

**Service Appeal No. 847/2016**

Mr. Muhammad Asif Yousafzai, Advocate for the appellant present. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgement containing 04 pages, placed on file of connected Service Appeal No. 734/2016 titled "Abid Khan Vs LG&RD Department" the appeal in hand is dismissed, however, the respondents may consider promotion of the appellant based on seniority-cum-fitness whenever a post becomes available.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 14<sup>th</sup> day of July, 2022.*



**(KALIM ARSHAD KHAN)**  
**Chairman**




**(FAREEHA PAUL)**  
**Member (E)**

SA 847/2016

20<sup>th</sup> June, 2022

Counsel for the appellant present. Mr. Noor Zaman Khattak,  
District Attorney for the respondents present.

Because of other multifarious engagement we could not  
record the judgment. To come up on 28.07.2022 for order.

  
(Fareeha Paul)  
Member(E)


  
(Kalim Arshad Khan)  
Chairman

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~Mohammad Yousaf Khan, Assistant District~~  
~~General Manager, \_\_\_\_\_, Superintendent of~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
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11.05.2022

Counsel for the appellant. Mr. Naseer-ud-din Shah, Assistant Advocate General for the respondents present.

Arguments heard. To come up for order on 13.05.2022 before the D.B.

  
(Fareeha Paul)  
Member (E)

  
Chairman

ORDER  
13.05.2022


Deleted for reconstitution of Bench. To come up for order on 26.05.2022.

Reader

26<sup>th</sup> May, 2022

None for the appellant present. Mr. Noor Zaman, District Attorney for respondents present.

To come up for order on 20.06.2022 before D.B.

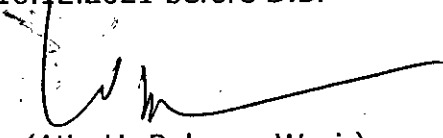
  
(Fareeha Paul)  
Member(E)


  
(Kalim Arshad Khan)  
Chairman

11.10.2021

Clerk to counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned Members of the DBA are observing Sogh over the demise of Dr. Abdul Qadeer Khan (Scientist) and in this regard request for adjournment was made; allowed. To come up for arguments on 16.12.2021 before D.B.

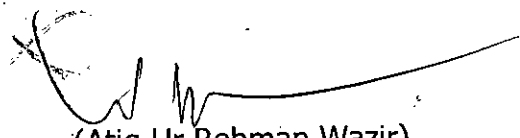
  
(Atiq-Ur-Rehman Wazir)  
Member (E)

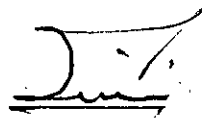
  
(Rozina Rehman)  
Member (J)

16.12.2021

Junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

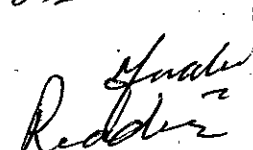
Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy before Hon'ble Peshawar High Court, Bannu Bench. Adjourned. To come up for arguments before the D.B on 16.02.2022.

  
(Atiq Ur Rehman Wazir)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

16-2-22


Due To Retirement of the Hon'ble Chairman  
the case is adjourned to come up for the  
same as before on 11-5-22

  
Qadeer  
Reddy

15.01.2021 Junior to counsel for the appellant present. Addl: AG for respondents present. Due to pandemic of Covid-19, the case is adjourned to 02.04.2021 for the same.


  
Reader


02.04.2021 Due to non availability of the concerned D.B, the case is adjourned to 30.06.2021 for the same.

  
Reader

30.06.2021 Appellant alongwith clerk of counsel present. Muhammad Riaz Ahmed Painsakheil, Assistant Advocate General for the respondents present.

Appellant requested for adjournment on the ground that learned counsel for the appellant is busy before Peshawar High Court, Mingora Bench Swat. Adjourned. To come up for arguments before the D.B. on 11.10.2021.

  
(ATIQU UR REHMAN WAZIR)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

10-4.2020

Due to COVID19, the case is adjourned to

8/7/2020 for the same as before.

  
Reader

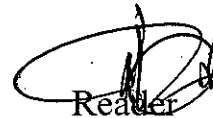
08.07.2020

Due to COVID19, the case is adjourned to 31.08.2020 for the same as before.

  
Reader

31.08.2020

Due to summer vacation, the case is adjourned to 06.11.2020 for the same as before.

  
Reader

06.11.2020

Junior to counsel for the appellant and District Attorney for the respondents present.


The Bar is observing general strike, therefore, the matter is adjourned to 15.01.2021 for hearing before the D.B.

  
(Mian Muhammad)  
Member

  
Chairman

03.03.2020

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 10.04.2020 before D.B.

  
Member

  
Member

31.10.2019

Mr. Mir Zman Safi, Advocate present and submitted wakalatnama on behalf of the appellant. Mr. Usman Ghani, District Attorney for respondents present. Learned counsel for the appellant seeks adjournment being newly engaged. Adjourned. To come up for arguments on 04.12.2019 before D.B.



(Ahmad Hassan)  
Member



(M. Amin Khan Kundi)  
Member

04.12.2019

Learned for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Abdul Manan Computer Operator for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.01.2020 before D.B.



(Hussain Shah)  
Member



(M. Amin Khan Kundi)  
Member

09.01.2020

Due to general strike of the Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for arguments on 03.03.2020 before D.B.



Member



Member



30.04.2019

Appellant in person and Mr. Riaz Ahmad Painsa Khel, Assistant AG for the respondents present. Appellant seeks adjournment on the ground that his counsel is busy before the Hon'ble Peshawar High Court. Adjourned to 20.06.2019 for arguments before D.B.

  
(AHMAD HASSAN)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

20.06.2019

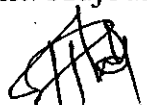
Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Raheel Afzal KPO present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 21.08.2019 before D.B.


  
Member

  
Member

21.08.2019

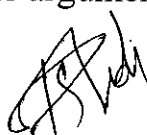
Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 30.09.2019 for arguments before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

30.09.2019

Due to general strike of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Mr. Usman Ghani, District Attorney for the respondents present. Adjourned to 31.10.2019 for arguments before D.B.

  
(HUSSAIN SHAH)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

21.12.2018

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come for arguments on 19.02.2019 before D.B


  
(Hussain Shah)  
Member

  
(Muhammad Amin Kundi)  
Member

19.02.2019

Adjourned. To come up alongwith service appeal bearing No.734/2016 on 03.04.2019 <sup>before</sup> D.B.

  
Member

  
Chairman

03.04.2019

Counsel for the appellant and Mr. Ziaullah, DDA for respondents present.

To come up alongwith service appeal bearing No. 734/2016 on ~~30~~ 03.04.2019 before the D.B.

  
Member

  
Chairman

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.

5086  
19/12/2016

Service Appeal No. 847 of 2016

Muhammad Shuaib .....Appellant

Versus

Secretary LG&RD, KPK & others.....Respondents

I N D E X

S.NO.	DESCRIPTION OF DOCUMENTS	ANNUEXURE	PAGES
1	Memo of Comments		1-3
2	Copy of letter to the All Assistant Director, LG& RDD, KPK dated 05/06/2014	A	4
3	Copy of letter to the Section Officer (Estab), LG&RDD, KPK dated 22/08/2014	B	5
4	Copy of letter to the Section Officer (Estab), LG&RDD, KPK, dated 15/09/2014	C	6
5	Copy of Surplus Pool Policy	D	7-11
6	Copy of letter by Section Officer (R-IV) Estab: Deptt: KPK, dated 23/12/2014	E	12
7	Copy of letter to the All Assistant Director, LG& RDD, KPK, dated 12/02/2015	F	13
8	Copy of Seniority List	G	14
9	Affidavit in support of Comments.		15

Peshawar.

Dated:

Respondents Nos. 1 & 2

Through:

Addl Advocate General  
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 847 of 2016

Muhammad Shuaib ..... Appellant

Versus

Secretary LG&RD, KPK & others..... Respondents

**PARA-WISE COMMENTS ON BEHALF**  
**OF RESPONDENT NO. 1 & 2**

**Preliminary Legal Objections:**

1. That Appellant has got no cause of action to file the appeal under reply.
2. That appeal of the present appellant is not maintainable.
3. That the appellant has since then been retired from his service and has been awarded all the benefits admissible under the law, hence his appeal is liable to be dismissed on this score alone.
4. That no vested rights of the Appellant have been infringed, thus he has got no right and remedy is not available to the appellant.
5. That the Appellant has not come to court with clean hands and his case also suffers from gross concealment of facts, legal infirmities, and mis-statements, hence he is not entitled for any relief.
6. That the Appellant is estopped by his own conduct to prefer the present appeal as he has not called in question the promotion orders of his seniors in the proper forum in accordance with law, hence he is precluded from the relief prayed for.

**Para-Wise Reply to the facts:**

1. Correct and relates to the appellant.
2. Correct and stated that the seniority list prepared as per the Rule 6 (d) of Esta Code (Surplus Pool Policy) (Copy of final seniority is attached as **(annexure-G)** and copy of Rule 6(d) Surplus Pool Policy attached as **(annexure-D)**.
3. Incorrect. The contents of para No.3 are misconceived and based on self-assessment of the appellant, hence denied. That on 05-06-2014 the requisite particulars of the secretaries' union councils were called from the attached department at district level vide letter No. Dir (LG) 3-12/DPC, dated 05/06/2014 **(Annexure A)**. After submission of such particular and the seniority list, some confusion arose with regard to the seniority of the Secretaries Union Councils

and the case has been referred to the Section Officer (Estb.) LG&RD, KPK, Peshawar, vide letter No. Director (LG) /3-1/Establishment/2013, dated 22-08-2014 for seeking advise of the competent forum followed by another letter dated 15-09-2014 (**Copy annexure-B & C**) referring to para-6(d) of the surplus pool policy (**Copy annexure-D**). Finally, the issue was referred to the Establishment Department Govt: of KPK (Regulation Wing) for proper guidance vide letter dated 18-11-2014 which was replied vide letter dated 23-12-2014 (**copy annexure-E**), and hence the issue of seniority inter se the secretaries union councils stood resolved and the concerned quarters were informed accordingly vide circular letter dated 12-02-2015, (**Annexure-F**). Then outstanding promotion cases were proceeded in light of the final seniority list (**Annexure-G**) on the basis of which the appellant could not qualify for promotion and 32 senior most eligible secretaries including the respondent No.3 were promoted to available 32 vacant posts of Supervisors BPS-9, in the promotion quota.

4. That the contents of Para No.4 of the appeal is denied to the extent of violation of rules by the answering respondents as no rules have been violated and the private respondent has been promoted to the post of Supervisor Union Council in accordance with law. Rest of the contents are matter of record, hence need no reply from the answering respondents.
5. That the contents of para No.5 need no reply, however the appellant has got no cause of action in respect of the subject matter.

#### **PRA-WISE REPLY ON GROUNDS:**

- A. That the contents of Ground A,B & C are misconceived and based on self-assessment of the appellant, hence denied. That on 05-06-2014 the requisite particulars of the secretaries' union councils were called from the attached department at district level vide letter No. Dir (LG) 3-12/DPC, dated 05/06/2014 (**Annexure A**). After submission of such particular and the seniority list, some confusion arose with regard to the seniority of the Secretaries Union Councils and the case has been referred to the Section Officer (Estb.) LG&RD, KPK, Peshawar, vide letter No. Director (LG) /3-1/Establishment/2013, dated 22-08-2014 for seeking advise of the competent forum followed by another letter dated 15-09-2014 (**Copy annexure-B & C**) referring to para-6(d) of the surplus pool policy (**Copy annexure-D**). Finally, the issued was referred to the Establishment Department Govt: of KPK (Regulation Wing) for proper guidance vide letter dated 18-11-2014 which was replied vide letter dated 23-12-2014 (**copy annexure-E**), and hence the issue of seniority inter se the secretaries union councils stood resolved and the concerned quarters were informed accordingly vide circular letter dated 12-02-2015, (**Annexure-F**). Then outstanding promotion cases were proceeded in light of the final seniority list


20  
(Annexure-G) on the basis of which the appellant could not qualify for promotion and 32 senior most eligible secretaries including the respondent No.3 were promoted to available 32 vacant posts of Supervisors BPS-9, in the promotion quota.

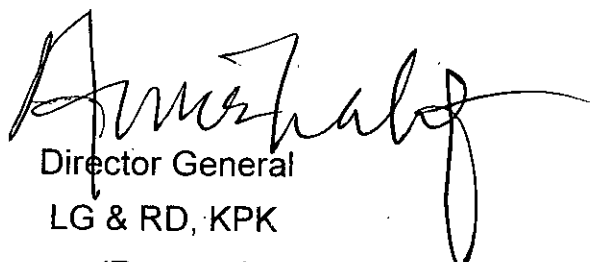
- B. That the contents of Para D of the grounds are wrong and based on hearsay, hence denied. As submitted in the preceding Paras, the entire process has been carried out in accordance with law and the appellant has never been deprived of his rights.
- C. That the contents of Para E, F & G of the grounds are incorrect the due right of appellant is not denied he is not entitled for any relief as his appeal is based on mala fide in order to pressurise the answering respondents for his ulterior motives. The respondents also seek leave to raise additional grounds at the time of arguments.

