


FORM OF ORDER SHEET

Court of _____

Case No. - 1869 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/12/2022	<p>The appeal of Mr. Mazhar Hussain re-submitted today by Mr. Daris Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

4th Oct, 2022

None for the appellant present.

This matter was returned to the appellants counsel for removal of objection within fifteen days. It was resubmitted on 26.07.2022 but someone else, that is other than the Registrar, put a note and marked that to the Chairman. Without any orders of the Chairman Mr. Muhammad Nabi, Reader fixed it before the court. The explanation of the Registrar be called to explain as to why there is loose administration in his office. Similarly explanation of the official be also called, who signed the note as well as Muhammad Nabi, Reader for fixing it without obtaining order in writing from the Chairman. They should submit explanation within three days, as to why further action should not be taken against them. The office objection be fixed before the bench on 09.11.2022 before S.B. Notices in this respect be issued to the appellant and his counsel.

Counsel
27/10/2022
Noted For

(Kalim Arshad Khan)

Chairman

9-11-2022

Since 9th November has been declared as public Holy Day therefore case is adjourned to 14-12-22 for the same before S.B

Reader

SCANNED
PESHAWAR

14-12-2022


None for the appellant. Due to strike of the bar, case to come up for the same on 19-12-22.

Registrar

Respected Sir,

It is submitted that the present appeal was received on 07-07-2022 after thoroughly scrutinizing the same many deficiencies were found in it, which was returned to the counsel for the appellant on 13-07-2022 for completion and resubmission within 15 days, but the appellant resubmitted the same on 26-07-2022, without removing objections no. 5, 7 and 9.

The appeal is submitted to your Honour under rule-7(c) of Khyber Pakhtunkhwa Service Tribunal rules 1974 for appropriate order, please.


For Registrar

WORTHY CHAIRMAN

2-8-22

Coarced Member (E) is on leave
The case is adjourned to 5-10-22

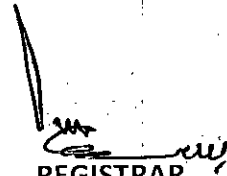

Reader

The appeal of Mr. Mazhar Hussain Junior Clerk/Mohrri District and Session Court Charsadda received today i.e. on 07.07.2022 is incomplete on the following score which is returned to the counsel for the appellat for completion and resubmission within 15 days.

- 1- Memorandum of appeal is not signed by the appellat.
- 2- Check list is not attached with the appeal.
- 3- Appeal has not been flagged/marked with annexures marks.
- 4- Index of the appeal may be prepared according to the rules.
- 5- Copies of documents mentioned in the memo of appeal are not attached the appeal which may be placed on it.
- 6- Copy of order dated 10.02.2022 is illegible which may be replaced by legible/better one.
- 7- Addresses of respondent no. 4 to 12 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 8- Appeal may be supported with by an affidavit duly attested by the Oath Commissioner.
- 9- 14 more copies/sets of the appeal along with annexures i.e complete in all respect may also be submitted with the appeal.

No. 2194 /S.T,

Dt. 13/07 /2022



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Daris Khan Adv. Pesh.

26.07.2022

note.

Resubmitted after fulfilling
due requirements.


26.07.22.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

S.A.No. 1869 /2022

Mazhar HussainAppellant

VERSUS

Peshawar High Court through its Registrar and others..... Respondents

INDEX

<i>S.N</i>	<i>Description of Documents</i>	<i>Annexure</i>	<i>Pages</i>
1)	Memo of appeal		1-4
2)	Affidavit		5
3)	Copy of impugned office order dated 10.02.2022	A	6
4)	Copy of departmental appeal dated.10.03.2002	B	7-9
5)	Wakalatnama.		10

Appellant

Through:

Daris Khan
Advocate

Supreme Court of Pakistan

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

S.A. No. 1869 /2022

Khyber Pakhtunkhwa
Services Tribunal

Diary No. 672

Dated 07-7-2022

Mazhar Hussain s/o Imdad Hussain
R/o Drashkhan Colony, Peshawar
Junior Clerk/ Moharrir District and Sessions Court,
(presently posted as Moharrir Tehsil Shabqadar Charsadda.....Appellant

