

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1466/2018

Date of institution ... 26.11.2018

Date of judgment ... 04.09.2019

Muhammad Haris, Junior Clerk,
O/O the Revenue & Estate Department,
Khyber Pakhtunkhwa, Peshawar.

... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
 2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
 3. The Assistant Secretary, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
 4. Mr. Safi Ullah, Junior Clerk, O/O the Board of Revenue, Peshawar.
 5. Mr. Junaid Kokhar, Junior Clerk, O/O the Board of Revenue, Peshawar.
 6. Mr. Shoaib, Junior Clerk, O/O the Board of Revenue, Peshawar.
 7. Mr. Kaleemullah, Junior Clerk, O/O the Board of Revenue, Peshawar.
- ... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED SENIORITY LIST DATED 29.08.2018 ISSUED/CIRCULATED FOR THE CADRE OF JUNIOR CLERK WHEREBY THE PRIVATE RESPONDENTS NO. 4 TO 7 HAS WRONGLY AND ILLEGALLY BEEN MADE SENIOR TO THE APPELLANT AND AGAINST THE APPELLATE ORDER DATED 26.10.2018 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.

Mr. Noor Muhammad Khattak, Advocate .. For appellant.
Mr. Ziaullah, Deputy District Attorney .. For official respondents No. 1 to 3.
Mr. Safi Ullah, Junior Clerk .. In person

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. HUSSAIN SHAH .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel

for the appellant present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Muhammad Arif, Superintendent for official respondents No. 1 to 3 and private respondent No. 4 in person present. Private respondents No. 5 to 7 have already

been proceeded ex-parte vide order sheet dated 01.07.2019. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant and private respondents were appointed as Junior Clerk in the Revenue Department on the basis of deceased/retried son quota vide order dated 19.04.2017 by the competent authority. Final seniority list of Junior Clerks BPS-11 of the Revenue & Estate Department (BOR) Khyber Pakhtunkhwa as stood on 31.12.2017 was issued on 19.04.2018 wherein the name of the appellant was placed at serial no. 7 while the private respondents names were placed junior to the appellant. The private respondents filed departmental appeal against the final seniority list as stood on 31.12.2017 issued on 19.04.2018. The respondent-department sought opinion from the Establishment Department and the Establishment Department gave opinion through letter No. SOR.IV(ED)/14-1/2018 dated Peshawar, the 10th August 2018 that the inter-se seniority may be determined according to rule 17 (1) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion & Transfer) Rules, 1989 on the basis of date of retirement on medical ground/invalidation/date of death of civil servant whichever is earlier instead of age or merit etc and on the basis of said letter dated 10.08.2018 the respondent-department issued revised seniority list in the light of advice of Establishment Department to the extent of the appellant and private respondents on 29.08.2018 whereby the name of the private respondents were placed senior to the appellant. Feeling aggrieved from the revised final seniority list dated 29.08.2018, the appellant filed departmental appeal on 27.09.2018 which was rejected on 26.10.2018 hence, the present service appeal on 26.11.2018.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

Al Amin
4.9.2019

4. Learned counsel for the appellant contended that the appellant and private respondents were appointed by the competent authority on the same date on the basis of deceased/retired son quota vide order dated 19.04.2017. It was further contended that after the appointment of the appellant and private respondents, the respondent-department prepared final seniority list of the Junior Clerks of respondent-department stood on 31.12.2017 issued on 19.04.2018 whereby the appellant was shown senior to the private respondents on the basis of older age than the private respondents. It was further contended that the private respondents filed departmental appeal against the final seniority list of Junior Clerks stood on 31.12.2017 issued on 19.04.2018. It was further contended that the respondent-department sought opinion regarding the seniority of appellant and private respondents and the Establishment Department gave opinion vide letter dated 10.08.2019 that their seniority may be determined according to rule 17(1) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion & Transfer) Rules, 1989 on the basis of date of retirement; on medical ground/invalidation/date of death of civil servant whichever is earlier instead of age or merit etc. It was further contended that on the basis of said opinion the respondent-department issued revised final seniority list on 29.08.2018 of the appellant and private respondents whereby the name of the appellant was placed junior to the private respondents. It was further contended that feeling aggrieved from the final seniority list dated 29.08.2018, the appellant filed departmental appeal but the same was rejected on 26.10.2018 hence, the present service appeal. It was further contended that as per seniority list the date of birth of the appellant is 31.12.1989, the date of birth of private respondent Shoaib is mentioned as 20.11.1992, the date of birth of private respondent Kaleemullah is mentioned as 03.03.1993 while date of birth of Junaid Kokhar is mentioned as 15.06.1993 while the date of birth of Safiullah is mentioned as 18.04.1993. It was further contended that the

M. Amin
4.9.2019

appellant is older in age than all the private respondents and as per Section-17 (4) added vide Notification No. SOR VI (E&AD)1-3/2008 dated 19th November 2009, the inter-se seniority of the civil servant in certain cadre, if the date of regular appointment of two or more civil servants in the lower post is the same, the civil servant older in age, shall be treated senior. It was further contended that in final seniority list of Junior Clerks of respondent-department stood on 31.12.2017 issued on 19.04.2018 the seniority of the appellant and private respondents was rightly determined on the basis of older age but the respondent-department have illegally issued a revised seniority list dated 29.08.2018, on the basis of wrong advise of Establishment Department and the name of the appellant was illegally placed junior to the private respondents therefore, prayed for acceptance of appeal. It was also contended that the respondent-department has issued revised final seniority list dated 29.08.2018 without notice to the appellant therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the official respondents No. 1 to 3 as well as private respondent No. 4 opposed the contention of learned counsel for the appellant and contended that the appellant and private respondents were appointed as Junior Clerks BPS-11 on one and same date on the basis of deceased/retired son quota vide order dated 19.04.2017. It was further contended that the final seniority list of Junior Clerks BPS-11 stood on 31.12.2017 was issued on 19.04.2018 wherein the appellant was placed senior to the private respondents on the basis of older in age. It was further contended that on departmental appeal of the private respondent, the department sought opinion from Establishment Department and the Establishment Department gave its opinion for determining the seniority under rule 17 (1) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion &

