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To

The Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Peshawar.

Subject: DEPARTMENTAL APPEAL/ REPRESENTATION
AGAINST THE FINAL SENIORITY LIST DATED
31.07.2019 AND NOTIFICATIONS DATED
30.03.2011, 02.12.2011 & 23.01.2015

Respected Sir,

Compendium of facts given rise to the instant
Departmental Appeal are as under:

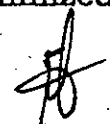
1. That on 27.11.2001, the Department issued notification, wherein method of recruitment to the post of Chowkidar/ Naib Qasid upto Tehsildar has been given.
2. That the appellant along with others, after the advertisement of the post of Naib Tehsildar (BPS-14) and being qualified and fit, were recommended by the Public Service Commission to be appointed and consequently the appellant was appointed on 22.01.2009 as such.
3. That, thereafter, the appellant along with others was qualified, fit and eligible for further promotion to the post of Tehsildar (BPS-16) on regular basis with criteria of 20% by initial recruitment, 50% by


ATTESTED

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promotion on seniority cum fitness basis amongst NaibTehsildar and 30% by selection/ merit amongst Assistant, Senior Scale Stenographer, etc., Clause "b" pertains to the subject matter of the appellant.

4. That on the basis of the aforesaid Rules, promotions were made time and again i.e. 27.11.2001, 31.12.2006, 08.03.2008 and 01.09.2008.
5. That on 26.12.2008, notification was issued, wherein the quota/ ratio of appellant was enhanced from 50% to 60%, thus this notification was published in the official Gazette on 04.02.2009.
6. That amendments were introduced in the notification dated 04.02.2009, wherein other categories were introduced beside NaibTehsildar, vide notification dated 30.03.2011. This amendment affected the promotion and seniority of the new incumbents and the promotion of the appellant was kept secret.
7. That on 02.12.2011, further notification of amendment was issued, wherein category of promotion of appellant was further minimized by


ATTACHED

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including incumbent of other categories, Sub-Registrar, but the ratio of the promotion of the NaibTehsildar was distributed amongst them equally and ignoring the fact of their respective strength in District.

8. That on 26.04.2013 upto 2018, separate seniority lists of NaibTehsildar (BPS-14) were circulated by the Department time and again, for the purpose that the cadre of appellant was altogether separate and different from the other cadres/ categories.
9. That on 04.06.2013, another notification was issued by the authority, wherein incumbents of the other categories i.e. DK, DRA, HCR and Sub-Registrar BPS-14 were promoted to the post of Tehsildar (BPS-16) on regular basis, followed by subsequent notification dated 18.06.2013 of promotion of other categories to the post of Tehsildar (BPS-16).
10. That notifications dated 04.06.2013 and 18.06.2013 were challenged by the incumbents of the other categories before the Hon'ble Services Tribunal, Khyber Pakhtunkhwa on the ground that except the NaibTehsildar(BPS-14), the incumbents of the other

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categories/ cadres were not eligible for promotion to the post of Tehsildar (BPS-16) and after acceptance of the appeal by the Hon'ble Services Tribunal, notification dated 23.01.2014 was issued by the authority, wherein orders of promotion were withdrawn and they were reverted to their original position, meaning thereby that inclusion of other categories/ cadres for promotion to the post of Tehsildar (BPS-16) was void-ab-initio and illegal.

11. That as the Department was favouring the incumbents of the other categories by any means, so condition of educational qualification was deleted just to enable them for promotion to the post of Tehsildar (BPS-16), vide notification dated 23.01.2015.


12. That in pursuance of the aforesaid notification, the department again promoted the ineligible and unqualified incumbents of the other categories to the post of Tehsildar, vide notification dated 10.02.2015, 11.02.2015, 07.07.2015, 28.12.2015, & 16.11.2017 etc.

A
ATTACHED

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13. That the Department finalized working paper for promotion to the post of Tehsildar from NaibTehsildar (BPS-14) and then in pursuance of the aforesaid minutes, appellant alongwith incumbents of other categories were promoted to the post of Tehsildar (BPS-16) but on acting charge basis on 06.04.2018.
14. That on 17.01.2019, appellant's service was brought on regular basis as Tehsildar (BPS-16).
15. That the aforesaid illegal action was carried out by the authority to extend extraordinary benefits to an ineligible, unqualified and unfit incumbents, such actions were kept secret from the appellant; so he submitted application to the Commissioner RTI to supply him the aforesaid orders and then the said orders/ seniority list were supplied on 03.12.2019. Joint seniority list first time came in the notice of the appellant.

