

18.03.2020

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG alongwith Mukhtiar Assistant Secretary for the respondents present. Written reply not submitted. Representative of the respondent department seeks time to furnish written reply/comments. Last opportunity is granted. To come up for written reply/comments on 27.04.2020 before S.B.

  
(Hussain Shah)  
Member

27.04.2020

Due to COVID19, the case is adjourned to 21.07.2020 for the same as before.

  
Reader

21.07.2020

Mr. Muhammad Asif Yousafzai, Advocate, for appellant is present. Vide previous order sheet dated 27.04.2020 the instant service appeal was adjourned due to COVID-19, today no one is present on behalf of the respondents therefore, notices be issued to the respondents for submission of written reply/comments for 16.09.2020 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER

Appellant person and Addl. AG alongwith Sharif Khan, Assistant for the respondents present.

Appellant states that his grievance has been redressed departmentally and requests for withdrawal of instant appeal.

Dismissed as such. File be consigned to the record room.

ANNOUNCED  
16.09.2020

  
Chairman

فائل  
-  
مذکورہ کیس میں شہزادہ کی حوالہ  
شہزادہ کیس کی حوالہ  
16/09/2020  
مذکورہ کیس کی حوالہ  
16/9/2020

18.11.2019

Appellant in person and Addl. AG alongwith Muhammad Arif, Superintendent for the respondents present.

Representative of the respondents requests for adjournment to furnish the reply/comments. Adjourned to 20.12.2019 on which date the requisite reply/comments shall positively be furnished.

  
Chairman

20.12.2019

Junior to counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks time to contact the respondents and obtain requisite reply/comments from them. Adjourned to 04.02.2020 on which date the requisite reply/comments shall positively be furnished.

  
Chairman

04.02.2020

Appellant in person present. Addl: AG alongwith Mr. Afan Samad for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 18.03.2020 before S.B.

  
Member

20.09.2019

Counsel for the appellant present.

Contends that the appellant had preferred service appeal No. 1580/2013 on the ground that the promotion order dated 26.08.2013 was in disregard to the seniority position of the appellant. The appeal was disposed of in terms that the departmental appellate authority should record a speaking order upon the appeal of appellant. The Senior Member Board of Revenue re-decided the appeal on 10.07.2018 wherein it has been noted that the appellant was not considered being the junior most at S.No. 11 in the relevant seniority list. As a matter of fact, an appeal involving the question of seniority was preferred by the appellant on 10.07.2013 which was decided on 28.08.2019 whereby his seniority was required to be reckoned from the date of first regular appointment. In view of the decision the name of appellant should have been placed at S.No. 4 while that of respondent No. 4 was to be placed at S.No. 6. In disregard of the decision of Commissioner Mardan Division, respondent No. 4 was promoted as District Revenue Accountant (BPS-14). In the said manner, the valuable service rights of appellant were jeopardized ~~and~~ on one hand and on the other the departmental appellate authority failed to appreciate the record available before it, it was added.

In view of arguments of learned counsel and the available record, instant appeal is admitted 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 18.11.2019 before S.B.

Appellant Deposited  
Security & Process Fee

20/9/19

  
Chairman

28.06.2019

Junior to counsel for the appellant present and seeks adjournment as senior learned counsel for the appellant is not available. Adjourn. To come up for preliminary hearing on 20.08.2019 before S.B.



Member

20.08.2019

Counsel for the appellant present and requests for adjournment in order to further prepare the brief.

Adjourned to 30.09.2019 for preliminary hearing before S.B.



Chairman

138

02.01.2019

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 28.01.2019 before S.B.

  
Muhammad Amin Khan Kundi  
Member

28.01.2019

Counsel for the appellant present and requested for adjournment. Adjourned to 06.03.2019 for preliminary hearing before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

06.03.2019

Clerk of counsel for the appellant present and seeks adjournment on the ground that his counsel is busy before the Hon'ble Peshawar High Court. Adjourned to 11.04.2019 for preliminary hearing before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

11.04.2019

Appellant in person present.

Due to general strike on the call of Bar Association instant matter is adjourned to 16.05.2019 for preliminary hearing before S.B.

  
Chairman

16.05.2019

Appellant absent. Learned counsel for the appellant absent. Adjourn. To come up for preliminary hearing on 28.06.2019 before S.B.

  
Member

Form- A  
FORM OF ORDER SHEET

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

Case No. 1300/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/10/2018	<p>The appeal of Mr. Said Amin presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2-	17-10-18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>14-11-2018</u>.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p> <p>14-11-2018 Due to Retirement of Honorable chairmans the Tribunal is non functional therefore the case is adjourned to come up for the same on 2-1-2019</p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>

The appeal of Mr. Said Amin son of Abdul Karim Girdawar Circle Razar Swabi received today i.e. on 09.08.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of application annexure-D is incomplete which may be completed.
- 2- Copy of departmental appeal mentioned in para-4 of the memo of appeal is not attached with the appeal which may be placed on it.
- 3- The authority to whom the departmental appeal was made/preferred has not arrayed a party.
- 4- Annexures of the appeal may be attested.
- 5- Annexures of the appeal may be flagged.
- 6- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 7- Six more copies/sets of the appeal along with annexures i.e complete in all respect may also be submitted with the appeal.

No. 1575 /S.T,

Dt. 10/8 /2018.

*[Signature]*  
REGISTRAR 10/8/18  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr.M.Asif Yousafzai Adv. Pesh.

*25 days more extended*

*[Signature]*  
29/8/18

*25 day more extended.*

*[Signature]*  
21/9/18

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1300 /2018

Said Amin

V/S


Revenue Department etc.

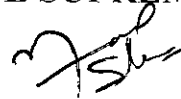
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**APPELLANT**

THROUGH:

  
(M.ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT,

  
(S. NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1300 /2018

Said Amin S/o Abdul Karim Girdawar Circle, Razar Swabi,  
R/o Village Jalbai Tehsil Lahor District Swabi.

(Appellant)

Khyber Pakhtunkhwa  
Service Tribunal

VERSUS

Diary No. 1262

Dated 09/8/2018

1. The Senior Member Board of Revenue NWFP, Peshawar.
2. The Commissioner Mardan Division Mardan.
3. The Assistant Commissioner Mardan Division Mardan
4. Mr. Hussan-ul-Wahab, DRA Swabi R/o Village Ismaila, Tehsil & District Swabi.

(Respondents)

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APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDERS DATED 1.10.2013 RECEIVED ON 07.11.2013 AND ORDER DATED 26-08-2013 WHEREBY THE RESPONDENT NO. 4 was PROMOTED AS DRA (BPS-14) WHILE THE APPELLANT BEING SENIOR MOST WAS IGNORED AND REJECTION ORDER DATED 10.07.2018 RECEIVED BY THE APPELLANT ON 01.08.2018 WHEREBY THE APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

Filed to-day

Registrar

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 10.07.2018, 01.10.2013 AND 26.08.2013 MAY PLEASE BE SET ASIDE AND THE RESPONDENT MAY BE DIRECTED TO CONSIDERED APPELLANT FOR PROMOTION AS D.R.A (BPS-14) AGAINST THE POST OF RESPONDENT NO.4/ FROM THE DATE JUNIOR (RESPONDENT NO.4) TO THE APPELLANT WAS PROMOTED, WITH ALL BACK BENEFITS. ANY OTHER RELIEF DEEMED FIT MAY ALSO BE GRACIOUSLY AWARDED.

Re-submitted to-day  
and filed.

