


19.07.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

It is evident from the previous order sheet dated 12.05.2022 that the respondents department had been given last chance for submission of reply/parawise comments. Despite last chance, the respondent department could not submit the requisite reply/parawise comments today. Learned Additional Advocate General appeared on behalf of the respondents at fault and requested for yet another chance enabling him to contact and consult the respondents to submit reply/parawise comments. The request is acceded to but as last chance whereafter coercive measures invariably be initiated against the respondents at fault. Adjourned. To come up for reply/parawise comments on 21.09.2022 before S.B.



(Mian Muhammad)
Member (E)

24.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 12.05.2022 for the same as before.


Reader

12.05.2022

Junior to counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Reply on behalf of respondents No.1 & 2 has already been submitted. Learned AAG requested for time to submit reply/comments; last opportunity is granted. To come up for written reply/comments on 19.07.2022 before S.B.



(Rozina Rehman)
Member (J)

15.12.2021 Appellant in person present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

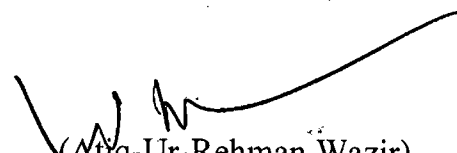
Written reply/comments not submitted. Learned AAG seeks time to contact the respondents for submission of written reply/comments. To come up for written reply/comments on 13.01.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

13.01.2022 Appellant in person present. Mr. Kabirullah Khattak, Addl. AG for respondents present. None present on behalf of respondent department, therefore, notice be issued to respondents for submission of reply/comments. Last opportunity is granted. To come up for reply/comments before the S.B on 01.02.2022.


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

01.02.2022 Appellant in person present. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Hussain Akhtar, Assistant for respondents No. 2 & 3 present and submitted reply/comments. None present on behalf of respondent No. 1, therefore, notice be issue to respondent No. 1 for submission of reply/comments before the S.B on 24.02.2022.

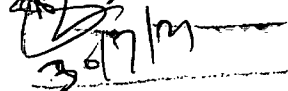

(Atiq-Ur-Rehman Wazir)
Member (E)

30.07.2021

Appellant present in person. Preliminary arguments heard.

The contention of learned counsel for the appellant precisely focused on some previous judgments of this Tribunal in which some appellants were allowed relief of repatriation to their parent department in which they were serving before the Devolution Plan of 2001. Obviously, every case has got its peculiar facts but when the judgments of this Tribunal have been pressed into service for relief purporting that the appellant is a similarly placed person, let this appeal be admitted for full hearing subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 15.12.2021 before the D.B.

Appellant Deposited
Security & Process Fee


30/7/21



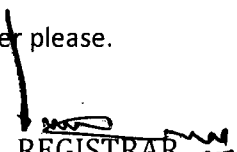

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 5791 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/06/2021	<p>The appeal of Mr. Mushtaq Ali resubmitted today by Mr. Muhammad Amin Ayub Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/07/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Mushtaq Ali Ex-Junior Clerk office of the Deputy Commissioner Mardan received today i.e. on 19/04/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.


Page nos. 10, 13, 27 to 30 and 36 to 38 of the appeal are illegible which may be replaced by legible/better one.

No. 742 /S.T,

Dt. 20/04 /2021


REGISTRAR -
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khaled Rehman Adv. Pesh.

ذرا - عالی
میں نے اس کی ترمیم کی ہے اور اسے دوبارہ
میں نے اس کی ترمیم کی ہے اور اسے دوبارہ

102/08/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2021

Mushtaq AliAppellant

Versus

The Govt. through SMBR and others Respondents

INDEX

S#	Description of Documents	Date	Annex	Pages
1.	Memo of Service Appeal			1-5
2.	Appointment order of appellant as Junior Clerk	10.01.1993	A	6 - 7
3.	Transfer orders	16.09.1993 18.09.1993 11.04.1994	B	8 - 10
4.	Order of appellant's adjustment as as Secretary Union Council Katti Ghari, Mardan	24.03.2010	C	11
5.	Adjustment orders of similar surplus employees in the parent Departments	26.01.2006 06.07.2009 17.07.2009 14.04.2009 08.07.2009 30.06.2009	D	12-16
6.	Letters/opinion of Establishment Department	27.02.2009 02.04.2009	E	17-18
7.	Repatriation orders of former employees of the Commissioner office	06.01.2009 08.07.2009	F	19-20
8.	Application for repatriation		G	21
9.	Impugned original order	03.12.2009	H	22
10.	Departmental Appeal	23.12.2019	I	23-24
11.	Impugned appellate order	17.02.2020	J	25-26
12.	Judgment in Service Appeal No.999/2012	03.01.2013	K	27-30
13.	Judgment in Service Appeal No.1192/2014	24.06.2015	L	31-35
14.	Surplus Pool Policy	08.06.2001	M	36-38
15.	Wakalat Nama			

Mushtaq Ali
Through

Appellant

Khaled Rahman
Advocate,
Supreme Court of Pakistan

&

Muhammad Amin Ayub
Advocate, High Court

&

Muhammad Ghazanfar Ali
Advocate, High Court
4-B, Haroon Mansion
Khyber Bazar, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 5791 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4943

Dated 20/04/2021

Mushtaq Ali

Ex-Junior Clerk

Office of the Deputy Commissioner,

Mardan

Now posted as Secretary Union Council

Muhabbat Abad, District Mardan Appellant

VERSUS

1. The Govt. of Khyber Pakhtunkhwa
through Senior Member Board of Revenue
Peshawar.

2. The Commissioner,
Mardan Division, Mardan.

3. The Deputy Commissioner,
Mardan Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORIGINAL ORDER DATED 03.12.2019 PASSED BY RESPONDENT NO.3 WHEREBY THE APPLICATION OF THE APPELLANT FOR REPATRIATION TO THE OFFICE OF RESPONDENT NO.2 WAS UNLAWFULLY REGRETTED AGAINST WHICH APPELLANT FILED DEPARTMENTAL APPEAL TO RESPONDENT NO.2 WHICH WAS UNLAWFULLY DISMISSED VIDE IMPUGNED APPELLATE ORDER DATED 17.02.2020 COMMUNICATED ON 12.04.2021.

Filed to-day

Registrar

PRAYER:

On acceptance of the instant appeal, the impugned original order dated 03.12.2019 and impugned appellate order dated 17.02.2020 communicated on 12.04.2021 may graciously be set aside and Respondent No.3 may be directed to repatriate/readjust the appellant to the office of Deputy Commissioner, Mardan alongwith seniority and other service benefits.

**Re-submitted to -day
and filed.**

Registrar

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant was appointed as Junior Clerk in the office of Respondent No.3 vide order dated 10.01.1993 (*Annex:-A*). Appellant while performing his duty was transferred from one place of posting to other as is evident from the office orders dated 16.09.1993, 18.09.1993 and 11.04.1994 (*Annex:-B*) wherein he complied with the directions of the high-ups and served to the best of his capabilities. During devolution process in the year 2001, appellant was rendered surplus and later on was adjusted as Secretary Union Council Katti Ghari, Mardan vide order dated 24.03.2010 (*Annex:-C*) in the office of the then District Coordination Officer, Mardan, where he took over the charge of the said post and commenced performing his duty to the entire satisfaction of the high-ups.
2. That similar other employees so rendered surplus in the same devolution process and then adjusted as Secretaries Union Councils, were subsequently transferred/adjusted in the office of DOR, Mardan vide orders dated 26.01.2006, 06.07.2009, 17.07.2009, 14.04.2009, 08.07.2009 and 30.06.2009 (*Annex:-D*) pursuant to the opinion of the Establishment Department vide letters dated 27.02.2009 and 02.04.2009 (*Annex:-E*) and likewise after the restoration of the Commissionerate System, the former employees of the Commissioner office were also repatriated as is evident from the order dated 06.01.2009 and 08.07.2009 (*Annex:-F*).
3. That appellant also moved an application (*Annex:-G*) to the competent authority for his repatriation to the post of Junior Clerk but the same was turned down vide impugned original order dated 03.12.2009 (*Annex:-H*) whereafter appellant preferred a departmental appeal before the appellate authority on 23.12.2019 (*Annex:-I*) but

the same was unlawfully dismissed vide impugned appellate order dated 17.02.2020 (*Annex:-J*) communicated to appellant on 12.04.2021.

4. That identical question came before this Hon'ble Tribunal in Service Appeal No.999/2012 which was allowed vide Judgment dated 03.01.2013 (*Annex:-K*) which also followed by another Judgment dated 24.06.2015 passed in Service Appeal No.1192/2014 (*Annex:-L*). Likewise, identical Service Appeals No.1340/2015, 257/2017, 1211/2017 and 197/2018 came for consideration before this Hon'ble Tribunal which were allowed on the basis of Service Appeal No.999/2012 *ibid*. Since the case of the appellant is also identical, therefore, he is also entitled to the same relief. hence, this appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That this Hon'ble Tribunal vide its judgment dated 03.01.2013 in Service Appeal No.999/2012 while allowing the appeals of Zahoor Ahmad and Hamid Ali Taj Secretaries Union Councils in District Mardan observed as under:-

“In view of the above discussion, the appeal is accepted and Respondent No.2&3 are directed to repatriate the appellant to his parent Department and adjust him against the vacant post of Senior Clerk. It is further observed that the devolution plan of General Musharaf (R) had played havoc and broken the backbone of Administrative set up. Since the Government is again restoring the Commissionerate System, therefore, instead of fresh recruitments and repatriating the then experienced staff at random, Government should make amendment in the “surplus staff adjustment Policy” specially with respect to the ex-

Commissioner and Deputy Commissioner offices staff for readjustment to facilitate smooth running of the above referred offices.”


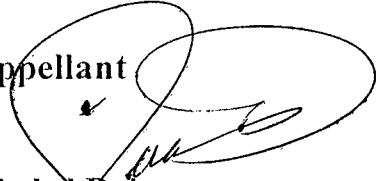


Since the case of the appellant is similar and identical, therefore, appellant is also entitled to the same relief under the law as per the judgments laid down in the case of *“Hameed Akhtar Niazi ...Vs...The Secretary Establishment Division, Government of Pakistan and others”* reported in 1996 SCMR 1185 and in the case of *“Tara Chand and others...Vs...Karachi Water and Sewerage Board, Karachi and others”* reported in 2005 SCMR 499 and another Judgment reported in 2009 SCMR 1 wherein it has been laid down that:

“When a Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covered not only the case of the civil servants who litigated, but also of other civil servants, who might have not taken any legal proceedings, the dictates of justice and rules of good governance demand that the benefits of the decision be extended to the other civil servants, who might not be parties to the litigation instead of compelling them to approach the Tribunal or any other forum.”


- C. That the appellant has been discriminated inas much as other colleagues of the appellant similarly placed serving in identical circumstances have been repatriated while the same benefit has been refused to appellant without any justification muchless lawful.
- D. That as per the Surplus Pool Policy circulated vide letter dated 08.06.2001 (*Annex:-M*), all surplus staff should be adjusted on the minimum qualification against vacant post, keeping in view their seniority.
- E. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.


