

25<sup>th</sup> July, 2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Attaullah Khan, Assistant Commissioner, Bannu for official respondents No. 1 to 3 and counsels for private respondents No. 17 to 24 present. None present on behalf of private respondents No. 12 to 16.

On 23.12.2021 when converting the appeal into this execution application, the bench had allowed the respondents to file reply/comments as to execution which the respondents are now intending to file. They may file the same within 10 days. Similarly learned counsels for private respondents No. 17 to 24 submitted that the case may be fixed for arguments on the points of maintainability. Private respondents No. 12 to 16 be summoned through TCS, the expenses of which be deposited by the petitioner within three days. To come up for arguments on the point of maintainability as well as further proceedings on 20.09.2022 before S.B.



(Kalim Arshad Khan)  
Chairman

besides inherent powers under Rule 27 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 to pass orders to meet with ends of justice.

04. With the foregoing discussion this appeal is converted in to execution petition. Office is directed to delete this appeal from register of the appeal and enter the same in register of execution petitions. To come up for reply/comments as to execution, if the respondents are so advised to file the same.

Adjourned to 08.03.2022 before S.B



(Atiq-Ur-Rehman Wazir)  
Member (E)



Chairman

08.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 01.06.2022 for the same as before.



Reader.

1<sup>st</sup> June, 2022

Counsel for the petitioner present. Nobody is present on behalf of the respondents nor any law officer present.

Notice be issued to the respondents to appear in person alongwith implementation report on 05.07.2022 before S.B.



Chairman

23.12.2021

Arbab Saiful Kamal, Advocate for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Wali Muhammad Reader for official respondents No. 1 to 3 present. Counsel for private respondent No. 23 also present.

02. Arguments have been heard at certain length and have also perused the judgment of this Tribunal discussed in Para 5 of the memorandum of appeal and annexed with the appeal as Annexure-B. Accordingly, appeal No. 336/2007 alongwith two other connected appeals was decided on 05.05.2008 by this Tribunal and operative part of the judgment is as follow:-

*"In view of the above, we partially accept all the three appeals, and direct the official respondents to reconsider the cases of the appellants, within a period of two months from the date of receipt of this judgment, appoint the appellants as regular Patwaris from their respective dates of entitlement according to their seniority on the corrected register of candidate Patwaris, and either retain them as regular Patwaris for their official work and promotion, or, as the case may be, declare them on deputation under the settlement authorities in district Chitral, till return to their original cadre or till their chance of promotion in their cadre, whichever is earlier. We, however, leave the parties to bear their own costs".*

03. We have also scanned the order of appointment of the appellant Annexed with the appeal as Annexure-C. The said appointment order has been passed in pursuance to aforementioned judgment of this Tribunal with immediate effect. Obviously, the question of seniority apt to arise through present appeal is the outcome of the appointment order dated 12.01.2009 issued in consequences of the judgment of this Tribunal, therefore, the question of seniority with particular reference to the judgment of this Tribunal is a question which relates to the execution of the judgment whether the same has been executed having regard to operative para are not. As this Tribunal has got the power of Civil Court within the meaning of sub-section (2) of Section 7 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974

29.03.2021

The concerned D.B is not available today, therefore, the appeal is adjourned to 21.05.2021 for the same.

21.5.21

*Due to COVID-19, the case is adjourned to 13.9.21 for the same.*

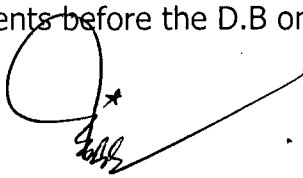
  
Reader

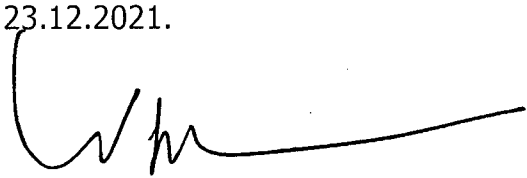
  
Reader

13.09.2021

Appellant with counsel present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Wali Muhammad Reader for the respondents present.

Counsel for the appellant requested for adjournment to further prepare the brief. Adjourned. To come up for arguments before the D.B on 23.12.2021.

  
(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)

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

25.08.2020

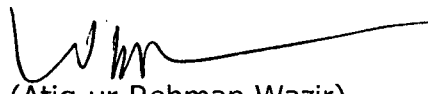
Due to summer vacation case to come up for the same on 29.10.2020 before D.B.

  
Reader

29.10.2020

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

The Bar is observing general strike, therefore, the matter is adjourned to 05.01.2021 for hearing before the D.B.

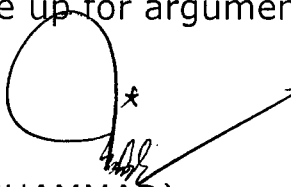
  
(Atiq-ur-Rehman Wazir)  
Member

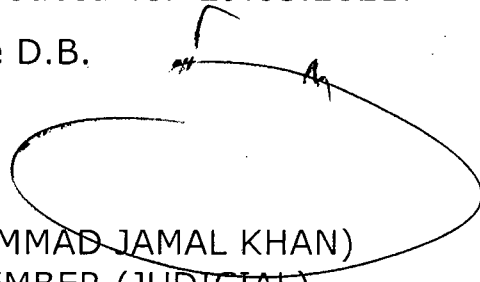
  
Chairman

05.01.2021

Appellant in person alongwith Mr. Arbab Saif-ul-Kamal, Advocate, are present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Farmanullah, Superintendent, on behalf of official respondents are also present.


Learned counsel for appellant submitted that he has not prepared the brief and is seeking time for its preparation. The case is adjourned, however, private respondents and their counsel be noticed for 29.03.2021. File to come up for arguments before D.B.

  
(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

12.02.2020

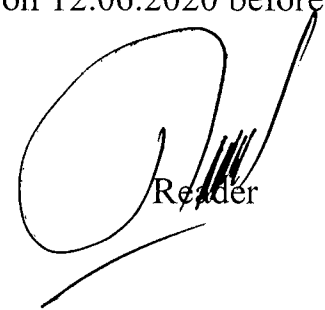
Appellant with counsel present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Ismail Shah, Assistant and Mr. Afan, Junior Clerk for official respondents. Learned counsel for private respondents no. 12,14,15 and 16, private respondent no. 19 in person and as Attorney for private respondents no. 17,18,20,21 and 23 present. Learned DDA states that the parties have been promoted in next higher scale, therefore, the present service appeal has become infructuous. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 26.03.2020 before D.B.

  
Member

  
Member

31.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 12.06.2020 before D.B.

  
Reader

12.06.2020

Bench is incomplete. Therefore, the case is adjourned. To come up for the same on 25.08.2020 before D.B.

  
Reader

15.07.2019

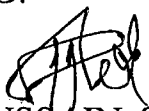
Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney alongwith M/S Ismail Shah, Assistant and Muhammad Arif, Superintendent for official respondents No. 1 to 3 and private respondent No. 17 in person alongwith junior counsel for private respondents No. 18, 19, 20, 21 & 23 present. Junior counsel for private respondents No. 18, 19, 20, 21 & 23 requested for adjournment on the ground that learned senior counsel for private respondents no. 18, 19, 20, 21 & 23 has proceeded to Dar-ul-Qaza, Swat. Adjourned to 26.09.2019 for arguments before D.B.

  
(HUSSAIN SHAH)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

26.09.2019

Junior counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Attaullah, Assistant Secretary for official respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy in the Hon'ble Peshawar High Court and cannot attend the Tribunal today. Adjourned to 10.12.2019 for arguments before D.B.

  
(HUSSAIN SHAH)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

10.12.2019

Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 12.02.2020 before D.B.

  
Member

  
Member

28.12.2018

Appellant in person, Mr. Ziaullah, DDA alongwith Muhammad Arif, Superintendent for official respondents, Junior to Mr. Muhammad Usman Torlandi, Advocate for private respondents No. 17, 18, 19, 20, 21 & 23, Mr. Taimuir Ali Khan, Advocate for private respondents No. 12, 14, 15 and 16, Malik Zeeshan, Advocate for private respondent No. 22 present. Private respondents No. 19 in person also present.

Learned counsel for the appellant is reported to be out of station due to personal engagement. Adjudged to 27.02.2019 for arguments before the D.B.

  
Member

  
Chairman

27.02.2019

Junior to counsel for the appellant and Assistant A.G alongwith Muhammad Arif, Superintendent for the respondents present.

Request for adjournment is made on account of engagement of learned senior counsel for the appellant before the Honourable High Court today.

Adjudged to 16.05.2019 before D.B.

  
Member

  
Chairman

16.05.2019

Counsel for the appellant, Mr. Ziaullah, DDA alongwith Muhammad Arif, Superintendent for the official respondents and private respondent No. 19 in person present.

Due to demise of his father, learned Member of the Bench (Mr. Hussain Shah) is on leave. Adjudged to 15.07.2019 for arguments before the D.B.

Chairman

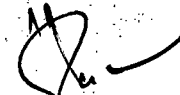




03.10.2018

Counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Ismail Shah Assistant for the respondents present. Private respondents no.23 also present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.11.2018 before D.B.

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member

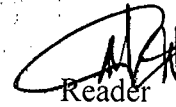
06.11.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on ~~18.11~~ 2018 before D.B.

  
Reader

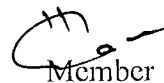
16.11.2018

The Hon'able Chairman has not yet been assumed the charge, therefore, the case is adjourned for the same on 28.12.2018 before D.B.

  
Reader

**28.03.2018**

Appellant alongwith junior counsel present. Mr. Kabir Ullah Khattak, Addl: AG alongwith Mr. Ismail Shah, Assistant for official respondent No. 1 to 3 and Junior counsel for private respondent No. 12, 14, 15 & 16 present, and counsel for private respondent No. 17 to 22 present, and counsel for private respondent No. 23 also present. Written reply already submitted on behalf of official respondent 1 to 3 as well as private respondent No. 12, 14, 15 & 16 as well as private respondent No. 17 to 22. None present on behalf of private respondent No. 4 to 11, 13 & 24 have been already ex-parte. Now written reply submitted on behalf of private respondent No. 23 alongwith cost of Rs. 1000/- also paid and receipt thereof obtained from the learned counsel for the appellant. The appeal is assigned to D.B for rejoinder and final hearing on 06.06.2018.

  
Member

**06.06.2018**

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General alongwith Assistant Secretary for the respondents present. Learned counsel for the appellant seeks time to file rejoinder. Granted. To come up for rejoinder/final hearing on 08.08.2018 before D.B

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

**08.08.2018**

Neither the appellant nor his counsel present. Mr. Ziaullah, DDA for official respondents and Mr. Taimur Ali Khan, Advocate counsel for private respondents no. 12,14,15 and 16 present. Rejoinder not submitted. Case to come up for rejoinder and arguments on 03.10.2018 before D.B.

  
Member

  
Chairman


**20.02.2018**

Clerk of the counsel for appellant present. Mr. Muhammad Jan, DDA alongwith Ismail Shah, Assistant for official respondent No. 1 to 3 and clerk of the counsel for private respondent No. 12, 14, 15 & 16 present, and counsel for private respondent No. 17 to 22 present and submitted fresh wakalat nama which is placed on file. None present on behalf of private respondent No. 12, 13, 23 & 24. Therefore, fresh notice be issued on behalf of private no. 12, 13, 23, 24 for attendance. Written reply submitted on behalf of official respondent No. 1 to 3 as well as private respondent No. 12, 14, 15 & 16. Remaining respondent requested for adjournment. Adjourned. Last opportunity is granted. To come up for written reply/comments on 14.03.2018 before S.B.

  
(Gul Zeb Khan)  
Member


**14.03.2018**

Clerk of the counsel for appellant present. Mr. Riaz PainsaKhel, Assistant AG alongwith Mr. Yousaf Khan, Superintendent for official respondent No. 1 to 3 and clerk of the counsel for private respondent No. 12, 14, 15 & 16 present, ~~and~~ counsel for private respondent No. 17 to 22 present, ~~and~~ counsel for private respondent No. 23 also present. Written reply already submitted on behalf of official respondent No. 1 to 3 as well as private respondent No. 12, 14, 15 & 16. Written reply submitted on behalf of private respondent No. 17 to 22. None present on behalf of private respondent No. 13 & 24 despite last opportunity ~~and~~ hence, proceeded ex-parte. Counsel for private respondent No. 23 submitted application for short time. ~~accepted~~ <sup>on behalf of respd. 23</sup> To come up for written reply/comments and cost of Rs. 1000/- on 28.03.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

29.12.2017

Counsel for the appellants present. Mr. Kabir Ullah Khattak, Addl: AG alongwith Muhammad Yousaf Khan, Superintendent for official respondents No. 1 to 3 present. Mr. Taimur Ali Khan Advocate appeared on behalf of private respondents No. 12, 14, 15 & 16 submitted fresh wakalat nama which is placed on file. None present on behalf of respondents No. 4 to 11, 13 and 17 to 24. Therefore, fresh notice be issued to the respondents No. 4 to 11, 13 and 17 to 24 for attendance. Written reply not submitted and AAG seeks further time. Adjourned. Another last opportunity granted. To come up for written reply/comments on 25.01.2018 before S.B.

