

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1155 /2014

Muhammad Iqbal, Ex. Deputy Ranger Galis Forest Division, Abbottabad.

....APPELLANT

VERSUS

1. { Governor Khyber Pakhtunkhwa Province, Peshawar. }
2. { Chief Minister Khyber Pakhtunkhwa, Peshawar. }
3. Secretary Environment Department Govt. of Khyber Pakhtunkhwa, Peshawar.
4. Chief Conservator of Forests Northern Region-II Abbottabad.
5. Conservator of Forests Lower Hazara Circle, Abbottabad.
6. D.F.O Galis, Forest Division Abbottabad.

...RESPONDENTS

**APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974
AGAINST THE ORDER NO. SO(ESTT.)1-
50(43)2K13/2160 dated 12/05/2014 ISSUED BY CHIEF
MINISTER KHYBER PAKHTUNKHWA (COMPETENT
AUTHORITY) RESPONDENT NO. 2 AND APPEAL
AGAINST THE SAID IMPUGNED ORDER HAD BEEN
PREFERRED TO RESPONDENT NO. 2 BUT NO REPLY
HAS BEEN RECEIVED SO FAR, HENCE THE PRESENT
APPEAL IS FILED. THE APPEAL IS LODGED FOR A
DECLARATION TO THE EFFECT THAT SHOW CAUSE
NOTICE DATED 08/05/2013 ISSUED BY THE**

re-submitted to ~~the~~
and filed.

~~Signature~~

18/9/14

~~Signature~~
1156
10-9-2014

S.No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	17.08.2016	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center"><u>CAMP COURT ABBOTTABAD</u></p> <p align="center">APPEAL NO. 1155/2014</p> <p align="center">Muhammad Iqbal Versus Secretary Environment Department Government of Khyber Pakhtunkhwa Peshawar and others.</p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Counsel for the appellant and Sardar Muhammad Saleem, DFO alongwith Mr. Muhammad Siddique Sr.GP for respondents present.</p> <p>2. Mr. Muhammad Iqbal, Ex-Deputy Ranger Galis Forest Division, Abbottabad hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 12.05.2014 vide which it was directed that a criminal case in the shape of FIR for the recovery of Rs. 12,66,988/- as per recommendations of the enquiry committee may be lodged.</p> <p>3. Brief facts of the case of the appellant are that the appellant was serving as Deputy Ranger when subjected to departmental enquiry on the charges of embezzlement and pecuniary loss caused to public exchequer to the tune of Rs. 19,94,400/-. During the enquiry proceedings the appellant stood retired from service on attaining the age of superannuation and as such his case was taken up under F.R-54A</p>

according to which if a civil servant stood retired on attaining the age of superannuation before completion of enquiry proceedings then such civil servant would be entitled to full pensionary benefits and the period of suspension would be treated as period spent on duty. According to the said rules such civil servant is then to be criminally prosecuted for any loss.

4. Learned counsel for the appellant has argued that neither any FIR was lodged against the appellant nor the respondents are giving him the pensionary benefits to which the appellant is entitled under the law. That the respondents have failed to substantiate the charges against the appellant but deprived him of pensionary benefits for no fault on his part.

5. Learned Senior Government Pleader has argued that the appellant was found involved in embezzlement but due to his retirement the departmental enquiry could not be completed. That the pensionary benefits will be extended to the appellant after completion of criminal proceedings which are yet to be initiated by the department keeping in view the codal formalities.

6. We have heard arguments of learned counsel for the parties and perused the record.

7. According to F.R 54- A, a civil servant on attaining the age of superannuation before completion of enquiry is to retire from service with full pensionary benefits and the period of suspension, if any, is to be treated as period spent on duty. So far as recovery of the pecuniary loss caused to the Government ex-chequer is concerned an FIR is to be

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A.C.
17.08.16

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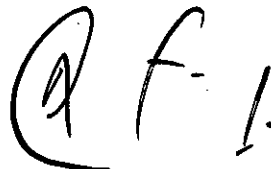
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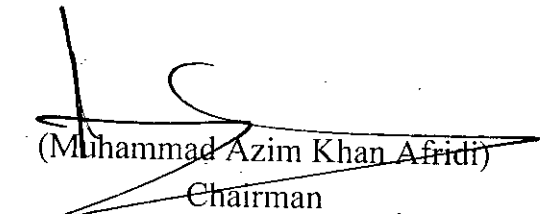
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27.08.22

lodged against such civil servant where the said pecuniary loss is to be established by the concerned authority.

8. Since the appellant stood retired from service on attaining the age of superannuation as such we are constrained to hold that the appellant be treated as a retired civil servant duly entitled to pensionary benefits in accordance with the prescribed procedure which shall be given to the appellant without unnecessary delay. The respondents are at liberty to initiate criminal proceedings for establishing pecuniary loss caused to the government and recovery of the same in the mode and manners prescribed by rules. Parties are left to bear their own costs. File be consigned to the record room.


(Abdul Latif)
Member


(Muhammad Azim Khan Afridi)
Chairman

Camp Court, A/Abad.

17.08.16

ANNOUNCED

17.08.2016

16.02.2016

Counsel for the appellant and Mr. Ibrar Ahmad, SDFO alongwith Mr. Muhammad Saddique, Sr.G.P for respondents present. Learned Sr. GP requested for adjournment. To come up for rejoinder and final hearing before D.B on 16.05.2016 at Camp Court A/Abad.



Member



Chairman
Camp Court A/Abad


16.05.2016

Appellant with counsel and Sardar Muhammad Haroon, DFO Galies Forest Division alongwith Mr. Muhjammad Siddique Sr.GP for the respondents present. Partial arguments heard.

During the course of arguments learned counsel for the appellant requested for adjournment in order to assist the court on the provisions of F.R-54-A and to point out relevant provisions of criminal law applicable to the case of the appellant. Adjourned for final hearing before D.B on 17.08.2016 at camp court, Abbottabad.




Member



Chairman
Camp court, A/Abad,

17.6.2015


Appellant in person and Sardar Muhammad Salim, SDFO alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Requested for adjournment. To come up for written reply on 18.8.2015 before S.B at camp court A/Abad.


Chairman
Camp Court A/Abad

17

18.08.2015

Appellant in person and Mr. Atezaz Mehfooz, SDFO alongwith Mr. Muhammad Tahir Aurangzeb, GP for respondents present. Requested for adjournment. To come up for written reply/comments on 19.10.2015 before S.B at camp court A/Abad.


Chairman
Camp Court Abbottabad

19.10.2015

Appellant in person and Sardar Muhammad Salim, SDFO alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Written statement submitted. The appeal is assigned to D.B for rejoinder and final hearing for 16.2.2016 at Camp Court A/Abad.

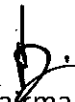

Chairman
Camp Court A/Abad.

22.4.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Deputy Ranger when subjected to inquiry and keeping in view the provisions of F.R 54-A lodging of FIR was approved against the appellant despite the fact that he stood retired from service vide order dated 22.5.2013 on attaining the age of superannuation. That against the impugned order dated 12.5.2014 the appellant preferred departmental appeal on 27.5.2014 which was not responded and hence the instant service appeal on 10.9.2014.

That the respondents are demanding an amount of Rs.12,66,988/- imposed as penalty against the appellant despite the fact that he was exonerated of the same charges in earlier departmental inquiry held in 2008.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 17.6.2015 before S.B at camp court A/Abad. Learned counsel for the appellant argued that the appellant is an aged person and totally depended on his pension. It is directed that the pension be released to the appellant subject to withholding of the pension-equivalent to the penalty imposed on the appellant.


Chairman
Camp Court A/Abad




Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1155 /2014

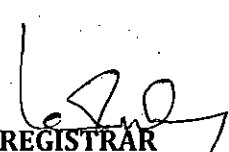
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18/09/2014	<p>The appeal of Mr. Muhammad Iqbal resubmitted today by Syed Mehboob Ahmad Shah Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	3-10-14	<p>This case is entrusted to Touring Bench- A:Abad for preliminary hearing to be put up there on <u>16-3-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	16.3.15	<p>None for appellant. Notice to counsel for the appellant be issued for preliminary hearing before S.B for 22.4.2015 at camp court A/Abad.</p> <p style="text-align: center;"> Chairman Camp Court A/Abad</p>

The appeal of Mr. Muhammad Iqbal Ex-Deputy Ranger Galis Forest Division Abbottabad received today i.e. on 10.09.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- The law under which appeal is filed is not mentioned.
- 2- Copy compulsory retirement mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 3- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1350 /S.T,


Dt. 10/9 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Mehboob Ahmad Shah Adv.
High Court Abbottabad.

1. In reply to objection No. 1, it is submitted and cleared that the appellant has been retired after attaining the superannuation nothing else is to be anyhow, alongwith retirement an Order No. SO(Estt.)/1-50(43)/2K13 is also challenged due to illegally involving penalizing the appellant, which is attached on Page No. 15 of the Annexure "A" please, is being challenged.

2. Five more/ extra copies are provided, as it is desired.


SYED MEHBOOB AHMAD SHAH
Professor, M.A LL.B
Advocate High Court
Abbottabad

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1155 /2014

Muhammad Iqbal, Ex. Deputy Ranger Galis Forest Division, Abbottabad

....APPELLANT

VERSUS


Governor Khyber Pakhtunkhwa Province, Peshawar and others.

...RESPONDENTS

SERVICE APPEAL

INDEX


S#	Description	Page Nos.	Annexures
1.	Appeal alongwith affidavit.	1 to 13	
2.	Addresses of the parties.	14	
3.	Copy of office order		"A"
4.	Copy of the charge sheet		"B"
5.	Copy of reply to charge sheet		"C"
6.	Copy of show cause notice		"D"
7.	Copy of reply to show cause notice		"E"
8.	Copy of appeal		"F"
9.	Copy of order No. 68 dated 28/12/2005		"G"
10.	Copy of report of Sardar Muhammad Saleem the then Sub-Divisional Forest Officer, Abbottabad		"H"
11.	Copy of the show cause notice		"I"
12.	Copy of receipt		"J"
13.	Copy of the office order no. 121 dated 12/06/2008		"K"
14.	Copy of the office order No. 2317/GE dated 13/05/2009		"L"
15.	Copy of the Transport Pass (T.P) No. 24 dated 23/12/2004		"M"
16.	Copy of the distribution lists		"N"
17.	Copy of the office order No.4 issued by DFO Lower Kohistan		"O"
18.	Copy of acknowledgement by Managing Director and Challan No. 85 dated 20/08/2005		"P"
19.	Copy of the letter signed by the committee		"Q"
20.	Vakalatnama		


Muhammad Iqbal
....APPELLANT

Through

Dated: 10/19/2014

(Syed Mehboob Hussain Shah)
Advocate High Court, Abbottabad


SYED MEHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

1

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1155 /2014

Muhammad Iqbal, Ex. Deputy Ranger Galis Forest Division, Abbottabad.

