Consequently, the appeal is not maintainable, hence dismissed in limine, with no order as to costs.

ANNOUNCED
2.6.2014.

CHAIRMAN
Camp Court Swat

7.4.2014 Appellant with counsel (Mr.Imdadullah, Advocate) and Mr.Fazal Amin, Senior Clerk on behalf of respondents with Mr.Muhammad Zubair, Sr.G.P present. The learned counsel for the appellant stated that the appellant would be satisfied even he is adjusted against a vacant post of Chowkidar outside Khawazakhila, Swat. Representative of the respondents stated that the respondent-department will examine the request of the appellant and will proceed accordingly if the request is found proper and in order. To come up for further proceedings/further preliminary hearing at camp court Swat on 2.6.2014.

Chairman
Camp Court Swat

2.6.2014 Appellant with counsel (Mr.Imdadullah, Advocate) and Mr.Fazal Amin, Senior Clerk on behalf of respondents with Mian Amir Qadir, G.P present. Representative of the respondents stated that the appellant was not willing to serve outside Khawazakhila and at present there was no vacancy of a class-Iv employee in Khawazakhila. Preliminary arguments heard and record perused.

The appellant has lodged this appeal for change of nature of his duty from that of Sweeper to any other post of class-IV employee. Needless to say that under section 4 of the NWFP (KPK) Service Tribunal Act, 1974, a civil servant can lodge appeal to Tribunal only in case he is aggrieved of a final order, whereas in this case the appellant does not appear to be aggrieved of any order, rather he accepted his appointment as Sweeper(BPS-1) and submitted his arrival report. Admittedly, this is not a forum for change of nature of duty; and, as such, jurisdiction of the Tribunal cannot be invoked for the purpose.

23.9.2013 No one is present on behalf of the appellant. To come up for preliminary hearing at camp court Swat on 02.12.2013.

Chairman

02.12.2013 Appellant with counsel (Mr.Imdadullah,Advocate) present and heard. In view of allegation of the appellant that he has been appointed against son's quota of retired class-IV employees and that he should have been appointed against another vacant post of a class-IV employee instead of Sweeper (BPS-1), a pre-admission notice be issued to the respondents as well as learned Sr.G.P for submission of record of the case, showing availability of all vacancies in class-IV at the time of appointment of the appellant and also produce application for appointment submitted by the appellant for further preliminary hearing at camp court Swat on 3.2.2014.

Chairman
Camp Court Swat

03.02.2014 Appellant with counsel and Mr.Fazal Amin, Senior Clerk on behalf of respondents with Mian Amir Qadir, G.P present. Representative of the respondents submitted copies of original application for appointment against son's quota submitted by the appellant and publication of the vacancies in the newspaper; but he has not brought record pertaining to availability of other class-iv vacancies in Khwazakhela, Swat, at the relevant time and also vacant posts of class-iv employees at present. He is directed to bring the same for further preliminary hearing at camp court Swat on 7.4.2014.

Chairman
Camp Court Swat

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 980 /2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18/06/2013	The appeal of Mr. Hazrat Sher presented today by Mr. Mr. Aziz-ur-Rehman Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing. REGISTRAR
2	10-7-2013	This case is entrusted to Touring Bench Swat for preliminary hearing to be put up there on 12-08-2013. CHAIRMAN
	7.8.2013	Due to Eid-ul-Fitar, case is adjourned for proceedings as before, on 23.9.2013 Reader

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 980 /of 2013

Hazrat Sher . .....Appellant

VERSUS

Director General Health at Peshawar and others. ...Respondents

INDEX

Appellant

Through counsel

AZIZ -UR- RAHMAN

Advocate Swat

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 980 of 2013

[redacted] 1038
[redacted] 18-6-13

Hazrat Sher Sweeper Civil Hospital Khawazakhela, District Swat.

...Appellant

VERSUS

1. *Director General Health at Peshawar.*
2. *District Health Officer at Gulkada, District Swat.*

...Respondents

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order of the defunct Executive District Officer (Health) bearing order No. 10604-7/A-5/PF dated 28-12-2012 vide which the appellant was appointed as sweeper against the reserved quota of retired employees children against the law and rules, against which the appellant preferred departmental appeal to the respondent No. 2, still pending despite the lapse of Statutory period.

Prayer:

[redacted] 18/6/13

That on acceptance of this appeal the appellant may very kindly be orderd to be adjusted against any other post of Class IV other than the sweeper, in line with the policy and judgments of the Superior Courts.

Respectfully Sheweth:

1. *That the appellant is a bona fide resident of District Swat and son of a retired Class IV*

employee submitted an application for appointment as Class IV against different vacancies.

