

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.

Service Appeal No 1184/2019

Syed Musaddiq Shah.....**Appellant.**

VERSUS

Govt. & Others.....**Respondents**

COMMENTS ON BEHALF OF RESPONDENT NO 4

Respectfully Submitted:-

PARAWISE COMMENTS ON FACTS

1. Para No 1 pertains to the service record of the appellant.
2. Para No 2 relates to official respondents.
3. Para No 3 relates to official respondents.
4. Para under reply pertains to record.
5. Para under reply relates to record however directions were issued to the Secretary Administration department Govt. of KPK.
6. Para under reply to record however no prayer regarding the appellate order has been made, further the appellant requested vide departmental appeal dated 28-05-2019 for including his name in the Seniority list maintained by the establishment department for the employees of administration department. Even departmental appeal dated 25-07-2019 depicts that no prayer for seniority with respect to respondent No 4 has been made in the same.
7. As stated above.
8. Needs no reply.

REPLY TO GROUNDS:

- A. Para pertains to the official respondents.
- B. Para under reply needs no reply.
- C. Para under reply is denied to the extent that no relief with respect to respondent No 4 has been sought further submitted that the replying respondent made arrival prior to the appellant.

- D. Para is correct that there is no channel of promotion for the appellant as well as for the replying respondent.
- E. Para under reply is correct.
- F. Para under reply pertains to record.
- G. As explained above.
- H. Appellant as well as replying respondent needs to be placed in the joint seniority list of establishment department so that they may have channels of promotion.
- I. As stated in preceding para.
- J. Detail reply has been given above.
- K. The replying respondent seeks leave of this honorable tribunal for additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be dismissed to the extent of being senior than the appellant.



Dated 29-07-2020

Respondent No 4

Through



**Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan.**

AFFIDAVIT

I, Raza Muhammad, Junior Clerk, Khyber Pakhtunkhwa House Islamabad, do hereby solemnly affirm and declare on oath that the contents of accompanying **Reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

ATTESTED



DEPONENT

the KP Service Tribunal, Peshawar

Appeal No: 1184/19

ESTAB

VS

Musadiq Shah

Subject: Application for adjournment in above mentioned Appeal

Respectfully sheweth:

That the above mentioned Appeal is pending before this tribunal & fixed for Arguments today.

That due to some emergency / domestic problem counsel for the appellant ^{previously} ~~was~~ to city Mianwali Province ^{was} ~~is~~ unable to attend the court's.

It is therefore requested on acceptance of this application, the appeal may be adjourned to some other date.

Appellant

through

~~your~~
counsel
Syed Noman Ali Bukhari

Date 14-10-20

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

EXECUTION PETITION NO. 356/2021

Mr. Musadiq Shah, Jr. Clerk.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary & OthersRespondents

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EXECUTION PETITION NO. 356/2021

Mr. Mussadiq Shah, Junior Clerk, Estate Office, Administration Department; Peshawar
..... (Appellant)

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa Peshawar
 2. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar
 3. Secretary to Government of Khyber Pakhtunkhwa, Administration Department, Peshawar
 4. Raza Muhammad, Junior Clerk, Pakhtunkhwa House, Islamabad.....
-(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1-3.