It is, therefore, prayed that the appeal of the appellant may be dismissed with cost.

Peshawar.

Dated:

  
Secretary  
LG, E, & RDD, KPK  
Peshawar. (Respondent NO.1)

  
Director General  
LG & RD, KPK  
Peshawar. (Respondent NO.2)

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 847 of 2016

Muhammad Shuaib..... Appellant

Versus

Secretary LG&RD, KPK & others..... Respondents

AFFIDAVIT

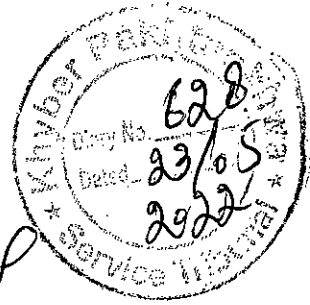
I, Jamshed Khan, Assistant, LG & RDD, Swabi , do hereby state on solemn affirmation that the contents of the written comments are true and correct to the best of my knowledge and belief and nothing has concealed from this honourable court.

  
Deponent

Jamshed Khan, Assistant  
o/o AD, LG& RDD, Swabi  
(17301-7712119-5)

Identified by me

26/05/2022  
ANo 847/16



20. Chairman  
The Civil Judge  
KP Civil Services Tribunal  
Peshawar

Subject: Seniority list of Service  
Union Council (BPS-9)

Respected Sir,

It is submitted.

- 1) that details have already been submitted vide my letter/application dated 13.5.2022 (copy attached)
- 2) that the above Seniority can easily be confirmed from the very fact that signatures of all the village Secretaries have been obtained where in my s.no at the said Seniority list no. 102 (No. 1) thereafter obtaining the signatures of the all village secretaries, no objection has been raised by any village secretary of thus the Seniority list was hereby confirmed accordingly. (copy of seniority list duly signed by all village secretaries attached) The report is submitted for perusal please.

Yours obediently  
Muhammad Shaib  
Village Secretary (PTD)  
Village, Kalan  
Gawabi

23/5/2022  
21.5.2022

Put up to the court with  
relevant app.

23/5/2022



Chairman  
in ~~charge~~ ~~of~~ ~~the~~ ~~Board~~  
K~~R~~ Service Tribunal  
14/14a, Peshawar  
Peshawar.

Subject: Seniority list of Secretaries  
Union Council (BPS-7)

Respected Sir,  
It is submitted,

- 1) that per the seniority list issued by the Asstt. Director / Asstt. Co-ordination office, Swabi vide his notification 959 ALO dated 5.10.2012 my name has been recorded at serial 1 of a copy of the seniority list is attached herewith in continuation.
- 2) that my qualification is B.A. & thereafter in the seniority list the name of one of Mr. Amjad Ali who is simply matriculate has been illegally recorded at serial 7 which is incorrect.
- 3) It is that it may be added that I am not in picture of any case as I had retired from service on 8.9.2013. therefore I am the senior most & the report is submitted please

Young Observer  
Muzamil Ahmad  
Kotomal Shahid  
with op secretary (AEO)  
14/14a, Peshawar  
Date 13.5.2022

Counsel for the appellant and Mr. Ziaullah DDA  
for official respondents Present Nemo for  
respondent No. 3

On the last date of hearing notice was ordered to  
be issued to respondent No 3 for hearing today. The  
record suggests that the requisite notice was duly  
issued however, the said respondent is un-  
represented. He is therefore placed ex-Parte.

To come up for argument before the B-Dom  
30-04-2019

A  
S  
Annex -  
B

**SENIORITY LIST OF SECRETARIES UNION COUNCILS DISTRICT SWABI**

S No	Name	IPS	Date of Birth	Qualification	Date of Initial Appointment	Date of Promotion if applicable	Remarks Name of parent Dept. Date of Adjustment as Secretary U/C
1	Muhammad Shabbir	07	08-07-1951	BA	28-07-1976		Secretary, UC, LG & RDD, Swabi
2	Abdul Khan	07	20-02-1953	BA	14-01-1981		Secretary, UC, LG & RDD, Swabi
3	Sher Afzar Khan	07	10-12-1959	FA	13-02-1985		Secretary, UC, LG & RDD, Swabi
4	Habib Ur Rehman	07	04-01-1957	MA	30-04-1988		Secretary, UC, LG & RDD, Swabi
5	Muhammad Shafiq	07	09-10-1954	FA	30-04-1985		Secretary, UC, LG & RDD, Swabi
6	Rohat Anam	07	11-11-1955	BA	10-05-1988		Secretary, UC, LG & RDD, Swabi
7	Zahir Muhammad	07	25-03-1962	BA	06-05-1990		Secretary, UC, LG & RDD, Swabi
8	Imdad Ali	07	03-04-1965	MA	08-05-1990		Secretary, UC, LG & RDD, Swabi
9	Niaz Muhammad	07	12-03-1955	MA	17-07-1990		Secretary, UC, LG & RDD, Swabi
10	Muhammad Hussain	07	01-01-1965	MA	17-07-1990		Secretary, UC, LG & RDD, Swabi
11	Muhammad Nawaz	07	01-04-1963	BA	21-07-1990		Secretary, UC, LG & RDD, Swabi

In Object - Certificate on the following Seniority List

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*


*[Signature]*

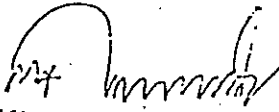
*[Signature]*

(6)

12	Muhammad Saleem	07	03-11-1967	FA	26-03-1991		Secretary, UC, LG & RDD, Swabi.
13	Sajid Ali Khan	07	15-03-1965	BA	26-03-1991		Secretary, UC, LG & RDD, Swabi.
14	Saeed Ur Rehman	07	20-04-1967	BA	23-02-1992		Secretary, UC, LG & RDD, Swabi.
15	Sadiq Muhammad	07	01-01-1970	BA	22-11-1994		Secretary, UC, LG & RDD, Swabi.
16	Javed Khan	07	08-04-1970	BA	22-11-1994		Secretary, UC, LG & RDD, Swabi.
17	Ajmal Shah	07	15-09-1964	FA	23-11-1994		Secretary, UC, LG & RDD, Swabi.
18	Muhammad Fahir	07	17-02-1970	FA	23-11-1994		Secretary, UC, LG & RDD, Swabi.
19	Tajamul Hussain	09	01-03-1955	SSC	27-10-1980	15/2/2007	Secretary, UC, LG & RDD, Swabi.
20	Ampid Ali	07	26-04-1951	SSC	31-10-1955	01-07-2007	Senior Clerk, LG & RDD, 03-08-2001
21	Muhammad Islam	09	13-11-1969	SSC	28-03-1988	01-07-2007	Senior Clerk, DC Office 03-08-2001
22	Munawar Khan	07	17-07-1954	SSC	02-06-1983		Senior Clerk, DC Office 03-08-2001
23	Abdul Samad	07	11-11-1964	BA	03-12-1989		Junior Clerk, DC Office 03-08-2001
24	Miaz Wali Shah	07	15-03-1965	FA	03-12-1989		Junior Clerk, DC Office 03-08-2001
25	Javed Khan	07	15-03-1969	BA	03-12-1989		Junior Clerk, DC Office 03-08-2001
26	Muhammad Nazam	07	10-04-1972	BA	03-12-1989		Junior Clerk, DC Office 03-08-2001

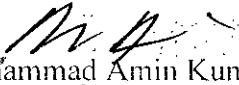
27	Muhammad Iqbal	07	10-02-1965	SSC	05-12-1989		Junior Clerk, DC Office 03-03-2001	<i>[Handwritten signature]</i>
28	Arshid Ahmad	07	02-04-1959	MA	05-12-1989		Junior Clerk, DC Office 03-03-2001	<i>[Handwritten signature]</i>
29	Abdullah	07	03-03-1963	FA	17-12-1985		Junior Clerk, DC Office 03-03-2001	<i>[Handwritten signature]</i>
30	Wisal Muhammad	07	01-01-1969	SSC	29-05-1990		Junior Clerk, DC Office 03-03-2001	<i>[Handwritten signature]</i>
31	Anwar Saeed	07	15-03-1962	BA	21-07-1993		Junior Clerk, LG & PDD, 03-03-2001	<i>[Handwritten signature]</i>
32	Muhammad Iqbal	07	20-01-1968	SSC	12-07-1990		Junior Clerk, DC Office 03-03-2001	<i>[Handwritten signature]</i>
33	Anwar Ali	07	21-03-1966	SSC	13-09-1993		Junior Clerk, DC Office 03-03-2001	<i>[Handwritten signature]</i>
34	Muhammad Ismail	07	07-03-1966	BA	09-03-1988	15-05-1993	Junior Clerk, DC Office 03-03-2001	<i>[Handwritten signature]</i>
35	Riaz Ali	07	12-05-1964	BA	09-08-1988	15-05-1993	Junior Clerk, DC Office 03-03-2001	<i>[Handwritten signature]</i>
36	Zulfikar Ali	07	15-04-1968	FA	01-03-1991		J/L, Cooperative Deptt. 16-03-2001	<i>[Handwritten signature]</i>
37	Zakir Shah	07	15-04-1971	BA	28-10-1991		Junior Clerk, DC Office 03-03-2001	<i>[Handwritten signature]</i>
38	Sajjad Ali	07	11-10-1968	FA	18-08-1997		Junior Clerk, DC Office 03-03-2001	<i>[Handwritten signature]</i>
39	Muhammad Ismail	07	15-04-1973	BA	07-01-1993		Junior Clerk, LG & PDD, 13-03-2001	<i>[Handwritten signature]</i>
40	Sikandar Zaib	07	15-04-1970	BA	24-04-1991		Junior Clerk, LG & PDD, 13-03-2001	<i>[Handwritten signature]</i>
41	Abdul Rasheed	07	20-05-1968	FA	02-09-1990	02-10-1993	Junior Clerk, DC Office 03-03-2001	<i>[Handwritten signature]</i>


42	Sajid Muhammad	07	14-02-1953	SSC	15-11-1985	19-01-1994	Junior Clerk, LG & RDD, 28-03-2001	
43	Noor ul Bashir	07	20-01-1958	SSC	09-08-1985	31-05-1994	Junior Clerk, DC Office 03-08-2001	Handwritten signature
44	Yasir Ali	07	30-03-1963	SSC	16-06-2003		Secretary, UC, LG & RDD, Swabi	Rtd.
45	Kaman Afsar	07	03-03-1976	SSC	05-03-2009		Secretary, UC, LG & RDD, Swabi	Handwritten signature
46	Shahab ali	07	06-01-1950	SSC	05-03-2009		Secretary, UC, LG & RDD, Swabi	Handwritten signature
47	Qaisar Khan	07	16-02-1932	SSC	05-03-2009		Secretary, UC, LG & RDD, Swabi	Handwritten signature
48	Muhammad Ayaz Khan	07	07-01-1981	SSC	05-03-2009		Secretary, UC, LG & RDD, Swabi	Handwritten signature
49	Majid Khan	07	26-01-1935	SSC	05-03-2009		Secretary, UC, LG & RDD, Swabi	Handwritten signature
50	Zulfiqar Ali	07	01-01-1933	SSC	05-03-2009		Secretary, UC, LG & RDD, Swabi	Resigned

  
 ASSISTANT DIRECTOR,  
 LG & RDD, SWABI.

27.06.2018


Appellant alongwith junior to counsel for the appellant and Mr. Riaz Paindakheil learned Assistant Advocate General for the respondents present. Junior to counsel for the appellant seeks adjournment on the ground that learned senior counsel is busy before Hon'ble Peshawar High Court Peshawar. Adjourned. To come up for arguments on 16.08.2018 before D.B.

  
(Muhammad Amin Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member

16.08.2018

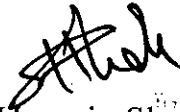
Appellant absent. Learned counsel for the appellant absent. Mr. Muhammad Jan learned Deputy District Attorney present. Adjourned. To come up for on 28.09.2018 before D.B.

  
(Muhammad Amin Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member

28.09.2018

Appellant in person and Mr. Muhammad Jan learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 08.11.2018 before D.B.

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member


08.11.2018

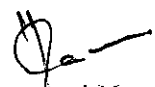
Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 21.12.2018

  
READER

19.10.2017


Clerk of the counsel for appellant present. Learned Deputy District Attorney for the respondents present. Clerk of the counsel for appellant seeks adjournment. Adjourn. To come up for arguments on 05.11.2018 before D.B.

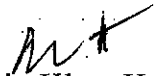
  
(Ahmad Hassan)  
Member (E)

  
(Muhammad Hamid Mughal)  
Member (J)

05.01.2018


Counsel for the appellant present. Asst: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 27.02.2018 before D.B.

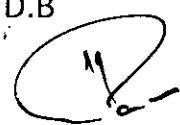
  
(Ahmad Hassan)  
Member(E)

  
(M. Amin Khan Kundi)  
Member (J)

27.02.2018

Learned counsel for the appellant and Mr. Usman Ghani, Learned District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 27.04.2018 before D.B

  
(Gul Zeb Khan)  
Member

  
(Muhammad Hamid Mughal)  
Member

27.04.2018

Appellant in person and Mr. Kabir Ullah Khattak, Additional AG for the respondents present. The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 27.6.2018 before D.B.

