

27.06.2022

Learned Member (Executive), is on leave.
Therefore, the case is adjourned to 11.08.2022 for
the same as before.


READER

11.08.2022

Counsel for the petitioner present. Mr. Kabir Ullah
Khattak, Additional AG alongwith Muhammad Arif,
Statistical Officer for respondents present.

On 09.05.2022 last chance was given for
submission of implementation report. Today representative
of the respondent department did not submit
implementation report. Therefore, salary of the Secretary
Agriculture, Livestock & Cooperative Department be
attached till submission of implementation report. To come
up for implementation report on 16.09.2022 before S.B.


(Fareeha Paul)
Member (E)

24.03.2022

Petitioner in person present. Mr. Kabirullah Khattak, Addl: AG alongwith Usman Ghani, Supdt for respondents present.

Implementation report not submitted. Representative of the respondents seeks time to submit the same on the next date. As per previous order sheet dated 15.12.2021, the respondents are directed to submit proper implementation report on the next date positively. Adjourned. To come up for further proceedings on 09.05.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

09.05.2022

Nemo for petitioner.

Muhammad Adeel Butt, learned Additional Advocate General present.

Despite directions, implementation report was not submitted. None from the Department is available in order to apprise this Bench regarding implementation report, therefore, on the request of learned AAG, last chance is given for submission of implementation report on the next date. In the meanwhile, notice be issued to petitioner, his counsel as well as respondents for 27.06.2022 before S.B.

*Noted to counsel
26/6/22
A.G.*



(Rozina Rehman)
Member (J)

15.12.2021

Petitioner in person present: Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Usman Ghani, Senior Scale Stenographer for respondents present.

Representative of the respondents produced copy of CPLA No. 637 and 638-P/2021 filed in august Supreme Court of Pakistan against the judgement of this Service Tribunal which is placed on file. If the respondents fail to get the judgement suspended as a matter of interim relief till next date, they will be under obligation to implement the judgement under execution subject to decision of CPLA and submit compliance report on the next date, positively. To come up for further proceedings on 03.02.2022 before S.B.

03.02.2022

The Tribunal is non-functional, therefore, the case is adjourned to 24.03.2022 before S.B for the same.

(MIAN MUHAMMAD)

MEMBER (E)

Reader

03.02.2022

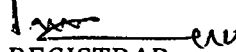


The Tribunal is non-functional, therefore, the case is adjourned to 24.03.2022 before S.B for the same.

Reader

Form- A

FORM OF ORDER SHEET

Court of AOExecution Petition No. 3-197 /2021

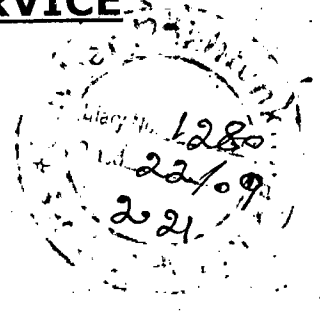
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.09.2021	<p>The execution petition of Mr. Maqsood-ur-Rehman submitted today by Mr. Ali Azim Afridi Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench at Peshawar on <u>29/10/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	29.10.2021	<p>Learned counsel for the petitioner present. Notices be issued to the respondents for submission of implementation report on 15.12.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL**

Execution Petition No. *196* / 2021

In Re:

Service Appeal No. 567/2018



Mr. Maqsood-ur-Rehman, Statistical Officer (Supervisory) Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar

....Petitioner

VERSUS

1. Chief Secretary, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar
2. Secretary Agriculture, Livestock & Cooperative Department, Civil Secretariat, Peshawar

....Respondent

**APPLICATION FOR EXECUTION OF THE JUDGMENT DATED
02.09.2021**

Respectfully Sheweth,

1. That the titled service appeal No. 567 of 2018 was preferred before the Hon'ble Tribunal which after passing through the course of hearing was ultimately decided on 02.09.2021 in favour of the present petitioner. (**Copy of the Judgment dated 02.09.2021 is annexed as Annexure "A"**).
2. That the Hon'ble Tribunal vide its judgment had issued certain directions, in the similar terms, "*The afore-named representative states that Eight posts of Senior Clerks are*

lying vacant and are due for appointment through promotion; the appellant will also be promoted against one of the aforesaid Eight vacant posts under due course; keeping in view the said statement of the representative of respondents made at the bar, we are inclined to dispose of this appeal”.

