

25.05.2017

Since tour programme to camp court, Abbottabad for the month of May, 2017 has been cancelled by the Worthy Chairman, therefore, to come up for the same on 22.11.2017 at camp court, Abbottabad. Notices be issued to the parties for the date fixed accordingly

22.11.2017

Appellant in person and Mr. Kabeerullah Khattak, Addl. AG alongwith Saeed Anwar, SDFO for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 18.1.2018 before the D.B at camp court, Abbottabad.

Member

Chairman
Camp Court, A/Abad.

18.01.2018

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney alongwith Saeed Anwar, SDFO for the respondents present. Arguments heard and record perused:

This appeal is accepted as per our detailed judgment of today in connected service appeal No. 438/2016 entitled "Muhammad Faridooon Vs. The Chief Conservator of Forests, Northern Forest Region-II, Abbottabad and others. Parties are left to bear their own costs. File be consigned to the record room.

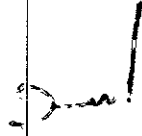
Member

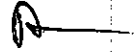
Chairman

ANNOUNCED
18.01.2018

25.08.2016

Counsel for the appellant and Mr. Wahdat Zeeshan, SDFO alongwith Mr. Usman Ghani, Sr.GP for respondents present. Rejoinder not submitted and requested for further time to file rejoinder. The Tribunal was informed that the appeal pertains to the territorial jurisdiction of Camp Court Abbottabad, hence, be placed before the Worthy Chairman for further orders.





Member



Member

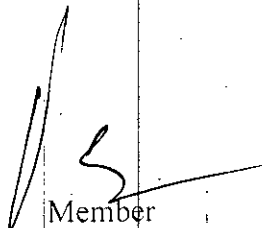
10.10.2016


The appeal pertains to territorial limits of Hazara Division, therefore, assigned to camp court, Abbottabad for rejoinder final hearing before the D.B on 18-01-2017.


Chairman

18.01.2017

Appellant in person and Mr. Muhamimad Siddique, Sr.GP with Saeed Anwar, SDFO for the respondents present. Requested for adjournment as counsel for the appellant has not turned up from Peshawar. To come up for arguments on 17.05.2017 before D.B at camp court A/Abad.


Member

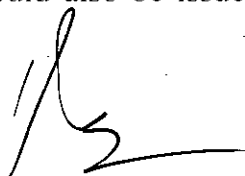

Chairman
Camp court A/Abad.

6.05.2016

Appellant with counsel present. Preliminary arguments heard and case perused. The learned counsel for the appellant contended that the appellant has been compulsorily retired from service with immediate effect vide impugned order dated 16.2.2016. Feeling aggrieved from the impugned order the appellant filed departmental appeal before the appellant authority who while disposing of the same converted ~~vide~~ impugned order dated 16.02.2016 by imposing the penalty of recovery of 10% of the total loss, reduction to lower stage in time scale for two stages, Censure and considering the intervening period from 16.2.2016 to 05.04.2016 as leave without pay, hence the present appeal.

Since the appellant within time and points urged require further consideration therefore the appeal ~~is~~ *admitted* for regular hearing, Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 23.6.2016 before S.B. Notice of stay application should also be issued to the respondents for the date fixed.

Appellant Deposited
Security & Process Fee


Member

23.06.2016

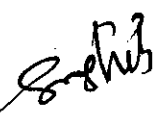


Appellant in person and Mr. Wahdat Zeeshan, SDFO alongwith Addl: AG for respondents present. Para-wise comments on behalf of respondents submitted. The appeal may be placed before D.B for rejoinder and final hearing for 25.08.2016. The Chairman may assign the appeal to appropriate D.B.


MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 423/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20.04.2016	<p>The appeal of Mr. Masood-ur-Rehman presented today by Mr. Shahzada Irfan Zia Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	25-04-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>28-04-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	28.4.2016	<p>Appellant in person present. Seeks adjournment due to strike of the bar. Adjourned for preliminary hearing to 6.5.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

IN RE:
Service Appeal No. 423 / of 2016

Masood ur Rehman, Deputy Ranger ... Applicant

VERSUS

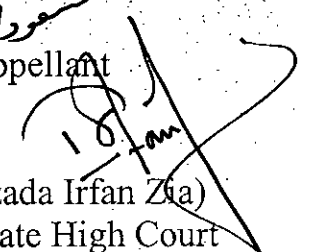
Province of Khyber Pakhtunkhwa through Secretary
Environment Department and others. ... Respondents

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9.	Vakalat Nama		

Through:

Dated: 19.04.2016

مسعود ارجان
Appellant

(Shahzada Irfan Zia)
Advocate High Court
13-C Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 0300-9345297

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 423 / of 2016

K.W.P Province
Service Tribunal
Diary No. 394
dated 20-4-2016

Masood ur Rehman, Deputy Ranger,
Siran Forest Division, Mansehra... .. Appellant

VERSUS

1. Province of Khyber Pakhtunkhwa
Through Secretary Environment
Department, Peshawar.
2. Chief Conservator of Forests-I,
Khyber Pakhtunkhwa, Peshawar.
3. Conservator of Forests,
Upper Hazara Forest Circle, Mansehra.
4. Divisional Forest Officer,
Agror Tanawal Forest Division, Oghi... .. Respondents

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED FINAL ORDER DATED
06.04.2016 WHEREBY FOLLOWING PENALTIES HEREIN
BELOW MENTIONED, WERE IMPOSED UPON THE
APPELLANT BY RESPONDENT NO.3:-

1. Recovery of 10% of the total loss of Rs. 11,40,100/- sustained
To the Government Rs. 1,14,010/-

Handwritten signature and date
2016

- 2. Reduced to lower stage in time scale for two stages.
- 3. Censure.
- 4. The intervening period from 16.02.2016 to 06.04.2016 is treated as leave without pay.

Respectfully Sheweth:

FACTS OF THE CASE.

- 1. That a Show Cause Notice dated 10.11.2015 was served upon the appellant wherein certain charges of inefficiency, Misconduct and Corruption were leveled against the appellant^{who} submitted his reply to show cause notice and vindicated his plea and position and submitted a graphic account of entire facts of the case, but his submissions went unheeded. (Annex: A&B).
- 2. That on 16.02.2016 the respondent no.4 issued the impugned order whereby he imposed the major penalty of compulsory retirement upon the appellant. The appellant feeling aggrieved filed his departmental appeal against the impugned order before respondent No.3 (Conservator of forests) and vehemently denied the alleged charges, submitted the true picture of the case. (Annex: C&D).
- 3. That on Departmental Appeal of the appellant, respondent No.3 called comments from respondent No.4. The respondent No.4 submitted his comments and thereafter respondent No.3 passed the order dated 06.04.2016, whereby the penalty of compulsory retirement was set aside, however, the following penalties mentioned herein below were imposed upon the appellant:-

- (1) Recovery of 10% of the total loss of Rs. 11,40,100/- sustained to the Government Rs. 1,14,010/-.
- (2) Reduced to lower stage in time scale for two stages.
- (3) Censure.
- (4) The intervening period from 16.02.2016 to 06.04.2016 is treated as leave without pay.

Hence the present appeal is being inter alia on the following grounds:-

GROUND:

- a. That the Inquiry Committee in its report found the appellant guilty of "Inefficiency" but contrary to the findings of the inquiry committee respondent No.4 passed the impugned order of compulsory retirement on the charges of Misconduct, Inefficiency and Corruption. The respondent No.4 went beyond the jurisdiction allotted to him and his action is totally illegal, unwarranted by law and based on malice.
- b. That as per findings of Inquiry Committee the charges of Misconduct and Corruption were not established against the appellant and recommended the charge of Inefficiency only but the competent authority has included the charges of Misconduct and corruption also, which is self imported view of competent authority, thus the entire proceedings and impugned orders are against the law and based on malafide consideration. The copy of Inquiry report was deliberately not provided to the appellant as the charges of Misconduct and corruption were not provided/recommended in the same, and inference was drawn relating to

Misconduct and Corruption subsequently by the competent authority, which is obviously a Misuse of power and amounts to dishonest proceeding.

- c. That in the impugned Final Order dated 06.04.2016 the respondent No.3 observed that "The body language of the appellant also suggests him to be innocent and reveals that checking committee (especially Mr. Muhammad Maqbool Forester) had dug a pit for him and thus has done injustice to him"

That despite of this observation the Appellate Authority awarded four different penalties including Major and Minor penalties, which is against the spirit of law and rules, hence the order dated 06.04.2016 is illegal, void and not sustainable under the law.