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VERSUS

- ~~1155~~
1156
10-9-2014
1. { Governor Khyber Pakhtunkhwa Province, Peshawar.
 2. { Chief Minister Khyber Pakhtunkhwa, Peshawar. }
 3. Secretary Environment Department Govt. of Khyber Pakhtunkhwa, Peshawar.
 4. Chief Conservator of Forests Northern Region-II Abbottabad.
 5. Conservator of Forests Lower Hazara Circle, Abbottabad.
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APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974

AGAINST THE ORDER NO. SO(ESTT.)1-

50(43)2K13/2160 dated 12/05/2014 ISSUED BY CHIEF

MINISTER KHYBER PAKHTUNKHWA (COMPETENT

AUTHORITY) RESPONDENT NO. 2 AND APPEAL

AGAINST THE SAID IMPUGNED ORDER HAD BEEN

PREFERRED TO RESPONDENT NO. 2 BUT NO REPLY

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DECLARATION TO THE EFFECT THAT SHOW CAUSE

NOTICE DATED 08/05/2013 ISSUED BY THE

re-submitted to ~~43~~
and filed.

~~18/9/14~~
18/9/14

RESPONDENT NO. 2 ON THE REPORT OF THE INQUIRY COMMITTEE/ RESPONDENT NO. 5 & 6 AND THE NOTIFICATION NO. SO(ESTT)1-50(43)2K13-2160 DATED 12/05/2014 VIDE WHICH MAJOR PENALTY COMPULSORY RETIREMENT FROM SERVICE BESIDES RECOVERY OF RS. 12,66,988/- WAS RECOMMENDED BY THE ENQUIRY COMMITTEE AND DUE TO RETIREMENT ORDER NO. 116 DATED 22/05/2013 ON SUPERANNUATION BY DFO P/SQUAD ABBOTTABAD, COMPETENT AUTHORITY IMPOSED RECOVERY OF THE ABOVE CITED AMOUNT. THE LOSS AMOUNTING RS. 12,66,988/- IMPOSED ON THE APPELLANT IS WRONG, ILLEGAL, AGAINST THE LAW AND FACTS, BASED ON MALAFIDE, DISCRIMINATORY, ARBITRARY, FANCIFUL, PERVERSE, WITHOUT LAWFUL AUTHORITY, UNCONSTITUTIONAL, POLITICAL VICTIMIZATION, AGAINST THE FUNDAMENTAL RIGHTS OF THE APPELLANT GUARANTEED BY THE CONSTITUTION AND IS DOUBLE JEOPARDY AS THE APPELLANT HAS ALREADY BEEN EXONERATED BY SUB-DIVISIONAL OFFICER/ INQUIRY COMMITTEE VIDE HIS ORDER DATED 30/12/2011 ON THE BASIS OF SAME ALLEGATIONS AGAINST THE APPELLANT.

Respectfully Sheweth: -

That the facts of appeal are submitted as under:-

1. That the impugned order passed by Competent Authority is biased, unlawful and political victimization.

(Copy of the office order passed by Competent Authority is annexed as Annexure "A").

2. That later on respondent No.2 issued fresh charge sheet and appointed Inquiry Committee although an inquiry had already been conducted by one Mr. Sardar Muhammad Saleem. The Inquiry Committee in its report recommended major penalty retirement from service and recovery of losses. As a result respondent No. 2 issued, show cause notice. The reply to the show cause notice was furnished by the appellant within stipulated period.

(Copy of the charge sheet, reply to charge sheet, show cause notice, reply to show cause notice and appeal are annexed as Annexures "B", "C", "D" "E" & "F").

3. That, the appellant remained posted at Gohar Abad Timber Depot Abbottabad upto 28/12/2005. On 28/12/2005, the appellant was transferred from Gohar Abad Timber Depot Abbottabad to Abbottabad Block,

Abbottabad Range vide office order No. 68 dated 28/12/2005.

(Copy of order No. 68 dated 28/12/2005 is annexed as Annexure "G").

4. That, in the year 2008 the allegation for misappropriation of the timber measuring 4984.97 Cft. of T.P No. 24 dated 23/12/2004 was leveled against the appellant and others. Later on an inquiry committee was constituted for making inquiry in respect of the said allegation through a charge sheet and memo of allegations Mr. Sardar Muhammad Saleem was appointed as Inquiry Committee. He vide his report dated 30/12/2011 after making inquiry submitted his report vide which the appellant was exonerated from the charge.

(Copy of report of Sardar Muhammad Saleem the then Sub-Divisional Forest Officer, Abbottabad is annexed as Annexure "H").

5. That, ultimately respondent No.2 vide impugned notification dated 12/05/2014 by imposing major penalty of recovery of loss of Rs. 12,66,988/- and terminated the services of the petitioner as the appellant had already retired on superannuation.

Copy of the notification is already annexed as Annexure "A".

6. That, during pervious inquiry of the year 2008 Divisional Forest Officer, Lower Kohistan Division, Pattan issued the Show Cause No. 2825/GE dated 24/06/2008 to the Managing Director of Dubair Forest Harvesting Co-operative Society Limited wherein it was stated that entire timber of T.P No. 24 dated 23/12/2004 stands reached the Havelian market and distributed into the appropriate share amongst the concessionists/ Government leaving no balance at the roadside Depot at Pattan.

(Copy of the show cause notice is annexed as Annexure "I").

7. That, on 06/08/2005 Managing Director Society Dubair Harvesting Limited received the entire timber at Gohar Abad Sale Depot from the concerned officials of Lower Kohistan Forest Division who were the custodian and executed a receipt on 06/08/2005.

(Copy of the receipt is annexed as Annexure "J").

8. That, the alleged excess timber was confiscated by the Conservator of Forest, Hazara Forest Circle, Abbottabad vide his office order No. 121 dated 12/06/2008.

(Copy of the office order no. 121 dated 12/06/2008 is annexed as Annexure "K").

9. That, forest officials issued notice to the appellant and the reply of the same was given to the Conservator of Forest, he forwarded the explanation of the appellant to the Chief Conservator of Forest, NWFP (KPK) Peshawar vide his office letter No. 2317/GE dated 13/05/2009 wherein it was stated by the Conservator Forest, Hazara Circle Abbottabad that the appellant has no concern with the excess timber of T.P No. 24 as being employee of the Gallis Forest Division having no role with the receipt and distribution of the timber of the other Forest Divisions and the petitioner was also exonerated of the charges by the said Conservator Hazara Circle.

(Copy of the office order No. 2317/GE dated 13/05/2009 is annexed as Annexure "L").

10. That timber was extracted and transported from lower Kohistan forest division and ultimately DFO Lower Kohistan was the custodian of society timber 80% and Govt. share 20%.

(Copy of the Transport Pass (T.P) No. 24 dated 23/12/2004 is annexed as Annexure "M").

11. That apportionment of the timber was done by a committee of three Divisional Forest Officers and

DFO Lower Kohistan was the Chairman of Distribution Committee.

(Copy of the distribution lists signed by committee is annexed as Annexure "N").

12. That office Order No. 29 dated 12/02/2005 and No. 04 dated 13/08/2005 was issued by DFO Lower Kohistan for appointment of the Timber transported under transport pass No. 24 dated 23/12/2004 and 29 dated 12/02/2005 respectively by D.F.O Lower Kohistan. **(Copy of the office order No.4 issued by DFO Lower Kohistan is annexed as Annexure "O").**

13. That Govt. shared was auctioned by DFO Lower Kohistan and society share was shifted to Private Depot no. 569 vide Challan No. 85 dated 20/08/2005 issued by staff of Lower Kohistan Forest Division and full society share was released and acknowledged by the Managing Director of Dobair FHCS which means that no balance timber was left in Kohistan. **(Copy of acknowledgement by Managing Director and Challan No. 85 dated 20/08/2005 is annexed as Annexure "P").**

14. That all of a sudden DFO Lower Kohistan extended the period of transport pass and allowed the so-called

and book balance of transport pass No. 24 dated 23/12/2004 in favour of Society but conservator of Forest Hazara Circle did not agree.

(Office order No. 121 dated 12/06/2008, which already annexed as Annexure "K").

15. That a committee of three officers reported that timber is fresh except a few scants (82 Scants = 1055 cft) vide report No. 906 dated 31/08/2009 which means that timber procured was from other illegal sources in Kohistan and it fetched a price of Rs. 305/- Cft. whereas recovery has been imposed @ Rs. 800 Cft. By the competent authority.

(Copy of the letter signed by the committee is annexed as Annexure "Q").

16. That every Divisional Forest officer has posted his own staff at Gohar Abad Depot on its independent jurisdiction having separate record and, own authority.

17. That all the consignments were allowed by concerned DFO Lower Kohistan through transport passes (TP) and challans duly signed by him and transportation to down provinces was allowed through challans signed by DFO Galis to private Depot No. 569 on the recommendations of SDFO Abbottabad but incharge

of Check Post have been held responsible for doing nothing but for implementation of directives of superiors. The judgment passed by the competent authority is discriminatory and biased.

18. That chance of personal hearing was not provided at any stage by any inquiry committee or appointing authority which was mandatory under the rules.
19. That GFR Paras 20 to 24 deal with losses to government and only a DDO is responsible for all losses to government. He has to report the matter to higher authority and has to conduct inquiry. In this case neither DFO Lower Kohistan nor Galis reported or conducted any inquiry about losses. Even a single explanation has not been called from their offices about the so-called losses.
20. That Dobair FHCS has signed agreement with DFO Lower Kohistan and in case of any irregularity managing director would have been taken to task. He (Managing Director) transported all the timber and sold in Market but only a single letter cited above is on record. No action was initiated against the society which was the basic duty of DFO Lower Kohistan. Depot incharge of Galis Division had no powers to

take any action. Moreover, the Government has received full 20% share hence, no loss at all has been caused to the Government.

21. That there would have been a joint inquiry as two Forest Divisions were involved for the same timber but intentionally Administrator Department issued separate charge sheets of staff of Kohistan and Galis Forest Divisions and created confusions to conceal facts.
22. That the appellant lodged appeal to the appellate Authority against orders passed by respondent No. 1 the Competent Authority on 28/05/2014 but neither it has been accepted nor rejected hence, the present appeal is preferred before this Honourable Tribunal, inter-alia, on the following grounds; -

GROUND S; -

- a. That the impugned order is against the law and actual facts, hence, legally is not tenable and is requested to be set-aside.
- b. That the inquiry conducted is not according to the rules and regulations, as laid down under the

E&D Rules 2011. All the inquiry has been conducted in the absence of the appellant. While it was mandatory that the appellant be present at the time of inquiry at all the stages of proceedings of inquiry.