3. In **Zahooruddin Sheikh's Case**¹, "it was held that "Once a judgment is issued in favour of a civil servant, his terms and conditions as infringed by an order of the authority in question stands addressed to the extent as ordained in the judgment concerned. There is, therefore, no denying the fact that if the judgment is not implemented and leave to appeal is either not filed or declined, there is no escape route for the Department but to implement the judgment in letter and spirit", which appears to be otherwise in the case at hand.
4. That the respondent No. 1 and 2; being the competent authority is duty bound to implement the judgment of the Hon'ble Tribunal in its letter and spirit but the same is done away with; leaving the present petitioner nowhere but high and dry and that too aloof.
5. That the Hon'ble Tribunal is empowered by virtue of Sub-Section 2(d) of Section 7 of the KP Services Tribunal Act 1974 read with rule 27 of the KP Services Tribunal Rules, 1974; so as to execute its judgment dated 10.12.2018 passed in favour of the present petitioner and as such against the respondents.

¹ 2007 PLC (C.S) 959

6. In **Ahmed Nawaz Khan's Case**² It was held that, "The proceedings on application for execution or implementation of the Tribunal's orders are undoubtedly one of the steps in the proceedings of the main appeal. Therefore what follows is that the Tribunal has got the same powers as are vested in the Civil Court under the Code of Civil Procedure, not only for the purpose of deciding an appeal but also for consequential purpose of deciding the petition for implementation of its order; which exercise is of essence and that too in a jiffy.

It is therefore humbly prayed that the respondent may graciously be proceeded against for non-compliance of the judgment dated 02.09.2021.

Any such order be passed which the Hon'ble Tribunal deems fit and appropriate during the course of proceedings; for securing the ends of justice.

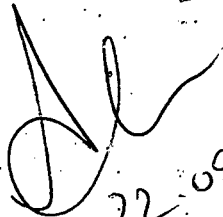
Petitioner

Through

Ali Azim Afridi

Advocate High Court

Contact # 0333-9555000


22.09.2021

² 1989 PLC (C.S) 398; 2017 PLC (C.S) 1102

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL**

Execution Petition No. /2021

In Re:

Service Appeal No. 347/2019 .

Mr. Maqsood-ur-Rehman

....Petitioner

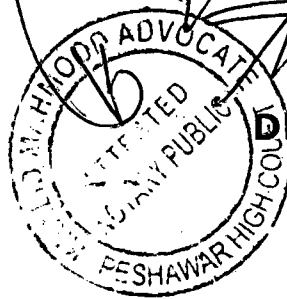
VERSUS

Chief Secretary KP & Another

....Respondent

AFFIDAVIT

I Mr. Maqsood-ur-Rehman, Statistical Officer (Supervisory) Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm that the contents of the execution petition are true and correct to the best of my knowledge, belief, ability and nothing has been concealed therein from the Hon'ble Tribunal.



DEPONENT

(5)

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Amended Service Appeal No. 567 /2018



Mr. Maqsood-ur-Rahman,
Statistical Officer (Supervisory)
Crop Reporting Services,
Khyber Pakhtunkhwa, Peshawar