Registrar

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That appellant was appointed as a regular Patwari on 05.07.1984 and confirmed as a regular Patwari on 30.06.1988. the appellant is posted as Girdawar Circles Razar Swabi since long.
2. That appellant was transferred from D.C Office on 05.07.1984 and after completion of deputation period, appellant was repatriated to his post i.e. D.C Office on 30.11.1984 vide order dated 30.11.1984 and due to need of Settlement Operation Mardan, appellant was again transferred from D.C Office Mardan to Settlement Operation vide order dated 20.06.1987 and due to completion of work, appellant was again transferred to D.C Office Mardan vide order dated 31.12.1987. on creation of District Swabi appellant was transferred from District Mardan to his domiciled district Swabi in the year 1988, while respondent No. 4 was appointed as a Revenue Patwari vide order dated 14.05.1997 in Revenue side Swabi. **Copy of Service Book, order dated 14.05.1997 is attached as Annexure-A & B.**
3. That respondents No.3, prepared seniority list of Qanungos at Division level in which appellant stood at Serial No.11, instead of Serial No.6, for which appellant filed an application before the Office of Honorable Commissioner Mardan, which asked for reply with observation that appellant is senior than respondent No. 3 vide letter No. 400/ACR/EA/2 dated 19.06.2013. **Copy of seniority list, application and reply is attached as Annexure-C& D.**
4. That finally, appellant preferred an appeal before Honorable Commissioner, Mardan for correction of seniority list of Qanungos through Departmental appeal, which is accepted vide order/judgment dated 28.08.2013, with direction to D.C Swabi for correction of seniority list of Qanungos of District Swabi, which is implemented and corrected the seniority list of Qanungos, Swabi. **Copy of Judgment dated 28.08.2013 is attached as Annexure-E.**
5. That respondent no.4, was promoted as a D.R.A Swabi on the wrong seniority list of Qanungos by respondent No.1, vide impugned order dated 26.08.2013, while as per correct/amended seniority list of Qanungos, appellant is senior than respondent no.4, hence file instant appeal before this Honorable Tribunal. **Copy of order is attached as Annexure-F.**

6. That appellant preferred a departmental appeal which is referred to respondent No.1 but departmental appeal of appellant is filed by respondent No. 1 vide order dated 01.10.2013 and sent the order to D.C Swabi, which he received on 03.11.2013. **Copy of departmental appeal and order 01.10.2013 is attached as Annexure-G & H.**
7. That impugned order dated 01.10.2013 was not communicated to the appellant and appellant when came back from his Ex-Pakistan leave on 07.11.2013, while appellant was busy in performance of Hajj, received impugned order through his effort on 07.11.2013, hence filed service appeal No 1580/2013 before this Honorable Court and the said appeal was heard on 15.02.2018 and remit the case of the appellant to respondent no.2 and gave the direction to passed speaking order on the departmental appeal of the appeal. **Copy of leave application, Hajj form and judgment is attached as Annexure-I & J.**
8. That thereafter, the appellate authority passed the order dated 10.07.2018 received by the appellant on 01.08.2018 whereby the appeal of the appellant was rejected for no good grounds. **Copy of the order dated 10.07.2018 is attached as Annexure-K.**
9. That hence the present appeal on the following grounds amongst other:-

#### **GROUND:**



- A) That the respondents are duty bound to prepare correct seniority list as per Section 8(4) of Civil Servant Act, 1974 and the promotion order dated 10.07.2018, 01.10.2013 AND 26.08.2013 are against the law and rules and liable to be set aside.
- B) That similarly placed official namely Umberas Khan was ignored from promotion on the basis of seniority cum fitness against which he filed an appeal before the then Presiding Officer Appellate Court Mardan which was accepted vide order/judgment. The same judgment was impugned by one Yousaf Haroon, respondent before SMBR Peshawar, which was dismissed vide order/judgment dated 27.11.2008. Then said appellant again filed application/petition for implementation of said judgment dated 28.03.2007 before the SMBR, which was accepted, vide order/judgment dated 09.01.2010.
- C) That appellant is senior most and fit for promotion as Naib Tehsildar (BPS-14) as per judgment of Commissioner Mardan dated 28.08.2013, so, as per said judgment appellant is entitled for promotion of DRA (BPS-14) against the post of respondents No. 4.

- D) That appellant neither considered for promotion for the post of Naib Tehsildar BPS-14 nor deferred.
- E) That constitution of Departmental Promotion Committee (D.P.C) for promotion of DRA was not legal as per law and rules nor any letter has been issued for constitution of D.P.C.
- F) That the appellant was senior according to corrected seniority list may be consider for the promotion from the date junior to him was promoted.
- G) That the respondent no.4 was promoted on the disputed seniority list two days before the acceptance of departmental appeal of the appellant, which is against the law and rules.
- H) That as per reported judgment of Apex Supreme Court of Pakistan (1996 SCMRB 1185) once a benefit is given by Supreme Court or Service Tribunal to a civil servant on point of mater that benefit can be extended to other civil servant too.
- I) That the appellant want permission to seeks other grounds at the time of hearing.

It is, therefore most humbly requested that the appeal may be accepted as prayed for.

APPELLANT

THROUGH:

  
(M.ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT,  
&   
(S. NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT

(For use in Police Department only)

A  
S  
~~Handwritten signature~~  
B

Heirs,

Passed Matric Session

- 1.
- 2.
- 3.

Verification Roll No. dated received back

Left thumb-impression.

Qualification	Date	Qualifications	Matric	Date
English		First Arts	Passed Matric	
Pashtu		B. L. or B. A.		
Urdu		Pleadership examination		
Plan-drawing		Training School Final examination		
Finger priat		Other qualifications		
Drill instructing				
Court duties				
Reserve duties				

N. B.—Also to be drawn under the qualification possessed.

**ATTESTED**

Note:—The entries in this page should be renewed or re-attested at least every five years, and the signature in lines 9 and 10 should be dated.

6

1. Name

Said Amin

Signature

2. Race

Islam

3. Residence

of Village Jaban Teh. Swale Dist. Madras

4. Father's name and residence

Alidul Kahim

5. Date of birth by Christian era as nearly as can be ascertained

22/10/1963

(Twenty two October Nineteen hundred & sixty three)

6. Exact height by measurement

5-6

correction made with according to Metric certificate

7. Personal marks for identification

A scar on fore head

ADC, Swale

8. Left hand thumb and Finger impression of (non-gazetted) officer

Little Finger.

Ring Finger

Middle Finger.

Fore Finger

Thumb.

9. Signature of Government servant

Signature

Qualified Metric Pass.

10. Signature and designation of the Head of the Office, or other Attesting Officer.

Signature

Head of the Office

ATTESTED

Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature Government servant
520-18-880	Patwari Halga Gahla Temp.			520/-		18 <sup>6</sup> / <sub>84</sub>	Srin
							Srin
	Settlement Patwari Banganther			520/-		7 <sup>7</sup> / <sub>85</sub> FN	
520-18-880				520/-		1 <sup>12</sup> / <sub>84</sub>	Srin
	Patwari Bisari (Gadwan)						
	do			538/-		1 <sup>12</sup> / <sub>85</sub>	Srin
A) 520-18-880				538/-		1 <sup>9</sup> / <sub>1986</sub>	Srin
	Patwari Jafarabli						
	do			556/-		1 <sup>12</sup> / <sub>1986</sub>	Srin
	do			556/-		22 <sup>6</sup> / <sub>87</sub>	Srin
700-25-1200				750/-		7 <sup>7</sup> / <sub>87</sub>	Srin

**ATTESTED**

*[Signature]*

9 Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination of appointment	11 Letter
<i>J. M. Marden</i> DC Marden	5 7 / 37	
<i>J. Marden</i> Management Officer Marden	30 11 / 84	Transfer D.C.
<i>J. Marden</i> DC Marden	30 11 / 85	Incr
<i>J. Marden</i> DC Marden	31 9 / 86	Promo
<i>J. Marden</i> DC Marden	30 11 / 86	Incr
<i>J. Marden</i> DC Marden	29 / 6 / 87	Transfer to S. office Marden
<i>J. Marden</i> Management Officer Marden	Revision of P <sub>1</sub> 30-6-87	
<i>J. Marden</i> Management Officer Marden	30 / 7 / 87	Promo
<i>J. Marden</i> Management Officer Marden		

