comments of respondents. Placed on file. Adjourned to 15.06.2021 for arguments before the D.B.

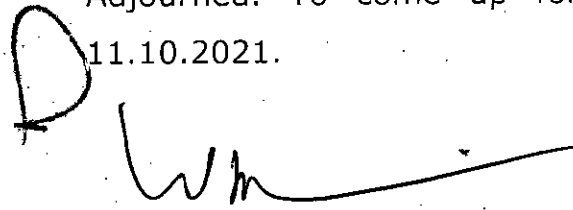

(Atiq-ur-Rehman Wazir)
Member(E)

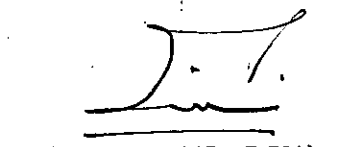

Chairman

15.06.2021

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General, for the respondents present.

Appellant sought adjournment on the ground that his counsel is not available today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B on 11.10.2021.

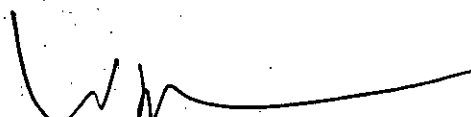

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

11.10.2021

Clerk to counsel for the appellant present. Mr. Riaz Khan Paindakheil, Assistant Advocate General for respondents present.


Learned Members of the DBA are observing Sogh over the demise of Dr. Abdul Qadeer Khan (Scientist) and in this regard request for adjournment was made; allowed. To come up for arguments on 20.12.2021 before D.B.


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


(Rozina Rehman)
Member (J)

10.12.2020 Counsel for the appellant and Zara Tajwar, DDA for the respondents present.

Requests for time to submit rejoinder to the reply of respondents. The record shows that the appellant was allowed atleast two opportunities for the purpose on previous dates. The proceedings are adjourned to 08.03.2021 for arguments on the appeal. The appellant may furnish rejoinder well before the next date of hearing.


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


Chairman

08.03.2021

^{Appell}
Counsel for the and Assistant A.G for the respondents present.

Former furnished rejoinder on behalf of appellant with regard to the parawise comments of respondents. Placed on file. ~~To come up for arguments on Former requests for adjournment as learned senior counsel for the appellant is attending his ailing father today.~~ Adjourned to 15.06.2021 for ~~hearing~~ before the D.B.

arguments

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

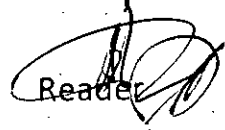
Chairman

Revised on Page

_____ .2020

Due to COVID19, the case is adjourned to

13/8/2020 for the same as before.


Reader

13.08.2020

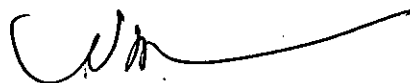
Due to summer vacations case to come up for the same on
16.10.2020 before D.B.



Reader

16.10.2020

Junior counsel for appellant present.. Mr.
Muhammad Jan learned Deputy District Attorney for
respondents present.

Former requests for adjournment as senior counsel
for appellant is busy before Hon'ble Peshawar High
Court. Adjourned. To come up for arguments on
10.12.2020 before D.B.


(Atiq-Ur-Rehman Wazir)
Member


(Muhammad Jamal Khan)
Member

04.02.2020

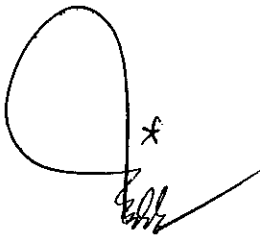
Clerk to counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Clerk to counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 19.03.2020 for rejoinder and arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

19.03.2020

None for the appellant present. Addl: AG for respondents present. Due to general strike on the call of Peshawar Bar Council, the case is adjourned. To come up for arguments on 21.05.2020 before D.B.


(MAIN MUHAMMAD)
MEMBER

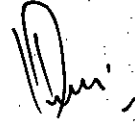

(M.AMIN KHAN KUNDI)
MEMBER

11.09.2019

Junior to counsel for the appellant and Addl. AG alongwith Wahdat Zeeshan, SDFO for the respondents present.

Representative of the respondents requests for further time. Adjourned to 07.10.2019 on which date the requisite reply/comments shall positively be submitted before S.B.

Chairman



07.10.2019

Mr. Mohsin Khan son of appellant and Addl. AG alongwith Rafiullah Jan, SDFO for the respondents present.

Parawise comments on behalf of respondents No. 1 to 4 have been submitted. Placed on record. To come up for arguments on 06.12.2019 before the D.B. The appellant may submit rejoinder, within a fortnight, if so advised.

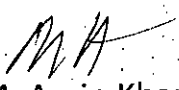
Chairman



06.12.2019

Due to general strike of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Wahdat Zeeshan, SDFO for the respondents present. Adjourned to 04.02.2020 for rejoinder and arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

30.05.2019

Counsel for the appellant present.

Contends that the appellant got retired from service on 07.09.2017, however, proceedings were taken against him under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 and the impugned order was passed on 16.01.2019. In the order the appellant was shown to have been awarded punishment of recovery of Rs. 37,61,125/-. The proceedings against the appellant after retirement were in violation of the law. The respondents should have proceeded against the appellant for recovery of Government money, if any, under the West Pakistan Pension Rules, 1963, that too, within a period of one year of retirement of civil servant.

Instant appeal is admitted for regular hearing in view of the available record and averments of learned counsel. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 23.07.2019 before S.B.

Appellant Deposited
Security & Process Fee

Chairman

23.07.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Wahdat Zeeshan SDFO for the respondents present.

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

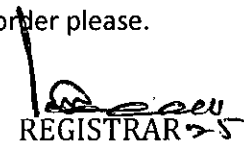

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 532/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/04/2019	<p>The appeal of Mr. Safeer Ullah Khan resubmitted today by Mr. Inayatullah Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 25/4/19</p>
2-	26/04/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/05/19</u></p> <p style="text-align: right;"> CHAIRMAN</p>


12

The appeal of Mr. Safeerullah Khan son of Malik Mirdad Khan Ex-Deputy Ranger Bannu Sub Division Forest Bannu received today i.e. on 23.04.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.


Copy of rejection order of departmental appeal dated 11.4.2019 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.

No. 807 /S.T,

Dt. 24-4- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Inayatullah Khan Adv. Pesh.

Resubmitted
25/04/2019.
bn


BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

Service Appeal No. 533/2019

Safeer Ullah Khan Appellant

Versus

Secretary to Govt. of K.P. Environmental Department
and others..... Respondents

I N D E X

S.No.	Description of documents.	Annexure	Pages.
1	Grounds of appeal.		1-9
2	Affidavit.		10
3	Addresses of the parties.		11
4	Copy of office order dated 16.10.2017 which indicates the retirement dated of appellant on 07.09.2017	A	12
5	Copy of statement of allegation	B	13-16
6	Copy of charge sheet	C	17-18
7	Copy of reply	D	9
8	Copies of letters along with inquiry report	E-E/3	20-27
9	Copy of letter dated 04.07.2018	F	28-29
10	Copy of inquiry report in respect of staff of Bannu Forest Division, Bannu	G	30-35
11	Copy of appeal along with judgment	H-I	36-41
12	Copy of departmental appeal along with application for extension of time and impugned order"	J-K	42-45
13	Wakalatnama.		46

Dated: 17.04.2019

Appellant

Safeerullah Khan

Ex-Deputy Ranger, Bannu
Sub Division, Forest Bannu

Through

Inayat Ullah Khan

Advocate High Court
LL. M (U.K)

&

Faheem Ullah Khan

Advocate High Court

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

Service Appeal No. _____/2019

Safeer Ullah Khan son of Malik Mir Dad Khan

Ex-Deputy Ranger, Bannu Sub Division, Forest Bannu

R/O Sero Bada Khel, Tehsil and District Bannu..... Appellant

Versus

- 1) Secretary to Govt. of Khyber Pakhtunkhwa, Environmental Department, Civil Secretariat, Peshawar.
- 2) Chief Conservator Southern Region-I, Peshawar.
- 3) Conservator of Forest Southern Circle, Peshawar.
- 4) Divisional Forest Officer, Bannu..... Respondents

Appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned office order No.56 dated 16.01.2019 received by the appellant on 21.01.2019, whereby the penalty of recovery of Rs.37,61,125/- (thirty seven lacs, sixty one thousand, one hundred and twenty five rupees) was imposed upon the appellant to be recovered from his pension through office order No.56 against which against which departmental appeal dated 22.03.2019 was preferred to respondent No.3, but the same could not be decided on merit being time barred consequently was filed in office vide order No.4640/E dated

11.04.2019, hence presents this service appeal before this Hon'ble Tribunal within stipulated period of 30 days, which is well within time.

Note:

That matters relating to pay and pensions and other emoluments is a recurring cause of action therefore no limitation runs against such like issues .

(Reported judgment PLD 1992 Supreme Court Page 825; 2002 PLC (CS) page 1388)

It is also settled law that litigants should not be non-suited on the basis of technicalities including limitation. Reported judgment PLD 2003 (SC) 724 (k).

Prayer:

On acceptance of this service appeal, impugned office order No.56 dated 16.01.2019 may kindly be set aside and the entire proceedings so far taken may be declared as coram-non-judice/ void ab-initio with further direction to the respondents to forthwith release the pension of the appellant as the pensionary benefits had been illegally, arbitrary withheld since the date of his retirement i.e. 07.09.2017.

Any other relief to whom the appellant is found entitled during course of hearing may also be granted.

Respectfully Sheweth;

Brief facts giving rise to the instant appeal are as under:-

- 1) That the appellant was appointed as Forester (BPS-09) in the year 1984, and thereafter was promoted to the post of Deputy Ranger Forest (BPS-12) in the year 2013 and was working against the post of Sub Divisional Forest Officer, Bannu at the time of his retirement on 07.09.2017. (Copy of office order dated 16.10.2017 which indicates the retirement dated of appellant on 07.09.2017 is Annex: "A" page 12).
- 2) That the appellant has 33 years, 02 months and 03 days service at his credit when he got retired on 07.09.2017 after attaining age of superannuation and prior to the instant case no show cause notice or complaint was ever served upon him during his long career of more than 33 years service.
- 3) That the appellant was served with the statement of allegation along with charge sheet dated Nil wherein it was alleged that the appellant while posted as:
 - a) The DFO Bannu as well as newly posted as SDFO Bannu during filed visit noticed more than 40% to 50% failure in 225 Ha Waligai Block plantation, 45Ha Adami-II block plant and 180 Ha Shagai Block plant; areas raised under Billion Tree Afforestation Project Phase-II.
 - b) An amount of Rs.1668000/- claimed on raising & maintenance of 45 Ha Block plant at Adami-II from 2/2017 to 6/2017 vide M/Roll Nos.430 444, 459, 524, 574 & 648/BU for 2016-17, but due to his improper maintenance less watering and lack of interest being

incharge of the plantation area resultantly failure was observed more than 50%.

c) An amount of Rs.7861600/- claimed on raising & maintenance of 185 Ha Block plant at shagai area from 11/2016 to 6/2017 vide M/Roll Nos. 238, 239, 240, 241, 242, 243, 290, 291, 292, 293, 360, 423, 489, 532, 584, 603 and 635/BU, but due to his improper maintenance, less watering and lack of interest being incharge of the plantation area, resultantly failure was observed more than 50%.

d) An amount of Rs.12344000/- claimed on raising & maintenance of 225 Ha Block plant at Waligai area from 12/2015 to 6/2017 vide M/Roll Nos.158,194, 237, 285, 302,286,340,341,342,392,422,423/2015-16, 26, 58, 59, 60, 82, 112, 113, 114, 192, 193, 258, 259, 312, 313,380,381,427,460,526,571 & 645/ BU for 2016-17 but due to his improper maintenance, less watering and lack of interest being incharge of the plantation area, resultantly failure was observed more than 40%.

(Copy of statement of allegation is Annex: "B" page No. 13-16)

The appellant was charged vide charge sheet dated Nil for improper maintenance, less watering, lack of interest being incharge of plantation area, plantation was failed more than 40% to 50%, hence defence reply was invited against the above referred charges.

(Copy of charge sheet is Annex: "C" page 17-18).

4) That the appellant has given detailed reply to the charge sheet and statement of allegation as referred to in para-3 by refuting the baseless allegations.

(Copy of reply is Annex: "D" page 19).

- 5) That inquiry was conducted through inquiry officer Abid Mumtaz, Divisional Forest Officer, who vide letter No.0350/G dated 11.05.2018, submitted his inquiry report in respect of the appellant and others, and also vide letter No.8982/G dated 11.06.2018 submitted an inquiry report against him.

(Copies of letters along with inquiry report are Annex: "E to E/3" pages 20-27).

- 6) That vide letter No.26/E dated 04.07.2018 respondent No.3 conveyed concerns of the Minister to Govt. of Forest Khyber Pakhtunkhwa to Divisional Forest Officer Bannu Forest Division Bannu to look into the matter again with the direction to conduct denovo inquiry in the matter.

(Copy of letter dated 04.07.2018 is Annex: "F")

- 7) That Muhammad Shakeel, Divisional Forest Officer, Kohat instead of conducting a denovo inquiry endorsed the earlier inquiry reports as mentioned in para-5 conducted by DFO D.I.Khan Forest Division may be implemented.

(Copy of inquiry report in respect of staff of Bannu Forest Division, Bannu is Annex: "G"). 30-35

- 8) That earlier the appellant preferred service appeal No.613/2018 before the Provincial Services Tribunal with the prayer to direct the respondents to pay him pension and other fringed benefits as admissible to him with the prayer to declare inquiry proceedings null and void.

(Copy of appeal along with judgment are Annex: "H and I" pages 36-41).

- 9) That the appellant preferred his departmental appeal dated 22.03.2019 along with an application for extension of time against the impugned office order No.56 dated 16.01.2019

before the appellate authority i.e. the Conservator Forest, but the same was filed in office being time barred vide order dated 11.04.2019. (Copy of departmental appeal along with application for extension of time and impugned order are attached as Annex: "J and K" pages 42-45)

- 10) That the appellant feeling aggrieved against the impugned office order No.56 dated 16.01.2019, constrained to file the instant service appeal for setting aside the impugned order on the following amongst other grounds:

GROUND FOR APPEAL:

- a) That the impugned office order No.56 dated 16.01.2019 is against the law, facts and material available on record, hence not tenable in the eyes of law, which is violative of Article 4 of the Constitution of Islamic Republic of Pakistan.

"All citizens shall be treated in accordance with law".

- b) That no regular proper inquiry was conducted and the appellant was condemned on the basis of summary proceedings without issuing statement of allegation, charge sheet, show cause notice nor he was associated with the denovo inquiry which was held at the back of the appellant, which is violative of the mandatory provisions of E&D Rules, 2011, Article 10-A of the Constitution of Pakistan and principles of natural justice, which are part and parcel of all judicial and quasi judicial proceedings, hence the impugned order is liable to set at naught alone on this ground.
- c) That the appellant got retired from his service on 07.09.2017 on attaining his age of superannuation after rendering 33 years, 02 months and 03 days service as Deputy Ranger (BPS-12) while the denovo inquiry

proceedings, were culminated/ concluded vide impugned order dated 16.01.2019, hence no disciplinary proceedings whatsoever can be initiated after retirement of a civil servant and that too when the impugned office order No.56 dated 19.01.2019 was passed after 19 months of the retirement of the appellant.

It is settled law of the land that no disciplinary proceedings after retirement can be conducted against a civil servant for imposition of major or minor penalty as contemplated by the rules. Reported case law on the subject **PLD 1973 (SC) 514, 2005 PLC (CS) 224, 2005 PLC (CS) 538, 2004 PLC (CS) 771.**

It is also held by the superior courts of Pakistan that Civil Servant after his retirement would cease to be a civil servant for the purpose of Punjab Civil Servants E&D Rules, and was not amenable to disciplinary proceedings after his retirement. Such civil servant can only be proceeded in terms of rule 1.8 of the Pension Rules, **1963 -----, 1994 SCMR 1101 -----, 1994 SCMR 2142 -----, 2005 PLC 833 -----, 1993 PLC (CS) 832 -----, 1993 PLC 956 ----- and 2001 PLC (CS) 661-----.**

It is pertinent to mention that respondents failed to conduct any proceedings under the relevant statutory rules i.e. pensionary service rules, 1963.

- d) That the impugned order is also violative of section 24-A of General Clauses Act as the competent authority and appellate authority failed to pass a speaking order with reasons viz-a-viz the allegations without holding a regular inquiry.
- e) That even no final show cause notice was served upto the appellant nor any opportunity of personal hearing was

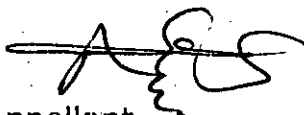
afforded to him before imposition of the penalty of recovery of Rs.37,61,125/- (thirty seven lacs, sixty one thousand, one hundred and twenty five rupees), which factum is against all the canons of justice, fair play and equity. Equity demands that sufficient opportunity of providing defence should have been provided by conducting a regular inquiry, which mandatory exercise has not been carried out, therefore, the impugned order is bereft of any legal sanctity, which can be termed as void ab-initio.

- f) That the allegations as contained in the impugned order are vehemently denied by the appellant by categorically stating that no negligence or any laxity/ carelessness/ slackness/ sloppiness was committed by him in maintenance and plantation trees.
- g) That the malafide of the impugned order can be reflected from the fact that it was categorically decided in a judgment of this Hon'ble Tribunal in case of the appellant that the pension of the appellant cannot be withheld, hence the impugned order to the effect to withhold the pensionary benefits was set aside and even then the impugned office order No.56 dated 16.01.2019 was issued at a belated stage, which is not tenable in the eyes of law as no disciplinary proceedings could be initiated after retirement under E&D Rules, while at the same time the respondents miserably failed to undertake any action under the Pensionary Rules, 1963, hence the entire exercise undertaken by the respondents to recover the amount as mentioned in the heading of this appeal is void ab-initio **when the law requires a particular act to be done in a particular manner, it had to be done in that manner otherwise the same is void ab-initio.**

- h) That additional grounds will be raised at the bar with kind permission of this Hon'ble Tribunal.

Keeping in view, what has been stated above, it is, therefore, humbly requested that the impugned office order No.56 dated 16.01.2019 may kindly be set aside and the entire proceedings so far taken may be declared as coram-non-judice/ void ab-initio with further direction to the respondents to forthwith release the pension of the appellant as the pensionary benefits had been illegally, arbitrary withheld since the date of his retirement i.e. 07.09.2017.

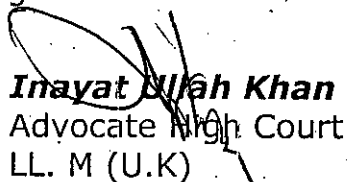
Any other relief, which has not been specifically asked for and to whom the appellant is found entitled may also be granted.



