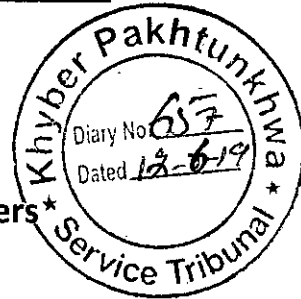


BEFORE THE CHAIRMAN SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 1316/2018



IZHAR AHMED

Versus

Secretary to Law and others*

APPLICATION FOR EARLY HEARING

Put up to the court with relevant appeal.
Respectfully Sheweth
12/6/19.

Respectfully Sheweth

Respectfully
The applicant humbly and respectfully submits as under:-

1. That the above mentioned Service appeal is pending adjudication before this Honorable Service tribunal, wherein, the next date of hearing is fixed on dated 01/08/2019.
2. That the promotion of the applicant is due and the date fixed by the Tribunal in the case is long one due to which the applicant may suffer if remained from promotion.

It is, therefore, most humbly prayed that an early date for hearing in the aforementioned appeal may kindly be fixed and oblige.

Dated 12-06-2019

Applicant

IA

IZHAR AHMED

Junior clerk

Office of the Additional Advocate General
Khyber Pakhtunkhwa, Service Tribunal, Peshawar

Be accelerated to 04/07/2019.
Notice to all concerned.
13/6/19

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1316/2018

Date of Institution ... 05.10.2018

Date of Decision ... 20.09.2019

Izhar Ahmad, Junior clerk, S/O Javed Ahmad, presently posted as Junior/Clerk in Additional Advocate General Office, Khyber Pakhtunkhwa Service Tribunal, Peshawar. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and four others. ... (Respondents)

MALIK HAROON IQBAL,
Advocate

--- For appellant.

MR. M. RIAZ KHAN PAINDAKHEL,
Assistant Advocate General

--- For respondents no. 1 to 3.

MR. M. MAAZ MADNI
Advocate

--- For respondent no.4

AMIR KHAN CHAMKANI,
Barrister

--- For respondent no.5

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL

--- MEMBER(Executive)

--- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS:

02. Learned counsel for the appellant argued that he joined the office of respondent no.3 as Junior Clerk on 11.04.2011 and performed duty devotedly. That through letter dated 26.07.2014 option/willingness was sought from the appellant and others for promotion against the post of Senior Clerk. The appellant conveyed

his willingness vide application dated 05.08.2014. In the meanwhile disciplinary proceedings were initiated against him and finally major penalty of removed from service was awarded vide order dated 01.06.2015. Subsequently, upon acceptance of his departmental appeal, the major penalty of removal from service was modified/reduce into stoppage of three annual increments for three years vide order dated 15.09.2015. He submitted arrival report on 19.09.2015. Feeling aggrieved, he filed service appeal no. 1311/15 in this Tribunal which was accepted vide judgment dated 10.04.2017. The penalty was further reduced to stoppage of one increment for one year.

03. That vide order dated 13.07.2015 and 5.05.2017 private respondent no.4 and 5 were promoted as Senior Clerk despite being junior to the appellant in the seniority list of junior clerks, issued by the respondents from time to time. As impugned promotion order was passed without observance all codal formalities thus the same was illegal and unlawful.

04. Learned Assistant Advocate General argued that on the charges of misconduct, the appellant removed from service vide order dated 01.06.2015 but on acceptance of departmental appeal, the penalty was converted into stoppage of three annual increments for three years vide order dated 15.09.2015. He submitted arrival report on 19.09.2015. He also invoked the jurisdiction of this Tribunal by way of filing service appeal, whereby the penalty was further reduced to stoppage of one increment for one year. Moreover, seniority alone was not the sole criteria for promotion, fitness of the civil servant was also required to be taken into

consideration. He filed departmental appeal on 05.07.2018, which was badly time barred. Promotions were strictly made in accordance with law and rules.

05. Learned counsels for private respondent no. 4 and 5 relied on the arguments advanced by the learned Assistant Advocate General.

CONCLUSION

06. The appellant was serving as Junior Clerk in the office of respondent no.3 since 11.04.2011. Some posts of Senior Clerks were lying vacant and willingness/option was sought from the eligible employees including the appellant. He tendered option for promotion to the post of Senior Clerk. Thereafter, on the allegations of misconduct departmental enquiry was conducted and major penalty of removal from service was imposed on him vide order dated 01.06.2015. On preferring departmental appeal, the penalty was reduced/ modified into stoppage of three annual increments for three years vide order dated 15.09.2015. He submitted arrival report on 19.09.2015. He also invoked the jurisdiction of this Tribunal by filing service appeal no. 1311/15, which was accepted vide judgment dated 10.04.2017, whereby penalty of three increments was further reduced to stoppage of one annual increment for one year.

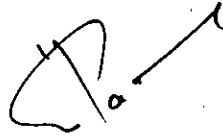
07. While the appellant was out of service promotion of private respondent no.4 as Senior Clerk was notified vide order dated 13.07.2015, whereas promotion of private respondent no.5 was made on 05.05.2017. During that period the appellant was in service. The appellant submitted departmental appeal on 05.07.2018. Learned Asst: AG was asked to produce copy of working paper and minutes of the

DPC meeting in which cases of the aforementioned private respondents were cleared for promotion against the post of Senior Clerk. However, he expressed his inability to arrange the said document. On the other hand, learned counsel for the appellant alleged that promotions were made without holding meeting of the DPC and just to extend undue favor to blue eyed employees working in the office of respondent no.3. Again Asst: AG was unable to rebut the plea of learned counsel for the appellant. Perusal of parawise comments submitted by the respondents were also silent, whether the said promotion cases were placed before the DPC or otherwise. Had it been cleared by the above forum, the respondents could easily use it in their defense. Attention is drawn to Section-5 of Khyber Pakhtunkhwa Civil Servants Act, 1973 and is reproduced below for ready reference:

“Appointment.--- Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorized by the Governor in that behalf.”

08. It transpired that promotions referred to above were not made in accordance with the procedure laid down Rule-7 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989. Therefore, question of limitation hardly carries any weight. It cannot be used as a shield to cover misdeeds of the respondents. Orders of promotion referred to above issued in violation of rules/laid down criteria were patently illegal and unlawful. In order to ensure substantial justice there is ample justification that the respondents should reconsider the promotions against the posts of Senior Clerk of all the candidates including the appellant by placing it before the DPC for decision.

09. As a sequel to the above, the appeal is remitted to the respondents to again place the case of promotion of Junior Clerks against the post of Senior Clerks before the DPC including the private respondents and the appellant for consideration. Parties are left to bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)
MEMBER



(AHMAD HASSAN)
MEMBER

ANNOUNCED
20.09.2019

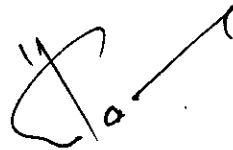
Order

20.09.2019

Appellant with counsel present. Asst: AG for official respondents and private respondents no. 4 and 5 alongwith their counsels present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed on file, the appeal is remitted to the respondents to again place the case of promotion of Junior Clerks against the post of Senior Clerks before the DPC including the private respondents and the appellant for consideration. Parties are left to bear their own cost. File be consigned to the record room.

Announced:
20.09.2019




(Muhammad Hamid Mughal)
Member



(Ahmad Hassan)
Member

19.08.2019 Appellant with counsel present. Mr. Zia Ullah learned Deputy District Attorney for the official respondents present. Private respondent No. 4 & 5 present. Learned Deputy District Attorney seeks adjournment. Adjourned. To come up for arguments on 20.09.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

Order

~~19.09.2019~~

~~Counsel for the appellant present. Mr. Ziaullah, DDA for
respondent present. Arguments heard and record perused.~~

~~This appeal is also dismissed as per detailed judgment
and placed on file to serve appeal No. 267/2019 filed by
Wazir Government of Khyber Pakhtunkhwa through the
Secretary, Khyber Pakhtunkhwa Peshawar and other. Parties
are to bear the cost. The case is sent to the record room.~~

~~Signature~~

~~Signature~~

~~Signature~~
Member

1316/2018

11.06.2019

Appellant in person, Mr. Muhammad Jan, DDA alongwith Muhammad Arshad, A.O for the official respondents and private respondents No. 4 and 5 in person present.


Appellant as well as private respondents request for adjournment due to non-availability of their respective learned counsel. Adjourned to 01.08.2019 for arguments before the D.B.



Member


Chairman

04.07.2019

Appellant alongwith counsel present. Mr. Riaz Ahmed Paindakhel learned Assistant Advocate General for the respondents present. Private respondent No. 4 & 5 present and seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 19.08.2019 before D.B


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

M

H

M


M

12.04.2019

Appellant with counsel, Addl. AG for respondents No. 1 to 3 and private respondents No. 4 & 5 in person present.

Comments on behalf of respondents No. 2 & 3 have been submitted which are placed on record. Respondents No. 4 & 5, on the other hand, request for adjournment in order to prepare the reply and submit the same on next date of hearing.


Adjourned to 30.04.2019 before S.B.


Chairman

30.04.2019

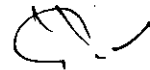
Appellant in person, Mr. Usman Ghani, District Attorney on behalf of official respondents and private respondents No. 4 & 5 in person present. Private respondent No. 4 has submitted Wakalatnama in favour of Barrister Amir Khan Chamkani, Advocate while private respondent No. 5 has submitted Wakalatnama in favour of Mr. Muhammad Maaz Madni, Advocate, which are placed on record.

Private respondents No. 4 & 5 have submitted their separate replies which are placed on record. To come up for arguments on 11.06.2019 before the D.B. The appellant may submit rejoinder within a fortnight, if so advised.


Chairman

24.01.2019

Appellant in person present. Written reply not submitted. Manzoor Stenographer representative of respondent No.3 present and seeks time to furnish written reply. No one present on behalf of remaining respondents. Notice be issued to the remaining respondents for written reply/comments for 19.02.2019 before S.B



Member

19.02.2019

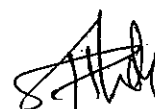
Appellant with counsel present. Written reply not submitted. No one present on behalf of respondent department. Notice be issued to the respondent department with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 19.03.2019 before S.B.