  
(Gul Zeb Khan)  
Member (E)

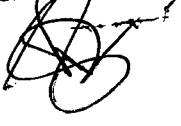
25.01.2018

Learned counsel for the appellants present. Mr. Kabir Ullah Khattak, Learned Additional Advocate General along with Mr. Yousaf Khan superintendent for official respondents present. Written reply submitted on behalf of official respondents and respondent No.1, 2 & 3 relied upon the same. Malik Zeeshan Advocate submitted wakalat nama on behalf of private respondent No.23 which is placed on file. Learned counsel for private respondents No.12, 14, 15 & 16 present. None present on behalf of respondents No.4 to 11, hence proceeded ex-parte. Last opportunity further extended. Adjourned. To come up for written reply/comments on 20.02.2018 before S.B.

  
(Muhammad Hamid Mughal)  
MEMBER

20.09.2017

Appellant Deposited  
Security & Process Fee

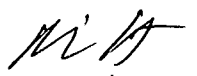


Counsel for the appellant and Addl: AG respondents present. Security and process fee has not been deposited. Learned counsel for the appellant requested for time to deposit security and process fee. He is directed to deposit security and process fee within 7 days. Thereafter notices be issued to the respondents for submission of written reply/comments on 25.10.2017 before S.B.

  
(Ahmad Hassan)  
Member

25.10.2017

Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Yousaf Khan, Junior Clerk for Official respondents No. 1 to 3 also present. None present on behalf of private respondents No. 4 to 24 therefore, fresh notice be issued to them for attendance and filing of written reply. Written reply on behalf of official respondents also not submitted. Learned Additional AG requested for adjournment. Adjourned. To come up for written reply/comments on 21.11.2017 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

21.11.2017

Counsel for the appellant present. Mr. Riaz Paynda Khel, Assistant AG for official respondents No. 1 to 3 also present. None present on behalf of private respondents No. 4 to 24 therefore, notice be issued to them for attendance and submission of written reply. Representative of the department is also not in attendance therefore, notice be issued to the official respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 29.12.2017 before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

03.08.2017

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 15.08.2017 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

15/8/2017



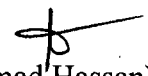
Counsel for the appellant present and argued that the appellant has not been treated in accordance with law. That the appellant is entitled to be placed senior in the seniority list from private No. 20. He further argued that appellant being senior, was placed at S.NO. 42 instead of at S.No. 20 above the name of Ghaffar Ali. Points urged at bar need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 20/9/2017 before SB.

  
(GUL ZEB KHAN)  
MEMBER

Form- A  
FORM OF ORDER SHEET

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

Case No. 662 /2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	16/06/2017	<p>The appeal of Mr. Islam Qadar Khan resubmitted today by Mr. Saadullah Khan Marwat 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 16/6/17</p>
2-	30.6.17	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>6-7-17</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	06.07.2017	<p>Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 03.08.2017 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

The appeal of Mr. Islam Qadir son of Gul Alam Khan Patwari Dray Daraiz Bannu received today on 17.05.2017 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- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Annexure-A of the appeal is missing.
- 4- Annexures of the appeal may be attested.
- 5- Annexures of the appeal may be flagged.
- ⑥- 26 more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

*not removed  
only 10 copies*

No. 1344/S.T.

Dt. 18/5/2017

*18/5/17*  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Peshawar.

*gud*

*Resubmitted after completion of  
3/copies shall submit after the  
admission of the case.*



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**S.A. No 662 /2017

Execution Petition No. 39/2022

Islam Qadir Khan

versus

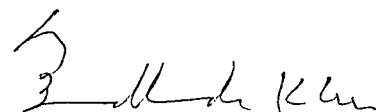
D.C &amp; Others

**I N D E X**

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-5
2.	Passing of Patwar Examination in 1995	"A"	6
3.	Judgment of Tribunal, 05-05-2008	"B"	7-13
4.	Appointment order, 12-01-2009	"C"	14
5.	Seniority List, 31-12-2016 / 3-2-2017	"D"	15-19
6.	Representation, dated 08-02-2017	"E"	20
7.	Rejection order dated 18-04-2017	"F"	21

Appellant

Through



Saadullah Khan Marwat  
Advocate.  
21-A Nasir Mansion,  
Shoba Bazaar, Peshawar.  
Ph: 0300-5872676  
0311-9266609

Dated: 16-05-2017

**BEFORE KPK SERVICE TRIBUNAL PESHAWAR**

S.A No. \_\_\_\_\_ /2017  
*Execution Petition No. 39/2022*

Islam Qadir S/o Gul Alam Khan,

Patwari, Halqa Dray Daraiz,

Bannu .....

Appellant

*Appeal is converted into E.P  
 vide order dt. 23-12-2021.*

**VERSUS**

1. Deputy Commissioner, Bannu.
2. District Officer, Revenue  
& Estate / Collector, Bannu.
3. Senior Member, Board of Revenue,  
Govt. of KP, Peshawar.
4. Ghaffar Ali, Khan Patwari, Halqa  
Ghoura Wala Kot Mehter.
5. Muhammad Khan, Patwari,  
Halqa Ghoura Wala
6. Farid Ullah, Patwari, Halqa Kaki.
7. Nasib Zaman, Patwari, Halqa  
Metha Khel, Khalfoba
8. Wresham Khan, Patwari, Halqa Domail.
9. Malik Nawaz Khan, Patwari, Halqa Mera Khel.
10. Adalat Khan, Patwari, Halqa Haati Khel Banochi.
11. Bashir Hussain Shah, Patwar, Halqa Jhando Khel.
12. Munawar Khan, Patwari, Halqa Kaki Khel.
13. Abdur Rasheed, Patwari, Halqa Nurrer.
14. Ghareeb Nawaz, Patwari, Halqa Kaki.
15. Hokum Khan, Patwari, Halqa Kaki.
16. Habib Jan, Patwari, Halqa Khojarri.
17. Taibullah, Patwari, Halqa Hindi Khel Wazir.
18. Yaqoob Nawaz, Patwari, Halqa Kaki.

Filed today

*17/5/17*

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 520

Dated 17-5-2017

19. Turab Shah, Patwari, Halqa Kaki.
20. Muhammad Kashif, Patwari, Halqa  
Bannu Town Ship.
21. Sakhi Shah, Patwari, Halqa Kaki.
22. Muhammad Kamran (1), Patwari,  
Halqa Sabo Khel Khattak.
23. Kamran, Patwari, Halqa Kot Mehther.
24. Abdul Nawab, Patwari, Halqa  
Jando Khel . . . . . Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974  
AGAINST OFFICE ORDER NO. 657-53/AE, DATED  
03-02-2017 WHEREBY APPELLANT BEING  
SENIOR, WAS PLACED AT S. NO. 42 INSTEAD OF  
AT S. NO. 20 ABOVE THE NAME OF GHAFAR ALI  
OR OFFICER ORDER NO. 2331 / DC / AE, DATED  
18-04-2017 OF R. NO. 1 WHEREBY  
REPRESENTATION OF APPELLANT AGAINST THE  
IMPUGNED SENIORITY LIST WAS REJECTED  
FOR NO LEGAL REASON:**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**Respectfully Sheweth;**

1. That on 14-04-1992, appellant was appointed as Patwari but in Settlement Organization Bannu and performed duty till 30-06-1994.
2. That appellant passed the examination of Patwar in the year 1995 from Patwar Training School, D.I. Khan / Kohat. Prior to the same, appellant performed duty at Panyala D.I. Khan in Settlement Organization. (Copy as Annex "A")
3. That the name of appellant was entered in the Register of Indraj-e- Naam on 22-05-1995.

4. That on 16-03-2002, appellant was again appointed as Patwari B-05 and served the Organization till 31-12-2008.
5. That appellant filed appeal on 07-04-2007 which was partially accepted direction official respondents to reconsider the cases of appellants within a period of two(02) months from the date of receipt of this judgment, appoint the appellants as regular Patwari's from their respective dates of entitlement according to the Seniority on the corrected Register of candidates Patwari's, and either retain them as regular Patwari's for their official work and promotion, or as the case may be, declare them on deputation under the Settlement authorities in district Chitral, till their return to their original cadre or till their chance of promotion in their cadre, whichever is earlier, meaning thereby that they are entitled for regular appointment when his name was entered in the Register of candidates Patwari's, i.e. 22-05-1995 vide judgment dated 05-05-2008. (Copy as annex "B")
6. That vacancy of Patwar was occurred and appellant was appointed as Patwari on 17-12-2008 on regular basis and was posted at Halqa Sabo Khel Khattak, Bannu on the selection of Departmental Selection Committee and then order of appointment was issued on 12-01-2009. (Copy as annex "C")
7. That on the other hand the contesting respondents from S. No. 4 to 24 had the educational qualifications of Matric and were not eligible and qualified for appointment as Patwari except the candidates at S. No. 05, 06, 09, 12, 18 to 24, yet they were appointed as such on 20-02-1983, 24-02-1983, 27-02-1983, 11-06-1986, 11-06-1986, 19-07-1986, 20-07-1986, 23-10-1986, 17-03-1987, 15-04-1987, 09-05-1987, 18-07-1987, 15-08-1987, 23-09-1987, 23-09-1987, 23-09-1987, 19-12-1987, 12-09-1988, 12-05-2005, 12-05-2005, 12-05-2005, 12-05-2005, 10-08-2006, 10-10-2006 (09 No), 12-03-2007 (06 No), 20-12-2008 and 23-12-2008 respectively.
8. That Tentative Seniority list of 31-12-2016 was circulated on 03-02-2017, wherein appellant was assigned incorrect position at S.

No. 42 instead of at S. No. 20, above the name of Ghaffar Ali.  
(Copy as annex "D")

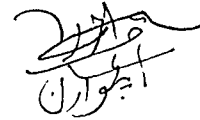
9. That on 08-02-2017, appellant submitted departmental appeal against the impugned Seniority List for correction but the same was rejected on 18-04-2017 by R. No. 1. (Copies as annex "E" & "F")

Hence this appeal, inter alia, on the following grounds:-

**GROUND S:**


- a. That as is evident from the educational qualification appellant has the same as FA.
- b. That in the Rules, FA is the basic qualification for appointment as Patwari which appellant possessed.
- c. That most of the respondents were Matric and were not qualified and eligible for appointment as Patwari as they were not fulfilling the criteria of FA for appointment as such.
- d. That in the judgment of the hon'ble Tribunal was not appreciated in letter and spirit and was misinterpreted by the respondents in preparing the impugned Seniority List.
- e. That if seniority position of appellant is counted from registration of Indraj-e-Naam, then he becomes senior to the respondents.
- f. That respondents were not eligible for appointment as Patwari having basic qualification of Matric, so they were not entitled for seniority over the qualified incumbents, like appellant.
- g. That order of rejection and circulation of Seniority List are in total disregard of Law and Seniority Rules, so are liable to struck down.
- h. That in the impugned Seniority List the name of appellant should have been placed at S. No. 20, above the name of Ghaffar Ali, instead of at S. No. 42.

It is, therefore, most humbly prayed that on acceptance of appeal, order dated 31-12-2016 circulated on 03-02-2017 be set aside / corrected along with order dated 18-04-2017 and the name of appellant be placed at S. No. 20 above the name of Ghaffar Ali Khan instead of at S. No. 42 with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.



Appellant

Through



Saadullah Khan Marwat



Arbab Saiful Kamal  
Advocates.

Dated.16-05-2017

B

I

5-5-08

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 336/2007

Date of Institution. .. 07.04.2007

Date of Decision .. 05.05.2008

Gul Umar Ayaz Khan S/O Muhammad Din,  
Kanungo, Settlement Department, Chitral. .. .. (Appellant)

VERSUS

1. District Officer (Revenue & Estate). Bannu.
2. Senior Member Board of Revenue, NWFP Peshawar.
3. Bashir Hussain Shah S/O Mir Hussain Shah, Patwari  
Halqa Takhti Khel, Lakki Marwat and Eight(8) others. (Respondents)

APPEAL AGAINST OFFICE ORDER NO. 1985-2000/BOR/ESTB. DATED 09.10.2006 OF RESPONDENT NO. 1 WHEREBY APPELLANT BEING SENIOR, ELIGIBLE AND QUALIFIED WAS IGNORED FROM APPOINTMENT/REGULARIZATION BY APPOINTING JUNIOR MOST INCUMBENTS AS PATWARIS OR OFFICE ORDER DATED 15.3.2007 OF RESPONDENT NO. 2 WHEREBY REPRESENTATION OF APPELLANT WAS REJECTED FOR NO LEGAL REASON.