Appellant
Saferullah Khan
Ex-Deputy Ranger, Bannu
Sub Division, Forest Bannu

Dated: 17.04.2019

Through



Inayat Ullah Khan
Advocate High Court
LL. M (U.K)

&




Faheem Ullah Khan
Advocate High Court

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

Service Appeal No. _____/2019

Safeer Ullah Khan Appellant**Versus**Secretary to Govt. of K.P. Environmental Department
and others..... Respondents**AFFIDAVIT**

I, **Safeer Ullah Khan** son of Malik Mir Dad Khan Ex-Deputy Ranger, Bannu Sub Division, Forest Bannu R/O Sero Bada Khel, Tehsil and District Bannu do hereby affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



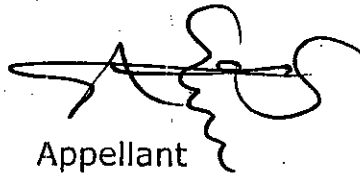
Deponent

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

Service Appeal No. _____/2019

Safeer Ullah Khan Appellant**Versus**Secretary to Govt. of K.P. Environmental Department
and others..... RespondentsADDRESSES OF THE PARTIESAPPELLANT:**Safeer Ullah Khan** son of Malik Mir Dad Khan
Ex-Deputy Ranger, Bannu Sub Division, Forest Bannu
R/O Sero Bada Khel, Tehsil and District BannuRESPONDENTS:

- 1) Secretary to Govt. of Khyber Pakhtunkhwa, Environmental Department, Civil Secretariat, Peshawar.
- 2) Chief Conservator Southern Region-I, Peshawar.
- 3) Conservator of Forest Southern Circle, Peshawar.
- 4) Divisional Forest Officer, Bannu



Appellant

Through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Dated: 17.04.2019

OFFICE ORDER NO. 07 DATED THE BANNU 16/10/2017, ISSUED BY SYED LATEEF HUSSAIN DIVISIONAL FOREST OFFICER BANNU FOREST DIVISION BANNU.

On attaining the age of Sixty (60) years on 07/9/2017(After noon), Mr. Safirullah Deputy Ranger of this office is hereby allowed to retire from Government service and to proceed on superannuation pension with effect from 07/9/2017(After noon).

The service record of the official is as under:-

1-	Name	Mr. Safirullah
2-	Father's Name	Mirdad Khan
3-	Rank	Deputy Ranger (BPS-12)
4-	District.	Bannu
5-	Date of Birth.	08/9/1957
6-	Date of 1 st entry in service.	04/7/1984
7-	Date of retirement.	07/9/2017
8-	Total length of Service.	33years, 2months and 03days.
9-	Basic Pay on 7-9-2017	39240/-

In accordance with the instructions contained under Government of Khyber Pakhtunkhawa Finance Department (Regulation Wing) Notification No. SO (FR) FD.5-9/2005/Vol-V dated 13/12/2012, received vide Conservator of Forests Southern Circle Peshawar endst: No.5886-90/E-18 dated 7/3/2013, sanction is hereby accorded in favour of Mr. Safirullah Deputy Ranger proceeded on superannuation pension w.e. from 07/9/2017 for the grant of leave encashment equal to 365 days pay in lieu of Leave Preparatory to Retirement, viz **Rs.470880/-** (Rupees Four hundred seventy thousand, Eight hundred & Eighty, only), in favour of the above named Deputy Ranger as encashment allowance.

Note: - Pension paper etc will be processed after finalization of disciplinary proceeding against the Ex- Deputy Ranger.

(Syed Lateef Hussain)
Divisional Forest Officer
Bannu Forest Division

No. _____/G

Copy forwarded to:

- 1- The Conservator of Forests Southern Circle Peshawar for favour of information with reference to his office letter 2568/E dated 9-10-2017, please.
- 2- Sub-Divisional Forest Officer Bannu, for favour of information please.
- 3- Mr. Safirullah Ex- Deputy Ranger for information with reference to his application 18-9-2017
- 4- Head Clerk /Accountant Divisional Office, Bannu.
- 5- Record Keeper.
- 6- Personal File.


Divisional Forest Officer
Bannu Forest Division.

1. Syed Lateef Hussain DFO Bannu as Competent Authority, and the accused Safirullah Ex- Deputy Ranger Incharge Bannu Forest Sub Division rendered himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011.

Ank
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STATEMENT OF ALLEGATIONS

- a. The DFO Bannu as well as newly posted as SDFO Bannu during field visit noticed more than 40% to 50% failure in 225 Ha. Waligai Block plantation, 45Ha Adami-II Block plant: and 180 Ha Shagai Block plant: areas raised under Billion Tree Afforestation Project Phase-II.
 - b. An amount of Rs. 1668000/- claimed on raising & maintenance of 45 Ha Block plant: at Adami-II from 2/2017 to 6/2017 vide M/Roll Nos. 430, 444, 459, 524, 574, & 648/BU for 2016-17, but due to his improper maintenance, less watering and lack of interest being incharge of the plantation area, resultantly failure was observed more than 50%.
 - c. An amount of Rs. 7861600/- claimed on raising & maintenance of 185 Ha Block plant: at Shagai area from 11/2016 to 6/2017 vide M/Roll Nos. 238, 239, 240, 241, 242, 243, 290, 291, 292, 293, 360, 423, 495, 512, 584, 600, and 635/BU, but due to his improper maintenance, less watering and lack of interest being incharge of the plantation area, resultantly failure was observed more than 50%.
 - d. An amount of Rs. 12344000/- claimed on raising & maintenance of 225 Ha Block plant: at Waligai area from 12/2015 to 6/2017 vide M/Roll Nos. 158, 194, 237, 285, 302, 286, 340, 341, 342, 392, 422, 423/2015-16, 26, 58, 59, 60, 82, 112, 113, 114, 192, 193, 258, 259, 312, 313, 380,, 381, 427, 460, 526, 571 & 645/BU for 2016-17 but due to his improper maintenance, less watering and lack of interest being incharge of the plantation area, resultantly failure was observed more than 40%.
2. For the purpose of inquiry against the said accused with reference to the above-mentioned allegations, Mr. Abid Mumtaz DFO D.I. Khan is hereby appointed as enquiry officer under rule 10(1) (a) of the ibid rules:

DISCIPLINARY ACTION

i, Syed Lateef Hussain DFO Bannu as Competent Authority, am of the opinion that Safirullah Ex-Deputy Ranger Incharge Bannu Forest Sub Division rendered himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Service (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- a. The DFO Bannu as well as newly posted as SDFO Bannu during field visit noticed more than 40% to 50% failure in 225 Ha Waligai Block plantation 45Ha Adami-II Block plant and 180 HA Shagai Block plant: areas raised under Billion Tree Afforestation Project Phase-II.
 - b. An amount of Rs. 1668000/- claimed on raising & maintenance of 45 HA Block plant: Adami-II from 2/2017 to 6/2017 vide M/Roll Nos. 430 444, 459, 524, 574 & 648/BU for 2016-17, but due to his improper maintenance less watering and lack of interest being incharge of the plantation area, resultantly failure was observed more than 50%.
 - c. An amount of Rs. 7861600/- claimed on raising & maintenance of 185 HA Block plant: at Shagai area from 11/2016 to 6/2017 vide M/Roll Nos. 238, 239, 240, 241, 242, 243, 290, 291, 292, 293, 360, 423, 489, 532, 564, 603 and 635/BU, but due to his improper maintenance, less watering and lack of interest being incharge of the plantation area, resultantly failure was observed more than 50%.
 - d. An amount of Rs. 12344000/- claimed on raising & maintenance of 225 Ha Block plant: at Waligai area from 12/2015 to 6/2017 vide M/Roll Nos.158, 194, 237, 285, 302, 286, 340, 341, 342, 392, 422, 423/2015-16, 26, 58, 59, 60, 82, 112, 113, 114, 192, 193, 253, 259, 312, 313, 380, 381, 427, 460, 526, 571 & 645/BU for 2016-17 but due to his improper maintenance, less watering and lack of interest being incharge of the plantation area, resultantly failure was observed more than 40%.
2. For the purpose of inquiry against the said accused with reference to the above-mentioned allegations, Mr. Abid Mumtaz DFO D.I. Khan is hereby appointed as enquiry officer under rule 10(1) (a) of the ibid rules:

3. The Inquiry Officer shall accord
provide reasonable opportunity of hearing to the accused regarding
within fifteen days (15) days of the receipt of this order, recommendations
punishment or other appropriate action against the accused.

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

[Signature]
Divisional Forest Officer
Bannu Forest Division
(COMPETENT AUTHORITY)

15

3. The Inquiry Officer shall accordance with the law/rules of the land should provide reasonable opportunity of hearing to the accused, record its finding and initiate within fifteen days (15) 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 Officer.

Sd/-

Divisional Forest Officer
Bannu Forest Division
(COMPETENT AUTHORITY)

I, Syed Lateef Hussain DFO Bannu as Competent Authority, hereby charge sheet you Mr. Safirullah Ex- Deputy Ranger Incharge Bannu Forest Sub Division that you have committed the following irregularities while holding the charge of Bannu Forest Sub Division of Bannu Forest Division, 60 Ha at Sadda Kheh Jazeera (water logged plantation), 225 Ha Waligai Block plantation, 45Ha Adami-II Block plant: and 180 Ha Shagai Block plant: areas raised under Billion Tree Afforestation Project where more than 40% to 50% failure have been reported by newly posted SDFO Bannu vide his letter No. 01-3/SDFO-B dated 24-7-2017.

Ank
"C"
17

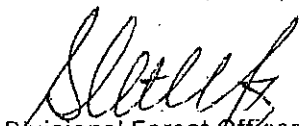
1. Improper maintenance
2. Less watering
3. Lack of interest being incharge of the plantation area
4. Plantation was failed more than 40% to 50%

By reasons of the above, you appear to be guilty of (i) IN-EFFICIENCY and (ii) MISCONDUCT under Rule 3 of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011 and have rendered yourself liable to all or any of the penalties specified in Rules 4 of the rules *ibid*.

You are therefore, required to submit your written defence within seven (7) days of the receipt of this charge sheet to the inquiry officer.

Your written defence if any should reach to the inquiry officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you. Intimate whether you desired to be heard in person.

A statement of allegations is enclosed herewith.


Divisional Forest Officer
Bannu Forest Division
(COMPETENT AUTHORITY)

CHARGE SHEET

I Syed Lateef Hussain DFO Bannu as Competent Authority, hereby charge sheet you Mr. Safirullah Ex- Deputy Ranger Incharge Bannu Forest Sub Division that you have committed the following irregularities while holding the charge of Bannu Forest Sub Division of Bannu Forest Division, 60 Ha at Sadda Khel Jazeera (water logged plantation 225 Ha Waligai Block plantation, 45Ha Adami-II Block plant: and 180 Ha Shagai Block plant: areas raised under Billion Trees Afforestation Project where more than 40% to 50% failure have been reported by newly posted SDFO Bannu vide his letter No.01-3/SDFO-B dated 24-7-2017.

1. Improper maintenance
2. Less watering
3. Lack of interest being incharge of the plantation area
4. Plantation was failed more than 40% to 50%

By reasons of the above, you appear to be guilty of (i) **IN-EFFICIENCY** and (ii) **MISCONDUCT** under Rule 3 of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011 and have rendered yourself liable to all or any of the penalties specified in Rules 4 of the rules ibid.

You are therefore, required to submit your written defence within seven (07) days of the receipt of this charge sheet to the inquiry officer.

Your written defence if any should reach to the inquiry officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you. Intimate whether you desired to be heard in person.

A statement of allegations is enclosed herewith.

Sd/-
Divisional Forest Officer
Bannu Forest Division
(COMPETENT AUTHORITY)

Anx 19
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19

To
The Divisional Forest Officer
D.I. Khan Forest Division

Subject **ENQUIRY CHARGE SHEET THEREOF**

R/Sir,

Reference your good office letter No. 6903/G dated 22-6-2017.


My submission in connection with charge sheet received with your office letter under reference is furnished as under:-



The survival % age of the plantation was more than 70% upto the end of 31 March 2017, but unfortunately some failure i.e. about 30% was occurred instead of 50%, 80 & 75% in Dandi, Plantation, Sadda Khel (Jazeera Water Logged and Sadda Khel-II Block plantation due to the following reason :-

- i- Sever temperature i.e upto 47 in the 1st week of April 2017 which also reported in various daily news papers in that days.
- ii- Dandi, Sadda Khel-II area is part of most dry zone of Bannu District where the water table is deep about 200 to 250 feet.
- iii- Scarcity of water, thus the water arranged for watering on payment from private tube wells.
- iv- Least interest of labour due to nonpayment of their daily wages from February to April 2017 i.e for last three months.
- v- As explained in Para-1 above that the failure was not more as 30% which was accordingly restocked/recouped without incurring extra amount what so ever else which can be verified.
- vi- I have never left a stone unturned in the discharging of my duties neither I thought for negligence and misconduct.

Keeping view the above clarification, it is therefore requested that my explanation may be considered as satisfactory and charge sheet may be kindly filed, please.

Dated 03-8-2017


Safirullah
Deputy Ranger
BANNU FOREST DIVISION

	Abid Muntaz Divisional Forest Officer D.I.Khan Forest Division	Bungalow # 20 - Allama Iqbal road D.I.Khan Cantt. Phone # 0966-9280181 Fax # 0966-9280481	
	No. <u>8250/19</u>	Dated D.I.Khan the <u>11</u> May 2018	

To

The Divisional Forest Officer,
Bannu Forest Division, Bannu

SUBJECT: INITIATION OF INQUIRY AGAINST THE STAFF OF BANNU FOREST DIVISION / INQUIRY REPORT THEREOF

Reference: Your office order letter No. 1697/G dated 09/04/2018

The failure and total short fall has clearly been reflected in the inquiry report which is again reproduced as under:

S. #	Name of area	Area charged (Ha)	Area measured through GPS (Ha)	Excess area (Ha)	Shortfall	Survival / failure %age
1.	Adami II plantation	45 (10 x 5)	54.04	9.04	--	82% of area is 60% failed <i>survived</i> and 18% of area is totally failed
2.	Shagai plantation	180	77.55	--	102.45	Part-I (5x5) = 26.68 ha 20-30% success
						Part-II (5x5) = 4.95 ha 20-30% success
						Part-III (5x5) = 23.24 ha 40-50% success
						Part-IV (10x5) = 10.30 ha 25-35% success
						Part-V (5x5) = 12.52 ha 75-80% success
3.	Waligai	225	234.68	9.68	--	110.75 ha = 70-80% success
						123.93 ha = 5% success

Further being custodian of record and competent authority in the case, it is requested to calculate the amount / expenditure incurred on raising and maintenance of plantation and distribute the losses sustained to the public exchequers as per designation wise responsibility.

The inquiry report along with connected documents received with your letter noted above containing from page No. 1 to 64 is returned herewith for information and further necessary action.

Acknowledge the receipt


 DIVISIONAL FOREST OFFICER
 D.I.KHAN FOREST DIVISION
 D.I.KHAN

No.

/G,

Copy forwarded to the Conservator of Forests Southern Circle Peshawar for favour of information and necessary action with reference to the DFO, Bannu endorsement letter No. 1698/G dated 09/04/2018; please.

DIVISIONAL FOREST OFFICER
 D.I.KHAN FOREST DIVISION
 D.I.KHAN

Annex "E" 1

21

ENQUIRY REPORT IN RESPECT OF M/S SAFEERULLAH DEPUTY RANGER I/C SDFO BANNU, AKBAR NIAZ FORESTER, ISMAIL KHAN FOREST GUARD, SHER ALAM FOREST GUARD AND YOUSAF KHAN FOREST GUARD OF BANNU FOREST DIVISION

Read with

1. Divisional Forest Officer, Bannu Forest Division office order No. 08 dated 25/10/2017 circulated vide endorsement letter No. 557-60/G of even date.
2. Divisional Forest Officer, D.I.Khan office letter No. 3193-95/G dated 01/11/2017, No. 3196-98/G dated 01/11/2017, No. 3199-3201/G dated 01/11/2017 No. 3202-3204/G dated 01/11/2017 and No. 3205-07/G dated 01/11/2017.
3. Reply dated 17/11/2017 furnished by Mr. Saleerullah Deputy Ranger (Retired) the then incharge SDFO, Bannu
4. Reply dated 13/11/2017 furnished by Mr. Akbar Niaz Forester I/C Shagai Block Plantation.
5. Reply dated 17/11/2017 furnished by Mr. Sher Alam Forest Guard I/C Waligai Block Plantation
6. Reply dated 14/11/2017 furnished by Mr. Yousaf Khan Forest Guard I/C Adami Block Plantation
7. Mr. Muhammad Ismail Forest Guard I/C Shagai has not yet submitted reply to the Charge Sheet and statement of allegation

Discussion

The Divisional Forest Officers, Bannu Forest Division in the company of newly posted SDFO, Bannu during field visit to various plantation areas noticed failure in the plantation raised under Billion Trees Afforestation Project due to improper maintenance, less watering and lack of interest by the then SDFO Bannu, incharge Forester and Forest Guards of the plantation areas. The area wise observations of the aforementioned officers were as under:

S. #	Name of area	Total area claimed (Ha)	Failure noticed by the officers	Muster Roll Nos. under which the expenditures were incurred	Total amount incurred (Rs.)	Name of officer / official posted at plantation sites
1.	Adami - II Block Plantation	45	50%	No. 430, 444, 459, 524, 574 & 648/BU from February 2016 to June 2016.	1668000	Safirullah Dy. Ranger I/C SDFO, Bannu Yousaf Khan Forest guard
2.	Shagai Block plantation	185	50%	No. 238, 239, 240, 241, 242, 243, 290, 291, 292, 293, 360, 423, 489, 532, 584, 603 & 635/BU	7881600	Safirullah Dy. Ranger I/C SDFO, Bannu Akbar Niaz Forester Ismail Khan Forest Guard
3.	Waligai Block plantation	225	40%	No. 158, 194, 237, 285, 302, 286, 340, 341, 342, 392, 422, 423 / 2015-16 and No. 26, 58, 59, 60, 82, 112, 113, 114, 192, 193, 258, 259, 312, 313, 80, 381, 427, 460, 526, 571 & 645 / 2016-17	12344000	Safirullah Dy. Ranger I/C SDFO, Bannu Mr. Sher Alam Forest Guard

In order to properly enquire in to the matter and knowing the ground realities and fixing responsibilities; the undersigned was appointed as enquiry officer vide DFO, Bannu office order No. 08 dated 25/10/2017. The charge sheet and statement of allegations were framed against the accused officials by the Divisional

Forest Officer, Bannu Forest Division which were accordingly served upon the accused officials vide DFO, D.I.Khan Forest Division (Enquiry Officer) letter noted against each as per detail given under;

22

S. #	Name and Rank of accused officer / official	Letter No. & date through which the charge sheet & statement of allegation served
1.	Sajirullah Deputy Ranger I/C SDFO Bannu Forest Sub Division	letter No. 3193-95/G dated 01/11/2017,
2.	Akbar Niaz Forest Guard incharge Shagai Block plantation	No. 3196-98/G dated 01/11/2017,
3.	Mr. Ismail Khan Forest Guard I/C Shagai Block plantation	No. 3199-3201/G dated 01/11/2017
4.	Mr. Sher Alam Forest Guard I/C Waligai Block plantation	No. 3202-3204/G dated 01/11/2017
5.	Mr. Yousaf Khan Forest Guard I/C Adami - II Block plantation	No. 3205-07/G dated 01/11/2017.

The accused officials submitted reply to the charge sheet and statement of allegations and defended the charges / allegation framed against them.

