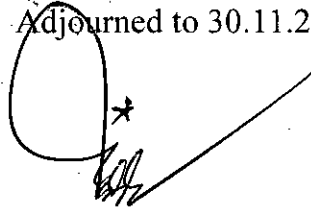


10.09.2020

Mr. Noman Ali, Advocate, junior to counsel for the appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

According to the junior counsel his senior counsel has proceeded to Islamabad for attending the august Supreme Court of Pakistan in connection with other cases, therefore, he could not attend the Tribunal. He requested for adjournment.

Adjourned to 30.11.2020 for arguments before D.B.C



(Mian Muhammad)  
Member (E)

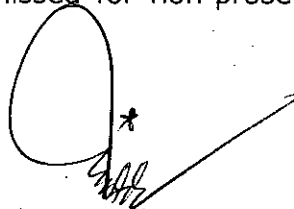


(Muhammad Jamal)  
Member(J)

30.11.2020

Nemo for the appellant. Addl. AG alongwith Ashiq Hussain, Asstt. Director for the respondents present.

It is already past 03.20 P.M and despite repeated calls no one is in attendance on behalf of the appellant. It is, therefore, dismissed for non-prosecution. File be consigned to the record.



(Mian Muhammad)  
Member (E)



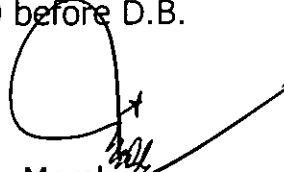
Chairman

ANNOUNCED

30.11.2020

12.02.2020

Appellant in person present. Addl: AG for respondents present. Appellant seeks adjournment as his counsel was busy before the Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 27.03.2020 before D.B.

  
Member

  
Member

27.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 17.06.2020 before D.B.

  
Reader

17.06.2020

Due to Covid-19, the case is adjourned. To come up for the same on 10.09.2020 before D.B.

  
Reader

25.07.2019

Mr. Taimur Ali Khan, Advocate for appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 11.10.2019 for arguments before D.B.



(HUSSAIN SHAH)  
MEMBER



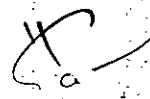
(M. AMIN KHAN KUNDI)  
MEMBER

11.10.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 10.12.2019 before D.B.



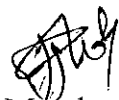
Member



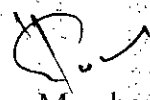
Member

10.12.2019

Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 12.02.2020 before D.B.



Member




Member

22.01.2019

Learned counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 26.03.2019 before D.B


  
(Hussain Shah)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

26.03.2019

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Sardar Gul Deputy Director for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 31.05.2019 before D.B

  
(Hussain Shah)  
Member

  
(Muhammad Amin Khan khudi)  
Member

31.05.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 25.07.2019 before D.B.


  
Member

  
Member

03.09.2018

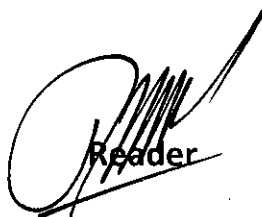
Appellant absent. Learned counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Zar Gul, Deputy Director for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 22.10.2018 before D.B.

  
(M. Amin Khan Kundi)  
Member

  
(M. Hamid Mughal)  
Member

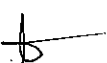
22.10.2018


Clerk of the counsel for appellant present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Zar Gul, Deputy Director for the respondents present. Due to retirement of Hon'ble Chairman, the Tribunal is incomplete. To come up for same as before on 06.12.2018.

  
Reader

06.12.2018

Clerk to counsel for the appellant present. Addl. AG for respondents present. Clerk to counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 22.01.2019 before D.B.


  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

27.02.2018

Appellant in person present. Mr. Usman Ghani, Learned District Attorney alongwith Rashid Hussain AD for the respondents present. Appellant seeks adjournment as his counsel is not available. Adjourned. To come up for arguments on 27.04.2018 before D.B

  
(Gul Zeb Khan)  
Member

  
(Muhammad Hamid Mughal)  
Member

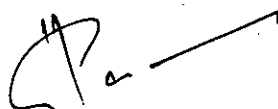
**27.04.2018** Appellant in person and Mr. Kabir Ullah Khattak, Additional AG alongwith Mr. Zar Gul, Deputy Director for the respondents present. The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 12.07.2018 before D.B.

  
Reader

12.07.2018

Clerk to counsel for the appellant present. Mr. Rashid Hussain, A.D alongwith Mr. Ziaullah, DDA for respondents present. Arguments could not be heard due to general strike of the Bar. Adjourned. To come up for Arguments on 03.09.2018 before D.B.

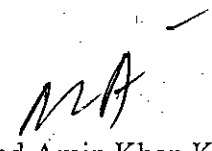
  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

02.06.2017

Counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 27.09.2017 before D.B.

  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

27.09.2017

Junior to counsel for the appellant and Mr. Muhammad Jan, DDA for the respondents present. Junior to counsel for the appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 29.12.2017 before D.B.

  
Member

  
Chairman

29.12.2017

Appellant in person and Usman Ghani, District Attorney alongwith Mr. Zar Gul, D.D for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 27.02.2018 before D.B.

  
Member

26.09.2016

Clerk to counsel for the appellant and Mr. Zar Gul, Assistant Director alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 15.11.2016 before S.B.

  
Chairman

15.11.2016

Appellant in person and Mr. Mukhtiar Ali, Supdt. alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 12.01.2017.

  
Member

12.01.2017

Counsel for the appellant ~~present~~ and Muhammad Jan GP, for respondents present. Rejoinder is submitted which is placed on file. To come up for arguments on 02.06.2017.

  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AMIR NAZIR)  
MEMBER



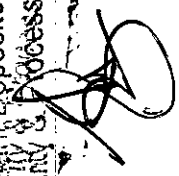
12.07.2016

Counsel for the appellant present. Learned counsel for the appellant submitted that the appellant was appointed as Junior Clerk by the Forest Department. That the appellant applied for 3 months leave which was duly sanctioned in his favor by the competent authority. The learned counsel further submitted that disciplinary proceedings were initiated against the appellant on the ground of absence from duty on which one Muhtaram Shah a family head of the appellant who informed the department that the appellant is not available at home station therefore further proceedings against him may be stopped till his availability and he may be given opportunity of showing cause of his absence, but in vain. Learned counsel for the appellant submitted that the appellant was unlawfully removed from service from a back date vide impugned order dated 21.04.2010 and departmental appeal was also rejected on 03.05.2016 within 30 days of which order the instant appeal was filed. Learned counsel for the appellant submitted that in accordance with the decision reported in 2007 PLD (CS)-52 the appeal is within time. He submitted that no opportunity of defence or hearing has been provided to the appellant and further that major penalty of removal has been imposed without due process of law by conducting the departmental inquiry.

Points urged at the bar need further consideration. Admit. Subject to deposit of security and process fee within 10 days, where-after notices be issued to the respondents for written reply/comments for 26.09.2016 before S.B.