  
Recorder



02.11.2016

Clerk to counsel for the appellant and Assistant AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 21.12.2016 before S.B.

  
Chairman

21.12.2016

Appellant in person and Mr. Jamshed Khan, Assistant alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 14.02.2017.

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

14.02.2017

Counsel for the appellant and Addl. AG for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 15.06.2017 before D.B.

  
(AHMAD HASSAN)  
MEMBER

  
(ASHFAQUE TAJ)  
MEMBER

15.06.2017

Counsel for the appellant present. Mr. Jamshid Khan, Assistant alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 19.10.2017 before D.B.

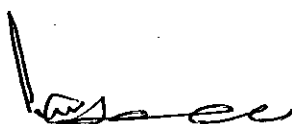


  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER


Form- A  
FORM OF ORDER SHEET

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

Case No. 847/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22/08/2016	<p>The appeal of Mr. Muhammad Shoaib resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	25-08-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>30-08-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	30.08.2016	<p>Counsel for the appellant present. Learned counsel for the appellant argued that identical service appeals No. 733/2016 and 734/2016 are already admitted for hearing and fixed for 05.09.2016.</p> <p>In view of the above, the instant appeal is also admitted for regular hearing. Subject to deposit of security and process fee within 10 days where-after notices be issued to the respondents for written reply/comments for 02.11.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

Appellant Deposited Security & Process Fee




The appeal of Mr. Muhammad Shoaib Retired Secretary Union Council Swabi received today i.e. on 21.07.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Five more spare copies should be filed along with complete annexures.

No. 1350 /S.T,

Dt. 01808 /2016

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M. Asif Yousafzai Adv. Pesh.

*Respected Sir*

- 1- *Removed*
- 2- *Removed*
- 3- *Removed*

*Resubmitted after compliance*



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

Appeal No. 847 /2016

Muhammad shoaib

V/S

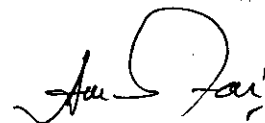
LG&RD Deptt.

**INDEX**

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	1-4
2.	Copy of appointment order	A	5-6
3.	Copy of retirement order	B	7
4.	Copy of rules	C	8-11
5.	Copy of seniority list 2012	D	12-14
6.	Copy of order	E	15
7.	Copy of Writ Petition	F	16-22
8.	Copy judgment	G	23-33
9.	Copy of departmental appeal	H	34-35
10.	Vakalat Nama	-----	36

Appellant

Through:



( M. ASIF YOUSAFZAI )

And



(TAIMUR ALI KHAN)

ADVOCATES, PESHAWAR.

BEFORE KHYBER PAKHTUNWA SERVICE TRIBUNAL, Diary No. 339

PESHAWAR

Dated 17-6-2022

Appeal No. \_\_\_\_\_/2015

Shoaib Vs Local Government  
Abid Vs Local Government

*Application for placing Written Arguments to consider  
important points/legal objection before deciding  
appeal*

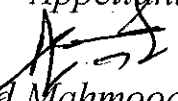
*Respectfully Sheweth,*

- 1. The instant appeal is fixed for order on 20<sup>th</sup> June, 2022.*
- 2. Appellant want to submit written arguments (annexed herewith) wherein some very important points/legal objections are required to be considered before deciding appeal because it came into knowledge of appellant that seniority list attached with official reply is especially prepared to justify their stance at Tribunal; during pendency of appeal.*

*It is, requested that document attached may kindly be considered before deciding appeal to save justice from being defeated.*

*Dated: 17.06.2022*

Through

Appellant  
  
Asad Mahmood  
Advocate High Court

Service Appeal No. ——— 12016

(Sec 7 - CSA Act  
Sec 9 - APT Rules  
Attached)

1. Shoaib ] Vs Local Govt.  
2. Abid ]  
• Amjad (Private Respondent)

Very Important Points to be considered before deciding appeal.

1. Amjad was promoted out of turn (out of turn promotion) because in actual seniority list (Annexed with Abid appeal)  
• Shoaib on seniority 1, Abid on seniority-2 & Amjad on 20.

2. Amjad was promoted to post of Village Secretary. ~~TS~~  
→ He was having qualification — Only Matriculate.  
→ Promotion Rules (Annexed with Appeal) → Education requirement for Village Secretary is Bachelors Degree.  
→ Abid & Shoaib both are Bachelors Degree holder.

Now: Sec 7 of APT Rules and Sec 9 of Civil Servant Act 1973.

→ Promotion of Amjad is made in violation of Sec 7 of APT Rules and Sec 9 of CSA Act 1973.

→ Any civil servant despite who is on top of seniority list can not be promoted unless having prescribed qualification for promoted post.

→ Criteria for promotion is Seniority cum Fitness but among eligible candidates not all candidates. Candidates <sup>not</sup> possessing BA can not be promoted despite he is senior most.

Promotion means:

- posting of employee from lower scale to higher scale,
- change in nomenclature / job description.
- increase in basic pay.

~~For Arguments:~~

~~17 Amjad~~

17 Amjad was adjusted in this department as BPS-9 in 2001, then ~~in~~ in the year 2015, how he can be again promoted from BPS 7 to BPS-9.

If he was in BPS-9 & promoted to BPS-9 with change of cadre — then as per Civil Servant Act, and APT Rules, it is not promotion but an appointment by transfer. because none of the ingredients like increase in pay, posting on higher scale exist.

VERY IMPORTANT.

→ Seniority List annexed with Department's reply is not that list on which promotion was made.

Proof: — Appellant (Shoaib) was in service when pri respondent was provided and pri respondent was granted out of turn promotion — which is declared illegal by supreme court. Shoaib name was retired in 2015. Therefore his name is not enlisted in seniority list of official reply.

→ Seniority list with official reply is specifically prepared ~~to~~ just to cover up their illegality.

5. <sup>1</sup>[Departmental Promotion and Selection Committee/Board].-- (1) In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee <sup>2</sup>[or, as the case may be, Departmental Selection Board], the composition of which shall be determined by the Services and General Administration Department or the Department in consultation with the Services and General Administration Department.

(2) Each such Committee <sup>3</sup>[or the Board, as the case may be], shall consist of at least three members, one of whom shall be appointed as Chairman.

<sup>4</sup>[6. Procedure when recommendation is not accepted.---When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain orders of the next higher authority.]

#### PART-II APPOINTMENT BY PROMOTION OR TRANSFER

7. Appointment by Promotion or Transfer.---<sup>5</sup>[(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee.]

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exists.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

<sup>6</sup>[(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18, unless the officer concerned has completed such minimum length of service as may be specified from time to time, or, in case of posts in Basic pay Scale 19 to 21, the officer, besides having the minim length of service for the time being required for promotion, has also attended such training and passed such departmental examination as may be prescribed from time to time.]

1. The Heading substituted by Notification No. SORI(S&GAD)2-7/86, dated 08-12-1994.

2. Inserted by Notification No. SORI(S&GAD)2-7/86, dated 08-12-1994.

3. The words inserted by Notification No. SORIII(S&GAD)2-7/86, dated 08-12-1994.

4. Rule 6 substituted by Notification No. SORIII(S&GAD)2-7/86, dated 08-12-1994.

5. Sub-rule(1) of rule 7 substituted by Notif. No. SORI(S&GAD)4-1/80(Vol.II), dated 14-01-1992.

6. Sub-rule 4 of Rule 7 substituted by Notif. No. SOR-I(S&GAD)4-1/80 (Vol-III) dated 30-12-1999.

<sup>1</sup>[(5) If on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next four years following the order:

Provided that if he declines to avail the benefit of promotion for the second time, then he shall stand superseded permanently for such promotion.]

8. Inter-Provincial Transfer.---(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:--

Provided that:-

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;
- (iv) the person concerned is a bonafide resident of the Khyber Pakhtunkhwa;
- (v) a vacancy exists to accommodate the request of such a transfer; and
- (vi) provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purposes of determining his seniority vis-a-viz other members borne on the cadre.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request of transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.

9. Appointment on Acting Charge or current Charge Basis.---

(1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for

1. Sub-rule (5) of Rule 7 added by Notif. No. SOR-VI(E&AD)1-3/2009/Vol-VIII dated 22-10-2011



Provided that in the case of initial appointment to a service or post, a civil servant shall not be deemed to have completed his period of probation satisfactorily until his character and antecedents have been verified as satisfactory in the opinion of the appointing authority

7. **Confirmation.**---(1) A person appointed on probation shall, on satisfactory completion of his probation, be eligible for confirmation in a service or, as the case may be, a post as may be prescribed.

(2) A civil servant promoted to a post <sup>1</sup>[...] on regular basis shall be eligible for confirmation after rendering satisfactory service for the period prescribed for confirmation therein.

(3) There shall be no confirmation against any temporary post.

(4) A civil servant who, during the period of his service, was eligible to be confirmed in any service or against any post retires from service before being confirmed shall not, merely by reason of such retirement, be refused confirmation in such service or post or any benefits accruing therefrom.

(5) Confirmation of a civil servant in a service or post shall take effect from the date of occurrence of permanent vacancy in that service or post or from the date of continuous officiation, in such service or post, whichever is later.

8. **Seniority.**---(1) For proper administration of a service, cadre or <sup>2</sup>[post], the appointing authority shall cause a seniority list of the members for the time being of such service, cadre or <sup>3</sup>[post] to be prepared, but nothing herein contained shall be construed to confer any vested right to a particular seniority in such service, cadre or <sup>4</sup>[post] as the case may be:

(2) Subject to the provisions of sub-section (1), the seniority of a civil servant shall be reckoned in relation to other civil servants belonging to the same service or <sup>5</sup>[cadre], whether serving in the same department or office or not, as may be prescribed.

(3) Seniority on initial appointment to a service, <sup>6</sup>[cadre] or post shall be determined as may be prescribed.

<sup>7</sup>[(4) Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post:

1. The words "or grade" omitted by Khyber Pakhtunkhwa Ordinance No. IV of 1985.
2. Subs. for the word "grade" by Khyber Pakhtunkhwa Ordinance No. IV of 1985.
3. Subs. for the word "grade" by Khyber Pakhtunkhwa Ordinance No. IV of 1985.
4. Subs. for the word "grade" by Khyber Pakhtunkhwa Ordinance No. IV of 1985.
5. Substituted for the word "grade" by Khyber Pakhtunkhwa Ordinance No. IV of 1985.
6. Substituted for the word "grade" by Khyber Pakhtunkhwa Ordinance No. IV of 1985.
7. Sub-section (4) substituted by Khyber Pakhtunkhwa Ordinance No. IV of 1985.

Provided that civil servants who are selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter-seniority as in the lower post.]

<sup>1</sup>[(5) The seniority lists prepared under sub-section (1), shall be revised and notified in the official Gazette at least once in a calendar year, preferably in the month of January].

9. **Promotion.**---(1) A civil servant possessing such minimum qualifications as may be prescribed shall be eligible for promotion to a <sup>2</sup>[higher] post for the time being reserved under the rule for departmental promotion in <sup>3</sup>[...] the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non selection post to which promotion shall be made as may be prescribed--

(a) In the case of a selection post, on the basis of selection on merit; and

(b) in the case of non-selection post, on the basis of seniority-cum-fitness.

10. **Posting and Transfer.**---Every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government or Local authority, or a corporation or body set up or established by any such Government:

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

Provided further that, where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

11. **Termination of service.**---(1) The service of a civil servant may be terminated without notice--

(i) during the initial or extended period of his probation:

Provided that, where such civil servant is appointed by promotion on probation or, as the case may be, is transferred from one <sup>4</sup>[service], cadre or post to another <sup>5</sup>[service], cadre or post, his service shall not be so terminated so long as he holds a lien

1. Sub-section (5) added by Khyber Pakhtunkhwa Act No. I of 1989.
2. The word "higher" inserted by Khyber Pakhtunkhwa Ordinance No. IV of 1985.
3. The words "the higher grade of" omitted by Khyber Pakhtunkhwa Ordinance No. IV of 1985.
4. The word "grade" substituted by Khyber Pakhtunkhwa Ordinance No. IV of 1985.
5. The word "grade" substituted by Khyber Pakhtunkhwa Ordinance No. IV of 1985.

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Appeal No. 847 /2016

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 744

Dated 21.7.16

Mr. Muhammad Shoaib,  
Secretary Union Council (retired), Swabi.

**APPELLANT**

VERSUS

1. The Secretary, Government of Khyber Pakhtunkhwa, Local Government & Rural Development Department, Civil Secretariat, Peshawar.
2. The Director General, Local Government & Rural Development Department, Khyber Pakhtunkhwa, Peshawar.

**RESPONDENTS**

.....

APPEAL UNDER SECTION-4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR DIRECTING THE RESPONDENT TO CONSIDER THE APPELLANT FOR NOTIONAL PROMOTION TO THE POST OF SUPERVISOR (BPS-9) UNDER 75% FIXED QUOTA BY THE GOVERNMENT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

.....

