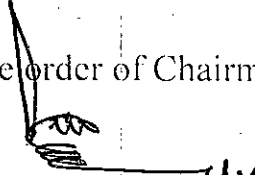


# FORM OF ORDER SHEET

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

Case No.- 2008/2022


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/12/2022	<p>The appeal of Mr. Sajjad Ali resubmitted today by Mr. Abdul Rauf Rohaila 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>By the order of Chairman</p>  <p>REGISTRAR</p>

The appeal of Mr. Sajjad Ali Former Assistant Labour Officer received today i.e. on 26.12.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓ 1- The law under which appeal is filed is not mentioned.
- 2- Copy of promotion order of respondent no.5 mentioned in the memo of appeal is not attached with the appeal.
- 3- Page no.8, 12, 13, 14, 28 & 29 are illegible which may be replaced by legible/better one.

No. 3701 /S.T,

Dt. 27-12-2022

  
REGISTRAR *av*  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Abdul Rauf Rohaila Adv.Pesh.

**28-12-2022 Resubmitted after removal of deficiencies. The promotion order of Amir Khaliq is available at page 28 and 29 of the paper book. May be placed before the Tribunal.**

  
**Abdul Rauf Rohaila**

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 2008 / 2022

Sajjad Ali, Former

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary Labour Department etc

**I N D E X**

S #	Description	Date	Annex	Page
1.	Appeal with affidavit	21-12-2022	-	1-7
2.	Option for promotion	1-12-2008	"A"	8-9
3.	Seniority list	22-11-2008	"B"	10
4.	Communication of adverse remarks	18-2-2009	"C"	11
5.	Judgment of Service Tribunal	4-1-2010	"D"	12-14
6.	Supreme Court judgment	17-9-2020	"D"	15-16
7.	Retirement notification	26-2-2015	"D-1"	17
8.	Representation	17-9-2020	"E"	18-19
9.	WP No. 504-P/2022 and order	30-8-2022	"F"	20-25
10.	Reminders for implementation	-	"G"	26-27
11.	Departmental promotion Committee minutes	26-2-2009	-	28-29
12.	COC No. 417-P/2022 and order	6-12-2022	"H"	30-34
13.	Rejection of representation	2-12-2022	"I"	35
14.	Wakalatnama			

Appellant,  
through  
Abdul Rauf Rohaila,  
Senior Advocate Supreme Court,  
Barrister Adnan Saboor Rohaila,

Sammad Hasnain,  
Rohaila, Christina & Keyani,  
Advocates, Consultants & Legal Advisors,  
Sikander Pura, G.T. Road, Peshawar.  
e-mail:- raufrohaila@gmail.com  
Cell # 0321-92909690

1

Service Appeal No. 2008 / 2022

**Sajjad Ali, Former ssistant Labour Officer, Labour Department, Khyber Pakhtunkhwa, Resident of Sheikh Abad, Gulbahar Road, Mohallah Sultan Abad, Outside Lahori Gate Peshawar.**

-----Appellant

**VERSUS**

1. **Government of Khyber Pakhtunkhwa through Secretary Labour Department, Peshawar.**
2. **Deputy Secretary, Labour Department, Peshawar.**
3. **The Departmental promotion Committee through its Chairman, Labour Department, Peshawar.**
4. **Director Labour Department, Khyber Pakhtunkhwa, 3<sup>rd</sup> Floor, F.C Trust Building, Peshawar Cantt**
5. **Amir Khaliq former Labour Officer, Labour Department, Peshawar.**

----- Respondents

**APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 2-12-2022 WHEREBY REQUEST OF THE APPELLANT TO GRANT PROMOTION IN BPS-16 HAS BEEN DENIED/REJECTED**

Respectfully Sheweth,

The appellant humbly submits as under:

1. That the appellant joined Labour Department on 1-8-1975, has unblemished record at his credit. The appellant through letter No. DL/Admn:/11/59/5127-29 dated 26-12-2008 was conveyed that two posts of Labour Officers (BPS-16) have been vacant which are required to be filed in by promotion from amongst Assistant labour Officers, in accordance with Departmental Service Rules 2005. The letter further stipulates that willingness for acceptance of promotion as Labour Officer in BPS-16 anywhere in Khyber Pakhtunkhwa where the posts of Labour Officer are lying vacant. The appellant accepted the proposal and extended his willingness through written letter dated 2-1-2013. It is matter of record that respondents earlier through letter No. DL/Admn:/11/59/Vol III 3962-64 dated 1-12-2008 also enquired and ask the option to be promoted and posted on one vacant Post of Labour Officer PBS-16 at D. I. Khan the appellant immediately through letter dated 4-12-2008 conveyed his consent.

(Copies of the referred documents are annexure "A")

2. That according to the departmental modalities, tentative seniority list of Assistant Labour Officer (BPS-11) was circulated on 22-11-2008 whereby the appellant has been ranked at serial No. 1 and Mr. Amir Khaliq, respondent No. 5 has been ranked junior to the appellant. Such seniority list has not been challenged and attained finality.

(Copy of the seniority list is annexure "B")

3. That it is irony that all of a sudden due to malafide intention of the respondents and to deprive the appellant from his due promotion, he through letter No. DL/Admn/1/271/718 dated 18-2-2009 was conveyed the adverse remarks recorded in his ACRs for the year 2004 to 2008. The appellant was forced to approach this honourable Tribunal through Appeal No. 1018 of 2009. After hearing the parties, this honourable Tribunal through order dated 4-1-2010 partially accepted the appeal and the adverse remarks recorded in ACRs for the year 2004 to 2007 have been expunged.

(Copies of the referred documents are annexure "C")

4. That since no findings relating to ACR for 2008 were made therefore, the appellant preferred Civil Appeal No. 320-P/2010 in the Supreme Court of Pakistan which came up for hearing on 17-9-2020, the appeal has been accepted and adverse remarks recorded for 1-1-2008 to 31-12-2008 have also been expunged.

(Copy of the order of the order is annexure "D")

5. That the respondent Labour Department illegally and unlawfully, blocked the due promotion of the appellant and his junior Amir Khaliq/respondent No. 5 was promoted as Labour Officer-BPS-16 on 26-2-2009 and the Appellant has been denied his due right. However, the appellant and respondent No. 5 have since been retired after attaining the age of superannuation.

6. That the appellant soon after the judgment of apex Supreme Court of Pakistan, approached the Director Labour through representation dated 17-9-2020 with the request that since entire adverse remarks recorded against the appellant have been expunged, therefore he has the right to be promoted to the post of Labour Officer from the date when his junior Ameer Khaliq/respondent No. 5 was promoted as Labour Officer (PBS-16). No response was communicated to the appellant, therefore, a reminder dated 6-5-2021 was also addressed to Director Labour but with no reply.

(Copies of the letters are annexure "E")

7. That due to the negative attitude and posture of official respondents, the appellant was constrained to file Writ Petition No. 504-P/2022 in the honourable Peshawar High Court. The respondents in the writ petition were issued notices and they filed parawise comments. The writ petition finally came up for hearing on 30-8-2022 and division bench of the honourable Peshawar High Court passed following orders:-

" Abdul Shakoor, J. Keeping in view the peculiar facts and circumstances of the case, this petition is converted into representation and sent to Secretary Labour Department "respondent No. 01" with direction to decide it in accordance with law within shortest possible time after providing the petitioner an opportunity of due hearing. The petition is disposed of accordingly. Office shall retain copies of the petition for the purpose of record."

