

S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	13 th Dec, 2022	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURT ABBOTTABAD.</u></p> <p style="text-align: center;">Service Appeal No. 1647/2022</p> <p>Amir Nawaz S/O Muhammad Zarin J/C Deputy Commissioner Office Battagram.</p> <p style="text-align: right;">.....(Appellant)</p> <p style="text-align: center;"><u>Versus</u></p> <p>1. Deputy Commissioner, District Battagram. 2. Commissioner, Hazara Division, Abbottabad.(Respondents)</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>KALIM ARSHAD KHAN CHAIRMAN:-</u> Learned counsel for the appellant has been heard .</p> <p>02. The appellant has challenged the order dated 11.06.2015 passed by the Deputy Commissioner, Battagram and also rejection of his departmental appeal by respondent No.2/Commissioner, Hazara Division. He has prayed in the appeal that the impugned order dated 11.06.2015 was inconsistent with the direction of the Hon'ble Peshawar High Court passed in writ petition No. 853-A/2013 decided on 16.06.2015. It is submitted by the learned counsel for the appellant that the impugned order, dated 11.06.2015, deprived the appellant of his seniority and pay for the intervening period as according to him, the appellant was initially appointed on 19.11.2013 as Junior Clerk vide order No. 1884-92/AE, and just after three days his, appointment order was cancelled thereby appointing one Amjid Khan in his place, therefore, the appellant was entitled for the salary from the date of his earlier appointment made in the year 2013 and not from the date of his fresh appointment made on 11.06.2015 on the directions of the Hon'ble Peshawar High Court passed in writ petition No. 853-A/2013.</p>

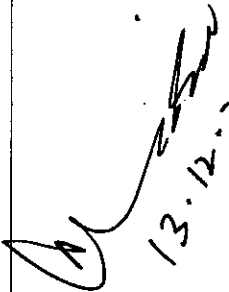
03. His second contention was that the appellant was selectee and recommendee of the selection process, initiated in the year 2013, therefore, he was to be assigned seniority in view of the Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17 of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989.

04. As to the first contention, I may refer to the order of the Hon'ble Peshawar High Court, passed on 16.06.2015, copy placed on file by the appellant himself, whereby writ petition No. 853-A/2013 was dismissed in following manner:

"The former placed copy of order dated 11.06.2015 and stated that petitioner has been appointed as Junior Clerk and his grievance has been redressed. This petition has achieved its purpose and is dismissed as such".

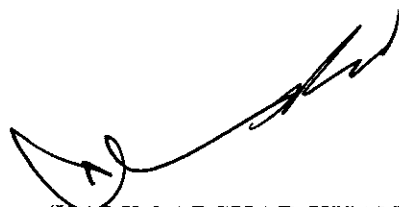
05. The production of order dated 11.06.2015 before the Hon'ble Peshawar High Court by the learned counsel for the appellant and submission of the learned counsel for the appellant that the appellant had been appointed as Junior Clerk and further that his grievance had been redressed and dismissal of the writ petition with the observation that the same had achieved purpose, estopes the appellant to agitate the matter or any of the contents of the order dated 11.06.2015, therefore, relief to the above extent cannot be granted.

06. As to the second contention, no doubt it is the duty of the competent authority to determine seniority of the person appointed through initial recruitment, according to Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 and Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, but the appellant has not annexed with the appeal any seniority list to show that his seniority was not determined in accordance


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with law and rules. When asked about the seniority list, learned counsel submitted that the respondents would not consider him for his due place in the seniority. This is a mere apprehension of the appellant in the absence of any seniority list annexed with the appeal. Needless to mention that on preparation of the seniority list and its circulation, the appellant would have right to challenge the same in accordance with law, in case he found himself aggrieved of the same. This being so this appeal is having no substance and is dismissed in limine. Consign.

07. *Pronounced in open court in Abbottabad and given under my hand and seal of the Tribunal on this 13th day of December, 2022.*



(KALIM ARSHAD KHAN)
Chairman
Camp Court Abbottabad