



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1467/2022

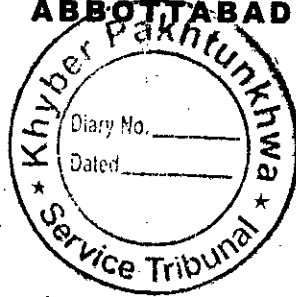
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/10/2022	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court A.Abad Bench and the Hon'ble High Court vide its order dated 28.09.2022 while treating the Writ Petition into an appeal and has sent the same to this Tribunal for decision in accordance with law. This case is entrusted to touring Single Bench at A.Abad for preliminary hearing to be put up there on <u>18-10-22</u>.</p> <p style="text-align: right;">By the Order of Chairman  F. REGISTRAR</p> <p>18th Oct., 2022</p> <p>Nemo for the appellant.</p> <p>Notices be issued to appellant and his counsel for the date fixed To come up for preliminary hearing on 22.11.2022 before S.B.</p> <p style="text-align: right;"> (Fareeha Paul) Member(E)</p>



THE
PESHAWAR HIGH COURT
ABBOTTABAD BENCH.

PH: 0992-921058
FAX: 0992-921055

No: 9192



Dated Abbottabad 7/10 /2022

From

The Additional Registrar,
Peshawar High Court,
Abbottabad Bench.

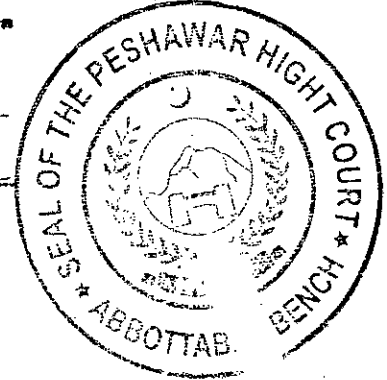
Khyber Pakhtunkhwa
Service Tribunal

To

The Chairman,
Service Tribunal,
Khyber Pakhtunkhwa, Peshawar.

Diary No. 1564

Dated 11/10/22



Subject: WRIT PETITION NO. 194-A of 2022.

Abdul Rauf

.....Petitioner

VERSUS

Govt. of Khyber Pakhtunkhwa & others.

.....Respondents

Sir,

I am directed to forward herewith a copy of Order dated 28.09.2022 alongwith WP No. 194-A/2022 (in original) titled as "Abdul Rauf vs Govt. of Khyber Pakhtunkhwa etc." passed by the Honorable Court D.B in the above noted for Information & Compliance.

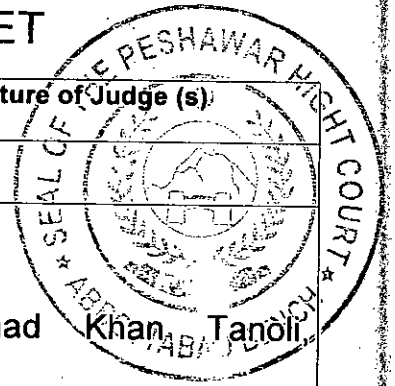

Additional Registrar
21

Encl: (Copy of order dated 28.09.2022 alongwith WP No. 194-A/2022 is attached.)

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

FORM OF ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1 28.09.2022	2 <u>W.P.No.194-A/2022.</u> Present: Mr. Muhammad Arshad Khan, Tanoli Advocate for petitioner. *** <u>KAMRAN HAYAT MIANKHEL, J.</u> Through instant petition filed under Article 199 of the Constitutional of Islamic Republic of Pakistan, 1973, petitioners seek the following relief:- "It is, therefore, very humbly prayed that on acceptance of instant writ petition, respondents may graciously be directed to promote the petitioner from Patwari to the post of Regular Knaungo w.e.f. the date of promotion of Junior Counter parts of the petitioner i.e. 06.10.2021. Any other relief which this Honourable Court deems fit and proper in the circumstances of the case may also be granted to the petitioner." 2. Hon'ble Supreme Court of Pakistan while giving its judgment in the case of "Chief Secretary Govt: of the Punjab, etc v/s Ms. Shamim Usman" (Civil Petition No. 1097-L of 2020) has clarified the situation that the matter of proforma promotion would fall within the exclusive jurisdiction of learned Service Tribunal. Learned counsel for petitioner after realizing the situation requested that the




Kamran Hayat Miankhel

TTA/11/22

instant petition be sent to the learned Service Tribunal for disposal according to law. Reliance is also placed on the judgment of Hon'ble Supreme Court of Pakistan rendered in the case "Muhammad Akram v/s DCO Rahim Yar Khan and others" reported as 2017 SCMR 56. Request of the learned counsel for petitioner seems justified. The instant petition is ordered to be sent to learned Service Tribunal where it shall be treated as an appeal filed before the learned Tribunal. The instant constitutional petition is disposed of accordingly.


JUDGE


JUDGE

IN THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH
OPENING SHEET FOR WRIT BRANCH

Case No. _____
Date of Filing: _____
District _____

Case Type: **WRIT PETITION**

Nature of Original Proceedings:

Category Code:

(Categories & Sub Categories are given at the back of the opening sheet)

Review/ Contempt of Court in respect of

Writ of; Habeas Corpus Prohibition Mandamus Quo Warranto Certiorari

If Certiorari;

Forum	Date	Interlocutory /Final Order

Caste Pertains to

- SB
 DB

Petitioner Name	Abdur Rauf, Girdawar
Mobile No.	0346-9532976
Address	(OPS) Circle Orash-II, Abbottabad.
CNIC No.	13101-0997538-9
Email Address	

Counsel for Petitioner(s)	Muhammad Arshad Khan Tanoli
Mobile No.	0346-9588583
Address	Office at District Courts, Abbottabad
CNIC No.	13101-0914746-1
Email Address	diarshad97@gmail.com

Respondent(s)	Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK, Peshawar & others.
Address	Correctly given in the heading of writ petition.

Original Order/ Action/ Inaction Complained of;

Writ Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

Prayer;

On acceptance of instant writ petition, respondents may graciously be directed to promote the petitioner from Patwari to the post of Regular Kanungo w.e.f the date of promotion of Junior Counter part of the petitioner i.e. 06/10/2021. Any other relief which this Honourable Court deems fit and proper in the circumstances of the case may also be granted to the petitioner.

Law/Rules/Governing the original proceedings/action/Inaction

- Constitution of Islamic Republic of Pakistan, 1973
-
- Other relevant case law will be cited at the bar.

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
d a r n

Signature: 

**BEFORE THE HONOURABLE PESHAWAR HIGH
COURT ABBOTTABAD BENCH**

Writ Petition No. 194-A/2022

Service Appeal no. 1467/2022

Abdur Rauf, Girdawar (OPS) Circle Orash-II, Abbottabad.

...PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK, Peshawar & others.

....RESPONDENTS

WRIT PETITION

INDEX

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6.	Copy of rejection letter dated 23/12/2021 received by the petitioner on 23/01/2022	17	"C"
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...PETITIONER

Dated: 04/02 /2022

Through

(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

04/02

6

**BEFORE THE HONOURABLE PESHAWAR HIGH
COURT ABBOTTABAD BENCH**

Writ Petition No. 194-A/2022

Appeal no. 1467/2022

Abdur Rauf, Girdawar (OPS) Circle Orash-II, Abbottabad.

...PETITIONER

Khyber Pakhtunkhwa
Service Tribunal

Discy No. 1564

Dated 11-10-22

VERSUS

1. Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK, Peshawar.
2. Commissioner Hazara Division, Abbottabad.
3. Deputy Commissioner, Abbottabad.
4. Assistant to Commissioner Revenue/ G.A Hazara Division, Abbottabad.

....RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973, FOR DECLARATION TO THE
EFFECT THAT THE PETITIONER WAS DEFERRED
FOR PROMOTION PATWARI TO THE POST OF
KANUNGO VIDE MINUTES OF DEPARTMENTAL
PROMOTION COMMITTEE HELD ON 06/10/2021
DUE TO THE REASON THAT A CASE IS PENDING
BEFORE THE PETITIONER IN THE COMPETENT
COURT OF LAW WHICH IS PERVERSE,

NB 815
9-2-22

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
d a / m

(2)

DISCRIMINATORY, AGAINST THE LAW AND RESPONDENTS ARE BOUND TO PROMOTE THE PETITIONER AS KANUNGO W.E.F THE DATE OF PROMOTION ORDER OF JUNIOR COUNTER PARTS OF THE PETITIONER AS, PENDENCY OF A CASE IN A COURT OF LAW DOES NOT DEBAR THE PETITIONER TO GET PROMOTION TO THE NEXT RANK OF KANUNGO.

PRAYER: ON ACCEPTANCE OF INSTANT WRIT PETITION, RESPONDENTS MAY GRACIOUSLY BE DIRECTED TO PROMOTE THE PETITIONER FROM PATWARI TO THE POST OF REGULAR KANUNGO W.E.F THE DATE OF PROMOTION OF JUNIOR COUNTER PARTS OF THE PETITIONER I.E. 06/10/2021. ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE PETITIONER.

Respectfully Sheweth:-

That facts forming the backgrounds of the instant writ

petition are arrayed as under:-

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

Qa/nw

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1. That the petitioner is senior most Patwari and currently, he is serving as Girdawar Circle Orash-II in his own pay scale. Copy of order showing the petitioner serving as Girdawar Orash-II on OPS is attached as Annexure "A".
2. That respondents' department convened the meeting of departmental promotion committee which was held on 06/10/2021 wherein, the petitioner being senior most Patwari was deferred due to the reason which is mentioned below;-
"His case was discussed in detail by the DPC and was deferred for promotion as Kanungo on acting charge basis for the time being due to registration of FIR against him bearing No. 02 dated 07/08/2019 w/s 161 PPC 5(2) PC Act P.S ACE, Abbottabad, now the case is subjudice in the court"
3. That feeling aggrieved, the petitioner filed departmental appeal to respondent No. 2 against the impugned minutes of the meeting of the Departmental Promotion Committee dated 06/10/2021 vide departmental appeal dated 14/10/2021. Copy of departmental appeal of the petitioner is attached as Annexure "B".

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD PUNJAB
09/11/21

④

4. That the petitioner obtained rejection of departmental appeal dated 23/12/2021 on 23/01/2022 from the office of respondent No. 4. Copy of rejection letter dated 23/12/2021 received by the petitioner on 23/01/2022 is attached as Annexure "C". Hence, the instant writ petition is filed inter-alia on the following grounds:-

GROUND:-

- a. That impugned departmental promotion committee meeting to the extent of the petitioner is malafide against the law, discriminatory and without lawful justification. Therefore, the petitioner is to be promoted to the post of Kanungo from the date of promotion of Junior Counter Parts of the petitioner. Copy of promotion order of Junior Patwari to the petitioner is attached as Annexure "D".

- b. That the respondents department resorted to cherry picking and promoted Junior Patwari instead of

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
A-33, T-ABAD BENCH
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promoting the petitioner which is not maintainable at law.

c. That it has now been settled by this Honourable Court as well as by other superior courts that promotion of employees can not be deferred due to pendency of criminal case against them. It has further been decided by the Superior Court that mere pendency of the criminal case against an employee is not a clog in the way of promotion of the employee. In this regard, copy of judgments of Peshawar High Court dated 26/02/2019 and 29/03/2019 are attached as Annexure "E". Besides this reported judgment of Sindh High Court 2011 PLC (C.S) 534 is also attached as Annexure "F".

d. That deferment of the petitioner is against the law as well as against the judgments of this Honourable Court but the respondents with malafide intentions are making room for

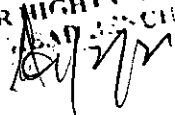
FILED TODAY
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ALMOHAMED J. KHAN
 20/11/20

6

promotion of other blue eyed at the alter of the petitioner which is nullity in the eyes of law.