M. Amin
4.9.2019

Transfer) Rules, 1989 on the basis of date of retirement on medical ground/invalidation/date of death of civil servant whichever is earlier instead of age or merit etc and on the basis of said opinion, the respondent-department issued revised seniority list of Junior Clerk BPS-11 on 29.08.2018 wherein the private respondents were placed senior to the appellant on the basis of opinion of Establishment Department therefore, it was vehemently contended that the respondent-department has rightly issued a revised seniority list dated 29.08.2019 and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant and private respondents were appointed by the competent authority as Junior Clerks BPS-11 on one and same date on the basis of deceased/retired son quota vide order dated 19.04.2017. The record further reveals that the respondent-department prepared a final seniority list stood on 31.12.2017 issued on 19.04.2018 wherein the appellant was placed senior to private respondents than the private respondents on the basis of older age. The record further reveals that on departmental appeal of the private respondents, the respondent-department sought opinion from the Establishment Department and the Establishment Department gave opinion to determine their seniority according to rule 17 (1) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion & Transfer) Rules, 1989 on the basis of date of retirement on medical ground/invalidation/date of death of civil servant whichever is earlier instead of age or merit etc and on the basis of said letter dated 10.08.2018 the respondent-department issued revised seniority list dated 29.08.2018 whereby the appellant was placed junior to the private respondents under rule 17 (1) of Khyber Pakhtunkhwa Civil Servants (Appointment Promotion & Transfer) Rules, 1989 on the basis of date of retirement on medical ground/invalidation/date of death of civil servant whichever is earlier instead of age or merit etc. In order to reach correct conclusion it will be advantage to reproduce rule 17 (1) of Khyber Pakhtunkhwa Civil Servants

M. Amin
4.9.2019

(Appointment Promotion & Transfer) Rules, 1989, the same is reproduce as under.

17. Seniority:-(1) the seniority inter se of civil servants (appointed to a service, cadre or post) shall be determined:-

- (a) In the case of person appointed by initial recruitment, in accordance with the order of merit assigned by the Commission [or as the case may be, the Departmental Selection Committee;] provided that persons selection for appointment to post in an earlier selection shall rank senior to the persons selection in a later selection; and
- (b) In the case of civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants selected for promotion to a higher post in one batch shall on their promotion to the higher post, retain their inter se seniority as in the lower post.

M. Amin
4.9.2019

Explanation-I:- If a junior person in a lower post is promoted to a higher post temporarily in the public interest, even though continuing later permanently in the higher post, it would not adversely effect the interest of his seniors in fixation of his seniority in the higher post.

Explanation-II:- If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted the person promoted first shall rank senior to the person promoted subsequently; provided that junior

person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incomplete record or for any other reason not attributing to his fault or demerit.

Explanation-III:- A junior person shall be deemed to have superseded a senior person only if both the junior and the senior persons were considered for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.

(3) In the event of merger/restructuring of the Departments, Attached Departments or subordinate Offices, the inter se seniority of civil servants affected by the merger/restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post.

(4) The inter-se seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular

M. Amin
4.9.2019

appointment/promotion of the civil servants in the lower post.

Provided that if the date of regular appointment of two or more civil servants in the lower post is the same, the civil servants older in age, shall be treated senior.

7. From the perusal of rule 17 (4), it is clear that inter-se seniority of civil servants in certain cadre, if the date of regular appointment of two or more civil servants in the lower post is the same, the civil servants older in age, shall be treated senior. Admittedly the appellant and private respondents were appointed Junior Clerks BPS-11 on one and the same date on the basis of deceased/retired son quota vide order dated 19.04.2017 and the appellant was older in age than the private respondents as revealed from column of date of birth mentioned in the seniority list therefore, the respondent department had rightly prepared seniority list of Junior Clerks BPS-11 of the Revenue and Estate Department stood on 31.12.2017 issued 19.04.2018 and the subsequent revised seniority list issued 29.08.2018 was illegally prepared by the respondent-department on the wrong advise of Establishment Department issued through letter dated 10.08.2018 therefore, the revised seniority list dated 29.08.2018 is illegal and liable to be set-aside. In this regard reference is made to PLJ 2009 SC 125 [Appellate Jurisdiction] title Fazal Muhammad Versus Government of N.W.F.P etc wherein it was held

NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989--

---R. 17(b)—Constitution of Pakistan, 1973, Art. 212

(3)---Leave to appeal—Appointment of petitioner and respondents as Auditor in Local Fund Audit Department NWFP—Seniority—Determination of—Petitioner as well as respondent were selected and

M. Amin
4.9.2019

appointed in the same batch—Admittedly, Respondent is older in age than petitioner—Held; Petitioner assumed duties earlier would not adversely affect the seniority position of respondent—Impugned judgment of Tribunal is plainly correct to which no exception can be taken—No question of public importance is involved as contemplated in Art. 212(3) of Constitution of Pakistan, 1973 so as to warrant interference by Supreme Court—Leave to appeal refused.

It was held in 1977 PLC [C.S.T] 42 [Administrative Tribunal Punjabi]

(b) Civil Service- ---- Seniority-Civil servants appointed on the same date-Person older in age to rank senior to all others.

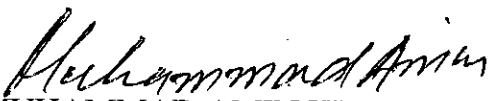
8. In the light of the above discussion, the appeal is accepted and the revised seniority list of Junior Clerks BPS-11 issued by the respondent-department on 29.08.2018 is set-aside. Parties are left to bear their own costs.

File be consigned to the record room.

ANNOUNCED
04.09.2019



(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

01.07.2019

Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Javed Assistant of the official respondents No. 1 to 3 and private respondent No. 4 in person present. Private respondent No. 4 stated at the bar that he relies on the written reply submitted by official respondents 1 to 3. None present on behalf of private respondents No. 5, 6, & 7 despite notices issued to the private respondents time and again, hence they are proceeded ex-parte. Adjourned. To come up for rejoinder/arguments on 04.09. 2019 before D.B.



Member

04.09.2019

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Muhammad Arif, Superintendent for official respondents No. 1 to 3 and private respondent No. 4 in person present. Private respondents No. 5 to 7 have already been proceeded ex-parte vide order sheet dated 01.07.2019. Arguments heard and record perused.

