

Service Appeal No. 1490/2020

O R D E R  
01.11.2021

Nemo for the appellant.


The appeal in hand was called on for hearing after various intervals, however neither the appellant nor anyone else appeared on his behalf till the closing time, therefore, the appeal in hand stands dismissed in default. Parties to bear their own costs. File be consigned to the record room.

ANNOUNCED  
01.11.2021

  
(Salah-Ud-Din)  
Member (Judicial)  
Camp Court Swat

23.08.2021

Junior to counsel for the appellant present and requests for adjournment as learned senior counsel is not available today. Request is accorded. To come up for preliminary hearing on 01.11.2021 before S.B at Camp Court, Swat.

  
Chairman  
Camp Court, Swat

04.02.2021

Junior counsel for appellant present.

He made a request for adjournment as senior counsel is not in attendance. Adjourned. To come up for preliminary hearing on 03.03.2021 before S.B at Camp Court, Swat.



(Rozina Rehman)  
Member (J)  
Camp Court, Swat

01.03.2021

Appellant present through counsel.

He made a request for adjournment; granted. To come up for preliminary hearing 04.05.2021 before S.B at Camp Court, Swat.



(Rozina Rehman)  
Member (J)  
Camp Court, Swat

26.07.2021

To come up for preliminary hearing on 23.08.2021 before S.B at Camp Court, Swat. Notices be issued to appellant/counsel, as well as respondents by the date fixed.



Chairman

08.10.2020

Clerk of counsel for appellant is present.

Shed Jehanzeb, Advocate, General Secretary District Bar Association, Swat, by virtue of a reference no. nil dated 07.10.2020 communicated a day before that the Members of District Bar Association, Swat, have been invited to participate in the Oath taking ceremony of the President Peshawar High Court Mingora Bench (Bar Association) PHCMBBA to take place on 08.10.2020 therefore, it was requested for extension of cooperation and adjournment of cases after 10:00 A.M while at the moment prescribed time of 10:00 A.M has already passed. The case is adjourned to 10.12.2020 on which to come up for preliminary hearing before S.B at Camp Court, Swat.

(MUHAMMAD JAMAL KHAN)  
MEMBER  
CAMP COURT SWAT

10.12.2020

Due to Covid-19, case is adjourned to 04.02.2021 for the same as before

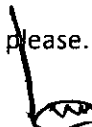
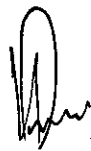
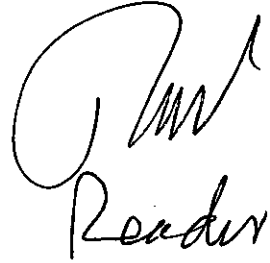
Reader

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 1190 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/03/2020	<p>The appeal of Mr. Muhammad Iqbal presented today by Mr. Khan Sardar Alam Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p> REGISTRAR 11/3/2020.</p>
2-		<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>07.08.2020</u></p> <p> Chairman</p> <p><i>Due to summer vacation the case is adjourned. To come up for the same on 08-10-2010</i></p> <p> Reader</p>

①

**BOFORE THE SERVICE TRIBUNAL, KHYBER**  
**PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 1490 /2020

**Muhammad Iqbal** (Senior Clerk) at DC office BUNER (Appellant)

VERSUS

1. Deputy Commission Buner, DC office Buner.
2. Commissioner Malakand Division at Mingora Swat.
3. Senior Member Board of Revenue KPK, Peshawar

(Respondents)

INDEX

S.No	Description of Documents	Annexure	Pages
1	Grounds of Appeal	-	1 to 7
2	Copy of Initial appointment	A	8-
3	Copy of leave order	B	9-
4	Copy of judgment of service tribunal kpk Peshawar	C	10-15
5	Copy of execution order	D	16-23
6	Copy of promotion order <i>S. list</i>	E	24-25
7	Copy of application and order of commissioner malakand division	F and G	26-29
8	Wakalat Nama		30

