

05.04.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Written reply/comments on behalf of respondents have not been submitted. Learned Additional Advocate General seeks time to furnish reply/comments. Request is accepted. To come up for written reply/comments on 27.05.2022 before S.B.

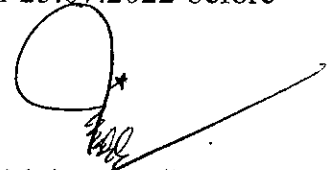


Chairman

27.05.2022

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Written reply/comments on behalf of respondents not submitted. Learned AAG seeks time for submission of written reply/comments. Last opportunity is granted. To come up for written reply/comments on 25.07.2022 before S.B.



(Mian Muhammad)  
Member (E)

06.12.2021

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant contended that the appellant is aggrieved of the impugned notification dated 28.04.2021 and jurisdiction of Service Tribunal is therefore invoked under Section-4 of the Khyber Pakhtunkhwa Service Tribunal act 1974. The impugned notification is basically an amendment made at serial No.2 in column No.5 for clause (a) in the Service Rules of Khyber Pakhtunkhwa Police Department (Information Technology Wing) Service Rules 2014. Through this amendment in the said service rules a joint seniority list of the Assistant Programmer, Assistant LAN Administrator and Computer Operator (BS-16), is to be maintained for the purpose<sup>of</sup> promotion. The appellant submitted departmental appeal against the said amendment on 25.05.2021 which was not responded within the stipulated statutory period, hence, the instant service appeal was filed in the Service Tribunal on 06.10.2021.

The appeal is admitted to regular hearing subject to all just legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 01.02.2022 before S.B.

APPELLANT'S SECURITY AND PROCESS FEE  
16/12/21

(Mian Muhammad)  
Member(E)

01.02.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel But, Addl. AG for respondents present.

Reply/comments on behalf of official respondents are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Granted. To come up for reply/comments before the S.B on 05.04.2022.



(Atiq-Ur-Rehman Wazir)  
Member (E)

Form- A

FORM OF ORDER SHEET

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

Case No.- 7543 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/10/2021	<p>The appeal of Mr. Abdullah presented today by Mr. Fazal Shah Mohmand 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> <p>2-</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>06/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

# KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

## CHECK LIST

Case Title: Abdullah v/s DDO

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <b>FAZAL SHAH MOHMAND, ASC</b>	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____	✓	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26	Whether copies of comments/reply/rejoinder submitted? On _____	✓	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____	✓	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: **FAZAL SHAH MOHMAND, ASC**

Signature: \_\_\_\_\_

Dated: \_\_\_\_\_

*(Handwritten Signature)*

*08/10/21*

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No \_\_\_\_\_/2020

Abdullah.....Appellant

**V E R S U S**

PPO & others.....Respondents


**I N D E X**

S. No	Description of Documents	Annexure	Pages
1.	Service Appeal with affidavit		1-4
2.	Application for Interim Relief with affidavit :		5
3.	Application for condonation of delay with affidavit		6
4.	Copies of Notification dated 04-09-2018	<b>A</b>	7
5.	Copy of Seniority List dated 30-06-2020	<b>B</b>	8-9
6.	Copy of Notification dated 28-04-2021	<b>C</b>	10
7.	Copy of Departmental Appeal dated 25-05-2021	<b>D</b>	11-14
8.	Wakalat Nama		15


Dated:-06-10-2021

  
Appellant

Through

  
**FAZAL SHAH MOHMAND**  
ADVOCATE,  
SUPREME COURT OF PAKISTAN,

&

  
**RABIA MUZAFFAR**  
ADVOCATE, PESHAWAR

**OFFICE:-**  
Cantonment Plaza Flat# 3/B  
Khyber Bazar Peshawar.  
Cell# 0301 8804841  
Email:- fazalshahmohmand@gmail.com

-1-

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No \_\_\_\_\_/2021

Abdullah, Assistant Programmer/Assistant LAN Administrator (BPS-16), Traffic Wardan, Swat.....**Appellant**

**V E R S U S**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Chief Secretary Govt. of Khyber Pakhtunkhwa, Peshawar.
3. Chief Traffic Officer, City Traffic Police, Peshawar.
4. Govt. of KPK through Secretary Finance Department, Civil Secretariat, Peshawar.
5. Govt. of KPK through Secretary Establishment Department, Civil Secretariat, Peshawar.