 Appellant
 Through

Khaled Rahman
 Advocate,
 Supreme Court of Pakistan
 &

Muhammad Amin Ayub
 Advocate, High Court
 &

Muhammad Ghazanfar Ali
 Advocate, High Court

Dated: 13/04/2021

Note
 as per instructions of my client
 that he has not filed Special
 Appeal before this Honble Tribunal
 on the said matter


8 Signature of Government servant	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc).	12 Signature of the head of the office or Other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
				Period	Government to which debitable		
<i>[Signature]</i> Dy. Commr Mardan	15/2/93	Reinstated as unplaced	<i>[Signature]</i> For Dy. Commr Mardan			Appointed as a Junior clerk wide D.C. order No. 202-65/GEA dt. 10-1-1993	
<i>[Signature]</i> Dy. Commr Mardan	8/7/93	Reinstated as unplaced	<i>[Signature]</i> For Dy. Commr Mardan				
<i>[Signature]</i> Dy. Commr Mardan		Re-appointed Transfer to E.O. as C.R.C. on 30-6-94.	<i>[Signature]</i> For Dy. Commr Mardan			Reinstated from senior Junior post wide D.C. order No. 1034-38/GEA dt. 13-2-1993 reinstated from 15-2-1993.	
<i>[Signature]</i> Dy. Commr Mardan	31/5/94	Pay Revised	<i>[Signature]</i> For Dy. Commr Mardan				
<i>[Signature]</i> Dy. Commr Mardan	30/11/94	Grant	<i>[Signature]</i> For Dy. Commr Mardan			appointed Re-appointed on leave Post wide D.C. order no. 1691 GEA dt. = 16-3-1993.	
<i>[Signature]</i> Dy. Commr Mardan		Transfer	<i>[Signature]</i> For Dy. Commr Mardan			Reinstated from senior wide D.C. order no. 5400-5405/GEA dt. 28-8-1993.	
<i>[Signature]</i> Dy. Commr Mardan			<i>[Signature]</i> For Dy. Commr Mardan				

ATTESTED

[Signature]

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. B.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of appointment	8 Signature of Government servant	9 Signature and designation of the officer or other attesting officer in attestation (columns 1 to 8)
1035-49-1790 Junior Clerk L.R.C. (B. 1)	off/perm		Pay Rs. 1035/-			11 ¹ / ₉₃		Dy. Commr. Mardan
1035-49-1770 J.C. Comptroller			Pay Rs. 1035/-			22 ³ / ₉₃		Dy. Commr. Mardan
1035-49-1790 J.C. Comptroller Land Revenue			Pay Rs. 1035/-			18 ² / ₉₃		Dy. Commr. Mardan
1035-49-1770 J.C. (L.R.C.)			Pay Rs. 1035/-			30 ⁶ / ₉₄ Am		Dy. Commr. Mardan
-/- L.R.C. (B. 2)			Pay Rs. 1035/-			17 ¹ / ₉₄		Dy. Commr. Mardan
1400-66-2390 J.C. (L.R.C.)			Pay Rs. 1400/-			1 ⁶ / ₉₄		Dy. Commr. Mardan
do			Pay Rs. 1466/-			1 ¹² / ₉₄		Dy. Commr. Mardan
1400-66-2390 J.C. (L.R.C.) J.C. Moharrie			Pay Rs. 1466/-			3 ¹ / ₉₄		Dy. Commr. Mardan

ATTESTED

OFFICE ORDER.

Anna B

The following posting/transfer amongst the clerical staff of the District Establishment are hereby ordered in the public interest :-

S.No.	Name of Official	From	To
1.	Mr. Shhail Ahmad	Moharrir to EAC-II, Mardan	Granted 120 days long leave subject to title.
2.	Mr. Sardar Hussain	J/C Land Reforms working in GRR, Mardan.	Moharrir to EAC-II, Mardan, (Vice-I).
3.	Mr. Mushtaq Ahmad	Reverted-candidate	J/C Land Reforms will work in GRR, Mardan, (Vice No. 2)

By Order of
Deputy Commissioner,
Mardan.

OFFICE OF THE DEPUTY COMMISSIONER, MARDAN.

No. 5844-48/G.EA.

Dated Mardan the 16/9/1993.

Copy forwarded to :-

1. The Extra Assistant Commissioner-II, Mardan.
2. The Officer Incharge, General Record Room, Mardan.
3. The Bill Clerk, English Office, Mardan.
4. Mr. Shhail Ahmad the applicant.
5. Mr. Mushtaq Ahmad

for information & necessary action.

for Deputy Commissioner,
Mardan.

"Y. MASIH"
15.9.93.

noted per
[Signature]
18.9.93

Person Concerned for
Cooperation please.

ATTESTED

18.9

B

Record Room
Muzaffargarh

OFFICE ORDER

9

Due to the transfer of Mr. Sardar Hussain Moharrir GRR Mardan and posting of Mr. Mushtaq Ali, the distribution of work amongst the officials of GRR Mardan will be as follows:-

<u>Name of officials</u>	<u>Transfer from</u>	<u>Will work as</u>
1. Sardar Hussain	Moharrir GRR Mardan	Moharrir in the court of EAC-II Mardan.
2. Mushtaq Ali	New candidate	Moharrir in Court of Mardan
3. Muhammad Ishaq	Moharrir Wapasi Takht Bhai, GRR Mdn.	Moharrir Wapasi Criminal Mardan and also work in the correction of Mardan and Takht Bhai.
4. Wazir Muhammad	Correction of Bastajat.	Moharrir Kulyat Goshwara Tehsil Mardan.
5. Bashir Hussain	Moharrir Kulyat Goshwara Tehsil Mardan.	Moharrir Goshwara Tehsil Bastajat Takht Bhai.

[Signature]
Officer in Charge,
GRR Mardan.
18/9/93

[Signature] All Concerned for Compliance please

[Signature]
RA
18/9/93

Noted *[Signature]*
18/9/93

Noted Sir
[Signature]
18/9/93

ATTESTED

WAZIR

Findings
The
No.
copies to
direct
necessary
Excise

OFFICE ORDER

The following postings/transfers amongst the clerical staff of the District establishment is hereby ordered with immediate effect in the public interest:-

S.No.	Name of Officials	From	To
1.	Mr. Howshergan S/C.	Head Clerk Land-Reforms	Bill Clerk S.C. in place of Maber and granted 120 days leave.
2.	Mr. Mashtaq	Moharvir S.A	Head Clerk Land-Reforms Mardan Vice No. 1
3.	Mr. Sartaj Mohammad. A.R.K. S.C.	A.R.K. S.C.	Secretary in place of Mr. Amir Bahadur granted Ex-Pak leave.
4.	Mr. Abdur Rauf.	on expiry of his 60 days leave.	Rev: Bill Clerk Mardan.
5.	Mr. Iltar Ahmad. J/C.	Copying Clerk Copying Branch.	Being a senior-most J/C promoted temporarily to the post of S/Clerk in B-5-7 in place of Mr. Amir Bahadur granted Ex-Pak leave (Two years) & posted as A.R.K. S.C. Vice No. 3
6.	Mr. Nigar Ahmad.	Record Letter BPS No. 2 (S.C.)	Promoted as J/Clerk in BPS-5 temporarily & posted as Copying Clerk, Copying Branch Mardan. Vice No. 5
7.	Mr. Majid	R/Asid (Matriculate) to SAC-II Mardan.	Promoted temporarily as Record Letter in BPS No. 2 Vice No. 6
8.	Mr. Jamshed S/Asid.	S/Asid Land Acquis. Cell Mardan.	Court of SAC-II Mard. Vice No. 7
9.	Mr. Fisher Gul.	S/Asid Behail Mard. Land Acquisition Cell Mardan.	Vice No. 8

R.K.
Official concern
To do the needful.
12/4/83
Record Letter BPS No. 2 (S.C.)
12.4.84

Note: The promotion of the above promotes are purely temporary and stop-gap arrangements and will not claim any seniority over others.

BY ORDER OF
DEPUTY COMMISSIONER
MARDAN.

No. 2288-3000 / S.A.

Dated Mardan the 11/4/1984

Copy forwarded to all concerned for information.

ATTESTED

Better Copy



OFFICE ORDER

The following postings/transfers amongst the Clerical staff & Naib Qasid of the District Establishment is hereby ordered with immediate effect in the public interest:-

S.No.	Name of Official	From	To	Remarks
1.	Mr. Nowsherawan S/C	Head Clerk Land Reforms	Bill Clerk H.O in place of Meherdad granted 120 days leave.	-
2.	Mr. Mushtaq, J/C	Moharrir ___	Head Clerk Land Reforms Mardan	Vice No.1
3.	Mr. Sartaj Muhammad	A.R.K. R.O	S. Writer in place of Mr. Amir Bahadur granted Ex-Pak leave.	-
4.	Mr. Abdur Rauf	On expiry of his 60 days leave	Lev: Bill Clerk Mardan	-
5.	Mr. Iltaf Ahmad J/C	Copying Clerk Copying Branch	Being a senior-most J/C promoted temporarily to the post of S/Clerk in BPS-7 in place of Mr. Amir Bahadur granted Ex-Pak leave (Two year) & posted at A.R.K. H.O	Vice No.3
6.	Mr. Nisar Ahmad	Record Lifter BPS No.2 (R.O)	Promoted as J/Clerk in BPS-5 temporarily & posted as Copying Clerk, Copying Branch Mardan.	Vice No.5
7.	Mr. Taj Gul	N/Qasid (Matriculate) to KAC-II Mardan	Promoted temporarily as Record Lifter in BPS No.2	Vice No.6
8.	Mr. Jamshed N/Qasid	N/Qasid Land Acquit: Cell Mardan	Court of LAC-II Mdn:	Vice No.7
9.	Mr. Bahar Gul	N/Qasid Tehsil Mdn:	Land Acquisition Cell Mardan	Vice No.8

Note: The promotion of the above promoties are purely temporary on stop-gap arrangements and will not claim any seniority over others.

BY ORDER OF
DEPUTY COMMISSIONER
MARDAN

OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

No.2289-3000/- _____ Dated Mardan the 11 / 4 / 1994

Copy forwarded to all concerned for information and necessary action.

Sd/-
For Deputy Commissioner
Mardan

11
Annex C
OFFICE OF THE
DISTRICT COORDINATION OFFICER,
MARDAN.

Dated Mardan the 21/3/2010.

OFFICE ORDER:

The undersigned is pleased to adjust Mr. Mushtaq Ali, Junior Clerk on the strength of District Surplus Pool Mardan as Secretary Union Council, Katti Garhi against the vacant post.


District Coordination Officer,
Marda

No. 468-71 DCO(M)/EA-26

Copy for information and necessary action to:

1. The District Comptroller of Accounts Mardan.
2. The Administrator, Union Council, Katti:Garhi.
3. Finance Assistant (Local)
4. Mr. Mumtaz Khan, Accounts Clerk, Union Council Staff Mardan.
5. The Official concerned.


District Coordination Officer,
Mardan


ATTACHED

Amor ok D 12

OFFICE OF THE DISTRICT COORDINATION OFFICER, MARDAN.

Dated, Mardan, the 26/1 12006.

OFFICE ORDER.

The following Mutual posting/transfer is hereby ordered with immediate effect in the public interest.

S.NO.	Name & Designation	From	To	Remarks.
1-	Mr.Samiullah J/C/Secretary	U/C Khanzana Dheri	District Officer (R&E) Mardan.	Vice-2
2-	Mr.Aziz Gul J/C Reader to Naib Tehsildar Takht Bhai.	District Officer (R&E), Mardan.	U/C Khanzana Dheri	Vice-1

By Order of
District Coordination Officer
Mardan.

No. 611-14 /DCO(M)/EA.

Copy forwarded to:

- 1- District Officer (R&E), Mardan.
- 2- District Accounts Officer, Mardan.
- 3- Nazim U/C Khazana Dheri.
- 4- Officials Concerned.

