

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No.1585/2019

**Mr. Mohammad Shoaib: Supdt (Rtd) Govt: College of Technology,
Kohat, Presently Residing Mohallah Tar Khel Behzadi Chiker Kot,
Kohat.**

.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Commerce & Technical Education Department, Civil Secretariat, Peshawar.
2. **Managing Director** TEVTA (Khyber Pakhtunkhwa Technical & Vocational Training Authority) office 5-771 old Bara Road, University Town, Peshawar.
3. **District Accounts Office, Kohat.**

.....(*Respondents*)

Present:

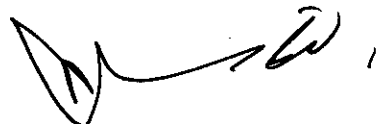
Mr. Farmanullah Khattak,
Advocate.....For appellant.

Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Mr. Ali Gohar Durani,
Advocate.....For respondent No.2

Date of Institution.....25.11.2019
Dates of Hearing.....05.10.2022
Date of Decision.....05.10.2022

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
RETIREMENT ORDER DATED 14.05.2019 ON
SUPERANNUATION AND AGAINST WHICH
DEPARTMENTAL APPEAL FILED ON 08.08.2019 HAD OT
BEEN DECIDED WITHIN STATUTORY PERIOD.**



JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Briefly stated the facts of the appeal as stated in the appeal are that the appellant was appointed on 31.10.1978 in the respondent department and with the passage of time he progressed in career; that the appellant was promoted to the post of Superintendent/Manager Employment Exchange (BS-16) on 28.05.2013 and was adjusted/posted as Manager Employment Exchange Swabi; that after few months the appellant was transferred from the post of Manager Employment Exchange Swabi to the post of Superintendent Govt: College of Technology, Kohat; that post of the Superintendent BPS-16 was upgraded to BPS-17 by the department vide notification dated 20.04.2014. Accordingly, the appellant was also upgraded; that the appellant was serving as Superintendent (BPS-17) in the Govt: College of Technology, Kohat and retired from service on attaining the age of superannuation as a Manger (BPS-16) instead of Superintendent (BPS-17) vide impugned order dated 14.05.2019; that feeling aggrieved from the impugned order, the appellant filed departmental appeal, which was not responded within the statutory period, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and



factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant, learned Additional Advocate General and learned counsel for respondent No.2 for the respondents.

4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned AAG and learned counsel for respondent No.2 controverted the same by supporting the impugned order(s).

5. The appellant while serving as Assistant/Head Clerk (BSP-14) in the respondent-department was promoted to the post of Superintendent/Manager Employment Exchange (BPS-16) vide office order dated 28.05.2013 and was posted as Manager Employment Exchange, Swabi. He served in the said capacity till 09.09.2013. He was then transferred and posted as Superintendent (BPS-16) at Govt: College of Technology, Kohat. In the meantime the post of Superintendent had been upgraded from BS-16 to BS-17 and the appellant was still serving as Superintendent in the respondent department. In the above position, there remains no doubt that the appellant was holder of the post of Superintendent BPS-17 till his retirement. The respondents, in their reply, have taken the stance that the post held by the appellant was of Manager, Employment Exchange (BPS-16) but in view of the findings herein before, the stance of the



respondents is of no legal effect. The appellant is entitled for all benefits of the post of Superintendent BPS-17 at the time of his retirement. The appeal stands disposed of accordingly. Cost shall follow the event. Consign.

6. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 5th day of October, 2022.



KALIM ARSHAD KHAN
Chairman



FAREEHA PAUL
Member (Executive)

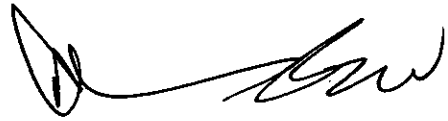
ORDER

05th Oct, 2022

1. Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG and counsel for respondent No.2 present.

2. Vide our detailed judgement of today placed on file (containing 04 pages), the appellant is entitled for all benefits of the post of Superintendent BPS-17 at the time of his retirement. The appeal stands disposed of accordingly. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 05th day of October, 2022.*



(Kalim Arshad Khan)
Chairman



(Kareeha Paul)
Member(Executive)

D.F.A

Service Appeal No.1585/2019 titled "Mohammad Shoaib-vs-Govt: of Khyber Pakhtunkhwa through Secretary Commerce & Technical Education Department, Civil Secretariat, and others", decided on 05.10.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No.1585/2019

**Mr. Mohammad Shoaib: Supdt (Rtd) Govt: College of Technology,
Kohat, Presently Residing Mohallah Tar Khel Behzadi Chiker Kot,
Kohat.**

.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Commerce & Technical Education Department, Civil Secretariat, Peshawar.
2. **Managing Director** TEVTA (Khyber Pakhtunkhwa Technical & Vocational Training Authority) office 5-771 old Bara Road, University Town, Peshawar.
3. **District Accounts Office, Kohat.**

.....(*Respondents*)

Present:

Mr. Farmanullah Khattak,
Advocate.....For appellant.

Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Mr. Ali Gohar Durani,
Advocate.....For respondent No.3

Date of Institution.....25.11.2019
Dates of Hearing.....05.10.2022
Date of Decision.....05.10.2022

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
RETIREMENT ORDER DATED 14.05.2019 ON
SUPERANNUATION AND AGAINST WHICH
DEPARTMENTAL APPEAL FILED ON 08.08.2019 HAD OT
BEEN DECIDED WITHIN STATUTORY PERIOD.**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH UD DIN ... MEMBER (JUDICIAL)

Service Appeal No.2511/2021

**Johar, Principal (BPS-18), Government Higher Secondary School,
Swabi.**

.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary at Civil Secretariat, Peshawar.
2. **Secretary** Elementary & Secondary Education, Government of Khyber Pakhtunkhwa at Civil Secretariat, Peshawar.
3. **Director** Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.

.....(*Respondents*)

Present:

Javed Iqbal Gulbela,
Advocate.....For appellant.

Mr. Muhammad Riaz Khan Paindakhel,
Assistant Advocate General.....For respondents

Date of Institution.....09.02.2021
Dates of Hearing.....25.07.2022
Date of Decision.....25.07.2022

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED SENIORITY LIST.**

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: This judgment shall
dispose of the instant service appeal as well as connected service

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Briefly stated the facts ^{of} ~~of~~ ^{as stated in the appeal} the appeal, are that the appellant was appointed on 31.10.1978 in the respondent department and with the passage of time he progressed in career. ^{That the} The appellant was promoted to the post of Superintendent/Manager Employment Exchange (BS-16) on 28.05.2013 and ^{was} adjusted/posted as Manager Employment Exchange Swabi; that after few months the appellant was transferred from the post of Manager Employment Exchange Swabi to the post of Superintendent Govt: College of Technology, Kohat; that ~~the~~ post of the Superintendent BPS-16 was upgraded to BPS-17 by the department vide notification dated 20.04.2014. Accordingly, the appellant was also upgraded; that the appellant was serving as Superintendent (BPS-17) in the Govt: College of Technology, Kohat and he ~~was finally~~ ^{attaining} retired from service on the age of superannuation as a Manger (BPS-16) instead of Superintendent (BPS-17) vide impugned order dated 14.05.2019; that feeling aggrieved from the impugned order, the appellant filed departmental appeal, which was not responded within the statutory period, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and

accordance with law verification from NADRA is also required to be made from District Khyber regarding the appellant and his predecessors; all these factors required thorough and proper probe, before taking any departmental action. Therefore, we allow this appeal, remit the matter back to respondent No.2 to conduct proper enquiry in the light of above within sixty (60) days then pas appropriate order in the light of situation coming out of the result of the enquiry. The appellant is reinstated for the purpose of enquiry. Costs shall follow the event. Consign.

07. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 29th day of July, 2022.

KALIM ARSHAD KHAN
Chairman

SALAH UD DIN
Member (Judicial)

factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant, learned Additional Advocate General and learned counsel for respondent No.2 for the respondents.

4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned AAG and learned counsel for respondent No.2 controverted the same by supporting the impugned order(s).

5.

6.

7. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 3rd day of October, 2022.*

KALIM ARSHAD KHAN
Chairman

FAREEHA PAUL
Member (Executive)

No.2 on 02.08.2019. In the offer of appointment letter it was mentioned at serial No.3 of the terms and conditions that the offer of appointment shall be deemed to have been cancelled, if, the appointee failed to furnish Medical Fitness Certificate and report for duty within a month from the date of issuance of the appointment order or non-verification of their antecedents and testimonials. According to the appellant he joined duties and performing the same to the satisfaction of his superiors when he was terminated from service vide order dated 01.11.2019; that the appellant filed departmental appeal on 07.11.2019 against his termination which was not responded within ninety days, and he filed this appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, once put appearance through Mr. Kashif Khan, Superintendent Sessions Court, Khyber but thereafter did never turn up nor did they file reply/comments.

3. We have heard learned counsel for the appellants and learned Assistant Advocate General for the respondents.

4. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Asst: AG controverted the same by supporting the impugned order.

5. The respondents were given various opportunities to file reply/comments but despite given a number of opportunities and a number of

Case No. 252/2020

State of Jammu and Kashmir

Service Tribunal

Date of Decision ... 14.12.2021

1. Mr. Hafeezullah Khan (P/O Staff Colony, Group 1) who is presently working as Superintendent (PS-17, State (Women) Dera Ismail Khan (Appellant)

VERSUS

2. The Director, Khyber Pakhtunkhwa TEVTA, Peshawar and others (Respondent)

Muhammad Waqar Alam,

For Appellant

Muhammad Adeel Butt,
Advocate General,

For Respondent

MR AHMAD SULTAN TAREEN
MS Fozina Rehman,

CHAIRMAN
MEMBER

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN: The appellant has filed an appeal against the order dated above in the heading has invoked the provisions of section 11 of the Service Tribunal Act 1974 which reads as follows:-

It is this most respectfully prayed that on acceptance of this appeal, the impugned order be set aside and the appellant be appointed as Superintendent (PS-17) in State (Women) Khyber Pakhtunkhwa.



