

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No.2273/2023


Niaz Muhammad S/O Mir Shad Muhammad.....Appellant .

VERSUS

1. Chief Conservator of Forests Malakand Forest Region (Region-III) Saidu Sharif Swat.
2. Conservator of Forests Malakand Forest Circle West at Timergara.
3. Divisional Forest Officer Upper Dir Forest Division at Upper Dir.

Respondents.

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Divisional Forest Officer,
Upper Dir Forest Division,
At Dir
(Respondent No.03)

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BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.2273/2023

Niaz Muhammad, S/O Mir Shad Muhammad.....Appellant .

VERSUS

Date: 06-12-2023
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Date: 06-12-2023

1. Chief Conservator of Forests Malakand Forest Region (Region-III) Saidu Sharif Swat.
2. Conservator of Forests Malakand Forest Circle West at Timergara.
3. Divisional Forest Officer, Upper Dir Forest Division at Upper Dir.

Respondents.

PARA WISE COMMENTS ON BEHALF OF RESPONDENT NO.01 TO 03.

Respectfully sheweth:-

Preliminary objections.

- a. That the appellant has no cause of action or locus standi to file the instant appeal, as such the same is liable to be dismissed.
- b. That the appeal is not maintainable in its present form.
- c. That the appellant has come to the tribunal with malafide intention.
- d. That the appellant has been 31topped by his own conduct to file the appeal.
- e. That the appeal is barred by law and limitation.

ON FACTS:-

1. In-Correct. Hence denied. The appellant was performing his duty as Barrierman at Warri Forest Check Post, (Annexure A) but his performance was not to the entire satisfaction of his superiors. The staff of Forest Check posts have been repeatedly directed/instructed regarding controlling of illegal movement of forest produce through proper checking of each and every vehicle crossing Forest Check Posts, but the appellant failed to do so. On 31/05/2022 a Hino Oil Tanker bearing hand written registration No. C-2602 loaded with illicit 43 scants of Deodar timber having volume of 172 cft apprehended by staff of Lower Dir Forest Division at Shamardin. The said vehicle illegally crossed Warri Forest Check Post with active connivance of appellant Barrierman. (Annexure B)
2. In Correct. Hence denied. The appellant was charge sheeted on the grounds that he has not performed his duty with devotion and honesty. As per statement of the

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appellant submitted to the enquiry officer, he was on duty at the night of occurrence. Being Barrierman it was his prime responsibility to ensure obstruct and check vehicle to avoid illicit movement of Forest produce. The appellant was on duty at that night, but he did not bother to stop the oil tanker loaded with illicit timber and left the check post open to timber smugglers. The appellant has been proceeded under Government of Khyber Pakhtunkhwa Efficiency and Disciplinary Rules, 2011.

3. Correct. The appellant has been proceeded as per Government of Khyber Pakhtunkhwa, Efficiency & Disciplinary Rules, 2011 under Rule 10 and in response to the charge sheet/statements of allegations, the appellant submitted his written reply to the inquiry officer appointed for the purpose thereof under the ibid rules.
4. In-Correct. Hence denied. The inquiry officer appointed for the purpose under the ibid rules has followed the procedure laid down under Rule 11 of the Government of Khyber Pakhtunkhwa Efficiency and Disciplinary Rules, 2011. The appellant has been provided proper chance of defense under the ibid rules and inquiry officer examining the written reply of the appellant and questions and answers recorded on personal hearing fixed on 22/02/2023 (Annexure C) in the office of the Divisional Forest Officer, Working Plan Unit-IV Kanjo Swat. The inquiry officer submitted his inquiry report to the competent authority under the Rule 11 of the ibid Rules, wherein the charges leveled against the appellant in charge sheet have been proved. Further the appellant has been provided proper chance of defense under the rules but he failed to prove himself innocent. **(Annexure D)**. Respondent No. 03, after receiving the inquiry report, being competent authority have satisfied that the inquiry has been conducted in accordance with the provisions of the ibid rules Rule 14 (4) (a) informed the appellant about the charges proved and penalty or penalties imposed upon him. Provided reasonable opportunity of showing cause against the penalty or penalties imposed upon him vide letter No. 6695/Estt, dated 29/05/2023 (Annexure E) along with inquiry report and called for personal hearing on 04/07/2023 vide letter No.7172-74/Estt, dated 21/06/2023 (Annexure F). After fulfilled all the codal formalities under the ibid rules office order No. 07, dated 14/07/2023 has been issued by the respondent No. 03. (Annexure G)
5. In-Correct. Hence denied. The appellant being aggrieved of the said order filed departmental appeal to respondent No. 02, being appellate authority, under Rule 17 of the Government of Khyber Pakhtunkhwa Efficiency and Disciplinary Rules, 2011. The appellate authority respondent No.02 called the competent authority respondent No.03 for record of the case and comments on the points raised in the appeal of the appellant vide letter No. 855/E, dated 21/08/2023. (Annexure H) The respondent No. 03 submitted the comments vide letter No. 883/Estt, Dated 29/08/2023. (Annexure I) Subsequently the appellant has been called for

personal hearing on 28/09/2023 vide letter No. 1561-65/E, Dated 21/09/2023 (Annexure J) and after hearing the appellant by appellate authority, the penalty ordered vide office order No. 07, Dated 14/07/2023 has been converted to reduction to initial stage of pay for period of three years vide respondent No. 02 office order No. 15, dated 11/10/2023. (Annexure K)

- 6. Correct. To the extent of record.
- 7. Pertains to record.

