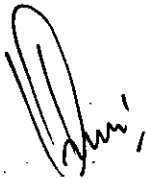


ORDER

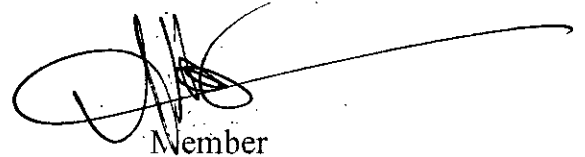
17.12.2018

Counsel for the appellant alongwith Mr. Usman Ghani, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today in connected service appeal no. 1244/2016 titled "Abdul Manan vs Govt: of Khyber Pakhtunkhwa, Peshawar and two others", the impugned order 02.04.2015 is set aside and the appellant is reinstated in service. The respondents are directed to conduct de-novo enquiry strictly in accordance with law and rules within a period of 90 days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. The appeal is disposed of accordingly. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.



Chairman



Member
Camp Court Abbottabad

ANNOUNCED

17.12.2018

18.10.2018

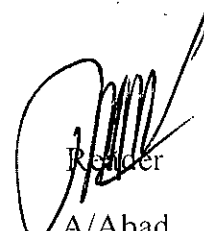
Appellant Naseeb Khan in person alongwith his counsel present. Mr. Usman Ghani, District Attorney for the respondents present. To come up for arguments alongwith connected appeal No. 795/2015 on 12.11.2018 before the D.B at camp court, Abbottabad.


Member


Chairman
Camp Court, A/Abad

12.11.2018

. Due to retirement of the Hon'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Abbottabad has been cancelled. To come up for the same on 17.12.2018 at camp court Abbottabad.


Retired
A/Abad

22.05.2018 Clerk of the counsel for appellant and Addl. AG for the respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 13.06.2018 before D.B.

MA

(Muhammad Amin Khan Kundi)
Member

13.06.2018 Appellant absent. Learned counsel for the appellant present and Mr. Usman Ghani, District Attorney alongwith Mr. Itazaz Mehfooz, SDFO for the respondents present. Since connected service appeals have been adjourned to 10.07.2018 for arguments due to non-availability of their learned counsel therefore, the present appeal is also adjourned for arguments to 10.07.2018 before D.B.

MA
(M. Amin Khan Kundi)
Member

Hamid
(M. Hamid Mughal)
Member

10.07.2018 Appellant absent. However, learned counsel for the appellant Mr. Taimoor Ali, Advocate present and submitted fresh Vakalat Nama. Mr. Usman Ghani, District Attorney for the respondents present. To come up for arguments alongwith connected service Appeal No. 795/2015 on 12.07.2018 before D.B.

MA
Member


S
Chairman


12.07.2018

Mr. Shad Muhammad, Advocate with appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present.

Counsel for the appellant submitted an application for transfer the instant appeal to Camp Court, Abbottabad.

Since the appeal pertains to the territorial limits of Hazara Division, as such application is allowed. To come up for arguments at Camp Court, Abbottabad on 29.08.2018 before D.B.


Member


Chairman

29-8-18:

clerk for counsel for the appellant present. No one present for respondents. Due to summer vacations case to come up for the same on 19/9/18 at camp court Abbottabad.


Ready

19.09.2018

Mr. Tajdar Faisal Minakheil Advocate counsel for appellant present. Mr. Saleem Khan Forest Guard alongwith Mr. Usman Ghani learned District Attorney for respondents present.

Today the case was fixed for arguments but could be not heard as he is not in position to answer the query as the above named representative has not brought the record today. He is directed to bring the entire record relevant for the disposal of the appeal in hand on next date without fail. Case adjourned for arguments. Need not to mentioned is that in case of none availability of record by the respondents. Appeal will be decided on the strength of available record on 12.11.2018. To come up for further proceedings on the date fixed before D.B at camp court A/Abad.



Member


Chairman
Camp Court A/Abad

06.10.2017

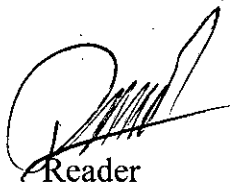
Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Atizaz Mehfooz, SDFO for respondents present. Appellant seeks adjournment. Adjourn. To come up for arguments on 01.12.2017 before D.B.


Member
(Executive)


Member
(Judicial)

01.12.2017

Since 1st December, 2017 has been declared as Public Holiday on account of Rabbi-ul-Awal. To come up for arguments on 19.01.2018 before the D.B.


Reader

23.1.2018

Appellant in person and Mr. Ziaullah, District Attorney for the respondents present. Due to general strike of the Bar, counsel for the appellant is not in attendance. To come up for arguments on 16.02.2018 before the D.B.

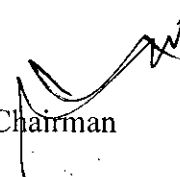
Member


Chairman

16.02.2018

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Counsel for the appellant seeks adjournment. To come up for arguments on 29.03.2018 before the D.B.


Member


Chairman

29.03.2018

Appellant with counsel and Addl. AG for respondents present. Learned AAG requested for adjournment due to transfer of Mr. Ziaullah, Deputy District Attorney. Adjourned. To come up for arguments on 02.04.2018 before the D.B.



Member


Chairman

02.04.2018

Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 13.04.2018 before D.B


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

13.04.2018

Appellant alongwith counsel, Mr. Ziaullah, Deputy District Attorney alongwith Aitizaz Mahfooz, SDFO for the respondents present. Arguments partly heard. Some points needed clarification for which case is adjourned to 23.4.2018 for further arguments before this D.B.


Member


Chairman

23.04.2018

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. To come up for arguments alongwith connected appeal No. 795/2018 on 22.05.2018 before the D.B.


Member


Chairman


06.04.2017

Counsel for the appellant and Mr. Syed Latif Hussain, SDFO, Mr. Altaf Qureshi, SDFO alongwith Addl: AG for the respondents present. Argument could not be heard due to incomplete bench. To come up for final hearing on 02.06.2017 before D.B.


Chairman

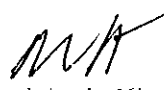
02.06.2017

Clerk of the Counsel for appellant and Mr. Muhammad Adcel Butt, Additional AG for the respondent present. Clerk of the Counsel for appellant requested for adjournment Adjourned. Request accepted. To come up for arguments on 07.08.2017 before D.B.

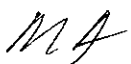

(Gul Zeb Khan)


07.08.2017

Member


(Muhammad Amin Khan Kundi)
Member

Appellant in person present. Mr. Atizaz Mehfooz, SDFO alongwith Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 06.10.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

17.03.2016

Appellant in person and Mr. Muhammad Saleem, DPO Incharge
alongwith Mr. Muhammad Saddique, Sr. GP for respondents present.
Written reply by respondents No. 2 and 3 submitted. The appeal is assigned
to D.B for rejoinder and final hearing for 18.10.2016 at Camp Court A/Abad.

18.10.2016

Counsel for the appellant and Mr. Muhammad Zahoor,
Range Officer alongwith Mr. Muhammad Siddique, Sr.GP for
the respondents present. Learned counsel for the appellant seeks
adjournment for submission of rejoinder. Adjourned for rejoinder
and final hearing before the D.B to 14.3.2017 at camp court,
Abbottabad.


Chairman

Camp Court A/Abad



Member


Chairman
Camp Court, A/Abad

17.11.2016

Appellant in person present. Submitted application for transfer and
hearing of the instant appeal with Service Appeal No. 795/2015 fixed at
Provincial Headquarter i.e at Peshawar.

According to observations recorded by this Tribunal in the said
Service Appeal, hearing of the instant appeal alongwith the said appeal is
essential as such appeal in hand is transferred from Abbottabad to
Peshawar for hearing alongwith the said service appeal by D.B on
08.01.2017.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 926/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18.08.2015	<p>The appeal of Mr. Naseeb Khan resubmitted today by Mr. Shad Muhammad Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	24-8-15	<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up thereon <u>15-9-15</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

15.9.2015

Agent of counsel for the appellant present. Learned counsel for the appellant has sent written arguments according to which appellant was dismissed from service vide impugned order dated 2.4.2015 against which review petition was submitted on 21.4.2015 which was not responded and hence the instant service appeal on 22/7/2015.

That according to the grounds alleged by the appellant in his appeal he was given no opportunity of hearing and the inquiry was not conducted in the prescribed manners.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 15.12.2015 before S.B at Camp Court A/Abad.

Appellant Deposited
Security & Process Fee

[Handwritten signature]
15.12.2015

[Handwritten signature]
Chairman
Camp Court A/Abad

15.12.2015

Appellant in person and Mr. Farhad, SDFO alongwith Mr. Muhammad Siddique, Sr.G.P for respondents present. Requested for adjournment. To come up for written reply/comments on 17.3.2016 before S.B at Camp Court A/Abad.


[Handwritten signature]
Chairman
Camp Court A/Abad

The appeal of Mr. Naseeb Khan son of Said Ameer resident of Dassu Ex-Forest Guard received to-day i.e. on 22.07.2015 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- The law under which appeal is filed is not mentioned.
- 2- Address of respondent No.3 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Necessary Party may be made in the memorandum of appeal.

No. 1167 /S.T,

Dt. 05/8 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Shad Muhammad Khan Adv. Mansehra

1. 876 of Service Tribunal Act, 1974.
2. Conservator of Forest: upper Hozara: "Forest Circle", "Mansehra".
3. No other necessary party except mentioned in appeal.

is resubmitted after removal of objections


Shad Mohammad Khan
Advocate Supreme Court
of Pakistan.

Counsel for Appellant.

15 - 8 - 15.

BEFORE THE SERVICE TRIBUNAL

K.P.K. PESHAWAR

Appeal NO. 996/2015

Naseeb Khan.....Appellant

Versus

*The Chief Minister Khyber Pakhtunkhwa
Peshawar and others.....Respondents*

APPEAL

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S#	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES
1.	Memo of appeal.	-	1 to 6
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3.	Affidavit	-	8
4.	Copies of charge sheet, statement of allegation and reply.	"A", "B" & "C"	9 to 13
5.	Copies of inquiries.	"D", "E" & "F"	14 to 64
6.	Copy of show cause notice and <i>Reply</i>	"G" & "H"	65 to 67
7.	Copy of order.	"I"	68
8.	Copy of review petition.	"J"	69 to 72
9.	Wakalat Nama	-	73

Dated 11.07.2015

Naseeb

~~Naseeb Khan~~
(Appellant)

Through:

SHAD MUHAMMAD KHAN
Advocate Supreme Court of
Pakistan (Mansehra)

P - ①

BEFORE THE SERVICE TRIBUNAL
K.P.K. PESHAWAR

Appeal No. 926/2015

E.W.F Province
Service Tribunal

Diary No. 870

Dated 22-7-2015

Naseeb Khan son of Said Ameer, Caste
Shamat Khail, resident of Dassu, Tehsil
Dassu, District Kohistan, Ex-Forest
Guard.....**Appellant**

Versus

- 1) The Chief Minister Khyber
Pakhtunkhwa Peshawar.
- 2) Divisional Forest Officer, Upper
Kohistan.
- 3) Conservator of Forest, Upper
Hazara.....**Respondents**

APPEAL AGAINST THE ORDER OF
RESPONDENT NO. 1 VIDE WHICH THE
APPELLANT HAS BEEN DISMISSED
FROM SERVICE AND ALSO RECOVERY
OF RS. 6523 00/- WAS DIRECTED TO
BE MADE FROM THE APPELLANT.

PRAYER: -

On acceptance of appeal the
impugned order of dismissal may kindly
be set-aside and the appellant may
kindly be re-instated in service.

File to file
22/7/15

Re-submitted to
and filed.
18/8/15

2

Respected Sir,

The brief facts leading to the instant appeal are arrayed as follows: -

- 1) That, the appellant joined Forest Department as Forest Guard and served the department for about 7/8 years to the best satisfaction of his superior officers.
- 2) That, the appellant was posted as a Forest Guard at Sazeen Depot Kohistan and on the night between 24/25 August, 2013 some criminals have come and taken away timber measuring 7000sft. The appellant chalked out a damage report and also informed the local police about the mishap. The timber which has been snatched away was later-on returned and which is still lying in Harban Depot and in the presence of timber was also duly verified by Muhammad Anwar SDFO Kohistan who appeared during inquiry and his statement was also recorded.
- 3) That, the appellant was issued a charge sheet alongwith statement of allegation asking him to submit a reply with respect to allegations contained therein and the appellant

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submitted a detail reply refuting all the allegation leveled therein.

(The copy of charge sheet, statement of allegation and reply are annexed as Annexure "A", "B" & "C").

- 4) That, the PSO attached to respondent No. 1 issued to letter to Commissioner, Hazara Division, Abbottabad to hold an inquiry and Liaqat Ali, Humayun were appointed to hold an inquiry. The said two members carried out thorough inquiry and submitted their findings as well as recommendations. An other inquiry was also initiated and the inquiry committee also form their opinion and recommendations were given. A third inquiry was also directed to be carried out and accordingly Shah Wazir and another member carried out the inquiry and submitted their findings and recommendations.

(The copies of inquiries are attached as Annexure "D", "E" & "F" respectively).

- 5) That, on receipt of the finding and recommendations of the inquiry, the appellant was issued a show cause notice in order to explain his stance and to rebut the finding if any. The

appellant submitted a detail reply refuting all the allegations.

(The copy of show cause and Reply are attached as Annexure "G" & "H").

6) That, on receipt of reply to show cause notice respondent No. 1 who was not satisfied there with, passed an order dismissing the appellant from service and also directed him to pay the amount mentioned above.

(The copy of order is attached as Annexure "I").

7) That, the appellant being aggrieved by the order of respondent No. 1 submitted a review petition, but the said review petitioner has not been disposed off as yet nor any intimation has been conveyed in this respect.

(The copy of review petition is attached as Annexure "J").

8) That, the appellant seeks the setting-aside the order of dismissal on the following amongst other grounds: -

GROUND: -

A) That, the order of dismissal of appellant is against the fact patent

5

on record and also opposed to law applicable there to and hence the order is not maintainable in the eye of law.

- B)** That, as very serious allegations has been alleged against the appellant which required to be thrashed through a regular inquiry instead of summary procedure.
- C)** That, the entire evidence relating to the taking away of timber, its return and all other connected facts shall have to be established by producing evidence, but instead only documents were scanned and the opinion was found.
- D)** That, the appellant has been provided an opportunity to be available at the time of departmental inquiry and he shall have to be given an opportunity to cross examine the witnesses who could testify on oath.
- E)** That, the competent authority for the appellant was DFO Kohistan and he could have issued charge sheet alongwith statement of allegation and he could appoint inquiry officer or committee as the case may be,

6

but respondent No. 1 has done own
for the reasons best known.

It is, therefore, humbly requested that on
acceptance of appeal, the impugned order
of dismissal may kindly be set-aside and
the appellant may kindly be re-instated
into service.

Dated 11.07.2015

Naseeb

Naseeb Khan

(Appellant)

Through: -

Shad Muhammad Khan
SHAD MUHAMMAD KHAN

Advocate Supreme Court of
Pakistan (Mansehra)

VERIFICATION

I, NASEEB KHAN SON OF SAID AMEER,
RESIDENT OF DASSU, TEHSIL DASSU, DISTRICT
KOHISTAN, EX-FOREST GUARD DO HEREBY
VERIFY THAT THE CONTENTS OF FORE-GOING
APPEAL ARE TRUE AND CORRECT TO THE BEST
OF MY KNOWLEDGE AND BELIEF AND NOTHING
HAS BEEN CONCEALED OR SUPPRESSED FROM
THIS HONOURABLE COURT.