MR. SAADULLAH KHAN MARWAT,  
Advocate .. For appellant.

MR. TAHIR IQBAL,  
Addl. Government Pleader .. For respondent No. 1 & 2

MR. GOHAR ALI,  
Advocate .. For respondents No.3 to 11

MR. JUSTICE (R) SALIM KHAN, .. CHAIRMAN  
DR. ABDUR RAUF, .. MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN.- The legal issues in  
this appeal No. 336/2007 by Gul Umar Ayaz Khan, Appeal No. 337/2007

NWFP Service Tribunal  
EXAMINER  
PESHAWAR

26

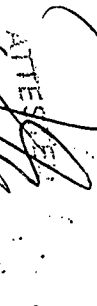
by Islam Qadar and Appeal No. 338/2007 by Habib-ur-Rahman are the same. All these three appeals are, therefore, taken together for arguments and disposal.

2. Gul Umar Ayaz contended that he got training from Patwar School, Panyala D.I.Khan after passing his F.A and he was appointed as Patwari for settlement operation at Bannu on 14.4.1992 but was relieved on 30.6.1994 when the settlement operation ended. It was in 1995 that he passed his Patwar Examination from Patwar School at D.I.Khan. The issue date of certificate is 29.12.1997. In the year 2001, the list of Patwar candidates contained the name of the appellant at S.No. 18, but on 27.11.2001, new rules were adopted which enhanced the qualification for appointment as Patwaris to F.A or equivalent qualification.

3. He was appointed as Patwari on 16.7.2002 on contract basis by the District Coordination Officer, Chitral and he was appointed as Field Kanungo on contract basis for lands settlement in Chitral on 1.7.2004. He contended that his seniority was changed in the list dated 6.6.2006. On 9.10.2006, the private respondents were appointed as Patwari, but the appellant was ignored. He submitted his departmental appeal on 18.10.2006, which was dismissed on 15.3.2007. This appeal was filed on 7.4.2007.

4. Islam Qadar contended that he passed his Patwar Examination in 1995, that his seniority was changed in the same manner as in the case of Gul Umar Ayaz, and that the private respondents were appointed but the appellant was ignored. He also submitted departmental appeal on 18.10.2006, which was dismissed on 15.3.2007, and this appeal was filed on 7.4.2007. The certificate of passing the examination from Patwar School, produced by the appellant shows that the examination was for the period of the years 1995/96. It means that the certificate was issued in 1996 or after. As mentioned in the other

NWFP  
Service Tribunal  
Patwaris  
EXAMINER

ATTESTED  




case, the examination of Gul Umar Ayaz Khan was also for the year, 1995-96. It means that the certificate was issued either in 1995 or thereafter.

5. Habib-ur-Rahman was appointed as Patwari for settlement Operation at Bannu. He passed his Patwar Examination in the year, 2005. His certificate is undated, but it shows that it was issued in 1995 or afterwards. The appellant could be registered as Patwari with the district administration only on the basis of the mentioned certificate after it was found genuine. The name of appellant was shown at S.No. 17 in the seniority list of candidates of Patwari for the year, 2001. After adopting the prescribed rules, the new qualification for appointment of Patwari was F.A or equivalent qualification. On 16.7.2002, the appellant was appointed as Patwari by District Coordination Officer, Chitral. Vide order dated 01.07.2004, he was appointed as Field Kanungo on contract basis by Settlement Officer, Chitral. Through seniority list circulated on 6.6.2006, the seniority position of the appellant was illegally changed, and, on 9.10.2006, the private respondents were appointed as Patwaris by ignoring the appellant. It was alleged by these appellants that under section 19 (2) of the Civil Servants Act, 1973, as amended in 2005, the appellants became regular civil servants. On 15.3.2007, the request of the appellant for regular adjustment/appointment was dismissed. Hence this appeal was filed on 7.4.2007.

6. The respondents contested the appeal on various legal and factual grounds. It was alleged by the respondents that the names of the appellants were entered in the incorrect list of Patwar candidates wrongly, that the rules were changed on 10.9.1990 and cases were decided by this Tribunal and by the August Supreme Court of Pakistan in favour of certain candidates.

7. We heard the arguments and perused the record.

7.  
 EXAMINER  
 Patwar  
 Settlement  
 Tribunal

8. All the appellants had not passed their Patwar Examination regularly except the examination of the year, 1995. Their names could not be registered in the list of candidates Patwaris before their passing the Patwar Examination in the light of the Land Records Manual. They were, however, entitled to the entry of their names in the said registers of the candidates Patwaris after they qualified the Patwar Examination regularly. It was for the authorities concerned to check that the certificates produced by the appellants regarding their passing Patwar examination regularly were genuine or otherwise.

9. As mentioned above, all the three appellants were recruited as Patwaris for the purposes of settlement operation. It means that they were considered fit persons for such appointments. Their appointments as such Patwaris before their passing the Patwar examination, however, was not based on record, though they worked against the posts and were entitled to the salaries of those posts. The appellants were to be appointed as Patwaris on regular basis on their turns according to the list maintained by the Revenue authorities of the districts of their domiciles, irrespective of the fact that they were working in any settlement operation or not at that time.

10. They were to become regular Patwaris first, and were to continue as such if they were not working with the settlement operation. In the other case, they were to be appointed as Patwaris on regular basis within their districts, and were to be declared on deputation to the settlement authorities in district Bannu or, as the case may be, in district Chitral. As the names of the appellants were already registered, they had achieved a vested right, though from a date after passing Patwar Examination. Their names could not be removed from the list with the change of rules after registration of their names, though their names were not to be entered in the register if they were not eligible for such



registration at initial stage and were not properly qualified in accordance with the rules by then existing.

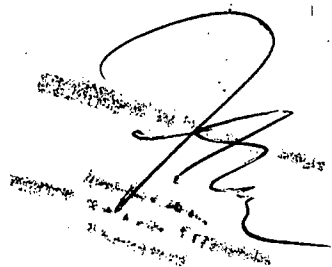
11. The respondents did not deny that all the three appellants had worked with settlement staff, and their names were entered in the register of candidates Patwaris. Official respondents were, therefore, duty bound to consider the names of the appellants for regular appointment on their own turn, and they could not be ignored for regular appointment as Patwaris due to their engagement with settlement authorities.

12. In view of the above, we partially accept all the three appeals, and direct the official respondents to reconsider the cases of the appellants, within a period of two months from the date of receipt of this judgment, appoint the appellants as regular Patwaris from their respective dates of entitlement according to their seniority on the corrected register of candidate Patwaris, and either retain them as regular Patwaris for their official work and promotion, or, as the case may be, declare them on deputation under the settlement authorities in district Chitral, till their return to their original cadre or till their chance of promotion in their cadre, which-ever is earlier. We, however, leave the parties to bear their own costs.

ANNOUNCED  
05.05.2008

*Sd/ Justice (R) Salim Khan*  
*Chairman*

*Sd/ Dr. Abdul Rauf*  
*Members*



*Abdullah*  
*Sd/ Justice*

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12

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

N.W.F.P. Province  
Service Tribunal  
Diary No. 372  
Dated 7-4-07

S.A.No. 337 /2007

Islam Qadar S/O Gul Alam Khan  
Kanungo, Settlement Department, Chitral ..... Appellant

Versus

1. District Officer, Revenue & Estate,  
Bannu.
2. Senior Member, Board of Revenue, NWFP,  
Peshawar.
3. Bashir Hussain Shah S/O Mir Hussain Shah,  
Patwari Halqa, Takhti Khel, Lakki.
4. Adaiat Khan S/O Rasool Khan,  
Patwari Halqa Pir Bakhal, Bannu.
5. Habib Jan S/O Wali Jan,  
Patwari Halqa, Naseer, Bannu.
6. Gharib Nawaz S/O Muhammad Nawaz  
Patwari Halqa, Latozai, Bannu.
7. Munawar Khan S/O Qamar Zaman,  
Patwari Halqa, Mamush Khel, Bannu.
8. Hukam Khan S/O Mir Baz Khan  
Patwari Halqa Abiz Abad, Bannu.
9. Abdur Rashid S/O Mir Bah Khan,  
Patwari Halqa, Sultanpur Bixandar Khel, Bannu.
10. Rasham Khan S/O Mir Ahmad,  
Naib Wasil Baqi Navis, Bannu.
- Malik Nawaz S/O Ahmad Nawaz  
Patwari Halqa, Hindi Khel, Bannu. .... Respondents

Registered to-day  
M. A. J. u  
Registrar

(1874/07)

Appeal against office order No.1985-2000/BOR/Estb dated 09.10.2006 of Respondent No.1 whereby appellant being senior, eligible and qualified was ignored from appointment/ regularization by appointing junior most incumbents as patwaris or office order dated 15.3.2007 of Respondent No.2 whereby representation of appellant was rejected for no legal reason.

<p>14.</p>	<p>5.5.2008</p>	<p>Appellant in person, Said Rahman, Assistant Secretary for official respondents and counsel for private respondents No. 3 to 11 are present. Arguments already heard. Vide our detailed judgment of to-day, in connected appeal No. 336/2007, titled as 'Gul Umar Ayaz Versus Distt. Officer (Revenue &amp; Estate) Banjra and others', we partially accept the present appeal as per detailed judgment. We, however, leave the parties to bear their own costs.</p> <p><u>ANNOUNCED.</u> 05.05.2008</p> <p><i>[Signature]</i> MEMBER</p> <p><i>[Signature]</i> CHAIRMAN</p> <p><i>Attestd</i> <i>[Signature]</i></p>
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Date of presentation of appeal - 5/5/08  
 Number of copies of appeal - 11/6/08  
 Copying fee - 800/-  
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 Date of registration of appeal - 11/6/08  
 Date of submission of appeal - 11/6/08  
 Date of delivery of copy - 11/6/08

C 14 12-1-09  
OFFICE OF THE DISTRICT OFFICER REVENUE & ESTATE/COLLECTOR  
BANNU

No. 51 - 60 /DOR&E/BC/Estab.

Dated 12 /01/2009

OFFICER ORDER

Consequent upon the directions of the NWFP Services Tribunal Peshawar vide Appeal No. 336/2007 Instituted on 07-4-2007 while decided on 05-05-2007 and decision taken in the Departmental Promotion/Selection Committee Meeting held on 17-12-2008 under the Chairmanship of the undersigned in personal office, Mr. Islam Qadar Son of Gul Alam Khan Resident of Amandi Shah Jehan Bannu is hereby appointed as Patwaris (BPS - 5) against the vacant post vacated by Muhammad Nisar Khan Patwari (on attaining the age of 25 years qualifying service as well as on his own request vide this office order No. 2611 - 14 / DOR&E / BC Dated 29/12/2008) with immediate effect subject to the following terms and conditions:-

1. He will have to produce Medical Fitness Certificate.
2. He will be on probation for a period of one year which can be extended for a period of further one year in case of non satisfactory performance.
3. He will be governed by such rules and orders issued by the Government of NWFP for such category of Government Servants.

DISTRICT OFFICER  
REVENUE & ESTATE/COLLECTOR  
BANNU

Even No. & Date

Copy forwarded to:-

1. The Registrar, NWFP Services Tribunal, Peshawar for information with reference to above please.
2. The District Nazim Bannu for information.
3. The Secretary, Board of Revenue NWFP, Peshawar.
4. The District Coordination officer, Bannu.
5. The District Accounts Officer, Bannu.
6. The Tehsildar Bannu.
7. Mr. Islam Qadar Son of Gul Alam Khan Resident of Amandi Shah Jehan Bannu, the official concerned.
8. The B.C., Office of DO (R&E)/Collector Bannu.
9. Office order file.