GROUND:

- A. In-Correct. Hence denied. The punishment awarded to the appellant by the appellate authority is in accordance to law, facts, norms of natural justice and materials on record,
- B. In-Correct. Hence denied. Proper enquiry has been conducted by the inquiry officer against the appellant under Government of Khyber Pakhtunkhwa Efficiency & Disciplinary Rules, 2011 and the punishment has been awarded after fulfillment of all the codal formalities on the subject as mentioned above.
- C. In-Correct. Hence denied. The respondent No. 03 Divisional Forest Officer, Upper Dir Forest Division has been informed by the respondent No.02 Conservator of Forests, Malakand West Forest Circle vide letter No.6149-51/G&L, dated 02/06/2022, (Annexure L) about the apprehension of the vehicle loaded with illicit timber by staff of Lower Dir Forest Division and directed to take disciplinary action against the staff posted at check post. As the vehicle apprehended has actually been originated from Upper Dir crossed the Warri Forest Check post with active connivance of the appellant posted at Warri Forest Check post. The difference between registration No. of vehicle booked in damage report and charge sheet is actually typing mistake.
- D. In-Correct. Hence denied. Proper enquiry has been conducted by the inquiry officer as provided under Rule 11 of Government of Khyber Pakhtunkhwa Efficiency & Disciplinary Rules, 2011 and proper chance of defense has been provided to the accused.
- E. In-Correct. Hence denied. The appellant has been associated in whole process of the inquiry and every possible chance of defense has been provided to the appellant under the rules. As proper chance of written defense has been provided by the enquiry officer to the appellant, personal hearing has been conducted by the inquiry officer before submitting the inquiry report. Furthermore before imposing any penalty, proper show cause notice has been issued to appellant vide letter No. 6695/Estt, dated 29/05/2023, informing about the imposition of penalty along with enquiry report and personal hearing has been conducted on 04/07/2023 in the office of the Divisional Forest Officer, Upper Dir Forest Division, being competent authority respondent No. 03. Furthermore personal hearing has also been held in the



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office of the Conservator of Forests, Malakand West Forest Circle, being appellate appellate authority on 28/09/2023.

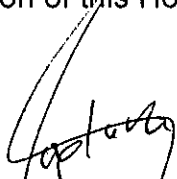
F. In-Correct. Hence denied. The appellant has been associated in the inquiry process and Proper chance of defense has been provided to the appellant under the rules as three times chance of personal hearing/defense has been provided.

G. In-Correct. Hence denied. The appellant was posted at Warri Forest Check Post and as per his written reply submitted to the inquiry officer and during personal hearing dated 22/01/2023 admitted that he was on duty at the night of occurrence. (Annexure M)

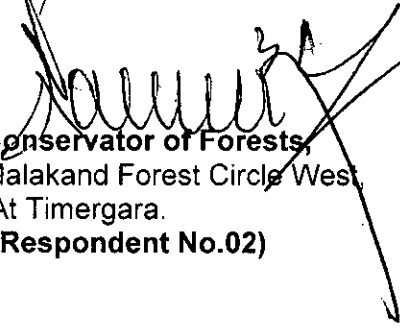
H. That the respondent also seek permission to raised further points at the time of of argument.

It is therefore, humbly prayed that on acceptance of the above submission in the instant service appeal may very graciously be dismissed in favour of the replying respondent with cost in the interest of justice.


That the respondent reserves his right to argue any other points at the time of hearing of his petition with the permission of this Honorable Tribunal.


Chief Conservator of Forests,
Malakand Forest Region-III,
Saidu Sharif Swat.
(Respondent No.01)

Syed Muqtada Shah .


Conservator of Forests,
Malakand Forest Circle West,
At Timergara.
(Respondent No.02)

Shankat Fayez .


Divisional Forest Officer,
Upper Dir Forest Division,
At Dir
(Respondent No.03)

Muhammad usman .

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VERSUS

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- 2. Conservator of Forests Malakand Forest Circle West at Timergara.**
- 3. Divisional Forest Officer Upper Dir Forest Division at Upper Dir.**

Respondents.

AFFIDAVIT

I, Muhammad Usman Divisional Forest Officer (BPS-17), Upper Dir Forest Division at Dir, do hereby solemnly affirm and state on oath that the contents of this reply/comments are true and correct to the best of my knowledge and belief, nothing material has been concealed from this Honorable Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off / cost.

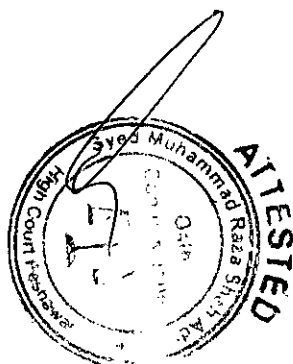
Identified by

**Addit: Advocate General
Khyber Pakhtunkhwa,
Service Tribunal.**

Deponent,

U. Usman
**CNIC: 17101-3541708-7
Cell # 0333-9393209**

*Respondent No-3
M. Usman*



OFFICE OF THE SUB DIVISIONAL FOREST OFFICER WARI

N 30/W

DATED 09/10/2020.

Dairy No: 181
Date: 9/10/2020

The following Posting Transfer adjustment of the Staff of Wari Forest Sub Division is here by made in the interest of Public Service with immediate effect:-

S.No.	Name and Rank	From	To
1.	Mr. Perhazgan D/R.	Sub Divisional vigilance Committee.	1/2 Wari check Post.
2.	Mr. Ghulam Mohammad Fr.	After reinstatement:	1/2 Nichag Right Block (CNo 01 To CNo 16) ⊕ supervision at Gogyal Post
3.	Mr. Bakhtshau Fr.	BO Nichag Block. BO. Jelar Block	1/2 Nichag Left Block (CNo 17 To 31) Jelar Beat with additional duty as BO Jelar (CNo 01 To 7).
4.	Mr. Gulsadbar Fzd.	Wari check Post	Wari Forest check Post.
5.	Mr. Mohammad Imran Fzd.	Gogyal check Post:	Wari check Post ⊕ Badali beat CNo 01 to CNo 16.
6.	Mr. Arshad Khan Fzd.	Akhegram check Post.	Gogyal check Post + Bandan Beat CNo Nichag 31
7.	Mr. Jehan Zeb Fzd.	Kandaro Karpal beat CNo 17 to 24)	Akhegram check Post ⊕ Guli Bagh beat (Karo CNo 01 To 12)
8.	Mr. Kiramat Fzd.	Bandan beat.	Wari check Post
9.	Mr. Mohammad Naz B/m.	_____	_____
10.	Mr. Muftahid Said Fzd.	_____	Shalgah Beat with additional duty at Kandaro Karpal beat CNo: 17 to 23.

ATTESTED

Copy forwarded to DFO Upper Divisional Forest Office for approval please.

