

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Execution petition No. \_\_\_\_\_/2023  
In Service Appeal No.886/2020

Gohar Ali

V/S

Chief Secretary & other

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THROUGH: **APPELLANT**

  
**TAIMUR ALI KHAN**  
**(ADVOCATE HIGH COURT)**

Cell# 0333-9390916

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Execution petition No.\_\_\_\_\_/2023  
In Service Appeal No.886/2020

Gohar Ali, Tehsildar (BPS-16),  
Bandobast Butkheila, District Malakand.

**PETITIONER**

**VERSUS**

1. The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.

**RESPONDENTS**

-----  
**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED 24.08.2022 OF THIS  
HONORABLE TRIBUNAL IN LETTER AND  
SPIRIT.**  
-----

**RESPECTFULLY SHEWETH:**

1. That the petitioner has filed service appeal No.886/2020 against the order dated 27.01.2020 whereby the departmental appeal was rejected for no ground and against the order dated 26.03.2019, whereby the petitioner was promoted to the post of Tehsildar (BPS-16) with immediate effect instead of 16.11.2017 “the date on which his colleagues and juniors were promoted to the post of Tehsildar” with the prayer that the order dated 27.01.2020 may kindly be set aside and the respondents may kindly be directed to consider the appellant for promotion to the post of Tehsildar with effect from 16.11.2017 “ the date on which his colleagues and juniors were promoted to the post of Tehsildar by modifying the order dated 26.03.2019 to the extent of the appellant with all back and consequential benefits. **(Copy of memo of appeal is attached as Annexure-A)**

2. That said appeal was heard and decided by the Honorable Tribunal on 24.08.2022. the Honorable Tribunal accepted the appeal of the petitioner as prayed for. **(Copy of judgment is attached as Annexure-B)**
3. That the Honorable Tribunal accepted the appeal of the petitioner on 24.08.2022, but the respondents did not implement the judgment dated 24.08.2022 after the lapse of about more than 04 months.
4. That the in-action and not fulfilling the formal requirements by the respondents after passing the judgment of this honorable Service Tribunal, is totally illegal, amount to disobedience and contempt of Court.
5. That the judgment is still in filed and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 24.08.2022 of this Honorable Tribunal in letter and spirit.
6. That the petitioner having no other remedy except to file this execution petition for implementation of judgment dated 24.08.2022 of this Honorable Tribunal.

It is therefore, most humbly prayed that the respondents may kindly be directed to implement to implement the judgment dated 24.08.2022 of this Honorable Service Tribunal in letter and spirit. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also be awarded in favour of the petitioner.

  
PETITIONER

Gohar Ali

THROUGH:

  
TAIMUR ALI KHAN  
ADVOCATE HIGH COURT

**AFFIDAVIT**

It is affirmed and declared that the contents of this execution petition are true and correct to the best of my knowledge and belief.

  
DEPONENT

①

A ③

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

APPEAL NO. 886/2020

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 1026

Date 7-2-2020

Gohar Ali, Tehsildar (BPS-16)  
Bandobast Butkheila, District Malakand



(APPELLANT)

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.

(RESPONDENTS)

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APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 27.01.2020, WHEREBY THE DEPARTMENTAL APPEAL WAS REJECTED FOR NO GROUND AND AGAINST THE ORDER DATED 26.03.2019, WHEREBY THE APPELLANT WAS PROMOTED TO THE POST OF TEHSILDAR (BPS-16) WITH IMMEDIATE EFFECT INSTEAD OF OF 16.11.2017 "THE DATE ON WHICH HIS COLLEAGUES AND JUNIORS WERE PROMOTED TO THE POST OF TEHSILDAR".

Filed to-day  
7/2/2020

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 27.01.2020 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY KINDLY BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF TEHSILDAR WITH EFFECT FROM 16.11.2017 "THE DATE ON WHICH HIS COLLEAGUES AND JUNIORS WERE PROMOTED TO THE POST OF TEHSILDAR BY MODIFYING THE ORDER DATED 26.03.2019 TO THE EXTENT OF THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWETH:  
FACTS:**