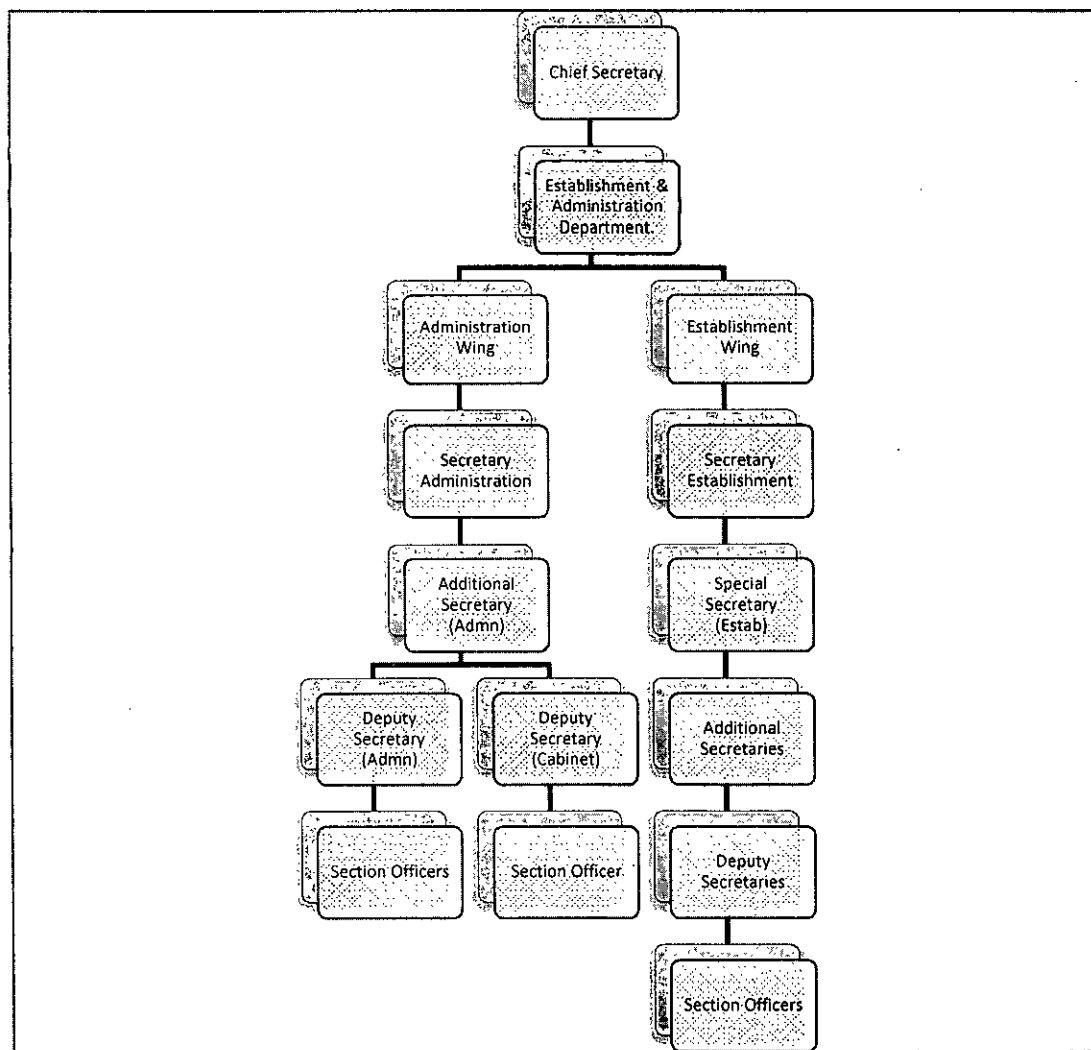
Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the Appellant has got no cause of action and locus standi to file the instant Appeal.
2. That the Appeal is not maintainable in the present form. As such this Honorable Tribunal has no jurisdiction to entertain the instant appeal.
3. That the Appeal is not based on facts.
4. That the Appellant has not come to the Tribunal with clean hands.
5. That the Appeal is bad for non-joinder of necessary parties.
6. That the Appellant has concealed material facts from this Hon'ble Tribunal
7. That the Appellant is estopped by his own conduct.

ON FACTS:

1. Correct to the extent that Appellant was appointed by Administration Wing of Establishment & Administration Department as Junior Clerk on 11-08-2008 in Pakhtunkhwa House [erstwhile Frontier House] Islamabad. To give a clear picture about the setup of Establishment & Administration Department, it is essential to note that as per *Khyber Pakhtunkhwa Rules of Business, 1985*, "Establishment & Administration Department" is a single Administrative Department of Civil Secretariat, Peshawar, but operationally it comprises of two wings / parts i.e *Administration Wing & Establishment Wing*. Each wing is separately headed by an Administrative Secretary as per brief sketch given hereunder. However, it is quite relevant to add here that due to their distinct operational setup, *Administration Wing* and *Establishment Wing* are sometimes also referred to / called as "Administration Department" and "Establishment Department", respectively.



2. **Incorrect.** The Appellant has already been treated under Sub-Section 8(2) of the Terms & conditions of Seniority, specified in Khyber Pakhtunkhwa Civil Servants Act, 1973, which clearly says that seniority of a Civil Servant shall be reckoned in relation to other Civil Servants belonging to the same service or cadre while the Appellant is appointed as *Household Employee* under Rule-10 (2) of the Khyber Pakhtunkhwa (Appointment, Promotion & Transfer) Rules, 1989 against the post of Junior Clerk, exclusively for a particular entity i.e. for the Houses, without observing some parts of the criteria, required for filling the post of Junior Clerk such as Zonal Quota + Advertisement in two newspapers etc. Therefore, seniority of the Appellant will be maintained along with other employees of the House in Administration Wing of E&A Department being their parent entity but not in Establishment part of E&A Department.
3. **Incorrect.** The Seniority List of Junior Clerks referred to by the Appellant has been circulated by the Establishment Wing of E&A Department who has been promoted as Senior Clerks on the strength of that wing. But the Appellant is a Household Employee of Administration Wing of E&A Department. Hence, he has no rights over that seniority.
4. **Incorrect.** The request of the Appellant for inclusion of his name in the Seniority List was processed and regretted being not covered under the Rules, with advice to

Administration Wing of E&A Department to find out a way for further career progression of the Household Staff.

