

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate	Judge or Magistrate
1	2	3	
	27.11.2019	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>AT CAMP COURT D.I KHAN</u></p> <p align="center"><u>Appeal No.231/2018</u></p> <p>Date of Institution ... 19.02.2018 Date of Decision ... 27.11.2019</p> <p>Haji Qayum Nawaz son of Ahmad Nawa caste Diyal, resident of Mohallah Shaikhanwala near Taj Masjid, Tehsil and District Tank. Ex-Assistant (BPS-16) Political Agent Office South Waziristan, Tank <p align="right">----- Appellant</p> <p align="center"><u>Versus</u></p> <p>The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar. <p align="right">----- Respondents</p> <p>Muhammad Amin Khan Kundi.....Member(J) Mr. Hussain ShahMember (E)</p> <p><u>JUDGMENT</u></p> <p><u>Mr. HUSSAIN SHAH:-</u>Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present.</p> <p>2. The learned counsel for the appellant contended that four (04) posts of the Office Assistant in BPS-16 were lying vacant since 01.04.2014. The appellant alongwith his colleagues requested through application to the Political Agent and through solo application to the SMBR on 27.04.2015 and 14.12.2016 respectively, wherein they requested for considering their promotion cases against the vacant posts available in the Office of the Political Agent South Waziristan. Further contended that the Political Agent South Waziristan also took-up their cases for promotion on 04.06.2015 and the issue remained under process with FATA Secretariat in the year 2015. Further contended that in the DPC meeting held on 03.05.2016 the case of the respondents was deferred on the ground that the representative of the Political Agent Office did not attend the meeting. In another meeting held on 22.01.2016 the colleagues of the appellant working in other Districts/Offices of</p> </p></p>	


Political Agent were recommended for promotion while the case of the appellant was not considered. Further informed that the appellant filed a Writ Petition No. 303-D/2017 and during the pendency of the same the appellant was promoted on 10.10.2017 with immediate effect. The appellant felling aggrieved, preferred departmental appeal on 08.11.2017, wherein he pleaded for promotion from the date of availability of vacancy i.e. 01.04.2014. The same appeal was rejected on 22.01.2018 on the ground that the promotions are always being granted with immediate effect. Learned counsel for the appellant further contended that the appellant was not promoted due to the reasons for which he was not responsible. He further pointed out that in the first DPC meeting the case was deferred due to dispute of jurisdiction, similarly in another DPC meeting the pretext of non attendance of the representative of the Political Agent Office was made. He further contended that the competent authority did not took appropriate action to promote the appellant in time, hence the appeal may be accepted and his promotion may be antedated from the availability of vacant post as the appellant has already being retired on 14.11.2017.


3. As against it the learned Deputy District Attorney argued that the appeal carries no merit and the prayer is against the law, wherein appointments are always made with immediate effect irrespective of its mode i.e. by promotion or by initial recruitment. He further contended that the promotion of the appellant against the post of Assistant BPS-16 was considered and approved vide the impugned order of 10.10.2017, after completion of the ACRs for the year 2001-2007 & 2008. He further clarified that the delay in his promotion was due to the non availability of ACRs, hence the appeal carries no merit and may be dismissed with costs.

4. Arguments heard. File perused.

5. After the detailed scrutiny of the document/record on file arguments and counter arguments of learned counsel for the appellant this Tribunal observes that the availability of vacancy since 01.04.2014 has not been disputed by the respondents authorities. AS regarding the eligibility of the appellant for promotion the respondent No.5 communicated on 04.06.2015 the cases of four (04) Senior Clerk including respondents for promotion to the FATA Secretariat for consideration. Similarly vide another memo, the respondent No.5, dated 16.10.2015, sent all the relevant documents including ACRs, Synopsis/Character Roll, Non involvement certificate, position of sanction posts/ Undisputed Seniority list to the FATA Secretariat for forwarding the same to the Board of Revenue for consideration and early promotion. It is also noted that the respondent No.5 requested the FATA Secretariat Vide his memo dated 07.01.2016 for earlier promotion of the eligible incumbents Senior Clerk to the post of Assistant BPS-16 as the same had been delayed. Nothing on record was found which could substantiate the stance of the respondent department regarding non availability of the ACRs and could not present any other cause for.