(Copies of the referred documents are annexure "F")

8. That the appellant through letter dated 6-9-2022 provided the copies of the writ petition and judgment dated 30-8-2022 of the learned Peshawar High Court to respondent No. 1 for the needful and compliance. Subsequently, the appellant through letter No. SO(Lit)/LD/1-49/2022 dated 19-9-2022 was called for personal hearing on 21-9-2022. The appellant during the hearing explained entire factual and legal aspects of the case with the request that he may be notionally promoted as Labour Inspector from the 26-2-2009 on which respondent No. 5 was promoted.
9. That after personal hearing, no response was conveyed, therefore COC No. 417-P/2022 was filed in the Peshawar High Court on 8-10-2022 which came up for hearing on 6-12-2022. During the hearing it was disclosed that the representation of the appellant has been decided on 2-12-2022. In the circumstances, the COC was decided.
10. That appellant through letter No. SOL/LD/1-49/2022/Sajjad Ali/6853 dated 2-12-2022 conveyed that "The Labour Department through Departmental Promotion Committee considered your representation. Since there no provision was available for promotion with retrospective effect, as per promotion policy in vogue, hence, this department is unable to accept your representation"

(Copies of the referred documents are annexure "G")

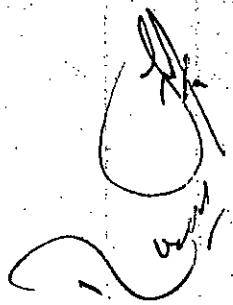
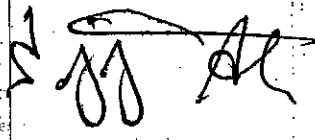
11. That the appellant is seriously aggrieved of the order dated 2-12-2022, hence the preset appeal inter-alia on the following grounds:-

- i) Firstly, the order and refusal of the respondent through letter No. SOL/LD/1-49/2022/Sajjad Ali/6853 dated 2-12-2022 to promote the appellant as Labour Officer is illegal, without lawful authority and void ab-initio.
- ii) Secondly, the appellant promotion has been blocked due to malafide intention of the official respondents with no default of the appellant. The stance of the appellant has been concurred by apex Supreme Court of Pakistan and this honourable Tribunal and expunged all the adverse remarks recorded in ACRs of the Appellant vide their Judgments dated 4-1-2010 and 17-9-2020.
- iii) Thirdly, the appellant has been deprived of his due promotion from 26-2-2009 of promotion of his junior colleague Amir Khaliq/respondent No. 5 had been promoted as Labour Officer in BPS-16. The stance of the respondents that since appellant has already retired, therefore, he cannot be promoted retrospectively is uncalled for. There are plethora of instances and ruling that promotion can be made from the date when a person has illegally been deprived of his lawful promotion.
- iv) Fourthly, the refusal contain in letter No. SOL/LD/1-49/2022/Sajjad Ali/6853 dated 2-12-2022 is uncalled for inasmuch as according to the seniority list circulated on 22-11-2008 whereby the appellant has been ranked at serial No. 1 and Mr. Amir Khaliq, respondent No. 5 has been ranked junior to him whereas Such seniority list has not been challenged thus attained finality.
- v) Fifthly, the appellant has deliberately been denied his due right due to the negative attitude and behavior of the official respondent which is apparent from the fact that he was twice offered to be promoted as Labour Officer BPS 16 and get the consent of the appellant. However, the respondents in order to deprive the appellant from his due promotion simultaneously conveyed four years adverse remarks which have already been quashed and expunged by the Apex Supreme Court of Pakistan and this honourable Tribunal.
- vi) Sixthly, the refusal of the respondents, the attitude, behavior and conduct towards the appellant is biased, discriminatory, against law and ethics. The respondent department in order to promote a junior person and to deprive the senior person illegally recorded adverse remarks in the ACRs of the appellant. By such modus operandi the promotion of the Appellant was blocked illegally and unlawfully.

It is, therefore, humbly prayed that on acceptance of this appeal, this honourable tribunal may hold declare and order:-

- A. That the appellant has the right to be promoted as Labour Officer BPS 16 from 26-2-2009 i.e. the date of promotion of respondent No. 5/Amir Khaliq by issuing antedated promotion in BPS-16 in accordance with the tentative seniority list of Assistant Labour Officers- BPS-11 circulated as stood on 22-11-2008 with all consequential, financial, entire privileges and other benefits attached with the post of Labour Inspector BPS 16 and back benefits of seniority and refusal of the respondent Labour Department is illegal, without lawful authority and liable to be quashed.
- B. That the order and refusal of the respondent contain in letter No. SOL/LD/1-49/2022/Sajjad Ali/6853 dated 2-12-2022 to promote the appellant is illegal, discriminative, against law, rules and dicta laid by the superior courts thus the appellant is entitled for proforma notional promotion from 26-2-2009, the date when respondent No. 5 being junior to the appellant was promoted.
- C. That the appellant's promotion has been suspended, prolonged and blocked due to malafide intention of the official respondents with no fault of the appellant whereas the stance of the appellant has been concurred by apex Supreme Court of Pakistan and this honourable Tribunal and expunged all the adverse remarks recorded in ACRs of the Appellant vide order and judgments dated 4-1-2010 and 17-9-2020 respectively.
- D. Any other appropriate remedy not specifically mentioned may also be granted.
- E. Costs

Appellant,  
 through  
 Abdul Rauf Rohaila,  
 Senior Advocate Supreme Court,  
 Barrister Adnan Sahoor Rohaila,  
 Sammad Hasnain,  
 Rohaila, Christina & Keyani,  
 Advocates, Consultants & Legal Advisors,  
 Sikander Pura, G.T. Road, Peshawar.  
 e-mail:- raufrohaila@gmail.com  
 Cell # 0321-92909690

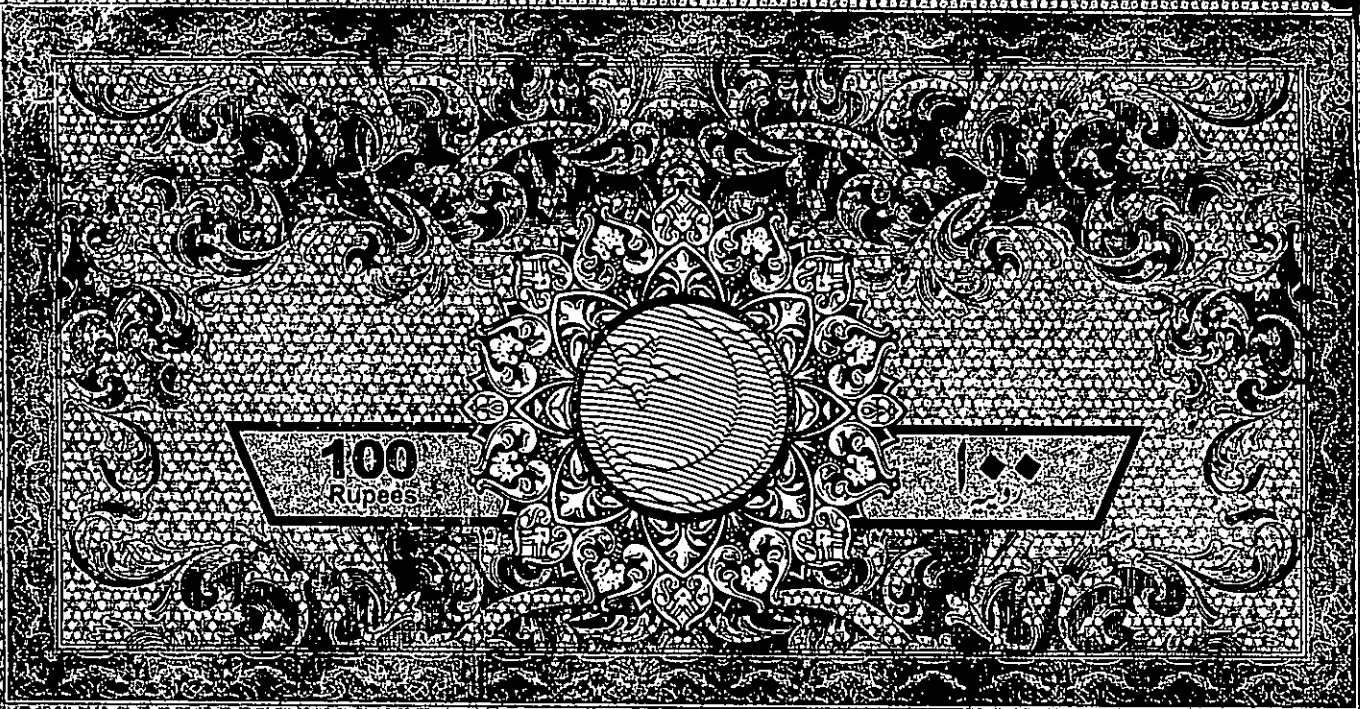



Certificate

Certified no appeal, petition has been filed against the letter impugned letter dated 2-12-2022.