- d. That it is mandatory obligation of the competent/^{authority} to supply/ forward a copy of the inquiry report to the appellant whereof the action is proposed to be taken, but the competent authority deliberately avoided the said requirement and not provided the copy of the inquiry report to the appellant which is violation of the rules, thus the impugned order is ultra vires and liable to be struck down.

- e. That during inquiry no opportunity of cross-examination of the prosecution witnesses was afforded to the appellant and this fact was admitted by the respondents, in the impugned final order dated 06.04.2016. In this state of affairs the impugned

Final Order is arbitrary, illegal and against the recognized norms of justice.

- f. That it is very much ^{clear} from the impugned final order dated 06.04.2016 that the inquiry proceedings were not conducted in accordance with the rules as it is provided in the order:-

“During the inquiry proceedings, facts on the ground have not been properly valued, gravitated and only available record has been thrashed out and that too without reply of the appellant”.

- g. That the impugned final order dated 06.04.2016 is harsh and not proportionate to the guilt of the appellant as provided in the verdicts of Honourable Supreme Court of Pakistan, therefore, liable to be declared illegal and void.
- h. That in the impugned final order dated 06.04.2016 while imposing the major penalty of Reduction to Lower Stage in Time Scale for two Stages, the authority failed to specify the period for how long it will be effective, which is a violation of mandatory requirement of FR-29.
- i. That the appellant seeks permission of this Honourable Tribunal to raise more legal grounds at the time of arguments.

In view of the aforesaid facts and circumstances of the case it is humbly prayed that the impugned Final Order dated 06.04.2016 passed by respondent No.3 may graciously be set aside, being illegal and void, directing the respondents to restore the appellant to his original stage in time

scale with all back benefits. The respondents further be directed not to effect any recovery from the appellant and the intervening period from 16.02.2016 to 06.04.2016 may kindly be treated as Leave with Full Pay.

Any other relief though not specifically asked for to which the appellant is found entitled in the circumstances of the case may also be granted to the appellant.

شہزاد عرفان
Appellant

Through:

18 Jan

(Shahzada Irfan Zia)
Advocate High Court
13-C Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 0300-9345297

Dated: .04.2016

CERTIFICATE:

Certified that as per instructions of my clients, no such Service Appeal on behalf of the appellant has earlier been filed in this Honourable Service Tribunal on the subject matter.

Advocate 18 Jan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

C.M. No. _____ / of 2016
IN RE:
Service Appeal No. _____ / of 2016

Masood ur Rehman, Deputy Ranger ... Applicant

VERSUS

Province of Khyber Pakhtunkhwa through Secretary
Environment Department and others. ... Respondents

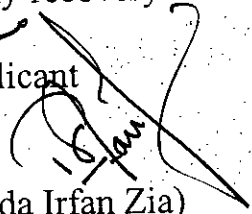
APPLICATION FOR INTERIM RELIEF.

Respectfully Sheweth:

1. That the instant appeal has been filed before this Honourable Service Tribunal to day in which no date of hearing has yet been fixed.
2. That the applicant has a good prima facie case and is sanguine about the success of his case.
3. That the balance of convenience is in favour of the applicant and in case the relief is not granted, he will suffer irreparable loss.
4. That the facts and grounds of the appeal may kindly be treated as integral part and parcel of this application.

It is, therefore, respectfully prayed that operation of the impugned final order dated 06.04.2016 may kindly be suspended till the final disposal of the appeal and the respondents be restrained from effecting any recovery from the appellant/applicant.

Through:

مسعود الرحمان
Applicant

(Shahzada Irfan Zia)
Advocate Peshawar.

Dated: .04.2016

(8)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. No. _____ / of 2016

IN RE:

Service Appeal No. _____ / of 2016

Masood ur Rehman, Deputy Ranger ... Applicant

VERSUS

Province of Khyber Pakhtunkhwa through Secretary
Environment Department and others. ... Respondents

AFFIDAVIT

I, Masood Ur Rehman, Deputy Ranger, Siran Forest Division
Mansehra, do hereby solemnly affirm and declare that the contents of this
Application are true and correct to the best of my knowledge and belief and
nothing has been concealed from this Honourable Court.

Masood ur Rehman
Deponent

IDENTIFIED BY:

(Shahzada Irfan Zia)
Advocate, Peshawar.

ATTESTED
AHSAN ALI SAEED
Advocate Public
High Court Peshawar.

19.4.2016

(Annex: A) (9)

Muhammad Siddique Divisional Forest Officer		Agror Tanawal Forest Division Oghi Phone # 0997-321244
No. 2207 /GE		Dated 10 /11/2015

Mr. Masood-Ur-Rehman Forester
The then Incharge Agror Forest Sub-Division
c/o DFO Siran Forest Division Mansehra

Subject: - SHOW CAUSE NOTICE

I, Muhammad Siddique Divisional Forest Officer Agror Tanawal Forest Division Oghi as competent authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you Masood-Ur-Rehman Forester the then incharge Agror Forest Sub-Division Oghi Show Cause Notice as follows:-

- (i). that consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide communication No. 4816/E dated 25-5-2015.
- (ii). on going through the findings of the Inquiry Committee, the material on record and other connected papers including your defence before the Inquiry Committee

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

- a). In-efficiency
- b). Mis-Conduct
- c). Corruption

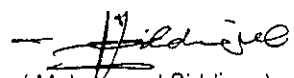
2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Major penalty under rule 4 of the said rules.

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

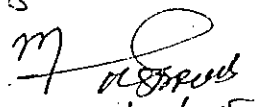
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5. The copy of findings of the inquiry committee is enclosed.

Encl: As above.


(Muhammad Siddique)
Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

Received vide no 2207/GE
dt. 10-11-2015



11/11/15

No. /GE,

Copy alongwith original copy of show cause notice addressed to Masood-Ur-Rehman Forester is forwarded to the Divisional Forest Officer Siran Forest Division Mansehra for information and necessary action. He is requested to handover the Show Cause notice to the accused Forester under proper receipt which may be sent to this office for further necessary action and record.

Encl: As above.

Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

attested


18

OFFICE ORDER NO. 217 DATED MANSERHA THE 16 03/2016 ISSUED BY MOHAMMAD SIDDIQUE DIVISIONAL FORESTER AGTOR TANAWAL FOREST DIVISION OGHI

READ WITH

- i. Conservator of Forests Upper Hazara Forest Circle Manserha office order No. 50 dated 17-12-2014
- ii. Inspection Report of Kala Pher RLC-4 received DFO Unhar Watershed Division Manserha letter No. 423UWS dated 02-1-2015
- iii. Charge sheet served upon accused official vide No. 3243-47XGE dated 02-3-2015
- iv. Statement of allegation bearing No. 3248-251GE dated 2-3-2015
- v. Personal hearing of the accused official 12-6-2015
- vi. Enquiry report submitted by Enquiry Committee vide his No. 1258FE dated 29-9-2015
- vii. DFO A.T. No. 1638GE dated 13-10-2015
- viii. Enquiry Committee letter No. 1796FE dated 30-10-2015
- ix. Show Cause Notice served upon the accused official bearing No. 2507XGE dated 10-11-2015
- x. Reply to the Show Cause Notice dated 08-2-2016
- xi. Personal hearing of the accused official dated 08-2-2016

BRIEF HISTORY OF THE CASE

On receipt of serious nature complaint regarding felling damage in Shariq Block, the Conservator of Forests vide office order No. 50 dated 17-12-2014 constituted a committee comprising of M/S Tahir Iqbal DFO Unhar Watershed Division, Muhammad Masood and Sher Bidadar Forester to check the Forests and submit the detail report. In compliance the committee checked the Forests in question and submitted detail damage list of 80 Kail trees = 11401-CII (2.V).