Appellant

VERSUS

1. The Govt. of Khyber Pakhtunkhwa
through Chief Secretary,
Civil Secretariat, Peshawar.

2. The Secretary to Govt. of KPK,
Agriculture, Livestock & Cooperative
Department, Civil Secretariat, Peshawar

3. Samiullah Khan,
Statistical Officer,
Crop Reporting Services,
District Tank.

4. Muhammad Zahid,
Statistical Officer,
Crop Reporting Services,
District Nowshera.

5. Munir Ahmad,
Statistical Officer,
Crop Reporting Services,
District D.I.Khan.

6. Muhammad Aslam,
Statistical Officer,
Crop Reporting Services,
District D.I.Khan.

7. Shaukat Hayat,
Statistical Officer,
Crop Reporting Services,
District Swabi.

8. Haji Muhammad,
Statistical Officer,
Crop Reporting Services,
District Malakand.

9. Aslam Khan,
Statistical Officer,
Crop Reporting Services,
District Bannu.

ATTESTED

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post to BS-17 with Hon'ble

10. Syed Farman Ali Shah,
Statistical Officer,
Crop Reporting Services,
District Abbottabad.
11. Zia-ul-Islam,
Statistical Officer,
Crop Reporting Services,
District Nowshera.
12. Liaqat Ali,
Statistical Officer,
Crop Reporting Services,
District Dir Lower.
13. Inayatullah,
Statistical Officer,
Crop Reporting Services,
District Mardan.
14. Nadir Khan,
Statistical Officer,
Crop Reporting Services,
District Lakki Marwat.
15. Tariq Usman,
Statistical Officer,
Crop Reporting Services,
FATA, Peshawar.
16. Noor-ul-Islam,
Statistical Officer,
Crop Reporting Services,
District Swat.
17. Asadullah,
Statistical Officer,
Crop Reporting Services,
District Chitral.
18. Fayaz Ehsan,
Statistical Officer,
Crop Reporting Services, Peshawar Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED FINAL ORDER
PASSED VIDE AGRICULTURE DEPARTMENT LETTER 06.12.2017
PURSUANT TO THE DECISION IN SERVICE APPEAL NO.804/2012
WHEREBY THE RESPONDENTS REFUSED TO ASSIGN A DIFFERENT
DESIGNATION TO THE STATISTICAL INVESTIGATORS BS-16 UP-GRADED
TO BS-17 FROM THE DESIGNATION ALREADY ASSIGNED TO BS-17

ATTESTED

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 567/2018

Date of Institution ... 12.04.2018
Date of Decision ... 02.09.2021



Mr. Maqsood-ur-Rahman, Statistical Officer (Supervisory) Crop Reporting Services, Khyber Pakhtunkhwa, Peshawar. ... (Appellant)

VERSUS

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

ALI AZIM AFRIDI ... For Appellant
Advocate

USMAN GHANI ... For Official Respondents No.1 & 2
District Attorney

W M
NOOR MUHAMMAD KHATTAK ... For Private Respondent No.3
Advocate

SALAH-UD-DIN ... MEMBER (JUDICIAL)
ATIQ-UR-REHMAN WAZIR ... MEMBER (EXECUTIVE)

JUDGMENT

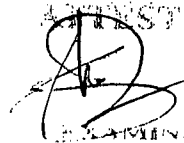
ATIQ-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall dispose of the instant service appeal as well as the connected Service Appeal bearing No. 339/2017, Mr. Maqsood Ur Rehman Vs Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar and others, as common question of law and fact are involved therein.

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[Signature]
Secretary, Khyber Pakhtunkhwa Service Tribunal Peshawar

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02. Brief facts of the case are that the appellant was appointed as Assistant Statistical Officer BPS-17 in 1987 through initial recruitment on the recommendations of Public Service Commission under the service rules approved in 1981 and according to such rules, there were two categories of officers in crop reporting services i.e. Assistant Statistical Officer BPS-17 and Statistical Investigators BPS-16. The post of Statistical Investigators was up-graded vide order dated 27-06-1997 with new nomenclature as Assistant Statistical Officer, whereas the post of Assistant Statistical Officer was re-designated as Statistical Officer with provision of special pay of Rs. 150/pm vide order dated 27-06-1997. Later on up-gradation of the post of Statistical Investigators to BPS-17 was given retrospective effect vide order dated 17-02-2010 and such up-gradation was considered with effect from 01-05-1977 in pursuance of judgment dated 26-03-2009 rendered by this Tribunal in Service Appeal bearing No. 740/2008 titled "Shaukat Hayat VS Government of N.W.F.P through Chief Secretary and others". The post of Statistical Investigators was up-graded to BPS-17, but the post of Assistant Statistical Officer was also maintained in BPS-17, which created an anomalous situation with regard to determination of seniority between the two categories of posts. The respondents referred the issue to establishment as well law department and finally a committee was constituted to resolve the issue of their seniority. The committee considered the issue in light of advice of establishment department as well as judgment of this Tribunal dated 26-03-2009 and finally seniority of the two posts was amalgamated but Assistant Statistical Officer were placed juniors to Statistical Investigators, against which the appellant filed departmental appeal, which was rejected vide impugned order dated 06-12-2017, hence the instant service appeal as well as the connected Service Appeal No. 339/2017. In the instant service appeal, the appellant prayed that the post of Statistical Investigators may be up-graded without changing its nomenclature or allow them the nomenclature other than Assistant Statistical Officer, so as to maintain the separate entity of the post of Assistant Statistical Officer, whose incumbents were recruited through Public Service Commission from those, whose

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posts have been up-graded. In the connected service appeal, the appellant prayed that impugned notification/revised final seniority list dated 22-12-2016 may be set aside, where the appellant is placed junior to his erstwhile juniors.