  
MEMBER

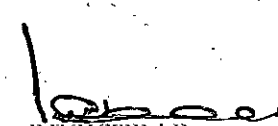
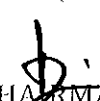
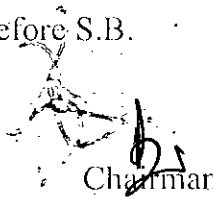
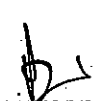
Appellant Deposited  
Appellate Security & Process Fee



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 581/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	31/05/2016	<p>The appeal of Mr. Sardar Hussain presented today by Mr. Muhammad Asif Yousafzai Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	1-6-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>2.6.16</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	02.06.2016	<p>None for the appellant present. Adjourned for preliminary hearing to 16.06.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	15.06.2016	<p>Counsel for the appellant present. Seeks adjourned. Adjourned for preliminary hearing to 12.07.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 581 /2016

Sardar Hussain

V/S

Forest Deptt:

**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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2.	Copy of appointment order	A	5
3.	Copy of leave application	B	6
4.	Copy of rejection of appeal	C	7
5.	Copy of father's application on behalf of appellant	D	8
6.	Copy of termination notice thereof	E	9
7.	Copy of reply to that notice	F	10
8.	Copy of latter dated 03.07.2009	G	11
9.	Copy of inquiry report	H	12-13
10	Copy of show cause notice	I	14
11	Copy of termination order dated 21.04.2009	J	15
12	Copy of Departmental appeal	k	16-17
13	Copy of Rejection order	L	18
14	Vakalt Nama	-	19

**APPELLANT**

**THROUGH:**

  
(M. ASIF YOUSAFZAI)

  
(TAIMUR ALI KHAN)

&

  
SYED NOMAN ALI BUKHARI  
(ADVOCATES, PESHAWAR)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. 581 /2016

Khyber Pakhtukhwa  
Service Tribunal

Mr. Sarder Hussain, Ex- Junior Clerk,  
Directorate of (NTFP), KPK, Peshawar.

Diary No. 557

Dated 31-5-2016

(Appellant)

**VERSUS**

1. The Secretary Forests Deptt: KPK, Peshawar.
2. The Director, Non-Timber Forest Products (NTFP), KPK, Peshawar.
3. The Deputy Director, Non-Timber Forest Products ( NTFP), KPK, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ODER DATED 3.05.2016, WHEREBY THE DEPARTMENT APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 21.04.2010, WHEREIN THE APPELLANT WAS TERMINATED FROM SERVICE, HAS BEEN REJECTED FOR NO GROUNDS.

**PRAYER:**

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 3.05.2016 AND 21.04.2010 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. OR THE RESPONDENTS MAY BE DIRECTED TO CONDUCT DENOVO INQUIRY WITH CHANCE OF DEFENSE TO APPELLANT. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWETH:**

1. That the appellant was appointed as Junior Clerk (BPS-07) in Forest Deptt: on dated 01.07.2008 and performed his duty up to the entire satisfaction of his superior.(copy of appointment order is attached as Annexure-A).
2. That due to domestic problem, the appellant applied for leave of 3 months, which was rejected and again the appellant' s father on behalf of the appellant applied for leave, however the department did not take any action on the application. (Copies of leave application by appellant

Filed to-day  
Registrar  
31/5/16

rejection of appeal and father's application on behalf of appellant are attached as Annexure-B,C&D).

3. That on dated 18.06.2009 termination notice was issued to the appellant, as the appellant was not at home station, therefore on the behalf of the appellant one Mr. Muhtaram Shah submitted reply to the termination notice thereof in which he again requested for leave on the behalf of appellant and on his request the leave application was recommended for favour of sanction on humanitarian ground by the concerned Department vide order letter dated 3.7.2009. (copies of termination notice thereof, reply to that notice and latter dated 3.7.2009 are attached as E,F&G)
4. That despite the recommendation of sanction of leave, one sided inquiry was conducted against the appellant in which neither the appellant was associated with the enquiry proceedings nor chance of defence was provided to the appellant and on the basis of that inquiry show cause notice was issued to the appellant. (Copies of inquiry report and show cause notice are attached as Annexure-H&I)
5. That the appellant was terminated from service vide order dated 21.4.2010 (Copy of termination order dated 21.4.2010 is attached as Annexure-J)
6. That against the order dated 1.4.2010 the appellant filed departmental appeal on dated 11.3.2016 with clear request of denovo proceedings with chance of defense to explain his absence, but the same was rejected on 3.5.2016 for no good grounds. (Copies of departmental appeal and rejection order are attached as Annexure-K&L)
7. That now the appellant filed the instant appeal on the following grounds.

**GROUND:**

- A) That the impugned order dated 3.5.2016 and 21.04.2010 is against the law, rules and material on record, therefore liable to be set aside.
- B) That the appellant's father submitted application for leave on the behalf of the appellant which was also recommended for sanction of leave, but not informed the appellant in time about its rejection, therefore the appellant was under impression that his leave might be accepted.
- C) That no charge sheet and statement of allegation was served to the appellant before imposing major punishment of termination from service, which is the violation of law and rules.

- D) That one sided inquiry was conducted against the appellant and no chance of defence was provided to the appellant before imposing major which is the violation of Superior Courts judgment.
- E) That the impugned order has been passed with retrospective effect which is in violation of Supreme Court judgment reported as PLD(SC)-2007, page 52.
- F) That the appellant did not intentionally absented from duties but due to some domestic problem, he was unable to perform his duty and was compel to remain absent from his duties.
- G) That the appellant also made request for denovo inquiry with chance of defense so as to enable the appellant to explain his absence, but that request has not been accepted, which shows the arbitrariness of the respondents.
- H) That the penalty of termination from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- I) That the appellant has been condemned unheard and has not been treated according to law and rules.
- J) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

  
**Appellant**

Sardar Hussain

THROUGH:

  
(M. ASIF YOUSAFZAI)

  
(TAIMUR ALI KHAN)

  
(SYED NOMAN ALI BUKHARI)

(ADVOCATES, PESHAWAR)

A/S

OFFICE ORDER NO 02 DATED 01-07-2008, ISSUED BY  
MR. RAJ MUHAMMAD, DEPUTY DIRECTOR NTFP, NWFP PESHAWAR.

As per recommendation of Departmental Selection Committee on dated 06-03-2008 and exercise of the Powers vested in me vide rules 4 of the Government of NWFP (Appointment, Promotion, Posting and Transfer) rules, 1989, Mr. Sardar Hussain S/o Multan Khan, Village & P.O Pishtakhara Payan Tehsil & District Peshawar, is hereby appointed as Junior Clerk (BPS-07) @Rs. 3528-192-9288 with usual allowances as admissible under the rules against the newly created vacant post in S.N.E for 2008-09 in Directorate of NTFP, NWFP Forest Department for a period upto 30<sup>th</sup> June 2009 (Extendable subject to extension of SNE) on contract basis with effect from the date he takes over charge of his duties at Peshawar. His appointment in the department is purely temporary and his service can be terminated with out any reason being assigned at any time irrespective of the fact that he is holding a post other than the one to which he was originally recruited.

He will be governed by the following terms and conditions.

1. He has to join duty at his own expenses.
2. The official will be kept at a probationary period of one year which will be counted from the date of his arrival report.
3. In case he wishes to resign at any time, a month's notice will be necessary or in lieu thereof a month pay may be forfeited to Government.
4. He will be governed by such rules and orders relating to service pay etc. as may issued by Government from time to time.
5. His appointment is subject to production of necessary medical fitness certificate from the concerned authorities.
6. His appointment is subject to verification of necessary documents from the concerned Board/Institute through this office on his own expenses before joining duty.
7. His appointment to the said post will count toward seniority/promotion/pension till further order.
8. This offer will be valid for 30 days from the date of issue.