5. Correct to the extent that vide judgment dated 29-03-2019 in Service Appeal No. 597/2016 (**Annex-I**), the Khyber Pakhtunkhwa Service Tribunal had allowed earlier Appeal of the Appellant to the extent that he(the Appellant) being a Civil Servant is entitled to a place in seniority to be caused by Respondent No.3 i.e. Secretary Administration (the head of Administration Wing of E&A Department) and not Secretary Establishment (the head of Establishment Wing of E&A Department). The needful in this regard has already been done by Administration Wing of E&A Department.
6. Correct to the extent that in pursuance of judgment dated 29-03-2019 of the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 597/2016 (**Annex-I**), the tentative seniority list of the appellant and Respondent No.4 (Raza Muhammad, Junior Clerk BS-11) was duly circulated by Administration Wing of E&A Department vide letter dated 15-05-2019 (**Annex-II**). However, Secretary Administration (the head of Administration Wing of E&A Department) has no authority or role whatsoever to include or to advise to include the appellant in seniority list of Junior Clerks dealt with by Secretary Establishment (the head of Establishment Wing of E&A Department, Civil Secretariat)
7. **Incorrect as laid.** As per available record, the Appellant submitted an application / objection on 28-06-2019 (**Annex-III**) with reference to tentative seniority list dated 15-05-2019 whereby he sought that like other household employees his name may also be included in the seniority list maintained by Establishment Wing of E&A Department. However, he did not point out or established any flaw / fault in the seniority list of Administration Wing of E&A Department. In fact, he chiefly desired seeing his name in seniority list maintained by Establishment Wing of E&A Department. Hence, the seniority list of Administration Wing of E&A Department stood final on 27-06-2019 (**Annex-IV**). The Appellant was duly informed of outcome of his application vide letter dated 28-06-2019 (**Annex-V**).
8. Pertains to record.

ON GROUNDS:

- A. **Incorrect as laid.** It was in pursuance of judgment dated 29-03-2019 of the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 597/2016 (**Annex-I**) that a tentative seniority list comprising the Appellant and Respondent No.4 (Raza Muhammad, Junior Clerk BS-11) was duly circulated vide letter dated 15-05-2019 (**Annex-II**). In this regard, the Appellant submitted an application / objection on 28-06-2019 (**Annex-III**) whereby he sought that like other household employees his name may also be included in the seniority list maintained by Establishment Wing of E&A Department. He did not point out or establish any flaw / fault in the seniority list

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of Administration Wing of E&A Department. In fact, he chiefly desired seeing his name in seniority list maintained by Establishment Wing of E&A Department. Hence, the seniority list of Administration Wing of E&A Department stood final. The Appellant was duly informed of outcome of his application vide letter dated 28-06-2019 (**Annex-IV**). However, Secretary Administration (the head of Administration Wing of E&A Department) has no authority or role whatsoever to include or to advise to include the appellant in seniority list of Junior Clerks dealt with by Secretary Establishment (the head of Establishment Wing of E&A Department, Civil Secretariat).

B. Correct to the extent that the appellant is a Household Employee of Administration Wing of E&A Department.

C. **Incorrect as laid.** It was in pursuance of Judgment dated 29-03-2019 of the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 597/2016 (**Annex-I**) that a tentative seniority list comprising the appellant and Respondent No.4 (Raza Muhammad, Junior Clerk BS-11) was duly circulated by Administration Wing of E&A Department vide letter dated 15-05-2019 (**Annex-II**). In this regard, the Appellant submitted an application / objection on 28-06-2019 (**Annex-III**) whereby he sought that like other Household Employees his name may also be included in the seniority list maintained by Establishment Wing of E&A Department. He did not point out or established any flaw / fault in the seniority list of Administration Wing of E&A Department. In fact, he chiefly desired seeing his name in seniority list maintained by Establishment Wing of E&A Department. Hence, the seniority list issued by the Administration Wing of E&A Department stood final. The appellant was duly informed of outcome of his application by Administration Wing of E&A Department vide its letter dated 28-06-2019. However, Respondent No.3 i.e. Secretary Administration (the head of Administration Wing of E&A Department) has no authority or role whatsoever to include or to advise to include the appellant in seniority list of Junior Clerks dealt with by Secretary Establishment (the head of Establishment Wing of E&A Department, Civil Secretariat). Moreover, as per record, age-wise the appellant is older than Respondent No.4 (Raza Muhammad, Junior Clerk) but service-wise the former cannot be treated as senior to the latter because he (the former) had submitted arrival report on 15-08-2019 while the latter on 12-08-2019. As per rules, seniority of an employee is usually considered from date-of-entry into service i.e. arrival report. However, age-factor is taken into consideration where date of entry into service i.e. arrival report of two or more employees is the same. It is worth mentioning here that Respondent No.3 i.e. Secretary Administration (the head of Administration Wing of E&A Department) has no authority or role whatsoever to include or to advise to include the appellant in seniority list of Junior Clerks dealt with by Secretary Establishment (the head of Establishment Wing of E&A Department Civil Secretariat).