Amees

**NASEEB KHAN
(DEPONENT)**

(7)

BEFORE THE SERVICE TRIBUNAL
K.P.K. PESHAWAR

Naseeb Khan.....**Appellant**

Versus

The Chief Minister Khyber Pakhtunkhwa
Peshawar and others.....**Respondents**

APPEAL

CORRECT ADDRESSES OF THE PARTIES

Respectfully sheweth!

Correct addresses of the parties are
as under: -

APPELLANT

Naseeb Khan son of Said Ameer, resident
of Dassu, Tehsil Dassu, District Kohistan,
Ex-Forest Guard

RESPONDENTS

- 1) The Chief Minister Khyber
Pakhtunkhwa Peshawar.
- 2) Divisional Forest Officer, Upper
Kohistan.
- 3) Conservator of Forest, Upper Hazara

Dated 11.07.2015

Naseeb

Naseeb Khan
(Appellant)

Through: -

Shad Muhammad Khan
SHAD MUHAMMAD KHAN
Advocate Supreme Court of
Pakistan (Mansehra)

8

BEFORE THE SERVICE TRIBUNAL
K.P.K. PESHAWAR

Naseeb Khan.....**Appellant**

Versus

The Chief Minister Khyber Pakhtunkhwa
Peshawar and others.....**Respondents**

APPEAL

AFFIDAVIT

I, NASEEB KHAN SON OF SAID AMEER,
RESIDENT OF DASSU, TEHSIL DASSU, DISTRICT
KOHISTAN, EX-FOREST GUARD DO HEREBY
SOLEMNLY AFFIRM AND DECLARE ON OATH
THAT NO SUCH SUBJECT MATTER APPEAL HAS
EVER BEEN FILED BEFORE THIS HONOURABLE
COURT NOR PENDING NOR DECIDED. THAT THE
CONTENTS OF FORE-GOING AFFIDAVIT ARE
TRUE AND CORRECT TO THE BEST OF MY
KNOWLEDGE AND BELIEF AND NOTHING HAS
BEEN CONCEALED OR SUPPRESSED FROM THIS
HONOURABLE COURT.

Naseeb Khan

**NASEEB KHAN
(DEPONENT)**



"A" (9)
CHARGE SHEET

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa, as competent authority, hereby charge you, Mr. Nasib Khan, Forest Guard as follows:

That you, while posted as incharge Forest Guard at Sazin KKH Depot of Upper Kohistan Forest Division, committed the following irregularities:

- i. You being incharge of the depot, failed to protect the timber from illegal lifting for admixture in Northern Area Amnesty Policy, 2013, whereas, being incharge of the depot you were supposed to watch the depot day and night against any un-authorized pilferage
 - ii. You were supposed to be extra vigilant during the execution of N.A Amnesty Policy, 2013, as it was every likelihood of lifting of timber for illegal admixture in the above said policy timber.
 - iii. In case of any visible threat to the timber in depot under your control you should have mustered the support of available staff from your seniors besides lodging an F.I.R in the respective Police Station prior to the incidence of timber lifting. You failed to watch the depot during the times of incidence and fabricated a story of forceful lifting without identification of the offenders.
 - iv. That you are severally and jointly alongwith other accuseds in the case responsible for illegal lifting of timber which caused colossal loss to the Govt. exchequer.
2. By reason of the above, you appear to be guilty of misconduct, in-efficiency, and corruption under rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule- 4 of the Rules, ibid.
3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer / Enquiry Committee, as the case may be.
4. Your written defence, if any, should reach the Enquiry Officer/Enquiry Committee 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 follow against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.

Pervez Khattak
(PERVEZ KHATTAK)
CHIEF MINISTER, KHYBER
PAKHTUNKHWA
25.05.2016

Attested.

Advocate Supreme Court
of Pakistan

Handwritten: "B" (10)

DISCIPLINARY ACTION

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr. Nasib Khan, while posted as incharge Forest Guard at Sazin KKH Depot of Upper Kohistan Forest Division has rendered himself liable to be proceeded against, as he committed the following acts / omissions, within the meaning of rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATION

- i. He being incharge of the depot, failed to protect the timber from illegal lifting for admixture in Northern Area Amnesty Policy, 2013, whereas, being incharge of the depot he was supposed to watch the depot day and night against any unauthorized pilferage.
- ii. He was supposed to be extra vigilant during the execution of N.A Amnesty Policy, 2013, as it was every likelihood of lifting of timber for illegal admixture in the above said policy timber.
- iii. In case of any visible threat to the timber in depot under his control he should have mustered the support of available staff from his seniors besides lodging an F.I.R in the respective Police Station prior to the incidence of timber lifting. He failed to watch the depot during the times of incidence and fabricated a story of forcetful lifting without identification of the offenders.
- iv. That he are severally and jointly alongwith other accuseds in the case responsible for illegal lifting of timber which caused colossal loss to the Govt. exchequer.

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

- i. Mr. Tariq Rashid (SG-BS-19)
- ii. Shah Masiv Khan MD FDC
- iii. _____

3. The Enquiry Officer/Enquiry Committee shall, in accordance with the provisions of the Rules ibid, provide reasonable opportunity of hearing to the accused; record its findings and make, within thirty 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/Enquiry Committee.

Pervez Khattak
(PERVEZ KHATTAK)
CHIEF MINISTER, KHYBER
PAKHTUNKHWA
25-05-2019

Handwritten signature: "Attended"

Stamp: Supreme Court of Pakistan

11
بجٹ جناب چیئر مین صاحب انکوائری کمیٹی

عنوان: جواب بابت چارج شیٹ منجانب نصیب خان فارسٹ گارڈ محکمہ جنگلات ہر بن فارسٹ سب ڈویژن آپر کوہستان
فارسٹ ڈویژن داسو۔

بحوالہ چھٹی نمبرات: 141/2k/DFO/Tariq khan /Env/1-8/Esst/So مورخہ 02.01.2014 اپر کوہستان

نمبر 3138/38/G.E مورخہ 11.03.2014

جناب عالی!

فردی پر چھٹی محولہ بالا کے ذریعے یہ الزام عائد کر کے کہ اس کے چارج میں جو لکڑی ~~رود~~ ^{سازین} رود میں پڑی تھی وہ شمالی علاقہ جات کی ناجائز لکڑی کی عام معافی کی پالیسی میں شامل ہو کر چلی گئی ہے۔ اور وہ اس کو روکنے میں ناکام رہا۔ اس الزام کو بنیاد بنا کر فردی پر نااہلی بدانتظامی اور کرپشن کی فرد جرم عائد کر کے آنجناب کو انکوائری اور فردی کو دفاع کا حکم ملا ہے۔

جناب عالی!

فردی بوجہ ذیل اور دیگر صحت جرم سے انکاری ہے۔

(1) یہ کہ سائل نے اپنے فرائض منصبی کی انجام دہی میں کوئی غفلت نہیں کی اور سائل نے بحیثیت فارسٹ گارڈ لکڑی منتقل شدہ کی حفاظت کا ہر ممکن اور حتی الوسع محکمانہ کوشش کی ہے اور یہ امر اظہر من الشمس ہے۔ کہ سائل بدوران وقوعہ بیک وقت چار مقامات یعنی شتیال فارسٹ چیک پوسٹ اور شوڑی بیٹ، سمرنالہ بیٹ اور سازین بیٹ پر تعینات تھا۔ اور اس کے علاوہ ریڈ پارٹی کی اضافی ڈیوٹی بھی فردی کے ذمے تھی۔ آیام وقوعہ کے دوران فردی شتیال فارسٹ چیک پوسٹ میں نادرن ایریا کی پالیسی کی گاڑیوں کی چیکنگ پر مامور تھا اور پالیسی کے دوران فردی اور دیگر اہلکاران نہایت چوکس تھے۔ اور ہمارے اعلیٰ حکام نے بھی خطرہ محسوس کر کے مختلف فورمز سے مدد حاصل کرنے اور حفاظتی اقدامات کے لیے رجوع کیا تھا مگر آخری دم تک کوئی پیش رفت نہ ہو سکی اور بالآخر دمکی آمیز خط ملنے پر وقوعہ کے رونما ہونے سے قبل ہی SDFO صاحب ہر بن کو آگاہ کیا گیا جس نے ہمیں شتیال فارسٹ چیک پوسٹ تک محدود رہنے کی ہدایت کی اور خود DFO صاحب سے رابطہ کرنے کے لیے ہیڈ کوارٹر چلا گیا۔ اور اسی رات کو با مسلح لوگوں نے آکر زبردستی لکڑی اٹھائی اور سائل اور دیگر اہلکاران نہتے تھے جبکہ ہیڈ کوارٹر سے بھی آخری وقت تک کوئی مدد نہ پہنچ سکی اور طاقتور عناصر اپنی مذموم کوشش میں کامیاب ہو گئے۔ ان تمام حالات میں سائل کا کردار نہایت شفاف اور شک شبہ سے بالاتر رہا اور یہی وجہ ہے کہ صوبائی معائنہ ٹیم نے اپنی انکوائری/تحقیقاتی رپورٹ میں شدت کے ساتھ محسوس کیا کہ جائے وقوعہ پر فارسٹ اہلکاران نہایت بے بس تھے جن کے پاس نہ صرف افرادی قوت کی کمی تھی اور ایک ایک اہلکار بیک وقت ایک سے زیادہ مقامات پر تعینات تھے اور اضافی ذمہ داریوں کا بوجھ ڈالا گیا تھا۔ جس سے ان کی کارکردگی متاثر ہوئی بلکہ مناسب اسلحہ بھی فراہم نہیں کیا گیا تھا۔ اور دوسری طرف سے خطہ کے عوام کی سرکشی بھی کوئی ڈھکی چھپی بات نہیں ہے۔ اس کا ذکر صوبائی

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Court

اپنی رپورٹ کے پیرا نمبر (b) 6 میں کیا ہے۔ اسی طرح مابعد انکوائری بحوالہ نوٹیفیکیشن نمبر SO(ESST)Ent/1-8-2013 مورخہ 01-10-2013 میں بھی سائل کو ذرہ بھر بھی قصور وار نہیں ٹھہرایا گیا ہے۔
مندرجہ بالا حقائق کی تائید میں سائل انکوائری کمیٹیوں کی رپورٹس اور دیگر دستاویزات آپ صاحبان کی طرف سے اجازت مرحمت ہونے پر پیش کر۔ نے کو تیار ہیں جو کہ قابل ملاحظہ اور اہم نوعیت کی حامل ہیں۔

(2) یہ کہ سائل بحسنیت فارسٹ گارڈ اپنے فرائض اور ذمہ داریوں سے قطعاً نابلد اور غافل نہ ہے اور اپنی ذمہ داری سے انکاری بھی نہ ہے اور سائل وقوعہ سے قبل اور بعد بھی ہمیشہ سے نہایت مستعدی سے فرائض انجام دیتا چلا آ رہا ہے اور بالخصوص ایام وقوعہ کے دوران مزید چوکس رہا ہے اور ڈیوٹی کی انجام دہی میں کوئی دقیقہ فرو گزاشت نہیں کیا ہے۔ یہاں یہ وضاحت بھی ضروری ہے کہ لکڑی اٹھانے کیلئے مسلحہ افراد نے پیشگی طور پر تمام ذرائع مواصلات کو مسدود کر کے ٹیلی فونی رابطے منقطع اور ناکارہ کر دیئے تھے جو کہ ایک مسلمہ امر ہے اور اس کے علاوہ ہمارے مشورے کے ساتھ ہمارے دو ساتھی چلاس ہوڈر سے وقوعہ کی اطلاع اعلیٰ حکام کو دی۔ اور مقامی پولیس تک بھی رسائل حاصل کی جو کہ پولیس نے پہلے تو رپورٹ لینے سے انکار کیا اور کافی تنگ و دوغ کے بعد رپورٹ درج کی۔ مگر دوسری طرف پولیس نے مسلحہ افراد/مزمان کے خلاف کارروائی کرنے کے بجائے ایک خاموش تماشائی کا کردار ادا کیا اور ملزمان کو اپنی غیر قانونی کارروائی مکمل کرنے کی کھلی چھوٹ دی۔ پولیس نے الٹا چور کو توال کو ڈانٹنے کے مصداق تمام اصل ملزمان کیخلاف کارروائی کے بجائے سائل اور دیگر سرکاری اہلکاران کو بے بنیاد طور پر مسرور الزام ٹھہرایا۔ حالانکہ بو وقت وقوعہ تمام تر آمدورفت کے راستوں اور پلوں وغیرہ پر پولیس تعینات تھی۔ سائل نے پولیس کارروائی کے علاوہ حکمانہ طور پر گارڈ بک میں Damage Report بھی درج کر کے ملزمان کیخلاف مقدمہ بھی درج کیا۔ اور اس تمام تنگ و دوغ و جدوجہد سے بڑھ کر ایک ادنیٰ سا فارسٹ گارڈ اور کیا کہہ کر سکتا ہے اور کیسے کہا جاسکتا ہے کہ سائل چوکس اور مستعد نہیں رہا۔ سائل نے حکام بالا کو پیشگی اطلاع اور وقوعہ کے فوراً بعد اطلاع پولیس کارروائی و گارڈ بک کے اندراج تک ہر قدم اٹھایا پھر بھی افسوس ناک طور سائل کو مسرور الزام ٹھہرایا گیا۔

(3) یہ کہ پولیس کے اعلیٰ حکام کو بھی پیشگی اطلاع دی جا چکی تھی مگر پولیس نے ہماری کوئی مدد نہیں کی اس بابت فقرہ نمبر 1 میں درج شدہ انکوائری رپورٹ صوبائی معائنہ ٹیم صاف واضح ہے سائل نے نہ تو کوئی خود ساختہ کہانی تخلیق کی ہے اور نہ ہی سائل لکڑی کی زبردستی منتقلی میں ذرا بھر بھی ملوث رہا ہے اور ریکارڈ سے صاف واضح ہے کہ سائل نے نہ صرف پیشگی حفاظتی اقدامات کیلئے کوشش کی بلکہ وقوعہ کے فوراً بعد بھی مستعد رہا ہے۔ جہاں تک ملزمان کی شناخت کا تعلق ہے رات کے وقوعہ اور ملزمان کی کثیر تعداد میں ہونے کی وجہ سے شناخت ناممکن اور بعید از عقل ہے اور انسانی بس کی بات نہ ہے۔



4) یہ کہ مسائل کے کسی فعل سے قومی خزانے کو کوئی نقصان نہیں پہنچا ہے اور صوبائی معائنہ ٹیم کی تحقیقاتی رپورٹ کے نتیجے میں قائم شدہ کمیٹی نے بھی اپنی رپورٹ میں نقصانات کی وصولی مسائل سے کرنے کا کوئی حکم نہیں دیا اور اگر مسائل گنہگار پایا جاتا تو مسائل سے بھی نقصان کی وصولی کا سفارش کی جاتی۔ مگر مذکورہ کمیٹی نے اپنی رپورٹ میں بین السطور طور پر مسائل کو ایک طرح سے Exonerate کیا ہے علاوہ ازیں اٹھائی گئی لکڑی جو کہ سرکاری ملکیت ہرگز نہ تھی، اور قومی ملکیت تھی مالکان نے واپس کر دی ہے جسکی تصدیق روبرو تحقیقاتی کمیٹی موجودہ اور سابقہ SDFO صاحبان نے کر دی ہے اور تحقیقاتی کمیٹی نے بخوبی اس حقیقت کا ذکر اپنی رپورٹ میں کیا ہے بہر طور پر مسائل ذاتی طور پر منفرد آیا مشترک کسی بھی نقصان رسانی کا مرتکب ہرگز نہیں رہا ہے۔