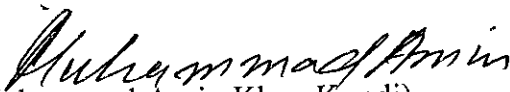
6. In view of the above discussion this Tribunal is of the considered opinion that the appeal is partially accepted with the direction to the respondents to consider the antedation of the promotion from the DPC meeting held on 03.05.2016. Parties are left to bear their own costs. File be consigned to the record room.

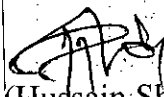

(Muhammad Amin Khan Kundi)
Member
At Camp Court D.I Khan


(Hussain Shah)
Member
At Camp Court D.I Khan

27.11.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Vide our detail judgment of today of this Tribunal placed on file, the appeal is partially accepted with the direction to the respondents to consider the antedation of the promotion from the DPC meeting held on 03.05.2016. Parties are left to bear their own costs. File be consigned to the record room.


(Muhammad Amin Khan Kundi)
Member
At Camp Court D.I Khan



(Hussain Shah)
Member
At Camp Court D.I. Khan

ANNOUNCED
27.11.2019

Service Appeal No. 231/2018

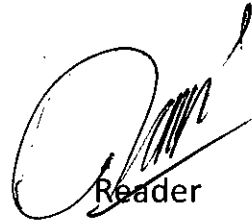
27.08.2019

Appellant in person and Mr. Asadullah, Naib Tehsildar on behalf of respondents No. 4 & 5 alongwith Mr. Farhaj Sikandar, District Attorney present. Joint written reply on behalf of respondents No. 4 & 5 already submitted. Neither written reply on behalf of respondents No. 1 to 3 submitted nor their representatives are present despite issuance of proper notices hence, respondents No. 1 to 3 are proceeded ex-parte. Case to come up for rejoinder and arguments on 22.10.2019 before D.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

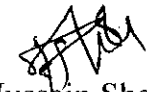
22/10/2019


Since tour to D.I.Khan has been cancelled .To come for the same on 26/11/2019.


Reader

26.11.2019

Appellant in person and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Asadullah, Tehsildar for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 27.11.2019 for rejoinder and arguments before D.B at Camp Court D.I.Khan.


(Hussain Shah)
Member
Camp Court D.I.Khan


(M. Amin Khan Kundi)
Member
Camp Court D.I.Khan

24.04.2019

Appellant in person. Mr. Farhaj Sikandar learned District Attorney alongwith Abdul Samad representative of respondent No.3 & 4 present and submitted reply. No one present on behalf of remaining respondents. Notice be issued to the remaining respondents with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 26.06.2019 before S.B at Camp Court, D.I.Khan.



Member
Camp Court, D.I.Khan.

26.06.2019


Appellant in person and Mr. Farhaj Sikandar, District Attorney for the respondents present. Written reply on behalf of respondents No. 3 & 4 has already been submitted. Neither written reply on behalf of respondents No. 1, 2 & 5 submitted nor their representative present therefore, notice be issued to respondents No. 1, 2 & 5 with the direction to direct the representative to attend the court and submit written reply on the next date positively. Case to come up for written reply/comments on behalf of respondents No. 1, 2 & 5 on 27.08.2019 before S.B at Camp Court D.I.Khan.




(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

Service Appeal No. 231/2018

18.12.2018 As per direction of the worthy Chairman Khyber Pakhtunkhwa Service Tribunal, D.I.Khan tour dated 18.12.2018 has been rescheduled and the case is re-fixed for 27.12.2018.


Reader

27.12.2018 Neither appellant nor his counsel present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Rozi Khan, D.K for the respondents present. Written reply not submitted. Learned District Attorney requested for adjournment. Adjourned. To come up for written reply/comments on 25.03.2019 before S.B at Camp Court D.I.Khan. Notice be also issued to appellant and his counsel for attendance for the date fixed.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

25.03.2019 Appellant with counsel present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Abdul Haleem, Supdt for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 24.04.2019 before S.B at camp court D.I.Khan.