Attested to be
True Copy

Assistant Coordination Officer
Mardan

ATTESTED
ATTESTED

ATTESTED

ANNEX D

DE D B

ATTESTED

ATTESTED

ATTESTED

True Copy:
Attested to be

District Officer (R&E)
Mardan.

1. The District Coordination Officer Mardan for information please, (Copy of Assistant Secretary (Bara) Board of Revenue, NWFP Peshawar letter No. 19214/Admn/Hsra/Adjst dated 4.7.2009 is enclosed).
2. The Director General Excise & Taxation Department NWFP Peshawar for information and necessary action please.
3. The Assistant Secretary (Bara) Board of Revenue NWFP w/ to above for information.
4. The Excise & Taxation Officer Mardan for information and necessary action please.
5. The District Accounts Officer Mardan.
6. The D.D. (R)/(J) Mardan.
7. The Official concerned for compliance.

OFFICE OF THE DISTRICT OFFICER (R&E) MARDAN.
Dated Mardan the 4/7/2009. No. 115-22/Order/Fin/DO(R&E)

District Officer (R&E)
Mardan.

In view of above Mr. Iqbal Muhammad Junior Clerk is hereby posted as Junior Clerk/Reader to Dy. District Officer (Bara) Mardan with immediate effect.

Mr. Muhammad Junior Clerk office of the Deputy Commissioner (Office Mardan) presently Constable in Excise Department Mardan has been adjusted in the office of District Officer (Revenue & Bara) Mardan against the post of Junior Clerk.

In pursuance of letter No. 19214/Admn/Hsra/Adjst dated 4.7.2009 received from Assistant Secretary (Bara) Board of Revenue NWFP, vide which Mr. Iqbal Muhammad Junior Clerk office of the Deputy Commissioner (Office Mardan) presently Constable in Excise Department Mardan has been adjusted in the office of District Officer (Revenue & Bara) Mardan against the post of Junior Clerk.

OFFICE ORDER.

13

DISTRICT OFFICE
MARDAN
District Officer (R&E)
Mardan
Accounts Officer (R&E)
Mardan

Constable
Junior Clerk
In view of above
cc: Mr.

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13

OFFICE ORDER

In pursuance of letter No.19214/Admn:II/Israr/Adjust dated 4.7.2009 received from Assistant Secretary (Estab:) Board of Revenue, NWFP vide which Mr. Israr Muhammad Junior Clerk office of the defunct Deputy Commissioner Office Mardan presently Constable in Excise Department Mingora Swat has been adjusted in the office of District Officer (Revenue & Estate) Mardan against the post of Junior Clerk.

In view of the above Mr. Israr Muhammad Junior Clerk is hereby posted as Junior Clerk/Reader to Dy: District Officer (Judl:) Mardan with immediate effect.

Sd/-
District Officer (R&E)
Mardan

OFFICE OF THE DISTRICT OFFICER (REV: & ESTATE) MARDAN

No.1115-22/Off:Order/Fin/DO(R&E)

Dated Mardan the 6 / 7 / 2009

1. The District Coordination Officer Mardan for information please (Copy of Assistant Secretary (Estt:) Board of Revenue, NWFP Peshawar letter No.19214/Admn:II/Israr/Adjust dated 4.7.2009 is enclosed).
2. The Director General Excise & Taxation Department NWFP Peshawar for information and necessary action please.
3. The Assistant Secretary (Estt:) Board of Revenue, NWFP w/r to above for information.
4. The Excise & Taxation Officer, Mingora Swat for information and necessary action please.
5. The District Accounts Officer Mardan.
6. The D.D.O. (R)/(J) Mardan.
7. The Official concerned for compliance.

Sd/-
District Officer (R&E)
Mardan

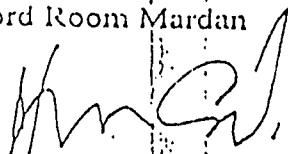
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OFFICE ORDER.

- 14

In pursuance of letter No.20079/Admn:H/lanur/Adjst dated 16.7.2009 received from Assistant Secretary (Estab) Board of Revenue NWFP, vide which Mr. Malak Junaid Junior Clerk office of the defunct Deputy Commissioner Office Mardan presently Constable in Excise Department Mardan has been adjusted in the office of District Officer (Revenue & Estate) Mardan against the post of Junior Clerk.

In view of above Mr. Malak Junaid Junior Clerk is hereby posted as Junior Clerk this office. He is directed to work as Moharir in the General Record Room Mardan

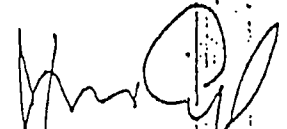

District Officer (R&E)
Mardan.

OFFICE OF THE DISTRICT OFFICER (REVENUE & ESTATE) MARDAN.

No.2-c 13-2/Off:Order/Fin/DO(R&E) Dated Mardan the 17/7/2009.

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No.2
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- 1. The District Coordination Officer Mardan for information please. (Copy of Assistant Secretary (Estab) Board of Revenue, NWFP Peshawar letter No.20079/Admn:H/lanur/Adjst dated 16.7.2009 is enclosed).
- 2. The Director General Excise & Taxation Department NWFP Peshawar for information and necessary action please.
- 3. The Assistant Secretary (Estab) Board of Revenue NWFP w/r to above for information.
- 4. The Excise & Taxation Officer Mardan for information and necessary action please.
- 5. The District Accounts Officer Mardan.
- 6. The D.D.O. (R)/J Mardan
- 7. The Official concerned for compliance.


District Officer (R&E)
Mardan.

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15

OFFICE ORDER.

In pursuance of office order issued vide ednst: No.2013-18/DCO(M) dated 16.7.2009 by the District Coordination Officer Mardan vide which Mr. Liaqat Ali Junior Clerk office of the defunct Deputy Commissioner Office Mardan presently posted as Junior clerk in the Govt: College Mardan has been adjusted in the office of District Officer (Revenue & Estate) Mardan against the post of Junior Clerk.


In view of above Mr. Liaqat Ali Junior Clerk is hereby posted as Junior Clerk in this office against the vacant post. He is hereby directed to work as Copying Clerk in the District Kanungo Branch Mardan.


District Officer(R&E)
Mardan.

OFFICE OF THE DISTRICT OFFICER (REV: & ESTATE) MARDAN.

No. 2021-27/Off:Order/Fin/DO(R&E) Dated Mardan the 17 7/2009.

1. The District Coordination Officer Mardan w/r to office order No, referred to above for information please.
2. The Principal Govt: Post Graduate College Mardan.
3. The District Accounts Officer Mardan.
4. The DDO(R) Mardan.
5. The District Kanungo Mardan.
6. The Copying Agent Copying Branch Mardan.
7. The official concerned for compliance.


District Officer(R&E)
Mardan.

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OFFICE OF THE
DISTRICT COORDINATION OFFICER
BUNER.

No. 2045 DCO(Buner)/Estt:1/2007,
Dated Daggar the 14/4/2009.

(8) - 16



OFFICE ORDER.

In pursuance of the Govt. Of NWFP, Establishment Department (Section-E-V) Peshawar NO:SOE-V(E&AD)/3-4/2007, Dated May 30th 2007, Mr Sadaqat Ali Junior clerk in the then Deputy Commissioner Office Buner, presently working as Secretary union Council Gokand is hereby transferred /Posted as Junior Clerk against the vacant post in the Office of District Officer Revenue & Estate Buner with immediate effect in the best public interest.

[Signature]
DISTRICT COORDINATION OFFICER,
BUNER.

No: _____ /Estt:1/DCO(B)

Copy forwarded to the:

1. District officer Revenue & Estate Buner.
2. The District accounts Officer Buner.
3. The Official concerned for compliance.

DISTRICT COORDINATION OFFICER,
BUNER.

o/c

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OFFICE OF THE
DISTRICT COORDINATION OFFICER,
BUNER.

17
Annex *E*

No: 1274 /Estt/1
Dated Daggar the 27th February, 2009.

To: The Secretary to Govt:
OF NWFP Establishment Department
Peshawar.

Subject: TRANSFER OF MR. SADAQAT ALI SECRETARY UNION
COUNCIL.

Memo:

Mr. Sadaqat Ali was serving in the Office of the then Deputy Commissioner Buner, as junior clerk prior to devolution, he became surplus and adjusted as secretary union council where he is serving till now. Now vacancy of junior clerk has been occurred due to promotion of one j/c to the post of senior clerk over which Mr. sadaqat Ali has applied for transfer/ adjustment.

You are therefore requested to kindly advise this office as to whether we can transfer Mr. Sadaqat Ali from the post of secretary union council to the office of Revenue and Estate Buner as junior clerk or otherwise.

E
DISTRICT COORDINATION OFFICER,
BUNER.

o/c

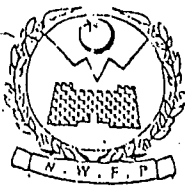
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185
GOVERNMENT OF N.W.F.P.
ESTABLISHMENT DEPARTMENT.

NO.SOE-V (E&AD)/3-4/2007
Dated Peshawar, the April 2, 2009

To

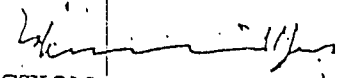
The District Coordination Officer,
Buner.

Subject: Transfer of Mr. Sadaqat Ali Secretary Union Council.

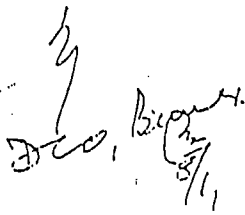
Dear Sir,

I am directed to refer to your letter No.2045.dco(Buner)Estt: /1/2007 dated 13/3/2009 on the subject noted above and to invite your kind attention to the instruction of the government on the subject case that whenever officers/official of lower pay scales are posted against higher pay scales due to exigencies of service or through adjustment, the said posts automatically shall stand downgraded as long as the said incumbents stays against such posts. Departments concerned while issuing posting notification must also notify downgradation of the posts simultaneously with a copy to the Accountant General NWFP, Finance and Establishment and Administration Department (Copy enclosed for ready reference).

Yours faithfully


SECTION OFFICER(E-V) 2-4-09

EA.


Dco, Buner
2/4/09

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19/11/08
Amir F

OFFICE OF THE
COMMISSIONER MARDAN DIVISION.

NO. 14-23 /PSC(M)

Dated MARDAN THE 6 /01/2009.

To,

- 1- The District Coordination Officer, Mardan.
- 2- The Executive District Officer (F&P) Mardan.
- 3- The Executive District Officer (Agriculture) Mardan.
- 4- The Executive District Officer (S & L) Mardan.
- 5- The Executive District Officer (Health) Mardan. / SWABI
- 6- Medical Superintendent, DHQ; DHQ; Hospital Mardan.
- 7- Xen Irrigation Department Swabi.
- 8- Principal Government Post Graduate College Mardan.
- 9- Principals GHSS Mayar, Garhi Kapura and Dheri Likpani.

Subject:-

ATTACHMENT OF MINISTERIAL STAFF IN COMMISSIONER OFFICE MARDAN.