- e. That the petitioner is innocent and not at fault therefore, respondents' department is supposed to promote the petitioner w.e.f the date of promotion of other junior similar employees. In this regard, seniority list showing the petitioner at the top of the seniority list of Patwaris is attached as Annexure "G".

- f. That respondents department has led the petitioner to the place which is utterly unknown to the principle of jurisprudence, natural justice, fair play and good governance. Court should not fold-up its hand while granting relief to the aggrieved petitioner. The respondents department has used a sledge hammer to crack the nut which destroyed savory of the nut when nut cracker is available to crack the nut.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
A.S.J. (AD. JUDGE)


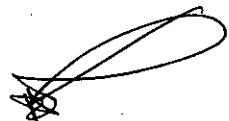
6

- g. That it has now been settled by the superior courts that when law prescribe a thing which is to be done in a particular manner that must be done in that manner and not otherwise. The petitioner is entitled and eligible in all respect to be promoted to the next rank/post of Kanungo.
- h. That there is no other prompt and efficacious remedy available to the petitioner except the invocation of constitutional jurisdiction of this Honourable Court. Besides, Service Tribunal due to retirement of its Chairman has gone defunct. Therefore, this Honourable Court has jurisdiction to entertain the instant writ petition of the petitioner.
- i. That, necessary notices have been served upon the respondents through registered mails. Copy of notice and postal receipts is annexed as Annexure "H".

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ALBOKITABAD BENCH
19/11/22

j. That, stamp paper worth Rs.500 attached herewith as Court fee.

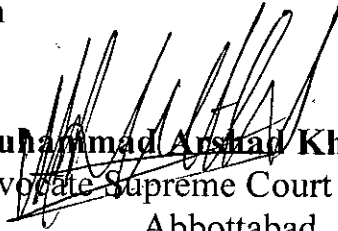
It is therefore, very humbly prayed that on acceptance of instant writ petition, respondents may graciously be directed to promote the petitioner from Patwari to the post of Regular Kanungo w.e.f the date of promotion of Junior Counter parts of the petitioner i.e. 06/10/2021. Any other relief which this Honourable Court deems fit and proper in the circumstances of the case may also be granted to the petitioner.



...PETITIONER

Through

Dated: 04/04/2022


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
Abbottabad

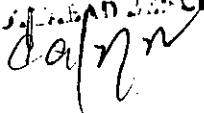
VERIFICATION:-

Verified on oath that the contents of foregoing writ petition are true and correct to the best of our knowledge and belief and nothing has been concealed therein from this Honourable Court.



...PETITIONER

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD DISTRICT



6

BEFORE THE HONOURABLE PESHAWAR HIGH COURT ABBOTTABAD BENCH

Writ Petition No. 194-A/2022

Abdur Rauf, Girdawar (OPS) Circle Orash-II, Abbottabad.

...PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK, Peshawar & others.

....RESPONDENTS

WRIT PETITION

AFFIDAVIT

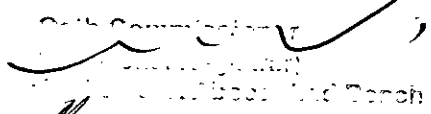
I, *Abdur Rauf, Girdawar (OPS) Circle Orash-II, Abbottabad*, do hereby solemnly affirm and declare that the contents of foregoing writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

13101-0997538-9

Sd/- *20/9/117* Pet No: 117


DEPONENT

Abdur Rauf, Girdawar (OPS) Circle Orash-II, Abbottabad
I declare that I am personally known to me


Court Clerk

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
ca/ym

4-2
4-22

10

**BEFORE THE HONOURABLE PESHAWAR HIGH
COURT ABBOTTABAD BENCH**

Writ Petition No. 194-A/2022

Abdur Rauf, Girdawar (OPS) Circle Orash-II, Abbottabad.

...PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK, Peshawar & others.

...RESPONDENTS

WRIT PETITION

CERTIFICATE

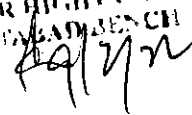
Certified that no writ petition has earlier been filed by the petitioner on the subject.

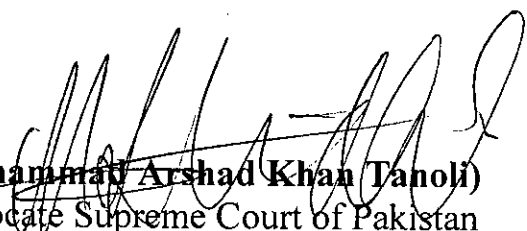
It is further certified that notice of writ petition alongwith grounds of writ has been dispatched to the respondents.


...PETITIONER

Through

Dated: 04/02/2022

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH



(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad

①

**BEFORE THE HONOURABLE PESHAWAR HIGH
COURT ABBOTTABAD BENCH**

Writ Petition No./94-A/2022

Abdur Rauf, Girdawar (OPS) Circle Orash-II, Abbottabad.

...PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK, Peshawar & others.

...RESPONDENTS

WRIT PETITION

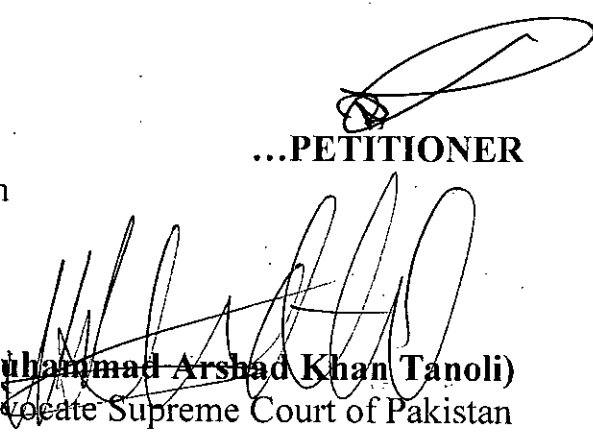
LIST OF BOOKS

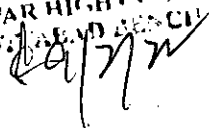
1. Constitution of Islamic Republic of Pakistan 1973.
- 2.
3. Other law books shall be sited at Barr.

...PETITIONER

Dated: 04/02 /2022

Through


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH


12

**BEFORE THE HONOURABLE PESHAWAR HIGH
COURT ABBOTTABAD BENCH**

Writ Petition No. 194-A/2022

Abdur Rauf, Girdawar (OPS) Circle Orash-II, Abbottabad.

...PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK, Peshawar & others.

....RESPONDENTS

WRIT PETITION

ADDRESSES OF THE PARTIES

Respectfully Sheweth:-

Addresses of the parties are as under:-

Abdur Rauf, Girdawar (OPS) Circle Orash-II, Abbottabad.

...PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK, Peshawar.
2. Commissioner Hazara Division, Abbottabad.
3. Deputy Commissioner, Abbottabad.
4. Assistant to Commissioner Revenue/ G.A Hazara Division, Abbottabad.

....RESPONDENTS

...PETITIONER

Dated: 04/02 /2021

Through

(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
04/02/21



Annex-A

OFFICE OF THE
DEPUTY COMMISSIONER
ABBOTTABAD

No.1/21-5895-104/1AE (Rev)

Dated 06/10/2021

ORDER

P-13

Consequent upon the recommendations of Departmental Promotion Committee meeting held on 06.10.2021 and minutes of which issued on 06.10.2021, the following Patwaris (BPS-09) are hereby promoted to the post of Kanungo (BPS-11) on acting charge basis with immediate effect:-

1. Mr. Ilyas Khan Patwari
2. Mr. Adil Nawaz Khan Patwari

Deputy Commissioner
Abbottabad

Endst No. & Date Even:

Copy forwarded to the:-

- ✓ 1. Commissioner Hazara Division, Abbottabad.
2. Additional Deputy Commissioner Abbottabad.
3. Assistant Commissioner Abbottabad.
4. District Comptroller of Accounts Abbottabad.
5. Tehsildar Abbottabad.
6. Officials concerned.

Deputy Commissioner
Abbottabad

Annex-A P-14

FILLING OF VACANT POSTS OF KANUNGOS (BPS-11)

It is submitted that 15-posts of Kanungo (BPS-11) were sanctioned, out of which 02-posts are lying vacant due to promotion of Mr. Gul Nawaz Khan and Mehmood Kanungos to the post of Naib Tehsildar on acting charge basis. As per service the said vacant posts are to be filled "By promotion, on the basis of seniority-cum fitness, amongst the Patwaris and Naib Office Kanungos of the district concerned with three service as such and who have passed the Departmental examination of Kanungo".

In this regard, a self explanatory draft working paper alongwith synopsis of ACRs of senior most officials/patwaris has been prepared and placed next for favour of approval, please.

In case of approval a suitable date for meeting of DPC may be fixed, so that committee members may be informed accordingly.

ADC(A)

AE (Rev)
24/08/2021

4) What is the status of promotion of a.c.b. Will it have the effect of vacating the two posts of Kanungos?

AE(Rev)

Shelb
24/8/21

5) It is submitted that in case of promotion on acting charge basis, the officials have availed all the benefits of next higher scale to which they promoted on a.c.b. except claiming the seniority of that pay scale.

Annex-B

To

The Commissioner
Hazara Division
Abbottabad

P-15

Subject: DEPARTMENTAL APPEAL AGAINST IMPUGNED MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE DATED 06/10/2021 AND PROMOTION ORDER DATED 06/10/2021

Sir,

With due respect, the appellant being to submit as under:-

1. That the appellant is Senior Most Patwari as per seniority list of the Patwari. Copy of Seniority list show the appellant at the top of the list is attached.
2. That as per principal of Seniority cum fitness, the appellant was to be promoted as Girdawar, but the appellant has not been considered for promotion and has been deferred vide minutes of departmental promotion committee held on 06/10/2021. Copy of impugned departmental promotion committee is attached.
3. That junior to the appellant have been promoted from this post of Patwari to the post of Girdawar. Copy of promotion of Junior Ptawari to the post of Girdawar is attached.
4. That the cases of promotion are deferred due to the deficiency which is attributable to the department, but due to the pendency of criminal case against the appellant which is yet to be decided by the court is no ground of determent of the appellant.
5. That on the same point, service is very much clear which envisage that promotion of employee cannot be deferred due to the pendency of criminal case against him. Besides, Superior

P-16

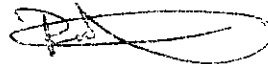
courts in their judgment had held that mere pendency of criminal case against an employee has not clause in the way of promotion. In this regard judgment of Peshawar High Court dated 26/02/2019 & 29/03/2019 are attached for your peruses and ready reference.

6. That deferment of the appellant is illegal, without lawful jurisdiction and not maintainable at law.
7. That competent authority was suppose to follow whatever is mention in law, but the committee without following the law deferred the appellant on their own whims & wishes.

In view of the above, it is humbly prayed, that the appellant may be promoted from Patwari to Girdawar with effect from the date of promotion of his Junior Counter Part.

Dated:14/10/2021

...APPELLANT



ABDUL RAUF
Girdawar Circle Orash-II, OPS
Abbottabad



Annex-C

P-17

OFFICE OF THE
COMMISSIONER HAZARA DIVISION
ABBOTTABAD

No. CHD/Rev/10/2/ATD/17255-58
Dated 23/12/2021

ORDER

10/12/2021

The instant appeal pertains to Mr. Adbul Rauf, Patwari, Deputy Commissioner Office, Abbottabad currently serving in Orash Circle-II, Tehsil and District Abbottabad hereby referred to as appellant.