1. That the appellant joined the respondent Department as Patwari and promoted to in the year District Kanungo in the year 2008. The appellant since appointment performing his duty with great devotion and honesty, whatsoever assigned to him and no complaint has been filed against him regarding his performance.
2. That the respondent department issued joint seniority list of 2016 of Naib Tehsildar, Sub Registrar, District Kanungo and District Revenue Accountant (BS-14) stood on 31.12.2016 in which the appellant was at Serial No. 15 in that seniority list. **(Copy of seniority list of 2016 is attached as Annexure-A)**
3. That DPC was held for promotion of Naib Tehsildar, Sub Registrar, District Kanungo and District Revenue Accountant (BS-14) to the post of Tehsildar (BS-16) on 01.11.2017 in which 22 officials were recommended for promotion to the post of Tehsildar (BS-16), however the appellant was deferred due to show cause notice under Suo Moto case and on the basis of that DPC, 22 officials were promoted to the post of Tehsildar on regular basis vide notification dated 16.11.2017. **(Copies of DPC meeting minutes and notification dated 16.11.2017 are attached as Annexure-B&C)**
4. That due to the above mentioned reason the appellant was not considered for promotion in several DPC meeting Minutes held in the year 2017-2108 due to VR. **(Copy of DPC meeting minutes held on 01.01.2019 is attached as Annexure-D)**
5. That the Assistant Commissioner Swabi conducted inquiry on the VR of the appellant in which he mentioned that the appellant was never served in District Charsadda and the signature of the accused namely Gohar Ali appearing at S.No.7 in the list also does not match with the signature of the appellant and the available record provided by the NAB does not confirm that the appellant has done plea bargain and submitted his report on 18.04.2018 and on the basis of that inquiry report, the inquiry proceeding initiated against the appellant was filed vide order dated 08.03.2019. **(Copies of inquiry report and order dated 08.03.2019 are attached as Annexure-E&F)**
6. That DPC was held for promotion of Naib Tehsildar, Sub Registrar, District Kanungo and District Revenue Accountant (BS-14) to the post of Tehsildar (BS-16) on 21.03.2019 in which the appellant along

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
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Peshawar

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with officials were recommended for promotion to the post of Tehsildar (BS-16) and on the basis of that DPC, the appellant was promoted to the post of Tehsildar on regular basis vide notification dated instead of due date i.e 26.03.2019, the date on which colleagues and juniors to the appellant were promoted and he was deferred on wrong presumption of VR . **(Copies of DPC meeting minutes and notification dated 26.03.2019 are attached as Annexure-G&H)**

7. That the appellant was promoted to Tehsildar (BPS-16) vide order dated 26.03.2019 with immediate effect instead of due date 16.11.2017, the date on which colleagues and juniors to the appellant were promoted and he was deferred on wrong presumption of VR, therefore he filed departmental appeal for antedation of his promotion with effect from 16.11.2017, which was rejected on 27.01.2020. **(Copies of departmental appeal and rejection order are attached as Annexure-I&J)**
8. That now the appellant has no other remedy except to file the instant appeal for redressal of his grievance on the following grounds amongst others.

**GROUND:**

- A) That the impugned order dated 27.01.2020 and 26.03.2019 are against the law, facts, norms of justice and material on record, therefore not tenable and the order dated 27.01.2020 is liable to be set aside and the order dated 26.03.2019 is liable to be modified to extent of the appellant to antedate his promotion w.e. from 16.11.2017 "the date when his colleagues and juniors were promoted to the post of Tehsildar (BPS-16) and the appellant was deferred".
- B) That the appellant has not been treated in accordance with law and hence his right secured and guaranteed by the Constitution was badly violated.
- C) That the appellant was eligible for promotion to the post Tehsildar (BPS-16) along with colleagues and juniors, but he was deferred due to wrongly presumption of VR in which the inquiry was conducted against the appellant and in the inquiry report it was mentioned that Gohar Ali who has done VR with the NAB is not the appellant and exonerated the appellant, but he was promoted to the post Tehsildar (BPS-16) on 26.03.2019 with immediate effect instead of due date i.e 16.11.2017 "the date when his colleagues and juniors were promoted to the post Tehsildar (BPS-16), which is violation of law and rules.