Filed to -day  
*R. Shoaib*  
21-7-16  
Registrar

**PRAYER:**

THAT ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO CONSIDER THE APPELLANT FOR NOTIONAL PROMOTION TO THE POST OF SUPERVISOR (BPS-9) UNDER 25% QUOTA FIXED BY THE GOVERNMENT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Re-submitted to -day  
and filed.

*Abdullah*  
Registrar

22/8/16

## **RESPECTFULLY SHEWETH:**

### **FACTS**

1. That the appellant joined the respondent department on 22.07.1976 as Secretary Union Council (BPS-5) and later on upgraded to (BPS-8) and stood retired on 07.09.2014. (Copies of appointment order and retirement order are attached as annexure -A&B).
2. That according the rules, the post of supervisor is to be filled in as 25% by initial recruitment and 75% by selection on merit with due regard to the seniority from amongst the holders of the post of the village Secretary/ Union Council secretary with at least 5 years service as such. (copy of rules is attached as annexure-C)
3. That according to seniority list of 2012, the appellant was at S.No 1 and have also fulfilled other condition for the promotion to the post of Supervisor under 75% quota, but despite that he was not promoted to the post of supervisor under 75% quota in time and stood retired on 7.9.2014 (Copy of seniority list 2012 is attached as Annexure-D)
4. That on 26.5.2015, the respondent department in utter violation of rules and seniority promoted the junior most officers (private respondent) to the post of Supervisor by ignoring the appellant. The said promotion order along other orders was agitated in Writ Petition No.2526-P/2015 etc before the Hon'ble Peshawar High Court, Peshawar. The said Writ Petition was finally heard on 1.3.2016 and the Honourable High Court while dismissing the Writ Petition on basis of jurisdiction had observed that "Since the petitioners have not filed the Departmental Appeals against the impugned order dated 26.5.2015 and as such the statutory provision of Section 4 of the Services Tribunal Act cannot be violated by sending the instant and connected petition as appeals before the Services Tribunal. In addition thereto, under Rules 5 of the Appeal Rules, 1977 every aggrieved person has to file a separate

and independent Appeal, which in the instant and connected petitions is lacking. Moreover, this and the connected as per request of learned counsel for petitioners can not be remitted to the Departmental Appellate Authority as the same have been filed by eight petitioners whereas the Departmental Appeal has to be filed by an aggrieved person in individual capacity, however, it is observed that since the petitioners are claiming allocation of 75% share in the promotion quota in the appointment of next higher grade, which on the fate of it is a recurring cause of action and for that matter they can file a Departmental Appeal any time as such this and the connected petitions, noted above, are not maintainable and dismissed accordingly'. (Copies of Order, Writ Petition and Judgment are attached as Annexure-E, F and G)

5. That then the appellant in light of observations of the Hon'ble Peshawar High Court preferred Departmental Appeal on 24.3.2016 which was not responded despite of lapse of statutory period of 90 days, hence the present appeal on the following grounds amongst the others. (Copy of Appeal is attached as Annexure-H.

**GROUND:**

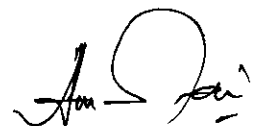

- A) That not taking action on the departmental appeal of the appellant and not considering the appellant for promotion to the post of Supervisor (BPS-9) under 75% quota is against the norms of justice and material on record.
- B) That the appellant was on the top of the seniority in 2013 and also fulfilled other conditions for promotion to the post of supervisor (BPS-9), but despite he was not promoted in time under 75% quota, which shows the laziness of the department.
- C) That 75% promotion policy of the department is still in field and the appellant was eligible for promotion to the post supervisor (BPS-9) on the basis of that 75% quota.

- ④
- D) That the appellant was punished for his no faults and deprived from his due right of promotion which is against the principle of nature justice.
  - E) That depriving the appellant from his legal right of promotion under 75% quota by the respondents has cause great financial loss to the appellant.
  - F) That the appellant has not been treated according to law and rules and has deprived from his legal right of promotion under 75% quota.
  - G) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is, therefore, humbly prayed that the appeal of the appellant may be accepted as prayed for.

  
Appellant  
Muhammad Shoaib

Through:

  
( M. ASIF YOUSAFZAI )  
&  
  
(TAIMUR ALI KHAN)

ADVOCATES, PESHAWAR.

DIRECTORATE OF RURAL DEVELOPMENT,  
N.W.F.P., PESHAWAR.

Dated Peshawar the 22nd July, 1976.

O-F-F-I-C-E - O-R-D-E-R

No: DG(PWP)2(11)/73 Vol-II. The following candidates are hereby appointed as Village Secretaries in the National Pay Scale No.6 (Rs. 165-8-205/10-255/10-315) on purely temporary adhoc basis subject to production of Health and Age Certificates from their respective Civil Surgeons

Ser No	Name of Official.	Place of Posting
1.	Mr. Baidar Khan s/o Gardar Khan.	Peshawar.
2.	Mr. Jehan Alam s/o Jalander.	Peshawar.
3.	Mr. Manzob s/o Ishaqul Haq	Mardan.
4.	Mr. Mohammad Shuaib s/o Mir Nawab.	Mardan.
5.	Mr. Habibur Rehman s/o Azizur Rehman.	Hazara.
6.	Mr. Zahoor Ahmad s/o Abdur Rehman.	Hazara.
7.	Mr. Ali Asghar s/o Mohammad Afzal.	Hazara.
8.	Mr. Mohammad Tariq s/o Mohammad Ashraf.	Hazara.
9.	Mr. Mushtaq Haider. s/o Ali Haider.	Hazara.
	s/o Mirza Khan.	Bannu.
11.	Mr. Nekam Gul s/o Ilam Din.	Bannu.
12.	Mr. Mohammed Tariq s/o Mohammad Nawaz.	Bannu.
13.	Mr. Abdul Qayyum s/o Ghulam Qadir.	D.I.Khan.
14.	Mr. Ghulam Samdani s/o Sultan Sikandar Khan.	D.I.Khan.

Their services are temporary and can be terminated at any time without notice and without assigning any reasons thereof but in case they intend to leave the jobs, they will either give one month's notice or will deposit one month's pay in lieu thereof.

They will undergo necessary training course as and when asked for and their retention in service will depend on the successful completion of the said training course.

Serial No. 1 & 2 should report to Assistant Director, Rural Development Peshawar, while serial 3 & 4 to Assistant Director, Rural Development Mardan, serial 5 to 9 to Assistant Director, Rural Development Hazara, serial 10 to 12 to Assistant Director, Rural Development Bannu and serial 13 & 14 to Assistant Director, Rural Development D.I.Khan for duty immediately.

ATTESTED

Sd/ Director General/Addl Secy:  
Rural Development Department,  
N.W.F.P., Peshawar.

(continued on page..2...)

28/7/76

areal

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No. DG(PWP)2(11)/73 Vol-II. Dated Peshawar the 22nd July, 1975.

Copy of the above is forwarded to:

- 1- The Assistant Directors, Rural Development, Peshawar, Mardan, Hazara, Bannu & D.I.Khan.
- 2- The Accountant General, NWFP, Peshawar.
- 3- The Districts Accounts Officers, Mardan, Hazara, Bannu & D.I.Khan.
- 4- (1) Mr. Roidar Khan s/c Sardar Khan, Village: Balu Tehsil: Fowlsara, District: Peshawar.
- (2) Mr. Jehan Alam s/o Jalander, Village & PO: Mingora District: Swat.
- (3) Mr. Manzob s/o Ihsanul Haq, Village & PO: - Yaqubi; Tehsil: Swabi District: Mardan.
- (4) Mr. Mohammad Huseib s/o Mir Nawab of Village: Kala Tehsil: Swabi District: Mardan.
- (5) Mr. Habibur Rehman s/o Azizur Rehman, Village & PO: Garhi Habibullah, Tehsil: Mansehra, District: Hazara.
- (6) Mr. Zahoor Ahmad s/o Abdur Rehman, Mohallah: Soha Tehsil: Haripur, District: Hazara.
- (7) Mr. Ali Asghar s/o Mohammad Afzal, Village: Nadhar, PO: Attarshila, Tehsil: Mansehra, District: Hazara.
- (8) Mr. Mohammad Arif s/o Mohammad Ashraf C/O Assistant Director, Rural Development Hazara.
- (9) Mr. Mushtaq Lodgor s/o Ali Laidar, Mohallah: Rahmatabad, District: Hazara.
- (10) Mr. Farhatullah Khan s/o Mira Jan Khan, Village: Dharma Khel, Tehsil & District: BANNU.
- (11) Mr. Nekam Gul s/o Ilam Din of Sikandar Khel Bala C/O Qazi Gul, Clerk office of the Asstt Director, Rural Development Bannu.
- (12) Mr. Mohammad Tariq s/o Mohammad Nawaz C/O Supervisor Rural Development Department Lakki Marwat of Bannu Distt.
- (13) Mr. Abdul Qayyum s/c Ghulam Qadir, Mohallah: Chowk Seth Ashraf, District: D.I.Khan.
- (14) Mr. Ghulam Smdani s/o Sultan Sikandar Khan, Marwat Rehmani Khel, District: D.I.Khan.

For information and necessary action.

*Ansar Ahmad*

(ANSAR-AHMAD)  
Assistant Director (Admn),  
Rural Development Department,  
N.W.F.P., Peshawar.

MH

LOCAL GOVERNMENT, ELECTIONS & RURAL  
DEVELOPMENT DEPARTMENT,  
OFFICE OF THE ASSISTANT DIRECTOR SWABI

B (7)

No. 481 AD (LG-SB)/Rtd/2014,  
Dated Swabi the 03 /09/2014.

OFFICE ORDER.

In exercise of the power conferred upon me vide Para 6(b) of the Rules of Business 2001 Mr. Muhammad Shuaib, Secretary, Union council, Swabi Khas, District Swabi is hereby allowed to proceed on superannuation pension with effect from 07-09-2014 (AN).

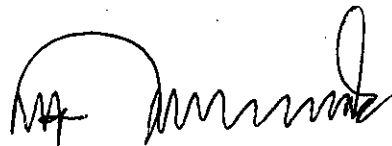
Sanction to the encashment of LPR for 365 days is also accorded as admissible under the revised rules 1981.

ASSISTANT DIRECTOR  
Local Govt: & Rural Dev; Deptt: Swabi.

Endst: No. & Date even:-

Copy forwarded for information:-

1. The District Account Officer, District Swabi.
- ✓ 2. The Official concerned.



ASSISTANT DIRECTOR  
Local Govt: & Rural Dev; Deptt: Swabi.

ATTESTED

09-08-2013 to 8-08-2014 @ Rs. 17000/-

$$\frac{17000 \times 12 \times 365}{365} = 204000/-$$



(C) (8)  
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GOVERNMENT OF NORTH-WEST FRONTIER  
LOCAL GOVERNMENT, COOPERATION, SOCIAL  
TOURISM AND RURAL DEVELOPMENT DEPT.  
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70.  
~~AR~~ ~~AR~~

Dated Peshawar the 26th Janu:

NOTIFICATION

DG(PWP)7(2)/73. In exercise of the powers conferred by sub-rule(2) of rule 3 of the North-West Frontier Province Civil Servants (Appointment, promotion and Transfer) Rules, 1975, and in consultation with the Information, Services and General Administration Department and the Finance Department, the Local Government Cooperation, Social Welfare, Tourism and Rural Development Department is pleased to lay down the method of appointment, qualifications and other conditions specified in column 3 to 6 of the Appendix to this Notification, which shall be applicable to posts borne on the Rural Development Department specified in column 2 of the said Appendix.

Sd/- ( ATTAUR REHMAN KHAN )  
Secretary to Government of N.W.F.P.  
Local Government, Cooperation,  
Social Welfare, Tourism and Rural  
Development Department.

NO. DG(PWP)7(2)/73

Copy of the above forwarded to the:-

1- All Administrative Secretaries to Government of NWFP

2- All Divisional Commissioners in NWFP.

3- Secretary to Governor, NWFP.

4- Secretary, Public Service Commission, NWFP, Peshawar.

5- All Heads of Attached Departments in NWFP.

6- All Deputy Commissioner/Political Agents in NWFP.

7- All District and Session Judges in NWFP.

8- Registrar, Peshawar High Court, Peshawar.

9- Deputy Secretary-II, ISS&GAD.

10- All Section Officers in S&GAD.

11- Section Officer (Legis), Government of NWFP, Law Department with reference to his U.O. No.Reg:1(4)76/452, dated 9th October, 1977.

12- Section Officer (Inform:) Govt: of NWFP, ISS&GAD with reference to his letter No.SOS-III(S&GAD)4-6/75, dated 21st January, 1978.

13- The Manager, Government Printing Press, Peshawar for publication in the next Govt: Gazette Notification.

14- 30 copies of the Notification may be sent to this Deptt: Deputy Director(PWP), Rural Development, NWFP, Peshawar for information with reference to SO Services-III, ISS&GAD No.SOS-III(S&GAD)4-6/75, dated 21st January, 1978.

Sd/- As above.