Memo:

In continuation of this office letter No.52-73/PAC, 70-77/PAC dated 07-12-2008, No.39-51/PSC(M), No. 52-58/PAC dated 16-12-2008 and No.179-82 dated 20-12-2008 wherein the staff pertaining to your respective offices have temporarily been attached with Commissioner office. Their permanent absorption in this office is under consideration, however you are advised to maintain their service/salaries as such in your department till further order. No relieving of staff may be made at the moment:-

S.NO.	NAME OF OFFICIAL	PRESENT POSTING
01	Mr.Murad Ali Shah, SS.Stenographer	XEN Irrigation Department Swabi.
02	Mr.Muhamamd Ali, Assistant	EDO Agriculture Deptt: Mardan
03	Mr.Khalid Pervez Senior Clerk	EDO (S&C) Mardan.GHSS Garhi Kapoora
04	Mr.Sharif Khan, J/Clerk	EDO (S&C) Mardan GHSS Dheri Likpani (Katlang)
05	Syed Shah Hussain, J/Clerk	GPGC, Mardan
06	Mr.Tahir Shih, J/Clerk	EDO (S&C) Mardan GHSS Mayar
07	S.Maqbool Shah, J/Clerk	EDO (S&C) Mardan
08	Mr.Aftab Ali, J/Clerk	M.S.P.H Hospital Mardan
09-	Mr. Mushtaq A.	Xen Irrigation Swabi.
10	Mr.Farooq Zaman J/Clerk	Health Deptt: Swabi
11	Mr.Anwar Shed Driver	EDO(F&P) Mardan
12	Mr.Sakhi Taj	-do-
13	Mr.Alamzeb N/Q	DCO, Office, Mardan
14	Mr.Ziarat Khan, N/Q	Union Council
15	Mr.Abdul Wadood	DCO, Office Mardan
16	Mr.Akbar Ali N/Q	Union Council
17	Mr.Sherin Zar N/Q	Education Deptt:

Attested to be
True Copy
COMMISSIONER
MARDAN DIVISION.

NO. _____ /EA

Copy forwarded to all staff for information and necessary action.

ATTESTED

Officials concerned.

ATTESTED

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OFFICE OF THE COMMISSIONER, MARDAN DIVISION, MARDAN.

OFFICE ORDER

The posting/adjustment of the following ministerial staff against the following posts in the office of undersigned is hereby ordered with immediate effect in the best public interest:-

S #	Name of Official & Designation	From	To	Remarks
01	Mr. Muhammad Ali, Assistant (BS-14)	EDO, Agriculture (Fisheries Deptt)	Commissioner Office, Mardan	Vice No.3
02	Mr. Khalid Parvoz, Senior Clerk (BS-09)	GHSS Garhi Kapoora	Commissioner Office Mardan	Against the vacant post of Assistant in his own pay & scale.
03	Mr. Arshad Ali, Assistant (BS-14)	Commissioner Office Mardan	Services placed at the disposal of DCO Mardan for further posting against the post of Assistant in EDO (Agriculture) Office Mardan in his own pay & scale.	
04	Mr. Aftab Ali, Junior Clerk (BS-07)	EDO (Health) Office Mardan	Commissioner Office Mardan	Vice No.5.
05	Mr. Muhammad Abid, Junior Clerk (BS-07)	Commissioner Office Mardan	Services placed at the disposal of DCO Mardan for further posting against the post of J/C (BS-07) in Health Department Mardan.	
06	Syed Shah Hussain, Junior Clerk (BS-07)	Govt. Post Graduate College Mardan.	Commissioner Office Mardan	Vice No.07.
07	Mr. Muhammad Abbas, Junior Clerk (BS-07)	Commissioner Office Mardan	Services placed at the disposal of DCO Mardan for further posting against the post of J/C (BS-07) in Govt. Post Graduate College Mardan.	
08	Syed Maqbool Shah, Junior Clerk/ Lab Assistant (BS-07)	EDO (Education) Mardan	Commissioner Office Mardan	Vice No.09
09	Mr. Tariq Hassan, Junior/Lab Assistant Clerk (BS-07)	Commissioner Office Mardan	Services placed at the disposal of DCO Mardan for further posting against the post of Lab Assistant (BS-07) in Education Department, Mardan.	

Sd/-
COMMISSIONER,
MARDAN DIVISION, MARDAN.

No 1426-32/02/01/EA/ACR

Dated Mardan, the 08/07/2009.

Copy forwarded to:-

- 1- The District Coordination Officer, Mardan.
- 2- The Executive District Officer (Agriculture), Mardan.
- 3- The Executive District Officer (Education), Mardan.
- 4- The Executive District Officer (Health), Mardan.
- 5- The District Accounts Officer, Mardan.
- 6- Principal, Govt. Post Graduate College Mardan.
- 7- Principal, GHSS, Mayar.

ATTESTED

ATTESTED
Assistant to Commissioner (Rev),
Mardan Division

21

Amir G

To:- The Deputy Commissioner,
Mardan.

Subject: APPLICATION FOR TRANSFER FROM UNION COUNCIL
MOHABBAT ABAD TO D.C.'S OFFICE MARDAN.

Respectfully Sheweth:

It is submitted for your kind information that
I was appointed in 1993 by the then Deputy Commissioner
Mardan as Junior Clerk.

After that I have performed duty in various Courts/Officers i.e. (Judicial/Executive Magistrate/Revenue Courts as Reader/
Typist, Cane Clerk/Land Reforms).

In 2004 the Ex-President Pervez Mushraf dismissed
Deputy Commissioner as well as Commissioner, Mardan
Division, Mardan. Due this reason all staff were pushed into surplus
pool. I was adjusted as Secretary Union Council Mohabbat Abad
and still waiting for repatriat to my parent office.

In this respect I requested to please I may kindly be transferred
from Union Council to D.C. Office Mardan.


Your Obedient



Mustaq Ali
Secretary
Union Council Mohabbat Abad.

D. Abad 15443 DC (m)
27-11/

ATTESTED



22
Answer H



OFFICE OF THE DEPUTY COMMISSIONER, MARDAN

No. 3832 /DC (M)/DK/EA-04

Dated, Mardan the 03 / 12 /2019

(G) Ph# 0937-9230048-56

Fax No# 0937-9230303

email: dc_mardan0937@gmail.com

To:-

Mr. Mushtaq Ali Secretary,
Union Council Mohabat Abad.


Subject:- APPLICATION FOR TRANSFER FROM UNION COUNCIL
MOHABAT ABAD TO DC OFFICE MARDAN.

Memo:-

This is with reference to your application dated 27-11-2019 on the subject noted above.

You are working as Secretary Union Council Local govt Department and wants to be transferred/repatriated to Deputy Commissioner office Mardan being your parent department, which is against the Khyber Pakhtunkhwa (Appointment, Promotion & transfer) Rules, 1989, coupled with Board of Revenue Notification No.2074/Estt:I:II/135/SSRC dated 23-01-2015. Under the ibid rules, an explicit procedure is in place for appointment of junior Clerks i.e Initial recruitment through the prescribed procedure or by promotion from amongst the Class-IV employees, and there is no provision for repatriation of an employee in the said rules.

In view thereof, your request is hereby regretted.


Addl. Deputy Commissioner
Mardan

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ATTESTED H

The Honorable commissioner

Mardan Division Mardan.

Subject: APPEAL UNDER CIVIL SERVANT APPEL RULES 1986 AGAINST THE ORDER OF
DEPUTY COMMISSIONER MARDAN DATED 03-12-19

Dear sir,

1. It is submitted that appellant served as junior clerk in various courts/offices i.e. Judicial/Executive Magistrates/Revenue as Reader, Typist, Cane clerk/land reforms in DC office Mardan since 1993 till the devolution of DC office Mardan. But later on the appellant and many other fellows had gone into surplus pool due to devolution in DC office Mardan in 2002.

2. That later on the appellant have been adjusted as secretary Union council Mohabat abad Mardan w.e.f 24-03-2010.

3. That as DC office Mardan has started working again since 01-01-2013, and many of the Appellant's fellows which were adjusted to other Departments have been adjusted/repartriated back in DC office Mardan.

(Copies of the orders of adjusted fellows in DC office Mardan are annexed as Annexure A,B,C,D,E,and F).

4. That appellant having the same case as like above stated readjusted fellows in DC office Mardan had submitted an application before the worthy Deputy Commissioner Mardan for the readjustment/repartriatiion of appellant in DC Office Mardan being parent Department of the appellant. (copy of the Application is annexed as annexure G).

5. That the worthy and learned Deputy commissioner has not considered applicaton of the Appellant his request of adjustment/repartriatiion has been regrettd.(copy of the order of DC Mardan is attached as annexureH).

6. That the appellant file this appeal on the follwing :

i: That the case of the appellant and his adjusted/repartriated fellows are the same, as all were made surplus pool,then adjusted in other departments and later on when DC Office Mardan has again started working the aforementioned fellows of the appellant were adjusted/repartriated to DC Office Mardan.

ii: That the Khyber Pakhtoonkhwa Service Tribunal on 24/06/2015 has decided a case of identical nature titled as Haji Mohammad Jan Versus Govt

ATTESTED

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Khyber Pakhtoonkhwa Board of Revenue in which case the appellant has been adjusted/repartriated in DC Office, and the present appellant being similar placed person is also entitled to the same relief.

iii. That the same tribunal in another case of identical nature titled as KHalid Khan Vs The Govt of Khyber Pakhtoonkhwa through senior member of Revenue on 13/10/2017 has also adjusted/repartriated the appellant of that very case in DC Office Mardan, due to which reason the present appellant holding the same field and is entitled to the same relief.

iv. That the order of learned Deputy commissioner Mardan amount t discrimination among the same persons or officials of the same department having the same experience, skill and service record.

It is therefore most humbly prayed that on acceptance of this appeal, the present appellant may kindly be adjusted/repartriated in the DC Office Mardan alongwith seniority and other service benefits.

Dated: 23-12-19

Appellant

Mushtaq Ali

Secretary Union Council

Mohabbat Abad Mardan.

Through
ADVNOOR UL AMIN KHAN
HC.

no 220
Date of Application 09-3-2020
Name of Applicant ASGHAR
Ward 190 Fee Rs
Dyunt Fee _____
Elt of Copyist _____
Date of Presentation _____

12/4/21

ATTESTED

Examiner/Reader
Additional Commissioner's Court
Mardan Division, Mardan
12/4/2021

ATTESTED

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2019



**IN THE COURT OF ABDUL KABIR KHAN ADDITIONAL COMMISSIONER
MARDAN DIVISION MARDAN.**

Mushtaq Ali

Appellant

Vs

Handwritten signature of the respondent.

Deputy Commissioner Mardan

Respondent

Case No..... /4RMC
Date of institution: 26/12/2019
Date of Decision: 17/02/2020

**DEPARTMENTAL APPEAL AGAINST THE ORDER
03/12/2019 PASSED BY THE DEPUTY COMMISSIONER
MARDAN.**

ORDER:-

This is a departmental appeal against the order dated 03/12/2019 whereby an application of the present appellant for transfer from Union Counsel Mohabbat Abad to DC Office Mardan. Feeling aggrieved from the said order, the present appellant filed an appeal before this court.

Concisely stated facts of the case are that the appellant was appointed as Junior clerk BPS-5 in the year 1993 in the Deputy Commissioner Office Mardan. In the year 2001, the commissionerate system was abolished due to which the appellant was declared surplus. Thereafter, the appellant was adjusted Secretary Union Council. In this connection, the present appellant filed an application for repatriation before the court of Deputy Commissioner Mardan which was regretted vide order dated 03/12/2019. Feeling aggrieved from the said order, the present appellant filed an appeal before this court.

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Today counsel for the appellant made arguments stated that the present appellant appointed in the DC, office Mardan as junior clerk vide office order during the year 1993. After the devolution of power during the year 2001, the official/appellant was declared as a surplus. Later on during the year 2010, the official adjusted as union counsel secretary. Now as the office of the defunct DC, office has been restored in the year 2013. The

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learned counsel further argued that the appellant is entitled to be re-adjusted in the office of DC, Mardan. The present appellant has moved an application for re-adjustment in the office of Deputy Commissioner Mardan.