Member
Camp Court, D.I.Khan

25.05.2018

Due to retirement of the Worth Chairman, the Tribunal become non-functional. To come up for the same 22.06.2018. Notice be issued to the parties accordingly.

MA
Member

22.06.2018

Counsel for the appellant Mr. Ziaur Rahman, Advocate present and heard on preliminary.

The main contention of the appellant is that though he was promoted but when his Writ Petition was subjudice before the Hon'ble High Court not from the date when right of promotion was accrued to him.

Points raised need consideration. The appeal is admitted subject to all legal objections, if raised by the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 30.08.2018 before S.B at camp court, D.I.Khan.

Appellant Deposited
Security & Process Fee

S

Chairman

Camp Court, D.I.Khan

30-8-18

Appellant present. Mr. Razi Khan D.I.K. for respondent present. Tax is hereby cancelled, therefore the case is adjourned for the same on 22.10.18 at camp court D.I. Khan.

22.10-18

Tax is hereby cancelled, therefore the case is adjourned for the same 18.12-2018 at camp court D.I. Khan.

MA

MA

BEFORE THE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No ^{231/} of 2018

Haji Qayyum Nawaz.....Petitioner

Versus

Government of K.P.K etc..... Respondents


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3.	Copies of Appeal Dated 27.04.2015 and application Dated 14.12.2016	"B" & "C"	11 - 13
4.	Copies of the Letter Dated 04.06.2015 and letter Dated 29.07.2015 are enclosed	"D" & "E"	14 - 15
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Dated: 16.02.2018

Your Humble Petitioner

Through Counsel


ZIA-UR-RAHMAN KAZI
Advocate High Court
Dera Ismail Khan

Kazi
Adv 16/2/2018

(1)

BEFORE THE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No ^{231/} of 2018

Haji Qayum Nawaz son of Ahmad Nawaz caste Diyal, resident of Mohallah Shaikhanwala near Taj Masjid, Tehsil and District Tank. Ex-Assistant (BPS-16), Political Agent Office South Waziristan, Tank.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 239

Petitioner

Dated 19-2-2018

Versus

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. **Additional Chief Secretary FATA**, FATA Secretariat, Peshawar.
- ✓ 3. **Deputy Secretary (Services) FATA** Secretariat, Peshawar
- ✓ 4. **Commissioner Dera Ismail Khan** Division.
5. **Political Agent**, South Waziristan Agency, Tank

Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AIMED AGAINST THE IMPUGNED PROMOTION ORDER/NOTIFICATION HAVING ENDORSEMENT NO DPC/2017/20654-60 DATED 10.10.2017 ALSO AIMED AGAINST IMPUGNED REJECTION OF DEPARTMENTAL APPEAL ORDER NO FS/E/100-11 (VOL-10)/ 924 DATED 22.01.2018 PASSED BY RESPONDENTS BEING ILLEGAL, ARBITRARY,

Filed to-day

Registrar

19/2/18

PERVERSE, TAINTED WITH MALAFIDE AND OF NO LEGAL EFFECTS AND TO PROMOTE THE APPELLANT WITH EFFECT FROM 01.04.2014 OR FROM THE DATE WHEN HIS PROMOTION BECAME DUE UNDER THE RULES WITH ALL ENSUING BENEFITS

PRAYER IN APPEAL

To modify the impugned promotion Order/ Notification having Endorsement No DPC/2017/ 20654-60 Dated 10.10.2017 and also to set aside the impugned rejection of Departmental Appeal Order No FS/E/100-11 (vol-10)/ 924 Dated 22.01.2018 being illegal not sustainable in the eyes of law, arbitrary, perverse, tainted with malafide and of no legal effects and to promote the Appellant with effect from 01.04.2014 or from the date when his promotion became due under the rules with all ensuing benefits.