Technical Education and Vocational Training Authority prepared by the respondents may please be declared as illegal, void ab initio and ineffective over the rights of appellant. Furthermore, the respondents may also be directed to rectify the omission which was made in the seniority list in respect of Superintendents (BPS17) be also corrected accordingly and name of the appellant may kindly be placed in the seniority list of Superintendents Khyber Pakhtunkhwa Technical Education and Vocational Training Authority by placing the name of appellant above than the private respondent in the best interest of justice and equity:-

3 Briefly stated the facts of the appeal are that the appellant was appointed as Junior Clerk on 31.10.1978 in the respondent department and with the passage of time he progressed in career. Firstly he was promoted as Senior Clerk vide order dated 19.04.1983. Then he was promoted to the post of Assistant/Head Clerk in the Technical Education Department in the year, 1994. The appellant was further promoted to the post of Superintendent BPS-16 vide order dated 07.08.2009 and performed his duties as Superintendent in BPS-16 till 20.04.2014. The post of the Superintendent BPS-16 was upgraded to BPS-17 by the department vide notification dated 20.04.2014. Accordingly, the appellant was also upgraded vide notification No. FD/SO/FR-10-22/2014 dated 20.04.2014 from BPS-16 to BPS-17. He was transferred against the post of Librarian BPS-17 vide order dated 26.03.2018. The appellant also stated that he alongwith other Superintendents of the department was included in the seniority list for the year 2011 and 2012 but astonishingly in the year 2019, the name of the appellant


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The appellant was promoted to the post of Superintendent BPS-16 in the year 2009 and he acquiesced to the said promotion. He has admitted this fact and his case for promotion as Assistant Director, Employment Exchange has, therefore, been once considered in accordance with the Service Rules, 2019. Since he has admitted his posting as Superintendent BPS-16 in the year 2009 and has never challenged his posting as Superintendent BPS-16 till 2014, he is legally estopped by his own conduct from challenging the promotion of the appellant as Superintendent BPS-16. Rather the respondents asserted that the appellant was promoted and posted as Manager BPS-16, while Basic Pay Scale of the posts of Superintendent BPS-16 and Manager was same i.e. BPS-16. The stance of the respondents in this regard as discussed above throughout remained that the appellant was posted as Superintendent BPS-16 in 2009 and he acquiesced to the said promotion. On the other hand, para 8 of his appeal stated that he was transferred to the post of Librarian BPS-17 vide order dated 26.03.2018. He also challenged his posting as Librarian BPS-17 with his appeal. Accordingly the appellant was promoted to the post of Librarian BPS-17 at Government College of Technology, Jammu. He also filed appeal against said post of Librarian BPS-17 at Jammu. The appeal was allowed by the Writ Bench on 16.01.2018. It is

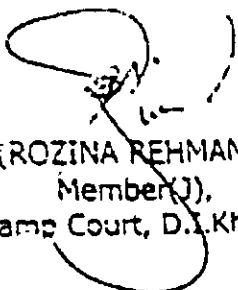
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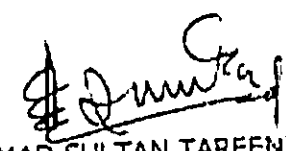

... of the Institute for Women, Delhi. In the course of the proceedings, the appellant was promoted to the post of Superintendent BPS-17 in consequence of his retirement by superannuation on 04/04/2021. Copy as produced during arguments is placed on record. In the above position, there remains no doubt that the appellant was in the post of Superintendent BPS-17 till his retirement. As the appellant claimed the seniority in his prayer but due to his retirement, the respondents refuse to accept the appeal as prayed for, when we have no case before us for promotion on the basis of impugned seniority list has taken place during the period of his dispute. The respondents in their reply have taken a stance that the post held by the appellant was Manager, Employment Exchange (BPS-16) in view of the findings herein before, the stance of the respondents is not sustainable.

For appellant

ATTESTED

The undersigned is
the undersigned
the undersigned

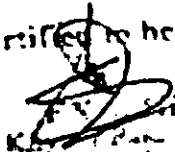
legal effect. The appellant is entitled for all benefits of BPS-17 at the time of his retirement. The appeal is allowed accordingly. Parties are left to bear their own costs. File be conserved in the record room


(ROZINA REHMAN)
Member(J),
(Camp Court, D.I.Khan)


(AHMAD SULTAN TAREEN)
Chairman
(Camp Court, D.I.Khan)

ANNOUNCED
14.12.2021

Certified to be true copy

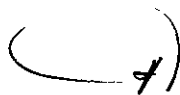

Khatun-e-Azam
Secretary
Services Tribunal
Peshawar

Date of Presentation 18/3/22
Number of Words 2400
Filing Fee 26/-
Total 30/-
Date of Receipt of copy 18/3/22
Date of Delivery of copy 18/3/22

28.06.2022

Clerk of learned counsel for the appellant present. Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents present.

Clerk 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, Peshawar. Adjourned. To come up for arguments on 05.10.2022 before the D.B.



(Rozina Rehman)
Member (J)



(Salah Ud Din)
Member (J)

15.09.2021

Mr. Farman Ullah Khattak, Advocate for the appellant present. Mr. Kabirullah Khattak, Assistant Advocate General for official respondents No. 1 to 3 present. Mr. Shahab Khattak, Legal Coordinator on behalf of respondent No.2 present and requested for adjournment on the ground that learned counsel for respondent No.2 has proceeded to his home due to some domestic matters. Last opportunity is granted and to come up for arguments before the D.B on 01.12.2021.

(ATIQU UR REHMAN WAZIR)
MEMBER (EXECUTIVE)

(SALAH UD DIN)
MEMBER (JUDICIAL)

01.12.2021 Due to non-availability of DB, the case is adjourned to 15-03-2022.

Amin
Reader

15-03-2022

Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 28-06-2022

Amin
Reader

~~15-03-2022~~

~~Mr. Farman Ullah Khattak, Advocate for the appellant present. Mr. Kabirullah Khattak, Assistant Advocate General for official respondents No. 1 to 3 present. Mr. Shahab Khattak, Legal Coordinator on behalf of respondent No.2 present and requested for adjournment on the ground that learned counsel for respondent No.2 has proceeded to his home due to some domestic matters. Last opportunity is granted and to come up for arguments before the D.B on 01.12.2021.~~

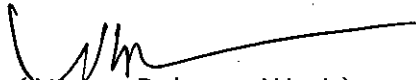
~~(Farman Ullah Khattak)
Member (J)~~

~~(Salah Ud Din)
Member (J)~~

01.03.2021

Counsel for the appellant and Syed Asif Masood, DDA for respondents No. 1 & 3 and Mr. Shahab Khattak, Legal Advisor for respondent No. 2 present.


Learned counsel for the appellant has submitted rejoinder to the comments by respondents. Placed on record. To come up for arguments on 02.06.2021 before the D.B.


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


Chairman

02.06.2021

Appellant alongwith his counsel present, Mr. Kabirullah Khattak, Additional Advocate General on behalf of respondents No.1 & 3 present. Mr. Shahab Khattak, Legal Coordinator on behalf of respondent No. 2 present and submitted application for adjournment on the ground that his senior counsel Mr. Ali Gohar Durrani, Advocate, is busy before the worthy Peshawar High Court Abbottabad Bench. Adjourned. To come up for arguments before the D.B on 15.09.2021.


(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

21.07.2020

Mr. Farmanullah Khattak, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Kashif, ADO on behalf of respondent No. 3 are also present. Written reply on behalf of respondent No. 3 has already been submitted while written reply on behalf of respondents No. 1 & 2 not submitted so far nor anyone on their behalf is present, therefore, notices be issued to them for submission of written reply/comments for 16.09.2020 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER

16.09.2020

Appellant in person and Addl. AG alongwith Izhar Khan, Accountant and Shahab Khattak, Legal Advisor on behalf of the respondents present.

Respondents No. 1 & 2 have furnished reply/comments which are made part of the record. Parawise comments on behalf of respondent No. 3 have already been submitted. The matter is assigned to D.B for arguments on 02.12.2020. The appellant may submit rejoinder, within one month, if so advised.


Chairman

02.12.2020

Due to COVID-19 the case is adjourned for the same on ~~01.03.2020~~ before D.B.


READER


21.02.2020

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Kashif, ADAO on behalf of respondent No: 3 present. Written reply on behalf of respondents not submitted. Learned Additional AG seeks adjournment to furnish written reply/comments. Adjourned to 18.03.2020 for written reply/comments before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

18.03.2020

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG alongwith Muhammad Kashif ADAO on behalf of respondent No.3 present and submitted written reply/comments. None present on behalf of respondent No. 1 & 2 therefore, notice be issued to the respondent No. 1 & 2 for submission of written reply/comments. Adjourned. To come up for written reply/comments on behalf of respondent No. 1 & 2 on 27.04.2020 before S.B.


(Hussain Shah)
Member

27.04.2020

Due to COVID19, the case is adjourned to 21.07.2020 for the same as before.

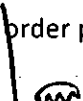

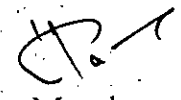

Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1585/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/11/2019	<p>The appeal of Mr. Muhammad Shoaib presented today by Mr. Farmanullah Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 25/11/19</p>
2-	26/11/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/12/19</u>.</p> <p> CHAIRMAN</p>
	27.12.2019	<p>Appellant with counsel present. Preliminary arguments heard.</p> <p>The appellant, Retired Manager Employment Exchange, has filed the present service appeal being aggrieved against his order of retirement dated 14.05.2019 and his prayer is that he may be retired from service in BPS-17 instead of BPS-16.</p> <p>Points urged need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for reply/comments. To come up for written reply/comments on 21.02.2020 before S.B.</p> <p> Member</p>

Appellant Deposited
Security & Process Fee

29/12

**BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER
PAKHTUNKHAWA, PESHAWAR**

Service Appeal No. 1585 of 2019

Shoaib Khan

.....Appellant

Versus

Government of Khyber Pakhtunkhwa through Secretary Industry &
others.....(Respondents).

INDEX

S.No.	Description of Documents	Annexures	Pages
1.	Ground of Service Appeal with affidavit.		1-5
2.	Addresses of parties.		5-A
3.	Copy of the Promotion Order by DPC, dated, 28-05-2013.	A	6
4.	Copy of the Transfer order, dated, 9-9-2013.	B	7
5.	Copy of the notification dated 20-05-2014 issued by the Finance Department (Regulation Wing) about up gradation of Post of Supd.	C	8
6.	Copy of the Certificate of Charge Assumption as a Superiendent from BPS-16 to BPS-17.	D	9
7.	Copy of the impugn order of Superannuation, dated, 14-05-2019.	E	10
8.	Copy of Salary Slips of the post of Superiendent in BPS-17.	F to F/4	11-15
9.	Copy of the Departmental Appeal.	G	16-17
13.	Vakalat Nama in original.		18

Appellant

Through

(Farmanullah Khattak),

Advocate Supreme Court of
Pakistan.