Proceedings

The undersigned in the capacity of Enquiry officer examined replies furnished by the accused officials and also crossed questioned but they failed to quote the cogent reasons & shifted all the responsibilities of failure of plantation on harsh weather condition and termite attack etc. Plantation sites were inspected on 27/07/2018 accompanied with the DFO, Bannu, SDFO Bannu and accused officials and found that condition of plantations were very poor. The accused officials were asked on spot to beat-up the failure within least possible time.

From 08/03/2018 to 16/03/2018 the Monitoring Officer, Billion Trees Afforestation Project South Region checked the plantations and found that no improvements in the area were made. Personal hearing was conducted and checked all the relevant record in the office of DFO, Bannu Forest Division.

The observations during the inspection by the Monitoring Officer and on request intimated the results of sites to the undersigned which are elaborated as under;

S. #	Name of area	Area charged (Ha)	Area measured through GPS (Ha)	Excess area (Ha)	Shortfall	Survival %age
1.	Adami - II plantation	45 (10 x 5)	54.04	9.04	--	82% of area is 60% failed <i>Survived and</i> 18% of area is totally failed
2.	Shagai plantation	180	77.55	--	102.45	Part-I (5x5) = 26.68 ha 20-30%
						Part-II (5x5) = 4.95 ha 20-30%
						Part-III (5x5) = 23.24 ha 40-50%
						Part-IV (10x5) = 10.30 ha 25-35%
						Part-V (5x5) = 12.52 ha 75-80%
3.	Waligai	225	234.68	9.68	--	110.75 ha = 70-80%
						123.93 ha = 5%

Findings

Keeping in view the above discussion and ground reality and consultation of record and personal hearing and crossed examination / questions of the accused officials, the undersigned reached to the conclusion that charges leveled against the accused officials have been proved beyond any doubt and the plantation

tabulated above raised under Billion Trees Afforestation Project were failed due to negligence, inefficiency, improper maintenance, less watering and lack of interest by the SDFO, Forester and Forest Guards incharge of the plantation area.



Recommendations:

The undersigned recommend that the charges of inefficiency, misconduct and corruption have been proved against the accused officials, therefore, the undersigned propose / recommend the following punishment to be imposed upon the accused officials:

1. Mr. Saferullah Deputy Ranger in the capacity of I/O SDFO Bannu Forest Sub-Division was responsible for the damage done as he was supervising all the plantations carried out in Bannu Forest Sub-Division from 16/05/2016 to 30/06/2017. As he has been retired from service therefore, all the expenditure incurred on all the three (3) plantations, failed portions on account of initial plantation and their subsequent maintenance may be calculated and recovered from the pension / gratuity of Mr. Saferullah Deputy Ranger (Retired) then incharge SDFO Bannu.
2. The remaining staff i.e. foresters and forest guards are fully responsible for the damage / failure of the plantations therefore it is recommended that besides recovery of expenditures incurred on the raising and subsequent maintenance of failed and shortfall areas according to their posting, the major penalty as defined in the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 may be imposed upon all the accused official i.e. incharge foresters and forest guards.



DIVISIONAL FOREST OFFICER
ENQUIRY OFFICER

	<p><i>Abid Muntaz</i> Divisional Forest Officer D.I. Khan Forest Division</p>	<p>Bungalow # 20 - Allama Iqbal road D.I. Khan Cantt. Phone # 0966-9280181 Fax # 0966-9280481</p>	<p>Ank "E" 2 </p>
No. <u>8982/G</u>		Dated D.I. Khan the <u>11/06/2018</u>	

(24)

To
 The Divisional Forest Officer,
 Bannu Forest Division, Bannu

SUBJECT: INITIATION OF INQUIRY AGAINST THE STAFF OF BANNU FOREST DIVISION / INQUIRY REPORT THEREOF

Reference. Your office order No. 57 dated 25/05/2017 vide endorsement letter No. 2825-29/G of even date & office order No. 61 dated 15/06/2017 vide endorsement letter No. 3021-24/G of even date

Enclosed please inquiry report initiated against the following staff of Bannu Forest Division along with connected documents containing file from page No. 1 to ~~58~~ 48 for information and further necessary action;

1. Mr. Saferullah Deputy Ranger (Retired) the then incharge SDFO, Bannu
2. Mr. Muhammad Ismail Forest Guard I/C Shagai
3. Mr. Sher Alam Forest Guard I/C Block Officer/I/C Dandi Plantation.
4. Mr. Yousaf Khan Forest Guard I/C Dandi Plantation

Acknowledge the receipt

DIVISIONAL FOREST OFFICER
 D.I.KHAN FOREST DIVISION
 D.I.KHAN

No. /G,
 Copy forwarded to the Conservator of Forests Southern Circle Peshawar for favour of information and necessary action.

DIVISIONAL FOREST OFFICER
 D.I.KHAN FOREST DIVISION
 D.I.KHAN

Anx "E" 3
25

ENQUIRY REPORT IN RESPECT OF M/S SAFEERULLAH DEPUTY RANGER I/C SDFO BANNU, AND ISMAIL KHAN FOREST GUARD OF BANNU FOREST DIVISION

Read with

1. Divisional Forest Officer, Bannu Forest Division office order No. 57 dated 25/05/2017 circulated vide endorsement letter No. 2825-29/G of even date.
2. Divisional Forest Officer, Bannu Forest Division office order No. 61 dated 15/06/2017 circulated vide endorsement letter No. 3024-24/G of even date.
3. Divisional Forest Officer, D.I.Khan office letter No. 6903/G dated 22/06/2017.
4. Divisional Forest Officer D.I.Khan Forest Division letter No. 6883/G dated 21/06/017.
5. Reply dated 03/08/2017 furnished by Mr. Safeerullah Deputy Ranger (Retired) the then incharge SDFO, Bannu.
6. Reply of Sher Alam & Yousaf Khan Forest Guard I/C Dandai plantation.
7. Reply of Mr. Muhammad Ismail Forest Guard I/C Sadda Khel Block Plantation.

Discussion

The Divisional Forest Officers, Bannu Forest Division during filed visit to Dandai Block plantation, Sadda Khel – Jazeera water logged plantation and Sadda Khel – II Block plantation raised under Billion Trees Afforestation Project and noticed that plantations were failed up to 50%, 80% and 75 % respectively due to Improper maintenance, less watering and lack of interest by the SDFO Bannu, and incharge Forest Guard of the plantation area. The observations of the aforementioned officers were as under;

S. #	Name of area	Total area claimed (Ha)	Failure noticed by the officers	Muster Roll Nos.	Total amount incurred (Rs.)	Name of officer / official posted at plantation sites
1.	Dandi Block Plantation	35	50%	No. 115, 194, 260, 314, 382, 429 & 461/BU for the month from September 2016 to March 2017	1485500/-	Safirullah Dy. Ranger I/C SDFO, Bannu
2.	Sadda Khel Jazeera waterlogged plantation	60	80%	No. 356, 357, 421, 447, & 492/BU for the month of January 2017 to March 2017	1456500/-	Safirullah Dy. Ranger I/C SDFO, Bannu
3.	Sadda Khel – II Block plantation	221	75%	No. 350, 401, 432/2015-16 No. 20, 78, 79, 80, 86, 89, 90, 91, 92, 167, 168, 169, 170, 171, 235, 236, 248, 324, 395, 372, 385, 386, 425, 428, 491, 499, 502, 528, 530, 578 & 580/ for the month from April 2016 to May 2017	10186000/-	Safirullah Dy. Ranger I/C SDFO, and Ismail Khan Forest guard Bannu

In order to proper enquire in to the matter and knowing the ground realities and fixing responsibilities, the undersigned was appointed as enquiry officer vide DFO, Bannu office order No. 57 dated 25/05/2017 and office order No. 61 dated 15/06/2017. The charge sheet and statement of allegations were framed against the accused officials by the Divisional Forest Officer, Bannu Forest Division and was accordingly served upon the accused vide DFO, D.I.Khan Forest Division (Enquiry Officer) letter No. 6883/G dated 21/06/2017 and No. 6903-10/G dated 22/06/2017.

Mr. Saferullah Deputy Ranger I/C SDFO, Bannu and other accused officials namely Sher Alam, Yousaf Khan and Ismail Khan Forest Guards submitted their replies to the charge sheets and statement of allegations and defended the charges / allegation framed against them but their replies.

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Proceedings

The undersigned in the capacity of Enquiry officer examined replies furnished by the accused officials and also crossed questioned but they failed to quote the cogent reasons & shifted all the responsibilities of failure of plantation on harsh weather condition and termite attack etc. Plantation sites were inspected on 27/07/2017 accompanied with the DFO, Bannu, SDFO Bannu and accused official and found that condition of plantations were very poor. The accused officials were asked on spot to beat-up the failure within least possible time. Again on 15/03/2018 and 16/03/2018 the plantation sites were inspected accompanied with the DFO, Bannu, SDFO Bannu and accused officials and found that condition of plantations was still unattended.

From 08/03/2018 to 16/03/2018 the Monitoring Officer, Billion Trees Afforestation Project South Region checked the plantations and found that no improvements in the area were made. Personal hearing was conducted and checked all the relevant record in the office of DFO, Bannu Forest Division.

The observations during the inspection by the Monitoring Officer and on request intimated the results of sites to the undersigned which are elaborated as under;

S. #	Name of area	Area charged (Ha)	Area measured through GPS (Ha)	Excess area (Ha)	Shortfall (ha)	Survival %age
1.	Dandi Block Plantation	35	29.97	0	5.03	85 to 90 % Very Good condition
2.	Sadda Khel Jazeera waterlogged plantation	60	68.20	8.20	0	20% area 75-80% survived while the remaining 80% area is totally failed
3.	Sadda Khel - II Block plantation	221	171.22	0	49.78	60% survived. The condition of the plantation is in poor condition

Findings

Keeping in view the above discussion and ground reality and consultation of record and personal hearing and crossed examination / questions of the accused officials, the undersigned reached to the conclusion that charges leveled against the accused officials have been proved beyond any doubt and the plantation tabulated above raised under Billion Trees Afforestation Project were failed due to negligence, inefficiency improper maintenance, less watering and lack of interest by the SDFO, Forester and Forest Guards incharge of the plantation area.

Recommendations

The undersigned recommend that the charges of inefficiency, misconduct and corruption have been proved against the accused officials, therefore, the undersigned propose / recommend the following punishment to be imposed upon the accused officials;

1. Although as per monitoring report the condition of Dandai plantation is very good condition and the survival %age reported as 90 to 95% but however, 5.0 hectare plantation is shortfall, therefore it is

recommended that either the shortfall area may be treated or recovery to this effect may be made good from the accused officials on equal share basis.

(27)

2. As already recommended in another similar enquiry case that recovery of losses sustained to Government along with major penalty should be imposed upon the accused on account of failure of Sada Khel Jazeera plantation.
3. Recovery of shortfall plantation area should be affected from the accused officials on equal share basis besides imposing of major penalty on account of shortfall and failure in Sada Kel - II plantation area.

(Abid Mumtaz)
DIVISIONAL FOREST OFFICER
ENQUIRY OFFICER

Conservator of Forests
Southern Circle

Shami Road Peshawar
Phone # 091-9214024

Dated Peshawar the 04/07/2018

No. 96

/E-

Anx

"F"

(28)

To

Syed Lateef Hussain
Divisional Forest Officer
Bannu Forest Division Bannu

SUBJECT:- INITIATION OF INQUIRY AGAINST THE STAFF OF BANNU FOREST DIVISION. INQUIRY REPORT THEREOF.

Reference DFO D.L.Khan letter No. 8348-49-G dated 11.05.2018 and No. 8350-51-G dated 11.5.2018, 8987-83-G dated 11.06.2018 addressed to you and copy thereof endorsed to this office.

M/S Akber Niaz Forester, Ismail Khan Forest Guard and Sher Alam Khan Forster Guard of Bannu Forest Division has approached to the Honorable Minister of Forests KP Peshawar through their application (enclosed in original) wherein they stated that Mr. Abid Mumtaz Khan DFO D.L.Khan has conducted inquiry in the subject case but he could not check and verify the venue of failure of reported plantations, therefore he could not assess and verify the factual position of the existing plantations and furnished his inquiry report against the ground realities which doesn't fulfill the requirement of justice and are requested to stopped the decision on the incomplete inquiry proceeding against them. The worthy Minister to Govt. of Forest Khyber Pakhtunkhwa has expressed deep concern over inquiry report and requested to the undersigned regarding to look into the matter in light of the allegations contained in application, and then de-novo inquiry may be initiated.

You are therefore directed that de-novo ^{inquiry} be conducted and being an Authorized Officer the de-novo inquiry against the staff of Bannu Forest Division inquiry may be entrusted to Muhammad Shakeel DFO Kohat alongwith complete documents with the request to complete the inquiry proceeding within a stipulated period and submit his Authorized Officer within 15 days with clear cut recommendation under the E&D Rules 2011 under intimation to this office.

Conservator of Forests
Southern Circle Peshawar

No.

/E

Copy forwarded to the:

1. PS to Minister to Govt. of Khyber Pakhtunkhwa Forestry, Environment and Wildlife Department for information please.
2. Chief Conservator of Forests Central Southern Forest Region-I, Khyber Pakhtunkhwa Peshawar please.
3. DFO Kohat for information and similar necessary action under the Rules.

Conservator of Forests
Southern Circle Peshawar

Conservator of Forest Southern Circle		Shami Road Peshawar Phone # 091-9214024
No.26/E-		Dated Peshawar the 04/07/2018

To

Syed Lateef Hussain
Divisional Forest Officer
Bannu Forest Division Bannu.

SUBJECT:- INITIATION OF INQUIRY AGAINST THE STAFF OF BANNU FOREST DIVISION/INQUIRY REPORT THEREOF.

Reference DFO D.I.Khan letter No.8348-49/G dated 11.05.2018 and No.8350-51/G dated 11.05.2018, 8087-83/G dated 11.06.2018 addressed to you and copy thereof endorsed to this office.

M/S Akber Niaz Forester, Ismail Khan Forest Guard and Sher Alam Khan Forest Guard of Bannu Forest Division has approached to the Honorable Minister of Forests KP Peshawar through their application (enclosed in original) wherein they stated that Mr. Abid Mumtaz Khan SDFO D.I.Khan has conducted inquiry in the subject case but he could not checked and verify the venue of failure of reported plantations, therefore he could not asses and verify the factual position of the existing plantations and furnished his inquiry report against the ground realities which doesn't fulfill the requirement of justice and are requested to stopped the decision on the incomplete inquiry proceeding against them. The worthy Minister to Govt: of Forest Khyber Pakhtunkhwa has expressed deep concern over inquiry report and requested to the undersigned regarding to look into the matter in light of the allegations contained in the application and then de-novo inquiry may be initiated.

You are therefore directed that de-novo inquiry may be conducted and being an Authorized Officer the de-novo inquiry against the staff of Bannu Forest Division inquiry may be entrusted to Muhammad Shakeel DFO Kohat alongwith complete documents with the request to complete the inquiry proceeding within a stipulated period and submit to his Authorized Officer.

**Sd/-
Conservator Officer
Southern Circle Peshawar**

No. _____/E

Copy forwarded to the:

1. PS to Minister to Govt: of Khyber Pakhtunkhwa Forestry, Environment and Wildlife Department for information please.
2. Chief Conservator of Forests Central Southern Forest Region-I Khyber Pakhtunkhwa Peshawar please.
3. DFO Kohat for information and similar necessary action under the Rules.

**Sd/-
Conservator Officer
Southern Circle Peshawar**

Ann "G" (30)

MUHAMMAD SHAKEEL Divisional Forest Officer	KOHAT FOREST DIVISION 40 - Sial Baz Road, Kohat Cantt: Kohat Phone No. 0922-9260199 Email: dfokohat@yahoo.com
	No. <u>1096/S</u> Dated <u>05/12/2018</u>

To

The Divisional Forest Officer,
Bannu Forest Division Bannu:

Regd.

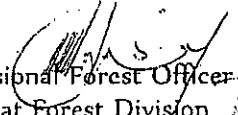
DISCIPLINARY PROCEEDINGS AGAINST THE STAFF OF Bannu FOREST DIVN.

Memorandum: - Ref: Correspondence resting vide your office endst: No.29-32/G dated 5/7/2017 ; Conservator of Forests Southern Circle Peshawar endst: No.27-29/E dated 4/7/2018 and this office letter No.961-67/G dated 22/11/2018..

Enclosed please find herewith Enquiry Report alongwith enquiry files pertaining to the subject case for favour of further course of action in your office.

- 1- File No.1 Page-01 to 50
- 2- File No.2 Page-01 to 36
- 3- File No.3 Page-01 to 56

Encls As above:


Divisional Forest Officer,
Kohat Forest Division

No. /G

Copy forwarded to The Conservator of Forests Southern Circle Peshawar for favour of information as referred to above please.

Divisional Forest Officer
Kohat Forest Division

ENQUIRY REPORT IN RESPECT OF STAFF OF BANNU FOREST DIVISION BANNU

read with

- 1- DFO D.I. Khan office letter No. 8982/G dated 11-6-2018, 8350/G dated 11-5-2018
- 2- Conservators of Forest Southern Circle Peshawar vide his office letter No. 26/E dated 04-7-2018.
- 3- DFO office No. 34 dated 05-7-2018.

Discussion

1- The Divisional Forest Officer D.I. Khan vide his office letter No. 8350/G dated 11-5-2018 & 8982/G dated 11-6-2018 submitted the enquiry reports with the following findings :-

S#	Name of Area	Area charged (Ha)	Area measured through GPS (Ha)	Excess area (ha)	Shortfall (Ha)	Survival % age
1-	Dandi Block plantation	35	29.97	0	5.03	85% to 90% very good condition.
2-	Sadda Khel (Jazeera) W/L	60	68.20	8.20	0	20% area 75-80% survived while the remaining 80% area is totally failed
3-	Sadda Khel-II B/Plantation	221	171.22	0	49.78	60% survived. The condition of the plantation is in poor condition
4-	Adami-II plant:	45(10x5)	54.04	9.04	--	82% area is 60% survived and 18% area is totally failed
5-	Shagai plantation	180	77.55	--	102.45	Part-I (5x5)= 26.68ha 20-30 Success
						Part-II (5x5)= 4.95 ha 20-30%
						Part-III (5x5)= 23.24 ha 40.50% success
						Part-IV (10x5)= 10.30 ha 25.35% success
						Part-V (5x5)= 12.52 ha 75-80% success
6-	Walighai	225	234.68	9.68	--	Part-IV (10x5)= 3.26 ha 65-70% success
						110.75ha=70.80%success 123.93ha= 5% success

Although the reports with findings prepared and submitted by DFO D.I. Khan (previous Enquiry Officer) is totally based on the expertise of Billion Trees Afforestation Project Monitoring team, who had properly inspected the sites and calculated the survival percentage on technical grounds, however in compliance of Conservators of Forest Southern Circle Peshawar vide his office letter No. 26/E dated 04-7-2018 and DFO Bannu office No. 34 dated 05-7-2018, the undersigned accompanied by DFO Bannu paid field visit on 27&28 November 2018 to the above

areas in the presence of field staff concerned so that to remove/redress their grievances pointed out by them in their application .

During the course of inspection/checking, no improvement in the conditions of the plantations were observed and the plantations were found in the same conditions as reported in the previous enquiry report, except the condition of Sadda Khel (Jazeera) Water logged plantation which was found improved.

