Form- A

FORM OF ORDER SHEET

Court of_____

Execution Petition No._____481 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.08.2022	The execution petition of Mr. Hayat Khan submitted today by Mr. Shah Faisal Ilyas Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed. By the order of Chairman REGISTRAR

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Hazrat Khan v.s D.G Sa'id and water and other

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: Shah Faisal 9/Yes		
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?		
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?	✓	
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: Shah Faisal 9/Yes

Signature:

Dated: 23/08/2022

Before the Khyber Pakhtunkhwa Service Tribunal, Peshawar

Implementation Petition No. 481 /2022
In
Service Appeal No.6339/2020

Hayat Khan. . . . . **PETITIONER/APPELLANT**

VERSUS

Director General Soil & Water & others. . . . .**RESPONDENTS**

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Implementation Petition		1-3
2.	Copy of the Service Appeal and Judgment dated 02.02.2022	A	4-13
3.	Copy of the Application dated 05.03.2022	B	14
4.	Copy of Official Correspondence and Minutes of Meeting dated 16.3.2022	C	15-18

Petitioner/Appellant

Through

Shah Faisal Ilyas
Advocate Supreme Court
Off: 17-B, Haroon Mansion,
Khyber Bazar Peshawar City
(Cell: 0300-5850207)

Dated: 22.08.2022

Before the Khyber Pakhtunkhwa Service Tribunal, Peshawar

Implementation Petition No. 481 /2022
In
Service Appeal No.6339/2020

Hayat Khan, Naib Qasid, Soil & Water Conservation, Agricultural Department, Mardan. . .**PETITIONER/APPELLANT**

VERSUS

1. Director General Soil & Water Conservation Opposite Islamia College near Agriculture Training Institute, Khyber Pakhtunkhwa, Peshawar.

2. Secretary Agriculture, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

3. District Officer, Soil & Water Conservation, Office at D-Stop G.T Road, District ~~Haripur~~ Mardan. . . . .**RESPONDENTS**

IMPLEMENTATION PETITION OF THE JUDGMENT DATED 02.02.2022, IN THE TITLED APPEAL.

Respectfully Sheweth:

1. That the above titled service appeal was admitted and allowed by this Hon'ble Tribunal, vide judgment dated 02.02.2022, wherein it was held that *"we are of the view that the amendments introduced vide*

Notification dated 18.09.2019 could not be made applicable to the appellants, as they were entitled to be dealt with for their promotion to the posts of Junior Clerk under the rules notified vide notification dated 18.04.2018." (Copy of Service Appeal and Judgment is annexed "A").

2. That judgment attested copy was obtained and the same was submitted with application dated 05.03.2022 to the respondents. (Copy of Application is annexed "B").

3. That respondents made correspondence on the application of the appellant/petitioner and it was decided by Scrutiny Committee in it meeting that promotion case of the appellants be considered in light of judgment of this Hon'ble Tribunal. (Copy of Official Correspondence and Minutes of the Meeting dated 16.03.2022 are annexed "C").

4. That despite the fact that the meeting was held on 16.03.2022 and it was advised to promote the applicants/appellants, but even then till date no promotion is made and a number of blue-eyed on various considerations were appointed freshly on the vacant posts of Junior Clerk.

5. That respondents are prolonging the matter and flout the judgment of this Hon'ble Tribunal in the eyes of public/employees/departments.

6. That there is no legal impediment to implement the judgment, because the case was declared unfit for CPLA by the Scrutiny committee.

It is, therefore, most humbly prayed that on acceptance of this application, the judgment dated 02.02.2022 of this Hon'ble Court may please be implemented in its true letter and spirit.

Petitioner/Appellant

Through

Shah Faisal Ilyas
Advocate Supreme Court

Dated: 22.08.2022

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa Service Tribunal
Diary No. 5697
Dated 30-6-2020

Service Appeal No. 6338 /2020

Muhammad Abbas, Naib Qasid (BPS-3)
Soil & Water Conservation,
Agricultural Department, Haripur. . . . . .APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Agriculture, Civil Secretariat, Peshawar.
2. Director General Agriculture, (Soil & Water Conservation), Office at Agriculture Training Institute (A.T.I) Near Khyber Teaching Hospital, Peshawar.
3. Director, Soil & Water Conservation, Haripur.

.....RESPONDENTS

SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974.

filed to-day
Registrar
30/6/2020.