- c. That no inquiry report has been provided to the appellants while it was the legal requirements that appellant be given a report of inquiry which was conducted against the appellant.
- d. That appellant had been exonerated by the Inquiry Officer, Sardar Muhammad Saleem and even the Conservator of Forests Hazara Circle Abbottabad.
- e. That during the long tenure of services, the appellant served the department, most honestly, diligently faithfully and retired from service vide order No. 116 dated 22/05/2013 on superannuation. That is why the department itself admitted the good service record of the appellant, while awarding the punishment in the impugned order No. SO(Estt.) Evt./1-50(43)/2K12 dated 12/05/2014. The service record was not given any weight.

f. That the appellant had served his prime/golden period of service in the department and now when he is at the last stages of services, his previous services have been ignored. It can be considered that punishment was harsh and not justified at all.

In view of the above facts and reasons, it is humbly prayed that the Honourable Tribunal may graciously be set-aside the punishment with all the benefits from which the appellant has been deprived due to this impugned order till now and till decision and the appeal be accepted as prayed for.

Muhammad Iqbal
....APPELLANT

Through

Dated: 10/9/2014

(Syed Mehboob Hussain Shah)
Advocate High Court, Abbottabad
SYED MEHBOOB AHMAD SHAH
PROFESSOR
HONORARY
Abbottabad

VERIFICATION: -

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

....APPELLANT

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PK PESHAWAR

Service Appeal No. _____/2014

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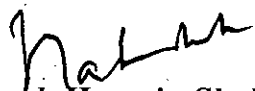
SERVICE APPEAL

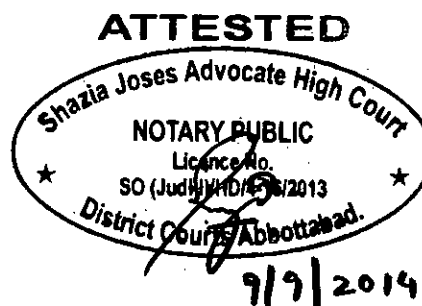
AFFIDAVIT

I, Muhammad Iqbal, Ex. Deputy Ranger Galis Forest Division, Abbottabad, do hereby solemnly affirm and declare on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Court.


DEPONENT

Identified By:-


(Syed Mehboob Hussain Shah)
Advocate High Court, Abbottabad



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

Service Appeal No. _____/2014

Muhammad Iqbal, Ex. Deputy Ranger Galis Forest Division, Abbottabad.

....APPELLANT

VERSUS

Governor Khyber Pakhtunkhwa Province, Peshawar and others.

...RESPONDENTS

SERVICE APPEAL

ADDRESSES OF THE PARTIES

Respectfully Sheweth:-

Addresses of the parties are as under:-

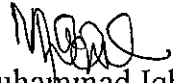
Muhammad Iqbal, Ex. Deputy Ranger Galis Forest Division, Abbottabad.

....APPELLANT

VERSUS

1. Governor Khyber Pakhtunkhwa Province, Peshawar.
2. Chief Minister Khyber Pakhtunkhwa, Peshawar.
3. Secretary Environment Department Govt. of Khyber Pakhtunkhwa, Peshawar.
4. Chief Conservator of Forests Northern Region-II Abbottabad.
5. Conservator of Forests Lower Hazara Circle, Abbottabad.
6. D.F.O Galis, Forest Division Abbottabad.

...RESPONDENTS



Muhammad Iqbal

....APPELLANT

0342-9468422

Dated: 10/9/2014

Through


(Syed Mehboob Hussain Shah)
Advocate High Court, Abbottabad

SYED MEHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

NO.SO(Estt)/Envt/I-50(43)/2K13 2/60

Dated Pesh: 12TH May, 2014

Amended - A(5)

15

To

The Chief Conservator of Forests,
Central and Southern Forest Region-I,
Peshawar.

SUBJECT: DISCIPLINARY PROCEEDINGS AGAINST ONE DIVISIONAL FOREST OFFICER (BS-18), ONE SUB DIVISIONAL FOREST OFFICER (BS-17) ONE FORESTER (BS-09) AND TWO FOREST GUARDS (BS-7) FOREST DEPARTMENT, KHYBER PAKHTUNKHWA

I am directed to refer to this department letter of even number dated 27/3/2014 on the above subject and to say that Mr. Muhammad Iqbal, Forester (BS-09), during his personal hearing conducted on 2/4/2014, has informed the Secretary Establishment that he has already been retired from service on 19/6/2013 on attaining the age of superannuation i.e. 60-years.

2. After personal hearing of the above named official, it has been recommended to the Chief Minister, Khyber Pakhtunkhwa being Competent Authority, that an FIR against Mr. Muhammad Iqbal, Forester (BS-09), may be approved to be lodged, under Rules FR-54-A, as the official has been retired from service; which accordingly approved.

3. It is, therefore, directed that further necessary action as to lodging of an FIR for recovery of an amount of Rs.12,66,988/- as per recommendation of the Enquiry Committee, against the official may be taken under intimation to this department.

Estt
7/6/14

Mir Zali Khan
(MIR ZALI KHAN)
SECTION OFFICER (ESTT)

Enclst: No. & Date even.

Copy is forwarded to PS to Secretary, Environment Department.

No 2643
16/5/2014

SECTION OFFICER (ESTT)

No. 3859

16/5
16/5

Dated - Peshawar the 17/5/2014.

Copy forwarded to the Chief Conservator of Forests
NER-II Abbottabad for information and n/a/cion.

Attended

SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

CHIEF CONSERVATOR OF FORESTS
CENTRAL SOUTHERN FOREST REGION
KHYBER PAKHTUNKHWA - PESHAWAR.

Forest Northern Forest
Dairy No. 639

**OFFICE ORDER NO. 116 DATED ABBOTTABAD THE 22 /05/2013
ISSUED BY MR. JAVED ARSHAD DIVISIONAL FOREST OFFICER PATROL
SQUAD LOWER HAZARA CIRCLE ABBOTTABAD.**

On attaining the superannuation age of 60 years on 19-6-2013, Muhammad Iqbal Deputy Ranger Patrol Squad Lower Hazara Circle, Abbottabad is hereby retired from service w.e.f. 19-6-2013 Afternoon. He is also allowed encashment of leave salary in lieu of L.P.R. equal to 365 days as admissible to him vide Rules-20 of Khyber Pakhtunkhwa Civil Servants Revised Leave Rules-1981 amended vide Government of Khyber Pakhtunkhwa Finance Department (Regulation Wing) Notification No. FD SO (FR) FD 5-92/2005/ Vol-V/4654-58 dated 13-12-2012.

Sd/- (Javed Arshad)
Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad


Copy forwarded to the :

- 1- Conservator of Forests, Lower Hazara Forest Circle, Abbottabad for favor of information.
- 2- Sub Divisional Forest Officer, Patrol Squad Forest Sub-Division for information.
- 3- Divisional Accountant for information and necessary action.
- 4- Muhammad Iqbal Deputy Ranger for information. *with ref: to his Application dated 14-5-2013.*

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

(Signature)
SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

Annexure-B

	<p style="text-align: center;">GOVERNMENT OF KHYBER PAKHTUNKHWA ENVIRONMENT DEPARTMENT</p> <p style="text-align: center;">Dated Pesh: 4th January, 2013</p>
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NOTIFICATION

No.SO(Estt)Envt/1-50(43)/2k6: The Chief Minister, Khyber Pakhtunkhwa/Competent Authority is pleased to constitute an Enquiry Committee, comprising Mr. Abdul Jamil, (BS-19), Conservator of Forests, Lower Hazara (Chairman of the Enquiry Committee) and Mr. Janat Gul, PCS SG (BS-19), Additional Secretary, Irrigation Department (Member of the Enquiry Committee) to conduct an inquiry against the following officers/officials of Khyber Pakhtunkhwa Forest Department, into the charges/allegations levelled in the enclosed Charge Sheets and Statements of Allegations, under section-5(1) of the Khyber Pakhtunkhwa Efficiency and Disciplinary Rules, 2011.

1. Pir Qaim Shah, Divisional Forest Officer (BS-18).
2. Mr. Abdullah Khan, Sub Divisional Forest Officer (BS-17, later -on promoted to BS-18).
3. Mr. Muhammad Iqbal, Forester (BS-09)
4. Mr. Muhammad Rafique, Forest Guard (BS-07)
5. Mr. Saif-Ur Rehman, Forest Guard (BS-07)

2. The Enquiry Committee shall submit its findings within 30 days positively.

Sd/-
CHIEF MINISTER
KHYBER PAKHTUNKHWA

20-27/11
Endst: No. SO(Estt)Envt/1-50(43)/2k6: Dated 4th January, 2013.

Copy alongwith copies of the Charge Sheets/Statements of Allegations, are forwarded to :-

1. Mr. Abdul Jamil, BS-19 (Chairman of the Enquiry Committee), Conservator of Forests, Lower Hazara Forest Circle, Abbottabad.
2. Mr. Janat Gul, PCS SG BS-19 (Member of the Enquiry Committee), Additional Secretary, Irrigation Department.
- 3-7. All the above (5) Officers/Officials C/O Chief Conservator of Forests, Central & Southern Forest Region-I, Peshawar with the direction to appear before the Enquiry Committee on the date, time and place to be fixed by the Enquiry Committee for the purpose of inquiry proceedings.

F. J. D. K.
SECTION OFFICER (ESTT)

Endst: No. and date even.

Copy is forwarded for information and necessary action to:-

Attested
Shah
SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad 4.

1. Chief Conservator of Forests, Central & Southern Forest Region-I, Peshawar; with the direction to detail a departmental representative well conversant with the facts of the case alongwith relevant record to assist the Enquiry Committee during the inquiry proceedings.
PS to Secretary, Environment Department.
Master file.
Office order file.

SECTION OFFICER (ESTT)

CHARGE SHEET

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you Mr. Muhammad Iqbal, Forester/Deputy Ranger Patrol Squad Division as follows:

That you, while posted as a Forester Incharge of Goharabad Depot committed the following act of omission and commission:

- a) That you failed to check/facilitated transportation of 513 scants of timber (Fir/Spruce) = 4984.97 Cft through fake and fraudulent documents/Transport pass from Lower Kohistan to Goharabad Sale Depot No. 569.
- b) That you and your staff gave free hand to the illegal transportation of timber to the tune of 4984.97 Cft through a fake T.P No. 24 dated 23-12-2004 extended on 23-7-2005 and another extension granted on 30-6-2008 (after three years).
- c) That you failed to supervise / exercise effective check over your subordinate staff, besides failure to perform your job as stipulated in the job description for Forester, thereby sustaining loss to the public exchequer to the tune of Rs.19,94,400/-
- d) That you are severally as well as jointly with other accused in the case responsible for recovery of the loss sustained by the public exchequer plus interest as per law.

2. By reason of the above, you appear to be guilty of inefficiency, misconduct and corruption under rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of penalties specified in rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the enquiry officer/enquiry committee, as the case may be.

4. Your written defence, if any, should reach the enquiry officer/enquiry committee within the specified period, failing which it shall be presumed that you have no defence to put forward and in that case ex-parte action shall follow against you.

