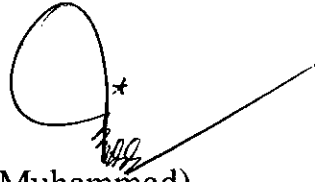


21.11.2022

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

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 13.12.2022 before the D.B.

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(Mian Muhammad)
Member (E)

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(Salah-Ud-Din)
Member (J)

15th June 2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Fahim Ullah, Section Officer, for the respondents present.

Respondents have submitted written reply/comments which are placed on file. To come up for arguments on 18.08.2022 before D.B.



(Kalim Arshad Khan)
Chairman

18. 8. 22

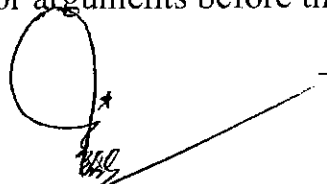
due to summer vacation the case is adjourned to 4. 11. 22 for the same.



04.11.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for official respondents No. 1 to 4 present

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 21.11.2022.



(Mian Muhammad)
Member (E)

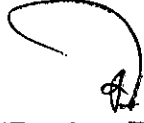
(Salah-ud-Din)
Member (J)

10.05.2022

Counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Faizan S.O for official respondents No.1 to 4 present. Counsel for private respondent No.5 present.

Representative of official respondents No.1 to 4 submitted reply/comments while counsel for private respondent No.5 requested for time to submit comments. Last chance is given. To come up for reply/comments on behalf of private respondent No.5 on 27.05.2022 before S.B.


(Rozina Rehman)
Member (J)

27.05.2022

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for official respondents No. 1 to 4 present. None present on behalf of private respondent No. 5.

Reply/parawise comments have already been submitted by respondents No. 1 to 4 whereas reply/parawise comments are awaited from respondent No. 5 whom last opportunity stands granted as per previous order sheet dated 10.05.202. Since general strike is being observed by the legal fraternity today, it is therefore appropriate to issue notice to private respondent No. 5 with the direction to ensure submission of written reply/parawise comments on or before next date. To come up for reply/parawise comments on 15.06.2022 before S.B.

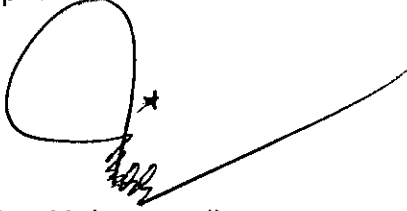

(Mian Muhammad)
Member (E)

Gohar Ali Khan

11.04.2022

Counsel for the appellant present.

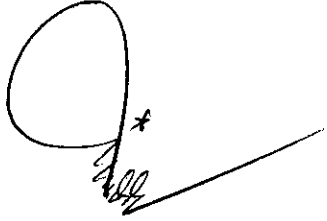
An application under Section-151 CPC requesting for correction in the order sheet dated 07.04.2022 submitted. Since the learned counsel for the appellant was heard when he presented the service appeal at the stage of preliminary hearing. Consequent upon order sheet dated 07.04.2022, notices have already been issued to the respondents, it therefore, deems prudent to send the instant application to the respondents as well for reply/parawise comments.


(Mian Muhammad)
Member(E)

25.04.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Written reply/comments not submitted. Learned AAG seeks time to contact the respondents for submission of written reply/comments. To come up for written reply/comments on main appeal as well as on application on 10.05.2022 before S.B. The impugned transfer order dated 23.12.2021 ^{shall remain} ~~is~~ suspended, if not already acted upon, till the date fixed.


(MIAN MUHAMMAD)
MEMBER(E)

07.04.2022

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant while arguing the case contended that the appellant is aggrieved of the impugned order dated 23.12.2021 whereby his services were placed at the disposal of Directorate of Elementary and Secondary Education and private respondent No.5 was posted against his position despite the fact that private respondent No.5 is an officer of management cadre in BS-19. There are only two posts of BS-20 in the respondent-department and as per seniority list circulated vide notification dated 17.06.2019, the appellant stands at serial No.2. In presence of the officer in BS-20 in the management cadre, posting of a junior officer (BS-19) against a BS-20 post in own pay scale is against the law and judgements of the superior courts. In support of his arguments he relied on 2014 SCMR 1189 and 2018 SCMR 1411. According to the spirit of these judgements the practice of appointment on OPS basis did not have any sanction of law and such postings/transfers are not legally permissible. In addition to the aforesaid judgement, attention of the Bench was drawn towards instructions of former S&GAD circulated on dated 20.08.1979 and which appears at page-73 of the Provincial Esta Code. The appellant preferred review petition against the impugned order to the Chief Minister, Khyber Pakhtunkhwa on 24.12.2021 but the same was not responded, hence, the instant service appeal was instituted in the Service Tribunal on 24.02.2022.

The 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 respondents for submission of reply/comments. To come up for reply/comments on 25.04.2022 before S.B.

Application for suspension of impugned order dated 23.12.2021 has also been submitted with memo of service appeal which is also served on the respondents for submission of their reply. The impugned transfer order dated 23.12.2021 is suspended, if not already acted upon, till the date fixed


(Mian Muhammad)
Member(E)


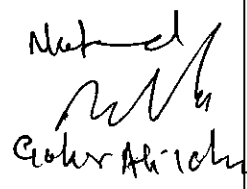
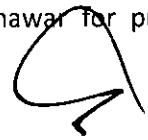
Rs-700/-
Appellant Deposited
Security & Process Fee
A. J. 7/4/22

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 311 /2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/03/2022	<p>The appeal of Mr. Gohar Ali Khan resubmitted today by Mr. M. Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	<p style="text-align: center;"> Gohar Ali Khan</p>	<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>7-4-2022</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>