SD/-  
(RAJ MUHAMMAD)  
DEPUTY DIRECTOR NTFP  
N.W.F. PROVINCE PESHAWAR.

NO. 12-18 DD/NTFP, NWFP, Dated Peshawar the 01-07-2008.

Copy for information and necessary action forwarded to:-

1. The Director, NTFP NWFP Forest Department Peshawar.
2. The Assistant Director Sericulture/NTFP N.W.F.P. Peshawar.
3. ✓ Mr. Sardar Hussain S/o Multan Khan, Village & P.O Pishtakhara Payan Tehsil & District Peshawar.
4. Personal file of the official concerned.
5. The Disburser, NTFP, Directorate NWFP Peshawar.
6. The Establishment Assistant, NTFP Directorate NWFP Peshawar.

DEPUTY DIRECTOR NTFP,  
N.W.F. PROVINCE PESHAWAR.

ATTESTED

"B" (9)

ADMITT NURP

no (copy, etc) in office  
with station leader

Handwritten notes in Urdu script, including the word "میں" (mein) and "کے" (ke).

Handwritten notes in Urdu script, including the date "8/5/2009".

Handwritten notes in Urdu script, including the word "تعمیر" (teemir).

8/5/2009

MIRP  
NURP

ATTESTED

DDNTRP  
The official is on foreign  
leave from 1-7-08 and the full  
amount is granted at

Called his explanation  
of compare his attendance

8/5





OFFICE OF  
THE ASSISTANT DIRECTOR  
NON-TIMBER FOREST PRODUCTS

N.W.F.P. FOREST DEPARTMENT, SHAMI ROAD, PESHAWAR.

Phone: 091-9213227 E-mail: [ntfp\\_2007@yahoo.com](mailto:ntfp_2007@yahoo.com)

Fax: 091-5287606



No. 232 AD-NTFP, NWFP/

Dated Peshawar the 12/06/2009.


To

Mr. Muhtaram Shah,  
Establishment Assistant,  
Directorate of NTFP, Head Office  
Peshawar.

Subject: EXPLANATION.


Memo:

The leave application of Mr. Sardar Hussain, Junior Clerk has been rejected. You are directed to inform the official accordingly.

  
Assistant Director  
Non-Timber Forest Products  
NWFP Peshawar

No. 233 /AD-NTFP/NWFP dated Peshawar the 12/06/2009.

Copy forwarded to Mr. Sardar Hussain, Junior Clerk, C/o Mr. Muhtaram Shah, Establishment Assistant for information and necessary action.

  
Assistant Director  
Non-Timber Forest Products  
NWFP Peshawar

**ATTESTED**  


AD-NIRP, NUWA

عنوان :- جواب طلبی / ریفٹ استخفاہ

حوالہ :- ① درخواست مورخہ 08-05-2009

② جواب طلبی AD-NIRP, NUWA/140/05-08-2009

یہاں والا ... کہ جس سے یہ کہ سائل نے ... 3 ماہ ریفٹ استخفاہ کی پیشکش منظور کی گئی ... ریفٹ دی گئی جو کہ مقررہ وقت میں

Reject ... ② جبکہ سائل ناگزیر طور پر حکومت کو ... اس لیے یہ کیفیت سائل کا سپریم ایپل / تاجوں

نہ جواب طلبی پر نظر ثانی کی جائے اور ...

As a special case ...

نواز شریف

فقدان سائل کا ... 8/6/09 ... E/Asstt. NIRP, Directorate

To, Director, NUWA  
For sympathetic consid  
10/1  
Regretted

ATTESTED

9/1



**OFFICE OF  
THE DIRECTOR  
NON-TIMBER FOREST PRODUCTS**

N.W.F.P. FOREST DEPARTMENT, SHAMI ROAD, PESHAWAR.

Phone: 091-9213227 E-mail: [ntfp\\_2007@yahoo.com](mailto:ntfp_2007@yahoo.com)  
Fax: 091-5287606



E<sup>n</sup> (9)

No **269** Dir-NTFP, NWFP/F-5/E.

Dated Peshawar the **18** /06/2009.

To

Mr. Sardar Hussain,  
Junior Clerk,  
C/o  
Mr. Muhtaram Shah,  
Establishment Assistant,  
Directorate of NTFP, N.W.F.P.  
Peshawar.

**Subject: TERMINATION NOTICE THEREOF.**

**Memo:** Reference this office letter No. 140/AD-NTFP dated 29-05-2009,  
& Letter No. 232/AD-NTFP dated 12-03-2009.

Your leave application has been rejected and as such you were liable to attend your duty on dated 10-05-2009 but up-till date you were failed to join the duty.

You are once again called upon to explain the reason of your such conduct within 3 days after receipt of this letter, otherwise this notice should be treated as termination notice in case of not arrival for duty upto 30<sup>th</sup> June, 2009.

*[Handwritten signature and date 10/6/09]*

*[Handwritten signature]*  
Director  
Non-Timber Forest Products  
N.W.F.P. Peshawar.

**ATTESTED**

1- د. انور / NW48

د. انور / NW48  
نوسال / AD-NW48  
NW48

Termination Notice - = سوال  
Thru.

حوالہ نمبر / 232/AD-NW48

12 / 2009 / 233/AD-NW48

18 / 2009 / 269/DIT-NW48

1- سوال کی تفصیلات درج ذیل ہیں تاخیر کے بعد  
بلا اعتراض Refect کیا گیا ہے۔

2- دوبارہ درخواست کی ہے جو عدالت کے فیصلے کے  
درمیان منظور کی گئی ہے۔ Refect کیا گیا ہے۔

3- سوال کی تفصیلات درج ذیل ہیں تاخیر کے بعد  
بلا اعتراض Refect کیا گیا ہے۔

18/12/09  
ATTESTED

CG 11



OFFICE OF  
THE ASSISTANT DIRECTOR  
NON-TIMBER FOREST PRODUCTS

N.W.F.P. FOREST DEPARTMENT, SHAMI ROAD, PESHAWAR.

Phone: 091-9213227 E-mail: ntfp\_2007@yahoo.com

Fax: 091-5257608



No. 16

AD-NTFP, NWFP/

Dated Peshawar the 03/03/2009.

To

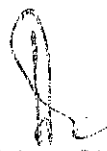
The Director,  
Non-Timber Forest Products,  
N.W.F.P. Peshawar.

Subject: APPEAL

Memo: Reference appeal dated 15-06-2009.

Appeal through proper channel regarding sanction of earned leave in respect to Mr. Sardar Hussain, Junior Clerk of this Directorate has been received through Mr. Muhtaram Shah, Establishment Assistant.

It is therefore, kindly requested that the appeal in original is forwarded and recommended for favour of sanction on humanitarian ground please.


  
Assistant Director  
Non-Timber Forest Products  
N.W.F.P. Peshawar.

No. 17

AD-NTFP/N.W.F.P. dated Peshawar the

03/07/2009.

Copy forwarded to Mr. Muhtaram Shah, Establishment Assistant for information with reference to his appeal cited above.