Divisional Forest Office
Upper Dir Forest Division
Dir Upper

Di. Estt:
Asst. SOF, Wari
To Submit Change Notice above officials
DFO
9/10/2020

ابتدائی رپورٹ گاڑ بابت جنگل سیکڑہ ویبر رورڈ مقام ٹمردین فارسٹ ڈویژن

نام جنگل	تاریخ وقوع	خلاصہ جرم	نام ملزم	ولدیت	سکونت
سیکڑہ ویبر رورڈ	31/5/022	عثرہ قانونی دھولوں سیکڑہ ویبر رورڈ مقام ٹمردین فارسٹ ڈویژن	سلیم اللہ	رضامہ اللہ	سکونت ٹمردین فارسٹ ڈویژن
ماریٹ چھپرہ ٹمردین فارسٹ ڈویژن	31/5/022	نذر علیہ مینو سیکڑہ نمبر 6202	SPP. No. 81380. C/P		ماریٹ چھپرہ ٹمردین فارسٹ ڈویژن

$D - 43 = 8 \times 12 \times 6 = 172 \text{ C/P}$

جناب عالی! گزارش ہے کہ ایچ ایف سرف 5/022 کے سیکڑہ ویبر رورڈ مقام ٹمردین فارسٹ ڈویژن کے آفسیئر ماریٹ چھپرہ کے ہدایت کے روشنی میں ایک ریڈ ہیری تشکیل دی گئی۔ ضمیمہ فارم نمبر 1 میں ماریٹ چھپرہ ٹمردین فارسٹ ڈویژن کے آفسیئر ماریٹ چھپرہ کے ہدایت کے روشنی میں ایک ریڈ ہیری تشکیل دی گئی۔ ضمیمہ فارم نمبر 1 میں ماریٹ چھپرہ ٹمردین فارسٹ ڈویژن کے آفسیئر ماریٹ چھپرہ کے ہدایت کے روشنی میں ایک ریڈ ہیری تشکیل دی گئی۔ ضمیمہ فارم نمبر 1 میں ماریٹ چھپرہ ٹمردین فارسٹ ڈویژن کے آفسیئر ماریٹ چھپرہ کے ہدایت کے روشنی میں ایک ریڈ ہیری تشکیل دی گئی۔

بڈ گاڑ بلاک آفسیئر (322/0) کی طرف سے پیش کردہ رپورٹ کے مطابق ماریٹ چھپرہ ٹمردین فارسٹ ڈویژن کے آفسیئر ماریٹ چھپرہ کے ہدایت کے روشنی میں ایک ریڈ ہیری تشکیل دی گئی۔ ضمیمہ فارم نمبر 1 میں ماریٹ چھپرہ ٹمردین فارسٹ ڈویژن کے آفسیئر ماریٹ چھپرہ کے ہدایت کے روشنی میں ایک ریڈ ہیری تشکیل دی گئی۔

ATTESTED

Divisional Forest Officer,
Upper Dir Forest Division
Dir Upper

خدمت صواب اکتواہر اسپر سہاب SDFo لکھنؤ میں اپریل 2011

عنوان :- جواب طلبی

صواب عالی :-

مذکورہ چارج شیٹ کے حوالے سے میری گزارشات صواب ذیل ہیں۔

1۔ یہ کہ میں نے واڑی چیک پوسٹ کی ڈیوٹی رات 8 بجے سے صبح 4 بجے تک ایماندارہ اور جان پستانی سے کی ہے۔

2۔ یہ کہ صبح 4 بجے کے بعد میں نے چیک پوسٹ لمبوی ایسکار سیفٹ علی کے حوالہ کیا۔

اور میں نمازی آدھنی کیلئے سید روانہ ہوا۔ نماز کے بعد ~~میں نے~~ صبح آنکھ کھلی تو آج کے پورے دن سے میری آنکھ کھلی ہے۔ یہ کہ ایپر میں فارسٹ چیک پوسٹ چل رہا تھا ڈیوٹی یعنی دیر لمبوی بھی سرانجام دینی ہے۔

صواب عالی :- آپ صاحبان کو معلوم ہے کہ میں اپنی ڈیوٹی ایماندارہ سے سرانجام دیا ہوں

اس سے پہلے بھی کبھی غیر قانونی کاموں میں ملوث رہا ہوں اور نہ رہوں گا۔

میرا تہ مبارکبادی مجھے درج بالا الزامات سے بری الذمہ قرار دیا کر مشکور فرمائیں۔

ستارہ محمد

نیاز محمد بیگم سپرنٹنڈنٹ واڑی چیک پوسٹ

ATTESTED

Division Officer
Upper District Division
D. Upper

ENQUIRY REPORT OF STAFF OF UNKAR, SAHIBABAD, WARRI AND AKHGRAM FOREST CHECKPOST, UPPER DIR FOREST DIVISION

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1. BRIEF HISTORY.

The Divisional Forest Officer, Lower Dir Forest Division apprehended a vehicle Hino Oil tanker registration No. C-2605 loaded with illicit timber of Deodar = 172 cft. Subsequently chalked damage report No. 527/6, dated 02/06/2022. The matter was investigated and it comes to the surface that the said vehicle loaded in Kalkot Dir Kohistan, crossed the sheringal Forest Checkpost in Dir Kohistan Forest Division and Unkar, Sahibabad, Warri and Akhgram Forest Checkpost of Upper Dir Forest Division without any hesitation. Which was further authenticated through video clip provided by DFO Dir Kohistan that the vehicle crossed Sheringal Forest Checkpost.

Divisional Forest Officer, Upper Dir Forest Division called explanation of the Sub Divisional Forest Officer/Range Forest Officer vide letter No.6337-39/G, dated 02/06/2022, as per directives of Conservator of Forests, Malakand West Circle letter No. 6149-51/G&L, dated 02/06/2022. On receipts of the reply of SDFO/RFO, Divisional Forest Officer, Upper Dir Forest Division charge sheeted staff including Mr. Siddiq-ur-Rehman, Mr. Mushtaq Ahmad Forest Guard and Muhammad Farooq Barrierman of Unkar Forest Checkpost, Mr. Saif-ul-Islam Forest Guard Sahibabad Forest Check post, Mr. Aziz Ullah, Forest Guard and Mr. Niaz Muhammad Barrierman of Warri Forest Check post and Mr. Muhammad Rafiq Forest Guard of Akhgram Forest Check post on account of inefficiency, misconduct under Rule, 3 of Government of Khyber Pakhtunkhwa Efficiency & Disciplinary Rules, 2011 and ordered a proper enquiry vide office order No. 46, dated 02/02/2022. Entrusted fact finding enquiry to Mr. Murad Ali Shah, DFO Patrol Squad Forest Division, Malakand West Forest Division. But due to the posting of Mr. Murad Ali Shah as Divisional Forest Officer, Upper Dir Forest Division the enquiry was entrusted to the undersigned the then SDFO Litigation Dir Upper vide DFO Upper Dir office order No.92, dated 22/06/2022 to investigate the matter in connection with charges/allegations leveled against the checkpost staff in the charge sheets and statement of allegations under section 5(1) of the Government of Khyber Pakhtunkhwa, Efficiency & Disciplinary Rules, 2011.