Conclusion

After detail inspection and re-measurement of the area in presence of the staff concerned the undersigned reached to the conclusion that:-

- 1- As the condition of Sadda Khel (Jazeera) water logged plantation was found improved, therefore the staff related with the said plantation area may be exonerated from the charges recommended by DFO D.I. Khan.
- 2- No improvement with respect to the plantation areas of Shagai, Sadda Khel-II, Adami-II and Waligai plantation areas have been seen/verified, therefore, the recommendation of DFO D.I. Khan Forest Division (previous Enquiry Officer) may be implemented in the mentioned plantations.

MUHAMMAD SHAKZEL
DIVISIONAL FOREST OFFICER
KOHAT FOREST DIVISION

OFFICE ORDER NO. 56 DATED BANNU THE 16 /01/2019 ISSUED BY SYED LATEEF HUSSAIN
 DIVISIONAL FOREST OFFICER BANNU FOREST DIVISION BANNU

33

Read with:-

- 1- DFO Bannu Office order No. 61 dated 15-6-2017
- 2- CF South letter endst: No. 2809/E dated 17-10-2017.
- 3- DFO Bannu office order No. 08 dated 25-10-2017.
- 4- DFO D.I Khan letter No. 3199/G dated 01-11-2017.
- 5- Inquiry report bearing DFO D.I. Khan letter No. 8350/G dated 11-5-2018 & 8982/G dated 11-6-2018.
- 6- DFO Bannu office letter No. 2033-35/G dated 14-6-2018.
- 7- Application of M/S.Akber Niaz Fr, Ismail Khan & Sher Alam Forest Guards dated 28-6-2018 bearing remarks of caretaker Minister for Environment received through CF South letter No. 26/E dated 04-7-2018.
- 8- DFO Bannu office order No. 34 dated 5-7-2018
- 9- DFO Kohat inquiry report vide his office letter No. 1094/G dated 5-12-2018.
- 10- DFO Bannu office letter No. 873-76/G dated 13-12-2018.
- 11- Reply furnished Mr. Akber Niaz Forester & Ismail Khan Forest Guard dated 26-12-2018.
- 12- Call letter for personal hearing of DFO Bannu vide No. 995-98/G dated 08-1-2019

History of case

M/S Safeerullah Ex-Deputy Ranger I/C Bannu Forest Sub Division, Akber Niaz Forester and Ismail Khan Forest Guard. incharge of Sadda Khel-II and Shagai Block plantation raised under Billion Trees Afforestation Project Phase-II have been charge sheeted on a/c of heavy failure in the plantation areas above vide DFO Bannu office orders No. 61 dated 15-6-2017 & 08 dated 25-10-2017.

To probe into the matter the undersigned in the capacity of authority under E&D Rules 2011, Mr. Abid Mumtaz Divisional Forest Officer D.I. Khan Forest Division has been appointed as inquiry officer. Accordingly the DFO D.I. Khan vide his office letter No. 6903-04/G dated 22-6-2018, 6915-16/G dated 20-3-2018, 6917-18/G dated 20-3-2018, 6904, served the charge sheets to all the accused officials which were delivered under proper receipt. The accused officials have submitted their replies to the charge sheets directly to the inquiry officer. The DFO D.I. Khan (inquiry Officer) vide his office letter No. 6777/G dated 14-3-2018 called all the accused officials for personal hearing which has accordingly been endorsed vide DFO Bannu letter endst: No. 1594-95/G dated 15-3-2018. Personal hearing was conducted on 16-3-2018 in presence of departmental representative.

The DFO D.I. Khan vide his office letter No. 8350/G dated 11-5-2018 & No. 8982/G dated 11-6-2018 submitted the inquiry reports mentioning therein the quantum of failure alongwith recommendations. The survival % age of Shagai Block plantation and Sadda Khel-II plantations tabulated below:-

S#	Name of Area	Area charged (Ha)	Area measured through GPS (Ha)	Excess area (Ha)	Shortfall	Survival %age	Failure % age
1-	Shagai B/plant.	180	80.95	--	99.05	Part-I (5x5)= 26.68ha 20-30%	26.68 ha = 70%
						Part-II (5x5)= 4.95ha 20-30	04.95 ha= 70%
						Part-III(5x5)= 23.24ha 40-50%	23.24 ha= 50%
						Part-IV (10x5)= 10.30ha 25-35%	10.30 ha= 65%
						Part-V(5x5)=12.52ha 75.80%	12.52 ha= 20%
						Part-VI(10x5)= 3.26ha 65-70%	03.26 ha= 30%
2-	Sadda Khel-II	200	171.22	0	28.78	60%	40%

Attested
 DIVISIONAL FOREST OFFICER
 BANNU FOREST DIVISION

quiry Officer further recommended the following penalties:-

- 1- The loss sustained to Govt. on a/c of failure/shortfall in the plantation area may be calculated which may be recovered from the pension of Mr. Safirullah Ex-D/Ranger incharge Bannu Forest Sub Division as well as from the other involved officials on equal share basis.
- 2- Major penalties may be imposed on other involved officials as defined in Khyber Pakhtunkhwa Government Servants (E&D Rules 2011).

The DFO Bannu in the capacity of authority served all the accused staff with the show cause notice vide DFO Bannu office letter No. 2033-35/G dated 14-6-2018, but in the meanwhile all accused officials approached the caretaker Minister for Forestry, Environment & Wildlife Department for de-novo inquiry having reservation by the accused officials on the inquiry reports submitted by DFO D.I. Khan received through CF South letter No. 26/E dated 04-7-2018 with the direction to conduct de-novo inquiry in the subject case, therefore in order to probe the short comings/allegation of the accused officials, Muhammad Shakeel DFO Kohat has been appointed as inquiry officer vide office order No. 34 dated 05-7-2018. The DFO Kohat has paid field visit to the plantation sites on 27 & 28 Nov. 2018 and also informed all the accused officials to be remained present during inspection vide his office letter No. 961-65/G dated 22-11-2018.

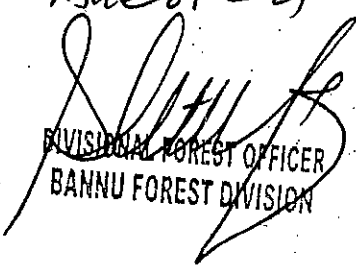
According to the ground reality and condition of the plantation sites findings has been submitted by DFO Kohat supporting therein the recommendations of DFO D.I Khan regarding Sadda Khel-II Shagai Block plantations vide his office letter No. 1094/G dated 05-12-2018. Finally all the accused officials were served with the show cause notices vide letter No. 873-76/G dated 13-12-2018 and also called for personal hearing vide this office letter No. 995-98/G dated 08-01-2019.

A committee consisting of M/S Abdur Riaz Fr I/C Bannu Forest Sub Division, Gul Rehman Forest Guard, Dilawar Khan Forest Guard and Muhammad Shafi S/Clerk has been constituted vide office order No. 49 dated 31-12-2018 so as to dug out the facts regarding responsibilities of Mr. Akber Niaz Forester in Sadda Khel-II and Shagai plantation keeping in view the documentary evidences in light of his application on the subject.

The committee submitted their report mentioning therein that Mr. Akber Niaz Forester has only signed on M/Roll No. 532/BU/ 2016-17 for Rs. 459500/- & M/Roll No. 584/BU/ 2016-17 for Rs. 409500/- issued for Maint. of Shagai plantation for the month of 4 & 5/2017. Moreover the extant of Sadda Khel-II Block plantation area may be read as 200Ha instead of 221ha.

Detail of loss sustains to Government on a/c of failure and shortfalls in Sadda Khel-II and Shagai plantation area due to their negligence is tabulated below:-

S#	Name of Area	Loss sustain to Govt. due to failure/shortfalls
1-	Sadda Khel-II plantation	1386132
2-	Shagai plantation	6425785
	Total	7811917

Attested

 DIVISIONAL FOREST OFFICER
 BANNU FOREST DIVISION

Keeping in view of the recommendations received from DFO D.I. Khan and Kohat (inquiries officers), therefore as provided under E&D Rules 2011, undersigned in the capacity of authority awarded the following punishment on a/c of failure/shortfall in the area of Sadda-II and Shagai plantation of Bannu Forest Sub Division in favour of officials noted against each.

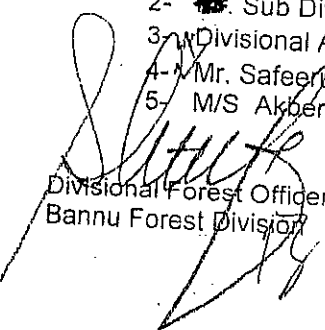
S#	Name Rank of officials	Punishment awarded
1-	Mr. Safirullah Ex- Deputy Ranger	Recovery of Rs. 3761125/-
2-	Mr. Ismail Khan Forest Guard	1- Compulsory retired from service with immediate effect. 2- Imposed recovery of Rs. 3761125/-
3-	Mr. Akber Niaz Forester	1- Imposed recovery of Rs. 289667/- 2- Stoppage of one annual increment due on 1-12-2019 without accumulative effect.

(Syed Lateef Hussain)
Divisional Forest Officer
Bannu Forest Division

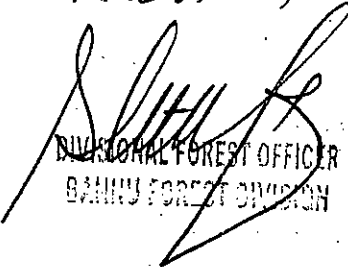
No. 1021-95 IG

Copy forwarded to:-

- 1- The Conservator of Forests Southern Circle Peshawar for favour of information, please.
- 2- ~~Mr.~~ Sub Divisional Forest Officer Bannu, please.
- 3- Divisional Accountant
- 4- Mr. Saferullah Ex- Deputy Ranger
- 5- M/S Akber Niaz Forester and Ismail Khan Forest Guard


Divisional Forest Officer
Bannu Forest Division

Attested


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2018

Safir Ullah Khan
S/O Malik Mir Dad Khan,
R/o Sero Banda Khel, Bannu,
Ex-Deputy Ranger, Forest
Bannu Sub-Division, Bannu Appellant

VERSUS

1. Divisional Forest Officer, Bannu.
2. Chief Conservator, Central.
Southern Region-I, Peshawar.
3. Secretary, Govt. of KP,
Environment Department,
Peshawar. Respondents

⊕<=>⊕<=>⊕<=>⊕<=>⊕

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
WHEREBY AFTER RETIREMENT FROM SERVICE,
APPELLANT WAS NOT PAID PENSIONARY AND
OTHER BENEFITS OF SERVICE:

⊕<=>⊕<=>⊕<=>⊕<=>⊕

Respectfully Sheweth:

1. That appellant was initially appointed as Forester B-9 in the year, 1984 and was promoted to the post of Deputy Ranger Forester B-12 in the year 2013.
2. That appellant was served with Charge Sheet and Statement of allegations to the effect of charges contained therein by R. No. 02. (Copy as annex "A")
3. That on 03-08-2017, the said Charge Sheet was replied by explaining the whole truth contained therein. (Copy as annex "B")

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4. That enquiry into the aforesaid allegation was under process when in the meanwhile, appellant reached the age of superannuation and on attaining of the said age, he was retired from service on 16-10-2017 by R. No. 01. (Copy as annex "C")
5. That pensionary papers of the appellant shall have been finalized by the department but the same could not be made due to pendency of enquiry into the aforesaid allegations, so on 20-11-2017, he submitted representation before R. No. 01 for payment of the due pension but in vain. (Copy as annex "D")

Hence this appeal, inter alia, on the following grounds:

GROUND S:

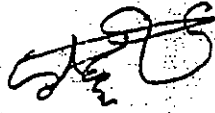
- a. That pension is a vested right of a civil servant which cannot be held at any means.
- b. That so called allegations were leveled against appellant for the reason that during the visit of the then DFO Amjad Samad Khan demanded percentage which was refused by appellant on account of active surveillance of the high-ups, so such drama was staged.
- c. That when resistance was shown in the matter, the same got wide publicity, and the then DFO was not only transferred but was also charge sheeted which copies are available with the department.
- d. That enquiry has a very limited scope which was not concluded within the specified period when in the meanwhile, appellant was retired from service on attaining the age of superannuation.
- e. That as per law and judgments of the apex court, retired person is not amenable to any penal action, so the enquiry proceedings, if any, shall be put in a waste box.
- f. That after every 2/3 months, Monitoring Team used to visit / inspect sites. No objection or any discrepancy was ever pointed out, meaning thereby that no mishap was there.
- g. That right of enquiry is by now extinguished by the department as the same was not conducted during service period of appellant. Subsequent proceedings / action is based on malafide.

38

3

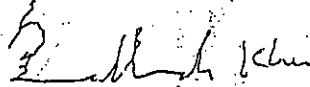
It is, therefore, most humbly prayed that on acceptance of appeal, respondents be compelled / directed to pay appellant pension and other fringed benefits admissible to him hence forthwith, with such other relief as may be deemed proper and just in circumstances of the case.

It is further prayed that the enquiry proceedings be declared null and void in the circumstances of the case.



Appellant

Through



Saadullah Khan Marwat

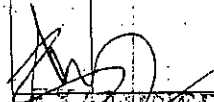


Arbab Saiful Kamal
Advocates.

Dated 25-04-2018

Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 613/2018</p> <p style="text-align: center;">Date of Institution : 25.04.2018 Date of Decision : 11.02.2019</p> <p>Safir Ullah Khan S/o Malik Mir Daad Khan, R/o Sero Banda Khel, Bannu, Ex-Deputy Ranger, Forest Bannu Sub Division Bannu Agency.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <p>1. Divisional Forest Officer, Bannu. 2. Chief Conservator of Forest Central Southern Region-I, Peshawar. 3. Secretary to Government of Khyber Pakhtunkhwa, Environment Department Peshawar.</p> <p style="text-align: right;">Respondents</p> <p>11.02.2019 Mr. Muhammad Hamid Mughal-----Member (J) Mr. Hussain Shah-----Member (E)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for appellant and Mr. Riaz Paindakheil learned Assistant Advocate General present.</p> <p>2. The appellant (Retired Deputy Ranger) has filed the present appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974 for the grant of pensionary benefits</p> <p>3. Learned counsel for the appellant argued that the appellant was allowed to retire from government service and to proceed on superannuation pension w.e.f 07.09.2017 vide office order dated</p>		

ATTESTED


Member
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

40

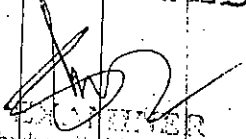
16.10.2017. Next contended that the competent authority has also given note in the said office order dated 16.10.2017 that pension paper etc. will be processed after finalization of disciplinary proceeding against the appellant. Next contended that upon retirement of the appellant w.e.f 07.09.2017, the departmental proceeding against the appellant stood abated. Next contended that departmental punishment cannot be awarded to the appellant after his retirement from government service. Learned counsel for the appellant stressed that the order of departmental authority regarding withholding of the pensionary benefits of the appellant is unlawful.

4. As against that learned AAG argued that the appellant caused huge loss to the government exchequer in that huge amount was incurred from government exchequer on raising and maintenance of plantation and due to appellant's improper maintenance, less watering and lack of interest, failure was observed more than forty percent (40%); that charge sheet/statement of allegation was served upon the appellant; that inquiry officer also conducted the inquiry and upon submission of the inquiry report dated 11.06.2018 the appellant was directed vide office letter dated 14.06.2018 to deposit the amount of Rs- 6959700/- on account of recovery imposed by the inquiry officer; that the appellant was retired on 07.09.2017 while the disciplinary action was initiated vide order dated 15.06.2017 i.e. well before the date of retirement of the appellant.

5. Arguments heard. File perused.

6. On 07.09.2017 the appellant attained the age of superannuation.

APPEARED


 Khyber Pakhtunkhwa
 Services Tribunal,
 Peshawar

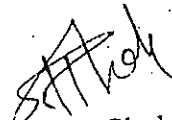
The departmental action was initiated against the appellant when he was on the verge of his retirement. In response to the charge sheet, the appellant submitted his reply dated 03.08.2017. However the appellant had already attained the age of superannuation when the inquiry officer submitted his report.

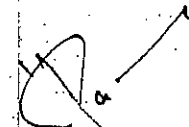
7. It is settled that if a government servant attains the age of superannuation before the completion of inquiry, the disciplinary proceeding against him shall abate.

8. In view of above, the act of the departmental authority of withholding of pensionary benefits to the appellant till the finalization of disciplinary proceeding against the appellant vide endorsement (Note) as given in the office order dated 16.10.2017 cannot be termed as lawful. Consequently endorsement (Note) as given in the office order dated 16.10.2017 regarding withholding of pensionary benefits (non-processing of pension papers), is set aside.

9. Needless to mention that in case any pecuniary loss to the government has been proved against the appellant, the same may be recovered from the appellant in accordance with law.

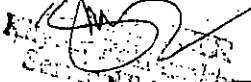
10. The present service appeal is accepted / disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED
11.02.2019

Certified to be true copy


Secretary
Faisalabad

Date of Registration of Appellate: 11-02-19
 Number of Voids: 1602
 Copying Fee: 10-02
 Urgent: 10-02
 Total: 10-02
 Name of Copyist: 
 Date of Completion of Copy: 05-03-19
 Date of Delivery of Copy: 05-03-19

The Conservator of Forest Southern Circle,
Peshawar

Ank "J"
42

Subject: **APPEAL AGAINST OFFICE ORDER NO. 56 DATED 16/01/2019**

Respected/Sir,

- i. The appellant was initially appointed as Forester B-9 in the year 1984 and was promoted to the Post of Deputy Ranger Forest B-12 in the year 2013.
- ii. The appellant was served with charge sheet and statement of allegations to the effect of charges contained therein by R-No. 2.
- iii. That on date 22/06/2017 vide office order No. 118 the undersigned was suspended on baseless allegations.
- iv. Despite between my suspension period all the muster rolls were dully signed and verified by DFO Bannu of those areas which were considered under so-called allegations.
The undersigned also received a cheque dated 03/07/2017 for disbursement of the said work done dully signed & sanctioned by the concerned officer, which otherwise proves that the concerned authority approved and certified that actual work done up to the standard and satisfactory. Clause 6.3.14 (i) departmental monitoring of revised PC-I BTAP is self explanatory.
- v. After the disbursement of the cheque which was signed and sanctioned by DFO Bannu, I handover charge to Mr. Tauraban SDFO on 03/07/2017 of Sub Division Bannu vide letter No. 07-09/G. after this date I cannot be held responsible for anything. Since after this DFO & SDFO have ceased all maintenance fund as per PC-I of the said area till date. From initiation of the inquiry dated 22/06/2017 vide letter No. 0350/G. to Second de-novo inquiry

(C-3) (43)

order dated 04/07/2018 vide office letter No. 26/E which was completed on 16/01/2019 vide office letter No. 56 in this whole period of 21-months little less than 2 years, an environmentalist / forester should must know the damage in seedling stage where there was no maintenance observed in the said period.