Member

19.03.2019

Appellant in person present. Mr. Kabirullah Khattak learned Addl; AG for the respondents present. Written reply not submitted. Representative of the respondents department absent. He be summoned with the direction to furnish written reply/comments. Last opportunity is granted. Adjourn. To come up for written reply/comments on 12.04.2019 before S.B



Member

22.11.2018

Appellant alongwith his counsel present.

Contends that the appellant was senior most amongst the Junior Clerks in the seniority list for the year 2014. At the relevant time a post of Senior Clerk was lying vacant in Advocate General Office at Peshawar, however, the appellant was ignored to be promoted to the said post. It was further contended that two Junior Clerks who were junior to appellant were promoted as Senior Clerk BPS-14, therefore, the discrimination extended to the appellant was without lawful authority and in contravention of the rules.

Points agitated at the bar warrant admission of instant appeal for regular hearing. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents. To come up for written reply/comments on 18.12.2018 before S.B.


Appellant Deposited
Security & Process Fee



Chairman

18.12.2018

Appellant in person present. Written reply not submitted. No one present on behalf of respondent department. Notice be issued to the respondent department for 24.01.2019 with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on the date fixed 24.01.2019 before S.B

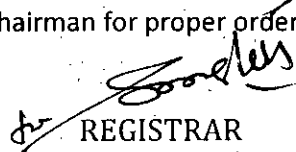



Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1316/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/10/2018.	<p>The appeal of Mr. Izhaz Ahmad resubmitted today by Mr. Malik Haroon Iqbal Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	17-11-2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>22-11-18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

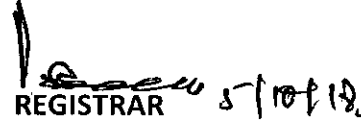
The appeal of Mr. Izhar Ahmad Junior Clerk Additional Advocate General office Service Tribunal received today i.e. on 05.10.2018 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Annexure-D of the appeal is incomplete.
- 2- Copies of reinstatement order and judgment of this Tribunal mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal may be flagged.

No. 2012/S.T,

Dt. 5-10/2018.

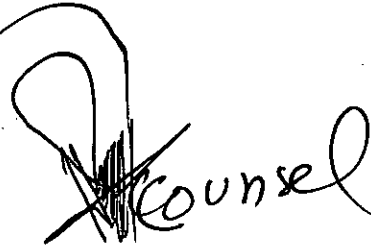

Malik Haroon Iqbal Adv. Pesh.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

17/4/18

Sir

re-filed after removal of
objections.


Counsel

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

Service Appeal No. 1316 /2018

Izhar Ahmad.....Appellant

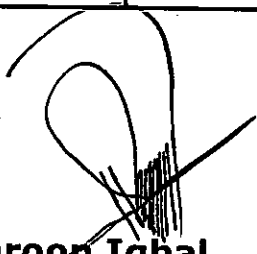
Versus

Govt. of KPK and othersRespondents

INDEX

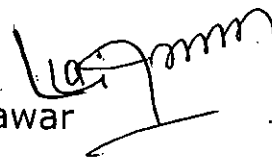
S.No.	Description of documents.	Annexure	Pages.
1.	Grounds of appeal and affidavit		1-5
2.	Addresses of parties		6
3.	Copy of offer letter dated 26.07.2014	A	7
4.	Copy of reply dated 05.08.2014 by appellant	B	8
5.	Copy of departmental order dated 15.09.2015	B/1	9
6.	Copy of learned Tribunal Order dated 10.04.2017	B/2	10-13
7.	Copy of impugned order dated 17.07.2018	C	14
8.	Copy of seniority list of employees	D	15-18
9.	Copy of departmental representation dated 05.07.2018	E	19-20
10.	Wakalatnama		21

Appellant
Through


Malik Haroon Iqbal
Advocate
Supreme Court of Pakistan
Cell No.0300-5941733

&

Laila Farman
Advocate, Peshawar



Dated: 05.10.2018

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 1316 /2018.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1459

Dated 05/10/2018

Izhar Ahmad, Junior Clerk
S/o Javed Ahmad, presently posted as J/Clerck
in Additional Advocate General office,
KPK Service Tribunal, Peshawar..... **APPELLANT.**

VERSUS

1. **Govt: of Khyber Pakhtunkhwa**
through Chief Secretary,
Civil Secretariat, Peshawar.
2. **Secretary to Govt of Khyber Pakhtunkhwa,**
Law, Parliamentary Affairs & Human Rights Department
Civil Secretariat, Peshawar.
3. **The Advocate General,** Khyber Pakhtunkhwa,
Office at Peshawar High Court, Peshawar
4. **Muhammad Tofail,** Senior Clerk
posted in the office of Advocate General, KPK,
situated in Peshawar High Court, Peshawar.
5. **Abdul Bais ,** Senior Clerk
posted in the office of Advocate General, KPK,
situated in Peshawar High Court, Peshawar **RESPONDENTS.**

Filed to-day

Registrar

5/10/18

Re-submitted to-day
and filed.
Registrar
5/10/18

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974,
AGAINST THE IMPUGNED ORDER DATED 13/07/2015
WHERE BY THE APPELLANT WAS DECLINED
PROMOTION TO THE POST OF SENIOR CLERCK
AND COMING TO KNOWLEDGE ON 09TH JUNE 2018
APPEAL/DEPARTMENTAL PRESENTATION WAS FILED ON
05/7/2018 TO RESPONDENT NO. 2, 3 WHICH IS NEVER
RESPONDED.

Prayer in Appeal

On acceptance of this appeal, the respondent No 2 & 3 be directed to promote the appellant With back benefits.

Respectfully Sheweth.

1. That the Appellant is a Civil servant and presently posted as Junior Clerk in Additional Advocate General office attached to KPK Service Tribunal, Peshawar.
2. That the Appellant joined the Services on 11/04/2011, and has rendered unblemished services with full devotion and dedication and in accordance to the satisfaction of high ups.
3. That appellant is the senior most junior clerk amongst all working and functioning in Advocate General Office at KPK under control of respondent No 3, hence vide office 1248-50/ AG dated 26/7/2014, a letter was issued to appellant as well as to respondent No 4 and another colleague of the office, wherein the offer was made by Respondent No 3 to all 3 junior clerks for promotion against the vacant post in the Advocate General office at Bannu (South district), it is pertinent to note that appellant is senior most amongst three. (Copy of letter is attached as "A")
4. That letter / offer dated 26/7/2014 was responded by appellant in positive, whereby willingness was shown for promotion and posting. (Copy of reply is attached as "B")
5. That some of the office colleagues of appellant hatched a conspiracy against the appellant whereby on a very petty matter with an employee of AG office, the services of appellant was terminated by respondent No 3 vide order No. 12357-64/AG dated 01/6/2015, against which departmental appeal was filed to respondent No 2, then termination order was converted by respondent No 2 to stoppage of 3 increments for three years, and on appeal before this Hon'able Tribunal, the order of respondent No 3 was further modified to stoppage of 01 year increment.

6. That after removal of appellant on 1/06/2015 with malafide after removing of appellant from the scene, respondent No 4 was given promotion through the impugned order 13/7/2015 by illegal means and practice. (Copy of Impugned order is attached "C").
7. That it can be inferred from above facts and circumstances that just after removal of appellant on 01/06/2015, promotion was given to respondent No 4, the blue eyed, against the post available in the AG office at Peshawar although option was given for post at AG office Bannu by respondent No 4 as well as by appellant. It is further added that no post at AG office Peshawar can be created within short period of 1 ½ month and actually the removal from service plan was hatched just to extend illegal benefits of promotion and posting in Main office of A G to respondent No 4.
8. That seniority list of senior clerks for 2015 and 2017, and further seniority list of 2017 showing appellant as top of seniority list and even a post is vacant but promotion of appellant declined. (Attested copy of seniority lists are attached as "D")
9. That since appellant was pursuing his case of removal from service, and on re-instatement, stoppage of increments case before this Hon'able Tribunal, and appeal before August Supreme Court of Pakistan which is still pending, and due to posting outside the main office of Advocate General, the appellant got knowledge on 09/6/2018, regarding the impugned order of promotion of junior employees like respondent No 4 & 5, then he obtained the copy of impugned order on 11/6/2018, and filed departmental presentation on 05/07/2018. (Copy of departmental presentation dated 05/7/2018 is attached "E")
16. That the departmental presentation is not responded and replied by respondents 2, 3, hence the appellant is restrained to approached this Hon'able Tribunal on the following grounds inter alia:-

GROUND.

- a. That impugned dated 13/7/2016 by virtue of which the respondent No 4 are promoted is Coram-non Judice, without jurisdiction, lawful authority against the natural justice, hence the said order/notification is liable to set aside.

against the natural justice, hence the said order/notification is liable to set aside.

- b. That promotion of respondent No 5 is also illegal, unjust and in violation of list and rules.
- c. That the promotion of respondent No 4 is made in disregard of law and rules applicable to the case.
- d. That the Appellant rendered unblemished service of but he has been refused and declined promotion unjustly and wrongly.
- e. That appellant being civil servant has a right to enjoy all perks and privileges available to him but in clandestine manner he is declined the right of promotion, and junior to him are given promotion.
- f. That refusal of promotion is against the principles of natural justice, equity and fair play.
- g. That any other ground would be adduced by Appellant during arguments on the instant appeal with the permission of this Hon' able Tribunal.

It is, therefore, most humbly prayed, that on acceptance of this appeal, the respondent be directed to give promotion to appellant with all back benefits.

It is further prayed, that any other relief not specifically ask for may also be granted.

Appellant

FLH

THOUGH

**MALIK HAROON IQBAL
 ADVOCATE,
 SUPREME COURT OF PAKISTAN
 Cell #03005941733
 &
 LAILA FARMAN ADVOCATE**

Dated. 05/10/2018

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No...../2018.

