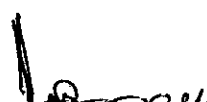





Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 605/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03/05/2018	<p>The appeal of Mr. Awais Qureshi 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-	15/05/18,	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>25/05/18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	25.05.2018	<p>Appellant in person present and seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for preliminary hearing on 12.07.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>
	12.07.2018	<p>Junior counsel Mr. Taimur Ali Khan present on behalf of appellant. Preliminary arguments could not be heard due to killing of a lawyer Barrister Haroon Bilour in a suicide attack during the election campaign. To come up for preliminary hearing on <u>02.08.2018</u> before S.B.</p> <p style="text-align: right;"> Chairman</p>


02.08.2018

Neither appellant nor his counsel present. Case to come up for preliminary hearing on 20.09.2018 before S.B at camp court Abbottabad.


Chairman


19.09.2018

Since 21st September, 2018 has been declared as public holiday on account of Moharram, therefore, case is adjourned to 15.11.2018 for preliminary hearing before the S.B at camp court, Abbottabad.


Chairman
Camp court, A/Abad

15.11.2018


Appellant in person and Bahadar Assisst for the respondent present. Due to retirement of the Hon'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Abbottabad has been cancelled. To come up for the same on 18.12.2018 at camp court Abbottabad.


Reader
A/Abad.

605/18


18.12.2018

Appellant in person present and requested for adjournment. Adjourned. To come up for preliminary hearing on 21.02.2019 before the S.B at camp court, Abbottabad.


Member
Camp court A/Abad

21.02.2019

Appellant in person present and requested for adjournment. Adjourned to 19.04.2019 for preliminary hearing before S.B at Camp Court Abbottabad.



(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

19.04.2019

Nemo for appellant.

It is already past 12:45 hours on a Friday and despite repeated calls the appellant remained unrepresented today.

Dismissed for non-prosecution. File be consigned to the record room.


Chairman
Camp Court, A/Abad

ANNOUNCED
19.04.2019

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 605 /2018

Awais Qureshi

V/S

Revenue Deptt:

INDEX

S.NO.	Documents	Annexure	Page No.
1.	Memo of appeal	-----	01-05
2.	Copy of appointment order	--A--	06
3.	Copy of joined seniority list	--B--	07-08
4.	Copy of tentative seniority list	--C--	09
5.	Copy of final seniority list	--D--	10
6.	Copy of working paper	--E--	11-13
7.	Copy of promotion order	--F--	14
8.	Copy of departmental appeal	--G--	15-16
9.	Copy of appeal	--H--	17
10.	Copy of Appeal	--I--	18
11.	Copy of order	--J--	19
15.	Copy of appeal	--K--	20-27
16.	Copy of service appeal	--L--	28-31
17.	Copy of seniority list	--M--	32
18.	Copy of minutes DPC	--N--	33-34
19.	Copy of order	--O--	35
20.	Copy of departmental appeal	--P--	36-44
21.	Copy of rejection order	--Q--	45
22.	Vakalat Nama	-----	46

APPELLANT

THROUGH:

M. Asif Yousafzai
(M.ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT,

Taimur Ali Khan
(TAIMUR ALI KHAN)

ADVOCATE HIGH COURT,

S. Noman Ali Bukhari
(S. NOMAN ALI BUKHARI)

ADVOCATE PESHAWAR

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 605 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 643

Dated 03-5-2018

Awais Qureshi, Senior Scale Stenographer, (BPS-16),
Office of Commissioner, Hazara Division Abbottabad.

(Appellant)

VERSUS

1. The Government of KPK, through Chief Secretary Civil Secretariat, Peshawar.
2. The Senior Member Board of Revenue, KPK Peshawar.
3. The Commissioner, Hazara Division, Abbottabad.
4. Miss. Farah Naz, Computer Operator (BPS-12), Office of Commissioner, Hazara Division Abbottabad.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 05.04.2018 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 29.01.2018 HAS BEEN REJECTED FOR NO GOOD GROUND.

PRAYER:

Filed to-day

Registrar

3/5/18

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 05.04.2018 AND 29.01.2018 AND THE RESPONDENT MAY BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION FROM THE DATE WHEN HIS JUNIOR WAS PROMOTED. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant along with private respondent No. 4 was appointed as Computer Operator (BPS-12) in the respondent department vide order dated 06.10.2011 and since then the appellant performing his duty with entire satisfaction of his superiors. **Copy of appointment order is attached as Annexure-A.**
2. That the appellant was appointed under the Divisional Ministerial Rules 2001 amended in 2010 and as per rule invoke at that time the joint seniority list of Computer Operators/Junior Scale Stenographer/Data Controller Assistant/Data Supervisor was issued on 08.05.2012 at divisional level wherein appellant was at serial No.45, while the private respondent No. 4 placed at serial No. 46. **Copy of joint seniority list is attached as Annexure-B.**
3. That the Board of Revenue and Estate department issued a notification dated 23.01.2015 whereby the seniority of different cadres were bifurcated and on the basis of that tentative seniority list of computer operator BPS-12 working in the office of Commissioner Hazara Division was issued on 16.12.2015 with a note that if any objection on the above seniority list then may be submitted within a 15 days after issuance of seniority list otherwise it will be considered final and in that seniority list the appellant was at serial no. 1 while a private respondent No. 4 at serial no. 2. **Copy of tentative seniority list dated 16.12.2015 is attached as Annexure-C.**
4. That no one filed objection on the tentative list and the final seniority list was issued on 08.01.2016 in which the appellant was still remained at Sr. No. 1, while the private respondent No. 4 was remaining at Sr. No. 2. **Copy of final seniority list dated 08.01.2016 is attached as Annexure-D.**
5. That two posts of Senior Scale Stenographer BPS-16 was vacant and in this respect working paper has been done in which the name of the appellant along with Amin Ul Haq were referred to the DPC for promotion on the basis of which Amin ul Haq was promoted to Senior Scale Stenographer on regular basis while appellant was promoted to Senior Scale Stenographer on acting charge basis vide order dated 21.09.2016. **Copy of Working paper and promotion order dated 21.09.2016 are attached as Annexure-E & F.**

6. That respondent No. 4 after the lapse of 15 months of issuance of final seniority list filed appeal to respondent No. 2 on 09.06.2017, however no action has been taken on that appeal. **Copy of appeal is attached as Annexure-G.**
7. That the private respondent No. 4 then filed appeals on 09.10.2017 and 16.10.2017 on which respondent No. 3 issued order dated 23.10.2017 whereby the private respondent No. 4 was considered senior to the appellant. **Copy of appeals of private respondent No. 4 and order dated 23.10.2017 are attached as Annexure-H, I & J.**
8. That aggrieved from the said order the appellant filed departmental appeal on 31.10.2017 to respondent No. 2 which was not responded within statutory period of 90 days and then he filed service appeal No. 256/2018 in this august Service Tribunal which is still pending before this august Tribunal. **(Copy of departmental appeal and Service appeal No. 256/2018 are attached as Annexure-K & L.**
9. That on the basis of order dated 23.10.2017 the respondent department issued a final seniority list of Computer Operator on 03.11.2017 in which the private respondent No. 4 was shown senior to the appellant and DPC was held for promotion of Computer Operator to the post of Senior Scale Stenographer in which the private respondent No. 4 was promoted from the post of Computer Operator to the post of Senior Scale Stenographer on regular basis vide order dated 29.01.2018. **Copies of seniority list and working paper for DPC and order dated 29.01.2018 are attached as Annexure-M, N & O.**
10. That against the order dated 29.01.2018 the appellant filed departmental appeal on 21.02.2018 which was rejected on 05.04.2018. **Copy of departmental appeal and rejection order are attached as Annexure-P & Q.**
11. That the appellant now comes to this Tribunal for redressal of his grievances on the following grounds amongst the others.

57

4

GROUNDS:

- A) That the impugned order dated 05.04.2018 & 29.01.2018 are against the law fact, norms of justice and material on record and therefore not tenable and liable to be set aside.
- B) That the appellant filed Service Appeal No. 256/2018 against the order dated 23.10.2017 where the private respondent No. 4 was shown senior to the appellant and the basis of that order final seniority list was issued on 03.12.2017 where the private respondent No. 4 was shown to the appellant and the basis of that seniority list the private respondent No. 4 was promoted on 29.01.2018 despite the fact that the order 23.10.2017 is subjudice before this Honorable Tribunal.
- C) That tentative seniority list of Computer Operator (BPS-12) working in the office of Commissioner Hazara Division was issued on 16.12.2015 with a note that if any objection on the above seniority list then may be submitted within a 15 days after issuance of seniority list otherwise it will be considered final and in that seniority list is at serial no. 1 while a private respondent no. 4 at serial no. 2, but private respondent No. 4 has not filed any objection on that tentative seniority list, which means that the private respondent No. 4 accepted that seniority list and later on the basis of order dated 23.10.2017 the private respondent was shown senior in the final seniority list on which the respondent No. 4 was promoted on 29.01.2018 which is violation of law and rules.
- D) That in the working paper for promotion to the post of Senior Scale Stenographer on which the appellant was promoted to the post of Senior Scale Stenographer on acting charge basis was mentioned that the seniorities are undisputed but despite that the private respondent No. 4 was shown senior in the final seniority list issued on 03.11.2017 on which respondent No. 4 was promoted.
- E) That the appellant was promoted to senior scale stenographer on acting charge basis on the seniority list issued on 8.1.2016 which was declared undisputed and considering private respondent No. 4 senior to the appellant by the final seniority issued on 03.11.2017 on which promotion was made has deprived the appellant from the legal right of regular promotion in arbitrary manner.

5

F) That considering private respondent No. 4 senior to the appellant by order dated 27.10.2017 and then promoted her without giving chance of hearing to the appellant to defend his stance is violation of principle of justice natural justice and fair play.

G) 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

Awais Qureshi

THROUGH:


(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT,


(TAIMUR ALI KHAN)

ADVOCATE HIGH COURT,

&


(S. NOMAN ALI BUKHARI)

ADVOCATE PESHAWAR

"A" (5)

(a)

A

OFFICE OF THE COMMISSIONER HAZARA DIVISION ABBOTTABAD

ORDER

Consequent upon the recommendations of the Departmental Selection/Recruitment Committee the following are hereby appointed as Computer Operator (BPS-12) in the Commissioner's Office Abbottabad on the following terms and conditions:-

S#	Name	Father Name	Address
01	Miss. Farha Naz	Muhammad Ismail	Village Guli Bagh Post Office Baffa District Mausehra.
02	Awais Qureshi	Wali Muhammad Qureshi	LM 75/1 Mohalla Qazi Chitta Pual Abbottabad.

1. His/her services will be governed by Section-19 of the NWFP, Civil Servants Act, 1973 as amended vide NWFP Civil Servants (Amendment Act, 2005). He/she will be entitled to contributory Provident Fund in such manners and at such rates as prescribed by the government.
2. His/her services will be liable to termination on one-month notice from either side. In case of resignation without notice, his/her two months pay/allowances shall be forfeited to the government.
3. He/she will be governed by such rules and regulations as may be issued from time to time by the government.
4. He/she will remain on probation for a period of one year in terms of Section-6 of the NWFP, Civil Servants Act, 1973 read with Rule-15 (1) of the NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules 1989. His/her services can be terminated any time in case his/her performance is found unsatisfactory during probation period. In case of misconduct, he/she shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance, 2000 and the rules framed by the government from time to time.
5. The appointment offer is subject to verification of his/her academic documents from the concerned Board/University.
6. He/she shall be bound to accept his/her adjustment/absorption in any of the departments/offices in Hazara Division as ordered by the Competent Authority.

Before joining the post he/she will have to provide (a) Medical Fitness Certificate from the Medical Superintendent, DHQ Hospital of his/her respective district of domicile. (b) Character Certificate from local Police Station (c) Attested photo copies of academic documents.