5) عالیجاہ! یہ وضاحت بھی کرنا ضروری سمجھتا ہے کہ خیبر پختونخواہ فارسٹ آرڈیننس 2002ء کی دفعہ نمبر 60 جت بموجب اگر کوئی پیداوار جنگل آرڈیننس یا اس کے تحت بنائے گئے قواعد کی ضرورت کے تحت کہیں روک لی گئی ہو تو اسے نقصان پہنچ جائے تو اس کی ذمہ داری نہ تو حکومت پر ہے اور نہ ہی فارسٹ اٹل کاروں پر۔

6) عالیجاہ! یہ کہ جو 68 عدد ٹرک جو نادرن ایریا کی پالیسی والی لکڑی سے لوڈ شدہ تھے اور اسی شک کی بناء پر مختلف فارسٹ کی پوسٹوں پر روکے گئے تھے کہ ان میں کوہستان ہر بن فارسٹ ڈویژن کی لکڑی شامل کی گئی ہے ان ٹرکوں کی پڑتال کیلئے جناب کنزرویٹر صاحب ایبٹ آباد نے محکمہ جنگلات کے ذمہ دار افسران پر مشتمل ایک کمیٹی بنائی جسکی موجودگی میں ٹرک ان لوڈ کئے گئے لیکن ان ٹرکوں میں کوہستان کی ایک لکڑی بھی برآمد نہ ہو سکی۔ جس سے ثابت ہوتا ہے کہ الزامات مندرجہ ذیل چارج شیٹ بے بنیاد ہے کمیٹی کی رپورٹ ریکارڈ پر موجود ہے، جو کہ جناب چیف کنزرویٹر صاحب ایبٹ آباد کے دفتر سے ملاحظہ کی جاسکتی ہے۔ مندرجہ بالا حقائق کی روشنی میں معزز کمیٹی سے دردمندانہ گزارش ہے کہ مسائل کے معروضات پر ہمدردانہ غور فرماتے ہوئے مسائل کو باعزت بری الذمہ قرار دیا جا کر حکمانہ کارروائی داخل دفتر فرما کر انصاف فراہم کیا جائے مسائل اپنے کنبے کا واحد کفیل ہے اور انکواری کی وجہ سے سخت ذہنی اذیت اور پریشانی میں میں نا کردہ گناہ ہونے کے باوجود بھی بتلا ہے۔ مسائل نے پوری زندگی نہایت جانفشانی سے محکمہ کی خدمت کی ہے اور اپنا خون پسینہ صرف کیا ہے اور مسائل کی عزت نفس برح طرح مجروح ہو رہی ہے پس استدعا ہے کہ مسائل کے ساتھ انصاف فرمایا جائے اور دفاع کا بھرپور موقع عطا فرمایا جائے اور ترجیح طور پر مسائل کے خلاف انکواری سرسری Summarily طور پر داخل دفتر فرمائی جائے۔

نصیب خان فارسٹ گارڈ

ہر بن سب ڈویژن اپر کوہستان، داسو

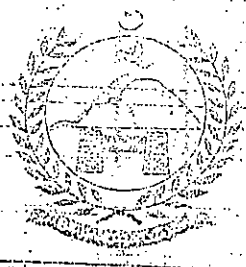
Attested.
Advocate
the Court
of Peshawar



Annex D. 14

1

CONFIDENTIAL



PROVINCIAL INSPECTION TEAM, KHYBER PAKHTUNKHWA

INQUIRY REPORT

SUBJECT: APPREHENDING OF SIXTY EIGHT TRUCKS OF TIMBER BEING TRANSPORTED UNDER THE COVERAGE OF AMNESTY POLICY, 2013

1- ORDER OF INQUIRY

The PSO to Chief Secretary, Khyber Pakhtunkhwa vide letter No PSO/CS/KPK/1-29/2013 dated 12th September, 2013 forwarded a copy of letter dated 12-9-2013 received from the Commissioner Hazara Division with the request to conduct a preliminary inquiry in the matter and submit report accordingly (Annex-A).

2- BACKGROUND

The Commissioner Hazara Division in letter addressed to the Chief Secretary Khyber Pakhtunkhwa intimated that the Federal Government announced "Amnesty Policy, 2013" for a period of three months with effect from 1-6-2013 to 31-8-2013 for one million Cubic feet Timber of Northern Areas. About 30% timber was transported through Kara Kurram Highway (KKH) & 70% via Dargai, District Malakand. On expiry of Amnesty Policy, 2013 on 31.8.13 transportation of timber was

Attested.

Shah Niswan Khan
Advocate Supreme Court
of Pakistan.

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stopped by the Forest Department. Fourteen trucks have been stopped at Ghazi Kot, Forty trucks at Battal, District Manshara, Nine at Shang, Five near Besham, District Shangla and one at Shatial, District Kohistan. About 18,000 Cubic feet timber has been stolen from three depots. Timber dealers have also registered an FIR against Forests employees. Minister for Environment ordered an inquiry on 5-9-2013. Haji Mushtaq, Divisional Forest Officer Siran Division has been appointed as Inquiry Officer. Inquiry Officer has submitted preliminary report to Minister for Environment and Chief Conservator of Forests. Divisional Forest Officer intends to meet the Secretary Environment. The trucks stopped contain timber in excess of quantity mentioned in the Transport Passes including 5% allowance (Annex-B).

3- PROCEEDINGS

Upon receiving the orders from the Chief Secretary, Khyber Pakhtunkhwa the undersigned alongwith Mr. Liaqat Ali, Member PIT left for Manshara early in the morning on 13-9-2013. We inspected trucks parked on road sides at Ghazi Kot, Battal, in District Manshara and Dandi and Besham in District Shangla. We met drivers, timber dealers and Officers/ Officials of Forests Department. Copies of Transport Passes (TP) were collected photographs of trucks were taken, and statement of Chief Conservator of Forests Hazara Division, Divisional Forest Officer, Siran and employees of Upper Kohistan Forest Division were recorded. Joint application presented by Mr. Bashratullah & Others is attached (Annex: C).

4- OBSERVATIONS

On the basis of perusal of record and discussions with concerned officers and officials of Forest Department, Transporters and Timber Merchants, following observations were noted:-

- a. The Federal Government announced Amnesty Policy, 2013 for Gilgit-Baltistan under which about one million Cubic feet timber was allowed to be transported from Thore Range, Chillas Division to Tarnol within a period of three months with effect from 1st June, 2013 to 31st August, 2013. Since the timber was to be transported through Khyber Pakhtunkhwa, therefore, the Provincial Government collected duty @ Rs. 30/- per cft. About 30% timber was transported through Kara Kurram Highway and 70% via Dargai Depot. The scheme was being implemented as per schedule.
- b. Minister for Environment ordered an inquiry. Mr. Mushtaq, Divisional Forest Officer Siran was appointed as Inquiry Officer. However, inquiry was conducted by Haji Mohammad Hanif, Divisional Forest Officer, Working Plan, Unit No. II, Abbottabad along with Mohammad Pervez. The preliminary report is at (Annex-D). The inquiry committee confirmed that extra timber is available in each consignment ranging from 50-100 Cft. per truck. Moreover, the sizes mentioned in the challans do not match with sizes actually loaded in the trucks which mean that genuineness of the consignment is doubtful. It was recommended that stern action may be taken against staff working in Upper Kohistan Division besides, transfer from the present posts without further delay. All the timbers lying on various roadside depots in Harban Kohistan must be re-measured through the committee to know the actual timber lifted from Kohistan. It was also recommended that Conservator of Forest Circles must confirm the present consignment and prove the genuineness. Reportedly the inquiry has been conducted without informing the Chief Conservator of Forest, Region-II, Abbottabad. Formal order was required to be issued by the Administrative Department. No

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such record is available with Chief Conservator of Forests. It is apprehended that timber stolen from three Depots will be transported to down Districts under the coverage of Amnesty Policy, 2013, therefore Minister for Environment has ordered stoppage of transportation of timber for indefinite period.

c. Perusal of the record of Forest Check Posts near Abbottabad Public School, Abbottabad revealed that 528 trucks details given below were cleared during the last five days of the Amnesty Scheme, 2013. It indicates that those trucks which reached before expiry date i.e. 31.8.2013 were allowed to cross the check post:-

S.No	Date	Number of Truck cleared
i.	27-8-2013	72
ii.	28-8-2013	69
iii.	29-8-2013	59
iv.	30-8-2013	90
v.	31-8-2013	238
	Total	528

d. During our visits to Ghazi Kot, Battal, Dandi and Besham number of Trucks mentioned in the reference received from the Commissioner Hazara Division it was noticed that trucks are still parked on road sides. Details are as under:-

S.No	Name of Forest Check Post	Number Of Trucks Parked
i.	Ghazi Kot, Mansehra	14
ii.	Battal, Mansehra	40
iii.	Dandi, Shangla	5
iv.	Besham, Shangla	9
	Total	68

e. GHAZIKOT, MANSEHRA

i- Fourteen loaded trucks were parked on Kara Kurrum Highway near Ghazikot, District Mansehra (Annex-E). Trucks drivers were waiting for the last fourteen days. Timber dealers were in contact with transporters but not present at site. Majority of the drivers being illiterate were

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unaware why their trucks have been halted. Perusal of record revealed that fourteen trucks having Transport Passes Nos: 118, 1156 and 1171 owned by Mr. Kiyat Khan S/O Mir Wali Khan, R/O Dareel, District Diamir reached Chazikot Forests Check post well in time but due to Stay Order issued by the Civil Judge-VIII/MOD, Mansehra on 17.8.2013 which was further extended up to 04.9.2013 by JMJC-Qghi/MOD, Mansehra they were stopped by Forests Staff (Annex: F). Stay Order issued by Senior Civil Judge, Mansehra and Forests Magistrate was vacated after expiry of Amnesty period i.e. 31-8-2013. Other Trucks reached after expiry of last date i.e. 31-8-2013. They approached the Chief Conservator of Forests for extension of Transport Pass period through a number of applications (Annex: G). The Chief Conservator of Forests Hazara Division under Rule 13 of the Khyber Pakhtunkhwa Forest Produce Transport Rules, 2004 (Annex: H) asked the Conservator of Forests, Lower/Upper Hazara Forest Circles Abbottabad and Mansehra) to direct Divisional Forest Officer for extension of time period. Orders of Chief Conservator of Forests have not been implemented so far.

ii- The Divisional Forest Officer, Siran Forest Division Mansehra vide his letter No. 1406/GB dated 10.9.2013 (Annex: I) addressed to the Chief Conservator of Forest, Northern Forest Region II, Abbottabad intimated that Minister for Environment directed him to conduct an inquiry about the stoppage of various trucks which have entered in the jurisdiction of the Province after the expiry of Amnesty Policy. Preliminary inquiry has been conducted and report submitted on 9.9.2013. The locals of the area met the Minister for Environment who has advised him.

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personally on 9.9.2013 and telephonically on 10.9.2013 not to release the trucks carrying timber till the decision by his good self. It may be mentioned that original challans have been collected by the Divisional Forest Officer Siran which are still in his custody.

iii- The Chief Conservator of Forest, Region-II on 10.9.2013 again directed Divisional Forest Officer Siran Forest Division to obey his orders and hand over challans to the respective truck drivers. Any act in contravention of the directives will tantamount to disobedience, hence he shall be liable for disciplinary proceedings under E&D Rules, 2011 (Annex: J). On the same day i.e. 10.9.2013 the Chief Conservator of Forest again directed the Conservator of Forest Lower Hazara Forest Circle, Abbottabad that Divisional Forest Officer Siran has refused to comply his order in writing therefore, Mr. Sher Mohammad, Conservator of Forest, Lower Hazara Forest Circle, Abbottabad is authorized to extend the time period under Rule 13 of the Khyber Pakhtunkhwa Forest Produce Transport Rules 2004 (Annex: K).

f. BATTAL, MANSEHRA

i- During our visit to Forest Check Post at Battal, District Mansehra on 13.9.2013, it was observed that forty loaded trucks were parked on road side and near check post/hotels. Photo copies of Transport Passes (TP) are attached at (Annex: L). Perusal of the record revealed that out of forty challans twenty two challans were issued on 28.8.2013 while remaining eighteen were issued on other dates ranging from 25th to 27th August 2013. A delegation of timber dealers also met the members of the Provincial Inspection Team.

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They admitted that Amnesty period as well as period of challan both has expired on 31.8.2013, therefore, their trucks were stopped by the Forest staff. They complained that they met the Chief Conservator of Forest Region-II was kind to issue release order but his orders have not been implemented so far. They added that they are sustaining unbearable financial loss on daily basis. Photos of the trucks and timber dealers are attached at (Annex: M).

ii- Eleven trucks owned by Mr. Nasir Khan were forcefully stopped at Battal due to dispute with locals. Similarly, seven trucks owned by Mr. Inayat were stopped at Battal due to disputes on ownership. Thirteen trucks of Mr. Basharatullah were stopped at Battal due to disputes amongst private parties. The local disputes were settled but after expiry of Amnesty period.

DANDI, DISTRICT SHANGLA

i- During our visit to Dandi, District Shangla on 13.9.2013, it was observed that five loaded trucks were parked on road side. Photo copies of Transport Passes (TP) are attached at (Annex:N). Perusal of the record revealed that three challans were issued on 28.8.2013 while remaining two on 29.8.2013.

ii- There were hardly 2-3 days for transportation of timber from Chilas to Tarnol. Due to rush during the last days truck drivers could hardly reach Dandi. The area falls within the jurisdiction of Chief Conservator of Forest, Malakand Division, therefore, action taken by them could not be confirmed.

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BESHAM, DISTRICT SHANGLA

The Provincial Inspection Team visited Besham, District Shangla on 14.9.2013. It was noticed that nine loaded trucks were parked on road side near Forest Check Post. Perusal of the record revealed that four Transport Passes were issued on 27.8.2013, three on 28.8.2013 and one on 26.8.2013. One Transport Pass was with driver who had left the site on the day of visit (Annex-C):

THEFT OF 18,000 CFT, TIMBER FROM KOHISTAN DEPOTS

i- An incident happened on the night between 24th August and 25th August, 2013. According to statements of staff they received a letter that stop your movement otherwise your lives would be at risk. They remained within their Check Posts and on the same night 18,000 cubic feet timber was stolen from three transit depots Basha, Harban and Sazeen of Kohistan District. Two FIRs were registered by the employees against unknown persons (Annex-P). One FIR has been registered by Mr. Ali Akbar Khan Sub-Inspector after conducting investigation in the case against following staff of Forests Dept (Annex-Q):-

S.NO.	Name	Designation
1.	Muhammad Asghar	Ex-Sub Divisional Forest Officer, Kohistan
2	Mr. Shebar Khan	Forest Guard
3	Mr. Jameel Khan	Forest Guard
4	Mr. Naseeb Khan	Forest Guard
5	Mr. Umar Khan	Forest Guard
6	Mr. Abdul Manan	Forest Guard

- ii- The perusal of the record of the office of Divisional Forest Officer Upper Kohistan Forest Division, Dassu, shows that the Divisional Forest Officer, Dasso addressed a letter to the District Police Officer, Kohistan Dasso bearing No. 101/CL dated 15-7-2013 and inform that:

"A timber Policy is in operation from Northern Areas Darel, Tangir and Chilas Forest Divisions of Gilgit Baltistan through which timber is transported to down districts of the country. As there are stakes of timber on roadside depots at KKH Basha and Harban District Kohistan, therefore there is likelihood of admixture of this timber during transportation for the which Forest staff has already been deployed to keep vigilance on illegal movement of timber, yet an active assistance is required from the police personnel already deployed in the area of Harban and Sazin Police Stations, particularly on Darel and Tangir Bridges. It was further requested that to direct the officials under DPO, Kohistan to extend every possible help and play active role and controlling any such pilferage of timber during the time of policy i.e. 31-8-2013". (Annexure-R).

