


ORDER

23rd Nov, 2022

1. Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents and counsel for private respondent No.4 present.
2. Vide our detailed order of today placed in Service Appeal No. 1431/2018 titled "Muhammad Tariq-vs-Deputy Commissioner, District Nowshera and others" (copy placed in this file), this appeal is also disposed off. Costs to follow the events. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 23rd day of November, 2022.*



(Kalim Arshad Khan)
Chairman



(Fareeha Paul)
Member(Executive)

26th May, 2022

Mr. Ashraf Ali Khattak, Advocate present and submitted Wakalatnama on behalf of the appellant. Mr. Muhammad Rashid, Deputy District Attorney for respondents present.

Learned counsel for the appellant seeks time to argue the case on the next date being newly engaged. Last opportunity granted. In case further adjournment is sought the case will be decided on the basis of available record without the arguments as ^a ~~the~~ number of opportunities have already been granted to the appellant. To come up for arguments on 11.08.2022 before D.B.




(Fareeha Paul)
Member(E)



(Kalim Arshad Khan)
Chairman

11.8.2022

Proper DB not available the case
is adjourned to 13-10-2022


Reader

13th Oct., 2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. Advocate General for the official respondents and counsel for private respondent No. 4 present.

Representative of the respondents is not in attendance. Learned AAG requests for adjournment. Last opportunity is granted. To come up for arguments on 23.11.2022 before the D.B.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

14-12-21

DB is on Tour case to come up
For the same on Dated. 31-3-22

R. Reader

31.03.2022

D Mr. Ashraf Ali Khattak, Advocate, as proxy for learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 3 present. Private respondent No. 4 alongwith his counsel present.

Mr. Ashraf Ali Khattak stated that he has been informed by learned counsel for the appellant that he would be unable to attend the Tribunal today due to some domestic engagement. It appears from the record that so many adjournments have been granted upon the request of the appellant/counsel for the appellant, therefore, last opportunity given. To come up for arguments before the D.B on 26.05.2022.



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)

14.01.2021


Due to COVID-19, the case is adjourned for the same on ~~21.04.2021~~ before D.B.



READER

21.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 13.08.2021 for the same as before.




Reader

13.08.2021

None present on behalf of appellant.

Kabir Ullah Khattak learned Additional Advocate General for official respondents present. Private respondent No.4 present.

This is an old appeal. It appears from previous proceedings in the order sheets that the trend of adjournment is tilted to the appellant. Therefore, appellant and counsel be put on notice for ensuring their presence to argue the appeal on the next date positively. Absence of the appellant and his counsel shall be deemed as their having lost the interest in pursuit of this appeal and the same shall be dismissed in default. Copy of this order sheet be sent to them alongwith notice. To come up on 14.12.2021 before D.B.



(Rozina Rehman)
Member (J)



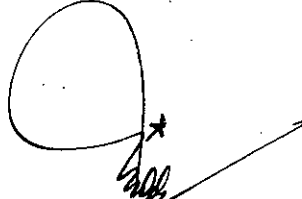
Chairman

16.06.2020

Nemo for the parties.

On the last date of hearing the matter was adjourned through reader's note. The office shall, therefore, issue notice to the parties for next date of hearing.

Adjourned to 31.08.2020 before D.B.


MEMBER


CHAIRMAN

31.08.2020

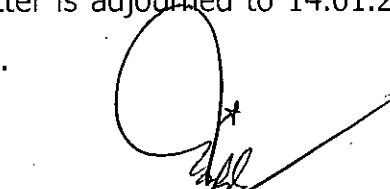
Due to summer vacation, the case is adjourned to 05.11.2020 for the same as before.


Reader

05.11.2020

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

The Bar is observing general strike, therefore, the matter is adjourned to 14.01.2021 for hearing before the D.B.


(Mian Muhammad)
Member


Chairman

26.12.2019

Appellant in person present. Mr. Muhammad Jan, DDA for official respondents and private respondent no.4 with counsel present. Appellant seeks adjournment as his counsel is not available today. The appellant dragged the private respondent but is not prepared to argue the present service appeal and the same is being adjourned on the request on behalf of the appellant, hence, adjourned at the cost of Rs.3000/- which to be paid by the appellant to the private respondent. To come up for arguments on 28.02.2020 before D.B.


Member


Member

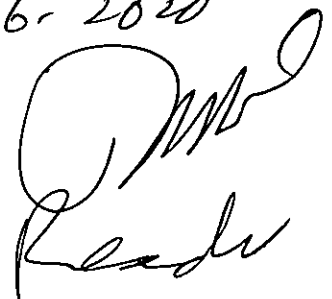
The bench is incomplete
to come up for the same

on - 23-04-2020



Reader

Due to public holidays on
account of covid, 19, the case
is adjourned. To come up
for the same on. 16-06-2020


Reader

17.06.2019


Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 08.08.2019 before D.B.



Member


Member

08.08.2019

Appellant in person present. Mr. Muhammad Jan, DDA alongwith Mr. Zahid Gul, P.S for respondents present. Appellant seeks adjournment due to general strike on the call of Pakistan Bar council. Adjourn. To come up for arguments on 23.10.2019 before D.B.


Member


Member

23.10.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the official respondents present. Private respondent No.4 in person present.

Learned counsel for the appellant requests for adjournment in order to further prepare the brief. Learned counsel for the private respondent No.4 is also reported to be engaged before the Honourable High Court today.

Adjourned to 26.12.2019 before D.B.


Member


Chairman

22.01.2019

Clerk to counsel for the appellant present and requested for time to furnish written reply of appeal for respondent No.3. Three (03) days granted for doing the needful, thereafter notice be issued to respondent No.3 Arif Jai Advocate present and submitted wakaalat namo in favor of respondent No.4 and requested for time to furnish written reply. Written reply on behalf of respondents No.1 & 2 not submitted, notice be issued to respondents No.1 & 2 with direction to furnish written reply. Adjourn. To come up for written reply on 11.03.2019 before S.B.


