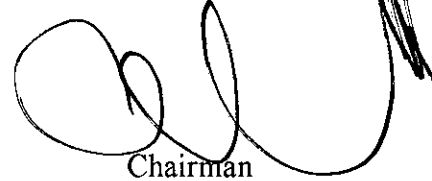


8 : 24.09.2014

Appellant with counsel, Mr. Muhammad Ismail, Supdt. for respondent No. 2 with Mr. Muhammad Adeel Butt, AAG for official respondents No. 1 to 3 and private respondent No. 4 with counsel present. Written reply/para-wise comments received on behalf of private respondent No. 4, copy whereof is handed over to the learned counsel for the appellant for rejoinder. Written reply has not been received on behalf of remaining official respondent No. 3, and request for further time made on his behalf. The learned AAG also informed that there is likelihood of amicable settlement of the case. He, however, requested for further time for the purpose. To come up for written reply on behalf of remaining respondent No. 3, rejoinder and further proceedings on 26.01.2015.



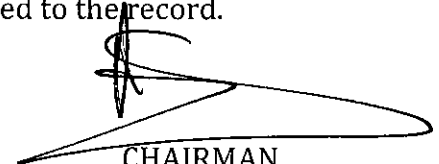
Chairman

09 26.01.2015

Appellant in person and Mr. Muhammad Ismail, S.O (Litigation) on behalf of respondent No. 2 alongwith Addl: A.G for respondents No. 1 to 3 present. Appellant submitted application for withdrawal of appeal as his promotion to the post of Superintendent (BPS-17) is in process due to which the appellant do not want to pursue his appeal.

In the light of application of the appellant, the appeal is dismissed as withdrawn. File be consigned to the record.

ANNOUNCED
26.01.2015

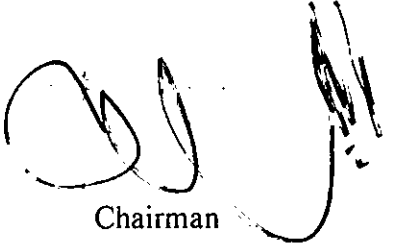


CHAIRMAN
26-01-15

6-

25.3.2014

Appellant in person, Mr. Muhammad Ismail, Supdt. on behalf of respondents No. 1 and 2 with Mr. Muhammad Jan, GP for official respondents No. 1 to 3 and private respondent No. 4 in person present. Written reply received on behalf of respondents No. 1 and 2, copy whereof is handed over to the appellant for rejoinder. Written replies have not been received on behalf of official respondent No. 3 and private respondent No. 4. To come up for written reply on behalf of official respondent No. 3 and private respondent No. 4 on 20.6.2014.

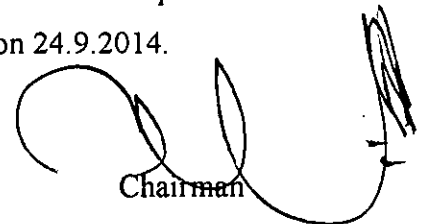


Chairman

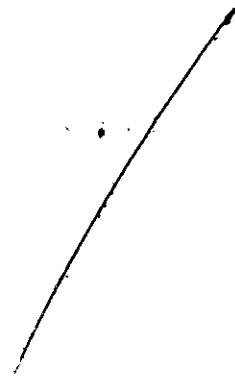
7-

20.6.2014

Appellant with counsel, Mr. Usman Ghani, Sr. GP on behalf of official respondents No. 1 to 3 with AAG and private respondent No. 4 with counsel present. Written replies on behalf of official respondent No. 3 and private respondent No. 4 have not been received, and request for further time made on their behalf. The learned AAG also stated that there is a likelihood of resolution of the issue at the end of the respondent-department. Another chance is given for written replies on behalf of official respondent No. 3 and private respondent No. 4, positively, on 24.9.2014.



Chairman



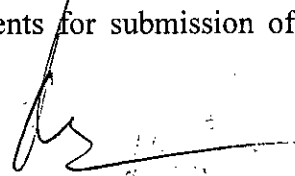
Appeal No. 1226/13
Mr. Ajeet Khan

24.12.2013

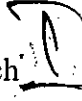
Appellant with counsel present. Preliminary arguments

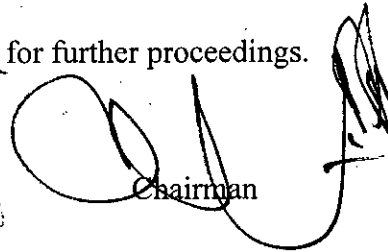
heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 16.03.2013 vide which the appellant was not consider for promotion in BPS-16 as Superintendent and instead private respondent No.4 was promoted against the vacant post in violation of law. The learned counsel for the appellant argued before the court that as per seniority list, the appellant stood at S.No.2 while private respondent No.4 was at S.No.1 of the seniority list. That private respondent No.4 has in written decline to accept the promotion, hence as per Rules-7 Sub Rule-5 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules,1989, he was not entitled to consider for the post even then private respondent No.4 was considered for promotion which is illegal and against the law. Points raised at the Bar by learned counsel for the appellant need further consideration and the appeal in hand is within time, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 25.03.2014.

Appellant deposited
Security & process
fee Rs 200/- Bank
receipt is attached
with file
Jhal


Member

24.12.2013




This case be put before the Final Bench  for further proceedings.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1226/2013

| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 16/08/2013 | <p>The appeal of Mr. Ayaz Khan presented today by Mr. Rehmanullah Shah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2 | 21-8-2013 | <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>8-11-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| 3 | 8-11-2013 | <p>Appellant with counsel. Requested to Adj. To come for DH especially the points of jurisdiction/maintainability on 24-12-2013</p> <p style="text-align: right;"> (Members) 8-11-2013.</p> |

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. ¹²²⁶...../2013

AYAZ KHAN S/O ABDUL JABBAR

APPELLANT

Versus

CHIEF SECRETARY AND OTHERS

RESPONDENTS

INDEX OF DOCUMENTS

| S.NO | Documents | Annexure | Pages |
|------|--|----------|---------|
| 1 | Grounds of Appeal & Affidavit | | 01 – 05 |
| 2 | Addresses of the Parties | | 06 |
| 3 | Office Order dated April 14, 2007 | A | 07 |
| 4 | Letter dated May 22, 2012 | B | 08 |
| 5 | Office Order Feb 07, 2012 and Seniority List | C and C1 | 09 – 12 |
| 6 | Office Order dated October 11, 2011 | D | 13 |
| 7 | Option letter | E | 14 |
| 8 | Minutes of DPC | F | 15 |
| 9 | Office Order March 29, 2013 | G | 16 |
| 10. | Departmental Appeal | H | 17 |
| | Wakalatnama | — | 18 |