- iii- In response, District Police Officer, Kohistan informed vide his letter No. 252/PSO dated 23-8-2013 that special directions have been issued to SDPO Shatial Circle for assistance and legal help. Similarly police have directed not to allow any illegal transportation of timber and if found proceed direct according to law alongwith Forest Department (Annexure- S). Further Deputy Commissioner also directed District Officer Constabulary, Kohistan to make necessary security arrangements so as to avoid any

untoward incident vide his letter No. AG/5652/DC(KH) dated 16-8-2013 (Annexure-T). The record also shows that Divisional Forest Officer Kohistan informed vide letter NO. 1736/GL dated 13-9-2013 that it is very regretted to note that SHO Sazin is misusing his authority and violating the law. He further requested to hand over the recovered illicit timber to the Forest Department (Annexure-U).

iv. The Divisional Forest Officer, Upper Kohistan Forest Division Dasso issued an office order bearing NO. 04 Dated 26-8-2013 with copies to Conservator Forest, Upper Hazara Forest Circle, Conservator of Forest, Gilgit Baltistan, Northern Area, Divisional Forest Officer, Darel, Tangir Forest Division, Sub-Divisional Forest Officer, Harban (Annexure-V) in this letter the said officer communicated the incident occurred on the midnight of 24th & 25th August 2013, wherein more than 200 armed persons came to different depots, where illicit timber of Kohistan Forest Division was stacked. They transported illegally by force more than 7000 cft from Sazin, 5000 cft from Harban and 6000 cft from Basha Depots across the river to the jurisdiction of Darel Tangir Valley, Northern Forest Division area for the purpose to transport the same in the guise of Amnesty Policy, 2013 for Northern Areas. The Forest staff was unable to control the situation as they remained within their headquarter after receiving written threats. The offenders also managed to keep off the S.Com mobile booster to make unable the Forest staff to communicate with high ups and Police Department. Therefore the said officer suspended all the transportation of Darel Tangir, Forest, Northern Areas till the timber of Kohistan Forest Division is recovered back.

v- On 28-8-2013 Divisional Forest Officer, Kohistan again warned Mr. Muhammad Asghar, Forester, Harban Forest Division to be very much careful about the illicit timber lying in different KKH roadside depots in particulars as to avoid any admixture of the same in the Northern Areas Amnesty Policy 2013. He further instructed him being incharge of the Sub Division failed to control the illegal transportation of eighteen thousand illicit deodar timber lying in Sazin, Harban and Basha depots. He was disagreed with the report of Sub-Divisional Forest Officer that it was not possible that such a huge quantity of timber is transported during several hours between the mid night of the 24th and 25th August, 2013 as per his report. Finally the Divisional Forest Officer, Kohistan asked for the explanation of the said Sub-Divisional Forest Officer, Kohistan (Annexure-W).

vi- Divisional Forest Officer Kohistan vide letter No. 1633/GL dated 29.8.2013 directed Sub Divisional Forest Officer Harban to allow transportation of only those trucks which are loaded on 25th and 26th of August, 2013 after entire satisfaction and recording a certificate on the challan that there is no admixture of Kohistan theft timber in the same (Annexure-X). The Chief Conservator Northern Forest Region-II Abbottabad Khyber Pakhtunkhwa took notice of the incident and ordered vide letter dated 29.8.2013 that Mr. Asghar, Forester Incharge, Harban Forest Sub-Division shall immediately be removed by Conservator of Forest Upper Hazara Forest Circle with suitable replacement to facilitate the transportation of timber in transparent manner (Annexure-Y).

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vii- The Provincial Inspection Team recorded the statement of the following Staff Forest Department Kohistan:-

S.No	Name	Designation	Annexures
1	Mr. Muhammad Aghar	Ex-Sub-Divisional Forest Officer, Kohistan	Z
2	Mr. Shehar Khan	Forest Guard	A1
3	Mr. Jameer Khan	Forest Guard	B1
4	Mr. Umar Khan	Forest Guard	C1
5	Mr. Azar Wali	Forest Guard	D1
6	Mr. Abdul Manan	Block Officer	E1
7	Mr. Naseeb Khan	Forest Guard	F1

viii- The perusal of the above statements shows that the contents of the most statements are contradictory with regard receipt of threaten letter, time of incident, presence of mob, other activities which took place during the course of incident.

~~ix- During the course of inquiry it was brought in the notice of the Team by the concerned persons that rupees 22 per cft have been paid to Mr. Muhammad Tariq, DFO Upper Kohistan beside payment of official duty at the rate of rupees 30 per cft. Now they are being compelled to negotiate through a person actively involved in the halting of the trucks at KKH.~~

5- FINDINGS

On the basis of observations given at Para 4 of the report the following findings were emerged:-

a) Sixty eight loaded trucks of Timber having Transport Passes issued by the Forest Department of Chilas Division, Northern Area were stopped at Ghezi Kot and Battal, District Mansehra and Dandi and Besham, District Shangla due to expiry of Transportation Passes as well as Amnesty Policy, 2013 on 31.8.2013. In one of the case stay order was issued by the Civil Judge-VIII Mansehra. In few cases there were disputes between private parties over the ownership of timber. The Chief Conservator of Forest, Region-II, Abbottabad ordered release of timber under Rule 13 of the Khyber Pakhtunkhwa Forest Produce Transport Rules, 2004. However, due to orders of the Honourable Minister for Environment as communicated by Mr. Mushtaq, Divisional Forest Officer, Siran, Mansehra the timber in question has not been released for the reasons that it contains excess quantity. Moreover, it is also apprehended that timber stolen from district Kohistan is being transported under the coverage of Amnesty Policy, 2013. He failed to quote a single case in which the stolen timber has been detected. Trucks are still parked on roadside. The department has neither unloaded trucks to measure the actual volume of the timber nor other practical steps have been taken during the last sixteen days.

b) So far the theft case is concerned Mr. Mohammad Tariq, Divisional Forest Officer (BPS-18) was posted vide office order No. SO(Bstt)Envt/1-8/2010 dated 10.7.2010 (Annex: G1). The text of his posting order being unique is reproduced below;

"Consequent upon tendering of un-conditional apology by Mr. Mohammad Tariq, Divisional Forest Officer (BPS-18) for his past inappropriate working and conduct and assurance for strict compliance with official rules and norms, the Competent Authority in consultation with Chief Conservator of Forest, Khyber Pakhtunkhwa has been pleased to transfer Mr.

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Mohammad Tariq, Divisional Forest Officer (EPS-18) from Demarcation Division, Forestry Planning and Monitoring Circle, Peshawar and post him as Divisional Forest Officer, Upper Kohistan against the vacant post with immediate effect till further orders".

c) Mr. Mohammad Tariq, Divisional Forest Officer Upper Kohistan was directed to appear before the P.I.T on 14.9.2013 but he did not turn up. Reportedly, during his earlier posting in district Kohistan heavy losses were caused to the provincial exchequer. A case against him is pending in the National Accountability Bureau. It has been reported that his re-posting particularly, during the Amnesty Policy, 2013 is part of the pre-planned game. It is astonishing to note that he wrote letters to Deputy Commissioner, District Police Officer and District Officer Frontier Constabulary for taking remedial measures but did not perform duties by himself. He has been served with explanations for frequent and unauthorized absence from Headquarter which he did not respond. Amnesty Policy for Northern Area played important role in theft of timber from district Kohistan. Superdari Nama given by Haji Shaber Shah, Mr. Abdul Hameed and Mr. Bala S/O. Abdullah Khan indicates that 18000 cubic feet stolen timber will be returned as & when demanded by the Forest Department (Annex: F11). It is apprehended that in place of stolen timber other trees will be cut and fresh timber will be handed over to the Forest Department. The Forest Department may constitute a committee to ensure that actual stolen timber is handed over to the Department rather than newly cut timber.

h

6- RECOMMENDATIONS

On the basis of observations and findings given at Paras 4 & 5 of this report, the Provincial Inspection Team recommends that;

a- Specific Recommendations:

- i) Mr. Mohammad Tariq, Divisional Forest Officer, Upper Kohistan may be transferred immediately and then suspended. Strict disciplinary action may be taken against Mr. Mohammad Tariq Divisional Forest Officer and Mr. Mohammad Asghar ex-Sub Divisional Forest Officer alongwith other staff for causing heavy losses to the Government on account of theft of 18,000 cubic feet timber on the night between 24th August and 25th August 2013. If stolen timber is not returned by the owners then cost of 18,000 cft timber may be recovered from DFO and SDFO Upper Kohistan.
- ii) A high level committee may be constituted to ensure that actual timber is recovered rather than fresh one. The Deputy Commissioner and District Police Officer Kohistan should extend all possible security assistance to the said committee.
- iii) If the Forest Department still feels that loaded trucks parked at various places contain excess timber then timber may be unloaded and measured in the presence of timber dealers within 2-3 days. If excess quantity/volume is detected it may be confiscated besides, imposing penalties. In case timber is found in accordance with the challan then it may be released immediately by the concerned Divisional Forest Officer otherwise Government can face law & order situation on Kara Kurram Highway.
- iv) Mr. Abdus Sattar, ex-SHO Police Station Shatial and incharge of the Police Chowki, Shatial and Harban may be taken into task for refusing to register F.I.R and extending

undue favour to the culprits in transportation of stolen timber to Northern areas.

v) Deputy Commissioner, Kohistan, District Police Officer Kohistan may be served with Show Cause Notices for not extending genuine help to Forest Department particularly when written requests were made by the Forest Department.

b- General Recommendations:

- i) ~~During inspection it was noticed that there is acute shortage of staff in the department. Forest guards and foresters have been directed to perform additional duties on check posts. It badly affects their notified duties.~~
- ii) Forest staff performing duties at check posts may be provided sophisticated weapons for their self-defence and to check smuggling of illicit timber.
- iii) At the time of posting transfer particularly in Forest Department due care must be given to the performance and reputation of the officer. Moreover frequent posting transfer may be avoided.

LIAQAT ALI
Member
Provincial Inspection Team

MUHAMMAD HUMAYUN
Chairman
Provincial Inspection Team

16-9-13

Attested

Shad Mahmood Khan
Advocate Supreme Court
of Pakistan

ENQUIRY REPORT

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Subject: APPREHENDING OF SIXTY TRUCKS OF TIMBER BEING TRANSPORTED UNDER THE COVERAGE OF AMNESTY POLICY OF 2013.

Order

The Secretary to Govt of Khyber Pakhtunkhwa Environment Department Notification No. SO(Est)Ent/1-8/2013 dated 01-10-2013, on the recommendations of Provincial Inspection Team (PIT). The Competent Authority constituted an Enquiry Committee comprising of the following (Annex-A):

1. Mr. Hasham Ali Khan Chief Conservator of Forests Malakand Region-III (Chairman).
2. Malik Javed Khan Conservator of Forests Forestry Planning & Monitoring Circle Peshawar.
3. Mr. Tauhid ur Haq Divisional Forest Officer Working Plan Unit-V Mansehra.

A H Hestael,

Shahid Mahmood Khan
Associate Supreme Court
of Pakistan

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ii. ToRs

along with

- i. To ensure that actual stolen / illicit timber, which is reported to be around 18,000 Cft. is recovered rather than fresh timber.
- ii. If stolen timber is not returned by the owner then cost of 18,000 Cft. timber may be recovered from Divisional Forest Officer and Sub Divisional Forest Officer Upper Kohistan.

The enquiry report of the Provincial Inspection Team (the annexure were not enclosed) alongwith the Notification endorsement No.SO(Estt)Env/1-50 (88) 2K6/4869-73 dated 01-10-2013 was received to conduct the enquiry as per ToRs mentioned above.

iii. Back Ground

The Khyber Pakhtunkhwa Provincial Inspection Team conducted an enquiry in September 2013 on the subject "Apprehending of 60 trucks of timber being transported under the coverage of amnesty Policy of 2013" and given "Specific Recommendations", which are reproduced below:

i. Mr. Muhammad Tariq, Divisional Forest Officer, Upper Kohistan may be transferred immediately and then suspended. Strict disciplinary action may be taken against Mr. Mohammad Tariq Divisional Forest Officer and Mr. Mohammad Asghar ex-Sub Divisional Forest Officer alongwith other staff for causing heavy losses to the Government on account of theft of 18,000 cft timber on the night between 24th August and 25th August 2013. If stolen timber is not returned by the owners then cost of 18,000 cft timber may be recovered from DFO and SDFO Upper Kohistan.

ii. A high level committee may be constituted to ensure that actual timber is recovered rather than fresh one. The Deputy Commissioner and District Police Officer Kohistan should extend all possible security assistance to the said committee.

IV. Procedure

Receiving the orders of Enquiry; discussed the factual and ground realities with Mr. Sardar Sultan the Acting Chief Conservator of Northern Forest Region-II on 27-10-2013 at Abbottabad and given some guidelines in assisting and conducting of enquiry.

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Later on 02-11-2013 the enquiry team discussed the strategy for visiting and inspection of Sazin, Harban and Basha Road Side Depots on KKH in Harban Forest Sub-Division.

As per programme scheduled from 27-11-2013 to 29-11-2013 proceeded to Dassu, Divisional Office, collected record and also discussed the issues with the newly posted DFO Mr. Muhammad Shoaib and visited Sazin, Harban and Basha Road side depots on 28-11-2013, also got statements of staff and owners. The DFO Upper Kohistan, SDFO Harban, Ex-SDFO Harban and other staff were accompanied.

V. ToR-t

TO ENSURE THAT ACTUAL STOLEN / ILLICIT TIMBER WHICH, IS REPORTED TO BE AROUND 18,000 CFT IS RECOVERED RATHER THAN FRESH TIMBER.

a. Local Precautionary Measures for Admixture :

At the Forest Sub Divisional level, the then SDFO Mr. Farukh Sair constituted the local raid parties vide his office order No.01 dated 03-05-2013 (Annexure-B) and in his tenure no incidence was occurred, also written another letter to the

Incharge and staff posted at Shatial Forest Check Post for detail checking of trucks transporting timber to down country (Annexure-C).

VI. RECORD PERUSAL, OBSERVATIONS AND DISCUSSION

i. Information Report of SDFO Harban:

The then SDFO Harban Mr. Mohammad Asghar reported to DFO Upper Kohistan on 25-08-2013 that about 18,000 cft timber illegally carried by 200-300 armed persons forcibly between the night of 24-08-2013 and 25-08-2013 from the following road side depots.

Sazin road side depot	=	7000 cft about
Harban road side depot	=	5000 cft about
Basha road inspection depot	=	<u>6000 cft about</u>
TOTAL:	=	18000 Cft.

Also stating that the staff were made confined to Shatial Forest Check Post and the mobile system was blocked. He himself stated that this information telephonically given by the Shabir Khan Forest Guard and Umar Khan Forest Guard from Chilas at 5:00 a.m. (Annexure-D).