Office: Room No-9, 17-A The Mall
Peshawar Fakhra e Alam Road, Peshawar
Cantt.

1

**BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER
PAKHTUNKHAWA, PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1585 of 2019

Diary No. 1675

Dated 21/11/2019

Mr. Mohammad Shoaib Supd (Rtd) Govt. College of
Technology, Kohat, Presently Residing Mohallah Tar Khel
Behzadi Chiker Kot, Kohat.(Appellant).

Versus

1. Government of Khyber Pakhtunkhwa through Secretary
Commerce & Technical Education Department, Civil
Secretariat, Peshawar.
2. Managing Director TEVTA (Khyber Pakhtunkhwa Technical &
Vocational Training Authority) Office 5-771 Old Bara Road,
University Town, Peshawar.
3. District Accounts Office, Kohat.

.....Respondents.

APPEAL under Section-4 of Khyber Pakhtunkhwa
Service Tribunal Act, 1974 against retirement order
dated, 14-05-2019 on superannuation and against
which departmental appeal filed on 8-8-2019 had not
been decided within statutory period.

PRAYER IN APPEAL

THAT on acceptance of the instant appeal, this Hon'ble
Tribunal may graciously be pleased to set-aside impugned
order No. KP-TEVTA/HR-II/PF/4-41/33396-31, dated, 14-
05-2019, vide which appellant stand retired as a
Manager(BPS-16) instead of Superiendent(PBS-17) upgraded
by the Finance Department (Regulation Wing) Notification,
dated, 20-05-2014.

Respectfully Sheweth:

Filed to-day
Registrar
20/11/19

That the appellant very humbly submitted as under:-

1. That appellant was initially inducted into service on 23-09-1978 and with the passage of time got promotion and was finally got promoted to the post of Superintendent/Manager Employment Exchange (BPS-16) on 28-05-2013 by Departmental Promotion Committee (DPC) on joint cadre basis i.e. Superintendent/Manager Employment Exchange and vide the same order appellant was adjusted/posted as a Manager Employment Exchange Swabi. (Copy of the Promotion/placement order is hereby enclosed as Annex-A).
2. That after few months of promotion, appellant were again transferred vide order dated, 9-09-2013, from the post of Manager Employment Exchange, Swabi to the post of Superintendent Govt. College of Technology, Kohat. (Copy of the Transfer order is hereby enclosed Annex-B).
3. That when the appellant was serving over the post of Superintendent Govt. College of Technology, Kohat, in the meanwhile Govt. of Khyber Pakhtunkhwa Finance Department (Regulation Wing) vide, notification dated, 20-05-2014, upgraded post of Superintendent from BPS-16 to BPS-17 with the direction to all the Departments of Govt. of Khyber Pakhtunkhwa to fixed pay in higher pay scales of the existing incumbents and on the basis of which appellant assumed the charge, vide, endorsement No. GCT/KT/PF/1112, dated, 20-05-2014. (Copy of the notification and the charge assumption is hereby enclosed as Annex-C & D respectively).
4. That appellant was serving over the post of Superintendent in the Govt College of Technology, Kohat and he was finally been retired from service as a Manager (BPS-16) instead of Superintendent (BPS-17), vide impugn order no. KP-TEVTA/HR-II/PF/4-41/33396-31, dated, 14-05-2019, after attaining the age of superannuation.

of 60 years. (Copy of impugn order is hereby enclosed as Annex-E).

5. That since the appellant was already holding the post of Superiendent and after up gradation notification his designation and pay fixation as a Superiendent (BPS-17) was incorporated by the District Accounts Office, Kohat till his retirement on superannuation. (Copy of the pay Slip is herby enclosed as Annex-F to F/4).
6. That appellant aggrieved from the impugn order filed departmental appeal before the competent authority, however, the same was not decided within stipulated period of time. (Copy of the departmental appeal is hereby enclosed as Annex-G).
7. That the appellant approached to this Hon'ble Tribunal, for the redressal of his grievance as prayed for hereinafter, inter-alias, on the following grounds:-

GROUND:

- A. That the order passed by the Managing Director TEVTA and impugned herein is illegal, arbitrary, smacks of malafide and thus liable to be set-aside by this Hon'ble Tribunal.
- B. That the impugn order of retirement of Appellant on degraded post i.e. Manager Employment Exchange (BPS-16) instead of Superiendent which the petitioner was holding at time of retirement on top of pay fixation is completely whimsical, illegal and based on malafide.
- C. That the competent authority had completely oversight the record that appellant at the time of retirement was already to the post of Superiendent/Manager and at the time of up gradation to BPS-17, appellant was holding the post of Superiendent and even charge was assumed over the upgraded

post duly communicated to the Director Technical Education & Manpower being competent authority but no objection was made over the relevant time.

- D. That the appellant once draw pay and allowances attached to the post of Superiendent which was upgraded by the Finance Department (Regulation Wing) vide, notification dated, 20-05-2014, from BPS-16 to BPS-17 with the direction to all the Departments of Govt. of Khyber Pakhtunkhwa to fixed pay in higher pay scales of the existing incumbents and on the basis of which appellant assumed the charge, vide, endorsement No. GCT/KT/PF/1112, dated, 20-05-2014, therefore, at this juncture the impugn order is totally illegal, irrational and against the judgment laid down by the august Supreme Court of Pakistan reported in 1978 SCMR-289.
- E. That this Hon'ble Tribunal has got equal power to check the excess committed by Respondent No.2 by passing the impugn order of retirement in BPS-16 instead of BPS-17 and by this was appellant has been deprived from the vested right of up gradation over the post of Superiendent (BPS-17).
- F. That even otherwise it is accrued right would attract principle of locus poentiae and to deprive the appellant after availing the same for sufficient long on such invalid & illogical reasons is completely based on malafide and against principle of natural justice. (Reliance is placed on (State of Pak. Vs. M/S Faisal Spinning Mills 1997 SCMR-1244) and Messrs Army Welfare Sugar Mills Vs. Fed. Of Pakistan 1992 SCMR-1652).
- G. That the order passed and impugn herein caused grave miscarriage of justice to the appellant and appellant will seek permission of this Hon'ble Tribunal to urge additional grounds at the time of argument of this appeal.

(5)

IT IS, THEREFORE, most humbly prayed that on acceptance of the instant appeal, this Hon'ble Tribunal may graciously be pleased to set aside impugned Order No.KP-TEVTA/HR-II/PF/4-41/3396-31 dated 14.05.2019 vide which appellant stand retired as a Manager (BPS-16) instead of Superintendent (BPS-17) upgraded by the Finance Department (Regulation Wing) Notification dated 20.05.2014 and the same may be declared being illegal, void ab-initio and of no legal effect and the appellant may be allowed with all consequential benefits of Superintendent (BPS-17) in accordance with the law OR any other remedy deemed proper and appropriate may also be allowed.

Through Appellant

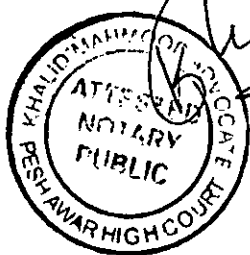


Farmanullah Khattak
Advocate Supreme Court

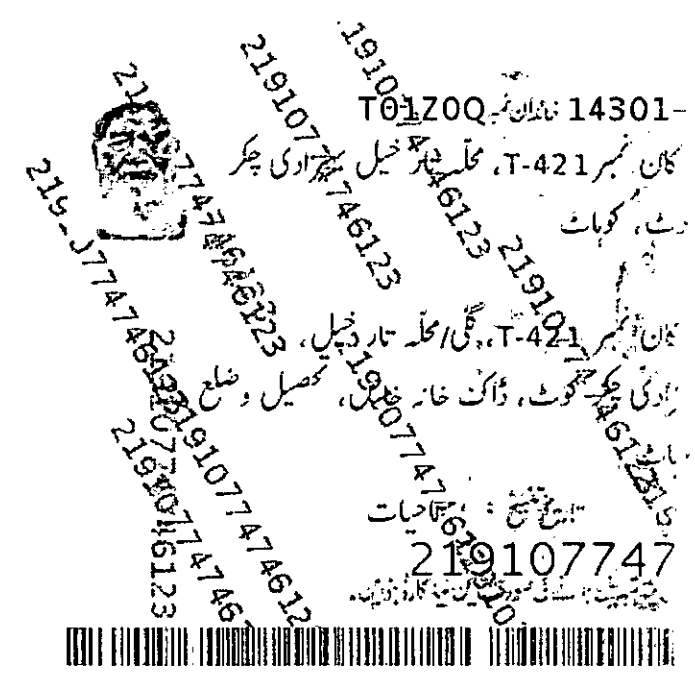
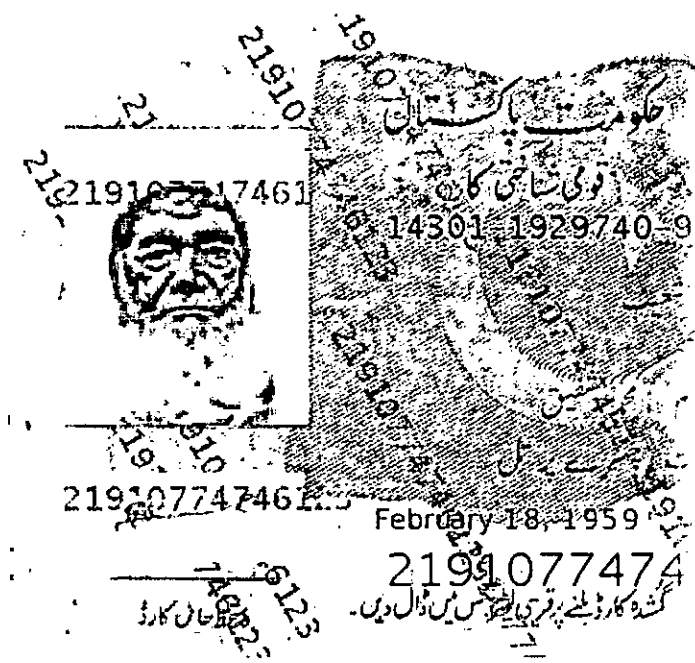
Date: __/__/2019

AFFIDAVIT

I, Muhammad Shoaib, Superintendent (Rtd), Govt College of Technology, Kohat presently residing at Mohallah Tar Khel, Behzadi, Chakar Kot, District Kohat, do hereby solemnly affirm and declare on oath that the contents of **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT
CNIC: 14301-1929740-9
Cell: 0333-9616960



Census 1998 Database [x]

There is no record for this individual in the census. The census data was registered, or lacks necessary identifiers, or could be used for linking the record with this individual.

