

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M No. 315/2022 in Service Appeal No. 5965-A/2021

Muntazir Khan, Ex-PMS Officer (BS-19).....Appellant

Versus

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

OBJECTION PETITION ON BEHALF OF OBJECTORS

INDEX

| S. # | Description of Documents | Annex/Flag | Pages |
|------|--------------------------|------------|-------|
| 1. | C.M | | 2-3 |
| 2. | Affidavit | | 4 |


Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CM No. 315/2022 in S.A No. 5965-A/2021

Muntazir Khan, Ex-PMS Officer (BS-19), Ex-Commissioner Mardan.....**Appellant**

VERSUS

Government of Khyber through Chief Secretary & others.....**Respondent**

OBJECTION PETITION ON BEHALF OF OBJECTORS

Respectfully Sheweth:

2865
10-1-2023

The objectors, inter alia, most reverently raise the following objections on the Execution Petition No. 315/2022 filed by the appellant before this Hon'ble forum as under:-

1. That substantial questions of law & facts of general public importance fall for the determination of Apex Court, hence the objectors have already filed CPLA before the Hon'ble Supreme Court of Pakistan, Islamabad.
2. That Execution/ implementation of the Judgment of Khyber Pakhtunkhwa Service Tribunal in S.A No. 5965A/2021 at this stage shall make the CPLA infructuous before the Apex Court.
3. That the appellant has not completed the requisite length of service which is pre-requisite for promotion to BS-20 i.e. at-least 17 years service against BS-18 and above posts. As per Rule-9 of the Khyber Pakhtunkhwa Appointment, Promotion & Transfer Rules, 1989 **“wherein the appointing authority consider it to be in the Public interest to fill a post reserved under the senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the prescribed length of service, the authority may appoint him to that post on Acting Charge Basis. Provided no appointment shall be made, if the, prescribed length of service is short by more than 03 years”**.
4. That the appellant's Acting Charge Appointment doesn't confer any vested right for the regular promotion to the post of Acting Charge Basis. Reliance is placed on 2013 PLC(CS) 1031, 2003 PLC(CS) 212, 2018 PLC(CS) Note 100, 1997 SCMR 1730, R 2015 SCMR 165 and on a Judgment of Hon'ble Tribunal Khyber Pakhtunkhwa in S.A No. 1194/2013 titled Mr. Shaukat Hussain VS Govt. of Khyber Pakhtunkhwa dated 30.06.2022.
5. That the PSB in its meeting held on 30.12.2020 examined the promotion case of the Appellant to BS-20 in light of the prevailing law/ rules and PSB decided the following:

“His date of birth is 08.05.1961. He joined Govt. service on 25.01.1988 and was promoted to PCS EG BS-17 on 23.12.2006. He was promoted to BS-19 on 03.10.2019 subject to final decision of the Supreme Court of Pakistan in Suo Motu Case No. 17 of 2016. As per Promotion Policy, amended vide Notification dated 28.08.2020, an officer who is likely to retire within two years on attaining the age of superannuation on the scheduled date of commencement of training shall be exempted from SMC. The officer has attained 58 years, therefore, he is exempted from mandatory training & promoted to BS-19 and in the light of decision taken in the PSB meeting held on 08.06.2020, and there is neither any ground nor justification for two consecutive conditional promotions. The law department vide its letter dated 30.11.2020 has also endorsed the decision of PSB. Moreover, his PERs quantifications has not been done as he has not yet earned PER in the present scale.

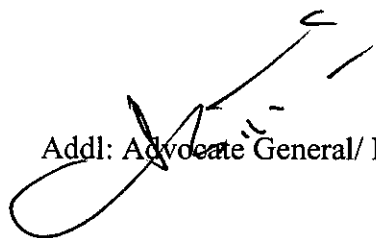
The Board did not consider his promotion”

- 6. That the officer was promoted/ appointed to PCS E-G BS-17 on 23.12.2006 and his total length of service against BS-17 and above post till the date of retirement was 15years, 04 months & 14 days whereas the required length of service for BS-20 is 17-years as such. Therefore, he was not eligible for the regular promotion to BS-20.

It is, therefore, most humbly prayed that the instant Execution, being devoid of merit and barred by law, may graciously be dismissed with costs or adjourned sine die till the decision of Apex Court.

OBJECTORS

Through


Addl: Advocate General/ District Attorney

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M No. 315/2022 in Service Appeal No. 5965-A/2021

Muntazir Khan, Ex-PMS Officer (BS-19).....Appellant

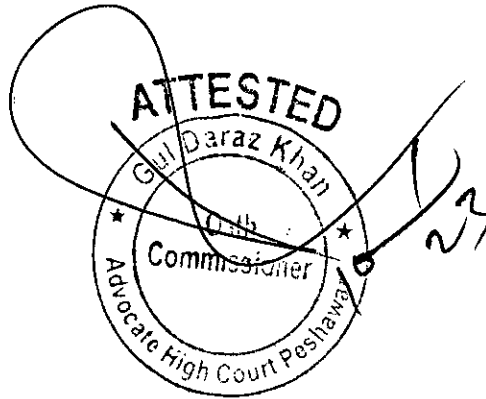
Versus

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

OBJECTION PETITION ON BEHALF OF OBJECTORS

AFFIDAVIT

I Sultan Shah Superintendent (Litigation) Establishment Department do hereby solemnly declare that contents of the Reply are correct to the best of my knowledge and record and nothing has been concealed from this Honourable Tribunal.



Deponent

Sultan Shah
(Sultan Shah)

**Superintendent (Lit)
E & A Department
CNIC.17301-1286739-5
Mobile No. 0333-9391493**