Vide our detailed judgment of today consisting of nine pages placed on file, the appeal is accepted and the revised seniority list of Junior Clerks BPS-11 issued by the respondent-department on 29.08.2018 is set-aside. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
04.09.2019



(HUSSAIN SHAH)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

10.04.2019

Counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Javid Assistant for official respondents present. Private respondent No.4 in person present.

Representative of official respondents submitted written reply/comments. Private respondent No.4 seeks adjournment to furnish written reply/comments. No one present on behalf of private respondents No.6 & 7. Notice be issued to private respondents No.6 & 7 for written reply/comments.

Adjourned to 16.05.2019 before S.B


Chairman

16.05.2019

Junior to counsel for the appellant present. Javid Assistant representative of official respondents present. Written reply on behalf of private respondents i.e. respondents No.4 to 7 still awaited. Notice be issued to private respondents No.4 to 7 with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 01.07.2019 before S.B.


Member

Appeal No. 1466/2018


17.01.2019

Counsel for the appellant present.

Contends that in the seniority list of Junior Clerks (BPS-11) dated 19.04.2018 the appellant was shown to be at S.No. 7. Another seniority list was issued on 29.08.2018, effective from 31.12.2017, the appellant was noted at S.No. 11. His departmental appeal was rejected on the ground that the right of appellant to recruitment accrued with effect from the date of retirement of his father i.e. 18.01.2017. It was stated that the appointment order of appellant, issued on 19.04.2017, did not refer to any such condition as noted in the impugned order dated 26.10.2018. The subsequent seniority list was, therefore, without any merits.

The appeal in hand is admitted for regular hearing in view of the above. 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 28.02.2019 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

28.02.2019 No one present on behalf of appellant. Written reply not submitted. Respondents absent. Notice be issued to the respondents with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 10.04.2019 before S.B.


Member

17.01.2019

Counsel for the appellant present.

Contends that in the seniority list ~~dated 19.04.2018~~ ^{dated 19.4.2018} of Junior Clerks (BPS-11) the appellant was shown to be at S.No. 7. Another seniority list was issued on 29.08.2018, effective from 31.12.2017, the appellant was noted at S.No. 11. His departmental appeal was rejected on the ground that the right of appellant to recruitment accrued with effect from the date of retirement of his father i.e. 18.01.2017. The subsequent seniority list was, therefore, without any merits. It was stated that the appointment order of appellant, issued on 19.04.2017, did not refer to any such condition as noted in the impugned order dated 26.10.2018. ↑

The appeal in hand is admitted for regular hearing in view of the above. 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 28.02.2019 before S.B.




Chairman

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Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 1466/2018 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/12/2018	<p>The appeal of Mr. Muhammad Haris resubmitted today by Mr. Noor Muhammad Khattak 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 7/12/18</p>
2-	13/12/2018,	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>14/01/2019</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
4.1.2019		<p>Mr. Mir Zaman Safi, Advocate for Mr. Noor Muhammad Khattak, Advocate for appellant present.</p> <p>Requests for adjournment as learned senior counsel for the appellant is indisposed. Adjourned to 17.01.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>

R-11

The appeal of Mr. Muhammad Haris Junior Clerk office of the Revenue & Estate Peshawar received today i.e. on 26.11.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Addresses of respondent no. 3 to 6 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 5- Copies of appointment orders of appellant and respondent no. 3 to 6 mentioned in para-1 of the memo of appeal (Annexure-A) are not attached with the appeal which may be placed on it.
- 6- Copy of letter dated 10.08.2018 mentioned in para-3 of the memo of appeal is not attached with the appeal which may be placed on it.
- 7- Copies of seniority lists are illegible which may be replaced by legible/better one.
- 8- Eight more copies/sets of the appeal along with annexures i.e complete in all respect may also be submitted with the appeal.

No. 2285 /S.T,

Dt. 26/11 /2018.

[Signature]
REGISTRAR 26/11/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note:

Sir,

*All objections have been removed,
hence re-submitted today dated 7/12/2018.*

[Signature]
7/12/2018.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL No. 1466 /2018

MUHAMMAD HARIS

VS

REVENUE DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 3.
2	Appointment order	A	4.
3	Seniority list	B	5- 6
4	Letter	C	7.
5	Revised seniority list	D	8.
6	Departmental appeal	E	9- 10.
7	Appellate order	F	11.
8	Vakalat nama	12.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1466 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1675

Dated 26/11/2018

Mr. Muhammad Haris, Junior Clerk,
O/O the Revenue & Estate Department,
Khyber Pakhtunkhwa, Peshawar.....

APPELLANT

VERSUS

- ✓ 1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- ✓ 2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
- ✓ 3. The Assistant Secretary, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. Mr. Safi Ullah, Junior Clerk, O/O the Board of Revenue, Peshawar.
5. Mr. Junaid Kokhar, Junior Clerk, O/O the Board of Revenue, Peshawar.
6. Mr. Shoaib, Junior Clerk, O/O the Board of Revenue, Peshawar.
7. Mr. Kaleemullah, Junior Clerk, O/O the Board of Revenue, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL 1974 AGAINST THE IMPUGNED SENIORITY LIST DATED 29.08.2018 ISSUED/CIRCULATED FOR THE CADRE OF JUNIOR CLERK WHEREBY THE PRIVATE RESPONDENTS NO.4 TO 7 HAS WRONGLY AND ILLEGALLY BEEN MADE SENIOR TO THE APPELLANT AND AGAINST THE APPELLATE ORDER DATED 26.10.2018 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned appellate order dated 26.10.2018 may very kindly be set aside and the respondents may very kindly be directed to place the appellant senior to the private respondents in the impugned seniority list dated 29.8.2018. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

- 1- That the appellant joined the respondent Department along with the private respondents on the same date i.e. 19.04.2018 in light of the Rule 10 sub Rule 4 of the appointment, promotion and transfer Rules, 1989. That after appointment the appellant and private respondents 3 to 6 submitted their arrival reports and started

Filed to-day
Registrar
26/11/18

Re-submitted to
and filed.
Registrar
7/12/18

performing their duties. Copy of the appointment order is attached as annexure.....**A.**