Hence this departmental appeal/representation on the following grounds;


WITNESSED

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GR OUNDS:

- A. That admittedly cadre of appellant vis-à-vis other categories was altogether different before bringing amendments in the Rules, because one pertains to administration cadre and the other to ministerial staff.
- B. That it was also an admitted fact that the incumbents of other cadres were neither eligible, nor qualified, nor fit for promotion to the post of Tehsildar, but the authority misused its status by giving extraordinary benefits to the incumbents of other cadres.
- C. That the contention of the appellant was further supported by the judgment of the Hon'ble Services Tribunal, Khyber Pakhtunkhwa, wherein the promotion order of the other categories was declared as illegal and void-ab-initio.
- D. That promotion to the higher post/grade requires experience and qualification, so by deleting qualification from the promotional post is in total disregard of law and rules.

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NOTED

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- E. That on the basis of illegal and unjustified benefits extended to the incumbents by the authority, the seniority position of the appellant was badly affected by figuring his name at Sr.No.53, instead of top on the seniority.
- F. That if the other categories were not included to the promotional post of Tehsildar, appellant would have been promoted much earlier i.e. in the year 2013, so his further career was ruined at the hands of authority.
- G. That the act of the authority is based on malafide for the reason that in 60% promotion quota the incumbents of other categories were adjusted and their own promotion quota under the old rules was not brought to the instant category.
- H. That if at all they were brought in the instant category then of course they would come in the bottom of this category, under the rules and their promotion should be observed on the basis of their strength as earlier described in the old rules.


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I. That change in ratio enhancing 50% to 60% was only to the extent of NaibTehsildar, but adding the other categories shows malafide on the part of the department.

It is, therefore, most humbly requested that on acceptance of this departmental appeal/representation;

- a. Appellant may kindly be granted antedate promotion from the year 2013 with all back benefits.
- b. The amended notifications issued on 30.03.2011, 02.12.2011 & 23.01.2015 may graciously be set aside by restoring notification dated 04.02.2009.

Dated: 06.12.2019

Muhammad Ali
Appellant

Dil Nawaz
Tehsildar (BPS-16)

Jasal
11/12/19
ATTESTED



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GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.
No. Estt:/PSB/Appeal/ 3421
Peshawar dated the 22/01/2020.

To

M/S. Sultan Haidar, Faqir Hussain,
Kifayat Ullah, Mujahid Ali, Zulfiqar Khan,
Ahmad Hashmi, Adil Waseem, Waqar Ahmiad
and Dil Nawaz Khan Tehsildars.

**SUBJECT:- DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE
FINAL SENIORITY LIST DATED 31.07.2019 AND NOTIFICATION
DATED 30.03.2011, 02.12.2011 & 23.01.2015.**

Your Departmental Appeals have been examined and dismissed by the Chief
Secretary Khyber Pakhtunkhwa (appellate authority).


Assistant Secretary (Estt.)

No. Estt:/PSB/Appeal/ _____

Copy forwarded to the PS to Senior Member, Board of Revenue for
information please.

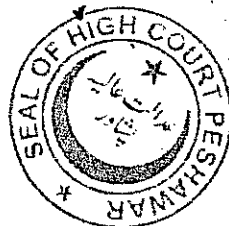

Assistant Secretary (Estt.)


ATTESTED

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BEFORE THE HON'BLE PESHAWAR HIGH COURT
PESHAWAR

Writ Petition No. 1372P 2020



1. Syed Sultan Haider Shah, Tehsildar/ Inspector Stamps, Peshawar.
2. Mujahid Ali, Tehsildar, Peshawar.
3. Dil Nawaz Khan, Tehsildar/ Inspector Stamps, Mardan.
4. Kifayat Ullah, Tehsildar Reconciliation, Peshawar.
5. Faqir Hussain, Settlement Tehsildar, Mansehra.
6. Zulfiqar Khan, Tehsildar, Peshawar Development Authority, Peshawar.
7. Waqar Ahmad, Tehsildar/ Inspector Stamps, Abbottabad.
8. Adil Waseem, Tehsildar, Mardan.
9. Ahmad Hashmi, Tehsildar On Special Duty (TOSD).

.....PETITIONERS

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Senior Member Board of Revenue (SMBR), Khyber Pakhtunkhwa, Opposite MPA Hostel, Peshawar.
3. Secretary Establishment, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

.....RESPONDENTS

WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973.