03. Learned counsel for the appellant has contended that the appellant was not treated in accordance with law, rules and policy and the respondents acted in violation of Article-4 of the constitution; that while allowing similar up-gradation of BPS-16 posts in other attached departments of agriculture department, a separate designation was allowed to the up-graded officers and their seniority was never integrated with the supervisory officers, as is evident from notification dated 02-03-1987; that a different yardstick is used in respect of crop reporting services, which is discriminatory and in clear violation of judgment dated 26-03-2009; that DG Agriculture vide letter dated 02-07-2010 had hinted to the anomaly and had proposed for maintaining separate seniority for the two categories of officers, but in spite of the same, the impugned final seniority list was unlawfully issued in violation of the law; that Section-8 of the Civil Servant Act, 1973 is applicable to a post in one cadre or one batch, whereas in the instant case, there are two different posts with different job natures, which cannot be amalgamated; that due to the impugned revised seniority list, the appellant as well as his other colleagues have become juniors to their erstwhile juniors and who were previously their sub-ordinates, which has resulted in serious miscarriage of justice; that seniority of the appellant has been changed after 30 years of service by placing respondent No. 14, Mr. Fazli Wahab as senior to the appellant; that up-gradation is meant only for monetary benefits and not for seniority. The learned counsel prayed that in order to meet the ends of justice, the instant appeal as well as the connected service appeal may be accepted as prayed for.

ATTESTED 04.

Learned counsel for private respondent No. 3 has contended that the post of private respondents was up-graded in light of judgment dated 26-03-2009, passed in Service Appeal No. 740/2008 and the appellant was appearing as representative of

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the respondents in the said appeal; that the Notification dated 07.04.2012, issued regarding the up-gradation of the private respondents was never challenged by the appellant, hence the instant appeal is barred by time; that as per section- 8 of Civil Servant Act, 1973 and Section-17 of Government of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, seniority is determined from the date of regular appointment to a post and private respondents were recruited earlier then the appellant.

05. Learned District Attorney appearing on behalf of official respondents No. 1 & 2 has contended that seniority of the two post was amalgamated in light of judgment dated 26-03-2009, as such benefit was granted by this honorable Tribunal to the private respondents, hence in light of such judgment, the private respondents were declared senior to the appellant and others; that seniority takes effect from the date of regular appointment to the post, therefore, the date of up-gradation of the officers is considered as the date of their appointment and thus in conformity with Section-8 of Civil Servant Act, 1973; that seniority of statistical officers was issued after approval of the competent authority i.e. Chief Secretary vide notification dated 22-12-2016; that a critical study of the case was carried out departmentally as well as shared with law and establishment department; that a committee was constituted for the purpose to resolve the issue of seniority and the committee thoroughly examined the issue in light of advice of establishment and law department and formulated recommendations and in light of such recommendations, the seniority of two posts was combined.

06. We have heard learned counsel for the parties and have perused the record.

07. Record reveals that in the year 1972, the government upgraded the professional and non-professional posts in agriculture department from BPS-11 to BPS-16. In the year 1978, in the light of Federal Government decision, the provincial government of this province up-graded the posts of Agriculture Assistants, Veterinary

ATTESTED

[Signature]
District Attorney
Khyber Pakhtunkhwa

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ATTESTED

Assistants, Soil Conservation Assistants, research assistants and other equivalent professional posts from BPS-16 to BPS-17 with effect from 01-05-1977, while the posts occupied by science graduates in other disciplines like Botany, Zoology, Chemistry and Statistics working in Agriculture department were not up-graded.

08. According to service rules notified vide government notification dated 01-02-1981, the appellant was appointed as Assistant Statistical Officer (BPS-17) in 1987 through initial recruitment on the recommendations of Public Service Commission, but before his appointment, a batch consisting of 28 candidates were appointed as Statistical Investigators (BPS-16) in the year 1985 on adhoc basis in crop estimation project, in which 22 candidates joined duty as Statistical Investigators, who were later on confirmed as Statistical Investigators on permanent basis. In order to open avenues of further promotions for the post of statistical investigators, the said service rules notified on 01-02-1981 were amended in 1989 and according to the amended service rules, there were two categories of officers in crop reporting services i.e Assistant Statistical Officer (BPS-17) District In-charge and Statistical Investigators (BPS-16) Tehsil/Circle In-charge. As per service rules, 50% of the posts of Assistant Statistical Officers were required to be filled in by initial recruitment, whereas the remaining 50% were required to be filled in through promotion from amongst the posts of Statistical investigators based on seniority cum fitness basis with at least five years service as such.