Izhar Ahmad.....Vs.....Govt of KPK

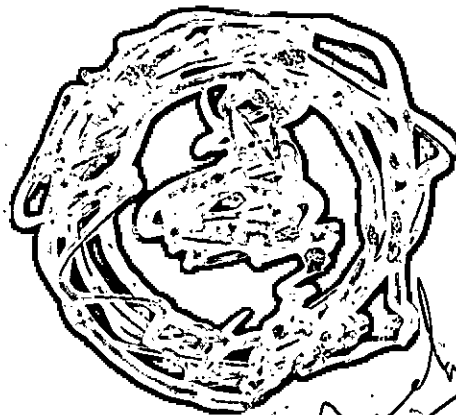
Affidavit

I, Izhar Ahmad J/ Clerk, Advocate General office, Peshawar do hereby solemnly affirm and declare on oath that contents of accompanying appeal are true and correct to the best of my knowledge and belief. And nothing kept secret from this Hon'able Tribunal.

IA

Deponent

Identified by



Attested by
Commissioner
Peshawar High Court
5/10-18

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No...../2018.

Izhar Ahmad.....Vs.....Govt of KPK

Memu of addresses

Appellant

Izhar Ahmad, Junior Clerk
S/o Javed Ahmad, presently posted as J/Clerck
in Additional Advocate General office,
KPK Service Tribunal, Peshawar.

Respondents

- 1. Govt: of Khyber Pakhtunkhwa**
through Chief Secretary,
Civil Secretariat, Peshawar.
- 2. Secretary to Govt of Khyber Pakhtunkhwa,**
Law, Parliamentary Affairs & Human Rights Department
Civil Secretariat, Peshawar.
- 3. The Advocate General, Khyber Pakhtunkhwa,**
Office at Peshawar High Court, Peshawar
- 4. Muhammad Tofail, Senior Clerk**
posted in the office of Advocate General, KPK,
situated in Peshawar High Court, Peshawar.
- 5. Abdul Bais, Senior Clerk**
posted in the office of Advocate General, KPK,
situated in Peshawar High Court, Peshawar.

Appellant

THOUGH

MALIK HAROON IQBAL
ADVOCATE,
SUPREME COURT OF PAKISTAN
Cell #03005941733
&
LAILA FARMAN ADVOCATE

Dated. 05/10/2018

Laila Farman

From: The Advocate General,
Khyber Pakhtunkhwa, Peshawar.


To: 1). Mr. Izhar Ahmad, Junior Clerk of this office.
2). Mr. Muhammad Tufail, Junior Clerk of this office.
3). Mr. Muhammad Hamid, Junior Clerk of this office.

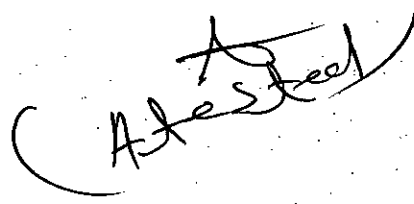
Subject: - OPTION/WILLINGNESS.

Memo:

Reference the subject noted above.

A post of Senior Clerk (BPS-14) is lying vacant in the office of the Additional Advocate General, Khyber Pakhtunkhwa, Bannu. You are, therefore, directed to give option/willingness, in writing, as to whether you are willing to be promoted and work as Senior Clerk (B-14) in the Additional Advocate General office, Bannu. The option must reach this office within three (03) days positively after receiving this letter.


ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR



To,

The Advocate General
K. P. K. Peshawar. (8)

Dy No. 5954
5-8-14

Subject:- Options/Willingness Annex B

R/Sir,

Reference letter No. 12,648-50/A.G. dated 26-7-2014
on the subject noted above.

With due respect, it is stated that I am
willing to be promoted as Senior Clerk in the office of
Addl. A. G. Banner subject to detailment in the main
office at Peshawar. As I have domestic problems
and unable to work out of stations and oblige.

Thanks.

Yours obediently

9/5/8/14

→

FF
(Izhar Ahmed)
S/ Clerk

(A. I. Akhtar)



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT.

9
Annex B
1

ORDER:

Peshawar dated the 15.09.2015

No: E & A/LD/2-12/2014: WHEREAS, Mr Izhar Ahmad, Junior Clerk office of Advocate General Khyber Pakhtunkhwa was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011 and was awarded major penalty of removal from service on 01-6-2015. Against the penalty, the accused official preferred a departmental Appeal to the appellate authority. The appellate authority gave opportunity of personal hearing to the accused official on 17-8-2015.

NOW THEREFORE; the appellate authority, after having considered the charges, evidence on record, hearing the accused official, in exercise of powers conferred under Rule 17 (2) (c) of Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011, modify the major penalty of removal from service into minor penalty of three (03) increments for three (03) years on the accused official.

Secretary to Govt: of Khyber Pakhtunkhwa
Law, Parliamentary Affairs & Human Rights
Department

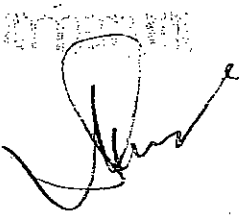
Endst. No. & Date Even. / 21752-55

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Advocate General Khyber Pakhtunkhwa, Peshawar for information & necessary action.
3. PS to Secretary Law.
4. Official concerned.


(AKBAR KHAN)

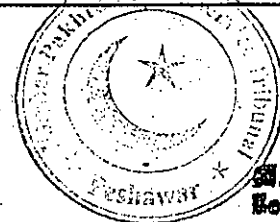
Section Officer (General)



B (10)
Annex B/2

BEFORE THE HONOURABLE
SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Appeal No 1311/2015



Izhar Ahmad S/o Javed Ahmad (Junior Clerk) BPS-09
Advocate General Office, Peshawar

K.W.F. PROVINCE
Service Tribunal
Diary No. 137
Dated 25-11-

(Appellant)

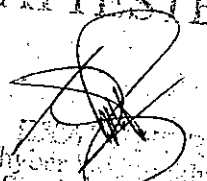
V E R S U S

- 1) Secretary to Govt. Law, Preliminary Affairs and Human Rights Department, Peshawar
 - 2) Advocate General, Khyber Pakhtunkhwa, Peshawar
- (Respondents)

Appeal Under Section 4 of Khyber Pakhtunkhwa Service Tribunal, 1974 against the order No. 21752-55 dated 15.09.2015 passed by the Secretary to Govt. Law Department / Respondent No. 1 whereby upon the departmental appeal of the appellant the major penalty of removal from the service has been modified with the wordings "Now therefore the appellate authority, after having considered the charges, evidence on record, hearing the accused official, in exercise of powers conferred under rule 17(2)(C) of Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011, modify the

~~Filed in the~~
Signature
25/11/15

ATTESTED

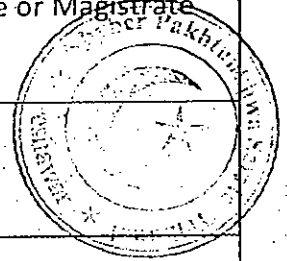

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

7 (11)

Sr. No. 1
Date of order/proceedings 2

Order or other proceedings with signature of Judge or Magistrate

3



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1311/2015

Izhar Ahmad Versus Secretary to Govt. Law, Preliminary Affairs and Human Right Department, Peshawar and one other.

JUDGMENT

AHMAD HASSAN, MEMBER:- Appellant with counsel and

Mr. Kabirullah Khattak, Assistant Advocate General alongwith Mr. Muhammad Arshad, Admin Officer for respondents present.

10.04.2017

2. Mr. Izhar Ahmad, hereinafter referred to as the appellant has preferred the instant service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 15.09.2015 vide which departmental appeal of the appellant has been partially accepted and the major penalty of removal from service modified into minor penalty of stoppage of three increments for three years, hence, the instant service appeal on 25.11.2015.

3. Brief facts of the case giving rise to the instant appeal are that the appellant was initially appointed as Junior Clerk (BPS-09) on 11.04.2011. That on 17.12.2014, while the appellant was busy in assigned duty, Mr. Khurshid Khan Kundi, Superintendent came to appellant office and snatched the daily cases list from him, which resulted in exchange of hot words between them but very soon the appellant apologized for his behavior. That subsequently disciplinary proceedings were initiated

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

were initiated against the appellant, which culminated in imposition of major penalty of removal from service vide order dated 01.06.2015, where-against the appellant preferred departmental appeal which was partially allowed and major penalty of removal from service was converted into minor penalty of stoppage of three increments for three years vide order dated 15.09.2015, hence the instant service appeal on 25.11.2015.

4. Learned counsel for the appellant argued that modified penalty of stoppage of three annual increments for three years was against the law and rules. He further contended that behavior of the appellant did not fall in the ambit of misconduct. The appellant had spotless service record and penalty imposed was quite harsh. It will have adverse effects on his career. He prayed that on acceptance of this appeal the penalty mentioned above may be set aside. Reliance was laid on 2002 PLC(C.S) 1190, Punjab Service Tribunal, 2004, PLC (C.S) 409, Federal Service Tribunal and 2007 PLC 13, Karachi High Court.

5. Learned Assistant Advocate General while opposing the appeal stated that, appellant had accepted his guilt at the time of recording statement before the inquiry officer and even apologized for his rude behavior, which amounted to misconduct and unbecoming of an employee and a gentleman. Even the appellant refused in writing to avail the opportunity of cross examining Mr. Khurshid Khan Kundi, superintendent. Taking lenient view minimum punishment was awarded to the appellant, and it was in accordance with the law and rules. Appeal being devoid of any merits be dismissed with cost.