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(ii) OFFICE ORDER NO.04 DATED DASSU THE 26/08/2013 ISSUED BY
MUHAMMAD TARIQ DIVISIONAL FOREST OFFICER, UPPER
KOHISTAN FOREST DIVISION, DASSU.

On receipt of information from Sub Divisional Forest Officer, Harban Sub Division dated 25-08-2013. that on the midnight of 24th & 25th August, 2013 more than 200 armed persons came to different depots where illicit timber of Kohistan Forest Division was stacked. They transported illegally and by force more than 7000 cft. from Sazin, 5000 cft from Harban and 6000 cft from Dasha depots across the river to the jurisdiction of Darel/Tangir Forest Division Northern Areas for the purpose to transport the same in the guise of amnesty policy 2013 of Northern Areas. The forest staff was unable to control the situation as they were threaten and kept bound to the headquarter. Also the offenders managed to keep off the mobile booster to make unable the forest staff to communicate with high ups and police department.

Keeping in view the above situation/circumstances, all the transportation from Darel/Tangir Forest Division Northern Areas is suspended under amnesty policy till the timber of Kohistan Forest Division is recovered back.

Sd/- (Muhammad Tariq)
Divisional Forest Officer
Upper Kohistan Forest Division
Dassu

Memorandum :

Copy for favour of information and necessary action forwarded to the :

1. Conservator of Forests, Upper Hazara Forest Circle, Mansehra w/r to telephonic discussion dated 25-08-2013.
2. Conservator of Forests, Gilgit Biltistan Northern Area with reference to telephonic discussion by CF Upper Hazara dated 25-08-2013.
3. Divisional Forest Officer, Darel/Tangir forest Division w/r to telephonic discussion by SDFO Harban dated 25-08-2013.
4. Sub Divisional Forest Officer, Harban w/r to his report dated 25-08-2013. He is directed that any transportation of timber from Darel/Tangir Forest Division will not be allowed.

Sd/-
Divisional Forest Officer
Upper Kohistan Forest Division
Dassu

(Annexure-E)

(iii) Letter No.1311/GL dated 03-09-2013

The Conservator of Forests Upper Hazara Forest Circle Manshra after receiving the Officer Order No.4 dated 26-08-2013, in response he wrote to the DFO Upper Kohistan reproduced as given below:

"The pleas taken in your office order No.04, dated 26-08-2013 regarding thefting of 18000 cft timber of Kohistan origin by 200 armed persons is incorrect and can not be tenable. The incident has been occurred with the connivance of SDFO, Foresters and Forest Guards, therefore, the case should be dealt according to the ground reality". (Annexure-F)

(iv) SUPERDNAMAS

The three superdnams 27-08-2013 given by Haji Shabir Shah, C/O Subhan Shah of Harban, Bola S/O Abdullah Khan of Harban and Abdul Hamid S/O Muhammad Aslam of Basha. The following questions arised are:

- (a) All the superdars belongs to Upper Kohistan and non of them belong to Tangir, Darel or Chilas. How they will produce the theft from the area, to which they do not belong.

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(b) The Superdnamas given for the case property which already theft means not available. How the superdnamas are valid?

(c) All the superdnamas having no detail of "case property" i.e. species, number of spants and sizes. (Annexure-G)

V. Statement of Ex-SDFO Harban

The Ex-SDFO Harban Mr. Mohammad Asghar who was accompanied with the Enquiry Committee during the inspection dated 28-11-2013 and stated the timber stolen returned on the pointation of staff (Annexure-H).

VI. Statement of Block Officer Harban.

Mr. Abdul Manan stated that he was on leave from 12-08-2013 to 31-08-2013 and the SDFO Harban telephonically informed on 28-08-2013 that he had been suspended. He further stated that ask the SDFO. (Annexure-I).

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(VII)

(VII). STATEMENT OF SDFO HARBAN

The present SDFO Harban, Mr. Mohammad Anwar that the stolen timber returned and lying on KKH on Harban Road side Depot 12000 cft and Basha Road side Depot about 6000 cft. (Annexure-J).

V. INSPECTION OF ROADSIDE DEPOTS/CHECK POST:

The enquiry committee accompanied by the newly posted DFO Upper Kohistan, SDFO and the then SDFO Harban, inspected the following roadside depots / check posts.

a. SAZIN ROADSIDE DEPOT

No timber found/available either stolen recovered or old one. No record of Roadside depot produced to the enquiry committee.

b. HARBAN ROADSIDE DEPOT

A large and unknowns quantity of old timber found/available with no record i.e. form 5 & 6. The owners / elites of the timber were not allowing for inspection and loudly stating that no timber will be given to the Govt. unless, until the necessary payment are made. In this respect the enquiry committee requested to give their demand in writing (Annexure-K). The recovered timber as per statement of Ex-SDFO and present SDFO is doubtful. ✓

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c. BASHA ROADSIDE DEPOT

A large and unknown quantity of old timber were lying above and before the KKH. The SDFO and Ex-SDFO pointed an old stack of Kail timber lying below the KKH which is an old stock. The record was not maintained and produced to the enquiry committee which mean that the stolen timber did not recovered.

d. SHATIAL FOREST CHECK POST

All the staff were present and produced the record checked with following observations:

- (i) On the day of inspection i.e. 28-11-2013 A truck No. TKS 220 loaded with timber Deodar 104 scants = 765.47 cft challan No.1721 Book No.35 asking the staff, why it is halted. They replied that this truck reached after sunset on 31-08-2013. The driver and owner both were not available.
- (ii) ROZNAMCHA
As the DFO Upper Kohistan office order No.4 dated 26-08-2013 suspended the transportation of policy timber from Tangir / Darel till the recovery of stolen timber but upto 31-08-2013 the trucks were passed instead of suspension.

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VI. OBSERVATIONS AND DISCUSSIONS

Based on the scrutiny of record, statements of officers and officials, inspection of road side depots and check posts the following observations are noticed given below:

The information report of the then SDFO was doubtful as no officers reported. The No. of scams, species, place of shifting and names of offenders. *Nothing Reported*

The DFO Upper Kohistan office order No.4 dated 26-08-2013 also contradictory to the information report, the transportation suspended from Tangir and Darel but practically the transportation was continued after 26-08-2013 to 31-08-2013.

13/1/13 ← The Conservator of Forests Upper Hazara declared this office order of DFO Upper Kohistan as incorrect and can not be tenable.

The superdhamas given by the person of Harban are legally invalid, as discussed in para-VI (iv). The timber stolen 18,000 cft not recovered even no practical step taken by the DFO and the then SDFO Harban for recovery.

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Every statement / letter / office order are contradictory and shifted the whole responsibility to superdnamas as an eye wash.

VIII. FINDINGS

On the basis of perusal of record, observation inspections of roadside depots / check posts the following findings are arised:

1. The timber 18,000 cft. stolen /theft/ leftover from Sazin, Harban and Basha roadside depots are not recovered or handed over by the superdnars to the forest department DFO Upper Kohistan / SDFO Harban.
2. The then DFO and the then SDFO did not take any practical step for recovery except of correspondence which are not tenable and invalid.

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IX. ToR (ii)

IF STOLEN TIMBER IS NOT RETURNED BY THE OWNERS THEN
COST OF 18000 CFT TIMBER MAY BE RECOVERED FROM DFO
AND SDFO UPPER KOHISTAN.

Average rate of deodar scants in 7/2013 was Rs.1630/= per cft as reported
by DMM/FDC timber Market Goharabad.

Cost 18000 x 1630 = Rs.2,93,40,000/-.

Therefore, Rs.2,93,40,000/- (Two crore, Ninty three lacs and forty
thousands) may be recovered from Mr. Mohammad Tariq Ex-DFO Upper
Kohistan and Ex-SDFO Harban Mr. Mohammad Asghar at the ratio of 60%
DFO and 40% SDFO respectively.

A. Asghar

Shad Mohammad Khan
Advocate Supreme Court
of Pakistan.

ANNEX 2 F 2)

ENQUIRY REPORT AGAINST
MR. MUHAMMAD TARIQ DFO
& OTHER OFFICIALS OF KHYBER
PAKHTUNKHWA
FOREST DEPARTMENT.

PP
F- (43)

ENQUIRY REPORT AGAINST MR. MUHAMMAD TARIQ DFO
& OTHER OFFICIALS OF KHYBER PAKHTUNKHWA
FOREST DEPARTMENT

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Att. to Secy.

Director, Supreme Court
Lahore

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ENQUIRY REPORT AGAINST MR.MUHAMMAD TARIQ DFO
& OTHER OFFICIALS OF KHYBER PAKHTUNKHWA
FOREST DEPARTMENT.

I. BACKGROUND

Government of Khyber Pakhtunkhwa, Environment Department vide Notification No.SO(Estt)Env/1-8/Tariq DFO/2k14 dated 02.06.2014 constituted Enquiry Committee of Mr.Tariq Rashid, Secretary, Benevolent Fund (the then Reforms Coordinator) & Mr.Shah Wazir Khan, Managing Director, Forest Development Corporation to conduct an enquiry against the following officer / officials of Khyber Pakhtunkhwa, Forest Department into the charges / allegations leveled against them in their respective charge sheets and statement of allegations (Annexure 1 – 12) under the provision of Khyber Pakhtunkhwa, Efficiency & Discipline Rules, 2011:-

- i. Mr.Muhammad Tariq, Divisional Forest Officer (BPS-18) the then DFO Upper Kohistan Forest Division.
- ii. Mr.Muhamad Asghar, Forester (BPS-09), I/C SDFO Harben Forest Sub Division.
- iii. Mr.Abdul Manan, Block Officer (BPS-07), Harben and Basha Blocks of Upper Kohistan, Forest Division.
- iv. Mr.Jamir, Forest Guard (BPS-07), I/C Harben Road Side Depot.
- v. Mr.Nasib Khan, Forest Guard (BPS-07), I/C Sazin Road Side Depot.
- vi. Mr.Umar Khan, Forest Guard (BPS-07), I/C Basha Road Side Depot.

II. PROCEEDINGS

After the receipt of the Notification No.SO(Estt)Env/1-8/Tariq DFO/2k14 dated 02.06.2014 (received on 17.06.2014), the Enquiry Committee initiated proceedings as under:-

A. 1ST MEETING ON 19.06.2014

Preliminary meeting of the Committee held in the office of Reforms Coordinator. Present status along with postal address of the

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major accused officer / officials were requested from the Section Officer (Estb) of Environment Department. Provincial Inspection Team (PIT) enquiry report & preliminary enquiry report conducted by Hashim Ali Khan & others were reviewed. All accused officer / officials were communicated to submit their reply by 30.06.2014.

B. 2ND MEETING ON 02.07.2014

Held second meeting of the Enquiry Committee in the office of Reforms Coordinator. Reply of Muhammad Tariq Divisional Forest Officer (D.F.O) accused officer at S.No.1 received on 23.06.2014 was examined (Annexure-13). Rest of the accused (5 in number) had not yet submitted their reply. The Environment Department had not yet nominated officer as prosecutor of the department.

To start with regular proceedings the remaining accused officials were reminded to submit their reply by 10.07.2014. Section Officer Environment Department was again reminded both on telephone & vide letter to nominate an officer of the department as prosecutor. Perusal of reply of Mr.Tariq D.F.O & P.I.T enquiry report reveals that other relevant officers mentioned would also be summoned on appropriate dates of hearing.

C. 3RD MEETING ON 15.07.2014

Replies to charge sheets received from the remaining 5 officials uptill 14.07.2014 (Annexure 14-18), the same were examined in the light of charge sheets served on the Officers / Officials. After preliminary examination of the replies it was agreed to initiate regular proceedings / hearings of the accused officer / officials on 24.07.2014 in the office of Reforms Coordinator in the presence of Departmental representative (Prosecutor). They were communicated to appear before the Enquiry Committee on 24.07.2014

D. 4TH MEETING ON 24.07.2014

Regular proceedings fixed for 24.07.2014 were held wherein all the accused officials except Mr.M Tariq DFO & Mr. Umar Kan Forest Guard attended.

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Mr. M Ashghar Forester, the then incharge SDFO Harben (the accused official) was cross questioned by the Committee & the Prosecutor. During the course of proceedings it was brought to the notice of the Committee that the stolen timber measuring 18000 cft from Basha, Sazin and Harben depot have been retrieved. In order to ascertain the facts a sub-committee comprising of Raja M. Imtiaz DFO and Mr. M. Shoaib DFO was constituted to report in the matter on the next date of hearing i.e. 11.08.2014 (Annexure-19). CCF I was accordingly requested to take further necessary action in this regard.

E. 5TH MEETING ON 11.08.2014

Regular proceedings fixed for 11.08.2014 were held in the Committee Room of Forest Development Corporation wherein all the accused officials except Mr. Muhammad Tariq, DFO and Mr. Umar Khan, Forest Guard attended. Departmental representative (Prosecutor) Mr. Muhammad Shoaib, DFO Lower Kohistan represented the Department

Mr. Muhammad Tariq DFO informed Managing Director FDC telephonically that he was hospitalized from 27.07.2014 to 07.08.2014 but still on bed rest and not in a position to attend the proceedings due to bad health. He also sent medical report (Annexure-20) in this regard which was accepted by the Committee and directed him to appear on the next date. The present accused officials were cross examined by the Enquiry Committee and Prosecutor.

Muhammad Shoaib DFO informed the Committee that Mr. Raja Imtiaz DFO had been posted as Conservator of Forests, Lower Hazara and the sub-committee constituted on 24.07.2014 could not finalize its report for which another week is required. The committee expressed concern and conveyed its displeasure on non-submission of the required report in time. The sub-Committee was further directed to finalize its report and submit by 18.08.2014 without further delay.

The other accused officials except Umar Khan, Forest Guard, were asked to present further points if any but they did not.

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The proceedings were therefore adjourned to 21.08.2014 in the Committee Room of Forest Development Corporation.

F. 6th MEETING ON 21.08.2014

Regular proceedings fixed for 21.08.2014 were held in the Committee Room of Forest Development Corporation from 1100 Hrs till 2000 Hrs. Wherein all the accused officer / officials were present along with Departmental Representative Mr. Muhammad Shoaib, DFO Lower Kohistan (Prosecutor).

Mr. Muhammad Shoaib, DFO Lower Kohistan submitted written report of the Sub-Committee appointed for ascertaining the retrieved timber (Annexure-21).

All accused officials were questioned by the Enquiry Committee and Prosecutor to examine their charges / allegations.

After detailed enquiry proceedings, Mr. Muhammad Shoaib, DFO Lower Kohistan was directed to submit the relevant record before the enquiry committee in next week.

G. 7TH MEETING ON 01.09.2014

On perusal of record submitted by DFO (Lower Kohistan) Prosecutor of the Department on 26-08-2014 it came to surface that the re-measured timber of Northern Area in 54 trucks at Tarnol Depot was reduced by 4843 cft (Annexure-22) which created further doubts in the matter.

In order to clarify the factual position the committee headed by Muhammad Tehmasip, DFO Kaghan along with Conservator of Forest, Abbottabad and Prosecutor were summoned for appearance on 02-09-2014. CCF-1 was accordingly asked to direct the officers / officials for attending the proceedings on due date.

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H. 8TH MEETING ON 02.09.2014

Re-measurement Committee headed by Muhammad Tehmasip, DFO, Qazi Mushtaq, Ex-DFO Siran, Raja Imtiaz Ahmad, Conservator of Forest Abbottabad and Muhammad Shuaib, DFO, Lower Kohistan (Prosecutor) were heard and the Re-measurement Committee members were cross-examined to dig out the facts about the re-measured timber at Tarnol Depot.

