

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

Service Appeals No. 81/2022

Mr. Syed Salamat Shah..... **Appellant**


**VERSUS**

Chief Secretary, Khyber Pakhtunkhwa & Others ..... **Respondents**

**INDEX**

Sr. No:	Description of Documents	Annex	Pages
1.	Reply/Joint Parawise Comments		2-3
2.	Affidavit		4
3.	Conditionally Re instatement Notifications Dated 09/04/2020 and 15/09/2020	I	5-6
4.	Conditionally Promotion of superintendent Notifications Dated 27/05/2022	II	7
5.	Appointment Promotion & Transfer Rules 1989 and Promotion Policy Of Provincial Govt	III	8-9

Dated: 16.08.2022

  
**Deponent**  
CNIC No: 17301-6272682-3  
Mobile: 0315-5737137

19

**BEFORE THE HONOURABLE SERVICES TRIBUNAL, KHYBER  
PAKHTUNKHWA, PESHAWAR**

**Service Appeal No. 81/2022**

Syed Salamat Shah.

(Appellant)

VERSUS

Chief Secretary Khyber Pakhtunkhwa and others

Respondents

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 143**

**PRELIMINARY OBJECTIONS.**

1. That the Appellant has got no cause of action against the respondents.
2. The Appellant is estopped by his own conduct to file the present appeal in the Tribunal.
3. That the appeal is time barred.
4. The Appellant has not come to this Honorable Court with clean hands and has concealed material facts from this Honorable Court.

**ON FACTS**

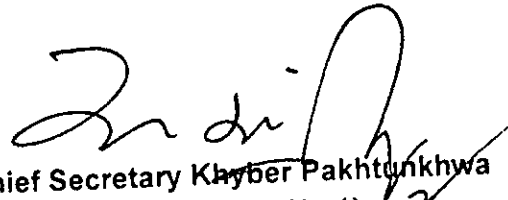
1. Correct to the extent that the appellant is the employee of Establishment Department and by the time of submitting this appeal he was working as Assistant (BS-16) in Agriculture Department.
2. **Pertains to record, hence no comments**
3. **Pertains to record, hence no Comments.**
4. **Pertains to record, hence no Comments.**
5. **Pertains to record, hence no Comments.**
6. **Incorrect.** The Departmental Promotion Committee deferred the Promotion of the appellant on the ground that he was conditionally reinstated into service subject to the final outcome of CPLA filed in the Supreme Court of Pakistan (**Annexure-I**).
7. **Incorrect.** The Departmental Appeal of the Appellant was processed and it was approved/decided that his case was to be placed before the DPC held on 20.05.2022, which is a Competent Forum to decide his case and after thorough deliberation the Committee recommended the Appellant for conditional promotion to the post of Superintendent(BS-17), subject to the final outcome of the CPLA filed in the Supreme Court of Pakistan(**Annexure-II**).
8. **Incorrect.** The Appellant was treated as per Law.

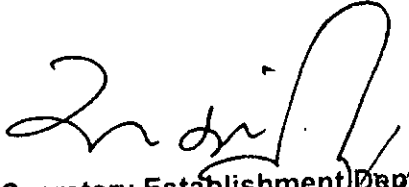
**ON GROUNDS**

- A. **Incorrect.** The appellant has already been conditionally promoted subject to the final outcome of CPLA filed in the Supreme Court of Pakistan with immediate effect and also treated as per Law i.e." appointments by promotion against posts may invariably be made with immediate effect in the prescribed manner in accordance with the provisions of civil Servants (Appointment, Promotion & Transfer) Rules, 1989" (**Annexure-III**).

- B. **Incorrect.** The appellant has been treated as per Law/Rules.
- C. As explained in Para-7 above.
- D. As explained in Para-7 above.
- E. **Incorrect.** The Appellant was treated as per Law/Rules and no discrimination whatsoever has been made to him.
- F. **Incorrect.** The notification dated 20.09.2021 has been issued in accordance with Law/Rules.
- G. **Incorrect.** As explained in Para-F above.
- H. **Incorrect.** The notification dated 20.09.2021 was issued in accordance with Law/Rules and no violation of any law has been made by the answering respondents.
- I. The respondents may also be allowed to raise additional grounds during the course of arguments.