Appellant  



**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_ /2022

Sajjad Ali, Former

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary Labour Department etc

**Affidavit**

I, Sajjad Ali son of Khanimullah, resident of Sheikh Abad, Gulbahar Road, Mohallah Sultan Abad, Outside Lahori Gate Peshawar do hereby solemnly affirm that the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the notice of the Honourable Tribunal.

Deponent

Sajjad Ali

LA TRIBUNAL PESHAWAR  
SECRETARY  
LABOUR DEPARTMENT  
MOHALLAH SULTAN ABAD  
OUTSIDE LAHORI GATE  
PESHAWAR  
KHYBER PAKHTUNKHWA

DIRECTORATE OF  
INDUSTRIES, COMMERCE AND LABOUR  
NWFP, PESHAWAR

B  
Registered

No. DL/Admn: 11/59/Vol-III/ 3962-64

Dated: 01/12/2008.

1. Mr. Khawja Muhammad  
Asstt: Labour Officer, Mansehra.
2. Mr. Sajjad Ali  
Asstt: Labour Officer, Charsadda
3. Mr. Amir Khaliq  
Asstt: Labour Officer, Swabi.

Subject: **OPTION FOR PROMOTION TO THE POST OF LABOUR OFFICER  
(BPS-16) AT D.I.KHAN.**

I am directed to refer to the subject cited above and to say that one post of Labour officer (BPS-16) is lying vacant in this Directorate at D.I.Khan falling to the share of promotion quota.

You are therefore requested to convey your willingness / unwillingness for promotion to the post of Labour Officer (BPS-16) D.I.Khan within 06-days. In case no reply is received within the stipulated period of time it will be presumed that you are not willing for promotion.

  
(Abdul Rauf Jan)  
Assistant Director (Admn)  
Hqtrs Office, Peshawar



To

The Assistant Director (Admn)  
H. Quarter office, Peshawar

Subject:- OPTION FOR PROMOTION TO THE POST OF LABOUR  
OFFICER (BPS-16)

Sir

Kindly refer to your letter No. 3962-64 dated 01 December, 2008  
on the subject noted above and to submit if promoted to the post of Labour  
Officer (BPS-16), I shall be willing to perform my duties at Labour Office  
D.I.Khan.

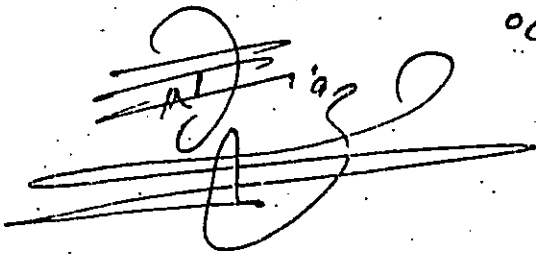
Thanks

Yours Obediently,

  
(Sajjad Ali)

Assistant Labour Officer,  
Charsadda

Received on 04/12/08



Directorate of Industries, Commerce & Labour NWFP

-10-

Notification

Tentative seniority list of Assistant Labour Officer (BPS-11)  
as stood on 31.12.2007

Sanction post of Assistant Labour Officers: 04 (i) Permanent; 04 (ii) Temporary = NIL

Sl. No.	Name of official with qualification	Date of birth with domicile	Date of Ist entry into Govt. service	Regular appointment/promotion to the present post.		Method of recruitment.	Present appointment with date.		Remarks
				Date	BPS		08	09	
01.	Mr. Khawja Muhammad FA	27.9.1950 Peshawar.	13.6.1978	31.3.84	11	a. Seventy five per cent by promotion on the basis of seniority-cum-fitness from and set the Labour Inspector five years service as such and b. Seventy five per cent by merit recruitment.	Labour Inspector 31.3.1984	-	
02.	Mr. Sejjad Ali B.A.	19.5.1955 Peshawar	01.8.1975	10.1.2004	11	--dc--	Asstt. Labour Offr. 10.1.2004	-	
03.	Mr. Amir Khaliq E.A.	04.9.1958 (Tribal area)	21.10.1976	10.1.2004	11	--dc--	Asstt. Labour Officer 10.1.2004	-	
04.	Mr. Shujaul Mulk M.A.	01.4.1956 Mingora	01.6.1976	20.8.1995	11	--dc--	Asstt Labour Officer 20.8.1995	-	

sd/- Director, ICL, NWFP.

Encl. No. DL/Admn/11/23802-05

Dated. 22/11/08

Copy of the above is forwarded to all concerned officials for information and necessary action. They are required to confirm their placement in the list and if there is any objection on their placement in the list, they can submit 15 days of the receipt of this communication, otherwise it will be presumed that their placement are correct and seniority will be finally notified

(Md. Rauf Jan)  
Assistant Director (Gen) Peshawar.

Directorate of  
Industries, Commerce and Labour  
NWFP Peshawar.

(23)  
REGISTERED

11

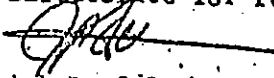
No. DL/Admn/1/271/719

Dated. 18/2/09

The Labour Officer,  
Acting Assistant Director Labour,  
Charsadda.

Sub; - Communication of adverse remarks.

I Am directed to forward herewith two letters ( in duplicate each) on the subject in respect of Mr.Sajjad Ali, Assistant Labour Officer Charsadda with the request to deliver the said letters to him after getting signature on the duplicate copy of each letter in token of having received the original and return the same to this Directorate for record.

  
( Abdul Rauf Jan )  
Assistant Director (Admn) Peshawar.

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

Appeal No. 1018 of 2009

Date of institution - 20.06.2009

Date of decision - 04.01.2010

Sajjad Ali Assistant Labour Officer, Charsadda, Officer of Assistant Director,  
Industries, Commerce & Labour, Charsadda.....(Appellant)

VERSUS

1. Mufti Nasser Iqbal, Labour Officer, acting Assistant Director, Industries  
Commerce & Labour, Charsadda.
2. Khalid Jan Durrani, Director of Industries, Commerce & Labour NWFP, FC,  
Trust Building Peshawar.
3. Secretary to Government of NWFP, Industries Commerce, Mineral  
Development, NWFP, Labour & Transport Department  
Peshawar.....(Respondents)

Appeal under Section-4 of NWFP Service Tribunals Act, 1974, against letters  
No. DL/ADMN/1/271/718 & 719 dated 18.2.2009 of Respondent No.2 whereby  
adverse entries/remarks recorded in ACRs of appellant for the period of five  
years from 1.1.2004 to 31.12.2008 were communicated & letter No. SO-1 (IND)  
9-1/80 Vol: VII/1274 dated 13.6.2009 of Respondent No.3 whereby the  
representation of appellant for expunction of adverse remarks/entries for the said  
period of ACRs was rejected.

Mr. Abdul Hameed, Advocate.....For appellant.  
Mr. Jamil Abdul Nasir A.C.P.....For Respondents.