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- D) That the appellant was differed and not superseded and it was his legal right to be promoted from the date, when his colleagues and juniors were promoted.
- E) That the reason on which the appellant was differed was vanished and there remain no ground to deprive the appellant from promotion from his due date i.e 16.11.2017 "the date when his colleagues and juniors were promoted to the post of Tehsildar (BPS-16).
- F) That the appellant was differed due to wrongly presumption of VR in which the inquiry was conducted against the appellant and in the inquiry report it was mentioned that Gohar Ali who has done VR with the NAB is not the appellant and exonerated him, therefore the appellant should not be deprived him from his legal right of promotion from due date for the fault of the others.
- G) That the appellant was not treated in accordance with the law and rule and has been deprived from his legal right of promotion from due date 16.11.2017 the date when his colleagues and juniors were promoted in arbitrary manner.
- H) That the departmental appeal of the appellant was rejected without assigning any reason which is violation of 24-A of General Clauses Act and Superior Courts judgment.
- I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

**Certified to be true copy**

EX-100  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

APPELLANT  
Gohar Ali

THROUGH:



**M. ASIF YOUSAFZAI**  
**ADVOCATE SUPREME COURT**



**TAIMUR ALI KHAN**  
**ADVOCATE HIGH COURT**

Date of Presentation of Application 04-01-23  
 Number of Pages 1600  
 Copying Charges 18/-  
 Urgent 41/-  
 Total 221/-  
 Name of \_\_\_\_\_  
 Date of \_\_\_\_\_ 04-01-23  
 Date of delivery of \_\_\_\_\_ 04-01-23

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B(7)

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

APPEAL NO. 886/2020

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 1026

Date 7-2-2020

Gohar Ali, Tehsildar (BPS-16)  
Bandobast Butkheila, District Malakand.



(APPELLANT)

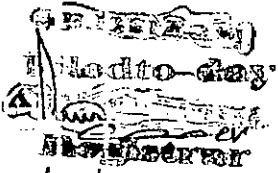
VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.

(RESPONDENTS)

-----

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 27.01.2020, WHEREBY THE DEPARTMENTAL APPEAL WAS REJECTED FOR NO GROUND AND AGAINST THE ORDER DATED 26.03.2019, WHEREBY THE APPELLANT WAS PROMOTED TO THE POST OF TEHSILDAR (BPS-16) WITH IMMEDIATE EFFECT INSTEAD OF OF 16.11.2017 "THE DATE ON WHICH HIS COLLEAGUES AND JUNIORS WERE PROMOTED TO THE POST OF TEHSILDAR".



7/2/2020

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 27.01.2020 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY KINDLY BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF TEHSILDAR WITH EFFECT FROM 16.11.2017 "THE DATE ON WHICH HIS COLLEAGUES AND JUNIORS WERE PROMOTED TO THE POST OF TEHSILDAR BY MODIFYING THE ORDER DATED 26.03.2019 TO THE EXTENT OF THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 886/2020

Date of Institution ... 07.02.2020  
Date of Decision ... 24.08.2022

Gohar Ali, Tehsildar (BPS-16) Bandobast Butkheila, District  
Malakand.

(Appellant)

VERSUS

The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat  
Peshawar and another.

(Respondents)

Taimur Ali Khan,  
Advocate

For appellant.

Naseer Ud Din Shah,  
Assistant Advocate General

For respondents.

Salah Ud Din

Member (J)

Rozina Rehman

Member (J)

JUDGMENT

Rozina Rehman, Member(J): The appellant has invoked the  
jurisdiction of this Tribunal through above titled appeal with the prayer  
as copied below:

“On acceptance of this appeal, the order dated 27.01.2020 may  
kindly be set aside and the respondents may kindly be directed  
to consider the appellant for promotion to the post of Tehsildar  
with effect from 16.11.2017 “the date on which his colleagues  
and juniors were promoted to the post of Tehsildar by  
modifying the order dated 26.03.2019 to the extent of the  
appellant with all back and consequential benefits.”

2. Brief facts of the case are that appellant joined the respondents  
Department as Patwari and promoted in the year 2008 as District  
Kanungo. A joint seniority list of Naib Tehsildar, Sub Registrar, District  
Kanungo and District Revenue Accountant was issued wherein the

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Peshawar

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name of the appellant was mentioned at Serial No.15. DPC was held for promotion of the Naib Tehsildar and others to BPS-16 on 01.11.2017 and 22 officials were recommended for promotion to the post of Tehsildar (BPS-16), however, the appellant was deferred due to show cause notice in a suo-moto case. Proper notification in respect of promotion of 22 officials was issued on 16.11.2017. The appellant was not considered in the subsequent DPCs held in the year 2017 and 2018. The Assistant Commission, Swabi conducted inquiry, wherein, it was clearly mentioned that the appellant never served in District Charsadda and the signature of the accused namely Gohar Ali appearing in Serial No.7 in the list did not match with the signature of appellant and the record provided by the NAB did not confirm that the appellant had done plea bargain. On the strength of inquiry report, the inquiry proceedings initiated against the appellant were filed vide order dated 08.03.2019. That DPC was held for promotion of Naib Tehsildar and Sub Registrar etc. to the post of Tehsildar on 21.03.2019 and appellant alongwith other officials was recommended for promotion to the post of Tehsildar (BPS-16) and accordingly, notification was issued with immediate effect instead of due date dated 16.11.2017 when his juniors were promoted and he was deferred on wrong presumption of VR, he therefore, filed departmental appeal which was rejected, hence the present service appeal.