**ATTESTED**

Attested

Ansar Ahmad

( ANSAR AHMAD ) 5/8/1978

Asstt: Director (Administration),  
Rural Development Department,  
NWFP, Peshawar.

Attested  
Attested

MINIMUM OF APPOINTMENT QUALIFICATIONS AND AGE LIMITS APPLICABLE TO POSTS IN RURAL DEVELOPMENT DEPARTMENT.

(12) (9) (14)

Sl. No.	Nomenclature of post.	Qualification for initial recruitment.	Qualifications for promotion.	Age limit for initial recruitment.	Method of appointment.
1)	2	3	4	5	6
1-	<u>DEPUTY DIRECTOR.</u>	a) 2nd Class Master's Degree from a recognised University in Economics, Statistics, Social works/Sociology, Animal Husbandry, Agriculture, Political Science, Public Adm: Geography or Social Psychology: and b) Five years experience in Agriculture, Animal Husbandry Education, Social Welfare, Planning & Dev: or Forest in Grade-16 or above.	-	Not less than 3 years and not more than 49 years.	i) 25% by initial recruitment; and 75% by selection on merit with due regard to seniority from amongst the holders of the posts of Assistant Directors, Rural Development (including those of defunct Basic Democracies Deptt:) Project Managers & Progress Officers, with at least eight years experience as such.
2-	<u>ASSISTANT DIRECTOR/ PROJECT MANAGER/ PROGRESS OFFICERS.</u>	2nd Class Master's Degree from a recognised University in Economics, Statistics, Social Works/Sociology, Animal Husbandry, Agriculture, Political Science, Public Administration, Geography or Social Psychology, Physics, Chemistry, Mathematics.	-	Not less than 21 years and not more than 30 years.	i) 50% by initial recruitment and ii) 50% by selection on merit with due regard to seniority from amongst holders of the posts of Development Officers and sub-Divisional Officers (Assistant Engineers).
3-	<u>ACCOUNTS OFFICER.</u>	2nd Class Master's Degree in Commerce/Business Administration, or B.A.S. qualified persons of Pakistan Audit Deptt: or Provincial Local Audit Deptt:	-	Not less than 21 years and not more than 30 years.	i) 50% by initial recruitment; and 50% by selection on merit with due regard to seniority holders of posts Superintendents in the Deptt: with a least three years service as such.
4-	<u>DEVELOPMENT OFFICER.</u>	2nd Class Master Degree from a recognised University in Economics, Statistics, Social Works/Sociology, Animal Husbandry, Agriculture, Public Adm: Political Science, Geography or Social Psychology.	-	Not less than 21 years and not more than 30 years.	i) 50% by initial recruitment; and 50% by selection on merit with due regard to seniority from amongst holders of the posts of Supervisors, RD in the Deptt: with at least ten years service.

ATTENTION

Note: Service in defunct VIII: Aid Deptt: and EAs for the purpose of service under this clause shall be treated as service in the Department.

(14)

5. SUB-DIVISIONAL OFFICER/ASST. ENGINEER.

Degree in Engineering or equivalent qualification from a recognised University.

Not less than i) 21 years and ii) not more than 30 years.

75% by initial recruitment; and 25% by selection on merit with due regard to seniority from amongst holders of the posts of Overseers.

6. SUPERINTENDENT.

By selection on merit with due regard to seniority from amongst holders of the posts of Asstts./Accountants/Senior Stenographers/Senior Auditors, with at least five years experience as such.

7. ASSISTANT/ACCOUNTANT.

Degree from a recognised University.

Not less than i) 21 years and ii) not more than 25 years.

25% by initial recruitment; and 75% by selection on merit with due regard to seniority from amongst holders of the posts of Senior Clerks, Junior Auditors in the Deptt: with at least five years service as such.

8. STENOGRAPHER, (SENIOR SCALE)

a) Matriculation or equivalent qualification from a recognised board; and  
b) Speed of 100 words per minute in shorthand in English and 40 words per minute in typing.

Not less than i) 13 years and ii) not more than 25 years.

25% by initial recruitment; and 75% by selection on merit with due regard to seniority from amongst holders of the posts of Stenographers (Junior Scale).

9. OVERSEER.

Diploma in Engineering from a recognised Institutes.

Not less than 21 years and not more than 25 years.

By initial recruitment.

10. SUPERVISOR, RURAL DEV.

Degree from a recognised University.

Not less than 21 years and not more than 25 years.

25% by initial recruitment; and 75% by selection on merit with due regard to seniority from amongst holders of the posts of Vill:Secys in the Deptt; with at least five years experience as such.

ATTENTION

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11- SENIOR EDITOR

Degree from a recognised University.

Note:-  
Preference will be given to persons holding Degree with Commerce as one of the subjects or equivalent qualification in Accounts.

Not less than 13 years and not more than 25 years.

i) 50% by initial recruitment; and ii) 50% by selection on merit with due regard to seniority from amongst holders of the posts of Junior Auditors/Senior Clerks in the Deptt; with at least (3) years service as such.

12- STENOGRAPHER, (JUNIOR SCALE)

a- Matriculation or equivalent qualification from a recognised Board and  
b- Speed of 80 words per minute in Short-hand in English and 35 words per minute in typing.

Not less than 5 years and not more than 25 years.

i) 50% by initial recruitment; and ii) 50% by selection on merit with due regard to seniority from amongst holders of the posts of Steno-typists in the Deptt;

13- STENO-TYPISTS.

a- Matriculation or equivalent qualification from a recognised Board; and  
b- Speed of 60 words per minute in Short-hand in English and 35 words per minute in typing.

Not less than 13 years and not more than 25 years.

i) Not less than 50% by initial recruitment and ii) Not more than 50% by selection on merit from amongst the holders of the posts of Junior Clerks in the Deptt; with three years service as such, who have the minimum qualifications prescribed for initial recruitment.

14- JUNIOR AUDITOR.

Matriculation or equivalent qualification from a recognised Board.

Not less than 13 years and not more than 25 years.

By initial recruitment.

15- SENIOR CLERKS.

By selection on merit with due regard to seniority from amongst the holders of the posts of Junior Clerks in the Deptt; with at least three years service as such.

16- VILLAGE SECRETARIES

Intermediate from a recognised Board.

Not less than 8 years and not more than 15 years.

By initial recruitment.

ATTACHED

11



OFFICE OF THE DISTRICT COORDINATION  
OFFICER SWABI.

D  
12

No. 959 /ACO;

Dated 05 /10/2012.

To;


The Director,  
Govt; of Khyber Pakhtunkhwa,  
Local Government, Election and Rural  
Development Department, Peshawar.

Subject; SENIORITY LIST OF SECRETARIES UNION COUNCIL (BPS-7)

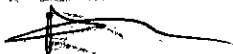
Memo;

I am directed to refer to your letter No.DG(LG)Establishment /2012 dated 5.9.2012 on the subject noted above.

The requisite seniority list of Secretaries Union Councils working in District Swabi is sent herewith as desired please.

  
Assistant Coordination Officer,  
Swabi.

ATTESTED



Seniority list of Secretaries Union Councils District Swabi..

S.No.	Name of Official	BPS No.	Date of Birth	Date of appointment/promotion	Name of parent deptt;(if adjusted from other deptt.	Remarks.
1.	Muhammad Shoaib	07	8.9.1954	28.7.1976	Local Govt; Swabi.	-
2	Nasarul Mulk	07	16.3.1953	14.1.1981	Local Govt;	-
3	Abid Khan	07	20.2.1956	14.1.1981	-do-	-
4	Sher Afsar Khan	07	10.12.1959	13.2.1985	Local Govt; Swabi.	-
5	Muhammad Shafiq	07	9.10.1964	30.3.1988	Local Govt; Swabi.	-
6	Roohul Amin	07	11.11.1955	10.5.1988	-do-	-
7	Habib ur Rehman	07	4.1.1957	30.8.1988	Local Govt; Swabi.	-
8	Saeed ur Rehman	07	20.4.2967	17.1.1990	Local Govt; Swabi	-
9	Zahir Muhammad	07	25.3.1962	6.6.1990	Local Govt; Swabi.	-
10	Imtiaz Ali	07	8.4.1965	6.6.1990	-do-	-
11	Muhammad Nawaz	07	1.4.1962	17.7.1990	-do-	-
12	Naiz Muhammad	07	12.3.1965	17.7.1990	-do-	-
13	Muhammad Hussain	07	1.4.1969	17.7.1990	-do-	-
14	Sajid Ali	07	15.3.1968	26.3.1991	-do-	-
15	Muhammad Salim	07	3.11.1967	25.4.1991	Local Govt, Swabi.	-do-
16	Ajmal Shah	07	15.9.1964	22.11.1994	Local Govt; Swabi	-
17	Sadiq Muhammad	07	1.1.1970	22.11.1994	-do-	-
18	Javed Khan	07	8.4.1970	22.1.1994	-do-	-
19	Muhammad Tahir	07	17.2.1970	23.11.1994	-do-	-
20	Noorul Bashar	07	2.1.1958	8.8.2001	J.C DC Office Swabi	-
21	Amjad Ali	09	26.4.1961	8.8.2001	S.C DC Office Swabi	-
22	Abdullah	07	3.3.1963	8.8.2001	J.C DC Office Swabi.	-
23	Raiz Ali	07	12.5.1964	8.8.2001	-do-	-
24	Munawar Khan	07	17.7.1964	8.8.2001	-do-	-
25	Abdus Samad	07	11.11.1964	8.8.2001	-do-	-
26.	Muhammad Iqbal	07	10.2.1965	8.8.2001	-do-	-
27	Niaz Wali Shah	07	15.3.1965	8.8.2001	-do-	-
28	Muhammad Ismail	07	1.3.1966	8.8.2001	-do-	-
29.	Anwar Ali	07	21.3.1966	8.8.2001	-do-	-

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30	Muhammad Iqbal	07	20.1.1968	8.8.2001	
31	Abdur Rashid	07	12.5.1968	8.8.2001	-do-
32	Wisal Muhammad	07	1.1.1969	8.8.2001	-do-
33	Arshad Ahmad	07	9.4.1969	8.8.2001	-do-
34	Javed Khan	07	15.4.1969	8.8.2001	-do-
35	Muhammad Naeem	07	10.4.1972	8.8.2001	-do-
36	Sajjad Ali	07	11.10.1968	8.8.2001	-do-
37	Zakir Shah	07	15.4.1971	8.8.2001	-do-
38	Tajamul Hussain	09	1.3.1955	10.8.2001	-do-
39	Anwar Saeed	07	15.3.1962	10.8.2012	S/ Clerk Local Govt;
40	Muhammad Islam	09	13.11.1969	10.8.2001	J/Clerk -do-
41	Zulfiqar Ali	07	15.4.1968	10.8.2001	S/Clerk DC Office Swabi
42	Sikandarzeb	07	15.4.1970	10.8.2001	J/Clerk Cooperative Deptt;
43	Muhammad Ismail	07	15.4.1973	10.8.2001	J/C Local Govt;
44	Zulfiqar Ali	07	15.4.1968	10.8.2001	-do-
45	Sajjad Muhammad	07	14.2.1968	10.8.2001	J.C Co-operative Deptt;
46	Gul Roz	07	1953	28.8.2001	JC. Local Govt; Deptt;
47	Yasir Ali	07	3.3.1983	8.5.2007	J/C DRO Office Swabi.
48	Kaman Afsar	07	3.3.1976	16.6.2008	Newly appointed
49	Shahab Ali	07	6.4.1980	5.3.2009	-do-
50	Qaisar Khan	07	16.2.1982	5.3.2009	-do-
51	Muhammad Ayaz	07	7.4.1984	5.3.2009	-do-
52	Majid Khan	07	26.1.1985	5.3.2009	-do-
53	Zulfiqar Ali	07	1.1.1988	5.3.2009	-do-

Asstt: Coordination Officer  
Swabi.

14



OFFICE OF THE DIRECTOR GENERAL  
LOCAL GOVERNMENT & RURAL DEVELOPMENT  
DEPARTMENT, KHYBER PAKHTUNKHWA

Dated the Peshawar 26<sup>th</sup> May, 2015

OFFICE ORDER

No. Director(LG)/3-12/DPC/2012-13/. Consequent upon the recommendations of the Departmental Promotion Committee in its meeting held on 13.04.2015, the Competent Authority has been pleased to promote Mr. Gul Zaman, Village Secretary Union Council (BPS - 07) to the post of Supervisor (BPS - 09) with immediate effect and to post him as Supervisor (BPS - 09) against the vacant post in the office of Assistant Director LG&RDD, Lakki Marwat. On his promotion, the terms & conditions of his appointment will remain the same on which he was appointed.

-sd/-  
Director General  
LG&RDD

Endst of Even No & Date

Copy of the above is forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Section Officer (Estab), LGE&RDD, Khyber Pakhtunkhwa.
3. Assistant Director, LG&RDD Lakki Marwat.
4. District Accounts Officer Lakki Marwat.
5. PA to Director General, LG&RDD Peshawar.
6. Mr. Gul Zaman, Supervisor, LG&RDD Lakki Marwat.