- vi. That after repeated letter No. 96/G dated 01/01/2018, and office letter No. 6777/g dated 14/03/2018 by DFO Bannu to inquiry office DFO D.I Khan, who was unable to complete the inquiry in stipulated time without any reason.
- vii. That inquiry into the aforesaid allegation was under process, when in the mean while appellant reach the age of superannuation on attaining of the said age. He was retired from service on 07/09/2017. As per ESTA code speedy disposal of disciplinary cases/ abatement of inquiry on superannuation of a civil servant Reference FR-54-A self explanatory.
- viii. That on 25/04/2018 to seek justice, I filled a case in Honorable Service Tribunal. On 25/05/2018 the Honorable Service Tribunal issued a notice to the respondents for the inquiry proceeding if pending against the appellant the same is suspended till further order. Despite the Honorable court orders, an inquiry dated 14/06/2018 vide letter No. 2030/G was initiated, which unlawful and is contempt of Honorable Court.
- ix. A. That after my retirement a 2nd De-novo inquiry was initiated vide office letter No. 26/E dated 04/07/2018 which is again unlawful as per FR-54-A of ESTA Code as earlier mentioned:
- B. That it is again and repeated contempt of court, which was issued on 25/05/2018 by the Honorable Service Tribunal S.A No. 6/03/2018.

- x. That after my retirement i.e. 07/09/2017 & lapse of 18-months, 2nd inquiry report vide letter No. 56 dated 16/01/2019 is again unlawful and unjust.
- xi. That the De-novo inquiry was conducted during suspension order by the Honorable Service Tribunal.
- xii. That the appellant was not given any opportunity to be cross examined. Neither the appellant was given proper time to reply into the concerned inquiry. Furthermore no show cause notice as issued to the appellant regarding the De-novo inquiry. It is further added that the appellant was not given any chance for personal hearing, neither any explanation was given to the undersigned.
- xiii. In the previous Govt of PTI, the present Prime Minister of Pakistan, special advisor to CM, secretary forest, chief conservator & conservator visited the said areas but none of any deficiency was reported by any higher officials.

This appeal may be humbly accepted, keeping in consideration that the undersigned is a pensioner and reserves every right to be respected like any other citizen under constitution of the Pakistan.

Dated: 22/03/2019

[Handwritten signature]
[Handwritten signature]
 22/3/2019

Yours Sincerely

[Handwritten signature]

Haji Safir Ullah Khan
 S/o Malik Mir Dad Khan,
 R/o Sero Bada Khel, Bannu
 Ex-Deputy Ranger Forest
 Division Bannu Sub
 Division, Bannu.
 Contact No. 0333-1903232
 0346-9293062

Anx "k"

45

The Conservator of Forest Southern Circle,
Peshawar.

Subject: **EXTENSION IN TIME PERIOD FOR APPEAL**

Respected/Sir,

It is kindly stated that I filled a case dated 25/04/2018 in Honorable Service Tribunal,
which issued a notice on 25/05/2018.

Since my case was in hearing in the Honorable Court & I was not in a position to
appeal against office order 56 dated 16/01/2019.

As some time has been elapsed to make an appeal against the stated office order, so
I may be granted time extension in the subject matter to respond to your good office.

Dated: 22/03/2019

Yours Sincerely



Haji Safir Ullah Khan
S/o Malik Mir Dad Khan,
R/o Sero Bada Khel, Bannu
Ex-Deputy Ranger, Forest
Division Bannu Sub
Division, Bannu.
Contact No. 0333-1903232
0346-9293062

Received
M/s
22/3/2019

452

Conservator of Forests Southern Circle		Shami Road Peshawar Phone # 091-9214024
No <u>4640</u> /E-		Dated Peshawar the <u>27</u> /04/2019


To

Haji Safir Ullah Khan
 S/O Malik Mir Dad Khan, R/o Sero Bada Khel Bannu
 Division Bannu Sub-Division Banru.
 Contact No. 03331903232

SUBJECT:- EXTENSION IN TIME PERIOD FOR APPEAL.


Reference your appeals dated 22.03.2019.

Your appeals in the subject matter received on 22.03.2019 in this office has been examined found too late. There is no provision in appeal Rules to consider such like appeal at this belated stage. Being barred of time hence filed please.


 Conservator of Forests
 Southern Circle Peshawar

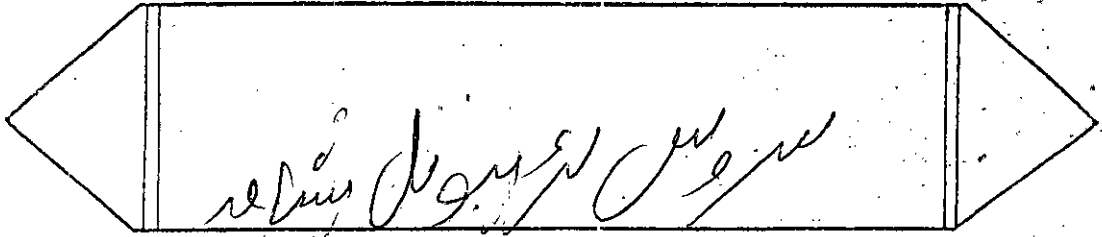
No. 4641 E

Copy forwarded to Divisional Forest Officer Bannu for information.


 Conservator of Forests
 Southern Circle Peshawar

ATTESTED

بعدالت



سروس لبریری سٹارڈ
بنام سید ریحی رحمتہ

2 منجانب

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام سٹارڈ کیلئے سروس لبریری سٹارڈ کوٹ (L.M) مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز ذکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضعی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی پابندی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سہارا پر واختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جہانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو ذکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

ATTESTED BY
Fahad
Fahad

المرقوم 19 _____ ماہ 4 _____ 2019
_____ گواہ _____

مقام سٹارڈ کے لئے منظور ہے۔
Accepted & accepted by
Fahad
Fahad
L.M (UK)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 533 of 2019

Safeerullah Khan S/O Malik Mir Dad Khan Ex- Deputy Ranger, Bannu Sub Division, Bannu
Resident of Sero Bada Khel, Tehsil and District Bannu .

(Appellant)

VERSUS

- 1- Govt: of KPK through Secretary Environment Department Govt: of KPK, Peshawar
- 2- Chief Conservator of Forests –I Peshawar
- 3- Conservator of Forests Southern Circle Peshawar
- 4- Divisional Forest Officer Bannu (DFO) Bannu).

(Respondents)

PARAWISE COMMENTS ON BEHALF RESPONDENTS NO. 1 to,4

Respectfully sheweth:-

Preliminary objections:-

- 1- The appellant has got no locus standi and no cause of action to file the instant appeal.
- 2- The appeal is badly barred by time.
- 3- The appellant has not come to this Honorable court with clean hands.
- 4- This honorable court has no jurisdiction to entertain the instant appeal.
- 5- That the appeal is liable to be dismissed on the ground of mis-joinder/non-joinder of necessary parties.
- 6- That the appellant is stopped by his own conduct to file the instant appeal.

FACTS

- 1- No comment pertains to record.
- 2- Incorrect the appellant has sustained huge loss to Government exchequer while he was posted as incharge SDFO Bannu of Bannu Forest Division.
- 3- No comment pertains to record.
- 4- Correct to the extent that the appellant submitted the reply of the charge sheet, however all the charges were proved against him during the inquiry proceeding.
- 5- No comment pertains to record.
- 6- No comment pertains to record.
- 7- Incorrect, Muhammad Shakeel DFO Kohat after detail inquiry and visiting each plantation site endorsed the recommendations of Mr. Abdid Mumtaz DFO D.I. Khan (previous inquiry officer).
- 8- In correct. Before receipt of decision of Khyber Pakhtunkhwa Services Tribunal the inquiry officer has proved the charges of inefficiency, misconduct and corruption against the accused officials including the appellant and accordingly the authority imposed the recovery of Rs. 3761125/- (Rs. Three million Seven hundred sixty one thousand & twenty five) vide DFO Bannu office order No. 56

2019. Further appeal against the decision dated 11-2-2019 of Khyber Pakhtunkhwa Service Tribunal has been filed in the august Supreme Court of Pakistan.

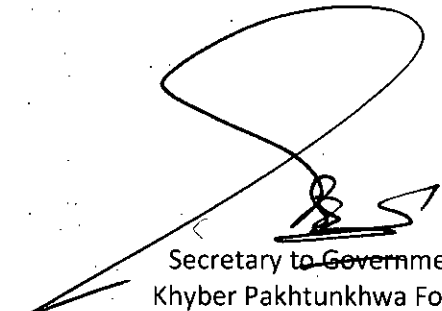
- 9- Correct, being time barred the Conservator of Forests Southern Circle Peshawar being next higher authority has filed his appeal vide his office letter No. 4640/E dated 17-4-2019.
- 10- Incorrect the appellant has sustained huge loss to Government exchequer viz Rs. 3761125/- due to his inefficiency, misconduct and corruption, his appeal needs to be dismissed in the interest of government with the direction to remit the recovery amount of Rs. 3761125/- in government treasury.

GROUND

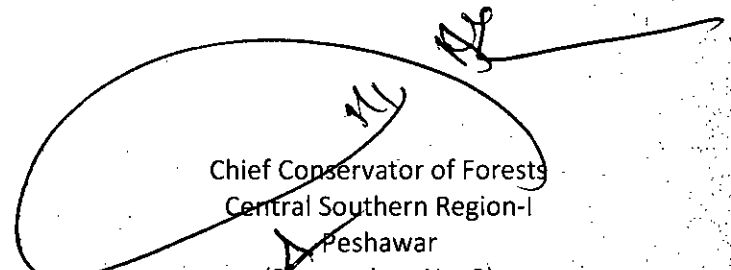
- a- Incorrect the enquiry proceedings conducted against the appellant have been conducted strictly in accordance with Efficiency & Disciplinary Rules 2011.
- b- Incorrect, the Inquiry was conducted in accordance with E&D Rules 2011. The inquiry officer Mr. Abid Mumtaz Divisional Forest Officer D.I. Khan Forest Division vide his office letter No. 6903/G dated 22-6-2019 (**Annexure-A**) sent a copy of charge sheet alongwith memo of allegations accordingly the appellant has also responded written reply (**Annexure-B**). Also while conducting in detail the de-novo inquiry by Mr. Muhammad Shakeel DFO Kohat, the appellant was informed vide this office letter No. 584/G dated 12-11-2018 (**Annexure-C**) to be present in person and to show their concern if any regarding previous inquiry conducted by DFO D.I. Khan
- c- Incorrect, Initially inquiry started while the appellant was in service vide this office letter No. 3021-24/G dated 15-6-2017 & No. 253/E dated 10-8-2017 (**Annexure-D-1 & D-2**) further de-novo inquiry was on their request received vide Conservator of Forests Southern Circle Peshawar letter No. 26/E dated 04-7-2018 (**Annexure-E-1 & E-2**) and item-6 of E&D Rules 2011, Muhammad Shakeel Divisional Forest Officer Kohat was appointed as inquiry officer vide DFO Bannu office order No. 34 dated 5-7-2018 (**Annexure-F**) to probe allegations/short comings raised by the accused officials in connection with inquiry report submitted by Mr. Abid Mumtaz Division Forest Officer D.I. Khan vide his office letter No. 8982/G dated 11-6-2018 (**Annexure-G**), 8350/G dated 11-5-2018(**Annexure-H**) .
- d- Incorrect, all the accused incharge staff as well as the appellant were informed vide letter No. 584/G dated 12-11-2018 (**Annexure-C**) regarding re-inspection of plantation beside re-measurement to be conducted by DFO Kohat, but the appellant refused telephonically that he has nothing to do with inquiry, hence Muhammad Shakeel Divisional Forest Officer Kohat has visited the plantation areas re-measured in presence of the alleged incharge Forester and Forest Guard and submitted his inquiry report vide his office letter No. 1094/G dated 05-12-2018 (**Annexure-I**).
- e- Incorrect the appellant was served with show cause vide DFO Bannu office letter No. 863/G dated 13-12-2018 (**Annexure-J**) which was delivered to the appellant at his house situated in officer colony Miran Shah Road Bannu in person, but returned with the remarks that he has left Bannu and now residing in Peshawar, therefore the appellant was again contacted on his cell phone but he refused that he has already been retired therefore he has nothing to do with inquiry. However, the letter sent on his permanent address which is available in office record.

- f- As explained above that the appellant has sustained great loss to the Government due to his inefficiency, misconduct and corruption, therefore the recovery imposed by the authority viz Rs. 3761125/- needs to be recovered in the best interest of public service.
- g- In correct because the para-9 of the decision dated 11-2-2019 of this Honorable Tribunal in the case of appellant is quite clear that **"Needless to mention that in case any pecuniary loss to the Government has been proved against the appellant, the same may be recovered from the appellant in accordance with Law "(Annexure-K),** hence the Government loss viz Rs. 37,61,125/- has been proved by the inquiry committee on the part of appellant and further confirmed by the authority vide DFO Bannu office order No. 56 dated 16-1-2019 (Annexure-L) which needs to be recovered. Moreover appeal against the decision of Honorable Tribunal Khyber Pakhtunkhwa dated 11-2-2019 has been filed in the august Supreme Court of Pakistan (Annexure-M)
- h- No comments, however the government interest will be protected in the court of law at any cost.


In view of the above explanation, it is therefore requested that the instant appeal may graciously be dismissed and the appellant may also be directed to remit the loss viz Rs. 3761125/- sustained to Government due to inefficiency, misconduct and corruption by the appellant duly proved by the inquiry officers and further confirmed by the authority vide DFO Bannu office order No. 56 dated 16-1-2019.



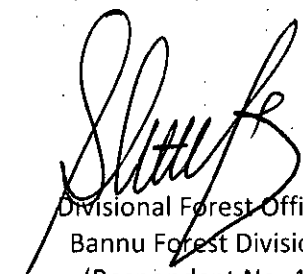
Secretary to Government of
Khyber Pakhtunkhwa Forestry,
Environment & Wildlife Department
Peshawar
(Respondent No. 1)



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



Conservator of Forests
Southern Circle Peshawar
(Respondent No. 3)



Divisional Forest Officer
Bannu Forest Division
(Respondent No. 4)

	<p>D.I. Khan Divisional Forest Officer D.I. Khan Forest Division</p>	<p>Bungalow # 20 - Aflama Iqbal-road D.I. Khan Cantt. Phone# 0966-9280181 Fax # 0966-9280481</p>	
No. <u>AG</u>		Dated D.I. Khan the <u>22</u> June 2017	

To
Sub-Inspector
Forest Guard
Forest Division

SUBJECT: INQUIRY

Memo:

The undersigned has been appointed as inquiry officer to probe into matter and finalized the inquiry proceeding under the rules, vide DFO Bannu Office Order No.61 dated 15.06.2017. A copy of charge sheet along with memo of allegation is sent here with.

You are hereby directed to furnish the replies of charge sheet with in Seven (7) days from the date of receipt of this letter so that the inquiry could be finalized

Please acknowledge receipt.

DIVISIONAL FOREST OFFICER
D.I.KHAN FOREST DIVISION
D.I.KHAN

No. 6904 /G,

Copy forwarded to DFO Bannu for information. He is requested to deliver the letter meant for above name official and proper acknowledge receipt which may be sent to this office

DIVISIONAL FOREST OFFICER
D.I.KHAN FOREST DIVISION
D.I.KHAN

No 10 /M dt. 03/7/2017
Copy along with charge sheet send for
DFO D.I.K for 1st SDR Bannu for br. &
u/a. the charge sheet may be deliver under Prop
no-71

DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

Annexure-B

(35) Through 7
500118
21/11

The Divisional Forest Officer
D.I. Khan Forest Division

Subject INQUIRY-REPLY OF CHARGE THEREOF

Memo:-

Reference your office letter No. 3193/G dated 01-11-2017 (received through DFO Bannu letter No. 662/G dated 08-11-2017)

پروٹوکول
21/11

In this connection my submission is furnished as under:-

- 1- I have been retired on superannuation with effect from 07-9-2017 (copy of DFO Bannu office order No. 07 dated 16-10-2017 (copy enclosed).
- 2- The reported failure in various plantation areas Shagai, Adami-II, Waligai, Sadda Khel and Dandi have already been recouped/beatng up before my proceeding on superannuation with effect from 07-9-2017 for which necessary detailed reply have already been sent to your good self (copy enclosed.) The cause of failure is furnished as under:-
 - i- Sever temperature i.e 47' in the 1st week of April 2017 which also reported in various daily newspapers in that day.
 - ii- Nonpayment to labour was also the main reason of failure that the payment was held up for the three months due non release of funds.
- 3- Since my handing over the charge to my successor all the areas were maintained upto the required standard/specification.
- 4- I have never left a stone un turned in discharging of my duties during service neither thought for negligence and misconduct.

Keeping in view the above clarification that I have already been retired with effect from 07-9-2017, therefore the case may kindly be finalized so that my pension case may be processed as I have been suffered due to financial constrained please.

Dated ___/11/2017


(Safirullah)
Ex-Deputy Ranger
Bannu Forest Division

Pl. Putting on proper file
21/11

DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

E/General

Ammeru - c

Syed Lateef Hussain Divisional Forest Officer Bannu Forest Division		Miranshah Road Tappi Killa Bannu ☎0928-9270042 ☎0928-620145
No <u>584</u> /G	Dated Peshawar	<u>12/</u> 11/2018

To

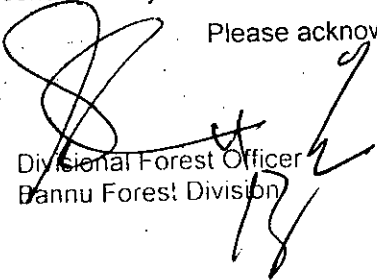
- 1- Mr. Saferullah D/Ranger (Retired)
- 2- Mr. Akber Niaz Forester.
- 3- Ismail Khan Forest Guard.
- 4- Mr. Sher Alam Forest Guard
- 5- Yousaf Khan Forest Guard

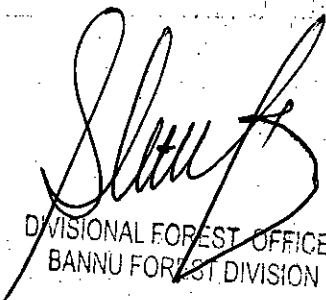
Subject: - **INITIATION OF INQUIRY AGAINST THE STAFF OF BANNU FOREST DIVISION**

Memo:-

You all are directed to be present before the inquiry officer while visiting the plantation areas on 27 & 28-11-2018 and show their concern if any regarding previous inquiry report conducted by Mr. Abid Mumtaz DFO D.I. Khan.

Please acknowledge receipt.

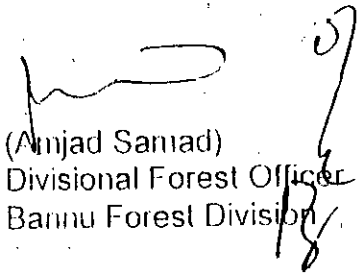

Divisional Forest Officer
Bannu Forest Division


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

OFFICE ORDER NO. 41 DATED THE BANNU/15/6 /2017, ISSUED BY AMJAD SAMAD
DIVISIONAL FOREST OFFICER BANNU FOREST DIVISION BANNU.

The undersigned paid visit to Dandi, plantation, Sadda Khel Jazeera Water logged
Afforestation Area and Sadda Khel-I Block plantation raised under Billion Trees
Tsunami Afforestation Project. During visit the undersigned observed that the plantation
was failed more than 50%, 80 & 75%.

