

**BEFORE THE HONORABLE KHYBER PUKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**

**SERVICE APPEAL. 1105/2022**

**Muhammad Nasir Office Assistant (BPS-16) (ACB) o/o District Public  
Prosecutor, District Charsadda**

**Petitioners.....**

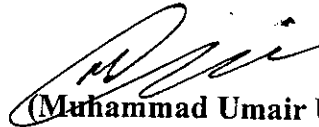
**VERSUS**

- 1. Secretary to Government Home & Tribal Affairs Department.**
- 2. Director General Prosecution, Khyber Pakhtunkhwa.**

**Respondents.....**

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**(Muhammad Umair Umer)**  
Deputy Director Legal  
Directorate of Prosecution,  
Khyber Pakhtunkhwa

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

**APPEAL NO. 1105/2022**

**Muhammad Nasir. Office Assistant (BPS-16) (ACB).  
o/o District Public Prosecutor, District Charsadda.**

**.....APPELLANT**

**VERSUS**

- 1. The Government of Khyber Pakhtunkhwa, Secretary to  
Government of Khyber Pakhtunkhwa.  
Home & Tribal Affairs Department.**
- 2. Director General Prosecution, Khyber Pakhtunkhwa.  
Directorate of Prosecution, Peshawar.**

**..... RESPONDENTS**

**Comments On Behalf Of Respondents No.1 and 2**

**Respectfully Sheweth,**

**PRELIMINARY OBJECTIONS:**

- 1. The service appeal is not maintainable on account of non-joinder of necessary parties as the matter relates to substantial rights of the freshly recruited Office Assistants (BS-16).**
- 2. That the Appellant has got no cause of action to file the instant service appeal.**
- 3. That the Appellant has concealed material facts from this Honourable Court, which is bad in eyes of law and facts both.**
- 4. That the Appellant is estopped by his own conduct to file the present petition.**
- 5. That the instant service appeal has no legal footings.**
- 6. That the Appellant has got no locus standi to file the instant service appeal.**

**PARAWISE REPLY:-**

- 1. Pertains to record.**
- 2. Pertains to record.**

- 2
3. In response to this para it is submitted that prior to the promotion of the Appellant, 09 Office Assistants (BS-16) were promoted to the post of Superintendent (BS-17), on acting charge basis, vide notification dated 14.02.2020(Annexure-A), as evident from the seniority list of Office Assistant (BS-16), attached with the service appeal of the Appellant, for which the Appellant and his colleagues were to be promoted, on acting charge basis. The Departmental Promotion Committee, vide its meeting dated 10.02.2021, in advertently promoted the Appellant (along with other colleagues) on regular basis. The regular promotion of the Appellant (along with other colleagues) was an inadvertent mistake therefore corrigendum dated 10.03.2022, was issued and the Appellant (along with other colleagues) was placed in the seniority list of Senior Clerks (BS-14), however the Appellant is still enjoying the perks of Office Assistants (BS-16).
  4. That the issuance of corrigendum was not illegal rather rectification of an inadvertent human mistake which occurred at the meeting of DPC 16.02.2021. The seniority list of the Office Assistants (BS-16), as attached by the appellant, shows that the top 09 Office Assistants have been promoted to BS-17 on acting charge basis. Furthermore, at present, there are few posts of Office Assistants, lying vacant in the Directorate of Prosecution and the Appellant would be promoted to the same on regular basis (subject to legal requirements).
  5. As replied vide para 3 & 4 above.
  6. No comments. The appellant has got no cause of action to file the instant appeal.

#### GROUNDS

- A. Incorrect. As replied vide para 3 & 4 of the para wise comments.
- B. Incorrect. As replied in facts.
- C. Incorrect. As replied in facts.
- D. Incorrect. As replied vide para 3 & 4 of the para wise comments.
- E. As replied vide para 3 & 4 of the para wise comments. Furthermore, it is submitted that the freshly recruited Office Assistants (Bs-16), have not been made party / Respondents in the Service Appeal.

- F. No comments. However, the Appellant is already enjoying all the perks of the Office Assistant (BS-16).
- G. Incorrect. As replied vide para 3 & 4 of the para wise comments..
- H. No Comments.
- I. Incorrect. As replied vide para 3 & 4 of the para wise comments.
- J. Incorrect. As replied vide (F) above.
- K. The Respondents seek permission to raise additional grounds at the time of arguments.

**PRAYER:**

In light of the above facts and circumstances of the case, the Service appeal is devoid of any merit and legal substance; therefore, the same may kindly be dismissed, please.

Secretary to Govt.  
 Home & Tribal Affairs Department  
 Khyber Pakhtunkhwa  
 Respondent No. 1  
 Home Secretary,  
 Khyber Pakhtunkhwa

Director General Prosecution  
 Khyber Pakhtunkhwa  
 Respondent No. 2

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**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE**

**TRIBUNAL, PESHAWAR.**

**Service Appeal No. 1104 to 1109/2022**

Tariq Khan. Office Assistant (BS-16) (ACB)  
O/O District Public Prosecutor, District Charsadda etc.