5. Intimate whether you desire to be heard in person.

6. A Statement of Allegations is enclosed.

Attested

Mahboob
SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

A. Haider

(AMIR HAIDER KHAN HOTI)
CHIEF MINISTER/COMPETENT AUTHORITY

DISCIPLINARY ACTION

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Muhammad Iqbal, Forester/Deputy Ranger Patrol Squad Division, the then Forester Incharge Goharabad Depot, has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

STATEMENT OF ALLEGATION

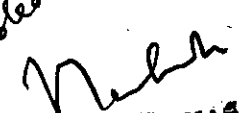
- a) That he failed to check/facilitated transportation of 513 scants of timber (Fir/Spruce) = 4984.97 Cft through fake and fraudulent documents / Transport pass from Lower Kohistan to Goharabad Sale Depot No. 569.
- b) That he and his staff gave free hand to the illegal transportation of timber to the tune of 4984.97 Cft through a fake T.P No. 24 dated 23-12-2004 extended on 23-7-2005 and another extension granted on 30-6-2008 (after three years).
- c) That he failed to supervise/exercise effective check over his subordinate staff, besides failure to perform his job as stipulated in the job description for Forester, thereby sustaining loss to the public exchequer to the tune of Rs.19,94,400/-
- d) That he is severally as well as jointly with other accused in the case responsible for recovery of the loss sustained by the public exchequer plus interest as per law.

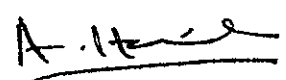
2. For the purpose of inquiry against the said accused with reference to the above allegations, an enquiry officer/enquiry committee, consisting of the following, is constituted under rule 10(1)(a) of the Rules ibid:

- i) Mr. Abdul Jamiel (BS-19) Conservator Forest.
- ii) Mr. Jamat Gul PCS SG (BS-19)
- iii) _____

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

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry officer/enquiry committee.

Attested

SYED MAHBOOB AHMAD SHAH
 Professor, M.A LL.B.
 Advocate High Court
 Abbottabad


 (AMIR HAIDER KHAN HOTI)
 CHIEF MINISTER/COMPETENT AUTHORITY

To

Mr. Abdul Jamil
Conservator of Forests
Lower Hazara Forest Circle Abbottabad
(Chairman of the Enquiry Committee)

Subject: **CHARGE SHEET**

Reference Section Officer Establishment Government of Khyber Pakhtunkhwa Environment Department Endstt: No. SO(Estt:) Envt:/1-50(43)2k6/20-27, dated 4/1/2013 received vide DFO Patrol Squad Abbottabad No. 550/PS, dated 23/1/2013.

Kindly refer to the above charge sheet wherein I have been directed to explain my position on the following allegations:

- a. That you failed to check / facilitated transportation of 513 scants of timber (Fir / Spruce) = 4984.97 cft through fake and fraudulent documents / Transport pass from Lower Kohistan to Goherabad Sale Depot No. 569.
- b. That you and your staff gave free hand to the illegal transportation of timber to the tune of 4984.97 cft through a fake T.P No. 24 dated 23-12-2004 extended on 23-7-2005 and another extension granted on 30-6-2008 (after three years).
- c. That you failed to supervise / exercise effective check over your subordinate staff, besides failure to perform your job as stipulated in the job description for Forester, thereby sustaining loss to the public exchequer to the tune of Rs. 19,94,400/-
- d. That you are severally as well as jointly with other accused in the case responsible for recovery of the loss sustained by the public exchequer plus interest as per law.

The parawise reply to the allegations is given as under:

a). That the timber in question i.e. 513 scants (Fir/Spruce)= 4,984.97 cft timber was not transported to Goherabad during my tenure.

b).(i). The Illegal transportation of timber 513 scants = 4,984.97 cft (Fir/Spruce) had been done during 9/6/2008 to 10/6/2008 vide Challan No. 66 to 72 of Challan Book No. 73/LK to Goherabad Market through 3rd extension in T.P. No.24, dated 23.12.2004 allowed by Mr. Hafiz-Ul-Islam the then DFO Lower Kohistan Forest Division vide No. 2712/GL, dated 3.6.2008 in favor of Mr. Muhammad Anwar Khan Managing Director Dubair Forest Harvesting Cooperative society on the recommendation of Qazi Shabir Ahmed the then SDFO Pattan (Lower Kohistan Forest Division) through fresh sizewaras (**Annexure-I**) wherein the sizes, age and No. of scants i.e. 513 scants = 4,984.97 cft (Fir/Spruce) were contrary to the original TP No. 24, dated 23/12/2004 of Lower Kohistan and it is astonishing to note that how this consignment was allowed to its destination through various Forest Checkposts.


M.A. Shah
SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

A complaint regarding transportation of this illegal timber loaded in seven trucks was received by Syed Khurshid Anwar the then Conservator of Forests Abbottabad which was accordingly intercepted at Mirpur Forest Check post Abbottabad and carried to Goherabad Market under the supervision of Mr. Rustam Khan the then DFO Patrol Squad Abbottabad. The same was unloaded at Goherabad and after proper measurement and examination of record i.e. Form 5 & 6 of Lower Kohistan Sale depot at Goherabad, Office Order No.29 dated 11/2/2005 (Annexure-II). Office Order No. 04, dated 13/8/2005 (Annexure-III) of DFO Lower Kohistan. Challan No. 85/2LK dated 20/8/2005 (Annexure-IV) issued / prepared by Saif-ur-Rehman F/Guard the then incharge Lower Kohistan Sale depot to private sale depot 569 and acknowledgement receipt of Managing Director for 1338 scants = 9,396.99 (Annexure-V) cft showing that the whole consignment of T.P. No. 24, dated 23/12/2004 = 3495 scants= 26,071.92 (Annexure-VI) cft was reached to the market and stand disposed off and nothing was balance in roadside depot and report thereof was submitted to Conservator of Forests, Abbottabad Circle who accordingly issued office order No. 121, dated 12/6/2008 (Annexure-VII) for the confiscation of this illegal timber 513 scants = 4,984.97 cft in favour of Government with a copy to Chief Conservator of Forests and a copy to DFO Lower Kohistan for putting the timber for sale and proceeding against the delinquent staff under intimation to his office.

ii). Aggrieved of this, Mr. Muhammad Anwar Managing Director Dubair Forest Harvesting Cooperative Society preferred an appeal in the court of Civil Judge-I Abbottabad against the Conservator of Forests Abbottabad office order No. 121, dated 12/6/2008. The Forest Standing counsel Abbottabad offered comprehensive comments (Annexure-VIII) on the civil suit No. 105/01 in the court of Civil Judge-I Abbottabad, stated that the whole timber is disposed off and nothing is left at depots which was dismissed on 10/7/2010 but later on remanded in the court on the basis of additional evidence which was not properly defended in the court and the case was decided in favour of Managing Director on 8/10/2011. The letter No. 3696/GL, dated 3/12/2011 (Annexure-IX) of the office of Conservator of Forests, Upper Hazara Forest Circle Mansehra addressed to the Chief Conservator of Forests-II Khyber Pakhtunkhwa Peshawar is worth perusal with all its enclosures showing that who failed in the court and why the case became unfit for further proceedings which resulted in initiation of another enquiry against the staff of Galis Forest Division.

c).i). I and Mr. Muhammad Rafique Forest Guard had maintained a neat and clean record about the inflow and out flow of timber in daily Roznamcha and Khata register. Though the so called book balance i.e. 779 scants = 4948.77 cft was available in the Khata register (Annexure-X) of Goherabad Check post but after un-loading and proper measurement nothing remained balance as all the timber of T.P No. 24, dated 23/12/2004 had reached the timber market. In this regard the version of Forest Manual Volume-II Page-223, clause 15.7 can be quoted as under: *"All logs and scantlings will be measured and marked as soon as possible after arrival at a "sale depot" in the manner prescribed in the "Depot and Sale Rules". All other forest produce will be counted, measured or weighed as the circumstances may require immediately on arrival at a "sale depot"*. (Annexure-XI)

After examining the record of Kohistan Sale depot and private sale depot 569, it has become crystal clear that the whole consignment of Lower Kohistan T.P. No. 24 dated 23/12/2004 had been distributed by DFO Lower Kohistan in proportionate share of 20% Government and 80% Owner share and released the 80% owner share to the owners/Managing Director vide his office order No. 29, dated 11/2/2005 and 04, dated 13/8/2005 respectively and nothing was balance as per detail given below:

Assesed

SYED MAHBOOB AHMAD SHAH
 Professor, M.A LL.B.
 Advocate High Court
 Abbottabad

DFO Lower Kohistan Office order & date	Quantity as per T.P.	Timber reached in Goherabad Sale Depot	20% Govt. Share	80% Owner Share
O/O No 29, dated 11.2.2005,	3495= 26071.92	1942= 14324.00	239= 2865.19	1703= 11459.80
O/O No 04, dated 13-8-2005		1553= 11746.93	215=2349.94	1338= 9396.99
Total		3495 = 26071.92	454 = 5215.13	3041 = 20856.79

Hence the carriage of 513 scants = 4,984.97 cft in lieu of so called 779 scants = 4,948.77 cft book balances to the Goherabad by Managing Director was not justified and unwarranted.

ii). No omission had been occurred during my tenure at private depot 569 dealing with private timber because neither the Depot Holder nor the President of Timber Merchant Association, MDs of Societies, Chairmen of the JFMCs, the staff posted at Goherabad themselves or through their Range Officers preferred any complaints or brought any irregularity in my notice.

iii). I and Mr. Abdullah Khan the then Range Officer Abbottabad had checked the released private share i.e. 1338 scants = 9396.99 cft shifted under the challan No. 85/2LK dated 20/8/2005 of Lower Kohistan Forest Division issued/ prepared by Mr. Saif-Ur-Rehman Forest Guard the Incharge of Lower Kohistan sale depot to private sale depot 569. We have also verified the entry in form No. 5 (**Annexure-XII**) and its further disposal in Form No. 6 (**Annexure-XIII**) of the said depot.

iv). I have performed my duty earnestly and honestly with zeal and zest. The loss sustained to Government is not on my part but on the part of the Prosecutor who could not bring the facts in the notice of the Enquiry Committee comprising of M/S. Hussain Shah Additional Secretary Govt. of Khyber Pakhtunkhwa Health Department and Muhammad Ayaz Deputy Secretary Govt. of Khyber Pakhtunkhwa Finance Department. It also lies on the part of the officers who failed to defend the suit case No. 105/01 in the court of Civil Judge Abbottabad filed by MD of Dubair Cooperative Society against Conservator of Forests, Abbottabad office order No. 121, dated 12.6.2008 (see the last paragraph of "Discussion of the fact finding enquiry of Mr. Shah Wazir Khan and Malik Javed) (**Annexure-XIV**)

"Due to non inclusion of Forest officer in the enquiry committee to ascertain technical aspect of the issue against M/S Hafiz-Ul-Islam and Qazi Shabir Ahmad SDFOs besides poor prosecution of the department, the charges against the accused officers/officials were not proved although they are not so innocent because TP No. 24 dated 23/12/2004 (already extended on 13/7/2005) was granted another extension on 3/6/2008 (after 3 years) which is not understood. Conservator of Forests, Abbottabad while confiscating the timber vide his office order No. 121, dated 12/6/2008 clearly states that the so called timber is not available on balance and was confiscated. Later on due to poor prosecution of the Department could not prove the charges against the officers/officials during the enquiry proceedings. In case of civil suit the department (DFO Lower Kohistan and his staff) failed to safeguard the Govt. interest and rather gave chance to the private party (MD of the society) to prove his case against the Department, which clearly shows their In-efficiency and Misconduct."