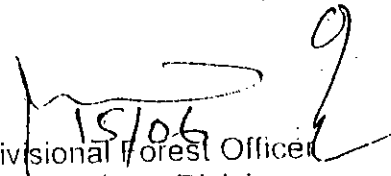
Mr. Abid Mumtaz DFO D.I Khan Forest Division is hereby appointed as inquiry Officer
to probe into matter and fix responsibility against M/S Safirullah D/Ranger incharge
Bannu Forest Sub Division and Ismail Khan Forest Guard incharge of Sadda Khel
plantation and submit the enquiry report as early as possible.

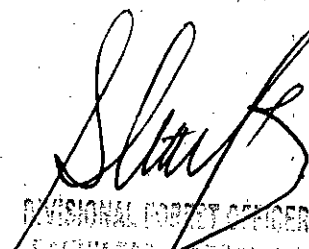

(Amjad Samad)
Divisional Forest Officer
Bannu Forest Division

No. 3021-24 IG

Copy forwarded for information and necessary action to:

- 1- The Conservator of Forests Southern Circle Peshawar for favour of
information, please.
- 2- Divisional Forest Officer, D.I. Khan for information and necessary action.
The Statement of allegation and charge sheets are enclosed for further
course of action.
- 3- SDFO Bannu.
- 4- Divisional Accountant.


15/06
Divisional Forest Officer
Bannu Forest Division

Attested,

DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

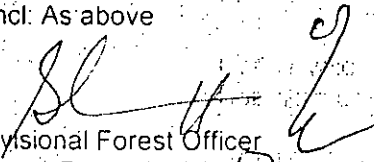
Syed Lateef Hussain Divisional Forest Officer Bannu Forest Division	Environment Department Government of Khyber Pakhtunkhawa	Miranshah Road Tappi Killa Bannu 0928-9270042 0928-9270034
No. <u>253</u> /E	Dated Peshawar <u>10/8/2017</u>	

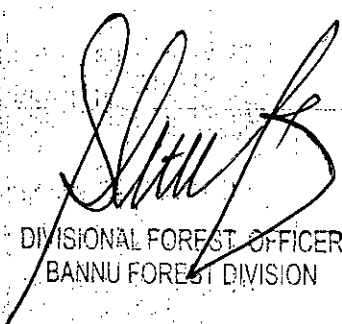
To
 Conservator of Forests
 Southern Circle Peshawar

Subject: - POOR PERFORMANCE AS IN CHARGE SDFO BANNU

Memo:-
 Reference to your office letter endst. No. 9874/E-63 dated 22-6-2017 (received in this on 21-7-2017):

The charge sheet and memo of allegation against Mr. Safirullah Deputy Range incharge Bannu Forest Sub Division as well as concerned Forest Guards prepared in light of report submitted by newly posted SDFO Bannu vide his letter No. 01-3/SDFO-B dated 24-7-2017 for further course of action, please.

Encl: As above

 Divisional Forest Officer
 Bannu Forest Division


 DIVISIONAL FOREST OFFICER
 BANNU FOREST DIVISION

Conservator of Forests Southern Circle		Shami Road Peshawar, Phone # 091-9214024
No. 26 /E-		Dated Peshawar the 04 /07/2018

To

Syed Lateef Hussain
Divisional Forest Officer
Bannu Forest Division Bannu

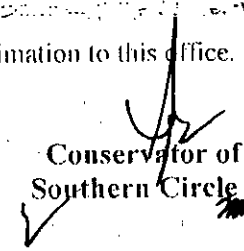
Annexure - E-1

SUBJECT:- INITIATION OF INQUIRY AGAINST THE STAFF OF BANNU FOREST DIVISION / INQUIRY REPORT THEREOF.

Reference DFO D.I.Khan letter No. 8348-49/G dated 11.05.2018 and No. 8350-51/G dated 11.5.2018, 8982-83/G dated 11.06.2018 addressed to you and copy thereof endorsed to this office.

M/S Akber Niaz Forester, Ismail Khan Forest Guard and Sher Alam Khan Forest Guard of Bannu Forest Division has approached to the Honorable Minister of Forests KP Peshawar through their application (enclosed in original) wherein they stated that Mr. Abid Mumtaz Khan DFO D.I.Khan has conducted inquiry in the subject case but he could not check and verify the venue of failure of reported plantations, therefore he could not assess and verify the factual position of the existing plantations and furnished his inquiry report against the ground realities which doesn't fulfill the requirement of justice and are requested to stop the decision on the incomplete inquiry proceeding against them. The worthy Minister to Govt. of Forest Khyber Pakhtunkhwa has expressed deep concern over inquiry report and requested to the undersigned regarding to look in to the matter in light of the allegations contained in application and then de-novo inquiry may be initiated.

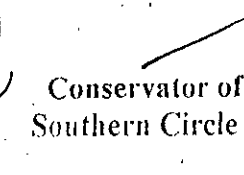
You are therefore directed that de-novo ^{inquiry} may be conducted and being an Authorized Officer the de-novo inquiry against the staff of Bannu Forest Division inquiry may be entrusted to Muhammad Shakeel DFO Kohat along with complete documents with the request to complete the inquiry proceeding within a stipulated period and submit this Authorized Officer ^{to} within 15 days with clear cut recommendation under the E&D Rules 2011 under intimation to this office.


Conservator of Forests
Southern Circle Peshawar

No. /E

Copy forwarded to the:

1. PS to Minister to Govt. of Khyber Pakhtunkhwa Forestry, Environment and Wildlife Department for information please.
2. Chief Conservator of Forests Central Southern Forest Region-I Khyber Pakhtunkhwa Peshawar please.
3. DFO Kohat for information and similar necessary action under the Rules.


Conservator of Forests
Southern Circle Peshawar

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Pl. do the needfull as directed so that to safeguard the Govt. interest accordingly.

DFO 577

Attested!


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

Annexure-F

95

OFFICE ORDER NO. 34 DATED BANNU THE 05 / 7 /2018 ISSUED BY SYED LATEEF HUSSAIN DIVISIONAL FOREST OFFICER BANNU FOREST DIVISION

In pursuance of Conservator of Forests Southern Circle Peshawar letter No. 26/E dated 04-7-2018 and item-6 of E&D Rules 2011, the undersigned in the capacity of competent authority, hereby appointed Muhammad Shakeel Khan Divisional Forest Officer Kohat as inquiry officer to probe the allegations/short comings raised by the accused officials in connection with inquiry reports submitted by Mr. Abid Mumtaz Divisional Forest Officer D.I. Khan vide his office letter No. 8348/G dated 11-5-2018, 8350/G dated 11-5-2018 & 8982/G dated 11-6-2018.

Mr. Turraban Khan Forest Ranger I/C Bannu Forest Sub Division will act as departmental representative during checking/proceedings. The inquiry officer should submit his findings within 15 days in the interest of public service.

(Syed Lateef Hussain)
Divisional Forest Officer
Bannu Forest Division

No. 29-32 /G

Copy forwarded to:-



- 1- The Conservator of Forests Southern Circle Peshawar for favour of information with reference to his office letter No. 26/E dated 04-7-2018, please.
- 2- Muhammad Shakeel Khan Divisional Forest Officer Kohat Forest Division for information as referred to above. The following complete inquiries files are enclosed herewith for further course of action, The report may submitted within stipulated period as there is involve huge loss to Govt. as well as court case, please.
 - i- File No. 1 from Page 01 to 70
 - ii- File No. 2 from Page 01 to 36
 - iii- File No. 3 from page 01 to 56
- 3- Divisional Accountant/official concerned
- 4- Sub Divisional Forest Officer Bannu, he should inform the officials so that to accompany the inquiry officer during the course of inspection/checking

Divisional Forest Officer
Bannu Forest Division

Attested

Divisional Forest Officer
Bannu Forest Division

H/M/2018-9

	<p>Abid Muntaz Divisional Forest Officer D.I. Khan Forest Division</p>	<p>Bungalow # 20 - Allama Iqbal road D.I. Khan Cantt. Phone # 0966-9280181 Fax # 0966-9280481</p>	
No. <u>8982/G</u>		Dated D.I. Khan the <u>11/06/2018</u>	

The Divisional Forest Officer,
Bannu Forest Division, Bannu

SUBJECT: INITIATION OF INQUIRY AGAINST THE STAFF OF BANNU FOREST DIVISION / INQUIRY REPORT THEREOF

Reference. Your office order No. 57 dated 25/05/2017 vide endorsement letter No. 2825-29/G of even date & office order No. 61 dated 15/06/2017 vide endorsement letter No. 3021-24/G of even date

Enclosed please inquiry report initiated against the following staff of Bannu Forest Division along with connected documents containing file from page No. 1 to ~~51~~ ⁴⁸ for information and further necessary action;

1. Mr. Saferullah Deputy Ranger (Retired) the then incharge SDFO, Bannu
2. Mr. Muhammad Ismail Forest Guard I/C Shagai
3. Mr. Sher Alam Forest Guard I/C Block Officer/I/C Dandi Plantation
4. Mr. Yousaf Khan Forest Guard I/C Dandi Plantation

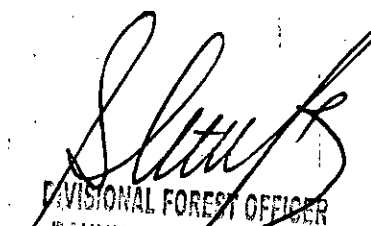
Acknowledge the receipt

DIVISIONAL FOREST OFFICER
D.I.KHAN FOREST DIVISION
D.I.KHAN

No. /G,
Copy forwarded to the Conservator of Forests Southern Circle Peshawar for favour of information and necessary action.

DIVISIONAL FOREST OFFICER
D.I.KHAN FOREST DIVISION
D.I.KHAN

Attested


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

(REPORT IN RESPECT OF M/S SAFEERULLAH DEPUTY RANGER I/C SDFO BANNU, AND ISMAIL KHAN FOREST GUARD OF BANNU FOREST DIVISION

h

1. Divisional Forest Officer, Bannu Forest Division office order No. 57 dated 25/05/2017 circulated vide endorsement letter No. 2825-29/G of even date.
2. Divisional Forest Officer, Bannu Forest Division office order No. 61 dated 15/06/2017 circulated vide endorsement letter No. 3021-24/G of even date.
3. Divisional Forest Officer, D.I.Khan office letter No. 6903/G dated 22/06/2017.
4. Divisional Forest Officer D.I.Khan Forest Division letter No. 6883/G dated 21/06/017
5. Reply dated 03/08/2017 furnished by Mr. Safeerullah Deputy Ranger (Retired) the then incharge SDFO, Bannu
6. Reply of Sher Alam & Yousaf Khan Forest Guard I/C Dandai plantation
7. Reply of Mr. Muhammad Ismail Forest Guard I/C Sadda Khel Block Plantation


Discussion

The Divisional Forest Officers, Bannu Forest Division during filed visit to Dandai Block plantation, Sadda Khel – Jazeera water logged plantation and Sadda Khel – II Block plantation raised under Billion Trees Afforestation Project and noticed that plantations were failed up to 50%, 80% and 75 % respectively due to improper maintenance, less watering and lack of interest by the SDFO Bannu, and incharge Forest Guard of the plantation area. The observations of the aforementioned officers were as under;

S. #	Name of area	Total area claimed (Ha)	Failure noticed by the officers	Muster Roll Nos.	Total amount incurred (Rs.)	Name of officer / official posted at plantation sites
1.	Dandi Block Plantation	35	50%	No. 115, 194, 260, 314, 382, 429 & 461/BU for the month from September 2016 to March 2017	1485500/-	Safirullah Dy. Ranger I/C SDFO, Bannu
2.	Sadda Khel Jazeera waterlogged plantation	60	80%	No. 356, 357, 421, 447, & 492/BU for the month of January 2017 to March 2017	1456500/-	Safirullah Dy. Ranger I/C SDFO, Bannu
3.	Sadda Khel – II Block plantation	221	75%	No. 350, 401, 432/2015-16 No. 20, 78, 79, 80, 86, 89, 90, 91, 92, 167, 168, 169, 170, 171, 235, 236, 248, 324, 395, 372, 385, 386, 425, 428, 491, 499, 502, 528, 530, 578 & 580/ for the month from April 2016 to May 2017	10186000/	Safirullah Dy. Ranger I/C SDFO, and Ismail Khan Forest guard Bannu

In order to proper enquire in to the matter and knowing the ground realities and fixing responsibilities, the undersigned was appointed as enquiry officer vide DFO, Bannu office order No. 57 dated 25/05/2017 and office order No. 61 dated 15/06/2017. The charge sheet and statement of allegations were framed against the accused officials by the Divisional Forest Officer, Bannu Forest Division and was accordingly served upon the accused vide DFO, D.I.Khan Forest Division (Enquiry Officer) letter No. 6883/G dated 21/06/2017 and No. 6903-10/G dated 22/06/2017.

Attested.


 SAFIRULLAH DY. RANGER
 DIVISIONAL FOREST OFFICER
 BANNU FOREST DIVISION

Mr. Saferullah Deputy Ranger I/C SDFO, Bannu and other accused officials namely Sher Alam, Yousaf Khan and Ismail Khan Forest Guards submitted their replies to the charge sheets and statement of allegations and defended the charges / allegation framed against them but their replies.

Proceedings

The undersigned in the capacity of Enquiry officer examined replies furnished by the accused officials and also crossed questioned but they failed to quote the cogent reasons & shifted all the responsibilities of failure of plantation on harsh weather condition and termite attack etc. Plantation sites were inspected on 27/07/2017 accompanied with the DFO, Bannu, SDFO Bannu and accused official and found that condition of plantations were very poor. The accused officials were asked on spot to beat-up the failure within least possible time. Again on 15/03/2018 and 16/03/2018 the plantation sites were inspected accompanied with the DFO, Bannu, SDFO Bannu and accused officials and found that condition of plantations was still unattended.

From 08/03/2018 to 16/03/2018 the Monitoring Officer, Billion Trees Afforestation Project South Region checked the plantations and found that no improvements in the area were made. Personal hearing was conducted and checked all the relevant record in the office of DFO, Bannu Forest Division.

The observations during the inspection by the Monitoring Officer and on request intimated the results of sites to the undersigned which are elaborated as under;

S. #	Name of area	Area charged (Ha)	Area measured through GPS (Ha)	Excess area (Ha)	Shortfall (ha)	Survival %age
1.	Dandi Block Plantation	35	29.97	0	5.03	85 to 90 % Very Good condition
2.	Sadda Khel Jazeera waterlogged plantation	60	68.20	8.20	0	20% area 75-80% survived while the remaining 80% area is totally failed
3.	Sadda Khel - II Block plantation	221	171.22	0	49.78	60% survived. The condition of the plantation is in poor condition

Findings

Keeping in view the above discussion and ground reality and consultation of record and personal hearing and crossed examination / questions of the accused officials, the undersigned reached to the conclusion that charges leveled against the accused officials have been proved beyond any doubt and the plantation tabulated above raised under Billion Trees Afforestation Project were failed due to negligence, inefficiency improper maintenance, less watering and lack of interest by the SDFO, Forester and Forest Guards incharge of the plantation area.

Recommendations

The undersigned recommend that the charges of inefficiency, misconduct and corruption have been proved against the accused officials, therefore, the undersigned propose / recommend the following punishment to be imposed upon the accused officials;

1. Although as per monitoring report the condition of Dandai plantation is very good condition and the survival %age reported as 90 to 95% but however, 5.0 hectare plantation is shortfall, therefore it is

Attested


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

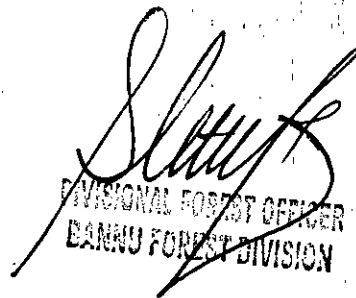
recommended that either the shortfall area may be treated or recovery to this effect may be made good from the accused officials on equal share basis.

2. As already recommended in another similar enquiry case that recovery of losses sustained to Government along with major penalty should be imposed upon the accused on account of failure of Sada Khel Jazeera plantation.
3. Recovery of shortfall plantation area should be affected from the accused officials on equal share basis besides imposing of major penalty on account of shortfall and failure in Sada Kel - II plantation area.

(Abid Mumtaz)

DIVISIONAL FOREST OFFICER
ENQUIRY OFFICER

Attested


DIVISIONAL FOREST OFFICER
BARRU FOREST DIVISION



Abid Mumtaz
Divisional Forest Officer
D.I.Khan Forest Division

Bungalow # 20 - Allama Iqbal road
D.I.Khan Cantt.
Phone # 0966-9280181
Fax # 0966-9280481



59

No. 02501G

Dated D.I.Khan the 11 May 2018

To

The Divisional Forest Officer,
Bannu Forest Division, Bannu

Annex - H

SUBJECT: INITIATION OF INQUIRY AGAINST THE STAFF OF BANNU FOREST DIVISION / INQUIRY REPORT THEREOF

Reference. Your office order letter No. 1697/G dated 09/04/2018

The failure and total short fall has clearly been reflected in the inquiry report which is again reproduced as under;

S. #	Name of area	Area charged (Ha)	Area measured through GPS (Ha)	Excess area (Ha)	Shortfall	Survival / failure %age
1.	Adami - II plantation	45 (10 x 5)	54.04	9.04	--	82% of area is 60% failed & survived. and 18% of area is totally failed
2.	Shagai plantation	180	77.55	--	102.45	Part-I (5x5) = 26.68 ha 20-30% success
						Part-II (5x5) = 4.95 ha 20-30% success
						Part-III (5x5) = 23.24 ha 40-50% success
						Part-IV (10x5) = 10.30 ha 25-35% success
						Part-V (5x5) = 12.52 ha 75-80% success
3.	Waligai	225	234.68	9.68	--	Part-VI (10x5) = 3.26 ha 65-70% success
						110.75 ha = 70-80% success 123.93 ha = 5% success

Further being custodian of record and competent authority in the case, it is requested to calculate the amount / expenditure incurred on raising and maintenance of plantation and distribute the losses sustained to the public exchequers as per designation wise responsibility.

The inquiry report along with connected documents received with your letter noted above containing from page No. 1 to 64 is returned herewith for information and further necessary action.


Acknowledge the receipt


DIVISIONAL FOREST OFFICER
D.I.KHAN FOREST DIVISION
D.I.KHAN

No. /G,

Copy forwarded to the Conservator of Forests Southern Circle Peshawar for favour of information and necessary action with reference to the DFO, Bannu endorsement letter No. 1698/G dated 09/04/2018, please.