.....**Respondents**

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE NOTIFICATION DATED 28-04-2021 OF RESPONDENT NO 1 TO THE EXTENT OF AMENDMENT IN APPENDIX AGAINST SERIAL NO 2 IN COLUMN 5, FOR CLAUSE (A) AND TO THE EXTENT OF "NOTE" WHEREBY THE KP POLICE DEPARTMENT (INFORMATION TECHNOLOGY WING) SERVICE RULES, 2014, HAVE BEEN AMENDED THEREBY MAINTAINING JOINT SENIORITY LIST OF THE ASSISTANT PROGRAMMERS, ASSISTANT LAN ADMINISTRATORS AND COMPUTER OPERATORS (BPS-16) FOR THE PURPOSE OF PROMOTION AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:-**

On acceptance of this appeal, the impugned notification dated 28-04-2021 of respondent No 1 to the extent of Amendment in Appendix against Serial No 2 in column 5, for clause (a) and to the extent of adding 'Note' whereby KP Police Department (Information Technology Wing) Service Rules, 2014 the service rules, 2014, have been amended thereby maintaining joint Seniority List of the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16) for the purpose of promotion may kindly be declared illegal, unlawful, be struck down and be expunged from KP Police Department (Information Technology Wing) Service Rules, 2014 from the date of its issuance.

**Respectfully Submitted:-**

1. That the appellant is highly qualified who has passed his Bachelor in Computer science (Hons) Degree and was

appointed as Assistant Programmer/Assistant LAN Administrators (BPS-16) vide notification dated 04-09-2018, pursuant to the recommendations of the Khyber Pakhtunkhwa Public Service Commission and since appointment he performed his duties honestly, diligently, to the best of his abilities and to the entire satisfaction of his high ups. **(Copy of Notification dated 04-09-2018 is enclosed as Annexure A).**

2. That it is worth to mention there are only three incumbents in the KP Police Department who are serving as Assistant Programmer/Assistant LAN Administrators (BPS-16) as evident from Seniority List of 30-06-2020. **(Copy of Seniority List dated 30-06-2020 is enclosed as Annexure B).**

3. That as the appellant is at the third position in the Seniority List, so he was hopeful for promotion, however vide notification dated 28-04-2021 of respondent No 1, amendments were made in Appendix against Serial No 2 in column 5, for clause (a) and 'Note' was also added whereby KP Police Department (Information Technology Wing) Service Rules, 2014, were amended thereby maintaining joint Seniority List of the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16) for the purpose of promotion, which has adversely affected the accrued rights of the appellant. **(Copy of Notification dated 28-04-2021 is enclosed as Annexure C).**

4. That the appellant preferred departmental appeal against the Notification dated 28-04-2021, which was duly forwarded however not responded so far despite the lapse of more than the statutory period of ninety days. **(Copy of Departmental appeal is enclosed as Annexure D).**

5. That the impugned Notification dated 28-04-2021 to the extent of amendments in Appendix against Serial No.2 in column 5, for Clause (a) and adding "Note" whereby the KP Police Department (Information Technology Wing) Service Rules, 2014, have been amended thereby maintaining joint seniority list of the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16) for the purpose of promotion, is against law, facts and principles of justice on grounds inter alia as follows:-

#### **GROUND S:-**

- A. That the impugned amendments are illegal, and void ab-initio.
- B. That mandatory provisions of law and rules on the subject have badly been violated and the appellant has

not been treated according to law and rules in violation of the law and Constitution of the land.