6. Arguments heard and record perused.

ATTESTED

Z. A. KHAN
Member
Peshawar
Peshawar

7. Having gone through the record it transpired that, conduct exhibited by the appellant was unbecoming of an employee and a gentleman and also falls in the ambit of willful insubordination and breach of service discipline. It also amounts to misconduct, as explained/highlighted in sub Rule (1)(i) and (iii) of Rule-2 of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules 2011. Admission of guilt in his written statement and tendering apology was quite sufficient to substantiate that charges stood proved against the appellant. He willingly refused to avail the opportunity of cross examining Mr. Khurshid Khan Kundi, Superintendent. However, behavior shown by the Superintendent was also provocative, all happened at the spur of the moment. The Inquiry Officer in his report mentioned that due to hurry the Superintendent pulled the list from the appellant, as such he cannot be absolved of his behavior and shifting entire responsibility on the appellant. Had Superintendent shown some restraint this incident would have been avoided? Appellant being a new entrant in service and taking lenient view of the situation, we partially accept the appeal and order dated 15.09.2015 is modified from stoppage of three annual increments for three years to that of stoppage of one annual increment for one year alongwith consequential back benefits, if any for which the appellant is otherwise entitled under the rules. Appeal is disposed of in the above terms. Parties are however, left to bear their own cost. File be consigned to the record room.

Announced *By Ahmad Hassan,*
10.04.2017 *Member*

By M. Amin Khan Kundi,
Member

Certified to be true copy
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

OFFICE ORDER

14

Anx C

The following promotion/postings/ transfers are hereby ordered with immediate effects.

S. No	NAME	PRESENT POSTING	PROMOTED AS	REMARKS
1	Mr. Muhammad Tufail	Junior Clerk (BPS-11) in Main Office Peshawar	Senior Clerk (BPS-14)	Promoted as Senior Clerk (BPS-14) against newly created vacancy in main office Peshawar.
2	Mr. Imtiaz Ali	Nain Qasid (BPS-01) in Additional Advocate General Office Service Tribunal, Peshawar	Junior Clerk (BPS-11)	Promoted as junior Clerk (BPS-11) against vice No. 01
3	Mr. Muhammad Riaz	Nain Qasid (BPS-01) in Mian Office Peshawar	Junior Clerk (BPS-11)	Promoted as junior Clerk (BPS-11) against newly created post in main office
4	Mr. Amir Afridi	Mali – cum – Chowkidar (BPS-01) in Additional Advocate General Office Bannu.	Naib Qasid (BPS-01)	Posted/ Transferred as Naib Qasid (BPS-01) in Main Office, Peshawar.

ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR.

No. 14725-30/AAG

Dated Peshawar the 13/07/2015

A copy is forwarded for information and necessary action to the:-

1. Additional Advocate General, Bannu.
2. Additional Advocate General, Service Tribunal, Peshawar.
3. Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. District Comptroller of Accounts, Bannu.
5. Official Concerned.
6. Relevant file.

ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR.

(A tested)

15

Annex

2 4
D

No. 2801-06/AG

Dated Peshawar the 10/2/2014

From: The Advocate-General,
Khyber Pakhtunkhwa, Peshawar.

To

1. The Additional Advocate General,
Khyber Pakhtunkhwa, D I. Khan.
2. The Additional Advocate General,
Khyber Pakhtunkhwa, Abbottabad.
3. The Additional Advocate General,
Khyber Pakhtunkhwa, Dar-ul-Qaza, Swat.
4. The Additional Advocate General,
Khyber Pakhtunkhwa, Bannu.
5. The Additional Advocate General,
Khyber Pakhtunkhwa, Services Tribunal, Peshawar.
6. The Additional Advocate General for Khyber Pakhtunkhwa,
Supreme Court of Pakistan, Islamabad.

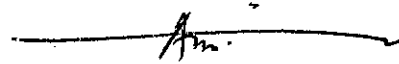
Subject:- PROPOSED SENIORITY LIST FOR THE YEAR 2013.

Dear Sir,

I am directed to refer to the subject noted above and to forward herewith proposed Seniority List of the Establishment of this office & sub-offices with the request to circulate the same among your subordinate staff for raising objections, if any, on the position of their seniority within ten (10) days.

After expiry of the target date, the same proposed Seniority List would be treated as **Final and Undisputed.**

Yours faithfully,


SUPERINTENDENT (E/G)
ADVOCATE GENERAL'S
OFFICE-KHYBER PAKHTUNKHWA,
PESHAWAR.

No. _____/AG,

Dated Peshawar the _____/2014

Copy to the Dispatcher of this office to circulate it among the staff of this office for similar necessary action.

SUPERINTENDENT (E/G)
ADVOCATE GENERAL'S
OFFICE KHYBER PAKHTUNKHWA,
PESHAWAR.

ANX D

(10)

(16)

2013

Junior Clerk (BPS-07)

Hafeez ur Rehman	Junior Clerk	FA	02.02.1986	Peshawar	15.03.2010	15.03.2010	7	By Selection	Junior Clerk	15.03.2010	Peshawar
Muhammad Zakirullah	Junior Clerk	BA	15.09.1987	Peshawar	23.11.2010	23.11.2010	7	By-Selection	Junior Clerk	23.11.2010	Dar ul Qaza, Swat
Izhar Ahmad ✓	Junior Clerk	BA	20.04.1987	Peshawar	11.04.2011	11.04.2011	7	By Selection	Junior Clerk	11.04.2011	Peshawar
Muhammad Tufail ✓	Junior Clerk	FA	16.01.1981	Charsadda	05.10.2011	05.10.2011	7	By Selection	Junior Clerk	05.10.2011	Peshawar
Muhammad Hamed	Junior Clerk	BA	16.07.1986	Peshawar	05.10.2011	05.10.2011	7	By Selection	Junior Clerk	05.10.2011	Peshawar
Mian M. Shoaib	Junior Clerk	FA	07.03.1987	Peshawar	05.10.2011	05.10.2011	7	By Selection	Junior Clerk	05.10.2011	Peshawar
Hafeez ur Rehman	Junior Clerk	B.Com	13.03.1988	Peshawar	05.10.2011	05.10.2011	7	By Selection	Junior Clerk	05.10.2011	Abbottabad
Abdul Bais ✓	Junior Clerk	F.Sc.	15.04.1992	Peshawar	05.10.2011	05.10.2011	7	By Selection	Junior Clerk	05.10.2011	D.I.Khan
Jawad Iqbal	Junior Clerk	FA	11.06.1988	Peshawar	06.10.2011	06.10.2011	7	By Selection	Junior Clerk	06.10.2011	Bannu
Jauher Ali Khan	Junior Clerk	BA	20.04.1984	Charsadda	10.10.2011	10.10.2011	7	By Selection	Junior Clerk	10.10.2011	Peshawar
Adnan Khan	Junior Clerk	F.Sc	09.04.1988	Bannu	13.10.2011	13.10.2011	7	By Selection	Junior Clerk	13.10.2011	Bannu
Haroon-ur-Rashid	Junior Clerk	FA	12.03.1980	Charsadda	24.07.2006	16.12.2013	7	by promotion	Junior Clerk	16.12.2013	Peshawar
Arshid Ali	Junior Clerk	FA	11.10.1975	Charsadda	01.07.2009	16.12.2013	7	by promotion	Junior Clerk	16.12.2013	Peshawar

SENIOR CLERK (BPS-14)

17

20 17

1	Shah Jehan	MA	10.09.1977	09.09.2037	Peshawar	01.08.1996	01.02.2010	By Promotion	Peshawar
2	Muhammad Hussain	Matric	01.03.1969	28.02.2029	Charsadda	02.05.1993	01.03.2011	By Promotion	Peshawar
3	Muhammad Yasir	BA	15.08.1983	14.08.2043	Peshawar	05.03.2004	01.07.2011	By Promotion	Peshawar
4	M Nadeem Sohail	Matric	26.04.1970	25.04.2030	D. I. Khan	01.07.1991	01.07.2011	By Promotion	D.I.Khan
5	Muhammad Ishaq	BA	02.10.1979	01.10.2039	Charsadda	01.07.2008	01.07.2011	By Promotion	Peshawar
6	Ashfaq Ahmad	MA	02.02.1987	01.02.2047	Charsadda	01.07.2009	01.07.2011	By Promotion	D.I.Khan
7	Siraj Ahmad	FA	05.04.1979	04.04.2039	Charsadda	09.09.2009	03.11.2012	By Selection	Supreme Court. Islamabad
8	Mian Sadaqat Shah	BA	15.09.1978	14.09.2038	Charsadda	11.09.2009	03.11.2012	By Selection	Abbottabad
9	Muhammad Abbas	FA	06.04.1984	05.04.2044	Charsadda	11.09.2009	03.11.2012	By Selection	Bannu
10	Nasir Ali	BA	02.01.1985	01.01.2045	Charsadda	15.01.2003	22.11.2013	By Promotion	Peshawar
11	Hafeez ur Rehman	FA	02.02.1986	01.02.2046	Peshawar	15.03.2010	10.06.2014	By Promotion	Peshawar
12	Muhammad Zakirullah	BA	15.09.1987	14.09.2047	Peshawar	23.11.2010	21.06.2014	By Promotion	Abbottabad
13	Muhammad Tufail	F.A	16.01.1981	15.01.2041	Charsadda	05.10.2011	13.07.2015	By Promotion	Peshawar
14	Abdul Bais	F.Sc	15.04.1992	14.04.2052	Peshawar	05.10.2011	05.05.2017	By Promotion	Bannu
15									
16									

ahed
 Peshawar

10

18

2017

JUNIOR CLERK (BPS-11)