..... Appellant

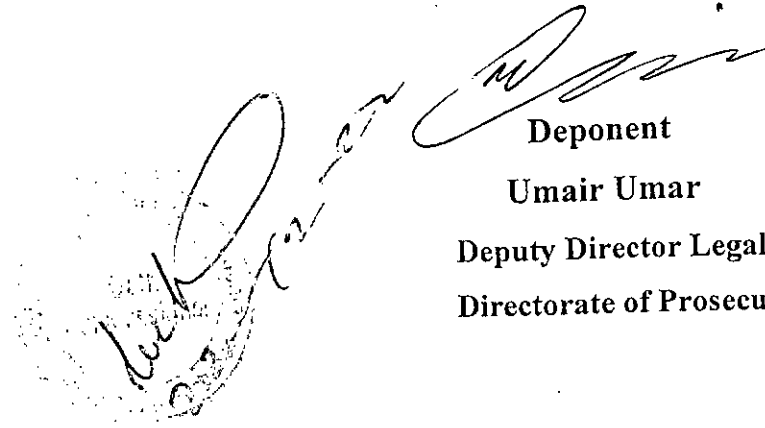
**VERSUS**

1. **The Secretary to Govt of Khyber Pakhtunkhwa.**  
Home & Tribal Affairs Department.
2. **Director General Prosecution, Khyber Pakhtunkhwa.**  
Directorate of Prosecution, Peshawar.

..... Respondents

**AFFIDAVIT**

I, Umair Umar, Deputy Director Legal, Directorate of Prosecution do hereby solemnly affirm and declare on oath that the contents of the para wise reply in the service appeals No. 1104 to 1109/2022 are true and correct to the extent of office record and belief and nothing has been concealed from this Hon'able Court.



Deponent

Umair Umar

Deputy Director Legal

Directorate of Prosecution

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**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT**

Peshawar dated the 14<sup>th</sup> February 2020

**NOTIFICATION**

**N.O.S.O. (Prosecution) HD/1-10/2020/Vol-I:** On the recommendations of the Departmental Promotion Committee meeting held on 24-12-2019, the Government of Khyber Pakhtunkhwa is pleased to promote the following Assistants (BS-16) at S. No. 01 to 13 to the post of Superintendent (BS-17), on regular basis and from S.No. 14 onward on acting charge basis with immediate effect:-

S.#	Name of Official
1.	Muhammad Ghafar Khan
2.	Muhammad Ali
3.	Mr. Maqsood Ali
4.	Mr. Sher Ali
5.	Muhammad Ibrahim
6.	Muhammad Iqbal
7.	Mr. Habibullah Jan
8.	Mr. Tariq Hussain
9.	Mr. Adnan Liaqat Ali
10.	Mr. Ibrar Bashir
11.	Mr. Ghulam Habib
12.	Mr. Hidayatullah Khan
13.	Muhammad Tariq
14.	Mr. Haider Ali Khan
15.	Muhammad Gulzar Ali
16.	Muhammad Hamayun
17.	Mr. Qamar Zaman
18.	Mr. Muslim Khan
19.	Mr. Sikandar Hayat
20.	Mr. Mubarak Ahmad
21.	Muhammad Iqbal
22.	Mr. Mumraiz Khan

17-2-20  
17/2  
17/2



2. The officers on promotion shall remain on probation for a period of one year extendable for another year, in terms of Section 6(2) of Khyber Pakhtunkhwa, Civil Servants Act, 1973, read with Rule 15(1) of Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

17/2  
supdt / PM  
17/2

**SECRETARY  
HOME DEPARTMENT**

Endst: No. & date even

- Copy forwarded to: -**
1. Accountant General Khyber Pakhtunkhwa Peshawar.
  2. Director General Prosecution, Khyber Pakhtunkhwa, Peshawar.
  3. All District Public Prosecutors, Khyber Pakhtunkhwa.
  4. All District Accounts Officers, Khyber Pakhtunkhwa.
  5. Secretary Home Department, Khyber Pakhtunkhwa.

(Arshad Khan)  
14/02/2020  
Section Officer (Prosecution)

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

**Service Appeal No. 1104 to 1109/2022**

Tariq Khan. Office Assistant (BS-16) (ACB)  
O/O District Public Prosecutor, District Charsadda etc.

..... Appellant

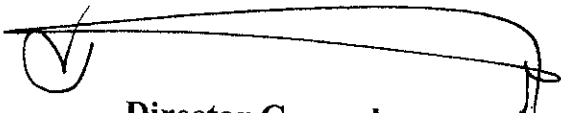
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2. **Director General Prosecution, Khyber Pakhtunkhwa.  
Directorate of Prosecution, Peshawar.**

..... Respondents

**AUTHORITY LETTER**

I, The undersigned hereby authorized, Mr. Umair Umar Deputy Director Legal, Directorate of Prosecution for submission of para wise comments alongwith its enclosures on behalf of Respondents in service appeals No. 1104 to 1109/2022.

  
**Director General  
Directorate of Prosecution  
Home & Tribal Affairs Department  
Khyber Pakhtunkhwa  
Peshawar.**

**Director General  
Prosecution  
Khyber Pakhtunkhwa**