2. CONNECTED DOCUMENTS

- i. CF, Malakand West Letter No. 6149-51/G&L, dated 02/06/2022
- ii. DFO, Upper Dir Letter No. 6337-39/G, dated 02/06/2022
- iii. Replies of the SDFO/RFO Upper Dir Forest Division
- iv. Office order No. 92 dated 22/06/2022
- v. Charge sheets of the staff
- vi. Statement of Allegations
- vii. Letter to the accused for submission of written reply dated 23/06/2022

ATTESTED

Divisional Forest Officer,
Upper Dir Forest Division
Dir Forest

- viii. Reply of the accused
ix. Personal Hearing letter No. Nil dated 19/02/2022
x. Recorded statement duly signed by accused and Departmental Representative.

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3. BRIEF DESCRIPTION OF THE CASE.

Whereas, Divisional Forest Officer, Upper Dir Forest Division regular issues instructions regarding control of illegal movement of forest produces through proper checking of each and every vehicle crossing forest check post, but staff of forest check post failed to do so. Due to their inefficiency and not following the instructions of the higher ups an Oil tanker bearing registration No. C-2605 loaded with illicit timber crossed the checkpoints in the jurisdictions of Upper Dir Forest Division and later on apprehended by the staff of Lower Dir Forest Division.

As per report of the SDFO Dir the said vehicle crossed the Unkar Forest Chekpost morning at 6:2 Am leading by a car (Rav-4) without any hesitation and the barrier of check post was open. The SDFO Dir further reported that Mr. Siddiq-ur-Rehman Forest Guard and Farooq Barrierman was on duty at that night and recommended to take strict disciplinary action against them under the rules, as they have failed to perform their duty. Besides that Mr. Mushtaq Ahmad Forest Guard is posted at Unkar Forest Check post.

The staff of Sahibabad Forest checkpost also failed to stop the vehicle loaded with illicit timber and RFO Darrora submitted that Mr. Saif-ul-Islam Forest Guard was on duty at that night. While SDFO Warri reported that there was a fault in the CCTV camera installed on Warri Forest Checkpost and did not determined the exact time on which vehicle crossed the Warri checkpost and reported that Mr. Aziz Ullah Forest Guard and Mr. Niaz Muhammad Barrierman were on duty at the night in Warri Forest Checkpost and Mr. Muhammad Rafiq Forest Guard at Akhgram Forest Checkpost. They all failed to stop and properly check the vehicle.

4. PROCEEDINGS.

After receiving the charge sheet/statement of allegations the accused official was directed to submit their written replies to the charge sheet/statement of allegations before the enquiry officer, the then Sub divisional Forest Officer, Litigation now SDFO Working Plan Unit-IV Swat for further proceeding in the matter.

The accused officials submit their written replies to the undersigned and after receipt of the reply of the accused, date for personal hearing has been fixed on 20/02/2023 in the office of Divisional Forest Officer, Working Plan Unit-IV and directed the accused official to appear before the undersigned on scheduled date, time and venue. Furthermore Divisional Forest Officer, Upper Dir Forest Division has been requested to nominate Departmental representative to attend the proceeding on due date.

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Uman
Divisional Forest Officer,
Upper Dir Forest Division
Dir Upper

Personal hearing of the accused has been conducted and cross questions have been asked from the accused in front of the departmental representative nominated by DFO Upper Dir. Written statement of the accused has been recorded during the personal hearing.

5. FINDINGS.

As Forest Check Post is established under Section 58 of Forest Ordinance, 2002 to regulate the legal timber transported under transport pass issued by Divisional Forest Officer concerned. And discourage illegal movement of forest produce and take strict legal action under Forest Ordinance, 2002. Being Forest Guard posted at forest check post, it is their prime responsibility to check each and every vehicle crossing check posts and make proper entry into relevant register maintained for the purpose.

As it is ascertained from the video of CCTV camera installed at Unkar Forest checkpost that the barrier of the checkpost was opened and the said vehicle crossed the checkpost without any barrier and the checkpost staffs were not visible in the video.

Mr. Siddiq-ur-Rehman Forest Guard in his written statement and during personal hearing stated that he was present at that night, performed duty from 11:00 PM to 3:00 AM and after that due to intense fatigue handover the duty to Mr. Farooq Barrierman and the vehicle loaded with illicit timber crossed the checkpost during his duty time.

Mr. Farooq Barrierman stated in his written statement that he performed duty from 2:00 AM to 5:00 AM and the said vehicle crossed the vehicle during duty time of Mr. Siddiq-ur-Rehman. While it has been ascertained from the video that during crossing the checkpost he was present on duty and sitting in the cabin of checkpost, giving non verbal gesture to the pilot Rav-4 vehicle and after few minutes the said vehicle crossed the check post without stopping on the checkpost. The statement of Farooq mentioning that he has not given any chance of complaint during his 33 years of service were denied by the departmental representative and informed that he is already under enquiry in the same nature case and also recently a show cause notice has been issued to him.

Mr. Mushatq Ahamd Forest Guard were on routine leave and not present on duty, which was further confirmed from the attendance register of the checkpost and stated that he is not involved in any kind of irregularity.