ATTESTED



9

9 Signature of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave Allocation of period of leave on average pay upto four months for which leave salary is payable to another Government Period Government to which detachable	14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
<p>Allen Deputy Commissioner H. Mardan</p>				<p>Granted leave for awaiting his change w.o.b 21-4-87 to 21-6-87 on full coverage pay under DC order dated 28/6/87.</p>	<p>Allen Deputy Commissioner H. Mardan</p>	<p>Reference to any recorded punishment or censure, or reward or praise of the Government Servant.</p>
<p>Allen Deputy Commissioner H. Mardan</p>		<p>31-12-87 (AM) Transfer to DC Office, Mardan</p>	<p>Allen Deputy Commissioner H. Mardan</p>	<p>Service from 1-12-86 to 21-6-87 verified from the office copies of pay bills</p>	<p>J.D.C. Mardan</p>	<p>Reference to any recorded punishment or censure, or reward or praise of the Government Servant.</p>
<p>Allen Deputy Commissioner H. Mardan</p>	<p>Transfer to SD Mardan</p>	<p>31-12-88</p>	<p>J.D.C. Mardan</p>	<p>Service from 1-12-87 to 31-12-87 verified from the office copies of the pay bills</p>	<p>Allen Deputy Commissioner H. Mardan</p>	<p>Reference to any recorded punishment or censure, or reward or praise of the Government Servant.</p>
<p>Allen Deputy Commissioner H. Mardan</p>	<p>Transfer to DC Office Mardan</p>	<p>30/9/87</p>	<p>Allen Deputy Commissioner H. Mardan</p>	<p>Service from 1-12-87 to 31-12-87 verified from the office copies of the pay bills</p>	<p>Allen Deputy Commissioner H. Mardan</p>	<p>Reference to any recorded punishment or censure, or reward or praise of the Government Servant.</p>
<p>Allen Deputy Commissioner H. Mardan</p>	<p>Transfer to SD Mardan</p>	<p>31-12-88</p>	<p>J.D.C. Mardan</p>	<p>Service from 1-12-87 to 31-12-87 verified from the office copies of the pay bills</p>	<p>Allen Deputy Commissioner H. Mardan</p>	<p>Reference to any recorded punishment or censure, or reward or praise of the Government Servant.</p>
<p>Allen Deputy Commissioner H. Mardan</p>	<p>Transfer to DC Office Mardan</p>	<p>30-9-88</p>	<p>Allen Deputy Commissioner H. Mardan</p>	<p>Service from 1-4-88 to 30-9-88 verified from the office copies of the pay bills</p>	<p>Allen Deputy Commissioner H. Mardan</p>	<p>Reference to any recorded punishment or censure, or reward or praise of the Government Servant.</p>

**ATTESTED**

uwabi

Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
---	------------------------------------	--	--	------------------------------------	--	--

DC Smith 30/11/85  
 Tfr the record to  
 Rishi D'SH

Certified that service from 1/10/84 to 30/11/85 has been verified from the office copies of the pay bills

*[Signature]*  
 for Deputy Commissioner  
 Swabi

DC Smith

DC Smith 30/11/89  
 Increment / DEPT. SECRETARY  
 SWABI

Certified that service from 1/11/88 to 30/11/89 has been verified from the office copies of the pay bills.

*[Signature]*  
 DC Smith

DC Smith 30/11/90  
 Increment / DC Smith

DC Smith 31/5/91  
 Revisions of B. Pay scales / DC Smith

Certified that service from 1/5/90 to 30/5/91 has been verified from the office copies of the pay bills.

DEPUTY COMMISSIONER  
 SWABI

DC Smith 30/11/91  
 Increment / DC Smith

Certified that service from 1-12-90 to 30-11-91 has been verified from the office copies of the pay bills.

for Deputy Commissioner  
 Swabi

DC Smith 30/11/92  
 Increment / DC Smith

Certified that service from 1-12-91 to 30-11-92 has been verified from the office copies of the pay bills.

for Deputy Commissioner  
 Swabi

ATTESTED

FB  
11

9	10	11	12	13		14	
				Period	Government to which Admittable		
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 3	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
<i>Govt. Secy</i>	30/11/97	Increment	<i>Govt. Secy</i>			<i>Govt. Secy</i>	
<i>Govt. Secy</i>	30/11/98	Increment	<i>Govt. Secy</i>			<i>Govt. Secy</i>	
<i>Govt. Secy</i>	29/7/99	transfer	<i>Govt. Secy</i>			<i>Govt. Secy</i>	
<i>Govt. Secy</i>	30/11/99	Increment	<i>Govt. Secy</i>			<i>Govt. Secy</i>	
<i>Govt. Secy</i>	30/11/2000		<i>Govt. Secy</i>			<i>Govt. Secy</i>	
<i>DR</i>		30/11/2001				<i>Govt. Secy</i>	

Certified that Service from 1-2-96 to 30-11-96  
 Govt. Secy  
 for Deputy Commissioner

Certified that Service from 1-2-96 to 30-11-97  
 Govt. Secy  
 for Deputy Commissioner

Certified that Service from 1-12-97 to 30-11-98  
 Govt. Secy  
 for Deputy Commissioner

Certified that Service from 1-12-98 to 30-11-99  
 Govt. Secy  
 for Deputy Commissioner

ATTESTED

Signature of the head of the office or other attesting officer in attesting columns	Date of termination of appointment or action: Part	Reason of termination: Transfer, dismissal, etc.	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.	
				Leave			
				Allegation of period of leave on average pay upto four months for which leave salary is debitable to another Government.			
				Period	Government to which debitable		
	30/11/93	Increment				1-12-92	30-11-93
	28/9/94	transfer				1-12-93	28-2-94
	31/5/74	Revision of pay scale				1-3-94	30-11-94
	30/1/94	Increment				1-12-94	30-11-95
	30/7/95	Increment				1-12-95	30-11-95
	31/9/96	Transfer to P.C. Office Suabi				31-1-96	1-12-95
	31/7/96	Transfer to DCS, Suabi					
	30/11/96	Increment					

has been verified from the office copies of the pay bills.

*Mr. Baldev*  
The Deputy Commr.

**ATTESTED**

13

13

9 Signature and signature of the head of the office or other attesting officer in attestation columns 1 to 8	10 Date of termination of appoint- ment	11 Reason of termination (such as promotion, transfer, dismissal, etc).	12 Signature of the head of the office or other attesting officer	13 Nature and duration of leave taken  Allocation of period of leave and average pay upto four months for which leave salary is payable to another Government  Government to which available	14 Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
<i>[Signature]</i> Distt. Officer R&E Swabi	30.6.07.			Revision of Pay	<i>[Signature]</i> Distt. Officer R&E Swabi	
<i>[Signature]</i> Distt. Officer R&E Swabi	30.11.07.			Increment.	<i>[Signature]</i> Distt. Officer R&E Swabi	
<i>[Signature]</i> Distt. Officer R&E Swabi				Promotion as F/100050 B-3 vide BOK/100050 under bearing no. 7/11.07 dt: 22/7/2008.	<i>[Signature]</i> Distt. Officer (R&E) Swabi	Service Verified from 1.12.05 to 30.11.06 from the Copy of the pay bill <i>[Signature]</i> Distt. Officer (R&E) Swabi
<i>[Signature]</i> Distt. Officer R&E Swabi					<i>[Signature]</i> Distt. Officer (R&E) Swabi	Service Verified from 1.12.06 to 30.11.07 from the Copy of the pay bill <i>[Signature]</i> Distt. Officer (R&E) Swabi
<i>[Signature]</i> Distt. Officer R&E Swabi					<i>[Signature]</i> Distt. Officer (R&E) Swabi	Service Verified from 1.12.07 to 30.11.08 from the Copy of the pay bill <i>[Signature]</i> Distt. Officer (R&E) Swabi
<i>[Signature]</i> Distt. Officer R&E Swabi					<i>[Signature]</i> Distt. Officer (R&E) Swabi	Service Verified from 1.12.07 to 30.11.08 from the Copy of the pay bill <i>[Signature]</i> Distt. Officer (R&E) Swabi
<i>[Signature]</i> Distt. Officer R&E Swabi					<i>[Signature]</i> Distt. Officer (R&E) Swabi	Service Verified from 1.12.07 to 30.11.08 from the Copy of the pay bill <i>[Signature]</i> Distt. Officer (R&E) Swabi