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Deputy Registrar
04 FEB 2020

ATTESTED
CLERK
Peshawar High Court

ATTESTED

Respectfully Sheweth:

Compendium of facts giving rise to the instant writ petition are as under:

1. That on 27.11.2001, the Department issued notification, wherein method of recruitment to the post of Chowkidar/ Naib Qasid upto Tehsildar has been given. **(COPY OF THE NOTIFICATION DATED 27.11.2001 IS ATTACHED AS ANNEXURE "A")**.
2. That on the basis of the aforesaid Rules, promotions were made time and again i.e. 27.11.2001, 31.12.2006, 08.03.2008 and 01.09.2008, which were the mandate of law. **(COPIES OF MINUTES OF MEETING, WORKING PAPERS OF DPC AND DECISION THEREON ARE ATTACHED AS ANNEXURE "B")**.
3. That the petitioners alongwith others, after the advertisement of the post of Naib Tehsildar (BPS-14) and being qualified and fit, were recommended by the Public Service Commission to be appointed and consequently the petitioners was appointed on 22.01.2009 as such, under the existing rules/ quota as discussed in the earlier para. **(COPY OF THE PUBLIC SERVICE COMMISSION ORDER DATED 22.01.2009 IS ATTACHED AS ANNEXURE "C")**.

Deputy Registrar

04 FEB 2020

ATTESTED

EXAMINER
Peshawar High Court

4. That, the department clarified further process for promotion in the department and as the petitioners alongwith others were qualified, fit and eligible for further promotion to the post of Tehsildar (BPS-16) on regular basis with criteria of 20% by initial recruitment, 50% by promotion on seniority cum fitness basis amongst Naib Tehsildar and 30% by selection/ merit amongst Assistant, Senior Scale Stenographer, etc., Clause "b" pertains to the subject matter of the petitioners, but on 26.12.2008, notification was issued, wherein the quota/ ratio of petitioners was enhanced from 50% to 60%, thus this notification was published in the official Gazette on 04.02.2009. **(COPY OF THE GAZETTE NOTIFICATION FOR PROMOTION DATED 04.02.2009 IS ATTACHED AS ANNEXURE "D")**.
5. That amendments were introduced in the notification dated 04.02.2009, wherein other categories were introduced beside Naib Tehsildar, vide notification dated 30.03.2011. This amendment affected the promotion and seniority of the new incumbents and the promotion of the petitioners was kept secret. **(COPY OF IMPUGNED NOTIFICATION DATED 30.03.2011 IS ATTACHED AS ANNEXURE "E")**.

Deputy Registrar

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ATTESTED
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Peshawar High Court

ATTESTED

6. That on 02.12.2011, further notification of amendment was issued, wherein category of promotion of petitioners was further minimized by including incumbent of other category of Sub-Registrar, but the ratio of the promotion of the Naib Tehsildar was distributed amongst them equally and ignoring the fact of their respective strength in District. **(COPY OF IMPUGNED NOTIFICATION DATED 02.12.2011 IS ATTACHED AS ANNEXURE "F")**.

7. That on 26.04.2013 upto 2018, separate seniority lists of Naib Tehsildar (BPS-14) were circulated by the Department time and again, for the purpose that the cadre of petitioners was altogether separate and different from the other cadres/ categories, and an impression was given that the ratio of observing quota for promotion was 60% for Naib Tehsildar/ petitioners. **(COPY OF THE SENIORITY LIST DATED 26.04.2013 IS ATTACHED AS ANNEXURE "G")**.

8. That on 04.06.2013, another notification was issued by the authority, wherein incumbents of the other categories i.e. DK, DRA, HCR and Sub-Registrar, Naib Tehsildar BPS-14 were promoted to the post of

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Peshawar High Court
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Tehsildar (BPS-16) on regular basis, followed by subsequent notification dated 18.06.2013 of promotion of other categories and of Naib Tehsildars to the post of Tehsildar (BPS-16). (COPIES OF NOTIFICATIONS DATED 04.06.2013 & 18.06.2013 ARE ATTACHED AS ANNEXURE "H" & "H/1").

9. That notifications dated 04.06.2013 and 18.06.2013 were challenged by the incumbents of the other categories before the Hon'ble Services Tribunal, Khyber Pakhtunkhwa on the ground that Naib Tehsildar (BPS-14) and the incumbents of the other categories/ cadres were not eligible for promotion to the post of Tehsildar (BPS-16) on the basis of educational qualification and after acceptance of the appeal by the Hon'ble Services Tribunal, notification dated 23.01.2014 was issued by the authority, wherein orders of promotion were withdrawn and they were reverted to their original position, meaning thereby that inclusion of other categories/ cadres for promotion to the post of Tehsildar (BPS-16) was void-ab-initio and illegal. (COPY OF THE WITHDRAWAL OF PROMOTION ORDER DATED 23.01.2014 IS ATTACHED AS ANNEXURE "I").

