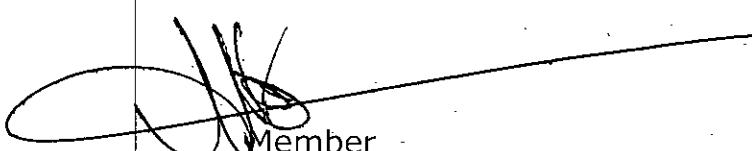

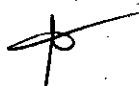



S.No. of proceedin gs	Date of Order or proceeding s.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	16.04.2019	<p style="text-align: center;"><u>Present</u></p> <p>Mr. Sajjad Ahmad Abbasi, Advocate ... For appellant</p> <p>Mr. Muhammad Bilal, Deputy District Attorney with Muhammad Saleem, DFO ... For respondents</p> <p>Vide our detailed judgment in Service Appeal No. 678/2016 (Gul Khitab Vs. Government of Khyber Pakhtunkhwa through Secretary, Forest, Peshawar and others) we allow the appeal in hand also and set aside the impugned order passed on 22.09.2015 by respondent No. 3. The respondents are required to conduct denovo enquiry against the appellant within ninety days from the receipt of copy of instant judgment in accordance with law and relevant rules. The appellant shall be associated with the requisite enquiry proceedings and shall be afforded fair opportunity of producing evidence in his defence. Needless to note that the appellant shall be entitled to cross-examine the witnesses appearing against him during the denovo proceedings. The issue of back benefits in favour of appellant shall be determined upon conclusion of denovo enquiry.</p> <p>Parties are left to bear their respective costs. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  Member </div> <div style="text-align: center;">  Chairman Camp court, A/Abad </div> </div> <p style="text-align: center;"><u>ANNOUNCED</u> 16.04.2019</p>

19.02.2019

Counsel for the appellant present. Mr. Muhammad Bilal, DDA alongwith Mr. Muhammad Saleem, DFO for the respondents present. Relevant record of the enquiry mentioned in previous order sheet has been furnished today by the representative of the department, copy of the same is also handed over to the learned counsel for the appellant. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 16.04.2019 before D.B at camp court Abbottabad.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member
Camp Court Abbottabad

30.08.2018

Due to summer vacations, the case is adjourned .To come up for the same on 16.10.2018 at camp court Abbottabad.


Reader

16.10.2018

Appellant Gul Khitab in person alongwith his counsel Mr. Sajjad Ahmad Abbasi, Advocate present. Sardar Muhammad Saleem, SDFO alongwith Mr. Usman Ghani, District Attorney for the respondents present.

On perusal of the record, enquiry file was not available before the Tribunal nor available with the learned counsel for the appellant. As such the above named representative of the department is directed to provide copy of the enquiry to the appellant and also produce the same before this Tribunal on or before the date fixed. To come up for arguments on 17.12.2018 before the D.B at camp court, Abbottabad.


Member


Chairman
Camp Court, A/Abad

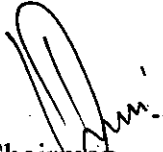
17.11.2018

Mr. Sajjad Ahmad Abbasi, Advocate for appellant and Mr. Usman Ghani, District Attorney alongwith Sardar Muhammad Karim, DFO for the respondent present.

Learned counsel for the appellant states that copy of requisite enquiry report has not been handed over to the appellant, therefore, he is handicapped to argue the case today. The representative of the respondent department undertakes to do the needful within ½ hour.

Adjourned to 19.02.2018 for arguments before the D.B at camp court, Abbottabad.

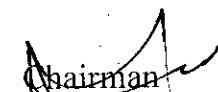

Member


Chairman
Camp Court A/Abad

19.02.2018

Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Sardar Saleem, DFO for the respondents present. Seeks adjournment as counsel for the appellant is not in attendance. Granted. To come up for arguments on 18.04.2018 before the D.B.

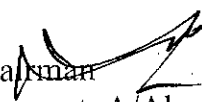

Member


Chairman
Camp Court, A/Abad

18.04.2018

Appellant in person and Mr. Usman Ghani, District Attorney alongwith Ibrar Ahmad, SDFO for the respondents present. Appellant seeks adjournment. Granted. To come up for arguments on 26.06.2018 before the D.B at camp court, Abbottabad.



Member


Chairman
Camp court, A/Abad

26.06.2018

Mr. Abid Ali, Advocate put appearance on behalf of the appellant. Mr. Ibrar Ahmad, SDFO on behalf of the respondents alongwith Mr. Ziaullah, Deputy District Attorney present. Counsel for the appellant is busy in the Hon'ble High Court. Adjourned. To come up for arguments on 30.08.2018 before the D.B at camp court, Abbottabad.



Member


Chairman
Camp court, A/Abad

825/2016

20.1.2017

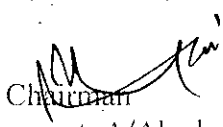
Counsel for the appellant and Mr. Muhammad Siddique Sr. GP alongwith Ibrar Ahmad, SDFO for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 18.07.2017 at camp court, Abbottabad.


Chairman
Camp court, A/Abad

06. 18.07.2017


Counsel and Mr. Muhammad Bilal, DDA alongwith Mr. Abdur Rashid, Range Forest Officer for respondents present. Counsel for the appellant seeks adjournment to file rejoinder. Adjourned. To come up for rejoinder and arguments on 20.12.2017 before D.B at Camp Court A/Abad.



Member


Chairman
Camp court, A/Abad

20.12.2017

Appellant in person present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Appellant submitted rejoinder and requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 19.02.2018 before D.B at Camp Court Abbottabad.


(Gul Zohra Khan)
Member (Executive)
Camp Court Abbottabad


(Muhammad Amin Khan Kundi)
Member (Judicial)
Camp Court Abbottabad


22.09.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant was serving as Forest Guard when subjected to enquiry and removed from service where-against he preferred service appeal No. 678/2016 wherein the next date of hearing is 14.2.2017. That vide impugned order dated 22.09.2015 appellant was again removed from service on the same allegations where-against he preferred departmental appeal on 18.11.2016 which was rejected on 12.04.2016 and hence the instant service appeal on 15.08.2016.

That earlier order of removal from service was subjudice before this Tribunal. That the appellant could not be punished twice on one and the same charge hence the impugned order is illegal and liable to be set aside.


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 23.12.2016 before S.B at camp court, Abbottabad.

Success
S. B. at Camp Court, A/Abad


Chairman
Camp court, A/Abad

23.12.2016

Appellant in person and Mr. Ibrar Ahmad, SDFO alongwith Mr. Muhammad Siddique Sr.GP for the respondents present. Requested for written reply/comments on 20.01.2017 at camp court, Abbottabad.


Chairman
Camp court, A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 821/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15/08/2016	<p>The appeal of Mr. <u>Gul Khatib</u> received today by post may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"><i>Gul Khatib</i> REGISTRAR</p> <p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on. <u>22-09-2016</u>.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>
2-	18-8-2016	

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

Service Appeal No. 825 /2016

Gul Khitab son of Lal Khan, resident of Maira Rehmat Khan, Tehsil & District, Abbottabad.