Member

11.03.2019

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Zahid Gul, Private Secretary for official respondents No. 1 to 3 and private respondent No. 4 in person present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further adjournment for filing of written reply. Adjourned. To come up for written reply/comments on 15.04.2019 before S.B.



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

15.04.2019

No one present on behalf of appellant. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Zahid Gul P.S for official respondents present. Private respondent No.4 in person present. Written reply submitted. To come up for rejoinder/arguments on 17.06.2019 before D.B


Member

application be also given to the respondents for the date already fixed. Till the next date fixed, fate of the further promotions of the parties to the next higher post/grade shall be subject to the outcome of the present service appeal.


Member

12.12.2018

Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Notice to respondent No. 3 could not be issued due to non-furnishing of copy of memo of appeal. Clerk of counsel for the appellant is directed to furnish the copy of memo of appeal for respondent No. 3 thereafter, notice be issued to respondent No. 3 for filing of written reply. To come up for written reply/comments on 22.01.2019 before S.B.


Muhammad Amin Khan Kundi
Member

28.11.2018

Learned counsel for the appellant present.

The appellant (Stenographer Office of the Deputy Commissioner Nowshera) has filed the present service appeal against the revised final seniority list issued vide Notification dated 09.11.2018.

Main argument of learned counsel for the appellant is that in all the earlier seniority lists the appellant stands senior to the private respondent No.4 and as such the seniority of the appellant vis a vis respondent No.4 has been disturbed for the first time vide seniority list wherein the appellant has been placed junior to the private respondent No.4.

Preliminary arguments heard. File perused.

Note as given in the impugned final seniority list of the Stenographers of the Deputy Commissioner Office Nowshera is self-explanatory. According to the explanation as given in the said seniority list, the appellant was appointed as Junior Scale Stenographer in the Office of Budget & Accounts Office Co-Operative Department Khyber Pakhtunkhwa Peshawar and was declared surplus and then adjusted in the DCO Office Nowshera on 31.12.2001, while on the other hand the private respondent No.4 is the permanent employee of the DCO Office Nowshera who was appointed on 15.08.1997. In these circumstances the appellant was rightly placed below the private respondent No.4 in the impugned seniority list, for the reason that his cadre was changed. However in view of the contention of the learned counsel for the appellant as mentioned above and in the interest of justice the present service appeal is admitted for regular hearing subject to all the legal objections including the issue of maintainability. The appellant is directed to deposit security and process fee within 10 days, thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 12.12.2018 before S.B



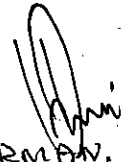
Appellant Deposited
Security & Process Fee

Application for interim relief is also annexed with the memorandum of the present service appeal. Notice of the said

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. _____ /2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26/11/2018	<p style="text-align: center;">As per direction of the Worthy Chairman this case is submitted to the S. Bench for decision on office objection. To be put up there on <u>28/11/18.</u></p> <div style="text-align: right;">  REGISTRAR </div>
28.11.2018	28.11.2018.	<p>Learned counsel for the appellant present and contended that the impugned revised seniority list was issued as a result of departmental appeal of the private respondent No.4 hence there was no need to file departmental appeal against the same. In view of the above contention of learned counsel for the appellant, the office objection is removed for the time being.</p> <div style="text-align: right;">  Member </div> <p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28.11.2018.</u></p> <div style="text-align: right;">  CHAIRMAN. </div>

The appeal of Mr. Shahi Mulk Stenographer Office of the D.C Nowshera received today i.e. on 22.11.2018 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

Copy of departmental appeal/review petition against the impugned notification dated 09.11.2018 is not attached with the appeal which may be placed on it.

No. 2268 /S.T,

Dt. 23 /11/2018.


REGISTRAR 23 /11/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khushdil Khan Adv. Pesh.

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal No. 1433 /2018

Shah-i-Mulk.....Appellant

VERSUS

The Deputy Commissioner, District Nowshera..... Respondents

INDEX

S.No	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-4
2.	Application for restraining the respondents from considering the case of promotion of the respondent No.4 on the basis of impugned seniority list with affidavit			5-7
3.	Copy of covering letter with Tentative Seniority List of Stenographers (BPS-14) as stood on 01.11.2013 wherein the name appellatant is at serial No.2 while the name of respondent No.4 at serial No.4	08.11.2013	A	8-9
4.	Copy of covering letter with Final Seniority List of Stenographers (BPS-14) as stood on 01.12.2013 wherein the name appellatant is at serial No.2 while the name of respondent No.4 at serial No.4	10.12.2013	B	10-11
5.	Copy of covering letter with Tentative Seniority List of Stenographers (BPS-14) as stood on 01.11.2017 wherein the name of appellatant is at serial No.2 while the name of respondent No.4 at serial No.4	01.11.2017	C	12-13
6.	Copy of covering letter with Final Seniority List of Stenographers	04.12.2017	D	14-15

S.No	Description of Documents	Date	Annexure	Pages
	(BPS-14) as stood on 04.12.2017 wherein the name of appellant is at serial No.2, while the name of respondent No.4 at serial No.4			
7.	Copy of application of respondent No.4 (Ziaullah Khan) against the final seniority list	06.07.2018	E	16-17
8.	Copy of letter of respondent No.3 addressed to respondent No.2 therein the application of respondent No.4 was entertained	23.10.2018	F	18
9.	Copy of letter of the respondent No.2 addressed to respondent No.1 for necessary correction in the final seniority list.	26.10.2018	G	19
10.	Copy of the covering letter with the Impugned Revised Final Seniority List as stood on 09.11.2018 wherein the name of respondent No.4 was placed at serial No.1 while appellant was relegated to junior position at serial No.3	09.11.2018	H	20-21
11.	Wakalatnama			

Date: 19/11/2018

Through

Appellant

Khushdil Khan
Advocate Supreme Court.

Ashraf Ali Khattak
Advocate High Court.