1	Izhar Ahmad	BA	20.04.1987	19.04.2047	Peshawar	11.04.2011	11.04.2011	By Selection	Peshawar
2	Muhammad Hamed	BA	16.07.1986	15.07.2046	Peshawar	05.10.2011	05.10.2011	By Selection	Peshawar
3	Mian M. Shoaib	FA	07.03.1987	06.03.2047	Peshawar	05.10.2011	05.10.2011	By Selection	Peshawar.
4	Hafeez ur Rehman	B.Com	13.03.1988	12.03.2048	Peshawar	05.10.2011	05.10.2011	By Selection	Abbottabad
5	Jawad Iqbal	FA	11.06.1988	10.06.2048	Peshawar	06.10.2011	06.10.2011	By Selection	Bannu
6	Jauher Ali Khan	BA	20.04.1984	19.04.2044	Charsadda	10.10.2011	10.10.2011	By Selection	Peshawar
7	Adnan Khan	F.Sc	09.04.1988	08.04.2048	Bannu	13.10.2011	13.10.2011	By Selection	Bannu
8	Haroon-ur-Rashid	FA	12.03.1980	11.03.2040	Charsadda	24.07.2006	14.12.2013	By promotion	Peshawar
9	Arshid Ali	FA	11.10.1975	10.10.2035	Charsadda	01.07.2009	14.12.2013	By promotion	Peshawar
10	Shakeel Ahmad	F.Sc	13.04.1987	12.04.2047	Chasadda	15.03.2010	16.07.2014	By promotion	Peshawar
11	Zameer Jan	FA	18.05.1990	17.05.2050	Charsadda	01.04.2010	15.07.2014	By promotion	Peshawar
12	M. Mohsin kamal	FA	19.07.1987	18.07.2047	Peshawar	16.12.2013	14.07.2014	By promotion	Peshawar
13	Muhammad Zubair	M.Sc	01.01.1986	31.12.2045	D.I.Khan	23-08-2010	19.07.2014	By promotion	D.I.Khan
14	Abdur Rehman	Matric	11.11.1986	10.11.2046	D.I.Khan	05.10.2011	19.07.2014	By promotion	D.I.Khan
15	Israr Ahmad	Matric	18.04.1990	17.04.2050	Charsadda	01.07.2009	22.07.2014	By promotion	Abbottabad
16	Muhammad Ilyas	FA	02.03.1982	01.03.2042	Charsadda	10.02.2010	22.07.2014	By promotion	Dar-ul-Qaza, Swat
17	Mashal Khan	Matric	01.04.1988	31.03.2048	Peshawar	01.12.2012	02.08.2014	By promotion	Abbottabad
18	Qutub ul Arif	Matric	1987	20.02.2006	D I Khan	20.02.2006		By promotion	D. I. Khan
19	Imtiaz Ali	F.A.	20.08.1986	19.08.2046	Charsadda	10.02.2010	13.07.2015	By promotion	Peshawar
20	Muhammad Riaz	F.A.	11.03.1988	10.03.2048	Peshawar	15.03.2010	13.07.2015	By promotion	Peshawar
21	Bilal Ahmad	Matric	06.09.1979	05.09.2039	Peshawar	16.11.2002	17.11.2015	By promotion	Peshawar
22	Yasir	Matric	26.04.1980	25.04.2040	Peshawar	23.10.1998	07.09.2017	By Promotion	Peshawar
23									

Signature
 ADMITTED TO
 ADVANCE POSTAL
 REGISTRATION
 PESHAWAR

To

[Handwritten signature]
5/7/18

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Law, Parliamentary Affairs & Human Rights Department, Peshawar.
2. The Advocate General, Khyber Pakhtunkhwa, Peshawar.

Subject: **REPRESENTATION**

Dear Sir,

With due veneration, I would like to offer few humble submissions for your kind perusal and compassionate consideration:-

1. That I am serving as Junior Clerk (B-11) since 11/04/2011 and posted in the Services Tribunal, Khyber Pakhtunkhwa, Peshawar.
2. That I was the senior most Junior Clerk in the Seniority List for the year, 2014 and at that time a post of Senior Clerk was vacant at Peshawar, but I was ignored to be promoted as Senior Clerk which is injustice towards me.
3. That I was removed from service by the Ex-Avocate General, Khyber Pakhtunkhwa vide office order No. 12357-61/AG, dated 01/06/2015 on account of exchange of hot words with Superintendent (Judl:), namely, Mr. Khurshid Kundi.
4. That such unpleasant incident was not intentional rather it was due to mental distress on the eventful day. Later on, I visited personally Mr. Khurshid Kundi and apologized for what occurred unintentionally. He pardoned me saying that he had no personal grudges towards him (copy enclosed).
5. That I was re-instated by the Law Department, Khyber Pakhtunkhwa with stoppage of three (03) increments. Later on I preferred Service Appeal in the Khyber Pakhtunkhwa, Services Tribunal for releasing the three (03) increments. The Services Tribunal converted penalty of three (03) increments into one (01)-increment vide Order, dated 10/04/2017.

[Handwritten signature]

Copy No
11417
5/7/18

20

6. That I filed CPLA in the august Supreme Court of Pakistan against the Judgment of the Services Tribunal, Khyber Pakhtunkhwa which is still pending.
7. That I am the senior most Junior Clerk and during this period, two (02) Junior Clerks (Muhammad Tufail and Abdul Bais) who were junior to me, have been promoted as Senior Clerk (B-14).

It is, therefore, requested that my case may please be considered sympathetically and it may please be decided outside the Court so that I may be able to be promoted as Senior Clerk (B-14), as two (02) posts of Senior Clerk are still lying vacant.

Yours faithfully,

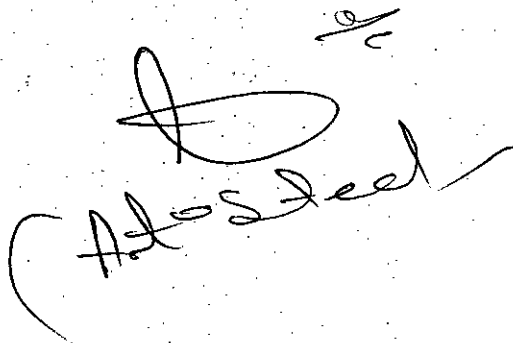
RA

(IZHAR AHMAD)

Junior Clerk

Advocate General Office,
Khyber Pakhtunkhwa, Peshawar.

dt: 5-7-2018



21



قیمت 50 روپے	51056			
ایڈوکیٹ:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر:				
رابطہ نمبر: 03449746154				

بعدالت جناب: صید لٹوا سرورس ٹریڈنگ کمپنی لٹوا

مخانب: <u>ساجل</u>	دعویٰ: <u>Sauvic Mater</u>
<u>اطمینان الہیہ بنام گورنمنٹ ٹریڈنگ کمپنی</u>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام _____ کیلئے صید لٹوا سرورس ٹریڈنگ کمپنی کے لئے جہانگیر سب خان ایڈووکیٹ
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 5/10/18

Malik Haroon Iqbal

نوع و صفت وکالت نامہ قانونی ناقابل قبول ہوگی۔

Accepted ?

اطمینان الہیہ وکالت جہانگیر

Advocate Farman Lagmani

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.1316/2018

Izhar Ahmed

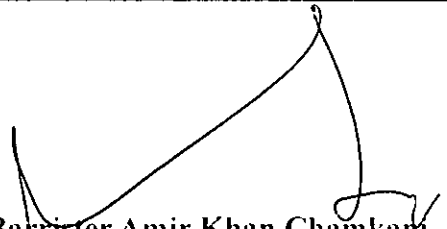
Vs

Government of KPK & Others

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGE NUMBERS
1	REPLY		
2	AFFIDAVIT		
3	COPY OF DEPARTMENTAL APPEAL DATED 05-07-2018	"A"	
4	WAKALATNAMA		

Through,


Barrister Amir Khan Chamkani

Mobile No. 0345-1166999
Hidayat Ullah Khan Chamkani Law Chamber
Office # B33, B34 Govt College Chowk, Peshawar

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.1316/2018

Izhar Ahmed

Vs

Government of KPK & Others.

REPLY ON BEHALF OF THE DEFENDANT NUMBER 5 IN THE ABOVE CAPTIONED CASE

Respectfully Sheweth,

The Defendant No. 5 most earnestly seeks permission of this honourable court to submit as follows:

PRELIMINARY OBJECTIONS

- I. That the Appellant has got no cause of action/locus standi to file the instant suit.
- II. That the Appellant has concealed material facts from this Honourable Tribunal.
- III. That the Appellant has been estopped by his own conduct to file the captioned case.
- IV. That the appeal at hand is false and frivolous suit having no standing in law and on facts.
- V. That the Appellant does not fall within the definition of an aggrieved person.
- VI. That the instant appeal is time barred, and moreover no application for condonation of delay has been moved to justify filling the instant time barred appeal.

FACTS

1. Paragraph Numbers 1 & 2 need no reply on behalf of the Answering Respondent. However from the facts and record, it is apparent that the Appellant does not have an unblemished record as asserted by him because not only had he been terminated by the competent authority, but also this honourable court had not absolved him qua negligence and only modified the nature of penalty awarded by the competent authority.
2. Paragraph Number 3 is correct to the extent that a conditional letter was given to all junior clerks ~~for~~ from promotion against vacant post in south district. It is also a matter of record that the Appellant did not accept the offer in toto as he denied to avail posting in the south district.

3. Paragraph Number 4 is incorrect. The Appellant showed willingness for promotion after the expiry of three days as narrated in the letter moreover the Appellant shied away from posting in south district.
4. Paragraph Number 5 does not need any comment on behalf of the Answering Respondent, however it is clarified that no conspiracy was hatched against the Appellant as he was terminated after proper inquiry, furthermore this Honourable Tribunal did not absolve the Appellant from his mis-adventure as only the nature of penalty was changed, which shows that the Appellant is not innocent as declared by himself.
5. Paragraphs Number 6 to 9 need no comments on part of the Answering Respondent. However it is a matter of record that the promotion of the Answering Respondent was made in accordance with law, furthermore the Appellant's case is badly time barred and no application for condonation of delay has been preferred by him as such the instant appeal merits dismissal.
6. Paragraph Number 10 need no comments on part of the Answering Respondent. Once more it is submitted that the departmental representation moved if any is also severely time barred and is not substantiated on facts and/or law.

GROUNDS

1. Grounds A to C are wrong and sternly denied. The promotion of the Respondents have legally been made, as per the law and facts of each Respondent, the Appellant is estopped from filling the instant appeal as he himself denied the opportunity of promotion because of his personal circumstances. Moreover in the representation owned by the Appellant no where has he stated that the promotion of the Answering Respondent is illegal.