Record regarding participation of District administration, representative and further details about re-measurement (truck wise record) was demanded from the Prosecutor who promised to produce it within 02 days.

III. GENERAL DISCUSSION

On receipt of the replies of the accused officer / officials, they were all summoned for examination / cross examination to analyze their charges and statement of allegation one by one in detail. The analysis was made mainly on available record, defense / prosecution evidences and cross examination by departmental representative / prosecutor. No defense witness or prosecution witness was either produced or requested.

All the accused were given fair and ample chance to put before the Enquiry Committee any additional information, record and evidence in their defense. Similar opportunity was also extended to the departmental representative / prosecutor (Mr. Muhammad Shoaib DFO) who provided some additional information / record relating to the subject from the record of Forest Department.

A. During the course of enquiry, detailed analysis of the following three enquiry reports were made: -

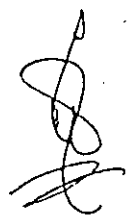
- i. Provincial Inspection Team, Khyber Pakhtunkhwa – Enquiry Report "Apprehension of 68 trucks of timber being transported under the coverage of Amnesty Policy 2013". (13-14/09/2013).

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- ii. Fact Finding report on lifting of timber from road side depots of Upper Kohistan for admixture in timber of Northern Area Amnesty Policy 2013 conducted by Muhamamd Siddique Khattak Conservator of Forest & Muhammad Shoaib DFO, Lower Kohistan (26-27/08/2013).
- iii. Enquiry Report on apprehending of sixty trucks of timber being transported under the coverage of Amnesty Policy 2013 conducted by Hashim Ali Khan, Chief Conservator of Forest – III, Malakand, Malik Javed Khan, Director CDE & GAD, Peshawar and Tauheed-ul-Haq, DFO. Working Plan Mansehra (October / November 2013).

Detailed perusal and analysis of the above three reports brought to light the following facts: -

- i. That the charge sheet / statement of allegation against the accused were largely based on the findings of these reports.
- ii. Simultaneously these reports also highlighted certain flaws in the process adopted in handling the issue besides cross cutting issues involved in the Amnesty Policies of Northern Areas.
- iii. Sensitivity of the matter especially KKH was also exploited by the vested interest to transport the stolen timber.



- B. While conducting enquiry proceedings, report of the Committee headed by Muhammad Tehmasip, DFO on re-measurement of Northern Area Timber (54 trucks) halted in the jurisdiction of Siran Forest Division which detected that the timber in these 54 trucks was reduced by 264 scants = 4843 cft.

Detailed analysis of the report and subsequent cross examination of the Re-measurement Committee facilitated by Qazi Mushtaq Ahmad, Ex-DFO, Siran and Raja Imtiaz Ahmad, Conservator of Forest, Abbottabad brought to surface the following: -

- i. Participation of Additional Deputy Commissioner (ADC) Mansehra in the Re-measurement Committee was not supported by any authentication in the report.
- ii. It is hard to understand and believe that 54 trucks carried less timber than the recorded number and volume for which price of timber and duty / taxes etc. had been paid.
- iii. The two members of the Re-measurement Committee headed by Mr. Tehmasip (who are Muhamad Muzzaffar and Muhammad Pervaiz) had themselves stopped these 54 trucks in their respective jurisdiction in Siran Forest Division for excess timber and stolen timber of Kohistan Forest Division. But in the Re-measurement Committee they put their signatures on the Committee report showing thereby reduced number of scants and volume than the consignment of these 54 trucks. Such like dubious enquiry report and breach of trust always create embarrassment for the department / government and is against the interest of the state which should not be left unnoticed.

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(H.H.)

IV. INDIVIDUAL CHARGE-WISE DISCUSSION AND CONCLUSION

A. Mr. Muhammad Tariq, Divisional Forest Officer (BPS-18) the then DFO Upper Kohistan Forest Division.

Charge No. (i)

"You always remained absent from your headquarter at Dassu without any prior permission / approval of the competent authority or sanction of any leave as stipulated in Civil Servants Act 1973, due to which the locals of area faced hardship to address their problems. Consequently the illicit trade of timber and illicit damage to the forest was rampant. Moreover, you failed to take appropriate measures necessary for guarding against pilferage of local timber when transportation of timber from Northern Area was under the "Amnesty Policy for illicit timber of Northern Areas 2013" was in progress."

To ascertain the presence / absence of the officer at headquarter, the accused officer produced copies of his tour diaries from 18-07-2013 to 30-09-2013 depicting routine duties without any major absence except on gazetted holidays / weekends (Annexure-23). The tour diary for the month of August had even shown office attendance on 14.08.2013 (Independence Day) which is not comprehensible.

Copies of these tour diaries provided by the accused officer were, however, not authenticated by Muhammad Shoaib, DFO (Prosecutor) despite the fact that he is holding the charge of DFO Upper Kohistan Dassu. On a query, the Prosecutor (DFO Lower & Upper Kohistan) clarified that these tour diaries are not available on record of DFO Upper Kohistan, therefore, cannot be authenticated.

The casual presence of the accused officer in Upper Kohistan was further substantiated by almost all the accused officials during their cross examination who stated that Muhammad Tariq, DFO rarely attended office at Dassu which resulted in a lot of complications in the working of the department in general & matters relating to the Amnesty Policy of Northern Area Timber (in vogue at that time) in specific.

From the above analysis it is apparent that the accused official casually attended his office and for most of the time remained stationed at Abbottabad disposing off his official correspondence from there.

Charge No. (ii)

"In a meeting held in the office of Commissioner Hazara Division at Abbottabad on 19.09.2013, DC Kohistan expressed his entire dissatisfaction about your performance as DFO Upper Kohistan Forest Division. He categorically mentioned about your continued absence from your headquarter at Dassu since you took over the charge of the Upper Kohistan Forest Division that caused mis-management of the forest resources, lack of effective supervision and control over the subordinate staff necessary to guard against illicit damage to the forests and pilferage / smuggling of timber. As per findings of Provincial Inspection Team confirmed your continued frequent willful absence from station of duty. Furthermore you caused heavy losses to the Government on account of theft of 18,000 cft of timber on the night between 24th and 25th August 2013. The Provincial Inspection Team has recommended recovery of the cost of 18,000 cft timber from you. During the course of enquiry the concerned persons brought in the notice of PIT that you have been paid Rs. 22 / per cft over and above the forest duty @ Rs. 30 / cft, the same has been reflected in the report by PIT, therefore, you indulged in corruption."

Minutes of the meeting under chairmanship of Commissioner Hazara on 19-09-2013 endorsed vide Assistant Commissioner (R&GA) vide endorsement No.GB/ACR/CHD/8483/8513 dated 19-09-2013 contains no specific reference to the issue pertaining to Muhammad Tariq, DFO, Upper Kohistan (Annexure-24).

Provincial Inspection Team during their enquiry visit to Hazara Division in connection with 68 trucks parked on KKH transporting timber of Northern Areas under Amnesty Policy 2013 directed

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Muhammad Tariq, DFO to appear before them on 14-09-2013 but he did not attend. The accused officer in response stated that he was asked by Superintendent Circle office to direct SDFO and other Field Staff to appear before Provincial Inspection Team on 14-09-2013 and showed ignorance of any direction for his personal appearance. The prosecutor kept silent.

As regards taking of bribe @ 22 per cft over and above the duty @ 30 per cft, the prosecution could not substantiate the charge and merely referred to the Provincial Inspection Team report wherein this charge has been clearly mentioned under Para ix (Page 12).

Regarding his presence / absence at headquarter the charge has been discussed in detail under Charge No. (i) above. The officer had full knowledge of Provincial Inspection Team visit but remained away from its proceedings. The charge regarding taking of bribe could not be established as no evidence except reference in Provincial Inspection Team report was ever produced.

Charge No. (iii)

"You willfully / deliberately / maliciously abstained and did not appear before the Provincial Inspection Team that was assigned the task of enquiry of 18,000 cft pilfered timbers which is sufficient evidence that you were involved and responsible for the theft of 18,000 cft timbers."

Stealing of 18,000 cft from the following road side depots in Upper Kohistan Forest Division occurred between the night of 24th - 25th August 2013.

Name of Depot	Timber Lifted (cft)		Total cft
	Deodar	Kail	
Basha	-	6,000	6,000
Harben	3,000	2,000	5,000
Sazeen	7,000	-	7,000
Total	10,000	8,000	18,000

During cross examination the accused officer admitted that the timber was stolen and taken to Northern Areas (Diamer District) for

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~~admission~~ into the timber transported under the Amnesty Policy. The ~~accused~~ officer was away from his headquarter on the night of ~~occurrence~~ and was informed by the SDFO on 25-08-2013 at about 1100 hrs. The incharge SDFO Mr. Muhamad Asghar had already left ~~the~~ headquarter on 24-08-2013 in the afternoon on the pretext that ~~the~~ timber would be stolen during the night to come and was ~~proceeding~~ to Abbottabad to inform the DFO and Conservator. It is ~~sufficient~~ proof that the whole saga was pre-planned and engineered. ~~The~~ entire staff right from the Forest guard upto the SDFO did not ~~take~~ a single step at the time of occurrence to stop the lifting / stealing of timber – meaning, thereby, clear cut involvement of the accused. ~~Lifting~~ of 18,000 cft timber and its transportation in one night is not ~~possible~~ without active connivance and support of the incharge staff ~~along~~ with the consent of their DFO.

Charge No. (iv)

“The Chief Conservator of Forests Northern Forest Region - II Abbottabad called your explanation for continued absence from headland you being a subordinate officer instead of adopting appropriate approach for furnishing reply, used the abusive / obnoxious language for your superior officer not only insulting your superior but also exhibited disrespect / disregard to the service decorum that tantamount to misconduct, indiscipline and disobedience. The Administrative Department took notice of your letter No.1610-11/E dated 28-08-2013 addressed to Chief Conservator of Forests Northern Forest Region - II Abbottabad and called for your explanation stating that your aforesaid letters are void of appropriate language essential while corresponding with superiors as stipulated in the “Rules of Business” which speaks volumes of your disregard and insubordination to the higher officers.”

Detailed scrutiny of the correspondence reveals that the language used in the letters was inappropriate and a bit in disregard to the service decorum.

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Charge No. (v)

"You have occupied residential Bungalow at Abbottabad from July, 2008 to date while posted as DFO Peshawar Forest Division, DFO Demarcation Peshawar unlawfully and beyond entitlement. After your posting as DFO Upper Kohistan Dassu you continued with illegal occupation of the said residence. Furthermore, when Conservator of Forests Lower Hazara Circle asked you to vacate the residence, you not only refused but also replied in very disrespectful manner which tantamount to misconduct and insubordination."

During cross examination the accused officer showed copy of the office Order No.77 dated 10-06-2008 issued by Chief Conservator of Forest NWFP (Now Khyber Pakhtunkhwa) regarding allotment of bungalow of Conservator of Forest Watershed Abbottabad to Muhammad-Tariq, DFO Gallis Forest Division Abbottabad. On a query, the Prosecutor could not substantiate the charge and did not produce any letter written by Conservator of Forest, Abbottabad and reply by the accused officer as stated in the charge.

It transpired that the bungalow at Abbottabad had been allotted by the then Chief Conservator of Forest NWFP and the Prosecutor could not prove the charge.

Keeping in view the above, charges of corruption and misconduct partly established. The charge of inefficiency, however was not established.

Recommendation

On the basis of aforesaid discussion and conclusions, the following recommendations are made: -

- i. Recovery of Rs.15,48,200/- being 1/4th of the price, forest duty and FDF of 18,000 cft timber (10,000 cft Deodar scants plus 8,000 cft Kail @ 20% government share) from Mr.Muhammad Tariq Ex-DFO Upper Kohistan to make the losses sustained by the provincial exchequer
- ii. Reversion from the post of DFO (BPS-18) to the post of SDFO (BPS-17) with immediate effect.

B. Mr. Muhammad Asghar, Forester (BPS-09), Incharge Sub-Divisional Forest Officer, Harben.

Charge No. (i)

"You being incharge Sub-Divisional Forest Officer of Harben Sub-Division, failed to protect the timber lying in Basha, Harben and Sazin KKH roadside Depots against admixture in timber being transported under the Northern Area Amnesty Policy, 2013. You are supposed to be vigilant during currency of the instant policy but you intentionally escaped from the scene, particularly at the time of occurrence, for free exercise of lifting of timber under your control."

From the detailed analysis of the charge it transpires that the accused official instead of exercising control over his field staff, escaped from the scene and thus the stealing / lifting of 18,000 cft timber occurred – meaning thereby that the charge proved.

Charge No. (ii)

"You failed in adopting preventive measures against admixture of timber of Kohistan origin in timber of Northern Area and hence you severally and jointly along with other accuseds in the case responsible for recovery of losses sustained by the public exchequer, in addition to the interest as per law:"

Analyzing the charge it came to surface, that the accused official neither adopted any preventive measures nor remained at headquarter to stop the occurrence of stealing of timber but tried to escape from the scene of occurrence. He further failed to recover the stolen timber which is clear from the sub-committee report for ascertaining the genuineness of claimed recovered stolen timber. The charge thus stands proved.

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Charge No. (iii)

"You failed to protect the timber and sufficient evidence in this regard are available that with your involvement with the timber mafia 18,000 cft pilfered timbers were theft for which you are solely responsible."

Detailed analysis of the charges revealed that stealing / lifting of 18,000 cft timber in one night is not possible without the active connivance of the incharge Sub-Divisional Forest Officer and his subordinate field staff. The accused official proceeded to Abbottabad on 24.08.2013 on the pretext that the timber would be stolen in the night to come. The charge thus stands proved.

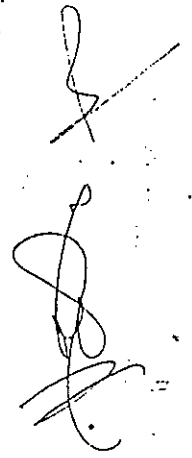
In view of the above, the charges of misconduct, inefficiency and corruption under Rule 3 of Khyber Pakhtunkhwa E&D Rules, 2011 proved against the accused official.

Recommendation

On the basis of aforesaid discussion and conclusions, the following recommendations are made: -

Recovery of Rs.21,98,500/- being 1/4th of the price, forest duty and FDF of 18,000 cft timber (10,000 cft Deodar scants plus 8,000 cft Kail @ 20% government share) and 1/4th of additional loss pertaining to Sazin Depot as Incharge Forester from Mr. Muhammad Asghar, Forester (BPS-09) Incharge SDFO, Harben to make the losses sustained by the provincial exchequer

Compulsory retirement from service with immediate effect.



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Mr. Abdul Manan, Block Officer (BPS-07), Harben and Basha Block.

Charge No. (i)

"You being incharge Block Officer, failed to protect the timber from illegal lifting for admixture in Northern Area Amnesty Policy, 2013, whereas you were supposed to be extra vigilant for protecting the timber lying in Basha and Harben KKH timber depots."

Detailed analysis of the charge shows that the accused official Mr. Abdul Manan, Block Officer mainly engineered the whole saga as mastermind and created camouflage for being on leave without any legal authority. Thus the charge stands proved.

Charge No. (ii)

"You have no preventive control over your subordinate staff, incharge roadside depots, which is a cardinal supervisory failure."