6

D. **Incorrect as laid.** It was in pursuance of judgment dated 29-03-2019 of the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 597/2016 (**Annex-I**) that a tentative seniority list comprising the Appellant and Respondent No.4 (Raza Muhammad, Junior Clerk BS-11) was duly circulated vide Administration Wing of E&A Department letter dated 15-05-2019 (**Annex-II**). Moreover, at present there is no room for creating higher posts in household cadre. However, a case of creating a service structure for household employees is under process in Administration Wing of E&A Department. A Committee has also been notified for the purpose. However, Respondent No.3 (the head of Administration Wing of E&A Department) has no authority or role whatsoever to include or to advise to include the Appellant in seniority list of Junior Clerks dealt with by Secretary Establishment (the head of Establishment Wing of E&A Department, Civil Secretariat). It is also added here that the case pertaining to instant execution petition was placed before the Scrutiny Committee for consideration in its meeting held on 17-11-2021 wherein the case was found fit for CPLA after threadbare discussion and resultantly, CPLA has also been filed herein.

E. As in Para-D above.

F. As in Para-D above.

G. As in Para-D above.

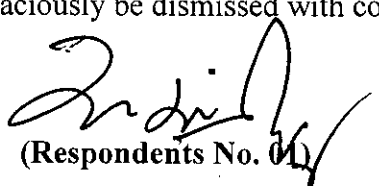
H. No discrimination whatsoever has been made as the Appellant is basically a Household Employee on the strength of Administration Wing of E&A Department. The Junior Clerks promoted as Senior Clerk in Civil Secretariat, having their own seniority list, are on the strength of Establishment Wing of E&A Department, Civil Secretariat.

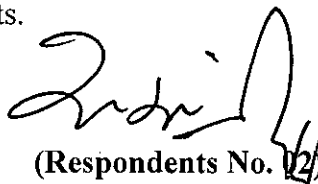
I. The Appellant is a Household Employee of Administration Wing of E&A Department i.e. alien to main cadre of Junior Clerks at the strength of Establishment Wing of E&A Department. His seniority along with other similarly placed staff of the Houses will be maintained by Administration Wing of E&A Department instead of Establishment Wing of E&A Department

J. The Appellant has been treated as per law & rules.

K. The respondents seek permission to raise additional grounds at the time of arguments.

It is, therefore, most humbly prayed that the instant Appeal being devoid of merit may graciously be dismissed with costs.


(Respondents No. 01)


(Respondents No. 02)


(Respondents No. 03)

(15) 7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 597/2016

Date of Institution 07.06.2016

Date of Decision 29.03.2019

Mr. Musaddiq Shah, Junior Clerk, Estate Office, Administration
Department, Peshawar. (Appellant)

VERSUS

The Chief Secretary, Khyber-Pakhtunkhwa Peshawar and two others.
.... (Respondents)

Present.

Mr. Muhammad Asif Yousafzai,
Advocate. For appellant

Mr. Muhammad Jan,
Deputy District Attorney For respondents.


MR. HAMID FAROOQ DURRANI,
MR. AHMAD HASSAN

CHAIRMAN
MEMBER

ATTESTED

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-


CHAIRMAN
Khyber-Pakhtunkhwa
Service Tribunal,
Peshawar.

1. The appellant is essentially aggrieved from inaction on the part of the respondents regarding inclusion of his name in the seniority list of Junior Clerks of Administration Department. He has further prayed for promotion to the post of Senior Clerk w.e.f. 12.02.2014 or from the date when his juniors were promoted with all back and consequential benefits.

2. It is stated in the memorandum of appeal that the appellant was appointed as Junior Clerk in Frontier House Islamabad by the Administration Department on 11.08.2008. His appointment order reflected that the appellant shall be governed by N.W.F.P (now Khyber Pakhtunkhwa) Civil Servants Act, 1973 and all other laws applicable to the civil servants including the rules made for the purpose. Despite, his name was not included in the seniority list of the Junior Clerks. The appellant submitted an application for the purpose but the Administration Department did not take any action on the application. The department circulated seniority list of Senior Clerks on 03.02.2016 through which the appellant came to know about the promotion of 83 Junior Clerks to the post of Senior Clerk who happened to be junior to the appellant. The appellant was deprived of his legal right of promotion only because of non-inclusion of his name in the seniority list of Junior Clerks. He submitted departmental appeal on 09.02.2016 which was not responded to, hence the appeal in hand.

3. At the time of hearing of the appeal, learned DDA referred to the tentative seniority list of Senior Clerks dated 03.02.2016 and contended that the same was issued by Government of Khyber Pakhtunkhwa Establishment Department (Establishment Wing). On the other hand, the appellant was appointed as a Junior Clerk against a post exclusively for the Houses without observing any criteria such as zone quota, advertisement in two newspapers etc. Owing to the said reasons the seniority of the appellant was

to be maintained alongwith other employees of the Houses in Administration Department being his parent department and not by the Establishment Department. He also referred to the reply of respondents submitted in respect of appeal in hand and contended that in view of reply to Ground-C of the appeal the appellant was not entitled to claim seniority and absorption in the cadre of Junior Clerks of Civil Secretariat (Establishment Department).

4. We have considered the contentions on behalf of the parties to the appeal and find from the record that the right of appellant to be included in the seniority list of his respective cadre has not been denied by the respondents. Furthermore it has been stated in the joint reply by the respondents that the relevant seniority list will be maintained and notified by the Administration Department being his parent department.