2- That after appointment the respondent No.2 prepared seniority list for the cadre of junior clerk and as such the appellant was rightly been placed at serial No.7 of the seniority list. Copy of the seniority list is attached as annexure.....**B.**

3- That during this period advice was sought from Establishment Department which was tendered vide letter dated 10.08.2018 to Board of Revenue against the crystal clear rules of seniority wherein, it is stated that as per APT Rule 17(1) seniority of the existing employees shall be reckoned from the date retirement on Medical ground/invalidation/date of death of Civil servant whichever is earlier instead of age or merit. Copy of the letter is attached as annexure.....**C.**

4- That vide dated 29.08.2018 the respondent No.2 circulated revised/final seniority list for the cadre of junior clerk, wherein the name of the appellant has illegally/wrongly been enlisted at serial No.11 while juniors to the appellant has been made senior to the appellant. Copy of the seniority list is attached as annexure.....**D.**

5- That appellant feeling aggrieved from the impugned revised seniority list dated 29.08.2018 preferred Departmental appeal before the appellate authority but the same has been rejected by the appellate authority on no good grounds. Copies of the Departmental appeal and rejection order are attached as annexure.....**E & F.**

6- That appellant feeling aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.

GROUND:

A- That the impugned revised seniority list dated 29.08.2018 issued by the respondents is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be rectified/modified.

B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the respondents acted in arbitrary and malafide manner while placing the private respondents above the appellant in the seniority list prepared for the cadre of junior clerk.

D- That the impugned revised seniority list dated 29.08.2018 issued by the respondents in utter violation of the Rule 17 (1) of (appointment, Promotion and Transfer) Rules, 1989.

- E- That respondents violated Section-8 of the Civil Servant Act, 1973 while issuing the impugned seniority list dated 29.8.2018.
- F- That the impugned appellate order dated 26.10.2018 issued by the respondent No.2 is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- G- That the respondents discriminated the appellant on the subject noted above and as such the impugned seniority list is not tenable in light of the Rules and regulations.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT


MUHAMMAD HARIS

THROUGH:


NOOR MOHAMMAD KHATTAK


**MUHAMMAD MAAZ MADNI
ADVOCATES**

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
Dated Peshawar the. 19 /04/2017

A-4

OFFICE ORDER:

No. Ad:IV/Appoint/Rule-10(4)/JC/BOR/_____ On the recommendations of Departmental Selection Committee and in-pursuance of sub rule-4 of Rule-10 of Khyber Pakhtunkhwa Civil Servants (Appointment / Promotion and Transfer) Rules 1989, the Competent Authority is pleased to appoint the following candidates against the post of Junior Clerk (BS-11) in Board of Revenue, Revenue & Estate Department, Khyber Pakhtunkhwa from the date of joining the service subject to the conditions vide letter of offer dated 20.03.2017 already accepted by them:-

S. No	Name of official	Address
1.	Mr. Safiullah S/O Late: Shahidullah, Ex: Senior Clerk Board of Revenue	Tangi Charsadda
2.	Junaid Kokhar S/O Late: Griffin John, Ex: Assistant, Board of Revenue	House No. 210, RA Bazaar, Peshawar
3.	Mr. Shoaib S/O Zahid Hussain, Rtd: Senior Clerk Board of Revenue	Mustafa Khel, Chamakni, Tehsil & Distt: Peshawar
4.	Mr. Kaleemullah S/O Tila Muhammad, Rtd Superintendent Board of Revenue	Moh: Barkanday, Darmangi P/O Terahi Payan, Tehsil & District Peshawar
5.	Mr. Muhammad Haris S/O Muhammad Humayun, Rtd: Assistant Secretary	Swati Phatak, P/O G.P.O, Moh: Madni Colony, Peshawar Cantt.

They are directed to report for duty to this Department within 15 days of the issuance of this appointment order.

With the Approval
of Competent Authority

Endstr: No. Ad:IV/Appoint/Rule-10(4)/JC/BOR/ 9268-75

Copy of the above is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Drawing and Disbursing Officer, Board of Revenue, Khyber Pakhtunkhwa.
3. Bill Assistant, Board of Revenue, Khyber Pakhtunkhwa.
- ✓ 4. Officials concerned.
5. Personal file.
6. Office order file.
7. Master file.

ATTESTED

(Khanzada Wazir)
Assistant Secretary (Admn)

BETTER COPY

5

**FINAL SENIORITY LIST OF JUNIOR CLERK (BPS-11) OF
REVENUE AND ESTATE DEPARTMENT (BOR) KHYBER PAKHTUNKHWA**

No. ADMN:IV/II/S.L/JC/2017_____ In pursuance of Section 8 (1) of the Civil Servants Act. 1973 and all subsequent Notifications issued on the subject final seniority list of the following Junior Clerks (BPS-11) of the Revenue & Estate Department Khyber Pakhtunkhwa as it stood on 31.12.2017 is hereby published for information of all concerned.

S. No.	Name	Qualification	Domicile	Date of Birth	Date of 1 st , entry into Govt: Service	Date of promotion to the present post on regular basis	BPS	Remarks
1.	Mr. Khalid Mehmood	BA	Abbottabad	01.04.1975	13.2.2006	25.01.2012	11	Adjusted/promoted.
2.	Mr. Muhammad Ishaq	BA	Peshawar	11.03.1988	04.01.2013		11	
3.	Mr. Imran Akbar	FSc	Peshawar	10.04.1988	14.04.2014		11	
4.	Mr. Shaukat Hayat	Matric	Peshawar	21.02.1981	24.05.2007	01.10.2015	11	
5.	Mr. Zia-Ul-Haq	BA	Peshawar	05.03.1969	28.02.2008	01.10.2015	11	
6.	Mr. Haseebullah	BA	Bannu	07.11.1990	29.07.2016	-	11	
7.	Mr. Muhammad Haris	BA	Peshawar	31.12.1989	19.04.2017	-	11	Appointed under Deceased son's quota
8.	Mr. Shoaib	FA	Peshawar	20.11.1992	19.04.2017	-	11	Appointed under rule 10(4) of KPK Civil Servant (APT) Ruels-1989
9.	Mr. Kaleemullah	DAE/FSc	Peshawar	03.03.1993	19.04.2017	-	11	Appointed under rule 10(4) of KPK Civil Servant (APT) Ruels-1989
10.	Mr. Junaid Kokhar	Master in Public Administration	Peshawar	15.06.1993	19.04.2017	-	11	Appointed under rule 10(4) of KPK Civil Servant (APT) Ruels-1989