Respectfully Sheweth:

Facts giving rise to the instant Appeal are as under:-

1. That the appellant was appointed as Naib Qasid (BPS-3) on 06.04.1993, in Soil & Water Conservation Department of Irrigation, at the time of appointment appellant was having the qualification of Matric. **(COPY OF THE ACADEMIC CREDENTIALS ARE ANNEXED).**

3/7/2020

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Advocate Supreme Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 6338/2020

Date of Institution ... 30.06.2020

Date of Decision ... 02.02.2022

Muhammad Abbas, Naib Qasid (BPS-03), Soil & Water Conservation, Agriculture Department, Haripur.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Agriculture, Civil Secretariat, Peshawar and two others.

... (Respondents)

MR. SHAH FAISAL ILYAS, Advocate --- For appellant.

MR. NOOR ZAMAN KHATTAK, District Attorney --- For respondents.

MR. SALAH-UD-DIN --- MEMBER (JUDICIAL)
MS. ROZINA REHMAN --- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Through this single judgment we intend to dispose of instant service appeal as well as connected Service Appeal bearing No. 6339/2020 titled "Hayat Khan Versus Government of Khyber Pakhtunkhwa through Secretary Agriculture, Civil Secretariat, Peshawar and two others" as common questions of law and facts are involved in both the appeal.

2. Brief facts forming the background of the instant service appeal as well as connected service appeal mentioned above are that the appellants Muhammad Abbas as well as Hayat Khan were appointed as Naib Qasids in Soil and Water

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Conservation Wing (Agriculture Department) in the year 1993 and 2009 respectively. No Rules were formulated for promotion of employees in Soil and Water Conservation Wing, however so many employees working in Extension as well as Engineering Wings of the same Department were promoted on the basis of rules notified on 21 November 1983, in pursuance of Rule-3(2) of APT Rules, 1989. The appellants were eligible for promotion to the post of Junior Clerks but they were not promoted, therefore, they filed separate Writ Petitions seeking their promotion to the post of Junior Clerks. In the meanwhile, rules were notified for the posts in Directorate of Soil Conservation, whereby 33% quota for promotion to the post of Junior Clerk was reserved for Naib Qasids, Chowkidars and Sweepers on the basis of seniority-cum-fitness. Upon commitment of learned AAG that the aforementioned quota will be fully observed in future, the Writ Petition No. 946-A/2017 filed by the appellant Muhammad Abbas was disposed of with the directions that the respondents shall fully observe and implement the 33% quota in letter and spirit. Similarly, Writ Petition No. 96-P/2018 filed by the appellant Hayat Khan, was disposed of with the observations that learned AAG had stated at the bar that rules were though framed, however seniority list was not prepared and that the appellant would be considered for promotion to the post of Junior Clerk, subject to availability of post. The appellants being senior most Naib Qasids were required to have been promoted to the post of Junior Clerks under the rules notified vide Notification dated 18.04.2018, however they were ignored, therefore, they filed COC in the august Peshawar High Court, Peshawar. On 20.11.2019, learned AAG stated before the worthy High Court that the appellants alongwith other candidates would be considered for promotion against the posts of Junior Clerks within a period of 04 months, therefore, COC Petition was disposed of with the directions to the respondents to live up to their commitment so made before the court and consider the appellants alongwith others for desired promotion within a period of 04 months. The order of

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Advocate Supreme Court

worthy Peshawar High Court was, however flouted by the respondents and posts of Junior Clerks were advertised despite the fact that no promotion to the post of Junior Clerk was made by the department since its establishment. The appellants filed another Writ Petition No. 3271-P/2019, which was disposed of on 19.08.2019 with the directions to the respondents to fully observe and implement the promotion policy of 33% quota reserved for Class-IV employees, in letter and spirit. The grievance of the appellants was still not redressed by the respondents rather they introduced amendments in the rules and categories of Field Watchers and Khalasis were also included in the categories of employees eligible for promotion to the post of Junior Clerks. The appellants thus filed COC Petition in the august Peshawar High Court, Peshawar, which was disposed of vide order dated 18.03.2020 with the observations that the appellants were civil servants and the controversy agitated in the Writ Petition pertained to promotion, therefore, the High Court was having no jurisdiction in the matter. It was further held that the appellants would, however be at liberty to approach the proper forum, against any action of respondents, detrimental to their rights. The appellants then filed separate departmental appeals, which were not responded within the statutory period of 90 days, therefore, the appellants preferred instant as well as connected service appeal for redressal of their grievance.

3. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellants in their appeals.