PROCEEDINGS:


To probe in to the allegation, the DFO Agtor Tanawal Forest Division served charge sheet No. 3243-47XGE dated 2-3-2015 & memo of allegation bearing No. 3248-251GE dated 2-3-2015 upon Masood-Ul-Rahman Forester Incharge Agtor Forest Sub-Division and appointed M/S Azhar Ali Khan DFO Circle (Chairman), Mark Sagar Ahmed Principal Khyber Pakhtunkhwa Forest School Thari (Member) as Enquiry Committee. The record reveals that the accused official failed to furnish reply to the charge sheet to the enquiry committee and after conducting enquiry with out reply to the charge sheet, submitted the enquiry report vide letter No. 1258FE dated 29-9-2015. Wherein charge of in-efficiency was proved against the accused official. The Enquiry Committee has not mentioned about clear cut recommendation in the enquiry report. Therefore Enquiry Report alongwith Enquiry list returned to the Chairman Enquiry Committee with the request to induce clear cut recommendation vide letter No. 1638GE dated 13-10-2015. In response the DFO Circle (Chairman Enquiry Committee) returned the case stating that Enquiry has been conducted in the light of instructions contained in Notification (No. 209.V (E&AD) Notification 2014 dated 28-3-2014 and requested for deciding the case accordingly. Therefore Show Cause Notice bearing No. 2507XGE dated 10-11-2015 was served upon the Forester the then Agtor Forest Sub-Division which was received by him on 10-11-2015, but in spite of issuance of reminders vide letter No. 2837XGE dated 18-12-2015 & No. 3238GE dated 11-1-2016 he had failed to do so and furnish reply during the course of personal hearing on 8-2-2016. Reply was critically examined and during cross examination the accused official could not prove himself innocent.

Manserha (OGHI)

M/S Tahir Iqbal

(Annex: A)

(9)

Muhammad Siddique Divisional Forest Officer		Agror Tanawal Forest Division Oghi Phone # 0997-321244
No. 2207 /GE		Dated 10 /11/2015

Mr. Masood-Ur-Rehman Forester
The then Incharge Agror Forest Sub-Division
c/o DFO Siran Forest Division Mansehra

Subject: - SHOW CAUSE NOTICE

I, Muhammad Siddique Divisional Forest Officer Agror Tanawal Forest Division Oghi as competent authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you Masood-Ur-Rehman Forester the then incharge Agror Forest Sub-Division Oghi Show Cause Notice as follows:-

- (i). that consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide communication No. 4816/E dated 25-5-2015.
- (ii). on going through the findings of the Inquiry Committee, the material on record and other connected papers including your defence before the Inquiry Committee

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

- a). In-efficiency
- b). Mis-Conduct
- c). Corruption

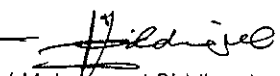
2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Major Penalty under rule 4 of the said rules.

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

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

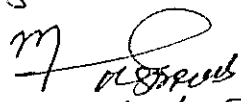
5. The copy of findings of the inquiry committee is enclosed.

Encl: As above.


(Muhammad Siddique)
Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

Remind Ltr No 2207/GE

dt. 10-11-2015



11/11/15

No. /GE,

Copy alongwith original copy of show cause notice addressed to Masood-Ur-Rehman Forester is forwarded to the Divisional Forest Officer Siran Forest Division Mansehra for information and necessary action. He is requested to handover the Show Cause notice to the accused Forester under proper receipt which may be sent to this office for further necessary action and record.

Encl: As above.

Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

attested


To,
The Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

Subject SHOW CAUSE NOTICE

Respected Sir,

My I like to draw your kind attention to your good office letter No. 2207/GE dated 10.11.2015 through which the undersigned has been conveyed that as a result of enquiry report with regard to illicit damage in Kala Pahar RF the competent authority has tentatively decided to impose Major Penalty on account of Inefficiency, Misconduct and Corruption.

In this connection it is stated that:

The undersigned was assigned the duty of SDFO Agror and according to the job description as envisaged in West Pakistan Forest Manual Volume-II, the Range Forest Ranger or SDFO has to perform his mandatory protective and supervisory role for keeping the performance of juniors/subordinates in right direction by taking timely corrective measures for protection of forests.

Consequent upon the allotment of massive developmental targets under "Billion Trees Tsunami Afforestation Project" particularly establishment of Broad leave and Tube Nurseries, the undersigned on particulars directives of his superiors remained eventful in tracing of suitable sites having required basic facilities for raising both kind of nurseries, its documentations like collection of revenue record, drafting and signing of agreements with the land owners and collection of required quantity with good quality seed of different species besides constitution of VDCs and signing of agreements after proper documentations with regard to areas closed as well as signing of agreements for raising of youth nurseries against hefty targets due to which he could not visited the subjected forest area rather relied on the dependence of incharge Forest Guard and Block Officer. It was the exclusive responsibility of incharge Forest Guard to frequently visit the entire forest area falls in the territorial jurisdiction of his Beat as well as of Block Officer who was responsible to conduct regular surprise visits and checking of all forests beats fallen under his administrative control. Regrettably, neither the incharge Forest Guard nor Block Officer has informed the undersigned about such distressing incidence even to seek help if the forest protection was out of their control.

attested.
18/11

(11)

The then DFO Agror Tanawal visited the subjected forest compartment on 26.11.2014 with accompany of undersigned as well as incharge protective staff but no such alarming situation was observed elsewhere.

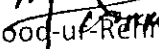
The compassion of Agror Forest Sub-Division has accordingly and rightly been highlighted enquiry report that mass scale forest damage is possible in short duration without notice of SDFO particularly when lower staff does not apprise SDFO. The instant sentence of the Enquiry Committee is sufficient and solid point for the defense for undersigned as SDFO Agror particularly in the prevailing circumvents when the undersigned was over occupied in other emergent nature as explained in para-2 above.

The prosecution during personal hearing did not allege the SDFO for involvement in forest damage or attempting to conceal the facts as contained in item-3 of findings of the Enquiry Report which also a solid fortification for the undersigned.

The Enquiry Committee in his report found the undersigned guilty of "Inefficiency" due to the reason he failed to develop his own information network for ensuring feedback about performance of staff and monitoring the status of forest conservancy. In this respect the factual position has been explain in para-2 above. But contrary to the recommendations of the Enquiry Committee, the undersigned has been found guilty of the charges of (a) Inefficiency, (b) Misconduct and (c) Corruption while the Enquiry Committee in item-4 of the report has specifically stated that the charges of Misconduct and Corruption could not be established. Hence the instant Show Cause notice is indistinct in the eye of law.

Keeping in view the foregoing facts, it is humbly prayed that the undersigned may be exonerated from the charges leveled against him in the show cause notice.

I may also kindly be heard in person.


(Masood-ul-Rehman)
Deputy Ranger
Siran Forest Division, Mansehra

attested.
-17

OFFICE ORDER NO. 217 DATED MANSERHA THE 16 /02/2016 ISSUED BY MOHAMMAD SIDDIQUE DIVISIONAL FOREST OFFICER AGROR TANAWAL FOREST DIVISION OGHJ.
READ WITH:

- i. Conservator of Forests Upper Hazara Forest Circle Mansehra office order No. 20 dated 17-12-2014
- ii. Inspection Report of Kala Phar RLC-4 received DFO Unhar Watershed Division Mansehra letter No. 453/UWS dated 02-1-2015.
- iii. Charge Sheet served upon accused official vide No. 3243-47/GE dated 02-3-2015
- iv. Statement of allegation bearing No. 3248-52/GE dated 2-3-2015
- v. Personal hearing of the accused official 12-6-2015.
- vi. Enquiry report submitted by Enquiry Committee vide his No. 1256/E dated 29-9-2015
- vii. DFO A.T No. 1638/GE dated 13-10-2015.
- viii. Enquiry Committee letter No. 1796/E dated 30-10-2015.
- ix. Show Cause Notice served upon the accused official bearing No. 2207/GE dated 10-11-2015
- x. Reply to the Show Cause Notice dated 08-2-2016
- xi. Personal hearing of the accused official dated 08-2-2016

BRIEF HISTORY OF THE CASE

On receipt of serious nature complaint regarding illicit damage in Shahtoot Beat of Dilbori Block., the Conservator of Forests vide office order No. 20 dated 17-12-2014 constituted a committee comprising of M/S Taimur Ilyas DFO Unhar Watershed Division, Muhammad Maqbool and Sher Bhadar Forester to check the Forests and submit the detail report. In compliance the committee checked the Forests in question and submitted detail damage list of 80 Kail trees = 11401:Cft (S.V).