Service Verified from  
1.12.05 to 30.11.06 from  
the Copy of the pay bill

*[Signature]*  
Distt. Officer (R&E) Swabi

Service Verified from  
1.12.06 to 30.11.07 from  
the Copy of the pay bill

*[Signature]*  
Distt. Officer (R&E) Swabi

CC 10/2/08

Drawn under B-1105/08  
on ac of pay & allow  
awarded B-9

1/2/2008 to 9/3/08

Service Verified from  
1.12.07 to 30.11.08 from  
the Copy of the pay bill

*[Signature]*  
Distt. Officer (R&E) Swabi

Pay Revised vide Finance  
Deptt, Govt: of K.P.K  
Notification No. F-2(C/P/R/C) 1-1/11  
Date 14/7/11

*[Signature]*  
Distt. Officer R&E  
Swabi

ATTESTED

(A)

(14)

9 Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 11	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Nature and duration of leave taken	13 Leave Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government Period Government to which debitable	14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
---	--	--	--	--	---	--	---

*[Signature]*  
Distt. Officer P&E  
Sivabi

*[Signature]*  
Distt. Officer P&E  
Sivabi

*[Signature]*  
Distt. Officer P&E  
Sivabi

*[Signature]*  
Distt. Officer P&E  
Sivabi

*[Signature]*  
Distt. Officer P&E  
Sivabi

7371  
9/4/2011

Dem/As=992/2 cover of Pm and alls on A/C of upgradation from B-9 to B-11 w.e.f 2/12/2011  
C/S=13960/- Pm

DISTRICT ACCOUNTS OFFICER  
SIVABI

Increment  
*[Signature]*  
Distt. Officer P&E  
Sivabi

*[Signature]*  
Distt. Officer P&E  
Sivabi

ORDER

Post of Patwar B-8 upgraded to B-9 vide Finance Deptt. KPR Letter No. KC/So(FR)FI 7/7/11 dt. 16/11/11 and BOR KPR emals No. DLK-LR-IRSR 29267-34 dt. 11/11

*[Signature]*  
Distt. Officer P&E  
Sivabi

ORDER

Post of Field Kauriga B-9 upgraded to B-11 vide Finance Deptt. KPR Letter No. KC/So(FR)FD/7/7/11 dt. 16/11/11 and BOR KPR emals No. DLK-LR-IRSR 29267-34 dt. 01/12/11

*[Signature]*  
Distt. Officer P&E  
Sivabi

**ATTESTED**

Better copy

B

15

Better copy

Office order

Consequently upon partially winding up settlement operation in swabi Tehsil , the service alongwith revenue record of the following patwar circle is hereby at the disposal of Deputy Commissioner Swabi with immediate effect:-

S.No:	Name of halqa	name of patwari	Remarks
1.	Ismaila	Mohammad Zaman	
2.	Chak Nodeh	Mohd Siraj	
3.	Nodeh	Zainul Afsar	
4.	Dagai	Jehan Iqbal	
5.	Bam Khel	Wali ullah	
6.	Pabini	Hussan Wahab	
7.	Zarobi	Imam Hussain	
8.	Salim Khan	Sher Afsar	
9.	Shah Mansoor	Umer Dad	
10.	Maniri Bala	Abdullah Shah	
11.	Sheikh Jana	Farid ullah	
12.	Baja	Fazli Karim	

Note:- The record of kvillage Topi and kalabat will be consigned after completion lby the settlement staff.

Settlement officer Mardan.

OFFICE OF THE SETTLEMENT OFFICER MARDAN

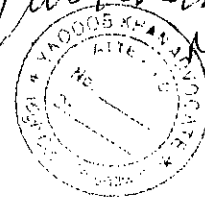
NO: 789-95/SO/Mardan

Dated 14/5/1997

Copy forded to all concerned

1. Commissioner Mardan(Settlement officer Mardan) (Certified to be true copy)

ATTESTED



OFFICE ORDER.

B (15)

Consequent upon partially winding up Settlement operation in Swabi Tehsil, the services alongwith revenue record of the following Patwar Circle is hereby placed at the disposal of Deputy Commissioner, Swabi with immediate effect:-

<u>No.</u>	<u>Name of Halqa.</u>	<u>Name of Patwari.</u>	<u>Remarks.</u>
1.	Ismaila.	Mubarrat Zaman.	
2.	Chak Nodah.	Muhammad Siraj.	
3.	Nodah.	Sainul Afsar.	
4.	Dagai.	Jamal Iqbal.	
5.	Das Khel.	Wali Ullah.	
6.	Pahini.	Muhammad Wahab.	
7.	Zarabi.	Imam Hussain.	
8.	Salim Khan.	Shir Afzal.	
9.	Ghan Mansoor.	Usur Bad.	
10.	Mazari Dala.	Abdullah Shah.	
11.	Shahai Jama.	Faiz Jai.	
12.	Baja.	Zahid Karim.	

*Recd*

NOTES:- The record of village Topi and Kalabat will be consigned after completion by the settlement staff.

Settlement Officer,  
Mardan.

OFFICE OF THE SETTLEMENT OFFICER, MARDAN.

No. 78/85 /80-Mardan/20

Dated Mardan the 14/5/1997.

Copy forwarded to the:-

1. Commissioner, Mardan Division, Mardan.
2. Director, Land Records, NWFP, Peshawar.
3. Deputy Commissioner, Swabi.
4. Extra Assistant Settlement Officer, Mardan.
5. Settlement Tehsildar, Swabi.
6. All Settlement Naib Tehsildars, Swabi District.
7. Appropriate Section (local).

*[Signature]*  
Settlement Officer,  
Mardan.

KHALIB:

**ATTESTED**



BETTER COPY

OFFICE OF THE COMMISSIONER,  
MARDAN DIVISION, MARDAN

No. \_\_\_\_\_/ACR/EA/2-21/V-2

Dated Mardan the 01/04/2013

To,

- 1- The Deputy Commissioner, Mardan
- 2- The Deputy Commissioner, Swabi.

Subject:- Tentative Seniority List of Conformed/ Regular  
Kanungos of Mardan Division as stood on 31-12-  
2012.

Memo:

Enclosed please find herewith a copy of Tentative Seniority List of Confirmed/ Regular Kanungos of Mardan Division as stood on 31-12-2012 for circulation amongst all officials and if any official have objection on seniority may be sent to this office within **15 days** otherwise it will be considered final.

Sd/-  
Assistant Commissioner (Rev)  
Mardan Division, Mardan

**ATTESTED**

BETTER COPY

ATTESTED

Tentative Seniority List of Confirmed/Regular Kanungos of Mardan Division as Stood on 31.12.2012

S.No.	Name of Kanungo with Qualification	Date of Birth	Date of First Entry into Government Service	Date of Promotion as Kanungos on Regular Basis	Remarks
1.	Muhammad Ikram (FA)	15.05.1953	02.04.1980	15.11.1995	Working as Naib Tehsildar on acting charge basis
2.	Mr. Shah Qadar (FA)	01.06.1955	17.03.1983	15.11.1995	-d-
3.	Mr. Yousaf Haroon (BA)	20.04.1957	16.05.1984	22.07.2004	-
4.	Muhammad Hayat (Metric)	11.09.1954	18.03.1983	01.08.204	Working as Naib Tehsildar on acting charge basis
5.	Mr. Diyar Khan (FA)	08.09.1953	30.04.1979	03.06.2006	-
6.	Mr. Hussan Wahab (Metric)	15.02.1959	01.02.1979	03.05.2003	-
7.	Mr. Shakir Ullah (MA)	08.08.1953	01.11.1977	14.07.2007	-
8.	Mr. Nisar Ullah (BA)	01.11.1959	04.01.1984	14.07.2007	-
9.	Mr. Nasrullah (BA)	13.03.1965	24.12.1985	14.07.2007	-
10.	Mr. Wahid Shah (Metric)	01.12.1953	06.04.1961	23.07.2006	-
11.	Mr. Said Amin (Metric)	22.10.1963	18.06.1984	03.06.2006	-
12.	Mr. Said Badshah (Metric)	14.09.1955	21.05.1976	18.08.2009	-
13.	Mr. Akbar Khan (Metric)	10.05.1955	20.03.1983	18.08.2009	-
14.	Mr. Azizur Rehman (FA)	20.04.1960	08.04.1981	13.08.2011	-
15.	Mr. Sabz Ali (BA)	05.06.1962	12.10.1998	13.08.2011	-

Sd/-

Assistant to Commissioner (Rev)  
Mardan Division, Mardan

OFFICE OF THE COMMISSIONER  
MARDAN DIVISION, MARDAN.