4. Learned counsel for the appellants has contended that the appellants being senior most Naib Qasids were having prescribed educational qualification and were eligible for promotion to the posts of Junior Clerks but their promotions were not made despite availability of seats; that the appellants filed various Writ Petitions and after adopting of rules notified vide Notification dated 18.04.2018, it was committed by the respondents before the august Peshawar High Court that the

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Service Tribunal
Peshawar

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promotions to the post of Junior Clerk shall be made in compliance of the said rules but later on the respondents introduced amendments in the rules by inclusion of Field Watchers and Khalasis in the category of Class-IV for promotion to the post of Junior Clerk, thereby depriving the appellants of their due rights of promotion; that the impugned amendments in the rules have been made with mala-fide intention for the purpose of defeating the order dated 08.11.2018 passed by august Peshawar High Court, Abbottabad Bench in Writ Petition No. 946-A/2017 filed by the appellant Muhammad Abbas; that the respondents were required to have circulated the impugned amendments before notifying its, however the same were kept secret with mala-fide intention; that each cadre post has its own seniority and promotion quota, therefore, including of Felid staff with office cadres is ultra vires of service law/rules; that the right of the appellants for their promotion to the post of Junior Clerk had already matured prior to the impugned amendments in the concerned rules, therefore, the same are ineffective upon the rights of the appellant and are liable to be struck down.

5. On the other hand, learned District Attorney for the respondents has contended that according to newly framed Service Rules of Directorate of Soil and Water Conservation, 33% quota for promotion of Class-IV employees to the post of Junior Clerk is observed strictly and three Class-IV employees have already been promoted vide order dated 21.10.2020; that the appellants as per their seniority position in the seniority list of Class-IV employees shall be considered for promotion on their turn; that the impugned amendments in the Service Rules were made as per policy/rules of the Provincial Government, therefore, the appellants are having no *locus standi* to challenge the same.

6. Arguments heard and record perused.

7. The appellants are serving on the posts of Naib Qasid in Soil and Water Conservation Department. The appellant Muhammad Abbas filed Writ Petition No. 946-A/2017, seeking

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Service Tribunal

promotion to the post of Junior Clerk. The aforementioned writ petition was disposed of by august Peshawar High Court, Abbottabad Bench vide order dated 08.11.2018, which is reproduced as below:-

> *"Through this petition, petitioner seeks his promotion as Junior Clerk against 33% quota reserved for Class-IV employees.*
>
> *2. Perusal of the record would reveal that vide Notification dated 18.04.2018, 33% quota for promotion to the posts of Junior Clerks has been reserved for the Naib Qasids, Chowkidars and Sweepers on the basis of seniority-cum-fitness. Learned AAG submitted at the bar that the prescribed quota will be observed in future on which learned counsel for the petitioner did not press this petition anymore.*
>
> *3. In view of the above, this petition stands disposed of with directions to the respondents to fully observe and implement the 33% quota in letter and spirit."*

8. Similarly, Writ Petition No. 96-P/2018, filed by the appellant Hayat Khan for his promotion to the post of Junior Clerk was disposed of by august Peshawar High Court, Peshawar vide order dated 18.12.2018, the relevant portion of which is reproduced as below:-

> *"When the case was taken up for hearing, learned AAG stated at the bar that rules in this regard has been framed but at the moment seniority list has not been prepared for the purpose. Further deposed that matter is in pipeline, though as and when completed petitioner will be considered for promotion to the post of Junior Clerk, subject to availability of post. Learned counsel for the petitioner when confronted with the situation, he also solicited the same.*
>
> *3. With these observations, the petition in hand is disposed of."*

9. While going through the orders so passed by august Peshawar High Court in the Writ Petitions filed by the appellants, it is crystal clear that the rules notified vide Notification dated 18th April 2018 were made applicable for