  
Assistant Director  
Non-Timber Forest Products  
N.W.F.P. Peshawar.

Dilay Saqib, ADS, General Dept

ATTEST





OFFICE OF H 12  
THE ASSISTANT DIRECTOR  
NON-TIMBER FOREST PRODUCTS  
N.W.F.P. FOREST DEPARTMENT, SHAMI ROAD, PESHAWAR.  
Phone: 091-9211480 E-mail: [ntfp\\_2007@yahoo.com](mailto:ntfp_2007@yahoo.com)  
Fax: 091-9213227

No. 400 AD-NTFP, N.W.F.P/ PF/

Dated Peshawar the 06/08/2010.

To

The Deputy Director,  
Non-Timber Forest Products,  
N.W.F.P Peshawar.

Subject: ENQUIRY REPORT.

Memo: Reference your office order No. 26 dated 15-12-2009.

HISTORY OF THE CASE: -

We the undersigned were appointed as authorized Enquiry officers vide your office order No. referred above, to conduct enquiry against Mr. Sardar Hussain, Junior Clerk, for his willful absence from duty w.e.f. 10-05-2009, under the N.W.F.P Government Servant (E&D) Rules 1973.

Mr. Sardar Hussain, Junior Clerk, Directorate of NTFP, N.W.F.P Peshawar is absent from duty w.e.f. 10-05-2009. The explanations has already been called upon by Deputy Director NTFP, N.W.F.P Peshawar vide letter No. 140/AD-NTFP dated 29-05-2009, letter No. 232/AD-NTFP dated 02-06-2009, letter No. 269/Dir-NTFP dated 18-06-2009, letter No. 16/AD-NTFP dated 03-07-2009 and letter No. 54/Dir-NTFP dated 11-07-2009 to explain his position.

In response Mr. Muhtaram Shah, Assistant of Establishment Section, applied for leave in his absentia, which was found unsatisfactory.

Mr. Sardar Hussain, Junior Clerk, was directed vide Assistant Director NTFP, Haripur letter No. 611/AD-NTFP dated 09-01-2010 to explain his position within 7 days or appear before the enquiry committee for personal hearing on 16-01-2010. But he was totally failed to explain his position in stipulated date and time.

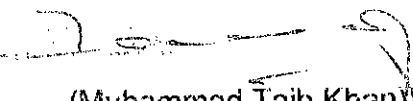
ATTEST


Mr. Sardar Hussain, Junior Clerk was again directed through a reminder vide letter No. 648/AD-NFTP (Camo Peshawar) dated 25-01-2010 to explain his willful absence from duty within a week time or appear before the enquiry committee on dated 02-02-2010 at 10:00 A.M positively, but in vain.

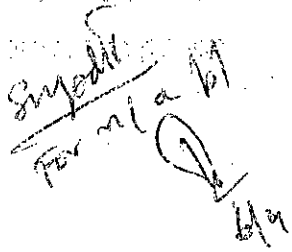
In last he was informed/ directed through show cause notice, published in daily newspaper "AJJ" Peshawar dated 19-02-2010 to join his duty on 02-03-2010. But he totally failed to reply the show cause notice in written till date.

**FINDINGS:**

Since the accused official failed to furnish his reply to the explanations, show cause notice. Therefore, the enquiry committee unanimously recommended that the services of Mr. Sardar Hussain, Junior Clerk, may please be terminated w.e.f. 10-05-2009, viz the date from which he absented himself from Government Duty, as he found guilty of misconduct and liable to be treated as terminated from Government Service under the Special Power Ordinance, removal from service 2000 and major penalty under E&D, rules 1973 (4), because the official is already on probation period.

  
(Muhammad Taib Khan)  
(Enquiry Officer)  
Assistant Director  
Non-Timber Forest Products  
Haripur

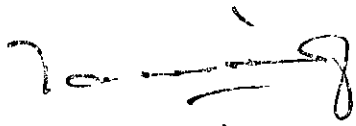
  
(Moin-ud-din)  
(Enquiry Officer)  
NFTP Development Officer  
Head Office Peshawar.

  
Syed Farida  
44

**ATTESTED**  


## شوکار نوٹس

مسلمی سردار حسین، جو نیر کلرک، ڈائریکٹوریٹ آف نان ٹمبر فارسٹ پروڈکشن، NWFP فارسٹ ڈیپارٹمنٹ پشاور، جو کہ اپنی ڈیوٹی سے مورخہ 10-05-2009 سے بغیر کسی اطلاع / اجازت کے غیور حاضر ہے اور باوجود بار بار نوٹسز کے اپنی ڈیوٹی پر حاضر نہیں ہو سکا کو بذریعہ اشتہار ہذا آخری بار مطلع کیا جاتا ہے کہ وہ اپنی ڈیوٹی پر مورخہ 02-03-2010 تک حاضر ہو جائے۔ بصورت دیگر اس کے خلاف یکطرفہ تادیبی کارروائی کی جائے گی۔ جس میں اس کی ملازمت سے برطرفی بھی ہو سکتی ہے۔



محمد طیب خان مراد

اسسٹنٹ ڈائریکٹر،

نان ٹمبر فارسٹ پروڈکشن،

NWFP فارسٹ ڈیپارٹمنٹ شامی روڈ پشاور۔

ATTESTED



J<sup>n</sup> (15)

OFFICE ORDER No. 40 / DATED PESHAWAR THE 21/4 /2010  
ISSUED BY MR. IFTIKHAR AHMAD, DEPUTY DIRECTOR NON-TIMBER FOREST  
PRODUCTS, KHYBER PAKHTUNKHWA PESHAWAR.

**HISTORY OF THE CASE:**

Mr. Muhammad Tiab Khan, Assistant Director NTFP, Haripur and Mr. Moin-ud-Din, NTFP Development Officer, Head office Peshawar were appointed as "Authorized Enquiry Committee" vide this office order No. 26 dated 15-12-2009 to conduct enquiry proceedings against Mr. Sardar Hussain, Junior Clerk, Directorate of NTFP, Khyber Pakhtunkhwa Peshawar for his willful absence from Government duty with effect from 10-05-2009, under the rule 5 of the Khyber Pakhtunkhwa, Civil Servants (Efficiency and Discipline) Rules, 1973 and Special Power Ordinance 2000 (Removal from service).

The enquiry officers called upon the accused official for his willful absence from Government duty with effect from 10-05-2009, vide their letter No. 611/AD-NTFP/Haripur dated 09-01-2010, but he did not furnish his reply and as such another reminder was issued to him by the Enquiry Committee vide his letter No. 648/AD-NTFP Haripur dated 25-01-2010, with the clear directions to furnish his reply in his defense, but no reply was furnished by the accused official. Finally a show cause notice given through press was advertised in daily newspaper "AJJ" dated 19-02-2010 and called him to explain his position but all in vain.

The enquiry committee submitted his report,

**FINDINGS:**

Since the accused official had absented himself from Government duty at his own accord without any application etc. the accused official is charged for misconduct on account of his willful absence from duty.

I, Mr. Iftikhar Ahmad, Deputy Director NTFP, Khyber Pakhtunkhwa Peshawar in the capacity of authority, hereby ordered the termination of Mr. Sardar Hussain, Junior Clerk, Directorate of NTFP, Khyber Pakhtunkhwa Peshawar w.e.f. 10-05-2009, i.e. the date from which he absented himself from Government duty.