The appellant submitted that he was the senior most Patwari as per the seniority list issued by the office of Deputy Commissioner, Abbottabad vide letter No.1572-75 dated: 24/03/2021 and was considered for promotion on the principle of seniority-cum-fitness in the DPC meeting held on 06/10/2021 but was deferred due to pending adjudication in a criminal case lodged by Anti Establishment, Abbottabad and he prayed that the impugned notification be set aside as devoid of merit and fairplay.

The Deputy Commissioner, Abbottabad submitted that the appellant was in fact considered for promotion by the DPC in the said meeting and all members unanimously decided to defer his promotion as the charges were of serious nature and a criminal case registered. He further submitted that while deferring the promotion of the appellant the other so promoted was made on an acting charge basis and not on a Regular basis which did not affect the seniority of the appellant.

After going through the application, comments of the DC Abbottabad, record on file the appeal in hand is hereby rejected and promotion order dated 06/10/2021 is upheld with the direction that the Deputy Commissioner, Abbottabad to initiate departmental action against the official under relevant law/rules.

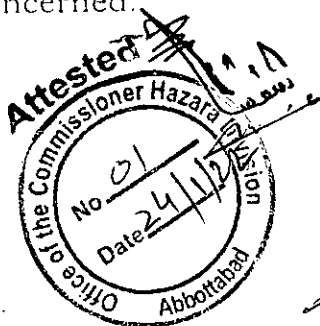
Announced.
10/12/2021

By Order
Commissioner Hazara Division
Abbottabad

Endst: No. _____

Copy forwarded to the:

1. The Deputy Commissioner, Abbottabad necessary action, please.
2. District Comptroller of Accounts, Abbottabad.
3. PS to the Commissioner Hazara Division, Abbottabad.
4. Official Concerned.



(Dr. Adil Ayub)
Assistant to Commissioner (Rev/GA)
Hazara Division, Abbottabad
23.12.21



Annex-D

OFFICE OF THE
DEPUTY COMMISSIONER
ABBOTTABAD

No. 121/589/-162/AE (Rev)

Dated 06/10/2021

P 18

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 06.10.2021 AT 11.00 AM UNDER THE CHAIRMANSHIP OF DEPUTY COMMISSIONER ABBOTTABAD

A Meeting of Departmental Promotion Committee was held on 06.10.2021 at 11.00 AM under the Chairmanship of Deputy Commissioner, Abbottabad. The following attended:-

1. Deputy Commissioner Abbottabad. ... In chair
2. Additional Deputy Commissioner Abbottabad. ... Member
3. Assistant to Commissioner (Poli/Dev), Hazara Division, Abbottabad (Rep of Commissioner Hazara Division, Abbottabad) ... Member

1. PROMOTION OF PATWARIS (BPS-09) TO THE POST OF KANUNGO (BPS-11).

In the commencement of meeting, the forum was informed that against the sanctioned strength of 15 posts of Kanungos, 13 Kanungos are presently working whereas, 02 posts are lying vacant due to promotion of Mr. Gul Nawaz Khan and Tariq Mehmood Kanungos to the post of Naib Tehsildar on acting charge basis vide Board of Revenue, Revenue & Estate Department Peshawar order bearing No. Estt:V/DPC/Naib Tehsildar/2021/13321 dated 12.07.2021.

The method of promotion to the post of Kanungo as per Tehsildar, Naib Tehsildar, subordinate Revenue Service Rules 2008 as revised vide Notification No. 1942/Estt:V/135/SSRC dated 23.01.2015 by the Secretary to Government of Revenue & Estate Khyber Pakhtunkhwa Peshawar is as under.

"By promotion, on the basis of seniority-cum fitness, from amongst the Patwaris and Naib Office Kanungos of the district concerned with three years, service as such and who have passed the Departmental examination of Kanungo"

After examination of relevant record i.e Final Seniority list of Patwaris as stood on 31.12.2020 issued vide No.1572-75 dated 24.03.2021 alongwith list of penal of senior most Patwaris, who have passed their Kanungo Departmental Examination, the synopsis of ACRs alongwith original ACRs and certification to the affect that no departmental enquiry is pending against the concerned patwari, the DP&SC made the following decision/recommendation.

PENAL OF SENIOR MOST PATWARIES FOR PROMOTION TO THE POST OF KANUNGO ON ACTING CHARGE BASIS

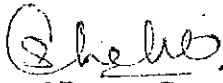
S.#	Name of Patwari	Recommendation.
1.	Abdul Rauf	His case was discussed in detail by the DPC and was deferred for promotion as Kanungo on acting charge basis for the time being due to registration of FIR against him bearing No. 02 dated 07/08/2019 u/s 161 PPC 5(2) PC Act PS ACE, Abbottabad, now the case is subjudice in the court.
2.	Ilyas Khan	He was considered and found fit for promotion as Kanungo (BPS-11) on acting charge basis with immediate effect.
3.	Syed Asad Ali Shah	His case was discussed in detail by the DPC and was deferred for promotion as Kanungo on acting charge basis as he has been promoted as Kanungo (BPS-11) in Settlement Operation Havelian. Now the official is posted as Naib Tehsildar Settlement (OPS) Havelian.


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#	Name of Patwari	Recommendation.
4.	Adil Nawaz Khan	He was considered and found fit for promotion as Kanungo (BPS-11) on acting charge basis with immediate effect.
5.	Naheed Gul	His case was discussed in DPC and will be considered on occurrence of vacancy on his turn.

The DPC unanimously approved/recommended the case of promotion on acting charge basis in respect of Mr. Ilyas Khan Patwari mentioned at S.No.02 and Mr. Adil Nawaz Khan Patwari at S.No. 04 above to the post of Kanungo (BPS-11).

The meeting ended with a vote of thanks by the chair.


Additional Deputy Commissioner
Abbottabad
(Member)


Assistant to Commissioner (Poli/Dev),
Hazara Division, Abbottabad
(Member)


Deputy Commissioner
Abbottabad
(Chairman)

06/10/2021

Endst No. & Date Even:

Copy forwarded to the:-

- ✓ 1. Commissioner Hazara Division Abbottabad.
2. Additional Deputy Commissioner Abbottabad.
3. Assistant Commissioner Abbottabad.
4. Additional Assistant Commissioner (Rev) Abbottabad.


Deputy Commissioner
Abbottabad

Annex- E

Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT.

JUDGMENT

W.P. No. 975-P/2019

Date of hearing 26.02.2019.

Muhammad Arif versus Government Khyber
Pakhtunkhwa through Chief Secretary, Civil
Secretary, Peshawar and other.



P-20

Petitioner by Mr. Yasir Saleem, advocate.

Respondents by: Mr. Arif Raja Arif

WAOAR AHMAD SETH CJ:- Through the instant amended writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioners have made a prayer that:-

"On acceptance of this writ petition an appropriate writ may pleas be issued,

- I. Declaring the petitioner, being fully fit and eligible and having fulfilled the required criteria, entitled for promotion to the post of Conservator Wildlife BPS-19. Refusal on the part of the respondent to promote the petitioner is illegal, against the facts and ineffective upon the rights of petitioner.
- II. Declaring the minutes of Provincial Selection Board dated 26.12.2018, vide which the promotion of the petitioner to the post of conservator BPS-19 was deferred due to the alleged pending inquiries of the NAB and the subsequent Notification of promotion of respondent No 4 dated 25.01.2019, as illegal unlawful, discriminatory against the principles

(D2), Sr. Justice Wajid Ahmed Seth, HCJ & Sr. Justice Muhammad Ayub Khan, Mr. Aamir Sheikh Arif, Senior Court Secretary.

ATTESTED

EXAMINER
Peshawar High Court

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of natural justice and the same may kindly be set aside.

- iii. Directing the respondents to act in accordance with law and to promote the petitioner to the post of Conservator Wildlife BPS-19, strictly on merits against the vacant post from the date of his deferment with all back and consequential benefits.
- iv. OR any other remedy deemed just and proper, not specifically asked for, may also be awarded in favour of the petitioner and against the respondents."

2. In essence the grievances of the petitioner are that he was appointed as Assistant Conservator Wildlife BPS-17. Later on nomenclature of the post is changed as Sub Division Forest Officer vide Notification dated 02.11.1997. During his service tenure posted at different places and promoted as Deputy Conservator Wildlife BPS-18.

3. It is pertinent to note that as per Service Rules promotion to next higher grade and post is the post of Conservator Wildlife BPS-19; thus, petitioner being on the 'top' in the seniority list is qualified and eligible for the said post.

4. That meeting of the PSD Provincial Selection Board was held on 20.12.2010, but the petitioner was ~~disputed~~ and his case was deferred, on the ground the petitioner being involved in NAB case. Ultimately respondent No. 4 who was junior to the petitioner was promoted to the post of Conservator Wildlife in BPS-19.

5. It is significant to note that after recommendations of PSD meeting minutes one Dr. Mohsin Farooq Conservator Wildlife (BPS-18) was promoted to the post of Chief Conservator Wildlife (BPS-20), whereas respondent No. 4

(100) Dr. Justice (Senior) Ahmed Raza, J. & Dr. Justice (Senior) Ayub Khan, J. (100) Dr. Justice (Senior) Justice, Bench Court Districtary.

ATTESTED
EXAMINER

is promoted as Conservator Wildlife BPS-19 vide notifications dated 17.01.2019 and 15.01.2019, respectively. Nevertheless one post of Conservator Wildlife BPS-19 is still lying vacant. In the meantime, one Dr. Mohsin Farooq Conservator Wildlife BPS-19 was promoted to the post of Chief Conservator Wildlife BPS-20 upon the recommendations of PSB meeting. Thus feeling aggrieved from the PSB meeting order vide which the petitioner was dropped from promotion, he filed the instant constitutional petition with the prayer well mentioned above.

6. Arguments of the learned counsel for the petitioner heard at length and record gone through with his able assistance.

7. There is no cavil to the proposition that whenever a case for promotion is put up before the competent authority / PSB, the competent authority, has either to promote an employee or have the option of "supersession" or "deferment". In the instant case, for the purpose of promotion of Deputy Conservator Wildlife BPS-18 to the post of Conservator Wildlife BPS-19, meeting was held on 25.12.2018, wherein petitioner was considered but was deferred. According to the law of the land deferment is neither a punishment nor a final order, and as and when the reasons for deferment cease to exist, the officer is to be promoted from the date when his junior were promoted and as such it's the domain of the Service Tribunal. Only when an employee incumbent is superseded then section 4 (1)b of Service Tribunal Act, 1974 would come into operation, permitting the claimant to file a writ petition, therefore, no writ can be issued in case of deferment.

8. We have before us the reasons for deferment and date that "he is involved in NAB case". No where under the law pendency of NAB case, which takes years and years for conclusion and decision, could be made a tool for denying promotion to an incumbent. It has been time and again held by the apex Court that pendency of any inquiry and even minor penalties could not come in way of promotion.

Dr. Justice (Retd) Muhammad Anwar, Chairman, National Judicial Commission, Islamabad.

ATTESTED

EXAMINER

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9. In view of the above situation we advise the Competent Body / PSB to consider the case of petitioner for promotion in upcoming meeting; this writ petition is disposed of in above terms.


CHIEF JUSTICE

JUDGE

ANNOUNCED.
26.02.2019

DECLINED TO BE TRUE COPY
2021

21 AUG 2021

JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT
JUDICIAL DEPARTMENT.

Writ Petition.....No.....1475-P.....of.....2018

with C.M.....No.....683-P.....of.....2018

J U D G M E N T

Date of hearing: 19th March, 2019

Petitioner(s): (Syed Jaffar Ali Shah) by Mr. Muhammad Asif Yousafzai, Advocate.