2. *That the appellant was selected as Sweeper vide order No 10604-7/A-5/PF dated 28-12-2012 in clear violation of the policy of the Government. Copy of the order is enclosed as Annexure "A".*

3. *That the appellant although feeling aggrieved of the impugned order took over the charge and joined his duties. Copy of the arrival report is enclosed as Annexure "B".*

4. *That the appellant preferred a departmental appeal to redress his grievances, but the same was never considered despite the lapse of Statutory period, hence this service appeal. Copy of the appeal is enclosed as Annexure "C".*

5. *That the in the appointment of the appellant the policy of the Government has clearly been neglected, which clearly restrains the appointment of Muslim as sweeper.*

6. *That the appellant has been clearly discriminated as other similarly placed person are appointed as Ward Orderly, Gardeners, Chowkidars etc in the health department.*

7. *That the appellant has not been dealt with in accordance with the law and rules.*

It is, therefore, very respectfully prayed that on acceptance of this appeal the appellant may very

kindly be adjusted against any other Class IV other than the sweeper in line with the policy of the Government.

Any other relief deemed appropriate may also very kindly be granted.

Appellant

Hazrat Sher

Through Counsels,

Aziz-ur-Rahman

Imdad Ullah

Advocates Swat

Affidavit:

It is stated on Oath that all the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed thereto.

Deponent

Hazrat Sher

Munammad Nisar Advocate
Oath Commissioner
District Courts Swat
No 860 14/6/2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. ____ of 2013

Hazrat Sher Sweeper Civil Hospital Khawazakhila, District Swat.

*...**Appellant***

VERSUS

Director General Health at Peshawar and Others.

*...**Respondents***

ADDRESSES OF THE PARTIES

Appellant:

Hazrat Sher Sweeper Civil Hospital Khawazakhila, District Swat.

Respondents:

1. *Director General Health at Peshawar.*
2. *District Health Officer at Gulkada, District Swat.*

Appellant Through

Aziz-ur-Rahman

Advocate Swat

Annexure "A" (5)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH DISTRICT SWAT.

OFFICE ORDER.

Consequent upon approval accorded by the Departmental Selection Committee Mr: **Hazrat Sher S/O Jehan Forosh** Resident of Khwazakhella Swat is hereby appointed as Sweeper (BPS-1) (contract/regular basis) @ Rs.(4800-150-9300) at Civil Hospital Khwazakhela Swat

His appointment in the Health department Government of Khyber Pakhtunkhwa will be subject to the following Terms and conditions.

TERMS AND CONDITIONS

1. **He shall be governed by the NWFP Civil servants Act 1973 and all the Laws applicable to the civil servants and Rules made thereunder.**
2. **He will initially, be on probation for a period of two years extendable for further period of one year. If his work during the period of probation is not found satisfactory, he shall be given a month's notice for termination.**
3. **He shall for all intents and purposes, be civil Servant except for purpose of pension or gratuity. In lieu of the pension and gratuity, he shall be entitled to receive such amount as would be contributed by him towards contributory provident Fund (CPF) along with the contributions made by Govt: to his account in the said fund, in the prescribed manner.**
4. **In case he wishes to resign any time ,one month's notice shall have to be given or in lieu thereof a months pay will be forfeited .**
5. **His appointment will be subject to Medical Fitness and verification of character and antecedents.**
6. **He will not be entitled to any TA/DA for Medical Examination and joining the first appointment.**
7. **He will be governed by such rules and orders as may be issued By the Government for the category of Govt: servant to whom he belongs.**
8. **He should report for duty to Civil Hosptial Khwazakhella with in 14 days of the issuance of this Order and submit his arrival to this office.**

Sd/-
EXECUTIVE DISTRICT OFFICER
(HEALTH) SWAT AT GULKADA

NO. 10604-7 /A-5/PF
Dated. 28 /12/2012

Copy forwarded to the:-

1- District Account Officer Swat for information.
2- Medical Cfficer I/C Civil Hospital Khwazakhlla swat for information.
3- Account Section of this office for information.
4- Official concerned for information

EXECUTIVE DISTRICT OFFICER
(HEALTH) SWAT AT GULKADA.

Rahaman Ali/
12/12/2012

ATTESTED
Advocate

Annexure "B" (6)

No. 228
Dt. 28/01/13

To: The Executive District Officer
Health District Swat

Through Proper channel

Subject: ARRIVAL REPORT

Reference your office letter
No: 10604-7/A-5/PF Dt: 28/12/2012

I have the honour to submit my arrival Report for duty today on 16-1-2013 F.N.

Yours obediently
Mr. Hazrat Sher
Sweeper Ch. D.K.
Dt. 16-1-2013

Forwarded to Executive Distt. Officer Health Distt. Swat for information and favour of action please.