No. Ad:IV/II/S.L/JC/2017/18860

ATTESTED

DATED: 19/04/2018

**FINAL SENIORITY LIST OF JUNIOR CLERK (BPS-11) OF
REVENUE AND ESTATE DEPARTMENT (BOR) KHYBER PAKHTUNKHWA**

B-5

No. ADMIN:IV/II/S.L/JC/2017/

In pursuance of Section 8(1) of the Civil Servants Act 1973 and all subsequent Notifications issued on the

Final Seniority List of the following Junior Clerks (BPS-11) of the Revenue & Estate Department Khyber Pakhtunkhwa as it stood on 31-12-2017 is hereby published

for information of all concerned.

S.No	Name	Qualification	Domicile	Date of Birth	Date of 1st entry into Govt. service	Date of Promotion to the present post on regular basis	BPS	Remarks
1.	Mr. Khalid Mehmood	BA	Abbottabad	01.04.1975	13.12.2006	25.01.2012	11	Adjusted/Promoted (on deputation in the office of Settlement Officer Manshera) with lien in BOR
2.	Mr. Muhammad Ishaq	BA	Peshawar	11.03.1988	04.01.2013		11	Appointed under deceased son's quota
3.	Mr. Imran Akbar	FSc	Peshawar	10.04.1988	14.04.2014		11	Appointed under deceased son's quota
4.	Mr. Shaukat Hayat	Matric	Peshawar	21.02.1981	24.05.2007	01.10.2015	11	Promoted
5.	Mr. Zia-ul-Haq	Matric	Peshawar	05.03.1969	28.02.2008	01.10.2015	11	Promoted
6.	Mr. Haseebullah Khan	BA	Bannu	07.11.1990	29.07.2016		11	Appointed under Deceased son's quota
7.	Mr. Muhammad Haris	B.A	Peshawar	31.12.1989	19.04.2017		11	Appointed under rule 10(4) of KPK Civil Servant (APT) Rules 1989
8.	Mr. Shoaib	F.A	Peshawar	20.11.1992	19.04.2017		11	Appointed under rule 10(4) of KPK Civil Servant (APT) Rules 1989
9.	Mr. Kaleemullah	DAE/FSc	Peshawar	03.03.1993	19.04.2017		11	Appointed under rule 10(4) of KPK Civil Servant (APT) Rules 1989
10.	Mr. Junaid Kokhar	Master in Public Administration	Peshawar	15.06.1993	19.04.2017		11	Appointed under rule 10(4) of KPK Civil Servant (APT) Rules 1989

ATTESTED

[Handwritten Signature]

6

No.	Name	Qualification	Place of Birth	Date of Birth	Date of Joining	Grade	Remarks
	Mr. Muhammad Saeed	Matric	Peshawar	04.01.1985	07.05.2009	11	Promoted
13.	Mr. Kamran Ullah	F.A.	Peshawar	01.04.1982	15.06.2009	11	Promoted
14.	Mr. Bakhtiar Ahmad	MA.	Sawabi	05.06.1974	26.01.2012	11	Promoted
15.	Mr. Tariq Shah	Matric	Peshawar	05.12.1987	26.01.2012	11	Promoted

With the approval of
Competent Authority

DATED 19/04/2018

No. Ad: IV/III/S. L/IC/2017/ 18860

Copy of the above Final Seniority List of Junior Clerk (BPS-11) Revenue & Estate Department Khyber Pakhtunkhwa is forwarded to all concerned for information.

ATTESTED

Assistant Secretary



F112
F113

C-7

Government of Khyber Pakhtunkhwa
ESTABLISHMENT DEPARTMENT
(Regulation Wing)

No.SOR.IV(ED)/14-1/2018
Dated, Peshawar, the 10th August, 2018

To
The Senior Member Board of Revenue,
Revenue Department.

5040
15/8/18

SUBJECT: DEPARTMENTAL APPEAL AGAINST FINAL SENIORITY LIST OF JUNIOR CLERKS REVISED ON 19.04.2018

Dear Sir

I am directed to refer to your letter No. Ad:IV/Objection/SL /2005/ BOR/28410 dated 23.7.2018 on the subject noted above and to advise that the inter-se-seniority may be determined according to Rule 17(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989 on the basis of date of retirement on medical ground/invalidation/date of death of civil servant whichever is earlier instead of age or merit etc

Secy-3
M
Spoke
15/8/18

Yours faithfully,

(Nazma Shaheen)
Section Officer (R-IV)

ATTESTED

**FINAL SENIORITY LIST OF JUNIOR CLERK (BPS-11) OF
REVENUE AND ESTATE DEPARTMENT (BOR) KHYBER PAKHTUNKHWA**

①-②-③-④-⑤-⑥-⑦-⑧

No. ADMN:IV/H/S.L./JC/2017/ 30751

In pursuance of Section 8 (1) of the Civil Servants Act, 1973 and all subsequent Notifications issued on the subject Final Seniority List of the following Junior Clerks (BPS-11) of the Revenue & Estate Department Khyber Pakhtunkhwa as it stood on 31.12.2017. The instant seniority list is hereby revised in light of advice of Establishment Department, Khyber Pakhtunkhwa, letter No. SOR.IV(ED)/14-1/2018 dated 10.08.2018, to the extent of Junior Clerks at Sl. No. 7 to 11, issued on 19.04.2018, and is hereby published for information of all concerned.