  
DISTRICT OFFICER  
REVENUE & ESTATE/COLLECTOR  
BANNU

*Attested*  
*Qadar*



16

	Ferid Ullah II	14-01-1963	F.A	12-05-2005	14-01-2023	
	Nasib Zaman	24-01-1964	Matric	12-05-2005	24-01-2024	
	Saced Rehman	03-07-1958	Matric	10-08-2006	3-07-2018	Working as Naib Office Kanungo Bannu
25	Wresham Khan	10-04-1957	F.A	10-10-2006	10-04-2017	
26	Malik Nawaz Khan	15-12-1957	Matric	10-10-2006	15-12-2017	
27	Adalat Khan	30-03-1959	Matric	10-10-2006	30-03-2019	
28	Bashir Hussain Shah	03-04-1959	F.A	10-10-2006	30-03-2019	
29	Munawar Khan	01-06-1961	Matric	10-10-2006	01-06-2021	
30	Abdur Rashid	30-01-1962	Matric	10-10-2006	30-01-2022	
31	Gharib Nawaz	01-03-1964	Matric	10-10-2006	01-03-2024	
32	Hukam Khan	01-05-1964	Matric	10-10-2006	01-05-2024	
33	Habib Jan	01-02-1965	Matric	10-10-2006	01-02-2025	
34	Taib ullah	05-11-1973	M.A	12-03-2007	05-11-2033	
35	Yaqub Nawaz	15-11-1973	B.A	12-03-2007	15-11-2033	
36	Turab Shah	16-02-1975	F.A	12-03-2007	16-02-2035	
37	Muhammad Kashif	14-05-1979	B.A	12-03-2007	14-05-2039	
38	Sakhi Shah	16-03-1981	F.A	12-03-2007	16-03-2041	
39	Muhammad Kamran I	01-09-1983	F.A	12-03-2007	01-09-2043	
40	Kamran	01-04-1975	B.A	20-12-2008	01-04-2035	
41	Abdul Nawab	05-02-1969	F.A	23-12-2008	05-02-2029	
42	Islam Qadir	11-03-1969	F.A	13-01-2009	11-03-2029	
43	Gul Umer Ayaz	03-11-1970	F.A	13-01-2009	03-11-2030	
44	Qamar Ali	05-01-1964	Matric	04-06-2010	05-01-2024	
45	Hidayat Ullah I	12-01-1965	Matric	04-06-2010	12-01-2025	
46	Mir Shah Ali	06-01-1966	Matric	04-06-2010	06-01-2026	
47	Hanif ullah	05-01-1966	M.A	04-06-2010	05-03-2026	
48	Abdur Rahim	20-06-1966	M.A + BA	04-06-2010	20-06-2026	Working as TRA Domel
49	Muhammad Riaz	18-04-1972	F.A + BA	04-06-2010	18-04-2032	
50	Nafir Ullah	20-05-1972	F.A	04-06-2010	20-05-2032	
51	Asmat Ullah	20-09-1972	F.A + BA	04-06-2010	20-09-2032	

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16

16

Handwritten notes and signatures in Urdu, including names like 'Muhammad Kamran I' and 'Abdur Rahim', and dates.

Handwritten notes at the bottom right of the table.



	Amir Ullah I	12-02-1973	F.A	04-06-2010	12-02-2033	<i>Amir Ullah I</i>
	Irfan Ullah	09-04-1982	B.A	04-06-2010	09-04-2042	Working as Moharir Nagh in Irrigation Department.
4	Amir Ullah II	20-08-1983	F.A	04-06-2010	20-08-2043	
5	Zahid Ullah	12-06-1983	F.A	09-06-2010	12-06-2043	
6	Niaz Muhammad	05-03-1987	F.A	16-12-2010	05-03-2047	<i>Niaz</i>
7	Zia Ullah	20-09-1985	F.A	21-12-2010	12-09-2045	<i>Zia Ullah</i>
8	Abid Ullah I	03-04-1987	F.A	01-01-2012	30-04-2047	<i>Abid Ullah I</i>
9	Abdul Jalil	30-07-1980	F.A	28-03-2012	30-07-2040	<i>Abdul Jalil</i>
60	Muzafar Khan ✓	06-04-1982	B.A+MA	28-03-2012	06-04-2042	<i>Muzafar Khan</i>
61	Abid Ullah II	28-02-1984	B.com	28-03-2012	28-02-2044	<i>Abid Ullah II</i>
62	Damsaz	04-04-1985	F.A	28-03-2012	04-04-2045	<i>Damsaz</i>
63	Hidayat Ullah II	13-02-1986	B.A	28-03-2012	13-02-2046	<i>Hidayat Ullah II</i>
64	Mir Qadayaz	02-12-1972	Matric	31-03-2012	02-12-2032	<i>Mir Qadayaz</i>
65	Muhammad Adnan	02-04-1987	M.A	03-04-2012	02-04-2047	<i>Muhammad Adnan</i>
66	Khanzeb Ullah	02-08-1987	F.A	07-04-2012	02-08-2047	
67	Roman Qayum	01-07-1986	F.A	20-12-2012	01-07-2046	
68	Zamin Ullah ✓	15-04-1987	B.A	17-12-2012	15-04-2047	<i>Zamin Ullah</i>
69	Rafiq Rehman	25-11-1985	F.A	30-03-2015	25-11-2045	<i>Rafiq Rehman</i>
70	Shah Fahad ✓	10-03-1987	B.Com/ BA	30-03-2015	10-03-2047	<i>Shah Fahad</i>
71	Naveed Alam	18-03-1987	BSC. M.A	30-03-2015	18-03-2047	<i>Naveed Alam</i>
72	Fariq Nawaz	25-03-1989	F.A	30-03-2015	25-03-2049	<i>Fariq Nawaz</i>
73	Shah Khalid	01-05-1989	F.A	30-03-2015	01-05-2047	

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ATC - 11/11/14

	Muhammad Israr	17/04/1984	F.A	04/04/2016	16/04/2044	
	Muhammad Zubir	20/04/1986	BSc(DIT)	04/04/2016	19/04/2046	
76	Naib Rehman	29/01/1988	F.A	04/04/2016	28/01/2048	
77	Fawad khan	12/02/1989	F.A	04/04/2016	11/02/2049	
78	Zubair Muhammad	10/01/1982	B.A	12/08/2016	09/01/2042	
79	Shah zeb khan	06/02/1990	B.A	12/08/2016	05/02/2050	

201

Deputy Commissioner,  
Banjor

Attest  
Jawab

19



OFFICE OF THE  
DEPUTY COMMISSIONER  
BANNU

No. 651-53/AE/

Dated: 3/12/2017

TO

Tehsildar Bannu/Domet.  
Naib Tehsildar Sub Tehsil Kakki.

SUBJECT: TENTATIVE SENIORITY LIST OF PATWARIES.

MEMO:

Enclosed please find herewith Tentative Seniority list of Patwaris as stood on 31/12/2016 to circulate amongst the all concerned for omission/addition if any within a week time positively for issuances of final seniority list accordingly.

*Hand 154/02*  
*03/12/17*

Deputy Commissioner  
Bannu

*Qureshi*

*Pl. circulate the Seniority list amongst Patwaries*

*By Talwar*  
*Ram Bannu*  
*03/12/17*

*Attested*  
*03/12/17*





21 18-4-17  
OFFICE OF THE  
**DEPUTY COMMISSIONER**  
BANNU

No. 2.33 / /DC/AE

Dated: 18 /04/2017

To

1. Mr. Islam Qader Patwari
2. Mr. Gul Umer Ayaz Patwari

Subject: APPLICATION REGARDING OBJECTION ON SENIORITY DATED 08-02-2016.

Your applications / objections were thoroughly examined and found that your appointment orders were issued in light of Departmental Selection Committee recommendation vide minutes of its meeting dated 17-12-2008. Moreover, after issuance of your appointment orders dated 12-01-2009, you neither objected to seniority list issued every year nor ever challenged the appointments orders.

As such your application is hereby filed at this belated stage.

Deputy Commissioner,  
Bannu.

Qx

RAND 535/OK  
19.4.017

Attested  
Jib 6 PMT

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

Service Appeal No. 662/2017

Islam Qadir

Vs

DC & Others

.....

**REPLY ON BEHALF OF RESPONDENT NO.12,14,15 & 16**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

1. The appellant has no locus standi and cause of action.
2. The appellant has no cause of action.
3. The appellant has not come with clean hands.
4. The appeal is time barred.
5. The appeal is bad for non-joinder and misjoinder of necessary parties.
6. That the replying respondents were most senior to appellant according to law and rules.

**FACTS:**

1. Pertains to record, however, he did not pass the Patwar examination, and even not qualified for the post at that time.
2. Pertains to record.
3. Pertains to record.
4. Pertains to record.
5. Incorrect. The judgment of the KPK Service Tribunal is much clear and appellant misconceived the same.
6. Correct. That the appellant was appointed as Patwari vide order dated 12.01.2009 with immediate effect while the private respondents No.12, 14, 15,& 16 were appointed/confirmed as Patwaras vide order dated 07.12.2007 with immediate effect. **(Copy of order dated 07.12.2007 is attached as Annexure-A)**
7. Incorrect. The rules for amendment and qualification for Patwar post were prescribed F.A by Provincial Government vide notification dated 10.09.1990 on the basis of which the names of

various matriculate candidates were strucked from candidates register, but vide judgment dated 10.01.2005 passed by the Service Tribunal in service appeal No.2847/2000 titled Adalat Khan Versus Government etc the impugned order regarding striking of names of matriculate Patwar from candidates was set aside and private respondents No. 12,14,15&16 were appointed/confirmed as Patwaris vide order dated 07.12.2007 while the appellat was appointed on 12.01.2009 as Patwari, therefore the respondent No. 12,14,15&16 were were senior then the appellat.


8. Incorrect. The appellat was appointed on 12.01.2009 while the private respondents No. 12, 14, 15&16 were appointed/confirmed on 07.12. 2007 and seniority is always determined on the basis of regular appointment and cadre, therefore the appellat has been rightly placed in the seniority list.
9. The appellat was appointed on 12.01.2009 and after his appointment he has not objected on the seniority issue/circulated every year and after 7/8 year he objected the seniority list circulated 03.02.2017 in such as the instant appeal is badly time barred. Moreover the departmental appeal being without merit was also rejected on the ground limitation.

#### **GROUND:**

- A. Pertain to the record.
- B. Correct, but this august Service Tribunal set aside the qualification for Patwari post of F.A in the service appeal 2847/2000 titled Adalth Khan Versus Government etc.
- C. Incorrect. The reply to this Para has also been given in Para-7 and Para-B of the appeal.
- D. Incorrect the judgment of this Honorable Tribunal is very much clear and the appellat misconceived the same.
- E. Incorrect. The appellat was appointed in 2009 while the private respondent No.12,14,15&16 were appointed / regularized in 2007 and seniority is always determined on the basis of regular appointment and cadre, therefore the private respondents No.12, 14,15&16 are senior then the appellat and has been rightly placed in the seniority list.
- F. Incorrect the reply to this Para has also been given in Para-7 and Para-B of the appeal.

- G. Incorrect. The order of the rejection and circulation of the seniority list in according to law and seniority rule, therefore liable to be maintained.
- II. Incorrect. The name of the appellant has been rightly placed in the seniority list according to seniority position (Sr. No.42)

It is, therefore, humbly prayed that the appeal in hand may be dismissed with costs being meritless and devoid of legal force.

Respondent No. 12, 14, 15 & 16  
Through:  
  
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT.

**AFFIDAVIT**

It is affirmed and declared that the contents of reply are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.



DEPONENT



آڈر سٹیبل

A

OFFICE OF THE DISTRICT OFFICER REVENUE & STATE/COLLECTOR  
BANNU

No. 2363-76/DOR/Estab:/DK

Dated 07/12/2007

OFFICE ORDER

Consequent upon the Departmental Promotion and Selection Committee meeting held on 15-8-2006 and 10-10-2006, the following Patwaris of this office are hereby confirmed with immediate effect:-

1. Saeed Rehman.
2. Wresham Khan.
3. Malik Nawaz.
4. Adalat Khan.
5. Bashir Hussain Shah.
6. Munawar Khan.
7. Abdur Rashid.
8. Gharib Nawaz.
9. Hukam Khan.
10. Habib Jan.

DISTRICT OFFICER,  
REVENUE & ESTATE/COLLECTOR  
BANNU

Endst. No. & Date even

Copy forwarded to:-

1. The Tehsildar Bannu.
2. Officials concerned.
3. Bill Clerk/ District Kanungo Bannu.
4. Office order file.

DISTRICT OFFICER,  
REVENUE & ESTATE/COLLECTOR  
BANNU

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

**SERVICE APPEAL NO. 662/2017**

Islam Qadir S/o Gul Alam Khan Patwari Halqa Dara Dareez..... **Petitioner.**

**Versus**

Deputy Commissioner Bannu & Others .....**Respondents.**

**Respectfully Sheweth.**

Respondents 01 & 03 submit Joint Parawise Comments as under.