5. The record is suggestive of the fact that a joint reply by respondents including the Secretary Administration Department, Khyber Pakhtunkhwa was submitted on 22.09.2016, however, the requisite seniority list has not been settled as yet. In the circumstances, the appellant is a civil servant and is entitled to a place in the seniority list to be drawn by the concerned department in accordance with law and rules. The appeal in hand is, therefore, allowed to the said extent. The respondent No. 3 shall cause the preparation of requisite seniority list of appellant and others within a period of ninety days, if not already done so. Needless to note that the appellant

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shall be at liberty to pursue legal remedy for his grievance arising out of the entries in the seniority list through appropriate proceedings.

Parties are left to bear their respective costs. File be consigned to the record room.


(AHMAD HASSAN)
MEMBER


(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
29.03.2019

Certificate of Seniority

Date: 29/03/2019

Name	09-04-18
Roll No.	2000
Grade	12-00
Post	2-0
Pay Band	14-00
Name	09-04-18
Roll No.	09-04-18
Grade	09-04-18
Post	
Pay Band	



GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

NO: E&A(AD)2(591)2008
Dated Peshawar the 15-05-2019

To

1. Raza Muhammad (Junior Clerk),
s/o Janas Khan,
Khyber Pakhtunkhwa House Islamabad.
2. Syed Musadiq Shah (Junior Clerk),
s/o Haji Syed Phool Badshah,
Estate Office.

Subject: - TENTATIVE SENIORITY LIST OF JUNIOR CLERK OF HOUSE HOLD STAFF AS STOOD ON 15-05-2019.

I am directed to refer to the captioned subject and to enclose copies of tentative seniority lists of Junior Clerk of House Hold Staff as it stood on 15-05-2019 alongwith certificate proforma with the request that certificate may be returned to this Department duly signed, indicating error / omission, if any, for the purpose of rectification alongwith attested supporting documents upto 15-06-2019. In case of receipt of no response by the due date, it would be considered that particulars have been accepted as correct.

SECTION OFFICER (ADMN)
15/5/19

Encl: As above.

ENDST: NO & DATE EVEN

- Copy is forwarded to:-
1. Registrar, Khyber Pakhtunkhwa Service Tribunal with reference to Judgment dated 29-03-2019 in Service Appeal No. 579/2016 Musadaq Shah VS Government of Khyber Pakhtunkhwa.
 2. Section Officer (Lit-I), Establishment Department with reference to Judgment dated 29-03-2019 in Service Appeal No. 579/2016 Musadaq Shah VS Government of Khyber Pakhtunkhwa

Asst. Secy
20/5/19

SECTION OFFICER (ADMN)
15/5/19

TENTATIVE SENIORITY LIST OF JUNIOR CLERK OF HOUSE HOLD STAFF AS STOOD ON: 15-05-2019

S.No	Name of the official	Designation	Academic Qualification	Date of Birth	Date of Entry into Govt. Service	Date of Joining Sect. Service	Domicile	Department	Date of Retirement
1	Raza Muhammad s/o Janas Khan	Junior Clerk	M.A	03-02-1979	12-08-2008	12-08-2008	Charsadda	K.P.K.H. Islamabad	02-02-2039
2	Syed Musadiq Shah s/o Haji Syed Phool Badshah	Junior Clerk	F.A	23-05-1973	15-08-2008	15-08-2008	Peshawar	Estate Office. Administration Deptt.	22-05-2033

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To,

PA.DS (Administration Deptt:)

Dairy No. 1854 Dated 30.05.19

The Secretary Administration, Govt. Of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

S.O. (Admin:) Administration Deptt:

Diary No. 2038

Date 30.5.19

Subject: Objection on Tentative Seniority List of house hold staff as stood on 15.05.2019.

PS.Secy: Administration Deptt:

Diary No. 2270 Date 23-5-19

Respected Sir,

Most profoundly it is submitted:

1. That I was appointed as Junior Clerk in Frontier House, Islamabad by the Administration Department vide order dated 11.08.2008 because all the house-hold staff are in Khyber Pakhtunkhwa are under full command and control of Administration Department.
2. That as many employees of the household staff were included in the seniority list of the Secretariat by Establishment Department but the name of the appellatant was not reflected in those seniority list due to which employees junior to me were promoted and I was ignored all together.
3. That for the redressal of grievances I filed Service Appeal No. 597/2016 in KPK Service Tribunal Peshawar which was finally decided on 29.03.2019 wherein KPK Service Tribunal held that "the record is suggestive of the fact that a joint reply by respondents including the Secretary Administration Department, Khyber Pakhtunkhwa was submitted on 22.09.2016, however, the requisite seniority list has not been settled as yet. In the circumstances, the appellatant is a civil servant and is entitled to a place in the seniority list to be drawn by the concerned department in accordance with law and rules. The appeal in hand is, therefore, allowed to the said extent. The respondent No. 3 shall cause the preparation of requisite seniority list of appellatant and others within a period of ninety days, if not already done so. Needless to note that the appellatant shall be at liberty to pursue

PS to Adml Secy: Admin Deptt:
Diary No. 1026 Dated 29-5-19

frms

SO(A)

Supervisor

DSA

30/5
SECY(ADMIN)

Admin

92
23/5

PA

20

30/5/19

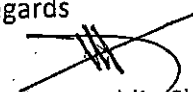
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legal remedy for his grievance arising out of the entries in the seniority list through appropriate proceedings."