Respondent(s): (Secretary Local Government) by Mr. Arshad Ahmad Khan, Additional Advocate General &

(Peshawar Development Authority) Mr. Shakeel Khan Ahmad Khel, Advocate.

SYED AFSAR SHAH, J.- Syed Jaffar Ali

Shah, the petitioner, through the instant constitutional petition, has asked for the issuance of an appropriate writ declaring that deferring him from promotion to BPS-18, vide minutes of the meeting dated 24.10.2017, due to pendency of the NAB inquiry / investigation, being nullity in the eye of law is of no legal effect whatsoever.

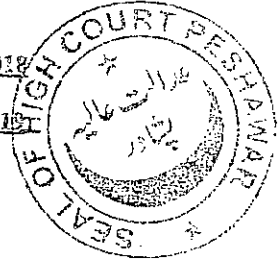
2. The learned counsel appearing on behalf of the petitioner, at the very outset, submitted at the bar that not only on mere pendency of NAB inquiry / investigation, the promotion cannot be withheld but since the controversy / issue with respect to promotion during pendency of NAB inquiry /

ATTESTED
EXAMINER
Peshawar High Court

Annex-F

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P-24



A

P. 25
P. ①


investigation has been resolved by this Court in the recent passed while seizing of Writ Petition No.975-P/2019, titled Muhammad Arif vs. Government of Khyber Pakhtunkhwa, decided on 26.02.2019; therefore, this petition is liable to be decided on the same analogy. When the learned Additional Advocate General and the learned counsel for the PDA, present in Court, were confronted with the situation, who, after going through the record and the judgment, referred to above, couldn't wriggle out of the same and frankly conceded the submissions, so made by the learned counsel for the petitioner.

3. We have gone through the record carefully and considered the submissions made by the learned counsel for the parties.

4. Before we proceed with the merits of the case, it would be worthwhile to reproduce herein below the relevant portion of the aforesaid judgment of this Court, which runs as under:-

9/

8. We have before us the reasons for deferment and data that "he is involved in NAB case". No where under the law pendency of NAB case, which takes years and years for conclusion and decision, could be made a tool for denying promotion to an incumbent. It has been time and again held by the apex Court


ATTESTED
EXAMINER
Peshawar High Court

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that pendency of any inquiry and even minor penalties could not come in way of promotion.

9. In view of the above situation we advise the Competent Body / PSB to consider the case of petitioner for promotion in upcoming meeting; this writ petition is disposed of in above terms.

5. Since, admittedly and as is evident from the minutes of the meeting dated 24.10.2017, the petitioner has been deferred from promotion to BPS-18 due to pendency of NAB inquiry / investigation, therefore, we, while deriving the wisdom from the aforesaid judgment, would like to advise the Competent Body / PSB to consider the case of petitioner for promotion to BPS-18 in upcoming meeting in accordance with law / rules. This writ petition is disposed of in the above terms alongwith C.M.

Announced
19. 03. 2019

JUDGE
JUDGE

No. 5232
Date of Presentation of Application 21-9-19
No of Pages 4P
Copying fee Nil
Total Nil
Date of Preparation of Copy 21-9-19
Date of Delivery of copy 21-9-19
Received By M. Adusit

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21 SEP 2019

15. This appeal was allowed by our short order dated 6-8-2009. Above are the reasons for the same.

H.B.T./2/SST

Appeal allowed.

2011 P L C (C.S.) 534

[Sindh High Court]

Before Ahmad Ali Shaikh, J

MUHAMMAD HANIF

versus

PROVINCE OF SINDH and others

Constitutional Petition No.D-968 of 2009, decided on 9th March, 2010.

Constitution of Pakistan---

---Art. 199---Constitutional petition---Civil service---Promotion---
Petitioner was deprived from being promoted merely because of
pendency of an F.I.R. against him---Additional Advocate General,
agreed in principle that the matter could be referred to the
Departmental Promotion Committee to decide case of the petitioner on
merits without any regard whatsoever to pendency of the F.I.R. against
the petitioner---Matter was disposed of by directing the authorities to
consider the case of the petitioner for promotion purely on merits
without any regard whatsoever to pendency of any criminal or civil case
against him. [pp. 534, 535] A & B

Muhammad Ayaz Khan v. Government of Sindh and others 2007
PLC (C.S.) 716 ref.

Muhammad Nawaz Shaikh for Petitioner.

Adnan A. Karim, A.A.-G. for Respondent.

ORDER

AHMAD ALI SHAIKH, J.--- Learned counsel for the petitioner has submitted that mere pendency of an F.I.R., against a civil servant, cannot deprive him from being promoted. Even otherwise, in the case which is relied upon by the learned A.A.-G. being F.I.R. No.18/2003 of Police Station Anti-Corruption Establishment (ACE) Larkana, the name of the petitioner does not transpire. In such event it can hardly be presumed that there is any F.I.R. against him, for which he could be denied promotion. He has relied upon the case reported in Muhammad Ayaz Khan v. Government of Sindh and others 2007 PLC (C.S.) 716.

PLC (Service)

In reply, learned A.A.-G. has submitted that he may be given time to prepare further papers with regard to such F.I.R. However, he has agreed in principle that the matter can be referred to the Departmental Promotion Committee (D.P.C.) to decide the petitioner's case on merits without any regard whatsoever to pendency of the F.I.R.

We have heard learned counsel for the petitioner as well as learned A.A.-G. In the circumstances of the case, we would dispose of the matter by directing the respondents to consider the case of the petitioner for promotion purely on merits without any regard whatsoever to pendency of any criminal or civil case against him.---

H.B.T./M-25/K

Order accordingly.

2011 P L C (C.S.) 535

[Lahore]

Before Sh. Azmat Saeed, J

MUHAMMAD AMIN BHATTI

versus

INSPECTOR-GENERAL OF PUNJAB POLICE

Writ Petition No.4038 of 2009, decided on 19th March, 2010.

(a) Constitution of Pakistan---

---Art. 199---Constitutional petition---Civil service---Promotion---No one had a vested right for promotion on the terms and conditions which existed at the time when the civil servant joined the service---Such terms and conditions could always be varied to maintain efficiency in service---Terms and conditions applicable on the date when civil servant was considered for promotion were relevant and required to be enforced---Even the recommendations for promotion could not be sufficient to create a vested right till it was accepted by the competent authority. [p. 539] A

(b) Constitution of Pakistan---

---Arts. 199 & 212---Constitutional petition---Civil service---Promotion---Implementation of judgment of Service Tribunal---Petitioner had not approached High Court for determination of his right to be considered for promotion or to raise a grievance that he had been unfairly or illegally dealt with in that behalf---In fact, the pith and substance of the grievance of the petitioner was that judgment of

PLC (Service)

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the Service Tribunal, which was maintained even by the Supreme Court, was not being enforced or implemented---Service Tribunal, constituted under Art.212 of the Constitution and vested with jurisdiction for determination of the grievance of the petitioner had determined his grievance by way of judgment sought to be implemented---Final determination of rights of parties to a litigation, would remain unaffected by any change in law, thereafter on the principle that a man was not to be vexed twice for the same cause of action, unless it was ordained in the subsequent litigation in clear and unmistakable terms---Authorities were bound to enforce and implement the judgment of Service Tribunal as maintained by the Supreme Court, without reference to the subsequent rules---Constitutional petition was allowed and High Court directed that the case be placed before the Departmental Promotion Committee, which would decide the matter, strictly in accordance and in the light of the observations/direction of the Service Tribunal made in its judgment sought to be implemented. [p. 539] B

Muhammad Ishaque and others v. Government of Punjab through Chief Secretary and others 2005 SCMR 980; Zafar Iqbal and another v. Director, Secondary Education, Multan Division and 3 others 2006 SCMR 1427; The Chairman, Central Board of Revenue and another v. Muhammad Malook and 11 others 1999 SCMR 1540; Government of N.-W.F.P., Health and Social Welfare Department through Secretary v. Dr. Sheikh Muzaffar Iqbal and others 1990 SCMR 1321; Khan Asfand Yar Wali and others v. Federation of Pakistan through Cabinet Division PLD 2001 SC 607; John Lemm v. Thomas Alexander Mitchell (6) 1912 AC 400 and Commissioner of Sales Tax (West), Karachi v. Messrs Krudsdon Ltd. PLD 1974 SC 180 ref.

Nadeem Shibli for Petitioner.

Faisal Zaman, Additional Advocate-General.

ORDER

SH. AZMAT SAEED, J.--- The petitioner who is Inspector of the Punjab Police has filed the instant Constitutional petition seeking a direction for the implementation of the assurance given and the representation made by the representative of the respondent department before the Punjab Service Tribunal recorded in its order dated 9-5-2008.

2. Brief facts necessary for the adjudication of the lis at hand are; that aggrieved of the recommendation of the Departmental Promotion Committee meeting held on 6-5-2002 whereby Inspectors Junior to the present petitioner were promoted to the rank of DSP, the present petitioner after exhausting his departmental remedy invoked the

jurisdiction of Punjab Service Tribunal through Appeal No.834 of 2003. The said appeal, after hearing the parties was decided vide order, dated 1-4-2004 with the direction that case of the petitioner be considered in the next meeting of Department Promotion Committee. The department had taken the plea that in view of the chequered personal record/A.C.Rs. the petitioner was not entitled to be promoted. In this behalf the present petitioner had taken a defence that various adverse remarks have not been conveyed to him and other adverse remarks had in fact been expunged and in the above backdrop it was directed by the Punjab Service Tribunal that the contentions of the petitioner in this behalf should be thoroughly examined. It was also observed that minor penalties would not stand in the way of his promotion.

3. It appears from the record that the case of the petitioner was once again placed before the Departmental Promotion Committee on 30-4-2005 but the petitioner was not granted promotion, whereupon, the petitioner invoked the jurisdiction of this Court through a constitutional petition which was disposed of apparently on the assurance and undertaking of the respondents that the case of the petitioner will be considered in the next meeting of the Departmental Promotion Committee. Whereafter, the petitioner also filed a contempt application before this Court which was disposed of with a direction to the petitioner to seek his remedy before the Punjab Service Tribunal. Thereafter, the petitioner filed Appeal No.2409 of 2005 which was decided by the Punjab Service Tribunal vide its judgment, dated 8-3-2006 in the following terms:--

"(2) Arguments have been heard and record perused. It appears from the record that the name of appellant along with others (his juniors and seniors) was considered by the Departmental Promotion Committee in its meetings held on 6-5-2002, 21-7-2003, 30-4-2005 and 31-8-2005, but on all occasions, he was superseded due to chequered service record. At the time of argument, learned counsel for the appellant submitted that the period from 1-1-2000 to 20-1-2000 was less than three months and no report was recorded for the same and the same was the position about the period from 18-8-2000 to 15-9-2000. His report for the period from 13-1-1999 to 14-12-1999 and also for the period from 21-1-2000 to 17-8-2000 was adverse. His reports from the period from 16-9-2000 to 31-12-2000, 1-1-2001 to 31-12-2001, 1-1-2002 to 2-4-2002, 1-1-2003 to 30-7-2003, 31-7-2003 to 31-12-2003 and 1-1-2004 to 31-12-2004 were described as 'A' which amounts to 'Good' and his A.C.R. for the period from 3-4-2002 to 12-9-2002 was described as 'B' (Average). After his promotion as Inspector, the previous reports which did not prevent him from being promoted from the

petitioner is that a judgment of the Punjab Service Tribunal is not being enforced. With regards to the determination of the rights of the petitioner to be considered for promotion the jurisdiction vests elsewhere and litigation in this behalf was undertaken by the petitioner before the Punjab Service Tribunal which culminated in the judgment dated 8-3-2006 in terms reproduced above. The Punjab Service Tribunal has been constituted under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 and vested with the jurisdiction for determination of the grievance of the petitioner in this behalf and such determination was effected by way of the aforesaid judgment dated 8-3-2006. The department challenged the same before the honourable Supreme Court of Pakistan by way of an appeal and the same admittedly was dismissed and the judgment of the Tribunal dated 8-3-2006 was maintained. Thus, the "rights" of the petitioner have been finally determined through a process of litigation by a Tribunal of competent jurisdiction. Viewed in the above perspective it appears to be the case of the respondents that notwithstanding the judgment of the Punjab Service Tribunal dated 8-3-2006 and the same being maintained in appeal by the honourable Supreme Court of Pakistan the subsequent changed law i.e. The Punjab DSP Service Rules, 2008 would be applicable. I am afraid the contentions of the learned Additional Advocate-General, Punjab cannot be accepted. It is equally settled law that where a final determination of rights of parties to a litigation remain unaffected by any change in law thereafter on the principle that a man is not to be vexed twice for the same cause of action unless it is so ordained in the subsequently legislation in clear and unmistakable term such is the law laid down by the Privy Council in *John Lemm v. Thomas Alexander Mitchell* (6) (1912 AC 400) and by the honourable Supreme Court of Pakistan in *Commissioner of Sales Tax (West), Karachi v. Messrs Krudsdon Ltd.* PLD 1974 SC 180.