Other Information that does not appear on card [x]

Place of Birth کوہاٹ

Religion Islam

Mother's Name بیگم

Digital Signature [x]

5-9

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

Service Appeal No. _____ of 2019

Shoaib Khan

.....Appellant

Versus

Government of KP & others.....(Respondents).

ADDRESS OF PARTIES

PETITIONER:

Mohammad Shoaib Supd (Rtd) Govt. College of Technology,
Kohat, Presently Residing Mohallah Tar Khel Behzadi Chiker
Kot, Kohat

RESPONDENTS:-

1. Government of Khyber Pakhtunkhwa through Secretary
Commerce & Technical Education Department, Civil
Secretariat, Peshawar.
2. Managing Director TEVTA (Khyber Pakhtunkhwa Technical &
Vocational Training Authority) Office 5-771 Old Bara Road,
University Town, Peshawar.
3. District Accounts Office, Kohat.

Appellant

Through

(Farmanullah Khattak),
Advocate Supreme Court of
Pakistan.



6

**DIRECTORATE GENERAL TECHNICAL EDUCATION
& MANPOWER TRAINING, PESHAWAR
BENEVOLENT FUND BUILDING PESHAWAR CANTT**

Annex = A

OFFICE ORDER:

No. DGTE&MT/Admn/1-1(xii)/

Consequent upon the recommendation of the Departmental Promotion Committee, the following Assistants / Head Clerks BPS-14 of this Department are hereby promoted to the posts of Superintendent / Manager Employment Exchange, BPS-16 with immediate effect:-

- 1- Muhammad Shoaib.
- 2- Mr. Arif Khan.
- 3- Mr. Obaidullah.
- 4- Mr. Barakatullah.
- 5- Mr. Imtiaz Khan.

Their promotion is also subject to the following terms and conditions:-

- 1- They will be on probation for a period of one-year in terms of Section 6 (2) of the NWFP Civil Servants, Act 1973 read with Rules-15 (1) of NWFP Civil Servants (Appointment Promotion & Transfer) Rules 1989.
- 2- The inter-se seniority of the promotees shall remain intact as they were in lower cadre of the seniority list.

On their promotion, they are posted against the vacant posts in the stations as noted against each in the public interest:-

S/No.	Name of incumbent.	Placement.
1-✓	Muhammad Shoaib, Assistant / Head Clerk, GCMS, Kohat.	Manager, Employment Exchange, Swabi.
2-	Mr. Arif Khan, Assistant / Head Clerk, GTVC (B), Abbottabad.	Manager, Employment Exchange, Swat.
3-	Mr. Obaidullah, Assistant / Head Clerk, GTVC (B), Tank.	Manager, Employment Exchange, Thana.
4-	Mr. Barakatullah, Assistant / Head Clerk, DGTE&MT, Peshawar.	Superintendent, Govt. College of Technology, Nowshera.
5-	Mr. Imtiaz Khan, Assistant / Head Clerk, DGTE&MT, Peshawar.	Manager, Employment Exchange, Nowshera.

(PROF: SHAKIL AHMAD)
DIRECTOR GENERAL.

Endst. No. DGTE&MT/Admn/1-1 (xii)/3507(U-20) Dated: 28/5/2013.

Copy forwarded for information & necessary action to:-

- 1- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Accounts Officers concerned.
- 3- The Managers Employment Exchanges concerned.
- 4- The Assistant Director, Employment Exchange, DGTE&MT, Peshawar.
- 5- The Principals concerned.
- 6- The Accountant DGTE&MT.
- 7- Officers concerned.
- 8- Personal files.

(MUNIR GUL)
DEPUTY DIRECTOR (ADMN)

Phone. 091-9213027



7

Anex-B

GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE GENERAL TECHNICAL EDUCATION
& MANPOWER TRAINING, PESHAWAR
BENEVOLENT FUND BUILDING PESHAWAR CANTT.

OFFICE ORDER

The Competent Authority is Pleased to order the following transfer/postings with immediate effect in the public interest:-

S.No	Name of Incumbent	Posted at
1	Mr. Mohammad Shoaib, Manager Employment Exchange (BPS-16), Swabi.	As Superintendent, (BPS-16) Govt: College of Technology Kohat.
2	Mr. Mohammad Saeed, Superintendent, (BPS-16) Govt: College of Technology Kohat.	As Superintendent, (BPS-16) Govt: College of Technology Bannu against the vacant post.

DIRECTOR GENERAL

Dated: 08/09/2013.

Endst: DGTE&MT/Estt-II/ 5502 (1-8)

Copy forwarded for information and necessary action to: -

- 1- ✓ The District Accounts Officer Swabi/Bannu/Kohat.
- 2- The Principal, Govt: College of Technology, Kohat/Bannu.
- 3- The Assistant Director, (Employment Exchanges) Peshawar.
- 4- The Manager Employment Exchange Swabi.
- 5- Officers concerned.
- 6- Office copy.


DIRECTOR
SKILL DEVELOPMENT & VOCATIONAL
TRAINING



8
GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Amex- (B)

Dated Peshawar, the 20-05-2014

NOTIFICATION

NO.FD/SO(ER)10-22/2014 The competent authority has been pleased to accord sanction to the upgradation of pay scales of the following posts, wherever exist, in all the Departments / Offices (except Civil Secretariat) of the Government of Khyber Pakhtunkhwa with immediate effect.

S. No.	Nomenclature of the post	Existing Scale	Upgraded Scale
1	Superintendent	BS-16	BS-17
2	Assistant	BS-14	BS-16
3	Senior Clerk	BS-09	BS-14
4	Junior Clerk	BS-07	BS-11

The pay of the existing incumbents of the posts shall be fixed in higher pay scales at a stage next above the pay in the lower pay scale.

All the concerned Departments will amend their respective service rules to the same effect in the prescribed manner.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst No. & Date even.

Copy of the above is forwarded for information and necessary action to the: -

1. PS to Additional Chief Secretary, FATA.
2. All Administrative Secretaries Government of Khyber Pakhtunkhwa.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Secretary Provincial Assembly, Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. Registrar, Peshawar High Court, Peshawar.
10. All Deputy Commissioners, Political Agents, District & Sessions Judges / Executive District Officers in Khyber Pakhtunkhwa.
11. Chairman, Khyber Pakhtunkhwa, Public Service Commission, Peshawar.
12. Registrar, Service Tribunal Khyber Pakhtunkhwa.
13. All the Autonomous and Sem. Autonomous Bodies in Khyber Pakhtunkhwa.
14. Secretary to Govt. of Punjab, Sindh and Baluchistan, Finance Department, Lahore, Karachi and Quetta.
15. The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Barani, Abbottabad, Swat and Dir Khan.
16. The Senior District Accounts Officer Newshera, Swabi, Charsadda, Haripur, Mansehra and Dir Lower.
17. The Treasury Officer, Peshawar.
18. All District/Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
19. PSO to Senior Minister for Finance, Khyber Pakhtunkhwa.
20. PSO to Chief Secretary, Khyber Pakhtunkhwa.
21. Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
22. PS to Finance Secretary.
23. PAs to All Additional Secretaries/ Deputy Secretaries in Finance Department.
24. All Section Officers/Budget Officers in Finance Department.
25. Abbas Khan President of Khyber Pakhtunkhwa Civil Secretariat Superintendents, Assistant, Clerks Association with reference to his application No. PR/KPS/SACAG-1/2013 dated 8-01-2014.

Attended
A. T. Khan
7/5/14

Assistant Professor
G. C. T. Kohat

(SHIRKAT ULLAH)
SECTION OFFICER (FR)

9

Amex - D

GOVERNMENT COLLEGE OF
TECHNOLOGY, KOHAT

CERTIFICATE OF TRANSFER OF CHARGE

Certified that Mr. **Muhammad Shoib** has this day Assumed/ Relinquished the charge of Superintendent: **BPS-17** of Govt: College of Technology, Kohat with reference to Secretary, Government of Khyber Pakhtoon khwa, Finance Department regulation Wing, Peshawar, Notification No.FD(SO SR-1)2-123/2014 dated 20-05-2014.

UPGRADATION FROM BPS-16 TO BPS-17

3. Particular^s of Cash and Important/Secret/ Confidential document handed over/ taken over and noted on the reverse. Already performing the said duty.

Signature of relived
Government Servant

Station. Kohat

Signature of Govt Servant
Receiving the charge

Dated 20-05-2014(FN)

Endst: No. GCT/KT/PF/ 112

Dated 20-05-2014


From:-

The Principal,
Govt: College of Technology, Kohat.

To

- 1.The Director General, Technical Education & Manpower Training, Peshawar.
- 2.District Accounts, Officer, Kohat.
- 3.Officer Concerned.
4. office Copy.

The charge of office of Supdt: BPS-17: was transferred/already in function to Muhammad Shoib on the forenoon of 20-05-2014.


PRINCIPAL

10

Anexure -

E



TECHNICAL EDUCATION & VOCATIONAL
TRAINING AUTHORITY KHYBER PAKHTUNKHWA
5-771 Old Bara Road University Town Peshawar
Web: www.kptevta.gov.pk



OFFICE ORDER: -

Under the provision of Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981, the Competent Authority is pleased to accord sanction to the encashment of **365-days** leave pay in lieu of LPR in respect of Mr. Muhammad Shoaib, Manager, (BPS-16) Employment Exchange posted against the post of Superintendent (BPS-17) at Government College Technology, Kohat.

His date of birth is **18-02-1959**. He will stand retired from service with effect from **17-02-2019**(A/N) on attaining the age of superannuation of 60 years.

MANAGING DIRECTOR

Endst:No.KP-TEVTA/HR-II/PF/4-41/ *33396-31* Dated *14-5* 2019.