S.No	Name	Qualification	Domicile	Date of Birth	Date of Ist. entry into Govt. service	Date of Promotion to the present post on regular basis	BPS	Remarks
1.	Mr. Khalid Mehmood	BA	Abbottabad	01.04.1975	13.12.2006	25.01.2012	11	Adjusted/Promoted (on deputation in the office of Settlement Officer, Mansehra) with lien in BOR
2.	Mr. Muhammad Ishaq	BA	Peshawar.	11.03.1988	04.01.2013	-	11	Appointed under deceased son's quota.
3.	Mr. Imran Akbar	FSc	Peshawar.	10.04.1988	14.04.2014	-	11	Appointed under deceased son's quota.
4.	Mr. Shaukat Hayat.	Matric	Peshawar.	21.02.1981.	24.05.2007.	01.10.2015	11	Promoted.
5.	Mr. Zia-ul-Haq.	Matric.	Peshawar.	05.03.1969.	28.02.2008.	01.10.2015	11	Promoted.
6.	Mr. Haseebullah Khan	BA	Bannu	07.11.1990	29.07.2016	-	11	Appointed under Deceased son's quota.
7.	Mr. Safiullah	MSc	Charsadda	14.08.1993	19.04.2017	-	11	Appointed under rule 10(4) of KPK Civil Servant (APT) Rules-1989
8.	Mr. Junaid Kokhar	Master in Public Administration	Peshawar	15.06.1993	19.04.2017	-	11	Appointed under rule 10(4) of KPK Civil Servant (APT) Rules-1989
9.	Mr. Shoaib	F.A	Peshawar	20.11.1992	19.04.2017	-	11	Appointed under rule 10(4) of KPK Civil Servant (APT) Rules-1989
10.	Mr. Kalcemullah	DAE/FSc	Peshawar	03.03.1993	19.04.2017	-	11	Appointed under rule 10(4) of KPK Civil Servant (APT) Rules-1989

ATTESTED

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n/p/9


Sl. No.	Name	Qualification	Place of Birth	Date of Birth	Date of Appointment	Remarks	
11.	Mr. Muhammad Haris	B.A	Peshawar	31.12.1989	19.04.2017	Appointed under rule 10(4) of KPK Civil Servant (APT) Rules-1989 Promoted.	
12.	Mr. Muhammad Saeed	M.A	Peshawar	04.01.1985	07.03.2009	19.05.2017	Promoted
13.	Mr. Kamran Ullah	F.A.	Peshawar	01.04.1982	15.06.2009	19.05.2017	Promoted
14.	Mr. Bakhtiar Ahmad	MA.	Sawalbi	05.06.1974	26.01.2012	19.05.2017	Promoted
15.	Mr. Faruq Shah	M.A	Peshawar	05.12.1987	26.01.2012	19.05.2017	Promoted

With the approval of
Competent Authority.

No. Ad: IV/II/S.L/JC/2017/ 30751

DATED 27 /08/2018.

Copy of the above Final Seniority List of Junior Clerk (BPS - 11) Revenue & Estate Department Khyber Pakhtunkhwa is forwarded to all concerned for information.


o/c Assistant Secretary (Admin)

F/D

E - 9

To

The Senior Member Board of Revenue,
Khyber Pakhtunkhwa.

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE REVISED SENIORITY LIST OF JUNIOR CLERK DATE 29.08.2018 FOR THE YEAR OF 2018, WHEREIN JUNIOR CLERK FROM SERIAL NO.7 TO 10 ARE PLACED SENIOR TO THE APPELLANT.

Dear Sir,

- i. With due respect, it is stated that the appellant and the other junior clerk from serial No. 7 to serial No.10 were appointed on the same date i.e. 19.04.2017 and the appellant was placed at Serial No.7 senior to them on primogenitor rule-(age wise), in the seniority list dated 19.04.2018 for the year 2018. (F/A)
- ii. That advice is sought from Establishment Department that was tendered vide latter dated 10.08.2018 to Board of Revenue against the crystal clear rules of seniority wherein, it is stated that as per APT 1989 Rule 17(1) (Appointment, Promotion and Transfer) "on the basis of date of retirement on Medical ground/invalidation/date of death of civil servant whichever is earlier instead of age or merit etc" (F/B)
- iii. That on the basis of that advice revised seniority list issued to the extent from serial No.7 to 11 in which the applicant is made junior to Junior Clerk from serial No.7 to 10 in the seniority dated 29.08.2018. (F/C)
- iv. That in the advice reference is made to APT 1989 Rule 17(1) (Appointment, Promotion and Transfer) but perusal of the said rules reveals that there is no mention of seniority on " the basis of date of retirement on medical ground/ Invalidation / Date of death of civil servant whichever is earlier instead of age or merit etc." However, it is mentioned in the said rules, section

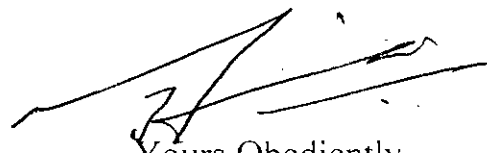
ATTESTED



17(4) "Provided that if the date of regular appointment of two or more civil servants in the lower post is the same the civil servant older in age, shall be treated senior". (F/D)

- v. That the seeking advice of one administrative department from another administrative department in presence of clear cut rules of seniority in the form of APT (Appointment, Promotion and Transfer) Rules 1989, is against law and Justice.
- vi. Therefore, it is humbly prayed that revised seniority list dated 29.08.2018 in which the appellant is placed junior from serial No.7 to serial No.10 may be set aside and the old seniority list dated 19.04.2018 may be maintained so that the appellant may be made senior to the Junior clerk from serial No.7 to Serial No. 10.

Dated: 27.09.2018



Yours Obediently,

Muhammad Haris

Junior Clerk (Board of Revenue)

ATTESTED



FIE

F-11

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Facebook ID: www.facebook.com/bor.kpk92

Twitter ID: @RevenueBoardkp

No. Ad:IV/Objection/SL/2005/ 35687

Dated Peshawar the 26 /10/2018

To,

Mr. Muhammad Haris,
Junior Clerk Board of Revenue
Khyber Pakhtunkhwa.

SUBJECT:

DEPARTMENTAL APPEAL AGAINST THE REVISED SENIORITY LIST OF JUNIOR CLERK DATED 29.08.2018 FOR THE YEAR OF 2018, WHEREIN JUNIOR CLERK FROM SERIAL NO. 7 TO 10 ARE PLACED SENIOR TO THE APPELLANT.

