

BEFORE THE HONORABLE KHYBER PUKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

SERVICE APPEAL. 1109/2022

Muhammad Tariq Khan Office Assistant (BPS-16) (ACB) o/o District Public Prosecutor, District Lakki Marwat

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. 1109/2022

Muhammad Tariq Khan. Office Assistant (BPS-16) (ACB).
o/o District Public Prosecutor, District Lakki Marwat.

.....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.

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.

GROUND

- 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

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

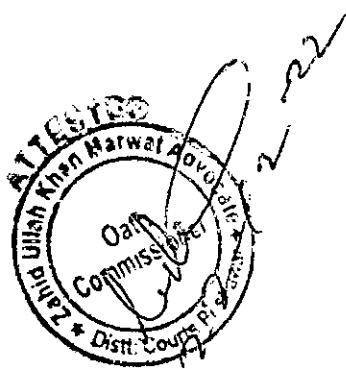
VERSUS

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.



[Handwritten Signature]

Deponent
Umair Umar
Deputy Director Legal
Directorate of Prosecution

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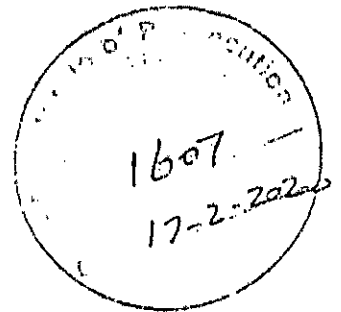
**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

Peshawar dated the 14th February 2020

NOTIFICATION

NO.SO (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. Mubarik Ahmad |
| 21. | Muhammad Iqbal |
| 22. | Mr. Mumraiz Khan |



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.

**SECRETARY
HOME DEPARTMENT**

Endst: No. & date even

17/2
supdt / PMS
17/2

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. To Secretary Home Department, Khyber Pakhtunkhwa.

14/02/2020

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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE

TRIBUNAL, PESHAWAR.

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

..... Appellant

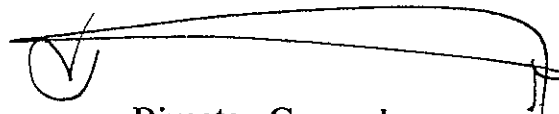
VERSUS

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

..... Respondents

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