09. In 1997, all the posts of statistical investigators (BPS-16) were up-graded and re-designated as Assistant Statistical Officers (BPS-17) w.e.f 01-07-1997 vide order dated 27-06-1997 and on the same date, all posts of Assistant Statistical Officers (BPS-17) were re-designated as Statistical Officers (BPS-17) with a special pay of Rs. 150/pm as supervisory pay with effect from 01-07-1997 vide order dated 27-06-1997. Separate seniority lists for Assistant Statistical Officers (BPS-17) as stood on 01-03-2003 and for Statistical Officers (Supervisory), as stood on 01-06-2004 were circulated, but in the meanwhile posts of Statistical Investigators (Up-graded as

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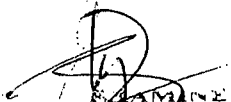
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Assistant Statistical Officers(BPS-17) were abolished in the wake of devolution plan 2001, whereas the posts of Assistant Statistical Officer (Up-graded as Statistical Officer Supervisory BPS-17) remained intact, but in order to accommodate the incumbents of the abolished post, they were also posted against the posts of Statistical Officer (Supervisory), but their seniority was separately maintained till amalgamation of the seniority of the two groups of officers vide impugned notification dated 22-12-2016

10. Simultaneously another developing story of the Statistical Investigators (BPS-16), whose posts had not been up-graded with their other colleagues at that particular time, as they were possessing degrees other than agriculture, took the matter to this Tribunal vide Service Appeal No. 27/1990 dated 16-04-1990, Service Appeals No. 359/1995, 360/1995, 361/1995, 362/1995 dated 21-05-1995 and Service Appeal No. 9/1995 dated 28-12-1995. The service Tribunal decided the cases in their favor vide judgment dated 16-06-1991, 16-08-1995 and 19-05-2003, thus their posts were up-graded to BPS-17 irrespective of possessing degree in agriculture and veterinary discipline with effect from 01-05-1977 or from the date of their appointments and were allowed monetary benefits, but were assigned separate designation from the officers appointed directly in BPS-17 through public service commission. The Statistical Investigators (BPS-16), whose posts had already been up-graded to BPS-17 with effect from 01-07-1997 also filed Service Appeals before this Tribunal and prayed for their up-gradation with effect from 01-05-1977 or from the date of their appointments, which was decided in their favor vide judgment dated 26-03-2009, operative part of which is reproduced as under:

"In the light of the above, we do not have any other alternative, but to accept the present appeals in the light of the previous judgments, with costs. We direct the official respondents to give the same benefits to the present appellants (who are B.Sc (2nd Division) in other sciences, like Economics, Physics) which have been declared for the other similarly placed persons who were qualified in B.Sc Agriculture or B.Sc 2nd Division or B.Sc Statistics or Mathematics with Statistics as a subject and who had litigated as mentioned above. The official respondents are further directed to grant the same benefits to all other similarly placed persons, who have not yet litigated, in order to avoid compelling them to enter into litigation with them."

In pursuance of the above mentioned judgment, the respondents up-graded all such posts with effect from 01-05-1977 or from the dates of their

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EXAMINER
Khayber Pakhtunkhwa
Service Tribunal

ATTESTED

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appointments against such posts vide order dated 17-02-2010 and 07-04-2012. After implementation of the judgment, the issue of seniority erupted amongst the two groups i.e. Assistant Statistical Officer (BPS-17) and Statistical Officer (Supervisory BPS-17), the former being inducted in BPS-16 as statistical investigators in 1985, whereas the later inducted in BPS-17 as Assistant Statistical Officer through Public Service Commission. Both the groups were having separate seniority list until amalgamation of the seniority of both the groups in 2016. In order to resolve the issue, the case lingered on for quite some time amongst the respondent Departments but they did not arrive at a logical conclusion.

11. In the meanwhile, the present appellant filed Service Appeal No. 804/2012 for issuing appropriate directions to respondents to assign/award separate designation to the Statistical Investigators (BPS-16) up-graded to (BPS-17) from the designation already assigned to Statistical Officers in BPS-17 or promoted to BPS-17 from the post of Statistical Investigator(BPS-16) in the department. This Tribunal ~~vide its judgment dated 19-10-2015~~ remitted the matter to the respondents with observations that up-gradation of the private respondents to BPS-17 and given the same effect from 01-05-1977 appears to have created an anomalous situation as the appellant has been ranked junior to his erstwhile juniors, but inspite of clear observations in the said judgment, the respondents amalgamated the seniority of two distinct groups together vide order dated 04-01-2016 putting the appellant as well as his other colleagues as juniors to their erstwhile juniors, against which the appellant as well as his colleagues preferred departmental appeals.