In case the above terms and conditions of appointment are acceptable, he/she is required to report his arrival in the office of the undersigned within seven (07) days of the receipt of this letter, otherwise, the appointment would be treated as cancelled.

Sd/xxx

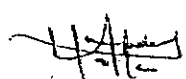
Commissioner Hazara Division
Abbottabad

Endst: No. CHD/Estab/ 4050-54

Dated Abbottabad the 06 / 10 / 2011

Copy to the:-

1. District Comptroller of Accounts, Abbottabad.
2. PS to Commissioner Hazara Division, Abbottabad.
3. Assistant Budget & Accounts Commissioner's Office.
4. Officials concerned.


Assistant to Commissioner (Rev/GA)
Hazara Division Abbottabad

(14)

B (6)

**JOINT SENIORITY LIST OF
JUNIOR SCALE STENOGRAPHERS, DATA CONTROL ASSISTANT AND COMPUTER OPERATORS (BPS-12) OF THE OFFICES OF COMMISSIONER/DCO/DOR/EDO (F&P)
AND POLITICAL AGENTS AT DIVISIONAL LEVEL STOOD ON 30-11-2011**

S.No.	Name of Jr. Scale Stenographer	Date Of Birth	Qualification	Date of first entry into govt service	Date of regular appointment / Selection / Promotion as Jr. Scale Stenographer	Office	Remarks
1	Mr. Muhammad Aslam	3-Mar-64	D.Com	8-May-83	18-Aug-91	DCO Office Mansehra	
2	Mr. Muhammad Javed	13-Feb-55	BA	1-Oct-76	28-Jul-92	DOR&E Office Mansehra	
3	Mr. Muhammad Zarin	6-May-68	MA	1-Oct-93	1-Oct-93	DCO Office Battagram	
4	Mr. Qazi Sajjad Ahmed	1-Jan-54	FA	22-May-83	27-Sep-94	DO(R&E) Office Mansehra	
5	Mr. Abdul Majeed	12-Aug-73	BA	27-Oct-97	27-Oct-97	EDO(F&P) Mansehra	
6	Mr. Shahid Muhammad Khan	1-Jan-83	BA	29-Sep-05	29-Sep-01	DCO Office Kohistan	
7	Mr. Shah Faisal	1-Mar-76	FA	7-Mar-03	7-Mar-03	DCO Office Battagram	
8	Mr. Inamullah	10-Jan-79	BA	7-Mar-03	7-Mar-03	DCO Office Battagram	
9	Mr. Jamshed Muhammad	2-Mar-76	BA	7-Mar-03	7-Mar-03	DCO Office Battagram	
10	Mr. Inamullah Khan	12-Dec-78	MSc/MDCN	7-Mar-03	7-Mar-03	DCO Office Battagram	
11	Mr. Mir Afzal Khan	9-Aug-72	BA/DIT	11-Mar-03	11-Mar-03	EDO(F&P) Mansehra	
12	Mr. Qazi Khalid	15-Mar-79	BSc	12-Mar-03	12-Mar-03	EDO(F&P) Battagram	
13	Mr. Muhammad Saleem	2-Feb-78	BA	12-Mar-03	12-Mar-03	EDO(F&P) Mansehra	
14	Mr. Ajmal Khan	1-Aug-82	BA/DIT	22-Mar-03	22-Mar-03	EDO(F&P) Mansehra	
15	Mr. Sheikh Muhammad Afzal	12-Nov-82	MBA	23-May-03	23-May-03	EDO(F&P) Haripur	
16	Mr. Saad Khan	15-Nov-76	MSc	23-May-03	23-May-03	EDO(F&P) Haripur	
17	Mr. Amjad Mehmood	22-Apr-73	BSc	1-Jan-96	5-Jun-03	EDO(F&P) Abbottabad	
18	Mr. Muhammad Shafqat	20-May-74	BA	9-Jan-04	9-Jan-04	DCO Office Abbottabad	
19	Mr. Azhar Iqbal Mughal	15-Mar-73		21-Feb-04	21-Feb-04	DCO Office Haripur	
20	Mr. Nasir-u-Din	20-May-70	BA	24-Sep-92	16-Mar-04	DCO Haripur	
22	Miss Yasmeen Bashir	10-Dec-79	BA	1-Mar-06	1-Mar-06	EDO(F&P) Abbottabad	
23	Mr. Ajmal Khan	21-Apr-84	D.Com	19-Jun-06	19-Jun-06	EDO(F&P) Haripur	
24	Mr. Nasir Mehmood Khan	23-Mar-83	BSc	19-Jun-06	19-Jun-06	EDO(F&P) Haripur	
25	Mr. Khyal Muhammad	1-Nov-75	BA	13-Oct-03	28-Jun-06	DCO Office Battagram	
26	Mr. Malik Muhammad Munir	6-Mar-81	FSc	28-Jun-06	28-Jun-06	EDO(F&P) Haripur	

"B"

(7)

A

8

27	Mr. Usman Akhtan	23-May-85		25-Sep-06	25-Sep-06	DCO Office Hazipur
28	Mr. Muhammad Ashraf	1-Jan-64	BA/DIT	1-Sep-86	2-Feb-07	DCO Office Mansehra
29	Mazhar Khan	16-Apr-68	M.Sc	1-Dec-94	21-Apr-07	DCO Office Abbottabad
30	Mr. Waqas Ahmed Khan	1-Jan-83	BSc/DIT	4-Jun-07	4-Jun-07	DCO Office Mansehra
31	Mr. Mukhtair Hussain	13-Oct-78	BA & D.Com	6-Jun-07	6-Jun-07	DCO Office Batagram
	Mr. Muhammad Iqbal	7-Oct-82	BA	6-Jun-07	6-Jun-07	DO(R&E) Office Batagram
33	Mr. Saifullah	20-Apr-86	MA.DIT	6-Jun-07	6-Jun-07	DCO Office Battagram
34	Mr. Samiullah Khan	16-Mar-82	BA	9-Sep-06	26-Jun-07	DCO Office Haripur
35	Mr. Syed Amjad Ali Shah	24-Feb-80	BA/MCs	3-Dec-07	3-Dec-07	EDO(F&P) Mansehra
36	Mr. Adalat Khan	1-Aug-78	BA	23-Apr-04	1-Apr-08	EDO(F&P) Abbottabad
37	Mr. Umair Shafique	6-Mar-83	BSc	14-May-08	14-May-08	EDO(F&P) Abbottabad
38	Mr. Habib-ur- Rehman	8-Feb-77	MA English	20-Dec-99	5-Jun-08	DCO Office Abbottabad
39	Mr. Taimur Rafique	14-May-83	BCs	16-Oct-09	16-Oct-09	DCO Office Abbottabad
40	Mr. Abdul Mateen	16-Jun-80	BA	10-Jan-05	22-Jan-10	EDO(F&P) Kohistan
41	Mr. Suleiman Khan	3-Jan-83	FSc	29-Sep-05	12-Jul-10	EDO(F&P) Kohistan
42	Mr. Amin-ul-Haq	15-Sep-83	MA	16-Nov-10	16-Nov-10	Commissioner Office A,bad
43	Mr. Waqas Khan	2-Oct-85	BBA	16-Jul-11	16-Jul-11	DCO Office Abbottabad
44	Mr. Muhammad Jamil	18-Aug-86	MCs	20-Jul-11	20-Jul-11	EDO(F&P) Abbottabad
45	Mr. Awais Qureshi	17-May-85	BA	6-Oct-11	8-Oct-11	Commissioner Office A,bad
46	Miss Farah Naz	20-Mar-86	FA/B.Com	6-Oct-11	10-Oct-11	Commissioner Office A,bad
47	Muhammad Khalil	16-Feb-89	B.Com	26-Sep-11	26-Sep-11	DCO Office Torghar
48	Faisal Latif	5-Oct-88	BBA	26-Sep-11	26-Sep-11	DCO Office Torghar
49	Alamgir Khan	20-Sep-86	B.Com	27-Sep-11	27-Sep-11	DCO Office Torghar
50	Miss. Faiza Abbasi	19-Apr-82	MA/BIT	30-Jun-09	30-Dec-11	CHD Office Abbottabad
	Mr. Muhammad Faisal	1-Mar-85	MBA	21-Mar-12	21-Mar-12	CHD Office Abbottabad

Note:- If any objection on the above seniority list, then may be sent to this office within 15 days after the issuance of this list otherwise it will be considered as final.

No.2/3/Estab:/CHD/ 3483-4000 Dated/ 8 /05/2012.

- All the District Coordination Officers in Hazara Division, for early Circulation amongst the officials.
- All concerned in Commissioner's Office.

Assistant to Commissioner (Rev:/GA)
Hazara Division Abbottabad.

ATTESTED

TENTATIVE SENIORITY LIST OF
COMPUTER OPERATORS (BPS-12) WORKING IN THE OFFICE OF COMMISSIONER HAZARA DIVISION
AS STOOD ON 01.12.2015

No.	Name of Computer Operator	Date Of Birth	Qualification	Date of first entry into govt service	Date of regular appointment	Remarks
1	Mr. Awais Qureshi	17-May-85	BA/DIT	06-Oct-11	08-Oct-11	
2	Miss Farah Naz	20-Mar-86	FA/B.Com	06-Oct-11	10-Oct-11	
3	Miss. Faiza Abbasi	19-Apr-84	MA/BIT	30-Jun-09	30-Dec-11	


Note: If any objection on the above Seniority List then may be submitted within 15 days after the issuance of the Seniority List, otherwise it will be considered final.

Endst: No: 2/3-Estab: 4086-84

Dated the Abbottabad: 16/12/2015

Copy forwarded to the:

1. Mr. Awais Qureshi, Computer Operator/Incharge Local Government Branch of this Office.
2. Miss Farah Naz, Computer Operator, Political Branch of this Office.
3. Miss Faiza Abbasi, Computer Operator, General Branch of this Office.
4. PS to Commissioner Hazara Division, Abbottabad


Secretary to Commissioner,
Hazara Division Abbottabad.

ATTESTED

23

D 9

**FINAL SENIORITY LIST OF
COMPUTER OPERATORS (BPS-12) WORKING IN THE OFFICE OF COMMISSIONER HAZARA DIVISION
AS STOOD ON 31.12.2015**

S.No.	Name of Computer Operators	Date Of Birth	Qualification	Date of first entry into govt: service	Date of promotion/ appointment on the present post	Remarks
1	Mr. Awais Qureshi	17-May-85	BA/DIT	06-Oct-11	08-Oct-11	
2	Miss. Farah Naz	20-Mar-86	ICS/B.Com	06-Oct-11	10-Oct-11	
3	Miss. Faiza Abbasi	19-Apr-84	BIT/MA	30-Jun-09	16-Dec-11	

Endst: No: 2/3-Estab: 458-54

Dated the Abbottabad: 8/01/2016

w

Secretary to Commissioner,
Hazara Division Abbottabad.

ATTACHED


 OFFICE OF THE
 COMMISSIONER HAZARA DIVISION
 ABBOTTABAD

No.2/5-Estab: 7616-17

Dated Abbottabad the 07/06/2016

 E
 (11)
 "E"


To

 The Senior Member Board of Revenue,
 Khyber Pakhtunkhwa, Peshawar.
Subject: WORKING PAPER

Dear Sir,


I am directed to refer to the subject noted above and to enclose herewith the Working Paper along with Synopsis, Non Involvement Certificates, original ACRs and Final Seniority lists of Junior Scale Stenographers, Computer Operators in respect of following officials working in the office of Commissioner Hazara for further necessary action, please:

S#	Name & Designation	Original ACRs for the year
1.	Mr. Amin ul Haq Junior Scale Stenographer	2011 to 2015
2.	Mr. Muhammad Faisal Junior Scale Stenographer	2012 to 2014
3.	Mr. Awais Qureshi Computer Operator	2012 to 2015
4.	Miss Farah Naz Computer Operator	2012 to 2015


 Secretary to Commissioner
 Hazara Division, Abbottabad
Endst No & Date Even:

Copy forwarded to the PS to Commissioner Hazara Division, Abbottabad.