From perusal of the available record and arguments of the respective counsel, it transpires that the official was appointed a junior clerk in the office of the Deputy Commissioner Mardan. As and when devolution plan during the year 2001 was implemented, the official was declared as surplus. And later on, he was adjusted as a union Counsel secretary in the local Govt department in the District Mardan. The surplus pool policy was specific for some time. After lapse of round about 20 years, re-adjustment of the present appellant in the office of the Deputy Commissioner Mardan is not according to law. Moreover, the application of the present appellant was re-adjustment is also barred by time.

As a sequel to the above discussion, the instant appeal has no force and is devoid of merit. The order passed by the Deputy Commissioner Mardan dated 03/12/2019 is based on merit, fulfill the ends of justice, warrant no interference. Consequently, the appeal in hand is hereby dismissed. Parties are left to bear their own cost.

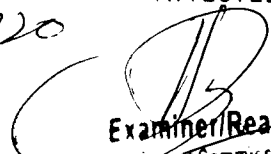
File be consigned to record room after necessary completion.


Announced.
17/02/2020


Abdul Kabir Khan
Additional Commissioner
Mardan Division, Mardan

This order consists of two pages. Each and every page has been read and signed by me.

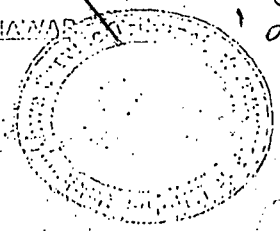
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Date of Application... 02-3-2020
Name of Applicant...
Wards...
District...
12/4/21

ATTESTED

Examiner/Reader
Additional Commissioner's Court
Mardan Division Mardan
12/4/21


Abdul Kabir Khan
Additional Commissioner
Mardan Division, Mardan

Appeal No. 992/2012

Date of Institution: 11.9.2012
Date of Decision: 3.01.2013



Zahoor Ahmad, Secretary U/C Rustom/Senior Clerk,
Mardan.

(Appellant)

Don & K

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary, Establishment & Administration Civil Secretariat, Peshawar.
2. The District Coordination Officer, District, Mardan.
3. The District Officer (Revenue & Estate), Peshawar.
4. Samiullah, Junior Clerk, Distt. Officer (R&E) Mardan.
5. Muhammed Sohail, Junior Clerk, District Officer (R&E) Mardan.
6. Ghulam Sarwar, Junior Clerk, DCO office, Mardan. (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT 1974, AGAINST THE IMPUGNED ORDER COMMUNICATED VIDE LETTER DATED 4.9.2012 ISSUED BY RESPONDENT NO. 2 VIDE WHICH THE DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS REJECTED/FILED.

MR. KHALID RAHMAN,
Advocate

For appellant.

MR. SHERAFGAN KHATTAK,
Addl. Advocate General

For official respondents.

MR. AMJAD ALI,
Advocate

For private respondents.

MR. NOOR ALI KHAN,
SYED MANZOR ALI SHAH,

MEMBER
MEMBER

JUDGMENT

MR. NOOR ALI KHAN, MEMBER - This appeal has been filed by Zahoor Ahmad, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 4.9.2012 issued by respondent no.2, whereby his departmental appeal for repatriation to parent department has been rejected. It has been prayed that on acceptance of the appeal, the impugned order may be set aside and the appellant be repatriated to his parent department and adjusted against the vacant post of Senior Clerk with all other consequential benefits.

ATTESTED

[Signature]

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True copy

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.999/2012

Date of Institution 11.09.2012

Date of Decision 3.01.2013

Zahoor Ahmad, Secretary U/C Rustam/Senior Clerk,
Mardan.

(Appellant)

VERSUS

1. The Gov of Khyber Pakhtunkhwa through Secretary, Establishment & Administration Civil Secretariat, Peshawar.
2. The District Coordination Officer, District Mardan.
3. The District Officer (Revenue & Estate) Peshawar.
4. Samiullah, Junior Clerk, Distt: Officer (R&E), Mardan.
5. Muhammad Sohail, Junior Clerk, District Officer (R&E), Mardan.
6. Ghulam Sarwar, Junior Clerk, DCO Office, Mardan. (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER COMMUNICATED VIDE LETTER DATED 4.9.2012 ISSUED BY RESPONDENT NO.2 VIDE WHICH THE DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS REJECTED/FILED.

MR. KHALID RAHMAN,
Advocate

For appellant.

MR. SHERAFGAN KHATTAK
Addl: Advocate General

For official respondents

MR. AMJAD ALI,
Advocate

For private respondents.

MR. NOOR ALI KHAN
SYED MANZOOR ALI SHAH

Member
Member

JUDGMENT

NOOR ALI KHAN, MEMBER - This appeal has been filed by Zahoor Ahmad, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 4.9.2012 issued by respondent no.2, whereby his departmental appeal for repatriation to parent department has been rejected. It has been prayed that on acceptance of the appeal, the impugned order may be set aside and the appellant be repatriated to his parent department and adjusted against the vacant post of Senior Clerk with all other consequential benefits.

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2. Brief facts of the case are that the appellant was initially appointed as Junior Clerk on 3.6.1982 in the office of the then Deputy Commissioner Mardan and later on promoted to the post of Senior Clerk. The department has also maintained service book of the appellant wherein necessary entries have been made from time to time. At the moment appellant has at his credit more than 29 years service. In the year 2001 the Devolution system was introduced under which the Commissionerate System was abolished resultantly appellant and others were declared surplus and were placed under the surplus pool. Vide order dated 8.9.2001 appellant was adjusted as Secretary Union Council Maho Dheri Mardan and later on posted to Union Council Rustan (Mardan) where he has been performing his duties till date. Recently three vacancies of Senior Clerks in the office of respondent No. 3 became vacant. The appellant filed departmental representation to respondent No. 2 on 23.6.2012 for his adjustment against one of the posts, which was rejected/filed vide impugned order communicated vide letter dated 4.9.2012, hence the present appeal.

3. The appeal was admitted to regular hearing on 20.9.2012 and notices were issued to the respondents. The respondents have filed their written replies and contested the appeal. The appellant also filed rejoinder in rebuttal.

Arguments heard and record perused.

The learned counsel for the appellant argued that the appellant has not been treated in accordance with the law, rules and policy on the subject. In similar circumstances other colleagues of the appellant namely Malak Junaid, Israr Muhammad, Liaqat Ali, Kifayatur Rahman, Junior Clerks working in Defunct Deputy Commissioner office became surplus due to devolution plan and then adjusted in other departments. On creation of posts, they were repatriated and readjusted in their parent department. Mr. Liaqat Ali and Kifayatur Rahman, who were adjusted in the Education Department, Malak Junaid and Israr Muhammad in Excise & Taxation Department were repatriated and readjusted in DOR office Mardan. Similarly private respondent No. 4 namely Samiullah, who was adjusted as Secretary Union Council, has been transferred mutually and adjusted as Junior Clerk in DOR office Mardan vide order dated 26.1.2006. Likewise, M/S Murid Ali, Assistant, adjusted in Fisheries/Agriculture Department, Khalid Pervaiz, Senior Clerk in Education Department, Aftab Ali Junior Clerk in Health Department, Syed Shah Hussain, Junior Clerk in Education Department, Syed Manzoor Shah, Lab. Assistant in Education Department, and Tahir Hussain, Lab. Assistant in Education Department were repatriated and re-adjusted in Commissioner office Mardan, vide order dated 11.7.2009. On 1.8.2009, six more officials of various categories adjusted in other

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4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that the appellant has not been treated in accordance with the law, rules and policy on the subject. In similar circumstances other colleagues of the appellant namely Malak Junaid, Israr Muhammad, Liaqat Ali, Kifayatur Rahman. Junior Clerks working in Defunct Deputy Commissioner office became surplus due to devolution plan and then adjusted in other departments. On creation of posts, they were repatriated and readjusted in their parent department. Mr. Liaqat Ali and Kifayatur Rahman who were adjusted in the Education Department, Malak Junaid and Israr Muhammad in Excise & Taxation Department were repatriated and readjusted in DOR office Mardan. Similarly, private Respondent No.1 namely Samiullah, who was adjusted as Secretary Union Council, has been transferred mutually and adjusted as Junior Clerk in DOR office Mardan vide order dated 26.1.2006. Likewise, M/S Murad Ali, Assistant, adjusted in Fisheries/Agriculture Department, Khalid Pervez, Senior Clerk in Education Department, Aftab Ali Junior Clerk in Health Department, Syed Shah Hussain, Junior Clerk in Education Department, Syed Maqbool Shah, Lab. Assistant in Education Department, and Tariq Hussain, Lab. Assistant in Education Department were repatriated and re-adjusted in Commissioner office Mardan, vide order dated 8.7.2009. On 1.8.2009, six more officials of various categories adjusted in other

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departments permanently have been repatriated and re-adjusted in their parent department i.e. Commissioner's office Mardan. He further argued that no policy regarding adjustment of ex-staff has been framed by the respondents as yet, and they are trying to adjust them through pick and chose, the practice against the law/rules. All the citizens are equal before law and should be treated equally in accordance with the law as per Articles 4 and 25, of the Constitution of Islamic Republic of Pakistan. The appellant being adjusted against a wrong post was more deserving for repatriation and adjustment in his parent department but he has been discriminated. He requested that the appeal may be accepted as prayed for.

6. The learned counsel for private respondents No. 4 to 6 opposed the plea taken by the appellant regarding repatriation of his other colleagues to the office of District Officer (Revenue & Estate) Mardan because the persons as referred to above are almost Junior Clerks and Assistants while the appellant is a Senior Clerk. The appellant while serving as Senior Clerk in the defunct Deputy Commissioner Office Mardan became surplus due to devolution plan. He was then adjusted as Secretary Union Council and after 11 years service under District Government, he could not ask for his repatriation to his parent department. In fact there are three posts of Senior Clerk lying vacant in the District Officer (R&E), DCO and Finance & Planning offices Mardan against which D.C meeting was called to consider the promotion cases of Junior Clerks including the private respondents, and if the appellant is repatriated, the private respondents would suffer irreparable loss and would be deprived of their legitimate rights of promotion. He requested that the appeal may be dismissed. The learned AAG also adopted the arguments advanced by the learned counsel for the private respondents.

7. The Tribunal observes that after devolution plan in the year 2001, officials of various categories serving in the defunct Commissioner and Deputy Commissioner offices became surplus. The appellant while serving as Senior Clerk in the office of Defunct Deputy Commissioner office Mardan had also been declared surplus. He was then adjusted as Secretary Union Council in his own pay and scale. On creation of DCOs, DOR offices and restoration of commissionerates, the official respondents started repatriation/adjustment of their ex-staff without framing policy/instructions. They must frame a unified policy for adjustments of their old staff on the basis of experience and other factors, but no such policy framed and adopted the practice of pick & chose. The appellant being adjusted against the wrong post as Secretary Union Council in his own pay and scale was more deserving for adjustment in his parent department but he has been denied for an plausible reason.

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In view of the above discussion, the Nos. 2 and 3 are directed to repatriate the appellant to his parent department and adjust him against the vacant post of Senior Clerk. It is further observed that Devolution plan of General Musharraf (R) had played havoc upon and broken the back-bone of Administrative set up. Since government is again restoring Commissionerate system, therefore, instead of fresh recruitments and repatriating the their experience staff at random, government should make amendment in "surplus staff adjustment policy" specially with respect to Ex-Commissioner and Deputy Commissioner offices staff only for readjustment to facilitate smooth running of the above referred offices.

b. This order will also dispose of Service Appeal No. 1097/2012 titled "Hamid Ali Taj Versus the Government of Khyber Pakhtunkhwa through Secretary Establishment & Administration Department, Peshawar etc.", in the same manner.