3. We have heard Taimur Ali Khan Advocate learned counsel for appellant and Naseer Ud Din Shah, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Taimur Ali Khan Advocate, learned counsel for appellant submitted that the impugned orders dated 27.01.2020 and 26.03.2019

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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are against law and facts, therefore, not tenable and that the order dated 27.01.2020 is liable to be set aside and the order dated 26.03.2019 is liable to be modified to the extent that the appellant may be promoted w.e.f 16.11.2017 when his colleagues and juniors were promoted to the post of Tehsildar. He contended that the appellant was not treated in accordance with law and his rights secured and guaranteed by the Constitution were badly violated. Learned counsel further argued that appellant was eligible for promotion alongwith his colleagues and juniors but he was deferred due to wrong presumption of VR and that the inquiry initiated against the appellant was filed as the appellant never served in District Charsadda and he had not done plea bargain which is evident from the promotion of the appellant on 26.03.2019. He, therefore, requested for acceptance of instant service appeal.

5. Conversely, learned AAG submitted that on the recommendation of Departmental Promotion Committee, 22 officials were promoted to the post of Tehsildar and that the appellant was deferred due to show cause notice served upon him in suo-moto case of VR. He contended that the appellant was rightly promoted as Tehsildar and that he was treated in accordance with law and rules and has been given seniority w.e.f the date when his juniors were promoted as Tehsildar.

6. From the record it is evident that joint seniority list of Naib Tehsildar, Sub Registrar, District Kanungo and District Accountant (BPS-14) as stood on 31.12.2016 is available on file wherein, the name of the appellant has been entered and recorded at Serial No.15. DPC was held for promotion of Naib Tehsildar and others on 01.11.2017 and appellant was deferred due to show cause notice in a suo-moto case

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

while 22 officials were promoted including his colleagues and juniors. Another meeting of Departmental Promotion Committee was held on 10.01.2019 and appellant was once again deferred due to Suo moto VR case. In this regard, Assistant Commissioner, Swabi was directed to conduct inquiry and to unearth the charges leveled against the appellant. After proper proceedings, Assistant Commissioner Swabi submitted his report. As per available record provided by NAB, the present appellant serving as District Kanungo, Swabi had never done plea bargain with NAB, therefore upon the recommendation of Inquiry Officer, the competent authority filed the inquiry proceedings against the appellant vide order dated 08.03.2019. Another meeting of DPC was held on 21.03.2019 and the appellant was considered and found suitable for promotion to the post of Tehsildar (BPS-16) on regular basis and consequent upon the recommendation of Departmental Promotion Committee proper notification of his promotion was issued on 26.03.2019 but with immediate effect. Now the appellant is aggrieved of this order as he was deferred for the very first time on 01.11.2017 in the meeting of DPC, whereby 22 officials were promoted including his colleagues and juniors. Nothing was brought against the appellant in order to show his plea bargain with NAB. Inquiry report and his promotion clearly favor the stance of the appellant.

7. We are unison on acceptance of this appeal as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

24.08.2022

  
(Salah Ud Din)  
Member (J)

*Certified to be true copy*

  
(Rozina Rehman)  
Member (J)

**EXAMINED**  
Khyber Pakhtunkhwa  
Service Manual  
Peshawar

~~Date~~ of Presentation of Application 04/11/23  
Number of Words 2000  
Copying Fee 20  
Urgent 45  
Total 265  
Name of Copy: \_\_\_\_\_  
Date of Completion of Copy 04/11/23  
~~Date~~ of Delivery of Copy 04/11/23

**VAKALAT NAMA**

NO. \_\_\_\_\_/2021

IN THE COURT OF KP Service Tribunal Peshawar

Gohar Ali

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Chief Secretary & others

(Respondent)  
(Defendant)