 Secretary to Commissioner
 Hazara Division, Abbottabad

 ATTESTED


WORKING PAPER FOR PROMOTION OF JUNIOR SCALE STENOGRAPHER (BS-14) AND COMPUTER OPERATOR (BS-12) TO THE POST OF SENIOR SCALE STENOGRAPHERS (BS-16)

The Finance Department, Government of Khyber Pakhtunkhwa had sanctioned two posts of Senior Scale Stenographers (BPS-16) for the office of the Commissioner Hazara Division, Abbottabad. The copy of Budget Book 2015-16 is attached as Annex-A. Both these posts are vacant for the reasons as mentioned below:

- i) One post of the Senior Scale Stenographer become vacant due to the retirement of Muhammad Javid Iqbal, Senior Scale Stenographer on 31st October, 2014 (Retirement Order is attached as Annex-B).
- ii) The second vacancy resulted due to promotion of Mr. Jehanzeb Senior Scale Stenographer (BPS-16) to the post of Private Secretary to Commissioner, Hazara Division (BPS-17) (on Acting Charge Basis) on 29th September, 2014. Promotion order is attached as Annex-C.

These posts are required to be filled for smooth running of the official work in the best interest of public.

From the perusal of Divisional Ministerial Rule, 2015 (Annex-D), these posts fall under the promotion quota as prescribed at serial # 4 column # 5 of the said rules reproduced below:


"a) Sixty percent by promotion on the basis of Seniority cum fitness from amongst the Junior Scale Stenographers with at least five years service as such in the office of the Commissioner's concerned; and

b) Forty percent by promotion on the basis of Seniority cum fitness from amongst the Computer Operators with at least five years service as such in the office of the Commissioner's concerned."

As there are only two posts available, one post is to be filled in from amongst the Junior Scale Stenographers while the other from amongst the Computer Operators. It is clarified that no promotion was made earlier; hence, this office needs to consider the promotion.

PROMOTION OF JUNIOR SCALE STENOGRAPHER (BPS-14)

As per Seniority list (Annex-E) of Junior Scale Stenographers working in the office of Commissioner Hazara Division, only two officials are working against the sanctioned posts. Mr. Amin ul Haq Steno to Assistant to Commissioner (Rev/GA), Hazara Division is the senior most Junior Scale Stenographer. He also full fills the requirements for promotion against the vacant post, which comes under the 60% quota. The synopsis and Non-involvement Certificates of the officials concerned are attached as Annex- F, G, H & I. The particulars of the officials are mentioned below:

ATTESTED


S.#	NAME	DESIGNATION	PLACE OF POSTING
1.	Amin ul Haq	Junior Scale Stenographer	Steno to ACR
2.	Muhammad Faisal	Junior Scale Stenographer	Steno to ACP

PROMOTION OF COMPUTER OPERATORS (BPS-12)

There are three (3) posts of Computer Operators in the office of Commissioner Hazara Division as per budget book 2015-16 (Annex-A). As per criteria given in the rules, one official is to be promoted to the post of Senior Scale Stenographer against the 40% quota for the Computer Operators. The following officials are working in the office of Commissioner Hazara Division:

S.#	NAME	DESIGNATION	PLACE OF POSTING
1.	Awais Qureshi	Computer Operator	In-charge LG Branch
2.	Farah Naz	Computer Operator	Political Branch
3	Faiza Abbasi	Computer Operator	General Branch

As per Seniority list, Mr. Awais Qureshi is the senior most amongst the Computer Operators (Annex-J).

All these three officials have not completed the specified length of service, however Mr. Awais Qureshi is the senior most and having more than 4 year and 8 months service in his credit. The Synopsis and Non-Involvement Certificates of the senior most two (2) Computer Operators are attached as Annex K, L, M & N. As per Appointment Promotion & Transfer Rules, 1989 section (9) (1) (2) it transpires that the senior most official is eligible for promotion but on the basis of Acting Charge, as required in the APT Rules, 1989. (Annex-O) which is reproduced as under:

"Appointment on Acting Charge or current Charge Basis. (1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service the authority may appoint him to that post on acting charge basis;

Provided that no such appointment shall be made, if the prescribed length of services short by more than [three years]."

"(2) So long as a civil servant holds the acting charge appointment, a civil servant junior to him shall not be considered for regular promotion but may be appointed on acting charge basis to a higher post."

Certificates:

- 1) The seniorities are undisputed.
- 2) There is no enquiry pending against the officials by the Department or ACE/NAB/PEC.
- 3) The original ACRs of the officials are also enclosed.

Submitted for consideration, please.

ATTESTED
h

W
Secretary to Commissioner,
Hazara Division, Abbottabad
Division Abbottabad

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE ESTATE DEPARTMENT

Peshawar the 21/09/2016

NOTIFICATION.

No. Estt:II/DS/Assistance. _____ On the recommendation of Departmental Promotion Committee, the following Junior Scale Stenographer and Computer Operator are promoted as Senior Scale Stenographer (BS-16) on regular basis with immediate effect.

S.No	Name & Designation	Office	Promoted
1.	Mr. Amin ul Haq Junior Scale Stenographer (BS-14)	Commissioner, Office Hazara Division.	Senior Scale Stenographer (BS-16).
2.	Mr. Awais Qureshi Computer Operator (BS-16)	Commissioner, Office Hazara Division.	Senior Scale Stenographer (BS-16) (Acting charge basis).

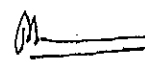
On promotion, they will be on probation for period of one year in terms of Section-6 (2) of Khyber Pakhtunkhwa Civil Act, 1973 read with rules 15 of Khyber Pakhtunkhwa Civil Servants, Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

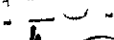
By order of
Senior Member

No. Estt:II/DS/Assistance. 23112-15

Copy forwarded to the:-

1. Commissioners, Hazara Divisions Abbottabad.
2. District Accounts Officer, Abbottabad.
3. Officials Concerned.
4. Office order file.


Secretary-I

ATTACHED


(3)

The Senior Member,
Board of Revenue,
Revenue and Estate Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

11/9/17
9
15

PSISMBR
Dy No. 3624
Date 19/10/17
Govt. of Khyber Pakhtunkhwa

Subject: DEPARTMENTAL APPEAL

Respected Sir,

1. Reference is made to appointment order to the appellant dated 06/10/2011 Copy of Appointment Order of the appellant is attached.
2. It is submitted that the appellant got appointed as Computer Operator (BPS-12). As per appointment order the appellant is senior to Mr. Awais Qurashi according to the order of merit mentioned in the appointment (referred in Para 1 above).
3. That as per law (Civil Servant Rules 1993), seniority of the employee in a similar Cadre is fixed according to the order of Merit inducted in appointment order.

Hence, the Name of the appellant is mentioned at Serial No. 1 where is the Name of Awais Qurashi at Serial No. 02. Therefore, the appellant is Senior to Mr. Awais Qurashi irrespective of the fact that Mr. Awais Qurashi took over the charge of the post prior to the appellant.

That it has now being stated by the Apex Court in so many cases on the same point of law that seniority of the employee is to be fixed according to the merit mentioned in the appointment order and the same may be fixed from the date of appointment Not from the date of Taking Charge of the post.

9/12/17
14/6

SMT
SMR
12/6/17

ATTACHED

35

16

4. That appellant came to know on 04/03/2017 that she has been placed below Awais Qurashi in the seniority list issued in the year 2016. As per law, the appellant is senior to the said Mr. Awais Qurashi, Therefore, her Name is to be placed above the Name of Mr. Awais Qurashi in said Seniority as well as all subsequent Seniority list that seniority list issued in 2016 in illegal, discriminatory, perverse and liable to be reconciled/rectified as per law.

Prayed:

It is prayed that on acceptance of Departmental representation of the appellant, it is prayed that the Name of the appellant may be placed above the Name of Mr. Awais Qurashi in the seniority list in 2016 and issue revised seniority list according.



Farah Naz
Computer Operator
Commissioner Office,
Hazara Division, Abbottabad
Dated 09/06/2017

ATTESTED



To

The Worthy Commissioner,
Hazara Division, Abbottabad.

Through: Proper Channel

Subject: APPEAL

Respected Sir,

It is humbly submitted that I got appointment in the year 2011, as computer operator alongwith one Mr. Awais Qureshi.

As per order of Merit, I am at the top of appointment order. Copy of appointment order and Minutes of the Departmental Selection Committee are attached. (Flag "A" & "B").


That, as per seniority list issued in the year 2016, Mr. Awais Qureshi, Computer Operator has been shown at the top in seniority list where is I have been shown at serial No. 2. Copy of the seniority list is attached, where it is very clearly mentioned in cell # 6 it is arrival mod seniority list. (Flag "C").

As per law and order of Merit, I should have been placed at serial No. 1 of the seniority list for promotion for the post of Senior Scale Stenographer. Copy of the rules regarding seniority is attached. (Flag "D").

In view of the above, it is prayed that seniority list of Computer Operators issued in the year 2016 may be got rectified and I may be placed at the top of the revised seniority list as per law and regulation.

Therefore, I may be promoted as senior scale Stenographer and obliged.

Yours faithfully,


Farah Naz
Computer Operator
Office of the Commissioner,
Hazara Division, Abbottabad.

ATTACHED

89

Acip

on Reg. Case (H)
2/2/17

Asst: (IE)

P. 4

2/3
9/10

17

To

92
The Worthy Commissioner,
Hazara Division, Abbottabad.

Through: Proper Channel

Subject: APPEAL

Respected Sir,

It is humbly submitted that I got appointment in the year 2011, as Computer Operator alongwith one Mr. Awais Qureshi.

As per **order of Merit**, I am at the **top of Appointment Order**. Copy of Appointment Order and Minutes of the Departmental Selection Committee are attached (**Flag "A" & "B"**).

That, as per Seniority list issued in the year 2016, **Mr. Awais Qureshi, Computer Operator has been shown at the top in seniority list** where is I have been shown at serial No. 02. Copy of the seniority list is attached, where it is very clearly mentioned in cell #6 **it is arrival mod seniority list (Flag "C")**.

As per law and order of Merit, I should have been placed at **Serial No. 01 of the Seniority list for promotion for the post of Senior Scale Stenographer**. Copy of the rules regarding seniority is attached. (**Flag "D"**).

It is worth mentioned here, that in 6 year tenure, there are only 02 times, in the **year 2012, 2016 Seniority List were issued**, which must be issued in every year and both the times, I was not posted in Establishment Branch, besides this fact **both the times seniority were made on arrival mod**.

Seniority list prepared in the year **2012** was **not circulated** among officials; record may be checked for this justification.

In view of the above, it is prayed that seniority list of Computer Operator issued in the year 2016 may be got **rectified** as it is **immense injustice** and I may be placed at the **top of the revised seniority list as per law and regulation**.

Therefore, I may be promoted as **Senior Scale Stenographer and obliged**.

Yours faithfully,

Farah Naz

Computer Operator (BPS-16)
Office of the Commissioner,
Hazara Division,
Abbottabad.

16/10/2017

J

94

In order to dispose of the instant appeal of Mst Farah Naz Computer Operator (BPS-16) an opportunity of personal hearing was granted to her to explain the case. She pleaded that she is at first place on the merit assigned by the DPSC and produced the minutes of the meeting and appointment order and claimed that she is senior to Mr. Awais Qureshi. The Superintendent of this office also attended the personal hearing and he was asked to explain the method of determination of Seniority List. He was of the view that the seniority list was prepared from the service books of the officials according to which Mr. Awais Qureshi was senior to her on the basis of arrival. He further told that the merit list of the officials is missing.