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal No._____/2018

1. Shah-i-Mulk ,
Stenographer (BPS-14)
Office of the Deputy Commissioner,
District Nowshera.....Appellant

VERSUS

1. The Deputy Commissioner,
District Nowshera.
2. The Commissioner,
Peshawar Division Peshawar.
3. The Secretary,
Government of Khyber Pakhtunkhwa,
Board of Revenue, Revenue & Estate Department
Civil Secretariat, Peshawar.
4. Zia Ullah Khan
Stenographer (BPS-14),
Office of the Deputy Commissioner ,
District, NowsheraRespondents.

SERVICE APPEAL UNDER SECTION-4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 AGAINST THE IMPUGNED REVISED
FINAL SENIORITY VIDE NOTIFICATION DATED
09.11.2018 WHICH WAS UNLAWFULLY RECTIFIED
ON THE TIME BARRED APPLICATION OF
RESPONDENT NO.4 FILED ON 06.07.2018 AGAINST
THE FINAL SENIORITY LIST DATED 04.12.2017.

Respectfully Sheweth,

The concise facts giving rise to the present service appeal are as under:-

1. That appellant was initially appointed as Junior Scale Stenographer in the Office of Budget & Accounts Office Co-Operative Department Khyber Pakhtunkhwa, Peshawar. In the year 2001 under devolution of power, he was declared surplus but later on adjusted in the office of District Co-ordination Officer, Nowshera on 31.12.2001 and since then he was working as such in the office of respondent No.1.
2. That in the year 2013 a tentative seniority list in respect of stenographers was issued by the respondent No.1 therein name of appellant was at serial No.2 and the name of respondent No.4 was at bottom. Since the same was not objected by any official concerned therefore on 10.12.2013 final seniority list was issued with the same position. Copies of tentative seniority list dated 08.11.2013 (Annexure A) and final seniority list dated 10.12.2013 (Annexure B).
3. That similarly in the year 2017 tentative seniority list of stenographers was again issued by the respondent No.1 and the seniority position of the officials concerned was remained the same as per the final seniority list dated 10.12.2013 which was then not objected by anyone official concerned and in pursuance of which final seniority list was issued on 04.12.2017 therein also the senior position of appellant remained intact which attained finality. Copies of tentative seniority list dated 01.11.2017 (Annexure C) and final seniority list dated 04.12.2017 (Annexure D).
4. That after lapse of seven (7) months of the final seniority list dated 10.12.2017, the respondent No.4 filed an application

dated 06.07.2018 therein he claimed that appellant and others are junior to him and he be given senior position in the seniority list by revising it. Copy of application Dated 06.07.2018 of respondent No.4 (Annexure E).

5. That the application of respondent No.4 was processed and in view of letter of respondent No.1 dt 23.10.2018 (Annexure-F) the application was accepted as per letter dt 26.10.2018 (Annexure G) of the respondent No.2 in pursuance of which the respondent No.1 issued the impugned revised final seniority list of stenographers vide notification dt 09.11.2018 (Annexure H) wherein the position of the appellant was changed and he was relegated to junior position and placed him at Sr. No.3 of the revised final seniority list of which he has grievances and submits this service appeal on the following amongst other grounds:-

GROUND:-

- A. That respondents No.2 and 3 have not acted in according to law and rules on subject and unlawfully entertained the application of respondent No.4 which was hopelessly time barred and even no request for condonation was made by the respondent No.4. Thus the orders dated 23.10.2018 and 26.10.2018 of respondents No.2 & 3 and the subsequent impugned notification dated 09.11.2018 regarding the revised final seniority list are illegal, without lawful authority, of no legal effect and inoperative on the rights of appellant and liable to be set aside.
- B. That respondent No.1 has rightly assigned senior position to appellant in the seniority list issued in the year 2013 and the same position was continuously remained intact in the subsequent seniority lists issued from time to time without

any objection by any concerned official which attained finality and became a past and closed transaction which could not be reopened on the incompetent application of the respondent No.4.

- C. That the continuity of senior position of the appellant in all the seniority lists created vested right in his favour which could not taken away under the principle of locus poenitentiae.
- D. That respondent No.4 is estopped by his own conduct that he accepted his junior position to appellant in all previous seniority lists and he has no legal justification to claim his seniority at this belated stage and he has lost his right if any under the idem i.e. delay defeat equity.

It is therefore, humbly prayed that on acceptance of this service appeal, the impugned orders dated 23.10.2018, 26.10.2018 and the impugned notification of the revised final seniority list dt 09.11.2018 may graciously be set aside and the original final seniority list dt 04.12.2017 may kindly be restored therein the name of appellant to be at serial No.1.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for may also be granted to appellant.

Dated: 29/11/2018

Through

Appellant

Khush Dil Khan
Advocate,
Supreme Court of Pakistan
&

Ashraf Ali Khattak
Advocate, High Court
Peshawar

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA

Misc Application No._____/2018

IN

Service Appeal No._____/2018

Shah-i-Mulk.....Appellant

VERSUS

The Deputy Commissioner, District Nowshera..... Respondents

APPLICATION FOR RESTRAINING THE
RESPONDENTS NO.1 &2 FROM
CONSIDERING THE CASE OF PROMOTION
OF RESPONDENT NO.4 TO NEXT HIGHER
POST/ GRADES ON THE BASIS OF REVISED
FINAL SENIORITY LIST DATED 09.11.2018
WHICH IS UNDER CHALLENGED IN THIS
HON'BLE' TRIBUNAL BEING RECTIFIED IN
VIOLATION OF LAW AND RULES BASED
ON MALAFIDE JUST TO FACILITATE THE
PROMOTION OF RESPONDENT NO.4 IN
ILLEGAL AND UNFAIR MANNER AS WELL
AT THE RIGHT OF APPELLANT.

Respectfully Shewith,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of appeal may kindly be taken as an integral part of this application

which make out an excellent prima facie case in favour of appellant/ applicant.