Attested

SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

12669881
0/2/1


vi).In compliance to the directives contained in the Section Officer, Establishment Government of Khyber Pakhtunkhwa Environment Department letter No. SO (Estt)Envvt:/1-50(40)2k9/611, dated 26/2/2011(Annexure-XV) about the endorsement of decision of worthy Chief Secretary upon the Enquiry Report of Mr. Hussain Shah Additional Secretary Govt. of Khyber Pakhtunkhwa Health Department on the subject **“DISCIPLINARY PROCEEDINGS AGAINST TWO SUB DIVISIONAL FOREST OFFICERS, ONE JUNIOR CLERK AND FOUR FOREST GUARDS”** addressed to Chief Conservator of Forests, Khyber Pakhtunkhwa, the DFO Galis has initiated enquiry as given in the 2nd paragraph of the letter.

“Besides, it has also been approved that an inquiry/disciplinary case against the staff of Galis Forest Division posted at Goharabad Deport may also be conducted /initiated; therefore, necessary steps may be taken accordingly under intimation to this department. In this connection a copy of Inquiry Report is attached.”

After enquiry I have been exonerated from the charges leveled against me by the Enquiry Committee Sardar Muhammad Salim Sub Divisional Forest Officer, Abbottabad(Annexure- XVI)

v).Mr. Muhammad Anwar MD of the Dubair Forest Harvesting cooperative society is responsible for the loss sustained to the Government by brining illegal timber 513 Fir/Spruce scants= 4994.97 cft. He is not an innocent and this is not his first instance but he has violated the Transport Pass Rules in T.P. No. 06, dated 25/9/2006, T.P. No. 07, dated 27/9/2006 and T.P. No.08, dated 27/9/2006 issued by the DFO Lower Kohistan for the carriage of timber from Dobair Roadside depot to Goharabad Market which was detected during checking in March 2007 by the NAB (F) team where huge quantity was admixed and through open auction of this illegal timber, more than Rs.70,00,000/- was remitted into Government Treasury. (Annexure-XVII, XVIII & XIX). Had this not been detected by the NAB (F) team then the Government exchequer would have sustained a huge loss. The detail is given below:

T.P. No. and Date	Timber Confiscated in Market / disposed of.
T.P. No. 6 dated 25.9.2006 issued from Dobair R/Side depot to Goharabad Market	968.92 Cft Excess timber was detected in Goharabad Timber Market and confiscated vide DFO Lower Kohistan Office Order No. 54 dated 28.3.2007 and Security Rs. 26083/- was forfeited to Govt. and confiscated timber was disposed of through open auction receiving Rs. 8,64,389/- as sale value plus taxes.
T.P. No. 7 dated 27-9-2006 issued from Dobair R/Side depot to Goharabad Market	3914.67 Cft. Excess timber was detected in Goharabad Timber Market and confiscated vide DFO Lower Kohistan Office Order No. 53 dated 28.3.2007 and Security Rs.26,083/- was forfeited to Govt and confiscated timber was disposed off through open auction receiving Rs. 29,65,001/- as sale value plus taxes.
TP No. 08 dated 27.9.2006 issued from Dobair R/Side depot to Goharabad market	3743.71 cft excess timber was detected in Goharabad Timber Market and confiscated vide DFO Lower Kohistan Officer Order No. 52 dated 28.3.2007 and security of Rs.27020/- was forfeited to Govt. and confiscated timber was disposed off through open auction receiving Rs. 32,63,370/- as sale value plus taxes.

Witnessed

SYED MAHBOOB AHMAD SHAH
 Professor, M.A LL.B.
 Advocate High Court
 Abbottabad

d). The money worth Rs.16,45,040/- as sale proceed of 513 = 4984.77 cft confiscated timber has gone to the pocket of Managing Director after its open auction vide DFO Lower Kohistan cross cheque No. 281309, dated 2/2/2012 and not to the pocket of any outsider. This is the actual loss sustained to the Government. This is not theft, dacoit or misappropriation rather it happened due to malified intention of Managing Director who is stake holder with DFO Lower Kohistan being involved in this case the Managing Director Dubair Forest Harvesting Cooperative society was required to be panelized and banned his society.


Keeping in view the above ex-position it is humbly prayed that I may please be exonerated from all the charges leveled in the charge sheet/Memo of allegation against me and I may also be heard in person. It is further requested to direct the prosecution to bring all the relevant record at the time of personal hearing as per detail given below:

- 1). Correspondence file of Charry 4(ii) of DFO Lower Kohistan.
- 2). Court file maintained by DFO Lower Kohistan.
- 3). Correspondence file of Depot No. 569 of DFO Galis
- 4). Counterfoil of Challan books No. 503, 504, 505 and 506 used by private depot holder 569
- 5). Form 5 & 6 of Sale depot at Goherabad of Lower Kohistan.
- 6). Form 5 & 6 of Depot No. 569
- 7). Challan book 2/LK of Challan No. 85 of Lower Kohistan Forest Division.

Attested

M. A. L. L. B.
SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

M. I. Q.
(MUHAMMAD IQBAL)
DEPUTY RANGER
PATROL SQUAD FOREST DIVISION
ABBOTTABAD

	<p style="text-align: center;">GOVERNMENT OF KHYBER PAKHTUNKHWA ENVIRONMENT DEPARTMENT</p> <p style="text-align: right;">No.SO(Estt)Envt/I-50(43)/2K6/ 2821/w Dated Pesh: 8th May, 2013</p>
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To

Mr. Muhammad Iqbal,
Forester (BPS-9),
C/O Chief Conservator of Forests,
Central & Southern Forest Region-I, Peshawar.

Subject: SHOW CAUSE NOTICE.

I am directed to enclose herewith Show Cause Notice (in duplicate) duly signed by the Chief Minister, Khyber Pakhtunkhwa *along with E/ report* for necessary action.

2. Please acknowledge the receipt.


(FIDA-UL-KARIM)
SECTION OFFICER (ESTT)


Endst:No.& date even

Copy is forwarded to :

3. PS to Secretary Environment Department.
4. Chief Conservator of Forests, Central & Southern Forest Region-I, Peshawar, alongwith a copy of the Show Cause Notice as well as inquiry report; with the direction that on receiving of the reply on the Show Cause Notice by the accused official, comparative statement with comments of the department may be furnished to this department within stipulated time period.

SECTION OFFICER (ESTT)

Attested


SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

ESH

1-20-1980



2821/we
2822 23

PAID
BY
PROFESSOR
ADVANCE
1.00



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

SHOW CAUSE NOTICE

I, Justice (R) Tariq Parvez Khan, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Iqbal, Forester (BPS-09) Forest Department, as follows:

- 1. (i) that consequent upon the completion of enquiry conducted against you by the Enquiry Committee, for which you were given opportunity of hearing vide office communication No. SO(Estt)Env/1-50(43) /2k6/28-31 dated 4/1/2013; and
- (ii) on going through the findings and recommendations of the Enquiry Committee, the material on record and other connected papers including your defence before the Enquiry Committee.

I am satisfied that you have committed misconduct, inefficiency and corruption, as per details reflected in Enquiry Report in the case, in terms of rule-3 of the Rules ibid.

2. As a result, thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalties of ① Compulsory Retirement From Service
② Recovery of Loss Amounting to Rs. 12,66,988/- under rule-14(4)(b) of the Rules ibid.

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

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

A copy of the Enquiry Report is enclosed.

Attested

SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

(JUSTICE (R) TARIQ PARVEZ KHAN)
CHIEF MINISTER, KHYBER PAKHTUNKHWA
30.4.2013

100 - 100

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To,

The Section Officer (Establishment)
Environment Department,
Khyber Pakhtunkhwa Peshawar.

Through:- PROPER CHANNEL

Subject: SHOW CAUSE NOTICE.

Kindly refer to your letter No.SO(estt) Env/1-50(43)2kG, dated 8/5/2013, received vide DFO Patrol Squad letter No.983/PS, dated 4/6/2013 wherein I have been directed to reply to the attached show cause notice issued from Honourable (Justice (R) Tariq Pervez Khan) Chief Minister KPK regarding the Penalties to be imposed upon me i) compulsory Retirement from service (ii) Recovery of loss amounting to Rs.12,66,988/- in the light of the Enquiry completed by Mr Abdul Jamil CCF, KPK & Mr. Janat Gul Additional Secretary Irrigation Department KPK. In this connection it is humbly submitted that a detailed reply was submitted to the Enquiry Committee and also during the personal hearing a detailed answer was given to the questionnaire but the Enquiry Committee did not give weight to my reply/ view points

(i) Again it is submitted that I am not involved in this event. The version of the Enquiry Committee in Para (f) of their Enquiry report that I am responsible for the exit of excess timber to the tune of 4985 cft from Goharabad market is not corrects, because 21087 cft timber was brought to Goharabad market vide TP No. 24 dated 23/12/2004 issued by DFO Lower Kohistan which was allowed at entry /exit check post of the market to its destination i.e sale depot of Lower Kohistan in side the Goharabad market for its proper measurement and disposal through the staff of Lower Kohistan. After necessary process by them the, DFO Kohistan prepared another documents for its disposal and issued office order No.29, dated 11/2/2003 and O/O. No.04, dated 13/8/2005 for disposal of 26072 cft from Goharabad market sale depot of Lower Kohistan at entry/exit point 1 allowed this to its destination in the basis of their documents.