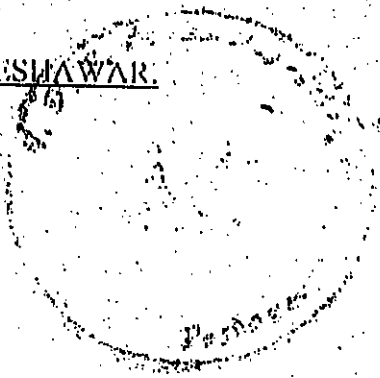
MR. ABDUL JALIL.....MEMBER  
SYED MANZOOR ALI SHAH.....MEMBER

JUDGMENT

ABDUL JALIL, MEMBER:- This appeal has been filed by the appellant against  
letter dated 18.2.2009 of Respondent No.2 whereby adverse entries/remarks recorded in  
his ACRs for the period from 1.1.2004 to 31.12.2008 were communicated & letter dated  
13.6.2009 of Respondent No.3 whereby his representation for expunction of adverse  
remarks/entries was rejected. He has prayed that the adverse remarks in the ACRs of  
appellant may be expunged.

NWFP Service Tribunal  
Peshawar  
EXAMINER

ADJUSTER  
*[Signature]*



2. Short facts giving rise to the present appeal are that the appellant was appointed as Labour Inspector in BPS-9 and later on promoted to the post of Assistant Labour Officer (BPS-N) on regular basis w.e.f 10.1.2004. During the period from 1.1.2004 to 31.12.2008 the appellant remained posted under the administrative control of Respondents No.1 and 2 and performed his duties honestly and diligently. During that period no explanation or any written warning issued to the appellant. On 1.12.2008, option was sought from appellant for posting against the available vacant post of Labour Officer at D.I Khan to which he agreed, instead of his posting the appellant was communicated adverse reports on 18.2.2009 for 5 years period from the year 2004-2008, meaning thereby that his case for the post of Labour Officer and his posting order to D.I.Khan was dropped because of this reports. He has prayed in his appeal that the reports for years 2004, 2005, 2006, 2007 were written on one day i.e 12.11.2008 by Respondents No.1 and 2 while report for the year 2008 was written on 15.1.2009 which indicates the malafide intention of Respondents No.1 and 2 and also violation settled instructions regarding PERs issued by Establishment Department. The appellant preferred a departmental representation on 4.3.2009 before for expunction of adverse entries/ remarks has been rejected on 13.6.2009. Hence, this appeal.

3. Arguments heard and record perused.


4. The learned counsel for the appellant argued that the adverse remarks recorded in the ACRs for the years from 2004-2008 are unfounded and merely based on personal dislikeness of Respondent No.1 and 2. The appellant had earlier earned good ACRs because of which he was promoted to higher post. The remarks below average indicate the personal grudge of Respondent No.2 as the same Respondents No. 1 and on other occasions had appreciated the works of the appellant. He referred to the judgments of Hon'ble Supreme Court of Pakistan wherein below average has been "disproved". The Countersigning Officer (Respondent No. 2 has not applied his independent mind to prove the adverse remarks. The entire adverse remarks are unjustified, un-called for and prejudiced mind of Respondents No. 1 and 2. He referred to 1999-SCMR-1587, the adverse remarks recorded in the ACR were communicated after lapse of more than 4 months and the authority failed to explain every day delay. The Hon'ble Supreme Court

of Pakistan has held that the adverse remarks should be communicated to civil servant within a reasonable period. He referred to another authority 1992-SCMR-1427 which says that adverse remarks should be communicated in time.

5. The A.G.P argued that the adverse remarks recorded were based on the performance of the appellant and therefore, carry weight for ensuring discipline and smooth functioning of the Government Institutions. He was found delinquent giving poor performance in field duty, therefore, warning/explanation notice has been served on 12.1.1999, 25.1.1999, 5.11.2001, 21.11.2001 and 18.4.2002. Proper counselling was held but he failed to improve his performance. Respondents No. 1 and 2 have no personal grudge against the appellant. He also referred to SCMR-2004-1707 and SCMR-1999-2117 in which it has been held that counselling/warning is not mandatory.


6. In view of the above, the Tribunal holds that ACR instructions were not considered while communicating the adverse remarks. As per instruction No. 9 while writing PER utmost care should be taken to ensure that "personal adverse remarks are avoided". While the Countersigning Officer has recorded the word "useless official", again has repeated the word useless which amount to personal remarks, therefore, the adverse remarks for the years 2004 to 2007 are expunged. As per instructions on PER 13.6 proper counselling/warning has not been given to the appellant. The same should be expunged as the same were sent to the appellant at a belated stage. The parties are, however, left to bear their own costs. File be consigned to the record.

ANNOUNCED.  
4.1.2010.

  
(SYED MANZOOR ALI SHAH)  
MEMBER.

  
(ABDUL JALIL)  
MEMBER.

12004-1-2010  
8-06  
8-06  
04/2/2010  
04/2/2010

  
MEMBER.



D

-15-

12

**IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)**

**PRESENT:**  
MR. JUSTICE GULZAR AHMED, HCJ  
MR. JUSTICE IJAZ UL AHSAN

**CIVIL APPEAL NO.320-P OF 2010**  
*(Against the judgment dated 04.01.2010 passed by  
the NWFP, Service Tribunal, Peshawar in Appeal  
No.1018 of 2009).*

Sajjad Ali

...Appellant(s)

Versus

Labour Officer, Acting Assistant Director Industries  
Commerce and Labour and others.

...Respondent(s)

For the Appellant(s): Sajjad Ali, In person.  
*(via video-link from Peshawar)*

For the Respondent(s): Mr. Atif Ali Khan, Addl. A. G. KP.  
*(via video-link from Peshawar)*

Date of Hearing: 17.09.2020.

**ORDER**

**GULZAR AHMED, CJ.-** The Appellant was communicated adverse remarks recorded in his ACRs for the period from 01.01.2004 to 31.12.2007 vide letter dated 18.02.2009 and by a separate letter of the same date for the period from 01.01.2008 to 31.12.2008. The Appellant filed a Service Appeal before the NWFP Service Tribunal, Peshawar (*"the Tribunal"*) challenging such adverse remarks. The Tribunal after having the parties vide impugned judgment dated 04.01.2010 expunged the adverse remarks recorded against the Appellant in his ACRs for the period from 01.01.2004 to 31.12.2007. However, it omitted to expunge such remarks for the period from 01.01.2008 to 31.12.2008.

adverse remarks for the last mentioned period were not expunged. We note that the Tribunal in its impugned judgment has observed that the Assessing Officers were required to write down the ACRs of the Appellant on objective basis and not on personal basis. However, adverse remarks have been recorded against the Appellant in his ACRs on personal basis by using the words, "useless fellow". Using of such words in the ACRs of the Appellant were found by the Tribunal to be that of a personal assessment, which was not permissible in law. We note that the words, "useless fellow" also find mentioned in the ACR of the Appellant for the period from 01.01.2008 to 31.12.2008 and the same being similar to the one mentioned in his ACRs for the period from 01.01.2004 to 31.12.2007 that were expunged by the Tribunal through the impugned judgment, in our view, the same principle will also apply to the ACR for the period from 01.01.2008 to 31.12.2008. As such, benefit of expungement of adverse remarks by the Tribunal is extended to ACR of the Appellant for the period from 01.01.2008 to 31.12.2008 also. Consequently, the impugned judgment of the Tribunal dated 04.01.2010 is modified and the adverse remarks in the ACR of the Appellant for the period from 01.01.2008 to 31.12.2008 are expunged. The appeal in such terms is allowed.

Sd/-  
Sd/-

*[Signature]*  
Certified to be True Copy

~~17~~  
5



DIRECTORATE OF LABOUR  
KHYBER PAKHTUNKHWA  
PESHAWAR

3<sup>rd</sup> floor F.C Trust Building Peshawar Cantt.

ORDER

On attaining the age of superannuation i.e. 60 years Mr. Sajjad Ali Assistant Labour Officer (BPS-11) Office of the Deputy Director Labour District Peshawar shall stand retired from service with effect from 14.05.2015. (Afternoon). His date of birth is 15.05.1955.