3. That the impugned orders as well the revised final seniority list passed and prepared in glaring violation of law and rules on subject and also based on malafide intention just to facilitate the promotion of respondent No.4 at the right of appellant/ applicant which is not tenable and likely be set aside by this Hon'ble tribunal therefore he requests to restrain respondents from entertaining the case of promotion of the respondent No.4 to next higher post/ grade which has been initiated by the office of respondents. Moreover all the requisite ingredients fall in favour of applicant for the requisite interim relief.

It is therefore, humbly prayed that on acceptance of the instant application, this Honorable Tribunal may graciously be pleased to restrain the respondents from making promotion of the respondent No.4 on the basis of impugned seniority list till the final decision of the accompanying appeal

Through

Appellant


Khushdil Khan
Advocate Supreme Court.

&


Ashraf Ali Khattak
Advocate High Court.

Dated: 19 /11/ 2018

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal No. ____/2018

Shah-i-Mulk.....Appellant

VERSUS

The Deputy Commissioner, District Nowshera.....Respondents

AFFIDAVIT

I, Shah-i-Mulk, Stenographer (BPS-14) Office of the Deputy Commissioner, District Nowshera, do hereby solemnly affirm and declare on Oath that the contents of this application are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal.

Deponent

OFFICE OF THE DEPUTY COMMISSIONER NOWSHERA

NO. 2080-82 /23/EA/DC/NSR

Dated 08 /11/2013

OFFICE OF THE DEPUTY COMMISSIONER NOWSHERA
Diary No. <u>6640</u>
Date <u>08/11/13</u>

To: _____
(All concerned).

Subject: TENTATIVE SENIORITY LIST OF STENO GRAPHERS (BPS-14) AS STOOD ON 1.11.2013.

Memo:

The above quoted seniority list amongst the Steno Graphers (BPS-14) of this office is hereby circulated for verification as well as to examine all particulars related to you in all columns. Your objections/observations if any must reach this office by 20.11.2013 positively for decision by the competent authority and subsequently final seniority list will be issued.

Accounts Officer
DC Office Nowshera

Even No & date

Copy forwarded to the following for information please: -

1. The Deputy Commissioner Nowshera.
2. The Assistant Commissioner Nowshera.

*Supdt / ADE
put up working
paper for promotion
on priority*

3/2
Accounts Officer
DC Office Nowshera




*EA Put up immediately
5.2.14
11.11.2013
Sir, promotion of Steno graphers
(BPS-14) does not fall in the
power of DC, but will be
considered by the provincial c*

DEPUTY COMMISSIONER OFFICE NOWSHERA

TENTATIVE SENIORITY LIST OF STENO GRAPHER (BPS-14) AS STOOD ON 1ST NOVEMBER, 2013.

Total Sanctioned Post of Steno Grapher (BPS-14) = No.-5.

Name & Designation	Date of Birth	District of Domicile	Qualifications	Date of		Method of Recruitment	Date of Retirement	Remarks
				1 st Entry into Govt. Service	Appointment / Promotion to the present post			
Muhammad Tariq	21-4-1964	Nowshera	M.A	12-7-1987	12-7-1987	By Initial appointment	20-4-2024	
Shah-i-Mulk	15-10-1960	Nowshera	F.A	14-9-1987	14-9-1987	By Initial appointment	14-10-2020	
Anwar-Baig	8-2-1965	Nowshera	D.Com	17-9-1985 as LDC	2-9-1990 as Steno	By Promotion appointment	7-2-2026	
Zia Ullah Khan	10-4-1975	Nowshera	M.A	15-8-1997	15-8-1997	By Initial appointment	9-4-2035	


 Deputy Commissioner,
 Nowshera.



Office of the
DEPUTY COMMISSIONER,
NOWSHERA.

(Office Phone#0923-9220098-99, Fax#0923-9220159)

No. 2641-43/EA-23/DC/NSR

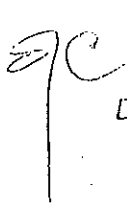
Dated 10 December, 2013

To: The Assistant to Commissioner (R/GA)
Peshawar Division Peshawar

Subject: - FINAL SENIORITY LIST OF STENOGRAPHERS (BPS-14) AS STOOD ON 1ST DECEMBER, 2013

Reference: Sub para (5) of Section 8 of Civil Servants Act 1973.

Enclosed please find herewith a copy of Final Seniority List of Stenographers (BPS-14) of this office as stood on 1-12-2013, duly signed for necessary action please.


Deputy Commissioner
Nowshera

Even No & Date

Copy forwarded to the following for information please:-

1. Additional Deputy Commissioner Nowshera
2. Assistant Commissioner Nowshera
3. All Concerned


Deputy Commissioner
Nowshera.



Office of the
**DEPUTY COMMISSIONER
NOWSHERA.**

(Office Phone#0923-9220098-99, Fax#0923-9220159,
Email: dconsrpk@yahoo.com)

No. 8025-07 /EA-23/DC/NSR/2017
Dated: 01 / 11 / 2017

To

(All concerned).

Subject: TENTATIVE SENIORITY LIST OF STENO GRAPHER (BPS-14) AS
STOOD ON 01.11.2017.

Memo:

The above quoted seniority list amongst the Steno Grapner (BPS-14) of this office is hereby circulated for verification as well as to examine all particulars related to you in all columns. Your objections/observations if any must reach this office by 20.11.2017 positively for decision by the competent authority and subsequently final seniority list will be issued.

[Signature]
Additional Deputy Commissioner
Nowshera

Even No & date

Copy forwarded to the following for information please:-

1. The Deputy Commissioner, Nowshera.
2. All Assistant Commissioner, District Nowshera.
3. All Concerned.

[Signature]
Additional Deputy Commissioner
Nowshera

WDC

ed


11-11-2017
[Signature]

DEPUTY COMMISSIONER OFFICE NOWSHERA

FINAL SENIORITY LIST OF STENO GRAPHER (BPS-14) AS STOOD ON 1ST DECEMBER, 2013.

Total Sanctioned Post of Steno Grapher (BPS-14) = No. -5.