DIVISIONAL FOREST OFFICER
D.I.KHAN FOREST DIVISION
D.I.KHAN


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

51

ENQUIRY REPORT IN RESPECT OF M/S SAFEERULLAH DEPUTY RANGER I/C SDFO BANNU, AKBAR NIAZ FORESTER, ISMAIL KHAN FOREST GUARD, SHER ALAM FOREST GUARD AND YOUSAF KHAN FOREST GUARD OF BANNU FOREST DIVISION

Read with

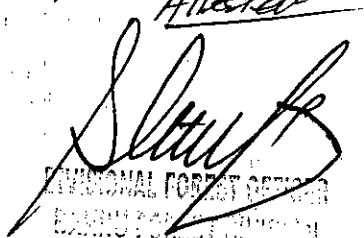
1. Divisional Forest Officer, Bannu Forest Division office order No. 08 dated 25/10/2017 circulated vide endorsement letter No. 557-60/G of even date.
2. Divisional Forest Officer, D.I.Khan office letter No. 3193-95/G dated 01/11/2017, No. 3196-98/G dated 01/11/2017, No. 3199-3201/G dated 01/11/2017 No. 3202-3204/G dated 01/11/2017 and No. 3205-97/G dated 01/11/2017.
3. Reply dated 17/11/2017 furnished by Mr. Safeerullah Deputy Ranger (Retired) the then incharge SDFO, Bannu
4. Reply dated 13/11/2017 furnished by Mr. Akbar Niaz Forester I/C Shagai Block Plantation.
5. Reply dated 17/11/2017 furnished by Mr. Sher Alam Forest Guard I/C Wlaigai Block Plantation
6. Reply dated 14/11/2017 furnished by Mr. Yousaf Khan Forest Guard I/C Adami Block Plantation
7. Mr. Muhammad Ismail Forest Guard I/C Shagai has not yet submitted reply to the Charge Sheet and statement of allegation

Discussion

The Divisional Forest Officers, Bannu Forest Division in the company of newly posted SDFO, Bannu during filed visit to various plantation areas noticed failure in the plantation raised under Billion Trees Afforestation Project due to Improper maintenance, less watering and lack of interest by the then SDFO Bannu, incharge Forester and Forest Guards of the plantation areas. The area wise observations of the aforementioned officers were as under:

S. #	Name of area	Total area claimed (Ha)	Failure noticed by the officers	Muster Roll Nos. under which the expenditures were incurred	Total amount incurred (Rs.)	Name of officer / official posted at plantation sites
1.	Adami - II Block Plantation	45	50%	No. 430, 444, 459, 524, 574 & 648/BU from February 2016 to June 2016	1668000	Safirullah Dy. Ranger I/C SDFO, Bannu Yousaf Khan Forest guard
2.	Shagai Block plantation	185	50%	No. 238, 239, 240, 241, 242, 243, 290, 291, 292, 293, 360, 423, 489, 532, 584, 603 & 635/BU	7861600	Safirullah Dy. Ranger I/C SDFO, Bannu Akbar Niaz Forester Ismail Khan Forest Guard
3.	Waligai Block plantation	225	40%	No.158, 194, 237, 285, 302, 286, 340, 341, 342, 392, 422, 423 / 2015-16 and No. 26, 58, 59, 60, 82,112, 113,114,192,193, 258, 259, 312, 313, 80, 381, 427, 460, 526, 571 & 645 /2016-17	12344000	Safirullah Dy. Ranger I/C SDFO, Bannu Mr. Sher Alam Forest Guard

In order to proper enquire in to the matter and knowing the ground realities and fixing responsibilities, the undersigned was appointed as enquiry officer vide DFO, Bannu office order No. 08 dated 25/10/2017. The charge sheet and statement of allegations were framed against the accused officials by the Divisional

Attested

DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

Forest Officer, Bannu Forest Division which were accordingly served upon the accused officials vide DFO, D.I.Khan Forest Division (Enquiry Officer) letter noted against each as per detail given under;

S. #	Name and Rank of accused officer / official	Letter No. & date through which the charge sheet & statement of allegation served
1.	Saiirullah Deputy Ranger I/C SDFO Bannu Forest Sub Division	letter No. 3193-95/G dated 01/11/2017.
2.	Akbar Niaz Forest Guard incharge Shagai Block plantation	No. 3196-98/G dated 01/11/2017,
3.	Mr. Ismail Khan Forest Guard I/C Shagai Block plantation	No. 3199-3201/G dated 01/11/2017
4.	Mr. Sher Alam Forest Guard I/C Waligai Block plantation	No. 3202-3204/G dated 01/11/2017
5.	Mr. Yousaf Khan Forest Guard I/C Adami - II Block plantation	No. 3205-07/G dated 01/11/2017.

The accused officials submitted reply to the charge sheet and statement of allegations and defended the charges / allegation framed against them.

Proceedings

The undersigned in the capacity of Enquiry officer examined replies furnished by the accused officials and also crossed questioned but they failed to quote the cogent reasons & shifted all the responsibilities of failure of plantation on harsh weather condition and termite attack etc. Plantation sites were inspected on 27/07/2018 accompanied with the DFO, Bannu, SDFO Bannu and accused officials and found that condition of plantations were very poor. The accused officials were asked on spot to beat-up the failure within least possible time.

From 08/03/2018 to 16/03/2018 the Monitoring Officer, Billion Trees Afforestation Project South Region checked the plantations and found that no improvements in the area were made. Personal hearing was conducted and checked all the relevant record in the office of DFO, Bannu Forest Division.

The observations during the inspection by the Monitoring Officer and on request intimated the results of sites to the undersigned which are elaborated as under;

S. #	Name of area	Area charged (Ha)	Area measured through GPS (Ha)	Excess area (Ha)	Shortfall	Survival %age
1.	Adami - II plantation	45 (10 x 5)	54.04	9.04	--	82% of area is 60% failed <i>Survived and</i> 18% of area is totally failed
2.	Shagai plantation	180	77.55	--	102.45	Part-I (5x5) = 26.68 ha 20-30% Part-II (5x5) = 4.95 ha 20-30% Part-III (5x5) = 23.24 ha 40-50% Part-IV (10x5) = 10.30 ha 25-35% Part-V (5x5) = 12.52 ha 75-80% Part-VI (10x5) = 3.26 ha 65-70%
3.	Waligai	225	234.68	9.68	--	110.75 ha = 70-80% 123.93 ha = 5%

Findings

Keeping in view the above discussion and ground reality and consultation of record and personal hearing and crossed examination / questions of the accused officials, the undersigned reached to the conclusion that charges leveled against the accused officials have been proved beyond any doubt and the plantation

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Attested

[Signature]
DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

• Fabricated above raised under Billion Trees Afforestation Project were failed due to negligence, inefficiency, improper maintenance, less watering and lack of interest by the SDFO, Forester, and Forest Guards at Bannu of the plantation area

Recommendations

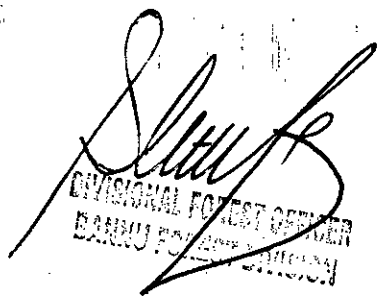
The undersigned recommend that the charges of inefficiency, misconduct and corruption have been proved against the accused officials, therefore, the undersigned propose / recommend the following punishment to be imposed upon the accused officials:

1. Mr. Saferullah Deputy Ranger in the capacity of I/O SDFO Bannu Forest Sub Division was responsible for the damage done as he was supervising all the plantations carried out in Bannu Forest Sub Division from 16/05/2016 to 30/06/2017. As he has been retired from service therefore, all the expenditure incurred on all the three (3) plantation's, **failed portions** on account of initial plantation and their subsequent maintenance may be calculated and recovered from the pension / gratuity of Mr. Saferullah Deputy Ranger (Retired) the then incharge SDFO, Bannu.
2. The remaining staff i.e. foresters and forest guards are fully responsible for the damage / failure of the plantations therefore, it is recommended that besides **recovery of expenditures** incurred on the raising and subsequent maintenance of failed and shortfall areas according to their posting, the major penalty as defined in the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 may be imposed upon all the accused official i.e. incharge foresters and forest guards



DIVISIONAL FOREST OFFICER
ENQUIRY OFFICER

Attested



Annex-1

MUHAMMAD SHAKEEL Divisional Forest Officer	KOHAT FOREST DIVISION 40 - Sial Baz Road, Kohat Cantt: Kohat Phone No. 0922-9260199 Email: dfokohat@yahoo.com
	No. <u>1044/S</u> Dated <u>05/12/2018</u>

To

The Divisional Forest Officer,
Bannu Forest Division Bannu.

Regd.

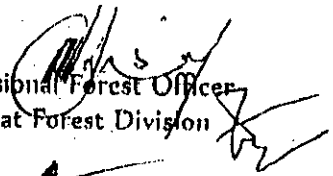
DISCIPLINARY PROCEEDINGS AGAINST THE STAFF OF Bannu FOREST DIVN;

Memorandum: - Ref: Correspondence resting vide your office endst: No.29-32/G dated 5/7/2017, Conservator of Forests Southern Circle Peshawar endst: No.27-29/E dated 4/7/2018 and this office letter No.961-67/G dated 22/11/2018..

Enclosed please find herewith Enquiry Report alongwith enquiry files pertaining to the subject case for favour of further course of action in your office.

- 1- File No.1 Page-01 to 88
- 2- File No.2 Page-01 to 36
- 3- File No.3 Page-01 to 56

Encls As above.



 Divisional Forest Officer
 Kohat Forest Division

No. /G

Copy forwarded to The Conservator of Forests Southern Circle Peshawar for favour of information as referred to above please.

Divisional Forest Officer
Kohat Forest Division

Attested:


 DIVISIONAL FOREST OFFICER
 BANNU FOREST DIVISION

E/Estt./General

2

ENQUIRY REPORT IN RESPECT OF STAFF OF BANNU FOREST DIVISION BANNU

Read with

- 1- DFO D.I. Khan office letter No. 8982/G dated 11-6-2018, 8350/G dated 11-5-2018
- 2- Conservators of Forest Southern Circle Peshawar vide his office letter No. 26/E dated 04-7-2018.
- 3- DFO office No. 34 dated 05-7-2018.

Discussion

- 1- The Divisional Forest Officer D.I. Khan vide his office letter No. 8350/G dated 11-5-2018 & 8982/G dated 11-6-2018 submitted the enquiry reports with the following findings :-

S#	Name of Area	Area charged (Ha)	Area measured through GPS (Ha)	Excess area (ha)	Shortfall (Ha)	Survival % age
1-	Dandi Block plantation	35	29.97	0	5.03	85% to 90% very good condition.
2-	Sadda Khel (Jazeera) W/L	60	68.20	8.20	0	20% area 75-80% survived while the remaining 80% area is totally failed
3-	Sadda Khel-II B/Plantation	221	171.22	0	49.78	60% survived. The condition of the plantation is in poor condition
4-	Adami-II plant:	45(10x5)	54.04	9.04	--	82% area is 60% survived and 18% area is totally failed
5-	Shagai plantation	180	77.55	--	102.45	Part-I (5x5)= 26.68ha 20-30 Success
						Part-II (5x5)= 4.95 ha 20-30%
						Part-III (5x5)= 23.24 ha 40.50% success
						Part-IV (10x5)= 10.30 ha 25.35% success
						Part-V (5x5)= 12.52 ha 75-80% success
6-	Walighai	225	234.68	9.68	--	Part-IV (10x5)= 3.26 ha 65-70% success
						110.75ha=70.80%success 123.93ha= 5% success

Although the reports with findings prepared and submitted by DFO D.I. Khan (previous Enquiry Officer) is totally based on the expertise of Billion Trees Afforestation Project Monitoring team, who had properly inspected the sites and calculated the survival percentage on technical grounds, however in compliance of Conservators of Forest Southern Circle Peshawar vide his office letter No. 26/E dated 04-7-2018 and DFO Bannu office No. 34 dated 05-7-2018, the undersigned accompanied by DFO Bannu paid field visit on 27&28 November 2018 to the above

Attested.


 DIVISIONAL FOREST OFFICER
 BANNU FOREST DIVISION

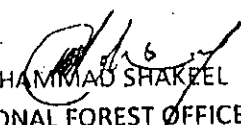
areas in the presence of field staff concerned so that to remove/redress their grievances pointed out by them in their application .

During the course of inspection/checking, no improvement in the conditions of the plantations were observed and the plantations were found in the same conditions as reported in the previous enquiry report, except the condition of Sadda Khel (Jazeera)Water logged plantation which was found improved.

Conclusion


After detail inspection and re-measurement of the area in presence of the staff concerned the undersigned reached to the conclusion that:-

- 1- As the condition of Sadda Khel (Jazeera) water logged plantation was found improved, therefore the staff related with the said plantation area may be exonerated from the charges recommended by DFO D.I. Khan.
- 2- No improvement with respect to the plantation areas of Shagai, Sadda Khel-II, Adami-II and Waligai plantation areas have been seen/verified, therefore, the recommendation of DFO D.I. Khan Forest Division (previous Enquiry Officer) may be implemented in the mentioned plantations.


 MUHAMMAD SHAKREL
 DIVISIONAL FOREST OFFICER
 KOHAT FOREST DIVISION

Attested.


 DIVISIONAL FOREST OFFICER
 BANNU FOREST DIVISION

Syed Lateef Hussain DIVISIONAL FOREST OFFICER BANNU		Miranshah Road Tappi Killa Bannu ☎0928-9270042 ☎0928-620145
No. <u>863</u>	IG	Dated Bannu <u>13/12/2018</u>

Annexure - J

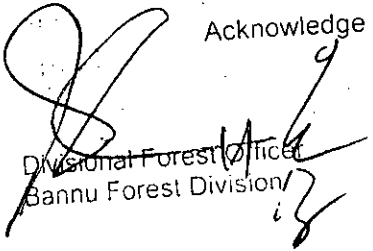
To
Mr. Safeerullah Deputy Ranger
(Retired)


Subject: - INITIATION OF INQUIRY AGAINST THE STAFF OF BANNU FOREST DIVISION

Memorandum:-

Enclosed find herewith Show cause notice alongwith inquiry reports received from Divisional Forest Officer D.I Khan Forest Division (inquiry Officer) and DFO Kohat.

You are therefore directed to reply to the show cause alongwith additional material in defence of penalties if any within 7 days, otherwise it will be presumed that you have nothing in your defence and experte action will be initiated against you under E&D Rules 2011.

Acknowledge receipt

Divisional Forest Officer
Bannu Forest Division


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

Annu-k

Safirullah
Case file EDR

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 369 /ST Dated 6-3-2019

To

The Divisional Forest Officer,
Government of Khyber Pakhtunkhwa,
Bannu.

Subject: - JUDGMENT IN APPEAL NO. 613/2018, MR. SAFIR ULLAH.

3204
15/3/19

I am directed to forward herewith a certified copy of Judgement dated 11.0.2.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

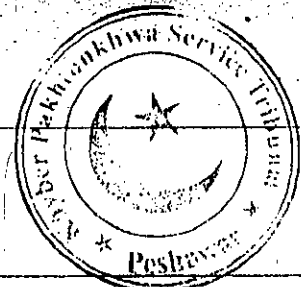
[Signature]
6/3
ADDITIONAL REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

[Signature]
14/3

Attested.

[Signature]
DIVISIONAL FOREST OFFICER
BANNU

No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
Service Appeal No. 613/2018

Date of Institution 25.04.2018
Date of Decision 11.02.2019

Safir-Ullah Khan S/o Malik Mir Dad Khan, R/o Sero Banda Khel,
Bannu, Ex-Deputy Ranger, Forest Bannu Sub Division Bannu.
Agency.

Appellant

Versus

1. Divisional Forest Officer, Bannu.
2. Chief Conservator of Forest Central Southern Region-I, Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa, Environment Department Peshawar.

Respondents

11.02.2019

Mr. Muhammad Hamid Mughal-----Member (J)
Mr. Hussain Shah-----Member (E)

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: - Learned counsel for appellant and Mr. Riaz Paindakheil learned Assistant Advocate General present.

2. The appellant (Retired Deputy Ranger) has filed the present appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974 for the grant of pensionary benefits

3. Learned counsel for the appellant argued that the appellant

A. N. S. /

ATTESTER
[Signature]
Secretary


[Signature]
DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

16.10.2017. Next contended that the competent authority has also given note in the said office order dated 16.10.2017 that pension paper etc. will be processed after finalization of disciplinary proceeding against the appellant. Next contended that upon retirement of the appellant w.e.f 07.09.2017, the departmental proceeding against the appellant stood abated. Next contended that departmental punishment cannot be awarded to the appellant after his retirement from government service. Learned counsel for the appellant stressed that the order of departmental authority regarding withholding of the pensionary benefits of the appellant is unlawful.

4. As against that learned AAG argued that the appellant caused huge loss to the government exchequer in that huge amount was incurred from government exchequer on raising and maintenance of plantation and due to appellant's improper maintenance, less watering and lack of interest, failure was observed more than forty percent (40%); that charge sheet/statement of allegation was served upon the appellant; that inquiry officer also conducted the inquiry and upon submission of the inquiry report dated 11.06.2018 the appellant was directed vide office letter dated 14.06.2018 to deposit the amount of Rs- 6959700/- on account of recovery imposed by the inquiry officer; that the appellant was retired on 07.09.2017 while the disciplinary action was initiated vide order dated 15.06.2017 i.e. well before the date of retirement of the appellant.

5. Arguments heard. File perused.

Attested.


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION


The departmental action was initiated against the appellant when he was on the verge of his retirement. In response to the charge sheet the appellant submitted his reply dated 03.08.2017. However the appellant had already attained the age of superannuation when the inquiry officer submitted his report.

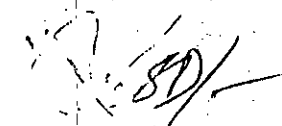
7. It is settled that if a government servant attains the age of superannuation before the completion of inquiry, the disciplinary proceeding against him shall abate.

8. In view of above, the act of the departmental authority of withholding of pensionary benefits to the appellant till the finalization of disciplinary proceeding against the appellant vide endorsement (Note) as given in the office order dated 16.10.2017 cannot be termed as lawful. Consequently endorsement (Note) as given in the office order dated 16.10.2017 regarding withholding of pensionary benefits (non-processing of pension papers), is set aside.

9. Needless to mention that in case any pecuniary loss to the government has been proved against the appellant, the same may be recovered from the appellant in accordance with law.

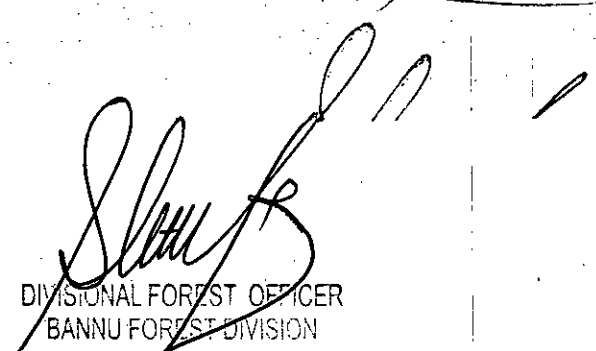
10. The present service appeal is accepted / disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED

Attested


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

Without cost
10/11/2017
Member (Hussain Shah)
Member (Muhammad Hamid Mughal)
Divisional Forest Officer
Bannu Forest Division

Annex - 1

OFFICE ORDER NO. 56 DATED BANNU THE. 16 /01/2019 ISSUED BY SYED LATEEF HUSSAIN
DIVISIONAL FOREST OFFICER BANNU FOREST DIVISION BANNU

Read with:-

- 1- DFO Bannu Office order No. 61 dated 15-6-2017
- 2- CF South letter endst: No. 2809/E dated 17-10-2017.
- 3- DFO Bannu office order No. 08 dated 25-10-2017.
- 4- DFO D.I Khan letter No. 3199/G dated 01-11-2017.
- 5- Inquiry report bearing DFO D.I. Khan letter No. 8350/G dated 11-5-2018 & 8982/G dated 11-6-2018.
- 6- DFO Bannu office letter No. 2033-35/G dated 14-6-2018.
- 7- Application of M/S Akber Niaz Fr, Ismail Khan & Sher Alam Forest Guards dated 28-6-2018 bearing remarks of caretaker Minister for Environment received through CF South letter No. 26/E dated 04-7-2018.
- 8- DFO Bannu office order No. 34 dated 5-7-2018
- 9- DFO Kohat Inquiry report vide his office letter No. 1094/G dated 5-12-2018.
- 10- DFO Bannu office letter No. 873-76/G dated 13-12-2018.
- 11- Reply furnished Mr. Akber Niaz Forester & Ismail Khan Forest Guard dated 26-12-2018.
- 12- Call letter for personal hearing of DFO Bannu vide No. 995-98/G dated 08-1-2019

History of case

M/S Saferullah Ex-Deputy Ranger I/C Bannu Forest Sub Division, Akber Niaz Forester and Ismail Khan Forest Guard incharge of Sadda Khel-II and Shagai Block plantation raised under Billion Trees Afforestation Project Phase-II have been charge sheeted on a/c of heavy failure in the plantation areas above vide DFO Bannu office orders No. 61 dated 15-6-2017 & 08 dated 25-10-2017.