12. Finally, the respondent departments constituted a committee vide order dated 28-03-2016 to settle the issue of seniority. The committee examined the issue in light of the advice of Establishment Department, Law Department and judgment of this Tribunal Dated 26-03-2009.


13. We have observed that Agriculture Department as well as Establishment and Law Department did not properly examine the issue of seniority and badly failed

EXAMINER
Hyderabad
Service Tribunal

ATTESTED

to remove the anomaly. It was noted with concern that Establishment department without proper examination of the case, furnished its advice to determine their seniority in light of Section-8 of Civil Servant Act, 1973 as well as Section-17 of Government of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer rules) 1989, which however was not applicable in such case and furnishing such advice without proper evaluation of the issue in question examination amounts to gross negligence, as the appellant and his other colleagues were kept in constant mental agony. The committee constituted for the purpose also did not comprehend the judgment dated 26-03-2009 in its true letter and spirit, which created an anomalous situation and there was nobody on the ground to properly interpret the said judgment. It was astonishing to note that Director Agriculture, while addressing a letter dated 02-07-2010, had hinted to the anomaly and vide his detailed letter had forecasted the forthcoming complications of seniority and had proposed for maintaining separate seniority for the two categories of officers, but nobody appreciated his suggestions. The same letter contained the question as to whether seniority of two distinct groups/batches can be amalgamated, where one group is recruited in BPS-17 and another in BPS-16 having separate seniority. We failed to understand the wisdom behind the action, which put BPS-16 officers senior to BPS-17 with justification that BPS-16 officers were recruited earlier. We also feel sorry to notice that a clear judgment was mis-interpreted, which created the whole mess. The judgment so announced was based on the earlier judgments of this Tribunal announced on 16-06-1991, 16-08-1995 and 19-05-2003, where the similar nature posts in BPS-16 were up-graded to BPS-17 with effect from 01-05-1977 or from the date of appointment of the incumbents and were only allowed monetary benefits arising out of up-gradation, but were assigned separate designation from the officers appointed directly in BPS-17. In the judgment dated 26-03-2009, respondents were directed to extend the same benefit to the appellants as well as other similarly placed persons, which benefit was already extended vide judgments announced on 16-06-1991, 16-08-1995 and 19-05-2003.

W/h

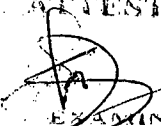
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 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal

ATTESTED


14. After perusal of the above-mentioned judgments, it can be easily concluded that the wordings "same benefit" used in the judgment dated 26-03-2009 was only up-gradation, which was already granted to similarly placed persons to the extent of monetary consideration having no nexus with seniority. It is otherwise an established fact that up-gradation does not confer any right of seniority, but the respondents considered their seniority with effect from the date of up-gradation i.e. 01-05-1977 or from the date of appointment of the incumbents, thus a batch of up-graded statistical investigators, who were originally inducted in BPS-16 on ad-hoc basis were placed senior over a batch of Statistical Officers, who were initially recruited in BPS-17 as Assistant Statistical Officers through Public Service Commission with a justification that the post of Statistical Investigators, who were inducted in 1985-86 were up-graded with effect from 01-05-1977, whereas appellant and his other colleagues were inducted in 1987, hence as per rule 17 (b) of Government of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer) Rules, 1989 and Section-8 of Civil Servant Act, 1973, seniority will be reckoned from the date of regular appointment to that post, which however was not applicable in the instant case, as the Rules mentioned above provides for Seniority inter-se of civil servants appointed to a service cadre or post in one batch, whereas the amalgamated two groups are separate posts in every respect, as from the very beginning, Assistant Statistical Officer (BPS-17) and Statistical Investigator (BPS-16) were two different cadres having separate seniority and amalgamation of their seniority and putting the appellant and his other colleagues juniors to their erstwhile juniors is illogical.

UW

15. We are of the considered opinion that respondents misinterpreted the judgment dated 26-03-2009, as up-gradation of a post along-with incumbent with retrospective effect, cannot confer right of seniority upon the incumbents by any canon of law over another cadre/post, whose incumbents were separately recruited through Public Service Commission in 1987 in BPS-17 holding a separate seniority

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Commission

ATTESTED


and a separate job description, whereas the incumbents of the up-graded post were inducted in 1985-86 in BPS-16 on ad-hoc basis, who in due course of time were declared permanent and their posts were up-graded with effect from 01-05-1977. The expression "Up-gradation" is distinct from the expression "Promotion" which is not defined either in the Civil Servant Act or in the Rules framed thereunder, and is restricted to the post (office) and not with the person occupying it. Reliance is placed on 2016 SCMR 859. We are also of the firm opinion that respondents wrongly interpreted Rule 17 (b) and Section-8 of the Rules/Act ibid, while determining seniority of two distinct groups.