....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Forest, Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

INDEX

<i>S.#</i>	<i>Description</i>	<i>Page No.</i>	<i>Annexure</i>
1.	Service appeal along with affidavit	1 to 9	
2.	Application for condonation of delay	10 to 11	
3.	Copy of the appointment letter	12	"A"
4.	Copy of charge sheet dated 02/01/2015	13 to 14	"B"
5.	Copy of memo of appeal	15	"C"
6.	Copy of order	16 to 17	"D"
7.	Copy of his reply	18	"E"
8.	Wakalatnama	19	


....APPELLANT

Dated: _____/2016

Through


(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad

1

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 846

Dated 15/8/2016

Service Appeal No. 825 /2016

Gul Khitab son of Lal Khan, resident of Maira Rehmat Khan, Tehsil & District, Abbottabad.

....APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Forest, Peshawar.
2. Conservator of Forest, Lower Hazara Circle, Abbottabad.
3. Divisional Forest Officer, Gallies Forest Division, Abbottabad.
4. Sub-Divisional Forest Officer, Bagnotar, A. Abad

....RESPONDENTS

Filed today
[Signature]
Registrar

SERVICE APPEAL AGAINST THE ORDER DATED
48 DATED 22/09/2015 PASSED BY RESPONDENT
NO.3 WHEREBY THE RESPONDENT ILLEGALLY,
WITHOUT NOTICE, MALAFIDE WITHOUT

JURISDICTION REMOVED THE APPELLANT
FROM THE SERVICE OF FOREST GUARD.

PRAYER: ON ACCEPTANCE OF THE INSTANT
APPEAL, THE ORDER NO. 48 DATED 22/09/2015
PASSED BY RESPONDENT NO. 3 BE SET ASIDE
AND THE SERVICES OF THE APPELLANT BE
RESTORED WITH ALL BACK BENEFITS.

Respectfully Sheweth: -

1. That appellant joined the Forest Department as Forest Guard on 10/09/1990. Copy of the appointment letter is annexed as Annexure "A".
2. That on 22/09/2015 the date of impugned order the appellant had a service of 25 years and 12 days at his credit in respondents department.
3. That during the service, the appellant served the department honestly and with dedication.

4. That during such a long service only one complaint was filed against the appellant and except one complaint no show cause notice for any alleged illegality was ever served on the appellant.
5. That the appellant was posted as a Forest Guard at Maira Nammal beat and was serving there.
6. That as per record a charge sheet, containing the allegations of forest damage occurred in Tarnawai Reserved Forest was issued and the said damage was attributed to appellant. Copy of charge sheet dated 02/01/2015 is annexed as Annexure "B".
7. That on 22/09/2015 the respondent No. 3 issued the impugned order, based upon the order No. 146 dated 25/05/2015 passed by respondent No.3, whereby the appellant was removed from service.
8. That the appellant preferred an appeal against the order No. 48 dated 02/09/2015 before respondent

No. 2. Copy of memo of appeal is annexed as Annexure "C".

9. That the respondent No. 2 dismissed the appeal. Copy of order is annexed as Annexure "E".

10. That order dated 22/09/2015 and dated 12/04/2016, whereby appeal of appellant was not decided is against law, facts, evidence on record and is liable to be set aside on the following amongst other grounds:-

GROUND:-

- (a) That appellant was posted in Maira Nammal Beat of as Forest Guard and the alleged damage reported was from Tarnawai.
- (b) That in Tarnawai Beat one Hakim Khan was posted as Guard who was charge sheeted for the alleged damage which was attributed to

appellant. Copy of his reply is annexed as Annexure "E".

- (c) That appellant in another allegation was charge sheeted for alleged damage in Garlanian Beat for transportation of Timber from the said beat, but it is clarified before this Honourable Tribunal and the same was clarified before the department that the appellant was not posted as Forest Guard of said beats.
- (d) That despite the fact that the appellant was not posted in Garlanian, which beat was looked after by Hakim Khan and Sajjad Hussain Shah show cause was issued against the appellant and was charge sheeted on the basis of alleged damage of other beats.
- (e) That on the basis of alleged allegations of damage in Garlanian beat the appellant was removed from service on 25/02/2015 against which an appeal is pending before this Honourable Court and the order impugned herein has been issued during pendency of

the appeal against removal order dated 25/02/2015 which is against law and is liable to be set aside.

- (f) That the order of removal from service passed against the appellant is based on surmises and conjectures. There is no substantial reasoning against the appellant to substantiate the major penalty and that too when the appellant had already been removed from service.
- (g) That the impugned order has been issued on the basis of an alleged inquiry report which itself speaks of exparte. The reply to charge sheet was submitted but not discussed illegally by the respondents.
- (h) That as per record, the appellant was first removed from service and then the alleged inquiry was conducted.
- (i) That as per record, the appellant was first removed from service and then the alleged inquiry was conducted.

- (j) That the order passed against appellant is on the basis of incident which took with Sardar Saleem SDFO with the villagers.
- (k) That the respondents ignored the proof that the beat of appellant is Maira Nammal and alleged damage was not caused in the beat area of appellant.
- (l) That no allegation of misconduct, inefficiency or corruption was proved against the appellant nor even there is any such allegation against the appellant from any quarter.
- (m) That there is not any proof against the appellant for cutting of Timber its transportation or any help with timber smugglers, nor the alleged inquiry report contains any such proof.
- (n) That this appeal is being filed in time.

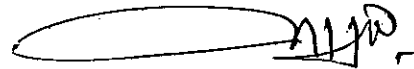
It is, therefore, humbly prayed that on acceptance of the instant appeal, the order No. 48 dated 22/09/2015 passed by respondent No. 3 be set aside and the services of the appellant be restored with all back benefits.



...APPELLANT

Through

Dated: _____/2016



(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



...APPELLANT

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

Service Appeal No. _____/2016

Gul Khitab son of Lal Khan, resident of Maira Rehmat Khan, Tehsil & District, Abbottabad.

....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Forest, Peshawar & others.

....RESPONDENTS

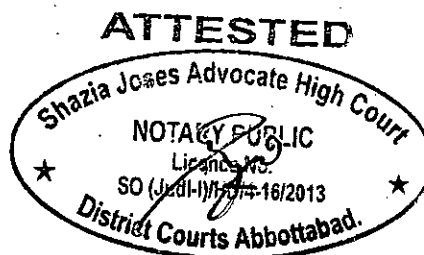
SERVICE APPEAL

AFFIDAVIT

I, Gul Khitab son of Lal Khan, resident of Maira Rehmat Khan, Tehsil & District, Abbottabad, do hereby solemnly affirm and declare that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

Identified by;


(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad




DEPONENT

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

Service Appeal No. _____/2016

Gul Khitab son of Lal Khan, resident of Maira Rehmat Khan, Tehsil & District, Abbottabad.

....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Forest, Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

APPLICATION FOR CONDONATION OF DELAY.

Respectfully Sheweth;-

1. That the titled appeal is being filed before this Honourable Court.
2. That the appellant on the basis of alleged damage caused outside the appellant's beat area was removed from service on 25/02/2015 against which an appeal is pending before this Court.
3. That the order dated 22/09/2015 impugned herein is without lawful authority and against law and no limitation runs against such an order but to avoid any technicality this application is being filed before this Court.
4. That appellant was not informed in time about the order upon the representation appeal filed by the

appellant before the higher authority and appellant was under the impression that the higher authority will accept the appeal as the appellant was already removed from service and appeal against the said order was pending before this Court.

5. That the valuable rights of appellant are involved.

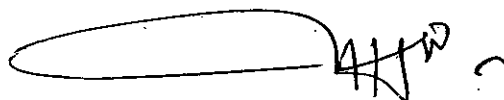
It is, therefore, humbly prayed that the delay if any may kindly be condoned and the appeal filed by appellant be decided on merits.