7. In view of the above it is clear and obvious that the respondents are bound to enforce and implement the judgment of the Punjab Service Tribunal dated 8-3-2006 as maintained and upheld by the honourable Supreme Court of Pakistan without reference to the subsequent rules. Consequently, this petition is allowed and it is directed that the case be placed before the Departmental Promotion Committee who shall decide the matter strictly in accordance and in the light of the observations/direction of the Punjab Service Tribunal made in its judgment dated 8-3-2006.

H. B. T./M-88/L

Petition allowed.

2011 PLC (C.S.) 541

[Supreme Court of Pakistan]

Present: Iftikhar Muhammad Chaudhry, C.J.,
Javed Iqbal, Raja Fayyaz Ahmed, Muhammad Sair Ali,
Anwar Zaheer Jamali, Asif Saeed Khan Khosa, Ghulam Rabbani,
and Khalil-ur-Rehman Ramday, JJ

SUO MOTU CASE NO.24 OF 2010 AND HUMAN
RIGHTS CASES NOS. 57701-P, 57719-G, 57754-P,
58152-P, 59036-S, 59060-P, 54187-P
AND 58118-K OF 2010

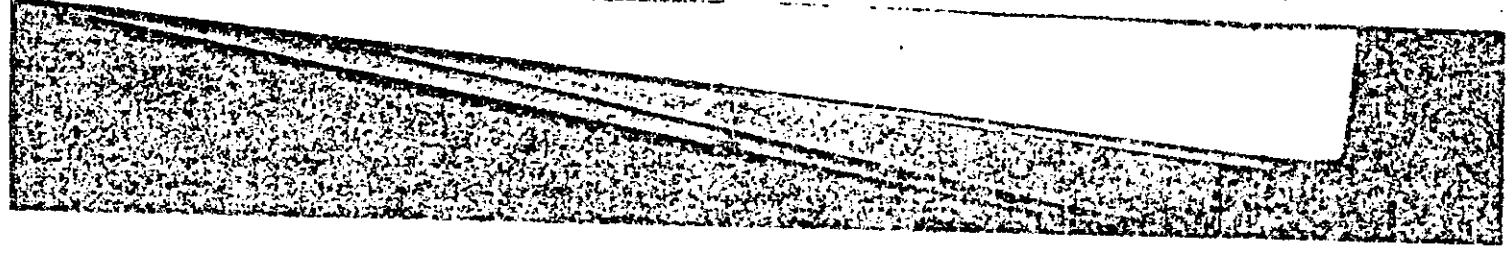
Suo Motu Case No.24 of 2010 and Human Rights Cases Nos. 57701-P,
57719-G, 57754-P, 58152-P, 59036-S, 59060-P; 54187-P and 58118-K
of 2010, decided on 27th January, 2011.

(Regarding corruption in Hajj arrangements in 2010).

Civil Servants Act (LXXI of 1973)---

---S. 14---ESTACODE, Vol. I (2007 Edn.) Instructions---Employment after retirement---Record in the present case, showed that prima facie, while re-employing the retired civil servants/persons in the police department the provisions of law i.e. S.14 of the Civil Servants Act, 1973 as well as Instructions contained in ESTACODE, Vol. I, Edn, 2007 under the heading "Re-Employment" and the judgments of the superior courts on the subject were not considered/adhered to---Effect--Held, for establishing rule of law and Constitutionalism, it was necessary that the relevant provisions should be followed strictly in letter and spirit otherwise it would not be possible to provide an effective machinery in law particularly in Police Department to ensure law and order, so the peace in the country, at the same time to avoid violation of the relevant provisions of law which was tantamount to blocking the promotion of the Officers who had also served in the Forces and were waiting for their promotion but they were not getting chance because of the re-employment/contract awarded to the retired Officers---Such was not only in the Police Department but for the purpose of achieving good governance; the same principle should be followed and strictly applied in other Departments as well---Supreme Court observed that Attorney General shall take up the matter, with the Government/Competent Authority so that it may take necessary steps to rectify if any omission had been committed---Attorney General shall convey present order to the Secretary, Establishment Division and the Chief Secretaries of the Provinces to ensure that if any civil servant or other person who had been re-employed, his case be also examined in

	Patwarian	Appointment	Failed/Not Appeared
1.	Hamayun Khan S/o Mehboob Khan	Matric 03-09-1985	08-05-1964 29-08-1997 Not passed
2.	Tahir Farooq S/o Qazi Muhammad Azam	F.A 30-12-1985	04-07-1964 12-09-1997 Not passed
3.	Ayaz S/O Ali Zaman	Matric 30-12-1985	03-01-1963 03-07-2001 Not passed
4.	Muhammad Hanif s/o Yousaf Khan	B.A 17-07-1997	03-05-1971 04-07-2001 Not passed
5.	Saeed Akher s/o Saif Rehman	F.A 17-07-1997	28-02-1971 04-07-2001 passed
6.	Abdul Rauf Khan s/o Jhandad Khan	B.A 17-07-1997	10-05-1974 04-07-2001 Passed ✓
7.	Ayaz Khan s/o Abdul Ullah	Matric 03-09-1985	24-02-1961 05-12-2001 Not passed
8.	Javed s/o Abdul Rehman	Matric 30-12-1985	20-02-1967 18-05-2003 Not passed
9.	Ilyas Khan s/o Akram Khan	Matric 11-05-1986	10-04-1964 18-06-2003 Passed
10.	Syed Asad Ali Shah S/o Syed Sarwar Shah	B.A 17-07-1997	10-04-1974 01-09-2003 Passed
11.	Adil Nawaz s/o Nawaz Khan	F.A 17-07-1997	04-05-1974 01-09-2003 Passed
12.	Naheed Gul s/o Abdul Waheed	B.A 17-07-1997	04-05-1974 01-09-2003 Passed
13.	Akhlaq Ahmed s/o Abdul Rasheed	F.A 17-07-1997	06-04-1973 01-09-2003
14.	Shafique Ahmed s/o Gul Zaman	F.A 17-07-1997	21-04-1973 01-09-2003
15.	Muhammad Sajjad s/o M. Farid Khan	F.A 17-07-1997	25-04-1976 01-09-2003 Passed
16.	Iftikhar S/o Ali Bahadur Khan	F.A 17-07-1997	01-02-1973 01-04-2005 ✓ Not passed
17.	Mumtaz Khan s/o Anwar Khan	B.A 17-07-1997	15-05-1976 01-04-2005 Passed
18.	Muhammad Banaris s/o Ghulam Farid	F.A 05-11-1997	03-03-1975 01-04-2005 Passed
19.	Baber Khan S/o M. Afral Khan	F.A 05-11-1997	16-03-1976 01-04-2005
20.	Tanveer S/o Muhammad Ayub	F.A 28.02.1999	01.01.1974 01-04-2005 Passed
21.	Faisal Khan s/o Jhangeer Khan	F.A 30-08-2000	22-06-1977 01-04-2005
22.	Shahid Khan s/o Munshi Khan	F.A 30-08-2000	04-01-1976 08-08-2005 Passed
23.	Mehboob s/o Naseem	B.A 30-08-2000	02-04-1973 01-11-2006 Passed
24.	Sajad Ahmed s/o Muhammad Nawaz Khan	B.A 11-12-2003	13-04-1976 06-12-2005
25.	Zeeshan Jadoon s/o Fida Muhammad	B.A 11-12-2003	14-10-1981 18-12-2006 Passed
26.	Ajmal Khan s/o Mir dad Khan	F.A 11-12-2003	01-01-1978 03-04-2007
27.	Ghulam Khasro s/o Muhammad Mumtaz Khan	B.A 11-12-2003	09-11-1978 21-09-2007
28.	Amir Shahzad s/o Fazal Rehman	B.A 11-12-2003	12-09-1981 21-09-2007



No.	Name of Patwari	Qualification	Date of Birth of Candidate	Date of Birth of Candidate	Year of Examination	Result
	Rashid Hameed S/o Abdul Hameed	B.A	11-12-2003	29-11-1981	21-09-2007	Passed
30.	Muhammad Niaz s/o Lal Khan	F.A	11-12-2003	20-05-1983	22-11-2007	Passed
31.	Shoaib s/o Hamayon Khan	B.A	12-03-2005	24-04-1981	22-11-2007	Passed
32.	Ishtiaq Khan s/o Sarang Khan	B.A	12.03.2005	08-04-1980	22-11-2007	Passed
33.	Sardar Jhangeer s/o Sardar Gul Nawaz	B.A	21-09-2006	12-12-1984	22-11-2007	---
34.	Muhammad Khalil s/o Kala Khan	F.A	12-03-2005	10-12-1981	17-12-2009	---
35.	Muhammad Sajid s/o M. sadiq	B.A	21-09-2006	06-03-1981	17-12-2009	Passed
36.	Sajid Mehmood s/o Khoidad Khan	B.A	21-09-2006	01-01-1983	17-12-2009	Passed
37.	Asim Shahzad s/o Allah Dad	B.A	21-09-2006	14-05-1985	17-12-2009	---
38.	Fartamoz S/o Essa Khan	B.A	21-09-2006	01-07-1985	17-12-2009	Passed
39.	Shakir Hussain S/o Sabir Hussain	F.A	14-04-2008	13-06-1988	17-12-2009	---
40.	Waseem Khan s/o Walistan Khan	F.A	21-09-2006	05-11-1978	01-12-2010	---
41.	Tanveer Hussain s/o Muhammad Yaqoob	D.Com	21-09-2006	27-03-1981	01-12-2010	---
42.	Safeer Ahmed S/o Abdul Rasheed	F.A	21-09-2006	03-04-1985	01-12-2010	---
43.	Nisar Aziz s/o Aziz-u-Rehman	B.A	22-03-2007	03-02-1983	01-12-2010	Passed
44.	Faisal Afsar S/o M. Afsar	B.A	14-04-2008	17-03-1985	01-12-2010	---
45.	Waqar Ali S/o Abdul Mateen Khan	B.A	14-04-2008	12-03-1981	01-12-2010	Passed
46.	Waqas Khan S/o Gul Muhammad Khan	F.A	14-04-2008	22-04-1987	01-12-2010	Passed
47.	Dil Afsar s/o Muhammad Daud	F.A	14-04-2008	05-02-1982	01-12-2010	Passed
48.	Yasir Khan s/o Liaqat Khan	B.A	04-17-2010	13-03-1983	01-12-2010	---
49.	Muhammad Asif S/o Habib ur Rehman	B.A	14-04-2008	01-01-1982	21-12-2011	Passed
50.	Asad Ullah Abbasi S/o Noor Hasan Abbasi	M.B.A/HR	14-04-2008	05-05-1988	14-06-2012	---
51.	Hamad Ali S/o Aurangzeb Khan	F.A	14-04-2008	02-04-1989	14-06-2012	---
52.	Ajmal Khan S/o Pervz Khan	B.A	14-04-2008	04-08-1987	14-06-2012	---
53.	Shah Murad S/o Niaz Hussain	B.A	14-04-2008	03-07-1983	14-06-2012	---
54.	Tahir Jameel S/o Sher Ahmed Khan	B.A	14-04-2008	25-12-1982	14-06-2012	Passed
55.	Nasir Khan S/o Anwar Khan	F.A	14-04-2008	15-12-1978	14-06-2012	---
56.	Murad Khan S/o Zirdad Khan	F.A	13-03-2010	17-12-1986	14-06-2012	---
57.	Saqib S/o Mir Afzal	B.A	13-03-2010	15-07-1979	14-06-2012	---
58.	Waseem Gul S/O Walayat Khan	B.A	13.03.2010	03-03-1988	14-10-2015	---
59.	Saqib Sohail S/O Muhammad	F.A	13.03.2010	01-06-1982	14-10-2015	---