**Prayer:** Therefore, it is, humbly prayed that on acceptance of instant Joint Parawise comments, the Appeal of the Appellant, being devoid of any legal merit, may very graciously be dismissed with costs.

  
 Chief Secretary Khyber Pakhtunkhwa  
 (Respondent No.1)

  
 Secretary Establishment Department  
 Khyber Pakhtunkhwa  
 (Respondent No.2)

4

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

Service Appeal: 81/2022

Mr. Syed Salamat Shah..... Appellant

VERSUS

Chief Secretary Khyber Pakhtunkhwa & Others ..... Respondents

**AFFIDAVIT**

I, Riaz Khan Superintendent (Litigation-III Section) Establishment Department do hereby solemnly affirm and declare that the contents of the accompanying parawise comments is true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

  
DEPONENT

CNIC No. 17301-6272682-3  
Contact: 0315-5737137



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

Dated Peshawar, the 09.04.2020

**NOTIFICATION**

No.SOE.IV(E&AD) 2(727)/2015:- In pursuance of judgment of Khyber Pakhtunkhwa Service Tribunal dated 23.10.2019 passed in Appeal No.1094/2018, the competent authority has been pleased to re-instate Syed Salamat Shah, Assistant (BPS-16) in service w.e.f 26.04.2018 and to treat the intervening period as leave without pay, subject to final decision of the Supreme Court of Pakistan against aforementioned judgment of Khyber Pakhtunkhwa Service Tribunal.

2. Consequent upon the above, Syed Salamat Shah, Assistant (BS-16) is posted in Agriculture Department against the vacant post with immediate effect.

SECRETARY ESTABLISHMENT  
GOVT. OF KHYBER PAKHTUNKHWA

Endst: No. and dated even.

A copy is forwarded to the:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (Admn), Administration Department.
3. Section Officer (Secret), Establishment Department.
4. Estate Officer, Administration Department
5. Section Officer (Gen), Agriculture Department.
6. Deputy Director (IT), Establishment & Administration Department.
7. PS to Secretary Establishment, Establishment Department.
8. PS to Special Secretary (Estt), Establishment Department.
9. PA to Addl: Secretary (HRD Wing), Establishment Department.
10. PA to Deputy Secretary (Estt), Establishment Department.
11. Official concerned

SECTION OFFICER (E-IV)

13/05/2020



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

Dated Peshawar, the 15.09.2020

**NOTIFICATION**

No.SOE.IV(E&AD)2(727)/2015:- In partial modification of this department Notification of even number dated 09.04.2020, the competent authority is pleased to convert the intervening period w.e.f 26.04.2018 to 08.04.2020 with the following break up, subject to final decision of the Supreme Court of Pakistan against aforementioned judgment of Khyber Pakhtunkhwa Service Tribunal:-

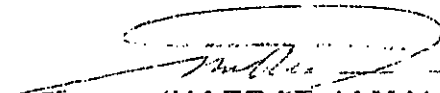
1.	26.04.2018 to 23.08.2018	On Full pay
2.	24.08.2018 to 08.04.2020	On half average pay

SECRETARY ESTABLISHMENT  
GOVT. OF KHYBER PAKHTUNKHWA

Endst. No. & date even.

A copy is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (Secret), Establishment Department.
3. Section Officer (Admn), Administration Department
4. Section Officer (Admn), Agriculture Department.
5. Section Officer (Lit-II), Establishment Department w/r to their letter No. SO (Lit-II) E&AD/3-274/2019 dated 18.08.2020
6. P.S to Secretary Establishment, Establishment Department.
7. P.S to Special Secretary (Estt), Establishment Department.
8. P.A to Addl: Secretary (Estt), Establishment Department.
9. PA to Addl: Secretary (HRD), Establishment Department.
10. P.A. to Deputy Secretary (Estt.), Establishment Department.
11. Official concerned.