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

initial recruitment/promotion to various posts in the Directorate of Soil and Conservation Department. According to serial No. 18 column No. 05 of the said rules, 33% posts of Junior Clerk were to be filled on basis of seniority-cum-fitness from amongst the Naib Qasids, Chowkidars and Sweepers with two years service as such, who have passed Secondary School Certificate from recognized Board. Admittedly, not a single post of Junior Clerk was filled through promotion till the rules notified vide Notification dated 18.04.2018. The appellants were serving as Naib Qasids and were having the prescribed educational qualification, therefore, respondents were required to have considered them for promotion on the basis of the rules notified vide Notification dated 18th April 2018 but promotions to the posts of Junior Clerks were delayed and in the meanwhile, vide Notification dated 18.09.2019, column No. 05 of serial No. 18 of the rules notified vide Notification dated 18.04.2018 was amended and categories of Field Watchers and Khalasis were also included in the category of employees for 33% quota of promotion to the post of Junior Clerk. The amendment so introduced vide impugned Notification dated 18.09.2019 affected seniority of the appellants adversely and their prospects for promotions were also affected adversely for the reason that Field Watchers and Khalasis were also included in the category of employees to be considered for promotion to the post of Junior Clerk. It is well settled that any amendment which deprives a person of his right has to be construed prospectively. August Supreme Court of Pakistan in its judgment reported as 2012 SCMR 965 has observed as below:-

> *"8. The argument of the learned counsel for the appellant that such an approach of the Tribunal was against the spirit of the amended rule, is misconceived. The rule does not permit the department to overlook the rights of the employees created under the law by applying the amended rule to extend benefits to those who were not in run at the time when the right of the respondents for promotion was matured, but on account of unexplained reasons they were not*

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Service Tribunal
Peshawar

considered for promotion inspite of the fact that their names were mentioned in the seniority list besides the availability of the vacancies".

While seeking wisdom from the judgment of august Supreme Court of Pakistan reported as 2012 SCMR 965, we are of the view that the amendments introduced vide Notification dated 18.09.2019 could not be made applicable to the appellants, as they were entitled to be dealt with for their promotion to the posts of Junior Clerk under the rules notified vide notification dated 18.04.2018.

10. In light of the above discussion, respondents are directed to consider the appellants for their promotion to the posts of Junior Clerk on the basis of rules notified vide Notification dated 18.04.2018 as existed prior to amendments made vide Notification dated 18.09.2019. The appeal in hand as well as connected Service Appeal bearing No. 6339/2020 titled "Hayat Khan Versus Government of Khyber Pakhtunkhwa through Secretary Agriculture, Civil Secretariat, Peshawar and two others", are disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
02.02.2022

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(ROZINA REHMAN)
MEMBER (JUDICIAL)

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ENGINEER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 07-02-2022
Number of Words 2800
Copying Fee 30/-
Urgent —
Total 30/-
Name of Copyist —
Date of Completion of Copy 02-03-2022
Date of Delivery of Copy 02-03-2022

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Advocate Supreme Court

+ 12

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa Service Tribunal
Diary No. 5696
Dated 30-6-2020

Service Appeal No. 6339/2020

Hayat Khan, Naib Qasid (BPS-3)
Soil & Water Conservation,
Agricultural Department, Mardan. . . . . .**APPELLANT**

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Agriculture, Civil Secretariat, Peshawar.
2. Director General Agriculture, (Soil & Water Conservation), Office at Agriculture Training Institute (A.T.I) Near Khyber Teaching Hospital, Peshawar.
3. Director, Soil & Water Conservation, Mardan.

.....**RESPONDENTS**

Fixed to-day
Registrar
30/6/2020.

SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974.

Respectfully Sheweth:

Facts giving rise to the instant Appeal are as under:-

Re-submitted to-day
Registrar
3/7/2020

1. That the appellant was appointed as Naib Qasid (BPS-3) on 09.12.2009, in Soil & Water Conservation Department of Irrigation, at the time of appointment appellant was having the qualification of F.A. **(COPY OF THE ACADEMIC CREDENTIALS ARE ANNEXED).**

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Service Tribunal
Peshawar

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02.02.2022

Appellant alongwith his counsel present. Mr. Khalid Gohar, Deputy Director alongwith Mr. Noor Zaman Khattak, District Attorney for the respondents present. Arguments heard and record perused. Arguments heard and record perused.

Vide our detailed judgment of today, placed on file of Service Appeal bearing No. 6338/2020 titled "Muhammad Abbas Versus Government of Khyber Pakhtunkhwa through Secretary Agriculture, Civil Secretariat, Peshawar and two others", respondents are directed to consider the appellant for promotion to the post of Junior Clerk on the basis of rules notified vide Notification dated 18.04.2018 as existed prior to amendments made vide Notification dated 18.09.2019. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
02.02.2022

(Rozina Rehman)
Member (Judicial)

(Salah-ud-Din)
Member (Judicial

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 07-02-2022
Number of Words 800
Copying Fee 10/-
Urgent -
Total 10/-
Name of Copyist -
Date of Completion of Copy 02-03-2022
Date of Delivery of Copy 02-03-2022

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بخدمت جناب

ڈائریکٹر جنرل صاحب

خیبر پختونخواہ پشاور

عنوان:۔ درخواست برائے تقرری جونیئر کلرک (BPS-11)

جناب عالی!