PROCEEDINGS:

To probe in to the allegation, the DFO Agror Tanawai Forest Division served charge sheet No. 3243-47/GE dated 2-3-2015 & memo of allegation bearing No. 3248-52/GE dated 2-3-2015 upon Masood-Ur-Rehman Forester Incharge Agror Forest Sub-Division and appointed M/S Azhar Ali Khan DFO Galies (Chairman) Malik Sagheer Ahmed Principal Khyber Pakhtunkhwa Forest School Thai (Member) as Enquiry Committee.

The record reveals that the accused official failed to furnish reply to the charge sheet to the enquiry committee and after conducting enquiry with out reply to the charge sheet, submitted the enquiry report vide his letter No. 1256/E dated 29-9-2015. Wherein charge of In-efficiency was proved against the accused official. The Enquiry Committee has not mentioned about clear cut recommendation in the enquiry report, therefore Enquiry Report alongwith Enquiry file returned to the Chairman Enquiry Committee with the request to induce clear cut recommendation vide letter No. 1638/GE dated 13-10-2015. In response the DFO Galies (Chairman Enquiry Committee) returned the case stating that Enquiry has been conducted in the light of instructions contained in Notification No. SOR-V (E&AD)/Instruction/2014 dated 28-3-2014 and requested for deciding the case accordingly. Therefore Show Cause Notice bearing No. 2207/GE dated 10-11-2015 was served upon the Forester the then Agror Forest Sub-Division which was received by him on 10-11-2015, but in spite of issuance of reminders vide letter No. 2837/GE dated 18-12-2015 & No. 3236/GE dated 11-1-2016 he had failed to do so and furnish reply during the course of personal hearing on 8-2-2016. Reply was critically examined and during cross examination the accused official could not prove himself innocent.

Dr. Syam

Attended
18/1

To

The Conservator of Forests
Upper Hazara Circle Mansehra

Subject APPEAL AGAINST DFO AGROR TANAWAL FOREST DIVISION
OFFICE ORDER NO 217 DATED 16.2.2016

With due respect it stated that the DFO Agror Tanawal Forest Division vide office order No. 217 dated 16.2.2016 by imposing major penalty has ordered for compulsory retirement from service of appellatant. The major penalty so imposed is against the facts on record, ground realities as well as natural justice on following grounds amongst others:

1. That the undersigned remained incharge of Agror Forest Sub-Division during the period from 6.4.2014 to 14.12.2014;
2. That during the instant period, the appellatant performed his duty more dedicatedly with full devotion according to job description and has taken proper remedial punitive action against the forest offenders. Accordingly has realized an amount of Rs. 1751470/- as compensation and value of forest produce with support of paraprofessional staff of the Sub-Division;
3. That no such alarming situation elsewhere in the Sub-Division was observed. All the protective staff discharges their duties satisfactorily. During the month of December 2014, hefty target of developmental activities under "Billion Trees Tsunami Afforestation Project" particularly selection of closure areas, establishment of Central Model Nurseries as well as raising of youth nurseries was allotted to SDFO Agror due to which and keeping in view the directives of high up the undersigned fully concentrated towards the special assigned task and could not conduct regular and frequent visits to each and every forest area. However, in the meanwhile on receipt of a complaint the Conservator of Forests, Upper Hazara Circle constituted a inquiry committee comprised of M/S Taimur Ilyas DFO Unhar Watershed Division, Muhammad Maqbool & Sher Bahadar Foresters vide office order No. 20 dated 17.12.2014;
4. That the Inquiry Committee carried out checking of Kala Pahar compartment No. 4 on 25th and 26th of December 2014 and enlisted 80 Kail stumps= 11401-cft standing volume. On spot the undersigned diverted the concentration of incharge checking committee that maximum illicit cut stump is old and prior to his taking over the charge of Sub-Division. Most of the illicit damage has taken place in malkiati area/Guzara forests due to ownership dispute of M/S Jehanzeb Khan and Alamgir Khan of Shahtoot but the request was not acceded to;
5. That on 14.12.2014 on receipt of a complaint regarding illicit cutting of 4 trees from Kala Pahar compartment No. 4, the undersigned with the support of incharge staff apprehended concerned forest offenders and realized compensation and value of forest produce worth Rs. 80000/-. These efforts of undersigned have not been given any weight which indicates that the checking committee was premeditated;

attached
IP

6. That the then DFO Agror Tanawal Forest Division conducted checking of Kala Pahar C-4 and observed no such alarming situation which also indicates that enlisted illicit damage was taken place much earlier for which the incharge staff had taken proper and legal action against the forest offenders. Contrary to that the checking party recorded the age of illicit cut stumps in harsh just blemish the undersigned and the then DFO Agror Tanawal;

7. Sir, it is astonishing to state that the Enquiry Committee in the findings of his enquiry report has categorically mentioned that "Prosecution during personal hearing did not allege the Sub-Divisional Forest Officer for involvement in forest damage or attempting to conceal the fact" hence the charges of Misconduct & Corruption could not be established. However, the accused failed to develop his own information network for ensuring feedback about performance of staff and monitoring the status of forests conservancy, therefore he is found guilty of "Inefficiency" which could not be tantamount to major penalty i.e Removal/Compulsorily retirement from service rather said act on the part of authority comes under the parameters of mis-use of powers and status. The undersigned performed my duties as SDFO Agror according to job descriptions contained in West Pakistan Forest Manual Volume-II and there is no such provision. However, as mentioned above the undersigned remained over occupied in connection with the hefty targets allotted under Billion Trees Tsunami Afforestation Project due to which remained unable to visit the forest in question besides on enquiry from the incharge staff fed back the OK reports;

8. That according to the rules, the Enquiry Officer was required to recommend specific penalty duly covering the guilt clause of inefficiency to be imposed upon the undersigned, but in the instant case no penalty has been proposed. The imposition of major penalty to the appellant i.e compulsory retirement from service irrespective of the facts that the competent authority has asked the Enquiry Committee vide letter No. 1638/GE dated 13.10.2015 in this regard, is therefore illegal, unlawful and against the spirit of natural justice;

It is therefore requested to kindly accept the appeal of undersigned, set-a-side the order of competent authority with retrospective effect. The undersigned may also be allowed to be heard in person.

Yours obediently,

M. Rehman
 (Masoor-ur-Rehman) 6/3/2016
 Ex-Deputy Ranger
 Ph: No. 0344-9539361

attested
(Signature)

OFFICE ORDER NO. 23 DATED MANSEHRA THE 06 /04/2016 ISSUED BY
MIR WALI KHAN CONSERVATOR OF FORESTS UPPER HAZARA FOREST CIRCLE
MANSEHRA.

READ WITH:

- i. Conservator of Forests Upper Hazara Forest Circle Mansehra office order No. 20 dated 17-12-2014
- ii. Inspection Report of Kala Phar RLC-4 received DFO Unhar Watershed Division Mansehra letter No. 453/UWS dated 02-1-2015.
- iii. Charge Sheet served upon accused official vide No. 3243-47/GE dated 02-3-2015
- iv. Statement of allegation bearing No. 3248-52/GE dated 2-3-2015
- v. Personal hearing of the accused official 12-6-2015.
- vi. Enquiry report submitted by Enquiry Committee vide his No. 1256/E dated 29-9-2015
- vii. DFO A.T No. 1638/GE dated 13-10-2015.
- viii. Enquiry Committee letter No. 1796/E dated 30-10-2015.
- ix. Show Cause Notice served upon the accused official bearing No. 2207/GE dated 10-11-2015
- x. Reply to the Show Cause Notice dated 08-2-2016
- xi. Personal hearing of the accused official dated 08-2-2016
- xii. DFO A.T office order No. 218 dated 16-2-2016.
- xiii. Appeal of the accused official.
- xiv. Commends submitted vide DFO A.T letter No. 4410/GE dated 22-3-2016.

BRIEF HISTORY OF THE CASE

On receipt of serious nature complaint regarding illicit damage in Shahtoot Beat of Dilbori Block., the Conservator of Forests vide office order No. 20 dated 17-12-2014 constituted a committee comprising of M/S Taimur Ilyas DFO Unhar Watershed Division, Muhammad Maqbool and Sher Bhadar Forester to check the Forests and submit the detail report. In compliance the committee checked the Forests in question and submitted detail damage list of 80 Kail trees = 11401-Cft (S.V).