Appellant

Through:


Rehman Ullah Shah

MA, LLM

Advocate

Ibn e Abdullah Law Associates

11 Azam Tower University Road, Peshawar

Phone & Fax # 091- 570 2021

www.ibneabdullah.com

①

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. ¹²²⁶...../2013

AYAZ KHAN S/O ABDUL JABBAR
R/O MOHALLAH HASSAN KHEL
VILLAGE & PO BADAHAR KALAY, THE; & DISTT PESHAWAR

1255
16-8-13

APPELLANT

VERSUS

1. CHIEF SECRETARY
GOVERNMENT OF KHYBER PUKHTOON KHAWA AT PESHAWAR
2. SECRETARY LAW, PARLIAMENTARY AFFAIRS & H. RIGHTS
GOVERNMENT OF KHYBER PUKHTOON KHAWA AT PESHAWAR
3. ADVOCATE GENERAL, KHYBER PAKHTUNKHWA AT PESHAWAR
4. MUHAMMAD KHURSHEED, SUPERINTENDENT
OFFICE OF THE ADVOCATE GENERAL AT PESHAWAR

RESPONDENTS

16/8/13

APPEAL UNDER SECTION 04 OF THE NWFP SERVICE TRIBUNAL ACT, 1974 AGAINST ORDER DATED MARCH 16, 2013 WHEREBY APPELLANT WAS NOT CONSIDERED FOR PROMOTION IN BPS 16 AS SUPERINTENDENT IN THE OFFICE OF ADVOCATE GENERAL, KHYBER PAKHTUNKHWA AT PESHAWAR AND RESPONDENT NO. 4 WAS PROMOTED AS SUPERINTENDENT AGAINST THE VACANT POST AND BYPASSING AND VIOLATING SETTLED APPLICABLE RULES

Respectfully Sheweth.

1. That the appellant is a committed, punctual and trustworthy employee who is working as Assistant (BPS 14) in the office of Advocate General for Khyber Pakhtunkhwa at Peshawar since April 19, 2007. (Copy of the appointment order is annexed as "A")

2. That a post of Superintendent felt vacant in the office of Advocate General on April 03, 2013. Upon the LPR of Liaqat Ali, Respondent No.4 who was posted as Assistant at the office of Additional Advocate General at D.I.Khan and the senior most Assistant asked to assume the post of Superintendent (Judicial) on acting basis till expiry of LPR period of the retiring employee and convening of the Departmental Promotion Committee. But Respondent No.4 declined the same in writing through letter dated May 22, 2012 to accept promotion as Superintendent (BPS 16) in main office at Peshawar. {Copy of the letter is annexed as "B"}
3. That appellant being next to the senior most Assistant was asked to perform the duties of Superintendent (Judicial) at Peshawar as Respondent No.4 was performing duties at office of Additional Advocate General at D.I.Khan. {Copy of Office Order February 07, 2012 is annexed as "C" & Seniority list is "C1"}
4. The appellant also served the office as Superintendent during various era. This is confirmed from Office Order dated October 11, 2011. {Copy of the Order is annexed as "D"}
5. That upon the expiry of LPR, Respondent No.4 was again asked for his willingness to be promoted as Superintendent at main Office at Peshawar, but Respondent No.4 refused to accept promotion as Superintendent at Peshawar vide his willingness option dated February 22, 2013. {Copy of 2nd refusal/declination is annexed as "E"}
6. That on March 06, 2013, a meeting of Departmental Promotion Committee was held in the office of Secretary Law, Parliamentary affairs and Human Rights whereby Respondent No. 4 was promoted against the vacant post of

Superintendent while ignoring and bypassing the law. {Copy of the impugned order is annexed as "F"}

7. That on March 29, 2013, Respondent No. 3 issued office order dated March 29, 2013 whereby Respondent No. 4 was appointed as Superintendent in spite repeated refusal/ declining promotion. {Copy of the order is annexed as "G"}

8. Feeling aggrieved, the appellant preferred departmental appeal for redressal before the competent authority, but the appellant was not redressed. And worth to mention that no reply is given to the appellant. Hence, the instant appeal. {Copy of the Departmental appeal is annexed as "H"}

9. Finding no alternative, hence the instant appeal is filed on the following amongst other grounds inter-alia:

GROUND.

a. That it was mandatory upon the respondents to promote the appellant keeping in view the seniority list available before them and repeated refusal/ decline of the Respondent No.3. Unfortunately this principle was not followed in the instant case.

b. That the action so undertaken by the respondents No.1 to 2 is highly illegal and without any legal, plausible and cogent reasons. Such actions are always discouraged by the superior courts.

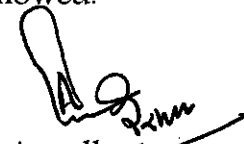
c. That the respondents are following the principle of nepotism and favoritism which is clear violation of Article 25 of the Constitution of Islamic republic of Pakistan.

- d. That respondents were bound by rules so framed by the Government but rather rules were not followed in the case with sole intention to recruit their own people.
- e. That the law provides that if on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next four years following the order. But in the instant case, the same has totally been ignored.
- f. That with the permission of Hon'ble Tribunal, further grounds may be raised when the stance of the Respondents comes in black in white.

PRAYER.

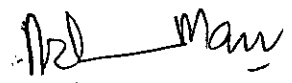
It is, therefore, most humbly prayed that on acceptance of this Appeal, this Hon'ble Tribunal may kindly direct the Respondents 1 – 3 to consider and promote appellant against the said post.

Any other remedy deemed proper may also be allowed.



Appellant

Through:



Rehman Ullah Shah
MA, LLM
Advocate

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Service Appeal No...../2013

AYAZ KHAN S/O ABDUL JABBAR

APPELLANT

Versus

CHIEF SECRETARY AND OTHERS

RESPONDENTS

AFFIDAVIT

I, Ayaz Khan S/O Abdul Jabbar R/O Mohallah Hassan Khel, Village & PO Badahar Kalay, The; & Distt Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.

Deponent

[Handwritten Signature]
Ayaz Khan

ATTESTED
AZMAT ALLI ADVOCATE
OATH COMMISSIONER
76-8
SESSIONS COURT PESHAWAR
[Handwritten Initials]

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Service Appeal No...../2013

AYAZ KHAN S/O ABDUL JABBAR

APPELLANT

Versus

CHIEF SECRETARY AND OTHERS

RESPONDENTS

MEMO OF ADDRESSES

APPELLANT

Ayaz khan S/O Abdul Jabbar
R/O Mohallah Hassan Khel
Village & PO Badahar Kalay, The; & Distt Peshawar

RESPONDENTS

1. Chief Secretary
Government of khyber Pukhtoon Khawa at Peshawar
2. Secretary Law, Parliamentary affairs & H. Rights
Government of Khyber Pukhtoon Khawa at Peshawar
3. Advocate General, Khyber Pakhtunkhwa at Peshawar High Court Peshawar
4. Muhammad Khursheed, Superintendent
Office of the advocate general at Peshawar High Court Peshawar

Appellant


Through:

Advocates

OFFICE OF THE ADVOCATE-GENERAL, NWFP, PESHAWAR.