*M Iqbal*

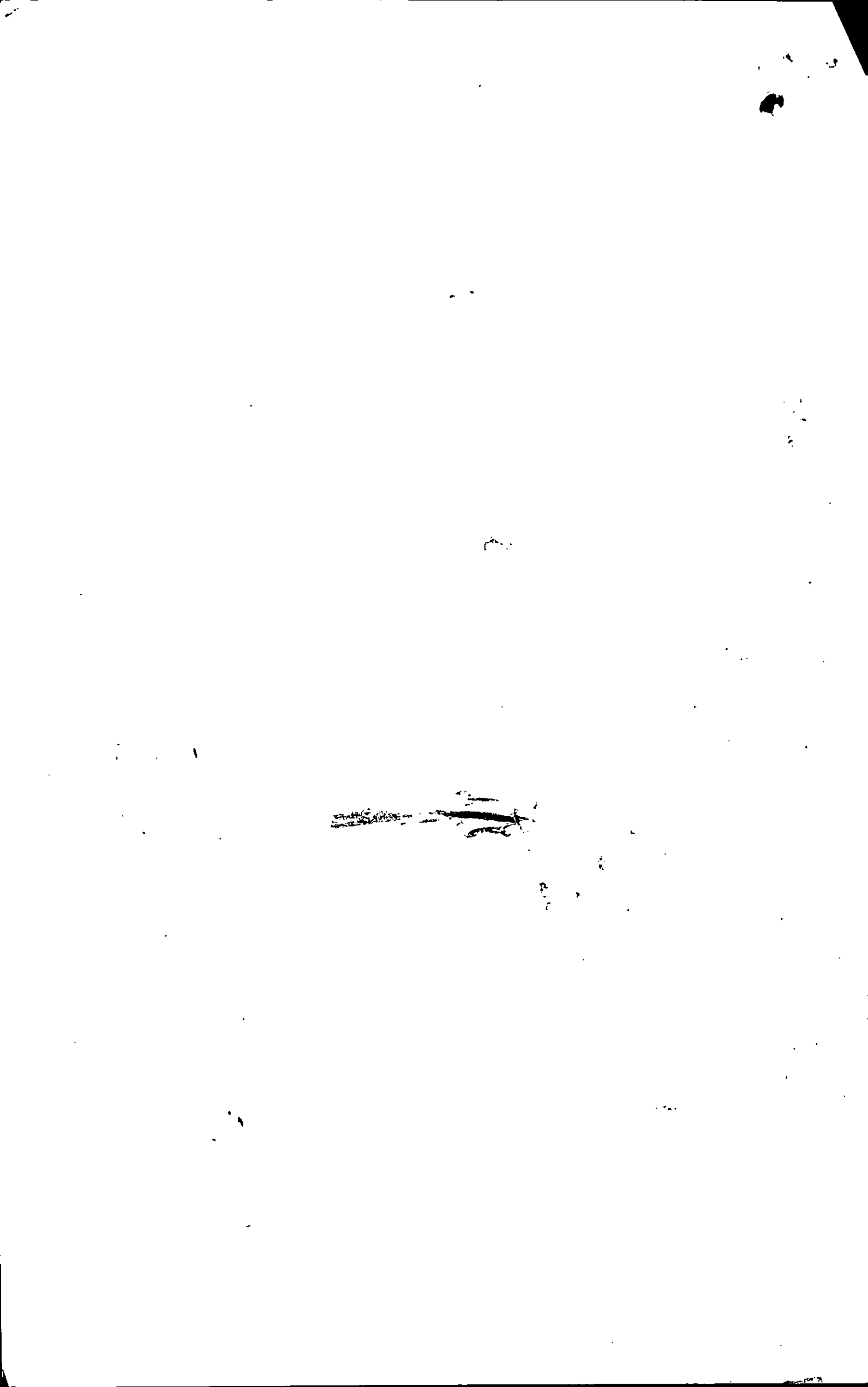
Appellant

Through Counsel

*S. Sardar*  
**Khan Sardar Alam**  
Advocate, High Court

District Buner.

Cell No. 03339704009



(2)

**BOFORE THE SERVICE TRIBUNAL, KHYBER**  
**PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 1490 /2020

Khyber Pakhtukhwa  
Service Tribunal

Diary No. 1755

Dated 11/3/2020

**Muhammad Iqbal** (Senior Clerk) at DC office Buner (Appellant)

VERSUS

1. Deputy Commission Buner, DC office Buner.
2. Commissioner Malakand Division at Mingora Swat.
3. Senior Member Board of Revenue KPK, Peshawar

(Respondents)

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**SERVICE APPEAL UNDER SECTION IV OF THE KHYBER  
PAKHTUNKHUWA SERVICE TRIBUNAL ACT 1974 AGAINST  
THE IMPUGNED OFFICE ORDERS / LETTERS 76-78 DATED:01-  
01-2020,70-72 DATED 01-01-2020,and 244-CF/Estt: Dated: 12-  
02-2020.**

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**Prayer:** on acceptance of this Service Appeal, the impugned office orders No.76-78 dated 01-01-2020, 70-72 Dated 01-01-2020, 244-CF/Estt Dated 13-02-2020, ENDST No.24-28/F No.121/A-23 / MS /Buner -2 Dated: 01-02-2019. may kindly be set aside and the Respondents may kindly be directed to allow the Appellant, to promote on his reserved seat of BPS -16 at Deputy Commission office Buner in the best interest of public.

Respectfully Sheweth:

Brief facts giving rise to the instant Service appeal are as under:

**FACTS:**

1. That On 16-05-1993 the appellant was appointed as junior clerk in EAC Daggar office and later on, Appellant promote as senior clerk. **Copy of initial order of the appointment is Annexure A).**

Filed to  
Registrar  
11/3/2020



(3)

2. That after completion of prescribe length of service and fulfilling other requisite on the post of senior clerk for onward promotion to the post of office assistance BPS-16, the appellant was under legitimate to post of BPS -16 laying reserved/vacant in Deputy Commission office Buner.
3. That the Appellant was serving in D.C office as Senior clerk, and applied for 852 days leave with half pay, which was allowed on 01-08-2014 commencing from 01-09-2014. **(Copy of leave order is Annexure B).**
4. That due shortage of staff the D.C buner Cancelled the leave of appellant on 13-11-2015.and appellant joined his duty.
5. That after joining of his duty, the DC buner, make enquiry against the appellant with malafide intention. In the said enquiry the appellant remove from his service on 10-02-2016. That Appellant filed service appeal No.263/2017 before the Hon,able Service tribunal KpK at Peshawar.
6. That the Hon,able Service Tribunal, Peshawar accepted the service appeal of the appellant by setting aside the removal order, and re-instated him into his service vide order Dated: 20-11-2018. **Copy of Judgment is Annexure C).**
7. That the Appellant also communicated/sent the attested copies of the said judgment, through courier service but even then the respondent are not obeying the order of the Hon,able service tribunal kpk and also reluctant to re-instated the appellant in service.
8. That the Appellant filed execution petitioner No.27/2019 before the Hon,able service tribunal kpk at Peshawar on 18/01/2019.and given various opportunity to the respondent to produce any order/decision of the Apex Court requiring suspension of judgment under implementation setting aside on 08/10/2019, however on 08/10/2019 the respondent produce the re-instatement order of the appellant. **Copy of Execution order is Annexure D).**
9. That 01/01/2020 vide tentative seniority list of BPS-16 No. 76-78/ issue, but the name of appellant was not mention in the seniority list. Similarly on the same day waiting list was issue, in which the appellant was on top position. **(Copy of promotion order is Annexure E).**
10. That being aggrieved, the appellant filed departmental appeal before the respondent no.2 on 20/01/2020 against the impugned letter NO 76-78. But the same was dismissed by the respondent no.2 on 13/02/2020 that CPLA was pending before the august Supreme Court against the appellant. **Copy of application and Order are Annexure F and G).**

(4)

11. That being aggrieved from the actions and inactions of Respondents, the Appellant prefers this Service Appeal on the following grounds amongst others inter-alia.

**GROUND:**

- A. That the appellant name was not mention in seniority list due to baseless plea of the respondent's no.1 and 2 and also due to back stair influence exerted by political person, hence violation of the law and rule.
- B. That as per law, rule and legitimate expectancy the appellant was entitled to have been included the name in list of BPS-16 which was lying reserved vacant.
- C. That the Name of appellant has not been treated according to the law and natural justice, hence the impugned order of the respondents against the spirit of the law.
- D. That the respondent always accommodated their blue eyed on political exertion as per seniority reflected at serial no 12 to 16 and 19 are junior from appellant, so the respondents once again exercise their power not vested to them under the rule and policy.
- E. That after official respondent vide departmental promotion committee held on 01/01/2020, promoted serial no 12 to 17 and 19 while the promotion of the appellant deferred due pending of the CPLA against the appellant before the August Supreme Court.
- F. That the appellant being fit and qualified is entitled to be considered for promotion fairly, justly and without influence from any extraneous consideration.
- G. That the actions and inactions of Respondent No. 1 and 2 are arbitrary, mechanical, based on favoritism and personal interest, needs interference of this august court. hence the order of Respondents liable to be set aside.