95

Method of determination of seniority list has clearly been mentioned in The Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer Rules, 1989) and Civil Servants (Seniority) Rules, 1993. Minutes of the Meeting of DPSC and appointment order in the instant case clearly reflects that Mst Farah Naz Computer Operator (BPS-16) is senior to Mr. Awais Qureshi Computer Operator (BPS-16). Once the members of DPSC signed the minutes and appointment order issued, the merit list has nothing to do with the seniority list.

96

The instant case is hereby disposed of by declaring Mst. Farah Naz Computer Operator (BPS-16) as senior to Mr. Awais Qureshi Computer Operator. Assistant to Commissioner (Rev/GA) Hazara Division to inform the Board of Revenue in this regard.

Announced on October 23, 2017

[Signature]
Commissioner

ACR
Supdt.

As approved / order of *[Signature]*
Para-96/N for implementation
and letter to be conveyed. 23/x

AP

[Signature]

97

DFA alongwith Seniority list 22/10
is submitted in compliance with
order at para-96 please
Supdt./ACR
24/10

[Signature]

42515
K (18)

BEFORE THE HON'ABLE SENIOR MEMBER BOARD OF REVENUE,
KHYBER PAKHTUNKHWA, PESHAWAR

DEPARTMENTAL APPEAL / REPRESENTATION AGAINST IMPUGNED
ORDER DATED 23.10.2017 ANNOUNCED BY THE COMMISSIONER
HAZARA DIVISION AND ISSUED THROUGH LETTER NO. 2/3-ESTAB/7026
29 DATED 25.10.2017 TO BOARD OF REVENUE.

K
20

Respectfully Sheweth!

FACTS

Diary No: 6355
Dated: 07-11-2017

The Facts of the case is as under:

1. That I was appointed as Computer Operator (BPS-12) in the Office of Commissioner Hazara Division Abbottabad vide order No. CHD/Estab:/4050-54 dated 06.10.2011 on the recommendation of DP/SC, after due course as required in the rules in vogue 2011 and APT Rules, 1989, for appointment of any Government Servant, such as **advertisement, Test, Interview and criteria**. The copies of advertisement, Call Letter of Computer Practical Test, Interview and appointment order are available at page **1, 2, 3, & 4** respectively.
2. That as per record available in original i.e. call letter for Computer Practical Test and Interview duly issued to me by Commissioner Office received through registered mail, I attended the practical test alongwith **18** others. Consequent upon the success in Computer Practical Test **4 candidates** including me from amongst these **18 candidates**, the Commissioner's office issued another call letter for interview and the appellatant (in the instant appeal) appeared before the competent authority and the members of DP/SC for taking interview. (**Note sheet of relevant file/Copy of list of candidate applied for/attendance sheet of Screening Test of candidates/Attendance sheet of candidates who passed in Practical test/ copy of letter for interview, issued to 4 candidates are available at page 5-7, 8-9, 10-11, 12 & 13**).
3. That the appellatant (in the instant appeal) was appointed under the **Divisional Ministerial Rules 2001 amended 2010**, subsequently as per rules in vogue at that time, a joint seniority list of Computer Operators/Junior Scale Stenographers/Data Controller Assistants/Data Supervisors issued on 08-05-2012 at divisional level, **wherein the appellatant was at Serial No. 45 while Miss Farah Naz, Computer Operator, was placed at Serial No. 46**, thus junior to me, copy annexed as "14-15".
4. On the **supersession of all previous rules in this behalf**, the Board of Revenue/Revenue & Estate Department Government of Khyber Pakhtunkhwa Peshawar vide **Notification No. Estt:/I/II/135/SSRC/2033 dated 23.01.2015**, whereby the Seniority of different cadres were bifurcated and a method of appointment/recruitment and promotion of Senior Scale Stenographers was introduced, which is reproduced as under:

"Sixty percent by promotion on the basis of Seniority-cum-fitness from amongst the stenographers with at least five years service in the offices of Commissioners concerned",

"Forty percent by promotion on the basis of Seniority-cum-fitness from amongst the computer operators with at least five years service in the offices of Commissioners concerned",

- (6)
- (2) (3)
5. In the light of above mentioned rules, a tentative seniority list was also issued by the office of Commissioner Hazara Division on **16.12.2015** with the note **"if any objection on the above seniority list then may be submitted within 15 days after the issuance of the seniority list, otherwise it will be considered final"** (Copy of note sheet & tentative Seniority list is available at page-16 & 17). Miss Farah Naz Computer Operator of Commissioner Office had never raised/filed any objection within or after expiry of stipulated period on seniority list. Consequently the seniority list of Computer Operators became finalized by the approval of Commissioner Hazara Division and then issued on **08.01.2016**, wherein the appellant **was placed at Serial No.1** while **Miss Farah Naz, was placed at Serial No.2**, copy of note sheets and Final Seniority list are available at page **"18-22 & 23**).
 6. On the availability of the **2 vacant Posts of Senior Scale Stenographers**, the case for promotion of the appellant and Mr. Amin ul Haq, Junior Scale Stenographer were jointly referred to the Board of Revenue, for promotion as Senior Scale Stenographer vide No. 2/5-Estab:7616-17 dated 07.06.2016 with the approval of Commissioner Hazara Division (**Copy of Note Sheet and Letter available at page 24 & 25-27**). Vide Notification No. Estt:II/DS/Assistance/ 23112-15, dated: 21.9.2016, **Mr. Amin ul Haq, Junior Scale Stenographer** was promoted as Senior Scale Stenographer (BPS-16) on regular basis while, the appellant was promoted as Senior Scale Stenographer (BPS-16) on **Acting Charge Basis**. **Copy of Notification is available at page "28"**.
 7. On **regularization of Mr. Jehanzeb SSS**, earlier who was working as Private Secretary to Commissioner **on Acting Charge Basis**, as Private Secretary to Commissioner Hazara Division, vide Notification No. Estt:II/DPC/Com/Hazara/9169-71 dated 04.05.2017, copy of Notification available at page **"29"**, **the case of the appellant for regularization was referred to your good office with the approval of Commissioner Hazara Division**, vide letter No. CHD/Estab/2/5/3912-14 dated 29.05.2017, (**copy of letter & application are available at page "30 & 31"**).
 8. That in the meanwhile, **Miss Farah Naz Computer Operator Commissioner Hazara office** was posted in establishment branch vide order No.4/3-CHD(Estab)/1083-92 dated 22.2.2017 and all the above **process was processed through her but no any objection or reservation raised by her at that time**. (Copy of posting order is available at **"32"**).
 9. That all the process was going smoothly, **suddenly on 09.06.2017** after lapse of **15 months** of issuance of Final Seniority List, ignoring all the formalities and rules in vogue, Miss Farah Naz filed an appeal before your good office regarding seniority, which was actually a time barred appeal and forwarded to the Commissioner's office for comments. (**Copy available at page "33 to 35"**).
 10. That, according to the rules, she filed a departmental appeal which was liable to be dismissed being **time barred** under the **NWFP Civil Servants Act, 1973** Section 22 (1)(2) and **NWFP Civil Servants (Appeals) Rules, 1986, Limitation Act**, which is reproduced below (**Annex-"36-44 & 45-48"**):

(22) Right of appeal or Representation:- (1) where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules

—

(c)

applicable to him, such appeal or application shall, except as may be otherwise prescribed, be made **within thirty days** of the date of such order,

(20)

(21)

(2) where no provision for appeal or review exists under the rules in respect of any order or class of orders, a civil servant aggrieved by any such order may, within **thirty days** of the communication to him of such order, make a representation against it to the authority next above the authority which made the order:

Provided that no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

11. That, appeal of the Miss Farah Naz, Computer Operator of Commissioner Hazara Office is violation of the **Limitation Act**, but **time barred appeal was entertained at belated stage.**
12. There are so many judgements of **Hon'able Supreme Court of Pakistan, Hon'able High Courts, Federal Service Tribunal** as well as **Provincial Service Tribunal** regarding time barred Appeals/Writ petitions of Civil Servants. Few are as under: **(Copies available at page-49-52, 53-54, 55-58, 59-60 & 61-64)**
- i) Civil Petition No. 1206 of 2008 titled "Mrs. Rashida Asif Versus Mrs. Aasia Gondal & others",
 - ii) Civil Petition No.252 of 1994 titled "federation of Pakistan through Secretary Establishment, Islamabad and another versus B.A. Tabassum & others",
 - iii) Civil Appeal No. 1472 of 2013 dated 03.03.2014 titled "the Commandant Khyber Pakhtunkhwa Constabulary FC Head Quarters, Peshawar & others versus Amir ullah Islam & others",
 - iv) Civil petition No 378 L of 2004 titled " Muhammad Aslam versus Water & Power Development Authority & etc",
 - v) RFA No. 111-D of 2012 titled "Haji Zabta Khan versus Dr. Ahmad Ali Siraj & Others".
13. Beside the entertainment of appeal of Miss Farah Naz Computer Operator, the issue of misplacement of record/merit list was disclosed for the first time by the establishment branch of Commissioner office at belated stage. She filed an appeal before your good office. In spite of all, she is still working in Establishment Branch as appellant, evident as well as dealing hand/custodian of the record of Establishment Branch. It is apprehended that she may change or miss any relevant record as per her malafide wishes.
14. On the disclosure of misplacement of record/merit list, the Commissioner Hazara Division conducted an inquiry through Deputy Commissioner Haripur **(Copy of Note Sheets & Letter are Available at page-65-71 & 72-75).**
15. The Inquiry Officer reported that the officials who come under inquiry are not involved for the misplacement of record however; he added that they may be dealt with E&D Rules, 2011 for not taking/handing over of the official record at the time of their postings/transfers. Actually, the handing/taking over is not the responsibility of the appellant.
16. The Inquiry Officer declared Miss Farah Naz, Computer Operator of Commissioner Hazara Office **as guilty** and **recommended that she may be proceeded against independently for misplacement of relevant record/merit list under E&D Rules, 2011.**
- APPROVED
K

17. The Inquiry Officer in his concluding Para mentioned that Miss Farah Naz Computer Operator of Commissioner Hazara Office whose name appeared in the minutes of DP/SC dated 03.10.2011 and does not figure in the attendance sheet and call letter seems to be interested for promotion as Senior Scale Stenographer (BPS-16) instead of Mr. Awais Qureshi might have been misplaced the service record while posted in the Establishment Branch for declaring herself to be Senior in the respective cadre.
18. The Inquiry Officer further added that she did not file appeal well in time and to cover the lacuna as the misplacement was in her best interest. She did so after misplacing the record on the basis of her vested interest in the matter which has been established from the file to get benefit herself from the situation.
19. The Inquiry Officer mentioned that some copies of note sheets produced during the course of investigation by the appellant (in the instant appeal) would further corroborate the involvement of Miss Farah Naz Computer Operator redendering herself for disciplinary action under E&D Rules, 2011 (copy of Inquiry report available at page 76-79).
20. After the receipt of Inquiry in Commissioner Office, the Commissioner Hazara Division has decided to forward the case to your good office for further necessary action as competent authority however, the case of Mr. Obaid ur Rehman Senior Clerk (BPS-14) and Mr. Shoaib Abbasi, Junior Clerk (BPS-11) retained with the Commissioner office for further proceedings by himself.
21. Consequent, upon the proceedings and personal hearing, both the officials have served with warning and be careful in future (Copy of note sheet/decisions and warning are available at page-80-83/85-86 & 87-88).
22. On 05.10.2017, Miss Farah Naz Computer Operator of Commissioner Hazara Division submitted an application before the Commissioner Hazara Division for determination her seniority, whereupon the Commissioner Hazara Division ordered to file the application as Miss Farah Naz has already filed an appeal before your good self for the same purpose which is still under process in your good office. (Copy of application and Note sheets available at page-89 & 90-91).
23. Just after 4 days, Miss Farah Naz again filed an application on 16.10.2017 before the Commissioner Hazara Division for declaring herself as senior most in her respective cadre. Surprisingly she was heard in person on 23.10.2017 in presence of Superintendent of Commissioner Hazara office which was astonishingly accepted and issued an order whereby she declared as senior most in her cadre and copy thereof sent to your good office which is quite against the standing rules/instructions as the same case was pending before your good self for same purpose. (Copy of application, order and letter available at page- 92, 93-94 & 95-97)
24. At the time of personal hearing, the Superintendent Office of the Commissioner Hazara informed verbally that Miss Farah Naz has already filed an appeal before the worthy SMBR which is still pending. He also informed the Commissioner Hazara Division that she was appointed on Chit (چیت) without taking any screening test/interview call letter as she has never applied for the said post

ATTACHED

(e)

24

in Commissioner Office instead of all above facts she was appointed as Computer Operator in the office.