PROCEEDINGS:

To probe in to the allegation , the DFO Agror Tanawal Forest Division served charge sheet No. 3243-47/GE dated 2-3-2015 & memo of allegation bearing No. 3248-52/GE dated 2-3-2015 upon Masood-Ur-Rehman Forester Incharge Agror Forest Sub-Division and appointed M/S Azhar Ali Khan DFO Galies (Chairman) Malik Sagheer Ahmed Principal Khyber Pakhtunkhwa Forest School Thai (Member) as Enquiry Committee.

DISCUSSION

The record reveals that the accused official failed to furnish reply to the charge sheet to the enquiry committee and the enquiry committee conducted enquiry with out reply to the charge sheet. The Enquiry Committee submitted the enquiry report vide his letter No. 1256/E dated 29-9-2015, wherein charge of In-efficiency was proved against the accused official. The DFO Agror Tanawal Forest Division returned the Enquiry Report alongwith Enquiry file to the Chairman Enquiry Committee with the request to induce clear cut recommendation vide his letter No. 1638/GE dated 13-10-2015. In response the

Masood-Ur-Rehman
D/R.

attested
IR

DFO Galies (Chairman Enquiry Committee) returned the case stating that Enquiry has been conducted in the light of instructions contained in Notification No. SOR-V (E&AD) /Instruction/2014 dated 28-3-2014 and requested for deciding the case accordingly. Therefore the Divisional Forest Officer Agror Tanawal Forest Division served a Show Cause Notice to the accused official vide No. 2207/GE dated 10-11-2015 and the accused furnished reply to the Show Cause Notice on 8-2-2016. After receipt of the reply of the accused official, the DFO Agror Tanawal Forest Division conducted personal hearing of the accused on 8-2-2016 and the Divisional Forest Officer Agror Tanawal Forest Division Oghi awarded Major penalty of Compulsorily retirement from service of Masood-Ur-Rehman Deputy Ranger vide his office order No. 217 dated 16-2-2016.

Against the said order the accused preferred an appeal before the Conservator of Forests Upper Hazara Forest Circle Mansehra, which was sent to Divisional Forest Officer Agror Tanawal Forest Division Oghi for comments vide Conservator of Forests Upper Hazara Forest Circle Mansehra letter No. 5822/GE dated 10-3-2016 . The DFO A.T vide letter No. No. 4410/GE dated 22-3-2016 has submitted his comments with relevant file which was perused and observed as under.

- 1. The accused has not replied the charge sheet, but in spite of that the Enquiry Committee has conducted the enquiry and recommended the charge of In-efficiency only.
- ✓ 2. The record regarding cross examination of the prosecution by the accused is not available on the record.
- ✓ 3. The committee has fixed the charges of In-efficiency. But the competent authority has included the charges of Mis-conduct and Corruption also. Which seems to be the violation of section 14 (4) read with section 5 (b) of E&D Rules 2011.
- 4. The appeal of the accused was sent to Divisional Forest Officer Agror Tanawal Forest Division Oghi for his comments, who offered his comments and submitted the following analysis/concluding remarks which is re-produce as under:-
 - i) The appellant had not even submitted his defence reply which makes the whole proceedings doubtful and utterly infringes the provisions of E&D Rules, 2011.
 - ii) The enquiry committee is in the best position to induce recommendation absolutely at par with the gravity of charge(s). In the instant case, the enquiry committee has not induced recommendation despite the fact that the case had been referred back to it which is contrary to the universal practice being in vogue in the department since ages.
 - ✓ iii) During the enquiry proceedings, facts on the ground have not been properly valued, gravitated and only available record has been thrashed out and that too without reply of the appellant.

attested
(Signature)

iv) The body language of the appellant also suggests him to be innocent and reveals that checking committee (especially Mr. Muhammad Maqbool Foreste had dug a pit for him and thus has done injustice to him.

By virtue of the above the appellant being in the climax stage of his career, judiciously deserves a chance.

ORDER

Keeping in view the finding of the enquiry committee, the appeal of the accused, the Show Cause Notice issued to the accused, the personal hearing of the accused and the office order No. 217 dated 16-2-2016, issued by the competent authority, the undersigned in the capacity of appellate authority in the case, under the powers confirmed on him vide E&D Rules 2011 section- 17 (1), (2) (c) hereby modified the office order No. 217 dated 16-2-2016, issued by the competent authority as under:-

- (a) The words, " Compulsorily retired from Service" are over ruled.
 - (b) Imposed the following penalties upon the accused official i.e Masood-ur-Rehman Deputy Ranger as provided under E&D Rules 2011 vide section 4 sub section a (iii), b (i), a (i) respectively.
 - (1). Imposed recovery of 10% of the total loss of Rs. 1140100/- sustained to the Government = Rs. 114010/- .
 - (2) Reduced to lower stage in time scale for Two (2) stages.
 - (3) Censure .
 - (4) The intervening period from 16-2-2016 to 06-4-2016 is treated as leave without pay.
- As such the case is disposed off.

Sd/-
(Mir Wali Khan)
Conservator of Forests
Upper Hazara Forest Circle
Mansehra

Copy forwarded to:-

- 1. The Divisional Forest Officer Agror Tanawal Forest Division Oghi for information and necessary action. The enquiry file of Mr. Masood-Ur-Rehman Deputy Ranger received vide your above cited letter is returned herewith.
- 2. *The Divisional Forest Officer Mansehra for information and necessary action.*
- 3. Mr. Masood-Ur-Rehman Deputy Ranger for information and necessary action.
- 4. Circle Accountant for information.

attested
18/7

Wali Khan
Conservator of Forests
Upper Hazara Forest Circle
Mansehra

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. 423/2016

Mr. Masood-ur-Rehman Deputy Ranger

Agror Tanawal Forest Division Oghi..... **APPELLANT**

VERSUS

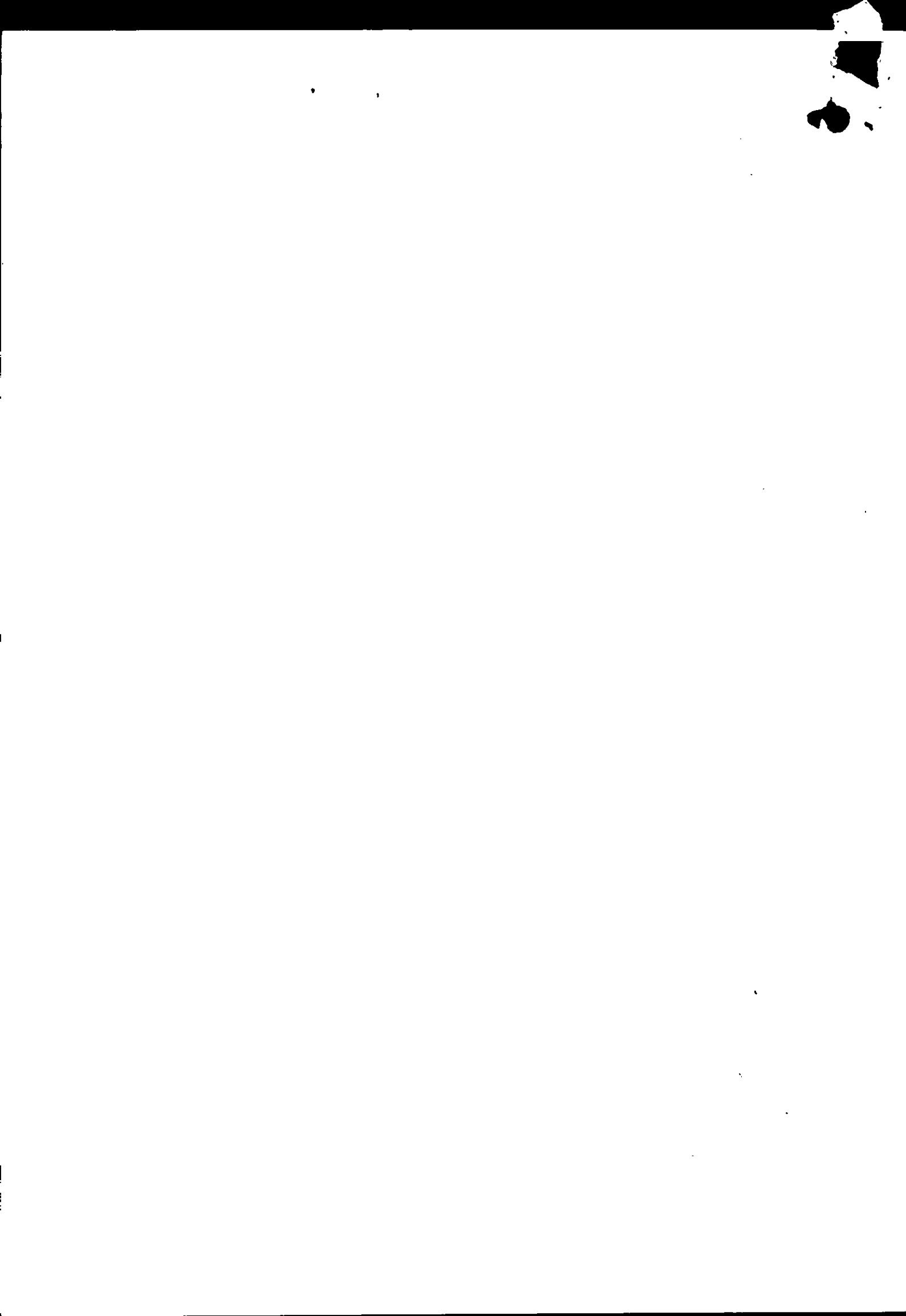
1. Province of Khyber Pakhtunkhwa through
Secretary Forestry, Environment & Wildlife Department Peshawar
2. Chief Conservator of Forests-I Khyber Pakhtunkhwa, Peshawar
3. Conservator of Forests Upper Hazara Circle Mansehra
4. Divisional Forest Officer Agror Tanawal Forest Division Oghi