In terms of Rules 20(1) of the Khyber Pakhtunkhwa Civil Servant Revised Leave Rules, 1981 sanctioned is hereby accorded to the lump sum payment equal to full pay of 365 days as encashment of leave in pursuance of Government of Khyber Pakhtunkhwa Finance Department Notification No. S.O (FR) FD-5-92/2005/Vol-v dated: 13.12.2012.

"Certified that the Official has more than 365-days balance of leave at his credit"

Sd/-  
Director Labour  
Khyber Pakhtunkhwa  
Peshawar

dated. 26/02/2015.

Indst.No. DI/Admn/1/271/688-93

Copy forwarded to:-

1. The Accountant General Khyber Pakhtunkhwa Peshawar.
2. The Chief Inspector of Factories Hqtr Office Peshawar.
3. The Deputy Director Labour District Peshawar.
4. The Accounts Officer, Hqtr Office Peshawar.
5. Mr. Sajjad Ali Assistant Labour Officer (BPS-11) Office of the Deputy Director Labour District Peshawar.
6. Personal File of the Officer Concerned.

(Hidayat Ullah Khan)  
Deputy Director Labour (Admn).  
Hqtrs Office, Peshawar.

19  
15

To, The Director Labour,  
Khyber Pakhtunkhwa,

Subject: Expunction of adverse remarks of ACR of Sajjad Ali,  
Assistant Labour Officer in pursuance of order dated  
17.09.2020 passed by Honourable Supreme Court of  
Pakistan-Promotion as Labour Officer.

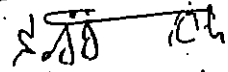
Respected Sir,

Most respectfully I beg to invite your kind and sympathetic attention to letter No. SOG/LD/3-6/DL/2021 Dated 22.04.2021 from the Section Officer (General), Government of Khyber Pakhtunkhwa, Labour Department address to Secretary Law Department and to submit that the only question in my case is "whether a government servant can be granted promotion after retirement". In this connection your Honour's kind and sympathetic attention is invited to judgment and order titled "Secretary Establishment Islamabad vs. Tahawwar Ahmad" of August Supreme Court of Pakistan reported on pages 46-56 of SCMR January, 2021 which shows that Mr. Tahawwar Ahmad, Joint Secretary of the Federal Government has been granted promotion to BPS-22 after retirement. Similarly, the Honourable Peshawar High Court Peshawar, remanded the case of Engr. Gulzar Muhammad to the Local Council Board for promotion after retirement as per Daily News (DAWN) Peshawar dated 15 April 2021. Copies of Judgment and order titled "Secretary Establishment Islamabad vs. Tahawwar Ahmad" of August Supreme Court of Pakistan and extract of Daily News (DAWN) Peshawar dated 15.04.2021 are Annexed for your kind and sympathetic consideration.

2. It is requested that my case may kindly be considered in the light of these judgment and orders of August Supreme Court of Pakistan and of Honourable Peshawar High Court, Peshawar and granted promotion to BPS-16 from the date from which I am entitled in Interest of Justice.

Thanking you

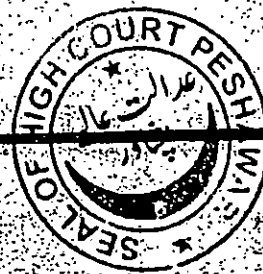
Your Most Obedient Servant,



Sajjad Ali  
Ex-Assistant Labour Officer (Retired)

✓  
Dated: 6.5.2021

Received  
Ahmad J. Khan  
06/5/2021



20

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**

Writ Petition No.

504/2022

Sajjad Ali, Ex Assistant Labour Officer, Labour Department, Khyber Pakhtunkhwa, Peshawar

Present:- Sheikh Abad, Gulbahar Road, Mohallah Sultan Abad, near Safi Hotel, outside Lahori Gate Peshawar.

Petitioner.

**VERSUS**

1. Secretary to the Government of Khyber Pakhtunkhwa, Labour Department, Civil Secretariat, Peshawar.
2. Director, Labour Department, Khyber Pakhtunkhwa, 3<sup>rd</sup> Floor, F.C Trust Building, Peshawar Cantt. Peshawar.
3. Administrative Officer, Labour Department, 3<sup>rd</sup> Floor, F.C Trust Building, Peshawar Cantt. Peshawar.

Respondents

Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973, as amended till date, against the refusal of the Respondents to grant promotion to the Petitioner in BPS-16, although the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar and the August Supreme Court of Pakistan had expunged the adverse remarks from the ACRs of the Petitioner vide their Judgments dated 04/01/2010 and 17/09/2020, while the Petitioner submitted representations to the Respondents for the grant of promotion to him in BPS-16, from time to time but to no result.

Prayer in Writ Petition:- Declaring the Refusal of the Respondents as unlawful, illegal, arbitrary, void, malafide and as such without lawful authority, the Respondents may kindly be ordered to process the promotion case of the Petitioner in (BPS-16) and place the same before the Departmental Promotion Committee (DPC) so that the problem of the petitioner could be solved and he could get his right from the date when his junior colleague Amir Khaliq was promoted as Labour Officer in (BPS-16).

Sheweth,

The Petitioner respectfully submits as under:

1. That the petitioner joined the Labour Department on 01/08/1975 and retired from the service on 14/05/2015 on attaining the age of superannuation vide order of the Respondent No. 2 dated 26/02/2015 (Copy of the retirement order annexed as A). Thus the petitioner had served the labour department for about 40 years.

That during the service, the Petitioner was asked to show his willingness/unwillingness for acceptance of promotion as Labour Officer in BPS-16 at D.I Khan vide letter of the Respondent No. 2 dated 01/12/2008 (copy of the order annexed as B). The Petitioner in response to the above said letter expressed his willingness to accept promotion in BPS-16 at D.I Khan. (copy of the Petitioner's willingness is annexed as C).

FILED TODAY  
Deputy Registrar  
02-FEB-2022

ATTESTED  
EXAMINER  
Peshawar High Court

3. That all of a sudden the Petitioner was communicated adverse remarks in his ACRs for the period from 2004 to 2008 in his ACRs vide letter of the Respondent No. 2 dated 18/02/2009 (copy of the order annexed as D). It means the adverse remarks were communicated to the Petitioner after lapse of five years. It clearly represents that the Respondents had blocked the path of promotion to the Petitioner. The junior colleague of the Petitioner namely Amir Khaliq was promoted in BPS-16 and the Petitioner was deprived of his right through clever trick.
4. As the adverse remarks had blocked the path of promotion of the Petitioner, therefore, he had to invoked the jurisdiction of the Service Tribunal and the Supreme Court of Pakistan. Both the Honourable legal forums expunged all the adverse remarks from the ACRs of the Petitioner vide their Judgments dated 04/01/2010 and 17/09/2020 (copies of the judgments are annexed as E & F).
5. That after the judgments of the Honourable legal forums given in favour of the Petitioner, he submitted an application to the Respondent No.2 (Director Labour), for the grant of promotion to him from the day when his junior colleague Amir Khaliq had been promoted as Labour Officer in (BPS-16) (Copy of the application dated 17/09/2020 is annexed as G). But sorry to say that the Petitioner was given no response.
6. That once again the Petitioner submitted another application on 06/05/2021 to the Respondents for the redress of his grievance (copy of the application dated 06/05/2021 is annexed as H). But the Respondents turned deaf ear to the cry of the Petitioner. He has not received any reply from the Respondents till date.
7. As the Respondents are not ready to redress the grievance of the Petitioner, therefore, the Petitioner has no other option open to him but to knock at the door of this Honourable Court through this Writ Petition for the redressal of his grievance on the following amongst the other grounds.