VERSUS

1. Peshawar High Court through its Registrar
2. District and Sessions Judge, Charsadda
3. Civil Judge, II, Shabqadar, Charsadda.
4. Nasrul Haq
5. Muhammad Ijaz
6. Fazle Elahi
7. Abid Ali
8. Jafar Shah
9. Muhammad Muhsin
10. Naveed Khan
11. Fawad ur Rehman
12. *Sartaj Mohammad* R/o Judicial Complex Charsadda.
(Junior Clerks BPS-11)Respondents

Filed to-day

Registrar

7/7/2022

SERVICE APPEAL UNDER SECTION 4 OF THE
SERVICES TRIBUNAL ACT, 1974

Respectfully Sheweth:

1. That appellant is working as Junior Clerk/Moharrir in Ministerial Establishment of District & Sessions Judge, Charsadda and presently posted in Tehsil Shabqadar, District Charsadda.

2. That the appellant was appointed as Junior Clerk in July 2003 after fulfilling all the legal & codal formalities required for the post and since the date of initial appointment appellant is performing his duties with full zeal & zest.
3. That since the date of appointment appellant never acted contrary to law and good order and never give any chance of any complaint and as such appellant has an unblemished service record of more than 19 years service.
4. That for the year 2020 adverse remarks were communicated to the appellant, which has been impugned by the appellant and the appeal is pending adjudication before the respondent No.1.
5. That Departmental Promotion Committee was held in February 2022 wherein batch-mates of the appellant some of them who were juniors to the appellant have been promoted to the post Senior Clerk/Reader (BPS- 14) vide dated 10.02.2022 (Not communicated) and appellant has ignored/ deprived of his legal right of promotion and has been illegally denied.
6. That the appellant has also came to know that some of the respondents who were junior and subsequently appointed in the year 2003 have been promoted while the appellant being senior and at serial No.3 of the Seniority List of Junior Clerks has been ignored from promotion and illegally deprived from legal right.
7. That the appellant has made several efforts for provision of necessary documents/ orders required for the instant appeal but appellant has not been provided the same till date.
8. That the appellant also applied for provision of working papers and other related record prepared for DPC (Departmental Promotion Committee) 2022, but still the same has not been provided to the appellant.
9. That previously, in the month of December 2021 when the working paper was prepared but unfortunately the DPC was postponed name of the

Today
Registrar

3

appellant was included but in the impugned promotion order dated 10.02.2022, appellant has been unlawfully dropped from promotion which is against the norm of natural justice. *(Copies of impugned office order dated 10-2-22 & representation are annexed as A & B)*

EP

10. That the appellant has impugned adverse remarks recorded in the ACR of the appellant for the year 2020 before the respondent No.1 and during pendency of the appeal against the adverse remarks in ACR as per Law & Rules Civil Servant cannot be deprived from his legal/due right of promotion.
11. That as per Law & Rule on the subject matter, seniority of a civil servant could not be disturbed merely on observation in ACR of Civil Servant and issuance of warning letter reported as 1999 PLC (CS) 485.
12. That in other judgments the apex court has held that performance of an employee could not be assessed only on the basis of ACR reported as 2003 PLC (CS) 1352 and 2004 SCMR 62.
13. That Departmental Promotion Committee has to look essential factors involved for consideration of promotion would be required not only to look at the past conduct or performance of an employee, but also assess his competence in respect of his ability to shoulder next higher responsibilities in case of his promotion. Mere looking at such past conduct would amount to driving a car blindfolded being guided by a person looking out of back window reported as 2013 PLC (CS) 440 citation (C) and in light of the above not promoting the applicant and issuing promotion order to a most junior person is against such law & rules.
14. That feeling aggrieved from the aforementioned impugned office order the appellant has no other adequate and efficacious remedy hence approaches this Hon'ble Tribunal for the redressal of his grievance on the following ground amongst others;

Filed to-day

Registrar

GROUNDS:

- A. That the impugned order is against law, rules and policy.

4

- B. That the appellant is rendering services against the post of BPS-11 and the respondents tried to adjust their blue-eyed which is illegal and unlawful.
- C. That the appellant has not been treated in accordance with law and has been discriminated against which is violation of Article 4 and 25 of the constitution of Islamic Republic of Pakistan, 1973.
- D. That the fundamental rights of the appellant have been infringed therefore the appellant have every right to invoke the jurisdiction of this honorable Tribunal for the redressal of h/s grievances.
- E. That the impugned order is based on favoritism, malafide and pre-mature and issued in violation of law, rule and policy.
- F. That the impugned office order is illegal, unlawful, void ab-initio, without lawful authority.
- G. That the appellant craves permission to agitate any point / ground at the time of arguments.