Name & Designation	Date of Birth	District of Domicile	Qualifications	Date of		Method of Recruitment	Date of Retirement	Remarks.
				1 st Entry into Govt. Service	Appointment / Promotion to the present post			
Muhammad Tariq	21-4-1964	Nowshera	M.A	12-7-1987	12-7-1987	By Initial appointment	20-4-2024	
Shah-i-Mulk	15-10-1960	Nowshera	F.A	14-9-1987	14-9-1987	By Initial appointment	14-10-2020	
Anwar Baig	8-2-1966	Nowshera	D.Com	17-9-1985 as LDC	2-9-1990 as Steno	By Promotion appointment	7-2-2026	
Zia Ullah Khan	10-4-1975	Nowshera	M.A	15-8-1997	15-8-1997	By Initial appointment	9-4-2035	


 Deputy Commissioner,
 Nowshera.

DEPUTY COMMISSIONER OFFICE NOWSHERA

TENTATIVE SENIORITY LIST OF STENO GRAPHER (BPS-14) AS STOOD ON 1st November, 2017.

Total Sanctioned Post of Steno Grapher (BPS-14) = 05

Name & Designation	Date of Birth	District of Domicile	Qualifications	Date of		Method of Recruitment	Date of Retirement	Remarks.
				1 st Entry into Govt. Service	Appointment / Promotion to the present post			
Muhammad Tariq	21-4-1964	Nowshera	M.A	12-7-1987	12-7-1987	By Initial appointment	20-4-2024	
Shah-i-Mulk	15-10-1960	Nowshera	F.A	14-9-1987	14-9-1987	By Initial appointment	14-10-2020	
Anwar Baig	8-2-1966	Nowshera	D.Com	17-9-1985 as LDC	2-9-1990 as Steno	By Promotion appointment	7-2-2026	
Zia Ullah Khan	10-4-1975	Nowshera	M.A	15-8-1997	15-8-1997	By Initial appointment	9-4-2035	


 Deputy Commissioner
 Nowshera.



Office of the
**DEPUTY COMMISSIONER
NOWSHERA.**

(Office Phone#0923-9220098-99, Fax#0923-9220159)

Email: dconsrpk@yahoo.com

Dated 04 December, 2017

NOTIFICATION

No. 8252-31/EA-23/DC/NSR/2017. In pursuance of Section-8 of Khyber Pakhtunkhwa Civil Servants Act 1973, read with Part-VI, Rule-17 of Civil Servants (Appointment, Promotion & Transfer) Rules 1989 and para-6 of Estab: & Admn: Deptt: (RW) No. SOR-I(E&AD)1-200/98 dated 8-6-2001, final seniority list of Steno Grapher (BPS-14) as stood on 04.12.2017, is notified and circulated among all concerned after issue of tentative seniority list vide No. 8005-07/EA-23/DC/NSR/2017 dated 01.11.2017, while no objection / observation received.

S. 2 / m

Deputy Commissioner
Nowshera

Even No & Date

Copy forwarded to the following for information please:-

1. Additional Deputy Commissioner Nowshera.
2. All Assistant Commissioner District Nowshera.
3. All Concerned.

S. 2 / m

Deputy Commissioner
Nowshera.

WDC

ad

[Signature]

DEPUTY COMMISSIONER OFFICE NOWSHERA

FINAL SENIORITY LIST OF STENO GRAPHER (BPS-14) AS STOOD ON 04, DECEMBER, 2017.

Total Sanctioned Post of Steno Grapher (BPS-14) = 05

Name & Designation	Date of Birth	District of Domicile	Qualifications	Date of		Method of Recruitment	Date of Retirement	Remarks
				1 st Entry into Govt: Service	Appointment / Promotion to the present post			
Muhammad Tariq	21-4-1964	Nowshera	M.A	12-7-1987	12-7-1987	By Initial appointment	20-4-2024	
Shah-i-Mulk	15-10-1960	Nowshera	F.A	14-9-1987	14-9-1987	By Initial appointment	14-10-2020	
Anwar Baig	8-2-1966	Nowshera	D.Com	17-9-1985 as LDC	2-9-1990 as Steno	By Promotion appointment	7-2-2026	
Zia Ullah Khan	10-4-1975	Nowshera	M.A	15-8-1997	15-8-1997	By Initial appointment	9-4-2035	

8.2.17
Deputy Commissioner
Nowshera

Annexure-E

AC P/D:	HK
AC R/Ga:	EM
Suptd:	
Branch:	
Diary No.	7408 67/14

The Commissioner,
Peshawar Division Peshawar.

Subject: APPLICATION AGAINST THE IMPUGNED SENIORITY LIST OF STENOGRAPHER BPS-14 IN OFFICE OF DEPUTY COMMISSIONER NOWSHERA.

16

Respected Sir,

With due respect it is stated that the applicant was born on 10-04-1975 and appointed against the vacant post of Stenographer (BPS-12) after declaration by the Public Service Commission, Peshawar in office of the Deputy Commissioner, Nowshera and subsequently posted/transferred in office of the Assistant Commissioner, Nowshera. (Copy of Appointment Order & Arrival Report is Annexed as **(Annex-A)**)

In the year 2001 Office of the Deputy Commissioner was abolished and the applicant was posted/adjusted in office of the then District Officer (R&D)/Collector, Nowshera. The said office later on also abolished on 31-12-2012 and the old set up i.e office of Deputy Commissioner, Nowshera restored and I was again posted to office of the Assistant Commissioner, Nowshera and till date serving in this office.

In the meanwhile on 1-1-2013, while the old setup of the then office of the Deputy Commissioner, Nowshera was restored and the applicant placed at bottom in the Final Seniority List of Stenographer (BPS-14) by the Deputy Commissioner, Nowshera instead of the fact that in the covering letter No.8730-31/EA-23/DC/NSR/2017 dated 4.12.2017 whereby the Seniority issued covered with the policy but not in practical implemented (Copy of Seniority List 2017 is annexed as **Annex-B**).