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11/2013

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Date of Issuance of this order 10/1/2013
10/1/2013
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8. In view of the above discussion, the instant appeal is _____ and Respondents No.2 and 3 are directed to repatriate the appellant to his parent department and adjust him against the vacant post of Senior Clerk. It is further observed that Devolution plan of General Musharaf (R) had played havoc upon and broken the back bone of Administrative set up. Since government is again restoring Commissinerate System, therefore, instead of fresh recruitments and repatriating the then experience staff at random, government should make amendment in "*surplus staff adjustment policy*" specially with respect to Ex-Commissioner and Deputy Commissioner offices staff only for readjustment to facilitate smooth running of the above referred offices.

9. This order will also dispose of Appeal No.1002/2012 titled "Hamid Ali Taj Versus The Government of Khyber Pakhtunkhwa through Secretary Establishment & Administration Department, Peshawar etc." in the same manner.

Sd/-

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3.01.2013

MR. NOOR ALI KHAN Member

Sd/-

SYED MANZOOR ALI SHAH Member

AS

Date of order/proceedings

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Order or other proceedings with signature of Judge/Magistrate

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 1192/2014

Haji Ahmad Jan. Versus the Government of Khyber Pakhtunkhwa Board of Revenue, through its Senior Member, Peshawar etc.

24.06.2015

JUDGMENT

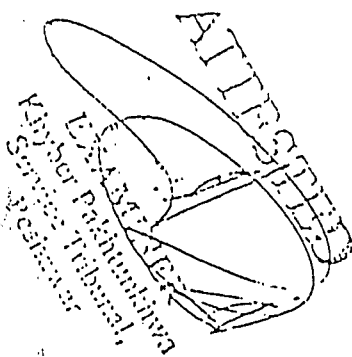
PIR BAKHSH SHAH, MEMBER. Appellant with

counsel (Mr. Khalid Rahman, Advocate) and Government Pleader (Mr. Muhammad Jan) with Naeem Khan, Assistant for the respondents present.

2. Appellant was appointed as Junior Clerk in the office of Deputy Commissioner, Charsadda vide order dated 01.08.1988. In the wake of devolution plan in the year, 2001, the appellant was declared surplus and adjusted as Secretary, Union Council under the District Government vide order dated 13.08.2001. That in the year, 2012 the Local Government Ordinance was abolished and the Commissionerate system was restored and the appellant was re-adjusted in the office of Deputy Commissioner Charsadda and posted as Reader to Tehsildar Charsadda vide order dated 14.4.2013 and is still serving there. His prayer per impugned order is as follows:

"The appellant's prayer is that since his other colleagues were repatriated/re-adjusted in the office of DOR/DCO (now Deputy Commissioner Office) Charsadda, he is also entitled to be readjusted/repatriated in the same manner."

With the said prayer, he moved representation before



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Commissioner, Peshawar which was rejected vide order dated 10.09.2014, hence the present appeal before this Tribunal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

3. It was submitted by the learned counsel for the appellant that the appellant had rendered 29 years of his service, all under and in the offices of the Deputy Commissioner/District Coordination Officer/District Officer (Revenue & Estate)/Collector with rich experience. It was argued that inspite of adjustment as Secretary Union Council, the appellant was kept posted with district administration right from the year, 2001 till date. While referring to para-6 of the appeal, the learned counsel submitted that cases of Muhammad Zahir Shah etc. were similar to the case of present appellant, who have been re-adjusted in the office of Deputy Commissioner unlike the appellant who was not extended this treatment despite his rich experience and thus discriminated. The learned counsel for the appellant in support of his contention referred to Article 4 and 25 of the Constitution of Islamic Republic of Pakistan. He further maintained that this Tribunal while disposing of an identical case of Zahoor Ahmad and Hamid Ali Taj in Service Appeal No. 999/2012 decided on 03.01.2013, had directed the respondent-department to repatriate the appellants to their parent department and to adjust them against vacant posts. While referring to 1996-SCMR-1185, 2005-SCMR-499 and 2009-SCMR-1, the learned

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counsel for the appellant stressed that the respondent-department is legally bound to act upon decision of the courts/Tribunal in cases of those government servants, who might not have filed separate appeals. While concluding the arguments, the learned counsel for the appellant stated that the instant appeal may be allowed.

4. The learned Government Pleader resisted this appeal on the grounds that at the relevant time, the appellant had been adjusted as indicated in the impugned order and there is no provision of re-adjustment in surplus pool policy. He defended that the impugned order and requested that the instant appeal being devoid of merits, may be dismissed.

5. We have heard arguments of the parties and have perused the record.

6. This is not disputed that in the year 1988, the appellant was appointed as Junior Clerk in the office of Deputy Commissioner, Charsadda. It was also not disputed that the appellant remained posted in the offices of D.C/DOR despite his adjustment as Secretary Union Council under the District Government Department. His rich experience also cannot be denied. We have carefully gone through the impugned order and have reached on the conclusion that Commissioner, Peshawar in his impugned order has ^{not} properly appreciated in letter and spirit this Tribunal judgment rendered in appeal No. 999/2012 decided on 03.1.2013. For facility of

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Kindal Peshawar
Secretary

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Deputy Commissioner offices staff only for re-adjustment to facilitate smooth running of the above referred offices".

7. While perusing the impugned order in the back-drop of the said paragraphs, it becomes evident that the cited judgment was not appreciated in letter and spirit nor any cogent and convincing ground was given in the impugned order for any distinction.

8. In the light of the stated position of the case, the Tribunal is of the considered view that having arguable case on the touch-stone of the grounds of discrimination and a previous decision of this Tribunal in another Service Appeal No. 999/2012 *ibid*, the instant case is remanded to the respondent No. 1 to look into the matter strictly in accordance with judgment in appeal No. 999/2012 and to re-decide the matter within a period of two months of the receipt of this judgment. Needless to mention that the impugned order stand, set aside. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
24.06.2015

Certified

[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

By Sir B. Malik Shah
By Abdul Latif

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Date of Presentation of Application 1-7-2015

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Date of Copy

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GOVERNMENT OF N.W.F.P.
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
(REGULATION WING)

NO. SOR-1(E&AD)-2000
Dated Peshawar the 5th June 2001

HYDER

- 1) All Administrative Secretaries in NWFP.
- 2) The Secretary to Governor, N.W.F.P.
- 3) All Commissioners in N.W.F.P.
- 4) All Heads of Attached Department in N.W.F.P.
- 5) All Heads of Autonomous/Semi Autonomous Bodies in NWFP.
- 6) The Registrar, Peshawar High Court, Peshawar.
- 7) All Districts & Session Judges in NWFP.
- 8) All Deputy Commissioners/Political Agents in NWFP.
- 9) The Secretary, NWFP Public Service Commission, Peshawar.
- 10) The Director, Anti-Corruption Establishment, Peshawar.
- 11) The Registrar, NWFP Service Tribunal, Peshawar.

SUBJECT: POLICY FOR DECLARING GOVERNMENT SERVANTS AS SURPLUS AND THEIR SUBSEQUENT ABSORPTION/ADJUSTMENT

Sir,

I am directed to refer to the subject noted above and to say that the Provincial Government has been pleased to make the following policy for absorption/adjustment of Government Servants declared as surplus in view of the transition of District System and resultant re-structuring of the Government Organizations/Departments etc:

1. POWER WITH REGARD TO THE DECLARATION OF POSTS AS SURPLUS.

The Finance Department in consultation with Department concerned and with the approval of competent authority would decide with regard to the declaration of a particular organization, set up or individual post as redundant or inessential.

2. CREATION OF SURPLUS POOL.

There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawal of pay and allowances etc by the employees declared surplus as such.

3. IMPLEMENTATION/MONITORING CELL.

For the purpose of co-ordination and to ensure proper and expeditious adjustment / absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:

- | | | |
|--|-------|-----------|
| a. Additional Secretary (Establishment) E&AD | | Chairman |
| b. Deputy Secretary LG& RD Department | | Member. |
| c. Deputy Secretary Finance Department. | | Member. |
| d. Deputy Secretary (Establishment) E&AD. | | Secretary |

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GOVERNMENT OF N.W.F.P.
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
(REGULATION WING)

Annex-M

NO. SOR-I(E&AD)1-200/98,
Dated Peshawar the 8TH June /2001

To

- 1) All Administrative Secretaries in NWFP.
- 2) The Secretary to Governor, N.W.F.P.
- 3) All Commissioners in N.W.F.P.
- 4) All Heads of Attached Department in N.W.F.P.
- 5) All Heads of Autonomous/Semi-Autonomous Bodies in NWFP.
- 6) The Registrar, Peshawar High Court, Peshawar.
- 7) All Districts & Session Judges in NWFP.
- 8) All Deputy Commissioners/Political Agents in NWFP.
- 9) The Secretary, NWFP Public Service Commission, Peshawar.
- 10) The Director, Anti-Corruption Establishment, Peshawar.
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There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawl of pay and allowances etc by the employees declared surplus as such.

3. IMPLEMENTATION/MONITORING CELL.

For the purpose of coordination and to ensure proper and expeditious adjustment / absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:-

- | | | |
|--|-------|-----------|
| a. Additional Secretary (Establishment) E&AD | | Chairman. |
| b. Deputy Secretary LG& RD Department. | | Member. |
| c. Deputy Secretary Finance Department. | | Member. |
| d. Deputy Secretary (Establishment) E&AD. | | Secretary |



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CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS SURPLUS AND RESULT OF ABOLITION OF POST

Consequent upon the abolition of a post in a particular cadre of a department, the senior most employee in that cadre would be declared as surplus. Such posts should be abolished in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawl of pay and allowances, and also for consideration for subsequent adjustment.

DIVISION

PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES

Notwithstanding anything contained in any other law, rules or regulation to the contrary, for the time being in force, the following procedure for the adjustment of surplus staff should be followed:

- (a) Before transferring an employee to the surplus pool, he should be given option by the concerned department:
 - (i) to proceed on retirement with normal retiring benefits under the existing rules;
 - OR
 - (ii) to opt for readjustment/absorption against a future vacancy of his status, which may not necessarily be in his original cadre & department.

(b) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the Surplus Pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustment shall be on seniority-cum-fitness basis. For this purpose the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.

(c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner:

- (i) In case of a vacant post, the senior most employee in the surplus pool shall be adjusted first.
- (ii) In case of a vacant post, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.
- (iii) If an employee possesses the basic academic qualification, but lacks the professional/technical qualification, he may be adjusted against such post subject to his possessing the requisite skill.
- (iv) If an employee holding a post, which falls in the recruitment quota, is available in the Department, he shall continue in the surplus pool till the availability of a post in the post, which falls in the recruitment quota.

OR

(b) Where no equivalent post is available the civil servant may be offered a lower post in such manner, and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately preceeding his appointment to a lower post shall remain protected.

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4. CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS SURPLUS AS A RESULT OF ABOLITION OF POST.

Consequent upon the abolition of a post in a particular cadre of a department, the junior most employee in that cadre would be declared as surplus. Such posts should be abolished in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawl of pay and allowances and also for consideration for subsequent adjustment

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(a) Before transferring an employee to the surplus pool, he should be given option by the concerned department

(i) to proceed on retirement with normal retiring benefits under the existing rules;

OR

(ii) to opt for readjustment/absorption against a future vacancy of his status/BPS which may not necessarily be in his original cadre/department.

(b) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the Surplus Pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustment shall be on seniority-cum-fitness basis. For this purpose the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.

(c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner: -

(i) In case of occurrence of vacancies in their corresponding posts in any Government Department/Organization, the senior most employee in the surplus pool should be adjusted first

(ii) In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.