It is, therefore, most kindly requested that the impugned promotion order may be set aside/ declared null and void/ modified and the appellant may be promoted to the post of Senior Clerk (BPS- 14) with due seniority from the date of issuance of the impugned order with all back benefits.


~~Filed to day~~

Registrar

Any other relief deemed appropriate may also be extended to the appellant.

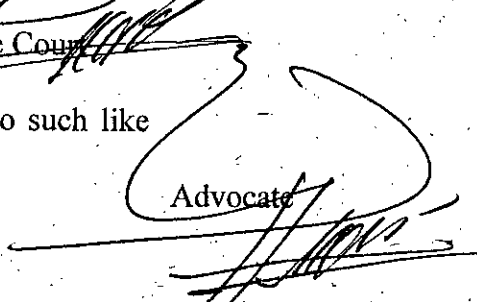

Appellant

Through:


Daris Khan
Advocate Supreme Court

Certificate:

Certified as per information furnished by my client that no such like appeal has earlier been filed before this Hon'ble Tribunal.


Advocate

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

S.A.No. _____/2022

Mazhar Hussain.....Appellant

Versus

Govt. of KPK & others.....Respondents

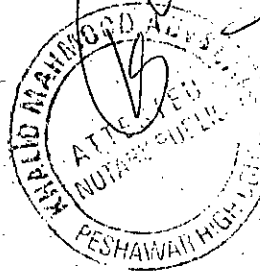
AFFIDAVIT

I, Mazhar Hussain s/o Imdad Hussain R/o Drashkhan Colony,
Peshawar Junior Clerk/ Moharrir District and Sessions Court,
(presently posted as Moharrir Tehsil Shabqadar Charsadda do hereby
affirm and declare on oath that the contents of the accompanying Appeal
are true and correct to the best of my knowledge and belief and nothing has
been concealed from this Hon'ble Tribunal.

Mazhar Hussain
Deponent

CNIC No. 17301-0338844-9

27-7-22



⑦ Annexure "B"

THE HONOURABLE ADMINISTRATIVE JUSTICE,
PESHAWAR HIGH COURT,
PESHAWAR.

Through: Proper Channel.

Subject: DEPARTMENTAL APPEAL AGAINST PROMOTION ORDER
DATED 10-02-2022 (NOT COMMUNICATED TO THE
APPLICANT).

Mazhar Hussain

VS

Worthy District & Sessions Judge, Charsadda.

Hon'ble Sir,

Most respectfully it is stated that:

1. That appellant is working as Junior Clerk/Moharrir in ministerial establishment of District & Sessions Judge, Charsadda and presently posted in Tehsil Shabqadar, District Charsadda.
2. That the appellant was appointed as Junior Clerk in July 2003 after fulfilling all the legal & codal formalities required for the post and since the date of initial appointment appellant is performing his duties with full zeal & zest.
3. Since the date of appointment appellant never acted contrary to law and good order and never give any chance of any complaint and as such appellant has an unblemished service record of more than 19 years service.
4. That for the year 2020 adverse remarks were communicated to the appellant, which has been impugned by the appellant and the appeal is pending adjudication before your lordship.
5. Departmental Promotion Committee was held in February 2022 wherein my batch-mates some of them who were junior to the appellant have been promoted to the post Senior Clerk/Reader (BPS-14) vide dated 10-02-2022 (Not communicated). And appellant has ignored/deprived of his legal right of promotion and has been illegally denied.