No. 501 /ACR/EA/2-21/V-2

Dated Mardan the 01 /04/2013

16  
*(Handwritten scribbles)*

- To:
- 1- The Deputy Commissioner, Mardan.
  - 2- The Deputy Commissioner, Swabi.

Subject: Tentative Seniority List of Confirmed/Regular Kanungos of Mardān Division as stood on 31-12-2012

Memo: Enclosed please find herewith a copy of Tentative Seniority List of Confirmed/Regular Kanungos of Mardān Division as stood on 31-12-2012 for circulation amongst all officials and if any official have objection on seniority may be sent to this office within 15 days, otherwise it will be considered final.

*(E-1)*

Assistant to Commissioner (Rev),  
Mardān Division, Mardān.

No. & date even:

Copy forwarded to the:

- 1- Assistant Secretary (Estt.) Board of Revenue Khyber Pakhtunkhwa, Peshawar.
- 2- PS to Commissioner Mardān Division, Mardān.

Assistant to Commissioner (Rev),  
Mardān Division, Mardān.

2253  
2/4/13

*DK*  
*for 15 days*  
DC/Swabi  
2/4/2013

*منصوبہ کرد اور ان کو ملازمین کے لئے ڈیوٹی میں سیدنی سب سے پہلے کو لیا جائے*  
*یہ تو اگر سیدنی دفتر کے لئے اور کسی دوسرے کے لئے نہیں*

*8/4/2013*

*سیدنی کے لئے ملازمین کے لئے*

322-26/DC  
8/4/2013

*h*  
**ATTESTED**

Tentative Seniority List of Confirmed/Regular Kanungos of Mardan Division as stood on 31-12-2012

S.No.	Name of Kanungo with Qualification	Date of Birth	Date of First Entry into Government Service	Date of Promotion as Kanungos on Regular Basis	Remarks
1	Muhammad Ikram (FA) ✓	15/05/1953	02/04/1980	15/11/1995	Working as Naib Tehsildar on acting charge basis
2	Mr. Shah Qadar (FA) ✓	01/06/1955	17/03/1983	15/11/1995	-do-
3	Mr. Yousaf Haroon (BA) ✓	20/04/1957	16/05/1984	22/07/2004	
4	Muhammad Hayat (Metric)	11/09/1954	18/03/1983	01/08/2004	Working as Naib Tehsildar on acting charge basis
5	Mr. Driyar Khan (FA) ✓	08/09/1953	30/04/1979	03/06/2006	
6	Mr. Hussan Wahab (Metric) ✓	15/02/1959	01/03/1979	03/08/2006	
7	Mr. Shakir Ullah (MA) ✓	08/08/1953	01/11/1977	14/07/2007	
8	Mr. Nisar Ullah (BA) ✓	01/11/1959	04/01/1984	14/07/2007	
9	Mr. Nasrullah (BA) ✓	13/03/1965	24/12/1985	14/07/2007	
10	Mr. Wahid Shah (Metric)	01/12/1953	05/04/1981	23/07/2008	
11	Mr. Said Amin (Metric)	22/10/1963	18/06/1984	03/06/2006	
12	Mr. Said Badshah (Metric)	14/09/1955	21/05/1976	18/08/2009	
13	Mr. Akbar Khan (Metric)	10/05/1955	20/03/1983	18/08/2009	
14	Mr. Azizur Rehman (FA)	20/04/1960	08/04/1981	13/08/2011	
15	Mr. Sabz Ali (BA)	05/06/1962	12/10/1998	13/08/2011	

Assistant to Commissioner (Rev)  
Mardan Division, Mardan.

ATTENDED

D  
19  
~~AC~~  
~~AC~~

10:  
The honourable Commissioner  
Mardan: Div: Mardan

Subject: Application for correction of seniority list  
of applicant as a Qanungo.

---

Respectfully Sheweth

---

1. That applicant is Post as Qanungo since 3/6/2006 as per Judgment of Svc T2 KPK Peshawar.
2. That applicant was appointed as a Rev: Patwari on 31/1/1996, while he was promoted as field Qanungo on 3/6/2006 on the basis of Judgment of honourable Svc T2: Peshawar dated 29/4/2009.
3. That Hussun ul Wahab and Walid Shah were posted as settlement patwaris and due to winding up settlement operation Swabi, they were adjusted as Revenue patwaris on 31/5/2001 and promoted as Qanungo on 3/6/2006 and 2008 respectively. Thus said Hussun-ul-Wahab and Walid Shah are most Junior than applicant as per sec: 8(4) of civil servant Act 1973.
4. That recently, this office of D.C. Swabi circulated Seniority list of Qanungos issued on 21/1/...

ATTESTED

(19) ~~(19)~~ ~~(19)~~ ~~(19)~~

OFFICE OF THE COMMISSIONER,  
MARDAN DIVISION, MARDAN.

No. 400 /ACR/EA/2-19/V-4

Dated Mardan the 18 /06/2013

To

The Deputy Commissioner, Swabi.

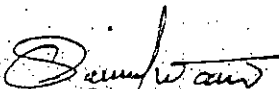
Subject: QUERIES ON SENIORITY LIST OF FIELD KANUNGOS AS  
STOOD ON 31.12.2012

Memo:

With reference to the subject cited above, I am directed to state that while consolidating the seniority list of field kanungos, at the divisional level, as stood on 31.12.12 following queries were pointed out:

- 1) Mr. Wahid Shah (31.5.1992 Date of Regular first appointment as patwari in DC office Swabi) was deferred in DPC meeting held in 2006, on account of missing ACR. However, later on he was given promotion as field kanungo in DPC meeting held in 2008. Which shows that he was not given backdate seniority or inadvertently missed out.
- 2) Similarly Mr. Said Amin (31-01-1996 Date of Regular first appointment as patwari in DC office Swabi) was deferred in DPC meeting held in 2006 on account of missing ACR. However, later on because of intervention of KPK service tribunal, he was promoted as field kanungo Swabi on 30-06-2006 and was not given back date seniority according to DPC meeting held on 3-6-2006.
- 3) As per seniority list given by your office (copy enclosed), settlement service of patwaris was reckoned toward regular first appointment but does not reflect Mahaal (Revenue and estate department) service.

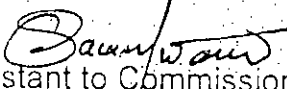
You are hereby requested to reply the above mentioned queries within two days positively so as the quarter concerned is pressing hard for the same.

  
Assistant to Commissioner (Rev.),  
Mardan Division, Mardan

No & date even:

Copy forwarded to the:-

- 1) Deputy Commissioner, Mardan for information please.
- 2) Assistant Secretary (Estt.), Board of Revenue, Khyber Pakhtunkhwa, Peshawar w/r his letter No. Estt:V/Promotion of Kgos/SL/Commissioner/12025 dated 12/6/2013.
- 3) PS to Commissioner Mardan Division

  
Assistant to Commissioner (Rev.),  
Mardan Division, Mardan

**ATTESTED**

90

28/8/13

10/7/13



BEFORE THE COURT OF COMMISSIONER MARDAN DIVISION, MARDAN

Said Amin Girdawar Circle Swabi

(Appellant)

Versus

Deputy Commissioner Swabi etc.