مودبانہ گزارش کی جاتی ہے کہ فدوی سائل کنزرویشن ضلع مردان میں نائب قاصد کی پوسٹ پر ڈیوٹی سرانجام دے رہا ہے۔ بندہ نے جونیئر کلرک کی پوسٹ پر promotion کیلئے عدالت میں اپیل کیا تھا جو کہ اپیل منظور ہو چکا ہے اور فیصلہ فدوی کے حق میں ہوا ہے۔

اسلئے آپ صاحبان کی خدمت میں التماس کی جاتی ہے کہ فدوی کو نزدیک ترین ضلع میں جونیئر کلرک کی پوسٹ پر تعینات کریں۔

مہربانی ہوگی۔

حیات خان

نائب قاصد (سائل اینڈ واٹر کنزرویشن ضلع مردان)

Dated:- 3/3/2022

No.SO(Lit)/LD/8-3/Agri/2022/
Dated Peshawar the, 29/03/2022

To

1. The Advocate General,
   Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa,
   Agriculture, Livestock & Cooperative Department.

Subject: SERVICE APPEAL NO.6338/2020 MUHAMMAD ABBAS ALONGWITH CONNECTED SERVICE APPEAL NO.6339/2020 HAYAT KHAN VERSUS GOVT. OF KHYBER PAKHTUNKHWA THROUGH SECRETARY AGRICULTURE, LIVESTOCK & COOPERATIVE DEPARTMENT AND OTHERS

Dear Sir,

I am directed to refer to Government of Khyber Pakhtunkhwa Agriculture, Cooperative, Fisheries, Livestock & Dairy Development Department letter No.SO (LIT)AD/3-280/2020 dated 07-03-2022 on the subject noted above and to forward herewith minutes of the meeting held on 16-03-2022 under the Chairmanship of Secretary Law Department (which are self explanatory) for perusal and further necessary action, please.

Yours faithfully,

ASSISTANT LAW OFFICER (Lit)

Endst: No.& Date Even.

Copy is forwarded to:

1. PS to Secretary Law Department Khyber Pakhtunkhwa.
2. PA to Law Officer, Law Department.

ASSISTANT LAW OFFICER (Lit)

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Advocate Supreme Court

Most Immediate
Court Matter

GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK & COOPERATIVE
DEPARTMENT
Phone-0919212464, Fax-091-9210033

NO. SO (Lit) AD/3-280/2020
Dated Peshawar the April 04, 2022

To

The Director General
Soil & Water Conservation
Khyber Pakhtunkhwa, Peshawar.

Subject:- SERVICE APPEAL NO. 6338 & 6339/2020 - TITLED – MUHAMMAD ABBAS & OTHERS VS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY AGRICULTURE.

I am directed to refer to the subject noted above and to forward herewith a copy of letter No.SO(Lit)LD/8-3/Agri/2022/7128-31/WE dated 29.03.2022 received from Assistant Law Officer (Lit), Government of Khyber Pakhtunkhwa Law Parliamentary Affairs and Human Rights Department, along-with minutes of the Scrutiny Committee meeting held on 16.03.2022 under the Chairmanship of Secretary Law, Parliamentary Affairs and Human Rights Khyber Pakhtunkhwa, which is self explanatory, for information and further necessary action as per decision of the Scrutiny Committee meeting dated 17.08.2021 under intimation to this department.

Encl as above:-

Section Officer (Litigation)

Endst. No. & Date Even.

Copy forwarded to:

1. PS to Secretary Agriculture, Khyber Pakhtunkhwa, Peshawar.
2. Master File.

Section Officer (Litigation)

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Advocate Supreme Court

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MINUTES OF THE SCRUTINY COMMITTEE MEETING.

(AGENDA ITEM NO. 29)

SUBJECT: SERVICE APPEAL NO. 6338/2020 MUHAMMAD ABBAS ALONG CONNECTED SERVICE APPEAL NO. 6339/2020 HAYAT KHAN VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY AGRICULTURE, LIVESTOCK & COOPERATIVE DEPARTMENT AND OTHERS.