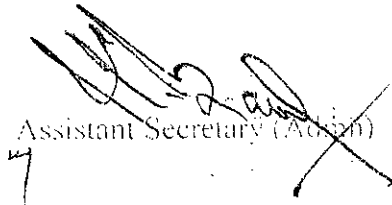
I am directed to refer to your Departmental appeal dated 26.09.2018 addressed to Senior Member, Board of Revenue which has been examined by the Competent Authority and found that your right to recruitment under rule 10(4) of Khyber Pakhtunkhwa, Civil Servant (Appointment, Promotion and Transfer) Rules-1989 accrued with effect from the date of retirement of your father which is 18.01.2017, in the instant case.

Therefore the provision of rule 17(1) of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules-1989 doesn't apply, hence your appeal has been filed by the Competent Authority.

Encl: As Above.

ATTESTED




Assistant Secretary (Admin)

VAKALATNAMA

Before The Khyber Pakhtunkhwa Service Tribunal
Peshawar

_____ OF 2018

Muhammad Haris

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

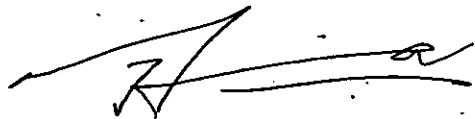
Revenue Department

(RESPONDENT)
(DEFENDANT)

I/We Muhammad Haris

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, 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. ____/____/2018



CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

&

MUHAMMAD MAAZ MADNI
ADVOCATES

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No. **0345-9383141**

BEFORE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO: 1466/2018

Muhammad Haris,
Junior Clerk, Board of Revenue Khyber Pakhtunkhwa PeshawarAppellant

VERSUS

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

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS
NO. 1, 2 & 3 ARE AS UNDER.

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action / locus standi to file the present appeal.
2. That the appeal is not maintainable in its present form.
3. That the appeal is badly time barred.
4. That the appellant has not come to this honourable Tribunal with clean hands.
5. That the appeal is hit by laches.

ON FACTS

1. Correct to the extent that on 19.04.2017, the applicant was appointed as Junior Clerk (BS-11) in Board of Revenue Khyber Pakhtunkhwa under the provision of Rule-10(4) of Khyber Pakhtunkhwa Civil Servant (Appointment / Promotion & Transfer) Rules-1989.
2. Correct to the extent of tentative seniority list wherein the appellant was placed at Sl: No. 10. On the basis of objection of the appellant, his name was brought forward to Sl: No. 7 of the final seniority list on the basis of elder in age than the respondent at Sl: No. 4, 5, 6 & 7.
3. Incorrect. On issuance of final seniority list, the respondent raised objection over the seniority of the appellant. In this connection advice was sought (**Annex-I**) from Establishment Department who advised that inter-se-seniority may be determined according to Rules-17(1) of Khyber Pakhtunkhwa Civil Servant (APT) Rules-1989 on the basis of date of retirement on medical grounds / invalidation / date of death of Civil Servant whichever is earlier instead of age or merit etc. On the basis of which his seniority was again refixed and he was placed at Sl: No. 10. Waiting list is at (**Annex-II**).
4. As in Para-3 above.
5. The Departmental appeal of the appellant was rejected by the Competent Authority.
6. Appeal of the appellant is not acceptable.

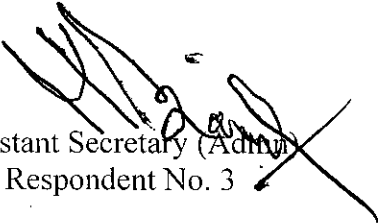
GROUND


- A. Incorrect. Seniority list was issued in accordance with law / rules and on the basis of advice of the Establishment Department.
- B. Incorrect. The appellant has been treated in accordance with law / rules and no discrimination has been done with the appellant.
- C. As in Para-3 of the facts.
- D. Incorrect. Revised seniority list dated 29.08.2018 was issued strictly under the pursuance of Rules-17(1) of the Khyber Pakhtunkhwa Civil Servant (Appointment / Promotion & Transfer) Rules-1989 on the basis of advice of Establishment Department vide letter No. SOR-IV(ED)/14-1/2018 dated

10.08.2018.

- E. Incorrect. No violation of section 8 of the Civil Servant Act 1973 committed.
- F. Order dated 26.10.2018 is according to law.
- G. Incorrect. No discrimination has been done with the appellant.
- H. Respondent will also seek permission to submit additional grounds at the time of arguments.

In light of above, the appeal of the appellant having no weight may be dismissed.


Assistant Secretary (Admin)
Respondent No. 3


Senior Member
Board of Revenue
Respondent No. 1 & 2



Government of Khyber Pakhtunkhwa
ESTABLISHMENT DEPARTMENT
(Regulation Wing)

No.SOR.IV(ED)/14-1/2018

Dated, Peshawar, the 10th August, 2018

95

To
The Senior Member Board of Revenue,
Revenue Department.

PS/SMBR
DA No. 5042
Date 12/8/18
Govt. of Khyber Pakhtunkhwa

SUBJECT: DEPARTMENTAL APPEAL AGAINST FINAL SENIORITY LIST OF JUNIOR CLERKS REVISED ON 19.04.2018

Dear Sir,

I am directed to refer to your letter No. Ad:IV/Objection/SL /2005/BOR/28410 dated 23.7.2018 on the subject noted above and to advise that the inter-se-seniority may be determined according to Rule 17(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 on the basis of date of retirement on medical ground/invalidation/date of death of civil servant whichever is earlier instead of age or merit etc.

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SMBR
15/8/18

Ad. i.w.

Yours faithfully,

(Nazma Shaheen)
Section Officer (R-V)

10/8/2018



ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA
(REVISED EDITION) 2011**

**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS
RELATING TO THE TERMS AND CONDITIONS
OF PROVINCIAL CIVIL SERVANTS**

**COMPILED BY;
(O&M) SECTION
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

PART-V

PROBATION AND CONFIRMATION

⁵⁴15. **Probation:** ---- (1) Persons appointed to posts by initial recruitment, promoted or transfer shall be on probation for a period of one year.

(2) The appointing authority, if considers necessary, may extend the probation period for one year as may be specified at the time of appointment.

(3) On the successful completion of probation period, the appointing authority shall, by specific order, terminate the probation:

Provided that if no specific order is issued on the expiry of the first year of probation period, the period of probation shall be deemed to have been extended under sub-rule (2):

Provided further that if no specific order is issued on the expiry of the extended period of probation, the period of probation shall be deemed to have been successfully completed.