8

6. I have also come to know that some of the respondents who were junior and subsequently appointed in the year 2003 have been promoted while the appellant being senior and at serial No. 3 of the Seniority list of Junior Clerks has been ignored from promotion and illegally deprived from legal right.
7. That the appellant has made several efforts for provision of necessary documents/orders required for the instant appeal but appellant has not been provided the same till date.
8. That the appellant also applied for provision of working papers and other related records prepared for DPC (Departmental Promotion Committee) 2022, but still the same has not been provided to the appellant.
9. Previously, in the month of December 2021 when the working paper was prepared but unfortunately the DPC was postponed applicant's name was included but in the impugned promotion order dated 10.02.2022, applicant has been unlawfully dropped from promotion which is against the norm of natural justice.
10. That the appellant has impugned adverse remarks recorded in the ACR of the appellant for the year 2020 before your honour. And during pendency of the appeal against the adverse remarks in ACR as per Law & Rules civil servant cannot be deprived from his legal/due right of promotion.
11. As per Law & Rule on the subject matter, seniority of a civil servant could not be disturbed merely on observation in ACR of Civil Servant and issuance of warning letter reported as 1999 PLC (CS) 485.
12. In other judgments the apex court has held that performance of an employee could not be assessed only on the basis of ACR reported as 2003 PLC (CS) 1352 and 2004 SCMR 62.
13. Departmental Promotion Committee has to look essential factors involved for consideration of promotion would be required not only to look at the past conduct or performance of an employee, but also assess his competence in respect of his ability to shoulder next higher responsibilities in case of his promotion. Mere looking at such past conduct would amount to driving a car blindfolded being guided by a person looking out of back window reported as 2013 PLC (CS) 440

9

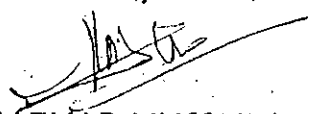
citation (C) and in light of the above not promoting the applicant and issuing promotion order to a most junior person is against such law & rules.

It is, therefore, most kindly requested that the impugned promotion order may be set aside/declared null and void/modified and the appellant may be promoted to the post of Senior Clerk (BPS-14) with due seniority from the date of issuance of the impugned order with all back benefits.

Any other relief deemed appropriate may also be extended to the appellant.

Appellant shall always be very thankful for this act of kindness.

Obediently Yours,



(MAZHAR HUSSAIN)

Junior Clerk/Moharrir

District & Sessions Court,

Charsadda.

Presently posted as

Moharrar

Tehsil Shabqadar, Charsadda.

Dated. 10.03.2022.

Copy in advance to:


Worthy Registrar, Peshawar High Court, Peshawar.

OFFICE OF THE DISTRICT & SESSIONS JUDGE, CHARSAZZA

No. 204 /DJ- 7

// .03.2022.

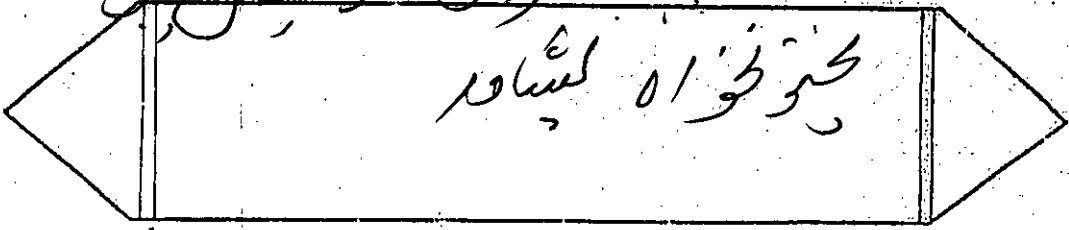
Forwarded to the Worthy Registrar Peshawar High Court, Peshawar for necessary action, please.



District & Sessions Judge,
Charsadda.

10

بعد الت صدارتوں کے لیے
مکتوبہ خواہ لکھا



2 منجانب

بنام

عظیم حسین

مورخہ

مقدمہ

دعویٰ

۲۲

لسٹاوریاتی نام لکھیں

سید ارشد

Service Appeal

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی اور کارروائی متعلقہ کے لیے
آن مقام لکھا اور درجہ حال اور اولیٰ کے لیے

مقررہ کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے سے قبل و تقرر ثالثہ فیصلہ پر حلف دیے جواب دہی اور اقبال دعویٰ اور
باعتبارت ڈگری کرنے اجراء اور صولی چیک دروپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرا میں پر دستخط کرنے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائرہ کرنے اپیل نمرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے نقل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا سہارا
باعتبارت منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانتا تو اپنے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم _____ ماہ _____ 20

العبد خواہ العبد

Accepted

Handwritten signature and stamp

لسٹاوریاتی

Mohd. Hussain & Anand, Hassan, District Court, Charsadda, Mohd. Hussain & Anand, Hassan, District Court, Charsadda

17301-033884M-9
03M-9033552