Note:- Addresses given above shall suffice the object of service

Respectfully Sheweth,

The Appellant humbly submits as under;

1. That Appellant was serving in the office of Political Agent South Waziristan Agency as senior Clerk (BS-09) and later on due to the up gradation policy of the pay scales the Appellant was upgraded to (BS-14) on the same post and Appellant was serving as Senior Clerk (BS-14).

2. **That** certain posts of Assistant (BS-16) were lying vacant in the department. So, in order to consider the cases of promotion of senior clerks from (BS-14) to Assistant (BS-16), a meeting of the Departmental Promotion Committee was convened on 01.05.2016 and the matter was discussed through agenda item No 6 which reads as under;

"Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner Office Tank

The case was deferred due to ambiguity of sanction of Assistants in the office of the Deputy Commissioner Tank. The representative of Deputy Commissioner Office was directed to produce relevant portion of Budget Book 2015-16 to the Board of Revenue for placing the case before the next Departmental Promotion Committee meeting."Copies of the minutes of the meeting Dated 01.05.2016 are enclosed as Annexure "A".

3. **That** kind perusal of the minutes of the Departmental Promotion Committee of the department clearly reflects no action on the part of Departmental Authorities towards the valuable rights of the Petitioner.
4. **That** the Appellant along with other colleagues sent an application to the competent authority for consideration of promotion to the post of Assistant (BS-16) and the Appellant also sent an appeal for convening of Departmental Promotion Committee to the Political Agent South Waziristan Tank on 27.04.2015. Copies of Appeal Dated 27.04.2015 and application Dated 14.12.2016 are enclosed as Annexure "B" & "C" respectively.
5. **That** it is a matter of record that the matter of promotion of Appellant was also voiced at the departmental level vide letter No 1099 Dated 04.06.2015 and letter Dated 29.07.2015. It is pertinent to mention here that the Appellant and other colleagues of the Appellant got the age of Superannuation as Senior Clerk (BS-14) due to the inaction of the Departmental Authority, despite the fact that they were eligible in all

respects to be promoted as Assistant (BS-16). Copies of the Letter Dated 04.06.2015 and letter Dated 29.07.2015 are enclosed as **Annexure "D" & "E"** respectively.

6. **That** it is also a matter of record that a meeting of the Departmental Promotion Committee was convened by the competent authority for the promotion of Senior Clerks (BS-14) to the post of Assistant (BS-16) of Districts Bannu and Kohat on 12.01.2016 and vide agenda item No 2, the colleagues of the Appellant has been recommended for promotion while the petitioner has been discriminated and singled out. Copy of the Minutes of the Departmental Promotion Committee Meeting Dated 12.01.2016 is enclosed as **Annexure "F"**.
7. **That** feeling aggrieved from the in-action of the Departmental Authority, the Appellant was constrained to file a Writ Petition No 303-D/2017 Titled "Haji Qayum Nawaz VS Secretary to Govt of KPK" in the Honorable Peshawar High Court Bench D.I.Khan on 25.03.2017 for redressal of his grievances. Copy of the Writ petition is enclosed as **Annexure "G"**.
8. **That** during the pendency of Writ Petition before the Honorable Peshawar High Court the Departmental Authority issued the promotion Order/Notification of the Appellant on 10.10.2017, but to utter surprise of the Appellant with immediate effect and not with effect from 01.04.2014 or from the date when the promotion of the Appellant became due, thus the appellant preferred a within time department appeal to the departmental authorities, the same has been rejected vide letter Dated 22.01.2018. Copies of the impugned promotion notification Dated 10.10.2017, departmental appeal along with impugned rejection order Dated 22.01.2018 are enclosed as **Annex-H.**
9. That having been left with no other efficacious or alternate remedy the appellant most humbly approaches before this honourable Tribunal on the following grounds amongst other grounds:-