Mr. Saif-ul-Islam Forest Guard was posted at Sahibabad Forest check post and was present on that night on duty. From perusal of his written statement and during personal hearing he confirmed his presence on checkpost at that night but does not observed the passing of the said vehicle. He sated stated that he was alone performing duty on Sahibabad Forest check post and so many time requested RFO Darrora for posting of another Forest Guard and barrierman to avoid any unpleasant accident. Further stated that may be the vehicle crossed on the alternative road or during have taking breakfast. Beside that he stated that he has also

ATTESTED

Divisional Forest Officer,
Upper Dir Forest Division
Dir Upper

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performed additional duty of nurseries and forest beat, due to which it is impossible for him to perform duty 24 hours 7 days a week on checkpost.

Mr. Aziz Ullah Forest Guard, Incharge Warri forest check post were also charge sheeted on account of failure to perform his duty efficiently. Mr. Aziz Ullah Forest Guard in his written statement and during personal hearing informed that he was not present at Warri Forest Checkpost because in addition to checkpost duty he has also perform duty of Badalai forest beat and was in Badalai beat for transportation of apprehended timber in Damage report No. 1068/22 dated 27/05/2022. The CCTV camera installed on Warri Forest Checkpost were not functional on that night and being incharge it was his responsibility to made all arrangements for working of the CCTV camera. He stated that the CCTV camera were recording video in presence of electricity and when electricity was not available the CCTV camera does not worked as there is no solar facility available in the Warri Forest Checkpost due to which the video has not been recorded at that morning. He also complaint about the burden of additional duty of plantations and beats.

Mr. Niaz Barrierman were also charge sheeted and perusal of his written statement and personal hearing he stated that he was on check post at that night and perform duty from 8:00 PM to 4:00 AM and after that handover the duty to Levy Sepahi Mr. Liaqat Ali and left the checkpost to pray Fajar prayer and after that he was slept and when waked it was 7:00 Am morning and does not observed the said vehicle.

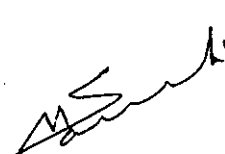
At Akhgram Forest check Mr. Muhammad Rafiq Forest Guard were charge sheeted on account of failure to apprehend the said vehicle and does not perform his duty efficiently. He also denied the charges and stated that he was present on duty at that night, performed his duty honestly and does not observe the vehicle.

6. CONCLUSION.

Keeping in view the written statements of the accused officials, personal hearing and available record it comes to the surface that the staff of Forests check post does not perform their duty efficiently and due to their laxity and casual attitude the Hino Oil tanker having registration No.C-2605 loaded with illicit timber of deodar crosses the checkpost without any hesitation or stopping on the forest checkpost. A contradiction was observed in the statement of Mr. Siddiq-ur-Rehman FG and Mr. Farooq Barrierman and instead to take responsibility blaming one another. Mr. Mushtaq Ahmad Forest Guard was on routine leave at that night and does not seems to be responsible, while other staff of checkpost are equally responsible for not performing their duty as per their job description. The competent authority may proceed further against the accused officials in the light of Efficiency & Disciplinary Rules, 2011as deemed appropriate.


Mr. Saeed Ahmad (Enquiry Officer)
SDFO Working Plan Unit-IV Swat

ATTESTED


Divisional Forest Officer,
Upper Division Forest Division
of Upper

OFFICE OF THE
DIVISIONAL FOREST OFFICER
UPPER DIR FOREST DIVISION
UPPER DIR.



Phone 0944-881715
Fax# 0944-881713
Dispatch No: 6695 /Estt,
Dated Upper Dir 29 /05/2023.
Email: dfoupperdir@gmail.com

Ammer E

27

To,

Mr. Niaz Muhammad, Barrierman
C/O
Sub Divisional Forest Officer
Dir Forest Sub Division

Subject: SHOWCAUSE NOTICE.

Memo:

I Mr. Muhammad Usman, Divisional Forest Officer, Upper Dir Forest Division at Doodbah as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules 2011 do hereby serve you, Mr. Niaz Muhammad Barrierman, performing duty at Warri Forest Checkpost, Warri Forest Sub Division as follows.

- (1) I. That consequent upon the report of enquiry officer constituted vide Divisional Forest Officer Upper Dir Forest Division Office Order No. 92 dated, 22/06/2020 for which you were given opportunity of hearing on 20/02/2023.
II. Ongoing through the finding and recommendations of the enquiry officer, the material on record and other connected papers including your defence before the enquiry officer.
III. I am satisfied that you have committed the following acts / omissions specified and Rules-4 (a) of that said rules:-
 - a) In-Efficiency.
 - b) Misconduct.
 - c) Corruption.
- (2) As result therefore, I Mr. Muhammad Usman in the capacity of Divisional Forest Officer, Upper Dir Forest Division as a competent authority, have decide to impose upon you the Minor / Major penalty specified under rules-4(a) of the said rules.
- (3) You are therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and else intimate whether you desire to be heard in person.
- (4) If no reply to this notice received within seven (7) days or not more than fifteen (15) days of its delivery, it should be presumed that you have no defence to put in the case and ex-parte action must be taken against you.
- (5) A copy of the report of committee is enclosed herewith.

Uman
DIVISIONAL FOREST OFFICER,
UPPER DIR FOREST DIVISION,
DIR UPPER

No. 6696 /Estt,

Copy forwarded to the Sub Divisional Forest Officer, Dir Forest Sub Division for information and directed to deliver the subject letter under proper receipts and submit to this office for record.


ATTESTED

Uman
DIVISIONAL FOREST OFFICER,
UPPER DIR FOREST DIVISION,
DIR UPPER

Uman
Divisional Forest Officer,
Upper Dir Forest Division,
Dir Upper

Annex - F

29

<p>OFFICE OF THE DIVISIONAL FOREST OFFICER UPPER DIR FOREST DIVISION UPPER DIR.</p>		<p>Phone 0944-881715 Fax# 0944-881713 Dispatch No: <u>7172-74</u>/Estt, Dated Upper Dir <u>21</u>/06/2023. Email: <u>dfoupperdir@gmail.com</u></p>
--	--	--

To,

1. Mr. Sadiq-ur-Rehman, FG
2. Mr. Saiful Islam, FG
3. Mr. Njaz Muhammad, BM
C/O
Sub Divisional Forest Officer
Dir Forest Sub Division

✓ 3

Subject: SHOW CAUSE NOTICE/ PERSONAL HEARING THEREOF

Memo: Reference this office letter No.6687/Estt , No.6689/Estt, & No.6695/Estt Dated 29/05/2023

Reference in continuation of show cause notices issued vide letter No. under reference , all of you are directed to appear before the undersigned on **04/07/2023 at 10:00 AM** in the office of Divisional Forest Officer, Upper Dir Forest Division for personal hearing.