...APPELLANT

Dated: _____/2016

Through



(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad

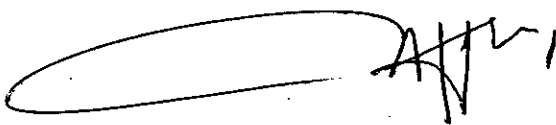
AFFIDAVIT

I, Gul Khitab son of Lal Khan, resident of Maira Rehmat Khan, Tehsil & District, Abbottabad, do hereby solemnly affirm and declare that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

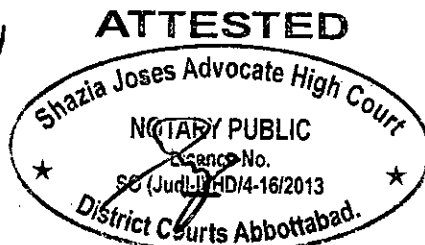


DEPONENT

Identified by;



(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad



15/8/16

Attested

SECRETARY OF THE ARMY
WASHINGTON, D. C. 20315

12

THE FOLLOWING IS A SUMMARY OF THE INFORMATION RECEIVED FROM THE
OFFICE OF THE SECRETARY OF THE ARMY, WASHINGTON, D. C. ON
MAY 10, 1970, REGARDING THE MATTER REFERRED TO YOU BY
YOUR LETTER OF MAY 7, 1970.

12

1. THE MATTER IS BEING HANDLED BY THE
OFFICE OF THE SECRETARY OF THE ARMY, WASHINGTON, D. C.
AND WILL BE COMPLETED BY THE END OF THE MONTH OF
MAY, 1970.

2. THE MATTER IS BEING HANDLED BY THE
OFFICE OF THE SECRETARY OF THE ARMY, WASHINGTON, D. C.
AND WILL BE COMPLETED BY THE END OF THE MONTH OF
MAY, 1970.

3. THE MATTER IS BEING HANDLED BY THE
OFFICE OF THE SECRETARY OF THE ARMY, WASHINGTON, D. C.
AND WILL BE COMPLETED BY THE END OF THE MONTH OF
MAY, 1970.

4. THE MATTER IS BEING HANDLED BY THE
OFFICE OF THE SECRETARY OF THE ARMY, WASHINGTON, D. C.
AND WILL BE COMPLETED BY THE END OF THE MONTH OF
MAY, 1970.

5. THE MATTER IS BEING HANDLED BY THE
OFFICE OF THE SECRETARY OF THE ARMY, WASHINGTON, D. C.
AND WILL BE COMPLETED BY THE END OF THE MONTH OF
MAY, 1970.

YOUR REQUEST FOR INFORMATION CONCERNING THE MATTER REFERRED TO YOU BY
YOUR LETTER OF MAY 7, 1970, IS BEING HANDLED BY THE OFFICE OF THE
SECRETARY OF THE ARMY, WASHINGTON, D. C. AND WILL BE COMPLETED
BY THE END OF THE MONTH OF MAY, 1970. THE MATTER IS BEING
HANDLED BY THE OFFICE OF THE SECRETARY OF THE ARMY, WASHINGTON,
D. C. AND WILL BE COMPLETED BY THE END OF THE MONTH OF MAY,
1970.

SECRETARY OF THE ARMY
WASHINGTON, D. C. 20315
MAY 10 1970

ANNEXURE 'A' 55
(12)
86

CHARGE SHEET

I, Asghar Khan Divisional Forest Officer Galis Forest Division Abbottabad as competent authority, hereby charge you, Mr. Gul Khitab Forest Guard as follows:-

i. On the directives of Chief Conservator of Forests Northern Forest Region-II, a raid was conducted under the supervision of Conservator of Forests Lower Hazara Forest Circle Abbottabad alongwith Divisional Forest Officer Patrol Squad, Circle Raid party, Sub Divisional Forest Officer Abbottabad, Thandiani and their staff checked Tarnowai Reserved Forest C-7(i), 7(ii) and Malkiati area on 8.12.2014 and detected 46Kail trees= 4745Cft standing volume which detail as under:-

#	Name of compartment	Total reported (Kail)		Total un-reported trees		Total	
		No. of trees	Volume	No. of trees	Volume	No. of Trees	Volume
1	Tarnowai RF C-7(i)	4	608	1	189	5	797
2	Tarnowai RF C-7(ii)	12	1679	4	398	16	2077
3	Guldanian Malkiati area	-	-	25	1871	25	1871
	Total	16	2287	30	2458	46	4745

ii. To verify the foregoing ground realities the undersigned alongwith Sardar Muhammad Saleem Sub Divisional Forest Officer Abbottabad and the staff visited the fore mentioned compartment for detection of Forest damage on 24.12.2014 and noted the following illicit cutting of trees detailed below:-

#	Name of compartment	Total reported damage		Total un-reported damage		Total damage	
		Trees	Volume (Cft)	Trees	Volume (Cft)	Trees	Volume (Cft)
1	Tarnowai RF C-7(i)	32	4023	-	-	32	4023
2	Tarnowai RF C-7(ii)	40	4959	-	-	40	4959
	Total	72	8982	-	-	72	8982

The over all abstract of the detected forest damage is elaborated below:

#	Name of compartment	Total reported damage		Total un-reported damage		Total damage	
		Trees	Volume (Cft)	Trees	Volume (Cft)	Trees	Volume (Cft)
1	Tarnowai RF C-7(i)	32	4023	-	-	32	4023
2	Tarnowai RF C-7(ii)	40	4959	-	-	40	4959
3	Guldanian Malkiati area	-	-	25	1871	25	1871
	Total	72	8982	25	1871	97	10853

iii. According to the report of Divisional Forest Officer Patrol Squad Forest Division Abbottabad vide his letter No. 635-36/PS, dated 10.12.2014 that you have assisted and facilitated in Sale and Transportation of illegal timber toward Maira on Mules.

iv. All the above detected illicit damage and timber so obtained occurred only your support to timber smugglers.

v. Due to your involvement with the timber smugglers the Govt; has sustained huge loss which is irrecoverable.

Attested

(Signature)

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

MR. AITEZAZ MEHFOOZ SUB DIVISIONAL FOREST OFFICER BAGNOTAR

3. The Enquiry Officer/Committee shall in accordance with the provision of the ordinance provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendation 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 committee.

Sd/-(Asghar Khan)
Divisional Forest Officer
Galis Forest Division
Abbottabad.

No. 2779-83/E, dated Abbottabad the 21/11/2015

A copy of the above is forwarded to the:

1. Conservator of Forests Lower Hazara Forest Circle Abbottabad for information with reference to his office endorsement No. 6199/GL, dated 17.12.2014 please.
2. Mr. Aitezaz Mehfooz Sub Divisional Forest Officer Bagnotar (Enquiry committee) for initiating proceedings against the accused under the provision of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 and finalize within 25 days at the latest. The enquiry file from page No.01 to ___ is enclosed.
3. Sub Divisional Forest Officer Thandiani for information. He is directed to attend the enquiry proceeding as and when called by the enquiry committee as prosecutor and defend the case on behalf of the Department.
4. ✓ Mr. Gul Khitab Forest Guard Galis Forest Division Abbottabad for information.
5. /Personal files for record.