**Preliminary Objection**

1. The appeal is not maintainable under the law.
2. The appeal is badly time barred.
3. The appeal is bad for mis-joinder and none joinder of the necessary parties.
4. The appellant is legally estopped to bearing the instant appeal.

**Comments**

1. No Comments related to record, however, he had not passed Patwar examination as such he was un qualified for the post at that time.
2. No, Comments. Related to record.
3. Correct.
4. No Comments. Related to record.
5. The order of Khyber Pakhtunkhwa Service Tribunal Peshawar is very much clear. The appellant has miss-conceived the same.
6. Correct.
7. In Correct. The rules were amended and qualification for Patwar Post were prescribed FA by the Provincial Government vide notification dated 10/09/1990 on the basis of which names of various matriculate candidates were structed from candidates register but vide judgement dated 10/01/2005. passed by the Service Tribunal in Service Appeal No.2847/2000 titled Adalat Khan VERSUS Government etc.; the impugned order regarding striking up names of matriculate Patwar candidates form candidates register, was set aside. **Copy enclosed as annexure A & B.**

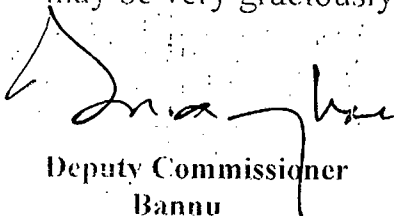
*Dr. A. J. Khan*

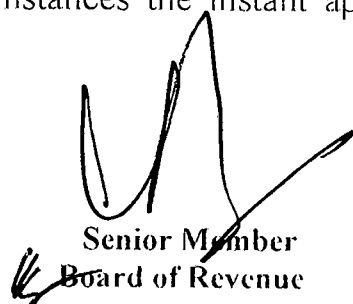
8. In Correct. Seniority is determined on the basis of date of regular appointment in the cadre. The appellant has been placed at his actual position.
9. Correct. The appellant was appointed on 12.01.2009. After his appointment neither he has objected on the seniority lists issued / circulated every year, nor he has challenged his appointment order for the last 7/8 year. As such the instant appeal is badly time barred. C.

**Grounds.**

- a. Correct.
- b. Correct.
- c. In correct. Detail reply is available in Para-7 above.
- d. In correct. Reply of this para is available in Para-9 above.
- e. In correct. The appellant has admitted in para-6 of his application dated 08/02/2017, that the order of the then District Officer Revenue & Estate/Collector, Bannu of January, 2009 regarding his appointment is in accordance with the Judgement of the Service Tribunal. **Copy enclosed as annexure, "C"**. It is pertinent to mention here that appellant has been appointed with immediate effect vide order No.51-60/DOR&E/BC/Estab, dated 12/01/2009. Copy is already annexed by appellant at page-14 and according to Appointment, Promotion and Transfer, Rules, 1989, the seniority of a Civil Servant is determined from the date of 1<sup>st</sup> appointment in the cadre.
- f. In correct. Reply of this para is available in Para-7 of the facts as well as Para-C of the grounds
- g. In correct. Each and every year seniority lists had been circulated, but neither the appellant has objected nor challenged the same at any forum previously. As such the instant appeal is not maintainable under the law.
- h. In correct. The name of the appellant has been placed at the right position (serial number 42). Detailed reply is available in paras as mentioned above.

In view of the above facts and circumstances the instant appeal may be very graciously be dismissed.

  
Deputy Commissioner  
Bannu

  
Senior Member  
Board of Revenue

308/1804  
dated 19.12.17

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

**SERVICE APPEAL NO. 662/2017**

Islam Qadir S/o Gul Alam Khan Patwari Halqa Dara Dareez..... **Petitioner.**

**Versus**

Deputy Commissioner Bannu & Others ..... **Respondents.**

**Respectfully Sheweth.**

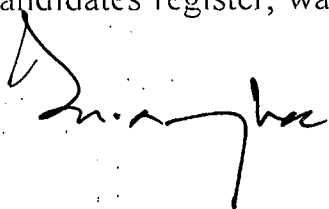
Respondents 01 & 03 submit Joint Parawise Comments as under.

**Preliminary Objection**

1. The appeal is not maintainable under the law.
2. The appeal is badly time barred.
3. The appeal is bad for mis-joinder and none joinder of the necessary parties.
4. The appellant is legally estopped to bearing the instant appeal.

**Comments**

1. No Comments related to record, however, he had not passed Patwar examination as such he was unqualified for the post at that time.
2. No, Comments. Related to record.
3. Correct.
4. No Comments. Related to record.
5. The order of Khyber Pakhtunkhwa Service Tribunal Peshawar is very much clear. The appellant has miss-conceived the same.
6. Correct.
7. In Correct. The rules were amended and qualification for Patwar Post were prescribed FA by the Provincial Government vide notification dated 10/09/1990 on the basis of which names of various matriculate candidates were struck from candidates register but vide judgement dated 10/01/2005 passed by the Service Tribunal in Service Appeal No.2847/2000 titled Adalat Khan VS Government etc.; the impugned order regarding striking up of names of matriculate Patwar candidates from candidates register, was set aside. Copy enclosed as annexure A & B.



8. In Correct. Seniority is determined on the basis of date of regular appointment in the cadre. The appellant has been placed at his actual position.
9. Correct. The appellant was appointed on 12.01.2009. After his appointment neither he has objected on the seniority lists issued / circulated every year, nor he has challenged his appointment order for the last 7/8 year. As such the instant appeal is badly time barred. <sup>E</sup>

Grounds.

- A. Correct.
- B. Correct.
- C. In correct. Detail reply is available in Para-7 above.
- D. In correct. Reply of this para is available in Para-9 above.
- E. In correct. The appellant has admitted in para-6 of his application dated 08/02/2017, that the order of the then District Officer Revenue & Estate/Collector, Bannu of January, 2009 regarding his appointment is in accordance with the Judgement of the Service Tribunal. **Copy enclosed as annexure, "C"**. It is pertinent to mention here that appellant has been appointed with immediate effect vide order No.51-60/DOR&E/BC/Estab, dated 12/01/2009. Copy is already annexed by appellant at page-14 and according to Appointment, Promotion and Transfer, Rules, 1989, the seniority of a Civil Servant is determined from the date of 1<sup>st</sup> appointment in the cadre.
- F. In correct. Reply of this para is available in Para-7 of the facts as well as Para-C of the grounds
- G. In correct. Each and every year seniority lists had been circulated, but neither the appellant has objected nor challenged the same at any forum previously. As such the instant appeal is not maintainable under the law.
- H. In correct. The name of the appellant has been placed at the right position (serial number 42). Detailed reply is available in paras as mentioned above.

In view of the above facts and circumstances the instant appeal may be very graciously be dismissed.

  
Deputy Commissioner  
Bannu

  
Senior Member  
Board of Revenue

TO BE SUBSTITUTED FOR NOTI  
BEARING THE NUMBER AJ.

Annexure-A

27

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE  
SERVICES & GENERAL ADMINISTRATION DEPARTMENT  
(REGULATION WING)

NOTIFICATION

Leshawar, dated the 10th September, 90.

No. SCRI(SRGAD)4-22/78. In exercise of the powers conferred by section 26 of the North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P. ACT XVIII of 1973), the Governor of the North-West Frontier Province is pleased to direct that in the West Pakistan (Northern Zone) Patwar Subordinate Service Rules, 1963, the following further amendment shall be made, namely:

AMENDMENT.

"In rule 7, for sub rule (1), the following sub rule shall be substituted, namely:

"(1) Qualifications:— No person shall be appointed to the Service unless he has passed —

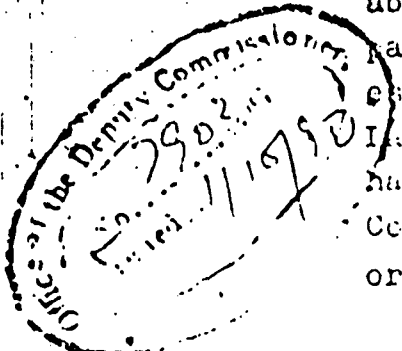
(i) the F.A. or equivalent examination from a recognised Board;

(ii) the Patwar examination from a Patwar School established in accordance with Paragraph 3.10 of Land Records Manual;

Provided that the provision of clause(i) above shall not be applicable to persons who have passed the Patwar Examination from a Patwar School established in accordance with paragraph 3.10 of Land Records Manual fully or partially, and have been registered as Patwar Candidates by the Competent Authority in the respective district on or before the 30th June, 1990.

DK

17-1  
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29/9/90



186/D-K  
2/X/90

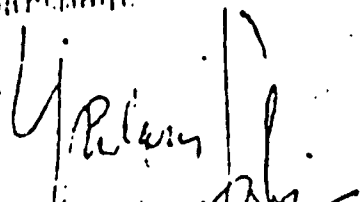
CHIEF SECRETARY TO  
GOVT. OF NORTH-WEST FRONTIER PROVINCE.

P.T.O.

Entst.No.SORI( ) 1-22/70, Dated Pesh: the 10th September, 1990.

Copy Form sent to:-

1. All Admin. Secy Secretaries to Govt of NWFP.
2. Secretary to Governor, NWFP.
3. Secretary to Chief Minister, NWFP.
4. All Heads of Searched Department in NWFP.
5. Accountant General, NWFP, Peshawar.
6. All Commissioners in NWFP.
7. Secretary, NWFP, Public Service Commission, Peshawar.
8. Registrar, Peshawar High Court, Peshawar.
9. Secretary, Board of Revenue, NWFP, Peshawar.
10. All Deputy Commissioners/Political Agents & Sessions Judges in NWFP.
11. Registrar, Service Tribunal, Peshawar.
12. Manager, Govt Press Peshawar for publication in the Extra Ordinary Gazette. He is requested to supply 20 copies of printed notification to this Department and ten copies to Law Department.

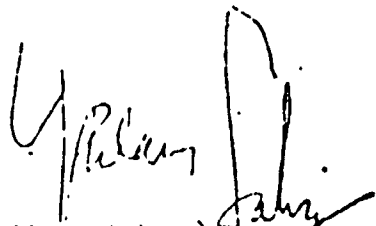


(GHULAM SABIR)  
Section Officer (Reg: I)

Entst:No.SORI( ) 1-22/70, Dated Pesh: the 10th September, 1990.

Copy forwarded to:-

1. All Admin. Secy Secretaries, Dy. Secretaries in S&GAD.
2. Private Secretary to Chief Secretary, NWFP.
3. All Section Officers/Estate Officer in S&GAD.
4. Private Secretary to Secretary, S&GAD.
5. Librarian, S&GAD.



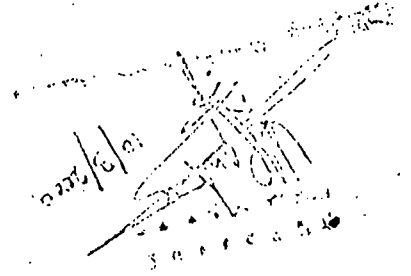
(GHULAM SABIR)  
Section Officer (Reg: I)

Annexure A-1

96

Handwritten notes at the bottom of the page, including a date "18-10-41" and other illegible text.

The following candidates are  
conclude to be eligible for the post of  
General Administration Department  
(Regulation 57mg) new FD  
and also for Record Manual  
Para 3-9 copies attached  
given as under:-



Sl. No.	Name	Academic Qualification	Date of Enlistment of bullet	Total marks
1	Chaitanya Kumar	B.A. (Hons.)	12-5-40	13-8-41
2	Krishna Kumar	B.A. (Hons.)	12-5-40	13-8-41
3	Chaitanya Kumar	B.A. (Hons.)	12-5-40	13-8-41
4	Chaitanya Kumar	B.A. (Hons.)	12-5-40	13-8-41
5	Chaitanya Kumar	B.A. (Hons.)	12-5-40	13-8-41



BEFORE THE NWFP SERVICE

Appel No. 2847/2000

Date of institution - 21.11.2000

Date of decision - 10.01.2005

MAIR

(APPELLANT)

Adalat Khan, Settlement Patwar,

Settlement Office D.I. Khan,

VERSUS

1. Government of NWFP through the

Secretary Revenue, Peshawar,

2. Presiding Officer/Revenue Appellate

Court No. 1 Bannu,

3. District Officer, revenue & Estate

Collector Bannu.