(Respondents)

Date of institution 10/07/2013

Date of decision 28/08/2013

Appeal against seniority list of Kanungos District Swabi circulated/issued on 31/12/2012 by the Deputy Commissioner Swabi.

ORDER:-

Through this appeal the appellant has challenged the seniority list of kanungos of District Swabi circulated/issued on 31/12/2012 by the Deputy Commissioner Swabi vide which the appellant was placed at S.No.7 instead of S.No.5.

Brief facts of the case are that the appellant namely Said Amin Kanungo was appointed as revenue patwari by Deputy Commissioner Mardan vide order dated 05/07/1984 and was transferred to Settlement Operation Mardan. After completion of his deputation period, the appellant was again transferred to revenue side Mardan vide order dated 30/11/1984. Later on, the appellant was again transferred from the revenue side to Settlement Operation Mardan vide order dated 20/06/1987. On completion of his deputation, appellant was again transferred to revenue side Mardan vide order dated 31/12/1987. Due to creation of District Swabi in 1988, the appellant was transferred from District Mardan to his domicile District Swabi vide order dated 30/11/1988 but seniority of appellant was wrongly adjusted due to which the appellant filed an appeal before the Hon'ble Commissioner Mardan Division, Mardan which was accepted and confirmed the service of appellant and his seniority was adjusted as regular patwari with effect from 30/06/1988 vide order/judgment dated 04/12/1991. The said order of the Hon'ble Commissioner Mardan Division, Mardan was upheld upto the apex Supreme Court of Pakistan vide order/judgment dated 01/02/2002.

The present respondent No.2 namely Hussan-ul-Wahab was appointed as a settlement patwari Malakand vide order dated 01/02/1989 and was transferred to Settlement Operation Mardan on 5/09/1991. After completion of Settlement Operation Mardan, respondent No.2 was transferred/appointed as a revenue patwari vide order No.181-95/SO-Mardan dated 14/05/1997, meaning thereby that the respondent No.2 was appointed as a revenue patwari on 14/05/1997. The present respondent No.3 namely Wahid Shah was appointed as a Settlement Patwari in Settlement Operation Malakand vide order dated 06/04/1981.

Contd....P/2

*Love Raza*

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**ATTESTED**

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After completion of settlement operation Malakand, respondent No.3 was transferred to his domicile District i.e. Swabi vide order dated 31/05/1992 of SO Malakand. After completion of settlement Operation Swabi, respondent No.3 was transferred/adjusted as a revenue patwari vide order dated 14/03/1997.

While issuing the seniority list of Kanungos Swabi circulated dated 31/12/2012, in which appellant stood junior than respondent No.2. and 3, hence, appellant filed the instant appeal before this court.

Parties present. Representative of DC Swabi also present and who submitted parawise comments on behalf of DC Swabi as well as submitted brief history of the case wherein he negated the stance of present appellant by stating that the appellant could not be considered in DPC meeting held in 2006 for his missing ACRs and later on he was placed in the seniority list upon direction of Service Tribunal, accordingly and now the appellant has got no cause of action. Counsel for the appellant attended the court and argued the case while the respondents argued their stance personally. Arguments heard and case file thoroughly perused.

From perusal of record of the case and arguments advanced at the bar, it reveals that the appellant was appointed as regular patwari on 05/07/1984 and his service was confirmed on 30/06/1988. Subsequently, respondent No.2 was appointed as revenue patwari on 14/05/1997 and respondent No.3 was appointed as revenue patwari on 14/03/1997 against regular post. Moreover, as per the section 8 (4) of Civil Servant Act, 1973 coupled with reported judgment of Apex Supreme Court of Pakistan (1995 SCMR 1840) as well as judgment of Worthy SMBR KPK Peshawar dated 09/01/2010, titled as Umbaras Khan Naib Tehsildar Mardan vs Board of Revenue KPK Peshawar, seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular 1<sup>st</sup> appointment to that post. Further more it is well established fact, emerged from the reported judgments of Apex Court that the Settlement service shall not be reckoned towards seniority. The official if get deferred because of missing ACR; should not bear the brunt of the mistakes/blunders of the others and he shall retain his seniority as in the lowest post as mentioned in Section 8(4) of KPK Civil Servant Act, 1973.

In view of the above discussion, the appeal of the appellant is hereby disposed of with the above observation and the seniority should be counted from the date of 1<sup>st</sup> regular appointment. Deputy Commissioner Swabi is hereby directed to furnish the revised seniority list based on the seniority reflected as per their respective service books within 15 days positively. No order as to cost.

File be consigned to record room after its necessary completion and compilation.

2150  
 No. 2-9-12  
 Date of Application  
 Name of Applicant  
 Wards 800  
 Department  
 Sign of Applicant  
 Date of Preparation

Announced  
28/08/2013

11/10/2013

2-9-13

Commissioner  
Mardan Division, Mardan

ATTESTED  
Examiner/Reader to  
Commissioner Court  
Mardan Division Mardan

2-9-13

ATTESTED



**BETTER COPY**

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 26.08.2013

**NOTIFICATION**

No. \_\_\_\_\_ Consequent upon the recommendation of Departmental Promotion Committee, the Competent Authority is pleased to order the promotion of the following Kanungos (BPS-11) to the post of District Revenue Accountant (BPS-14) on regular basis with immediate effect:-

S.NO.	NAME OF OFFICER
1.	Mr. Yousaf Haroon.
2.	Mr. Hussan Wahab

2. On promotion the above officials will be on probation for a period of one year in terms of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973, read with Rule \_\_\_ of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

3. Consequent upon the above, the following posting/ transfer is ordered with immediate effect:-

S.NO.	NAME OF OFFICER	TO
1.	Mr. Yousaf Haroon DRA (BPS-14)	District Revenue Accountant, Mardan against the vacant post.
2.	Mr. Hussan Wahab DRA (BPS-14)	District Revenue Accountant, Swabi against the vacant post.

Sd/-  
Secretary to Government  
Revenue & Estate Department

Endst No.15236-43

**ATTESTED**

205  
23

BEFORE CHIEF SECRETARY K.P.K, PESHAWAR.

---

Said Amin Girdawar Circle Razar Tehsil and District  
Swabi. . . . . (Appellant) . . . . .

VERSUS

1. B.O.R. KPK, Peshawar.
2. Commissioner, Mardan Division Mardan.
3. Husdan ul Wahab. *Girdawar circle swabi*

(Respondents)

---

APPEAL AGAINST ORDER OF RESPONDENT No. 1, DATED  
26.8.2013, WHEREBY RESPONDENT No. 3, IS PROMOTED  
AS A D.R.A. (BPS-14) WHILE APPELLANT IS ENTITLED  
FOR PROMOTION, AGAINST THE POST OF RESPONDENT  
AS PER SENIORITY CUM FITNESS OF SENIORITY LIST  
QANUNGOS.

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ATTESTED

24

~~24~~  
~~24~~

Sir,

Appellant humbly submits as under :-

1. That Appellant is posted as Girdawar Circles Razar Swabi since long.
2. That Appellant was appointed as a regular Patwar on 5.7.1984 and confirmed as a Regular Patwari on 30.6.1988.
3. That Appellant was transferred from D.C. Office on 5.7.1984 and after completion of deputation period, Appellant was re<sup>p</sup>atriated to his post i.e. D.C. Office on 30.11.1984 vide order dated 30.11.1984 and due to need of Settlement Operation Mardan, Appellant was again transferred from D.C. Office Mardan to Settlement Operation vide order dated 20.6.1987 and due to completion of work, Appellant was again transferred to D.C. Office Mardan vide order dated 31.12.1987. On creation of District Swabi Appellant was transferred from District

ATTESTED

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Mardan to his Domiciled District, Swabi in the

year 1988, while Respondt: No 3 was appointed as a Rev:  
Patwari vide order dated 14/5/97 in Rev: Side Swab:  
order dt 14/5/97  
COPY OF SERVICE BOOK IS ATTACHED AS ANNEX: 'A'     

X 4. That due to wrong adjustment of Seniority as a  
Rev: Patwari, Appellant approached before  
Commissioner Swabi, who accepted appeal of  
Appellant and appellant was confirmed vide  
order/judgement dated 4.12.1991, which was  
upheld upto Apex Supreme Court of Pakistan  
vide order/judgement dated 01.2.2002.