Divisional Forest Officer
Galis Forest Division
Abbottabad

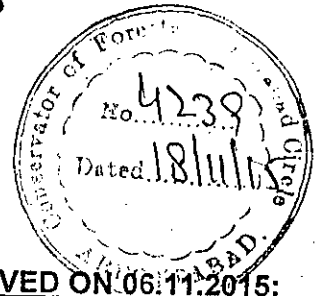
Attested

[Handwritten signature]

ANNEXURE "C" 33

Honourable Conservator of Forests,
Abbottabad (Lower Hazara Circle)

(15)



SUBJECT: APPEAL AGAINST O/O NO.48 DATED 22.09.2015 RECEIVED ON 06.11.2015;

Respected Sir,

I beg to submit following few lines for your kind and sympathetic considerations:-

1. 12 trees were cut from Tarnawai Forests Compartments 7 (i), 7 (ii) and I was not incharge of the Forests cited hence I cannot be held responsible for large scale damage of other beats which were even not adjacent to my duty area Namal Beat.
2. It is incorrect that I failed to submit written reply. I submitted detailed reply which has not been perused and considered. (Copy attached may be perused please)
3. In reply to show cause I narrated the facts in depth but the competent Authority did not attend those at all. (Copy attached)
4. The real responsible officials / officers have not been taken to task so far and I have been victimized.
5. For one alleged crime / offence two charge sheets have been framed without justification which is against the law.
6. Competent Authority took at least one year to decide the case and order under appeal was delayed intentionally so that appeal may not be preferred within stipulated period of one month. These actions are biased, prejudicial and against justice.
7. For the same damage the case is already in Honorable Services Tribunal hence the present order is a clear cut interference in Court affairs.

It is, humbly, requested that I may be exonerated from the charges and reinstated in service by setting aside the order under appeal – I may also be heard in person please.

Your Obediently;

Gul Khitab
Ex F/ Guard
I/C Namal Beat.

E.A

Attested

2

18/11

6.11.15

16

ANNEXURE 'D'

OFFICE ORDER NO. 48 DATED ABBOTTABAD THE 22 /09/2015 ISSUED BY MR. AZHAR ALI KHAN DIVISIONAL FOREST OFFICER GALIS FOREST DIVISION ABBOTTABAD.

On 8.12.2014 and 24.12.2014, Tarnowai Forest Compartment No. 7(i), 7(ii) of Guldanian Malkiati area were checked by a team headed by Divisional Forest Officer Patrol Squad Forest Division. Whereas a damage of 72 trees measuring 8982Cft was detected in Tarnowai Forests and 25 trees measuring 1871Cft volume were found cut in privately owned area.

Whereas during subsequent days an amount of Rs. 4,50,000/- realized as compensation of Forest cutting in Tarnowai Reserved Forests Compartment No. 7(i) and 7(ii) besides registering FIR against the offenders.

Whereas for the purpose of scrutinizing the conduct of Mr. Gul Khitab Forest Guard (Block Officer), an enquiry committee consisting upon Mr. Aitezaz Mehfooz Sub Divisional Forest Officer Bagnotar was appointed vide letter No. 2789-83/E, dated 2.01.2015. The memo of allegation and charge sheet served upon to the accused official on 23.1.2015. The accused official failed to produce any written reply till to 6.1.2015.

Due to non submission of the reply to the charge sheet and memo of allegation the enquiry committee decided the case ex-parte and submitted enquiry report vide his letter dated 06.1.2015 wherein the committee found that the charges imposed upon the accused Forest Guard was established.

On receipt of the enquiry a show cause bearing No.3363/E, dated 12.2.2015 was served upon to the accused official and he submitted reply to the show cause noticed dated 19.2.2015. The reply of the accused forest guard has thoroughly been perused. He failed to provide any cogent reason in his defence. The accused forest Guard heard in person on 23.02.2015. During personal hearing he also failed to bring any proof for his innocence.

Therefore, I, Azhar Ali Khan Divisional Forest Officer Galis Forest Division Abbottabad in the capacity of authority under rules 4(3) of Civil Servants Act, 1973 updated vide Govt; of Khyber Pakhtunkhwa Establishment and Admn; Department (Regulation Wing) No. SO(O & M)E & AD/5-14/2013 dated Peshawar the 4th April, 2013, agreed with the finding of enquiry committees that Mr. Gul Khitab Block Officer residing in nearby village Maira Rehmat Khan helped the timber smugglers in transportation of timber through his own mules. Due to such reasons he was removed from service in another case, therefore in the instant case he stand removed from service with immediate effect.

Sd/-(Azhar Ali Khan)
Divisional Forest Officer
Galis Forest Division
Abbottabad.

Memorandum;

1. Range Forest Officer Birnagali for information.
2. Divisional Accountant Galis Forest Division Abbottabad.
3. Mr. Gul Khitab Forest Guard village Maira Rehmat Khan Post Office chattri Tehsil and District Abbottabad for information.
4. Personal file for record.

Divisional Forest Officer
Galis Forest Division
Abbottabad.

Attested



25/2/2015

ENQUIRY REPORT IN DISCIPLINARY CASE OF MR. GUL KHITAB FOREST GUARD I/c MAIRA NAMBLE BEAT OF THANDIANI FOREST SUB-DIVISION, GALLIES FOREST DIVISION, ABBOTTABAD

READ WITH:

- 1. Report of Divisional Forest Officer, Patrol Squad, Lower Hazara Region Abbottabad dated 10.12.2014
- 2. Charge Sheet received on 23-01-2015
- 3. Undersigned appointed Enquiry Committee on vide DFO Gallies Letter No. 2789-93/E, dated 02-01-2015.
- 4. Personal Hearing of Accused Forest Guard on 27-01-2015

BRIEF HISTORY OF THE CASE:

On 08-12-2014, under the supervision of Conservator of Forest Lower Hazara Forest Circle, DFO Patrol Squad Lower Hazara along with Circle Raid Party, SDFO Abbottabad and SDFO Thandiani checked Tarnawaii RFC 7(i) and 7(ii) near Guldania village. Then ground realities verified by DFO Gallies along with SDFO Abbottabad and staff by visiting the fore mentioned compartments and detected the Illicit cutting of a total of 72 trees of 8982 cft Standing Volume in Reserved Forest of Tarnawaii 7(i) and 7(ii) and 25 trees in Malkiati area. So, total trees are 97. Out of which 21 trees compounded, 51 prosecuted and FIR lodged including 25 trees of 1871 cft Standing Volume from Malkiati area. Furthermore, the checking report of DFO Gallies and DFO Patrol Squad reveals that that such damage had occurred due to assistance and facilitation in Sale and Transportation of illegal timber towards Maira on Mules, thus the disciplinary proceedings initiated against the concerned Forest Guard vide DFO Gallies Letter No. 2789-93/E, dated 02-01-2015.

PROCEEDINGS:

To scrutinize the conduct of accused Forest Guard, the under-signed was appointed Enquiry Committee vide DFO Gallies Letter No. 2789-93/E, dated 02-01-2015. The memo of allegation and charge served upon to the accused official on 23-01-2015.