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EXAMINER
Peshawar High Court


10. That as the Department was favouring the incumbents of the other categories and Naib Tehsildars not qualified by any means, so condition of educational qualification was deleted just to enable them for promotion to the post of Tehsildar (BPS-16), vide notification dated 23.01.2015. **(COPY OF IMPUGNED NOTIFICATION DATED 23.01.2015 IS ATTACHED AS ANNEXURE "J")**.

11. That in pursuance of the aforesaid notification, the department again promoted the ineligible and unqualified incumbents of the other categories to the post of Tehsildar, vide notification dated 10.02.2015, 11.02.2015, 07.07.2015, 28.12.2015, & 16.11.2017 etc. **(COPIES OF THE NOTIFICATIONS DATED 10.02.2015, 11.02.2015, 07.07.2015, 28.12.2015, & 16.11.2017 ETC. ARE ATTACHED AS ANNEXURE "K")**.

12. That the Department finalized working paper for promotion to the post of Tehsildar from Naib Tehsildar (BPS-14) and then in pursuance of the aforesaid minutes, petitioners alongwith incumbents Deputy Registrar of other categories and Naib Tehsildars, educationally not qualified, were promoted to the

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EXAMINER
Peshawar High Court

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post of Tehsildar (BPS-16) but on acting charge basis on 06.04.2018. **(COPIES OF THE MINUTES OF DPC AND NOTIFICATION DATED 06.04.2018 ARE ATTACHED AS ANNEXURE "L" & "M" RESPECTIVELY).**

13. That on 17.01.2019, petitioners service was brought on regular basis as Tehsildar (BPS-16). **(COPY OF NOTIFICATION OF PETITIONERS AS REGULAR TEHSILDAR DATED 17.01.2019 IS ATTACHED AS ANNEXURE "N").**

14. That the aforesaid illegal action was carried out by the authority to extend extraordinary benefits to an ineligible, unqualified and unfit incumbents, such actions were kept secret from the petitioners, so he submitted application to the Commissioner RTI to supply them the aforesaid orders and then the said orders/ seniority list were supplied on 03.12.2019, and joint seniority list, for the first time came in the notice of the petitioners. **(COPY OF THE LETTER UNDER RTI, DPC WORKING PAPERS/ MINUTES AND SENIORITY LIST ARE ATTACHED AS ANNEXURE "O").**

FILED TODAY That the said illegal notifications and seniority were Deputy Registrar challenged in the departmental appeal by the petitioners vide different diary numbers i.e. 10975
04 FEB 2020

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EXAMINER
Postmaster High Court

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etc. on 09.12.2019 etc., which was filed by the Chief Secretary without assigning any reason. (COPIES OF THE DEPARTMENTAL APPEAL AND IMPUGNED ORDER DATED 22.01.2020 ARE ATTACHED AS ANNEXURE "P" & "P/1" RESPECTIVELY).

16. That feeling aggrieved from the act of official respondents and having no other efficacious/ alternative remedy, except the High Court as per reported judgment, petitioners approach this Honourable Court, inter alia, on the following grounds (copy of the reported judgment PLJ 1994 SC Page 74 is attached as annexure "Q");

GROUND S:

A. That admittedly cadre of petitioners vis-à-vis other categories was altogether different before bringing amendments in the Rules, because one pertains to administration cadre and the other to ministerial staff, thus mixing the same speak volumes of malafide on the part of official respondents/ department.

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B. That the act of the official respondents is in the violation of Article 25 of the Constitution of Islamic

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EXAMINER
Peshawar High Court

Republic of Pakistan, 1973, in which it is held that "All persons should be treated equally accordance with law".

C. That the act of the official respondents violated the Article 4 of the Constitution of Islamic Republic of Pakistan, 1973, which orders that "All persons exercising the authority must do only in accordance with law".

D. That as per verdict of the Apex Supreme Court of Pakistan, when some relief is given to any class, the same shall also be extended to other class, who have even not litigated for because it is the demand of law and good governance.

E. That it was also an admitted fact that the incumbents of other cadres were neither eligible, nor qualified, nor fit for promotion to the post of Tehsildar, but the authority misused its status by giving extraordinary benefits to the incumbents of other cadres.

That the contention of the petitioners was further supported by the judgment of the Hon'ble Services Tribunal, Khyber Pakhtunkhwa, wherein the

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Peshawar High Court

promotion order of the other categories was declared as illegal and void-ab-initio.

- G. That promotion to the higher post/grade requires experience and qualification, so by deleting qualification from the promotional post is in total disregard of law and rules.
- H. That on the basis of illegal and unjustified benefits extended to the incumbents by the authority, the seniority position of the petitioners were badly affected by figuring their names at bottom, instead of top on the seniority.
- I. That if the other categories and Naib Tehsildars (educationally not qualified) were not included to the promotional post of Tehsildar, petitioners would have been promoted much earlier i.e. in the year 2013, so his further career was ruined at the hands of official respondents.
- J. That the act of the authority is based on malafide for the reason that in 60% promotion quota the incumbents of other categories were adjusted and their own promotion quota under the old rules was not brought to the instant category.