25. It has not yet been disclosed that on which grounds and facts/rules the Commissioner Hazara Division taken this decision and declared her as senior most, ignoring all the ground realities, rules in vogue and standing instructions issued by the Government of Khyber Pakhtunkhwa time by time and Judgments of Hon'able Courts of law.

GROUNDS

- A
- a. That the appellant in the instant appeal was appointed through adopting all codal formalities as laid down in the rules in vogue in 2011 and APT Rules, 1989.
 - b. That the appellant was appointed under the Divisional Ministerial Rules, 2001 amended in 2010.
 - c. The Joint Seniority list was issued on 08.05.2012 at Divisional Level as per rules wherein the appellant was at serial No. 45, while Miss Farah Naz was at No. 46.
 - d. That Vide Notification No. Estt:/I/II/135/SSRC/2033 dated 23.01.2015, the different cadres were bifurcated and a method of appointment/recruitment/promotion for Senior Scale Stenographer was introduced.
 - e. That in the light of above mentioned rules; a tentative seniority list of Computer Operators working in the office of the Commissioner Hazara Division was issued on 16.12.2015.
 - f. That 15 days were given to raise/file any objection on the tentative seniority list issued on 16.12.2015
 - g. That during the stipulated period only Miss Faiza Abbasi filed an appeal before the Commissioner Hazara Division which was filed by the then competent authority and letter on from your good office as well.
 - h. That on 08.01.2016, a Final Seniority List of Computer Operators was issued accordingly.
 - i. That Miss Farah Naz Computer Operator of Commissioner office has never raised any objection, neither tentative seniority list nor on final seniority list in any legal forum i.e. Commissioner, worthy SMBR & Service Tribunal within the stipulated period as mentioned in NWFP, Civil Servant Act, 1973, NWFP Civil Servants (Appeals) Rules, 1986, APT Rules, 1989, Service Tribunal Act, 1974 as well as Limitation Act.
 - j. That final seniority list of Computer Operator was issued on 08.01.2016 the appellant (in the instant appeal) were placed at serial No. 1, while Miss Farah Naz was placed as at Serial No. 2 and Miss Faiza Abbasi was placed as at serial No. 3 respectively.
 - k. That on the availability of 2 vacant posts of Senior Scale Stenographers, the case of the appellant from Computer Operators and one Junior scale Stenographer was referred to your good office under the prescribed rules 2015 by the Commissioner Hazara office for promotion as Senior Scale Stenographer (BPS-16).
- ATTACHED

- l. That consequent upon the recommendation of DPC meeting held in the Board of Revenue, the appellant was promoted on Acting Charge Basis as Sr. Scale Stenographer while Mr. Amin ul Haq was promoted as Sr. Scale Stenographer on regular basis.
- m. That on the regular promotion of Mr. Jehan Zeb as PS to Commissioner Hazara Division, the case of regularization of the appellant (in the instant appeal) was referred to Board of Revenue by the office of Commissioner Hazara Division.
- n. That all the above correspondence even for making the seniority lists and cases for promotion/regularization was done after the quite approval of Commissioner Hazara Division.
- o. That non of above mentioned correspondence was made without the approval of Commissioner Hazara Division **(copies of note sheets already enclosed for ready reference)**.
- p. That breaching all the rules as mentioned in Para-i and after the period of 15 months was expired, Miss Farah Naz was filed an appeal for seniority on 09.06.2017 before your good self which was entertained and forwarded to Commissioner Hazara Division for comments.
- q. That the case of Miss Farah Naz Computer Operator of Commissioner Hazara office is still subjudice in your good office.
- r. That on which grounds and facts/rules the Commissioner Hazara Division taken this decision and declaring Miss Farah Naz as senior most, in the cadre, while:
1. **The appeal of Miss Farah Naz is pending before your good self.**
 2. **The determination of seniority of BPS-16 is not in the domain of Commissioner Hazara Division.**
 3. **The Inquiry Officer has already declared Miss Farah Naz as guilty, illegal appointee and recommended to be proceeded against under E&D Rules, 2011.**
- s. That according to the NWFP Civil Servants Act, 1973 and NWFP Civil Servants (Appeals) Rules, 1986, the right of appeal or representation:
1. **The civil servant shall file an appeal/application within 30 days of the date of issue of any order.**
 2. **Where no provision of appeal or review exist under the rules in respect of any order a civil servant aggrieved by any order may filed an appeal/application within 30 days to the authority next above the authority.**
- t. That according to the E&D Rules, 2011 the appeal before the Provincial Service Tribunal, and as well as rules of Provincial Service Tribunal 1974, the aggrieved civil servant may file an appeal before the Hon'able Service Tribunal within 90 days after the issuance of any order, if a civil servant feels aggrieved.
- u. That the judgments of Hon'able courts of law in different title cases are very much clear regarding time barred/limitation appeals and instructions therein.

NOTED


- v. That it is very much surprising that in the application dated 05.10.2017 filed by Miss Farah Naz was turned down by the Commissioner Hazara Division on **11.10.2017**, while on the very next application dated **16.10.2017** filed by Miss Farah Naz was anxiously dealt, decided in favour of applicant Miss Farah Naz on 23.10.2017.
- w. That the record, recommendations of staff Officer and arguments of Superintendent were flatly rebutted by the Commissioner Hazara Division and out of turn favoured Miss Farah Naz Computer Operator.
- x. There are personal grudges of some officials including Miss Farah Naz with me due to which case for regularization of the appellant (in the instant appeal) is held in abeyance; hence, the appellant is mentally tortured and upset.
- y. That Miss Farah Naz was proved guilty for misplacement of official record and illegal appointee in Inquiry report (already enclosed), **inspite of all she is still working in the same sensitive Establishment Branch of Commissioner Hazara Division** where all the sensitive service record is in her access by which she can modify/damage as per her wishes and to complete her ulterior motives, this will be detrimental to any official working in the office.
- z. It is quite standing principle that if an officer/official is under inquiry, he/she is transferred from that post or suspended till the final decision of the case, but here in Commissioner's office a guilty official is working in Establishment Branch of Commissioner Hazara office with full command and control, by which the appellant as well as staff working in Commissioner's office have realized that she is using her influence either through political or non political, due to which there is a disappointment feels by the officials to obtain any justice from any higher authority without influence. The presence of Miss Frah Naz Computer Operator in the Establishment is also threat to all officials of the Commissioner's office.
- aa. That now the case of the appellant is ripe-up and any delay in this behalf; the appellant would have born the irreparable loss to appellant's future and service too.
- bb. That it is pertinent to mention here that the Officers/Officials of Commissioner Hazara Office are fear to blame game play by Miss Farah Naz on the basis of sexual harassment Act.

Am

PRAY:

On the above mentioned facts, realities, rules, judgments and human natural right, the instant appeal is based on the truth and ground realities on the shoulder of rules, regulations, official record which are not only entertainable but requires favourable consideration. It is therefore, very humbly prayed that the impugned order dated 23.10.2017 issued through letter No. 2/3-Estab/7026-29 dated 25.10.2017 to Board of Revenue may be set aside as well as the appeal of Miss Farah Naz, which is totally regrettable based on presumptions which may also be kindly be filed and the appeal of appellant may kindly be accepted to fulfill the requirement of justice, so the appellant in the instant appeal could be continued his work with enthusiasm, please.

ATTACHED
[Signature]

27

Secondly Miss Farah Naz may be ordered to transfer from the sensitive branch, i.e. establishment branch commissioner's office as the retention of her in this branch is very much suspicious please.



Awais Qureshi
Senior Scale Stenographer (BPS-16),
Office of the Commissioner,
Hazara Division, Abbottabad.

Dated: 31/10/2017

ATTACHED
ATTACHED
u

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2018

Awais Qureshi, Senior Scale Stenographer, (BPS-16),
Office of Commissioner, Hazara Division Abbottabad.

APPELLANT

VERSUS

1. Senior Member Board of Revenue, KPK Peshawar.
2. Commissioner, Hazara Divison, Abbottabad.
3. Miss. Farah Naz, Computer Operator (BPS-12), Office of
Commissioner, Hazara Division Abbottabad.

RESPONDENTS

**APPEAL U/S 4 OF KPK SERVICE TRIBUNALS ACT, 1974
AGAINST ORDER DATED 23.10.2017 WHEREBY THE
PRIVATE RESPONDENT NO. 3 WAS DECLARED SENIOR
TO APPELLANT AND AGAINST NOT TAKING ACTION
ON THE DEPARTMENTAL APPEAL WITHIN A
STATUTORY PERIOD OF NINETY DAYS.**

PRAYER:

**THAT ON ACCEPTANCE OF THIS APPEAL, THE
IMPUGNED ORDER DATED 23.10.2017 MAY KINDLY BE
SET ASIDE AND RESPONDENTS MAY PLEASED BE
DIRECTED TO CONSIDER THE APPELLANT AS SENIOR
TO THE PRIVATE RESPONDENT NO.3 AS PER
SENIORITY LIST ISSUED ON DATED 08.01.2016. ANY
OTHER REMEDY WHICH THIS TRIBUNAL DEEMS FIT
AND PROPER MAY ALSO BE AWARDED IN THE FAVOUR
OF THE APPELLANT.**

RESPECTFULLY SHEWETH:

FACTS:

1. That appellant along with private respondent no. 3 was appointed as
Computer Operator BPS-12 in the respondent department vide order

dated 06.10.2011 and since then the appellant performing his duty with entire satisfaction of his superiors. **(Copy of appointment order is attached as annexure-A)**

33
29

2. That the appellant was appointed under the divisional Ministerial Rules 2001 amended in 2010 and as per rule invoke at that time the joint seniority list of Computer Operators/Junior Scale Stenographer/Data Controller Assistant/Data Supervisor was issued on 08.05.2012 at divisional level wherein appellant was at serial no. 45, while the private respondent no. 3 placed at serial no. 46. **(Copy of joint Seniority list attached as Annexure-B)**
3. That the Board of Revenue and Estate department issued a notification dated 23.01.2015 whereby the seniority of different cadres were bifurcated and on the basis of that tentative seniority list of computer operator BPS-12 working in the office of Commissioner Hazara Division was issued on 16.12.2015 with a note that *if any objection on the above seniority list then may be submitted within a 15 days after issuance of seniority list otherwise it will be considered final* and in that seniority list is at serial no. 1 while a private respondent No.3 at serial no. 2. **(Copy of tentative seniority list dated 16.12.2015 is attached as Annexure-C)**
4. That no one filed objection on the tentative seniority list and the final seniority list was issued on 08.01.2016 in which the appellant was still remained at Sr. No. 1, while the private respondent No. 3 was remaining at Sr. No. 2. **(Copy of final seniority list dated 08.01.2016 is attached as Annexure-D)**
5. That two posts of Senior Scale Stenographer BPS-16 was vacant and in this respect working paper has been done in which the name of the appellant along with Amin Ul Haq were referred to the DPC for promotion on the basis of which Amin ul Haq was promoted to Senior Scale Stenographer on regular basis while appellant was promoted to Senior Scale Stenographer on acting charge basis vide order dated 21.09.2016. **(Copy of Working paper and promotion order dated 21.09.2016 are attached as Annex-E& F).**
6. That respondent No. 3 after the lapse of 15 months of issuance of final seniority list filed appeal to respondent No.1 on 09.06.2017, however respondent No.1 did not take any action on that appeal. **(Copy of appeal of respondent No. 3 is attached as Annexure-G)**

ATTACHED

30

- 7. That the private respondent No.3 then filed appeals on 09.10.2017 and 16.10.2017 on which respondent no.2 issued order dated 23.10.2017 whereby the private respondent no.3 was considered senior to the appellant. **(Copy of appeals of private respondents No.3 and order dated 23.10.2017 are attached as Annexure-H , I & J).**
- 8. That aggrieved from the said order the appellant filed departmental appeal on 31.10.2017 to respondent no. 1 which was not responded within statutory period of 90 days. **(Copy of departmental appeal is attached as annexure-K)**
- 9. That the appellant now comes to this Tribunal for redressal of his grievances on the following grounds amongst the other.