25/2/2015 removed

DISCUSSION:

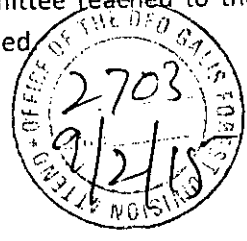
On the report of DFO Patrol Squad vide his letter No. 635-36/PS dated 10.12.2014 regarding checking of Tarnawaii RFC 7(i), 7(ii) and Malkiati area. The accused Forest Guard had to appear before the undersigned latest on 06-01-2014 and submit his reply. But he did not produce any reply to the Charge Sheet served upon him and the Charge Sheet received by him on 23-01-2015. Therefore, in view of the above the Charges of facilitating, assisting and involvement in smuggling of timber are established for which the government has sustained great loss to the Forests which is irrecoverable. Thus Ex-parte decision is taken for his non-appearance before the under-signed.

During Enquiry proceeding, the charges of In-efficiency, Mis-conduct and Corruption are established since illicit cutting of large no. of trees is involved.

RECOMMENDATION:

During Enquiry, the enquiry committee reached to the conclusion that charges imposed upon by the accused Forest Guard are established

Aitezaz Mahfooz
 Aitezaz Mahfooz
 Sub Divisional Forest Officer
 Bagnoter (Enquiry Committee)
 Dated: 06-02-2015



Eq
7/02/15
Attested
09/02

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ANNEXURE "E"

18

The Divisional Forest Officer,
Gallies Forest Division,
Abbottabad.

Respected Sir,

Following is the reply of show cause notice No. 3363/E dated
12/02/2015.

1. That the decision of the inquiry committee is not based on law and facts.
2. That the only tentative assessment was made by inquiry officer that the explanation of mine dated 09/02/2015 is crystal clear where in I have categorically mention that in my whole service no such like allegation were ever made against me.
3. That I was deputed to guard the Forest Compartment different to area mention in the allegations and damage of trees was detected by Patrol Staff. The penalty in the above mention letter is much swear and inquiry is based on hypothesis.
4. That I also claim/ deserve to be heard in person.

Your's obediently


Dated: 19/02/2015

(Signature)
13 19/2

(GUL KHITAB)
Forest Guard

Fixed 22/2 PH.
APK

Attested
(Signature)

<p>Conservator of Forests Lower Hazara Forest Circle Abbottabad</p>		<p>☎ 0992-9310232 Fax 0992-9310233 E-mail: cflhfc@gmail.com No. 10527 /GE Dated 12/4/2016</p>
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The Divisional Forest Officer
Galīs Forest Division Abbottabad

Subject

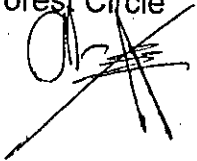
**APPEAL AGAINST OFFICE ORDER NO. 48 DATED
22-09-2015 ISSUED BY DIVISIONAL FOREST
OFFICER GALIS FOREST DIVISION ABBOTTABAD**

Reference

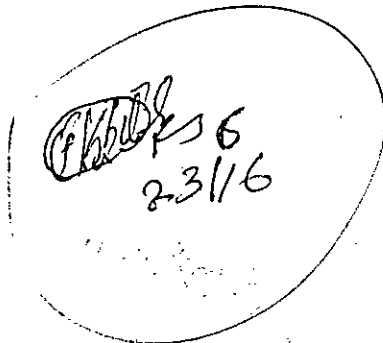
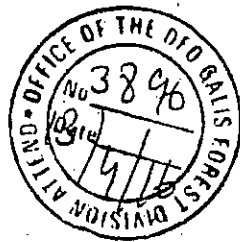
Your office letter No. 4218/E dated 31-03-2016.

The appellant has confessed in his appeal, received in this office on 18-11-2015 that office order No. 48 dated 22-09-2015 was received by him on 06-11-2015. Therefore the chapter of non acknowledging the order in question became closed. Now there is no need to re-decide the said irrelevant issue.

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad



B.C.
19
Off Galis



Attested
(Signature)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR APPEAL No. 825/2016

GUL KHITAB SON OF LAL KHAN, RESIDENT OF MAIRA REHMAT KHAN, TEHSIL AND DISTRICT
ABOTTABAD

APPELLANT.

VERSUS

1. Govt; of Khyber Pakhtunkhwa, through Secretary Forestry, Environment and Wildlife Department Peshawar.
2. Conservator of Forests Lower Hazara Forest Circle Abbottabad.
3. D.F.O.Galis Forest Division Abbottabad.
4. Sub Divisional Forest Officer, Bagnotar.

RESPONDENTS

Parawise comments on behalf of Respondent No. 1 to 4.

Respectfully Sheweth;

Preliminary objections;

- I. The appeal is not maintainable in its present form.
- II. The appellant has no locus standi to bring the present appeal.
- III. The appellant is estopped by his own conduct to bring the present appeal.
- IV. The appeal is bad due to non-joinder of necessary and Mis-joinder of un-necessary parties.
- V. The appeal is time barred.
- VI. The honorable Tribunal has got no jurisdiction to entertain the appeal.
- VII. That the appellant has suppressed the original facts from this Honourable Tribunal hence not entitle from any relief and appeal is liable to be dismissed without convey further proceeding.
- VIII. That the appellant is habitual offenders and he is also removed from service in a parallel case (Documents annex).
- IX. That the order dated 22.9.2015 passed by the competent authority after fulfillment all the codal formalities.

ON FACTS.

1. Para No. 01 relates with the record.
2. Relates with record.
3. It is incorrect, suggested that the service of the appellant is blotted with stains of many penalties which loudly speak his poor and dishonest service in past. Summary of penalties awarded to the appellant forest ^{guard.} given below;

#	Detail Of Punishment	Office order No. & date.
1	Annual increment falling due On 1.12.1998 and 1.12.1999 stopped without cumulative effect on account of illicit damage in Nambal Maira Beat.	Authorized Officer office order No. 01 dated 5.8.1998.
2	As a result of disciplinary proceeding one annual increment stopped for a period of five years on account of illicit damage in Tarnowai Reserved Forests	Authorized Officer office order No. 05 dated 18.10.1999.
3	Consequent upon the finalization of enquiry proceeding the official brought to initial stage in time scale.	DFO Galis office order No. 46 dated 17.11.2007.
4	As a result of disciplinary proceeding recovery an amount of Rs. 40,000/- imposed upon the official on account of illicit damage in the forests.	DFO Galis office order No. 146 dated 25.6.2008


4. It is incorrect, as explained in para-3 above. The stance of appellant is utterly against the facts.
5. Relates with the record.
6. As contained in the report of Divisional Forest Officer Patrol Squad Forest Division Abbottabad vide No. 635-36/PS, dated 10.12.2014, (Copy attached as annexure-I) and based on fact analysis, the appellant was charge sheeted for his involvement in illicit forest cutting. Thorough enquiry was conducted and charges proved against appellant. Consequently the appellant was removed from service vide office order No. 48 dated 22.9.2015(Copy attached as annexure-II).
7. It is incorrect. The appellant Forest Guard was removed vide office order No. 146 dated 25.5.2015, beside this an other disciplinary case of illicit damage in Tarnowai Reserved Forest C-7(i) and 7(ii) was under enquiry before the enquiry committee who have conducted the detail enquiry against the appellant Forest Guard and provided all the opportunities to him i.e. cross examination, personal hearing etc. During enquiry proceeding the charge s of in-efficiency, Mis-conduct and Corruption established. The enquiry committee submitted the enquiry report to authority and authority served upon a show cause notice bearing No. 3363/E, dated 12.2.2015 and the appellant Forest Guard replied to the show cause notice on 19.2.2015 and also heard in person on 22.02.2015. In written reply of show cause notice and personal hearing the appellant failed to provide any cogent reason therefore the appellant removed from service vide office order No. 48 dated 22.09.2015.
8. The impugned order No. 48 dated 22.9.2015 was sent to appellant at his home addressed through registered covered but he same received back un-delivered with the remarks that the appellant has been informed but failed to get the letter deliberately. (Copy of envelope attached as annexure-III). The Forest Guard preferred an appeal before the Conservator of Forests Lower Hazara Circle Abbottabad received 18.11.2015.
9. The Conservator of Forests Lower Hazara Circle Abbottabad vide his office letter No. 9068/GE, dated 8.3.2016 (Copy attached as annexure-IV) directed the Divisional Forest Officer Galis Forest Division Abbottabad that the limitation period for entertaining the appeal is gone expired.
10. Incorrect, removal order is based on above mentioned exposition, the order issued by authority is legal and on sound footings, therefore requested to dismiss the appeal with cost.