It is further submitted that no doubt the following Stenographers were senior from the applicant but they were appointed in other departments whereas they were declared surplus during 2001 and subsequently adjusted in office of the then DCO, Nowshera w.e.f the dates mentioned against each below:-


S#	Name of Surplus Stenographer BPS-14	Date of Adjustment	Parent Department
01	Muhammad Tariq	31-12-2001	Co-Operative Department Peshawar.
02	Shahi Mulk	-do-	Co-Operative Societies Peshawar
03	Anwar Baig	08-08-2001	LG&RDD Peshawar

The above Stenographers (BPS-14) were illegally adjusted on TOP in the Final Seniority List of Stenographer (BPS-14) by Office of the Deputy Commissioner Nowshera which is a clear violation of the "policy for declaring Government Servant as surplus and subsequent absorption/adjustment of Government of KPK Establishment and Administration Department regulation wing Para 6(b) of Notification No. SOR-1(E&AD)1-200/98 dated 08-06-2001(Annex-C)".

Under the provision of 11(A) of Civil Servants (Appointment/Promotion & Transfer Rules 1989) adjustment of above Stenographers on TOP from the applicant in the Final Seniority List of Stenographer (BPS-14) are clear crystal violation of Law/Rules and policy of the Provincial Government quoted abid.

In view of above detail justifications, it is requested to set-aside the existing Seniority List of Stenographer (BPS-14) issued by the Deputy Commissioner, Nowshera, and pass good order of your excellency for issuance of fresh Seniority List for placement name of the petitioner on TOP to gain the Right/Legal dues under the Law.

It is further requested that the Petitioner may kindly be allowed that all the relevant Laws/Rules which are not quoted in the instant petition please.


06-07-18
(Zia Ullah Khan)
Stenographer (BPS-14)
AC office Nowshera.

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT

No. Estt:II/Seniority list File/35320
Peshawar dated the 23/10/2018.

To

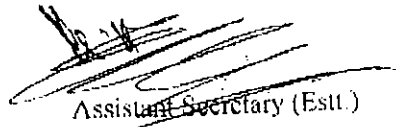
The Commissioner,
Peshawar Division, Peshawar.





SUBJECT: APPLICATION AGAINST THE IMPLUGGED SENIORITY LIST OF
STENOGRAPHER (BPS-14) IN OFFICE OF DEPUTY COMMISSIONER
NOWSHERA.

Dear Sir

I am directed to refer to your letter No. 6/4/EA/II/12828 dated 02.10.2018 and to state that Mr. Ziaullah Junior Scale Stenographer is the permanent employee of your office who was appointed on 12.07.2001 while the remaining 3 Junior Scale Stenographers were adjusted from other departments. According to para-6(b) of the surplus pool policy "in case, however he is adjusted in his respective cadre but in a department other than his parent department, he shall be placed at the bottom of seniority list of that cadre" therefore, they are not entitle to claim seniority with effect from their first appointment in other department.

I am further directed to request you to fix their seniority strictly in accordance with the guidelines of the Provincial Government please.


Assistant Secretary (Estt.)

Secy:	
AC/D:	
Asst. Secy:	
Supte.:	
Br. Secy:	

11582

Estt

Annexure - G

19

**OFFICE OF THE
COMMISSIONER PESHAWAR DIVISION
PESHAWAR**



11890
31-10-2018

No. 6/4/EA/II/
Dated: 26.10.2018

15024

The Deputy Commissioner,
Nowshera.

Subject: APPLICATION AGAINST THE IMPUGNED SENIORITY LIST OF
STENOGRAPHER (BPS-14) IN OFFICE OF DEPUTY COMMISSIONER
NOWSHERA.

I am directed to refer to your letter No.6170/EA-23/DC/NSR/2018
dated 08.08.2018 on the subject cited above and to enclose herewith a copy of
Assistant Secretary (Estt), Board of Revenue, Revenue & Estate Department, Govt.
of Khyber Pakhtunkhwa letter No. Estt-II/Seniority list File/35320 dated 23.10.2018
for information and compliance please.

[Handwritten signature]

**ASSISTANT TO COMMISSIONER (REV/GA)
PESHAWAR DIVISION PESHAWAR**

No. 6/4/EA/II/15025

Copy forwarded to Assistant Secretary (Estt), Board of Revenue,
Revenue & Estate Department, Govt. of Khyber Pakhtunkhwa w/r to above quoted
letter.

[Handwritten signature]

**ASSISTANT TO COMMISSIONER (REV/GA)
PESHAWAR DIVISION PESHAWAR**

E.A
[Handwritten signature]
DEPUTY COMMISSIONER
NOWSHERA



Office of the
**DEPUTY COMMISSIONER
NOWSHERA.**

(Office Phone#0923-922098-99, Fax#0923-9220159,

Email: dconsrpk@yahoo.com


No. 8126-31 /EA-23/DC/NSR/2018

Dated 09/11/2018

NOTIFICATION

No. 8126-31 /EA-23/DC/Nowshera. In pursuance of Section-8 of Khyber Pakhtunkhwa Civil Servants Act 1973, read with Part-VI, Rule-17 of Civil Servants (Appointment, Promotion & Transfer) Rules 1989, Revised Final Seniority List of Junior Scale Stenographers (BPS-14) as stood on 07.11.2018, is hereby notified after approval upon Para-1, recommendations of the competent authority decision letter No. Estt:II/Seniority list /35320 dated 23.10.2018. The name of Mr. Zia Ullah Khan Junior Scale Stenographer is placed on Top from S/No. 04 accordingly, and is hereby circulated amongst all concerned.


This office notification No. 8730-31/EA-23/DC/NSR/2017 dated 04th December, 2017 is hereby repealed.


Deputy Commissioner
Nowshera

Even No & Date

Copy forwarded to the following for information please:-

1. The Assistant to Commissioner (Rev/GA) Peshawar Division Peshawar w/r letter No. 6/4/EA/II/15024 dated 26-10-2018.
2. The Assistant Secretary (Estt) Board of Revenue, Revenue & Estate Department Peshawar.
3. Additional Deputy Commissioner Nowshera
4. Assistant Commissioner Nowshera
5. All Concerned


Deputy Commissioner
Nowshera

REVISED FINAL SENIORITY LIST OF STENO GRAPHER (BPS-14) AS STOOD ON 09. NOVEMBER, 2018.