To probe into the matter the undersigned in the capacity of authority under E&D Rules 2011, Mr. Abid Muntaz Divisional Forest Officer D.I. Khan Forest Division has been appointed as inquiry officer. Accordingly the DFO D.I. Khan vide his office letter No. 6903-04/G dated 22-6-2018, 6915-16/G dated 20-3-2018, 6917-18/G dated 20-3-2018, 6904, served the charge sheets to all the accused officials which were delivered under proper receipt. The accused officials have submitted their replies to the charge sheets directly to the inquiry officer. The DFO D.I. Khan (inquiry Officer) vide his office letter No. 6777/G dated 14-3-2018 called all the accused officials for personal hearing which has accordingly been endorsed vide DFO Bannu letter endst: No. 1594-95/G dated 15-3-2018. Personal hearing was conducted on 16-3-2018 in presence of departmental representative.

The DFO D.I. Khan vide his office letter No. 8350/G dated 11-5-2018 & No. 8982/G dated 11-6-2018 submitted the inquiry reports mentioning therein the quantum of failure alongwith recommendations. The survival % age of Shagai Block plantation and Sadda Khel-II plantations tabulated below:-

S#	Name of Area	Area charged (Ha)	Area measured through GPS (Ha)	Excess area (Ha)	Shortfall	Survival %age	Failure age %
1-	Shagai B/plant.	180	80.95	--	99.05	Part-I (5x5)= 26.68ha 20-30%	26.68 ha = 70%
						Part-II (5x5)= 4.95ha 20-30	04.95 ha = 70%
						Part-III(5x5)= 23.24ha 40-50%	23.24 ha = 50%
						Part-IV (10x5)= 10.30ha 25-35%	10.30 ha = 65%
						Part-V(5x5)=12.52ha 75,80%	12.52 ha = 20%
						Part-VI(10x5)= 3.26ha 65-70%	03.26 ha = 30%
2-	Sadda Khel-II	200	171.22	0	28.78	60%	40%

Attested

[Signature]
 DIVISIONAL FOREST OFFICER
 BANNU FOREST DIVISION

The inquiry Officer further recommended the following penalties:-

- 1- The loss sustained to Govt. on a/c of failure/shortfall in the plantation area may be calculated which may be recovered from the pension of Mr. Safirullah Ex-D/Ranger incharge Bannu Forest Sub Division as well as from the other involved officials on equal share basis.
- 2- Major penalties may be imposed on other involved officials as defined in Khyber Pakhtunkhwa Government Servants (E&D Rules 2011).

The DFO Bannu in the capacity of authority served all the accused staff with the show cause notice vide DFO Bannu office letter No. 2033-35/G dated 14-6-2018, but in the meanwhile all accused officials approached the caretaker Minister for Forestry, Environment & Wildlife Department for de-novo inquiry having reservation by the accused officials on the inquiry reports submitted by DFO D.I. Khan received through CF South letter No. 26/E dated 04-7-2018 with the direction to conduct de-novo inquiry in the subject case, therefore in order to probe the short comings/allegation of the accused officials, Muhammad Shakeel DFO Kohat has been appointed as inquiry officer vide office order No. 34 dated 05-7-2018. The DFO Kohat has paid field visit to the plantation sites on 27 & 28 Nov. 2018 and also informed all the accused officials to be remained present during inspection vide his office letter No. 961-65/G dated 22-11-2018.

According to the ground reality and condition of the plantation sites findings has been submitted by DFO Kohat supporting therein the recommendations of DFO D.I Khan regarding Sadda Khel-II Shagai Block plantations vide his office letter No. 1094/G dated 05-12-2018. Finally all the accused officials were served with the show cause notices vide letter No. 873-76/G dated 13-12-2018 and also called for personal hearing vide this office letter No. 995-98/G dated 08-01-2019.

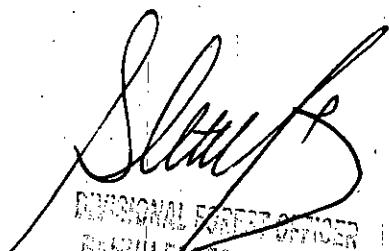
A committee consisting of M/S Abdur Riaz Fr I/C Bannu Forest Sub Division, Gul Rehman Forest Guard, Dilawar Khan Forest Guard and Muhammad Shafi S/Clerk has been constituted vide office order No. 49 dated 31-12-2018 so as to dug out the facts regarding responsibilities of Mr. Akber Niaz Forester in Sadda Khel-II and Shagai plantation keeping in view the documentary evidences in light of his application on the subject.

The committee submitted their report mentioning therein that Mr. Akber Niaz Forester has only signed on M/Roll No. 532/BU/ 2016-17 for Rs. 459500/- & M/Roll No. 584/BU/ 2016-17 for Rs. 409500/- issued for Maint. of Shagai plantation for the month of 4 & 5/2017. Moreover the extant of Sadda Khel-II Block plantation area may be read as 200Ha instead of 221ha.

Detail of loss sustains to Government on a/c of failure and shortfalls in Sadda Khel-II and Shagai plantation area due to their negligence is tabulated below:-

S#	Name of Area	Loss sustain to Govt. due to failure/shortfalls
1-	Sadda Khel-II plantation	1386132
2-	Shagai plantation	6425785
	Total	7811917

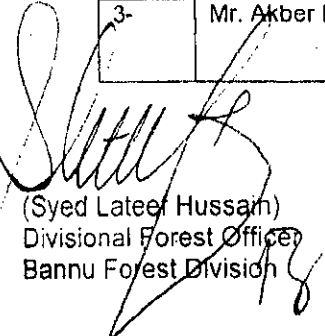
Attested


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

Findings.

Keeping in view of the recommendations received from DFO D.I. Khan and Kohat (inquiries officers), therefore as provided under E&D Rules 2011, undersigned in the capacity of authority awarded the following punishment on a/c of failure/shortfall in the area of Sadda-II and Shagai plantation of Bannu Forest Sub Division in favour of officials noted against each.

S#	Name Rank of officials	Punishment awarded
1-	Mr. Safirullah Ex- Deputy Ranger	Recovery of Rs. 3761125/-
2-	Mr. Ismail Khan Forest Guard	1- Compulsory retired from service with immediate effect. 2- Imposed recovery of Rs. 3761125/-
3-	Mr. Akber Niaz Forester	1- Imposed recovery of Rs. 289667/- 2- Stoppage of one annual increment due on 1-12-2019 without accumulative effect.


(Syed Lateef Hussain)
Divisional Forest Officer
Bannu Forest Division

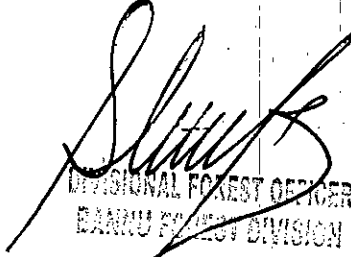
No. 1021-251G

Copy forwarded to:-

- 1- The Conservator of Forests Southern Circle Peshawar for favour of information, please.
- 2- ~~Mr.~~ Sub Divisional Forest Officer Bannu, please.
- 3- Divisional Accountant
- 4- Mr. Saferullah Ex- Deputy Ranger
- 5- M/S Akber Niaz Forester and Ismail Khan Forest Guard

Divisional Forest Officer
Bannu Forest Division

Attested,


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

Annexure-M1

**POWER OF ATTORNEY
IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)**

C.P.L.A. No. /2019

Govt. of Khyber Pakhtunkhwa, and others

PETITIONER(S)

VERSUS

Safir Ullah Khan

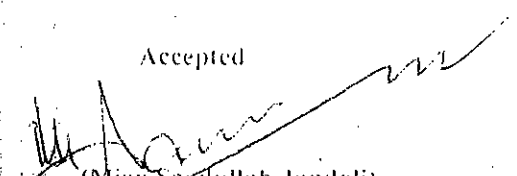
RESPONDENT(S)

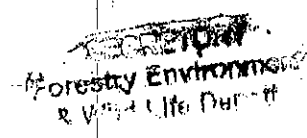
I (we) Petitioner/Govt. of KPK in the above suit/Appeal/Petition/Reference, do hereby appoint and constitute Mian Saadullah Jandoli, Advocate-on-Record, Supreme Court, for Govt. of Khyber Pakhtunkhwa the Attorney for the aforesaid appellant [or plaintiff(s) or Petitioner(s) or Respondent (s) or defendant (s) or opposite party] to commence and prosecute (or to appear and defend this action/appeal/suit/petition/reference on my/our behalf and all proceeding that may be taken in respect on any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take back documents, to accept the process of the Court, to appoint and instruct counsel, to represent the aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] in the above matter and to do all things incidental to such acting for the aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party]. The aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party] agree (s) to ratify all acts done by the aforesaid Advocate-on-Record in pursuance of this authority

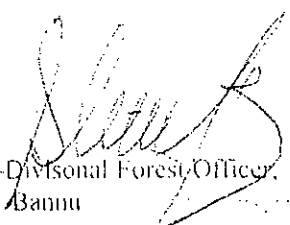
In witness whereof I/we do hereto set my/our hand (s) this day of

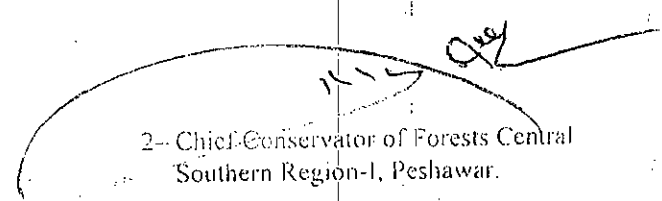
Signed with Official seal stamp


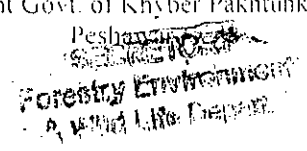
Accepted

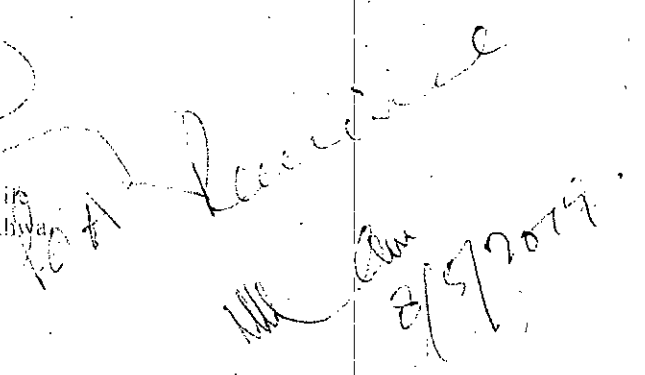

(Mian Saadullah Jandoli)
Advocate-on-Record
Supreme Court of Pakistan
(for KPK) Advocate-General's
Office KPK, High Court Building, Peshawar.
Office Tel. # 091-9210312, 9210119

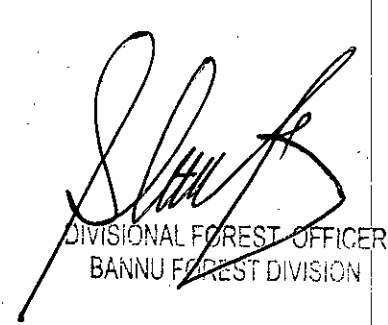



1- Divisional Forest Officer,
Bannu


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


3- Secretary Forestry Environment & Wild Life
Department Govt. of Khyber Pakhtunkhwa
Peshawar



M.A. Khan
8/5/2019


DIVISIONAL FOREST OFFICER
BANNU FOREST DIVISION

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

IN

Service Appeal No.533 /2019

Safeer Ullah Khan Appellant

Versus

Secretary to Govt. of K.P. Environmental Department and
others..... Respondents

**REJOINDER ON BEHALF OF APPELLANT
WITH REGARD TO THE PARA-WISE
COMMENTS SUBMITTED BY
RESPONDENTS NO.1 to 4.**

Respectfully Sheweth;

Reply Preliminary objections:

- 1) Preliminary Objections 1 to 6 raised in the parawise comments are incorrect, hence denied. The appellant has a good prima facie case on its merit and filed the appeal well within time, hence approached this Hon'ble Tribunal with clean hands being matter relating to his terms & conditions of service, therefore, this Hon'ble Tribunal is competent to entertain and adjudicate the service appeal in hand.

REPLY ON FACTS:

- 1) Para No.1 needs no further reply admitted by the respondents.
- 2) Para No.2 is incorrect hence denied. No financial loss has been caused to the Government ex-chequer by the appellant or any proof

in this regard has been collected during the so called one sided fact finding inquiry culminating into recovery of the impugned order made illegally by the respondents. All the proceedings initiated by the respondents against the appellant are void ab-initio having no sanctity of law therefore the entire superstructure built on the same would automatically fall on the ground.

- 3) Para No.3 has been admitted by the respondents, hence needs no further reply.
- 4) Para No.4 is denied. As explained in Para No.2 the respondents and the inquiry officer failed to establish the charges through concrete, cogent and confidence inspiring evidence, hence the allegations as alleged by the respondents cannot be termed as proof of the charges which was required to be established within the four corners of law by providing an opportunity of defence, opportunity of cross examination, hence no such opportunity has been provided therefore the entire exercise has been carried out against the appellant at his back which is violative of the mandatory provisions of E&D Rules, Articles 4 and 10-A of the constitution of Pakistan. The entire exercise can be termed as malafide as evident from the fact the appellant got retired from his service on 07.09.2017 while the impugned recovery order was passed on 16.01.2019 which is not tenable in the eyes of law. It is settled law that a civil servant once retires from his service then no disciplinary proceedings can be initiated against him under the E&D rules , therefore all the proceedings were conducted against the appellant after a lapse of more than one and a half years.
- 5) Para 5 needs no reply.
- 6) Para 6 needs no reply.
- 7) Para 7 is incorrect. No regular inquiry was conducted by the respondents. Only one sided fact finding inquiry which can not be substitute of a regular inquiry.

- 8) Para No.8 is incorrect hence denied. As stated in the above paras no opportunity of proper defence, opportunity of cross examination was provided to the appellant, hence recovery of the amount through impugned order can not be justified on the basis of a fact finding inquiry which was conducted at the back of appellant.
- 9) Para No.9 is incorrect, hence denied.
- 10) Para No.10 is incorrect, hence denied. No financial loss has been occurred to the government ex-chequer by the appellant. The appellant performed all his assigned duties with due diligence and to the best satisfaction of his immediate superiors. In fact the charges leveled against the appellant are the result of personal grudges and malafide developed on the part of respondents against the appellant by refusing to obey illegal orders of higher authorities.

REPLY ON GROUNDS:

- A. Grounds A is incorrect, hence denied. Ground raised in the appeal is correct. No disciplinary proceedings can be conducted against the appellant after his retirement, hence the exercise undertaken by the respondents is malafide based on ill-will and personal grudges.
- B. Ground B is incorrect hence denied. Inquiry Officer Abid Mumtaz Divisional Forest Officer D I Khan only conducted a one sided fact finding inquiry without providing an opportunity of defence to the appellant, therefore, the entire proceedings can be safely termed as proceedings taken in violation of the mandatory provisions of E&D Rules 2011 and constitutional guarantees provided to the citizens of Pakistan. The respondents also failed to adhere to the principles of natural justice which are part and parcel of all judicial and executive proceedings.
- C. Ground C is incorrect, hence denied. No regular de-novo inquiry was conducted by the Inquiry Officer. He had simply endorsed the findings of one sided fact finding inquiry which can not be termed as

a regular inquiry, therefore the defence of the appellant has been material prejudiced neither he was provided an opportunity of cross examination nor associated with the proceedings, hence the same were conducted at his back therefore no sanctity can be attached to such proceedings in the eyes of law.

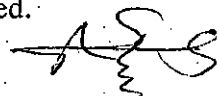
- D. Ground-D is incorrect. Hence denied. No contact at all was made to the appellant or he was informed from the intended illegally proceedings. Legally speaking, the respondent cannot compel the appellant to do something which is not required by the law to do, therefore issuing of any alleged letters is violative of the clear cut mandate of the reported judgments of Hon'ble Supreme Court of Pakistan and this Hon'ble tribunal rendered in the case of appellant.
- E. Ground-E is incorrect. Hence denied. No show-cause notice was served upon the appellant at his home address or any proof in this regard has been filed by the respondents with the parawise comments, hence the entire plea of the respondents is denied.
- F. Ground-F is denied. As explained in the above paras no financial loss has been caused by the appellant to the government ex-chequer or any loss has been proved, therefore the appellant can not be saddled for unfounded baseless allegations based on malafide, ill-will and personal grudges.
- G. Ground-G has been wrongly set up by the respondents. The respondents needs to read the judgments as a whole and legally speaking are not justified to pick and choose few paras of the judgment and thereafter formed its opinion. The referred judgment of the tribunal has categorically declared the act of non processing of the pensionary papers of the appellant illegal, hence the respondents are legally obliged to pay the entire pensionary benefits to the appellant with heavy cost and damages as no law permits the respondents to restrained the pension and other emoluments of the

appellant and on this point reported judgments of the superior courts would be referred during course of arguments.

H. Ground-H is incorrect hence denied.

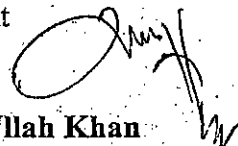
It is, therefore, humbly prayed that this rejoinder may kindly be consider as integral part of the main appeal with further prayer not only to allow the appeal but also award heavy damages as well as cost for the illegal actions of the respondents.

Any other relief which this Hon'ble Tribunal deems appropriate in the circumstances of the case and not specifically asked for may kindly also be granted.



Appellant

Through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Dated: 05.12.2019

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

IN

Service Appeal No.53 /2019

Safeer Ullah Khan Appellant

Versus

Secretary to Govt. of K.P. Environmental Department and
others..... Respondents

AFFIDAVIT

I, Safeer Rullah Khan, appellant, do hereby affirm and declare on oath that the contents of the **rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


DEPONENT