OFFICE ORDER


On the unanimous recommendation of Departmental Selection Committee, Mr. Ayaz Khan S/O Abdul Jabbar village P/O Deh Bahadar Mohallah Hassan Khail Tehsil and District Peshawar presently Junior Clerk (Admin) Section Directorate General Population Welfare, FC Trust Building Sonhari Masjid Road, Peshawar is hereby appointed as Assistant, in BPS-11, in the office of Advocate-General, NWFP against a permanent post, in public interest. The appointee shall be on probation for the period prescribed under the Rules and if his performances during the probation period are found unsatisfactory his service can be terminated any time during that period. The appointee is required to produce Medical/Health Certificate from Medical Superintendent, Police Hospital, Peshawar. He is required to report for duty within 10 days.


Advocate-General, NWFP,
Peshawar.

No. 3420-21 /A.G dt: 14-4-2007

Copy to:

1. The Accountant General, NWFP, Peshawar for information and necessary action.
2. The appointee Mr. Ayaz Khan.


Advocate-General, NWFP,
Peshawar.



Sher Khan, DPS
14/14/2007

To:- The Additional Advocate General,
Khyber Pakhtunkhwa,
D.I.Khan.

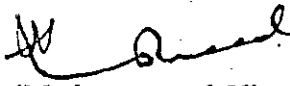
Subject:- OPTION.

Respectfully Sir,

It is respectfully stated that I had opted in writing for promotion as Superintendent (B-16) in Main Office, Peshawar, which has been forwarded to the Advocate General Office, Peshawar for necessary action. However, I have re-pondered over my domestic problems which do not allow me at the moment to leave my home station and work in Peshawar. Now I wish to withdraw my option for promotion.

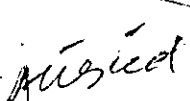

It is, therefore, requested that my earlier option for availing promotion as Superintendent (B-16) in Peshawar may please be dropped and I hereby forego/decline to be promoted as Superintendent (B-16) in Peshawar this time.

Yours Obediently;


(Muhammad Khursheed)

Assistant,
Additional Advocate General's Office,
Dera Ismail Khan.

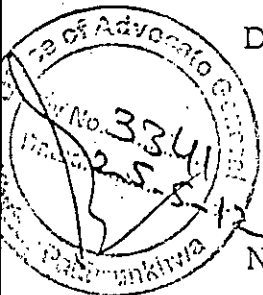
Dated: 22.5.2012.





Superintendent (E/G)
Advocate General's Office
Khyber Pakhtunkhwa,
Peshawar.

No. 2093 / A.A.G dated 23-5-2012

Forwarded in original to the Advocate General,
Khyber Pakhtunkhwa, Peshawar for favourable
consideration please.


ADDITIONAL ADVOCATE GENERAL,
D.I.KHAN.



(Annex C)

9

OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA,
PESHAWAR.

OFFICE ORDER

Consequent upon proceeding on Leave Preparatory to Retirement by Mr. Laiqat Ali, Superintendent (B-16) with effect from 04-02-2012 (F.N.), Mr. Ayaz Khan, Assistant of this office, is hereby allowed to act as Superintendent (Judicial) on temporary basis, in addition to his own duties and in his own pay and scale till further orders.

ADVOCATE-GENERAL
KHYBER PAKHTUNKHWA
PESHAWAR

No. 1160-64/A.G

dated Peshawar, the 7-2- /2012.

Copy for information to the:-

- 01- Superintendent (E/G).
- 02- Mr. Ayaz Khan, Assistant.
- 03- Accountant/Cashier of this office.
- 04- Personal file.

[Signature]
ADVOCATE-GENERAL
KHYBER PAKHTUNKHWA
PESHAWAR

Attested
[Signature]

**FINAL SENIORITY LIST OF THE ESTABLISHMENT OF OFFICE OF THE ADVOCATE-GENERAL,
KHYBER PAKHTUNKHWA, PESHAWAR
AS IT STOOD ON 18-01-2013**

Sanctioned Posts (Permanent) 181

| S.No | Name of the Official | Designation | Academic Qualification | Date of Birth | Domicile | Date of first Entry into Govt. Service | Regular appointment /Promotion to the present post | | | Present Appointment | | Remarks / Station |
|------|----------------------|----------------|------------------------|---------------|----------------|--|--|-----|-----------------------|---------------------|------------|--|
| | | | | | | | Date | BPS | Method of Recruitment | Designation | Date | |
| 1 | Ishfaq Ali | Librarian | B.Sc / LLB / MLSc | 03.04.1967 | Peshawar | 11.04.1993 | 11.04.1993 | 17 | By Selection (PSC) | Librarian | 11.04.1993 | Peshawar |
| 2 | Siddiqullah | Private Secy | BA/LLB | 11.08.1957 | Peshawar | 29.03.1976 | 28.07.2011 | 17 | By Fromotion | Private Secy | 28.07.2011 | Peshawar |
| 3 | Liaqat Ali | Superintendent | Matric | 03.02.1953 | Peshawar | 01.07.1975 | 16.01.2009 | 16 | By Fromotion | Superintendent | 16.01.2009 | Peshawar, (on L.P.R from 04/02/2012 to 03/02/2013) |
| 4 | Amir Qadir | Superintendent | F.A | 04.03.1958 | Peshawar | 01.04.1977 | 01.08.2009 | 16 | By Fromotion | Superintendent | 01.08.2009 | Peshawar |
| 5 | M Arshad Khan | Superintendent | MA | 15.11.1972 | Mohmand Agency | 24.03.1998 | 26.04.2011 | 16 | By Fromotion | Superintendent | 26.04.2011 | Peshawar |

Data Processing Supervisor (BPS-14)

| | | | | | | | | | | | | |
|---|-----------|----------------------------|-------------|------------|---------------|------------|------------|----|--------------|----------------------------|------------|----------|
| 1 | Sher Khan | Data Processing Supervisor | M.Sc (Hons) | 22.10.1976 | Khyber Agency | 01.06.2003 | 01.06.2003 | 14 | By Selection | Data Processing Supervisor | 01.06.2003 | Peshawar |
|---|-----------|----------------------------|-------------|------------|---------------|------------|------------|----|--------------|----------------------------|------------|----------|