Copy forwarded for information and necessary action to:

- 1- The District Accounts Officer, Kohat.
- 2- The Principal, Government College Technology Kohat.
- 3- The Official concerned.

DEPUTY DIRECTOR (ESTT)



GOVERNMENT OF PAKISTAN
ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA

11

Amex. (F)

DISTRICT Kohat
PAY ROLL SYSTEM

PAYMENT ADVICE

P Sec: 001, Month: September 2014

Pers #: 00158910 Buckle:
Name: MUHAMMAD SHUAIB
Dsg.: SUPERINTENDENT
CNIC No. 1430119227409

KT4388 - Principal Govt College
Min: Industries
NTN:
GPF #: ENPKT000015
Old #:

GPF Interest Applied
17 - Active Permanent

DEPTT CODE

KT4388

PAYS AND ALLOWANCES:

0001-Basic Pay
1000-House Rent Allowance
1210-Convey Allowance 2005
1947-Medical Allow 15% (16-22)
1948-Adhoc Allowance 2010@ 50%
1970-Adhoc Relief Allow 2011
2119-Adhoc Relief Allow (2012)
2148-15% Adhoc Relief all-2014
2174 Adhoc Relief Allow-2014
Gross Pay and Allowances

24,400.00
2,955.00
5,000.00
1,821.00
6,070.00
1,821.00
4,880.00
3,660.00
2,440.00
53,047.00

Handwritten signature

DEDUCTIONS:

IT Payable 8,050.56 Deducted 3,720.00
GPF Balance 142,648.00
6505-GPF Loan Principal Instal Bal: 6,000.00
3501-Benevolent Fund
3511-Addl Group Insurance
3604-Group Insurance

TAX: (3609)
Subst:

1,007.00
2,240.00
1,500.00
250.00
25.00
230.00

Total Deductions

NET AMOUNT PAYABLE

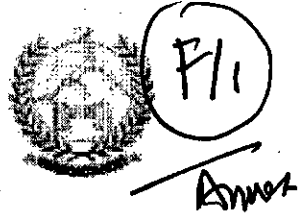
5,252.00
47,795.00

QUALIFYING SERVICE
YRS MON
D. O. B
18.02.1959
35 YEARS 00 MONTHS 009 Days

LFP Quota:
NBP, BEHZADI CHAKAR
PLS 3905-6

Government of Khyber Pakhtunkhwa
District Accounts Office Kohat
Monthly Salary Statement (August-2015)

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Personal Information of Mr MUHAMMAD SHUAIB d/w/s of MUHAMAD SHAFIQ

Personnel Number: 00158910 CNIC: 1430119297409 NTN:
Date of Birth: 18.02.1959 Entry into Govt. Service: 23.09.1978 Length of Service: 36 Years 11 Months 010 Days

Employment Category: Active Permanent

Designation: SUPERINTENDENT 80002817-INDUST COMRC LABR MINRAL
DDO Code: KT4388-Principal Govt College of Technology Kohat
Payroll Section: 001 GPF Section: 009 Cash Center:
GPF A/C No: EMPKT000015 Interest Applied: Yes GPF Balance: 191,367.00
Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2015 Pay Scale Type: Civil BPS: 17 Pay Stage: 8

Wage type		Amount	Wage type		Amount
0001	Basic Pay	33,120.00	1000	House Rent Allowance	2,955.00
1210	Convey Allowance 2005	5,000.00	1947	Medical Allow 15% (16-22)	2,276.00
1948	Adhoc Allowance 2010@ 50%	6,070.00	2148	15% Adhoc Relief All-2013	3,840.00
2174	Adhoc Relief Allow-2014	2,560.00	2199	Adhoc Relief Allow @10%	3,312.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription - Rs2240	-2,240.00	3501	Benevolent Fund	-250.00
3511	Addl Group Insurance	-25.00	3604	Group Insurance	-230.00
3609	Income Tax	-1,018.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax

Payable: 12,262.45 Recovered till August-2015: 3,109.00 Exempted: 0.81- Recoverable: 9,154.26

Gross Pay (Rs.): 59,133.00 Deductions: (Rs.): -3,763.00 Net Pay: (Rs.): 55,370.00

Payee Name: MUHAMMAD SHUAIB
Account Number: PLS 3905-6
Bank Details: NATIONAL BANK OF PAKISTAN, 230918 BEHZADI CHAKAR KOT, KOHAT

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: MOHALAH TAR KHEL BEHZADICHIKER KOT HOHAT

City: KOHAT Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official

Temp. Address:

City: Email: shoaibgctkohat@gmail.com

password = gct kohat shoaib

Government of Khyber Pakhtunkhwa
District Accounts Office Kohat
Monthly Salary Statement (September-2016)

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Personal Information of Mr MUHAMMAD SHUAIB d/w/s of MUHAMAD SHAFIQ

Personnel Number: 00158910 CNIC: 1430119297409 NTN:
Date of Birth: 18.02.1959 Entry into Govt. Service: 23.09.1978 Length of Service: 38 Years 00 Months 009 Days

Employment Category: Active Permanent

Designation: SUPERINTENDENT 80002817-GOVERNMENT OF KHYBER PAKH

DDO Code: KT4388-Principal Govt College of Technology Kohat

Payroll Section: 001 GPF Section: 009 Cash Center:

GPF A/C No: EMPKT000015 Interest Applied: Yes GPF Balance: 167,492.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2016 Pay Scale Type: Civil BPS: 17 Pay Stage: 9

Wage type		Amount	Wage type		Amount
0001	Basic Pay	42,810.00	1000	House Rent Allowance	2,955.00
1210	Convey Allowance 2005	5,000.00	1947	Medical Allow 15% (16-22)	2,276.00
1948	Adhoc Allowance 2010@ 50%	6,070.00	2148	15% Adhoc Relief All-2013	1,280.00
2199	Adhoc Relief Allow @10%	866.00	2211	Adhoc Relief All 2016 10%	4,281.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription - Rs3579	-3,579.00	3501	Benevolent Fund	-250.00
3511	Addl Group Insurance	-25.00	3604	Group Insurance	-230.00
3609	Income Tax	-1,512.00			.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	148,800.00	-6,200.00	74,400.00

Deductions - Income Tax

Payable: 18,145.50 Recovered till September-2016: 4,538.00 Exempted: 0.14- Recoverable: 13,607.64

Gross Pay (Rs.): 65,538.00 Deductions: (Rs.): -11,796.00 Net Pay: (Rs.): 53,742.00

Payee Name: MUHAMMAD SHUAIB

Account Number: PLS 3905-6

Bank Details: NATIONAL BANK OF PAKISTAN, 230918 BEHZADI CHAKAR KOT BEHZADI CHAKAR KOT, KOHAT

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: MOHALAH TAR KHEL BEHZADICHIKER KOT HOHAT

City: KOHAT

Demicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: shoaihgctkohat@gmail.com

Government of Khyber Pakhtunkhwa
District Accounts Office Kohat
Monthly Salary Statement (December-2017)

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F/3

Amir

Personal Information of Mr MUHAMMAD SHUAIB d/w/s of MUHAMAD SHAFIQ

Personnel Number: 00158910 CNIC: 1430119297409 NTN:
Date of Birth: 18.02.1959 Entry into Govt. Service: 23.09.1978 Length of Service: 39 Years 03 Months 010 Days

Employment Category: Active Permanent

Designation: SUPERINTENDENT 80002817-GOVERNMENT OF KHYBER PAKH

DDO Code: KT4388-Principal Govt College of Technology Kohat

Payroll Section: 001 GPF Section: 009 Cash Center:

GPF A/C No: EMPKT000015 Interest Applied: Yes GPF Balance: 321,142.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 17 Pay Stage: 11

Wage type		Amount	Wage type		Amount
0001	Basic Pay	55,670.00	1000	House Rent Allowance	2,955.00
1210	Convey Allowance 2005	5,000.00	1947	Medical Allow 15% (16-22)	2,276.00
2148	15% Adhoc Relief All-2013	1,280.00	2199	Adhoc Relief Allow @10%	866.00
2211	Adhoc Relief All 2016 10%	4,474.00	2224	Adhoc Relief All 2017 10%	5,567.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription - Rs4270	-4,270.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-2,712.00	4004	R. Benefits & Death Comp:	-2,136.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 31,283.60 Recovered till December-2017: 15,012.00 Exempted: 0.10- Recoverable: 16,271.70

Gross Pay (Rs.): 78,088.00 Deductions: (Rs.): -9,918.00 Net Pay: (Rs.): 68,170.00

Payee Name: MUHAMMAD SHUAIB

Account Number: PLS 3905-6

Bank Details: NATIONAL BANK OF PAKISTAN, 230918 BEHZADI CHAKAR KOT BEHZADI CHAKAR KOT, KOHAT

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: MOHALAH TAR-KHEL BEHZADICHIKER KOT HOHAT

City: KOHAT Domicile: NW - Khyber Pakhtunkhwa

Temp. Address: Housing Status: No Official

City: Email: shoibgctkohat@gmail.com

Government of Khyber Pakhtunkhwa
District Accounts Office Kohat
Monthly Salary Statement (January-2018)

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F/4

Amber

Personal Information of Mr MUHAMMAD SHUAIB d/w/s of MUHAMAD SHAFIQ

Personnel Number: 00158910

CNIC: 1430119297409

NTN:

Date of Birth: 18.02.1959

Entry into Govt. Service: 23.09.1978

Length of Service: 39 Years 04 Months 010 Days

Employment Category: Active Permanent

Designation: SUPERINTENDENT

80002817-GOVERNMENT OF KHYBER PAKH

DDO Code: KT4388-Principal Govt College of Technology Kohat

Payroll Section: 001

GPF Section: 009

Cash Center:

GPF A/C No: EMPKT000015

Interest Applied: Yes

GPF Balance:

325,412.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 17

Pay Stage: 11

Wage type		Amount	Wage type		Amount
0001	Basic Pay	55,670.00	1000	House Rent Allowance	2,955.00
1210	Convey Allowance 2005	5,000.00	1947	Medical Allow 15% (16-22)	2,276.00
2148	15% Adhoc Relief All-2013	1,280.00	2199	Adhoc Relief Allow @10%	866.00
2211	Adhoc Relief All 2016 10%	4,474.00	2224	Adhoc Relief All 2017 10%	5,567.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription - Rs4270	-4,270.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-2,712.00	4004	R. Benefits & Death Comp:	-2,136.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax

Payable: 31,283.60

Recovered till January-2018: 17,724.00

Exempted: 0.10-

Recoverable: 13,559.70

Gross Pay (Rs.): 78,088.00

Deductions: (Rs.): -9,918.00

Net Pay: (Rs.): 68,170.00

Payee Name: MUHAMMAD SHUAIB

Account Number: PLS 3905-6

Bank Details: NATIONAL BANK OF PAKISTAN, 230918 BEHZADI CHAKAR KOT BEHZADI CHAKAR KOT, KOHAT

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: MOHALAH TAR KHEL BEHZADICHIKER KOT HOHAT

City: KOHAT

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City: Email: shoaibgctkohat@gmail.com

(16)

(9)

Annex-

BEFORE THE MANAGING DIRECTOR KP TEVTA H/QTRS PESHAWAR.