GROUND:

- A) That the impugned order dated 23.10.2017 and against not taking action on the departmental appeal of the appellant are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That tentative seniority list of computer operator BPS-12 working in the office of Commissioner Hazara Division was issued on 16.12.2015 with a note that *if any objection on the above seniority list then may be submitted within a 15 days after issuance of seniority list otherwise it will be considered final* and in that seniority list is at serial no. 1 while a private respondent No.3 at serial no. 2, but private respondent No.3 has not filed any objection on that tentative seniority list, which means that the private respondent No.3 accepted that seniority list.
- C) That even the private respondent No.3 did not objection on the joint seniority list issued on 08.05.2012 in which the appellant was at S.No.45 and private respondent was at S.No.46.
- D) That in the working paper for promotion to the post of Senior Scale Stenographer on which the appellant was promoted to the post of Senior Scale Stenographer on acting charge basis was mentioned that the seniorities are undisputed.
- E) That the appellant was remain at S.No.1 in the seniority list since 08.01.2016 which create certain valuable rights in the favour of the

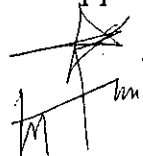
[Handwritten signature]

31

appellant which cannot be rescinded/ withdrawn so easily under the principle of Locus Poenitentiae by passing the order dated 23.10.2017.

- F) That the appellant was promoted to senior scale stenographer on the seniority list issued on 8.1.2016 which was declared undisputed and considering private respondent No.3 senior to the appellant will also effect his promotion order.
- G) That considering the private respondent No.3 senior to the appellant by order dated 23.10.2017 will also effect his promotion in future and will adversely effect his carrier.
- H) That considering private respondent No.3 senior to the appellant by order dated 27.10.2017 by respondent No.2 without giving chance of hearing to the appellant to defend his stance is violation of principle of natural justice and fair play.
- I) That final seniority list was issued on 08.01.2016 and after lapse of about 15 months private respondent No.3 filed appeal on 16.10.2017 on that seniority list, which is badly timed.
- 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

Awais Qureshi

THROUGH:



**M.ASIF YOUSAFZAI
(ADVOCATE SUPREME COURT),**

**TAIMUR ALI KHAN
(ADVOCATE HIGH COURT),**

&

**S. NOMAN ALI BUKHRI
ADVOCATE PESHAWAR.**

ATTORNEY

32 (M)

285

REVISED FINAL SENIORITY LIST IN THE LIGHT OF DECISION OF THE DEPARTMENTAL APPEAL OF
COMPUTER OPERATORS (BPS-16) WORKING IN THE OFFICE OF COMMISSIONER HAZARA DIVISION,
ABBOTTABAD

S.#	Name of Computer Operator	Date of Birth	Qualification	Date of first entry into Government Service	Date of Regular appointment	Remarks
1	Miss. Farah Naz	20/03/1986	MS.c/B.Com/ICS/DIT		10/10/2011	Due to decision on the Departmental appeal announced by the Commissioner, Hazara Division on dated 23/10/2017.
2	Mr. Awais Qureshi	17/05/1985	BA/DIT		08/10/2011	
3	Miss Faiza Abbasi	19/04/1984	MA/BIT	29/06/2009		First appointment as Junior Clerk
					16/12/2011	

Endst: No: 2/3-Establishment: 7437-40

Dated: 03/11/2017

Copy forwarded for information to:

1. The Assistant Secretary (Esib), Board of Revenue, Revenue and Estate Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. Officials Concerned (1 to 3).

[Signature]
 Assistant to Commissioner (Rev/GA)
 Hazara Division, Abbottabad.

FROM : SMIBR OFFICE

FRX NO. : 0919213989

15 Nov. 2017 1:57PM P3

Reference is made to the
 copy of the Computer Operator
 list is attached.

That as per the list
 of the Computer Operator
 list is attached.

[Handwritten signature]

M N
33

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

SUBJECT: MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING REGARDING PROMOTION OF COMPUTER OPERATOR TO THE POST OF SENIOR SCALE STENOGRAPHER IN COMMISSIONER OFFICE HAZARA AND PROMOTION OF SENIOR CLERK TO THE POST OF ASSISTANT IN DEPUTY COMMISSIONER OFFICE BUNER & POLITICAL AGENT KHYBER, HELD ON 26.12.2017 AT 11:00 AM UNDER THE CHAIRMANSHIP OF SENIOR MEMBER BOARD OF REVENUE.

A meeting of Departmental Promotion Committee was held on 26.12.2017 at 11:00 am in the office of Senior Member under his Chairmanship for consideration the promotion of Computer Operator to the post of Senior Scale Stenographer BS-16 in the office of Commissioner Hazara Promotion of Senior Clerks BS-14 to the post of Assistant BS-16 in the offices of Deputy Commissioner Buner and Political Agent Khyber Agency.

The following attended:-

Mr. Saeedullah Deputy Secretary (Regulation-III) Establishment Department	Member
Mr. Naik Muhammad Deputy Secretary, Finance Department	Member
Mr. Qaisar Khan, Secretary-I, Board of Revenue	Secretary

The following items were discussed:-

Item No.1. Promotion of Computer Operator BS-16 to the post of Senior Scale Stenographer BS-16 in Commissioner office Hazara.

There are two sanctioned posts of Senior Scale Stenographers BS-16, out of which against one post, Mr. Awais Qureshi was appointed as Senior Scale Stenographer BS-16 on Acting Charge Basis on 21.09.2016 as he was reflected higher in the top of Seniority List of Computer Operator of Commissioner office Abbottabad.

Pursuant to a representation to Board of Revenue challenging the said seniority list Miss Farah Naz being the senior most based on the seniority at induction, the Board of Revenue allowed her the seniority and restoring her original induction level. The Commissioner Hazara issued the revised seniority list.

Secretary-I, Board of Revenue observed that Commissioner Hazara was not empowered to issue seniority, since upgradation of the post of Computer Operator to BPS-16. Office informed that she had duly made representation to the Competent Authority i.e. Board of Revenue and Commissioner Hazara thereafter issued the seniority accordingly which was upheld by the Board of Revenue vide letter No. Estt:II/seniority list/24197 dated 06.11.2017.

34

Senior Member Board of Revenue remarked that Board of Revenue is competent to accord approval or to regularize such seniorities to restore original induction level.

The forum is competent to accord promotion/demotion based on seniority. Therefore, Miss Farah Naz Computer Operator senior most was accordingly considered suitable for promotion as Senior Scale Stenographer BS-16 on regular basis, in place of Awais Qureshi who accordingly stands demoted.

Item No. 2. Promotion of Senior Clerk BS-14 to the post of Assistant BS-16 in the office of Deputy Commissioner Buner.

There are 23 sanctioned posts of Assistant BS-16 in Deputy Commissioner office Buner, out of which 01 post is lying vacant due to appointment of Mr. Khalid Kamal Assistant in Health Department. The Committee examined the record of the officials included in the panel and made the following recommendations:-

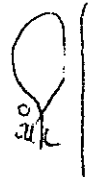
S. No.	Name of official	Recommendations
1.	Mr. Said Rashid Senior Clerk (BS-14)	He was considered and found suitable for promotion to the post of Assistant BS-16 on regular basis.


Item No. 3. Promotion of Senior Clerk BS-14 to the post of Assistant BS-16 in the office of Political Agent Khyber.


There are 05 sanctioned posts of Assistant BS-16 in Political Agent Khyber, out of which 01 post is lying vacant due to retirement of Mukaram Khan Assistant. The Committee examined the record of the officials included in the panel and made the following recommendations:-

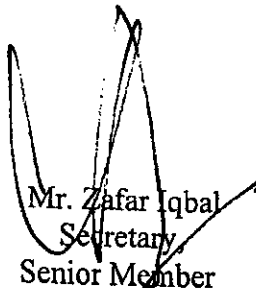
S. No.	Name of official	Recommendations
1.	Mr. Ali Raza Senior Clerk (BS-14)	He was considered and found suitable for promotion to the post of Assistant BS-16 on regular basis.


The meeting was ended with a vote of thanks.


Naik Muhammad
Deputy Secretary,
Finance Department
(Member)


Qaisar Khan,
Secretary-I, Board of Revenue
(Secretary)


Saeedullah,
Deputy Secretary (Regulation-~~IV~~),
Establishment Department.
(Member)


Mr. Zafar Iqbal
Secretary,
Senior Member
(Chairman)

ATTACHED


(3) 10 3

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 29 /01/2018

NOTIFICATION.

No.Estt:II/DPC/_____ On the recommendation of Departmental Promotion Committee, Miss. Farah Naz Computer Operator is promoted as Senior Scale Stenographer (BS-16) on regular basis with immediate effect.

On promotion, she will be on probation for a period of one year in terms of Section-6 (2) of Khyber Pakhtunkhwa Civil Act, 1973 read with rules 15 of Khyber Pakhtunkhwa Civil Servants, Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.


NOTE:- Order bearing No.Estt/DS/ Assistance 23112-15 dated: 21.09.2016 to the extent of S.No.2 is hereby withdrawn. Rest of the order shall remain intact.

No.Estt:II/ DPC/ 3935-37

By order of
Senior Member

Copy forwarded to the:-

1. Commissioner, Hazara Division Abbottabad.
2. District Account Officer Abbottabad.
3. Officials Concerned.


Assistant Secretary (Estt.)

(32) 'CP' (36)

BEFORE THE WORTHY CHIEF SECRETARY-KHYBER PAKHTUNKHWA,
PESHAWAR

DEPARTMENTAL APPEAL/REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO. ESTT:II/DPC/3935-37 DATED 29.01.2018 ISSUED BY THE SENIOR MEMBER BOARD OF REVENUE, KHYBER PAKHTUNKHWA, PESHAWAR

Respectfully Sheweth!

