

~~CONFIDENTIAL~~

~~To come up for written reply/comments on 05.08.2007~~  
~~request submission of written reply/comments. Attention~~  
~~of the respondents should be issued to the~~  
~~respondents. Additional Advocate General present to give~~  
~~into to court for the appeal. Mr. K. S. J.~~


~~CONFIDENTIAL~~

14.05.2020

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant was appointed as Naib Qasid (BPS-1) in the respondent-department. Learned counsel for the appellant argued that name of appellant being matriculate has not been included in the combined seniority list maintained by the Administration Department while some of his colleagues were promoted to the post of Junior Clerk having the same qualification. He filed writ petition no. 789-P/2016 in Peshawar High Court, Peshawar for directing the respondents to correct their seniority position in the seniority list but the same was dismissed on the ground of jurisdiction. Thereafter, he filed departmental appeal on 07.12.2019 which was not responded within the stipulated period, hence the present service appeal on 19.03.2020. Learned counsel for the appellant further argued that the appellant has not been treated according to law and rules.

A question was raised by the Single Member Bench that in office order of Administration Department dated 19.02.2009, (Annex-B) one Mr. Hazratullah, Daftari was transferred from Governor's House to Industries Department i.e who was he? Was he an employee of the Governor House or Provincial Government (Administration Department)? The learned counsel for the appellant replied that he was an employee of Governor's House and that office order has been placed/included as evidence in support of his argument. On another question, it was argued that all such Class-IV employees of other departments with matriculation are included in the combined seniority list of Administration Department for the purpose of their promotion as Junior Clerk.

Points urged need consideration. Service appeal is admitted subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 22.06.2020 before S.B.

  
Security & Process Fee

  
(MAIN MUHAMMAD)  
MEMBER

22.06.2020

Junior to counsel for the appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General on behalf of respondents present and requested for adjournment in order to submit reply on the next date. Opportunity is granted. To come up for written reply/comments on 05.08.2020 before S.B.

  
(Rozina Rehman)  
Member (J)

05.08.2020

Junior counsel for appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Zar Muhammad, Assistant are also present.

Representative of the department requested for time to furnish written reply/comments. Time is granted. File to come up for written reply/comments on 29.09.2020 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER

29.09.2020

Junior to counsel for the appellant and Addl. AG present. No representative of the respondents is available.

Learned AAG is required to contact the respondents and submit written reply/comments on 19.11.2020 as a last chance.

  
Chairman

19.11.2020

Junior to counsel for the appellant and Addl; AG for respondents present.

Respondents have not furnished reply, despite last chance. The appeal is posted to D.B for arguments on 10.02.2021.

  
Chairman

10.02.2021

Due to COVID-19, the case is adjourned for the same on 28.04.2021 before D.B.

  
**READER**

28.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 24.08.2021 for the same as before.


  
Reader

24.08 .2021

Mr. Hazrat Said Khan, Advocate for the appellant present.  
Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Copy of the reply handed over to the learned counsel for the appellant who's sought time for submission of rejoinder. Adjourned. To come up for submission of rejoinder as well as argument before the D.B on ~~21.10~~ 2021.

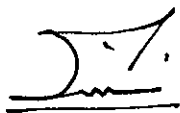
  
(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

21.10.2021

Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Mukarram Khan, S.O (Litigation-I) for the respondents present.

Since other cases of similar nature have been fixed for 28.10.2021, this appeal is also adjourned to same date. Case to come up on 28.10.2021 for arguments before the D.B.

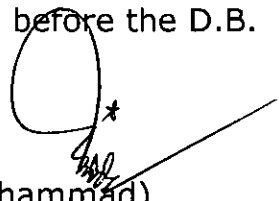
  
(Salah-ud-Din)  
Member(J)


  
Chairman

28.10.2021

Learned counsel for the appellant present. Mr. Mukarram Khan, Section Officer, Mr. Sultan Shah, Superintendent and Mr. Hazratullah, Assistant alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.


Since other cases of similar nature have been adjourned for 28.01.2022, therefore, the appeal in hand is also adjourned for the said date. Adjourned. To come up for arguments on 28.01.2022 before the D.B.

  
(Mian Muhammad)  
Member (E)

  
(Salah-Ud-Din)  
Member (J)

28.01.2022

Learned counsel for the appellant present. Mr. Sultan Shah, Superintendent alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present and stated that similar nature Service Appeals bearing No.146/2019 & 147/2019 have been adjourned for 01.03.2022, therefore, the appeal in hand may also be adjourned for the said date. Adjourned. To come up for arguments on 01.03.2022 before the D.B.

  
(Rozina Rehman)  
Member (J)

  
(Salah-ud-Din)  
Member (J)

1-3-22

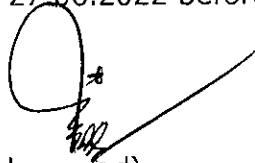
*Due to Retirement of the Hon.ble Chairman  
The case is adjourned to come up for the  
same as before on 3-6-22*

*Younis  
Rahman*

03.06.2022

Junior of learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant stated that similar nature Service Appeal bearing No. 7302/2021 titled "Hamayun Zia Versus Government of Khyber Pakhtunkhwa", is fixed for arguments on 27.06.2022, therefore, the appeal in hand may also be fixed on the said date. Adjourned. To come up for arguments on 27.06.2022 before the D.B.



(Mian Muhammad)  
Member (E)



(Salah-ud-Din)  
Member (J)

27.06.2022

Learned counsel for the appellant present. Mr. Sultan Shah, Section Officer (Litigation) alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant stated that similar nature Service Appeal bearing No. 7302/2021 titled "Hamayun Zia Versus Government of Khyber Pakhtunkhwa etc, has been adjourned for arguments on 09.08.2022, therefore, the appeal in hand may also be adjourned for the said date. Adjourned. To come up for arguments on 09.08.2022 before the D.B.



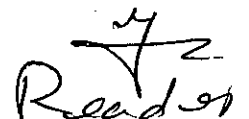
(Rozina Rehman)  
Member (J)



(Salah-ud-Din)  
Member (J)

9-8-2022


Due to the Public holiday the case is adjourned to 22-11-2022


  
Reader

22<sup>nd</sup> Nov, 2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt: AG for respondents present.

Learned counsel for the appellant has at the very outset stated that Secretary to Government of Khyber Pakhtunkhwa Administration Department is necessary part in view of para-3 and 4 of the reply submitted by the respondents, therefore, in order to avoid any complication in future, he intends to array Secretary to Government of Khyber Pakhtunkhwa Administration Department as respondent. Learned AAG did not controvert the situation. Request is allowed. The appellant is directed to file amended memo of appeal. Adjourned to 20.01.2023 for arguments before D.B.

  
(Fareeha Paul)  
Member(Executive)

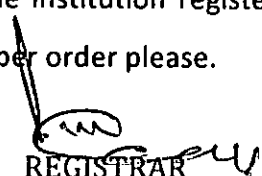
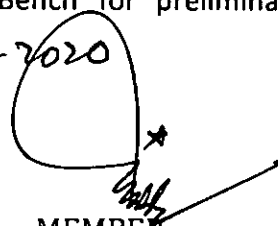
  
(Kalim Arshad Khan)  
Chairman



Form- A  
FORM OF ORDER SHEET

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

Case No. 3939 /2020

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19.03.2020	<p>The present appeal submitted today by Mr. Hazrat Said Khan Advocate, may be entered in the institution register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>14-05-2020</u></p> <p style="text-align: right;"> MEMBER</p>
2		