SUBJECT: APPEAL AGAINST THE IMPUGNED ORDER KP-TEVTA /HR/II/PF/4-41/3339 (1-3 dated 14-05-2019 IN WHICH THE APPELLANT HAS BEEN RETIRED IN BPS -16 INSTEAD OF BPS 17 FEELING AGGRIVED PREFER DEPARTMENTAL REPRESENTATION WITH THE FOLLOWING SUBMISSION.

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following grounds:-

Facts:

Briefly facts are that the appellant while serving in department since 23-09-1978 up to 17-02-2019 AN with the entire satisfaction of there high ups and the appellant was retired on 17-02-2019 vide ltr bearing No KP-TEVTA /HR/II/PF/4-41/3339 (1-3 dated 14-05-2019.(Copy annexed as annexure A)

That the appellant was promoted as Superintendant /Manager Employment Exchange BPS 16 on joint cader basis and the appellant was adjusted as Manager in the department (Copy of order is annexed as annexure B).

That the appellant was transferred to GCT,Kohat as superintendant BPS-16 vide order No DGTE&MT/Esst-ii/5502(1-8) dated 09-09-2013(Copy annexed as annexure C)

That the appellant services was not posted /transferred against the vacant post but as Superintendant in BPS -16 on the basis of joint cader which perused from the transfer order from Manager EE Swabi to Superintendent GCT Kohat (Copy annexed as annexure C)

That the appellant has been retired from service vide order No 17-02-2019 AN dated on the basis of completion of superannuation but the fact appealing to a prudent mind that the appellant had performed his assigned duty as superintendant BPS -17 as well as the pay was also fixed in assigned post and as mentioned in retirement order mentioned therein as BPS -16.

That as per rule the Manager Employment Exchange could not be transferred as superintendant then under what authority the appellant was transferred to GCT Kohat as Superintendent in the light of above stating facts.

That the appellant were very dedicated keen and apprehensive towards his assign duty but this fact has not been appreciated and blessed with impugned order.(Copy already annexed)

That the appellant had properly assumed the charge as Superintendent BPS-17 vide notification of No-FD/SO(FR10-22/2014 dated 20-05-2014 .(Copy annexed as annexure d)

Contd - - - - P/2

That the appellant had performed the duty as Superintendent BPS-17 till the end of color full service but in the impugned order the cader of the appellant was mentioned as Manager BPS -16 which is not sustainable nor justifiable by law hence liable to be set a side.

That the appellant feeling aggrieved from the impugned order and submit the representation on the following grounds:-

Grounds:-

1. That the appellant always earned the good name for department and potray a excellent image .
2. That again an unjust has been done with the appellant by not giving ample opportunity to be heard in person nor properly enquired the service structure which needs urged consideration for fixation of relevant junctures.
3. That it is clearly mention in 2003 PLC CS 1468 that any instruction issued in violation of Rules would be illegal and void . (Copy attached)
4. That as per universal declaration of human rights 1948 prohibits the arbitral / discretion.
5. That the appellant is honest and dedicated one and leave no stone unturned to discharge his duties.
6. That the impugned order mentioned above whimsically and arbitrary, which is apparent from the impugned order.
7. That the impugned order is suffering from perversity of reasoning, hence liable to be set aside.
8. That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts.
9. That the impugned order is outcome of surmises and conjecture.

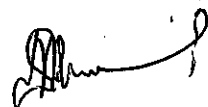
Pray:

In the view of above circumstances it is humbly prayed that the impugned order of may please be set aside for the end of justice and the appellant may please be graciously consider retired as superintendent BPS-17 instead of BPS -16 as before the order of retirement with all back benefits.

Date: 08/08/2019

Address: 90 Noman Autos New Ashiam
Stationery and Book Sales Behzadicharkot
Bannu Road Kohat.




(Appellant)



o/c

Muhammad Shoab (Rtd Supdt)

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قیمت 50 روپے	27617	  
ایڈوکیٹ: <u>رحمان احمد شاہ</u>		
بار کونسل/ایسوسی ایشن نمبر: <u>bc-10-7589</u>		<p>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</p>
رابطہ نمبر: <u>0333-9121157</u>		

بعدالت جناب: خیبر پختونخواہ سروس ٹریڈنگ کمپنی (پرائیویٹ) لمیٹڈ

Appellant:	مخائب:	دعویٰ:
شعبہ		Service Tribunal
بنام		علت نمبر:
سیکرٹری سروس ٹریڈنگ کمپنی (پرائیویٹ) لمیٹڈ		Appeal No. 1585
		2019
		مورخہ:
		جرم:
		تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام سروس ٹریڈنگ کمپنی (پرائیویٹ) لمیٹڈ کے لیے رحمان احمد شاہ انہر اصل سے 100 روپے کی رقم وصول کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 20-11-2019

العبد گواہ شد العبد

Accepted

مقام 20/11/2019

Accepted

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESAHWAR.

Service Appeal; No. 1585 /2019

Mr. Muhammad Shoaib

APPELLENT

VERSUS

Govt: of Khyber Pakhtunkhwa
Through Secretary Commerce
And Technical Education Department,
And Others

RESPONDENT

INDEX

S.No	Description of Documents	Annexure	Pages
01	Para wise Reply (vetted Copy)	01 to 02
02	Para wise Reply (Corrected Copy)	03 to 05
03	Promotion Order	A	06
04	Posting Order	B	07
05	UP Gradation Order	C	08
06	Charge Report	D	09
07	Retirement Order	E	10
08	Affidavit		11


DISTRICT ACCOUNTS OFFICER
~~District Accounts Officer~~
Kohat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal; No. 1585 /2019

Mr. Muhammad Shoaib **APPELLANT**

VERSUS

Government of Khyber Pakhtunkhwa
Through Secretary Commerce
And Technical Education Department,
And Others **RESPONDENT**

PARA WISE REPLY ON BEHALF OF RESPONDANT NO. 03 IS AS UNDER:

PRILIMINARY OBJECTIONS

- 1) That the appellant has got no cause of action.
- 2) That the appellant has no locus standi.
- 3) That the appellant is stopped to file appeal due to his own conduct.
- 4) That the appeal is bad in law in its present form due to miss joinder of necessary parties.
- 5) That the appeal is liable to be dismissed in limine.
- 6) That the appellant has concealed material facts from the Tribunal.

RESPECTFULLY SHEWETH:

FACTS

Para No. 01: Pertains to record & related to respondent No.01 & 02, Hence no comments.

Para No. 02: Pertains to respondent No. 01 & 02, Hence no comments.

Para No. 03: On first promotion to BPS-16 as superintendent/ manager employment exchange on joint code basis , the appellant was posted as Manager employment exchange Swabi (*Annex A*), later on transferred to the post of superintendent (*Annex B*). The appellant has concealed the facts. The post of Manager Employment Exchange has not been upgraded (*Annex C*). The appellant assumed BPS-17 on upgradation of Superintendent Post by his own conduct (*Annex D*).

Para No. 04: The appellant was posted on superintendent post by transfer (*Annex B*). The retirement order of the appellant reveals that the appellant was "Manager" by CADRE and not superintendent as per stance of the respondent No. 02 (*Annex E*).

Para No. 05: As per retirement order the appellant was “ Manager” B-16 (*Annex E*), but due to his transfer to the post of superintendent (*Annex B*) the appellant concealed the facts and has got the benefits of Superintendent upgraded Post B-17 instead of Manager B-16 due to his own conduct. The post of Manager not upgraded (*Annex C*).

Para No. 06: No comments. Related to respondent No.02.

Para No. 07: No comments.

GROUNDS

- A) Relates to respondent No. 02 the respondent No. 02 is in better position to explain the status of the appellant with regard to the Cadre as Manager/ Superintendent.
- B) Relates to respondent No. 02 the respondent may explain factual position of the appellant with regard to cadre clearly.
- C) The Appellant was promoted to the post of BPS-16 as Superintendent /Manager Employment Exchange (Both cadre mention) in the promotion order and was posted as Manager Employment Exchange on promotion (*Annex A*). By transfer posting to the post of Superintendent, the appellant availed the benefit of up gradation of Superintendent B-17 and take over charge on his own conduct (*Annex D*). In spite of the facts that the Manager post B-16 not upgraded to BPS-17. By transfer /adjustment Cadre cannot be changed.
- D) The appellant was promoted the post of superintendent / Manager Employment Exchange B-16. The Finance Department Khyber Pakhtunkhwa Peshawar upgraded the post of superintendent to B-17 & not the Manager Employment Exchange. The appellant availed the benefits of BPS-17 on his own conduct which is against the rules and policy.
- E) No comments.
- F) There is no malafide on the part of respondent No. 03.
- G) No comments.

Keeping in view of the above, being the matter of service based on appointment & promotion policy of the parents department of the appellant, the respondent No. 01 & 02 may be directed for the redressal of the grievances of the appellant.

The appellant may also be directed to approach to respondent No. 01 & 02 and the appeal in hand may be dismissed please.

m. P.
DISTRIC ACCOUNTS OFFICER,
District Accounts Officer
(RESPONDENT No. 03)

OFFICE ORDER:

No. DGTE&MT/Admn/1-1(xii) Consequent upon the recommendation of the Departmental Promotion Committee, the following Assistants / Head Clerks BPS-14 of this Department are hereby promoted to the posts of ~~Superintendent / Manager~~ ~~Employment Exchange BPS-16~~ with immediate effect:-

- 1- Muhammad Shoaib.
- 2- Mr. Arif Khan.
- 3- Mr. Obaidullah.
- 4- Mr. Barakatullah.
- 5- Mr. Imtiaz Khan.