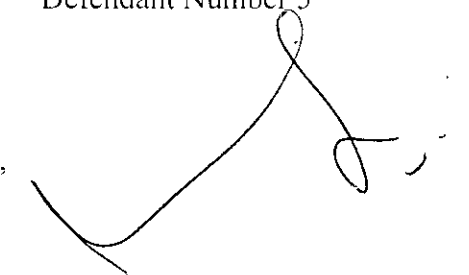
Departmental Appeal Dated 05-07-18 is Annex A

2. Ground D is wrong and vehemently denied. The conduct of the Appellant during service is questionable to say the least, not only did the Appellant himself accept his misconduct during the course of inquiry against him, but this learned Tribunal also held the same through its judgement dated 10-04-2017, which is still in field.
3. Grounds E & F are wrong and thus denied. For reasons given earlier the Appellant himself refused promotion as such he falls within the fore-corners of estoppel.
4. Ground G is legal. Furthermore the Answering Respondent also reserves the right to raise any other ground during the course of arguments.

It is therefore most humbly submitted that on acceptance of this reply on behalf of Defendant Number 5, the appeal of the Appellant be dismissed with costs, being false and frivolous and having no bearing in law and facts.

Defendant Number 5

Through,



Barrister Amir Khan Chamkani

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.1316/2018

Izhar Ahmed

Vs

Government of KPK & Others




AFFIDAVIT

I, **Abdul Bais** S/o Anwar Ul-Haq R/o Muhallah Qada Khel Chamkani Tehsil & District Peshawar do hereby solemnly affirm on oath that the contents of this written statement are correct and true to the best of our knowledge and belief, and nothing has been concealed from this honourable court either intentionally or otherwise.

Deponent

Dated: 25/04/19


Identified By Counsel

50 روپے	5285			
ایڈوکیٹ: <u>بہتر عامر چکھنی</u>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: <u>BC-113164</u>				
رابطہ نمبر: <u>0345-1166999</u>				

بعدالت جناب: سرس ٹریسٹول

مخانب: <u>صدع اعالمہ طہیلہ 5</u> (Respondant)	دعویٰ: <u>سرس ایپل</u>
<u>اظہار احمد</u>	علت نمبر: _____
<u>بنام</u>	مورخہ: _____
<u>گورنمنٹ ک.پ</u>	جرم: _____
	تھانہ: _____

باعث تحریر آتھ

عبدالباقی ولد الفوار الحق سکڑہ محلہ کاکا خیل چکھنی پشاور

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام لسٹاور کیلئے بہتر عامر چکھنی ارباب لیسٹ اور کونسل مقرر عبدالرحمن
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی مکمل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دوبارہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 30-04-2019

مقام لسٹاور واہد العبد کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کو فونو کا پیغام قابل قبول ہوگی۔

Belal

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 1316/2018

IZHAR AHMAD

V/S

GOVT. OF KP & OTHERS

INDEX

S NO.	DOCUMENTS	ANNEX	PAGE NO
1	Memo of Reply	-----	1 - 4
2	Wakalatnama	-----	5

Respondent No. 4

Through,

Muhammad Maaz Maqni,

Advocate, High Court, Peshawar

0333-9313113

29/4/19

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 1316/2018

IZHAR AHMAD

V/S

GOVT. OF KP & OTHERS

**REPLY ON BEHALF OF PRIVATE RESPONDENT NO. 4
(Mr. MUHAMMAD TUFAIL, SENIOR CLERK)**

R/SHEWETH:

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action/locus standi to file the instant Appeal.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed materials facts from this Honorable Tribunal.
4. That the instant Appeal is not maintainable in its present form.
5. That the Appeal is bad due to non-Joinder & mis-Joinder of necessary parties.
6. That the Appeal of the appellant is badly time barred.
7. That the appellant is estopped by his own conduct to file the instant Appeal.
8. That, the appeal of the appellant is not maintainable in its present form as per S. 4 of the Service Tribunal Act 1974.

ON FACTS:

1. Para-1 of the appeal is correct as it pertains to the personal record of the appellant.
2. Para-2 of the Appeal is correct to the extent that the appellant joined service on 11.04.2011, but rest of the para is incorrect, misconceiving and misleading as the appellant has not rendered services with full devotion and dedication as whole record of the appellant is full of complaints, lesser interest in the performance of duty, warnings were issued to the appellant on many occasions and also a misbehavior attitude towards his high ups.

3. Para-3 of the Appeal is correct to the extent that the appellant was the senior most junior clerk in 2014 when option/willingness was sorted out for promotion to the post of Senior Clerk available in office of the Additional Advocate General at BANNU from the three seniors most Junior Clerk by Respondent No. 3 (Advocate General, Khyber Pakhtunkhwa).
4. Correct to the extent that the appellant had responded to the option/willingness sorted out in which the appellant had given his option for promotion to the post of Senior Clerk in office of the Additional Advocate General at Bannu but also show his willingness/option that the appellant will perform his duty at Peshawar as he is unable to perform duty out of station.
(Copy of Option/Willingness already attached as Annexure-B page 08 of the main appeal)
5. Incorrect, misleading & misconceiving and is mere a clear allegation against the official colleagues of the appellant as no conspiracy has been attributed against the appellant rather it was the attitude and grave misconduct on the part of the appellant that led the appellant to a major penalty of "Removal from Service" vide order dated 01.06.2015 which was later on converted into the stoppage of 3 annual increments for three years vide appellate order dated 15.09.2015 *(Copy of which is already attached with the main appeal as Annexure-B/1 page 09)* on the Departmental Appeal of the appellant to Respondent No. 2 *(Secretary to Government of Khyber Pakhtunkhwa, Law, Parliamentary Affairs & Human Rights Department)* and the said appellate order was later on challenged before this Honourable Tribunal vide Service Appeal no. 1311/2015 which was decided vide judgment dated 10.04.2017 by further modifying the appellate order into stoppage of ONE annual increment for ONE year. *(Copy of which is already attached as Annexure-B/2 page 10)*
6. Para-6 of the Appeal is incorrect, misleading and misconceiving as no malafide was involved on the part of the respondents rather it was due to the conduct of the appellant that all the codal formalities required for the imposition of major penalty against a civil servant enshrined in the E&D Rules 2011 were properly adopted before issuing the Removal order dated 01.06.2015 to the appellant and as such no illegality or malpractice has been adopted in the promotion order dated 13.07.2015.
7. Para-7 of the Appeal is also incorrect, as no blue-eyed person was promoted that appellant has himself admitted the fact that option/willingness was sorted out from the top 3 employee's of the seniority in which the answering respondent no. 4 (Muhammad Tufail) was at serial no. 2 hence at the time of promotion dated 13.07.2015 the answering respondent no. 4 was fully eligible for promotion to the post of Senior Clerk on

Seniority-Cum-Fitness basis which is the main requisite for promotion.

8. Para-8 of the Appeal is incorrect and misleading as the appellant has challenged the promotion order of Junior Clerks to the post of Senior Clerk (BPS-14) dated 13.07.2015 and declaring himself at the top of seniority list prepared for Junior Clerks (BPS-11) in the year 2017 which is not in question at present rather the promotion of the appellant is deferred not on the basis of seniority rather on fitness.
9. Para-9 of the Appeal is correct to the extent of filing of CPLA against the order of this Honourable Tribunal dated 10.04.2017 which is pending till date. Rest of the para is denied as the appellant was reinstated into services on 15.09.2015 and was subsequently posted in the office of Additional Advocate General Khyber Pakhtunkhwa Service Tribunal Peshawar which could not be called that the appellant was posted out side the main office of Advocate General as the office of Add: Advocate General Khyber Pakhtunkhwa is administer & control from the main office located in Peshawar High Court premises and every employee of the Advocate General office both of main office & that of Tribunal Office has to visit the main office twice i.e. in the morning for check in and at closing time for check out at punching machine so the question of knowledge of the promotion order dated 13.07.2015 does not arise here.
10. Para-10 of the Appeal is incorrect as the Departmental Appeal is filed against the order dated 13.07.2015 on 05.07.2018 and during the said 2 years the appellant remained silent and did not bother to agitate the promotion order dated 13.07.2015, and it is well versed principle that when the Departmental Appeal is time barred the service appeal before the Tribunal is not maintainable.

GROUND:

- A- Incorrect and misconceiving. That the order dated 13.07.2015 has been issued by the competent authority in accordance with law and prevailing rules and may not be set aside at such belated stage.
- B- Para-B of the ground pertains to Respondent No. 5 and he would be in a better position to respond the same.
- C- Para-C is Incorrect and misconceived. As the promotion of the respondent no. 4 was made purely in light of the law & rule required for process of promotion to the next higher scale.
- D- Para-D is Incorrect, and misconceiving. As the whole record of the appellant reveals that the appellant has not rendered service in a manner which could be considered to be an unblemished record.

- E- Incorrect, and misleading. As proper reply is given in the above para's.
- F- Incorrect, the appellant was treated in accordance with Law & Rules and no illegality has been committed against the Principal of Natural Justice.
- G- That, the respondent also seeks permission of this Honourable Tribunal to agitate other ground and proof at the time of arguments.


It is therefore most humbly prayed that on acceptance of this reply, the Appeal of the appellant may kindly be dismissed with cost.

Private Respondent No. 4



MUHAMMAD TUFAIL (S/C)

Through:



MUHAMMAD MAAZ MADNI
Advocate, 29/4/2019.
High Court, Peshawar

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1316/2018

IZHAR AHMAD (APPELLANT)


VERSUS

Govt. of KP & other (RESPONDENTS)

I/We MUHAMMAD TUFAIL
do hereby appoint and constitute **MUHAMMAD MAAZ MADNI, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.