- C. That the impugned amendments have adversely affected the accrued rights of the appellant, as he is by now on the third of the Seniority List, while subsequent to maintaining joint Seniority List, his seniority will be affected adversely, as he will lose his seniority position.
- D. That through the impugned amendments, the Computer Operators have been included with the appellant in seniority list as well as for the purpose of promotion to the next scale which is by no stretch of law just, proper and in accordance with law.
- E. That both the posts are distinct posts and different cadres, hence too the impugned amendments are liable to be struck down and expunged.
- F. That it is settled law that cadre cannot be changed, as such too the impugned amendments are not tenable in the eye of law.
- G. That both the posts of assistant Programmers/Assistant LAN Administrators and Computer Operators (BPS-16) are different posts in as much as the method of recruitment of the said posts is different.
- H. That the job description and nomenclature of both the posts is also different and such too these cannot be brought at par.
- I. That the requisite qualification for both the posts is also not same, as for computer Operator Minimum qualification is Second Class Bachelor Degree with one year Diploma in IT while for Minimum qualification for the post of Assistant Programmers/Assistant LAN Administrators is Second Class Master Degree in Computer Science or four years Bachelor Degree in Information technology or Computer Science or equivalent qualification, thus too these are different posts.
- J. That previously, only the Assistant Programmers/Assistant LAN Administrators were eligible for promotion to the post of Assistant Director/Programmer/LAN Administrator/Web Administrator/Data Processing Officer/deputy Data Base Administrator (BPS-17), in violation of the law and rules.



K. That the impugned amendments are also in violation of the section 20 to 24 of the General Clauses Act 1897, and thus too are liable to be struck down.

L. That even the impugned amendments are not in accordance with the procedure meant for rules making/amendment as the mandatory provisions have been complied with.

M. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

**It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.**

**Any other relief deemed appropriate in the circumstances of the case and not specifically asked for, may also be granted in favor of the appellant.**

Dated:-06-10-2021

*[Signature]*  
Appellant

Through

*[Signature]*

**FAZAL SHAH MOHMAND**  
ADVOCATE,  
SUPREME COURT OF PAKISTAN.

&

*[Signature]*  
**RABIA MUZAFFAR**  
ADVOCATE, PESHAWAR

**LIST OF BOOKS**

- 1. Constitution 1973.
- 2. Other Books as per need

**CERTIFICATE**

Certified that as per instructions of my client, no Service Appeal on the same subject and between the same parties has been filed previously or concurrently before this Honorable Tribunal.

*[Signature]*  
**ADVOCATE**

**AFFIDAVIT**

I, Abdullah, Assistant Programmer/Assistant LAN Administrator (BPS-16), Traffic Wardan, Swat, do hereby solemnly affirm and declare on oath that the contents of this **Appeal**, are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

*[Signature]*  
**DEPONENT**

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No \_\_\_\_\_/2021

Abdullah.....Appellant

**V E R S U S**

PPO & Others.....Respondents

**Application for restraining respondents from issuing joint seniority list of the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16), by maintaining Status quo, till the final disposal of instant appeal**

**Respectfully Submitted:-**

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the applicant/appellant is at the third of the seniority List while he is malafidely kept deprived of his due seniority and respondents are going to issue joint seniority of Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16), in violation of law on the subject and for reasons other than fair and bonafide.
3. That the applicant has got a good prima facie case and is sanguine of its success.
4. That the balance of convenience lies in his favor and if the respondents are not restrained from issuing joint seniority of Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16), the applicant would suffer an irreparable loss.

**It is therefore prayed that on acceptance of this application, respondents may kindly be restrained from issuing joint seniority list of the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16), till the final disposal of instant appeal.**

Dated:- 06-10-2021

*[Signature]*  
**Appellant**

Through

*[Signature]*  
**FAZAL SHAH MOHMAND**  
ADVOCATE,  
SUPREME COURT OF PAKISTAN.