Their promotion is also subject to the following terms and conditions:-

- 1- They will be on probation for a period of one-year in terms of Section 6 (2) of the NWFP Civil Servants, Act 1973 read with Rules-15 (1) of NWFP Civil Servants (Appointment Promotion & Transfer) Rules 1989.
- 2- The inter-se seniority of the promotees shall remain intact as they were in lower cadre of the seniority list.

On their promotion, they are posted against the vacant posts in the stations as noted against each in the public interest:-

S/No.	Name of incumbent.	Placement.
1	Muhammad Shoaib, Assistant / Head Clerk, GCMS, Kohat.	Manager, Employment Exchange, Swabi.
2	Mr. Arif Khan, Assistant / Head Clerk, GTVC (B), Abbottabad.	Manager, Employment Exchange, Swat.
3	Mr. Obaidullah, Assistant / Head Clerk, GTVC (B), Tank.	Manager, Employment Exchange, Thana.
4	Mr. Barakatullah, Assistant / Head Clerk, DGTE&MT, Peshawar.	Superintendent, Govt. College of Technology, Nowshera.
5	Mr. Imtiaz Khan, Assistant / Head Clerk, DGTE&MT, Peshawar.	Manager, Employment Exchange, Nowshera.

(PROF: SHAKIL AHMAD)
DIRECTOR GENERAL.

Endst. No. DGTE&MT/Admn/1-1 (xii)/3507(1-70) Dated: 28/5/2013.

Copy forwarded for information & necessary action to:-

- 1- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Accounts Officers concerned.
- 3- The Managers Employment Exchanges concerned.
- 4- The Assistant Director, Employment Exchange, DGTE&MT, Peshawar.
- 5- The Principals concerned.
- 6- The Accountant DGTE&MT.
- 7- Officers concerned.
- 8- Personal files.


(MUNIR GUL)
DEPUTY DIRECTOR (ADMN).

Phone: 091-9213027



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE GENERAL TECHNICAL EDUCATION
& MANPOWER TRAINING, PESHAWAR
BENEVOLENT FUND BUILDING PESHAWAR CANTT

Anex-13

OFFICE ORDER

The Competent Authority is Pleased to order the following transfer/postings with immediate effect in the public interest:-

S.No	Name of Incumbent	Posted at
1	Mr. Mohammad Shoaib, Manager Employment Exchange (BPS-16), Swabi.	As Superintendent, (BPS-16) Govt: College of Technology Kohat.
2	Mr. Mohammad Saeed, Superintendent, (BPS-16) Govt: College of Technology Kohat.	As Superintendent, (BPS-16) Govt: College of Technology Bannu against the vacant post.

DIRECTOR GENERAL

Dated: 06/09/2013.

Endst: DGTE&MT/Estt-IV/5502(48)

Copy forwarded for information and necessary action to: -

- 1- The District Accounts Officer Swabi/Bannu/Kohat.
- 2- The Principal, Govt: College of Technology, Kohat/Bannu.
- 3- The Assistant Director, (Employment Exchanges) Peshawar.
- 4- The Manager Employment Exchange Swabi.
- 5- Officers concerned.
- 6- Office copy.


DIRECTOR
SKILL DEVELOPMENT & VOCATION
TRAINING



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar, the 20-05-2014

Annex

Annex-2

8

NOTIFICATION

NO.FD/SO(FR)10-22/2014 The competent authority has been pleased to accord sanction to the upgradation of pay scales of the following posts, wherever exist, in all the Departments / Offices (except Civil Secretariat) of the Government of Khyber Pakhtunkhwa with immediate effect.

S. No.	Nomenclature of the post	Existing Scale	Upgraded Scale
1	Superintendent	BS-16	BS-17
2	Assistant	BS-14	BS-16
3	Senior Clerk	BS-09	BS-14
4	Junior Clerk	BS-07	BS-11

The pay of the existing incumbents of the posts shall be fixed in higher pay scales at a stage next above the pay in the lower pay scale.

All the concerned Departments will amend their respective service rules to the same effect in the prescribed manner.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Encl. No. & Date even.

Copy of the above is forwarded for information and necessary action to the:-

1. PS to Additional Chief Secretary, FATA.
2. All Administrative Secretaries Government of Khyber Pakhtunkhwa.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Secretary Provincial Assembly, Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. Registrar, Peshawar High Court, Peshawar.
10. All Deputy Commissioners, Political Agents, District & Sessions Judges / Executive District Officers in Khyber Pakhtunkhwa.
11. Chairman, Khyber Pakhtunkhwa, Public Service Commission, Peshawar.
12. Registrar, Service Tribunal Khyber Pakhtunkhwa.
13. All the Autonomous and Semi Autonomous Bodies in Khyber Pakhtunkhwa.
14. Secretary to Govt. of Punjab, Sindh and Baluchistan, Finance Department, Lahore, Karachi and Quetta.
15. The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and Dir, Khar.
16. The Senior District Accounts Officer Nowshera, Swabi, Charsadda, Haripur, Mansehra and Dir Lower.
17. The Treasury Officer, Peshawar.
18. All District/Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
19. PSO to Senior Minister for Finance, Khyber Pakhtunkhwa.
20. PSO to Chief Secretary, Khyber Pakhtunkhwa.
21. Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
22. PS to Finance Secretary.
23. PAs to All Additional Secretaries/ Deputy Secretaries in Finance Department.
24. All Section Officers/Budget Officers in Finance Department.
25. Abbas Khan President of Khyber Pakhtunkhwa Civil Secretariat Superintending Assistant, Clerks Association with reference to his application No. FR/KPS/SACA/2012 dated 8-01-2014

Handwritten signature/initials

Assistant Professor
G. C. T. Kohat.

(SHAKAT ULLAH)
SECTION OFFICER (FR)

GOVERNMENT COLLEGE OF
TECHNOLOGY, KOHAT

CERTIFICATE OF TRANSFER OF CHARGE

Certified that Mr. Muhammad Shoaib has this day Assumed/ Relinquished the charge of Superintendent: BPS-17 of Govt: College of Technology, Kohat with reference to Secretary, Government of Khyber Pakhtoon khwa, Finance Department regulation Wing, Peshawar, Notification No.FD(SO SR-1)2-123/2014 dated 20-05-2014.

UPGRADATION FROM BPS-16 TO BPS-17

3. Particular of Cash and Important/Secret/ Confidential document handed over/ taken over and noted on the reverse. Already performing the said duty.

Signature of relived
Government Servant _____

Station. Kohat

Signature of Govt Servant
Receiving the charge _____

Dated 20-05-2014(FN)

Dated 20-05-2014

From:-

The Principal,
Govt: College of Technology, Kohat.

To

- 1.The Director General, Technical Education & Manpower Training, Peshawar.
- 2.District Accounts, Officer, Kohat.
- 3.Officer Concerned.
4. office Copy.

The charge of office of Supdt: BPS-17: was transferred/already in function to Muhammad Shoaib on the forenoon of 20-05-2014.


PRINCIPAL



TECHNICAL EDUCATION & VOCATIONAL
TRAINING AUTHORITY KHYBER PAKHTUNKHWA
5-771 Old Bara Road University Town Peshawar
Web: www.kptevta.gov.pk

TEVTA
KHYBER PAKHTUNKHWA

Anexure -

10

E

OFFICE ORDER: -

Under the provision of Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981, the Competent Authority is pleased to accord sanction to the encashment of **365-days** leave pay in lieu of LPR in respect of Mr. Muhammad Shoaib, Manager, (BPS-16) Employment Exchange posted against the post of Superintendent (BPS-17) at Government College Technology, Kohat.

His date of birth is **18-02-1959**. He will stand retired from service with effect from **17-02-2019** (A/N) on attaining the age of superannuation of 60 years.

MANAGING DIRECTOR

Endst: No. KP-TEVTA/HR-II/PF/4-41/ 33396-31 Dated 14-5-2019.

Copy forwarded for information and necessary action to:

- 1- The District Accounts Officer, Kohat.
- 2- The Principal, Government College Technology Kohat.
- 3- The Official concerned.

DEPUTY DIRECTOR (ESTT)

LPR/Retire/GB

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1585 /2019

Mr: Muhammad Shoaib

APPELLANT

VERSUS

Govt: of Khyber Pakhtunkhwa
Through Secretary Commerce
And Technical Education Department,
And Others

RESPONDENT

AFFIDIVIT

I Muhammad Kashif, Additional District Accounts Officer Kohat, do

Here by solemnly affirm & declare on oath that the contents of Para wise comments on

behalf of Respondent No .03 are true and correct to the best of my knowledge and belief

and that nothing has been concealed from this Honorable Court.

m. Kashif
DEPONENT

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1585/2020

Muhammad Shoaib Superintendent: (Retd) GCT, Kohat

APPELLANT.

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Industries &
Technical Education, Khyber Pakhtunkhwa and others**RESPONDENTS**

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2	Affidavit		3
3	Posting order	A	4

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1585/2020

Muhammad Shoaib Superintendent: (Retd) GCT, Kohat APPELLANT.

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Industries &
Technical Education, Khyber Pakhtunkhwa and othersRESPONDENTS

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

- A- That the appeal is badly time barred.
- B- That the appellant has no cause of action.
- C- That the appellant has got no locus standi.
- D- That the appeal is incompetent in its present forum.
- E- The appellant has not come to the court with clean hands.
- F- That the present appeal is bad in its present forum for non-joinder and mis-joinder of the necessary parties.

FACTS

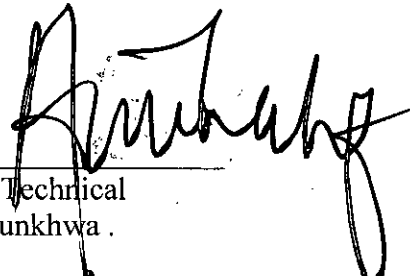
- 1) No comments.
- 2) No comments.
- 3) No comments.
- 4) No comments.
- 5) It is incorrect. Since the appellant upon his promotion had acquired / actualized his position/status as Manager (BS-16), Employment Exchange, Swabi, hence his original designation is the same i.e. Manager Employment Exchange BS-16 at **(Annex A)**. It is pertinent to mention that keeping in view the hardships of the appellant added by the political recommendations; he was transferred and posted against the post of Superintendent. Further, fixation of pay of the appellant by the District Account's Officer Kohat is an irregularity on part of the appellant and the concerned office needs to be rectified.
- 6) No comments.
- 7) No comments.