4. That presently Tentative Seniority List has been issued which is against the law because all the other employees are under the control of Administration department has been included in the joint seniority list issued by the Establishment department while other employees of the household staff were also included except me. So as the case with a present seniority list where I was totally excluded / shunt out of the Administration department. (Copy Enclosed)

Thus once again the law governing the seniority has been violated. Therefore, it is requested that seniority list dated 15.05.2019 may kindly be corrected by including my name maintained by establishment department for the employees of Administration Department.

Regards


Syed Musaddiq Shah
Junior Clerk, Estate Office

Dated: 28th May, 2019



GC

GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

Dated Peshawar, the

27-06-2019

NOTIFICATION

NO.E&A(AD)04(17)2019:- In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the seniority list of **Junior Clerk (BS-11)** of House Hold Staff, as stood on 27-06-2019 is hereby notified/circulated for general information.

FINAL SENIORITY LIST OF JUNIOR CLERK OF HOUSE HOLD STAFF AS STOOD ON 27-06-2019

S.No	Name of the official	Designation	Academic Qualification	Date of Birth	Date of 1st Entry into Govt. Service	Date of Joining Sect. Service	Domicile	Department	Date of Retirement	Remarks
1	Raza Muhammad s/o Janas Khan	Junior Clerk	M.A	03-02-1979	12-08-2008	12-08-2008	Charsadda	K.P.K.H.Islamabad	02-02-2039	
2	Syed Musadiq Shah s/o Haji Syed Phool Badshah	Junior Clerk	F.A	23-05-1973	15-08-2008	15-08-2008	Peshawar	Estate Office, Administration Deptt.	22-05-2033	

- 1 None of the official is involved in any departmental proceeding, Anti-corruption case and Judicial enquiry etc.
- 2 Hold the post on regular basis.
- 3 Have not been awarded any penalty.
- 4 Their seniority position if final, undisputed and notified.

Endst: No. E&A(AD)04(17)2015

Copy forward to:-

- 1 The Comptroller Khyber Pakhtunkhwa House, Islamabad.
- 2 Estate Office, Administration Department.
- 3 PS to Secretary (Admn), Administration Department
- 4 PA to Deputy Secretary (Admn), Administration Department.

SECTION OFFICER (ADMN) 1/7/19
SECTION OFFICER (ADMN) 1/7/19



GOVERNMENT OF KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT

NO: E&A(AD)2(591)2008
Dated Peshawar the 28-06-2019

To

1. Raza Muhammad (Junior Clerk),
s/o Janas Khan,
Khyber Pakhtunkhwa House Islamabad.
2. Syed Musadiq Shah (Junior Clerk),
s/o Haji Syed Phool Badshah,
Estate Office.

Subject: - COMPLIANCE OF ORDERS OF KPK SERVICE TRIBUNAL,
PESHAWAR IN APPEAL NO. 597/2016 TITLED "MUSADDIQ SHAH
VS GOVT OF KPK"

I am directed to refer to your applications / objection dated 28-5-2019 and 13-06-2019 respectively on the subject noted above and to inform that in pursuance of judgment of Service Tribunal dated 29-03-2019 in Service Appeal No. 597/2016 Establishment Department had refused to include you in seniority list of Junior Clerks maintained by that Department. However, Administration Department in pursuance of Judgment ibid, caused a seniority list of its household Junior Clerks (including you). Hence the said judgment of KP Service Tribunal is fully satisfied.

I am therefore, directed to inform that Administration Department regrets its inability to accede to your request being devoid of merit / rules.

Encl: As above.

ENDST: NO & DATE EVEN

Copy is forwarded to:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal with reference to Judgment dated 29-03-2019 in Service Appeal No. 579/2016 Musadaq Shah VS Government of Khyber Pakhtunkhwa.
2. Section Officer (Lit-I), Establishment Department with reference to Judgment dated 29-03-2019 in Service Appeal No. 579/2016 Musadaq Shah VS Government of Khyber Pakhtunkhwa.

SECTION OFFICER (ADMN)

SECTION OFFICER (ADMN)

ac

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.



Execution petition No.356/2021

Musadiq Shah

V/S

~~Grout of I.A.P.~~

Put up to the waiting chair - as
along with Ex. Petition.

Remedy

9/12/2021
**APPLICATION FOR EARLY HEARING / ANY OTHER NEAR BY
POSSIBLE DATE OF HEARING IN THE ABOVE TITLED APPEAL
INSTEAD OF 01.02.2022.**

Fix in 1st week of Jan/2022
10/12/2021

RESPECTFULLY SHEWETH:

- 66/61
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1. That the appellant has filed the instant appeal against the seniority list which was later on converted in to Execution petition by this Hon'able Tribunal.
 2. That today the date was fixed for hearing in execution petitioner, the deptt: submitted comments and the next date fixed is fixed for 01.02.2022 before this Honourable KPK Service Tribunal which is too long.
 3. That the instant appeal has stilled lingered on, the appellant will suffer allot.
 4. That it will be in the interest of justice to fix in the instant case at any other nearby possible date.