Detailed examination / cross examination of the accused official Mr. Abdul Manan, Block Officer brought to surface that he not only failed to supervise his subordinate staff, incharge road side depots but joined hands clandestinely with the timber mafia and remained away from the scene of occurrence intentionally through self claimed leave. His understating with timber mafia encouraged them to lift the timber from the depots thus proving the charge against him.

Charge No. (iii)

"That you are severally and jointly along with other accused in the case responsible for illegal lifting of timber which caused colossal loss to the Government exchequer."

As discussed under the above two charges, the accused official in collaboration with his subordinate forest guards (incharge of the road side depots) managed the illegal lifting of 1,1,000 cft timber

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causing heavy losses to the Provincial exchequer, thereby proving the charge against him.

In view of the above facts, the charges of misconduct, inefficiency and corruption under Rule 3 of Khyber Pakhtunkhwa E&D Rules, 2011 stand proved against the accused official.

Recommendation

On the basis of aforesaid discussion and conclusions, the following recommendations are made: -

- i. Recovery of Rs.8,97,900/- being 1/4th of the price, forest duty and FDF of 11,000 cft timber (3000 cft Deodar scants plus 8000 cft Kail @ 20% government share) from Mr.Abdul Manan, Block Officer (BPS-07), Harben Basha Block to make the losses sustained by the provincial exchequer
- ii. Compulsory retirement from service with immediate effect.

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Mr. Nasib Khan, Forest Guard (BPS-07), Incharge Sazin Road side Depot.

Charge No. (i)

"You being incharge of the depot, failed to protect the timber from illegal lifting for admixture in Northern Area Amnesty Policy, 2013, whereas, being incharge of the depot you were supposed to watch the depot day and night against any un-authorized pilferage."

During detailed analysis of the charge through examination/~~CROSS~~ examination of the accused official, it reveals that he did not ~~take~~ any practical step to stop the lifting of timber despite the fact that ~~the~~ Amnesty Policy for Northern Area 2013 was in progress and the ~~accused~~ official had full knowledge of chances of admixture of ~~Kohistan~~ origin timber in the said policy. Being incharge of the depot ~~he failed~~ to protect the unauthorised pilferage of 7000.cft timber from Sazin Depot thereby proving the charge against him.

Charge No. (ii)

"You were supposed to be extra vigilant during the execution of N.A. Amnesty Policy, 2013, as it was every likelihood of lifting of timber for illegal admixture in the above said policy timber."

Analysis of the charge revealed that instead of being extra vigilant during the execution of Northern Areas Policy 2013, the accused official remained silent which clearly indicates that he remained a silent spectator confirming his involvement in the illegal lifting of timber thus proving the charge against him.

Charge No. (iii)

"In case of any visible threat to the timber in depot under your control you should have mustered the support of available staff from your seniors besides lodging an F.I.R" in the respective Police Station prior to the incidence of timber lifting. You failed to watch the depot during the

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times of incidence and fabricated a story of forceful lifting without identification of the offenders."

Cross examination of the accused official made it crystal clear that he did not take any practical step to stop lifting of timber from his depot and afterwards reporting the matter for lodging FIR with the police without charging identified offenders in a fabricated way thus proving the charge against him.

Charge No. (iv)

"That you are severally and jointly along with other accusods in the case responsible for illegal lifting of timber which caused colossal loss to the Government exchequer."

As discussed under the above three charges, the accused official joined hands with his superiors and facilitated stealing of 7000 cft timber from his depot resulting in heavy losses to the provincial exchequer.

In view of the above facts, the charges of misconduct, inefficiency and corruption under Rule 3 of Khyber Pakhtunkhwa E&D Rules, 2011 stand proved.

Recommendation

On the basis of aforesaid discussion and conclusions, the following recommendations are made:

- i. Recovery of Rs.6,50,300/- being 1/4th of the price, forest duty and FDF of 7000 cft timber (7000 cft Deodar @ 20% government share) from Mr.Nasib Khan, Forest Guard (BPS-07) Incharge Sazin Road side Depot to make the losses sustained by the provincial exchequer.
- ii. Reversion of the accused official to initial scale in BPS-07 keeping in view his short span of service and young age.

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F. Mr. Umar Khan, Forest Guard (BPS-07), Incharge Basha Road Side Depot.

Charge No. (i)

"You being incharge of the depot, failed to protect the timber from illegal lifting for admixture in Northern Area Amnesty Policy, 2013, whereas, being incharge of the depot you were supposed to watch the depot day and night against any un-authorized pilferage."

During detailed analysis of the charge through examination / cross examination of the accused official it revealed that he did not take any practical step to stop the lifting of timber despite the fact that the Amnesty Policy for Northern Area was in progress and the accused official had full knowledge of chances of admixture of Kohistan origin timber in the said policy. Being incharge of the depot he failed to protect the unauthorized pilferage of 6000 cft timber from Basha Depot thereby proving the charge against him.

Charge No. (ii)

"You were supposed to be extra vigilant during the execution of N.A. Amnesty Policy, 2013, as it was every likelihood of lifting of timber for illegal admixture in the above said policy timber."

Analysis of the charge revealed that instead of being extra vigilant during the execution of Northern Areas Policy 2013, the accused official remained silent which clearly indicates that he remained a silent spectator confirming his involvement in the illegal lifting of timber thus proving the charge against him.

Charge No. (iii)

"In case of any visible threat to the timber in depot under your control you should have mustered the support of available staff from your seniors besides lodging an F.I.R in the respective Police Station prior to the incidence of timber lifting. You failed to watch the depot during the

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times of incidence and fabricated a story of forceful lifting without identification of the offenders."

Cross examination of the accused official made it crystal clear that he did not take any practical step to stop lifting of timber from his depot and afterwards reporting the matter for lodging FIR with the police without charging identified offenders in a fair manner.

"That you are severally and jointly along with other accuseds in the case responsible for illegal lifting of timber which caused colossal loss to the Government exchequer."

As discussed under the above three charges, the accused joined hands with his superiors and facilitated stealing of timber from his depot resulting in heavy losses to the provincial exchequer.

In view of the above facts, the charges of misconduct, inefficiency and corruption under Rule 3 of Khyber Pakhtunkhwa E&D Rules, 2011 stand proved.

Recommendation

On the basis of aforesaid discussion and conclusions, the following recommendations are made:

Recovery of Rs.4,64,400/- being 1/4th of the price, forest duty and FDF of 6000 cft timber (6000 cft Kail-scants @ 20% government share) from Mr.Umar Khan, Forest Guard (BPS-07) Incharge Basha Road side Depot to make the losses sustained by the provincial exchequer.

Compulsory retirement from service with immediate effect.

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GENERAL RECOMMENDATIONS

- 1. An independent inquiry shall be conducted against the Re-measurement Committee comprising of Muhammad Tehmasip, DFO, Muahmmad Muzzaffar, RFO, Pervaiz, Forester and ADC Mansehra for their dubious report putting the state interest at stake.
- 2. A detailed stock taking shall be undertaken of the timber lying in all the roadside depots of Upper and Lower Kohistan, Forest Division prior to allowing transportation under Northern Area Timber Amnesty Policy. Record of such stock taking should be kept in District Forest Office, Conservator of Forest and Chief Conservator of Forest offices for record and reference in such like cases.
- 3. Ill-reputed officers shall not be posted in important forest district like Kohistan especially when such Northern Area Timber Amnesty Policy is in pipeline / operation.
- 4. Basic role of departmental representative / Prosecutor (Mr. Muhammad Shoaib, DFO) was against the interest of the department for which he shall be warned.

(Signature)
 (SHAH WAZIR KHAN)
 MANAGING DIRECTOR
 FOREST DEVELOPMENT
 CORPORATION
 8/9/14

(Signature)
 (TARIQ RASHID)
 SECRETARY
 BENEVOLENT FUND CELL
 8/9/14

Attested
 Shah Mohammad Khan
 Advocate Supreme Court
 of Pakistan



GOVERNMENT OF KHYBER PAKHTUNKHWA

SHOW CAUSE NOTICE

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Nasib Khan, Forest Guard (BPS-07), Forest Department, as follows:

- (i) that consequent upon the completion of enquiry conducted against you by the Enquiry Committee, for which you were given opportunity of hearing vide office communication No.SO(Estt)Env/1-8/Tariq DFO/2k14/2413-2415 dated 02/06/2014; and
- (ii) on going through the findings and recommendations of the Enquiry Officer, the material on record and other connected papers including your defence before the Enquiry Officer:

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

1. Inefficiency.
2. Misconduct.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalties of (i) Reversion to initial scale of BPS-07.

(ii) Recovery of Rs. 650300/=

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

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

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

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

Attested
Shah Mubeen Qadri
Advocate Supreme Court
of Pakistan.

Pervez Khattak
(PERVEZ KHATTAK)
CHIEF MINISTER,
KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY
13. 10. 2014

~~ADVOCATE SUPREME COURT
OF PAKISTAN~~

عزت مآب جناب وزیر اعلیٰ صاحب خیبر پختونخواہ پشاور

بوساطت: ڈی ایف او صاحب اپر کوہستان فارسٹ ڈویژن داسو

عنوان: شوکار ٹولس

حوالہ: چھٹی نمبری (69) 1-50 (Estt) No. So

2012ء تا 21 اکتوبر 2014ء

جناب عالی افسدوی کو چھٹی محصول بالا کے ذریعے کہا گیا ہے کہ انکو اسی کمیٹی نے افسدوی کو نا اہلی اور بدانتظامی کا مرتکب پایا جس کے لئے افسدوی کو ذیل سزا تجویز کر کے اظہار وجہ کے لئے کہا گیا۔

(i) BPS 7 کی ابتدائی تنخواہ پر تقرری

(ii) مبلغ 6,50,300 روپے کی وصولی

عالیجاہ افسدوی اور وجہ ذیل و دیگر صحت جرم سے انکاری ہے۔

عالیجاہ اصل مقدمہ یہ ہے کہ سال 2013 میں فیڈرل گورنمنٹ نے نادرن ایریا کے لئے کٹائی شدہ لکڑی کے لئے ایک پالیسی دی۔ جس میں اپر کوہستان سے نا جائز کٹائی شدہ لکڑی شامل کرنے کی کوشش کی جس پر افسدوی کو چارج شیٹ کر کے انکو اسی کمیٹی نے افسدوی کو نا اہلی اور بدانتظامی کا مجرم قرار دیا۔ جناب عالی افسدوی کو ایکل معروضات پیش کر کے اجازت چاہتا ہے۔

(1) یہ کہ جس لکڑی کی بابت یہ کہا گیا ہے کہ وہ اپر کوہستان سے نادرن ایریا کی پالیسی کی لکڑی میں ملانے کی کوشش کی گئی ہے۔ وہ لکڑی نا جائز کٹائی شدہ ہے۔ اور وہ محکمہ کی تحویل میں نہیں۔ ساکان جنگل جنوں نے وہ نا جائز کٹائی کر کے جمع کی ہے۔ ان کی اپنی نگرانی میں مختلف مقامات پر پڑی ہے۔

(2) لکڑی جس کی بابت یہ گمان کیا گیا کہ وہ نادرن ایریا کی لکڑی میں شامل کی گئی ہے، وہ شدت محکمہ کی تحویل میں ہے۔ یہی افسدوی کی تحویل یا نگرانی میں ہے۔ فاضل کمیٹی نے اس امر کو اپنی رپورٹ میں سرے سے ذکر ہی نہیں کیا۔ جب ایک چیز افسدوی کی تحویل میں ہی نہیں تو افسدوی اس کا ذمہ دار بھی نہیں۔

(3) یہ کہ اصل حقیقت فاضل کمیٹی نے جاننا اور جانے کر کے وہ لکڑی اٹھائی گئی تھی وہ ڈی ایف او ناگیب نے پکڑ کر ڈی ایف او کو بدانتظامی کا مرتکب پایا۔ (میسرین گرا)

(4) یہ کہ ناگیب سے لکڑی داس اپر کوہستان لائی گئی جس کی تصدیق اس وقت کی ایچ ایچ SDFO

ڈی ایف او (2)

(5) یہ لکڑی چند شریکوں نے فراہم کر رکھی تھی۔ جو ابس آگئی۔

(6) یہ کہ لکڑی مالکان نے اس خطرے کے پیش نظر کڑی پابندی لگائی کہیں اٹھا کر نادرن ایریا کی لکڑی میں شامل کر کے نہ لے جائے۔ زوڈ سائیڈ سے اٹھا کر پتھری گاؤں کی طرف لے گئے اور پالیسی کی میعاد ختم ہونے پر وہیں لے کر وہیں رکھ دی جہاں سے وہ اٹھا کر لے گئے تھے۔ جس کی تصدیق اس وقت کے SIDFO نے بھی کر دی۔ (شہرہ نمبر 3)

(7) یہ کہ فاضل کمیٹی نے جو ذیلی کمیٹی لکڑی کی تصدیق کے لئے بھیجی تھی اس کی رپورٹ کا ذکر تو کمیٹی نے اپنی رپورٹ میں کیا لیکن اس رپورٹ کو زیر بحث نہیں لایا گیا۔ بلکہ کمیٹی نے اس بات کی تصدیق کی ہے کہ وہ وہاں ڈپو پر کافی لکڑی موجود ہے۔

(8) یہ کہ فاضل کمیٹی نے مالکان سے باز پرس نہیں کی کہ وہ اپنا نقطہ نظر پیش کرتے لیکن ایسا نہ کر کے کمیٹی نے جانبداری کا مظاہرہ کیا ہے۔

(9) یہ کہ 24/25/8/2013 کے نوٹس کے ذریعہ نادرن ایریا کی پالیسی منسوخ کر کے چیمبرہ بخشو خواہ سے تین دن تک معطل کر کے اس بات کی تصدیق کرنے کے بعد ترمیم، سبیل، سبیل کی۔ کہ کہہ سنان کی لکڑی اس لکڑی میں شامل نہیں کی گئی۔ لیکن کمیٹی نے اس عمل کو زیر بحث نہیں لایا۔

(10) یہ کہ ایک فارسٹ گارڈ ڈیپو رپورٹ اپنے بالا افسران اور پولیس میں بھی اخراج دینے کے علاوہ کیا کر سکتا ہے۔

علاجہ اور جہاں مالکان سے واضح ہے کہ یہ تو لکڑی متذکرہ فی کی تحویل نہیں تھی اور نہ ہی فدوی اس کا ذمہ دار تھا۔ لیکن اس کے باوجود اٹھائی گئی لکڑی اپنی جگہ پر آگئی ہے۔ نہ مالکان اور نہ ہی حکومت کا کوئی نقصان ہوا۔ جس کی تصدیق اب بھی کی جا سکتی ہے۔

A. H. H. H.

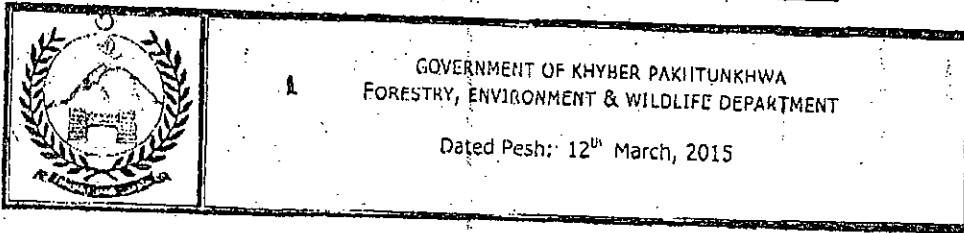
Shah Mohammad Khan
Advocate Supreme Court
of Pakistan.