محضوړ جناب كمشنر هزاره ڈویشن ایبٹ آباد

بوساطت ACR صاحب ایبٹ آباد

- جناب عالی! درخواست ذیل عرض ہے۔
- 1- ممن سائل سینئر موست پواری ہے۔ (سینارٹی لسٹ قابل ملاحظہ ہے)۔
 - 2- میری پروموشن بطور گرد اور جو کہ سینارٹی کم فننس کی بنیاد پر 06/10/2021 کو ہونی تھی لیکن سائل کو زیر التواء فوجداری مقدمہ FIR علت نمبر 2 مورخہ 07/08/2019 نزدانی کرپشن کورٹ میں زیر سماعت ہونے کی بنیاد پر ممن سائل کو Deffer کر کے مجھ سے جوئیر پٹواریان کو الگے رینک میں پروموشن دی گئی جو کہ سراسر خلاف قانون ہے۔

3- کوئی آدمی / سرکاری ملازم اس وقت تک مجرم نہیں گردانہ جاسکتا جب تک اس کو باضابطہ عدالت مجاز سے سزا نہیں ہو جاتی اور اس طرح کسی بھی سرکاری ملازم کی پروموشن اس بناء پر کہ اس کے خلاف کوئی فوجداری مقدمہ زیر التواء ہے نہیں روکی جاسکتی اس حوالہ سے پشاور ہائی کورٹ پشاور کا فیصلہ محررہ 19/03/2019 اور ایک رپورٹنگ ججنٹ PLC.CS.2011 صفحہ نمبر 534 جن کی کاپی ہائے پیش کرتا ہوں جو کہ قابل ملاحظہ ہیں۔

4- سائل بے گناہ ہے اور سائل کی پروموشن کو Deffer کرنے کا کوئی جواز نہیں بنتا۔

استدعا ہے کہ سائل کو تاریخ Defferment سے بطور گرد اور پروموٹ کیا جائے۔

المرقوم: 2021/

عبدالروف پواری تحصیل ایبٹ آباد۔۔۔۔۔۔ (سائل)

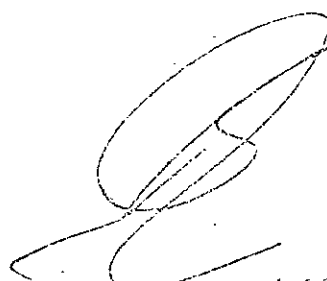
They will still retain in the seniority list of below scale till their promotion on regular basis.

DEPART

15

5) However, in the instant case, or senior most Patwaris may be promoted on acting charge basis as Kamungo till regular promotion of the above said or Kamungos as Naib Tehsildar.

ADK (A)


AE (CRO)
25/08/2021

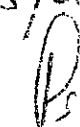
7) Agreed with para 6/N. We are also short of girdawars, therefore, the process of promotion is suggested to be expedited.

Para 3/N is submitted for further orders.

Referance Para - 3.

Chelb.
25/8/21

8) Meeting on 06-10-2021 at 11:00 am and file return for further necessary actions.


01/10/21

since pass 1-11/21, In the light
of recommendations of DPL meeting
held on 06/10/2021, Draft minutes of
meeting & promotion order are
added here for approval/323,
Please.

AD/CA

A/E (Rev)
06/10/21

Submitted for approval.

~~DC~~

Approved

Cheloo
6/11/21


ADC(A)

Jyoti W
6/10/21

A.E (Rev)


9) Reference para 8N, Draft letter of DR meeting alongwith working paper, synopsis of ACRs & non involvement certificate in respect of the senior most Patwaris are added vent for signature, please.

ADCL(A)


AE CR
04/10/2021

10) Submitted for approval and signature.

DC


4/11/21

11) Approved.

ADCL(A)


4/11/21

P-36

OFFICE OF MUHAMMAD ARSHAD KHAN TANOLI
Advocate Supreme Court of Pakistan
Office at Jinnah Lawyers Plaza District Courts, Abbottabad

Annex-H

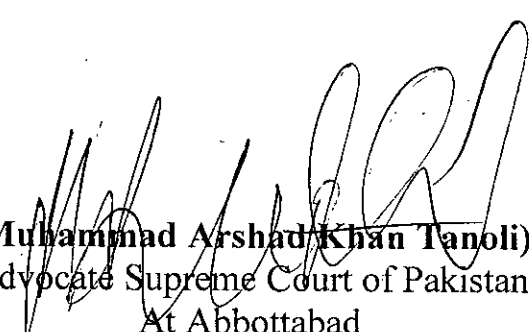
To

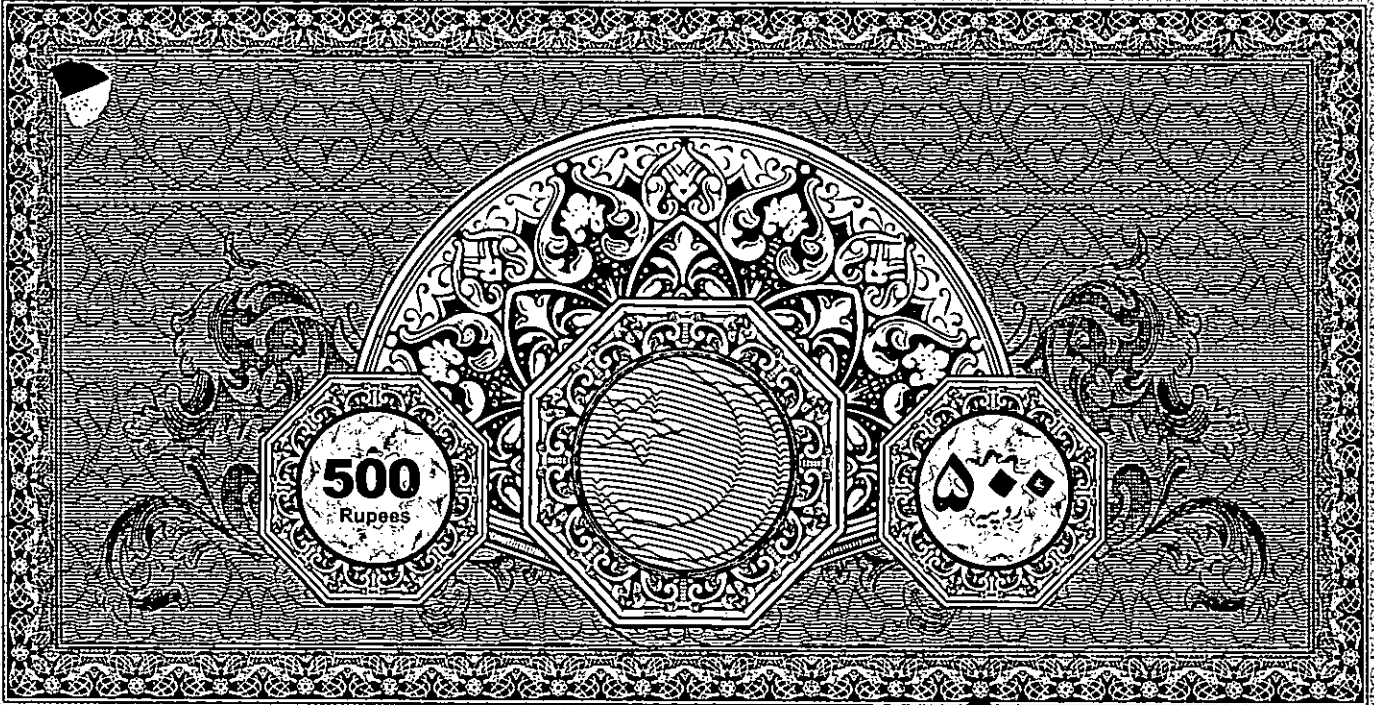
1. Government of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK, Peshawar.
2. Commissioner Hazara Division, Abbottabad.
3. Deputy Commissioner, Abbottabad.
4. Assistant to Commissioner Revenue/ G.A Hazara Division, Abbottabad.

Subject: **NOTICE OF FILING OF WRIT PETITION.**

On the advice of my client *Abdur Rauf, Girdawar (OPS)* *Circle Orash-II, Abbottabad*, a writ petition is being filed before the Honourable Peshawar High Court, Abbottabad Bench. A notice/intimation of the same is being sent to you for information/ necessary action under the law. Copy of writ petition is attached herewith.

Dated: _____/2022


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad



PAKISTAN COURT FEE

P-38

Peshawar High Court ATD Bend

Abdul Rauf

Petitioner

VS

Govt of KP & others

Respondent

CANCELLED

Writ

CANCELLED

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ATD BEND JENCH

Signature

Petitioner

Muhammad Ashraf Khan Tanzeel
Adv Hc ATD

Blipinani for US Division / SJS SM, 1043
04/21/22

13201-0997530-9



f. 28

M. P.
Stamp of 1971
Kanihira, P. O. Box 107

BEFORE THE HONOURABLE PESHAWAR HIGH COURT
ABBOTTABAD BENCH

W.P No.194-A/2022

Abdur Rauf Girdawar (OPS) Circle Orash-II, Abbottabad.

.....PETITIONERS

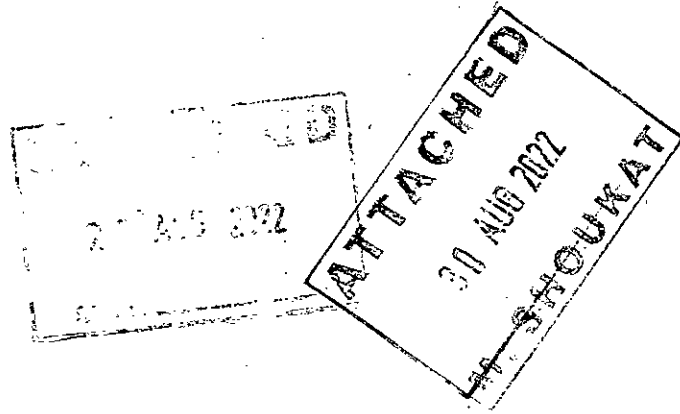
VERSUS

Govt. of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK

..... RESPONDENTS

INDEX

S. No.	Description of Documents	Annexure	Page
1.	Parawise comments with affidavit.	-	1- 4
2.	Copy of FIR	A	5
3.	Section-IX of Promotion Policy	B	6
4.	DPC committee	C	7- 8
5.	Decision of DPC	D	9



Office of the Additional Advocate General
Abbottabad
Writ Petition Branch

File Received By Kashif
Signature of Officer [Signature]
Date receiving 14/8/22

~~FILED BY B.A.K~~
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
1918

(1)

BEFORE THE HONOURABLE PESHAWAR HIGH COURT
ABBOTTABAD BENCH

W.P No.194-A/2022

Abdur Rauf Girdawar (OPS) Circle Orash-II, Abbottabad.