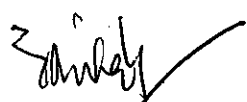
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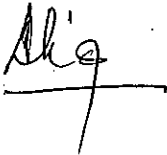
G R O U N D S

- A & B) It is incorrect. The impugned order is legal and thus implementable.
- C) It is incorrect in view of comprehensive reply submitted in the preceding paras.
- D) It is incorrect. The drawal of pay & allowances in BS-17 by the appellant was illegal and were drawn by the appellant without sanction of the competent forum.
- E) It is incorrect. No excess committed by Respondent No.2 in the instant case.
- F) It is incorrect in view of comprehensive reply submitted in the preceding paras.
- G) No comments.

In view of the above, it is requested that the instant appeal may be dismissed with cost.

RESPONDENT No.1) 
Secretary, Industries and Technical
Education, Khyber Pakhtunkhwa.

RESPONDENT No.2) 
Managing Director, Khyber Pakhtunkhwa
Technical & Vocational Training Authority.



BEFORE THE N.W.F.P. SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1585/2020

Muhammad Shoaib Superintendent: (Retd) GCT, Kohat

APPELLANT.

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Industries &
Technical Education, Khyber Pakhtunkhwa and others**RESPONDENTS**

AFFIDAVIT

I Shahab-ud-Din Khattak, Legal Coordinator of
Technical & Vocational Training Authority Khyber Pakhtunkhwa
Peshawar do hereby solemnly affirm and declare that contents of
the accompanying reply are true to the best of my knowledge and
belief.


DEPONENT

17301-6527091-5

0334 9199058



Annex-A

**DIRECTORATE GENERAL TECHNICAL EDUCATION
& MANPOWER TRAINING, PESHAWAR
BENEVOLENT FUND BUILDING PESHAWAR CANTT**

216
Page 2-1

OFFICE ORDER:

No. DGTE&MT/Admn/1-1(xii)/ Consequent upon the recommendation of the Departmental Promotion Committee, the following Assistants / Head Clerks BPS-14 of this Department are hereby promoted to the posts of Superintendent / Manager Employment Exchange, BPS-16 with immediate effect:-

- 1- Muhammad Shoaib.
- 2- Mr. Arif Khan.
- 3- Mr. Obaidullah.
- 4- Mr. Barakatullah.
- 5- Mr. Imtiaz Khan.

Their promotion is also subject to the following terms and conditions:-

- 1- They will be on probation for a period of one-year in terms of Section 6 (2) of the NWFP Civil Servants, Act 1973 read with Rules-15 (1) of NWFP Civil Servants (Appointment Promotion & Transfer) Rules 1989.
- 2- The inter-se seniority of the promotees shall remain intact as they were in lower cadre of the seniority list.

On their promotion, they are posted against the vacant posts in the stations as noted against each in the public interest:-

S/No.	Name of incumbent.	Placement.
1-	Muhammad Shoaib, Assistant / Head Clerk, GCMS, Kohat.	Manager, Employment Exchange, Swabi.
2-	Mr. Arif Khan, Assistant / Head Clerk, GTVC (B), Abbottabad.	Manager, Employment Exchange, Swat.
3-	Mr. Obaidullah, Assistant / Head Clerk, GTVC (B), Tank.	Manager, Employment Exchange, Thana.
4-	Mr. Barakatullah, Assistant / Head Clerk, DGTE&MT, Peshawar.	Superintendent, Govt. College of Technology, Nowshera.
5-	Mr. Imtiaz Khan, Assistant / Head Clerk, DGTE&MT, Peshawar.	Manager, Employment Exchange, Nowshera.

(PROF: SHAKIL AHMAD)
DIRECTOR GENERAL.

Endst. No. DGTE&MT/Admn/1-1.(xii)/35074-203 Dated: 28/5/2013.

Copy forwarded for information & necessary action to:-

- 1- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Accounts Officers concerned
- 3- The Managers Employment Exchanges concerned.
- 4- The Assistant Director, Employment Exchange, DGTE&MT, Peshawar.
- 5- The Principals concerned.
- 6- The Accountant DGTE&MT.
- 7- Officers concerned.
- 8- Personal files.

(MUNIR GUL)
DEPUTY, DIRECTOR (ADMN).

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

Rejoinder

In Service Appeal No. 1585/20198

Muhammad Shoaib.Appellant.

Versus

**Govt. of Khyber Pakhtunkhwa through Secretary Commerce and
others.Respondents.**

**REJOINDER TO THE COMMENTS FILED BY
RESPONDENTS.**

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

The entire preliminary objections raised in the comments filed by respondent's are based on wrong assertion and incorrect statement and misleading hence, denied. Through the instant appeal, Appellant had rightly approach to this Hon'ble Tribunal within time after statutory period of 90 days of filing the appeal when the same has not been respondent within statutory period of 90 days and even otherwise the pensionary benefits is recurrence cause of action. Therefore the appeal in hand is filed within time.

On Facts:-

1. That in appeal hand all the respondents in their respective replies had raised objection that appellant had actually not been promoted to the post of Superintendent rather to the Manager and he has been only transferred to the post of Superintendent Govt. College of Technology Kohat and therefore he cannot claim benefit of up-gradation and accordingly impugn order has been passed in accordance with law.

2. The Stance/response in shape of rejoinder to the aforesaid objection is that appellant initially inducted into service as a Junior Clerk and then promoted to Senior Clerk, Assistant/Head Clerk and finally in channel of promotion he has been promoted to the post of Superintendent/Manager (BPS-16) on joint cadre at the relevant department service rules, 2013 of the Department. The minutes of the DPC clearly depicts that all the promote is on joint cadre, however, there placement/transfer order on available post of Manger/Superintendent respectively. That after few months petitioner was then transferred to the post of Superintendent to the Govt. College of Technology, Kohat and when petitioner holding the post of Superintendent, the same post was up graded by the Govt. of Khyber Pakhtunkhwa Finance Department (Regulation Wing) to Superintendent (BS-17) and the appellant took the charge on up graded post which was duly accepted by the competent authority and the same was not only endorsed to District Officer Finance but also to the Administrative Department with no objection till the retirement of the appellant. Even otherwise for almost 05 years appellant had obtained the benefits of upgraded post and the same had never been objected by any one of the respondent. Hence the impugn order is not sustainable the eyes of law. Beside, at the relevant time of up gradation appellant was serving in Department of Technical Education and Manpower and at relevant time the up gradation notification issued by the Finance Department applicable to them. Appellant availed the benefits of up gradation for almost 05 years and on the principle of locus poentientia the same cannot be withdrawn at such belated stage as held by the august Supreme Court of Pakistan in a recent Judgment reported in 2020 SCMR-188.

3. The averment in the form of reply is totally wrong and misleading. The no inquiry has been conducted that up

gradation has wrongly been obtained nor any show cause notice has been issued, therefore, the impugn order of superannuation on the post of Manger instated of Superintendent is totally illegal, un sustainable in the eyes of law and law laid down by the superior court.

GROUND:

All the grounds were evasively attended, hence needs no rejoinder, however, the impugn order of superannuation over the post of Manger as on the dace of record is illegal and without formal inquiry to the effect that appellant has actually belong to the cadre of Manger and not Superintendent. The appellant initially inducted into service as a Junior Clerk, then promoted to Senior Clerk, Assistant and his channel of promotion from the Assistant to Superintendent and not Manger. The Manger post was actually created and available Industry, Commerce & Technical Education Department Rules-2008, however, the same was superseded in 2013, however, the Establishment & Finance Department had a serious observation over the 2013 Rules and therefore after Establishment of TEVETA Authority, recent Rules, called Govt. of KP Industries, Commerce and Technical Education Department Rules-2019 has been frame now. The grounds agitated in memo of appeal have not been attended in substantive manner.

It is, therefore, requested that this Honorable Court may kindly be pleased to accept the Appeal in the prayer made in the memo of appeal.

Your humble petitioner

Through Counsel



FARMAN ULLAH KHATTAK)
Advocate Supreme Court of
Pakistan at Peshawar.

4

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

Rejoinder

In Service Appeal No. 1585/20198

Muhammad Shoaib.Appellant.

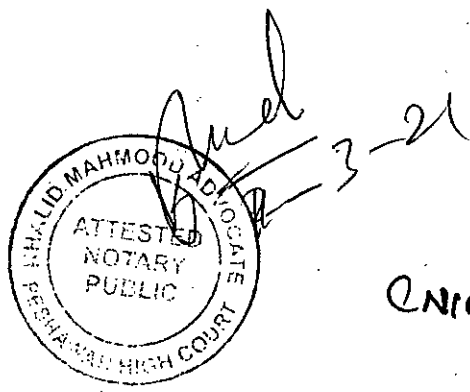
Versus

**Govt. of Khyber Pakhtunkhwa through Secretary Commerce and
others.Respondents.**

**REJOINDER TO THE COMMENTS FILED BY
RESPONDENTS.**

AFFIDAVIT

I, I, Mr. Mohammad Shoaib Supd (Rtd) Govt. College of Technology, Kohat, Presently Residing Mohallah Tar Khel Behzadi Chiker Kot, Kohat, do hereby solemnly declare and affirm on oath that the contents of this Rejoinder are true and correct to the best of my knowledge and instruction of my client and that nothing has been concealed from this Honorable Tribunal.



[Handwritten Signature]
Deponent.

CNIC No. 14301-1929740-9

IN THE SERVICE TRIBUNAL KP-PESHAWAR

Mohammad Shoab

v/s

Technical Education & Truss

Application For Adjourment
on behalf of Respondents

Respectfully Sheweth: →

1) The the above Title appeal
is pending before this Honorable
Court & fixed for today.

2) That the ^(senior) legal advisers of
department is out of station
& not in possession of appeal
before this Honorable Court.

~~Prayer~~ That the above Title appeal may be
kindly be adjourned for next
of hearing.

Date 2⁶/₂₀₂₁

Thanks
Shahab Hattak
Legal Coordinator