COPY OF JUDGEMENTS ARE ATTACHED AS ANNEX: 'B'  
-----

X 5. That feeling aggrieved Respondent No. 4,  
(Faiz Muhammad) filed an appeal before Apex  
Supreme Court of Pakistan, which was also  
dismissed vide order/judgement dated 30.12.2010  
and order/judgement of Service Tribunal KPK  
intact, on the basis of reported judgement of

11/15/10

of Apex Supreme Court of Pakistan (1995 SCMR 1840).

COPY ATTACHED AS ANNEXURE 'C'  
-----

- ✓ 6. That Respondent No. 1, prepared seniority list of Qanungos at Division level in which Appellant stood at serial No. 11, instead of 8/No. 6, for which appellant filed an application before the Office of Hon'ble Commissioner Mardan, in which asked for reply with observation that Appellant is senior than Respondents No. 2 and 3 vide letter No. 400/ACR/EA/2 dated 19.6.2013.

COPY OF APPLICATION AND REPLY IS ATTACHED  
<sup>B</sup>  
AS ANNEXURE 'D'  
-----

- ✓ 7. That finally, Appellant preferred an appeal before Honourable Commissioner Mardan for correction of seniority list of Qanungoes through Departmental appeal, which is accepted vide order/judgement dated 28.8.2013, with direction to D.C. Swabi for

✓  
ATTESTED

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correction of seniority list of Qanungos of District Swabi, which is implemented and corrected the seniority list of Qanungos Swabi.

C  
COPY OF JUDGEMENT IS ATTACHED AS ANNEX: 'E'  
-----

8. That Respondent No. 3, was promoted as a DRA Swabi on the wrong seniority list of Qanungos by Respondent No. 1, vide ~~order~~ impugned order dated 26.8.2013, while as per correct /Amended seniority list of Qanungos, Appellant is senior than Respondent No. 3, hence filed instant Appeal before this Honourable Court.

D  
COPY OF ORDER IS ATTACHED AS ANNEX: 'F'  
-----

- \* 9. That impugned order of Respondent No. 1, dated 26.8.2013 is illegal, against Law and facts on the following grounds :-

ATTESTED

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GROUND S

- A. That it is duty bound of Respondents to prepare correct seniority list as per Sec:8(4) of Civil Servant Act 1974 and imp.
- B. That similarly placed official namely Umbaras Khan was ignored from promotion on the basis of seniority cum fitness, he filed an appeal before the then Presiding Officer Appellate Court Mardan which was accepted vide order/judgement one Respondent Yousaf Haroon filed an appeal before SMBR KPK Peshawar, which was dismissed vide order/judgement dated 27.11.2008. Then said Appellant filed again for implementation of said judgement dated 28.3.2007 before the SMBR, which was accepted vide order/judgement dated 09.1.2010.

COPY OF JUDGEMENT IS ATTACHED AS ANNEX: 'F'

ATTESTED

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(D) That as per reported judgement of Apex Supreme Court of Pakistan (1996 SCMR 1185) once a benefit is given by Supreme Court or service Tribunal to a Civil Servant on point of matter that benefit can be extended other civil servant too. Therefore, Appellant may please be placed at S/No. 5, instead of Serial No. 7, in the seniority list of Swabi District.

It is therefore humbly prayed that on acceptance of this Appeal, order of Respondent No. 1, dated 26.8.2013 <sup>10</sup>/<sub>2013</sub> may please be set aside and appellant may please <sup>be considered for</sup> promotion as DRA (BPS-14) against the post of Respondent No. 3, with all back benefit. Any other relief deemed fit may also be graciously ordered.

Appellant *Said Amin*

Said Amin Qanungo

Through

*Yaqub*  
YAQOOB KHAN Advocate  
Mardan.

Dated: 09.09.2013.

ATTESTED



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~~1~~

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

No.Esst:V/Said Amin/Mardan/ 17646  
Peshawar dated 01/09/2013

To

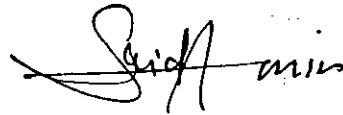
Mr. Said Amin,  
Kanungo, Circle, Swabi  
Thorough Deputy Commissioner Swabi.

SUBJECT:- APPEAL AGASINT ORDER OF RESPONDENT NO.1 DATED 26.08.2013, WHEREBY RESPONDENT NO.3 IS PROMOTED AS DISTRICT REVENUE ACCOUNTANT (BPS - 14) WHILE APPELLANT IS ENTITLED FOR PROMOTION AGAINST THE POST OF RESPONDENT AS PER SENIORITY CUM FITNESS OF SENIORITY LIST KANUNGO.

I am directed to refer to your appeal / Representation dated 09.09.2013 and to inform you that Departmental appeal / Representation has been examined and filed by the Competent Authority.

  
Assistant Secretary (Estt.)

Received the impugned order dated 01/10/2013 on 7/11/2013 on arrival back from Exo-Pakistan leave on completion of Hajj.



**ATTESTED**

A ~~Q~~ I  
~~Amir~~  
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To:

The Deputy Commissioner /  
District Collector, Swabi.

Subject: APPLICATION FOR EX-PAKISTAN LEAVE W.E.F 9.9.2013 TO 20.10.2013 FOR THE PERFORMANCE OF HAJJ.

Respected Sir,

It is submitted with great honor that I am serving as Girdawar Circle Razzar under your kind control. It is further submitted that I am going to perform the Hajj due to which I am in need of Ex-Pakistan Leave w.e.f 9.9.2013 to 20.10.2013 (47 days).

You are therefore, requested that please grant me Ex-Pakistan Leave mentioned above and oblige. I will pray for your long life and prosperity.

Dated: 30<sup>th</sup> August 2013

Said Amin  
Girdawar Circle Razzar

5741  
30-8-13

S.A  
Put up  
with L/Account 30/8/13

AC Kahor,  
Agreed, Forwarded for approval and  
further via please.

through proper  
channel

DC Swabi:

Forwarded for approval please

AAC Razzar

Forwarded to Assistant  
Commissioner, Kahore for further  
Process.

Attested. 4/9/13  
Tehsildar Razzar

4/9/13  
AAC Kahore

**ATTESTED**



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**Before the Service Tribunal KPK Peshawar**

Appeal No. 1580 2013

**SECRETARY**

Office No. 1560

Dated 13-11-13

Said Amin S/o Abdul Karim, Girdawar Circle, Razar Swabi  
R/o Village Jalbai Tehsil Lahor District Swabi.

(Appellant)

**VERSUS**

1. Senior Member Board of Revenue, Peshawar.
2. Commissioner, Mardan.
3. Hussan-ul-Wahab,, D.R.A Swabi R/O Vill. Ismaila Tehsil Swabi.
4. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.

(Respondents)

**APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT,  
1974, AGAINST RESPONDENT NO.1 DATED  
01/10/2013 RECEIVED ON 07/11/2013 AND  
ORDER DATED 26/08/2013, WHEREBY  
RESPONDENT NO.3 WAS PROMOTED AS DRA  
(BPS-14) WHILE APPELLANT BEING SENIOR  
MOST WAS IGNORED, WHICH IS ILLEGAL,  
AGAINST LAW AND FACTS.**

Sir,

Appellant humbly submits as under:-

1580  
13/11/13

1. That appellant is posted as Girdawar Circles Razar Swabi since long.
2. That appellant was appointed as a regular Patwari on 05/07/1984 and confirmed as a regular Patwari on 30/06/1986.