Junior Scale Stenographer (BPS-14)

| | | | | | | | | | | | | |
|---|------------------|--------------|----|------------|-----------|------------|------------|----|--------------|--------------|------------|----------|
| 1 | Muhammad Aakif 1 | Steno Typist | MA | 11.03.1983 | Peshawar | 04.02.2008 | 04.02.2008 | 14 | By Selection | Steno Typist | 04.02.2008 | Peshawar |
| 2 | Muhammad Akif 2 | Steno Typist | BA | 10.04.1986 | Nowshera | 02.02.2008 | 02.02.2008 | 14 | By Selection | Steno Typist | 02.02.2008 | Peshawar |
| 3 | Usman | Steno Typist | BA | 16.05.1989 | Peshawar | 26.06.2010 | 26.06.2010 | 14 | By Selection | Steno Typist | 26.06.2010 | Peshawar |
| 4 | Arif Jan | Steno Typist | FA | 10.10.1983 | Charsadda | 26.06.2010 | 26.06.2010 | 14 | By Selection | Steno Typist | 26.06.2010 | Peshawar |

Library Assistant (BPS-11)

| | | | | | | | | | | | | |
|---|------------------|---------------|------|------------|----------------|------------|------------|----|--------------|---------------|------------|-----------------------------|
| 1 | Muhammad Basir | Library Asst. | MLIS | 25.09.1987 | Mohmand Agency | 18.07.2012 | 18.07.2012 | 11 | By Selection | Library Asst. | 18.07.2012 | D.I.Khan , Peshawar. |
| 2 | Nahar Ali | Library Asst. | MLIS | 03.02.1981 | Dir | 18.07.2012 | 18.07.2012 | 11 | By Selection | Library Asst. | 18.07.2012 | Supreme Court, Islamabad |
| 3 | Muhammad Zakir | Library Asst. | MLIS | 21.04.1986 | Peshawar | 18.07.2012 | 18.07.2012 | 11 | By Selection | Library Asst. | 18.07.2012 | Services Tribunal, Peshawar |
| 4 | Ahmad Wali Ullah | Library Asst. | MLIS | 01.03.1987 | Lakki Marwat | 18.07.2012 | 18.07.2012 | 11 | By Selection | Library Asst. | 18.07.2012 | Bannu |
| 5 | Vacant | Library Asst. | | | | | | | | | | Abbottabad |

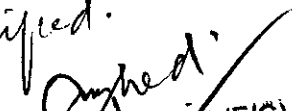
verified
[Signature]
Superintendent (E/G)
Advocate-General's Office
Khyber Pakhtunkhwa,
Peshawar.

Senior Scale Stenographer(BPS-16) Upgraded to BPS-16 vide Notification Bearing No. FD/SO(FR)10-22/2012, Dated 19.06.2012

| | | | | | | | | | | | | |
|----|---------------------|------------|--------|------------|------------|------------|------------|----|---------------------------|------------|------------|--|
| 1 | Rehman Gul | S.S. Steno | FA | 02.02.1960 | Peshawar | 01.02.1982 | 01.02.1982 | 16 | By Selection | S.S. Steno | 01.02.1982 | Allowed SG (B-16) w.e.f 01/02/1998 Peshawar |
| 2 | Imran | S.S. Steno | MA | 10.11.1960 | Swabi | 26.06.1979 | 08.07.1985 | 16 | By Selection | S.S. Steno | 08.07.1985 | Peshawar |
| 3 | Marjan Ali | S.S. Steno | BA | 01.02.1969 | Charsadda | 03.08.1987 | 02.12.1992 | 16 | By Selection / Adjustment | S.S. Steno | 02.12.1992 | Adjusted out of S.Pool on 10-08-2000, Peshawar |
| 4 | Tariq Hussain | S.S. Steno | FA | 12.04.1961 | Abbottabad | 01.03.1981 | 23.05.1996 | 16 | By Promotion / Adjustment | S.S. Steno | 23.05.1996 | Adjusted out of S.Pool on 08-03-2001. Abbottabad |
| 5 | Abdul Azim | S.S. Steno | MA | 10.01.1963 | Peshawar | 05.10.1982 | 29.12.1994 | 16 | By Promotion / Adjustment | S.S. Steno | 29.12.1994 | Adjusted out of S.Pool on 02-07-2005. Peshawar |
| 6 | Abdul Rauf Khakwani | S.S. Steno | FA | 03.04.1957 | D.I.Khan | 05.01.1982 | 28.01.2009 | 16 | By Selection | S.S. Steno | 28.01.2009 | D. I. Khan |
| 7 | Khalid Aziz | S.S. Steno | Matric | 15.04.1968 | Peshawar | 08.12.1988 | 01.02.2010 | 16 | By Promotion | S.S. Steno | 01.02.2010 | Services Tribunal, Peshawar |
| 8 | Muhammad Shafi | S.S. Steno | BA | 15.03.1969 | Peshawar | 01.07.1990 | 01.02.2010 | 16 | By Promotion | S.S. Steno | 01.02.2010 | Peshawar |
| 9 | Zaheer ud Din | S.S. Steno | BA | 07.11.1986 | Peshawar | 08.02.2011 | 08.02.2011 | 16 | By Selection | S.S. Steno | 08.02.2011 | Dar-ul-Qaza, Swat |
| 10 | Manzoor Hussain | S.S. Steno | BA/DIT | 10.02.1973 | Peshawar | 28.04.1999 | 14.02.2011 | 16 | By Selection | S.S. Steno | 14.02.2011 | Supreme Court, Islamabad |
| 11 | Fida Hussain | S.S. Steno | BA | | Peshawar | 21.11.2012 | 21.11.2012 | 16 | By Selection (PSC) | S.S. Steno | 21.11.2012 | Bannu |
| 12 | Vacant | S.S. Steno | | | | | | | | | | Abbottabad |
| 13 | Vacant | S.S. Steno | | | | | | | | | | D. I. Khan |
| 14 | Vacant | S.S. Steno | | | | | | | | | | Chitral |
| 15 | Vacant | S.S. Steno | | | | | | | | | | Bannu |

Computer Operator (BPS-12)

| | | | | | | | | | | | | |
|---|---------------------|--------------|------------|------------|------------|------------|------------|----|--------------|--------------|------------|-----------------------------|
| 1 | Muhammad Bilal Khan | Com Operator | B. Com/DIT | 01.07.1978 | Peshawar | 29.03.2007 | 01.07.2009 | 12 | By Selection | Com Operator | 01.07.2009 | Peshawar |
| 2 | Ahmad Khan | Com Operator | BCS (Hons) | 10.01.1983 | Nowshera | 04.02.2008 | 01.07.2009 | 12 | By Selection | Com Operator | 01.07.2009 | Peshawar |
| 3 | Shafiq Ahmad | Com Operator | MA/DIT | 01.04.1981 | Swat | 10.02.2011 | 10.02.2011 | 12 | By Selection | Com Operator | 10.02.2011 | Dar-ul-Qaza, Swat |
| 4 | Yasir Muhammad | Com Operator | MLIS | 17.06.1983 | Mardan | 18.07.2012 | 18.07.2012 | 12 | By Selection | Com Operator | 18.07.2012 | Peshawar |
| 5 | Zia Ullah | Com Operator | MCS | 22.04.1987 | Khyber (A) | 18.07.2012 | 18.07.2012 | 12 | By Selection | Com Operator | 18.07.2012 | Services Tribunal, Peshawar |
| 6 | Vacant | Com Operator | | | | | | | | | | Supreme Court, Islamabad |

verified.