16. **Confirmation:**-After satisfactory completion of the probationary period, a civil servant shall be confirmed; provided that he holds a substantive post, provided further that a civil servant shall not be deemed to have satisfactorily completed his period of probation, if he has failed to pass an examination, test or course or has failed to complete successfully a training prescribed within the meaning of sub-section (3) of Section 6 of the North West Frontier Province Civil Servants Act, 1973.

PART-VI

SENIORITY

17. **Seniority :-**(1) the seniority inter se of civil servants ⁵⁵(appointed to a service, cadre or post) shall be determined:-

- (a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission ⁵⁶[or as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection; and
- (b) in the case of civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.

Explanation-I:- If a junior person in a lower post is promoted to a higher post temporarily in the public interest, even though continuing later permanently in the higher

⁵⁴ Rule-15 substituted vide Notification No. SOR-VI/E&AD/1-3/2009/Vol-VIII dated 16-2-2010.

⁵⁵ Substituted for the words appointment to a post in the same basic pay scale in a cadre by Notification No. SOR-I(S&GAD)4-1/80, dated 17-05-1989.

⁵⁶ The words inserted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 04-02-1996.

post, it would not adversely effect the interest of his seniors in fixation of his seniority in the higher post.

Explanation-II:- If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted the person promoted first shall rank senior to the person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incomplete record or for any other reason not attributing to his fault or demerit.

Explanation-III:- A junior person shall be deemed to have superseded a senior person only if both the junior and the senior persons were considered for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.

⁵⁷(3) In the event of merger/restructuring of the Departments, Attached Departments or Subordinate Offices, the inter se seniority of civil servants affected by the merger/restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post.

⁵⁸(4) The inter-se-seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular appointment/promotion of the civil servants in the lower post.

✓ Provided that if the date of regular appointment of two or more civil servants in the lower post is the same, the civil servant older in age, shall be treated senior.

18. **General Rules:** - In all matters not expressly provided for in these rules, civil servants shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to them.

19. **Repeal:-** The North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, are hereby repealed.

⁵⁷ Sub-rule (3) of Rule 17 added vide Notification No. SOR-I(E&AD)4-1/80/IV, dated 28-5-2002.

⁵⁸ Sub-rule (4) of Rule 17 added vide Notification No. SOR-VI (E&AD) 1-3/2008 dated 19th November, 2009.

11

**WAITING LIST OF CHILDREN OF DECEASED GOVERNMENT DIED
DURING SERVICE / INVALIDATED / RETIRED ON MEDICAL GROUNDS
IN BOARD OF REVENUE, KHYBER PAKHTUNKHWA FOR THE
PURPOSE OF APPOINTMENT UNDER RULE-10(4) OF KPK CIVIL
SERVANT (APT) RULES-1989.**

S. No	Name of candidate and Address	Father Retired on medical grounds	Father Died during Government Service on	Date of Birth of Official
1.	Mr. Safiullah S/O Late: Shahidullah, Ex: Senior Clerk	-	20.09.1996	14.08.1993
2.	Junaid Kokhar S/O Late: Griffin John, Ex: Assistant, Board of Revenue	-	24.12.2002	15.06.1993
3.	Mr. Shoaib S/O Mr. Zahid Hussain, Ex: Senior Clerk	07.09.2016	-	20.11.1992
4.	Mr. Kaleemullah S/O Mr. Tila Muhammad, Rtd Superintendent Board of Revenue	23.12.2016	-	03.03.1993
5.	Mr. Muhammad Haris S/O Mr. Muhammad Humayun, Ex: Assistant Secretary	18.01.2017	-	31.12.1989

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1736 /ST

Dated 14/10 2019

To


The Senior Member Board of Revenue,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 1466/2018, MR. MUHAMMAD HARIS.

I am directed to forward herewith a certified copy of Judgement dated 04.09.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Facebook ID: www.facebook.com/bor.kpk92

Twitter ID: @RevenueBoardkpk

Dated 29 /11/2019

OFFICE ORDER.

No. Ad:IV/WP(1466/2018)/M.Haris/JC/BOR/38413. In pursuance of the judgment dated 04.09.2019 passed by Khyber Pakhtunkhwa, Service Tribunal in Service Appeal No. 1466/2018, the revised final seniority list of Junior Clerks (BS-11) Board of Revenue stood on 31.12.2017 bearing No. Ad:IV/SL/JC/2017/30751 dated 29.08.2018 has been set asided, whereas the final seniority list stood on 31.12.2017 bearing No. Ad:IV/SL/JC/2017/18860 dated 19.04.2018 is kept intact.

Furthermore, the seniority order of the officials from Sl. No. 3 to 6 in tentative and final seniority lists stood on 31.12.2018 issued on 01.01.2019 and 11.02.2019 respectively, shall be modified in accordance with final seniority list dated 19.04.2018.

With the Approval of
Competent Authority

Endst: No. Ad:IV/WP(1466/2018)/M.Haris/JC/BOR/38414-24.

Copy forwarded for information to the: -

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar with reference to his letter No.1736/ST dated 14.10.2019.
2. PS to Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. PS to Member-III Board of Revenue, Khyber Pakhtunkhwa.
4. PA to Secretary-I Board of Revenue, Khyber Pakhtunkhwa.
5. Assistant Secretary (Estt) Board of Revenue, Khyber Pakhtunkhwa.
6. Mr. Muhammad Haris, Junior Clerk Board of Revenue, Khyber Pakhtunkhwa.
7. Mr. Muhammad Shoaib, Junior Clerk Board of Revenue, Khyber Pakhtunkhwa.
8. Mr. Kaleemullah, Junior Clerk Board of Revenue, Khyber Pakhtunkhwa.
9. Mr. Safiullah, Junior Clerk Board of Revenue, Khyber Pakhtunkhwa.
10. Personal file.
11. Office order file.
12. Master file.

Put up to the court with
relevant appal.

Assistant Secretary (Admn)

dear

9/12/19.

81

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Handwritten signature or scribble, possibly containing the word "Lovers" or similar.

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