(iii) If an employee possess the basic academic qualification but lacks the professional/technical qualification, he may be adjusted against such post subject to imparting the requisite training.

(iv) (a) The surplus employees holding such posts which fall to promotion quota in about all the Departments, he shall remain in the surplus pool till the availability of a post in the parent department.

OR

(b) Where no equivalent post is available the civil servant may be offered a lower post in such manner, and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately proceeding his appointment to a lower post shall remain protected.

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- (a) If no suitable person is available in the surplus pool to be adjusted against the vacant/revived post, such a post would be filled up by initial recruitment in the prescribed manner after getting clearance from the E&AD.
- (c) Surplus staff should be adjusted preferably in their home District(s). If not possible, then within the same Division, if staff is adjusted away from their District of Origin in the first instance then on availability of post in their home District, adjustment near to their home station.
- (d) To facilitate the adjustment of surplus staff, the Government upon the Administrative Department to take up the case with the Department for revival of the essential posts so retrenched as a result of general directive issued by Finance Department from time to time, giving cogent reasons/justification. Against the resultant revival/restoration of the post, the concerned Department will place a requisition on the E&AD for transferring of a suitable surplus employee against the said post.
- (e) Unless the surplus employees in Class IV are fully adjusted/absorbed against their respective graded posts in various Government Department/Organizations, the general policy of the Finance Department regarding conversion of BPS-1 & 2 posts to posts in fixed salary @ Rs. 2000/- per month for contractual appointed should be restricted to the above extent.

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VISION

FIXATION OF SENIORITY

The inter-se seniority of the surplus employees after their adjustment in various Department will be determined according to the following principles:-

- (a) In case of surplus employee who is adjusted in the respective cadre of his parent department, he shall be placed in the seniority list of that cadre.
- (b) In case, however, he is adjusted in the respective cadre but in a Department other than his parent Department, he shall be placed at the bottom of seniority list of that cadre.
- (c) In case of his adjustment against a post in a corresponding basic pay scale with a different designation/nomenclature of the post either in his parent department or in any other department, he shall be placed at the bottom of seniority list.

NOTE:

In case the officer/official declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall lose the facility/right of adjustment/absorption and would be required to opt for premature retirement from Government service.

Provided that if he does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent authority.

COMPETENT AUTHORITY TO NOTIFY ORDER ADJUSTMENT/ ABSORPTION.

After the transfer of services of surplus employee to a Department for adjustment/absorption against a vacant/revived post, the Competent Authority to notify/order his absorption/adjustment, shall be the respective appointing authority under the relevant rules for the post.

Provided that the decision of adjustment/absorption of surplus employees by the E&AD shall be binding upon the respective appointing authorities.

Yours Obedient Servant
(MUNIR AHMED HANAYUN)
ADDITIONAL SECRETARY (REGULATION)

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- (d) If no suitable person is available in the surplus pool to be adjusted against the vacant/revived post, such a post would be filled up by initial recruitment in the prescribed manner after getting clearance from the E&AD.
- (e) Surplus staff should be adjusted preferably in their home District(s). If not possible, then within the same Division, if staff is adjusted away from their District of Domicile in the first instance then on availability of post they should be considered for adjustment near to their home station.
- (f) To facilitate the adjustment of surplus staff, it will be incumbent upon the Administrative Department to take up the case with Finance Department for revival of the essential posts so retrenched as a result of general directive issued by Finance Department from time to time, giving cogent reasons/justification. Against the resultant revival/restoration of the post, the concerned Department will place a requisition on the E&AD for transferring of a suitable surplus employee against the said post.
- (g) Unless the surplus employees in Class-IV are fully adjusted/absorbed against their respective graded posts in various Government Department/Organizations, the general policy of the Finance Department regarding conversion of BPS-1 & 2 posts to posts in fixed salary @ Rs. 2000/- per month for contractual appointed should be restricted to the above extent.

6

FIXATION OF SENIORITY

The inter-se seniority of the surplus employees after their adjustment in various Department will be determined according to the following principles:-

- (a) In case a surplus employee could be adjusted in the respective cadre of his parent department he shall regain his original seniority in that cadre.
- (b) In case, however, he is adjusted in his respective cadre but in a Department other than his parent Department, he shall be placed at the bottom of seniority list of that cadre.
- (c) In case of his adjustment against a post in a corresponding basic pay scale with different designation/nomenclature of the post, either in his parent department or in any other department, he will be placed at the bottom of seniority list.

NOTE:-

In case the officer/official declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall lose the facility/right of adjustment/absorption and would be required to opt for premature retirement from Government service.

Provided that if he does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent authority

7.

COMPETENT AUTHORITY TO NOTIFY/ORDER ADJUSTMENT/ ABSORPTION.

After the transfer of services of surplus employee to a Department for adjustment/absorption against a vacant/revived post, the Competent Authority to notify/order his absorption/adjustment, shall be the respective appointing authority under the relevant rules for the post.

Provided that the decision of adjustment/absorption of surplus employees by the E&AD shall be binding upon the respective appointing authorities.

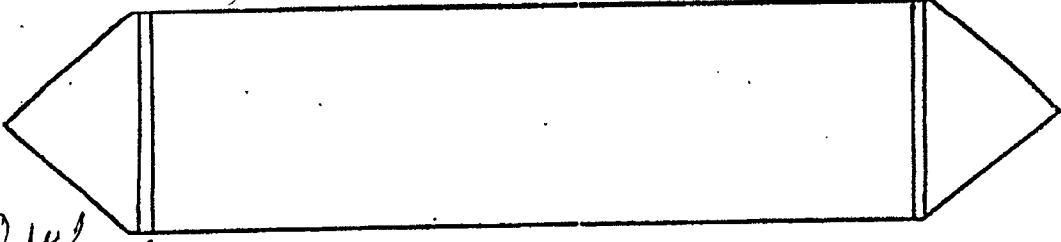
Yours Obedient Servant

(MUHAMMAD HAMYUN) 8.6.2001

ADDITIONAL SECRETARY (REGULATION)

Handwritten signature/initials

بعد التكاليف من مزاد من مزاد من مزاد



محمد مجانب
بیتام

صفا حاصل

موزخه
مقدمه
دعوی
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ
آن مقام کے لئے مقرر کیے گئے۔
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جات التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم ۵/۱۰/۲۰۲۱

واہ العب

کے لئے منظور ہے۔

بمقام

"B"

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

No.

Appeal No. S791 of 20 21

Mst. Bibi Rozia Appellant/Petitioner

Versus

Court of KP Chief Secy Respondent

Respondent No. 2

2/10/11

Notice to: Court of KP through Secretary
FRSE Deptt Peshawar.

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

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

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

Given under my hand and the seal of this Court, at Peshawar this 15/12

Day of Oct 20 21

(For Reply)

**Khyber Pakhtunkhwa Service Tribunal,
Peshawar.**
and Gazetted Holidays.

- Note:
1. The hours of attendance in the court are the same that of the High Court except on public holidays.
 2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No. S 791 of 20 21
Mrs. Shatair Ali Appellant/Petitioner
Versus
Govt. of KP through S.M.B.R. Respondent
Respondent No. 1

Notice to: — The Govt. of KP through S.M.B.R. Peshawar.

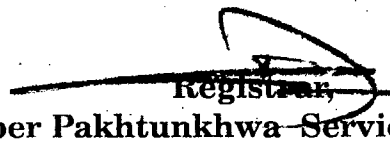
WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition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

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

Given under my hand and the seal of this Court, at Peshawar this 20th Day of Oct 20 21

(for Reply)


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

“B”

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

No.

Appeal No..... 5791 of 20 . 21

..... Mrs. Bibi Razia Appellant/Petitioner

Versus

..... Court of KP through Chief Secy Respondent

Respondent No..... 1

Notice to: —

Court of KP through Chief Secretary
Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... 15/7/21 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

Given under my hand and the seal of this Court, at Peshawar this..... 15/7/21

Day of..... 15/7/21 of 20 . 21

(for Reply)

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

"B"

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

No.

Appeal No. 5791 of 20 21
Mst: Bibi Razia Appellant/Petitioner
Vs. CF KPK Chief Secy. Respondent
Respondent No. 3

Notice to: —

Director E & SE KPK Peshawar

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

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

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

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

Day of.....20 21

(for Reply)
16/11


Registrar,

? Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

"B"

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

No.

Appeal No..... 5791 of 20 21

..... Mushfaq Ali Appellant/Petitioner

Versus

..... The Govt. of KPK Through S.M.B.R Respondent

Respondent No..... 1

Notice to: — The Govt. of KPK Through Senior Member Board of Revenue Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed, that the said appeal/petition is fixed for hearing before the Tribunal *on..... 1/2/22 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

Given under my hand and the seal of this Court, at Peshawar this..... 19th
Day of..... Jan 20 22

(for Reply)


Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Appeal No. 5791 of 2021

Mushtaq Ali, Ex. Junior Clerk, Office of the Deputy Commissioner, Mardan, now posted as Secretary Union Council Hoti, Local Govt Department, Mardan.

..... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, Peshawar.
2. The Commissioner, Mardan Division, Mardan.
3. Deputy Commissioner, Mardan(Respondents)

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3	Authority Letter		8


Asstt Estt DC Office, Mardan

1

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

Appeal No. 5791 of 2021

Mushtaq Ali, Ex. Junior Clerk, Office of the Deputy Commissioner, Mardan, now posted as Secretary Union Council Hoti, Local Govt Department, Mardan.

..... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, Peshawar.
2. The Commissioner, Mardan Division, Mardan.
3. Deputy Commissioner, Mardan(Respondents)

Respected Sheweth:

Preliminary Objections:

1. The appellant has got no cause of action.
2. The appellant has not come to the Tribunal with clean hands.
3. This Honorable Tribunal has got no jurisdiction.
4. The appeal is hopelessly time barred.
5. The appellant has no locus Standi to file this appeal because he is not an employee of DC office but of Local Govt Department.

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO.2 & 3

REPLY ON FACTS:

1. Pertains to record hence no comments are offered.
2. In light of Surplus Pool Policy, the appellant was put on Surplus Pool and was later on adjusted in Local Govt Department as Secretary Union Council on his willingness. Dozens of surplus employees of the defunct DCO office, Mardan, who were subsequently adjusted in different departments as per policy, are still working in their concerned departments.
3. His request has been regretted on merit and the same was time-barred as well.
4. Incorrect. Every case has its own merits.

REPLY ON GROUNDS:

- A. Incorrect, the appellant has been treated in accordance with law & rules.
- B. The judgment referred to in the instant para has been misconstrued. Because in the said judgment, the Govt was asked to make necessary amendment in the surplus pool policy, which has not yet been made. Therefore, the

the surplus pool policy, which has not yet been made. Therefore, the unamended surplus pool policy does not cover his case because there is no mention in the surplus pool policy of subsequent adjustment/re-adjustment & repatriation to parent department of an already adjusted surplus pool employee in another department. **(Copy of Surplus Pool Policy is Annex-A of the Comments).**

- C. Incorrect. The appellant has not been discriminated as already stated that large number of surplus employees of the defunct DCO office, Mardan, who were subsequently adjusted in different departments as per policy, are still working in their concerned departments e.g. Sajad & Adul Dayan J/Clerks working in Education Department; Hidayat, Masroor Shah and Tila Muhammad are working in Excise & Taxation Department; whereas Mumtaz Khan, Rasheed, Wazir, Wilayat Shah, Roidad Gul are working in Local Governmentt Department; and many more.
- D. The appellant was adjusted in accordance with para-5 of the Surplus Pool Policy. After his adjustment in Local Govt department, the appellant is no more a surplus employee. Furthermore, there is no provision in Surplus Pool Policy regarding repatriation/readjustment in parent department, which only provides the procedure for adjustment of the surplus employees.
- E. The respondent also seeks permission of this Honorable Tribunal to adduce further grounds during arguments.