  
Deputy Director (Admin)  
LG&RDD

ATTESTED  




BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 2625 /2015



1. Muhammad Roedar Khan, U/C Shahi Bala, Peshawar
2. Shaheen Akber, Secretary, U/C Aman Garh, Nowshera.
3. Muhammad Nazir Khan, AD, LG&RDD, Bannu.
4. Hidayat Ullah Khan, Secretary, U/C AD, LG&RDD, Lakki Marwat.
5. Muhammad Nazif Ullah Khan, AD, LG&RDD, Bannu
6. Muhammad Shuaib, Secretary U/C, District Swabi
7. Janzeb Khan Secretary, U/C Tahi, District Nowshera.
8. Aman Ullah Secretary, U/C Tukhta Abad, Peshawar  
.....Petitioners

Versus

1. Government of Khyber Pakhtunkhwa, through Secretary Local Government.
2. Director General, LG & RDD Peshawar.
3. Director, LG & RDD Peshawar
4. Amjid Ali, Supervisor, C/o Assistant Director, LG&RDD, Swabi.
5. Sher Azam, Supervisor, C/o Assistant Director, LG&RDD, Peshawar.

ATTESTED

ATTESTED

EXAMINER  
Peshawar High Court

12 MAR 2016

17  
57

6. Gul Zaman, Supervisor, C/o Assistant Director, LG&RDD, Lakki Marwat.
7. Muhammad Ibrar Supervisor, C/o Assistant Director LG&RDD, District Bannu.
8. Muhammad Ajmal Supervisor, C/o Assistant Director LG&RDD, District Nowshera.
9. Muhammad Subhan Supervisor, C/o Assistant Director LG&RDD, FATA Peshawar.

.....Respondents.

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

**Sheweth;**

- 1) That the petitioners were appointed as Secretaries, Union Council on different dates and have been rendering services in their respective Union Councils since decades.
- 2) That the services of the petitioners are governed by the rules notified vide Notification dated 26.01.1978 (Annexure "A"). At Serial No.10 of the appendix to the above said Notification; the post of Supervisor, Rural Development has to be filled 25% by initial recruitment and 75% by promotion on the basis of seniority from amongst holders of the posts of Village Secretaries in the department with atleast 5 years experience as

FILED TODAY  
Deputy Registrar  
16 JUL 2015

ATTESTED  
BY CLERK  
High Court

ATTESTED  
ID

such. Besides, the academic qualification required for the vacancy in question is Bachelor Degree.

- 3) That at times, the policy of promotion of Secretary, Union Council was done away with, which was assailed before this honorable Court in W.P.No.293/2011, which was decided vide order dated 07.06.2011 (Annexure "B"), whereby 75% quota of the promotees was affirmed in the following words:

*"Hence, the embargo placed during the interim period under the devolution plan is no more in the field and the petitioners can be promoted, as 75% quota has been allotted to them in the recruitment on the higher post/ grade"*

- 4) That ignoring the 75% quota allotted to promotees, which was also affirmed by this august Court in its judgment referred to hereinabove, the respondents advertised vacancies of supervisor on 26.07.2012 (Annexure "C") for filling them through initial recruitment and placed the condition of academic qualification as Higher Secondary Certificate instead of a degree as required under the rules/ policy of the subject.

- 5) That petitioner No.2 had made a representation on 30.07.2012 (Annexure "D"), whereby not only the anomaly of academic qualification required through the impugned advertisement was pointed out, but also the appointed quota of 75% for promotion by the

ATTESTED

ATTESTED  
12 MAR 2016

rules was claimed/ requested for the village secretaries.

- 6) That the notification, referred to hereinabove, was assailed by a number of Secretaries, including petitioners No.1 & 2 in W.P.No.2957-P/2012, which was disposed-off vide order dated 15.05.2013. (Annex "E") by directing the respondents as follows:-

*"Hence, the respondents are directed to process the cases of petitioners in the light of the seniority list for filling up the vacant posts of supervisors meant for promotion quota as per Rules within a period of 45 days and the petition in hand is disposed-off accordingly with no order as to costs"*

- 7) That it took more than two years and yet the order made by this august Court is to be complied with. More astonishingly, some promotions have been made in different districts vide separate orders dated 26<sup>th</sup> May, 2015 (Annex "F/1 to F/5") and instead of the petitioners, who happen to be positioned at the top of their respective seniority lists (Annex "G/1 to G/3"), the most junior persons have been promoted.
- 8) That feeling mortally aggrieved and having no other adequate and efficacious remedy, the petitioners seek indulgence of this august Court for redress, inter alia, on the following:

FILED TODAY  
 Deputy Registrar  
 16 JUL 2015

ATTESTED  
 EXAMINER  
 Patnawar High Court  
 17 MAR 2016

ATTESTED

GROUNDS

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- A. That the order dated 15.05.2013 made in W.P.No.2957-P/2012, ibid, has got finality, having not been challenged further, and the respondents were under legal obligation to have implemented the same within the stipulated period of 45 days. Instead, they have not only put aside the stated order contumaciously, but also made promotion orders in total violation thereof, which are tantamount to contempt of this Hon'ble Court and in this behalf another petition of Contempt of Court is being filed.
- B. That as per law laid down by the august Apex Court in Hameed Akhtar Niazi case reported in 1996 SCMR 1185, and consistently being followed since then, all the Union Council Secretaries through the province should have been extended the benefit of the judgment of this Court made in Mehmood Khan case, ibid, and the petitioners, herein, should not have been constrained to litigate.
- C. That notwithstanding the petitioners are fully qualified, will experienced and efficient enough to be promoted against the post of Supervisor, they have got a legal right for promotion under the law and rules on the subject, but have been left out purposely, hence it requires interference by this august Court.
- D. That non-observance of the 75% quota for promotion and depriving the petitioners from their

**ATTESTED**  
EXAMINER  
Peshawar High Court

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due share is altogether illegal and without lawful authority.

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- E. That the petitioners have not been dealt with in accordance with law, and such an action of the respondents violently offends against the unambiguous provision of article 4 of Constitution, which enshrines that *"to enjoy the perfection of law and to be treated in accordance with law is the inalienable right of every citizen."*
- F. That the, treatment meted out to the petitioners is discriminatory in nature, which is derogatory to the provisions as contained in Articles 25 & 27 of the Constitution and, hence, is liable to be struck down on this score alone.
- G. That the petitioners reserve their right to urge additional grounds, after the stance of the respondents becomes known to them.

PRAYER

In view of the foregoing, it is, therefore, prayed that on acceptance of this petition, this Hon'ble Court may be pleased:

- i. to declare the impugned action / orders of the respondents of promoting junior officials and ignoring the senior most as illegal, unlawful and of no legal effect;
- ii. to direct the respondents to allocate to the petitioners their due share of 75% in the.

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42 MAR 2016

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stated vacancies and consider them for appointment through promotion against the same from the dates these vacancies became available with all back benefits; and

iii. to grant any other relief to which the petitioners are found fit in law, justice and equity.

Petitioners

Through

Muhammad Ishaq Khan Khalil  
Advocate Supreme Court

&

Akhtar Ilyas  
Advocate High Court

CERTIFICATE:

It is certified that 03 numbers such petitions on the subject matter had earlier been filed by the petitioners in this august Court, which were decided in their favour.

ADVOCATE

LIST OF BOOKS:

- 1) Constitution of Pakistan, 1973.
- 2) Case law according to need.

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Peshawar High Court  
12 MAR 2016

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JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT,

PESHAWAR  
(Judicial Department)

W.P. 2625-P of 2015.

Date of hearing: 1.3.2016.

Petitioner (Muhammad Roedar Khan) by  
Mr. Muhammad Isa Khan Khalil,  
advocate.

Respondents 1 to 3 (Government of Khyber  
Pakhtunkhwa etc) by Mr.

Respondents 5, 6, 8 and 9 by Mr. Khaled Rehman,  
advocate.

JUDGMENT

MUSARRAT HILALI, J.- This judgment shall  
also decide connected COC 346-P of 2015, in  
W.P No.2957 of 2012 and W.P. 3719-P of 2015 as  
common question of law and fact is involved in all  
these petitions.

2: Facts of the present petition are that petitioners  
were appointed as Secretaries, Union Council on  
different dates and have been rendering services in

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EXAMINER  
Peshawar High Court  
12 MAR 2016

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their respective Union Councils since the date of their appointment. According to the petitioners, their services are governed by the rules notified vide Notification dated 26.1.1978. At Sr.No.10 of the appendix to the said Notification; the post of Supervisor, Rural Development has to be filled through 25% by initial recruitment and 75% by promotion on the basis of seniority from amongst holders of the posts of Village Secretaries in the Department with at least 5 years experience as such with the requisite qualification of B.A. The policy of promotion of Secretary, Union Council was done away with, which was assailed before this court in W.P. 293-P of 2013 decided on 7.6.2011, whereby 75% quota of the promotees was affirmed. However, while ignoring the 75% quota to promotees, the respondents advertised certain vacancies of Supervisor on 26.7.2012 by filling up the same

W.P. 293-P

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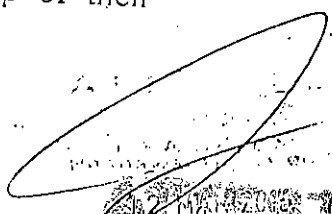



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through initial recruitment and placed the condition of academic qualification as Higher Secondary Certificate instead of a Degree as required under the rules/policy on the subject. Petitioner No.2 made a representation on 30.7.2012 whereby not only the anomaly of academic qualification required through the impugned advertisement was pointed out but also the quota of 75% for promotion by the rules was claimed for the Village Secretaries. The Notification, referred to above, was questioned by a number of Secretaries, including petitioners 1 and 2 in W.P.2957-P of 2012 before this court, which was disposed of vide order dated 15.5.2013 with certain directions to the respondents. The matter did not end after passage of two years. In the meanwhile, some promotions have been made in different districts vide separate orders dated 26.5.2015 and instead of petitioners, who happen to be at the top of their

W.P.

Sarita Singh PS

  
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respective seniority lists: the most junior persons have been promoted.

3. Facts of connected COC 346-P of 2015 in W.P. 2957-P of 2012 are that the petitioners have filed W.P.2957-P of 2012 before this court, which was allowed on 15.5.2013 with some direction to the respondents. They approached the respondents for compliance of the said order time and again but no decision has been taken by them as yet, hence prayed for initiation of contempt of court proceedings against the respondents and to punish them in accordance with law.

4. In W.P. 3719-P of 2015, it is stated by petitioner that he was appointed as Secretary, Union Council (BPS-6) in the year, 1981 and later on upgraded to (BPS-7) in the year, 2010 after a span of three decades and since then has been rendering services in the same capacity. To the contrary,

Sadia Shah, PS

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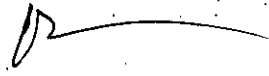
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respondent No.4 was inducted as Junior Clerk (BPS-5) in the year, 1985 in the office of Deputy Commissioner, Swabi and by virtue of Notification dated 28.7.2007 was upgraded to (BPS-7). Vide Office Order (Annex-B), respondent No.4 was adjusted against the post of Secretary, Union Council at Swabi and within a few days was upgraded to (BPS-9) vide Office Order dated 19.8.2011. It is averred that earlier a seniority list was circulated to the Secretaries, Union Councils, District Swabi (Annex-D), which was carrying right entries, therefore, all the officials including the petitioner put their signatures in the corresponding column of no objection as a token of its correctness. However, for no valid reason, within a short time after circulation of the seniority list referred to above, a tentative seniority list was circulated vide letter dated 4.8.2014, which was not correct and was

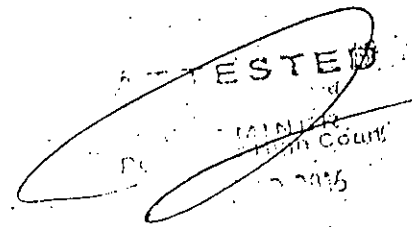
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*Sadia Shuh PS*



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Union Council  
2015

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purposely manipulated. The affected employees, including the petitioner, filed objections but the official/respondents sat over the same and neither offered any reply thereto nor circulated the finality seniority list. On the basis of same tentative seniority list, respondent No.4 was promoted to the post of Supervisor (BPS-9) vide Office Order dated 26.5.2015. Feeling aggrieved, the petitioner filed Departmental Appeal but with no reply from the concerned authority.

We have heard learned counsel for the parties and gone through the record appended with the present petitions.

5. Heard: The petitioners in all the three petitions are seeking promotion to the post of Supervisor being fully qualified, well experienced and efficient enough but despite that as per order passed by this court on 15.5.2013, the petitioners have been left out

WAW

Govt. Shik. IS

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BY: [Signature]  
Date: 12 MAR 2016

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purposely with malafide intention whereas on the other hand, the stance of respondents is that the grievance of petitioners relates to the consideration for promotion, which is a part of terms and conditions of the service of petitioners, therefore, in view of the bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan 1973, this court has no jurisdiction to interfere.

6. From perusal of the comments as well as minutes of the meeting held on 15.2.2013, it appears that cases of the petitioners were considered by the Department but they were found not eligible being junior to private respondents, thus, it can be safely held that cases of the petitioners fell within the ambit of determination of eligibility for promotion, which for all intents and purposes, is a matter relating to the terms and conditions of service of petitioners.