GROUNDS

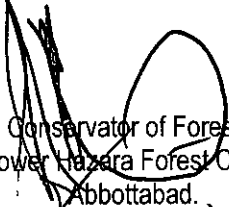
- a). Though alleged damage was done in another beat but it was proved that the accused was actively involved in the forest cutting. He kept his own mules for transportation of illicitly procured timber.
- b. Forest cutting was done by powerful armed gang of forest offenders. The appellant not only patronized illicit-cutting rather himself involved. The involvement of appellant was proved on the basis of thorough enquiries.
- c. The issue is not about determination of jurisdiction of forest Guards rather about Forest cutting. The appellant as a forest offender involved actively in Forest cutting. Being an employee of Forest Department, his crime warranted grave punishment.

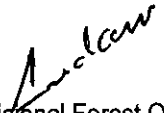
- d. As mentioned in para 'C' above, the appellant himself involved in illicit forest cutting. The appellant hail from a strong family residing in a village namely Maira Rehmat Khan situated near to Guldanian. He joined hands with timber smugglers and lost any justification to be retained as Forest employee.
- e. Incorrect, the order is based on thorough enquiry and sound footings.
- f. Incorrect, the accused deliberately failed to reply to charge sheet. He was suspended but did not comply with orders. However, reply to show cause notice was minutely examined and was personally hard.
- g. Incorrect, when retention of Govt; employee on particular position proves detrimental to state interest, his suspension is mandatory.
- h. It was one of the cause of appellant is removal. This was height of his anti forest activities when he involved in kidnapping of forest protection staff with the collusion of other culprits.
- i. Incorrect, as mentioned in above paras the appellant found involved in Forest cutting.
- j. Incorrect. There are sound allegation which tantamount to misconduct, in-efficiency and corruption.
- k. Incorrect, the charges were proved beyond any doubt. The report of Divisional Forest Officer Patrol squad Forest Division Abbottabad vide letter No. 635-36/PS, dated 10.12.2014 and report of Sub Divisional Forest Officer Abbottabad letter dated 29.12.2014 along with copy of FIR is evident in this regard.
- L. As explained in para-07 above.
- m. Detailed enquiry about illicit cutting of trees from Thandiani Forest Sub Division was initiated against the appellant Forest Guard and during enquiry proceeding the charges of In-efficiency, Mis-conduct and Corruption proved (Copy of enquiry report attached as annexure-V)
- n. As explained in paras-08 and 09 above.

Under the circumstances, it is humbly prayed that the instant appeal may graciously be dismissed with cost.


Secretary
Govt: of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife
Deptt: Peshawar.


Divisional Forest Officer
Galls Forest Division
Abbottabad


Conservator of Forests
Lower Hazara Forest Circle
Abbottabad.


Sub Divisional Forest Officer
Bagnetar Forest Sub Division
Kalabagh.

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

GUL KHITAB SON OF LAL KHAN, RESIDENT OF MAIRA REHMAT KHAN, TEHSIL AND DISTRICT
ABOTTABAD

APPELLANT.


VERSUS

1. Govt; of Khyber Pakhtunkhwa, through Secretary Forestry, Environment Wildlife Department Peshawar.
2. Conservator of Forests Lower Hazara Forest Circle Abbottabad.
3. D.F.O.Galis Forest Division Abbottabad.
4. Sub Divisional Forest Officer, Bagnotar.


RESPONDENTS

COUNTER AFFIDAVIT.

I the undersigned do hereby solemnly affirm 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
Galis Forest Division
Abbottabad

Annex-I

JAVED ARSHAD 0992-9310425		DIVISIONAL FOREST OFFICER PATROL SQUAD LOWER HAZARA CIRCLE ABBOTTABAD
No. _____ / PS		Dated Abbottabad the 10/12/2014

The Chief Conservator of Forests
Northern Forest Region-II
Abbottabad

Subject: **CHECKING OF TARNWAI RERVE FORESTS COMPARTMENT
NO.7 THANDIANI SUB DIVISION (GALIS FOREST DIVISION)**

Reference telephonic directives dated 07-12-2014.

It is submitted that in compliance to above directives, I under the supervision of CF, along with circle raid party and SDFO Abbottabad /Thandiani & his staff checked Tarnwai RF Compartments 07(i), 7(ii) near guldenian on 08-12-2014, the **checking list is enclosed as annex-I**, with abstract of checking as under:-

S.#	Name of compartment	Total reported (Kail)		Total un-reported trees (Kail)		Total	
		Trees (Nos)	Volume (cft)	Trees (Nos)	Volume (cft)	Trees (Nos)	Volume (cft)
1	Tarnwai RF C-7 (i)	4	608	1	189	5	797
2	Tarnwai RF C-7 (ii)	12	1679	4	398	16	2077
3	Guldanian Malkiati Area	-	-	25	1871	25	1871
	Total:	16	2287	30	2458	46	4745

Attested

Galis Forest Division
Abbottabad

> An FIR was lodged by me along with SDFO Thandiani against the habitual offenders in Mangal Police station on 09-12-2014 and SHO promised to raid the area urgently with elite force and forest staff (**copy of application for FIR enclosed as annex-II**)

> A meeting along with DFO Galis was convened with DPO Abbottabad and Deputy Commissioner Abbottabad on 10-12-2014 and the issuance of warrants under 3 MPO for habitual offenders of Guldanian / Tarnwai forests damage was discussed and resolved. The search operation alongwith elite force was decided immediately as agreed by DPO Abbottabad.

The following recommendations are made:

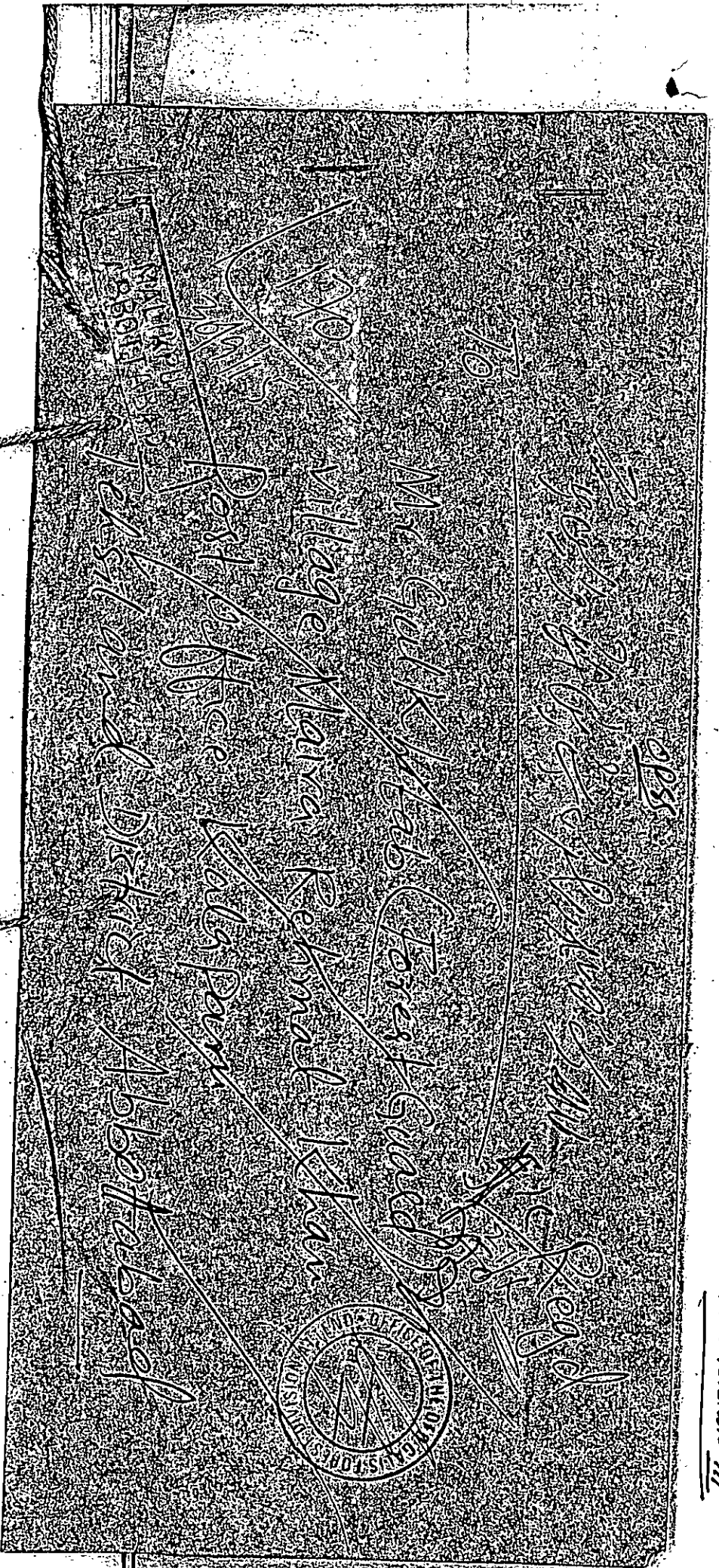
- > It is beyond any doubt that such huge damage occurred due to connivance, in efficiency and loose control of local staff i.e. Mr. Hakam Khan, FG & I/C block officer Kakul block.
- > Mr. Gul Khitab FG, as learnt through reliable sources assisted & facilitated in sale & transportation of illegal timber towards Maira on mules.

Attested
Divisional Forest Officer
Galis Forest Division
Abbottabad

Galis Forest Division
Abbottabad

Galis Forest Division
Abbottabad

Appendix-117



SPS

Special Officer of Revenue

10

Mr. Gull Khan (Forest Guard)

Village Manar, Pohnal Khan

Post Office, Wagpura

Distt. and District, Abbotabad



Attested

Divisional Forest Officer
Gais Forest Division
Abbotabad

ENQUIRY REPORT IN DISCIPLINARY CASE OF MR. GUL KHITAB FOREST GUARD I/c MAIRA NAMBLE BEAT OF THANDIANI FOREST SUB-DIVISION, GALLIES FOREST DIVISION, ABBOTTABAD

READ WITH:

1. Report of Divisional Forest Officer, Patrol Squad, Lower Hazara Region Abbottabad dated 10.12.2014
2. Charge Sheet received on 23-01-2015
3. Undersigned appointed Enquiry Committee on vide DFO Gallies Letter No. 2789-93/E, dated 02-01-2015.
4. Personal Hearing of Accused Forest Guard on 27-01-2015

BRIEF HISTORY OF THE CASE:

On 08-12-2014, under the supervision of Conservator of Forest Lower Hazara Forest Circle, DFO Patrol Squad Lower Hazara along with Circle Raid Party, SDFO Abbottabad and SDFO Thandiani checked Tarnawaii RFC 7(i) and 7(ii) near Guldania village. Then ground realities verified by DFO Gallies along with SDFO Abbottabad and staff by visiting the fore mentioned compartments and detected the Illicit cutting of a total of 72 trees of 8982 cft Standing Volume in Reserved Forest of Tarnawaii 7(i) and 7(ii) and 25 trees in Malkiati area. So, total trees are 97. Out of which 21 trees compounded, 51 prosecuted and FIR lodged including 25 trees of 1871 cft Standing Volume from Malkiati area. Furthermore, the checking report of DFO Gallies and DFO Patrol Squad reveals that that such damage had occurred due to assistance and facilitation in Sale and Transportation of illegal timber towards Maira on Mules, thus the disciplinary proceedings initiated against the concerned Forest Guard vide DFO Gallies Letter No. 2789-93/E, dated 02-01-2015.

PROCEEDINGS:

To scrutinize the conduct of accused Forest Guard, the under-signed was appointed Enquiry Committee vide DFO Gallies Letter No. 2789-93/E, dated 02-01-2015. The memo of allegation and charge served upon to the accused official on 23-01-2015.

DISCUSSION:

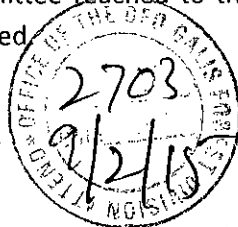
On the report of DFO Patrol Squad vide his letter No. 635-36/PS dated 10.12.2014 regarding checking of Tarnawaii RFC 7(i), 7(ii) and Malkiati area. The accused Forest Guard had to appear before the undersigned latest on 06-01-2014 and submit his reply. But he did not produce any reply to the Charge Sheet served upon him and the Charge Sheet received by him on 23-01-2015. Therefore, in view of the above the Charges of facilitating, assisting and involvement in smuggling of timber are established for which the government has sustained great loss to the Forests which is irrecoverable. Thus Ex-parte decision is taken for his non-appearance before the under-signed.

During Enquiry proceeding, the charges of In-efficiency, Mis-conduct and Corruption are established since illicit cutting of large no. of trees is involved.

RECOMMENDATION.

During Enquiry, the enquiry committee reached to the conclusion that charges imposed upon by the accused Forest Guard are established

Aitezaz Mahfooz
 Aitezaz Mahfooz
 Sub Divisional Forest Officer
 Bagnoter (Enquiry Committee)
 Dated: 06-02-2015

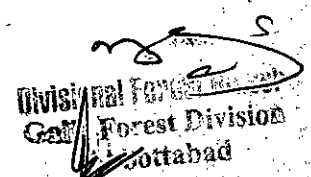


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1

BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 825 /2017

Gul Khitab son of Lal Khan, resident of Maira Rehmat Khan, Tehsil and District Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Forestry, Environment Wildlife Department Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

REJOINDER TO THE COMMENTS FILED
BY RESPONDENT NO.1 TO 6

Respectfully Sheweth;-

That Rejoinder by appellant to the comments filed by the Respondents No 1 to 4 are as under:-

REPLY TO PRELIMINARY OBJECTIONS:-

1. Incorrect. The appeal is maintainable in its present form.

2. Incorrect. The appellant has got locus standi to file the titled appeal.
3. Incorrect. No conduct of the appellant has been highlighted by the respondents which could have suggested the estoppel of appellant qua the titled appeal.
4. Incorrect. All the necessary parties have been arrayed as respondents.
5. Incorrect. Appeal is within time.
6. Incorrect. The Honourable Tribunal has got jurisdiction to entertain the titled appeal.
7. Incorrect. Not a single fact has been suppressed. Moreover no alleged suppressed fact has been highlighted by the respondents.
8. In reply to Para-VIII, it is submitted that the illegal order of removal has been challenged before this Honourable Tribunal.