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G R O U N D S

- I. **That** the inaction of the Departmental Authority by not considering the case of the Appellant for promotion to the post of Assistant (BS-16) from 01.04.2014 or from the date when his promotion became due is against law, facts of the case, based on discrimination and material available on the record, hence not tenable in the eyes of law which is liable to be rectified by this Appellate authority in its departmental Appellate jurisdiction.
- II. **That** as it was the inalienable fundamental rights of the Appellant to be dealt in with accordance of law and that too within a prescribed period so, deferment of the case of the Appellant from 01.04.2014 or from the date when his promotion became due amounts to negation of his fundamental rights which is not warranted by any cannons of law, thus the controversy in hand may please be resolved through instant Service Appeal.
- III. **That** Para-VI of the promotion Policy of 2009 has been misinterpreted by the Respondents, because it is the legal right of the Appellant to be considered for promotion on the day when he is entitled in all respects for promotion to the required post, thus ground for rejection of departmental appeal is patently illegal and there is catena of case law of superior Courts in favour of Proforma promotion/ Retrospective promotion.
- IV. **That** as reflected from the record of the case, grant of antedated promotion was due to the Appellant on 01.04.2014 or from the date when his promotion became due, so granting promotion to the Appellant from the immediate effect destroyed the fundamental rights of the Appellant guaranteed under the Constitution of Islamic Republic of Pakistan.
- V. **That** to seek the protection of law and to be treated in accordance with law is a guarantee provided to every citizen

by the Constitution of Islamic Republic of Pakistan but Appellant has been deprived of this Constitutional protection.

VI. That obedience to the Constitution and law is bounden duty of every one under the Constitution of Pakistan but the Respondents have failed to perform such Constitutional obligation.

VII. That counsel for the Appellant may please be allowed to urge additional ground at the time of final hearing.

It is, therefore, most humbly prayed that on acceptance of instant Service Appeal, the impugned Departmental appeal's rejection Order Dated 22.01.2018 may kindly be set aside/struck down by modifying the impugned promotion Order/Notification having Endorsement No DPC/2017/20654-60 Dated 10.10.2017 with directions to the Respondents to consider the case of the Appellant for promotion with effect from 01.04.2014 or from the date when his promotion became due under the rules with all ensuing benefits

Your Humble Appellant

Dated: 16.02.2018

Haji Qayum Nawaz
Through Counsel

ZIA UR REHMAN KAZI

Advocate High Court

Dera Ismail Khan

[Handwritten signature]
[Handwritten signature]
16/2/2018

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BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No of 2018

Haji Qayum Nawaz(Petitioner)

VERSUS

Govt of K.P.K etc.....(Respondents)

AFFIDAVIT

I, **Haji Qayum Nawaz** son of Ahmad Nawaz caste Diyal, resident of Mohallah Shaikhanwala near Taj Masjid, Tehsil and District Tank. Ex-Assistant (BPS-16), Political Agent Office South Waziristan, Tank, the Appellant, do hereby solemnly affirm and declare on oath that all the para-wise contents of the **Service Appeal** are true and correct to the best of my knowledge and belief; and that nothing has been deliberately concealed or kept secret from this Honourable Court.

Dated:- 16/02.2018



Deponent

BOOKS REFERRED:

1. The Constitution of Islamic Republic of Pakistan, 1973.
2. C.P.C 1908
3. K.P.K Civil Servant Act, 1973
4. K.P.K (Appointment, Promotion and Transfer Rules) 1989

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

Service Appeal No of 2018

Haji Qayum Nawaz

VS

Govt of K.P.K etc

SERVICE APPEAL

MEMO OF ADDRESSES

APPELLANT

Haji Qayum Nawaz son of Ahmad Nawaz caste Diyal, resident of Mohallah Shaikhanwala near Taj Masjid, Tehsil and District Tank. Ex-Assistant (BPS-16), Political Agent Office South Waziristan, Tank.

Mobile No 03318997288

RESPONDENTS

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. **Additional Chief Secretary FATA**, FATA Secretariat, Peshawar.
3. **Deputy Secretary (Services) FATA Secretariat**, Peshawar
4. **Commissioner Dera Ismail Khan Division**.
5. **Political Agent, South Waziristan Agency, Tank**

Dated: 16.02.2018

Your Humble Appellant

Haji Qayum Nawaz

Unrecorded

⑨ Annexure "A" ⑩

⑪

Item No. 6. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office D.I. Khan.