**A F F I D A V I T**

I, Abdullah, Assistant Programmer/Assistant LAN Administrator (BPS-16), Traffic Wardan, Swat, do hereby solemnly affirm and declare on oath that the contents of this **Application**, are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

*[Signature]*  
**DEPONENT**

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No \_\_\_\_\_/2020

Abdullah.....Appellant

**V E R S U S**

PPO & others.....Respondents

**Application for condonation of delay if any**

**Respectfully Submitted:-**

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral Part of this application.
3. That the subject issue is of the impugned amendments and also issuing of the joint Seniority List of both the posts which is Assistant programmers/ Assistant LAN Administrators and computer Operators for the purpose of promotion which have adversely affected the appellant's seniority and the accrued rights of the appellant.
4. That the like Service Appeals No.7289/2021 & 7280/2021 titled as "Said Nawaz Vs PPO" and " Muhammad Ikram Vs PPO" are pending before this honorable tribunal and have been admitted, so the justice demand instant appeal also requires disposal on merit, rather than Technicalities.
5. That the law as well as the dictums of the superior Courts also favors decisions of cases on merit.

**It is therefore prayed that on acceptance of this application, the delay if any in filing of appeal may kindly be condoned.**

Dated:- 06-10-2021

*Abdullah*  
**Appellant**

Through

*Fazal Shah Mohmand*

**FAZAL SHAH MOHMAND**  
ADVOCATE,  
SUPREME COURT OF PAKISTAN.

**A F F I D A V I T**

I, Abdullah, Assistant Programmer/Assistant LAN Administrator (BPS-16), Traffic Wardan, Swat, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

*Abdullah*  
**DEPONENT**

"A"

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OFFICE OF THE INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA, CENTRAL POLICE OFFICE  
PESHAWAR

Ph: 091 9210245 Fax: 091 92109291 Email: OSG@psg.com.pk

Dated 11/5/19

NOTIFICATION

Appointment as Assistant Programmer/Assistant IAN Administrator, PS-16 of the Government of Khyber Pakhtunkhwa, Peshawar. The Government of Khyber Pakhtunkhwa, Peshawar, has received the application of Mr. [Name] for the post of Assistant Programmer/Assistant IAN Administrator (IPS-16) under the Government of Khyber Pakhtunkhwa, Peshawar. The Government of Khyber Pakhtunkhwa, Peshawar, has decided to appoint Mr. [Name] to the post of Assistant Programmer/Assistant IAN Administrator (IPS-16) under the Government of Khyber Pakhtunkhwa, Peshawar. The Government of Khyber Pakhtunkhwa, Peshawar, has decided to appoint Mr. [Name] to the post of Assistant Programmer/Assistant IAN Administrator (IPS-16) under the Government of Khyber Pakhtunkhwa, Peshawar.

Name with Father's Name: [Name]  
Date of Birth: [Date]  
Qualification: [Qualification]  
Address: [Address]

THE TERMS AND CONDITIONS OF THEIR SERVICES WILL BE AS UNDER

1. The appointment is for a period of [Duration] years from the date of joining.

Sd/  
MUHAMMAD TAHIR  
Inspector General of Police  
Khyber Pakhtunkhwa, Peshawar

Ends: No. & date even.

- Copy of above is forwarded for information and necessary action to the
- 1. Additional Inspector General of Police HQrs, Khyber Pakhtunkhwa, Peshawar
- 2. Deputy Inspector General of Police, HQrs, Khyber Pakhtunkhwa, Peshawar
- 3. Regional Police Officers, Hazara & Malakand.
- 4. PSO to Worthy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 5. Superintendent of Police Traffic Warden, Hazara & Malakand.
- 6. PA to the Assistant Inspector General of Police Estt: Khyber Pakhtunkhwa, Peshawar
- 7. Director Recruitment, KPSC, Peshawar, to his letter quoted above.
- 8. Registrar, CPO, Peshawar.
- 9. Supdt: Secret and CPB and Information & Public Registry Cell, CPO, Peshawar.