..... **RESPONDENTS**

REPLY / PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO 1 TO 4

Respectfully Sheweth:

- 1- That the appellant has no cause of action.
- 2- That the appeal is not in accordance with Law & Rules
- 3- That the appellant has got no locus standi.
- 4- That the appeal is bad for mis-joinder of un-necessary parties and non-joinder of necessary party.
- 5- That the appellant has not come to this Tribunal with clean hands.



PARA-WISE COMMENTS ON THE FACTS OF THE CASE

- 1- Correct to the extent that all legal formalities of E & D Rules, 2011 were fulfilled and submission of the appellant went unheeded purely on the basis of merit (Checking/fact finding report, Charge sheet & Show cause notice, Inquiry report are **(Annexed as-A , B , C & D)**)

1. Correct to the extent that respondent No.4 issued order on 16.4.2016 and appellant filed appeal before respondent No.3

2. The detail envisaged in this Para is correct. Respondent No.3 imposed penalties within the ambit of his jurisdiction after fulfilling all the codal formalities.

GROUND


- A- Correct to the extent that appellant was found guilty of "In-efficiency" but the competent authority passed the order of compulsory retirement on the charges of Mis-Conduct, In-efficiency and Corruption after conducting proper personal hearing/cross examination of the appellant and the competent authority (Respondent No.4) was fully satisfied for doing so, hence action of Respondent No.4 is totally legal, warranted by law and based on justice.

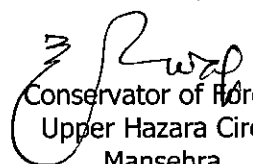
- B- In-correct. As explained in "a".

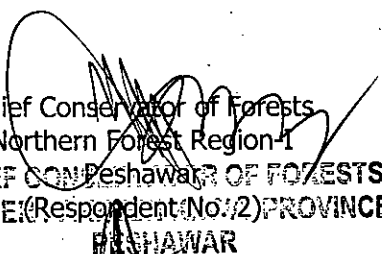
- C- The appellant was treated as per law and all kind of opportunities were extended to him but he failed to prove him-self innocent.

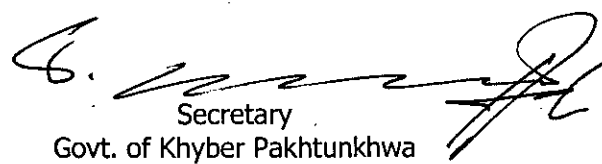
- D- In-correct. The copy of inquiry report is provided to appellant as evident from show-cause notice.
- E- In-correct. Full-fledged inquiry was conducted and all kinds of opportunities were extended to him to prove himself innocent but failed.
- F- It reflects the in-efficiency of the appellant who has not participated himself fully in the process of enquiry. The enquiry committee had been left with the single option of available record.
- G- In-correct. The impugned final order dated 06.04.2016, is proportionate to the guilt.
- H- In-correct. Reduction to lower stage for two stages does not require period. It is under-stood that appellant will go two years back.
- I- The respondents also seek permission to raise additional ground at the time of arguments.

In view of the above submission, the appeal is not competent, also based on flimsy grounds/whims & conjectures/surmises and without legal footing may kindly be dismissed with cost, please.


 Divisional Forest Officer
 Agror Tanawal Forest Division
 Oghi
 (Respondent No. 4)


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


 Chief Conservator of Forests
 Northern Forest Region-1
CHIEF CONSERVATOR OF FORESTS
KHYBER PAKHTUNKHWA PROVINCE,
 PESHAWAR


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

BEFORE THE KYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Appeal No.423/2016

Mr. Masood-ur-Rehman, Deputy Ranger,
Agror Tanawal Forest Division
Oghi.....

Appellant

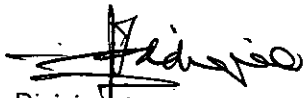
Versus

- 1- Province of Khyber Pakhtunkhwa through
Secretary, Environment Department Peshawar
- 2- Chief Conservator of Forests, Northern Forest Region-II Khyber
Pakhtunkhwa, Abbottabad
- 3- Conservator of Forests, Upper Hazara Circle, Mansehra
- 4- Divisional Forest Officer, Agror Tanawal Forest Division
Oghi.....

Respondents

COUNTER AFFIDAVIT

I the undersigned hereby solemnly affirm that the contents of para-wise comments are correct to the best of my knowledge and nothing has been concealed from the Honorable Tribunal/Court.



Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

STATEMENT SHOWING THE DETAIL OF ILLICIT DAMAGE DETECTED IN
KALA PAHAR FOREST COMPARTMENT NO. 4 DURING CHECKING ON 25 &
26.12.2014

S. #	Species	Dia	Volume	Stump height	Duration	DR #	Remarks
1	Kail	21	89	2.5'	10/15 days	Nil	Sawn. Nothing on spot
2	"	20	79	2'		Nil	Sawn. Nothing on spot
3	"	29	188	2'		Nil	Sawn. Nothing on spot
4	"	26	147	3'		Nil	Sawn. Branches & chips lying on spot.
5	"	26	147	2.5'	20 days	Nil	
6	"	29	188	2.5'		Nil	Sawn. Nothing on spot
7	"	24	122	2.5'		Nil	Sawn. Nothing on spot
8	"	24	122	3'		Nil	Sawn. Nothing on spot
9	"	24	122	3'	15 days	Nil	Sawn. Nothing on spot
10	"	25	134	2.5'	One month	Nil	Sawn. Nothing on spot
11	"	23	110	2.5'	25 days	Nil	Sawn. Nothing on spot
12	"	30	205	2.5'		Nil	Sawn. Nothing on spot
13	"	24	122	2.5'		Nil	Sawn. Nothing on spot
14	"	21	89	2'		Nil	Sawn. Nothing on spot
15	"	27	160	2'		Nil	Sawn. Ships lying on spot
16	"	17	53	2'		Nil	
17	"	24	122	2.5'	20 days	Nil	Sawn. Branches and ships lying on spot.
18	"	24	122	2'		Nil	
19	"	26	147	2'		Nil	
20	"	24	122	2'	25 days	Nil	
21	"	26	147	2'	15-days	Nil	
22	"	25	134	2'		Nil	
23	"	25	134	1'		Nil	Sawn. Nothing on spot
24	"	26	147	2'	10-days	Nil	Sawn. Nothing on spot
25	"	25	134	2.5'		Nil	Sawn. Nothing on spot
26	"	24	122	2.5'	25 days	Nil	Sawn. Nothing on spot
27	"	31	226	4'	20 days	60/1	Sawn. Nothing on spot
28	"	28	174	3.5'		34/50 & 60/1	Sawn. Branches and chips lying on spot.
29	"	27	160	3.5'	15-days		
30	"	32	237	3'	10-days	34/50	
31	"	29	188	3.5'		34/50	
32	"	34	273	4'	25-days	61/1	
33	"	24	122	3.5'		61/1	
34	"	31	226	4'		61/1	
35	"	34	273	2.5'	20-days	Nil	Sawn. Nothing on spot
36	"	27	160	3'		61/1	Sawn. Nothing on spot
37	"	27	160	3.5'	17-days	61/1	Sawn. Nothing on spot
38	"	28	174	3'	15-days	61/1	Sawn. Chips and branches lying on spot.
39	"	25	134	2.5'	18-days	Nil	Sawn. Nothing on spot
40	"	27	160	1.5'		Nil	Sawn. Nothing on spot
41	"	24	122	4'	20-days	Nil	Sawn. Nothing on spot
42	"	24	122	2'	19-days	Nil	Sawn. Nothing on spot
43	"	24	122	2.5'	16-days	Nil	Sawn. Nothing on spot
44	"	25	134	3'	26-days	Nil	Sawn. Nothing on spot
45	"	34	273	2.5'	20-days	Nil	Sawn. Nothing on spot
46	"	30	205	2.5'	10/20 days	Nil	Stump burnt, nothing on spot
47	"	24	122	2'		Nil	
48	"	28	174	2'	10/20 days	Nil	Sawn. Nothing on spot
49	"	21	89	2.5'		Nil	Sawn. Nothing on spot
50	"	24	122	2'	25-days	Nil	Sawn. Nothing on spot
51	"	20	79	2.5'	15 days	Nil	Sawn. Nothing on spot
52	"	24	122	2'	20 days	Nil	Sawn. Chips lying on spot
53	"	20	79	3'	25 days	Nil	
54	"	23	110	2.5'	20 days	Nil	
55	"	25	134	2'	10 days	Nil	Sawn. Chips & branches lying in adjacent nullah
56	"	24	122	2.5'	15 days	Nil	
57	"	27	160	2'	12 days	Nil	Sawn. Chips lying on spot
58	"	20	79	2'	10 days	Nil	
59	"	24	122	3'	10 months	Nil	Sawn. Nothing on spot
60	"	23	110	2.5'	8 months	Nil	Sawn. Nothing on spot
61	"	22	99	2.5'	6 months	Nil	Sawn. Nothing on spot
62	"	28	174	3'	7 months	Nil	Sawn. Nothing on spot