It is, therefore, most humbly prayed that on acceptance of this application, any other nearby possible date of hearing may kindly be fixed in the above execution instead of 01.02.2022. Any other remedy which this august Tribunal

deems fit and appropriate that may also be awarded in favor of the appellant.

Appellant

THROUGH:

Asif You
(M. ASIF YOUSAFZAI)

Noman Ali Bukahri
& (Syed Noman Ali Bukahri)
ADVOCATES, PESHAWAR

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief and nothing has been concealed from the hon'able Tribunal.

[Signature]
Deponent



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

Dated Peshawar the February 4, 2015

NOTIFICATION

NO.SOR-VI(E&AD)/2-69/2008/Vol-I. In pursuance to Rule 3(2) of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and in supersession of this Department's Notification No. SOR-VI(E&AD)2-69/2008, dated 13th July, 2012, the Competent Authority is pleased to restore the composition of the Standing Service Rules Committee (SSRC) notified vide this department's Notification No. SOR-VI(E&AD)2-69/2003, dated 29th January, 2005 as under: -

- | | |
|--|----------|
| 1. Administrative Secretary concerned: | Chairman |
| 2. Additional Secretary (Regulation),
E&A Department. | Member |
| 3. Additional Secretary (Regulation),
Finance Department. | Member |
| 4. Additional Secretary,
Law Department. | Member |
| 5. Head of attached department concerned. | Member |
| 6. Deputy Secretary (Admn) of the
department concerned. | Member |

Chief Secretary,
Khyber Pakhtunkhwa

ENDST: NO & EVEN DATE

Copy is forwarded to:-

1. Addl: Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
2. Addl: Chief Secretary (FATA), FATA Secretariat Peshawar.
3. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
10. All Deputy Commissioners in Khyber Pakhtunkhwa and Political Agents in FATA.
11. The Registrar Peshawar High Court, Peshawar.
12. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
13. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
14. All Special Secretaries / Additional Secretaries / Deputy Secretaries and Section Officers in Establishment & Administration Department.

(SAIM JAMIL) 4-2-15
SECTION OFFICER (REG-VI)

03:30 PM

6/02/15



GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMINISTRATION DEPARTMENT
(ESTABLISHMENT WING)

NOTIFICATION

Peshawar, dated the 6th December 2012.

No SOE.IV(E&AD)/1-35/2012:- In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all previous rules, issued in this behalf, the Establishment and Administration Department, in consultation with the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in column 3 to 5 of the Appendix to this Notification, which shall be applicable to posts in the Khyber Pakhtunkhwa Civil Secretariat, specified in column 2 of the said Appendix.

APPENDIX

S.No.	Nomenclature of posts.	Minimum qualification for appointment by initial recruitment.	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
1.	Superintendent.			By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant with atleast five years service as such.

S.No.	Nomenclature of posts.	Minimum qualification for appointment by initial recruitment.	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
2.	Assistant.	Second Class Bachelor's Degree from a recognized University.	20 to 32 years.	(a) Seventy-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Clerks with atleast five years service as Junior and Senior Clerk. (b) twenty-five per cent by initial recruitment.
3.	Senior Clerk.			By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Clerk with atleast two years service as such.
4.	Junior Clerk.	(i) Matriculation with second division or equivalent qualification from a recognized Board; and (ii) a speed of 30 words per minute in typing.	18 to 30 years	(a) Thirty-three per cent by promotion, on the basis of seniority-cum-fitness, from amongst Daftaris, Gestetner Operators, Qasids and Naib Qasids including holders of other equivalent posts in the Secretariat with two years service as such, who have passed S.S.C Examination; and (b) sixty-seven per cent by initial recruitment. <u>Note:</u> For the purpose of promotion, there shall be maintained a common seniority list of Daftaries, Gestetner Operators, Qasids, Naib Qasids etc., with reference to the dates of their acquiring the Secondary School Certificate:

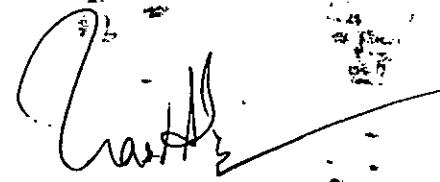
S.No.	Nomenclature of posts.	Minimum qualification for appointment by initial recruitment.	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
				<p>Provided that-</p> <p>(a) if two or more officials have acquired the Secondary School Certificate in the same session, the inter se seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post;</p> <p>(b) where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials.</p>

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA.