Sd/-  
(Iftikhar Ahmad)  
Deputy Director  
Non-Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar.

No. 941-44 /DD-NTFP/K.Pakhtunkhwa Dated Peshawar the 21/4 /2010.

Copy for information and further necessary action forwarded to:-

1. The Director, NTFP, Khyber Pakhtunkhwa Peshawar.
2. The Assistant Director NTFP, Head Office Peshawar.
3. The Superintendent/ Disburser, Directorate of NTFP, Khyber Pakhtunkhwa Peshawar.
4. Mr. Sardar Hussain, Junior Clerk, C/o Mr. Muhtaram Shah, Office Assistant, Directorate of NTFP, Khyber Pakhtunkhwa Peshawar.
5. Office Order file.

ATTESTED

Deputy Director  
Non-Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar.

K 16

To

The Director,  
NTPF, Khyber Pakhtunkhwa, Forest Department,  
Shami Road, Peshawar.

**SUBJECT: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 21.04.2010, WHEREBY THE APPELLANT WAS TERMINATED FROM THE SERVICE.**

Respected Sir,

1. That the appellant was appointed as Junior Clerk (BPS-07) in Forest Deptt: on dated 01.07.2008 and performed his duty up to the entire satisfaction of his superior and no complaint has been filed against him.
2. That due to domestic problem the appellant applied for leave for 3 months, which was rejected and again the appellant's relative on behalf of the appellant applied for leave which was recommended for sanction of leave by the concerned quarter.
3. That despite the recommendation of sanction of leave, one sided inquiry was conducted against the appellant and on the basis of that inquiry the appellant was terminated from service vide order dated 21.04.2010 w.e.f 10.05.2009 on the basis of absenteeism. But the said order was never communicated to the appellant. (Copy of termination order is attached as Annexure-R1)
4. That the said order is not sustainable under the law on the following grounds.

**GROUND:**

- A) That the impugned order dated 21.04.2010 is against the law, rules and material on record, therefore liable to be set aside.
- B) That the appellant's relative's application for leave was also recommended for sanction of leave, therefore there remain no ground to terminate the appellant on basis absence.
- C) That no charge sheet and statement of allegation was served to the appellant before imposing major punishment of termination

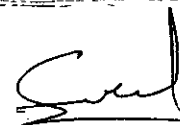
Received  
19/3/016

ATTESTED  


- D) That one sided inquiry was conducted against the appellant and no chance of defence was provided to the appellant before imposing major which is the violation of Superior Courts judgments as well as section 5(1)(c) of the RSO-2000.
- E) That the impugned order has retrospective effect which is in violation of Supreme Court judgment reported as PLD (SC)-2007, page 52 because as per that verdict executive authority has no power to pass a retrospective order.
- F) That no show cause was ever served on appellant nor the same was ever communicated to the appellant, even no chance of personal hearing was given to appellant and as such the appellant was condemned unheard throughout.
- G) That the mandatory provisions were violated while appellant was proceeded against under RSO-2000 which made the whole proceedings null and void.
- H) That the appellant did not intentionally absent himself from his duties but due to some domestic problem, he was unable to perform his duty and was compelled to remain absent from his duties and if the appellant was associated with the inquiry then he could prove that.
- I) That the penalty of termination from service is very harsh which is passed in violation of law on the basis of one sided action and, therefore, the same is not sustainable in the eyes of law.
- J) That the appellant has been condemned unheard and has not been treated according to law and rules.

It is therefore, most humbly requested that impugned order dated 21.04.2010 may be set aside by reinstating the appellant with all back and consequential benefits and denovo inquiry may be conducted with a full chance of defense to appellant to prove his innocence.


Date: 11-03-2016.

Appellant   
Sardar Hussain, Ex-Junior Clerk.  
Village & P.O Pishtakhara Payan,  
Tehsil & District Peshawar.  
Cell# 0336 9133366

ATTESTED



2018

<p>Office of the <b>DIRECTOR</b> Non-Timber Forest Products</p>		<p><b>Khyber Pakhtunkhwa Forest Department</b> Shami Road, Peshawar Ph: 091-9211480 Fax: 091-9213227 E-mail: <a href="mailto:ntfp_2007@yahoo.com">ntfp_2007@yahoo.com</a></p>
<p>No. <b>776</b> Dir-NTFP/E, Khyber Pakhtunkhwa /, Dated Peshawar the <b>03</b> /05/2016</p>		

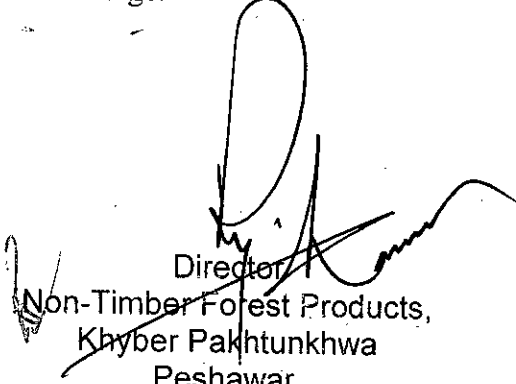
To:

Mr. Sardar Hussain, Ex- Junior Clerk,  
Village & P.O Pishtakhara Payan,  
Tehsil & District Peshawar.  
Cell # 0336-9133366

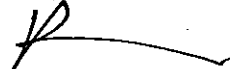
Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED, 21-04-2010,  
WHEREBY THE APPELLANT WAS TERMINATED FROM THE SERVICE.

Memo: Your appeal No- Nil dated, 11/03/2016, on the subject noted above and to state that, according to rule (3)(III) of the Govt: Civil Servant (appeal) rules, 1986 stipulated period for submission of appeal is (30) thirty days from the date of communication of the order to him to the appellate filed.

Therefore your appeal is rejected at this belated stage.

  
Director,  
Non-Timber Forest Products,  
Khyber Pakhtunkhwa  
Peshawar.

**ATTESTED**



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 581 of 2016.

Mr. Sardar Hussain,

Versus

Forest Department

Index

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4	Termination notice	C	9
5	Enquiry Report	D	11-13
6	Termination order	E	15
7	Showcause Notice	--	17
8	Copy of publication	F	19

Respondent

THROUGH



Mr. Zargul Khan  
Assistant Director  
Non Timber Forest Products  
Peshawa

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

Appeal No. 581 of 2016.

Mr. Sardar Hussain, Ex-Junior Clerk, Directorate of NTFP, Khyber Pakhtunkhwa, Peshawar..... (Petitioner)

**Versus**

1. Secretary to Government of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department Peshawar.
2. Director Non Timber Forest Products, Khyber Pakhtunkhwa.
3. Deputy Director Non Timber Forest Products, Khyber Pakhtunkhwa  
.....(Respondents)

Para wise comments on behalf of respondent No. 01 and 02 are as under.

**Preliminary Objection:**

1. That the appellant has no cause of action or locus standi.
2. That the appeal is not maintainable in its present form.
3. That the appeal is bad for mis-joinder and non joinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the Hon'able Tribunal has no jurisdiction to entertain the appeal.
6. That the instant appeal is badly time barred.