(RESPONDENTS)

Mr. Golzar Ali Advocate..... For appellant

Mr. Zulfiqar Ali Govt. Pleader..... For respondents

MIAN SAHIB JAN..... MEMBER

MIR. MUHAMMAD SHAIKAT..... MEMBER

JUDGMENT

MIAN SAHIB JAN, MEMBER. This appeal has been

filed by the appellants against the orders dated 31.5.1999 and

4.2.2000 whereby his name was deleted from the patwar

candidates Register with the prayer that the impugned orders

may be set aside and his name be restored in the Patwar

(candidates Register as previous.

RECEIVED  
JANUARY 10 2005  
MAIR

Amended B/G  
B

The facts of the case as narrated in the memo of appeal are briefly that the appellant was appointed as Settlement Patwari on 10.9.1988 as a regular servant in District Bannu according to requisite qualification as advertised in Daily Mashiq. The appellant qualified/passed patwar examination in February 1987. He served in settlement as Patwar upto 31.5.1999 and relieved from duty due to abolition of the post and kept at the disposal of D.C. Bannu. His other batch fellows of the same qualification are still in service while the appellant's name was deleted from the patwar candidates Register and was also erroneously enlisted in patwar Register on 5.12.1990. The respondents were bound to enlist the appellant just after passing the patwar examination in 1987 and not in 1990, so due to this malafide action of the respondents the appellant does not come under the ambit of notification dated 10.9.1990. The appellant was appointed purely on merit and then deleting his name from the patwar Register after 12 years is illegal and unlawful. The appellant filed a departmental appeal but the same was rejected on 2.10.1990.

3. The respondents have filed their written reply, consisting the appeal and denied the claim of the appellant. Arguments of the learned counsel for the parties have been heard and record perused.

4. The learned counsel for the appellant argued that the appellant had passed the patwar examination in the year 1987.

ATTESTED

and was appointed as Settlement Patwar in District Bannu on 10.09.1988. That the appellat served as Settlement Patwar without any complaint till 31.5.1999 when he was relieved from duty on account of the abolition of post. That the appellat while was waiting for a vacancy of Patwar for his re-adjustment/re-appointment in the district his name was struck off from the parwar candidate Register by the then Deputy Commissioner Bannu on 4.2.2000. That the appellat made a departmental representation to the Commissioner Bannu against the removal of appellat's name from the parwar Register but the appeal of the appellat was rejected by the Commissioner Bannu vide his order dated 24.10.2000. The learned counsel for appellat contended that the name of the appellat has been removed from the candidate parwar Register wrongly/malafidly as appellat was Matric, had passed the parwar Examination in the year 1987 and had been appointed as Settlement Patwar in the district on 10.9.1988 and had 12 years service as Patwar at his credit and there was no justification to remove his name from the parwar Register. The learned counsel for the appellat submitted that the name of the appellat which was enlisted in the parwar Register on 5.12.1990 has been removed from the parwar candidate Register on the plea that the appellat has become overage and is possessing Matric qualification while the names of a number of other candidates who are also overage and possess Matric qualification only have not been removed from the parwar

candidate Register and as such the appellant has been discriminated which is against the law and natural justice. The learned counsel further submitted that the appellant has 12 years service and is entitled for the subtraction of 12 years period of service from his upper age limit under rule 6 (i) of Patwar Subordinate service Rules 1963 and there was no justification for the removal of his name from the patwar Register on this ground. The learned counsel for the appellant urged that the impugned orders being irregular and discriminatory may be set aside and the name of appellant be restored on the patwar Register to meet the ends of justice.

5. The learned Government Pleader argued that the appellant was temporarily appointed as Settlement Patwari in Bannu. That after completion of the settlement operation the appellant was removed from service. The learned Government Pleader submitted that as per amendment made in the Patwar Service Rules 1963 in rule 7, sub rule (1) the prescribed qualification for appointment of Pawari is F.A with the age limit of 30 years while the appellant has crossed the prescribed age limit and is possessing Matric qualification. Therefore, the name of the appellant was rightly removed from the candidate Register in accordance with rule 3.9 of the Land Record Manual. The learned Government Pleader submitted that the case of appellant

does not fall under the ambit of Service Laws and hence the appeal of appellant may be dismissed.

6. The Tribunal observes that the appellant possessed the Matric qualification and had passed the Patwar examination in the year 1987 and was appointed as Patwari in the Settlement Operation in Bannu District on the recommendation of the proper Departmental Selection Committee by the competent authority on 10.9.1988 as evident from his appointment letter. The appellant was qualified for the post and his appointment was made as Patwari on temporary basis under the Patwar Service Rules 1963 applicable at that time. The name of the appellant was also enlisted in the patwar Register on 5.12.1990. The alleged amendment in the Patwar Service Rules 1963 prescribing qualification of F.A. for patwari was made on 10.9.1990 and was not applicable to the appellant as the appointment of the appellant had already been made under the prevalent Rules applicable at that time and the appellant was already in service when the alleged amendment was made. The amendment dated 10.9.1990 was not applicable to the appellant. Had that been applicable the name of appellant either would not have been entered in the patwar Register on 5.10.1999 or his name would have been removed from the patwar Register in the years 1991 to 1999 as both the alleged amendments dated 10.9.1990 and para 3.9 of the Land Record Manual were in existence and holding

ATTESTED

0. /

the field during that period and the name of the appellant who was Matric and over-age could have been deleted from patwar Register but that was not done obviously being not applicable. The Tribunal also observes that the names of such other patwaris who have Matric qualifications and have crossed the over-age limit as alleged by the learned counsel for the appellant have not been removed from the patwar Register while the name of appellant has been struck off from the patwar Register and thus discriminatory treatment has been meted out to the appellant. In view of the above, exposition, the impugned orders of removal of the name of the appellant from the patwar Register are untenable, discriminatory, unjust and unsustainable.

7. Consequent upon the above discussion, the appeal of appellant is accepted and the impugned orders of removal of name of appellant from the patwar Register are hereby set aside.

8. This order will also dispose of the other connected appeals bearing Nos. 2845/2000 Rashid Khan and 2846/2000 Rashid Khan, in the same manner as the facts and points of law involved in all these appeals are in common.

9. No order as to costs. File be consigned to record.

ANNOUNCED.  
10.01.2005.

*Mian Sahib Jan*  
(MIAN SAHIB JAN)  
MEMBER.

*Muhammad Shaukat*  
(MUHAMMAD SHAUKAT)  
MEMBER.

GOVERNMENT NO. DA. 100/2005

حضور جناب ڈپٹی کمشنر صاحب ضلع بنوں

1473

۲۴/۲/۱۹

عنوان :- درخواست بابت اعترافات و Tentative List Seniority of

Confirmed/Regular Patwaris of Bannu District on 31/12/2016

جناب عالی :-

اعترافات ذیل کرتا ہوں

1. یہ کہ سنیاری لسٹ 2016 فیصلہ سروس ٹریبونل کی 18/11/2008 کے مطابق نہیں ہے
2. یہ کہ سروس ٹریبونل فیصلہ کے مطابق مجھ سے جونیئر ہیں
3. یہ کہ سروس ٹریبونل فیصلہ کے مطابق مجھ سے جونیئر ہیں
4. یہ کہ سروس ٹریبونل فیصلہ کے مطابق مجھ سے جونیئر ہیں

5. یہ کہ سروس ٹریبونل فیصلہ کے مطابق مجھ سے جونیئر ہیں
6. یہ کہ سروس ٹریبونل فیصلہ کے مطابق مجھ سے جونیئر ہیں

AE

AE

Discuss early

درخواست لیں ہیں -

A

(15)

(2)

(د) یہ کہ انجناب سے خود بانہ المتاس کرتا ہوں کہ موجودہ

کسٹ مستقل / ریگولر پیوریاں کو کسروس ٹریبونل فیڈ

کسی 2008 کے عین مطابق رکھنے کے احکامات

صدار فرمادیں۔ نیز چنداں ٹیلنٹ کسروس

2002 تا 2009 کے عین مطابق احکامات صدار فرمادیں

ماہی کسروس بد ہمراہ درخواست لف ہیں۔ سائل ساری غیر

دعا گوئیوں کا اقرار

08/2/2016

صدر

سائل اسد مہار خان ٹورس سکند آرمینٹ بیجان

بنوں حال ٹورس حلقہ دردریر بنوں



**Before the Khyber Pakhtunkhwa Service Tribunal Peshawar.**

In Service Appeal No. 662/2017.

**Islam Qadar.....Versus..... Deputy Commissioner Bannu & others..**

Rejoinder/Parawise reply on behalf of Respondents  
No. 17, 18, 19, 20, 21, & 22 of the Service Appeal No. 661/2017.

**Respectfully Sheweth;**

**Preliminary Objections;**

- 1) That the appellant has no cause of action and locus-standi to approach this august Tribunal and to file the instant Service Appeal.
- 2) That the prayers of the appellant are totally ambiguous whether he seeks his seniority, promotion or Up-gradation.
- 3) That the appellant has intentionally concealed the material facts from this honourable Tribunal.
- 4) That the appeal is not maintainable in its present form and the appellant has never come to this honourable court with clean hands and as such the appeal is liable to be dismissed with cost.
- 5) That the appeal is hopelessly time-bard.
- 6) That all the contesting respondents are more senior than that of the appellant.

**FACTS.**

1. This Para relates to the record. However it is added that the appellant has never passed his Patwar Examination as such, the appellant was even not qualified at that time for the post of Patwari.
2. This Para pertains to record hence no comments.
3. This Para pertains to record hence no comments.
4. This Para pertains to record hence no comments.
5. Incorrect. The judgment passed by this august Tribunal has misinterpreted by the appellant and as such has no relevancy with the matter in hand.
6. Correct to the extent that the appellant was recruited as Patwari dated 12-01-2009 while the replying respondents had already been appointed much more prior to the appellant.
7. Incorrect. By amending the relevant rules, the qualification of appointment as Patwari was enhanced from Metric to F.A vide Notification date 10-09-1990 and the action/inaction carried out under the amended rules were however set-aside at the time of arrival of the Judgment passed by the Tribunal in appeal No.

2847/2000. The appellant was recruited as Patwari dated 12-01-2009 while the replying respondents had already been appointed much more prior to the appellant.

8. (Copy of the judgment passed by the Tribunal is annexure "A").
9. Incorrect. Under the law on the subject, Seniority is reckoned from the date of regular appointment and not from the date of such appointment made otherwise than that of regular appointment. As such, the appellant has been placed at the real/correct placed of the Seniority list.
10. Incorrect. The appellant was admittedly recruited as Patwari dated 12-01-2009 but till the date of filing the instant appeal, he never and never objected any seniority list frequently circulated year-wise from the year 2009 till the year 2017.

**GROUND S:**

- a) No comments.
- b) No comments.
- c) Incorrect. Detailed reply has been submitted in Para-7 above.
- d) Incorrect. Detailed reply has been submitted in Para-7 & 9 above.
- e) Incorrect. The appellant has admitted his appointment dated 12-01-2009 to be correct while on the other hand the replying respondents have been much more prior to the appellant. Hence, the replying respondents are more senior than that of the appellant.
- f) Incorrect. Detailed reply has been submitted in Para-7 & 9 above.
- g) Incorrect. Detailed reply has been submitted in Para-10 above.
- h) Incorrect. Detailed reply has been submitted in Para-9 above.

It is therefore, humbly prayed that on acceptance of this rejoinder, the appeal of the appellant may very graciously be rejected/dismissed through with costs.

**Respondents.**

Through



Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Dated; 14/03/2018.

**Before the Khyber Pakhtunkhwa Service Tribunal Peshawar.**

In Service Appeal No. 662/2017.

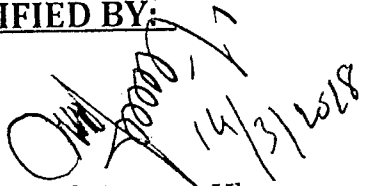
Islam Qadar .....Versus..... Deputy Commissioner Banu & Others.

**COUNTER AFFIDAVIT.**

I, the undersigned Respondent Turab Shah Patwari and on behalf of other replying Co-Respondents in Service Appeal No. 661/2017, do hereby solemnly affirm and declare on oath that contents of the accompanying rejoinder on behalf of the appellant are true and correct to the best of my knowledge and belief and nothing has been kept secret or concealed therein.