(ii) There is no difference in the record of sale depot 569 i.e form No.5 receipt and Form No.6 disposal, what so ever is released by the DFO Lower Kohistan & his staff to the depot 569, that amount is dispatched and allowed to its destination.

destination

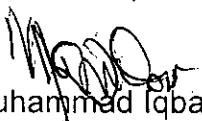
Attested
(ii)
Nurhan
SYED MAHMOOD AHMAD SHAIKH
Professor, M.A LL.B.
Advocate High Court
A.D.C. Peshawar


- (III) The amount of the excess timber has gone to the pocket of MD of the Dubir Society of Lower Kohistan Division. The department had failed to pursue the case in the courts against him where the excess timber was detected by CF, Abbottabad and confiscated vide office No.121 dated 12/6/2008 and still his society is in working condition.
- (IV) My duty was (DATA) recording and I have done this correctly and I have realized on the record of DFO Lower Kohistan and his documents.
- (V) Due to non inclusion of Forest Officer in the enquiry committee to ascertain technical aspect of the issue against M/S Hafiz-ul-Islam and Qazi Shabir Ahmad SDFOs besides poor prosecution of the department, the charges against the accused officers/official were not proved although they are not so innocent because TP No.24 dated 23/12/2004 (already extended on 13/7/2005) was granted another extension on 3/6/2008 (after 3 years) which is not understood. Conservator of Forest Abbottabad while confiscating the timber vide his office order No.121, dated 12/6/2008 clearly states that the so called timber is not available on balance and was confiscated. Later on due to poor prosecution of the Department could not prove the charges against the officers/officials during the enquiry proceedings. In case of civil suit the department (DFO Lower Kohistan and his staff) failed to safeguard the Govt. interest and rather gave change to the private party (MD of the society) to prove his case against the Department, which clearly shows their In-efficiently and Misconduct.

It is further requested that:-

- 1- The enquiry committee has not fulfilled the basic norms of justice.
- 2- They have not considered the evidence provided by me in my defence.
- 3- They have established charges upon me which I have not committed.
- 4- The officers who were charged alongwith me have been exonerated proving that the responsibility cannot be fixed on staff of Galis Forest Division Abbottabad and if Galis Forest Division staff is responsible then the officers exonerated should have been penalized and discrimination is not warranted under constitution.

keeping in view the above exposition it is humbly requested that I may be exonerated from the charges and may be heard in person please.


(Muhammad Iqbal)
Forester
(Now Deputy Ranger)


SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

**BEFORE HONOURABLE, THE GOVERNOR KHYBER
PAKHTUNKHWA, PESHAWAR**

IN THE MATTER OF

Muhammad Iqbal, Forester (BPS-09) Gallies Forest Division, Abbottabad.

...APPELLANT

APPEAL/ REPRESENTATION/ REVIEW AGAINST ORDER BEARING NO. SO(ESTT.)/1-50(43)/2K13/2160 DATED 12/05/2014, WHEREBY, IT HAS BEEN RECOMMENDED TO HONOURABLE THE CHIEF MINISTER KHYBER PAKHTUNKHWA, BEING COMPETENT AUTHORITY THAT AN FIR AGAINST APPELLANT MAY BE APPROVED TO BE LODGED UNDER RULES FR 54-A. BESIDES, RECOVERY OF AN AMOUNT OF RS. 12,66,988/-, AS PER RECOMMENDATION OF THE INQUIRY COMMITTEE HAS ALSO BEEN DIRECTED TO BE RECOVERED FROM THE APPELLANT.

PRAYER: ON ACCEPTANCE OF THE INSTANT APPEAL/ REPRESENTATION/ REVIEW, THE IMPUGNED LETTER/ ORDER DATED 12/05/2014 MAY KINDLY BE SET-ASIDE/ REVIEW IN THE HIGHEST INTEREST OF EQUITY, JUSTICE AND FAIR PLAY.

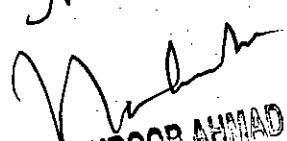
Respected Sir,

The facts giving rise to the instant appeal are arrayed as under;-

1. That the appellant after attaining the age of superannuation retired from service on 19/06/2013 as Deputy Ranger.

Attested
Muhammad
SYED MAHBOOB AHMAD SHAH
Professor, M.A L.L.B.
Advocate High Court
Abbottabad

- 2. That vide show cause notice dated 04/06/2013, the appellant was directed to submit reply regarding the penalties to be closed upon him in the light of inquiry completed by Mr. Abdul Jamil CCF KPK and Mr. Janat Gul Additional Secretary Irrigation Department KPK.
- 3. That the appellant submitted detailed reply, wherein, it was proved through cogent evidence above innocence of appellant but the same was not considered by the competent authority.
- 4. That the version of the inquiry committee was not correct. The timber measuring 21087 was brought to Goharabad Market vide TP No. 24 dated 23/12/2004 issued by DFO Lower Kohistan which was allowed at entry / exit check post of the market to its destination i.e. from sale depot of lower Kohistan to Goharabad market for its proper measurement and disposal through the staff of Lower Kohistan. The whole proceedings / process had been carried out / conducted by the officers and not the appellant because neither the appellant was authorized to do so nor it was the mandate of the appellant.
- 5. A cursory perusal of the record would reveal that the appellant has been made scapegoat. Probably, rather, surely, to give safe way to the persons/ officers who are actually responsible for the misconduct, inefficiency and corruption. Copies of TP No. 24 dated 23/12/2004, copy of letter No. 29 dated 11/02/2003, No. 04 dated 13/08/2005 are attached for ready reference.
- 6. That the appellant had released the timber under the challan issued by officers, who were co-accused. It is astonishing that the said officers / authority to release the timber, have been exonerated, surely, due to favouritism, nepotism and personal

Attested

SYED MAHBOOB AHMAD SHAH
 Professor, M.A LL.B.
 Advocate High Court
 Abbottabad

liking.

7. That firstly charge sheet, secondly statement of allegations, thirdly inquiry proceedings, fourthly show cause notice and finally the letter dated 12/05/2014 are alien to law. The whole proceedings till issuance of letter dated 12/05/2014 have been conducted without observing legal provisions on the subject, coupled with illegal exercise of jurisdiction.
8. That the inquiry committee has failed to comprehend the actual situation in the matter while concluding the inquiry and did not consider the facts and circumstances narrated by the appellant.
9. That the legal provisions of the law have been ignored throughout the proceedings. The appellant was quite innocent. No malafide whatsoever or misconduct, as have been alleged against the appellant could be proved against the appellant. Infact, in order to save the skin of actual culprits, the appellant has been dragged.
10. That the malafide is palpable on record, even from the letter dated 12/05/2014, wherein, in the subject, disciplinary proceedings have been shown against five persons, whereas, the FIR and recovery of Rs. 12,66,988/- has been recommended against the appellant. *What a standard of justice.* On one hand section officer, environment department is showing disciplinary action against five persons and in the same letter only the appellant is being penalized and that too for the faults and wrongs committed by others.
11. That on each and every occasion, the appellant had been requesting for personal hearing but each time the personal hearing was restricted only to introduction. No proper opportunity of personal hearing has been afforded to the appellant, which could enable him to explain his position. It is the worst example of highhandedness and abuse of power and

Attested
M. A. S.
SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

- 12. That another alarming factor of the situation is that, the appellant retired after rendering unblemished service from the department and during the whole tenure even a single complaint against the appellant has not filed, except the present proceedings which are clearly based on malafide. Since his retirement, the appellant is compelled to live a miserable life because the pension / gratuity has not been released to the appellant. The appellant has neither any son to look after him nor he has any other source of income.
- 13. That if the whole proceedings were conducted in a fair, transparent and impartial manner, the appellant would have been exonerated from very inception and actual culprits penalized.
- 14. That the appellant has tried his level best to convince the authorities regarding his innocence but the stance of influential person / officers always prevailed.
- 15. That the actual culprits and the officers conducting inquiry and other proceedings in the matter in hand were hands in gloves with each other. The appellant is dead sure that Honourable, the Chief Minister has been misguided through misrepresentation of the facts, otherwise, the Chief Minister being a kind and law knowing person should have never endorsed the proceedings.
- 16. That the inquiry committee has not fulfilled the basic norms of justice, have not considered the evidence provided by the appellant in his defence.

Ahmed
Mahmood
SYED MAHMOOD AHMAD SHAN
 Professor, M.A LL.B.
 Advocate High Court
 Abbottabad

17. That the officers who were made co-accused and charged alongwith the appellant have been exonerated which is sufficient to establish that the appellant is innocent because if the appellant has committed any wrong or misconduct, the same was done under the authority of officers and if they

have been exonerated, their left no reason/ lawful justification for penalizing the appellant.

18. That no law of the land provides double jeopardy. Letter dated 12/05/2014 is showing to punishments i.e. lodging of FIR and recovery of amount. The appellant being subordinate cannot be held as accused, therefore, both the punishments are not applicable to the appellant.
19. That the appellant is sure that if your good honour could kindly spare some moments form your precious time to give chance of audience to the appellant, enabling him to clear his position, it is hoped that the whole charges would be withdrawn and appellant exonerated from the charges leveled against him.

It is, therefore, humbly prayed that on acceptance of instant appeal / representation / review, the appellant may kindly be exonerated from the charges leveled against him. It is further requested that in the light of foregoing submission and those which may be agitated during personal hearing, concerned quarters may kindly be directed to forthwith release the service benefits of the appellant. It is further prayed that till disposal of the appeal, concerned quarters may also be directed not to register FIR against the appellant.

Dated: 27/05/2014

Ahmed
M. D. Shah
SYED MAHBOOB AHMAD SHAH
 Professor, M.A L.L.B.
 Advocate High Court
 Abbottabad

Muhammad Iqbal
(Muhammad Iqbal)
 Forester (BPS-09)
 Gallies Forest Division,
 Abbottabad.
 Retired as Deputy Ranger.

OFFICE ORDER NO. 68 DATED ABBOTTABAD THE 28/12/2005, ISSUED BY PIR QAIM SHAH DIVISIONAL FOREST OFFICER GALIS FOREST DIVISION ABBOTTABAD.

The following posting/adjustment amongst the Foresters and Forest Guards is hereby ordered in the interest of public service with immediate effect.

S.No.	Name of and rank	From	To.
1.	Mr. Mohammad Riasat, Forester	Abbottabad Block Abbottabad Range	Goharabad timber Market Abbottabad Range
2. ✓	Mr. Mohammad Iqbal Forester	Goharabad timber Market Abbottabad Range	Abbottabad Block Abbottabad Range
3.	Mr. Saeed Akhtar Forest Guard.	Paswal Mian beat Abbottabad Range	Salhad Barrier Abbottabad Range
4	Syed Mujtaba Shah Forest Guard	Karakurm High way road Abbottabad Range	Paswal Mian beat Abbottabad Range in additional to his own duty.
5.	Mr. Mohammad Jamshid Forest Guard.	Salhad Barrier Abbottabad Range	Sherwan beat Abbottabad Range in place of Mr. Taj Mubarik Fg; deputed for 59 th Forest Guard Course at Sarhad Forest School Thai vide this office letter No. 2117-19/E. dated 3-12-2005.

Sd/- (PIR QAIM SHAH)
DIVISIONAL FOREST OFFICER
GALIS FOREST DIVISION
ABBOTTABAD.