**Facts:**

1. Correct to the extent that the appellant was appointed as Junior Clerk (BPS-07) but he was appointed on contract basis (**Annex-A**).
2. Incorrect, his leave application was rejected and he was informed accordingly. (**Copy as Annex-B**)
3. Incorrect, after rejection the application he failed to resume his duty and remained willfully absent. He was issued absent notices and publications in the newspapers but he failed to resume his duty. An enquiry was conducted and after fulfilling all the codal formalities appellant was removed from his services. (**Copies of absence notices, enquiry report & removal from service as Annex-C, D & E**).
4. Incorrect, in accordance with the findings and recommendations of the enquiry committee, proper show cause notice was issued to the accused official. Which was published in daily newspaper "AAJ" dated: 19-02-2010. (**Copy as Annex-F**)
5. Correct to the extent that after failure to respond to the show cause notice published in the press, the accused official was terminated from Government Service.
6. Incorrect. As per appeal rules a person aggrieved from any order shall ensure representation / appeal within stipulated period. The present appeal is submitted very late after lapse of more than 07 years i.e. on 11-03-2016, hence time barred and rejected, being time barred.

Grounds:

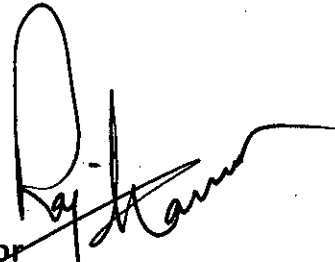
- A. Incorrect. The impugned orders are in accordance with law & rules.
- B. Not correct. Mere submission of leave application is not sufficient. Detail reply has been given in the facts.
- C. Incorrect. He was issued absence notices and proper enquiry was conducted and show cause notice was issued through press to the accused official, but he failed to resume his duty.
- D. Incorrect. Having no defense from the accused to the enquiry committee on record. Further appellant has never denied his absence.
- E. There is no illegality in the impugned order.
- F. Incorrect. As replied in the above paras.
- G. Incorrect. Departmental appeal was time barred.
- H. Incorrect
- I. Incorrect. He was provided all the opportunities to defend himself, but he failed to avail.
- J. Respondents also seek permission of the Hon'able Tribunal to advance further grounds during arguments.

It is therefore, requested that the instant appeal may kindly be dismissed with cost in limini.

Respondents



**Deputy Director**  
Non Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar  
Respondent No.3



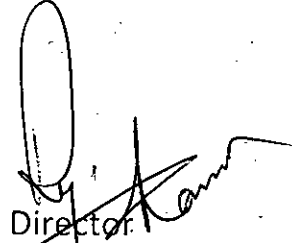
**Director**  
Non Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar  
Respondent No.2



**Secretary**  
Forestry, Environment & Wildlife Department  
Government of Khyber Pakhtunkhwa  
Peshawar  
Respondent No.1

AUTHORITY

Mr. Zar Gul Khan Assistant Director NTFP Peshawar is hereby authorized to attend, persue, and defend the case titled Mr.Sardar Hussain, Ex- Junior Clerk, Directorate of NTFP, KPK Peshawar versus Government of Khyber PakhtunKhwa on behalf of the respondents.



Director

Non-Timber Forest Products

27. Khyber PakhtunKhwa

Peshawar.



(11) 5 A

OFFICE ORDER NO 02 DATED 01-07-2008, ISSUED BY  
MR, RAJ MUHAMMAD, DEPUTY DIRECTOR NTFP, NWFP PESHAWAR.

As per recommendation of Departmental Selection Committee on dated 06-03-2008 and exercise of the Powers vested in me vide rules 4 of the Government of NWFP (Appointment, Promotion, Posting and Transfer) rules, 1989, Mr. Sardar Hussain S/o Multan Khan, Village & P.O Pishtakhara Payan Tehsil & District Peshawar, is hereby appointed as Junior Clerk (BPS-07) @Rs. 3528-192-9288 with usual allowances as admissible under the rules against the newly created vacant post in S.N.E for 2008-09 in Directorate of NTFP, NWFP Forest Department for a period upto 30<sup>th</sup> June 2009 (Extendable subject to extension of SNE) on contract basis with effect from the date he takes over charge of his duties at Peshawar. His appointment in the department is purely temporary and his service can be terminated with out any reason being assigned at any time irrespective of the fact that he is holding a post other than the one to which he was originally recruited.

He will be governed by the following terms and conditions.

1. He has to join duty at his own expenses.
2. The official will be kept at a probationary period of one year which will be counted from the date of his arrival report.
3. In case he wishes to resign at any time, a month's notice will be necessary or in lieu thereof a month pay may be forfeited to Government.
4. He will be governed by such rules and orders relating to service pay etc. as may issued by Government from time to time.
5. His appointment is subject to production of necessary medical fitness certificate from the concerned authorities.
6. His appointment is subject to verification of necessary documents from the concerned Board/Institute through this office on his own expenses before joining duty.
7. His appointment to the said post will count toward seniority/promotion/pension till further order.
8. This offer will be valid for 30 days from the date of issue.

SD/-  
(RAJ MUHAMMAD)  
DEPUTY DIRECTOR NTFP  
N.W.F.PROVINCE PESHAWAR.

NO. 12-18 DD/NTFP, NWFP, Dated Peshawar the 01-07-/2008.

Copy for information and necessary action forwarded to:-

1. The Director, NTFP NWFP Forest Department Peshawar.
2. The Assistant Director Sericulture/NTFP N.W.F.P.Peshawar..
3. Mr. Sardar Hussain S/o Multan Khan, Village & P.O Pishtakhara Payan Tehsil & District Peshawar.
4. Personal file of the official concerned.
5. The Disburser, NTFP, Directorate NWFP Peshawar.
6. The Establishment Assistant, NTFP Directorate NWFP Peshawar.

Attested  
*Rashid*

*[Signature]*  
DEPUTY DIRECTOR NTFP,  
N.W.F.PROVINCE PESHAWAR.



OFFICE OF  
THE ASSISTANT DIRECTOR  
NON-TIMBER FOREST PRODUCTS

N.W.F.P. FOREST DEPARTMENT, SHAMI ROAD, PESHAWAR.

Phone: 091-9213227 E-mail: [ntfp\\_2007@yahoo.com](mailto:ntfp_2007@yahoo.com)

Fax: 091-5287606



No. 232 AD-NTFP, NWFP/

Dated Peshawar the 12/06/2009.


To

Mr. Muhtaram Shah,  
Establishment Assistant,  
Directorate of NTFP, Head Office  
Peshawar.

Subject: **EXPLANATION.**

Memo:

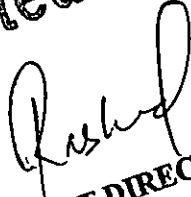
The leave application of Mr. Sardar Hussain, Junior Clerk has been rejected. You are directed to inform the official accordingly.

  
Assistant Director  
Non-Timber Forest Products  
NWFP Peshawar

No. 233 /AD-NTFP/NWFP dated Peshawar the 12/06/2009.

Copy forwarded to Mr. Sardar Hussain, Junior Clerk, C/o Mr. Muhtaram Shah, Establishment Assistant for information and necessary action.