 Superintendent (B/G)
 Advocate-General's Office
 Khyber Pakhtunkhwa,
 Peshawar.

Assistant (BPS-14)

| | | | | | | | | | | | | |
|----|--------------------|-----------|--------|------------|------------|------------|------------|----|--------------------|-----------|------------|-------------------|
| 1 | M Khurshid | Assistant | Matric | 12.10.1962 | Tank | 01.04.1982 | 01.10.2002 | 14 | By Promotion | Assistant | 01.10.2002 | D. I. Khan |
| 2 | Ayaz Khan | Assistant | MA | 11.01.1974 | Peshawar | 03.09.2001 | 19.04.2007 | 14 | By Selection | Assistant | 19.04.2007 | Peshawar |
| 3 | Muhammad Shaukat | Assistant | Matric | 15.02.1962 | Abbottabad | 01.11.1982 | 21.01.2009 | 14 | By Promotion | Assistant | 21.01.2009 | Abbottabad |
| 4 | Muhammad Noman | Assistant | BA | 02.04.1975 | Peshawar | 01.08.1996 | 29.01.2009 | 14 | By Selection | Assistant | 29.01.2009 | Peshawar |
| 5 | Chan Gul | Assistant | Matric | 16.04.1962 | Peshawar | 02.12.1985 | 26.02.2009 | 14 | By Promotion | Assistant | 26.02.2009 | Peshawar |
| 6 | Mst. Rabia Zeb | Assistant | BA | 20.03.1979 | Charsadda | 01.04.2009 | 01.07.2009 | 14 | By Selection | Assistant | 01.07.2009 | Peshawar |
| 7 | Zafeer Ahmad | Assistant | Matric | 01.04.1971 | Mansehra | 01.07.1990 | 12.08.2009 | 14 | By Promotion | Assistant | 12.08.2009 | Abbottabad |
| 8 | Iqbal Akhtar | Assistant | BA | 01.01.1964 | Peshawar | 01.08.1990 | 01.11.2009 | 14 | By Promotion | Assistant | 01.11.2009 | Peshawar |
| 9 | Faheem Jan | Assistant | BA | 01.09.1975 | Peshawar | 27.04.2001 | 17.02.2011 | 14 | By Selection | Assistant | 17.02.2011 | Peshawar |
| 10 | Muhammad Akram | Assistant | BA | 01.08.1970 | D.I.Khan | 01.10.1989 | 01.07.2011 | 14 | By Promotion | Assistant | 01.07.2011 | D.I.Khan |
| 11 | Muhammad Ejaz | Assistant | FA | 09.09.1971 | Peshawar | 01.08.1990 | 01.07.2011 | 14 | By Promotion | Assistant | 01.07.2011 | Bannu |
| 12 | Muhammad Asim Khan | Assistant | BA | 05.05.1985 | Dir. (L) | 19.11.2012 | 19.11.2012 | 14 | By Selection (PSC) | Assistant | 19.11.2012 | Dar-ul-Qaza, Swat |
| 13 | Vacant | Assistant | | | | | | | | | | Bannu |
| 14 | Vacant | Assistant | | | | | | | | | | Peshawar |

Clearance
 Advocate General
 Khyber Pakhtunkhwa
 Peshawar

Verified

Amjad
 Superintendent
 Advocate General's Office
 Khyber Pakhtunkhwa,
 Peshawar.

OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA.
PESHAWAR.

OFFICE ORDER

The Competent Authority is pleased to order the following postings/transfers with immediate effect in the public interest till further orders:

| S.No. | Name & Designation | Present Postings | Posted As |
|-------|--|---------------------------|--|
| 1. | Mr. Muhammad Arshed Khan, Superintendent. | Superintendent (Judt.) | Superintendent (B/A) in place of Mr. Liaqat Ali, Superintendent (B/A) who is on Earned Leave with effect from 21/09/2011 to 18/01/2012 |
| 2. | Mr. Ayaz Khan, Assistant | Incharge Civil Branch | Superintendent (Judt.) on temporary basis in addition to his own duties and in own pay / scale. |

Asst. Secy. Gen.
Advocate General,
Khyber Pakhtunkhwa,
Peshawar.

Endst. No. 10328-31 /AG

dated Peshawar, the 11-10-2011

A copy is forwarded for information to:

1. The Law Officers of this office
2. The Superintendent (E/G).
3. The Officials concerned.

Attested
S

Asst. Secy. Gen.
Advocate General,
Khyber Pakhtunkhwa,
Peshawar.

Annex - "E"

14

To

The Advocate-General, Khyber
Pukhtunkhuwa, Peshawar.

Subject:

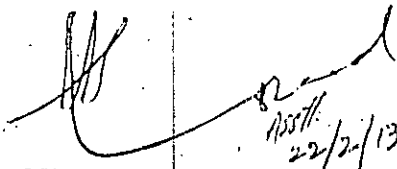
OPTION

1414
25.2.13
252

Dear Sir;

I hereby opt that due to domestic problems I forgo the
promotion as Superintendent this time in main office at Peshawar.

Dated 22-2-13



MUHAMMAD KHURSHID
Office Assistant to Addl:
Advocate-General, DIKhan

Attested

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE
MEETING HELD ON 06.03.2013 AT 11.00 A.M.

Subject: PROMOTION OF ASSISTANT BS-14 AS SUPERINTENDENT
BS- 16

A meeting of the Department Promotion Committee was held in the office of the Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs & Human Rights Department, on 06.3.2013 at 11:00 AM under my chairmanship to discuss and examine the promotion case of assistants to the post of superintendent (BS-16) in the office of Advocate General Khyber Pukhtunkhwa.