Uppan
DIVISIONAL FOREST OFFICER,
UPPER DIR FOREST DIVISION,
DIR UPPER.

No. 7175-76/Estt

Copy forwarded to the:

1. Conservator of Forests, Malakand West Forest Circle for favour of information please.
2. Sub Divisional Forest Officer, Dir for information and further necessary action.

Uppan
DIVISIONAL FOREST OFFICER,
UPPER DIR FOREST DIVISION,
DIR UPPER.

ATTESTED

Uppan
 Divisional Forest Officer,
 Upper Dir Forest Division
 Dir Upper

Annex-6

<p align="center">OFFICE ORDER</p> <p>No. <u>27</u> dated <u>14/07/2023</u>.</p> <p>Email: <u>dfoupperdir@gmail.com</u></p>		<p>ISSUED BY IAMMAD USMAN</p> <p>DIVISIONAL FOREST OFFICER</p> <p>UPPER DIR FOREST DIVISION</p> <p>Phone 0944-881715, Fax 0944-881713</p>
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31

Whereas, the officials mentioned below were charge sheeted on account of illegal movement of timber, as on 31/05/2022 a Hino Oil Truck bearing hand written registration No.C-2605 loaded with illicit timber of 43 Nos Deodar scants having volume = 172 cft apprehended by staff of Lower Dir Forest Division crossed Unkar, Sahibabad, Warri & Akhgram Forest Check Post, Upper Dir Forest Division without stopping and checking and proceeded against under Government of Khyber Pakhturahwa, Efficiency & Disciplinary Rules, 2011, Rule 5 for the charges as mentioned in charge sheet and statement of allegations served upon them.

- (i). Mr. Saddiq-ur-Rehman, Forest Guard
- (ii). Mr. Saif-ul-Islam, Forest Guard
- (iii). Mr. Aziz Ullah, Forest Guard
- (iv). Mr. Muhammad Rafiq, Forest Guard
- (v). Mr. Niaz Muhammad, Barrierman

Whereas, enquiry has been entrusted to Mr. Saeed Ahmad, the then Sub Divisional Forest Officer, Litigation, Upper Dir Forest Division vide this office order No.92, dated 22/06/2022 under Rule, 10 of ibid rules.

Subsequently personal hearing was held on 20/02/2023 in the office of the Divisional Forest Officer, Working Plan Unit-IV Kanjo Swat.

Whereas, the accused officials have been provided proper chance of defense and proper enquiry has been conducted by enquiry officer under the prescribed rules appointed for the purpose.

Whereas, the enquiry officer after finalization of the inquiry proceeding submitted his findings to the Divisional Forest Officer, Upper Dir Forest Division, the competent authority and concluded that the charges of inefficiency leveled against the above officials has been proved.


Now Therefore, I Mr. Muhammad Usman, Divisional Forest Officer, Upper Dir Forest Division, the competent authority after having considered the charges/evidence on record, hearing them in person and in exercise of powers conferred upon me under Rule 07 (f) read with Rule-4(1) (b) (ii) (iii) of the ibid rules, has been pleased to impose the penalty of "**COMPULSORY RETIREMENT**" upon the official at Sr. No. v namely Mr. Niaz Muhammad, Barrierman and impose the penalty of "**REMOVAL FROM SERVICE**" upon the officials at Sr. No. i,ii,iii & iv namely Mr. Saddiq-ur-Rehman, Forest Guard, Mr. Saif-ul-Islam, Forest Guard, Mr. Aziz Ullah, Forest Guard & Muhammad Rafiq, Forest Guard for the charges leveled against them.

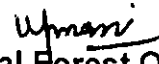
Sd/-
(Muhammad Usman)
Divisional Forest Officer
Upper Dir Forest Division,

No. 204-210 /Estt,

- Copy for information forwarded to the:-
1. Conservators of Forests, Malakand West Forest Circle Timergara.
 2. Principal, Khyber Pakhtunkhwa Forest School at Thai Abbottabad.
 3. Mr.Saeed Ahmad, Sub Divisional Forest Officer, Khar Forest Sub Division, Bajaur Forest Division, Bajaur (Enquiry Officer).
 4. Sub Divisional Forest Officer, Dir/Warri and Range Forest Officer, Darrora for information and necessary action.
 5. Office Assistant/Accountant Upper Dir Forest Division for information and necessary action.
 6. Officials concerned.
 7. Office record file.


ATTESTED


 Divisional Forest Officer,
 Upper Dir Forest Division,
 Dir.


 Divisional Forest Officer,
 Upper Dir Forest Division,
 At Dir.

Annex - H

33
08

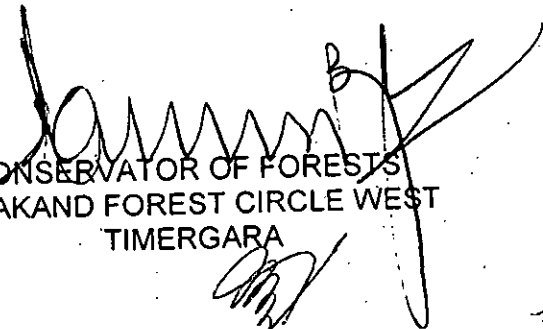
OFFICE OF THE CONSERVATOR OF FORESTS, MALAKAND WEST FOREST CIRCLE TIMERGARA		BALAMBAT COLONY LOWER DIR TIMERGARA. Ph. 0945-9250120 Fax. 0945-9250118 cfmkdwest@gmail.com
No. <u>855</u> /E Dated Timergara		the <u>21/08/2023</u>

To,
 The Divisional Forest Officer,
 Upper Dir Forest Division,
 At Dodbah.

Subject: DEPARTMENTAL APPEAL AGAINST OFFICE ORDER NO.07 DATED 14-07-2023 ISSUED BY DFO UPPER DIR FOREST DIVISION.