(ZABIJULLAH KHAN) PSP  
IA/G/Establishment,  
Inspector General of Police  
Khyber Pakhtunkhwa, Peshawar.

OFFICE OF THE INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA, CENTRAL POLICE OFFICE PESHAWAR  
FOR PUBLICATION IN THE KHYBER PAKHTUNKHWA POLICE  
GAZZETTE PART-II ORDERS BY THE INSPECTOR  
GENERAL OF POLICE, KHYBER PAKHTUNKHWA,  
PESHAWAR.

NOTIFICATION

Dated: 04-09-2018

No.4031-44/E-V:- Appointment as Assistant Programmer/Assistant LAN Administrator (BPS-16). On the recommendation of Director Recruitment Khyber Pakhtunkhwa, Public Service Commission, Peshawar vide his office letter No. PSC/SR-VI/22249, dated 13-08-2018, the following Two (02) individuals of various zones as noted against their names are hereby appointed as Assistant Programmer/Assistant LAN Administrator (BPS-16) purely on temporary basis Khyber Pakhtunkhwa Police with effect from the date they actually report for the duty at their place of posting subject to their Medical Fitness, Verification of Character, Domicile and testimonials by Special Branch, Khyber Pakhtunkhwa, Peshawar.

S.No	Name with father's Name	Domicile/Zone
01	Muhammad Ikram S/o Muhammad Umar Khan	Peshawar/2
02	Abdullah S/o Abdul Wakil	Malakand/3

**2. THE TERMS AND CONDITIONS OF THEIR SERVICE WILL BE AS UNDER:**

Their services are liable to be terminated on 14-days notice without assigning any reason. Their posting order will be issued separately.

Sd/-

**MUHAMMAD TAHIR**  
Inspector General Police,  
Khyber Pakhtunkhwa, Peshawar.

Endst.No. & date even

Copy of above is forwarded for information and necessary action to the:-

1. Additional Inspector General of Police HQrs, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police HQrs, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officers, Hazara & Malakand.
4. PSO to worthy Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
5. Superintendent of Police-Traffic Warden, Hazara & Malakand.
6. PA to Assistant Inspector General of Police Estt: Khyber Pakhtunkhwa, Peshawar.
7. Director Recruitment, Public Service Commission Khyber Pakhtunkhwa, Peshawar with reference to his letter No. as quoted above
8. Registrar CPO, Peshawar.
9. Supdt: secret and CPB, CPO Peshawar.

Sd/-

**(ZAIB ULLAH KHAN) (PSP)**  
AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

"B" 8-



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar

SENIORITY LIST OF ASSISTANT PROGRAMMER/ASSISTANT LAN ADMINISTRATIVE (BPS-16) AS IT STOOD ON 30.06.2020.

No. 2676-85/E-V: The Seniority list of Assistant Programmer/Assistant LAN Administrative (BPS-16) Information Technology Group of Khyber Pakhtunkhwa Police is published for information of all concerned.

S.NO	NAME	DATE OF BIRTH	DATE OF RETIREMENT	DOMICILE	QUALIFICATION	DATE OF APPOINTMENT	REMARKS
1.	Said Nawaz	05.03.1991	05.03.2051	Khyber Agency	BOS	10.08.2018	
2.	Muhammad Ikram Khan	01.02.1989	31.02.2049	Peshawar	MCS	04.09.2018	
3.	Abdullah	03.01.1994	02.01.2054	Malakand	BS (CS)	04.09.2015	

NOTE: Any officer who has any objection regarding his seniority, or issue of name, date of birth etc. he must submit his representation within one month after the issuance of this list, otherwise no representation will be entertained after the specific period.