المترقوم

فارسٹ گارڈ اپر کوہستان فارسٹ ڈویژن داسو **لفیظ خان**

لفیظ خان فارسٹ گارڈ اپر کوہستان فارسٹ ڈویژن داسو

Annex 9, P (68)



NOTIFICATION

No. SO(Est)FE&WD/1-8/Tariq DFO/2k14: WHEREAS, Mr. Nasib Khan, Forest Guard (BPS-07) was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the charges as mentioned in the Charge Sheet and Statement of Allegations dated 25/12/2013, served upon the said officer;

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

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

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

NOW, THEREFORE, the Competent Authority, after having considered the charges, evidence on record, findings of the Enquiry Committee, the explanation of the accused officer, and hearing him in person and exercising his powers under Rule-14(5)(ii) read with Rule 4(1)(b)(i) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, has been pleased to impose a major penalty of "Dismissal from service"; and "Recovery of Rs. 6,50,300/-" upon Mr. Nasib Khan, Forest Guard (BPS-07) of Forest Department, with immediate effect.

CHIEF MINISTER,
KHYBER PAKHTUNKHWA

28/7-20

Enst: No. SO(Est)FE&WD/1-8/Tariq DFO/2k14

Dated Pesh: 02nd April, 2015.

Copy is forwarded to:-

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

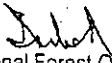

(MIR ZALI KHAN)
SELECTION OFFICER (ESTT)

No. 1404-5/B&A, dated Dasso the 2/14/2015.

Copy forwarded to the:-

1. Sub-Divisional Forest Officer, Harban Forest Sub-Division. He is directed to immediately release Mr. Naseeb Khan FG under local arrangements and report compliance.
- ✓ 2. Sub-Divisional Forest Officer, Jalkot Forest Sub-Division.

For information and immediate necessary action as desired by the high-ups under intimation to this office with reference to this office endorsement No. 1394-95/B&A, Dated 31.3.2015.


Divisional Forest Officer
Upper Kohistan Forest Division

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J

**BEFORE THE CHIEF MINISTER
KPK PESHAWAR**

REVIEW PETITION AGAINST THE ORDER
DATED 12.03.2015 PASSED BY YOUR
GOODSELF, VIDE WHICH THE APPELLANT
HAS BEEN DISMISSED FROM SERVICE AND
ALSO PASSED AN ORDER FOR THE RECOVERY
OF RS.6,50,300/-.

Respected Sir,

The brief facts leading to the instant appeal are arrayed as follows:-

1. That, the appellant was appointed as forest guard in forest department and after joining service, served the department for about 7/8 years to the best satisfaction of their senior officers.
2. That, the appellant was posted as forest guard at Sazcen Depot and on the night between 24/25/08/2013, some criminals came and they had snatched timber measuring 7000 Sq.ft. The appellant reported the matter through a damage report and the appellant also submitted an application to the local police for the registration of the case, but before the registration of the case instead of treating the appellant as complainant was arrayed as an accused and the case was accordingly registered which shows the malice or

Secretary
Minister
KPK Peshawar

21/4

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malafide on the part of police. The said timber which had been snatched was returned by the persons and the said timber is still lying in the depot which has been duly verified by SDFO Muhammad Anwar who appeared during an inquiry and got recorded his statement in this respect.

3. That, the appellant was issued a charge sheet and was asked to submit his reply in respect of the allegations set-up in the charge sheet and the appellant submitted a detailed reply refuting all the charges.
4. That, the PSO, to your goodself, has issued a letter to Commissioner Hazara Division Abbottabad, directing him to hold an inquiry in respect of the embezzlement/misappropriation which was conducted by Liaquat Ali and Humayun members and an opinions and recommendations were made therein. Another inquiry was also initiated by Hashim Ali and another member and after concluding the same they had also given their findings and recommendations. Another inquiry was also conducted by Shah Wazir and another member who gave their findings and recommendations.
5. That, the appellant was issued a show cause notice seeking his reply which was accordingly given and the said reply was not found satisfactory and the order of dismissal was passed. The appellant

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requests for his reinstatement on the following amongst other grounds.

- A). That, the order of dismissal of appellant is against the facts, patent on record and is also opposed to law applicable thereto and hence the order of dismissal is not maintainable in the eye of law.

- B) That, the Constitution of Pakistan and the service laws had laid down a specific procedure for holding inquiry and the said rules and regulations had been badly violated and as such the order of dismissal is bad in the eye of law.

- C) That, it has become obligatory to the inquiry officer or committee to afford all the opportunities to the persons whose fate has been put at stake, so that the entire evidence could be recorded in his presence by affording him a chance of cross examination.

- D). That, as very serious allegations has been leveled against the appellant which requires a thread bare inquiry, but in this particular case the required inquiry has never been carried out and in a slip shod manner the

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entire proceedings were conducted which are alien to law.

- E) That, before passing the impugned order it is obligatory to provide the appellant the reports of inquiry, so that he could know what evidence has been laid and what charges has been established, but the appellant has been deprived of, rather all the opportunities required by law has not been afforded and so the order through which the appellant has been dismissed is a nullity in the eye of law. (Photocopies of all related documents are attached)

It is, therefore, prayed that on acceptance of instant appeal, the impugned order may kindly be set-aside and the appellant may kindly be re-instated in service.

Dated: 21/04/2015

.....
Naseeb Khan S/O Said Ameer, Forest Guard, BPS-7,
Upper Kohistan Forest Sub-Division Dassu... Appellant

AH Khan
Shad Mahomed Khan
Advocate Supreme Court
of Pakistan

وکالت نامہ

P-73

بعدالت جناب چیئرمین صاحب سروس ٹریبونل پاکستان
 نصیب خان نام چیف منسٹریز
 دعویٰ یا جرم سروس رپیل منجانب اپیلانٹ

باعث تحریر آنکہ

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی بمقام ایسٹ ایب اوکے لئے

جناب شاد محمد خان ایڈووکیٹ سپریم کورٹ آف پاکستان

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

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

المرقوم.....

عبد العبد العبد

ATTESTED & ACCEPTED
 SHAD MUHAMMAD KHAN,
 Advocate Supreme Court,
 of Pakistan.

نصیب خان ولد عبد اللہ محمد صاحب
 کوہستان ایسٹ فارسٹ گارڈ

Amr

Shad Muhammad Khan
 Advocate Supreme Court
 of Pakistan.

POINTS

- 1) Naseeb Khan was posted as Forest Guard and on the night between 24-25/08/2013 some criminals had taken away timber measuring about 700sqft.
- 2) That, the appellant was issued charge sheet and statement of allegations by Chief Minister KPK Peshawar on 25.05.2014 and the appellant submitted a detail reply.
- 3) That, an inquiry was conducted by Liaqat Ali Member and Muhammad Humayun, Chairman Provincial Inspection Team and they gave their findings.
- 4) That, an inquiry was conducted and also findings were given in the said inquiry.
- 5) The last inquiry was conducted by Shah Wazir Khan and Tariq Rasheed and they also gave their respective findings.
- 6) That, the Chief Minister, issued a final show cause notice to the appellant on 21.10.2014 and the appellant also submitted reply.
- 7) **That, the appellant was dismissed from service on 2nd April, 2015 by the Chief Minister KPK Peshawar.**
- 8) **That, the appellant submitted review petition before Chief Minister, KPK on 21.04.2015, but no reply was received or communicated to the appellant.**
- 9) **That, after waiting for 90 days as no reply was communicated, so**

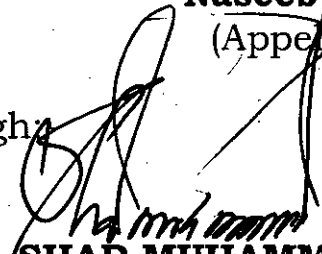
the appellant submitted an appeal
before this Honourable Tribunal on
11.07.2015.

Dated 15.09.2015

Naseeb Khan

(Appellant)

Through


SHAD MUHAMMAD KHAN
Advocate Supreme Court of
Pakistan (Mansehra)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO.926/2015

Naseeb Khan
Ex-Forest Guard
Environment Department Khyber Pakhtunkhwa.

APPELLANT

VERSUS

1. The Chief Minister
Khyber Pakhtunkhwa
Chief Minister's Secretariat, Peshawar
2. The Divisional Forest Officer
Upper Kohistan Forest Division
Dassu
3. The Conservator of Forests,
Upper Hazara Forest Circle
Mansehra.

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 01 TO 03

Respectfully Sheweth;

PRELIMINARY OBJECTION

1. The appeal is not maintainable in the present form
2. The appellant has no *locus standi* to bring the present appeal.
3. The appellant is legally estopped by his own conduct to bring the present appeal
4. The appeal is time barred.
5. The appellant has no cause of action.
6. That the appeal is bad for mis-joinder and non joinder of recovery practices.

FACTS

Para wise comments are as under:

1. Pertains to record hence no comments.
2. Incorrect, preliminary inquiry was conducted to defend the real fact and then regular inquiry was conducted in which appellant proved to have committed the misconduct and charges were proved against him.
3. It is correct, to the extent of charge sheet and statement of allegation and his reply. However the charges were proved against him.

4. Pertains to record. However, the entire enquiries were preliminary except a formal enquiry conducted by a committee comprised upon Mr. Muhammad Hamayun, Chairman Provincial Inspection Team and Mr. Liaqat Ali Member Provincial Inspection Team, which fulfilled all the codel formalities in which he proved to have committed the charges leveled against him.
5. Pertains to record. However the appellant failed to justify his claim.
6. Pertains to record hence no comments.
7. Pertains to record hence no comments.
8. Need no comments.


GROUND


- A. In-correct. All the charges leveled against the appellant have been proved before the Enquiry Committee during enquiry proceeding. The impugned order is according to Law and rules-regulations.
- B. In-correct. The regular enquiry has been conducted properly, as per Law, Rules on the subject.
- C. Incorrect. All charges have been proved against Appellant.
- D. Incorrect. Codel formalities have been fulfilled.
- E. Incorrect. All the proceedings have been carried out according to Law and Rules. Hence the charge-sheet as well as impugned order has been issued by the competent Authority.

PRAYERS

In view of the above facts available on record it is humbly prayed that the appeal being unjustified and against the law may please be dismissed with cost in the best interest of public.

Chief Minister
Khyber Pakhtunkhwa
Chief Minister Secretariat Peshawar
(Respondent No. 1)


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


Divisional Forest Officer
Upper Kohistan Forest Division
Dassu
(Respondent No. 2)

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 926/2015

Naseeb Khan
Ex-Forest Guard
Environment Department Khyber Pakhtunkhwa.

APPELLANT

VERSUS

1. The Chief Minister
Khyber Pakhtunkhwa
Chief Minister's Secretariat, Peshawar
2. The Divisional Forest Officer
Upper Kohistan Forest Division
Dassu
3. The Conservator of Forests,
Upper Hazara Forest Circle
Mansehra.

Respondents

COUNTER AFFIDAVIT

The undersigned do hereby solemnly affirms and declare on oath that the contents of our written reply in the appeal is correct to the best of my knowledge and record and nothing has been concealed from the Honorable Tribunal.

Divisional Forest Officer
Upper Kohistan Forest Division
Dassu

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR.

Naseeb Khan.

...APPELLANT

V E R S U S

The Chief Minister Khyber Pakhtunkhwa Peshawar.

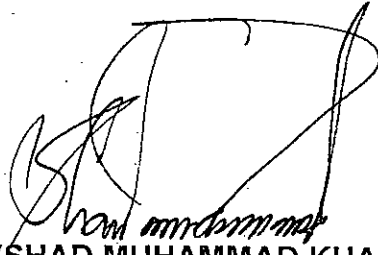
...RESPONDENT

SERVICE APPEAL NO.926/15

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Through:


(SHAD MUHAMMAD KHAN)
Advocate Supreme Court of
Pakistan (Mansehra)

Naseeb Khan
...APPELLANT

Dated:-22.04.2015

1

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR.

Naseeb Khan

...APPELLANT

V E R S U S

The Chief Minister Khyber Pakhtunkhwa Peshawar.

...RESPONDENT

SERVICE APPEAL

Respected Sir,

REPLY TO PRELIMINARY OBJECTION.

1. Para No.1 of the written statement is incorrect.
2. Para No.2 of the written statement is incorrect.
3. Para No.3 of the written statement is incorrect.
4. Para No.4 of the written statement is incorrect.
5. Para No.5 of the written statement is incorrect.

6. Para No.6 of the written statement is incorrect.

FACTS:

- 1) No comments given by the respondents.
- 2) Para No.2 of the written statement is incorrect, neither preliminary inquiry nor the regular inquiry was conducted in accordance with law. There was sheer discrimination, pick and choose and so the second inquiry and its finding so formed / arrived at are nullity in the eye of law. It is worth-mentioning that the appellant and others had been communicated the same charge sheet but ironically some of the employees were placed for inquiry before a DFO whereas the inquiry of the appellant was conducted by other inquiry committee and so this fact by itself denotes malafide/malice.
- 3) Para No.3 admitted to the extent of charge sheet and statement of allegations. The rest is incorrect.
- 4) Para No.4 of the written statement is incorrect, the inquiries which are required to be conducted must be conducted in accordance with law as the fate of the person is at stake. All the formalities shall be carried out in accordance with law.

5) Para No.5 is incorrect.

6) No comments.

7) No comments.

8) No comments.

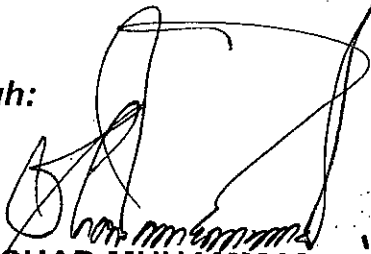
GROUNDS:-

- a. Para No. "A" of the grounds is incorrect. There is no such cogent; concrete evidence which could lead to the proof of the allegations against the appellant. The inquiry has not been carried out by the inquiry officer in accordance with law.
- b. Para "B" is incorrect. The so-called inquiry is not an inquiry in the eye of law, rather it is a mockery of law because it was not carried out in accordance with law.
- c. Para "C" is incorrect.
- d. Para "D" is incorrect.
- e. Para "E" is incorrect.

It is, therefore, requested that on acceptance of appeal the impugned order may kindly be set-aside and the appellant may kindly be re-instated in service.

Naseeb Khan
...APPELLANT

Through:



(SHAD MUHAMMAD KHAN)
Advocate Supreme Court of
Pakistan (Mansehra).

Dated:-22.04.2015

کتابخانه عمومی - سرویس اطلاعات - کتب - ۱۳۸۸
 عنوان: در فضیلت برائت از هر کس است که...

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کتابخانه عمومی - سرویس اطلاعات - کتب - ۱۳۸۸
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 تاریخ: ۱۴ خرداد ۱۳۸۸

السلام

کتابخانه عمومی - سرویس اطلاعات - کتب - ۱۳۸۸
 تاریخ: ۱۴ خرداد ۱۳۸۸

Amab

قیمت
50 روپے



ایڈویٹ: دسمور علی خان

بار کونسل ایسوسی ایشن نمبر:

رابطہ نمبر:

ایسوسی ایشن، خیبر پختونخواہ

مخانب: نصیب خان

دعویٰ نمبر: 926/2015

علت نمبر:

مورخہ:

جرم:

تھانہ:

نصیب خان بنام محمد جملان

باعث تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام کے لیے دسمور علی خان اور ڈولہٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو دہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم:

المعدود واہ شد المعدود

مقام کے لیے منظور ہے۔

(Signature)

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Accepted & Allowed