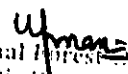
Memo:
 The appellant namely Mr. Niaz Muhammad Ex-Barrierman of Upper Dir Forest Division has preferred appeal before the undersigned against the Office Order No. 07 dated 14/07/2023 to the extent of Compulsory retirement from service. Therefore, you are directed to offer your detail comments in the instant case to this office for further course of action.

Enclosed: as above.


 CONSERVATOR OF FORESTS
 MALAKAND FOREST CIRCLE WEST
 TIMERGARA

Esth:
 Furnish detail
 comments.
 Wman
 DFO

ATTESTED


 Divisional Forest Officer,
 Upper Dir Forest Division
 Dir Upper

OFFICE OF THE
DIVISIONAL FOREST OFFICER
UPPER DIR FOREST DIVISION
UPPER DIR.



Phone 0944-881715

Fax# 0944-881713

Dispatch No: 883 /Estt,

Dated Upper Dir 29/08/2023

Email: dfoupperdir@gmail.com

To,

The Conservator of Forests,
Malakand West Forest Circle,
At Timergara.

Subject: **DEPARTMENTAL APPEAL AGAINST OFFICE ORDER NO.07 DATED 14-07-2023
ISSUED BY DFO UPPER DIR FOREST DIVISION.**

Memo:

Reference your office letter No. 855/E, dated 21/08/2023


Please find here under para wise comments on the subject for favour of information and further necessary action as desired in your office.

- 1) Correct.
- 2) Correct.
- 3) No comments
- 4) In correct. Being barrierman it was his prime responsibility to close the barrier and in case of full night duty he should call another forest official for duty.
- 5) No comments.
- 6) No comments
 - I. No comments.
 - II. No comments.
 - III. No comments.
 - IV. No comments.
 - V. In correct. The said vehicle crossed Warri Forest Check Post without any hesitation and no forest official was present on check post.
 - VI. No comments
 - VII. No comments
- 7) No comments
- 8) No comments

Ufman
Divisional Forest Officer,
Upper Dir Forest Division,
Dir Upper.

ATTESTED

Ufman
Divisional Forest Officer,
Upper Dir Forest Division,
Dir Upper

OFFICE OF THE CONSERVATOR OF FORESTS, MALAKAND WEST FOREST CIRCLE TIMERGARA		BALAMBAT COLONY LOWER DIR TIMERGARA Ph. 0948-0280120 Fax. 0948-0280118 cfmkdwest@gmail.com
No. 1561-65 ^{IE} Dated		Timergara the 21/09/2023

To,

1. Mr. Saddiq-ur-Rehman Ex-Forest Guard,
2. Mr. Saif-ul-Islam Ex-Forest Guard.
3. Mr. Aziz Ullah Ex-Forest Guard.
4. Mr. Muhammad Rafiq Forest Guard.
5. Mr. Niaz Muhammad, Ex-Barrister,
C/O Divisional Forest Officer,
Upper Dir Forest Division,
At Dodbah.

✓ 4

286 (D)
26/9/23

Subject: APPEAL/PERSONAL HEARING.

Memo:

Reference your appeals dated 11/08/2023.

You are directed to appear before the undersigned for personal hearing in connection with above subject appeal on 28/09/2023 (Thursday) at 11:00 AM in the office of the undersigned.


CONSERVATOR OF FORESTS
MALAKAND FOREST CIRCLE WEST
TIMERGARA.

No. / IE.

Copy forwarded to the Divisional Forest Officers, Upper Dir Forest Division for information and necessary action. He is directed to produce complete relevant record on the subject case through well versed officer/ Official to conduct the personal hearing on due date.

No 1321/EstH Dt 26/09/2023

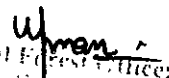
EstH
Inform the officials
to attend on due
date.

Wman
DFO. (Whatsapped
to all on
21-9-2023)

CONSERVATOR OF FORESTS
MALAKAND FOREST CIRCLE WEST
TIMERGARA.

ATTESTED

CS CamScanner


Divisional Forest Officer,
Upper Dir Forest Division,
D. C. O. O.

CS CamScanner

NO. 15 DATED 11 /10/2023 ISSUED BY MR. SHAUKAT FAIZ CONSERVATOR OF FORESTS MALAKAND WEST FOREST CIRCLE TIMERGARA.

1. Whereas, Mr. Niaz Muhammad as Barrierman (appellant) was proceeded under E&D Rules, 2011 and proper charge sheet issued by the DFO Dir Upper with the following charges:
 - a. Misconduct.
 - b. Inefficiency.
 - c. Corruption.
2. Whereas, proper inquiry proceeding was conducted against the accused vide DFO Upper Dir Office Order No. 92 dated 22/06/2020.
3. Whereas, the inquiry officer after fulfillment of the codal formalities on the subject, recommended that the charges against the accused official base on fact.
4. Whereas, the competent authority (DFO Upper Dir) served show cause notice upon the accused official vide DFO Upper Dir No.6693/Estt, dated 29/05/2023. Subsequently, the accused official responded to the show cause notice on 6/6/2023, which was found unsatisfactory.
5. Whereas, the accused Official was awarded major penalty of "COMPULSORY RETIRMENT FROM SERVICE" vide DFO Upper Dir Office Order No. 07 dated 14/07/2023.
6. Whereas, the appellant being aggrieved with the penalty awarded by DFO Upper Dir, filed the departmental appeal to the undersigned (appellate Authority) requesting to set aside the penalty.
7. Whereas, Para wise comments were asked form DFO Upper Dir vide this office letter No.855/E, dated 21/08/2023. The DFO Upper Dir furnished the requisite comments vide his office memo No.883/Estt, dated 29/08/2023. On receipt of the comments, the appellant was provided opportunity of being heard / Personal hearing on 28.09.2023 in the office of Conservator of Forests Malakand West Forest Circle vide memo No.1561-65/E dated 21/09/2023.
8. Whereas, on perusal of record, comments of the D.F.O Upper Dir and personal hearing of the appellant the facts surfaced that the illegal timber was transported in Hino Oil Tanker bearing Registration No.C-2605 and has crossed Warri Forest Check Post with active connivance of appellant. Hence the charges leveled against him are proved with certainty.