2. The following attended the meeting:

- | | |
|---|-------------|
| 1. Mr. Muhammad Arifoon, Secretary Law. | In chair |
| 2. Mr. Arshad Ali, Dy Secy (Admn) Law Deptt: | Member |
| 3. Mr. Ishtiaq Ahmad, Section Officer (R-IV), Establishment Deptt: | Member |
| 4. Bibi Fatima, Section Officer (FR), Finance Department | Member |
| 5. Mr. Sajjad Ur Rahman, Section Officer (Gen:) Law Department | Member/Secy |
| 6. Mr. Sikandar Khan Law Officer, Advocate General Office | Rep: of A.G |

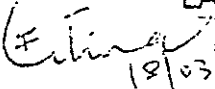
3. According to working Paper Mr. Muhammad Khurshid at S.No.1 had declined his promotion vide Annex-A. He was contacted on phone during the meeting by the Secretary, Law, Parliamentary Affairs and Human Rights Deptt:. The official agreed to be promoted to the post of Superintendent (B-16) and sent his willing for promotion vide his communication No.4094-95/AAG Dated 06.03.2013 vide Annex-B.

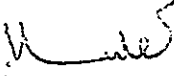
4. After receipt of his willingness, the Committee considered him for promotion and recommended to be promoted on regular basis against vacant post of Superintendent.


5. The meeting ended with a vote of thanks from end to the Chair.



MUHAMMAD ARIFEEN, 16.3.13


SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS & HR DEPARTMENT


18/03/13
Bibi Fatima,
Section Officer(FR,
Finance Deptt:


Mr. Ishtiaq Ahmad
Section Officer (R-IV)
Establishment Deptt:


Mr. Arshad Ali
Deputy Secretary(Admn)
Law Department


19/3/13
Mr. Sikandar Khan,
Law Officer
Advocate General Office


Mr. Sajjad Ur Rahman
Section Officer (General)
Law Department

OFFICE ORDER

Consequent upon the recommendations of the Departmental Promotion Committee, held on 06/03/2013, Mr. Muhammad Khurshid, Assistant (BPS-14) Additional Advocate General Office, D.I.Khan is hereby promoted as Superintendent (BPS-16) Rs.(10000-800-34000) in Main Office, Peshawar w.e.from 01/04/2013 against the post fallen vacant due to retirement of Mr. Liaqat Ali, Superintendent (BPS-16).

Muhammad

Advocate General
Khyber Pakhtunkhwa
Peshawar.

Endst: No. 42-79-86 /AG

dated Peshawar, the 29-3 /2013

Copy is forwarded to the:-

1. Secretary to Govt: of Khyber Pakhtunkhwa, Law Department, Peshawar w/r to his letter No.E&A/LD/2-12/2011/4547-51, dated 25/03/2013.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Additional Advocate General, D.I.Khan.
4. Section Officer (Reg-IV), Establishment Department, Peshawar.
5. Section Officer (FR), Finance Department, Peshawar.
6. Mr. Muhammad Khurshid, Superintendent of this office.
7. Personal file.
8. Relevant file.

Attested
S

Muhammad

Advocate General
Khyber Pakhtunkhwa
Peshawar.

Annex-H

To

The Hon'ble Chief Secretary
Government of Khyber Pakhtunkhwa
Peshawar.

PS/C.S Khyber Pakhtunkhwa

Diary No. 4433

Date. 19-4-13

17

Subject: - REPRESENTATION

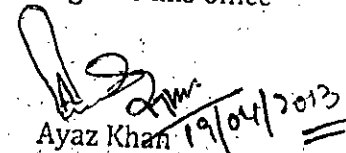
Respected Sir,

With due veneration, I would like to drop the following humble submissions for your kind perusal and further proper orders:-

1. That I am serving as Assistant (BPS-14) in the office of the Advocate General, Khyber Pakhtunkhwa, Peshawar since 19.04.2007.
2. That a post of Superintendent (BPS-16) fell vacant in the office of the Advocate General on 03.04.2013 due to L.P.R.
3. That in order to keep the office routine business running, the senior most Assistant, namely Mr. Mohammad Khurshid, Additional Advocate General office D.I.Khan was asked to come and assume the post of Superintendent (Judicial) on acting basis till expiry of the L.P.R period and convening of the Departmental Promotion Committee, but the official concerned declined in writing dated 22-05-2012 (Copy of option is attached as Annexure "A"), to accept promotion as Superintendent (BPS-16) in main office, Peshawar.
4. That after declining promotion by the senior most Assistant, I was authorized, in writing, to act as Judicial Superintendent as I was next to the senior most Assistant in the order of seniority.
5. That consequently, I had to run the post of Superintendent (Judicial) on acting basis for more than one and half year (1-1/2) (Copy of office order dated 11.10.2011 & 7.02.2012 are attached as Annexure "B").
6. That when the LPR period expired, Mr. Mohammad Khurshid, Senior most Assistant, was again asked for his willingness to be promoted as Superintendent in Main office, Peshawar. He again refused to accept promotion as Superintendent vide his willing/option dated 22-02-2013 (Copy of 2nd option is attached as Annexure "C").
7. That after his 2nd refusal to avail promotion, a case for Departmental Promotion Committee of my promotion was prepared and submitted to the Law Department Peshawar vide letter No. 1397/AG dated 29-01-2013 (Copy attached as Annexure "D") for convening DPC. 06.03.2013 was fixed as date of the DPC.
8. That during meeting of the DPC when all the participants were present, the Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs & Human Rights Department (Mr. Mohammad Arifeen) contacted Mr. Mohammad Khurshid, Assistant on phone and compelled him to accept the promotion chance in spite of his two times refusal which is on record (Copy of 3rd option given as per direction of the Secretary Law is attached as Annexure "E"). Resultantly Mr. Mohammad Khurshid agreed to be promoted and was promoted as Superintendent (BPS-16) at Main office, Peshawar, killing my genuine right. This enimical attitude of the Secretary Law Department bears personal grudges for me depriving me of my lawful right of promotion as Superintendent in Main office, Peshawar.

It is, therefore, requested to please intervene in the matter and declare the minutes of the Departmental Promotion Committee (Copy attached as Annexure "I") and impugned order bearing No. 4279-86/AG, dated 29-03-2013, (copy attached as Annexure "G") as null and void and direct the Departmental Promotion Committee to process the case afresh in light of this office letter No. 1397/AG dated 29.01.2013.

Attested



Ayaz Khan 19/04/2013
Assistant
Advocate General's office
Peshawar

WAKALATNAMA

BEFORE THE SERVICES TRIBUNAL, PESHAWAR

AYAZ KHAN S/O ABDUL JABBAR

APPELLANT

VERSUS

CHIEF SECRETARY AND OTHERS

RESPONDENTS

I, Ayaz Khan, do hereby appoint Rehman Ullah Shah, and Ibrahim Shah Advocates in the above mentioned case, to do all or any of the following acts, deeds and things.