Endst: No. SOE-IV(E&AD)/1-35/2012, dated 6th December, 2012

Copy forwarded for information and necessary action to: -

1. All Administrative Secretaries to Government of Khyber Pakhtunkhwa, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. The Addl: Chief Secretary (FATA), Khyber Pakhtunkhwa.
3. The Chairman, Khyber Pakhtunkhwa Public Service Commission.
4. The Senior Member of Board of Revenue.
5. Secretary to Governor, Governor's Secretariat, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
8. The Chairman to Khyber Pakhtunkhwa Service Tribunal Peshawar.
9. The Private Secretary to Chief Secretary Khyber Pakhtunkhwa.
10. The Private Secretary to Secretary Establishment Department,
11. The P.A to Special Secretary (Estt), Establishment Department.
12. The P.A to Addl: Secretary (Estt/ Reg), Establishment Department.
13. The PA to Addl: Secretary (HRD Wing) Establishment Department.
14. All the Deputy Secretaries in Establishment Department.
15. All Section Officers, Establishment Department, Khyber Pakhtunkhwa Peshawar.
16. The Manager Government Printing Press for publication in the Extra Ordinary Gazette.



(NASIR AMAN)
SECTION OFFICER (E.IV)





GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

Dated Peshawar, the 18th July, 2019

NOTIFICATION

No. SOE.IV(E&AD)/1-35/2014:-

In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Establishment and Administration Department, in consultation with the Finance Department, is hereby directs that in this Department's Notification No. SOE.IV (E&AD)/1-35/2012 dated 6th December, 2012, the following amendments shall be made, namely:

AMENDMENTS

In the APPENDIX, for Serial No.4, the following shall be substituted, namely:

1.	2.	3.	4.	5.
4.	Junior Clerk.	(i) FA/ F.Sc with second division or equivalent qualification from a recognized Board; and (ii) a speed of thirty (30) words per minute in typing.	18 to 30 years.	(a) Forty per cent by promotion, on the basis of seniority-cum-fitness, from amongst Daftaris, Gestetner Operators, Qasids and Naib Qasids including holders of other equivalent posts in the Secretariat with two years service as such, who have passed FA/F.Sc Examination or its equivalent qualification from a recognized Board; and (b) sixty per cent by initial recruitment. Note: For the purpose of promotion, there shall be maintained a common seniority list of Daftaries, Gestetner Operators, Qasids, Naib Qasids etc. with reference to the dates of their acquiring the FA/ F.Sc qualification:

1.	2.	3.	4.	5.
				<p>Provided that-</p> <p>(i) if two or more officials have acquired the FAF.Sc qualification in the same session, the inter se seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post;</p> <p>(ii) where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials.</p> <p>Provided further that The condition of FAF.Sc or its equivalent qualification from a recognized Board, as laid down at clause (a) shall not apply for a period of four years from the date of commencement of this Notification to the existing matriculate incumbents of the post of Daftaris, Gestetner Operators, Qasids and Naib Qasids including holders of other equivalent posts for promotion to the post of Junior Clerk (BS-11).</p>

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

TO
ESTABLISHMENT DEPARTMENT
KHYBER PAKHTUNKHWA

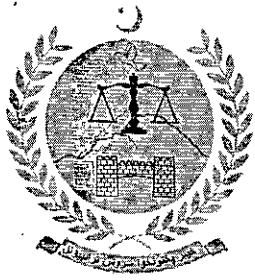
12

Endst. No. SOE-IV(E&AD)/1-35/2014, dated 18th July, 2019

Copy forwarded for information and necessary action to: -

1. All Administrative Secretaries to Government of Khyber Pakhtunkhwa, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
2. The Senior Member of Board of Revenue.
3. The Principal Secretary to Governor, Governor's Secretariat, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary, Khyber Pakhtunkhwa Public Service Commission.
7. Deputy Director (IT), Establishment & Administration Department with the request to upload on the official website.
8. PS to Chief Secretary Khyber Pakhtunkhwa.
9. PS to Secretary Establishment Department.
10. PS to Special Secretary (Estt), Establishment Department.
11. PS to Special Secretary (Reg), Establishment Department.
12. PA to Addl. Secretary (Estt/ Reg), Establishment Department.
13. PA to Addl. Secretary (HRD Wing) Establishment Department.
14. All the Deputy Secretaries in Establishment Department.
15. All Section Officers, Establishment Department, Khyber Pakhtunkhwa Peshawar.
16. The Manager Government Printing Press for publication in the Extra Ordinary Gazette with the request to provide 50 copies of Gazette.


(HAZRAT JAMAT)
SECTION OFFICER (E-IV)



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

No. 2091 /ST Dated 22/6 /2022


To:

The Secretary Administration, Khyber Pakhtunkhwa, Peshawar.

SUBJECT:- JUDGMENT IN SERVICE APPEAL NO. 1184/2019 CONVERTED INTO EXECUTION PETITION NO. 326/2021, SYED MUSADIQ SHAH VERSUS THE CHIEF SECRETARY KHYBER PAKHTUNKHWA, GOVERNMENT OF KHYBER PAKHTUNKHWA, PESHAWAR ETC.

I am directed to forward herewith a certified copy of order dated 02.02.2022, passed by this Tribunal in the above mentioned execution petition for compliance.

Encl. As above.


(WASEEM AKHTAR)
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.