5

H. That the Appellant seeks the permission of this august Court to rely on additional grounds at the hearing of this Appeal.

It is, therefore, humbly prayed that on acceptance of this Service Appeal, the impugned office orders / letters 76-78 dated: 01-01-2020, 70-72 dated 01-01-2020, and 244-cf/estt: dated: 12-02-2020 may kindly be set aside and the Respondents may kindly be directed to allow the Appellant, to perform his duties against his vacant post at D.C office at Daggar, Buner in the best interest of public.

OR

Any other relief which this august Court deems appropriate may kindly be awarded to meet the ends of justice.

*M. Latif*

Appellant

Through:

*S. J. Ali*

**Khan Sardar Alam**  
Advocate, High Court

District Buner.

**CERTIFICATE & AFFIDAVIT:**

Certified that no such like Appeal has earlier been filed before this august court regarding the instant matter.

*S. J. Ali*  
**ADVOCATE**

**List of Books:**

1. Service Act.
2. E&D Rules 2011.
3. Any other law books according to need.

*S. J. Ali*  
**ADVOCATE**

6

**BOFORE THE SERVICE TRIBUNAL, KHYBER**  
**PAKHTUNKHWA, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2020

**Muhammad Iqbal** (Senior Clerk) at DC office \_\_\_\_\_ (Appellant)

VERSUS

1. Deputy Commission Buner, DC office Buner.
2. Commissioner Malakand Division at Mingora Swat.
3. Senior Member Board of Revenue KPK, Peshawar

(Respondents)

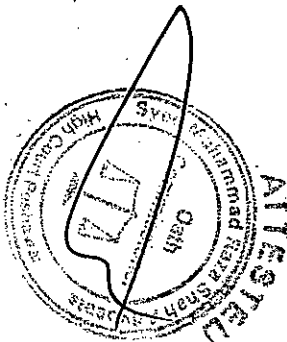
**AFFIDAVIT**

I, Muhammad Iqbal (Senior Clerk) at DC office buner, do hereby solemnly affirmed and declare that all the contents of the service appeal are true and correct to the best of knowledge and belief and nothing has been concealed or withheld from this Hon,able tribunal.

Deponent



Muhammad Iqbal



(7)

**BOFORE THE SERVICE TRIBUNAL, KHYBER**  
**PAKHTUNKHWA, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2020

**Muhammad Iqbal** (Senior Clerk) at DC office \_\_\_\_\_ (Appellant)

VERSUS

1. Deputy Commission Buner, DC office Buner.
2. Commissioner Malakand Division at Mingora Swat
3. Senior Member Board of Revenue KPK, Peshawar

(Respondents)

Address of parties:-

Address of Appellant:

**Muhammad Iqbal** (Senior Clerk) at DC office

Cell No. 03319696675

Addresses of Respondents.

1. Deputy Commission Buner, DC office Buner.
2. Commissioner Malakand Division at Mingora Swat
3. Senior Member Board of Revenue KPK, Peshawar



Appellant

Through Counsel



**Khan Sardar Alam**  
Advocate, High Court

District Buner.

Cell No. 03339704009

(A) 8

No. 2/14(Acctt)Vol-II Dated Daggur the 16-5-1993.

OFFICE ORDER.

Mr. Mohammad Iqbal, S/O Mr. Amir Nawab, resident of Karapa is hereby appointed as Junior Clerk in (B-5) (Rs. 1035-49-1770) against the vacancy caused due to the retirement of Mr. Amir Nawab Senior Clerk from service with effect from 15.5.1993(after noon) purely on temporary basis subject to regularization by the Departmental Promotion/Selection Committee already constituted for the purpose.

His appointment is further subject to production of the following documents.

- 1) Domicile Certificate.
- 2) Matriculation Certificate.
- 3) Health and age Certificate from Medical Superintendent Civil Hospital at Daggur.

DEPUTY COMMISSIONER, BUNER.

No. 2612-15/2/14(Acctt)Vol-II.

Copy forwarded to :-

- 1) The District Account Officer Buner for information and necessary action.
- 2) Office Nazar for necessary action.
- 3) Mr. Mohammad Iqbal S/O Amir Nawab for information.
- 4) Office Order file 2/13(Acctt).

Attested by

Rashid  
DEPUTY COMMISSIONER, BUNER.

9

B

OFFICE OF THE  
DEPUTY COMMISSIONER,  
BUNER.

No. \_\_\_\_\_/DC/Buner/Estt.  
Aug 01, 2014.

Office Order.

Extra Ordinary Leave with half pay of 02 years and 04 months w.e.f. 01-09-2014 to 30-12-2016 is hereby granted to Mr. Muhammad Iqbal Senior Clerk upon his own request.

Necessary entries may therefore be made in the Service-Book of the official.

(Khaisat Rahman)  
Deputy Commissioner /  
District Magistrate,  
Buner.

Estt. No. & date even. 10188-92

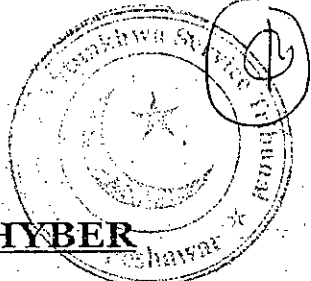
For information and necessary action:

1. The District Officer, Finance & Planning, Buner.
2. The District Accounts Officer, Buner.
3. The District Nazaf (Local), Buner.
4. The Superintendent Main Office.
5. Mr. Muhammad Iqbal Senior Clerk.

(Khaisat Rahman)  
Deputy Commissioner /  
District Magistrate,  
Buner.