PS/CS/11/1889 W/E/c
Date 21-2-2018

FACTS

The Facts of the case are as under:

1. That the appellant was appointed as Computer Operator (BPS-12) in the Office of Commissioner Hazara Division Abbottabad vide order No. CHD/Estab:/4050-54 dated 06.10.2011 on the recommendation of DP/SC, after due course as required in the rules in vogue 2011 and APT Rules, 1989, for appointment of any Government Servant, fulfilling all the codal formalities.
2. That as per record available in original i.e. call letter for Computer Practical Test and Interview duly issued to appellant by Commissioner Office received through registered mail, the appellant attended the practical test alongwith **18** others. Consequently on the success in Computer Practical Test **4 candidates** including appellant, the Commissioner's office issued another call letter for interview and the appellant (in the instant appeal) appeared before the then competent authority and the members of DP/SC for taking interview. **(Note sheet of relevant file/Copy of list of candidate applied for/attendance sheet of Screening Test of candidates/Attendance sheet of candidates passed in Practical test/copy of letter for interview, issued to 4 candidates are available at page 1-4, 5-7, 8-9, 10-11, 12-13).**
3. *Am* That **Farah Naz (Respondent) has never appeared in the Written, Practical test and Interview; even she has not applied for the said post. It is evident from the record of office of the Commissioner Hazara that the name of Farah Naz neither mentioned in the note sheets, attendance sheet of candidate for Screening Test/Attendance sheet of candidate who passed in Practical test nor a call letter for interview was issued to her to take part in the required procedure/codal formalities (Copies already mentioned in Para-2).**
4. That the appellant (in the instant appeal) was appointed under the **Divisional Ministerial Rules 2001**, subsequently as per rules in vogue at that time, a joint seniority list of Computer Operators/Junior Scale Stenographers/Data Controller Assistants/Data Supervisors **issued on 08-05-2012**, at divisional level, wherein the appellant was at Serial No. **45** while **Farah Naz, Computer Operator**, was at Serial No. **46**, thus junior to me, copy available at page "14-15". **The Respondent (Farah Naz) never raised any objection on the Joint Seniority List at Divisional level and placement No.**
5. On the **supersession of all previous rules in this behalf**, the Board of Revenue/Revenue & Estate Department Government of Khyber Pakhtunkhwa Peshawar vide **Notification No. Estt:/I/II/135/SSRC/2033 dated 23.01.2015 (Copy of rules available at page 16-19)**, whereby the Seniority of different cadres were bifurcated and a method of appointment/recruitment and promotion of Senior Scale Stenographers was introduced, which is reproduced as under: ..

“ Sixty percent by promotion on the basis of Seniority-cum-fitness from amongst the stenographers with at least five years service in the offices of Commissioners concerned”,

37

“ Forty percent by promotion on the basis of Seniority-cum-fitness from amongst the computer operators with at least five years service in the offices of Commissioners concerned”,

6. In the light of above mentioned rules and after bifurcation of cadres/districts, **keeping the inter-se-seniority**, as required under the rules in vogue, a tentative seniority list of Computer Operators (BS-12) was also issued by the office of Commissioner Hazara Division on **16.12.2015**, with the note **“if any objection on the above seniority list then may be submitted within 15 days after the issuance of the seniority list, otherwise it will be considered final”** (Copy of note sheet & tentative Seniority list is available at page-20 & 21). Farah Naz Computer Operator of Commissioner Office had never raised/filed any objection within or after expiry of stipulated period on seniority list. Consequently the seniority list of Computer Operators became finalized by the approval of **Commissioner Hazara Division** and then issued on **08.01.2016**, wherein the appellant **was placed at Serial No.1** while **Farah Naz, was placed at Serial No.2**, copy of note sheets and Final Seniority list are available at page **“22-26 & 27)**.
7. On the availability of the **2 vacant Posts of Senior Scale Stenographers**, the case for promotion of the appellant and Mr. Amin ul Haq, Junior Scale Stenographer were jointly referred to the Board of Revenue, for promotion as Senior Scale Stenographer vide No. 2/5-Estab:7616-17 dated 07.06.2016 with the approval of **same Commissioner Hazara Division (Copy of Note Sheet and Letter available at page 28 & 29-31)**. Vide Notification No. Estt:II/DS/Assistance/ 23112-15, dated: 21.9.2016, **Mr. Amin ul Haq, Junior Scale Stenographer** was promoted as Senior Scale Stenographer (BPS-16) on regular basis while, the appellant was promoted as Senior Scale Stenographer (BPS-16) on **Acting Charge Basis. Copy of Notification is available at page “32”**.
8. On **regularization of Mr. Jehanzeb SSS**, as PS to Commissioner Hazara Division, who earlier was performing as Private Secretary to Commissioner **on Acting Charge Basis**, vide Notification No. Estt:II/DPC/Com/Hazara/9169-71 dated 04.05.2017, copy of Notification available at page **“33”**, **the case of the appellant for regularization was referred to Senior Member Board of Revenue with the approval of same Commissioner Hazara Division**, vide letter No. CHD/Estab/2/5/3912-14 dated 29.05.2017, **(copy of letter & application are available at page “34 & 35”)**.
9. **In the meanwhile, Farah Naz Computer Operator of Commissioner Hazara office was posted in Establishment Branch** vide order No.4/3-CHD(Estab)/1083-92 dated 22.2.2017, **while all the above process was processed through her but no any objection or reservation raised by her at that time. (Copy of posting order is available at “36”)**.
10. That all the process was going smoothly, **suddenly on 09.06.2017, after lapse of 3.5 years of issuance of Joint Seniority list at Divisional level and 15 months after the issuance of Final Seniority of Computer Operator of Commissioner’s office**, Farah Naz filed an appeal before **Senior Member Board of Revenue** regarding seniority, ignoring all the codal formalities and rules in vogue, a time barred and rejectable appeal was forwarded to the Commissioner’s office for comments. The Commissioner’s office kept the appeal under the table

ATTACHED

39

and has not furnished the comments till now as required by the SMBR due to unknown reason (**Copy available at page "37 to 39"**).

11. That, she filed a departmental appeal which was liable to be dismissed being **time barred** under the **NWFP Civil Servants Act, 1973** Section 22 (1)(2) and **NWFP Civil Servants (Appeals) Rules, 1986, Limitation Act**, which is reproduced below (**Annex-"40-48 & 49-52"**):

(22) Right of appeal or Representation:- (1) where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules applicable to him, such appeal or application shall, except as may be otherwise prescribed, be made **within thirty days** of the date of such order,

(2) where no provision for appeal or review exists under the rules in respect of any order or class of orders, a civil servant aggrieved by any such order may, within **thirty days** of the communication to him of such order, make a representation against it to the authority next above the authority which made the order:

Provided that no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

12. That, appeal of Farah Naz, Computer Operator of Commissioner Hazara Office is violation of the **Limitation Act**, but **time barred appeal was entertained at belated stage, by the Board of Revenue, violating all the rules.**
13. There are so many judgements of **Hon'ble Supreme Court of Pakistan, Hon'ble High Courts, Federal Service Tribunal** as well as **Provincial Service Tribunal** regarding time barred Appeals/Writ petitions of Civil Servants. Few are as under for ready reference: (**Copies available at page-53-56, 57-58, 59-62, 63-64 & 65-68**)

- i) **Civil Petition No. 1206 of 2008** titled "Mrs. Rashida Asif Versus Mrs. Aasia Gondal & others",
- ii) **Civil Petition No.252 of 1994** titled "federation of Pakistan through Secretary Establishment, Islamabad and another versus B.A. Tabassum & others",
- iii) **Civil Appeal No. 1472 of 2013** dated 03.03.2014 titled "the Commandant Khyber Pakhtunkhwa Constabulary FC Head Quarters, Peshawar & others versus Amir ullah Islam & others",
- iv) **Civil petition No 378 L of 2004** titled " Muhammad Aslam versus Water & Power Development Authority & etc",
- v) **RFA No. 111-D of 2012** titled "Haji Zabta Khan versus Dr. Ahmad Ali Siraj & Others".

14. Beside the entertainment of appeal of Farah Naz Computer Operator, the issue of misplacement of record/merit list was disclosed for the first time by the Establishment Branch of Commissioner's office at belated stage especially after the posting of Farah Naz in Establishment Branch. She filed an appeal before Senior Member Board of Revenue. In spite of all, she is still working in Establishment Branch as appellant, evident as well as dealing hand/custodian of the record of Establishment Branch.
15. On the disclosure of misplacement of record/merit list, the **same Commissioner Hazara Division** conducted an inquiry through Deputy Commissioner Haripur (**Copy of Note Sheets & Letter are Available at page-69-72 & 73-78**).
16. The Inquiry Officer declared Farah Naz, Computer Operator of Commissioner Hazara Office **as guilty** and **recommended that she may be proceeded against independently for misplacement of relevant record/merit list under E&D Rules, 2011**. The Inquiry Officer in his concluding Para mentioned that Farah Naz Computer Operator of Commissioner Hazara Office whose name **appeared in the minutes of DP/SC dated 03.10.2011** and **does not figure in the attendance sheet and call letter seems to be interested for promotion as Senior Scale Stenographer (BPS-16)** instead of Mr. Awais Qureshi might have been misplaced the service record while posted in the Establishment Branch for declaring herself to be Senior in the respective cadre.

Amir

[Signature]

39

17. The Inquiry Officer further added that **"she did not file appeal well in time and to cover the lacuna as the misplacement was in her best interest. She did so after misplacing the record on the basis of her vested interest in the matter which has been established from the file to get benefit herself from the situation"**. The Inquiry Officer mentioned that **some copies of note sheets produced during the course of investigation by the appellant (in the instant appeal) would further corroborate the involvement of Farah Naz Computer Operator of Commissioner's office redendering herself for disciplinary action under E&D Rules, 2011 (copy of Inquiry report available at page 79-82)**
18. That after the **receipt of Inquiry in Commissioner Office, the same Commissioner Hazara Division** has decided to forward the case to **Senior Member Board of Revenue** for further necessary action as competent authority however, the case of **Mr. Obaid ur Rehman Senior Clerk (BPS-14) and Mr. Shoaib Abbasi, Junior Clerk (BPS-11)** retained with the Commissioner office for further proceedings by himself. **(Copy of letter referred to BOR with Note Sheets available at page 83, 87)**. Consequent, upon the proceedings and personal hearing, both the officials have **served with warning and be careful in future (Copy of note sheet/decisions and warning are available at page-84-86, 88-89 & 90-91)**.
19. That, on **05.10.2017**, Farah Naz Computer Operator of Commissioner Hazara Division **submitted an application/appeal** before the same Commissioner Hazara Division **for determination her seniority**, whereupon the same Commissioner Hazara Division **ordered to keep pending the application as Farah Naz has already filed an appeal before SMBR. (Copy of application/appeal and Note sheets available at page-92 & 93-94)**. But just after 4 days, Farah Naz again filed an application on **16.10.2017** before the same Commissioner Hazara Division **for declaring herself as senior most in her respective cadre**. Surprisingly she was heard in person on **23.10.2017** in presence of Superintendent of Commissioner Hazara office which was astonishingly accepted by the same Commissioner and issued an order whereby she declared as senior most in her cadre and copy thereof sent to Board of Revenue which is quite against the standing rules/instructions as the same case was pending in Board of Revenue for same purpose. **(Copy of application, order and letter available at page- 95, 96-100)**.
20. At the time of personal hearing, the Superintendent Office of the Commissioner Hazara verbally informed the Commissioner that Farah Naz has already filed an appeal before the SMBR which is still pending. He also informed the Commissioner Hazara Division that she was appointed on Chit (چٹ) without taking any screening test/interview call letter as she has never applied for the said post in Commissioner Office instead of all above facts she was appointed as Computer Operator by the then Commissioner Hazara Division in the office.
21. It has not yet been disclosed that on which grounds and facts/rules the same Commissioner Hazara Division taken this decision on the time barred appeal and declared her as senior most though the Commissioner Hazara Division is not empowered to issue the Seniority list of BPS-16. The Board of Revenue also upheld the impugned order of Commissioner Hazara Division vide letter No. Estt:II/Seniority list/24197 dated 06.11.2017 **(available at page-101)** ignoring all the ground realities, rules in vogue issued by the Government of Khyber Pakhtunkhwa time by time and Judgments of Hon'ble Courts of law and crossing all the ethics limits.