REJOINDER ON FACTS:-

1. Para No.1 requires no reply.
2. Para No.2 requires no reply.
3. Para No.3 is not correct. Moreover the respondents have suppressed material facts from this tribunal.
4. Para No.4 is not correct.
5. Para No.5 of comments requires no reply.
6. In reply to Para No.6, it is submitted that the so-called charge sheet was containing allegation of damage at "Tarnawas Reserved Forest" whereas appellant was posted in Maira Nammal beat of Thandiani as Forest Guard.
7. In reply to Para No.7, it is submitted that the FIR does not contain a single word against appellant, whereas the application is based upon some suspicion. The appellant was

never charge sheeted upon the allegations contained in application or in FIR.

8. In reply to Para No.8, it is submitted that removal order from service of appellant is based on surmises and conjectures and is liable to be set aside.
9. Para No.9 of memo of appeal is correct, whereas Para No.9 of the comments as laid is not correct.
10. In reply to Para No.10, it is submitted that no damage was caused in the beat area of appellant and this fact has not been denied by respondents in their comments.
11. Removal from service of appellant is illegal and call for interference by this Tribunal.
12. Needs no reply.
13. Para No.13 requires no reply.
14. Para No.14 of appeal is correct.

GROUNDS:-

- a. In reply to Para "a" it is submitted that how the appellant on the basis of suspicion can be made responsible for a damage caused in other beats, and what action has been taken against Forest Guards of those beats, comments are silent.
- b. Para "b" of the comments based upon surmises and conjectures.
- c. In reply to Para "c" it is submitted that neither appellant is involved in forest cuttings nor there is any such evidence against appellant or any proof of any alleged connivance of any party.
- d. Para "d" to the extent of involvement of appellant in Forest Cutting is not correct. Whereas, appellant belongs to a poor family of the area.
- e. Para "e" of comments is not correct.
- f. Para "f" of comments is not correct, para "f" of appeal is correct.

- g. Para 'g' of comments is misconceived, and incorrect.
- h. Para "h" of comments is without proof and contains only allegations.
- i. Para "I" of comments is not correct.
- j. Para "j" of comments is not correct.
- k. Para "k" of appeal is correct, whereas para "k" of comments is not correct.
- l. Para "l" requires no reply.


Under the circumstances, it is humbly prayed that the instant appeal be accepted.



...APPELLANT

Through

Dated: _____/2017



(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad

**BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2017

Gul Khitab son of Lal Khan, resident of Maira Rehmat Khan, Tehsil and District Abbottabad.

....APPELLANT

VERSUS

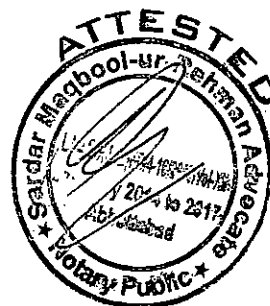
Govt. of Khyber Pakhtunkhwa through Secretary Forestry, Environment Wildlife Department Peshawar & others.

...RESPONDENTS

**REJOINDER TO THE COMMENTS FILED
BY RESPONDENT NO.1 TO 6**

AFFIDAVIT

I, Gul Khitab son of Lal Khan, resident of Maira Rehmat Khan, Tehsil and District Abbottabad, do hereby solemnly affirm and declare on oath that the contents of foregoing rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



(Signature)

DEPONENT

19/12/2017

APP# 825/16

Amrature-V

10

ENQUIRY REPORT IN DISCIPLINARY CASE OF MR. GUL KHITAB FOREST GUARD I/c MAIRA NAMBLE BEAT OF THANDIANI FOREST SUB-DIVISION, GALLIES FOREST DIVISION, ABBOTTABAD

READ WITH:

1. Report of Divisional Forest Officer, Patrol Squad, Lower Hazara Region Abbottabad dated 10.12.2014
2. Charge Sheet received on 23-01-2015
3. Undersigned appointed Enquiry Committee on vide DFO Gallies Letter No. 2789-93/E, dated 02-01-2015.
4. Personal Hearing of Accused Forest Guard on 27-01-2015

BRIEF HISTORY OF THE CASE:

On 08-12-2014, under the supervision of Conservator of Forest Lower Hazara Forest Circle, DFO Patrol Squad Lower Hazara along with Circle Raid Party, SDFO Abbottabad and SDFO Thandiani checked Tarnawaii RFC 7(i) and 7(ii) near Guldania village. Then ground realities verified by DFO Gallies along with SDFO Abbottabad and staff by visiting the fore mentioned compartments and detected the illicit cutting of a total of 72 trees of 8982 cft Standing Volume in Reserved Forest of Tarnawaii 7(i) and 7(ii) and 25 trees in Malkiati area. So, total trees are 97. Out of which 21 trees compounded, 51 prosecuted and FIR lodged including 25 trees of 1871 cft Standing Volume from Malkiati area. Furthermore, the checking report of DFO Gallies and DFO Patrol Squad reveals that that such damage had occurred due to assistance and facilitation in Sale and Transportation of illegal timber towards Maira on Mules, thus the disciplinary proceedings initiated against the concerned Forest Guard vide DFO Gallies Letter No. 2789-93/E, dated 02-01-2015.

PROCEEDINGS:

To scrutinize the conduct of accused Forest Guard, the under-signed was appointed Enquiry Committee vide DFO Gallies Letter No. 2789-93/E, dated 02-01-2015. The memo of allegation and charge served upon to the accused official on 23-01-2015.

DISCUSSION:

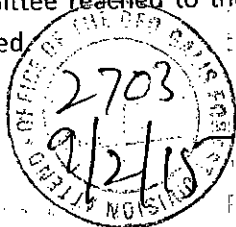
On the report of DFO Patrol Squad vide his letter No. 635-36/PS dated 10.12.2014 regarding checking of Tarnawaii RFC 7(i), 7(ii) and Malkiati area. The accused Forest Guard had to appear before the undersigned latest on 06-01-2014 and submit his reply. But he did not produce any reply to the Charge Sheet served upon him and the Charge Sheet received by him on 23-01-2015. Therefore, in view of the above the Charges of facilitating, assisting and involvement in smuggling of timber are established for which the government has sustained great loss to the Forests which is irrecoverable. Thus Ex-parte decision is taken for his non-appearance before the under-signed.

During Enquiry proceeding, the charges of In-efficiency, Mis-conduct and Corruption are established since illicit cutting of large no. of trees is involved.

RECOMMENDATION.

During Enquiry, the enquiry committee reached to the conclusion that charges imposed upon by the accused Forest Guard are established

Adlahing
Aitezaz Mahfooz
Sub Divisional Forest Officer
Bagnoter (Enquiry Committee)
Dated: 06-02-2015



*Must show copy
with suggestion
Removal from salary
Re.*

By JF 7/02/15

Accepted

09/02

Sub Divisional Forest Officer Abbottabad