Affected by

"C" (10) Part A (8)



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

Service Appeal No. 263 /2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 268

Dated 20-3-2017

**Muhammad Iqbal** Senior Clark at DC office Buner  
.....Appellant  
Versus

1. Senior Member Board of Revenue KPK, Peshawar.
  2. Commissioner Malakand Division at Mingora Swath
  3. Deputy Commissioner Buner, DC Office Buner
- .....Respondents

APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 AGAINST  
THE NOTIFICATION BEARING NO.  
812-21/DC/BUNER/ESTT DATED  
11/02/2016 (COPY OF IMPUGNED  
ORDER IS ANNEXED AS  
ANNEXURE A) ISSUED BY THE  
OFFICE OF DEPUTY  
COMMISSIONER BUNER,  
COMMUNICATED TO THE  
APPELLANT ON 10/11/2016 (COPY  
OF AFFIDAVITS ARE ANNEXED AS

File-to-day

Registrar  
20/3/17

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Attested by



Ant 1 Af CP 11

Date of  
No order/  
proceeding  
s  
1 2 3

Order or other proceedings with signature of Judge or Magistrate



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

Appcal No. 263/2017

Date of Institution ... 20.03.2017

Date of Decision ... 20.11.2018

Muhammad Iqbal Senior Clerk at DC office Buner

-----Appellant

1. Senior Member Board of Revenue KPK, Peshawar.
2. Commissioner Malakand Division at Mingora Swath.
3. Deputy Commissioner Buner, DC Office Buner.

-----Respondent

Mr. Muhammad Hamid Mughal.....Member

Mr. Hussain Shah.....Member

JUDGMENT

20.11.2018

Mr. HUSSAIN SHAH:- Appellant, learned counsel for the

appellant and Mr. Zia Ullah Deputy District Attorney on behalf of the respondents present.

2. The appellant was appointed as junior Clerk in the office of Deputy Commissioner Buner on 16.05.1993. Later on he was promoted as Senior Clerk in the same office. On his request the deputy Commissioner granted him 852 days leave on half pay on 01.08.2014 to be effective from 01.09.2014 to 30.12.2016. However his sanctioned leave was cancelled on 13.11.2015 with immediate effect on the ground of deficiency of the staff in the office.

3. Being aggrieved the appellant approached the Hon'able Peshawar High Court circuit bench, Dar-ul-Qaza /Swat in writ

Muhammad Iqbal

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

petition No 618-M/2015 alongwith application to seek interim relief, the Hon'able Court granted the interim relief on 30.12.2015 to the effect that the operation of the leave cancellation order of the Deputy Commissioner Buner dated 13.11.2015 be suspended. The said writ petition was disposed on 18.10.2016 by the Hon'able High Court, with the observation that the petitioner may seek remedy from the proper forum of jurisdiction. Since the institution of the writ petition till its disposal the interim relief remained in field. The appellant, after obtaining attested copies of the writ petition and the case documents, become aware that the petitioner had already removed him from service vide order dated 21.02.2016. The appellant preferred departmental appeal after obtaining the copies of the impugned order dated 11.02.2016. However the said departmental appeal was not decided within the stipulated statutory time period. Being aggrieved he preferred this service appeal before the tribunal.

4. The learned counsel for the appellant contested that the impugned order is against the law, facts or rules as it was issued while the interim relief granted by the Hon'able High Court was in the field, despite the fact that the learned AAG for the official respondents was present on 10.12.2016 when the Hon'able High Court, reaffirmed the interim relief order in the field. He further argued that the appellant having the interim relief at his back the respondent authorities deemed his leave as absence from duty and issued impugned order without fulfilling the codal formalities as well as issuing any notices of any inquiry neither by inquiry

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

officer nor by the authority concerned thus the impugned order may be cancelled and appellant be re-instated in service from the date of removal from service with all back benefits including promotion or up-gradation of the post etc.

5. The respondent department in their para-wise comments contested the ground and the facts of the service appeal. The learned DDA argued that the leave with half pay was cancelled on the ground of deficiency of shortage of ministerial staff in the office of the Deputy Commissioner. The office of the Deputy Commissioner was over worked due to the Earth quake of October 2015 and the subsequent rehabilitation work alongwith the compensation cases in progress through out the district. The learned DDA further argued that the appellant reported for duty in compliance of leave cancellation order. As such he absent himself after performing his duty for 15 days without bringing into the notice of the competent authority that Hon'able High Court had already issued the suspension of the cancellation of leave order. He further stated that all the codal formalities were fulfilled before the issue of the impugned order. Hence the appeal may be dismissed with special costs.

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*Handwritten signature/initials*

6. Arguments heard. File perused.

7. vide order dated 01.08.2014 the appellant was allowed leave with half pay w.c.f 01.09.2014 to 30.12.2016 and then vide order dated 13.11.2015 remaining leave granted to the appellant was cancelled on the ground of shortage of ministerial staff.

ATTESTED

*Handwritten signature*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

8. The appellant could not demonstrate that the leave

cancellation order is arbitrary or based on malafide. Similarly the appellant remained unable to show any unavoidable compelling circumstances due to which he could not honor the leave cancellation order.

9. It is worthy mentioning that aggrieved from the leave cancellation order the appellant approached Hon'ble Peshawar High Court Peshawar by filing Writ Petition bearing No.618/2015 and the Hon'ble Peshawar High Court Peshawar suspended the operation of leave cancellation order resultantly the order regarding grant of leave with half pay till 30.12.2016 as mentioned above stood restored. The Writ Petition of the appellant was ultimately dismissed on the point of jurisdiction vide order dated 18.10.2016. As such the appellant was not supposed to attend his duty till the disposal/dismissal of the Writ Petition on 18.10.2016. However the appellant was removed from service vide impugned order dated 11.02.2016 on the ground of absence from duty even prior to the disposal of Writ Petition. Consequently the impugned order dated 11.02.2016 regarding removal of the appellant from service on the ground of absence from duty is not tenable.

10. In the light of above discussion the impugned order dated 11.02.2016 in respect of removal of appellant from service is set aside. Resultantly the appellant is reinstated in service. The appellant shall be deemed on leave with half pay till the dismissal/disposal of the Writ Petition mentioned above. The period intervening in between the dismissal/disposal of the Writ Petition and passing of this judgment shall be treated as leave without pay.

*[Handwritten signature]*

*[Handwritten signature]*

**ATTESTED**

*[Handwritten signature]*  
J. J. WINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(15)

(12)

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

*[Signature]*

(Muhammad Hamid Mughal)  
Member

*[Signature]*

(Hussain Shah)  
Member

**ANNOUNCED**  
20.11.2018

Certified to be true copy.