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EXAMINER
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- K. That if at all they were brought in the instant category then of course they would come in the bottom of this category under the rules and their promotion should be observed on the basis of their strength as earlier described in the old rules.
- L. That change in ratio enhancing 50% to 60% was only to the extent of Naib Tehsildar, but adding the other categories shows malafide on the part of the department.
- M. That the petitioners are not treated equally and in accordance with law and existing rules and deprived them from extended relief.
- N. That this Hon'ble Court has got ample jurisdiction to entertain and disposed of the instant Writ Petition according to the facts and circumstances of the case in hand, because similar placed case titled "Fazal Subhan vs. Federation etc." is entertained by this Honourable Court and many other cases were disposed of too.
- O. That right of fair treatment with the petitioners are violated and discriminatory treatment given in the matter.

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 04 FEB 2020

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 Peshawar High Court

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P. That any other ground or reasons if not mentioned at the time of hearing will be argued with the permission of this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of this writ petition and exercising of extraordinary constitutional jurisdiction, this Honourable Court may graciously be pleased to;

- a. Direct the official respondents to grant antedate promotion to the petitioners from the year 2013 with all back benefits;
- b. The amended notifications issued on 30.03.2011, 02.12.2011 & 23.01.2015 and the action taken thereon may graciously be set aside by restoring notification dated 04.02.2009.
- c. Any other writ/ direction/ order deemed proper/ appreciate and just may also be ordered/ issued/ given.

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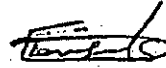
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INTERIM RELIEF:

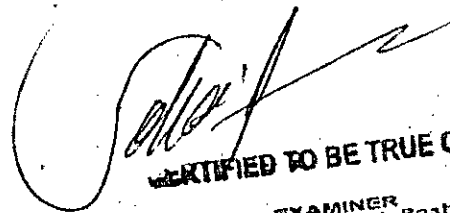
By way of interim relief, the official respondents may please be restrained from making further promotions in the joint cadre, till final disposal of the writ petition.

Through Petitioners



Shah Faisal Ilyas
Advocate,
High Court, Peshawar,

Dated: 03.02.2020



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EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 87 of
The Constitution of Pakistan, 1973
22 FEB 2022

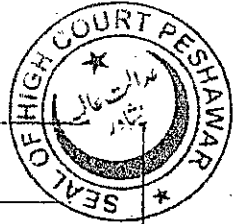
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Deputy Registrar
04 FEB 2020


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PESHAWAR HIGH COURT, PESHAWAR.

FORM OF ORDER SHEET



Date of Order or Proceeding	Order or other proceedings with Signature of Judge
1	2
16.02.2022.	<p><u>W.P No. 1372-P of 2020 with I.R.</u></p> <p><u>Present: -</u> Mr. Shah Faisal Ilyas, advocate for petitioners.</p> <p>Mr. Arshad Ahmad, AAG for respondents.</p> <p>***</p> <p><u>ROOH-UL-AMIN KHAN, J.-</u> Through the instant writ petition filed under Article-199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioners seek issuance of directions to respondents to grant antedated promotion to them from the year 2013 with all back benefits. They further seek setting aside of amended notifications dated 30.03.2011, 02.12.2011 & 23.01.2015 and restoration of notification dated 04.02.2009.</p> <p>2. Admittedly, the petitioners are civil servants who seek their antedated promotion whereas, promotion whether it is antedated or proforma, fall in the terms and conditions of their service hence, the controversy involved in the case falls within the exclusive jurisdiction of the Service Tribunal under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973.</p> <p>3. Resultantly, the instant petition being not</p>

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Peshawar High Court

maintainable stands dismissed. However, the petitioners would be at liberty to approach the proper forum for redressal of their grievance, if so desire.

Announced:
16.02.2022.

SENIOR PUISNE JUDGE

JUDGE

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Qanun-e-Shahadat Ordinance, 1984

22 FEB 2022

25432

Date of Presentation of Application: 17/2/2022

No of Pages: 15

Copying fee: 60/-

Total: 60/-

Date of Preparation of copy: 22/2/2022

Date of Delivery of copy: 22/2/2022

Case No: F-1111

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D.B*

Hon'ble Mr. Justice Rosh-ul-Amin Khan, Senior Puisne Judge
Hon'ble Mr. Justice Muhammad Ijaz Khan, J.