Dated. ____/04/2019

CLIENT:



(Muhammad Tufail)

ACCEPTED



MUHAMMAD MAAZ MADNI
Advocate,
High Court, Peshawar

29/4/19

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9090737, 0333-9313113

BEFORE THE HON'BLE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. 1316/2018

Izhar Ahmad

Appellant

Versus

Govt. of Khyber Pakhtunkhwa etc

Respondents

INDEX

S.No	Name of Documents	Flag	Page No.
01	Parawise Comments	A	1-3
02	Removal Order, dated 01/06/2015	B	4
03	Explanation, dated 01/02/2016	C	5
04	Option letter dated 26/07/2014	D	6
05	Option/willingness dated 05/08/2014	E	7
06	Statement of appellant dated 02/04/2015	F	8
07	Letter dated 15/09/2015	G	9
08	Arrival Report 19/09/2015	H	10
09	Departmental Appeal dated 05/07/2018	I	11-12
10	Order of Respondent No.4 dated 13/07/2015	J	13
11	Order of Respondent No.5, dated 05/05/2017	K	14


ADMINISTRATIVE OFFICER

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Service Appeal No. 1316 of 2018

Izhar Ahmad

Versus

Government of Khyber Pakhtunkhwa and 4 others

COMMENTS ON BEHALF OF RESPONDENTS No. 2 & 3

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:

1. That the appellant has no cause of action to file the instant Appeal against the answering respondents.
2. That the instant Appeal is not maintainable in its present form.
3. That the appellant has not come to this Hon'ble Tribunal with clean hands. Hence not entitled for any relief.
4. That the appellant suppresses some material facts from this Hon'ble Tribunal.
5. That the Appeal before the Authority is hopelessly time barred.
6. That when an Appeal before the Competent Authority is time barred then the same before the Services Tribunal is also not maintainable. On this score alone, the instant Appeal is liable to be dismissed.

ON FACTS:

1. Correct.
2. Incorrect. The appellant did not perform his duties with utmost of capabilities and entire satisfaction of his superiors. On so many occasions he was verbally warned to be punctual but of no use. He was rude and misbehaved employee and therefore, was removed from service on 01/06/2015 (Flagged as "B") on account of misconduct and rude behavior with his immediate boss. He was also put to explanation on 01/02/2016 for his coming late (Flagged as "C").
3. Para-3 of the Appeal is subject to record. However, it is true that the Competent Authority vide letter, dated 26.07.2014 (Flagged as "D") asked him to give option / willingness for the post of Senior Clerk (PBS-14) lying vacant in office of the Additional Advocate General, Bannu. It was strictly

mentioned in the letter that "the option must reach this office within three (03) days positively". The appellant gave his conditional willingness on 05.08.2014 (Flagged as "E"), that is, after 10 days of the option/willingness letter dated 26.7.2014 (Flagged as "D"). So his option / willingness being illegal, hence turned down.

4. Para-4 is misconceived, because his willingness was against posting/transfer policy. Willingness of the Appellant is reproduced as:-

"With due respect, it is stated that I am willing to be promoted as Senior Clerk in the Office of Additional A.G. Bannu **subject to detailment in the main office at Peshawar**. As I have domestic problems and unable to work out of station and oblige" (Flagged as "E").

So his condition of detailment was unlawful and against the policy of Posting / Transfer of the Provincial Government.

5. Para-5 is also incorrect. The appellant was removed after conducting regular inquiry under the E&D Rules, 2011 and observing all codal formalities by the Competent Authority. He misbehaved with and insulted his immediate boss on 17/12/2014, which he also admitted in his statement, recorded on 02/04/2015 (Flagged as "F") before the Inquiry Committee. However, he was re-instated by the Appellate Authority on 15/09/2015 (Flagged as "G") by modifying his penalty from removal from service into minor penalty of stoppage of three (03) increments for three years. He submitted his arrival report on 19.09.2015 (Flagged as "H").
7. Para-6 is also incorrectly drafted. There is no malafide on the part of the Competent Authority. On complaint of the immediate boss of the appellant, regular inquiry was conducted and he was removed from service, but Appellate Authority converted major penalty of removal to that of stoppage of three (03) increments (Flagged as "G"). The Hon'ble Tribunal too, not exonerated the appellant from the charge even after his reinstatement, the appellant did not mend his ways being habitual late comer. He was issued explanation on 01/02/2016 (Flagged as "C"). The Competent Authority taking leniency, warned him to be careful. Moreover, mere seniority is not yardstick for promotion, fitness should also be taken into consideration while promoting a Civil Servant to next higher grade. While promoting Respondent No. 5, the appellant was considered but declined promotion for the reasons given above.
7. Not correct. The Appellant was re-instated on 15.09.2015 (Flagged as "G") and he filed his departmental Appeal on 05.07.2018 (Flagged as "I"), till this time he remained silent and did not agitate the promotion order, dated 13.7.2015 (Flagged as "J").
8. para-8 is not admitted as correct. Detailed reply is given above.
9. Correct to the extent of Appeal before the Supreme Court, rest of the para is not correct, as the Appeal is badly time barred.

10. Not correct. His Departmental Appeal is time barred.

ON GROUNDS:

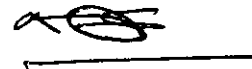
- a. Incorrect. The impugned order, dated 13/07/2015 (Flagged as "J") was issued after observing all codal formalities. Detailed reply has been given in para-6 on facts.
- b. Incorrect. Promotion Order of Respondent No. 5 (Flagged as "K") was also issued strictly in accordance with the law.
- c. As stated in para-a of the grounds.
- d. Incorrect. He was a habitual late comer and rude employee which is clear from his statement, recorded by him on 02/04/2015 (Flagged as "F") before the Inquiry Committee.
- e. Incorrect. The para is repetition of above which was already replied.
- f. Incorrect. He was treated in accordance with law.
- g. The respondent will also agitate any other grounds at the time of arguments with permission of the Hon'ble Tribunal.

It is, therefore, most respectfully prayed that on acceptance of this Comments, the instant Appeal may kindly be dismissed with cost.




Secretary to Govt. of, Khyber Pakhtunkhwa,
Law Department, Peshawar.
(Respondent No. 2)

Secretary
Law Parliamentary Affairs
and Human Rights Department
Govt. of Khyber Pakhtunkhwa



Advocate-General,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 3)

Advocate General
Khyber Pakhtunkhwa
Peshawar

4 

OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA,
PESHAWAR

ORDER

Whereas vide Order No. 22218-22/AG, dated 20/12/2014, an Inquiry Officer was appointed to inquire into the allegations made in the charge sheet served upon Mr. Izhar Ahmad, Junior Clerk (B-09) of this office.

And whereas, the Inquiry Officer in his report has found the charges, leveled against the accused official as proved.

And whereas Show Cause Notice was issued to him vide letter No. 8006-09/AG, dated 08/04/2015.

And whereas, opportunity of personal hearing was given to him on 25/04/2015.

Now, therefore, the Competent Authority, after having considered the charges, evidence on record the explanation of the accused official and defence offered by the accused official during personal hearing and exercising his power under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, has been pleased to impose major penalty of "Removal from Service" on Mr. Izhar Ahmad, Junior Clerk (B-9) with immediate effect.

ADVOCATE GENERAL
KHYBER PAKHTUNKHWA, PESHAWAR

Endst: No. 12357-61/AG

dated Peshawar, the 01-06/2015

Copy forwarded for information and necessary action to:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Superintendent (Budget and Accounts) of this office.
3. Mr. Izhar Ahmad, Junior Clerk of this office.
4. Relevant File.
5. Personal File.


ADVOCATE GENERAL
KHYBER PAKHTUNKHWA, PESHAWAR

RF
1-6-15



5

OFFICE OF THE ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 1483-84 /AG

Dated Peshawar, the 01.02 /2016

Address: High Court Building, Peshawar.
Tel. No. 091-9210119

Exchange No 9213833
Fax No. 091-9210270

To

The Additional Advocate General,
Khyber Pakhtunkhwa, Services Tribunal,
Peshawar.

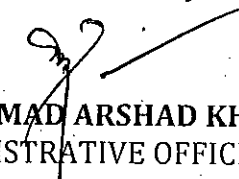
Subject: **EXPLANATION**

Sir,

I am directed to refer to the subject noted above and to state that Mr. Izhar Ahmed, Junior Clerk is posted in your office. Attendance record for January, 2016 reveals that he has proved to be a habitual late comer, as he has arrived the office after 09:00 AM on each working day. When perused by the Learned Advocate General, Khyber Pakhtunkhwa, he viewed it seriously and directed to inform you that Mr. Izhar Ahmed be put to explanation for his such inefficiency. This is highly objectionable within the meaning of the E&D Rules, 2011.


I am, therefore, directed to request that the official may be put to explanation, directing him to explain the reasons of coming late to office within three (03) days without fail. The reply of the official, duly commented upon by you, may be submitted to this office for perusal of the Learned Advocate General, Khyber Pakhtunkhwa for further orders with request to initiating disciplinary action against him and recording his late coming in his ACRs.

Yours faithfully,


(MUHAMMAD ARSHAD KHAN)
ADMINISTRATIVE OFFICER

Endst. No. & date even

Copy to the Learned Advocate General, Khyber Pakhtunkhwa, Peshawar.


ADMINISTRATIVE OFFICER

No. 12648-50 /AG

Dated Peshawar, the 26/7 /2014

From: The Advocate General,
Khyber Pakhtunkhwa, Peshawar.


To: / 1). Mr. Izhar Ahmad, Junior Clerk of this office.
2). Mr. Muhammad Tufail, Junior Clerk of this office.
3). Mr. Muhammad Hamid, Junior Clerk of this office.

Subject: - OPTION/WILLINGNESS.

Memo:

Reference the subject noted above.

A post of Senior Clerk (BPS-14) is lying vacant in the office of the Additional Advocate General, Khyber Pakhtunkhwa, Bannu. You are, therefore, directed to give option/willingness, in writing, as to whether you are willing to be promoted and work as Senior Clerk (B-14) in the Additional Advocate General office, Bannu. The option must reach this office within three (03) days positively after receiving this letter.


ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR

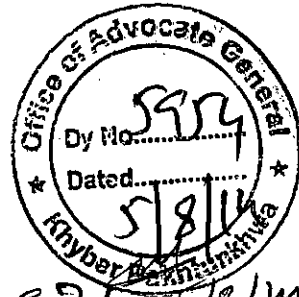
To,

The Advocate General,
K. P. K. Peshawar.

Subject:- Options/Willingness

R/siv,

Reference letter No. 12648-50/A.G. dated 26-7-2014
on the subject noted above.



With due respect, it is stated that I am willing to be promoted as senior clerk in the office Addl. A. G. Bannu subject to detailment in the main office at Peshawar. As I have domestic problems and unable to work out of stations and oblige.

Thanks.

yours obediently

5/8/14

R.R.
(Izhar Ahmed)
J/ Clerk

بیان از اظہار احمد جوینر کلرک ایڈووکیٹ جنرل آفس کے چیف کے پاس اور

طیابیان کیا ہے کہ مورخہ 17.12.14 کو میں کارلسٹ میں سول
کینسر جی مارکنگ کر رہا تھا کہ اس دوران مورخہ 17 دسمبر کو
میرٹھ میں جوڈیشل آفیسر آئے اور کیا کہ لسٹ میں سے حوالے کر دو
اھیں میں نے کیا کہ اس میں سے پتہ چلا کہ ایک کسے اچھی پائی ہے
جو مارک ہو گیا ہے۔ مارکنگ کے بعد میں لسٹ آپ کے
حوالے کر گیا ہے۔ اھوں نے مجھ سے لسٹ ڈیڑھی کے ساتھ
لی اور بٹ پراچ کی طرف گئے اور پھوری دیر بعد وہ لسٹ
والیں لانے اور چھپے دی۔ میں نے لسٹ عہد میں آکر
اس کی طرف پھینک دی اور کیا کہ میں اب اس میں مارکنگ
میں کروں گا۔ میں یہ ہی سہا بیان ہے۔ میں اپنے علاوہ کوئی
ادگواہ میں پیش کرنا چاہتا۔

RF
2-4-15

اظہار احمد

جوینر کلرک ایڈووکیٹ جنرل

کے چیف کے پاس اور

کینسر جی مارکنگ
(مورخہ 17 دسمبر 14)

ایڈیشنل ایڈووکیٹ جنرل

انکوائری آفسر ایڈووکیٹ

جنرل کے چیف کے پاس اور



9

GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT.

ORDER:

Peshawar dated the 15.09.2015

No: E & A/LD/2-12/2014: WHEREAS, Mr Izhar Ahmad, Junior Clerk office of Advocate General Khyber Pakhtunkhwa was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011 and was awarded major penalty of removal from service on 01-6-2015. Against the penalty, the accused official preferred a departmental Appeal to the appellate authority. The appellate authority gave opportunity of personal hearing to the accused official on 17-8-2015. **NOW THEREFORE**, the appellate authority, after having considered the charges, evidence on record, hearing the accused official, in exercise of powers conferred under Rule 17 (2) (c) of Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011, modify the major penalty of removal from service into minor penalty of three (03) increments for three (03) years on the accused official.

Secretary to Govt: of Khyber Pakhtunkhwa
Law, Parliamentary Affairs & Human Rights
Department

Endst. No. & Date Even. / 21752-55

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Advocate General Khyber Pakhtunkhwa, Peshawar for information & necessary action.
3. PS to Secretary Law.
4. Official concerned.

7847
17/9/05
17/09

(AKBAR KHAN)
Section Officer (General)

Seen by me

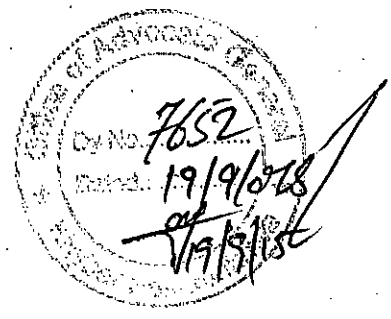
Seen by the Cd. AG.

23/09/15

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To

The Advocate General,
Khyber Pakhtunkhwa, Peshawar.



Subject: - **ARRIVAL REPORT FOR DUTY.**

D / Sir,

In compliance with Law Department office order No. E&A/ LD/2-12/2014/ 21752-55 dated 15/09/2015. Izhar Ahmad, Junior Clerk, herewith submit my arrival report for duty today on 19/09/2015 (Fore-Noon).

Your faithfully,

Izhar

(Izhar Ahmad)
Junior Clerk

Dated 19/09/2015.

*For perusal & further orders
with regard to posting of the official.*

*Ed. Adv. General,
CP: Peshawar.*

[Signature]
21/09/2015

Seen by the Ed. AG.

[Signature]
23/09/15

11

To

1. The Secretary to Govt. of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human Rights Department,
Peshawar.
2. The Advocate General,
Khyber Pakhtunkhwa, Peshawar.

Subject: **REPRESENTATION**

Dear Sir,



With due veneration, I would like to offer few humble submissions for your kind perusal and compassionate consideration:-

1. That I am serving as Junior Clerk (B-11) since 11/04/2011 and posted in the Services Tribunal, Khyber Pakhtunkhwa, Peshawar.
2. That I was the senior most Junior Clerk in the Seniority List for the year, 2014 and at that time a post of Senior Clerk was vacant at Peshawar, but I was ignored to be promoted as Senior Clerk which is injustice towards me.
3. That I was removed from service by the Ex-Advocate General, Khyber Pakhtunkhwa vide office order No. 12357-61/AG, dated 01/06/2015 on account of exchange of hot words with Superintendent (Judl:), namely, Mr. Khurshid Kundi.
4. That such unpleasant incident was not intentional rather it was due to mental distress on the eventful day. Later on, I visited personally Mr. Khurshid Kundi and apologized for what occurred unintentionally. He pardoned me saying that he had no personal grudges towards him (copy enclosed).
5. That I was re-instated by the Law Department, Khyber Pakhtunkhwa with stoppage of three (03) increments. Later on I preferred Service Appeal in the Khyber Pakhtunkhwa, Services Tribunal for releasing the three (03) increments. The Services Tribunal converted penalty of three (03) increments into one (01) increment vide Order, dated 10/04/2017.

Seen by the
Ad. AG: RP.
07/07

12

6. That I filed CPLA in the august Supreme Court of Pakistan against the Judgment of the Services Tribunal, Khyber Pakhtunkhwa which is still pending.
7. That I am the senior most Junior Clerk and during this period, two (02) Junior Clerks (Muhammad Tufail and Abdul Bais) who were junior to me, have been promoted as Senior Clerk (B-14).

It is, therefore, requested that my case may please be considered sympathetically and it may please be decided outside the Court so that I may be able to be promoted as Senior Clerk (B-14), as two (02) posts of Senior Clerk are still lying vacant.

Yours faithfully,



(IZHAR AHMAD)

Junior Clerk

Advocate General Office,
Khyber Pakhtunkhwa, Peshawar.

dt: 5-8-2018

OFFICE ORDER

The following promotion/postings/transfers are hereby ordered with immediate effect.

Sl. No	NAME	PRESENT POSTING	PROMOTED AS	REMARKS
01	Mr. Muhammad Tufail,	Junior Clerk (BPS-11) in Main Office Peshawar.	Senior Clerk (BPS-14)	Promoted as Senior Clerk (BPS-14) against newly created vacancy in Main office, Peshawar.
02	Mr. Imtiaz Ali,	Naib Qasid (BPS-01) in Addl: Advocate General Office Services Tribunal, Peshawar.	Junior Clerk (BPS-11)	Promoted as Junior Clerk (BPS-11) against vice No. 01.
03	Mr. Muhammad Riaz	Naib Qasid (BPS-01) in Main Office Peshawar.	Junior Clerk (BPS-11)	Promoted as Junior Clerk (BPS-11) against newly created post in Main Office, Peshawar.
04	Mr. Amir Afridi	Mali-cum-Chowkidar (BPS-01) in Addl: Advocate General Office, Bannu.	Naib Qasid (BPS-01)	Posted/Transferred as Naib Qasid (BPS-01) in Main Office, Peshawar.

A copy is forwarded for information and necessary action to the:-

- 01-Additional Advocate-General, Bannu.
- 02-Additional Advocate-General, Services Tribunal, Peshawar.
- 03-Accountant-General, Khyber-Pakhtunkhwa, Peshawar.
- 04-District Controller of Accounts, Bannu.
- 05-Officials Concerned.
- 06-Relevant file.

No. 14725-30 /A.G.

dated Peshawar the 13/7/2015

ADVOCATE-GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR.

ADVOCATE-GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR.

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13

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OFFICE OF THE ADVOCATE GENERAL, KHYBER PAKHTUNKHWA,
PESHAWAR.

OFFICE ORDER

The following promotion is hereby ordered in the public interest with immediate effect.

S. No	NAME	PRESENT POSTING	PROMOTED AS
1.	Mr. Abdul Bais <i>Noted to be 6/5/17</i>	Junior Clerk (BPS-11) in Addl. A.G., office at D.I.Khan.	Senior Clerk (B-14) in Addl.A.G. Office. Bannu against the vacant post.
2.	Mr. Qutub ul Arif	Mali (BPS-03)	Junior Clerk (BPS-11) in Addl.A.G. office D.I.Khan.

**ADVOCATE-GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR.**

Endst: No 7667 - 73 /AG

dated Peshawar, the 05/05/2017.

Copy forwarded for information and necessary action to the:

1. Accountant General, Khyber Pakhtuynkhwa, Peshawar.
2. Addl. Advocate-General, D.I.Khan
3. Additional Advocate General, Khyber Pakhtunkhwa, Bannu.
4. District Comptroller of Accounts, D.I.Khan.
5. District Comptroller of Accounts, Bannu.
6. Officials concerned.
7. Personal file.
8. Office order file

**ADVOCATE-GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR.**

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1756 /ST

Dated 14/10 /2019

To


The Advocate General at Peshawar High Court
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 1316/2018, MR. IZHAR AHMAD.

I am directed to forward herewith a certified copy of Judgement dated
03.09.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.