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EXAMINER  
Peshawar High Court  
12 MAR 2015

7. There is no cavil to the proposition that under Article 212 of the Constitution, Service Tribunal has the exclusive jurisdiction in the matter falling within the terms and conditions of civil servant. The High Court cannot exercise the power of judicial review over the cases in which it has no jurisdiction on any ground whatsoever. In the case of Rafique Ahmad Chaudhry Vs. Ahmad Nawaz Malik and others (1997 SCMR 170), while remanding back the case to the High Court, the august Supreme Court held as follows:-

*"The matters relating to the posting and transfer of a civil servant relate to the terms and conditions of his service. Disputes about these matters fall within the exclusive jurisdiction of the appropriate Service Tribunal. The jurisdiction of High Court is barred in these matters by the express provisions of Article 212 (2) of the Constitution. We are, therefore, unable to support the interim order made by it in this case. Accordingly, we convert this petition into*

*Wazir*

Sadia Shauq JS

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*[Signature]*

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High Court  
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appeal and set aside the said order. The High Court should first determine the question of its jurisdiction before making any interim order in this case.

8. Similarly, in the case of Ali Azhar Khan Baloch Vs. Province of Sindh (2015 SCMR 456),

the august Supreme Court ruled out that the matter relating to terms and conditions cannot be challenged under Article 212 of the Constitution of Islamic Republic of Pakistan 1973. The relevant portion of the judgment mentioned hereinabove is reproduced as under:-

*"We have noticed that the High Court of Sindh, while overlooking the mandates of Article 189 and 212 of the Constitution, has started entertaining petition under Article 199 of the Constitution filed by civil servants, which has paralyzed the Service Tribunal"*

9. Since the petitioners have not filed the Departmental Appeals against the impugned order

Sadia Shah, PS

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*[Handwritten signature]*



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dated 26.5.2015 and as such the statutory provision of Section 4 of the Services Tribunal Act cannot be violated by sending the instant and connected petition as appeals before the Services Tribunal. In addition thereto, under Rule 5 of the Appeal Rules, 1977 every aggrieved person has to file a separate and independent Appeal, which in the instant and connected petitions is lacking. Moreover, this and the connected as per request of learned counsel for petitioners cannot be remitted to the Departmental Appellate Authority as the same have been filed by eight petitioners whereas the Departmental Appeal has to be filed by an aggrieved person in individual capacity, however, it is observed that since the petitioners are claiming allocation of 75% share in the promotion quota in the appointment of next higher grade, which on the fate of it is a recurring cause of action and for that matter they can file a

Wavy scribble

Sadiq Shah PS

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Signature

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Departmental Appeal any time as such this and the  
connected petitions, noted above, are not  
maintainable and dismissed accordingly.

*Sh. Wasir Ahmad Seth*  
*of Musabbat H. J. J.*

JUDGE

JUDGE

Announced  
1.3.2016.

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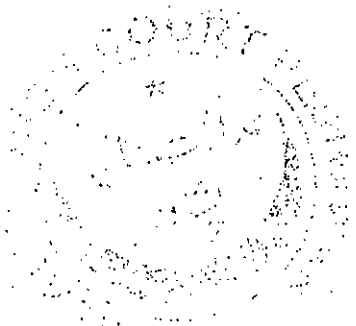
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Public Law Court, Peshawar  
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The Constitution Order, 1984

12 MAR 2016

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*V7*

the secretary  
Local Govt of Rural Develop Deptt  
12/1600 Panchayat T. Chowan  
P. B. Harwar

Appeal

Respected Sir

It is submitted;

- 1) that I ~~am~~ have performed as village secretary with effect from 22.7.1976 to 7.9.2014 without any break
- 2) that the Govt. had created posts of Supervisor, L.G, RDD & proper provision had been made in the Budget, 2011-2012.
- 3) that under the rule 75 of the said created posts of supervisor, will be filled in by promotion while 25% posts will be filled in by direct recruitment.
- 4) that I had already submitted an appeal dated 27.4.2012 which was sent to your good self vide P.O, Sarubi letter no. 535 A.C.O dated 4.5.2012 & a copy of the same is attached please
- 5) that I was the senior most village secretary & in the connection seniority list of the village secretaries had already been sent to your good self vide P.O, Sarubi letter no. 959 A.C.O dated 5.10.2012 (copy of the seniority list & letter no. 959 is attached here with please
- 6) that presently I am retired person & retired at age of 60 years -

ATTESTED

*[Signature]*

ATTESTED

*[Signature]*

In view of the above it is requested  
a) that I may be promoted from  
the retrospective period of all benefits may  
be accorded in accordance with the  
provision, made in the Budget, 2011-2012  
plus.

Mohammad  
Yousaf Obaid  
Mohammad Shabb  
retired village secretary  
village, Lalpur Teh.  
& Dist. Sahiwal

24/3/2016

ATTESTED

Deputy Director  
LG&RDD

11-6-2014

Annex/II

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GOVERNMENT OF KHYBER PAKHTU  
DIRECTOR GENERAL LOCAL GOVERNMENT ELE  
AND RURAL DEVELOPMENT DEPAR

No. Dir (LG) 3-12/DR/2014,

Dated 5<sup>th</sup> June, 2014

To

All the Assistant Directors, LG&RDD  
Khyber Pakhtunkhwa

Subject: Departmental Promotion Committee (DPC) of Secretaries Union  
Councils

Kindly refer to the subject noted above and to state that competent Authority has been pleased to schedule the meeting of Departmental Promotion Committee (DPC) for promotion of Secretaries Union Councils to the post of Supervisors, on 23.06.2014 at 1100 hours under the Chairmanship of Director General, LG&RDD at his office.


You are hereby directed to attend the meeting along with working paper and 5 years ACRs of the top five senior most Secretaries Union Councils of your respective Districts for further consideration in the DPC meeting.

  
Deputy Director  
LG&RDD

Copy to:-

- (2)
1. The Section Officer, LG&RDD with request to attend the meeting on date and time mentioned above.
  2. PA to Director General, LG&RDD

  
Deputy Director  
LG&RDD

  
11-6-2014

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OFFICE OF THE DIRECTOR GENERAL  
LOCAL GOVERNMENT & RURAL DEVELOPMENT  
DEPARTMENT KHYBER PAKHTUNKHWA

No. Director (LG) 3-1/Establishment/2013  
Dated Peshawar, the 22<sup>nd</sup> August, 2014

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To

The Section Officer (Estab),  
LG, E&RDD, Khyber Pakhtunkhwa.

*Annex/III*

(11)

Subject: - PROMOTION OF SECRETARIES UNION COUNCIL TO THE POST OF SUPERVISOR LOCAL GOVERNMENT & RURAL DEVELOPMENT.

I am directed to refer to the subject noted above and to inform that for the promotion of secretary union councils all the Assistant Directors LG&RDD were asked to submit final seniority list of secretary union councils of their respective districts.

Most of the Assistant Directors prepared the requisite seniority list on the basis already serving secretary union councils (prior to devolution 2001) were placed on top of seniority, while those clerical staff rendered surplus and subsequently adjusted against the vacant post of secretary union councils (BPS-06) were placed at the bottom of the seniority lists.

But those at the bottom raised objection over the said seniority list on the basis that as they were working as Senior Clerk in the office of Assistant Directors LG&RDD, Deputy Commissioners office and other departments in the districts and were adjusted/absorbed against lower grade (BPS-6) than their original scale (BPS-7). In support of their objection they produce a copy of ESTA Code Surplus pool Policy Section 6 (d), fixation of seniority list that says "in case of adjustment against a post lower than his original, he shall be placed at the top of seniority list that cadre, so as to save him from being rendered surplus again and becoming junior to his juniors."

Keeping in view the above, all the Assistant Directors were informed to prepare their respective seniority list in light of surplus pool policy rule 6 (d) of the ESTA code.

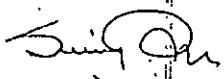

All the Assistant Directors reconsidered their seniority lists of secretary union councils and new seniority list were prepared accordingly. After finalization of seniority of secretaries union councils, Departmental Promotion Committee (DPC) meeting of all Assistant Directors offices were convened in the month of July & August. In the DPC meeting 11/08/2014 the Assistant Director Lakki Marwat submitted a note (attached at annex B) where the ESTA code Surplus Pool Policy Section 6 (d) has been objected by those

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secretaries union councils who were negatively affected on application on the said ESTA code section 6 (d). In support of their objection they produced a judgment of the Honorable Supreme Court of Pakistan dated 12/06/2013 circulated by Government of Pakistan Cabinet Secretariat Establishment Division on 31/01/2014 photocopy attached at Annex (C). The said judgment of the Honorable Supreme Court of Pakistan contained in the second last Para of the Judgment that says " any back dated seniority cannot be granted to any absorbee and his inter-se-seniority, on absorption in the cadre shall be maintained at the bottom as provided under the rule regulating the seniority.

In view of the above stated fact I am further directed to request you to seek the advice of the competent forum as to which one of the above referred two different rule/judgment, is applicable in preparing the seniority list of the secretaries union councils in Khyber Pakhtunkhwa.

Submitted please.

  
Deputy Director (Admin)  
DG.LG&RDD 

- Cc:
1. PA to Director General LG&RDD, Khyber Pakhtunkhwa.

  
Deputy Director (Admin)  
DG.LG&RDD 

~~1/1~~  
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Amir / 16 (13) 270  
OFFICE OF THE DIRECTOR GENERAL  
LOCAL GOVERNMENT & RURAL DEVELOPMENT  
DEPARTMENT KHYBER PAKHTUNKHWA

No. Director (LG) 3-1/Establishment/2013/287  
Dated Peshawar, the 15<sup>th</sup> September, 2014

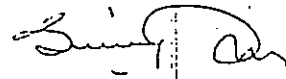
To

The Section Officer (Estab.),  
LG, E&RDD, Khyber Pakhtunkhwa.

Subject: - PROMOTION OF SECRETARIES UNION COUNCILS TO THE POST OF SUPERVISOR IN LG&RDD.


I am directed to refer to your letter No.SO(LG-1)2-176/2014/Vol:V dated 28<sup>th</sup> August, 2014 and to inform that those Secretaries who have raised objection over the final seniority lists issued by the respective Assistant Directors LG&RDD have been asked to submit the attested copy of the judgment of the Supreme Court of Pakistan vide this office letter No. Director (LG) 3-12/DPC/2012-13 dated 15<sup>th</sup> September, 2014.

Regarding the issuance of final Seniority list of Secretaries Union Councils, it is submitted that all the Assistant Directors have issued Seniority lists of the Secretaries Union Councils of their respective district in light of the ESTA Codes surplus pool policy section 6 (d), but those Secretaries who have gone to bottom or have become junior to those adjusted from the surplus pool during 2001, have raised objection over those Seniority lists and have submitted the circular that refers to the Supreme Court's judgment already sent to your office vide this office letter of even number dated 22<sup>nd</sup> August, 2014 dated.

  
Deputy Director (Admin)  
DG: LG&RDD

Cc:

PA to Director General LG&RDD, Khyber Pakhtunkhwa.

  
Deputy Director (Admin)  
DG: LG&RDD



Annex / V

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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.

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- (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.

5) 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.

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) \*In case an employee already adjusted against a lower post is declared surplus again, he shall regain his original pay scale.
- (vi) \*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.

<sup>54</sup> Sub para c (v) added to para 5 vide circular letter No.SORVI(IE&AD)5-1/2005, dated 15.2.2006.

<sup>55</sup> Sub para c (vi) added to para 5 vide circular letter No.SORVI(IE&AD)5-1/2005, dated 31.5.2006.

(v) *no civil servant of a non-cadre post can be transferred*

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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.

- ) <sup>26</sup> Surplus Staff in BPS-01 to 15 shall not be adjusted in the district other than their district of domicile.
- ) 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.
- ) 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.

#### FIXATION OF SENIORITY

The inter-se seniority of the surplus employees after their adjustment in various posts 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) In 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.

<sup>26</sup> (3) Sub para (c) added to para 5 vide circular letter No. SORVI(E&AD)5-1/2005, dated 19.1.2007.

<sup>27</sup> Sub para d added to para 6 vide circular letter No. SORVI(E&AD)5-1/2005, dated 15.2.2006

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.

COMPETENT AUTHORITY TO NOTIFY/ORDER ADJUSTMENT/ABSORPTION

After the transfer of services of surplus employees 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 3<sup>rd</sup> 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 in 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.

... on absorption in the cadre shall be maintained at the bottom as provided under the Rules regulating the seniority.

- (v) No civil servant of a non-cadre post can be transferred

v) The surplus pool of the Secretariat be maintained by the Establishment Department in consultation with the Department concerned.

v) The salaries of the surplus employees be disbursed through their relevant offices for the time being.

vi) It was also felt that the sanctioned staff for the office of DCO and other offices is not sufficient. The ministerial staff has no appropriate tiers for the purpose of control and promotion i.e. Senior Clerk and Superintendent etc. The post of Chowkidar/ Sweeper does not exist in the office of DCOs and other offices. Even the other required staff does not meet the bare minimum. The DCOs will, therefore, forward the required proposal for consideration of Finance Department. The budget for the same can be arranged from the available savings due to phasing away of magistracy etc.

vii) The L.R&RD Department may reconsider the adjustment of the employees of the Local Council Board, so as to find out whether any such employees have been adjusted against the regular Government posts funded from the Provincial Consolidated Fund.

viii) For adjustment of regular Class-IV (BS 1-4) Government Servant in surplus pool, Finance Department may consider conversion of fixed pay/ contract posts into regular.