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BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Writ Petition No. 1372-P/2020.

Syed Sultan Haider & others.....Petitioners.

VERSUS

Senior Member Board of Revenue and others.....Respondent.

PRELIMINARY OBJECTIONS.

- 1. The petitioners have got no cause of action.
- 2. The Petitioners have not come to the court with clean hands.
- 3. The instant petition is barred by law.
- 4. That this Honorable Court lacks jurisdiction in presence of Article 212 of the Constitution of the Islamic Republic of Pakistan 1973.

PARAWISE COMMENTS OF RESPONDENT NO. 1, 2 & 3 ARE AS UNDER.

- 1. Pertains to record.
- 2. Pertains to record.
- 3. Correct that the petitioners were appointed as Naib Tehsildar through Public Service Commission on 22.01.2009 (Annexure-A).
- 4. Incorrect. Appointment of the petitioners was issued on 02.02.2009, while rules notified on 26.12.2008, therefore, these rules are applicable on petitioners (Annexure-B). Beside, the right of the petitioners has never been violated.
- 5. Incorrect. The right of the petitioners was not affected as the ratio of promotion i.e. 50% was enhanced to 60% by including other cadres i.e. District Kanungos & District Revenue Accountants etc, the petitioners have been promoted as Tehsildar on their own turn and then promoted as PMS BS -17 (Annexure-C).
- 6. Incorrect. As stated above, 60% quota has been kept reserved for promotion of Naib Tehsildar, District Kanungo, District Revenue Accountant and Sub Registrar to the post of Tehsildar on the basis of joint seniority list on their own turn. Right of petitioners for promotion has not been affected. The petitioners have never challenged notification dated 02.12.2011 nor submitted any objection over the joint seniority list before any forum.
- 7. Incorrect. As stated in Para-6 above, the petitioners have never objected the seniority list from 2013 to 2018.
- 8. Correct that District Kanungo, District Revenue Accountant, Sub Registrar and Naib Tehsildars were promoted to the post of Tehsildar on their own turn according to their joint seniority list strictly in accordance with rules.
- 9. Incorrect. The promotion order dated 04.06.2013 (Annexure-D) was withdrawn by the Department vide order dated 23.01.2014 (Annexure-E) on the basis of existence of the provision of Graduation which was later on deleted in Service Rules on 23.01.2015 (Annexure-F) and the Tehsildars who were reverted on 23.01.2014 again promoted as Tehsildars on their own turn on 10.02.2015 (Annexure-G). The right of promotion of the petitioners this time too have never been affected.

FILED TODAY

Deputy Registrar

24 MAR 2021

RE-FILED TODAY

Deputy Registrar

07 JUN 2021

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- 10. Incorrect. Right of promotion of the petitioners have never been disturbed. Beside, the petitioners were appointed as Naib Tehsildar on 02.02.2009 and they became eligible for promotion as Tehsildar after 2014 as the prescribed length of service for promotion of Naib Tehsildar to the post of Tehsildar was five years Beside, promotion always be made on availability of posts as well as fulfillment of other conditions as required under the rules.
- 11. Incorrect. Promotions of officials mentioned in notification dated 10.02.2015, 11.02.2015, 07.07.2015, 28.12.2015 and 16.11.2017 were strictly made in accordance with law/rules through proper Departmental Promotion Committee. Chaired by the appointing authority i.e Senior Member, Board of Revenue.
- 12. Incorrect. The petitioners alongwith other eligible officials were appointed as Tehsildar on ACB on 06.04.2018 as at that time there were no clear and regular vacancies available.
- 13. Correct, the petitioners were promoted as Tehsildar on regular basis according to joint seniority list of District Kanungo, District Revenue Accountant, Sub Registrar and Naib Tehsildar on availability of clear and regular vacancies.
- 14. Incorrect. No extra ordinary benefits were extended to any other officials. All the promotions have been made strictly in accordance with law/rules.
- 15. Incorrect their Departmental Appeals were examined and filed by the Competent Authority (Annexure-H).
- 16. No comments.

GROUNDS.