*[Signature]*  
Superintendent E-V, Superintendent CPB, Registrar

*[Signature]*  
(KASHIF ZULFIQAR) PSP  
AIG/Establishment  
For Inspector General of Police  
Khyber Pakhtunkhwa, Peshawar

No. 2676-85/EV, dated Peshawar, the 12/08/2020.  
Copy of above is forwarded for information and necessary action to the:-  
1. Addl. Inspector General of Police, HQs, Khyber Pakhtunkhwa, Peshawar.

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2. Deputy Inspector General of Police, HQs, Khyber Pakhtunkhwa, Peshawar.
3. Capital City Police Officer, Peshawar.
4. Regional Police Officer, Malakandi & Hazara.
5. Chief Traffic Officer, Peshawar.
6. Director, IT, CPO, Peshawar.
7. Registrar, CPO, Peshawar.
8. Office Superintendent Secret Branch, CPO, Peshawar.
9. In-charge, Central Registry Cell, CPO, Peshawar.

"C"  
-10-

GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
POLICE DEPARTMENT.

NOTIFICATION

*Peshawar, dated the 28/09/2021.*

No. 1333/E-V In exercise of the powers conferred by section 140 of the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. 11 of 2017), the Provincial Police Officer, with the approval of the Government, hereby makes the following further amendments, in the Khyber Pakhtunkhwa Police Department (Information Technology Wing) Service Rules, 2014, namely:

AMENDMENTS

In the Appendix,-

- (a) against Serial No. 2, in Column No. 5, for clause (a), the following shall be substituted, namely:

"(a) fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16), having qualification prescribed for initial recruitment for the post of Computer Operator at Serial No. 6, with five years' service as such;

**Note:** For the purpose of promotion the Department shall maintain a joint seniority list of the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16); and";

- (b) against Serial No. 3, in Column 5, for the existing entries, the following shall be substituted, namely:

"By initial recruitment.";

- (c) Serial No 5 shall be deleted; and
- (d) against Serial No 6, in Column No. 2, for the abbreviation, figures and hyphen "BPS-12", the abbreviation, figure and hyphen "BPS-16" shall be substituted.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.



-11- "D"



**BEFORE THE CHIEF SECRETARY KHYBER PAKHTUNKHWA**  
**PESHAWAR**

**Subject:- Departmental Appeal against Notification dated 28-04-2021 of the Provincial Police Officer to the extent of amendment in Appendix against Serial No 2 in Column 5, for Clause (a) and to the extent of "Note" whereby the KP Police Department (Information Technology Wing) Service Rules, 2014, have been amended thereby maintaining joint Seniority List of the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16) for the purpose of promotion.**

**Respectfully Submitted:-**

1. That the appellant is highly qualified who has passed his Bachelor in Computer Science (Hons) Degree and was appointed as Assistant Programmer/Assistant LAN Administrators (BPS-16) vide Notification dated 04-09-2018, pursuant to the recommendations of the Khyber Pakhtunkhwa Public Service Commission and since appointment he performed his duties honestly, diligently, to the best of his abilities and to the entire satisfaction of his high ups. **(Copy of Notification dated 10-05-2018 is enclosed as Annexures A).**
2. That it is worth to mention that there are the only three incumbents in the KP Police Department who are serving as Assistant Programmer/Assistant LAN Administrators (BPS-16) as evident from the Seniority List of 30-06-2020. **(Copy of Seniority List dated 30-06-2020 is enclosed as Annexure B).**
3. That as the appellant is at the third position in the seniority list, so he was hopeful for promotion, however vide Notification dated 28-04-2021 of the Provincial Police Officer, amendments were made in Appendix against Serial No 2 in Column 5, for Clause (a) and "Note" was also added whereby the KP Police Department (Information Technology Wing) Service Rules, 2014, have been amended thereby maintaining joint Seniority List of the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16) for the purpose of promotion, which has adversely

dated 28-04-2021 of the Provincial Police Officer, amendments were made in Appendix against Serial No 2 in Column 5, for Clause (a) and "Note" was also added whereby the KP Police Department (Information Technology Wing) Service Rules, 2014, have been amended thereby maintaining joint Seniority List of the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16) for the purpose of promotion, which has adversely affected the accrued rights of the appellant. **(Copy of Notification dated 28-04-2021 is enclosed as Annexure C).**