Senior Medical Officer
I/C Civil Hospital
Khwaza Khela

ATTESTED
ADVOCATE

Annexure "C" (7)

To,

The District Health Officer,
Swat at Gul Kada;

Subject: **Application for change in the nature of duty**

Respected Sir,

1. That the applicant was appointed as sweeper in Civil Hospital Khwaza Khela, Swat vide order No. 10604-7/A-5/PF dated 28/12/2012 and has submitted arrival report on 16/01/2013 in the said Hospital.
2. That the applicant is a bona fide resident of Khwaza Khela, District Swat, and is a Sunni Muslim.
3. That the applicant is son of a retired Class IV employee, in the Health Department.
4. That as per the policy of the Government, a Muslim shall not be appointed as Sweeper.
5. That there are other precedents available in the Health Department in District Swat, regarding the Muslims appointed as Sweepers were made as Class IV employees in various job description i.e. Ward Attendant, Chowkidar and gardeners etc.

It is, therefore, very respectfully prayed that on acceptance of this application, the nature of the duty of the applicant may very kindly be changed from the Sweeper to any other Class IV category, being Muslim on one hand and son of a retired Class IV employee as well.

25/2/2013

Yours obediently

Hazrat Sher S/o Jehan Faroosh

ATTESTED

Advocate

(8)

بعدالت سروس ٹریبونل پشاور صوبہ پشاور

کورٹ فیس		قیمت ایک روپیہ

مورخہ 23 ماہ [illegible] 2013ء منجانب [illegible]

مقدمہ بنام صوبہ

دعویٰ سروس اپیل

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام [illegible] 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 و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برامد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برداختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہٰذا وکالت نامہ لکھ دیا کہ سند رہے

المرقوم 23 ماہ [illegible] 2013ء

العبد گواہ شدہ العبد

بمقام پشاور کے لئے منظور ہے

Attested and Accepted by

Indeed

بخدمت جناب ڈسٹرکٹ سابقہ آفیسر صاحب DHO سوات

2537
24/9/11
Swat District

جناب عالی!

عنوان: والد صاحب کے کیس کلاس 14 کی بحالی بارے۔

مودبانہ گزارش ہے کہ میرے والد صاحب مسمی جیان خروش ولد اردالی سول ہسپتال فوزیہ فیملی سوات کے 60 سال عمر کے مرض سے ~~دماغ~~ ریٹائرڈ ہو رہا ہیں۔

ہمارا کوئی ذریعہ معاش نہیں ہے اور نہ ہی ہمارے گھر کی کوئی سند امیر والد صاحب کے کیس بحالی ہو۔

اگر آپ صاحبان میرے والد صاحب کی سند کو آپ والد صاحب کیس انتظامات کرنے کا حکم صادر فرمائیں تو عین نوازش ہوگی۔ فقط درخواست گیا تھا تمام کاغذات لف ہے

العارض

ضرور مشیر S/O جیان خروش
گاؤں مالو فوزیہ فیملی سوات
20/8/2011

Put
12/10-2011
WD

درخواستیں مطلوب ہیں

زیر دستخطی کو مختلف ہسپتالوں میں درجہ ذیل اسامی کو پر کرنے کیلئے درخواستیں مطلوب ہیں جو کہ دفتر ہذا کو بمورخہ 15/11/2012 تک پہنچ جانے چاہئیں

انٹرویو بمورخہ 22/11/2012 زیر دستخطی کے دفتر میں صبح دس بجے ہوگی

نمبار شمار	نام آسامی	سکیل نمبر
1	ٹیوب ویل اپریٹر	4
2	ڈرائیور	4
3	دائی	2
4	وارڈ اردلی اوارڈ اٹنڈنٹ	2
5	ایکسرے اٹنڈنٹ	2
6	لیبارٹری اٹنڈنٹ	2
7	او ٹی اٹنڈنٹ	3
8	او ٹی او	3
9	چوکیدار	1
10	سویپر	1

شرائط:۔

1) مقامی امیدواران کو ترجیح دی جائیگی۔

2) امیدواروں کی عمر کم از کم اٹھارہ سال اور زیادہ سے زیادہ چالیس سال ہونا لازمی ہے۔

3) ڈومیسائل اور شناختی کارڈ کی مصدقہ نقول اور دفتر روزگار رجسٹریشن کارڈ درخواست کے ساتھ لف ہونا ضروری ہے۔

4) ریٹائرڈ اور دوران ملازمت وفات پانے والے ملازمین کے بچوں کیلئے 25% کوٹہ مختص ہے۔

5) ڈرائیور کیلئے LTV لائسنس اور کم از کم پانچ سال تجربہ ہوں۔

6) خواندہ افراد کو ترجیح دی جائیگی۔

7) معذور افراد کیلئے 2% کوٹہ ہوگا۔

NO: 9249
8/11/2012

اوپر کے نقول درجہ ذیل کو برائے اویزاں کرنے کیلئے بھیجی جائی ہے۔

1) نوٹس بورڈ ای ڈی ہیلتھ آفس

2) نوٹس بورڈ روزگار دفتر آفس

ڈاکٹر خورشید علی

ایگزیکٹیو ڈسٹرکٹ آفیسر ہیلتھ

Executive Distt: Officer (Health)
Swat District at Gulkada.