It is requested that decisions taken during the meeting held on 4.8.2001 may kindly be implemented by all concerned in letter and spirit and compliance report be furnished accordingly.

(Authority: letter NO.SOR-I(S&GAD)1-200/98 (Vol.1), Dated 13<sup>th</sup> August, 2001)

... is meant for the ... through competitive process.

Any backdated seniority cannot be granted to any absorbee and his inter-se seniority, on absorption in the cadre shall be maintained at the bottom as provided under the Rules regulating the seniority.

(v) No civil servant of a non ...



30-12-14

Government of Khyber Pakhtunkhwa  
ESTABLISHMENT DEPARTMENT  
(Regulation Wing)

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No.SOR.IV(ED)/6-1/2014/  
Dated. Peshawar, 23<sup>rd</sup>. December, 2014

*Amiriyah*

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Local Government & RD Department.

**SUBJECT: PROMOTION OF SECRETARIES UC TO THE POSTS OF SUPERVISOR**

Dear Sir,

I am directed to refer to Local Government Department letter No:SO(LG-1)2-176/2014/Vol-V dated 18<sup>th</sup> November, 2014, on the subject noted above and to state that para 6 (d) of the Surplus Pool Policy covers adjustment of a surplus employee against a lower post in his parent department/cadre which he previously held before his promotion to the higher post rendered surplus. As regards the contention of the judgment of the Supreme Court of Pakistan, forbidding backdating seniority, it covers the absorption of employees of another departments/cadres. Therefore, both the provision of the Policy and the judgment can go side by side. There is nothing contradictory.

Yours faithfully,

(ISHTIAQ AHMAD)  
Section Officer (R-IV)

*Spl. Secy*  
*E*  
*30-12-14*

*So(E)*

*SA*  
*211*

*31/12/2014*



OFFICE OF THE DIRECTOR GENERAL  
LOCAL GOVERNMENT & RURAL DEVELOPMENT  
DEPARTMENT KHYBER PAKHTUNKHWA

No. Director (LG) 3-1/Establishment/2013/1574  
Dated Peshawar, the 12<sup>th</sup> Feb, 2015

To

All the Assistant Directors,  
LG&RDD, Khyber-Pakhtunkhwa.

*Annex / VII*

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Subject: - PROMOTION OF SECRETARY UNION COUNCILS TO THE POST OF SUPERVISOR LG&RDD.

I am directed to refer to the subject noted above and to inform you that during the DPC meeting of promotion of Secretary Union Council to Supervisor LG&RDD, Assistant Director Lakki Marwat and some other districts raised objection over the formula adopted for preparation of seniority lists of Secretaries Union Councils and produced a copy of the Supreme Court Judgment in support of their objection.

Due to the above objection the proceedings of the DPC meeting were stopped and a case was sent to administrative department for advice.

Resultantly the advice has been received from Establishment department, through Section Officer (Estb.) stating that "Para 6(d) of the Surplus Pool policy covers adjustment of a surplus employee against a lower post in his parent department/ cadre which he previously held before his promotion to the higher post rendered surplus. As regards the contention of the judgment of the Supreme Court of Pakistan, forbidding back dated seniority, it covers the absorption of employee of another department/ cadres. Therefore both the provisions of the policy and judgment go side by side. There is nothing contradictory".

I am further directed to inform that in light of the advice of the Establishment Department as referred above, you are requested to review your respective seniority lists of Secretary Union Councils in a manner that those surplus employees adjusted against the post of Secretary Union Council BPS-06 being lower than their original scale may be placed on top of the seniority list (as per surplus pool policy 6 (d) ) and those adjusted as Secretary Union Councils BPS-06 who were already having same scale in the surplus pool / parent department may be placed at bottom of seniority as Supreme Court decision forbid back dated seniority of employees of another department/ cadre in the same grade, and submit the finalized seniority list of your respective secretaries union councils alongwith working paper within a week to this office so that DPC may be arranged accordingly.

*Singh An*  
Deputy Director (Admin)  
D.G: LG&RDD

Cc:

1. PA to Director General, LG&RDD, Khyber Pakhtunkhwa.

Annex VIII

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## SENIORITY LIST OF SECRETARIES UNION COUNCILS, DISTRICT SWABI

No.	Name	BPS	Date of Birth	Qualification	Date of Initial Appointment	Remarks Name of parent Deptt: Date of Adjustment as Secretary U/C
1	Amjid Ali	09	26-04-1961	SSC	31-10-1985	Senior Clerk, DC Office 08-08-2001
2	Muhammad Islam	09	13-11-1969	SSC	28-08-1988	Senior Clerk, DC Office 08-08-2001
3	Abid Khan	07	20-02-1956	BA	14-01-1981	Secretary, UC, LG & RDD, Swabi.
4	Sher Afsar Khan	07	10-12-1959	FA	13-02-1985	Secretary, UC, LG & RDD, Swabi.
5	Habib Ur Rehman	07	04-01-1957	MA	30-04-1988	Secretary, UC, LG & RDD, Swabi.
6	Muhammad Shafiq	07	09-10-1964	FA	30-04-1988	Secretary, UC, LG & RDD, Swabi.
7	Rohal Amin	07	11-11-1955	BA	10-05-1988	Secretary, UC, LG & RDD, Swabi.
8	Zahir Muhammad	07	25-03-1962	BA	06-06-1990	Secretary, UC, LG & RDD, Swabi.
9	Imtiaz Ali	07	08-04-1965	MA	06-06-1990	Secretary, UC, LG & RDD, Swabi.
10	Niaz Muhammad	07	12-03-1965	MA	17-07-1990	Secretary, UC, LG & RDD, Swabi.
11	Muhammad Nawaz	07	01-04-1962	BA	21-07-1990	Secretary, UC, LG & RDD, Swabi.
12	Muhammad Saleem	07	03-11-1967	FA	26-03-1991	Secretary, UC, LG & RDD, Swabi.
13	Sajid Ali-Khan	07	15-03-1968	BA	26-03-1991	Secretary, UC, LG & RDD, Swabi.
14	Saeed Ur Rehman	07	20-04-1967	BA	23-02-1992	Secretary, UC, LG & RDD, Swabi.
15	Sadiq Muhammad	07	01-01-1970	BA	22-11-1994	Secretary, UC, LG & RDD, Swabi.
16	Javed Khan	07	08-04-1970	BA	22-11-1994	Secretary, UC, LG & RDD, Swabi.
17	Ajmal Shah	07	15-09-1964	FA	23-11-1994	Secretary, UC, LG & RDD, Swabi.
18	Muhammad Tahir	07	17-02-1970	FA	23-11-1994	Secretary, UC, LG & RDD, Swabi.
19	Munawar Khan	07	17-07-1964	SSC	02-06-1983	Junior Clerk, DC Office 08-08-2001
20	Abdul Samad	07	11-11-1964	BA	03-12-1989	Junior Clerk, DC Office 08-08-2001
21	Niaz Wali Shah	07	15-03-1965	FA	03-12-1989	Junior Clerk, DC Office 08-08-2001
22	Javed Khan	07	15-04-1969	BA	03-12-1989	Junior Clerk, DC Office 08-08-2001
23	Muhammad Naeem	07	10-04-1972	BA	03-12-1989	Junior Clerk, DC Office 08-08-2001
24	Muhammad Iqbal	07	10-02-1965	SSC	05-12-1989	Junior Clerk, DC Office 08-08-2001



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25	Arshid Ahmad	07	09-04-1969	MA	05-12-1989	Junior Clark, DC Office 08-08-2001
26	Abdullah	07	03-03-1963	FA	17-12-1989	Junior Clark, DC Office 08-08-2001
27	Wisal Muhammad	07	01-01-1969	SSC	29-05-1990	Junior Clark, DC Office 08-08-2001
28	Anwar Saeed	07	15-03-1962	BA	21-07-1990	Junior Clark, LG & RDD, 08-08-2001
29	Muhammad Iqbal	07	20-01-1968	SSC	12-09-1990	Junior Clark, DC Office 08-08-2001
30	Anwar Ali	07	21-03-1966	SSC	13-09-1990	Junior Clark, DC Office 08-08-2001
31	Muhammad Ismail	07	01-03-1966	BA	09-08-1988	Junior Clark, DC Office 08-08-2001
32	Riaz Ali	07	12-05-1964	BA	09-08-1988	Junior Clark, DC Office 08-08-2001
33	Zulfiqar Ali	07	15-04-1968	FA	01-08-1991	J/C, Cooperative Deptt, 16-08-2001
34	Zakir Shah	07	15-04-1971	BA	28-10-1991	Junior Clark, DC Office 08-08-2001
35	Sajjad Ali	07	11-10-1968	FA	18-08-1992	Junior Clark, DC Office 08-08-2001
36	Muhammad Ismail	07	15-04-1973	BA	07-01-1993	Junior Clark, LG & RDD, 10-08-2001
37	Sikandar Zaib	07	15-04-1970	BA	24-04-1993	Junior Clark, LG & RDD, 10-08-2001
38	Abdul Rasheed	07	20-05-1968	FA	02-09-1990	Junior Clark, DC Office 08-08-2001
39	Sajjad Muhammad	07	14-02-1968	SSC	15-11-1985	Junior Clark, LG & RDD, 28-08-2001
40	Yasir Ali	07	30-03-1983	FA	16-06-2008	Secretary, UC, LG & RDD, Swabi.
41	Kaman Afsar	07	03-03-1976	FA	05-03-2009	Secretary, UC, LG & RDD, Swabi.
42	Shahab ali	07	06-04-1980	FA	05-03-2009	Secretary, UC, LG & RDD, Swabi.
43	Qaisar Khan	07	16-02-1982	BA	05-03-2009	Secretary, UC, LG & RDD, Swabi.
44	Muhammad Ayaz Khan	07	07-04-1984	BA	05-03-2009	Secretary, UC, LG & RDD, Swabi.
45	Zulfiqar Ali	07	01-01-1982	FA	05-03-2009	Secretary, UC, LG & RDD, Swabi.
46	Sheraz Ahmed	07	11-03-1993	F.Sc	14-02-2014	Secretary, UC, LG & RDD, Swabi.

  
ASSISTANT DIRECTOR,  
Local Govt: & Rural Dev: Deptt, SWABI.

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 847/2016

Muhammad Shoib

VS

Secretary LG&RD, KPK and others

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Para-1 of the appeal is admitted correct by the respondents department as service record is already in the custody of the department.
- 2 Para-2 of the appeal is admitted correct by the respondents department while rest of the contention of the respondents is irrelevant.
- 3 Incorrect and misguided the Hon'able Tribunal. While para-3 of the appeal is correct as mentioned in the main appeal of the appellants. Moreover, the issue related to the year 2012 and the appellants in seniority list of 2012 at S.no 1 and on the basis of which appellants claiming notional promotion.

- 4 Incorrect. While Para-4 of the appeal is correct as mentioned in the main appeal of the appellant.
- 5 Incorrect. While para-5 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, the appellant has good cause of action and his appeal is liable to be accepted.

**GROUNDS:**

- A) Incorrect. While Para-A of the grounds of appeal is correct as mentioned in the main appeal of the appellant. Moreover, the issue related to the year 2012 and the appellant in seniority list of 2012 at S.no 1 and on the basis of which appellant claiming notional promotion
- B) Incorrect. While Para-B of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
- C) Incorrect. While Para-C of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
- D) Not replied by the respondents department which means that Para-D of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
- E) Not replied by the respondents department which means that Para-E of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Not replied by the respondents department which means that Para-F of grounds of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Legal.

It is, therefore, most humbly prayed that the appeal of appellants may kindly be accepted as prayed for.

**APPELLANT**

**Through:**



**(M. ASIF YOUSAFZAI)  
ADVOCATE, PESHAWAR.**

**AFFIDAVIT**

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

**ATTESTED**  
**Oath Commissioner**  
**Zahoor Khan Advocate**  
**Distt: Court Peshawar**

**14 FEB 2017**



**DEPONENT**

**VAKALATNAMA**

Before the KP Service Tribunal, Peshawar

OF 2019

Muhammad Shoab

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

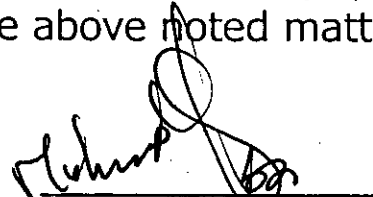
Local Govt. Department

(RESPONDENT)  
(DEFENDANT)

I/We Muhammad Shoab

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 31<sup>st</sup> / 10 / 2019

  
CLIENT

  
**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**

**SHAHZULLAH YOUSAFZAI**

  
&  
**MIR ZAMAN SAFI**  
**ADVOCATES**

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