Attested

  
ASSISTANT DIRECTOR  
Non-Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar

  
Assistant Director  
Non-Timber Forest Products  
NWFP Peshawar



OFFICE OF  
THE DIRECTOR  
NON-TIMBER FOREST PRODUCTS

N.W.F.P. FOREST DEPARTMENT, SHAMI ROAD, PESHAWAR.  
Phone: 091-9213227 E-mail: [ntfp\\_2007@yahoo.com](mailto:ntfp_2007@yahoo.com)  
Fax: 091-5287606



No. **269** Dir-NTFP, NWFP/F-5/E,

Dated Peshawar the **18** /06/2009.

To

Mr. Sardar Hussain,  
Junior Clerk,  
C/o  
Mr. Muhtaram Shah,  
Establishment Assistant,  
Directorate of NTFP, N.W.F.P.  
Peshawar.

Subject: **TERMINATION NOTICE THEREOF.**

Memo: Reference this office letter No. 140/AD-NTFP dated 29-05-2009,  
& Letter No. 232/AD-NTFP dated 12-06-2009.

Your leave application has been rejected and as such you were liable to attend your duty on dated 10-05-2009 but up-till date you were failed to join the duty.

You are once again called upon to explain the reason of your such conduct within 3 days after receipt of this letter, otherwise this notice should be treated as termination notice in case of not arrival for duty upto 30<sup>th</sup> June, 2009.

*Handwritten signature and date: 18/6/09*

Director  
Non-Timber Forest Products  
N.W.F.P. Peshawar.

**Attested**

*Handwritten signature: Rashid*  
**ASSISTANT DIRECTOR**  
Non-Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar



OFFICE OF  
THE ASSISTANT DIRECTOR  
NON-TIMBER FOREST PRODUCTS

N.W.F.P. FOREST DEPARTMENT, SHAMI ROAD, PESHAWAR.  
Phone: 091-9211480 E-mail: [ntfp\\_2007@yahoo.com](mailto:ntfp_2007@yahoo.com)  
Fax: 091-9213227

No. 900 AD-NTFP, N.W.F.P/ PF/

Dated Peshawar the 06/08/2010.

To

The Deputy Director,  
Non-Timber Forest Products,  
N.W.F.P Peshawar.

Subject: ENQUIRY REPORT.

Memo: Reference your office order No. 26 dated 15-12-2009.

HISTORY OF THE CASE: -

We the undersigned were appointed as authorized Enquiry officers vide your office order No. referred above, to conduct enquiry against Mr. Sardar Hussain, Junior Clerk, for his willful absence from duty w.e.f. 10-05-2009, under the N.W.F.P Government Servant (E&D) Rules 1973.

Mr. Sardar Hussain, Junior Clerk, Directorate of NTFP, N.W.F.P Peshawar is absent from duty w.e.f. 10-05-2009. The explanations has already been called upon by Deputy Director NTFP, N.W.F.P Peshawar vide letter No. 140/AD-NTFP dated 29-05-2009, letter No. 232/AD-NTFP dated 02-06-2009, letter No. 269/Dir-NTFP dated 18-06-2009, letter No. 16/AD-NTFP dated 03-07-2009 and letter No. 54/Dir-NTFP dated 11-07-2009 to explain his position.

In response Mr. Muhtaram Shah, Assistant of Establishment Section, applied for leave in his absentia, which was found unsatisfactory.

Mr. Sardar Hussain, Junior Clerk, was directed vide Assistant Director NTFP, Haripur letter No. 611/AD-NTFP dated 09-01-2010 to explain his position with in 7 days or appear before the enquiry committee for personal hearing on 16-01-2010. But he was totally failed to explain his position in stipulated date and time.

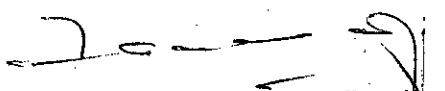
Attested  
Rashed  
ASSISTANT DIRECTOR  
Non-Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar

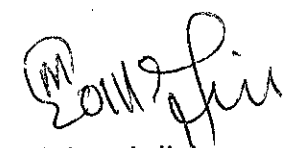
Mr. Sardar Hussain, Junior Clerk was again directed through a reminder vide letter No. 648/AD-NTFP (Camp Peshawar) dated 25-01-2010 to explain his willful absence from duty within a week time or appear before the enquiry committee on dated 02-02-2010 at 10:00 A.M positively, but in vain.

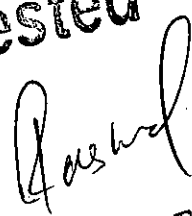
In last he was informed/ directed through show cause notice, published in daily newspaper "AJJ" Peshawar dated 19-02-2010 to join his duty on 02-03-2010. But he totally failed to reply the show cause notice in written till date.

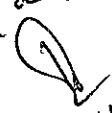
**FINDINGS:**

Since the accused official failed to furnish his reply to the explanations, show cause notice. Therefore, the enquiry committee unanimously recommended that the services of Mr. Sardar Hussain, Junior Clerk, may please be terminated w.e.f. 10-05-2009, viz the date from which he absented himself from Government Duty, as he found guilty of misconduct and liable to be treated as terminated from Government Service under the Special Power Ordinance, removal from service 2000 and major penalty under E&D rules 1973 (4), because the official is already on probation period.

  
(Muhammad Taib Khan)  
(Enquiry Officer)  
Assistant Director  
Non-Timber Forest Products  
Haripur

  
(Moin-ud-din)  
(Enquiry Officer)  
NTFP Development Officer  
Head Office Peshawar.

**Attested**  
  
**ASSISTANT DIRECTOR**  
Non-Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar

*Synopsis*  
*For n/a b1*  
  
*b1*

**HISTORY OF THE CASE:**

Mr. Muhammad Tiab Khan, Assistant Director NTFP, Haripur and Mr. Moin-ud-Din, NTFP Development Officer, Head office Peshawar were appointed as "Authorized Enquiry Committee" vide this office order No. 26 dated 15-12-2009 to conduct enquiry proceedings against Mr. Sardar Hussain, Junior Clerk, Directorate of NTFP, Khyber Pakhtunkhwa Peshawar for his willful absence from Government duty with effect from 10-05-2009, under the rule 5 of the Khyber Pakhtunkhwa, Civil Servants (Efficiency and Discipline) Rules, 1973 and Special Power Ordinance 2000 (Removal from service).

The enquiry officers called upon the accused official for his willful absence from Government duty with effect from 10-05-2009, vide their letter No. 611/AD-NTFP/Haripur dated 09-01-2010, but he did not furnish his reply and as such another reminder was issued to him by the Enquiry Committee vide his letter No. 648/AD-NTFP Haripur dated 25-01-2010, with the clear directions to furnish his reply in his defense, but no reply was furnished by the accused official. Finally a show cause notice given through press was advertised in daily newspaper "AJJ" dated 19-02-2010 and called him to explain his position but all in vain.

The enquiry committee submitted his report,

**FINDINGS:**

Since the accused official had absented himself from Government duty at his own accord without any application etc. the accused official is charged for misconduct on account of his willful absence from duty.

I, Mr. Iftikhar Ahmad, Deputy Director NTFP, Khyber Pakhtunkhwa Peshawar in the capacity of authority, hereby ordered the termination of Mr. Sardar Hussain, Junior Clerk, Directorate of NTFP, Khyber Pakhtunkhwa Peshawar w.e.f. 10-05-2009, i.e the date from which he absented himself from Government duty.