**IDENTIFIED BY:**

**DEPONENT**

  
14/3/2018

Respondents No.19 (Turab Shah)\_\_\_\_\_

Muhammad Usman Khan  
Turlandi  
Advocate Peshawar



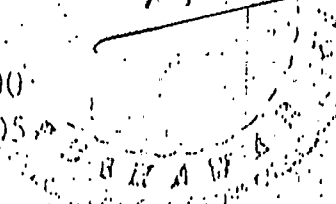
BEFORE THE NWFP SERVICE

X  
AWAR  
Amended B/G

Appeal No. 2847/2000

Date of institution - 21.11.2000

Date of decision - 10.01.2005



B

Adalat Khan, Settlement Patwari,  
Settlement Office D.I.Khan.....(APPELLANT)

VERSUS

1. Government of NWFP through the Secretary Revenue, Peshawar.
2. Presiding Officer/revenue Appellate Court No. I Bannu.
3. District Officer, revenue & Estate Collector Bannu.....(RESPONDENTS)

Mr. Gohar Ali Advocate..... For appellant  
Mr. Zulfiqar Ali Govt. Pleader..... For respondents

MIAN SAHIB JAN.....MEMBER  
MR. MUHAMMAD SHAUKAT.....MEMBER

JUDGMENT

MIAN SAHIB JAN, MEMBER:- This appeal has been filed by the appellant against the orders dated 31.5.1999 and 4.2.2000 whereby his name was deleted from the patwar candidates Register with the prayer that the impugned orders may be set aside and his name be restored in the Patwar Candidates Register as previous.

NWFP SERVICE TRIBUNAL  
PESHAWAR  
2005

2. The facts of the case as narrated in the memo of appeal are briefly that the appellant was appointed as Settlement Patwari on 10.9.1988 as a regular servant in District Bannu according to requisite qualification as advertised in Daily Mashriq. The appellant qualified/passed patwar examination in February 1987. He served in settlement as Patwari upto 31.5.1999 and relieved from duty due to abolition of the post and kept at the disposal of D.C. Bannu. His other batch fellows of the same qualification are still in service while the appellant's name was deleted from the patwar candidates Register and was also erroneously enlisted in patwar Register on 5.12.1990. The respondents were bound to enlist the appellant just after passing the patwar examination in 1987 and not in 1990, so due to this malafide action of the respondents the appellant does not come under the ambit of notification dated 10.9.1990. The appellant was appointed purely on merit and then deleting his name from the patwar Register after 12 years is illegal and unlawful. The appellant filed a departmental appeal but the same was rejected on 2.10.2000.
3. The respondents have filed their written reply, contested the appeal and denied the claim of the appellant. Arguments of the learned counsel for the parties have been heard and record perused.
4. The learned counsel for the appellant argued that the appellant had passed the patwar examination in the year 1987

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and was appointed as Settlement Patwar in District Bannu on 10.09.1988. That the appellam served as Settlement Patwar without any complaint till 31.5.1999 when he was relieved from duty on account of the abolition of post. That the appellam while was waiting for a vacancy of Patwar for his re-adjustment/re-appointment in the district his name was struck off from the patwar candidate Register by the then Deputy Commissioner Bannu on 4.2.2000. That the appellam made a departmental representation to the Commissioner Bannu against the removal of appellam's name from the patwar Register but the appeal of the appellam was rejected by the Commissioner Bannu vide his order dated 24.10.2000. The learned counsel for appellam contended that the name of the appellam has been removed from the candidate patwar Register wrongly/malafidly as appellam was Matric, had passed the patwar examination in the year 1987 and had been appointed as Settlement Patwar in the district on 10.9.1988 and had 12 years service as Patwar at his credit and there was no justification to remove his name from the patwar Register. The learned counsel for the appellam submitted that the name of the appellam which was enlisted in the patwar Register on 5.12.1990 has been removed from the patwar candidate Register on the plea that the appellam has become overage and is possessing Matric qualification while the names of a number of other candidates who are also overage and possess Matric qualification only have not been removed from the patwar

4

candidate Register and as such the appellant has been discriminated which is against the law and natural justice. The learned counsel further submitted that the appellant has 12 years service and is entitled for the subtraction of 12 years period of service from his upper age limit under rule 6 (i) of Patwar Subordinate service Rules 1963 and there was no justification for the removal of his name from the patwar Register on this ground. The learned counsel for the appellant urged that the impugned orders being irregular and discriminatory may be set aside and the name of appellant be restored on the patwar Register to meet the ends of justice.

5. The learned Government Pleader argued that the appellant was temporarily appointed as Settlement Patwari in Bannu. That after completion of the settlement operation the appellant was removed from service. The learned Government Pleader submitted that as per amendment made in the Patwar Service Rules 1963 in rule 7, sub rule (1) the prescribed qualification for appointment of Pawari is F.A with the age limit of 30 years while the appellant has crossed the prescribed age limit and is possessing Matric qualification. Therefore, the name of the appellant was rightly removed from the candidate Register in accordance with rule 3.9 of the Land Record Manual. The learned Government Pleader submitted that the case of appellant

does not fall under the ambit of Service Laws and hence the appeal of appellant may be dismissed.

6. The Tribunal observes that the appellant possessed the Matric qualification and had passed the Patwar examination in the year 1987 and was appointed as Patwari in the Settlement Operation in Bannu District on the recommendation of the proper Departmental Selection Committee by the competent authority on 10.9.1988 as evident from his appointment letter. The appellant was qualified for the post and his appointment was made as Patwari on temporary basis under the Patwar Service Rules 1963 applicable at that time. The name of the appellant was also enlisted in the patwar Register on 5.12.1990. The alleged amendment in the Patwar Service Rules 1963 prescribing qualification of F.A. for patwari was made on 10.9.1990 and was not applicable to the appellant as the appointment of the appellant had already been made under the prevalent Rules applicable at that time and the appellant was already in service when the alleged amendment was made. The amendment dated 10.9.1990 was not applicable to the appellant. Had that been applicable the name of appellant either would not have been entered in the patwar Register on 5.10.1999 or his name would have been removed from the patwar Register in the years 1991 to 1999 as both the alleged amendments dated 10.9.1990 and para 3.9 of the Land Record Manual were in existence and holding

ATTESTED



the field during that period and the name of the appellant who was Matric and over-age could have been deleted from patwar Register but that was not done obviously being not applicable. The Tribunal also observes that the names of such other patwaris who have Matric qualifications and have crossed the over-age limit as alleged by the learned counsel for the appellant have not been removed from the patwar Register while the name of appellant has been struck off from the patwar Register and this discriminatory treatment has been meted out to the appellant. In view of the above, exposition, the impugned orders of removal of the name of the appellant from the patwar Register are untenable, discriminatory, unjust and unsustainable.

7. Consequent upon the above discussion, the appeal of appellant is accepted and the impugned orders of removal of name of appellant from the patwar Register are hereby set aside.

8. This order will also dispose of the other connected appeals bearing Nos. 2845/2000 Rashid Khan and 2846/2000 Rashid Khan, in the same manner as the facts and points of law involved in all these appeals are in common.

9. No order as to costs. File be consigned to record.

ANNOUNCED.

10.01.2005.

(MIAN SAHIB JAN)  
MEMBER.

(MUHAMMAD SHAUKAT)  
MEMBER.

**Before the Khyber Pakhtunkhwa Service Tribunal Peshawar.**

In Service Appeal No. 662/2017.

**Islam Qadar.....Versus..... Deputy Commissioner Bannu & others..**

Rejoinder/Parawise reply on behalf of Respondents  
No. 17, 18, 19, 20, 21, & 23 of the Service Appeal No. 661/2017.

**Respectfully Sheweth:**

**Preliminary Objections:**

- 1) That the appellant has no cause of action and locus-standi to approach this august Tribunal and to file the instant Service Appeal.
- 2) That the prayers of the appellant are totally ambiguous whether he seeks his seniority, promotion or Up-gradation.
- 3) That the appellant has intentionally concealed the material facts from this honourable Tribunal.
- 4) That the appeal is not maintainable in its present form and the appellant has never come to this honourable court with clean hands and as such the appeal is liable to be dismissed with coast.
- 5) That the appeal is hopelessly time-bard.
- 6) That all the contesting respondents are more senior than that of the appellant.

**FACTS.**

1. This Para relates to the record. However it is added that the appellant has never passed his Patwar Examination as such, the appellant was even not qualified at that time for the post of Patwari.
2. This Para pertains to record hence no comments.
3. This Para pertains to record hence no comments.
4. This Para pertains to record hence no comments.
5. Incorrect. The judgment passed by this august Tribunal has misinterpreted by the appellant and as such has no relevancy with the matter in hand.
6. Correct to the extent that the appellant was recruited as Patwari dated 12-01-2009 while the replying respondents had already been appointed much more prior to the appellant.
7. Incorrect. By amending the relevant rules, the qualification of appointment as Patwari was enhanced from Metric to F.A vide Notification date 10-09-1990 and the action/inaction carried out under the amended rules were however set-aside at the time of arrival of the Judgment passed by the Tribunal in appeal No

2847/2000. The appellant was recruited as Patwari dated 12-01-2009 while the replying respondents had already been appointed much more prior to the appellant.

8. (Copy of the judgment passed by the Tribunal is annexure "A").
9. Incorrect. Under the law on the subject, Seniority is reckoned from the date of regular appointment and not from the date of such appointment made otherwise than that of regular appointment. As such, the appellant has been placed at the real/correct placed of the Seniority list.
10. Incorrect. The appellant was admittedly recruited as Patwari dated 12-01-2009 but till the date of filing the instant appeal, he never and never objected any seniority list frequently circulated year-wise from the year 2009 till the year 2017.

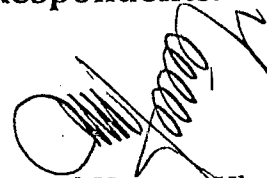
**G R O U N D S:**

- a) No comments.
- b) No comments.
- c) Incorrect. Detailed reply has been submitted in Para-7 above.
- d) Incorrect. Detailed reply has been submitted in Para-7 & 9 above.
- e) Incorrect. The appellant has admitted his appointment dated 12-01-2009 to be correct while on the other hand the replying respondents have been much more prior to the appellant. Hence, the replying respondents are more senior than that of the appellant.
- f) Incorrect. Detailed reply has been submitted in Para-7 & 9 above.
- g) Incorrect. Detailed reply has been submitted in Para-10 above.
- h) Incorrect. Detailed reply has been submitted in Para-9 above.

It is therefore, humbly prayed that on acceptance of this rejoinder, the appeal of the appellant may very graciously be rejected/dismissed through with costs.

**Respondents.**

Through



Muhammad Usman Khan  
Turlandi  
Advocate Peshawar.

Dated; 14/03/2018.

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

Service Appeal No. 662/2017

Islam Qadar

...Vs...

Deputy Commissioner Bannu & others

**Para-wise comments on behalf of**  
**Respondent No. 23**

Respectfully Sheweth,

**Preliminary Objections**

- i) That the Appellant has got no cause of action to file the present Appeal.
- ii) That the Appellant concealed material facts from this Hon`ble Tribunal.
- iii) That the subject Appeal needs recording of pro and contra evidence which is not possible as well the present Appellant is not an aggrieved person, hence cannot invoke the door of this Hon`ble Tribunal on time.
- iv) That the appellant has not come to this Hon`ble Court with clean hands hence denuded of all prevailing equities.
- v) That the appeal is not maintainable under the law also the present appeal is badly time barred.
- vi) The appeal is legally estoped to bearing the instant appeal.
- vii) That the prayers of the appellant are totally ambiguous whether he seeks his seniority, promotion or up-gradation.
- viii) That majority of the contesting respondents are more than senior from the present appellant.
- ix) That the subject appeal has been filed by an unauthorized person, hence it is liable to be dismissed on this score alone.

**Comments:**

1. This para is related to record. However it is pertinent to mentioned here that the present appellant has never passed the Patwar examination on that time as the appellant was even not qualified at the time of appointment.

2. This para is also related to record, hence needs no comments.
3. This para is also related to record, hence needs no comments.
4. This para is also related to record, hence needs no comments.

5. It is pertinent to mentioned here that this para is incorrect and not tenable in the eyes of Law, hence explicitly denied, because the Order / Judgment of the this Hon`ble Tribunal is crystal clear. The appellant has miss-conceived the same, and has no relevancy with the matter in hand.

6. It is correct, that the appellant was recruited as Patwari on 12.01.2009, while the appellant is registered on 13.01.2009 in the Tentative Seniority list of conformed / regular Patwari of Bannu district as stood on 31.12.2016 has already submitted by the appellant with the present appeal, while the replying respondent (s) No.23 had already been much more prior to the appellant.

It is also very important to mentioned here that the replying respondent No.23 was filed WP No.88/2007 in the Hon`ble Peshawar High Court D.I. Khan Bench on the titled "Kamran Khan Vs Govt of N.W.F.P through Secretary Revenue & others" and directed the respondents by the Hon`ble Peshawar High Court D.I. Khan Bench to consider the Petitioner also for appointment as Patwari with the same yardstick, on dated 25.10.2007, also contained in Cr: Misc: Contempt (COC) Petition No. 2/2008 which was announced on 19.12.2008, so on the direction of the worthy Peshawar High Court D.I.Khan (Bench) the replying respondent No.23 was appointed on 18.12.2008.