Sanctioned Post of Steno Grapher (BPS-14) = No. 05.

Name & Designation	Date of Birth	District of Domicile	Qualifications	Date of		Method of Recruitment	Date of Retirement	Remarks.
				1 st Entry into Govt. Service	Appointment / Promotion to the present post			
Zia Ullah Khan	10-4-1975	Nowshera	M.A	15-8-1997	15-8-1997	By Initial appointment	9-4-2035	See note below.
Muhammad Tariq	21-4-1964	Nowshera	M.A	12-7-1987	12-7-1987	By Initial appointment	20-4-2024	See note below.
Shah-i-Mulk	15-10-1960	Nowshera	F.A	14-9-1987	14-9-1987	By Initial appointment	14-10-2020	See note below.
Anwar Baig	8-2-1966	Nowshera	D.Com	17-9-1985 as LDC	2-9-1990 as Steno	By Promotion appointment	7-2-2026	See note below.

E:-

Muhammad Tariq was appointed as Junior Scale Stenographer in the office of Budget & Accounts Office Cooperative Department Khyber Pakhtunkhwa Peshawar, and was declared surplus on 01.12.2001, and adjusted in the DCO office Nowshera on 31.12.2001, Mr. Shah-i-Mulk was appointed as Junior Scale Stenographer in the office of Budget & Accounts Office Cooperative Department Khyber Pakhtunkhwa Peshawar, and was declared surplus on 01.12.2001, and adjusted in the DCO office Nowshera on 31.12.2001, Mr. Anwar Baig was appointed as LDC on 17.09.1985 appointment / promoted as Junior Scale stenographer on 02.09.1990, in the office of Director LG & RDD Khyber Pakhtunkhwa Peshawar and was declared surplus on 31.07.2001, and adjusted in the DCO office Nowshera on 01.08.2001. And Mr. Zia Ullah Junior Scale Stenographer is the permanent employee of this office who was appointed on 15-8-1997.

This Revised Final Seniority List of Junior Scale Stenographers (BPS-14) of Deputy Commissioner Office Nowshera, issued after approval upon Recommendations of the competent authority decision communicated by Assistant Secretary (Estt) Board of Revenue, Revenue & Estate Department Peshawar vide letter No. Estt-II/Seniority list /35320 dated 23.10.2018, through Assistant to Commissioner (Rev/GA) Peshawar Division vide letter No. 6/4/EA/II/15024 dated 26.10.2018. Under the provision of Sub para (b) of para 6 of Government of NWFP Establishment & Administration Department (Regulation Wing) No. SOR-1(E&AD)1-200/98 dated 8 Jun, 2001, the name of Mr. Zia Ullah Junior Scale Stenographer is placed on Top from S/No.04 accordingly.


Deputy Commissioner
Nowshera.

WAKALAT NAMA

IN THE COURT OF K.P.L Service Tribunal Peshawar

Shahi milk

Appellant(s)/Petitioner(s)

VERSUS

The Deputy Commissioners
and others

Respondent(s)

I/We Shahi milk do hereby appoint
Mr. Khush Dil Khan, Advocate Supreme Court of Pakistan in the above
mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

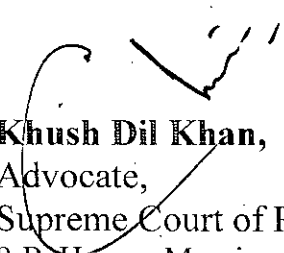
AND hereby agree:-


- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by


Signature of Executants


Khush Dil Khan,
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion
Off: Tel: 091-2213445


Ashraf Ali

WAKALATNAMA

IN The

KP Service Tribunal, Peshawar

Shahri Mullah

(Petitioner)
(Plaintiff)
(Applicant)
(Complainant).
(Decree Holder)

V E R S U S

Commissioner Gollu

(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case

Svc Appeal no - 2018

I/We,

Shahri Mullah

do hereby appoint and constitute

Muhammad Arif Jan Advocate High Court, Peshawar, to appear.

Plead, act, compromise, withdraw or refer to arbitration to me/ us

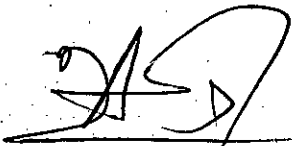
as my/ our Counsel in the above noted matter, without any liability

for their default and with the authority to engage/ appoint any

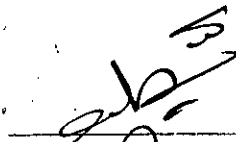
other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S



Muhammad Arif Jan
Advocate, High Court, Peshawar.
Office No. 6, 1st Floor
Pabbi Medical Centre, G.T. Road
Peshawar.
Mobile: 0333-2212213



Respondent No. 4

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWER

Muhammad Tariq (Appeal No. 1431)/2018.....
Mr. Anwar Baig (Appeal No. 1432)/2018
✓ Mr. Shahi Mulk (Appeal No. 1433)/2018 } Petitioners

Versus

Deputy Commissioner Nowshera etc Respondent

AFFIDAVIT

I Zahid Gul PS (BPS-17) to Deputy Commissioner Nowshera do hereby solemnly affirm and declare that the contents of the accompanying Para wise comments on behalf of Deputy Commissioner, Nowshera Respondent are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Service Tribunal Court.

Deponent



Zahid Gul

PS to Deputy Commissioner Nowshera
(BPS-17)

Cell No-03152324924.

PS to DEPUTY COMMISSIONER
NOWSHERA

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWER.