ATTESTED


Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

63	Kail	22	99	2'	8 months	Nil	Sawn. Nothing on spot
64	"	23	110	2.5'	9 months	Nil	Sawn. Nothing on spot
65	"	20	79	2'	11 months	Nil	Sawn. Nothing on spot
66	"	20	79	1'		Nil	Sawn. Nothing on spot
67	"	23	110	1'		Nil	Sawn. Nothing on spot
68	"	23	110	1.5'	10 months	Nil	Sawn. Nothing on spot
69	"	25	134	2'		Nil	Sawn. Nothing on spot
70	"	22	99	1.5'	9 months	Nil	Sawn. Nothing on spot
71	"	27	160	6"	2 months	Nil	Sawn. Nothing on spot
72	"	30	205	2'	20/25 days	60/1	Sawn. Chips were hidden under soil
73	"	26	147	2'		60/1	
74	"	24	122	2.5'	20 days	60/1	Sawn. Nothing on spot
75	"	28	174	2.5'		60/1	Sawn. Nothing on spot
76	"	25	134	2'	25 days	60/1	Sawn. Nothing on spot
77	"	26	147	2.5'	22 days	60/1	Sawn. Nothing on spot
78	"	34	273	2.5'	15 days	60/1	Sawn. Nothing on spot
79	"	26	147	2.5'	3 months	Nil	Sawn. Nothing on spot
80	"	24	122	2.5'		Nil	Sawn. Nothing on spot
Total			11401				

ABSTRACT

Dia	No. Trees	Volume	Total
17	1	53	53
20	6	79	474
21	3	89	267
22	3	99	297
23	6	110	660
24	19	122	2318
25	9	134	1206
26	8	147	1176
27	7	160	1120
28	5	174	870
29	3	188	564
30	3	205	615
31	2	226	452
32	1	237	237
34	4	273	1092
Total	80		11401

Muhammad
(Muhammad Maqbool)
Forester

Taimur Ilyas
(Taimur Ilyas)
Divisional Forest Officer
Unhar Watershed Division
Mansehra

Sher Bahadar
(Sher Bahadar)
Forester

ATTESTED
[Signature]
Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

I, Qazi Shabir Ahmad Divisional Forest Officer, Agror Tanawal Forest Division Oghi, as competent authority, am of the opinion that Mr. Masood-ur-Rehman Forester while holding the charge of Agror Forest Sub-Division has rendered himself liable to be proceeded against as he committed the following acts/omissions, with in the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

STATEMENT OF ALLEGATIONS

- i. That on receipt of serious nature complaints regarding illicit cutting of trees from Shahtoot Beat of Dilbori Block Agror Forest Sub-Division, Mr. Nasim Hijazi Conservator of Forests, Upper Hazara Circle vide office order No. 20 dated 17.12.2014 has constituted a committee comprising of M/S Taimur Ilyas DFO Unhar Watershed Division Mansehra, Muhammad Maqbool and Sher Bahadar Forester with the directives to inspect Shahtoot beat and expedite report.
- ii. That on 25 & 26.12.2014 the committee checked Kala Pahar Resume Land Forests Compartment No. 4 alongwith concerned officials and ruthless indiscriminate ^{Un-}reported/reported illicit damage to the tune of 80 Kail trees= 11401-Cft standing volume was detected and was accordingly recorded. The illicitly cut stumps were accordingly numbered, engraved and filled with red paint to avoid future complexity. The detail list is enclosed while extract is as under:

Species	Reported damage		Un-reported damage		Total	
	Nos. of trees	Volume (Cft)	Nos. of trees	Volume (Cft)	Nos. of trees	Volume (Cft)
Kail	18	3302	62	8099	80	11401

- iii. That the above illicit damage has taken place very peacefully with your active connivance within a short span/period for ulterior motives rather poor control over the subordinate staff as well as non conducting regular tour to the forests areas.
- iv. That neither alarming situation was reported by you to high-ups nor have you taken sufficient actions regarding protection of forests wealth and thus heavy loss sustained to Government exchequer.
- v. That you have failed to apprehend the forest offenders, seize the timber obtained from the above illicitly cut trees or even realize compensation which proves your involvement with the forest offenders.
- vi. That the position of illicit damage speaks that free hand was given to the forest offenders for illicit cutting of precious species Kail trees and taking away the case property with your active connivance as you deliberately failed to pay any legal action within time to save the Government wealth.

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Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

- vii. That mere issuance of damage reports against few trees illicitly cut by the forest offenders do not serve any purpose as neither case property has been seized nor value of forest produce has been realized even the alarming situation has not been brought in to the notice of your superiors for seeking help.
- viii. That you have not approached the local Police for registering FIRs against the notorious forest offenders.

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

1. Mr. Azhar Ali Khan, DFO Galis Abbottabad (Chairman)
2. Mr. Sagheer Ahmad Malik, Principal KPK Forest School Abbottabad (Member)

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

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

Sd/- (Qazi Shabir Ahmad)
Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

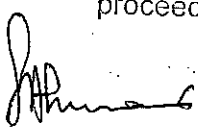
No. 3248-52 /GE dated Oghi the 02 /03/2015

Copy forwarded to:

1. The Chief Conservator of Forests, Northern Forest Region-II Abbottabad for favor of information. This is with reference to his office letter No. 5796/E dated 19.2.2015 addressed to the Conservator of Forests, Upper Hazara Circle Mansehra please.
2. The Conservator of Forests, Upper Hazara Circle Mansehra for favor of information. This is with reference to his office letter No. 5632/GL dated 24.02.2015 please.
3. M/S Azhar Ali Khan DFO Galis Abbottabad and Sagheer Ahmad Malik, Principal KPK Forest School Thai Abbottabad (Inquiry Committee) for initiating disciplinary proceedings against the accused under the provisions of Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 and to finalize the case within prescribed period. Enquiry file from page-1 to 10 is enclosed.
4. Mr. Masood-ur-Rehman Forester C/o DFO Siran Mansehra for information. He is directed to appear before the Inquiry Officer/Committee on the date, time and place fixed by the Inquiry Officer/Committee for purpose of inquiry proceedings.
5. Mr. Muhammad Maqbool Forester incharge Agror Forest Sub-Division for information and necessary action. He is directed to appear before the Inquiry Officer/Committee as Prosecutor during the course of inquiry proceedings as and when called for by the Inquiry Officer/Committee.