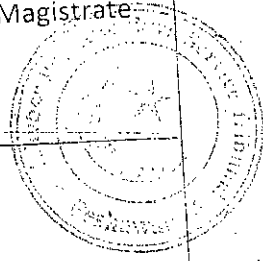
Filed to-447

1580

**ATTENDED**  
**ATTACHED**  
SECRETARY  
SERVICE TRIBUNAL  
PESHAWAR

34

Sr. No	Date of order/ proceeding	Order or other proceedings with signature of Judge or Magistrate
1	2	3



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**Appeal No. 1580/2013**

Date of Institution ..... 13.11.2013  
 Date of Decision ..... 15.02.2018

Said Amin Son of Abdul Karim, Girdawar, Circle, Razar Swabi  
 resident of Village Jalbi Tehsil and District Swabi.

**Appellant**

1. Senior Member of Board of Revenue, Peshawar.
2. Commissioner, Mardan.
3. Hussan Ul Wahab, D.R.A Swabi resident of Village Ismailia Tehsil and District Swabi.
4. Chief Secretary, Khyber Pakhtunkhwa Peshawar.

**Respondents**

15.02.2018

**JUDGMENT**

**MUHAMMAD HAMID MUGHAL, MEMBER:** Learned

counsel for the appellant present. Mr. Kabir Ullah Khattak, Learned Additional Advocate General for official respondents present. Learned counsel for the private respondent No.3 also present.

2. The appellant has filed the present service appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974 and made impugned the promotion order dated 26.08.2013, on the ground that the appellant despite being senior to the respondent No.3 was ignored from promotion to the post of District Revenue Accountant (BPS-14). The appellant has also challenged the order dated 01.10.2013 whereby the departmental appeal dated 09.09.2013 of the appellant

*H. Amin*

**ATTESTED**

*[Signature]*  
 Secretary  
 Peshawar

**ATTESTED**

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against impugned promotion order dated 26.08.2013, was filed.


3. Learned counsel for the appellant argued that the appellant is senior to the respondent No.3. Further argued that on acceptance of departmental appeal of appellant bearing No.786 of the year 2013 against seniority list of Kanungos, the appellate authority/respondent No.2 vide order dated 28.08.2013 held that seniority should be counted from the first date of appointment and the Deputy Commissioner was directed to furnish revised seniority list, however two (02) days prior to the acceptance of departmental appeal, the impugned promotion order was issued. Learned counsel for the appellant stressed that the appellant is entitled to be promoted as District Revenue Accountant against the post of respondent No.3 with back benefits.

4. As against that learned District Attorney assisted by learned counsel for private respondent No.3 controverted the arguments of learned counsel for the appellant and defended the impugned promotion order on the ground that the respondent No.3 was senior to the appellant in all the seniority lists, hence the impugned promotion order does not warrant any interference.

5. Arguments heard. File perused.

6. Perusal of the order/letter dated 01.10.2013 of the appellate authority would show that no order much less speaking order has been passed by the authority on the departmental appeal dated 09.09.2013 against the impugned promotion order rather the departmental appeal was just filed. This leads to the conclusion that

ATTESTED

  
District Attorney  
Peshawar

ATTESTED

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the departmental appeal dated 09.09.2013 was neither properly examined nor decided by assigning any cogent reason.

7. In the stated circumstances this Tribunal is of the considered view to remit the case of the appellant to the appellate authority with the direction to examine the case of the appellant and to decide his departmental appeal dated 09.09.2013 with speaking order within a period of three (03) months of the receipt of this judgment. The present appeal is disposed of accordingly. Parties are left to bear their own costs. Copy of memo of service appeal, departmental appeal dated 09.09.2013, order dated 28.08.2013 of respondent No.2 (Commissioner Mardan Division) alongwith copy of this judgment be sent to the appellate authority/respondent department. File be consigned to the record room

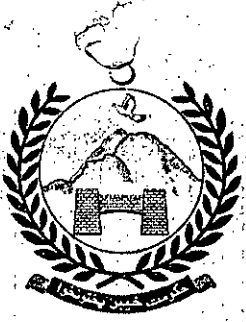
ANNOUNCED  
15.02.2018

SD/-  
(AHMAD HASSAN)  
MEMBER

SD/-  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

Certified to be true copy  
K. P. ...  
Reshewas

Date of Presentation of ... 12-3-18  
Number of ... 1600  
Copying ... 1000  
Filing ... 200  
Name of ...  
Date of ... 12-3-18  
Date of ... 12-3-18



K      ①      (37)

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE AND ESTATE DEPARTMENT**

No. Estt: V/Said Amin/Mardan/ 29171  
Dated Peshawar the 1 08/2018

To

The Deputy Commissioner  
Swabi.

**SUBJECT: SAID AMIN VERSUS SENIOR MEMBER BOARD OF REVENUE AND OTHERS.**

I am directed to refer the subject and to enclose copy of order dated 10.07.2018 passed by Senior Member Board of Revenue for information please.

Assistant Secretary (Estt)

**ATTESTED**



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**BEFORE THE SENIOR MEMBER BOARD OF REVENUE, KHYBER PAKHTUNKHWA**

Said Amin .....Appellant

Versus

Senior Member Board of Revenue and others .....Respondent

**ORDER.**

This is a departmental appeal filed by Mr. Said Amin Kanungo remitted by Service Tribunal vide judgment dated 15/02/2018 against the order dated 26/08/2013 whereby Mr. Hussan Wahab Kanungo was promoted as District Revenue Accountant on regular basis.

Brief facts of the case are that on the basis of seniority list, promotion case to the post of District Revenue Accountant was placed before the Departmental Promotion Committee on 05.08.2013. In the seniority list received from Commissioner Mardan Division, the name of Mr. Hussan Wahab was at Serial No. 6 (i.e the official at S No. 1 retired, the officials at S No. 2,4 and 5 were working as Naib Tehsildar (ACB) while the official at S No. 3 was promoted as District Revenue Accountant) therefore he being the senior most was recommended for promotion as District Revenue Accountant while the name of appellant was at Serial No. 11 was not considered. Against the said order, Mr. Said Amin Kanungo filed application / appeal before the Chief Secretary which was examined in the department and filed by the Competent Authority. The appellant was also informed accordingly. Aggrieved by the same the appellant filed appeal before the Service Tribunal which has been remitted to the department with the direction to examine the case of the appellant and to decide his departmental appeal dated 09/09/2013 with speaking order within a period of three months.

The appellant was called for personal hearing on 10.07.2018 and heard in person. Record produced by the office as well as reply of the appellant gone through, which shows that in the seniority list of 2012 received from Commissioner Mardan Division, the appellant was not considered, being the junior most at S.No.11 of the list ibid. The respondent Mr. Hussan Wahab was promoted through proper DPC on 05/08/2013 after fulfillment of other pre-requisites as required under the Khyber Pakhtunkhwa Government Servant (Appointment Promotion & Transfer) Rules 1989. There is no good ground to interfere with promotion order of the respondent. The appeal of the appellant having no weight is hereby dismissed and order dated 05.08.2013 is maintained.

*M Fakhre Alam*  
Dr. Fakhre Alam  
Senior Member

**ATTESTED**

Announced  
10/07/2018

**VAKALAT NAMA**

NO. \_\_\_\_\_/20

IN THE COURT OF K.P.K Service Tribunal, Peshawar

Said Amin (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Revenue Deptt (Respondent)  
(Defendant)

I/We, Said Amin

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

[Signature]  
(CLIENT)

ACCEPTED

[Signature]  
**M. ASIF YOUSAFZAI**  
Advocate Supreme Court  
Peshawar.

[Signature]  
Syed Noman Ali Qureshi

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)