### BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

#### APPEAL NO.6583/2021

## SHAUKAT HUSSAIN VS IRRIGATION DEPARTMENT PARAWISE COMMENTS ON BEHALF OF REPONDENT NO.4 & 5

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#### BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

#### **APPEAL NO.6583/2021**

# SHAUKAT HUSSÄIN VS IRRIGATION DEPARTMENT PARAWISE COMMENTS ON BEHALF OF REPONDENT NO.4 & 5 PRELIMINARY OBJECTIONS:

- 1. That the appeal is not maintainable and incompetent in the eyes of Law.
- 2. The appellant has got no cause of action & locus standi to file instant appeal.
- 3. That the appellant has not come to the Turbunal with clean hands and has suppressed all relevant facts.
- 4. That the Service Appeal is badly time barred therefore is liable to be dismissed.
- 5. That proceeding with the instant appeal would be a futile exercise and just wastage of precious time of this honourable Tribunal.
- 6. That the appeal is weak having no force, fabricated, fictitious, based on ill will, malafide and having no footings in the eyes of Law.
- 7. That as stated in the objections supra, the appeal is bereft of cause of action and is liable for dismissal.

#### Respectfully Sheweth

#### Reply on Facts

- 1. That this para pertains to the services of appellant.
- 2. That correct to the extent that rules have been amended in year 2003.
- 3. That correct to the extent that seniority list is belong to having Diploma Holders.
- 4. That it is admittedly, answering respondents were promoted to post of Sub Engineer in 2004 while appellant was promoted to post of Sub Engineer in 2006. Therefore appellant is junior to answering respondents in Cadre and rightly was shown at Sr.No.61
- Departmental Grade B examination on 6/6/2000, 27/5/2002 & 12/6/2004 which is pre-requisite for promotion as Sub Engineers under 15% quota as laid down in the notification bearing No.SO(E) Irr:/23-5/73, dated 15/8/2003 who were promoted as Sub Engineers on 14/01/2004, 08/03/2005, 29/3/2005 & 21/12/2005, during the period appellant was not eligible /qualified for promotion as Sub Engineer as appellant has passed the Departmental Grade B examination on 31/01/2006 and have been promoted as Sub Engineer BPS-11 on 05/06/2006, as such appellant is placed at appropriate place in the seniority list i.e at Sr.No.61, "according to

section 17(2) of APT Rules 1989, Seniority shall be determined with reference to the date of their regular appointment to a post in that Cadre" and it is admitted facts that appellant joined the Cadre as Sub Engineer on 05/06/2006 while answering respondents were already in Cadre as Sub Engineer from 2004.

#### Reply on grounds

a. Incorrect, the seniority list dated 26/6/2020 and rejection order dated 4/2/2021

are according to Law, facts and material on record.

b. Incorrect, that appellant was rightly deferred from promotion to the post of Sub Engineer in year 2004 due to not passing departmental B examination which is

pre-requisite for promotion as Sub Engineer under 15% quota as laid down in the notification dated 15/8/2003.

c. Incorrect, that appellant will not deprived from his legal rights of future

d. Incorrect, that appellant has been treated in accordance with Law and Rules

Prayers

... promotions.

In view of the submission made above it is humbly prayed-that to

dismiss the Service Appeal of appellant with heavy cost.

and has not been deprived from his right place of seniority.

Ashraf Khan SDO (OPS) Rod Kohi Irrigation Sub Division DIKhan (Respondent No.4)

Syed Meher Ali Shah SDO (OPS) (Respondent No.5) AFFIDAVIT

I Ashraf Khan SDO (OPS) Rod Kohi Irrigation Sub Division DIKhan Respondent No.4 Solemnly affirm on oath and state that all the contents of parawise comments are correct and nothing has been concealed from this honorable Turbunal

Deponent Deponent

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