Memorandum;-

1. Copy alongwith copy of directive of P.S.O. to Chief Minister NWFP dated 1-12-2005 forwarded to Conservator of Forest Abbottabad Circle Abbottabad for favour of information please.
2. Range Forest Officer Abbottabad for information and necessary action. He is directed to submit the arrival/departure and charge reports to this office for record and further necessary action.
3. Divisional Accountant for information.

Attested
N. A. Shah
SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

N. A. Shah
DIVISIONAL FOREST OFFICER
GALIS FOREST DIVISION
ABBOTTABAD.

Annexure - H

ENQUIRY REPORT OF DISCIPLINARY CASE AGAINST M/S MOHAMMAD IQBAL
DEPUTY RANGER AND MOHAMMAD RAFIQUE FOREST GUARD.

READ WITH.

1. Conservator of Forests Lower Hazara Forest Circle Abbottabad letter No. 3721-22/GE, dated 25.3.2011.
2. Section officer letter No. SO(Estt)Env/1-50(40)2K9 611/WE dated Peshawar the 26th February 2011.
3. Enquiry report of M/S Qazi Shabir Ahmed Ex-DFO Lower Kohistan, Hafiz-ul-Islam Ex- DFO Lower Kohistan, Juma Khan Block Officer, Naseer Gul Junior Clerk., Umer Khan Forest Guard, Muhammad Zarin Forest Guard and Saif-ur-Rehman Forest Guard.
4. Memo of allegation/disciplinary action in which Sardar Muhammad Saleem Sub Divisional Forest Officer Abbottabad appointed as enquiry committee vide DFO Galis letter No. 3966-67/E, dated 22.4.2011.
5. Charge sheet issued to M/S Mohammad Iqbal Deputy Ranger and Mohammad Rafique Forest Guard.
6. Acknowledgement receipt of Mr. Muhammad Iqbal Deputy Ranger vide DFO Patrol Squad division letter No. 58-/PS, dated 2/5/2011.
7. Acknowledgement receipt of Mr. Muhammad Rafique Forest Guard.
8. Reply of the charge sheet submitted by the accused officials dated nil.

BRIEF HISTORY OF THE CASE.

That a letter No. 2312/GL, dated 3.6.2008 of 779 scants 4984.97Cft (Annexure-I) was issued by Divisional Forest Officer Lower Kohistan Forest Division for transportation of balance timber of Transport pass No. 24 dated 23.12.2004. It was alleged that the subject timber has already been transported to down district and the balance timber of transport pass no. 24 dated 23.12.2004 was confiscated by Conservator of Forests Abbottabad Circle vide office order No. 121 dated 12.8.2008 (Annexure-II). Resultantly a memo of allegation and charge sheets issued to the concerned staff. Explanation of accused M.S. Muhammad Iqbal Deputy Ranger and Muhammad Rafique Forest Guard also called who's in their written replies rebutted the allegation. The Worthy Conservator of Forests agreed with the replies and the accused M/s. Muhammad Iqbal Deputy Ranger and Muhammad Rafique Forest Guard were exonerated from the allegation vide Conservator of Forests Lower Hazara Circle Abbottabad office letter No. 2317/GE, dated 13.5.2009 (Annexure-III).

After detailed disciplinary proceeding against the staff of lower Kohistan Forest Division they were exonerated and with astonishment staff of Galis Forest Division was made responsible and Divisional Forest Officer Galis Forest Division was asked to initiate disciplinary proceedings against the staff at Goharabad depot. As a result the Divisional Forest Officer Galis Forest Division vide his letter No. 3964-69/E, dated 12.4.2011 issued charge sheet with memo of allegation to the accused M/S. Mohammad Iqbal Deputy Ranger and Muhammad Rafique Forest Guard and Mr. Muhammad Saleem Sub Divisional Forest Officer Abbottabad was appointed the enquiry committee. The accused official M/s. Muhammad Iqbal Deputy Ranger and Muhammad Rafique Forest Guard submitted their written replies and annexed the documents to prove him innocent.

After written reply the accused officials were called for personal hearing and cross-examination.

Attested
 SYED MAHBOOB AHMAD SHAH
 Professor, M.A LL.B.
 Advocate High Court
 Abbottabad

DISCUSSION.

After going through the written reply, attached annexure, personal hearing and cross examination it is derived that the accused official has dispatched the consignment of T.P. No. 24 dated 23.12.2004, keeping in mind the distribution report, challan of timber handed over to Managing Director Dubair harvesting society, receipt of MD etc. All those documents prove that all the timber has been handed over to the Managing Director and he has dispatched it therefore, it is not proved any where that the accused official is responsible for the short fall. Therefore, keeping in view the documentary and circumstantial evidence provided by the accused in his defense, the charges leveled against Mr. Mohammad Iqbal Deputy Ranger cannot be established.

RECOMMENDATION.

The accused official Mr. Muhammad Iqbal Deputy Ranger is hereby exonerated from the charges leveled against him.

Enquiry Committee
Sardar Muhammad Saleem
Sub Divisional Forest Officer
Abbottabad.

[Handwritten signature]
30/12/2015

[Handwritten signature]
SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

N.W.F.P
FOREST DEPARTMENT
LOWER KOHISTAN FOREST DIVISION, PATTAN

LKFD

Phone No.0998-405203

Fax No.0998-405203

No. 2825 /GE, dated Pattan the 24 June, 2008
To,

The Managing Director,
Dubair Forest Harvesting,
Cooperative Society Limited.

SUBJECT

CARRIAGE OF TIMBER FROM DUBAIR ROADSIDE DEPOT TO
TIMBER MARKET GOHARABAD - SHOW CAUSE NOTICE

Memorandum

Whereas, you Mr Muhammad Anwar S/O Hibz-ur-Rehman, Managing Director, Dubair Forest Harvesting Cooperative Society Limited signed an agreement with NWFP Forest Department for the transportation of timber from Dubair Roadside Depot to Timber Market Goharabad (timber obtained from Charry Compartment No. 4 (ii)) Pattan Sub division of Lower Kohistan Forest Division on 06/07/2004.

Whereas, you were granted T.P No. 24 dated 23/12/2004 for the transportation of Fir/Spruce = 3,495 scants = 26,071.92 cft from Dubair Roadside Depot to Timber Market Goharabad. The entire timber transported to Market and subsequently distributed/released amongst the concessionists/Government as under:-

Office Order No. & Date	Total Timber received in market	20% Govt. Share	80% Owner Share
29 dated 11/02/2005	1942 = 14324.99	239 = 2865.19	1703 = 11459.80
04 dated 13/08/2005	1553 = 11746.93	215 = 2349.94	1338 = 9396.99
TOTAL	3495 = 26071.92	454 = 5206.13	3041 = 20856.79

Whereas, from the perusal of above office order reveals that entire 3,495 scants = 26,071.92 cft timber of T.P No.24 dated 23/12/2004 stand reached the market and distributed into the appropriate share amongst the concessionists/Government leaving no balance at Roadside Depot.

Whereas, you have applied for grant of extension in the period of T.P.No.24 dated 23/12/2004 alongwith sizewara for the transportation of Fir/Spruce 513 scants = 4,984.97 cft and you deliberately violated clause 2(d) of the agreement.

Now therefore, under clause 2(d) of the agreement the illegal/illicit timber is liable to be confiscated to state in addition to fine imposed upon you.

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

You are therefore, directed to submit your written reply on the above show cause notice, which must reach this office within seven (07) days of the receipt of this notice. If no reply is received within stipulated period it will be presumed that you have nothing to say your defence and exparte action will be taken against you.

DIVISIONAL FOREST OFFICER
LOWER KOHISTAN FOREST DIVISION
PATTAN

No. 2826-27 /GE,

Copy forwarded to:-

1. Conservator of Forests, Hazara Forest Circle, Abbottabad for favour of
2. Information with reference to his No.2014/GL, dated 19/06/2008, please.
3. DFO, Pattan for information and necessary action. He should handover the attached letter to the MD, Dubair under proper receipt, which should be sent to this office for record.

DIVISIONAL FOREST OFFICER
LOWER KOHISTAN FOREST DIVISION

Attested

SYED MAHMOOD AHMAD SHAIKH
Professor, M.A LL.B
Advocate High Court
Abbottabad

TP NO = 24

دست قریباً آٹھ مہینہ ازان سٹان وائر وکٹنگ گورنمنٹ آباد

میں ادب سے عقدہ سب سے پہلی اسٹیٹس فریڈوم ٹیڈی

1338 آئی 9396-99 ٹیڈس وصول یا کر رسید ٹیڈی کے

کا کہ سند سے اور نوٹس فریڈوم ٹیڈی کے -

العقد -

ایم ڈی سوسائٹی دوپہر تارو آف ٹیڈی کے -

Attested

Nelma
SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

[Signature]
06/08/05

Attested

Nelma
SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

Annexure - 1

OFFICE ORDER NO. 127 DATED ABBOTTABAD THE 12/16/2009 ISSUED BY
 SYED KHURSHID ANWAR, CONSERVATOR OF FORESTS, HAZARA FOREST
 CIRCLE ABBOTTABAD.

312 trees = 102988 CII were marked in Chary C-4(iii) of Lower Kohistan Forest Division and harvesting allowed vide Chief Conservator of Forests, NWFP, No: 1664GR, dated 14/01/2003 through Duhair Forest Harvesting Cooperative Society. Marked volume was harvested into 7327 scanis=56220.98 CII and out of which 3832 scanis=30149.06 CII was transported to market vide T.P No:01 dated 06/12/2004 and distributed amongst the owners/Govt; appropriately vide DFO office order No.01 dated 26/12/2004 leaving balance of 3495 scanis=26071.92 CII. (from Duhair roadside to Goharabad Market. Timber reached the T.P. No.24 dated 2/12/2004 was issued for transportation of balance 3495 scanis=26071.92 CII from Duhair roadside to Goharabad Market. Timber reached the market has been distributed/ released amongst the concessioners/ Govt. as under:

DFO office order & date	Quantity as per T.P	Timber record in Market	20% Govt Share	80% Owner Share
29, dated 11/2/05	3495-26071.92	1942=14324.99	239=2065.19	1703=1459.00
04 dated 13.8.2005		1553=11746.93	215=2349.94	1338=9396.99
Total:		3495=26071.92	454=5215.13	3041=20856.79

Perusal of above order reveals that entire 3495 scanis =26071.92 CII timber of TP No.24 stand reached the market and distributed into the appropriate share amongst the concessioners/Govt leaving no balance at roadside depot.
 DFO, Lower Kohistan vide letter No.2712/GL dated 03.06.2008 again extended the period of T.P No.24 dated 23.12.2004 in favour of Managing Director, Duhair Forest Harvesting Cooperative Society for the transportation of so called illegal balance of 513 Fir/Spruce=4904.97 CII timber from Duhair to Goharabad Market, which does not exist on record of Goharabad Timber Depot. DFO: Lower Kohistan issued challian No.66 to 72 (7 Nos.) for the said timber.