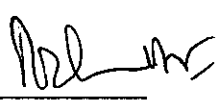
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct prosecution or defence of the said case at all its stages.
3. To receive payment of and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

And hereby agree: -

- a) That the advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this August 16, 2013

Attested & Accepted by:
(Subject to the term regarding payment of fee)

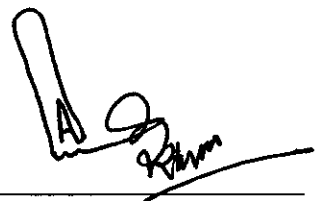


Rehman Ullah Shah
M.A, LL.M



Ibrahim Shah
LL.B

Advocates, Peshawar



Signature of Executant

Ibn e Abdullah Law Associates
11 Azam Tower University Road, Peshawar
Phone & Fax # 091- 5702021
info@ibneabdullah.com
www.ibneabdullah.com



(114)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)**

Dated Peshawar, the 22nd October, 2011

NOTIFICATION.

No.SOR-VI (E&AD)1-3/2009/Vol-VIII: - In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa, Act No.XVIII of 1973), read with this Department's Notification No.SOR-I(S&GAD)1-206/74/Vol.V, dated 18th April 1989, the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the following further amendments shall be made, namely:

AMENDMENTS

1. In Rule-7, after sub-rule (4), the following new sub-rule shall be added, namely:

"(5) If on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next four years following the order:

Provided that if he declines to avail the benefit of promotion for the second time, then he shall stand superseded permanently for such promotion."

2. In rule 9, sub-rule (2) shall be deleted.

**CHIEF SECRETARY
GOVERNMENT OF THE KHYBER
PAKHTUNKHWA**

Endst: No. and dated even.

Copy forwarded to:-

1. Additional Chief Secretary, Govt of Khyber Pakhtunkhwa, Planning & Development Department.
2. Additional Chief Secretary (FATA), FATA Secretariat Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
5. The Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. The Registrar, Peshawar High Court, Peshawar.
8. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
9. The Director General, Provincial Disaster Management Authority.
10. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
11. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
12. Private Secretary to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
13. Private Secretary to Secretary Establishment Department.
14. Private Secretary to Secretary Administration Department.
15. The Incharge Resource Centre, Estt.&Admn: Department.
16. The Manger, Government Printing and Stationary Department for Publication in the official Gazette and supply of 20-copies thereof at an early date.


(ASHFAQ KHAN)
SECTION OFFICER (REG: VI)

BEFORE THE BEFORE THE SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1226-P/2013

Ayaz Khan _____ Petitioners

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and others _____ Respondents.

INDEX

| S. No. | Documents | Page No. | Annexure |
|--------|---------------------------------|----------|-----------|
| 1 | Parawise Comments | 1-3 | Annex-I |
| 2 | Willingness of respondents No.4 | 4 | Annex-II |
| 3 | Minutes of the meeting of DPC | 5 | Annex-III |
| 5 | Affidavit | 6 | Annex-IV |

BEFORE THE SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No, 1226-P/2013

Ayaz Khan -----Appellant

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary etc

----- Respondents

Parawise Comments for and on behalf of Respondents No.1&2.

Respectfully Sheweth:-

Preliminary Objections:-

1. That the Appellant has got no cause of action against the respondents.
2. That the Appellant is estopped by his own conduct to file the instant petition / appeal.
3. That the captioned Service Appeal is filed on malafide intention in order to pressurize the official respondents to do a wrongful act and doing favour to the appellant against the norms of legal ethics.
4. That the appellant has not come to the court with clean hands.
5. That the appellant has got no locus standi to file the captioned appeal.
6. That the honorable Services Tribunal has got no jurisdiction to entertain the appeal.

On Facts:-

1. Needs no comments.
2. Correct to the extent that Departmental Promotion Committee meeting was held in the office of the Secretary to Government of Khyber Pakhtunkhwa Law Department on 06-03-2013 to examine the promotion case of Assistant to the post of Superintendent in the office of Advocate General Khyber Pakhtunkhwa and as per official record Mr. M: Khurshid (Respondent No.4) was on the top of the Seniority list but he was ignorant about amendment made in Government Servants (Appointment Promotion and Transfer) Rules 1989 regarding foregoing promotion.
During the meeting it was discussed that Respondent No."4" declined his promotion but when he was contacted on phone during the meeting by the Chairman of the Departmental Promotion Committee to verify his stance after knowing repercussions of amendment made in the fore-referred Rules he agreed to be promoted to the post of Superintendent (BPS-16) and the after receiving his willingness in writing (Annex-I) the official (Respondent No. "4") was promoted accordingly vide minutes of DPC at (Annex-II).
3. Not correct. It is the prerogative of Advocate General Office to manage the internal affairs regarding performance of duties in reference of smooth running of official business.
4. As explained in above paras.
5. Not correct and already explained in the above paras.
6. As explained in para No. "2". Moreover it is not out of context to mention here that the representative of Advocate General Office was also present during Departmental Promotion Committee meeting and duly endorsed the recommendation of Respondent No. "4".
7. Correct to the extent of issuance of office order where by Respondent No "4" was promoted as Superintendent.
8. Needs no comments.
9. As explained in above paras.



To

The Secretary to Govt. of Khyber Pukhtunkhuwa
Law Department, Peshawar.

The Advocate-General, Khyber Pukhtunkhuwa
Peshawar.

Subject: **OPTION**

Respected Sir,

I have the honor to state that as per kind directions of
Honorable Secretary Law Department Khyber Pukhtunkhuwa, I shall be
ready for promotion as Superintendent B-16 in Advocate-General Office, at
Peshawar.

Muhammad Khurshid
Assistant, office of Addl:
Advocate-General, KPK
D.I.Khan.

No. 4094-95 /AAG dated D.I.Khan, the 06 /03 /2013

Copy of the above in original is forwarded and strongly
recommended to the:-

1. The Secretary Law Department, KPK, Peshawar.
2. The Advocate-General, KPK, Peshawar.

ASCG)

06/3/13

ADDL: ADVOCATE-GENERAL
Khyber Pukhtunkhuwa, DIKhan.

Annex- "F"
5
17
MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE
MEETING HELD ON 06.03.2013 AT 11.00 A.M.

Subject: PROMOTION OF ASSISTANT BS-14 AS SUPERINTENDENT
BS- 16

A meeting of the Department Promotion Committee was held in the office of the Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs & Human Rights Department, on 06.3.2013 at 11:00 AM under my chairmanship to discuss and examine the promotion case of assistants to the post of superintendent (BS-16) in the office of Advocate General Khyber Pukhtunkhwa.