A meeting of the Scrutiny Committee was held on 16.03.2022 at 11:00 A.M. in the office of Secretary, Law Parliamentary Affairs & Human Rights Department under his Chairmanship to determine the fitness of the subject case for filing of Appeals/CPLAs in the Supreme Court of Pakistan. Advocate-on-Record (Mr. Farid Ullah Kundi) represented the Advocate General, Khyber Pakhtunkhwa.

2. The representatives of Agriculture Department Mr. Qasim Khan, SO (Lit) alongwith Mr. Khalid Gohar Khan, DD, Soil Conservation apprised the Committee about the background of the case and stated that the Appellants filed the subject Service Appeals seeking their promotion to the post of Junior Clerks. The Khyber Pakhtunkhwa Service Tribunal vide order dated: 02.02.2022 disposed of the subject Service Appeal alongwith connected Service Appeal and directed the respondents to consider the Appellants for their promotion to the posts of Junior Clerk on the basis of rules notified vide notification dated: 18.04.2018 as existed prior to amendments made vide notification dated: 18.09.2019. The Scrutiny Committee returned the subject cases to the Administrative Department on the following grounds:

GROUNDS/DISCUSSIONS:

i. The Scrutiny Committee perused the record of the cases and the impugned Judgment which revealed that the Khyber Pakhtunkhwa Service Tribunal had not decided the subject Service Appeals in favour of the Appellants rather had directed the respondents to consider the Appellants for their promotion to the posts of Junior Clerks on the basis of rules notified vide notification dated: 18.04.2018 as existed prior to amendments made vide notification dated: 18.09.2019. The Scrutiny Committee held that the impugned order was not adverse to the interest of the Administrative Department.

ii. The Scrutiny Committee held that instead of filing Appeals/CPLAs in the subject cases before the Supreme Court of Pakistan, it would be advisable that the Administrative Department may consider the cases of the Appellants for promotion in light of the Judgment of the Khyber Pakhtunkhwa Service Tribunal.

ADVICE:

3. Hence in view of above, it was decided with consensus by the Scrutiny Committee that the subject cases may be returned to the Administrative Department with the advise to consider the promotion cases of the Appellants in light of the Judgment of the Khyber Pakhtunkhwa Service Tribunal.

(TAHIR IQBAL KHATTAK)
SOLICITOR

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SHAH FAISAL ILYAS
Advocate Supreme Court

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OFFICE OF THE DIRECTOR, SOIL & WATER CONSERVATION MARDAN
Conserving Soil & Water Resources of Mardan
District Secretariat Floor No.2 Room No.6 & 7, Mardan
Phone & Fax #: 0937-9230705 Email: Soilconservationmardan@gmail.com

NO 75 /DSWC/DATED AT MARDAN, THE 03/03/2022.
TO:

The Director General,
Soil & Water Conservation,
Khyber Pakhtunkhwa, Peshawar.

SUBJECT: **DECISSION OF SERVICE TRIBUNAL KPK PESHAWAR REGARDING MR. HAYAT KHAN.**

MEMORANDUM: -

Enclosed please find herewith an application in original along with the court decision of Mr. Hayat Khan N/Qasid of this Office for information & further necessary action Please.

DIRECTOR,
SOIL & WATER CONSERVATION,
MARDAN

Certified to be true Copy
SHAH FAISAL ILYAS
Advocate Supreme Court

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POWER OF ATTORNEY

BEFORE KHYBER PAKHTUNKHWA (K.P.K) SERVICE TRIBUNAL PESHAWAR

_____No._____/2022

Hayat Khan

VERSUS

D.G. Soil & water and others

We, (the accused / petitioners), do hereby appoint **Mr. Shah Faisal Ilyas Advocate, Supreme Court of Pakistan**, In the above mentioned case to do or any of the following acts deeds and things.

1. To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.
2. To sign, verify and present pleadings, appeals, cross objections, petitions for execution, review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in al its stages.
3. To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
4. 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 case.
5. To engage any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred in the Advocate whenever he may think fit it do so.

And we hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

And we hereby agree not to hold the Advocate or its substitute responsible for the result of the said case in consequence of his absence from the court when the said case is called up for hearing.

And we hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid. We shall be entitled to withdraw from the prosecution of the said case until the same is paid.

In witness whereof we hereunto set our hand to these presents the contents of which have been explained to and understood by me, this ____ day of _____, 202__.

Attested and
ACCEPTED BY:

Signature/ thumb impression of the Accused

حیات خان نائب حاضر

Shah Faisal Ilyas
Advocate,
Supreme Court of Pakistan
Bc-09-1400
Cell: 0300-5850207
CNIC: 17201-8581525-7