16. In view of the foregoing discussion, the instant appeal as well as the connected service appeal No. 339/2017 are accepted and the impugned orders dated 22-12-2016 and 06-12-2017 are set aside with directions to the respondents to assign separate nomenclature to both the posts as well as to maintain separate seniority list till retirement of the appellant alongwith his other batch-mates. The appellant alongwith his other batch-mates stands senior to their erstwhile juniors and shall be considered first for promotion to the next grade, however in case of their deprivation from promotion on account of impugned seniority list, they shall be considered for promotion with effect from the date, when they stood eligible for promotion in light of this judgment. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
02.09.2021

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

BC . 166960

Ali Azim Afridi

0333 9555000

18

VAKALATNAMA

BEFORE THE Service Tribunal KP Peshawar

Mr. Mansoor vs Rehman Plaintiff(s)/Appellant(s)
Applicant(s)/Petitioner(s)

VERSUS

Chief Secretary and Defendant(s)/Respondent(s)
Accused

FOR Mansoor vs Rehman

I/We, hereby appoint **Mr. Ali Azim Afridi, Hafeez Ullah Afridi**
(Advocate High Court)

1. To appear, act and plead for me/us in the titled case before the Court/Tribunal in which the same maybe tried or heard, and any other proceedings arising therefrom or ancillary therewith and its stages that I personally could do if this instrument had not been executed.
 2. That fee paid, or agreed to the said Counsel is for this Court alone and no part of the fee is refundable. The Counsel shall be entitled to retain costs payable by the opposite side.
 3. I, we, will make arrangement for attending the Court on every hearing to inform my/our Counsel when the case is called. The Counsel shall in no way be responsible for any loss caused to me/us through my/our failure to inform him.
- AND** hereby agree:-
4. **That** the Counsel shall be entitled to withdraw from the prosecution of the titled case if the whole or any part of the agreed fee remains unpaid.
 5. I/We have read the above terms and conditions and the same have been explained to me/us; and I/We have accepted them in WITNESS WHEREOF; I/We have set my/our hand this ___ day of ___ 20

ACCEPTED

Signature of Counsel

Signature of Client

Accepted.
Hafeez Ullah Afridi

Email: - alee_1@live.com
Contact # 0333-9555000

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B
PESHAWAR.

No.

Execution Petition 197
Appeal No. of 20 *21*

Maqsood ul Rehman Appellant/Petitioner

Versus

Chief Secy. Govt. of KPK Respondent

Respondent No. *2*

Notice to:

Secretary Agriculture Live Stock & cooperative Dept. Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....*15/12/21*.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

E.P.V

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....*1/12*.....

Day of.....*Nov*.....20 *21*

for implementation Report

[Signature]
Registrar.

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

Departmental Reply
no EPNO: 197/21.