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

22-11-18

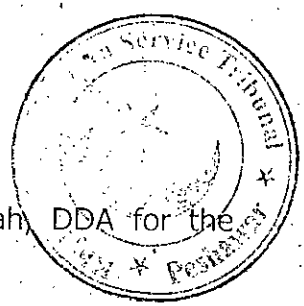
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Copying Fee	14.00
Urgent	_____
Total	14.00
Name of Copyist	<i>[Signature]</i>
Date of Completion of Copy	11-12-18
Date of Delivery of Copy	11-12-18

*Muhammad*

C'D

(16)

M. Iqbal vs Govt



EP 29/2019  
11.09.2019

Petitioner with counsel and Mr. Ziaullah, DDA for the respondents present.

It is available on record that the respondents have preferred CPLA before the Apex Court against the judgment under implementation, however, the date of hearing in the matter is yet to be fixed.

The respondents No. 2 & 3 shall be issued notices for next date of hearing. On the next date any order/decision of Apex Court requiring suspension of judgment under implementation or setting aside altogether shall be produced. Else, the requisite implementation report shall positively be submitted.

Adjourned to 08.10.2019 before S.B.

*[Signature]*  
Chairman

08.10.2019

Petitioner alongwith counsel and Addl. AG alongwith M/S Muhammad Arif, Superintendent and Muhammad Sardar, Computer Operator for the respondents present.

Former has produced reinstatement order dated 02.10.2019 of petitioner and requests for consigning the proceedings to record.

Order accordingly.

*[Signature]*  
Chairman


Date of Presentation of Application 02/03/20  
 Number of Pages 1200  
 Copying Fee 14  
 Urgent \_\_\_\_\_  
 Total 14  
 Name of Copyist [Signature]  
 Date of Completion of Copy 04/3/20  
 Date of Delivery of Copy 04/3/20

Certified to be true copy  
*[Signature]*  
Khawar  
Secretary  
Service Tribunal,  
Peshawar

(17)


29.04.2019

Petitioner in person present. Addl: AG for respondents present. Fresh notice be issued to the respondents for submission of implementation report. Case to come up for further proceedings on 20.06.2019 before S.B.

  
(Ahmad Hassan)  
Member

20.06.2019

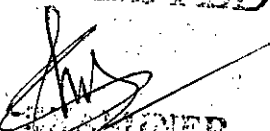
Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Asad Khan, Junior Clerk for the respondents present. Representative of the department submitted objection petition on the execution petition. The same is placed on record. Case to come up for arguments on 02.08.2019 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

02.08.2019

None for the petitioner present. Mr. Usman Ghani, District Attorney alongwith Mr. Attaullah, Assistant Secretary and Mr. Muhammad Sardar, Assistant for respondents present. Notices be issued to the petitioner and his counsel. Case to come up for further proceedings on 11.09.2019 before S.B.

ATTESTED

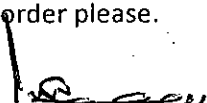


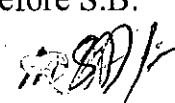
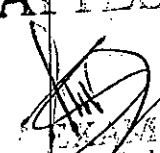
  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

  
(Ahmad Hassan)  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 29/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.1.2019	<p>The execution petition of Mr. Muhammad Iqbal submitted by Mr. Muhammad Anwar Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 18/1/19</p>
2-	21/1/19	<p>This execution petition be put up before S. Bench on <u>25-2-19.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	25.02.2019	<p>Petitioner in person present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Notices be issued to the respondents for submission of implementation report. Case to come up for implementation report on 28.03.2019 before S.B.</p> <p style="text-align: right;"> Member (Ahmad Hassan)</p>
	28.03.2019	<p>Petitioner in person present. Notice be issued to the respondents for implementation report for 29.04.2019 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>
		<p style="text-align: center;"><b>ATTESTED</b></p> <p style="text-align: center;"> EXAMINER Kh/oor Pakhtunkhwa Service Tribunal, Peshawar</p>



(18)

**BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR**

Execution Petition No. 29/2019

C.O.C No. \_\_\_\_\_/2019

IN

Service Appeal No. 263/2017

Muhammad Iqbal ..... **PETITIONER**

**V E R S U S**

Dr. Fakhar e Alam, SMBR & others ..... **RESPONDENTS**

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Application for contempt of court		1-4
2.	Affidavit		5-6
3.	<i>copies of order dated 20/11/2018 and service Appeal</i>	A-A/1	7-13
4.	<i>attested copies of the judgement with official seal on the last page</i>	B	14-19
5.	<i>Copies of the receipts of the courier service</i>	C	20-22
6.	Wakalat Nama		23

*Muhammad Iqbal*

Through

*Muhammad Anwar*  
Petitioner

**Muhammad Anwar**

**Jahanzeb Shinwari**

Advocates, Peshawar

Cell: 0333-8866902

Date: 7/1/2019

**BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR**

Execution Petition No. 29/2019

C.O.C No. \_\_\_\_\_/2019

IN

Service Appeal No. 263/2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 103

Dated 18-1-2019

Muhammad Iqbal Senior Clerk at DC Office Bunner

.....Petitioners

**V E R S U S**

1. Dr. Fakhar e Alam, Senior Member Board of Revenue KPK, Peshawar
2. Mr. Zaheer Ul Islam, Commissioner Malakand Division.
3. Mr. Shafi Ullah, Deputy Commissioner Malakand Division at Mingawara, Sawat

..... Respondents/Contemnors

Execution Petition / Contempt of Court proceedings under Article 204 of the Constitution of Islamic Republic of Pakistan, 1973 read with Section 3/4 of Contempt of Court Act, and other enabling sections of the khyber Pakhtunkhwa Service Tribunal Act, 1974 and other Rules, for initiating contempt of court proceedings against respondents for not obeying / non-complying with the orders / directions dated 20/11/2018 passed by this Honourable Court in Service Appeal No. 263/2017 and also for implementation of the above directions in letter and spirit and the respondents may please be penalized for the disobedience of honourable tribunal orders under the relevant provision of law.

**ATTESTED**

*[Signature]*  
 SENIOR CLERK  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

**Respectfully Sheweth:**

1. That the petitioner filed Service Appeal against the respondents before this honourable Tribunal and this honorable tribunal was pleased to accept / allow the said service appeal in the terms as:

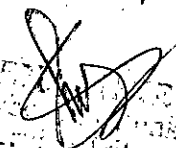
*“In the light of above discussion, the impugned order dated 11/02/2016 in respect of removal of appellant from service is set aside. Resultantly the appellant is reinstated in service. The appellant shall be deemed on leave with half pay till the dismissal / disposal of the writ petition mentioned above. The period intervening in between the dismissal / disposal of the writ petition and passing of this judgment shall be treated as leave without pay”.*

*(copies of order dated 20/11/2018 and service Appeal are annexed as annexure A-A/1)*

2. That the petitioner applied for attested copies of the said judgment / orders on 22/11/2018 and the office prepared the copy on 11/12/2018 and handed over the same to the petitioner on 11-12-2018.