- A. Incorrect. All the cadres i.e District Kanungo, District Revenue Accountant, Sub Registrar and Naib Tehsildar having one the same pay scale and are transferable with each others are equally eligible for promotion as Tehsildars on their own turn under their respective shares
- B. Incorrect. The petitioners have been treated in accordance with law/rules. No violation of Article 25 of the Constitution of Islamic Republic of Pakistan has been committed.
- C. Incorrect. No violation of Article 4 of the Constitution of Islamic Republic of Pakistan has been committed.
- D. Incorrect. Neither the petitioners annexed judgment of the Apex Supreme Court of Pakistan nor is applicable in the instant case.
- E. AS explained in para-14 of the facts.
- F. Incorrect. As in Para-9 of the facts.
- G. Incorrect. Promotions are always made strictly in accordance with law and rules after fulfilment of the criteria required therein.
- H. Incorrect. The seniority of the petitioners has never been affected as the joint seniority list has been maintained from the date of appointment/promotion to that posts. The rights of the petitioners have never been affected.
- I. Incorrect. As the petitioners were appointed as Naib Tehsildar in the year 2009, therefore, at that time they had not completed the prescribed 5 years service as required under the rules and were not eligible for promotion as Tehsildar.
- J. Incorrect. The quota of the petitioners was enhanced from 50% to 60% by including the cadre of District Kanungo and District Revenue Accountant, which has not affected the right of promotion of the petitioners.
- K. Incorrect. No one have favored any cadre by violating the

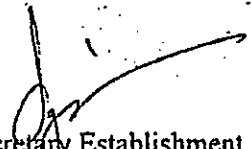
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FILED TODAY
Deputy Registrar
24 MAR 2021

- 117
- (3)
- L. Incorrect. As in para 6 and 9 of the facts.
- M. Incorrect. All the cadres i.e Naib Tehsildar, District Kanungo, District Revenue Accountant and Sub Registrars having equal pay scale are equally entitled for promotion as Tehsildar on their turn.
- N. Incorrect. The petitioners, have been dealt with law. The case of Fazal Subhan versus Federation etc; is not applicable in the instant case.
- O. Incorrect. No discrimination have been done with the petitioners.
- P. The respondent will also submit additional grounds at the time of arguments.
- Q. Petition of the petitioners is not maintainable as promotion always be made with immediate effect, and notification dated 30.03.2011, 02.12.2011 and 23.01.2015 have been issued strictly in accordance with law/rules.
- R. There is no need of Interim Relief as the petitioners have already been promoted as PMS BS-17.

Keeping in view the above, the Writ Petition having no legal grounds may be dismissed with costs.


Chief Secretary, Khyber Pakhtunkhwa
Respondent No. 1


Secretary Establishment,
Respondent No. 3


Senior Member, Board of Revenue
Respondent No. 2

FILED TODAY

Deputy Registrar

24 MAR 2021


ATTESTED

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. 1372-P/2020

Syed Sullan Haider.....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa, through Chief Secretary & others.....Respondents

I, ~~Mr~~ Iftikhar Ahmad Superintendent (Lit-I) Board of Revenue, KPK, do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments submitted on behalf of Respondent No. 1 to 3 are true and correct to the best of my knowledge and belief and that nothing has concealed from this Honorable Court.

DEPONENT
C.N.I.C.NO.17301-1352025-3 ✓

0333 9231862

091-9210463

Identified by

Advocate General
Khyber Pakhtunkhwa.

No. 23507

Certified that the above was verified on solemnly affirmation before me in office this 24 day of March at Peshawar who was identified by Iftikhar Ahmad Peshawar DG

Who is personally known to me:

Oath Commissioner
Peshawar
24/03/2021

FILED TODAY
Deputy Registrar
24 MAR 2021

ATTESTED



119 (19)
GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the July 02, 2020

NOTIFICATION

NO.SOE.II(ED)2(192)2020:

The Competent Authority, on the recommendations of the Provincial Selection Board in its meeting held on 09.06.2020, is pleased to promote the following Tehsildars (BS-16) to the post of Provincial Management Service (BS-17), on regular basis with immediate effect:-

S.No.	NAME OF OFFICERS	PRESENT POSTING
01.	Mr. Hidayatullah.	Additional Assistant Commissioner-II (OPS), Bannu
02.	Mr. Abdur Rehman Shah	Awaiting for posting in Establishment Department.
03.	Syed Mir Laiq Shah	Tehsildar, Board of Revenue.
04.	Mr. Muhammad Junaid	Additional Assistant Commissioner-III (OPS), Bannu
05.	Mr. Shah Behram	Additional Assistant Commissioner-II (OPS), Daraban, D.I.Khan.
06.	Mr. Faiz Ahmad Qureshi	Additional Assistant Commissioner-II (OPS), Chitral
07.	Mr. Abdul Muqsit	Additional Assistant Commissioner (Razar) (OPS), Swabi.
08.	Mr. Jehan Said	Additional Assistant Commissioner-I (OPS), Charsadda
09.	Mr. Sahib Zada	Land Acquisition Collector (OPS), SNOPL on deputation basis.
10.	Mr. Zahid Kamal	Tehsildar, Board of Revenue.
11.	Mr. Habib Ahmad Jan	Asst to Commissioner (Pol/Dev:) (OPS), Malakand Division.
12.	Mr. Muhammad Yar	Additional Assistant Commissioner-VIII (Matta), (OPS) Swat.
13.	Syed Sultan Haider Shah	Additional Assistant Commissioner-I (OPS), Lakki Marwat
14.	Mr. Aftab Ahmad	Additional Assistant Commissioner (OPS), Jamrud.
15.	Mr. Dil Nawaz Khan	Additional Assistant Commissioner, Shabqadar (OPS) Charsadda.
16.	Mr. Faqir Hussain	Additional Assistant Commissioner-III (OPS), Charsadda
17.	Mr. Zulfiqar Khan	Additional Assistant Commissioner (Rev) (OPS), Bannu.
18.	Mr. Waqar Ahmad	Additional Assistant Commissioner (OPS), Kolai Pallas.