**GROUND**

- A. That the attitude and behavior of the Respondents towards the Petitioner is biased, discriminatory and against all the laws and ethics.
- B. That the Respondent Department in order to promote a junior person and to deprive the senior person, brought adverse remarks in the ACRs of the Petitioner. Thus the path of promotion to the Petitioner was blocked. Therefore, the Petitioner had to knocked at the doors of the Service Tribunal and Supreme Court of Pakistan who very kindly expunged all the adverse remarks from the ACRs of the Petitioner. But even after expungement of adverse remarks by the Honourable legal forums from the ACRs of the Petitioner, the Respondents badly failed to process the promotion case of the Petitioner. His applications were sent to the cold storage. Whenever the Petitioner approached the offices of the Respondents, he was dodged. It represents delaying tactics, rough methods, biased attitude and overall mal-administration on the part of Respondents who are reluctant to grant promotion to the Petitioner.
- C. That the aim of communicating adverse remarks after five years to the Petitioner is the worst example of biased attitude and discrimination on the part of Respondents who had already made up their mind to award the junior and to discard the senior. The tentative seniority list of Assistant Labour Officers (BPS-11) as stood on 22/11/2003 confirms this fact that the Petitioner (at Serial No.2 is senior to Amir Khaliq at Serial No.3).

**ATTESTED**  
EXAMINER  
Peshawar High Court

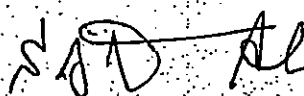
**FILED TODAY**  
Deputy Registrar  
02 FEB 2022

(Copy of the seniority list is annex as I). Thus the Respondents followed their discretion and kicked back the senior and uplifted the joiner.

- D. That the Petitioner had to expend a huge amount on litigation while the Respondents used public money to fulfil their ulterior motives.
- E. That the Honorable Service Tribunal and the August Supreme Court of Pakistan had declared the adverse remarks given by the reporting officer and countersigning officer as biased. In the light of his observation of the legal forums the Innocence of the Petitioner is proved that he was annealed on the anvil of suppression so that he could not avail his promotion.
- F. That from the very beginning the Respondents gave the petitioner a treatment of a step mother. The problem of the petitioner could easily be solved by creating a supernumerary post to grant promotion to the petitioner from the date when his junior colleague Amir Khaliq had been promoted and the petitioner was left high and dry but malicious attitude and maladministration of the Respondents were not ready to grant promotion to a deserving person. Therefore, the petitioner has no hope of goodness from the Respondents. The petitioner is entitled to avail his right in the light of the judgments of the Service Tribunal and the August Apex Court.
- G. That the petitioner shall also rely on the additional grounds after filing the written statement by the Respondents.
- H. That under the circumstances as mentioned above the Refusal of the Respondents is liable to be declared null and void.

It is humbly prayed that accepting this Writ Petition in favour of the Petitioner and against the Respondents with cost, the Respondents may kindly be ordered to prepare the case of Petitioner's promotion as Labour Officer in BPS-16 and place the same before the Departmental Promotion Committee so that the Petitioner could get his due right from the day i.e 21/03/2009 when his joiner colleague namely Amir Khaliq had been promoted in BPS-16.

It is further prayed that the drastic action may also be taken against the Respondents who have unlawfully been depriving the Petitioner of his right since long.

  
Sajjad Ali

Dated: 02/2022


(Petitioner in person)

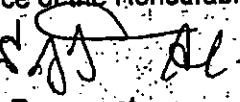
### Affidavit

**ATTESTED**  
EXAMINER  
Peshawar High Court

I, Sajjad Ali, Ex Assistant Labour Officer of the Labour Department Khyber Pakhtunkhwa, (Petitioner) do hereby solemnly affirm that the contents of the accompanied Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from the notice of the Honourable Court.

Dated: 02/2022

  
Deputy Registrar

  
Deponent

02 FEB 2022

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**

Writ Petition No. 504 P /2022

**ADDRESSES OF THE PARTIES:**

Sajjad Ali, Ex Assistant Labour Officer, Labour Department, Khyber Pakhtunkhwa, Peshawar

Present:- Sheikh Abad, Gulbahar Road, Mohallah Sultan Abad, near Safi Hotel, outside Lahor Gate Peshawar.

\_\_\_\_\_  
Petitioner

**VERSUS**


1. Secretary to the Government of Khyber Pakhtunkhwa, Labour Department, Civil Secretariat, Peshawar.
2. Director Labour Department, Khyber Pakhtunkhwa, 3<sup>rd</sup> Floor, F.C Trust Building, Peshawar Cantt. Peshawar.
3. Administrative Officer, Labour Department 3<sup>rd</sup> Floor, F.C Trust Building, Peshawar Cantt. Peshawar.

\_\_\_\_\_  
Respondents

  
**PETITIONER**

**ATTESTED**  
EXAMINER  
Peshawar High Court

Dated: 02/2022

  
**FILED TODAY**  
Deputy Registrar  
- 02 FEB 2022



**IN THE PESHAWAR HIGH COURT, PESHAWAR**

W.P No. 504P/2022

Sajjad Ali.....**Petitioner**

**VERSUS**

Government of KPK and others.....**Respondents**

**AFFIDAVIT**

I, Sajjad Ali, Ex-Assistant Labour Officer, Labour Department, Khyber Pakhtunkhwa, Peshawar R/o Sheik Abad, Gulbahar Road, Mohallah Sultan Abad, Near Safi Hotel, Outside Lahori Gate, Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanying **Writ Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

*Sajjad Ali*

**DEPONENT-IN-PERSON**

CNIC#17301-7125460-5 ✓

Cell# 0345-9124020

*Sajjad Ali*  
AFFIDAVIT TO BE TRUE

Sworn before me at Peshawar  
on this 02nd day of Feb 2022  
in accordance with Order 192

05 SEP 2022

2022  
Certified that the above was verified on solemnly affirmation before me in office, this 02 day of Feb 2022 by Sajjad Ali s/o Khan Sahib who was identified by self  
Who is personally known to me:  
*[Signature]*  
Deputy Registrar  
Peshawar  
verified 02/02/2022

**FILED TODAY**  
Deputy Registrar  
02 FEB 2022



**PESHAWAR HIGH COURT PESHAWAR**

Form "A"

**Order Sheet**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
------------------------------	--

2

30.8.2022

W.P.504-P/2022 with IR

Present:

Mr. Sajjad Ali, petitioner in person.

Syed Qaisar Ali Shah, AAG, alongwith Mr. Jamil Ahmad Qureshi, Assistant Director Labour (Litigation), on behalf of Directorate of Labour.

\*\*\*\*\*

**ABDUL SHAKOOR, J.** - Keeping in view the peculiar facts & circumstances of the case, this petition is controverted into representation and sent to the Secretary Labour Department "respondent No.01" with direction to decide it in accordance with law within a shortest possible time after providing the petitioner an opportunity of due hearing. The petition is disposed of accordingly. Office shall retain copies of the petition for the purpose of record.

**Announced:**

30.8.2022

JUDGE

JUDGE

62455  
 Date of Presentation of Application: 30/8/2022  
 No. of Pages: 6-7  
 Filing Fee: 200/-  
 Date of Preparation of Copy: 30/8/2022  
 Date of Delivery of Copy: 30/8/2022  
 Nazir (D.C.)

Hon'ble Mr. Justice Abdul Shakoor, J.  
Hon'ble Mr. Justice Fazal Subhan, J.

05 SEP 2022

DNO. 1266 <sup>10</sup>

Refr. 06/09/2022

*[Handwritten signature]*  
06/09/22

**26**

G

The Secretary to the Govt of Khyber Pakhtunkhwa,  
Labour Department, Civil Secretariat, Peshawar.

Subject:- ORDER OF THE HONOURABLE PESHAWAR HIGH COURT PESHAWAR DATED 30/08/2022 IN WRIT PETITION NO. 504-P/2022 OF THE APPLICANT, WHEREBY THE SAID WRIT PETITION HAS BEEN CONVERTED INTO REPRESENTATION AND SENT TO THE ADMINISTRATIVE DEPARTMENT FOR DECIDING THE SAME WITHIN THE SHORTEST TIME.