CPMA 20/10/2021

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA NO. _____/2021

Government of Khyber Pakhtunkhwa through Chief Secretary,
Peshawar & Others

-----PETITIONERS

VERSUS

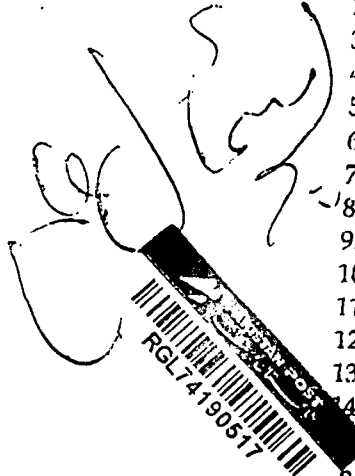
Mr. Maqsood ur Rahman & Others

-----RESPONDENTS

NOTICE

Rookhullah Crop Reporting Services

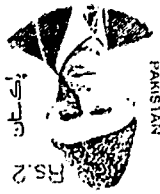
1. Mr. Maqsood ur Rahman Statistical Officer (Supervisory) Crop Reporting Services, Khyber Pakhtunkhwa Peshawar
2. Samiullah Statistical Officer, Crop Reporting Services, District Tank
3. Muhammad Zahid Statistical Officer, Crop Reporting Services, District Nowshera
4. Munir Ahmad Statistical Officer, Crop Reporting Services District D.I.Khan
5. Muhammad Aslam Statistical Officer, Crop Reporting Services, District D.I.Khan
6. Shaukat Hayat Statistical Officer, Crop Reporting Services District Swabi
7. Haji Muhammad Statistical Officer, Crop Reporting Services District Malakand
8. Aslam Khan Statistical Officer, Crop Reporting Services District Bannu
9. Syed Farnaz Statistical Officer, Crop Reporting Services District Abbottabad
10. Zia ul Islam Statistical Officer, Crop Reporting Services District Nowshera
11. Liaqat Ali Statistical Officer, Crop Reporting Services District Dir Lower
12. Inayatullah Statistical Officer, Crop Reporting Services District Mardan
13. Nadir Khan Statistical Officer, Crop Reporting Services District Lakki Marwat
14. Tariq Usman Statistical Officer, Crop Reporting Services FATA, Peshawar
15. Noor ul Islam Statistical Officer, Crop Reporting Services District Swat
16. Asadullah Statistical Officer, Crop Reporting Services District Chitral
17. Fayaz Ehsan Statistical Officer, Crop Reporting Services Peshawar



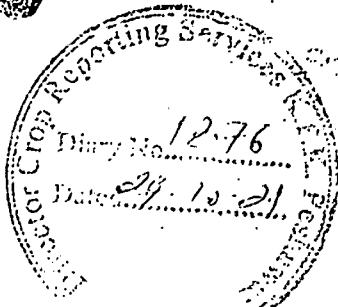
Please take notice Registered A/D post to the effect that I am filing CPLA with the Hon'ble Chief Justice in the above titled case against the judgment of the Hon'ble Justice in Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 02/09/2021 in appeal No.567/2018 before the Supreme Court of Pakistan in its Registry at Peshawar.



PAKISTAN TELECOMMUNICATION AUTHORITY
RS.20
PTA
100 MILLION BROADBAND SUBSCRIBERS
JOURNEY TOWARDS DIGITAL PAKISTAN



Supreme Court of Pakistan
Advocate General
Government of Khyber Pakhtunkhwa
Peshawar
Mainad-Dia Humayun
Advocate-on-Record
Supreme Court of Pakistan
For Government



"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B
PESHAWAR.

No.

Execution petition 197
Appeal No. of 20 21

Maqsood ud Rehman Appellant/Petitioner

Versus

Chief Secy. Govt. of KPK Respondent

Respondent No. 1

Notice to: —

Chief Secretary Govt. of KPK
Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... 15/12/21..... at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of E.P appeal is attached. Copy of ~~appeal~~ has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this..... 11/11

Day of..... Nov20 21

(For Implementation Report)

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

Handwritten signature/initials at the bottom of the page.

"B"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.**

No.

53

~~Appeal No.~~ E.P.No. 197 of 2021

Mogsood - ur - Rehman Appellant/Petitioner

Chief Secy, Civil Secretariat KPK Peshawar Respondent
Versus

Respondent No. (1)

Notice to: Chief Secy Civil Secretariat KPK Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....27/06/2022.....at 8.00 A.M. If you wish to urge anything against the appellatant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

E.P

~~Copy of appeal is attached.~~ Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....13/6.....

Day of.....May.....2022.

(Last chance for Impl-ment Report)

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same to that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

[Signature] 20/05

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Regd

33

~~APPEAL~~ No. *E.P. No. 197* of 20*21*.

Magsaad -ur- Rehman

Appellant/Petitioner

Versus

Chief Secy Civil Secretariat KPK Peshawar

RESPONDENT(S)

Notice to Appellant/Petitioner

*Magsaad -ur- Rehman, Statistical
(Supervisory) Crop Reporting Services KPK
Peshawar*

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on *27/12/2022* at *Peshawar*.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

Cop

Registrar,
Khyber Pakhtunkhwa Service Tribunal
Peshawar.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

SB

Appeal No..... E.P.No..... 197..... of 20

21

..... Masood - ur - Behrman Appellant/Petitioner
Versus

Chief Secy, Civil Secretariat KPK Peshawar
Respondent No..... (2).....

Secretary Agriculture

District

No.

Notice to:

12:45 PM
23/05/2022

Secy Agriculture, Livestock & Cooperative Department
Civil Secretariat Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... 27/05/2022..... at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No..... dated.....

Given under my hand and the seal of this Court, at Peshawar this..... 13th.....

Day of..... May..... 20 22

(Last Chance for Implementation Report)

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.