4. That the impugned Notification dated 28-04-2021 to the extent of amendments in Appendix against Serial No 2 in Column 5, for Clause (a) and adding "Note" whereby the KP Police Department (Information Technology Wing) Service Rules, 2014, have been amended thereby maintaining joint Seniority List of the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16) for the purpose of promotion, is against the law, facts and principles of justice on the following on grounds inter-alia as follows:

**GROUND S:-**

- A. That the impugned amendments are illegal and void ab-initio.
- B. That mandatory provisions of law and rules have badly been violated and the appellant has not been treated according to law and rules in violation of the law and Constitution of the land.
- C. That the impugned amendments have adversely affected the accrued rights of the appellant, as he is by now on the third position of Seniority List while subsequent to maintaining joint seniority list, his seniority will be affected adversely, as he will lose his seniority position.

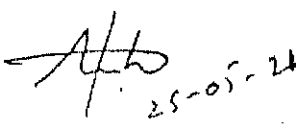
- D. That through the impugned amendments, the Computer Operators have been included with the appellant in seniority list as well as for the purpose of promotion to the next scale which is by no stretch of law just, proper and in accordance with law.
- E. That both the posts are distinct posts and different cadres, hence too the impugned amendments are liable to be struck down and expunged.
- F. That it is settled law that cadre cannot be changed, as such too the impugned amendments are not tenable in the eyes of law.
- G. That both the posts of Assistant Programmers/Assistant LAN Administrators and Computer Operators (BPS-16) are different posts in as much as the method of recruitment of the said posts is different.
- H. That the job description and nomenclature of both the posts is also different and as such too these cannot be brought at par.
- I. That the requisite qualification for both the posts is also not the same, as for Computer Operator Minimum qualification is Second Class Bachelor Degree with one year Diploma in IT while for Minimum qualification for the post of Assistant Programmers/Assistant LAN Administrators is Second Class Master Degree in Computer Science or four years Bachelor Degree in Information Technology or Computer Science or equivalent qualification, thus too these are different posts.
- J. That previously, only the Assistant Programmers/Assistant LAN Administrators were eligible for promotion to the post of Assistant Director/Programmer/LAN Administrator/Web Administrator/Data Processing

Second Class Master Degree in Computer Science or four years Bachelor Degree in Information Technology or Computer Science or equivalent qualification, thus too these are different posts. -14-

- J. That previously, only the Assistant Programmers/Assistant LAN Administrators were eligible for promotion to the post of Assistant Director/Programmer/LAN Administrator/Web Administrator/Data Processing Officer/Deputy Data Base Administrator (BPS-17), while through the impugned amendments, the Computer Operators have also been made eligible for promotion to the post of Assistant Director/Programmer/LAN Administrator/Web Administrator/Data Processing Officer/Deputy Data Base Administrator (BPS-17), in violation of the law and rules.
- K. That the impugned amendments are also in violation of the Section 20 to 24 of the General Clauses Act 1897, and thus too are liable to be struck down.
- L. That even the impugned amendments are not in accordance with the procedure meant for rules making/amendment as the mandatory provisions have not been complied with.

It is therefore requested that on acceptance of this appeal, the impugned Notification dated 28-04-2021 of the Provincial Police Officer to the extent of amendment in Appendix against Serial No 2 in Column 5, for Clause (a) and to the extent of adding "Note" whereby the KP Police Department (Information Technology Wing) Service Rules, 2014, have been amended thereby maintaining joint Seniority List of the Assistant Programmers, Assistant LAN Administrators and Computer Operators (BPS-16) for the purpose of promotion may kindly be declared illegal, unlawful, be struck down and be expunged from the KP Police Department (Information Technology Wing) Service Rules, 2014 from the date of its notification.