Sir,

The Applicant respectfully submits as under:

1. That the Honourable Peshawar High Court Peshawar has converted the Writ Petition of the Applicant into Representation vide their order dated 30/08/2022 and sent the said Representation to your office for decision within shortest possible time.
2. That the Applicant considers it essential to forward a copy of the orders dated 30/08/2022 alongwith the copy of the Writ Petition / Representation to your good self for information.

Please acknowledge receipt.

Yours obediently

*[Handwritten signature]*

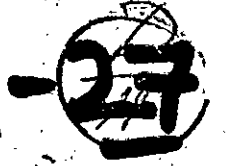
Sajjad Ali

(Ex Assistant Labour Officer)  
House # 264, Mohallah Sultan  
Abad Out Side Lahori Gate Near  
Ismail Safi Hotel Peshawar.  
Cell # 0345-9124020

dated: 06/09/2022



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LABOUR DEPARTMENT



IMMEDIATE / COURT MATTER

SO (Lit)/LD/1-49/2022  
Dated Peshawar 19-09-2022

To

Mr. Sajjad Ali,  
EX-Assistant Labour Officer,  
House # 264, Mohallah Sultan Abad,  
Outside Lahori Gate Near Ismail Safi Hotel Peshawar.  
Cell # 0345-9124020.

Subject: - **PERSONAL HEARING TO THE PETITIONER (MR. SAJJAD ALI, EX-ASSISTANT LABOUR OFFICER) IN WRIT PETITION 504/2022 IN COMPLIANCE OF HONORABLE PESHAWAR HIGH COURT, PESHAWAR ORDERS / DIRECT ON DATED 30-08-2022**

I am directed to refer to Honorable Peshawar High Court, Peshawar Order dated 30-08-2022 received from Deputy Registrar (J), Peshawar High Court, Peshawar vide their letter No. 57332 (1)/1643/2022/WP-MN dated 05<sup>th</sup> September, 2022 (Copy enclosed).

Therefore, the competent authority has been pleased to require you to attend the Office of Secretary Labour for personal hearing in the subject case on 21-09-2022 at 12:00 P.M, please.

Encl: As above: -

  
Section Officer (Litigation)

Copy forwarded to the:-

1. The Deputy Registrar (J), Peshawar High Court, Peshawar w/r to his letter number quoted above.
2. The Director Labour, Directorate of Labour, Khyber Pakhtunkhwa with the request to attend the Secretary Labour Office for attending the subject hearing on the date, time & venue mentioned above, please.
3. PS to Secretary Labour, Khyber Pakhtunkhwa.
4. Master file.

  
Section Officer (Litigation)

# **MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE**

A meeting of the Departmental Promotion Committee of Industries, Commerce, Labour, Mineral Development and Technical Education Department, NWFP, was held on 26/02/2009 at 1000 hours under the Chairmanship of Secretary to Government of NWFP, Industries Department in his office. The following attended the meeting:-

- 1) Mr. Shah Wali Khan, Secretary to Govt. of NWFP, Industries Department. Chairman
- 2) Mr. Robina Haider Bukhari, Section Officer (Reg: II), Establishment Department Member
- 3) Mr. Sardar Ali, Section Officer (SR-II), Finance Department. Member
- 4) Mr. Mumtaz Khan Khalil, Director General, Mines & Minerals NWFP. Member
- 5) Mr. Khalid Jan Durrani, Director, Industries, Commerce & Labour, NWFP. Member
- 6) Mr. Misal Khan, Section Officer (Admn), Industries Department. Secretary

The following decisions were taken in the meeting:-

## **Item No. 1**

### **PROMOTION TO THE POSTS OF LABOUR OFFICER BPS-16 IN THE DIRECTORATE OF INDUSTRIES, COMMERCE & LABOUR NWFP**

The case for promotion to the vacant post of Labour Officer BPS-16 in the Directorate of Industries, Commerce & Labour was examined by the Departmental Promotion Committee. The Committee recommended Mr. Amir Khaliq, Assistant Labour Officer BPS-11 for promotion to the post of Labour Officer (BPS-16) on regular basis with immediate effect. Mr. Khawaja Mohammad, Assistant Labour Officer and Mr. Sajjad Ali, Assistant Labour Officer at Sr. No. 1 & 2 of the seniority list were superseded due to adverse remarks and poor performance indicated in their ACRs.

## **Item No. 2**

### **PROMOTION TO THE POST OF MINERAL DEV: OFFICER (NON-TECHNICAL) BPS-16 IN THE DIRECTORATE GENERAL, MINES & MINERALS NWFP**

The case for promotion to the vacant post of Mineral Dev: Officer (Non-Technical) BPS-16 in the Directorate General, Mines & Minerals, NWFP was examined by the Departmental Promotion Committee. The Committee recommended Mr. Noor-ul-Islam, Royalty Inspector (BPS-11) to the post of Mineral Dev: Officer (Non-Technical) BPS-16 on regular basis with immediate effect.

- 1) Mr. Shah Wali Khan,  
Secretary to Govt. of NWFP,  
Industries Department.
- 2) Mr. Robina Haider Bukhari,  
Section Officer (Reg: II),  
Establishment Department
- 3) Mr. Sardar Ali,  
Section Officer (SR-II),  
Finance Department.
- 4) Mr. Mumtaz Khan Khalil,  
Director General, Mines & Minerals  
NWFP.
- 5) Mr. Khalid Jan Durrani,  
Director, Industries, Commerce & Labour,  
NWFP.
- 6) Mr. Misal Khan,  
Section Officer (Admn),  
Industries Department.

*[Handwritten signatures and initials on the right side of the page, including a large signature at the top right and several smaller ones below it.]*

**BEFORE THE HONOURABLE PESHAWAR HIGH COURT PESHAWAR**

COC No. 504/2022 IN WRIT PETITION No. 504/2022.

Sajjad Ali, Ex Assistant Labour Officer, Labour Department, Khyber Pakhtunkhwa, Peshawar.

Present: Sheikh Abad, Gulbahar Road, Mohallah Sultan Abad, near Safi Hotel, outside Lahori Gate Peshawar.

Petitioner

**VERSUS**

1. Rooh Ullah, Secretary to the Government of Khyber Pakhtunkhwa, Labour Department, Civil Secretariat, Peshawar.
2. Irfan Ullah, Director Labour Department, Khyber Pakhtunkhwa, 3<sup>rd</sup> Floor, F.C Trust Building, Peshawar Cantt, Peshawar.
3. Sher Afzal, Administrative Officer, Labour Department, 3<sup>rd</sup> Floor, F.C Trust Building, Peshawar Cantt, Peshawar.

Respondents

**APPLICATION OF CONTEMPT OF COURT UNDER ARTICLE 204 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED TILL DATE AGAINST THE RESPONDENTS, ESPECIALLY RESPONDENT No.1, WHO ARE RELUCTANT TO OBEY THE ORDERS OF HONOURABLE HIGH COURT DATED 30/08/2022, GIVEN IN THE WRIT PETITION OF THE APPLICANT.**

Sheweth,

The Applicant / Petitioner respectfully submits as under:

1. That the Applicant / Petitioner had filed a Writ Petition (No. 504-P/2022) before this Honourable Court for the grant of promotion as Labour Officer in BPS-16 (copy of the Writ Petition is annexed as A).
2. That the Writ Petition of the Applicant / Petitioner was decided by the Honourable Court on 30/08/2022, whereby the Writ Petition was converted into representation and sent to the Secretary Labour Department "Respondent No.1" with the direction to decide it in accordance with law within a shortest possible time after providing the Petitioner an opportunity of due hearing (copy of the order of the Honourable Court dated 30/08/2022 annexed as B).
3. That the Applicant / Petitioner also provided a copy of the order of the Honourable Court to the Secretary to the Government of Khyber Pakhtunkhwa, Labour Department through an application dated 06/09/2022 (copy annexed as C).
4. That the Applicant / Petitioner was directed by the office of the Respondent No.1 to appear for personal hearing on 21/09/2022 (copy of the letter dated 19/09/2022 annexed as D).