Sd/-  
(Iftikhar Ahmad)  
Deputy Director  
Non-Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar.

No. 941-44/DD-NTFP/K.Pakhtunkhwa Dated Peshawar the 21/4/2010.

Copy for information and further necessary action forwarded to: -

1. The Director, NTFP, Khyber Pakhtunkhwa Peshawar.
2. The Assistant Director NTFP, Head Office Peshawar.
3. The Superintendent/ Disburser, Directorate of NTFP, Khyber Pakhtunkhwa Peshawar.
4. Mr. Sardar Hussain, Junior Clerk, C/o Mr. Muhtaram Shah, Office Assistant, Directorate of NTFP, Khyber Pakhtunkhwa Peshawar.  
Office Order file.

Attested

Rashed  
ASSISTANT DIRECTOR  
Non-Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar

Deputy Director  
Non-Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar.

## شوکارنوٹس

مسس سردار حسین، جو نیر کلرک، ڈائریکٹوریٹ آف نان ٹمبر فارسٹ پروڈکٹس، NWFP فارسٹ ڈیپارٹمنٹ پشاور، جو کہ اپنی ڈیوٹی سے مورخہ 10-05-2009 سے بغیر کسی اطلاع / اجازت کے غیر حاضر ہے اور باوجود بار بار نوٹسز کے اپنی ڈیوٹی پر حاضر نہیں ہو سکا کو بذریعہ اشتہار ہذا آخری بار مطلع کیا جاتا ہے کہ وہ اپنی ڈیوٹی پر مورخہ 02-03-2010 تک حاضر ہو جائے۔ بصورت دیگر اس کے خلاف یکطرفہ تادیبی کارروائی کی جائے گی۔ جس میں اس کی ملازمت سے برطرفی بھی ہو سکتی ہے۔

محمد حبیب خان مروت

اسسٹنٹ ڈائریکٹر،

نان ٹمبر فارسٹ پروڈکٹس،

NWFP فارسٹ ڈیپارٹمنٹ شامی روڈ پشاور۔

Attested

ASSISTANT DIRECTOR  
Non-Timber Forest Products  
Khyber Pakhtunkhwa  
Peshawar

AAAJ, The Largest Circulated Publication of NWFP

روزنامہ

پشاور

پاکستان

12 صفحات

جلد 21 حصہ 19 فروری 2010ء 4 ربیع الاول 1431ھ قیمت 10 روپے بولے ہی 1 روپیہ شماره 42

شہادت نامہ

کسی سردار حسین جو غیر کلرک ڈائریکٹوریٹ آف ٹان نمبر فارسٹ پروڈکٹس NWFP فارسٹ ڈیپارٹمنٹ پشاور جو کہ اپنی ڈیوٹی سے مورخہ 10/5/2009 سے بغیر کسی اطلاع اجازت کے غیر حاضر ہے اور ناوجود بار بار نوٹس کے اپنی ڈیوٹی پر حاضر نہیں ہو سکا کو بذریعہ اشتہار ہذا آخری بار مطلع کیا جاتا ہے کہ وہ اپنی ڈیوٹی پر مورخہ 2/3/2010 تک حاضر ہو جائے۔ بصورت دیگر اس کے خلاف یکطرفہ تادیبی کارروائی کی جائے گی۔ جس میں اس کی ملازمت سے برطرفی بھی ہو سکتی ہے۔

NWFP فارسٹ ڈیپارٹمنٹ شامی روڈ پشاور

INF(P)443 [www.nwfp.pk](http://www.nwfp.pk)

Attested

Rashid  
 ASSISTANT DIRECTOR  
 Non-Timber Forest Products  
 Khyber Pakhtunkhwa  
 Peshawar



**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 581/2016

Sardar Hussain

VS

Forest Deptt:

.....  
**REJOINDER ON BEHALF OF APPELLANT**  
.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

1. Admitted correct. Hence no comments.
2. Incorrect. When the first application of the appellant for leave was rejected then his father applied for leave on the behalf of the appellant however the department did not take any action on that application.
3. Not replied according to para 3 of the appeal. Moreover para 3 of the appeal is correct.
4. Incorrect. While para 4 of the appeal is correct.
5. No comments.
6. Incorrect. While para 6 of the appeal is correct.

**GROUND:**

- A) Incorrect. The impugned orders are not in accordance with law, facts, norms of justice and material therefore not tenable and liable to set aside.
- B) Incorrect. While para B of the appeal is correct.
- C) Not replied according to para C of the appeal. Moreover para C of the appeal is correct.

- D) Incorrect. One sided inquiry was conducted against the appellant and no chance of defence was provided to the appellant which is the violation of law and rules.
- E) Incorrect. The impugned order passed with retrospective effect which is the violation of Supreme Court judgment.
- F) Incorrect. While para F of the appeal is correct.
- G) Not replied according to para G of the appeal. Moreover para G of the appeal is correct.
- H) Incorrect. While para H of the appeal is correct.
- I) Incorrect. One sided inquiry was conducted against the appellant and no chance of defence was provided to the appellant. On which the appellant also requested for denovo inquiry in his departmental appeal.
- J) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

Through: APPELLANT  
*M. Asif Yousafzai*  
( M. ASIF YOUSAFZAI )  
ADVOCATE SUPREME COURT,  
&  
( TAIMUR ALI KHAN )  
ADVOCATE HIGH COURT.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

*Rai*  
DEPONENT

**ATTESTED**  
Oath Commissioner  
Zahoor Khan Advocate  
Distt: Court Peshawar

12 JAN 2017

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 581/2016

Sardar Hussain

VS

Forest Deptt:

.....  
**REJOINDER ON BEHALF OF APPELLANT**  
.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

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**FACTS:**

1. Admitted correct. Hence no comments.
2. Incorrect. When the first application of the appellant for leave was rejected then his father applied for leave on the behalf of the appellant however the department did not take any action on that application.
3. Not replied according to para 3 of the appeal. Moreover para 3 of the appeal is correct.
4. Incorrect. While para 4 of the appeal is correct.
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**GROUND:**

- A) Incorrect. The impugned orders are not in accordance with law, facts, norms of justice and material therefore not tenable and liable to set aside.
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- D) Incorrect. One sided inquiry was conducted against the appellant and no chance of defence was provided to the appellant which is the violation of law and rules.
- E) Incorrect. The impugned order passed with retrospective effect which is the violation of Supreme Court judgment.
- F) Incorrect. While para F of the appeal is correct.
- G) Not replied according to para G of the appeal. Moreover para G of the appeal is correct.
- H) Incorrect. While para H of the appeal is correct.
- I) Incorrect. One sided inquiry was conducted against the appellant and no chance of defence was provided to the appellant. On which the appellant also requested for denovo inquiry in his departmental appeal.
- J) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

Through: APPELLANT  
*M. Asif Yousafzai*  
( M. ASIF YOUSAFZAI )  
ADVOCATE SUPREME COURT,  
&  
( TAIMUR ALI KHAN )  
ADVOCATE HIGH COURT.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

*Rai*  
DEPONENT

**ATTESTED**  
Oath Commissioner  
Zahoor Khan Advocate  
Distt: Court Peshawar

12 JAN 2017