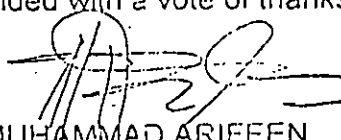
2. The following attended the meeting:

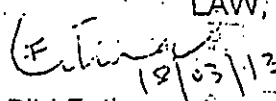
- | | |
|---|-------------|
| 1. Mr. Muhammad Arifeen, Secretary Law | In chair |
| 2. Mr. Arshad Ali, Dy Secy (Admn) Law Deptt: | Member |
| 3. Mr. Ishtiaq Ahmad, Section Officer (R-IV), Establishment Deptt: | Member |
| 4. Bibi Fatima, Section Officer (FR), Finance Department | Member |
| 5. Mr. Sajjad Ur Rahman, Section Officer (Gen:) Law Department | Member/Secy |
| 6. Mr. Sikandar Khan Law Officer, Advocate General Office | Rep: of A.G |

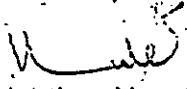
3. According to working Paper Mr. Muhammad Khurshid at S.No.1 had declined his promotion vide Annex-A. He was contacted on phone during the meeting by the Secretary, Law, Parliamentary Affairs and Human Rights Deptt. The official agreed to be promoted to the post of Superintendent (B-16) and sent his willing for promotion vide his communication No.4094-95/AAG Dated 06.03.2013 vide Annex-B.

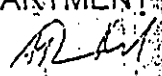
4. After receipt of his willingness, the Committee considered him for promotion and recommended to be promoted on regular basis against vacant post of Superintendent.


5. The meeting ended with a vote of thanks from end to the Chair.



MUHAMMAD ARIFEEN, 16.3.13
SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS & HR DEPARTMENT


Bibi Fatima,
Section Officer (FR),
Finance Deptt:


Mr. Ishtiaq Ahmad
Section Officer (R-IV)
Establishment Deptt:


Mr. Arshad Ali
Deputy Secretary (Admn)
Law Department


Mr. Sikandar Khan
Law Officer,
Advocate General Office


Mr. Sajjad Ur Rahman
Section Officer (General)
Law Department

6

BEFORE THE BEFORE THE SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1226-P/2013

Ayaz Khan _____ Petitioners

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and others _____ Respondents

AFFIDAVIT

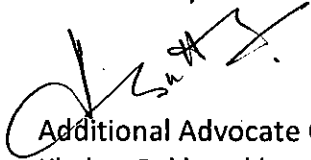
I, Mr. Muhammad Ismail Khalil Superintendent Litigation Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs and Human Rights Department, do hereby solemnly affirm and declare on oath that contents of Parawise Comments for and on behalf of Respondents No.1 & 2 are true to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Tribunal.



Deponent

NIC No. 17301-0876331-9

Identified by:



Additional Advocate General,
Khyber Pakhtunkhwa,
Service Tribunal, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Re: Service Appeal No.1226/2013

Ayaz Khan.....Appellant.

Versus

Chief Secretary & others.....Respondents.

Parawise Comments on behalf of respondent No.4

» PRELIMINARY OBJECTIONS

1. That the appellant has not come with clean hands to this learned Tribunal.
2. That the appellant has suppressed material facts from this learned Tribunal.
3. That the subject appeal has been filed with malafide intentions. The objective is to pressurize the respondents to obtain undue favours.

» ON FACTS

1. This para needs no comments.
2. In reply to this para it is submitted that the answering respondent was unaware of the recent amendments in the KPK Government Servants (Appointment, Promotion and Transfer) Rules, 1989, especially Rule7, Sub-Rule-5 of the said rules and its repercussion. As such, when the said legal position was brought in the knowledge of the answering respondent by the respondent No.2, the answering respondent immediately opted for his promotion and accordingly the answering respondent's

willingness was communicated in writing dated 06.3.2013. The appellant has deliberately suppressed this vital aspect of the case.

3. In reply to this para, it is submitted that it was a stop gap temporary arrangement. The appellant cannot claim a vested right to promotion on the basis of this temporary assignment.
4. This para has been replied to in preceding paras.
5. This para has been replied to in preceding para *ibid*.
6. This para has also been replied to in preceding para No.2. The answering respondent was contacted telephonically on 06.3.2013 by respondent No.2 whereby the answering respondent gave his consent/willingness for promotion and also sent a consent letter on the same day i.e. 06.3.2013 through fax, which was placed before the Departmental Promotion Committee, on the same date.
7. This para is correct to the extent that the answering respondent was promoted vide order dated 29.3.2013.
8. This para needs no comments.
9. Needs no comments.

GROUNDS

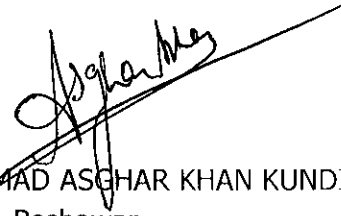
- A) The appellant is unnecessarily twisting and suppressing the true facts. The answering defendant's consent/willingness dated 06.3.2013 for promotion has nullified the effects of earlier refusal.
- B) The respondent No.1 and 2 have acted in accordance with law by promoting the answering respondent, as he was on top of seniority list.
- C) The respondents No.1 and 2 have acted in accordance with laws and Constitution, without any favouritism.
- D) The respondents have followed the rules framed by the Government in letter and spirit.
- E) This fact has been elaborated explained in the preceding paras.
- F) Needs no comments.

It is, therefore, most humbly prayed that keeping in view the averments of the reply the subject appeal may very graciously be dismissed with costs.



RESPONDENT No.4.

Through



(MUHAMMAD ASGHAR KHAN KUNDI)
Advocate, Peshawar.

BEFORE THE KHYHBER PAKHTUNKHWASERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1226/2013

Ayaz Khan.

..... (Appellant)

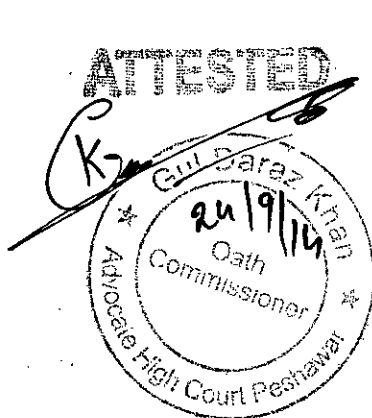
Versus

Chief Secretary & others

..... (Respondents)

AFFIDAVIT

I Muhammad Khurshid, Superintendent, Advocate General Officer, KPK, Peshawar Respondent No. 4 do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



Deponent

C.N.I.C No. 12201-6033265-1