Shahi Mulk (Appeal No. 1433/2018).....Petitioner

Versus

Deputy Commissioner Nowshera etc Respondent

PRELIMINARY OBJECTIONS:

1. That the Appellant has no cause of action and locus standi.
2. That the Appellant has filed instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing circumstances and rules.
4. That the appeal is not maintainable in the present form and also in the present circumstances of the issue.
5. The appellant has filed the appeal in non-proper form and may be dismissed.
6. The appellant has not come to the tribunal with clean hands.
7. The appellant has been stopped by his own conduct. The instant appeal is nothing more than to waste the precious time of the Honorable Court.

PARA WISE COMMENTS ON BEHALF OF RESPONDENCE NO. 1 TO 3:-

FACTS

1. Pertains to record.
2. Pertains to record
3. Incorrect. No violation of laid down policy/rules have been made while reflecting on top in seniority list the name of impugned Stenographer in accordance with the devolution of power-plan Rules/Policy, "Government of Khyber Pakhtunkhwa Establishment and Administration Department regulation wing Para 6(b) of Notification No. SOR-1(E&AD)1-200/98 dated 08-06-2001, which is reproduced below:-


"In case an employee is adjusted in his respective cadre but in a department other than his parent department he shall be placed at bottom of seniority list of that cadre."
4. Correct. Impugned stenographer made an appeal to commissioner Peshawar Division Peshawar for setting aside the previous seniority list. After processing the case the Board of Revenue accepted his appeal and his name was put on top and thus a revised final seniority list of Junior Scale Stenographer (BPS-14) was issued.


5. Pertains to record


GROUNDS

- (a) Incorrect. While dealing with seniority list case proper rules/regulation have been adopted.
- (b) Court matter.
- (c) Correct. Previously no structure of service for promotion etc. of Junior Scale Stenographer (BPS-14) had been framed and now proper structure of service of Junior Scale Stenographer (BPS-14) has been devised.
- (d) Incorrect. Seniority list has been dealt with as per spirit of rules / policy of devolution of power plan.2001.

Hence this appeal may not be entertained and may be filed and dismissed.


Commissioner
Peshawar Division Peshawar
Commissioner Peshawar Division
Peshawar


Deputy Commissioner
Nowshera
DEPUTY COMMISSIONER
NOWSHERA


Senior Member Board of Revenue
Khyber Pakhtunkhwa
Peshawar

Senior Member
Board of Revenue
Khyber Pakhtunkhwa

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

In re:
S.A.No.1433/2018

Shahi Mulk

Versus

D.C Nowhsera

Written reply on behalf of respondent No.4

Respectfully Sheweth

PRELIMINARY OBJECTIONS:-

1. That the appellant has got no locus standi to file the instant appeal.
2. That appellant has not come to the Court with clean hands, but in fact the present appeal is nothing but just to deprive the respondent No.4 from his legal and lawful right of due promotion.
3. That the instant appeal is barred by law and time.
4. That in a fact, the respondent No.4 rightly promoted on his turn after fulfilling all the codal formalities, moreover, the respondent No.4 not violated any right of other employee including the appellant.

ON FACTS

1. Para-1 needs no comments, does not pertain to respondent No.4.

2. Para-2 is also incorrect, misleading and against the facts and circumstances. The appellant intentionally concealed the seniority list since 2001-2012 and again intentionally with his dishonest attitude concealed the seniority list for the year 2014-16 and this act of the appellant clearly shows the malafide and dishonesty, thus the appellant badly failed to establish his right in the seniority list since 2001 till 2018, except to place on file the seniority list for the year 2013 & 2017.
3. Para-3 is incorrect, brief mentioned in the above para.
4. Para-4 is totally incorrect, misleading, respondent No.4 has rightly promoted on his own turn being senior most and top of the list after fulfilling all the codal formalities by the competent authority and under the **Provision of Para-11A of Appointment, Promotion & transfer Rules, 1973, and sub-para(b) of para-6 of Provincial Govt Policy of declaring Govt. servant as surplus and their subsequent absorption/ adjustment vide E&AD, the appellant was adjusted at the bottom from the respondent No.4.**
5. Para-5 is incorrect, detail reply already mentioned, furthermore, the appellant badly failed to submit the necessary documents, despite the fact, but the appellant took the innocent excuse of flood of the year 2010 for his failure, but in fact it is event establish from the conduct/ efficiency of respondent No.4 where the seniority list of the year 2004, 2005, 2006 and 2011 were provided from the office of

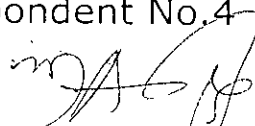
respondent No.4. The respondent No.4 submitted all the ACRs before the DPC members well within time and after scrutinizing the documents the respondent No.4 was declared for fit for promotion, being eligible and entitled in all respects. It is worth mentioning that the other cadre promotion has also been dealt and they all submitted their seniority list well after the year of Flood 2010, but they were promoted, which clearly shows that their record was not destroyed due to flood, hence the innocent excuse of flood raised by appellant is false and illegal.

GROUND

Grounds "A" to "D" raised in the appeal are totally illegal, unlawful, against the facts and circumstances, the appellant intentionally concealed some material facts from this hon'ble Tribunal for the sake of to deprive the respondent No.4 from his due right of promotion without any reason and justification. The appellant was appointed in the office of Director Local Government, he was declared surplus in his parent office for one time and was adjusted first time in other department/ DCO Office Nowshera, where the appellant was again declared as surplus and readjusted in the office of respondent No.1, whereas, the respondent No.4 since his appointment till now working in his parent department and thus placed at top of the seniority, whereas, due to adjustment and readjustment the appellant was brought on bottom of the seniority list. Hence not entitled for promotion well before the respondent No.4.

It is, humbly prayed that, on acceptance of instant reply, the appeal of the appellant may graciously be dismissed with cost throughout.

Any other remedy deemed appropriate in the circumstances and not specifically asked for may kindly also be granted.

Respondent No.4
Through 
Muhammad Arif Jan
Advocate High Court

AFFIDAVIT

I, Zia Ullah Stenographer, DC Office Nowshera (respondent No.4) , do hereby affirm and declare on oath that the contents of the instant **Written Reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




Deponent