*(attested copies of the judgement with official seal on the last page of the judgment is annexed as Annexure - B)*

ATTESTED

  
Secretary  
Service Tribunal,  
Peshawar

3. That the petitioner handed over the attested copy of the ibid judgment to the official office of the Respondent No. 3 on 14/12/2018 and in this respect his signature has been obtained on the last back page of the attested copy of Annex-B. The petitioner also requested for his arrival report to the respondent No. 3 but his request was not accepting by not handing over the charge of the post on which the petitioner has been reinstated by this honourable Tribunal and thus the respondents disobeyed the orders of the Honourable Tribunals.

4. That the petitioner also communicated / sent the attested copies of the judgment dated 20/11/2018 through currier service on 26/12/2018 but even then the respondent are not obeying the orders of this honorable and are reluctant to reinstate the petitioner in service.

*Copies of the receipt of the currier service are annexed as Annex - C*

5. That the Respondents / Department has disobeyed the orders / directions dated 20/11/2018 passed by this Honourable Court and thus have committed contempt of court.

6. That the contemnors have acted with open motive to show their / its disrespect to the authority of this Honourable tribunal.

**ATTESTED**

*[Signature]*  
 Khwaja Muhammad  
 Service Tribunal,  
 Peshawar

It is, therefore, most humbly prayed that:

- i. The respondents may please be penalized under the relevant section of law and rules for Contempt of Court, committed by the respondents.
- ii. The respondents may please be directed to implement the order dated 20/11/2018, passed by this Hon'ble Court, in letter and spirit without any further lapse of time.
- iii. The petitioner may also be compensated for having been dragged into vexatious litigation at the hands of respondents / department.
- iv. Any other relief which is available to the petitioner, in the given circumstance, may also be awarded / granted in favour of the petitioner against the respondents.

*[Signature]*  
Petitioner

Through

*[Signature]*  
**Muhammad Anwar**

*[Signature]*  
**Jahanzeb Shinwari**  
Advocates, Peshawar

Date: 17/11/2019

Certified to be true copy  
*[Signature]*  
Khalid Shinwari  
Service Tribunal,  
Peshawar

Date of Presentation of Petition 03/3/20  
 Number of Petitions 16/2018  
 Copies 18  
 Urgent 18  
 Total 18  
 Name of Applicant [Signature]  
 Date of Receipt of Copy 4/3/20  
 Date of Delivery of Copy 3/3/20



23

**OFFICE OF THE  
DEPUTY COMMISSIONER  
BUNER**

No. 1012/19 /F/10/DC/Buner/Estt:  
Oct 02, 2019.

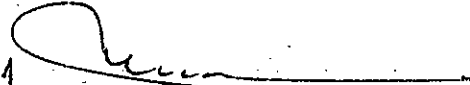
**Re-instatement Order.**

In compliance with the Khyber Pakhtunkhwa Service Tribunal Peshawar Judgment in Service Appeal No. 263/2017 dated 20.11.2018 and the directions of the Worthy Chairman Khyber Pakhtunkhwa Service Tribunal for the implementation of the said Judgment contained in various Order Sheets in Execution Petition No. 29/2019, Mr. Muhammad Iqbal terminated vide Notification no. 812-21/DC/Buner/Estt. dated 11.02.2016 is hereby re-instated with effect from the date of the announcement of the Judgment *ibid* i.e. 20.11.2018.

In further compliance with the Judgment *ibid*, the period intervening in between the date of Mr. Muhammad Iqbal's removal from service i.e. 11.02.2016 and the dismissal / disposal of the Writ Petition No. 618/2015 i.e. 18.10.2016 may be treated as leave on half pay while the period intervening in between the dismissal / disposal of the Writ Petition No. 618/2015 i.e. 18.10.2016 and Judgment in Service Appeal No. 263/2017 i.e. 20.11.2018 may be considered as leave without pay.

This order may be held conditional subject to final decision of the august Supreme Court of Pakistan in CPLA No. 29/2019.


Necessary entries to this effect be made in his services book.

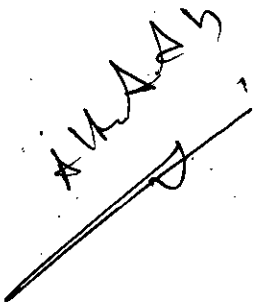
  
DEPUTY COMMISSIONER,  
BUNER.

**Encl. No. & Date Even.**

**For Information and Necessary Action:**

1. Registrar, Khyber Pakhtunkhwa Service Tribunal Camp Court Swat.
2. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. Commissioner, Malakand Division.
4. Additional Advocate General, Khyber Pakhtunkhwa Service Tribunal Peshawar.
5. District Accounts Officer, Buner for necessary action.
6. District Nazir (Local) for necessary action.
7. Mr. Muhammad Iqbal Senior Clerk / Re-Instated Official.

  
DEPUTY COMMISSIONER,  
BUNER.





**OFFICE OF THE  
DEPUTY COMMISSIONER, BUNER.**

Dated: 01.01.2020

**Tentative Seniority List of Assistant BPS-16.**

No. 76-78 /A-15-Assistant/DC/Buner/Estt.: The undersigned is pleased to issue the tentative seniority list of the Assistants of this office as it stood on 31.12.2019 as below:

S#	Name	Qualification	Date of Birth	Date of 1 <sup>st</sup> entry into Govt. Service	Date of Regular Appointment Promotion to Assistant	Method
1	Saraf Ali	BA	10.01.1983	01.03.2004	22.06.2006	Direct
2	Attaullah	M. Sc	17.06.1977	22.06.2006	22.06.2006	Direct
3	Sami Ur Rahman	MA	22.04.1980	22.06.2006	22.06.2006	Direct
4	Muhammad Ayub	BA	01.01.1962	08.06.1991	21.01.2009	Promotion
5	Ghani Rahman	MA, LLB	04.10.1968	09.02.1992	11.07.2013	Promotion
6	Akmal Khan	Metric	11.07.1969	09.02.1992	11.07.2013	Promotion
7	Mohammad Haroon	Metric	21.05.1972	09.02.1992	11.07.2013	Promotion
8	Anwar Gul	FA	02.04.1967	05.12.1987	11.07.2013	Promotion
9	Mohammad Qamash	FA	01.04.1965	02.02.1992	11.07.2013	Promotion
10	Shamsher Khan	FA	15.10.1967	01.06.1992	11.07.2013	Promotion
11	Sher Ali Khan	F.Sc	15.01.1972	01.10.1992	11.07.2013	Promotion
12	Shah Sultan	Metric	01.01.1972	17.07.1994	11.07.2013	Promotion
13	Sanaullah	FA	05.05.1970	17.07.1994	20.01.2017	Promotion
14	Akbar Said	FA	12.04.1976	17.07.1994	20.01.2017	Promotion
15	Muhammad Rahman	Metric	01.02.1970	17.07.1994	20.01.2017	Promotion
16	Said Bakmal	BA	07.02.1972	14.06.1995	20.01.2017	Promotion
17	Amrosh Khan	FA	15.02.1966	14.06.1995	09.11.2017	Promotion
18	Said Rashid	BA	03.01.1970	09.07.1987	29.01.2018	Promotion
19	Raham Taj	MA	01.07.1970	04.03.1996	11.12.2019	Promotion

**DEPUTY COMMISSIONER,  
BUNER.**

**Endst. No. & Date Even.**

1. Commissioner, Malakand Division, for information.
2. Secretary, Board of Revenue, Revenue & Estate Department, Peshawar, for information.
3. All the Assistant. Objections, if any, must be communicated within fifteen (15) days of the receipt of this list.

*ADC PDP*  
*A. H. H. H. H.*  
*b*

**DEPUTY COMMISSIONER,  
BUNER.**



E1

25

**OFFICE OF THE  
DEPUTY COMMISSIONER, BUNER.**

Dated: 01.01.2020.

Tentative Seniority List of Senior Clerks BPS-13.

No. 70/22 /A-15-SC/DC/Buner/Estt.: The undersigned is pleased to issue the tentative seniority list of the Senior Clerks of this office as it stood on 31.12.2019 as below:

S.P.	Name	Qualification	Date of Birth	Date of 1 <sup>st</sup> entry into Govt. Service	Date of Regular Promotion to Senior clerk
1	Muhammad Iqbal	Metric	07.04.1970	16.05.1993	10.02.2014
2	Anarali Khan	FA	10.10.1978	02.05.1996	24.03.2017
3	Sadaqat Ali	FA	01.12.1975	28.10.1996	24.03.2017
4	Humayun Khan	Metric	03.03.1964	12.03.1991	24.03.2017
5	Khair ul Bashar	Metric	04.04.1972	01.10.1991	24.03.2017
6	Nihar Ali	BA	03.03.1992	08.03.2010	24.03.2017
7	Mukarril Shah	Metric	15.02.1978	09.03.2010	23.11.2018

*[Signature]*  
DEPUTY COMMISSIONER,  
BUNER.

Dist. Sec. & Dist. Commr.

- Commissioner, Malakand Division, for information.
- Secretary, Board of Revenue, Revenue & Estate Department, Peshawar, for information.
- All the Senior Clerks. Objections, if any, must be communicated within fifteen (15) days of the receipt of this list.

*[Signature]*  
DEPUTY COMMISSIONER,  
BUNER.

Dist. Sec. & Dist. Commr.

- Commissioner, Malakand Division, for information.
- Secretary, Board of Revenue, Revenue & Estate Department, Peshawar, for information.
- All the Senior Clerks. Objections, if any, must be communicated within fifteen (15) days of the receipt of this list.

*[Signature]*  
DEPUTY COMMISSIONER,  
BUNER.

*A H. A. A.*



**بخدمت جناب قابل قدر کمشنر صاحب ملاکنڈ ڈویژن سیدو شریف سوات**

سائل: محمد اقبال سینئر کلرک ڈی۔ سی آفس ضلع بونیر

عنوان: درخواست بمراد پروموشن دینا سینئر کلرک (BPS-14) تا اسٹنٹ (BPS-16)

جناب عالی!

مودبانہ گزارش کی جاتی ہے کہ سائل ڈپٹی کمشنر صاحب کے آفس بونیر میں سینئر کلرک کے پوسٹ پر تعینات تھا۔ یہ کہ سائل نے ڈپٹی کمشنر صاحب بونیر سے دو سال چھٹی لی۔ اور ایک سال چھٹی مکمل کرنے کے بعد وہ چھٹی ختم کی گئی۔ یہ کہ سائل نے سروس ٹریبونل پشاور میں اپیل دائر کیا تھا۔ سروس ٹریبونل پشاور نے حکم مورخہ 20-11-2018 فیصلہ میرے حق میں ادا کیا۔ جس کی وجہ سے ڈپٹی کمشنر صاحب بونیر نے سائل کو آرڈر نمبر II Es (B) DC/10/F/66-1290 مورخہ 02-10-2019 پر سائل کو دوبارہ بحال کیا۔ اور اب سائل ڈپٹی کمشنر صاحب کے آفس میں سینئر کلرک کے پوسٹ پر اپنا ڈیوٹی سرانجام دے رہا ہے۔ چھٹی کی وجہ سے سائل کو سیناریائی لسٹ میں پیچھے کر دیا اور موجودہ سینئر کلرک کے سیناریائی لسٹ میں سائل کا نام نہیں ہے یہ کہ ابھی ڈپٹی کمشنر کے ایک سیٹ پر پروموشن کوٹہ خالی ہے۔ جبکہ بقیہ تین عدد Initial recruitment سیٹ خالی ہے۔۔۔ ضروری کاغذات اور سروس ٹریبونل آرڈر درخواست کے ساتھ لف ہیں۔

اسلئے اگر آپ صاحبان مہربانی فرما کر سائل کو پروموشن کوٹے والے خالی سیٹ پر پروموشن دینے کا حکم صادر فرمائیں، تو سائل تاحیات دُعا گور ہے گا۔

Handwritten signature/initials in Urdu script.

العارض

محمد اقبال سینئر کلرک ڈی سی آفس

ضلع بونیر

مورخہ: 20-01-2020

Received on 22.01.2020

Handwritten signature/initials in Urdu script.