ORDER:-

I Mr. Shaukat Fiaz Conservator of Forests Malakand West Forest Circle Timergara in the capacity of appellate authority hereby convert the penalty of "COMPULSORY RETIRMENT FROM SERVICE" to reduction to initial stage of his pay Scale for a period of Three (3) years and the intervening period from 14/07/2023 to 10/10/2023 is treated as leave without pay.

Sd/-

(SHAUKAT FIAZ)
CONSERVATOR OF FORESTS
MALAKAND FOREST CIRCLE WEST
TIMERGARA

No. 1937-40/E,

Copy to:-

1. The Chief Conservator of Forests, Central Southern Forest Region-I Peshawar for favour of information please.
2. The Chief Conservator of Forests, Malakand Forest Region (Region-III) Saidu Sharif Swat for favour of information please.
3. The D.F.O Upper Dir Forest Division for information and necessary action.
4. The Official concerned.

No 1551 /Estt: Dated 12/10/23
Copy forwarded to official
Concern for information and n/a.

CONSERVATOR OF FORESTS
MALAKAND FOREST CIRCLE WEST
TIMERGARA

Uman
Divisional Forest Officer
Upper Dir Forest Division
Dir Upper

Scanned with CamScanner

ATTESTED

Uman
Divisional Forest Officer
Upper Dir Forest Division
Dir Upper

OFFICE OF THE CONSERVATOR OF FORESTS
MALAKAND WEST FOREST CIRCLE TIMERGARA
DALAMBAT COLONY LOWER DIR
Ph: 0040-0250120 Fax: 0040-0200110
Email: afmalidwest@gmail.com

Annex- L 41

No. 6149-51/G&L, Dated Timergara the 2/06/2022

- 1. The Divisional Forest Officer, Lower Dir Forest Division, At Timergara,
- 2. The Divisional Forest Officer, Upper Dir Forest Division, At Doodbuh,
- 3. The Divisional Forest Officer, Dir Kohistan Forest Division, At Sheringal,

✓ 5

Subject: SMUGGLING OF TIMBER

Memo:
On receipt of secret information to DFO Lower Dir a Hino oil tanker vehicle bearing hand writing registration No. C-2605 loaded with illicit timber of 43 Deodar No = 172 cft obtained from Kalkot (Dir Kohistan Forest Division) have crossed all the forest check posts right from Kalkot to Shamardin apprehended by the staff of Lower Dir Forest Division. Subsequently issued damage report No. 527/6, dated 02/06/2022 and realized an amount of Rs. 1002200/- through form-14 receipt No. 566/6 dated 02/06/2022 as value of forest produce and compensation etc.

Furthermore a video clip provided by the office of DFO Dir Kohistan shows that the vehicle in question has crossed Sheringal Forest Check Post ascertained from CCTV Camera installed thereon. Therefore you are directed to take disciplinary action against the staff posted on Check Post of your respective jurisdiction under intimation to this office.

CONSERVATOR OF FORESTS
MALAKAND WEST FOREST CIRCLE
TIMERGARA

No. _____ /G&L,
Copy forwarded to the Chief Conservator of Forests Malakand Forest Region (Region-III), at Saidu Sharif Swat for favour of information, please.

CONSERVATOR OF FORESTS
MALAKAND WEST FOREST CIRCLE
TIMERGARA

4/c
Call explained to concerned staff and to enquire the matter in light of CCTV record and staff on duty.

ADP D/O
02/06/2022

Scanned with CamScanner

ATTESTED

Divisional Forest Officer
Upper Dir Forest Division
Dir

Upman
Divisional Forest Officer,
Upper Dir Forest Division
Dir Upper

Scanned with CamScanner

خدمت جناب اٹکواہر سپر جج SDF کونسلشن اپر دہر

عنوان :- جواب طلبی

جناب عالی :-

مذکورہ چارج شیٹ کے حوالے سے میری گزارشات حسب ذیل ہیں۔

نقہ: یہ کہ میں نے واڑی چیک پوسٹ کی ڈپٹی رات 8 بجے سے صبح 4 بجے تک ایمانداری اور جان پشانی سے کی ہے۔

نقہ: یہ کہ صبح 4 بجے کے بعد میں نے چیک پوسٹ لیوی اینکار لیاقت علی کے حوالے کیا۔

اور میں نماز کی آدھی گئی تھی سبب روانہ ہوا۔ نماز کے بعد ~~میں نے~~ جب آنکھ کھلی تو آنکھ سے پتھر نکل گیا۔
نقہ: یہ کہ اپر دہر میں مارشل چیک پوسٹ پر مہمانند ڈپٹی یعنی دہر لیوی بھی سرانجام دینی ہے۔

جناب عالی :- آپ صاحبان کو معلوم ہے کہ میں اپنی ڈپٹی ایمانداری سے سرانجام دیا ہوں

اس سے پہلے بھی بھی غیر قانونی کاموں میں ملوث رہا ہوں اور نہ رہوں گا۔

میرے مہربانی سے درج بالا الزامات سے میری الزمہ قرار فرما کر مشکور فرمائیں۔

مستاد سید

بنیاز محمد بہر ٹیپر میں واڑی چیک پوسٹ

ATTESTED

Divisional Forest Officer
Upper Dir Forest Division
Dir Upper

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No.2273/2023

Niaz Muhammad, S/O Mir Shad Muhammad.....Appellant.

VERSUS

- 1. Chief Conservator of Forests Malakand Forest Region (Region-III) Saidu Sharif Swat.**
- 2. Conservator of Forests Malakand Forest Circle West at Timergara.**
- 3. Divisional Forest Officer Upper Dir Forest Division at Upper Dir.**

Respondents.

Subject: AUTHORITY LETTER

Mr.Ihsan Ud Din bearing CNIC No. 15701-2129268-7 & Cell No. 0302-8576144 is hereby authorized to appear in the Service Tribunal Khyber Pakhtunkhwa Peshawar in the subject service appeal on behalf of Respondents No. 01, 02 & 03.

He is also authorized to file submit written reply, produce record and record evidence on his behalf if any required in the Court mentioned above.

Uman
**Divisional Forest Officer
Upper Dir Forest Division
At Dir
Divisional Forest Officer**

*M.Usman
Respondent No-3*