Dated:-25-05-2021

  
ABDULLAH  
Assistant Programmer/Assistant LAN  
Administrator, (BPS-16), Traffic  
Warden Swat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.

Service Appeal No. \_\_\_\_\_/2021

Abdullah

Appellant

V E R S U S

PPo & others Respondent(s)

I, the undersigned, do hereby appoint and constitute,

**Fazal Shah Mohmand** Advocate Supreme Court & **Rabia Muzaffar** Advocate. To act, appear and plead in the above-mentioned matter and to withdraw or compromise the said matter or submit to arbitration any differences or dispute that shall arise touching or in any manner relating to the said matter and to receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said matter.

1. To draft and sign files at necessary pleadings, applications, objections, affidavits or other documents as shall be deemed necessary and advisable for the prosecution of the said matter at all its stages.
2. To employ any other Legal Practitioner, authorizing him to exercise the power as conferred on the undersigned Advocate, wherever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the above matter. I also hereby agree not to hold the Advocate or his substitute responsible for the result of the said matter in consequence of his absence from the Court when the said matter is called up for hearing. I further hereby agree that in the event for the whole or any part of the fee to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the above matter. Received by me on

05/01/21

CLIENT(S)

Abdullah

ACCEPTED BY:

Fazal Shah Mohmand  
FAZAL SHAH MOHMAND

ADVOCATE,

SUPREME COURT OF PAKISTAN.

&

ACCEPTED BY :

Rabia Muzaffar  
RABIA MUZAFFAR

ADVOCATE PESHAWAR

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.**

No.

Appeal No. 7553 of 20 21

Abdullah Appellant/Petitioner

P-P-O- KPK Peshawar Respondent

Respondent No. 3

Notice to: —

Chief Traffic Officer city Traffic  
Police Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 1/2/22 at 8.00 A.M. If you wish to urge anything against the appellat/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 23/12

Day of Dec 20 21

(for Reply)



Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B  
PESHAWAR.

No.

Appeal No. 7553 of 20 21

Abdullah Appellant/Petitioner

P-P-O. KPK Peshawar Respondent

Respondent No. 1

Notice to: —

Provincial Police Officer KPK Peshawar

**WHEREAS** an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue: You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 1/2/22 at 8.00 A.M. If you wish to urge anything against the appellent/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 23/12

Day of Dec 20 21

(for Reply) 30/12/21



Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.** S.B

No.

Appeal No. 7553 of 20 21

Abdullah Appellant/Petitioner  
Versus

P.P.O. KPK Peshawar Respondent  
Respondent No. 2

Notice to: —

Chief Secretary (Court) of KPK Peshawar.

**WHEREAS** an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 25th

Day of..... Dec 20 21

*(for Reply)*

SECH  
CLERK  
PESHAWAR  
30-12-21

Registrar

Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
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**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B**  
**PESHAWAR.**

No.:

Appeal No. 7553 of 20 21  
Abdullah Appellant/Petitioner

P-P-O - KPK Peshawar Respondent

Respondent No. 4

Notice to: —

Court of KPK through Secretary Finance  
Deptt: Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 1/2/21 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this..... 23th

Day of..... Dec 20 21

*(for Reply)*

20-12  
Secy: Finance KPK  
Date.....

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

S.B

No.

Appeal No..... 7553 ..... of 20 ..

21

Abdullah ..... Appellant/Petitioner

Versus

P-P-O- KPK Peshawar ..... Respondent

Respondent No..... 5 .....

Notice to: —

Court of KPK through Secretary  
Establishment Deptt. Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this..... 23/11

Day of..... Dec 20 .. 21

(for Reply)  
S. J. Khan

Registrar

Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making correspondence.

Diary No. \_\_\_\_\_  
FTS No. \_\_\_\_\_  
Date. \_\_\_\_\_