(Copies of Order and both Judgment sheets are attached with the comments.)

7. That this para of the appeal is totally incorrect and baseless. The rules were amended and the relevant qualification for Patwar Post were prescribed FA by the Provincial Government vide notification dated 10.09.1990, while the replying respondent(s) No.23 has BA qualification and is much more prior to the present appellant.
8. This para of the appeal is also incorrect, seniority is determined on the basis of date of regular appointment and not from the date of such appointment made otherwise in the cadre, so the appellant has been placed at his actual position.

9. Incorrect, the appellant was admittedly appointed on 12.01.2009. After his appointment neither he has objected on the seniority lists issued circulated every year, nor he has challenged his appointment order for the last 7/8 years (2009 - 2017). as such the instant appeal is badly time barred.

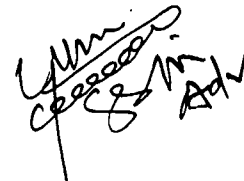
### **Grounds**

- a) Needs no comments.
- b) Needs no comments.
- c) In correct, as mentioned in comments in para no 7 in detail.
- d) In correct, as mentioned in comments in para no 7 & 9 in detail.
- e) In correct, first the appellant has admitted that he was appointed on 12.01.2009, and it is pertinent to mentioned here that according to Appointment, Promotion and Transfer, Rules 1989, the seniority of a Civil Servant is determind from the date of 1<sup>st</sup> appointment in the cadre.
- f) In correct, as available in comments para 7 in detail.
- g) In correct, every year the seniority list has been circulated by the concerned authorities, but neither the appellant has raised objected nor challenged the same at any forum previously, as the instant appeal is badly time barred and is not maintainable under the law and rules.
- h) In correct, as available in comment para 9 in detail.

It is therefore, most humbly prayed that in view of the above facts and circumstances the instant appeal may kindly be dismissed with cost as it has no legal grounds.

Respondent No.23

Through



**Malik Zeeshan Khan**

Advocate High Court Peshawar

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

Service Appeal No. 662/2017

Islam Qadar

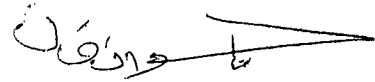
...Vs...

Deputy Commissioner Bannu & others

**Affidavit**

I, Kamran S/o Sabir khan R/O Kotka matan sabo khel near P/S Mandan Bannu, do hereby solemnly affirm and declare on oath that the contents of the enclosed Para-wise Comments are true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon`ble Tribunal.

Dated: 28.03.2018



DEPONENT


11101-1451609-7.

Identified by

  
Malik Zeeshan Khan

Advocate High Court

Peshawar

Allested  
  
28.3.18  
**QAISAR KHAN**  
Advocate & Oath Commissioner  
District & Session Court Peshawar

BEFORE THE PESHAWAR HIGH COURT, DIKHAN BENCH

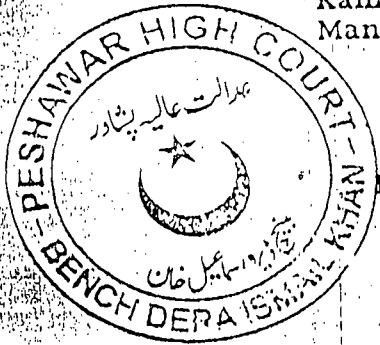
Writ Petition No. 88 /2007

201  
A  
3  
6

Kamran Khan son of Sabar Khan, resident of Sabu Khel, Mandan, Tehsil and District Bannu

..... (PETITIONER)

VERSUS



1. Government of NWFP, through Secretary Revenue and Estate Department/Senior Member Board of Revenue, NWFP Peshawar

2. The Secretary Board of Revenue NWFP, Peshawar

3. The District Officer Revenue and Estate/Collector Bannu

4. The District Coordination Officer (DCO), Bannu

5. Turab Shah son of Muhammad Gul Shah, resident of village Kakki, Tehsil and District Bannu, C/O Tehsildar Bannu

6. Tayabullah son of Gul Salim, resident of Hindi Khel Wazir, Tehsil and District Bannu, C/O Tehsildar Bannu

7. Yaqoob Nawaz son of Gul Ambail, resident of village Kakki, Tehsil and District Bannu, C/O Tehsildar Bannu

8. Muhammad Kashif son of Muhammad Ashraf Khan, C/O Tehsildar Bannu

9. Sakhi Shah son of Muhammad Gul, resident of village Kakki, Tehsil and District Bannu, C/O Tehsildar Bannu

10. Muhammad Kamran son of Abdul Kabir, resident of Ghoru Wala, Tehsil and District Bannu, C/O Tehsildar Bannu

..... (RESPONDENTS)

ATTESTED

EXAMINOR

Peshawar High Court  
D

10/1/08

Attested  
Yousaf  
SOM  
ADU

D. Qureshi  
Tanner

680  
Filed to day  
31/3/07

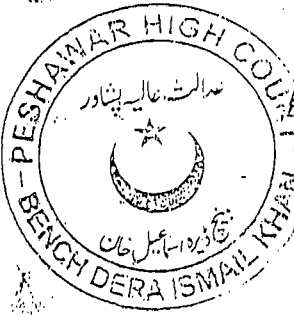


"B" (13)

JUDGMENT SHEET  
PESHAWAR HIGH COURT D.I. KHAN BENCH  
JUDICIAL DEPARTMENT

Writ-Petition No. 88 of 16<sup>th</sup> Feb 2007

JUDGMENT



Date of hearing 25.10.2007

Petitioner (Kamran Khan) by Mr. Ehsan Kamran

Respondent (Govt. of NWFP etc) by Mr. Farid Aziz  
Ms. Rizvi Advocate for Respondents No 1 to 4 and Mr. Salimullah  
Advocate for Respondents No 5 to 10

JEHANZAIB RAHIM J. - Through this single order

we propose to dispose of writ petition No. 88/2007 and  
238/2007, as common question of law and fact are  
involved in both the petitions.

This Court in its order dated 7.2.2007 passed  
in W.P.No. 302/2006 directed respondents that "they  
shall consider the petitioners for appointment on merits  
within two months." The respondents, in compliance  
thereto had considered respondents No. 8 to 10 and  
accordingly appointed them as Patwaris in BPS-5 but  
the petitioners, who were similarly placed in similar  
circumstances, were ignored.

ATTESTED

EXAMINOR

Peshawar High Court  
D.I. Khan Bench

We, in view of our order in the above  
referred writ petition, direct the respondents to consider  
the petitioners also for appointment as patwaries with the  
same yardstick, which they had applied to respondents

Attested  
[Signature]  
Adv

14

No. 8 to 10 within two months and, in case vacant posts are available, they shall accordingly be accommodated.

Consequently, the writ petitions, in above terms, are disposed of.

Announced  
25.10.2007

*Mr. Justice Jetham Bai. Retired. Kt. J. -*  
*Mr. Justice Raj. Muhammed Ali. J. -*

*29/10*

ATTESTED

EXAMINER  
Peshawar High Court  
D. Khan

Attested

*Yunus*  
*80/10*  
*ADV*

BEFORE THE PESHAWAR HIGH COURT, DIKHA BENCH



Cri Misc: Contempt Petition No. 2 /2008

Kamran Khan son of Sabar Khan, resident of Sabu Khel,  
Tehsil and District Bannu

..... (PETITIONER)

VERSUS

1. Senior Member Board of Revenue, NWFP Peshawar
2. The Secretary Board of Revenue NWFP, Peshawar
3. The District Officer Revenue and Estate/Collector Bannu.
4. The District Coordination Officer (DCO), Bannu
5. Mr. Ehsanullah Khan Mehsood, presently posted as Senior Member Board of Revenue, NWFP Peshawar.
6. Mr. Tayyub Awan, presently posted as Secretary Board of Revenue, NWFP Peshawar.
7. Abdul Shakoor Khan Dawar, presently posted as District Officer and Estate (DOR&E), Bannu.
8. Muhammad Ali Shah, presently posted as District Coordination Officer, Bannu.

..... (RESPONDENTS)

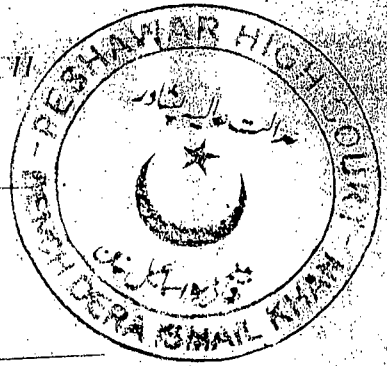
AN APPLICATION UNDER ARTICLE 203 OF THE CONSTITUTION OF PAKISTAN, 1973 READ WITH SECTIONS 3, 4, 5, 6 & 12 OF THE CONTEMPT OF COURT ORDINANCE (ORDINANCE I OF 2004), FOR INITIATING CONTEMPT PROCEEDINGS AGAINST RESPONDENTS/FUNCTIONARIES. NOMINATED HEREIN AND FOR METING OUT SEVERE PUNISHMENT <sup>to</sup> THE CONTEMNERS IN ACCORDANCE WITH LAW FOR WILFUL DISREGARD, DISOBEDIENCE AND DELIBERATE FAILURE TO

Attested  
Yusuf  
S.M.  
Adv

101  
Filed to Dept  
2/26/08

ATTESTED  
EXAMINOR  
Peshawar High Court  
Dikha Bench  
12/11/09

JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT, D.I. KHAN, BENCH  
(Judicial Department)



C.M. No. 22 of 2008

JUDGMENT

Date of hearing 19-12-2008

Appellant-Petitioner Kamran Khan by

Mr. Ghous Zaman Khan Kandi, Adv.

Respondent S.M.B.R., NISFP & others by

Mr. Samad Khan Shamim Sanda, Adv.

MUHAMMAD ALAM KHAN J. Pursuant to the

order dated 3/12/2008 of this Court, the Reader of respondent No.3 is in attendance and produced copy of office order bearing No. 2494-2503/DOR&E/BC/Estab. Dated 18/12/2008 vide which Kamran Khan petitioner has been appointed as Patwari.

2. In this view of the matter, this Contempt of Court petition has become in fructuous and is dismissed accordingly. Copy of the said order has been placed on record.

ANNOUNCED  
19/12/2008.

M.A.  
JUDGE

ATTESTED

JUDGE

EXAMINOR  
Peshawar High Court  
D.I. Khan Bench

12/11/09

Attested  
Adv

OFFICE OF THE DISTRICT OFFICER REVENUE & ESTATE/COLLECTOR  
BANNU

No. 2495-2503 /DOR&E/BC/Estab.

Dated 18 /12/2008

OFFICE ORDER

Consequent upon the directions of the Hon'able Peshawar High Court Bench at D.I.Khan vide W.P. NO. 88/2007, Dated 25-10-2007 "Kamran V/S Government of NWFP etc., also contained in C.M. No. 2/2008 (COC), Dated 03-12-2008 and Departmental Promotion/Selection Committee Meeting held on 17-12-2008 under the Chairmanship of the undersigned in personal office, Mr. Kamran Son of Sabir Khan Resident of Sabo Khel, Mandan, Bannu is hereby appointed as Patwaris (BPS - 5) against the vacant posts with immediate effect subject to the following terms and conditions:-

1. He will have to produce Medical Fitness Certificate.
2. He will be on probation for a period of one year which can be extended for a period of further one year in case of non satisfactory performance.
3. He will be governed by such rules and orders issued by the Government of NWFP for such category of Government Servants.

DISTRICT OFFICER  
REVENUE & ESTATE/COLLECTOR  
BANNU

Even No. & Date

✓ Copy forwarded to:-

1. The Additional Registrar, Peshawar High Court Bench at D.I.Khan with reference to the above case fixed for 19-12-2008 for information please.
2. The District Nazim Bannu for information.
3. The Secretary, Board of Revenue NWFP, Peshawar.
4. The District Coordination officer, Bannu.
5. The Deputy Advocate General D.I.Khan Bench for information please.
6. The District Accounts Officer, Bannu.
7. The Tehsildar Bannu.
8. Mr. Kamran Son of Sabir Khan Resident of Sabo Khel Mandan, Bannu, the official concerned.
9. The B.C., Office of DOR&E/Collector Bannu.
10. Office order file.

DISTRICT OFFICER  
REVENUE & ESTATE/COLLECTOR  
BANNU

*Attested  
Y. Hussain  
S. M. Adv*