I/We, Gohar Ali

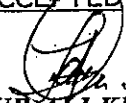
Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/2021

  
(CLIENT)

ACCEPTED

  
**TAIMUR ALI KHAN**  
Advocate High Court  
BC-10-4240

CNIC: 17101-7395544-5  
Cell No. 0333-9390916

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Execution petition No. \_\_\_\_\_/2023  
In Service Appeal No.886/2020

Gohar Ali

V/S

Chief Secretary & other

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THROUGH:

**APPELLANT**

  
**TAIMUR ALI KHAN**  
**(ADVOCATE HIGH COURT)**

Cell# 0333-9390916

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Execution petition No. \_\_\_\_\_/2023  
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Gohar Ali, Tehsildar (BPS-16),  
Bandobast Butkheila, District Malakand.

**PETITIONER**

**VERSUS**

1. The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat,  
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2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa,  
Peshawar.

**RESPONDENTS**

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**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED 24.08.2022 OF THIS  
HONORABLE TRIBUNAL IN LETTER AND  
SPIRIT.**  
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**RESPECTFULLY SHEWETH:**

1. That the petitioner has filed service appeal No.886/2020 against the order dated 27.01.2020 whereby the departmental appeal was rejected for no ground and against the order dated 26.03.2019, whereby the petitioner was promoted to the post of Tehsildar (BPS-16) with immediate effect instead of 16.11.2017 "the date on which his colleagues and juniors were promoted to the post of Tehsildar" with the prayer that the order dated 27.01.2020 may kindly be set aside and the respondents may kindly be directed to consider the appellant for promotion to the post of Tehsildar with effect from 16.11.2017 " the date on which his colleagues and juniors were promoted to the post of Tehsildar by modifying the order dated 26.03.2019 to the extent of the appellant with all back and consequential benefits. **(Copy of memo of appeal is attached as Annexure-A)**



2. That said appeal was heard and decided by the Honorable Tribunal on 24.08.2022. the Honorable Tribunal accepted the appeal of the petitioner as prayed for. **(Copy of judgment is attached as Annexure-B)**
3. That the Honorable Tribunal accepted the appeal of the petitioner on 24.08.2022, but the respondents did not implement the judgment dated 24.08.2022 after the lapse of about more than 04 months.
4. That the in-action and not fulfilling the formal requirements by the respondents after passing the judgment of this honorable Service Tribunal, is totally illegal, amount to disobedience and contempt of Court.
5. That the judgment is still in filed and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 24.08.2022 of this Honorable Tribunal in letter and spirit.
6. That the petitioner having no other remedy except to file this execution petition for implementation of judgment dated 24.08.2022 of this Honorable Tribunal.

It is therefore, most humbly prayed that the respondents may kindly be directed to implement to implement the judgment dated 24.08.2022 of this Honorable Service Tribunal in letter and spirit. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also be awarded in favour of the petitioner.

  
PETITIONER

Gohar Ali

THROUGH:

  
TAIMUR ALI KHAN  
ADVOCATE HIGH COURT

**AFFIDAVIT**

It is affirmed and declared that the contents of this execution petition are true and correct to the best of my knowledge and belief.

  
DEPONENT

①

A (3)

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

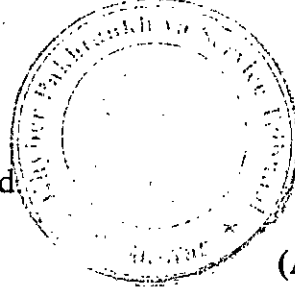
APPEAL NO. 886/2020

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 1026

Dated 7-2-2020

Gohar Ali, Tehsildar (BPS-16)  
Bandobast Butkheila, District Malakand



(APPELLANT)

**VERSUS**

1. The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.

(RESPONDENTS)

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7/2/2020  
PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 27.01.2020 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY KINDLY BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF TEHSILDAR WITH EFFECT FROM 16.11.2017 "THE DATE ON WHICH HIS COLLEAGUES AND JUNIORS WERE PROMOTED TO THE POST OF TEHSILDAR BY MODIFYING THE ORDER DATED 26.03.2019 TO THE EXTENT OF THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY

ATTENDED  
  
Gohar Ali  
Tehsildar  
Bandobast Butkheila  
District Malakand


②

④

**WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

**RESPECTFULLY SHEWETH:  
FACTS:**

1. That the appellant joined the respondent Department as Patwari and promoted to in the year District Kanungo in the year 2008. The appellant since appointment performing his duty with great devotion and honesty, whatsoever assigned to him and no complaint has been filed against him regarding his performance.
2. That the respondent department issued joint seniority list of 2016 of Naib Tehsildar, Sub Registrar, District Kanungo and District Revenue Accountant (BS-14) stood on 31.12.2016 in which the appellant was at Serial No. 15 in that seniority list. **(Copy of seniority list of 2016 is attached as Annexure-A)**
3. That DPC was held for promotion of Naib Tehsildar, Sub Registrar, District Kanungo and District Revenue Accountant (BS-14) to the post of Tehsildar (BS-16) on 01.11.2017 in which 22 officials were recommended for promotion to the post of Tehsildar (BS-16), however the appellant was deferred due to show cause notice under Suo Moto case and on the basis of that DPC, 22 officials were promoted to the post of Tehsildar on regular basis vide notification dated 16.11.2017. **(Copies of DPC meeting minutes and notification dated 16.11.2017 are attached as Annexure-B&C)**
4. That due to the above mentioned reason the appellant was not considered for promotion in several DPC meeting Minutes held in the year 2017-2108 due to VR. **(Copy of DPC meeting minutes held on 01.01.2019 is attached as Annexure-D)**
5. That the Assistant Commissioner Swabi conducted inquiry on the VR of the appellant in which he mentioned that the appellant was never served in District Charsadda and the signature of the accused namely Gohar Ali appearing at S.No.7 in the list also does not match with the signature of the appellant and the available record provided by the NAB does not confirm that the appellant has done plea bargain and submitted his report on 18.04.2018 and on the basis of that inquiry report, the inquiry proceeding initiated against the appellant was filed vide order dated 08.03.2019. **(Copies of inquiry report and order dated 08.03.2019 are attached as Annexure-E&F)**
6. That DPC was held for promotion of Naib Tehsildar, Sub Registrar, District Kanungo and District Revenue Accountant (BS-14) to the post of Tehsildar (BS-16) on 21.03.2019 in which the appellant along

**WITNESSED**  
  
K. J. Khan  
Service Tribunal

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with officials were recommended for promotion to the post of Tehsildar (BS-16) and on the basis of that DPC, the appellant was promoted to the post of Tehsildar on regular basis vide notification dated instead of due date i.e 26.03.2019, the date on which colleagues and juniors to the appellant were promoted and he was deferred on wrong presumption of VR . **(Copies of DPC meeting minutes and notification dated 26.03.2019 are attached as Annexure-G&H)**

7. That the appellant was promoted to Tehsildar (BPS-16) vide order dated 26.03.2019 with immediate effect instead of due date 16.11.2017, the date on which colleagues and juniors to the appellant were promoted and he was deferred on wrong presumption of VR, therefore he filed departmental appeal for antedation of his promotion with effect from 16.11.2017, which was rejected on 27.01.2020. **(Copies of departmental appeal and rejection order are attached as Annexure-I&J)**
8. That now the appellant has no other remedy except to file the instant appeal for redressal of his grievance on the following grounds amongst others.

#### GROUND:

- A) That the impugned order dated 27.01.2020 and 26.03.2019 are against the law, facts, norms of justice and material on record, therefore not tenable and the order dated 27.01.2020 is liable to be set aside and the order dated 26.03.2019 is liable to be modified to extent of the appellant to antedate his promotion w.e. from 16.11.2017 "the date when his colleagues and juniors were promoted to the post of Tehsildar (BPS-16) and the appellant was deferred".
- B) That the appellant has not been treated in accordance with law and hence his right secured and guaranteed by the Constitution was badly violated.
- C) That the appellant was eligible for promotion to the post Tehsildar (BPS-16) along with colleagues and juniors, but he was deferred due to wrongly presumption of VR in which the inquiry was conducted against the appellant and in the inquiry report it was mentioned that Gohar Ali who has done VR with the NAB is not the appellant and exonerated the appellant, but he was promoted to the post Tehsildar (BPS-16) on 26.03.2019 with immediate effect instead of due date i.e 16.11.2017 "the date when his colleagues and juniors were promoted to the post Tehsildar (BPS-16), which is violation of law and rules.