...PETITIONER

VERSUS

Govt. of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK
Peshawar & others.

...RESPONDENTS

Respectfully sheweth.

Parawise Comments on behalf of Respondent No. 03 are submitted as under:-

Preliminary objections.

- for D.S.*
1. That the petitioner has no locus standi.
 2. That the petitioner has not come to this Honorable Court with clean hands.
 3. That the petitioner has ignored proper forum of appeal i.e. Service Tribunal. Thus the petition is liable to be dismissed.
 4. That the petitioner has suppressed the material facts from this Honorable Court, hence not entitled for any relief and petition is liable to be dismissed without any further proceedings.
 5. That both the decisions issued by the authorities i.e. DPC forum and the Commissioner Hazara Division, Abbottabad are true and correct as per law and rules, hence petition is liable to be dismissed.
 6. That further points shall be agitated at the time of arguments.

ON FACTS:

- No 2721
19-08-22*
1. Pertains to record.
 2. No comments.
 3. No comments.
 4. No comments.

GROUND:-

As per requirement of Departmental Promotion Committee, Tehsildar Abbottabad submitted a certificate mentioned therein that the official was caught red handedly in corruption case while taking bribe in a trap set by Judicial Magistrate. The Anti-Corruption Establishment, Abbottabad registered FIR against the official u/s-161 PPC 5(2)PC Act. Copy of FIR is added next as **Annexure-A**.

**ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH**
3-8-22

As defined in Section-IX of Promotion Policy (**Annex-B**), case of the petitioner for appointment on Acting Charge Basis was placed before the DPC for consideration, where committee discussed the case in detail and it came to their notice that his case is still subjudice in the Anti-Corruption Court, therefore, his promotion was unanimously deferred by the Committee keeping in view the seriousness of the case (**Annex-C**). Moreover, the appointments were made on Acting Charge Basis and not on regular basis, so deferment did not affect seniority position of the petitioner. Thus no discrimination was made with the petitioner. His case will be considered for promotion purely on merit as per his seniority position on occurrence regular vacancy of Kanungo as well as on receipt of the decision of the said case from Anti-Corruption Court.

Against the decision of DPC, the petitioner filed appeal before Commissioner Hazara Division, Abbottabad which was also rejected and decision of DPC dated 06.10.2021 was upheld (**Annex-D**).

- b) Incorrect. As explained above, the appointments were made on Acting Charge Basis, as no regular vacancy was available, so these promotions did not affect his seniority position.
- c) Incorrect. The judgment referred to and other legal instruments available primarily dwells upon such issues where charges are yet to be probed/proved, however, cases has been registered. The legal principle and wisdom behind these is that in cases where the accused and allegations are innocent and unfound respectively, then his right shall remain protected.

In the instant case the accused has been apprehended red handedly.

As per section-IX of the Promotion Policy, promotion case of the petitioner was placed before the DPC for consideration. However, in view of his involvement in corruption as stated above in Para-(a) of the grounds his case was deferred by DPC being competent forum as per law.

- d) Incorrect. All the legal formalities have been fulfilled by the DPC and decision for deferment of appointment on Acting Charge Basis was made purely as per law/rules.
- e) Incorrect. The petitioner is involved in corruption case; in this respect detail reply has already been given in the preceding paras. However, it is clarified here that the "promotion" means regular promotion, where all requirements of promotion i.e. time required of service in present post; ACRs, trainings if any. On the other hand Acting Charge Promotion is merely appointment in which the time required of service in existing grade is less than as required under rules. Similarly, the official is not shifted to seniority list of above grade in Acting Charge Basis.
- f) Incorrect, as explained above.
- g) Incorrect. Detail reply has been given in the aforementioned paras.
- h) Incorrect. The petitioner did not follow proper forum for appeal and the argument in this respect offered by the petitioner is not based on facts, as the petitioner has


FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
11/10/21

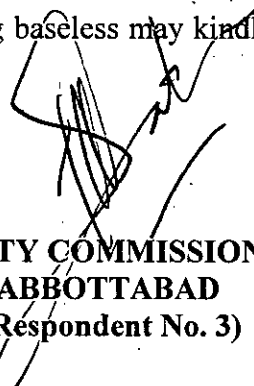
not attached any letter/order of rejection of his appeal from Service Tribunal.
Therefore, the instant writ petition is liable to be dismissed.


- i) No comments.
- j. No comments.

No regular promotion against the post of Kanungo in BPS-11 was made by the DPC due to non-availability of regular vacancy, hence the question of regular promotion to the post of Kanungo (BPS-11) does not arise. The decision of DPC dated 06.10.2021 was made purely as per facts and law/rules.

It is therefore, prayed that petition of the petitioner being baseless may kindly be dismissed on above factual grounds, please.

Noted by

 Registrar-Rahman Khan
 Assistant Advocate General
 1074 (Abbottabad Bench)


 DEPUTY COMMISSIONER
 ABBOTTABAD
 (Respondent No. 3)

FILED FOR
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH


BEFORE THE HONOURABLE PEHSAWAR HIGH COURT
ABBOTTABAD BENCH

W.P No.194-A/2022

Abdur Rauf Girdawar (OPS) Circle Orash-II, Abbottabad.

.....PETITIONERS

VERSUS

Govt. of Khyber Pakhtunkhwa through Senior Member Board of Revenue, KPK

..... RESPONDENTS

AFFIDAVIT

I, Ali Sher Khan, Additional Assistant Commissioner-I, Abbottabad do hereby solemnly affirm and declare that the contents of the accompanying parawise comments are true and correct to the best of my knowledge and belief.

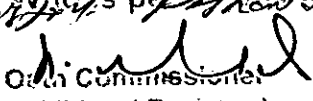
Identified by
Yr. N


DEPONENT


Sajid-ur-Rehman Khan
Assistant Advocate General
KPK (Abbottabad Bench)

AFFIDAVIT

S.No: 6405/790 Receipt No: 790
I have verified that the above was verified on Solemn
affirmation Attd. before me on this
19.09.2022 by
Ali Sher Khan Sr. Tehsil: Khe
R/O - Peshawar 12011
Who is personally known to me


Additional Registrar
(Additional Registrar)
Peshawar High Court Abbottabad Bench

19/09/22


ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
19/09/22

INITIAL REPORT.

Name of Police Station: A.C.E Abbottabad.

F.I.R. No. and date: (02) 07.08.2019.

Section of law: 161 PPC 5(2) PC Act.

Name of complainant: Ghulam Muhammad S/o Mir Sultan Khan Cost Tanoli
R/o Pand Sherwan District Abbottabad.


Place of occurrence: Office of Patwari Halqa Damtor.1 old Tehsil Building
Abbottabad.

Name of accused involved: Abdul Rauf, Patwari Halqa Damtor.1 Abbottabad.

The above mentioned complainant submitted a complaint to Circle Officer Police Station ACE Abbottabad that the above mentioned accused Patwari demanded the bribe of Rs: 15,000/= for registration of mutation. The complainant does not want to give the bribe for his legal work and wish to become a trap agent against the accused.

After lodging F.I.R a trap proceeding was conducted under the supervision of Judicial Magistrate and the tainted amount of Rs. 15,000/= was recovered from the personal search of the above mentioned accused and legal formalities were adopted. The accused was arrested red handed. The case is under investigation.

Further progress will be forwarded in due course of time.


Assistant Director Crimes,
Anti-Corruption Establishment,
Abbottabad.

No. 159-63 /ADC/ACE dated Abbottabad the 08/08/2019.

Copy of the above is forwarded for information to the:-

1. Worthy Director, A.C.E, Khyber Pakhtunkhwa Peshawar.
- ✓ 2. Deputy Commissioner, Abbottabad.
3. S.A, A.C.E, Khyber Pakhtunkhwa Peshawar.
4. Record Keeper, Directorate A.C.E, Peshawar.
5. Circle Officer, Police Station A.C.E Abbottabad.



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.



(7)

**OFFICE OF THE
DEPUTY COMMISSIONER
ABBOTTABAD**

No.1/2 / 5896-108/AE (Rev)

Dated 06 / 10 / 2021

**MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON
06.10.2021 AT 11.00 AM UNDER THE CHAIRMANSHIP OF DEPUTY COMMISSIONER
ABBOTTABAD**

A Meeting of Departmental Promotion Committee was held on 06.10.2021 at 11.00 AM under the Chairmanship of Deputy Commissioner, Abbottabad. The following attended:-

- | | |
|---|--------------|
| 1. Deputy Commissioner Abbottabad. | ... In chair |
| 2. Additional Deputy Commissioner Abbottabad. | ... Member |
| 3. Assistant to Commissioner (Poll/Dev), Hazara Division, Abbottabad
(Rep of Commissioner Hazara Division, Abbottabad) | ... Member |

1. PROMOTION OF PATWARIS (BPS-09) TO THE POST OF KANUNGO (BPS-11).

In the commencement of meeting, the forum was informed that against the sanctioned strength of 15 posts of Kanungos, 13 Kanungos are presently working whereas, 02 posts are lying vacant due to promotion of Mr. Gul Nawaz Khan and Tariq Mehmood Kanungos to the post of Naib Tehsildar on acting charge basis vide Board of Revenue, Revenue & Estate Department Peshawar order bearing No. Estt:V/DPC/Naib Tehsildar/2021/13321 dated 12.07.2021.

The method of promotion to the post of Kanungo as per Tehsildar, Naib Tehsildar, subordinate Revenue Service Rules 2008 as revised vide Notification No. 1942/Estt:I/135/SSRC dated 23.01.2015 by the Secretary to Government of Revenue & Estate Khyber Pakhtunkhwa Peshawar is as under.

“By promotion, on the basis of seniority-cum fitness, from amongst the Patwaris and Naib Office Kanungos of the district concerned with three years, service as such and who have passed the Departmental examination of Kanungo”

After examination of relevant record i.e Final Seniority list of Patwaris as stood on 31.12.2020 issued vide No.1572-75 dated 24.03.2021 alongwith list of penal of senior most Patwaris, who have passed their Kanungo Departmental Examination, the synopsis of ACRs alongwith original ACRs and certification to the affect that no departmental enquiry is pending against the concerned patwari, the DP&SC made the following decision/recommendation.

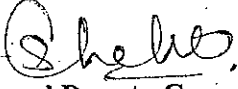
**PENAL OF SENIOR MOST PATWARIES FOR PROMOTION TO THE POST OF KANUNGO ON
ACTING CHARGE BASIS**

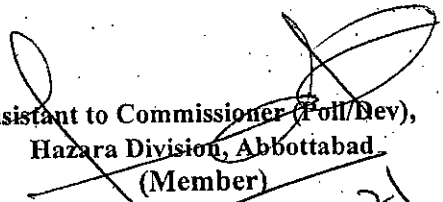
S.#	Name of Patwari	Recommendation.
1.	Abdul Rauf	His case was discussed in detail by the DPC and was deferred for promotion as Kanungo on acting charge basis for the time being due to registration of FIR against him bearing No. 02 dated 07/08/2019 u/s 161 PPC 5(2) PC Act PS ACE, Abbottabad, now the case is subjudice in the court.
2.	Ilyas Khan	He was considered and found fit for promotion as Kanungo (BPS-11) on acting charge basis with immediate effect.
3.	Syed Asad Ali Shah	His case was discussed in detail by the DPC and was deferred for promotion as Kanungo on acting charge basis as he has been promoted as Kanungo (BPS-11) in Settlement Operation Havelian. Now the official is posted as Naib Tehsildar Settlement (OPS) Havelian.