(27)

**IN THE COURT OF COMMISSIONER MALAKAND DIVISION AT SAIDU  
SHARIF SWAT.**

**Appeal No. 244-CF/Estt:** .....

**Dated of institution: 20.01.2020**

Muhammad Iqbal Senior Clerk, District Buner ..... Appellant  
Versus  
Deputy Commissioner District Buner ..... Respondent

**APPLICATION/APPEAL FOR PROMOTION AS ASSISTANT (BPS-16).**

**ORDER**

**13-02-2020**

Appellant present. Case file, comments and other relevant record perused.

Brief facts of the case are that the applicant/appellant Mr. Muhammad Iqbal was performing his duties in the office of the Deputy Commissioner, Buner as Senior Clerk. Due to his long absence from office, the competent authority i.e Deputy Commissioner, Buner ordered inquiry against him. The inquiry officer after proper inquiry recommended major penalty of removal from service for the appellant. The Deputy Commissioner, Buner accepted recommendation of the inquiry officer and awarded major penalty "removal from service" to the applicant vide order dated 11.02.2016.

Aggrieved with the order so issued the applicant filed appeal in the Khyber Pakhtunkhwa, Service Tribunal. The Hon'ble Tribunal accepted appeal of the applicant and directed the appointing authority i.e Deputy Commissioner, Buner to re-instate the applicant on his service. The Deputy Commissioner, Buner complied with the directions of Hon'ble Service Tribunal and re-instated the applicant in service on 02.10.2019 but also filed CPLA against the re-instatement order in the August Supreme Court of Pakistan.

On 10.01.2020, the Deputy Commissioner, Buner arranged a Departmental Promotion Committee meeting as two seats of Assistant BPS-16 were available under promotion quota. During the meeting one seat was filled while promotion of the appellant was deferred on the ground that CPLA is pending in the August Supreme Court of Pakistan against the re-instatement order of the applicant passed by the Hon'ble Service Tribunal, Khyber Pakhtunkhwa. However, one post has been reserved for the applicant till final decision by the August Supreme Court of Pakistan.

In light of the opportunity of personnel hearing given to the applicant, comments received from Deputy Commissioner, Buner and perusal of the case file this court has reached to the conclusion that the applicant was re-instated conditionally as CPLA is pending in the August Supreme Court of Pakistan against the order of Hon'ble Service Tribunal of Khyber Pakhtunkhwa. Therefore the application/appeal being meritless is hereby dismissed.

**Announced:**  
**13.02.2020**

  
**COMMISSIONER MALAKAND DIVISION**  
**Commissioner, Malakand Division**



28

**OFFICE OF THE  
DEPUTY COMMISSIONER  
BUNER.**

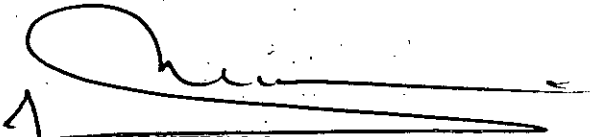
No. 2453-54/D/35/DC/Buner/Estt:  
Feb 28, 2020.

To. Mr. Muhammad Iqbal, ✓  
Senior Clerk.

Subject: **Departmental Appeal of Mr. Muhammad Iqbal, Senior Clerk for Promotion to the Post of Assistant.**

Memo:  
Please refer to the subject.

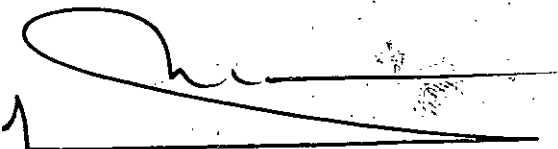
Enclosed find herewith the letter of the Commissioner Malakand Division's letter No. 912/2/44-CF/Estt: dated 27.02.2020 alongwith the Order dated 13.02.2020 passed by the worthy Commissioner Malakand Division in your appeal wherein your appeal has been dismissed, for information.

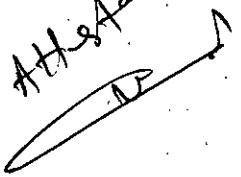
  
DEPUTY COMMISSIONER,  
BUNER.

Endst. No. & Date Even.

For Information:

Commissioner, Malakand Division.

  
DEPUTY COMMISSIONER,  
BUNER.

*Attested by*  


(29)



OFFICE OF THE  
COMMISSIONER MALAKAND DIVISION  
SAIDU SHARIF SWAT

Tel# 0946-9240458  
Email: secretarytoCMD@gmail.com

No. 912 /2/44-CF/Estt;  
Dated 27 / 02 /2020

To

The Deputy Commissioner, Buner.

Subject:

DEPARTMENTAL APPEAL OF MR. MUHAMMA IQBAL, SENIOR  
CLERK FOR PROMOTION TO THE POST OF ASSISTANT.

Dear Sir,

I am directed to refer to your Memo: No.1251/f/1.Msl/DC/Buner/  
Estt; dated 30.01.2020, on the subject noted above and to enclose herewith a copy  
of the Order dated 13.02.2020, passed by the worthy Commissioner, Malakand  
Division in the subject appeal, for further necessary action please..

Encl: As above.

Yours faithfully,

  
ASSISTANT TO COMMISSIONER (REV/GEN),  
MALAKAND DIVISION

Attended

EA



DC Buner  
28/02/2020

وکالت نامہ

136

بک نمبر

13514

سیریل نمبر:



ڈسٹرکٹ بار ایسوسی ایشن بونیر خیبر پختونخواہ

ایڈووکیٹ دستخط:   
 بار کونسل ابار ایسوسی ایشن بونیر   
 رابطہ نمبر: 0333-3204009

Before The Service Tribunal K.P.K. Peshawar.   
 بعدالمت جناب:

<p>Appellant: منجانب:</p> <p>Muhammad Iqbal Usman Buner and others.</p>	<p>Service Appeal: دعویٰ:</p> <p>علت نمبر: _____</p> <p>مورخہ: _____</p> <p>جرم: _____</p> <p>تھانہ: _____</p>
---	--

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام ڈسٹرکٹ کیلئے صاحب اسرار عالم اور دیگر کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے اور تقریر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا کٹرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانون کو اپنے ہمراہ لے جانے کے اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر دراختیار قبول و منظور ہوگا دوران مقدمہ میں جو خرچہ ہر جائزہ اتوا کے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔



المقام گواہ شد العبد کے لئے قبول و منظور ہے۔

نوٹ اس وکالت نامہ کی فوٹو کاپی نام قابل قبول ہوگی۔

محمد اقبال ولد اصغر لوب   
 سلسلہ لڈو کشمیل ڈسٹرکٹ بونیر   
 Appellate