Sd/-  
Sudhar Lakshmi  
Deputy Director  
Government

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- D) That the appellant was differed and not superseded and it was his legal right to be promoted from the date, when his colleagues and juniors were promoted.
- E) That the reason on which the appellant was differed was vanished and there remain no ground to deprive the appellant from promotion from his due date i.e 16.11.2017 "the date when his colleagues and juniors were promoted to the post of Tehsildar (BPS-16).
- F) That the appellant was differed due to wrongly presumption of VR in which the inquiry was conducted against the appellant and in the inquiry report it was mentioned that Gohar Ali who has done VR with the NAB is not the appellant and exonerated him, therefore the appellant should not be deprived him from his legal right of promotion from due date for the fault of the others.
- G) That the appellant was not treated in accordance with the law and rule and has been deprived from his legal right of promotion from due date 16.11.2017 the date when his colleagues and juniors were promoted in arbitrary manner.
- H) That the departmental appeal of the appellant was rejected without assigning any reason which is violation of 24-A of General Clauses Act and Superior Courts judgment.
- I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.


Certified to be true copy  
 Service Tribunal  
 Peshawar

APPELLANT  
 Gohar Ali

THROUGH:



M. ASIF YOUSAFZAI  
 ADVOCATE SUPREME COURT

&   
 TAIMUR ALI KHAN  
 ADVOCATE HIGH COURT

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B(7)

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

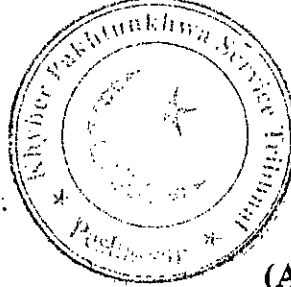
Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 886/2020

Registry No. 1026

Dated 7-2-2020

Gohar Ali, Tehsildar (BPS-16)  
Bandobast Butkheila, District Malakand.



(APPELLANT)

**VERSUS**

1. The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.

(RESPONDENTS)

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APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 27.01.2020, WHEREBY THE DEPARTMENTAL APPEAL WAS REJECTED FOR NO GROUND AND AGAINST THE ORDER DATED 26.03.2019, WHEREBY THE APPELLANT WAS PROMOTED TO THE POST OF TEHSILDAR (BPS-16) WITH IMMEDIATE EFFECT INSTEAD OF OF 16.11.2017 "THE DATE ON WHICH HIS COLLEAGUES AND JUNIORS WERE PROMOTED TO THE POST OF TEHSILDAR".

7/2/2020  
PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 27.01.2020 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY KINDLY BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF TEHSILDAR WITH EFFECT FROM 16.11.2017 "THE DATE ON WHICH HIS COLLEAGUES AND JUNIORS WERE PROMOTED TO THE POST OF TEHSILDAR BY MODIFYING THE ORDER DATED 26.03.2019 TO THE EXTENT OF THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY

ATTESTED

Registrar  
Khyber Pakhtunkhwa  
Service Tribunal

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 886/2020

Date of Institution ... 07.02.2020

Date of Decision ... 24.08.2022

Gohar Ali, Tehsildar (BPS-16) Bandobast Butkheila, District Malakand.

(Appellant)

VERSUS

The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat Peshawar and another.

(Respondents)

Taimur Ali Khan,  
Advocate

For appellant.

Naseer Ud Din Shah,  
Assistant Advocate General

For respondents.

Salah Ud Din  
Rozina Rehman

Member (J)

Member (J)

JUDGMENT

Rozina Rehman, Member(J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

“On acceptance of this appeal, the order dated 27.01.2020 may kindly be set aside and the respondents may kindly be directed to consider the appellant for promotion to the post of Tehsildar with effect from 16.11.2017 “the date on which his colleagues and juniors were promoted to the post of Tehsildar by modifying the order dated 26.03.2019 to the extent of the appellant with all back and consequential benefits.”

2. Brief facts of the case are that appellant joined the respondents Department as Patwari and promoted in the year 2008 as District Kanungo. A joint seniority list of Naib Tehsildar, Sub Registrar, District Kanungo and District Revenue Accountant was issued wherein the