On receipt of a complaint regarding transportation of illegal timber, seven (7) trucks loaded with the above consignment, were intercepted on Mirpur Forest check post Abbottabad and carried to Goharabad Market under the supervision of DFO, Patrol Squad, DFO, Patrol Squad checked the market record and found that no balance is exist. Since the above timber is totally illegal/illegal, therefore, 513 Fir/Spruce scanis=4904.97 CII timber lying in Goharabad Market is hereby confiscated in favour of Govt.
 Delinquent staff involved in the transportation of above timber will be proceeded against separately.

Attested
 Syed Mahboob Ahmad Shah
 Professor, M.A.L.B.
 Advocate High Court
 Abbottabad

Attested
 Syed Mahboob Ahmad Shah
 Professor, M.A.L.B.
 Advocate High Court
 Abbottabad

forwarded to:

- 1. The Chief Conservator of Forests, NWFP, Peshawar for favour of information.
- 2. ✓ The Divisional Forest Officer, Lower Kohistan Forest Division, Paltan for information and necessary action. He is directed to put the timber to open auction for its sale and proceeds against the delinquent staff under intimation to this office.
- 3. DFO: Patrol Squad Abbottabad for information.
- 4. The Managing Director, Dubair Forest Harvesting Cooperative Society.

[Signature]
 CONSERVATOR OF FORESTS
 HAZARA FOREST CIRCLE
 ABBOTTABAD

Attested

Nabih
 SYED MARBOOB AHMAD SHAH
 Professor, M.A LL.B.
 Advocate High Court
 Abbottabad

Attested

Nabih
 SYED MARBOOB AHMAD SHAH
 Professor, M.A LL.B.
 Advocate High Court
 Abbottabad

Annexure - 2

OFFICE OF THE CONSERVATOR OF FORESTS, HAZARA CIRCLE, ABBOTTABAD.	No. 2317/GE, Dated 13//05/2009.
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To

The Chief Conservator of Forests,
NWFP, Peshawar.

Subject:-


TRANSPORTATION OF ILLEGAL TIMBER FROM LOWER
KOHISTAN FOREST DIVISION TO GOHARABAD -
EXPLANATION OF MR. MUHAMMAD IQBAL FORESTER
THE THEN INCHARGE GOHARABAD TIMBER DEPOT OF
GALIS FOREST DIVISION (NOW DEPUTY RANGER)

Memo.


Reference your office endorsement No. 3068/E, dated 15-01-2009 and No. 3130/E, dated 15-01-2009

The undersigned agree with the reply furnished by Mr. Muhammad Iqbal, Forester (Now Deputy Ranger) which is submitted along with copy of explanation for perusal and necessary action.

Encl. As above.

Attested

SYED MAHBOOB AHMAD SHAH
 Professor, M.A LL.B.
 Advocate High Court
 Abbottabad

Sd/-Conservator of Forests,
Hazara Circle,
Abbottabad.

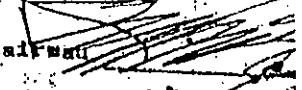


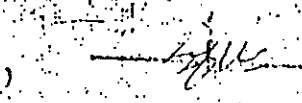
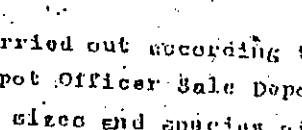
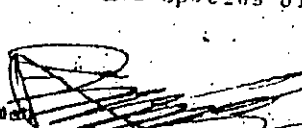
Attested

 Conservator of Forests
 Lower Hazara Circle,
 Abbottabad.


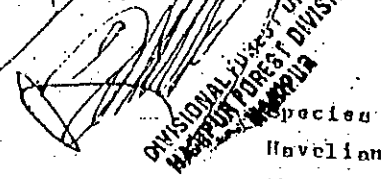
T.P No. 24

DATED 23-12-2004


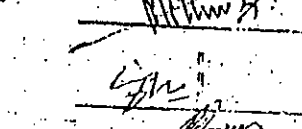
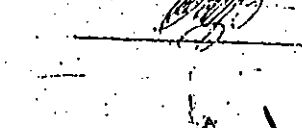
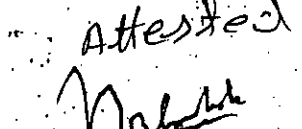
Subject: DISTRIBUTION OF TIMBER OBTAINED FROM Charry, c. etc. THROUGH Dubair Forest Harvesting Coop. Society


The timber was distributed at Havelian Sale Depot (Goharabad) on 06-08-2005 by the distribution committee in proportionate share of 20:80 (Govt. and owner shares respectively).

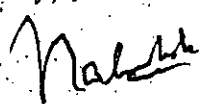
- 1. DFO /Kohistan L/K Chairman 
- 2. DFO Galies Member 
- 3. DFO Haripur Member 
- 4. Range F. Officer Palas Member 
- 5. Managing Director Dubair Forest Harvesting Society 
- 6. Depot Officer (Incharge Goharabad Depot) 

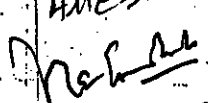


 DIVISIONAL DIRECTOR OF FORES
 HAZARA FOREST DIVISION

The distribution of timber was carried out according to species and sizes. Mr. Saif ur Rehman F.I.G. Depot Officer Sale Dept Havelian helped the committee in reporting the sizes and species of the timber.

- DFO /Kohistan L/K Chairman 
- Range F. Officer Palas Range Member 
- Depot Officer (Incharge Goharabad Depot) 
- Managing Director 

تصدیقاً
 اور اپنی مادی سے کہہ کر (Distribution) کسی بلڈری کی رقم بلتھا
 کو الٹی دینا کہہ کر کسی قسم کا کوئی اور کام
 میں نے اور نہیں کیا
 جس سے کہہ کر کسی قسم کا کوئی اور کام
 میں نے اور نہیں کیا
 ایم ڈی 

Attested

 SYED MAHBOOB AHMAD SHAH
 Professor, M.A LL.B.
 Advocate High Court
 Abbottabad

Attested

 SYED MAHBOOB AHMAD SHAH
 Professor, M.A LL.B.
 Advocate High Court
 Abbottabad

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OFFICE ORDER NO. 04 DATED 13/08/2005 ISSUED BY
H.A. JALIL, MEMBER OF DIVISIONAL FOREST OFFICER LOWER KHYBER PAKHTUN KHWAHA
P.A.T.T.A.

As per right joint Agreement of April, 1981 concluded between the elders of Kohistan and Provincial Government the timber extracted from Charry Forest Compartment No. A(11) through subar for Harvesting Cooperative Society Limited was distributed at Gollarabad (Havelian) Timber Sale Depot on 6.08.2005 into (80 : 20) as Co-cessorist society and Govt share respectively by the distribution committee constituted by the Chief Conservator of Forests, Peshawar vide his order no. 11 dated 28.01.2004. The detail of timber distrib is given in Annexure and abstract is given below:-

Annexure dated 23.12.2004



Quantity of	20% Government share	80% Co-cessorist share
scarts cft	no. of scarts cft	scarts cft
No. 1551 12748.93	215 2000.74	1338 9396.99

production duty, P.F. and selo-charge fee etc on the soc of timber has already been recovered in full at the time of clearance of T.M. to Gollarabad (Havelian) Timber Sale Depot and nothing is now outstanding against the society. Therefore Co-cessorist's share of timber as detailed above (1338 scarts 9396.99 cft P.F./Sorc is hereby released from Gollarabad (Havelian) Timber Sale Depot to no. 569 Gollarabad (Havelian) under the cover of Challan no. 85 of book no. 2/LK for further disposal as per procedure under the supervision of Control of Divisional Forest Officer Gollar Forest Division Abbottabad as usual.

Amir

[Signature]
MANAGING DIRECTOR
HARVESTING CO-OPERATIVE SOCIETY
HARIBUR

(HAJA INTIKAH SHAIKH)
DIVISIONAL FOREST OFFICER
LOWER KHYBER PAKHTUN KHWAHA
P.A.T.T.A.

Copy forwarded to the:-

1. The Conservator of Forests, Abbottabad Office, Abbottabad for favour of information please.
2. The Divisional Forest Officer, Gollar Forest Division, Abbottabad for information and necessary action.
3. The Divisional Forest Officer Haripur Forest Division, Haripur for information and necessary action.
4. The Range Forest Officer Gollar for information. The timber of co-cessorist's share should be handed over to the Managing Director of the Society under proper receipt which should be sent to this office for record.
5. Managing Director Gollar Forest Harvesting Cooperative Society Limited. He is directed to collect the timber of co-cessorist's share from the sale depot with- in of the issue of this letter under proper receipt.

P/17/2005

Attested
Nahar

SYED MAHBOOB AHMAD SHAH,
Professor, M.A LL.B.
Advocate High Court
Abbottabad

[Signature]
DIVISIONAL FOREST OFFICER
LOWER KHYBER PAKHTUN KHWAHA
P.A.T.T.A.

Attested

SYED MAHBOOB AHMAD SHAH,
Professor, M.A LL.B.
Advocate High Court
Abbottabad

id/Lt

85 سالانہ



حکومت پنجاب

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13-8-05

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D.P.C.

20/05

Attested

SYED MAHMOUD AHMAD SHAH
Professor, M.A.L.L.B.
Advocate High Court
Abbottabad

Attested

SYED MAHMOUD AHMAD SHAH
Professor, M.A.L.L.B.
Advocate High Court
Abbottabad

OFFICE OF THE DIVISIONAL FOREST OFFICER GALIS FOREST DIVISION ABBOTTABAD

The Conservator of Forests,
Hazara Forest Circle
Abbottabad

No. 906 /B&A, dated Abbottabad the 31 /8/2009


Subject:- TRANSPORT PASS NO.24 DATED 31-7-2009


Ref: Your office 1528-30/GL, dated 20.8.2009

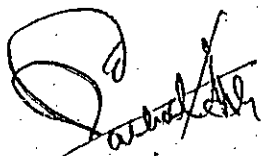
It is submitted that the committee constituted for thrashing out of timber in question brought under TP No.24 dated 31st July, 2009 from Lower Kohistan Forest Division has categorically been combed out and came to the conclusion, elaborated in the following lines:

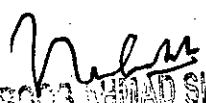
- i. The timber remained stacked in Goherabad Market since more than one year and now apparently changed in colour etc being Fir/Spruce in the open air due to Natural Hazard and therefore the timber to the tune of 82 scants = 1055.00 cft seems too old and relatively is of low quality as compared to the timber to the tune of 431 scants= 4332.00 cft of Fir/Spruce.


The report is submitted for favour of further course of action please.


Divisional Forest Officer
Galis Forest Division
Abbottabad


Divisional Forest Officer
Lower Kohistan Forest Division
Pattan


Sub Divisional Forest Officer
Abbottabad Sub Division
Abbottabad

Attested

SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

Attested

SYED MAHBOOB AHMAD SHAH
Professor, M.A LL.B.
Advocate High Court
Abbottabad