ATTESTED  
EXAMINED  
Peshawar High Court

DEPUTY REGISTRAR  
08 OCT 2022

5. That the Applicant / Petitioner attended the office of the Respondent No.1 on the due date i.e. 21/08/2022 for personal hearing. Sorry to say that neither the Applicant / Petitioner was properly heard nor his written statement was taken. The hearing was not more than a joke.

6. That the Respondents are not ready to grant the Applicant / Petitioner his due right. The Applicant / Petitioner had given sufficient detail in his Writ Petition (504/2022) regarding biased attitude of the Respondents who were not ready to grant promotion to the Applicant / Petitioner even after the judgments of the Service Tribunal and the Supreme Court of Pakistan who had expunged adverse remarks from the ACRs of the Petitioner and as such the Applicant / Petitioner had become eligible for promotion in BPS-16 but the ill-will and malafide intentions on the part of the Respondents once again came across in the path of Petitioner's promotion and as such the Petitioner was kept deprived of his due right. The Respondents want to keep the Petitioner / Applicant locked in litigation for ever so that he could not get his due right.

7. That the Honourable Court disposed of the Writ Petition of the Petitioner on 30/08/2022 and converted the Writ Petition into representation and sent the same to the Respondent No.1 for deciding the same within shortest possible time. But the Respondents have once again started delaying tactics and rough methods to keep the Applicant / Petitioner deprived of his promotion. As such they have not implemented the orders of the Honourable Court dated 30/08/2022 till date.

8. That inaction and delaying tactics on the part of the Respondents, especially the Respondent No.1 are clearly evident that they are not ready to obey the orders of the court. The Respondents have no regard to the orders of the Honourable Court. They have badly violated the orders of the August Court. Their refusal to implement the orders of the Service Tribunal, Supreme Court and now the High Court represents contempt of court on their part.

9. That the Applicant / Petitioner is entitled to be promoted as Labour Officer in (BPS-16) from the date when his junior colleague had been promoted in (BPS-16).

It is humbly prayed that the proceedings of contempt of court may kindly be initiated against the Respondents who have not implemented the orders of the Honourable Court till date.

N.B. The addresses of the parties given in the heading of this application are correct and sufficient for service.

RE-FILED

Deputy Registrar

08 OCT 2022

FILED TODAY

Deputy Registrar

04 OCT 2022

Dated: 4/10/2022

Sajjad Ali  
Applicant / Petitioner  
(In person)

ATTESTE  
EXAMINER  
High Court



IN THE PESHAWAR HIGH COURT, PESHAWAR

COC No. 417-P/2022

IN

W.P No. 504/2022

Sajjad Ali ..... Petitioner

**V E R S U S**

Govt. of KPK and others..... Respondents

AFFIDAVIT

I, Sajjad Ali, Ex Assistant Labour Officer, Labour Department Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

*Sajjad Ali*

DEPONENT-IN-PERSON  
CNIC#17301-7125460-5 ✓  
Cell# 0345-9124020

FILED TODAY  
*[Signature]*  
Deputy Registrar  
04 OCT 2022

19846

Certified that the above was verified on solemn affirmation before me in office, this 04 day of Oct 2022 by Sajjad Ali s/o Muhammad who was identified by self Who is personally known to me.

*[Signature]*  
Oath Commissioner  
Peshawar High Court Peshawar  
04/10/22

**PESHAWAR HIGH COURT, PESHAWAR**

**ORDER SHEET**



Date of order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary.
1.	2.
06.12.2022	<p><b><u>Cr. Misc. (COC) No.417-P/2022 in WP No.504P/2022.</u></b></p> <p><b><u>Present:</u></b> Petitioner in person.</p> <p>Syed Qaiser Ali Shah, AAG for the respondents along with Mr. Jamil Ahmad Qureshi, Assistant Director Labour (Litigation), Directorate of Labour, KPK.</p> <p>*****</p> <p><b><u>QAISER RASHID KHAN, CJ.-</u></b> While through the present COC, the petitioner seeks the implementation of the judgment of this court dated 30.08.2022 in WP No.504-P/2022, the learned AAG states that pursuant to the directions of this court, the representation of the petitioner has been decided and in this respect, he has produced a copy of letter dated 2.12.2022, whereby, the request of the petitioner for notional promotion has been regretted.</p> <p>3. Such being the position, this petition cannot proceed and stands disposed of accordingly.</p>

EXAMINER  
PESHAWAR HIGH COURT

The petitioner is, however, at the liberty to seek his legal remedy before the proper forum, if so advised.

**Announced.**  
**Dated: 06.12.2022.**



**CHIEF JUSTICE**



**JUDGE**

~~CHIEF JUSTICE~~

62555

7-12-22

10-12-22

10-12-22



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LABOUR DEPARTMENT

35

Registered Post

No: SOL/LD/1-49/2022/Sajjad Ali  
Dated: 02/12/2022

6853

To

Mr. Sajjad Ali,  
Ex-Assistant Labour Officer, Directorate of Labour,  
Present: Sheikh Abad, Gulbahar, Mohallah Sultan Abad, Near  
Saff Hotel, Outside Lahori Gate, Peshawar.

SUBJECT: MEETING OF THE DEPARTMENTAL PROMOTION COMMITTEE IN  
LIGHT OF ORDER DATED 30-08-2022 OF HONORABLE PESHAWAR  
HIGH COURT PESHAWAR IN WP NO: 504-P/2022.

I am directed to refer to the subject noted above and to inform  
that the Labour Department through the Departmental Promotion  
Committee considered your representation. Since there no provision was  
available for promotion with retrospective effect, as per promotion policy in  
vogue, hence, this department is unable to accept your representation.

  
Section Officer (General)

Encl: No. & date even

Copy forwarded to the:-

1. Director, Labour, Directorate of Labour, Khyber Pakhtunkhwa.
2. PS to Secretary, Labour Deptt, Khyber Pakhtunkhwa.
3. PA to the Deputy Secretary, Labour Department.

  
Section Officer (General)

**BEFORE PROVINCIAL SERVICE TRIBUNAL, PESHAWAR**

Appeal No. \_\_\_\_\_/2022

**Sajjad Ali**

**Versus**

**Director Labour Department and others**

**On behalf of appellant**

**WAKALATNAMA/ POWER OF ATTORNEY**

I, Sajjad Ali, appellant, do hereby appoint, constitute and authorize Abdul Rauf Rohaila Advocate Supreme Court, Sammad Hasnain, Arzoo-e-Sahar, Rozina Rehman Advocate High Court, in the above mentioned suit/ writ petition /suit/appeal/civil revision/ to do all or the following acts, deeds and things:-

1. To appear, act and plead for me in the above mentioned case in the Court /Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign and verify and file or withdraw all proceeding, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case or any other documents as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
3. To receive payment of and issue receipts for all the moneys that may be or become due and payable to us during the course of the proceeding.

And hereby agree: -

- (a). That the advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid provided entire/part fee paid shall not be refunded in any circumstances.
- (b). Not to hold Advocate(s) responsible if the said case be proceeded ex-parte or dismissed in default in consequence of his/their absence from the court when it is called for hearing.
- (c). That the advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any of the agreed fees remain unpaid.

In witness whereof I, have signed this Wakalatnama hereunder, the contents of which have been read/explained to me and fully understood by me/us on this 6th day of 13 December, 2022.

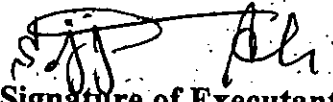
Accepted by

Abdul Rauf Rohaila,  
Senior Advocate Supreme Court

Sammad Hasnain

Arzoo-e-Sahar

Rozina Rehman

  
Signature of Executants