ATTESTED

Divisional Forest Officer
Agror Tanawal Forest Division
Oghi


Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

Annex

27

Muhammad Siddique Divisional Forest Officer		Agror Tanawal Forest Division Oghi Phone # 0997-321244
No. 2207 /GE		Dated 10 /11/2015

Mr. Masood-Ur-Rehman Forester
The then Incharge Agror Forest Sub-Division
c/o DFO Siran Forest Division Mansehra

Subject: - **SHOW CAUSE NOTICE**

I, Muhammad Siddique Divisional Forest Officer Agror Tanawal Forest Division Oghi as competent authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you Masood-Ur-Rehman Forester the then Incharge Agror Forest Sub-Division Oghi Show Cause Notice as follows:-

- (i). that consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide communication No. 4816/E dated 25-5-2015.
- (ii). on going through the findings of the Inquiry Committee, the material on record and other connected papers including your defence before the Inquiry Committee

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

- a). In-efficiency
- b). Mis-Conduct
- c). Corruption


2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major penalty under rule 4 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 also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5. The copy of findings of the inquiry committee is enclosed.

Encl: As above.


(Muhammad Siddique)
Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

Received
M. Masood-Ur-Rehman
10/11/2015

No. 2208 /GE,

Copy alongwith original copy of show cause notice addressed to Masood-Ur-Rehman Forester is forwarded to the Divisional Forest Officer Siran Forest Division Mansehra for information and necessary action. He is requested to handover the Show Cause notice to the accused Forester under proper receipt which may be sent to this office for further necessary action and record.

Encl: As above.


Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

ATTESTED

Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

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23

ENQUIRY REPORT IN DISCIPLINARY CASE OF MR. MASOOD-UR-REHMAN (FORESTER) THE THEN INCHARGE AGROR FOREST SUB DIVISION OF AGROR TANAWAL FOREST DIVISION Oghi.

Read with:

1. List of illicit damage detected in Kala Pahar Forest C-4.
2. Charge sheet along with statement allegations, bearing No.3243-47 /GE, dated 2.3.2015
3. DFO Agror Tanawal Forest Division Oghi letter No.3248-52 /GE, dated 2.3.2015 wherein the enquiry committee to probe into the facts is constituted.
4. Acknowledgement receipt of charge sheet by the accused (Forester) the then incharge SDFO dated 9.3.2015.
5. DFO Galis letter No. 4489/E, dated 29.4.2015 and No. 4816/E, dated 25.5.2015.
6. DFO Siran letter No. 12442/GE, dated 8.6.2015 along with receipt of acknowledgement of accused (Forester)

Brief History of case.

On receipt of serious nature of complaints regarding illicit damage in Shahtoot Beat of Dilbori Block of Agror Forest Sub Division the Conservator of Forests Upper Hazara Forest Circle Mansehra vide his office order No. 20 dated 17.12.2014 constituted a committee comprising of M/S Taimur Ilyas Divisional Forest Officer Unhar Watershed Division Mansehra. Mr. Muhammad Maqbool and Sher Bahadar Forester to check the Forest and submit the detail report. In response the committee checked the forest in question and submitted detail damage list of 80 Kail trees with commutative measuring 11401-Cft standing volume.

Cut of such huge forest damage, only damage pertaining to 18 trees measuring 3302Cft was covered with different damage reports, though veracity thereof was not ascertained. The remaining Forest damage of 62 trees commutative measuring 8099Cft was detected as unreported at the time of checking.

To evaluate the conduct of the Mr. Masood-ur-Rehman (Forester) the then incharge of Agror Forest Sub Division (accused) an enquiry committee comprising following Forest officer was constituted by Divisional Forest Officer Agror Tanawal Forest Division vide letter No. 3258-62/GE, dated 2:3.2015.

ATTESTED

- 1-Mr. Azhar Ali Khan DFO Galis Abbottabad (Chairman).
- 2-Malik Sagheer Ahmed Principal Khyber Pakhtunkhwa Forest School Thai, Abbottabad (Member).

The accused was accordingly charge sheeted as per statement of allegations

Proceeding and discussion:

The accused did not furnish reply to charge sheet however appeared for personal hearing on 12.6.2015.

Ignoring the repetitions of statement of allegations, the contentions of accused vis-à-vis allegations is summarized as under:

1. The accused did not deny physical checking of the forest in question wherein following forest damage noticed:

Species	Reported damage		Un-reported damage		Total	
	Nos. of trees	Volume (Cft)	Nos. of trees	Volume (Cft)	Nos. of trees	Volume (Cft)
Kail	18	3302	62	8099	80	11401

2. During personal hearing the accused rebutted the allegations on following grounds;
 1. That almost all the noticed unreported Forest damage occurred in a very short duration as mentioned in original report of the forest checking committee. During the period the accused was busy in other official matters including compilation of accounts, court attendance attending meetings with District Administration and Divisional Forest Officer

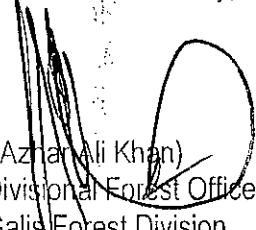
Agror Tanawal Forest Division and supervising other developmental activities. None amongst the protective staff informed him about severity of situation.

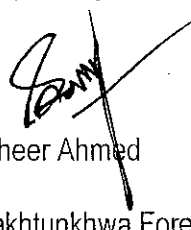
2. The accused further contended that he received information of forest damage in question, when the forest checking committee checked the forest and through Damage Reports No. 61/1 to 63/1 which were submitted in bulk. The accused further explained that he did not entertain the damage reports and called explanation of concerned staff which is also mentioned in charge sheet of Forest Guard.
3. During discussion the prosecution did not raise any objection one above mentioned contentions of accused.

Findings.

From the analyses of the explanation made by the accused during personal hearing, the following inferences are drawn:

1. Report of forest checking committee and chalking of damage reports against damage of 64 trees dated 16.12.2014 to 24.12.2014, loudly speak that though chalking of damage reports was an afterthought, but duration of damage was very short.
2. Since Agror Forest Sub Division is a problematic place of duty, therefore every likelihood of mass scale forest damage is possible in short duration without notice of Sub Divisional Forest Officer particularly when lower staff does not apprise SDFO.
3. The Prosecution during personal hearing did not allege the Sub Divisional Forest Officer for involvement in forest damage or attempting to conceal the facts.
4. Hence, the charges of Mis-conduct and corruption could not be established.
5. However, since the accused failed to develop his own information network for ensuring feedback about performance of staff and monitoring the status of forest conservancy, therefore he is found guilty of "In-efficiency".


 (Azhar Ali Khan)
 Divisional Forest Officer
 Galis Forest Division
 Abbottabad (chairman)


 Malik Sagheer Ahmed
 Principal
 Khyber Pakhtunkhwa Forest School
 Thai (Member)

ATTESTED


 Divisional Forest Officer
 Agror Tanawal Forest Division
 Oghi

Muhammad Siddique Divisional Forest Officer		Agror Tanawal Forest Division Oghi Phone # 0997-321244
No. 2207 /GE		Dated 10 /11/2015

Mr. Masood-Ur-Rehman Forester
The then Incharge Agror Forest Sub-Division
c/o DFO Siran Forest Division Mansehra

Subject: - **SHOW CAUSE NOTICE**

I, Muhammad Siddique Divisional Forest Officer Agror Tanawal Forest Division Oghi as competent authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you Masood-Ur-Rehman Forester the then Incharge Agror Forest Sub-Division Oghi Show Cause Notice as follows:-

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5. The copy of findings of the inquiry committee is enclosed.


Encl: As above.


(Muhammad Siddique)
Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

No. 2208 /GE,

Copy alongwith original copy of show cause notice addressed to Masood-Ur-Rehman Forester is forwarded to the Divisional Forest Officer Siran Forest Division Mansehra for information and necessary action. He is requested to handover the Show Cause notice to the accused Forester under proper receipt which may be sent to this office for further necessary action and record.

Encl: As above.


Divisional Forest Officer
Agror Tanawal Forest Division
Oghi

Received
M. Masood-Ur-Rehman
10/11/2015