Pertinent to mention that Office of the Deputy Commissioner has been restored with new dimensions and work-style-- almost all of the sections have been transformed on modern footings i.e. digitized Domicile branch with e-domicile & home delivery of Domicile, digitized General Record Room, digitized revenue court cases, delivery of e-fardat and e-applications, e-diary & dispatch. Besides new tasks of Pakistan Citizen portal, PMRU, IPMS, Revenue Case Management System, Activity Tracking System, Good Governance framework, Digital Price Fixation Monitoring System, land record tracking system, digital HRM system, DPMF and KP IT Board Assassy online portal management. All these require fresh blood and computer literate human resource. This office has just 29 sanctioned posts of Junior Clerks (16 posts in initial recruitment quota), and more than half are not acquainted with computer due to which this office is already faced with issue of avaiiability of modernize and up to the task Human Resource. As such re-adjusting employees of the erstwhile DC office remained

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alien to the work and environment of District Collectorate for decades will be injustice with this office as well as with the public. Readjustment of the already adjusted Surplus employees of DC office, in different departments, will impede the velocity of reforms and new ideas of service providing to the public. Furthermore, it will trigger an unending influx of employees of the erstwhile DC office adjusted in different departments, which will not only affect seniority & promotions of the J/Clerks served the DC office for decades but will also stop gateways for fresh blood into the District Collectorate.

In view of the above, the appeal is baseless; therefore it is requested to be dismissed in limine.


DEPUTY COMMISSIONER
MARDAN (Respondent No.3)


(COMMISSIONER)
MARDAN DIVISION, MARDAN
(Respondent#2)



Surplus Pool Policy

Policy for declaring government servants as surplus and their subsequent absorption/ adjustment.

I am directed to refer to the subject noted above and to say that the Provincial Government has been pleased to make the following policy for absorption/adjustment of Government Servants declared as surplus in view of the transition of District System and resultant re-structuring of the Government Organizations/Departments etc.

1. POWER WITH REGARD TO THE DECLARATION OF POSTS AS SURPLUS.

The Finance Department in consultation with Department concerned and with the approval of competent authority would decide with regard to the declaration of a particular organization, set up or individual post as redundant or inessential.

2. CREATION OF SURPLUS POOL

There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawl of pay and allowances etc by the employees declared surplus as such.

3. IMPLEMENTATION/MONITORING CELL

For the purpose of coordination and to ensure proper and expeditious adjustment/ absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:-

- a. Additional Secretary(Establishment) E&AD.....Chairman.
- b. Deputy Secretary LG&RD Department.....Member
- c. Deputy Secretary Finance Department.....Member
- d. Deputy Secretary(Establishment) E&AD.....Secretary

4. CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS SURPLUS AS A RESULT OF ABOLITION OF POST.

Consequent upon the abolition of a post in a particular cadre of a department, the junior most employee in that cadre would be declared as surplus. Such posts should be abolished in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawl of pay and allowances and also for consideration for subsequent adjustment.

5. PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES

Notwithstanding anything contained in any other law, rules or regulation to the contrary, for the time being in force, the following procedure for the adjustment of surplus staff would be followed:-

- (a) Before transferring an employee to the surplus pool, he should be given option by the concerned department.

- (i) to proceed on retirement with normal retiring benefits under the existing rules;
- OR
- (ii) to opt for readjustment/absorption against a future vacancy of his status/BPS which may not necessarily be in his original cadre/department.
- (b) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the surplus pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustments shall be on seniority-cum-fitness basis. For this purpose, the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.
- (c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner:-
- (i) In case of occurrence of vacancies in their corresponding posts in any Government Department/ Organization, the senior most employee in the surplus pool should be adjusted first.
- (ii) In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.
- (iii) If an employee possesses the basic academic qualification but lacks the professional/technical qualification, he may be adjusted against such post subject to imparting the requisite training.
- (iv) (a) The surplus employees holding such posts which fall to promotion quota in about all the Departments, he shall remain in the surplus pool till the availability of a post in the parent department.
- OR
- (b) Where no equivalent post is available the civil servant may be offered a lower post in such manner, and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately preceding his appointment to a lower post shall remain protected.
- (v) ⁸⁴In case an employee already adjusted against a lower post is declared surplus again, he shall regain his original pay scale.
- (vi) ⁸⁵ Surplus employees, who voluntarily opt, may be allowed adjustment in Autonomous/Semi-autonomous bodies with the concurrence of these bodies, where the job is pensionable. The Government will pay pension contribution for the period they rendered regular service under the Government.

⁸⁴ Sub para c (v) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 15.2.2006.

⁸⁵ Sub para c (vi) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 31.5.2006.

- (d) If no suitable person is available in the surplus pool to be adjusted against the vacant/revised post, such a post would be filled up by initial recruitment manner after getting clearance from the E&AD.
- (e) ⁸⁶Surplus Staff in BPS-01 to 15 shall not be adjusted in the district other than their district of domicile.
- (f) To facilitate the adjustment of surplus staff, it will be incumbent upon the Administrative Department to take up the case with Finance Department for revival of the essential posts so retrenched as a result of general directive issued by Finance Department from time to time, giving cogent reasons/justification. Against the resultant revival/restoration of the post, the concerned Department will place a requisition on the E&AD for transferring of suitable surplus employee against the said post.
- (g) Unless the surplus employees in Class-IV are fully adjusted/ absorbed against their respective graded posts in various Government Departments/Organizations, the general policy of the Finance Department regarding conversion of BPS-1 & 2 posts to posts in fixed salary @ Rs.2000/- per month for contractual appointed should be restricted to the above extent.

6. FIXATION OF SENIORITY

The inter-se seniority of the surplus employees after their adjustment in various Departments will be determined according to the following principles:-

- (a) In case a surplus employee could be adjusted in the respective cadre of his parent Department he shall regain his original seniority in that cadre.
- (b) In case, however, he is adjusted in his respective cadre but in a Department other than his parent Department, he shall be placed at the bottom of seniority list of that cadre.
- (c) In case of his adjustment against a post in a corresponding basic pay scale with different designation/nomenclature of the post, either in his parent Department or in any other department, he will be placed at the bottom of seniority list.
- (d) ⁸⁷In case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again & becoming junior to his juniors.

⁸⁶ (3) Sub para (e) added to para 5 vide circular letter No.SORVI/E&AD/5-1/2005, dated 19.1.2007.

⁸⁷ Sub para d added to para 6 vide circular letter No. SORVI(E&AD)5-1/2005, dated 15.2.2006

NOTE:-

In case the officer/official declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall lose the facility/right of adjustment/absorption and would be required to opt for pre-mature retirement from Government service

Provided that if he does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent authority.

7. COMPETENT AUTHORITY TO NOTIFY/ORDER ADJUSTMENT/ABSORPTION.

After the transfer of services of surplus employee to a Department for adjustment/absorption against a vacant/revived post, the Competent Authority to notify/order his absorption/adjustment, shall be the respective appointing authority under the relevant rules for the post.

Provided that the decision of adjustment/absorption of surplus employees by the E&AD shall be binding upon the respective appointing authorities.

(Authority: letter NO.SOR-I(E&AD)1-200/98, Dated 8th June, 2001)

Decision of the meeting of chief secretary with district coordination officers, on the issue of surplus pool.

I am directed to refer to the subject noted above and to say that a meeting was held on 4.8.2001 in the Cabinet Room Civil Secretariat under the Chairman of Chief Secretary, NWFP to discuss the issues relating to adjustment of employees rendered surplus due to restructuring of the Government Departments and Devolution of Power Plan, 2000. The following decisions were taken in the said meeting:-

- i) Administrative Departments may reconsider adjustments already made against the available posts at District level. The guiding principle for reviewing the adjustment would be aimed at avoiding dislocation of the employees to the possible extent.
- ii) The DCOs will maintain the surplus pool of the employees, declared surplus in the District cadres and their subsequent adjustment against the vacant posts (District Cadres). It must be ensured that only the junior most employees in the scale in the cadre be declared surplus. At the stage of adjustment of Class-IV posts, the senior most be adjusted first. However, for the other posts besides seniority, the background of the individual and requisite experience of the posts shall be kept in view. The surplus pool of Divisional cadres be maintained by the DCOs posted at divisional headquarters.
- iii) The surplus pool of the employees of the Head Offices be maintained by the Head of the concerned Attached Department. Declaring employees surplus and their subsequent adjustment be made strictly according to the spirit of the policy of the Provincial Government issued vide circular letter No.SORI (S&GAD)1-200/98, dated 8.6.2001.

8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Appeal No. 5791 of 2021

Mushtaq Ali, Ex. Junior Clerk, Office of the Deputy Commissioner, Mardan, now posted as Secretary Union Council Hoti, Local Govt Department, Mardan.

..... **(Appellant)**

VERSUS

1. The Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, Peshawar.
2. The Commissioner, Mardan Division, Mardan.
3. Deputy Commissioner, Mardan **(Respondents)**

AUTHORITY LETTER

Mr. Hussain Akbar (Assistant Establishment & Revenue) DC Office, Mardan is hereby authorized to attend the Khyber Pakhtunkhwa Service Tribunal, Peshawar in the above titles Service appeal.


DEPUTY COMMISSIONER
MARDAN

"B"

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

No.

5791

Appeal No. of 20²¹

Mushtaq Ali

Appellant/Petitioner

Govt of KPK ^{Versus} Through S.M.B.R

Respondent

(1)

Respondent No.

Notice to:

The Govt: of KPK Through Senior Member
Board of Revenue, Peshawar.

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

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

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

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

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

Day of.....20²²

(For Reply) *[Signature]* 14/2/22

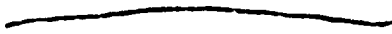
[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal
Peshawar.

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

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(2)

"B"

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

No.

5791

S13

Appeal No. of 20²²

Mush tag, Ali

Appellant/Petitioner

Govt of KPK through ^{Versus} SMBR Peshawar

Respondent

(3)

Respondent No.

Deputy Commissioner Mardan

Notice to: —

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 17/07/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

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

Given under my hand and the seal of this Court, at Peshawar this 17th

Day of June 20²²

Last Opportunity for Reply

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

RESHAWAR

JUDICIAL COMPLEX OF THE KHYBER PAKHTUNKHA

APPELLATE DIVISION

No.

212

2791

Appellant Petitioner

Appeal No. 2791
Muzafar Ali

Respondent

Govt of Khyber Pakhtunkhwa
Minister of Health

Respondent No.

Deputy Commissioner
Mardan

Notice to:

WHEREAS an appeal petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby notified that the said appeal petition is fixed for hearing before the Tribunal on at 8:00 A.M. If you wish to register anything against the appellant petitioner you are at liberty to do so on the date fixed or any other day to which the case may be postponed either in person or by authorised representative or by Advocate duly supported by your power of Attorney. You are therefore required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal petition will be heard and decided in your absence.

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

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

Office Notice No. dated

Given under my hand and the seal of this Court at Peshawar this

17/11

30

11/11

[Signature]

Recd
for
11/11
17/11

Registrar

Khyber Pakhtunkhwa Service Tribunal

Peshawar

1. The hours of attendance in the court are the same that of the High Court except on days when the court is closed.
2. Always quote Case No. While making any correspondence.