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

name of the appellant was mentioned at Serial No.15. DPC was held for promotion of the Naib Tehsildar and others to BPS-16 on 01.11.2017 and 22 officials were recommended for promotion to the post of Tehsildar (BPS-16), however, the appellant was deferred due to show cause notice in a suo-moto case. Proper notification in respect of promotion of 22 officials was issued on 16.11.2017. The appellant was not considered in the subsequent DPCs held in the year 2017 and 2018. The Assistant Commission, Swabi conducted inquiry, wherein, it was clearly mentioned that the appellant never served in District Charsadda and the signature of the accused namely Gohar Ali appearing in Serial No.7 in the list did not match with the signature of appellant and the record provided by the NAB did not confirm that the appellant had done plea bargain. On the strength of inquiry report, the inquiry proceedings initiated against the appellant were filed vide order dated 08.03.2019. That DPC was held for promotion of Naib Tehsildar and Sub Registrar etc. to the post of Tehsildar on 21.03.2019 and appellant alongwith other officials was recommended for promotion to the post of Tehsildar (BPS-16) and accordingly, notification was issued with immediate effect instead of due date dated 16.11.2017 when his juniors were promoted and he was deferred on wrong presumption of VR, he therefore, filed departmental appeal which was rejected, hence the present service appeal.

3. We have heard Taimur Ali Khan Advocate learned counsel for appellant and Naseer Ud Din Shah, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Taimur Ali Khan Advocate, learned counsel for appellant submitted that the impugned orders dated 27.01.2020 and 26.03.2019

**ATTESTED**  
 EXAMINER  
 Kyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar



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are against law and facts, therefore, not tenable and that the order dated 27.01.2020 is liable to be set aside and the order dated 26.03.2019 is liable to be modified to the extent that the appellant may be promoted w.e.f 16.11.2017 when his colleagues and juniors were promoted to the post of Tehsildar. He contended that the appellant was not treated in accordance with law and his rights secured and guaranteed by the Constitution were badly violated. Learned counsel further argued that appellant was eligible for promotion alongwith his colleagues and juniors but he was deferred due to wrong presumption of VR and that the inquiry initiated against the appellant was filed as the appellant never served in District Charsadda and he had not done plea bargain which is evident from the promotion oof the appellant on 26.03.2019. He, therefore, requested for acceptance of instant service appeal.

5. Conversely, learned AAG submitted that on the recommendation of Departmental Promotion Committee, 22 officials were promoted to the post of Tehsildar and that the appellant was deferred due to show cause notice served upon him in suo-moto case of VR. He contended that the appellant was rightly promoted as Tehsildar and that he was treated in accordance with law and rules and has been given seniority w.e.f the date when his juniors were promoted as Tehsildar.

6. From the record it is evident that joint seniority list of Naib Tehsildar, Sub Registrar, District Kanungo and District Accountant (BPS-14) as stood on 31.12.2016 is available on file wherein, the name of the appellant has been entered and recorded at Serial No.15. DPC was held for promotion of Naib Tehsildar and others on 01.11.2017 and appellant was deferred due to show cause notice in a suo-moto case

**ATTENDED**  
  
 EXAMINER  
 Section

while 22 officials were promoted including his colleagues and juniors. Another meeting of Departmental Promotion Committee was held on 10.01.2019 and appellant was once again deferred due to Suo moto VR case. In this regard, Assistant Commissioner, Swabi was directed to conduct inquiry and to unearth the charges leveled against the appellant. After proper proceedings, Assistant Commissioner Swabi submitted his report. As per available record provided by NAB, the present appellant serving as District Kanungo, Swabi had never done plea bargain with NAB, therefore upon the recommendation of Inquiry Officer, the competent authority filed the inquiry proceedings against the appellant vide order dated 08.03.2019. Another meeting of DPC was held on 21.03.2019 and the appellant was considered and found suitable for promotion to the post of Tehsildar (BPS-16) on regular basis and consequent upon the recommendation of Departmental Promotion Committee proper notification of his promotion was issued on 26.03.2019 but with immediate effect. Now the appellant is aggrieved of this order as he was deferred for the very first time on 01.11.2017 in the meeting of DPC, whereby 22 officials were promoted including his colleagues and juniors. Nothing was brought against the appellant in order to show his plea bargain with NAB. Inquiry report and his promotion clearly favor the stance of the appellant.

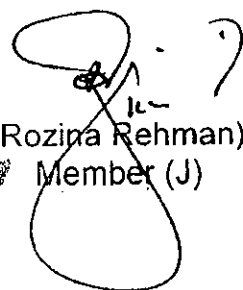
7. We are unison on acceptance of this appeal as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

24.08.2022

  
(Salah Ud Din)  
Member (J)

*certified to be true copy*  
EX-101  
Khyber Pakhtunkhwa  
Service Manual  
Peshawar

  
(Rozina Rehman)  
Member (J)