ATTACHED

22. That after passing the order by the same Commissioner Hazara Division, a revised seniority list of Computer Operators (BPS-16) was issued on 03.11.2017, illegally and the same was sent to Assistant Secretary (Estt), Board of Revenue (**Copy available at page-102**). **All the process was processed, keeping the appellant (in the instant appeal) in dark and secretly, so as the appellant could not take any action against this illegal process and to stop the illegalities.**
23. That the appellant has also filed an appeal before the SMBR against the impugned order dated 23.10.2017 announced by the Commissioner Hazara and issued through letter No. 2/3-Estab/7026-29 dated 25.10.2017 to Board of Revenue which is still pending in the office of SMBR (**Copy of appeal is available at page 103-110**).
24. **The SMBR has required the comments on the appeal of the appellant from the Commissioner Hazara Division vide letter No. Estt:II/Awais Qureshi/25588 dated 16.11.2017. In response, the comments from the Commissioner office were forwarded only making tumid and filling the Cantankerousness (Copy of comments available at page- 111-113).**
25. The comments forwarded by the Commissioner's office were not clear and based only on words "**no comments**" "**correct**" etc. **If the appeal, (filed before the SMBR) and consequent their comments are keenly considered/seen, it could be realized/clear that the extract of the comments favour the appellant.**
26. That **Para-9 is self speaking**, however needs to be elaborated to the extent that the comments on the appeal of Farah Naz has not yet been communicated to the Board of Revenue, but inspite of comments, the same Commissioner Hazara Division received another appeal/application, which was addressed to the Commissioner with the stance as already narrated in **para-18**.
27. **Keeping pending the comments on the appeal of Farah Naz and forwarding the comments on the appeal of appellant in urgency, beside sending the comments on the appeal of appellant the same Commissioner Hazara Division has forwarded the working paper of Farah Naz for promotion to the post of Senior Scale Stenographer, as desired by the SMBR on written request of Farah Naz for promoting her as SSS and demotion of the appellant from the post of Senior Scale Stenographer to Computer Operator on the basis of disputed revised seniority list. The SMBR has not decided both the appeals which are still pending before him.**
28. That no penal was constituted in the promotion case of Farah Naz. She was considered as a special single case ignoring all the other Computer Operator of the same office. Relevant working paper alongwith letter from Commissioner Office are available for perusal at **Page-114-115**.
29. That on 21.12.2017, the Senior Member Board of Revenue issued a letter for DP/SC meeting for the promotion of Computer Operator to the post of Senior Scale Stenographer without considering my appeal which is still kept pending in his office (**Copy available at page 116**).
30. Astonishingly, on 26.12.2017 the meeting of DP/SC was held in the office of SMBR, the case of only Farah Naz was considered and approved though the issue of disputed seniority list still stands and the authority issued the minutes of the meeting violating all the standing rules. It is pertinent to mention here that the Secretary-I BOR also raised objection at the time of DP/SC meeting about disputed seniority list and mentioned his views as descending note in the minutes but SMBR was

Amin

✓

41

37

adamant to promote Farah Naz. (Copy of minutes available at page 117-118)

31. On 29.01.2018, the Senior Member Board of Revenue issued the impugned order bearing Notification No. Estt:II/DPC/3935-37 whereby Farah Naz promoted as Senior Scale Stenographer and consequently the appellant demoted (without any penalty) to the post of Computer Operator which is quite against the rules in vogue. (Copy of Notification is available at page-119)

GROUNDS

- a. That the appellant in the instant appeal was appointed through adopting all codal formalities as laid down in the rules in vogue in 2011 and APT Rules, 1989.
- b. That the appellant was appointed under the Divisional Ministerial Rules, 2001 amended in 2010.
- c. The Joint Seniority list was issued on 08.05.2012 at Divisional Level as per rules wherein the appellant was at serial No. 45, while Farah Naz was at No. 46. At that time she was not raised any objection on that seniority list.
- d. That Vide Notification No. Estt:/I/II/135/SSRC/2033 dated 23.01.2015, the different cadres were bifurcated and new method of appointment/recruitment/promotion for Senior Scale Stenographer was introduced.
- e. That in the light of above mentioned rules; a tentative seniority list of Computer Operators working in the office of the Commissioner Hazara Division was issued on 16.12.2015 on which she never raised any objection.
- f. That 15 days were given to raise/file any objection on the tentative seniority list issued on 16.12.2015
- g. That during the stipulated period only Faiza Abbasi filed an appeal before the same Commissioner Hazara Division which was disposed off and dismissed by the then competent authority and letter on from Board of Revenue as well.
- h. That on 08.01.2016, a Final Seniority List of Computer Operators was issued accordingly.
- i. That Farah Naz Computer Operator of Commissioner office has never raised any objection, neither tentative seniority list nor on final seniority list in any legal forum i.e. Commissioner, SMBR & Service Tribunal within the stipulated period as mentioned in NWFP, Civil Servant Act, 1973, NWFP Civil Servants (Appeals) Rules, 1986, APT Rules, 1989, Service Tribunal Act, 1974 as well as Limitation Act.
- j. That final seniority list of Computer Operator was issued on 08.01.2016 the appellant (in the instant appeal) were placed at serial No. 1, while Farah Naz was as at Serial No. 2 and Miss Faiza Abbasi was placed as at serial No. 3 respectively.
- k. That on the availability of 2 vacant posts of Senior Scale Stenographers, the case of the appellant from Computer Operators and one Junior scale Stenographer was referred to SMBR under the prescribed rules 2015 by the same Commissioner Hazara office for promotion as Senior Scale Stenographer (BPS-16).

Amir

u

(42) (28)

- l. That consequent upon the recommendation of DPC meeting held in the Board of Revenue, the appellant was promoted on Acting Charge Basis as Sr. Scale Stenographer while Mr. Amin ul Haq was promoted as Sr. Scale Stenographer on regular basis.
- m. That on the regular promotion of Mr. Jehan Zeb as PS to Commissioner Hazara Division, the case of regularization of the appellant (in the instant appeal) was referred to Board of Revenue by the office of Commissioner Hazara Division.
- n. That all the above correspondence even for making the seniority lists and cases for promotion/regularization was done after the quite approval of **the same Commissioner Hazara Division.**
- o. That none of the above mentioned correspondence was made without the approval of **Commissioner Hazara Division (copies of note sheets already enclosed for ready reference).**
- p. That breaching all the rules as mentioned in Para-i and after the period of 15 months was expired, Farah Naz was filed an appeal for seniority on 09.06.2017 before SMBR which was entertained and forwarded to Commissioner Hazara Division for comments. The comments on the said appeal are kept pending still in the Commissioner Office.
- q. That on which grounds and facts/rules the Commissioner Hazara Division received the application in presence of appeal, forwarded by the SMBR to Commissioner Hazara Division for comments and taken this decision, declaring Farah Naz as senior most, in the cadre, while:
1. **The determination of seniority of BPS-16 is not in the domain of Commissioner Hazara Division.**
 2. **The appeal of Farah Naz is time barred and liable to be dismissed.**
 3. **The Inquiry Officer has already declared Farah Naz as guilty, illegal appointee and recommended to be proceeded against under E&D Rules, 2011.**
- r. That according to the NWFP Civil Servants Act, 1973 and NWFP Civil Servants (Appeals) Rules, 1986, the right of appeal or representation:
1. **The civil servant shall file an appeal/application within 30 days of the date of issue of any order.**
 2. **Where no provision of appeal or review exist under the rules in respect of any order a civil servant aggrieved by any order may filed an appeal/application within 30 days to the authority next above the authority.**
- s. That according to the E&D Rules, 2011 the appeal before the Provincial Service Tribunal, and as well as rules of Provincial Service Tribunal 1974, the aggrieved civil servant may file an appeal before the Hon'able Service Tribunal within 90 days after the issuance of any order, if a civil servant feels aggrieved.
- t. That the judgments of Hon'ble courts of law in different title cases are very much clear regarding time barred/limitation appeals and instructions therein.

Amin

(43)

(99)

- u. That it is very much surprising that in the application dated 05.10.2017 filed by Farah Naz was turned down by the same Commissioner Hazara Division on **11.10.2017**, while on the very next application dated **16.10.2017** filed by Farah Naz was anxiously dealt, decided in favour of applicant Farah Naz on 23.10.2017.
- v. **That the record, recommendations of staff Officer and arguments of Superintendent were flatly rebutted by the Commissioner Hazara Division and out of turn favoured Farah Naz Computer Operator.**
- w. That Farah Naz was proved guilty for misplacement of official record and illegal appointee in Inquiry report (already enclosed), **inspite of all, she is still working in the same sensitive Establishment Branch of Commissioner Hazara Division** where all the sensitive service record is in her access by which she can modify/damage as per her wishes and to achieve her ulterior motives.
- x. That on one side, keeping the appeal of Farah Naz pending before the SMBR while on the other side the SMBR required the working paper for one sided promotion of Farah Naz, even not asked for the ACRs of the appellant and neglecting my Acting Charge Basis Promotion as Senior Scale Stenographer by the same office/officers. On which the appellant retained and received salaries against the post of SSS for one and half years, so reversing his own order is itself questionable.
- y. That a basic requirement in the APT Rules 1989, of the issuance of non disputed seniority Certificate was not issued from either side.
- z. That how double appeal (one pending before the SMBR, **as higher authority**, while other appeal considering by the Commissioner Hazara Division for grant of seniority to her. The Commissioner ignoring all the limits determined through the rules and decided to make her as senior most in the cadre), while the Commissioner has no power to make/decide or even disciplinary action against the officials of BPS-16.
- aa. That the appellant was demoted without imposing any penalty or case/proceedings without keeping the rules before their eyes, but also breached all the sections of the prevailing rules/laws intentionally.
- bb. **That Farah Naz declared clear cut guilty in an enquiry conducted by Deputy Commissioner Haripur regarding misplacement of official record to attain top position in the seniority list. Instead of proceeded against her as recommended by the enquiry Officer she was awarded as well as promoted to the post of SSS, which is clearly injustice and slap on the face of law.**
- cc. **That this is a question, whether in presence of an appeal pending before higher authority, another appeal before the lower authority on the same stance can be dealt or otherwise, whether double appeals can be entertained on the same stance at the same time before the higher and lower authority.**
- dd. **In the prima facie all the action taken in the promotion/demotion are on the basis of necessitarianism, favouritism and nepotism.**
- ee. That the appeal of the appellant is entertainable as per **NWFP Civil Servants Act, 1973 Rule Section 22 (1)(2) and NWFP Civil Servants (Appeals) Rules, 1986.**

Amir

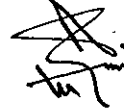
APPROVED
R



PRAY:


On the above mentioned facts, realities, rules, judgments and human natural right, the instant appeal is based on the truth and ground realities on the shoulder of rules, regulations, official record which are not only entertainable but requires favourable consideration. It is therefore, very humbly prayed that the impugned Notification bearing No. Estt:II/DPC/3935-37 dated 29.01.2018 issued by the Board of Revenue Khyber Pakhtunkhwa may be set aside and the appellant may kindly be ordered to be regularized as Senior Scale Stenographer to prove the power of justice and ethics, please.

Yours obediently,



Dated: February 21st, 2018

Awais Qureshi
Computer Operator
The then Senior Scale Stenographer
(BPS-16),
Office of the Commissioner,
Hazara Division, Abbottabad.

RECEIVED


45

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

17/2

No. Estt:II/ Awais Qureshi/CO/12164
Peshawar dated the 05/04/2018

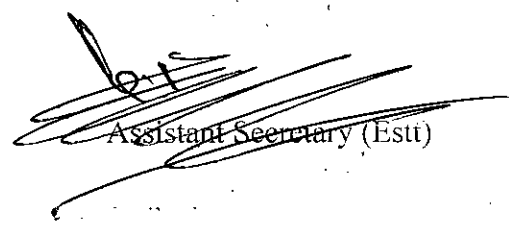
Khyber Pakhtun

To

Mr. Awais Qureshi
Computer Operator,
Office of the Commissioner,
Hazara Division Abbottabad.

**SUBJECT: REPRESENTATION/ DEPARTMENTAL AGAINST THE
IMPUGNED NOTIFICATION BEARING NO.II/DPC/3935-37
DATED 29.01.2018 ISSUED BY THE SENIOR MEMBER BOARD
OF REVENUE, KHYBER PAKHTUNKIWA, PESHAWAR.**

Your Representation/ Departmental appeal dated 21.02.2018 has been
examined and rejected by the Appellate Authority.


Assistant Secretary (Estt)

ATTACHED