#	Name of Patwari	Recommendation.
4.	Adil Nawaz Khan	He was considered and found fit for promotion as Kanungo (BPS-11) on acting charge basis with immediate effect.
5.	Naheed Gul	His case was discussed in DPC and will be considered on occurrence of vacancy on his turn.

The DPC unanimously approved/recommended the case of promotion on acting charge basis in respect of Mr. Ilyas Khan Patwari mentioned at S.No.02 and Mr. Adil Nawaz Khan Patwari at S.No. 04 above to the post of Kanungo (BPS-11).

The meeting ended with a vote of thanks by the chair.


Additional Deputy Commissioner
 Abbottabad
 (Member)


Assistant to Commissioner (Poll/Dev),
 Hazara Division, Abbottabad
 (Member)


Deputy Commissioner
 Abbottabad
 (Chairman)

06/10/2021

Endst No. & Date Even:

Copy forwarded to the:-

1. Commissioner Hazara Division Abbottabad.
- ✓ 2. Additional Deputy Commissioner Abbottabad.
3. Assistant Commissioner Abbottabad.
4. Additional Assistant Commissioner (Rev) Abbottabad.


Deputy Commissioner
 Abbottabad



OFFICE OF THE
COMMISSIONER HAZARA DIVISION
ABBOTTABAD

No. CHD/Rev/10/2/ATD/ 17255-58
Dated 23/12/2021

ORDER
10/12/2021

The instant appeal pertains to Mr. Adbul Rauf, Patwari, Deputy Commissioner Office, Abbottabad currently serving in Orash Circle-II, Tehsil and District Abbottabad hereby referred to as appellant.

The appellant submitted that he was the senior most Patwari as per the seniority list issued by the office of Deputy Commissioner, Abbottabad vide letter No.1572-75 dated: 24/03/2021 and was considered for promotion on the principle of seniority-cum-fitness in the DPC meeting held on 06/10/2021 but was deferred due to pending adjudication in a criminal case lodged by Anti Establishment, Abbottabad and he prayed that the impugned notification be set aside as devoid of merit and fairplay.

The Deputy Commissioner, Abbottabad submitted that the appellant was in fact considered for promotion by the DPC in the said meeting and all members unanimously decided to defer his promotion as the charges were of serious nature and a criminal case registered. He further submitted that while deferring the promotion of the appellant the other so promoted was made on an acting charge basis and not on a Regular basis which did not affect the seniority of the appellant.

After going through the application, comments of the DC Abbottabad, record on file the appeal in hand is hereby rejected and promotion order dated 06/10/2021 is upheld with the direction that the Deputy Commissioner, Abbottabad to initiate departmental action against the official under relevant law/rules.

Announced.
10/12/2021

By Order
Commissioner Hazara Division
Abbottabad

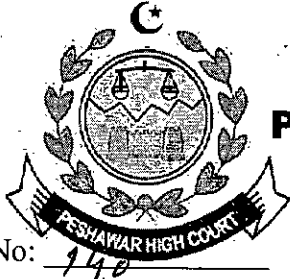
Endst: No. _____

Copy forwarded to the:

1. The Deputy Commissioner, Abbottabad necessary action, please.
2. District Comptroller of Accounts, Abbottabad.
3. PS to the Commissioner Hazara Division, Abbottabad.
4. Official Concerned.

(Dr. Adil Ayub)
Assistant to Commissioner (Rev/GA)
Hazara Division, Abbottabad

23.12.21



THE
PESHAWAR HIGH COURT
ABBOTTABAD BENCH.

PH: 0992-921058
FAX: 0992-921055

No: 140

Dated Abbottabad 14/3 /2022

From

The Additional Registrar,
Peshawar High Court,
Abbottabad Bench.

To

1. The Deputy Commissioner,
Abbottabad.

Subject: **WRIT PETITION NO. 194-A/2022.**

Abdur Rauf, Girdawar

Petitioner

VERSUS

Govt. of Khyber Pakhtunkhwa & others

Respondents

Memo,

Reproduce order of the Honourable Single Bench dated 08.03.2022 passed in the subject writ petition for compliance.

“Let comments from respondent No. 3 be called, so as to reach this Court within a fortnight. Adjourned”

(Copy of writ petition has already been sent by petitioner/ Counsel vide Registered Receipt dated 09.02.2022. The same has already been received by the Additional Advocate General, from where the same can be obtained.)

(Additional Registrar)

HCBA Reg No.

BC No.

Place of Practice ایبٹ آباد

Name of Advocate محمد رشید خان تانہی

P-39

23736

S. No.



وکالت نامہ

Peshawar High Court AFD Bench : بعدالت
 Abdul Rauf : نام : Govt of KPK
 writ : نوعیت مقدمہ : Petitioner
 Abdul Rauf : باعث تحریر آنگہ :

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام AFD کے لیے
 M. Arshad Ishaq Tanahi Advr HC AFD

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے
 مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی
 طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر مقام پشہری کے علاوہ کسی
 جگہ یا پشہری کے اوقات سے پہلے یا پشہری کے اوقات کے بعد یا پشہری کے اوقات کے بعد یا پشہری کے اوقات کے بعد یا پشہری کے اوقات کے بعد
 ہونے یا بروز تعطیل یا پشہری کے اوقات کے بعد یا پشہری کے اوقات کے بعد یا پشہری کے اوقات کے بعد یا پشہری کے اوقات کے بعد
 کے ادا کرنے یا مختانہ کے واپس کرانے کے لیے صاحب موصوف ذمہ دار نہ ہونگے۔ مجھ کو کل ساختہ پر دائرہ صاحب موصوف مثل کردہ ذات
 منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل وغیرہم درخواست پر دستخط
 و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور ڈگری کرانے اور ہر قسم کے بیان
 دینے اور اس پر تاشی و رضی نامہ جو فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جائے پشہری و نجات از پشہری صدر اپیل و
 برآمدگی مقدمہ یا منسوخی ڈگری یا کٹرفرڈ درخواست حکم امتناعی یا ترقی یا گر فاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب موصوف کو بشرط
 ادائیگی علیحدہ مختانہ پیروی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار حاصل ہوگا کہ مقدمہ مذکور یا اس کے کسی جزو کی
 کارروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے تاشی سے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں وہی اور ویسے اختیارات
 حاصل ہونگے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانب التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل
 صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی
 صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

مورخہ: 4 فروری 2022

دن مہینہ سال

محمد رشید خان تانہی

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted

M. Arshad Ishaq Tanahi
 Advr HC AFD

HCBA Reg No. 2 B 7 - A
 BC No. 10 - 1281
 Place of Practice لاہور
 Name of Advocate محمد عیسیٰ ریکورڈ

P-40



S. No. 23331

وکالت نامہ

بعدالت: Peshawar High Court AID Bench
 عنوان: Govt of Kpk etc
 منجانب: Petitioner
 نوعیت مقدمہ: writ
 باعث تحریر آنکھ: Abdul Rauf

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے بیرونی وجود ہی برائے پیشی یا تصفیہ مقدمہ بمقام ATD کے لیے

محمد عیسیٰ ریکورڈ صاحبی کوٹ ایس 10

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوئے گا نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا پر روز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوئے گا اور مقدمہ کچہری کے علاوہ کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات ملنے آنے کے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختانہ کے واپس کرنے میں صاحب موصوف ذمہ دار نہ ہوتے گا۔ مجھ کو کل ساختہ پر راجحہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل وغیراں کی ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور فراغ کرنے اور ہر قسم کے بیان دینے اور اس پر ثانی و راضی نامہ و فیصلہ بر حلف کرنے سے اقبال و عویٰ دینے کا بھی اختیار ہوگا اور بصورت جائے تہذیب و نجات از کچہری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری ایک طرف درخواست علم امتناعی یا ترقی یا اگر فوری قبل از گرفتاری و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ مختانہ بیرونی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار حاصل ہوگا کہ مقدمہ مذکور یا اس کے کسی جزوی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے جگہ سے ہٹا دے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہونگے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ ہر چیز پر جائے تہذیب و نجات سے گاہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

مورخہ: 2012-02-04

دن مہینہ سال

نوٹ: اس وکالت نامہ کی فوٹو کاپی نام قابل قبول ہوگی۔

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

(Handwritten signature)

HCBA Reg No.

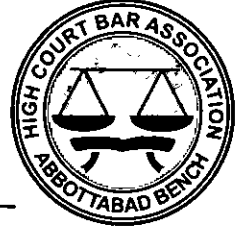
BC No.

Place of Practice اسٹیشن

Name of Advocate محمد اسد اللہ ریلوے

P-41

S. No. 23601



وکالت نامہ

بعدالت: Peshawar High Court ATD Bench

عنوان: Cont. of 10/10 etc نام: Abdul Rauf

منجانب: Petitioner نوعیت مقدمہ: Writ

باعث تحریر آنکہ: Abdul Rauf

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواہدی برائے پیشی یا تصفیہ مقدمہ بمقام اسٹیشن کے لیے

محمد اسد اللہ ریلوے کوٹہ اسٹیشن

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہو گئے۔ گنتی وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا پروز ٹیپنگ بیرونی کرنے کے ذمہ دار نہ ہو گئے اور مقدمہ کچہری کے علاوہ کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات ملنے کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختانہ کے واپس کرنے میں صاحب موصوف ذمہ دار نہ ہو گئے۔ مجھ کو کل ساختہ پر دائرہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور قائل کرنے اور ہر قسم کے بیان دینے اور اس پر ثانی و راضی نامہ و فیصلہ بر حلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے پیر و نجات از کچہری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری کی طرف درخواست حکم انتہائی یا ترقی یا گرفتاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا سنگی علیحدہ مختانہ پیروی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار حاصل ہوگا کہ مقدمہ مذکور یا اس کے کسی جزوی کارروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے بنانا ہے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہونگے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانب التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

مورخہ: 2022-10-15

دن مہینہ سال

محمد اسد اللہ ریلوے

لہذا وکالت نامہ لکھ دیا ہے کہ سندر ہے۔

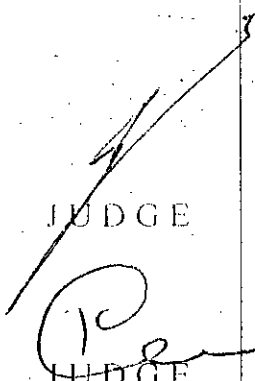
مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے۔

Accepted
[Signature]

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.**FORM OF ORDER SHEET**

Court of.....

Case No..... of.....

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
08.03.2022.	<p>WP No. 194-A/2022.</p> <p>Present: Mr. Muhammad Arshad Khan Tanoli, Advocate for petitioner.</p> <p style="text-align: center;">***</p> <p>Let parawise comments from respondent No. 3 be called for, so as to reach this Court within a fortnight.</p> <p>Adjourned.</p> <p style="text-align: right;">JUDGE  JUDGE</p>