  
(HAZRAT-JAMAL)  
SECTION OFFICER (E-IV)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(ESTABLISHMENT WING)

Annex- II

Dated Peshawar, the May 27<sup>th</sup>, 2022

**NOTIFICATION**

**No. SOE.IV(E&AD)1-7/2022**

On the recommendations of the Departmental Promotion Committee in its meeting held on 20.05.2022, Syed Salamat Shah, Assistant (BS-16), Agriculture, Livestock, Fisheries and Cooperative Department, is hereby promoted as Superintendent (BS-17), on regular basis, subject to final outcome of CPLA, filed in the Supreme Court of Pakistan, against the judgment dated 23.10.2019 in Service Appeal No. 1094/2018, passed by Khyber Pakhtunkhwa Service Tribunal, Peshawar, with immediate effect:-

2. The above Superintendent on his promotion shall remain on probation for a period of one year, in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and extendable for another year with the specific orders of appointing authority within two months of the expiry of first year of probation period as specified in Rule-15(2) of Rules ibid.

3. Consequent upon his promotion, Syed Salamat Shah, Superintendent (BS-17) is hereby transferred and posted in Energy & Power Department, against the vacant post.

CHIEF SECRETARY  
GOVT. OF KHYBER PAKHTUNKHWA

**ENDST. NO. & DATE EVEN.**

A copy is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (Secret), Establishment Department.
3. Estate Officer, Administration Department.
4. Section Officers (Gen), Agriculture / Energy & Power Department.
5. Deputy Director (IT), Establishment & Administration Deptt.
6. PS to Secretary Establishment Department.
7. PS to Special Secretary (Estt.), Establishment Department.
8. PA to Addl: Secretary (HRD Wing) Establishment Department.
9. PA to Additional Secretary (Estt.), Establishment Department.
10. P.A to Deputy Secretary (Estt.), Establishment Department.
11. Officer concerned.

(SIRAJ MUHAMMAD)  
SECTION OFFICER (E-IV)

within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

VI. Date of Promotion:

Promotion will always be notified with immediate effect.

VII. Notional Promotion:

In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired.

VIII. Promotion of Civil Servants who are awarded minor penalties.

- (a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.
- (b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. Promotion in case of pending investigations by NAB:

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion fora which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.



(Regulation Wing)

No. SOR-I(S&GAD) 1-29/75(Vol. II)

Dated Pesh. the 4th September, 1991.

1. All Administrative Secretaries to Govt. of NWFP.
2. Secretary to Governor, NWFP.
3. Secretary to Chief Minister, NWFP.
4. All Commissioners in NWFP.
5. All Heads of Attached Departments in NWFP.
6. All Heads of Autonomous/Semi-Autonomous Bodies in/
7. All Dy. Commissioners/Political Agents in NWFP, NWFP.
8. All District & Sessions Judges in NWFP.
9. The Registrar, Peshawar High Court, Peshawar.
10. The Secretary, Board of Revenue, NWFP, Peshawar.
11. The Secretary, NWFP, Public Service Commission, NWFP.
12. The Director, Anti-Corruption Establishment, NWFP, Pesh.
13. The Registrar, NWFP Service Tribunal, Peshawar.

Subject: - PROMOTION POLICY OF THE PROVINCIAL GOVERNMENT.

Sir,


I am directed to refer to this Department circular letter of even number dated 31.3.1990, wherein it was clarified that appointments by promotion against posts may invariably be made with immediate effect in the prescribed manner in accordance with the provisions of NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and instructions issued from time to time by the Provincial Government.

2. Despite the aforesaid clear instructions, it has come to notice that some departments have issued promotion orders with retrospective effect in violation of Government policy.

3. I am, therefore, to request you to please ensure that promotion policy of the Provincial Government is adhered to in letter and spirit and that no promotion is made in future with retrospective effect. The above instructions may kindly be brought in the notice of all concerned.

4. Please acknowledge receipt.

Your Obedient Servant

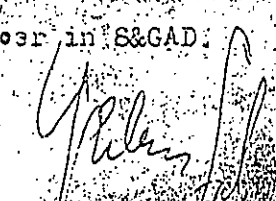


(MOHAMMAD SHOAI B)  
Deputy Secretary (Regulation)

Encl. No. SORI(S&GAD)1-29/75(Vol. II) Date: Pesh. the 4.9.1991.

Copy forwarded to :-

1. All Additional Secretaries in S&GAD.
2. All Deputy Secretaries in S&GAD.
3. All Section Officers/Estate Officer in S&GAD.
4. P.S. to Chief Secretary, NWFP.
5. P.S. to Secretary, S&GAD.
6. Librarian, S&GAD.
7. Supdt. I/c Benevolent Fund Cell/  
ACSO, S&GAD.

  
(GHULAM S. BHATTI)