Contd....Page-2

ATTACHED

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2. The Officers on promotion shall remain on probation for a period of one year extendable for another year, in terms of Section-6 (2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15 (1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

3. The officer mentioned at S.No. 01, 04 to 08 and 11 to 18 are allowed to actualize their promotion against their already occupied posts. However, posting / transfer notification in respect of officers mentioned at S.No. 02, 03, 09 & 10 will be issued later on.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: NO. & DATE EVEN

A copy is forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All Concerned Commissioners.
5. Accountant General, Khyber Pakhtunkhwa.
6. All Concerned Deputy Commissioners.
7. All concerned District Accounts Officers.
5. Deputy Director (I.T), Administration Department with request to upload the Notification on official website.
6. S.O (Secret) / S.O (Admn) / E.O, E&A Department.
7. PS to Chief Secretary, Khyber Pakhtunkhwa.
8. PS to Secretary, Establishment Department.
9. Officers concerned.
10. Office order file.
11. Personal files of the officers concerned.

(Handwritten signature)
(SHAHBAZ KHATTAK)
SECTION OFFICER (E-II)

(Handwritten mark)
ATTACHED

POWER OF ATTORNEY**BEFORE THE WORTHY SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal # _____ /2022

Dil Nawaz Khan**VERSUS**Govt of Khyber PPK others

I, (the petitioner), do hereby appoint **Mr. Shah Faisal Ilyas Advocate, Supreme Court of Pakistan**, in the above mentioned case to do or any of the following acts deeds and things.

1. To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.
2. To sign, verify and present pleadings, appeals, cross objections, petitions for execution, review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in all its stages.
3. To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
4. To receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said case.
5. To engage any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred in the Advocate whenever he may think fit it do so.

And I hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

And I hereby agree not to hold the Advocate or its substitute responsible for the result of the said case in consequence of his absence from the court when the said case is called up for hearing.

And I hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid. We shall be entitled to withdraw from the prosecution of the said case until the same is paid.

In witness whereof I hereunto set my hand to these presents the contents of which have been explained to and understood by me, this 16th day of March, 2022.

Attested and
ACCEPTED BY:



Shah Faisal Ilyas
Advocate,
Supreme Court of Pakistan


Signature/ thumb impression of the party

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M No. _____/2022

In

S.A No. _____/2022

Dil Nawaz KhanAppellant

Versus

Put up to the worthy
Chairman Govt. of KPK & others.....Respondents

with appeal.

**APPLICATION FOR DELETION OF THE NAMES
OF THE PRIVATE RESPONDENTS AND
DEPOSIT OF PROCESS FEE TO THE EXTENT OF
THE OFFICIAL RESPONDENTS ONLY**

9/5/2022

Reader

Respectfully Sheweth:

It is most humbly submits as under:

1. That the above titled Service Appeal is pending adjudication before this Hon'ble Tribunal and is fixed for 23.06.2022.
2. That the case is provisionally admitted and it was directed to submit process fee for the respondents vide order sheet dated 22.04.2022.
3. That the private Respondents are proforma in nature and there is no legal impediment to delete the same from the panel of respondents.

It is therefore most humbly prayed that the private respondents No.4 to 86 may very graciously be deleted from the panel of respondents and appellant be allowed to deposit process fee only to the extent of official respondents.

Nawab Jilani
Appellant

Through

Shah Faisal Ilyas

Shah Faisal Ilyas

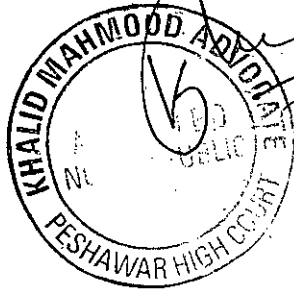
Advocate

Supreme Court of Pakistan

Dated 25/04/2022

AFFIDAVIT

It is stated on oath that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



Nawab Jilani
DEPONENT