The case was discussed and deferred due to non attachment of copy of relevant portion of the Budget Book for the year 2015-16 with working paper. Beside, ACR of Mr. Hidayat Hussain Senior Clerk has also not been countersigned.

Item No. 7. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office of South Waziristan Agency.


The case was deferred due to non-availability of the representative of the office of Political Agent, South Waziristan Agency.

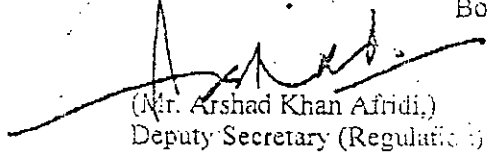
Item No. 8. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office Tank.


The case was deferred due to ambiguity of sanction of Assistants in the office of Deputy Commissioner Tank. The representative of Deputy Commissioner Office was directed to produce relevant portion of Budget Book 2015-16 to the Board of Revenue for placing the case before the next Departmental Promotion Committee meeting.

Item No. 9. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office Charsadda.


The case was deferred due to non-availability of the representative of the office of Deputy Commissioner Charsadda.


(Fakhruz Zaman)
Secretary-I,
Board of Revenue
(Secretary)

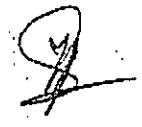

(Mr. Arshad Khan Afridi)
Deputy Secretary (Regulation-IV)
Finance Department
(Member)


(Muhammad Fayyaz Khan)
Section Officer (Regulation-IV),
Establishment Department.
(Member)

Attended
Unattended
3/5/16


(Afzal Latif)
Secretary,
Revenue & Estate Department
(Chairman)

Note:- This Deptt has already advised the AD to amend the Service Rules according to P/A copy attached.



Form 2-3
P-4
1570

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10

10

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

No. Estr:II/DPC/
Peshawar dated the 03/05/2016

To

1. The Special Secretary (Regulation), Establishment Department.
2. Additional Secretary (Regulation), Finance Department.

SUBJECT: DEPARTMENTAL PROMOTION COMMITTEE MEETING.

I am directed to refer to this department letter No.Estr:II/DPC/12423-24 dated 20.04.2016 already conveyed to your office on the subject and to say that the meeting will be held on 05/05/2016 at 09:00 AM in the office of Senior Member, Board of Revenue Khyber Pakhtunkhwa in his office. S.No.I & V have already dispose of in the meeting dated 26.4.2016.

I am therefore, directed to request you to please make it convenient to attend the scheduled meeting on the above mentioned date, time and venue please.

Assistant Secretary (Estt)

No.Estr:II/DPC/13469-76

Copy forwarded to the:-

1. Political Agent Bajaur Agency.
2. Political Agent South Waziristan Agency.
3. Commissioner Peshawar Division Peshawar.
4. Deputy Commissioners, Bannu, D.I.Khan, Tank and Charsadda.
5. PS to Senior Member Board of Revenue Khyber Pakhtunkhwa.
6. PA to Secretary-I Board of Revenue Khyber Pakhtunkhwa.

With the request to depute a well conversant officer (not below BS-17) at attend the meeting.

Assistant Secretary (Estt)

*Original
Supdt.*

4/5/16

Attested

Handwritten signature and date 25/3/17

Estr:II/2-5
P-4
2575

Annexure B 5

Annexure B 5

11

11

11

To:

The Political Agent,
South Waziristan Agency, Tank.

Subject: APPEAL FOR CONVENING DEPARTMENTAL PROMOTION COMMITTEE MEETING.


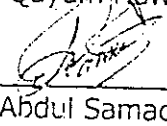
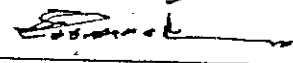
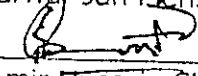
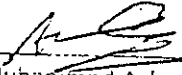
Respected Sir,

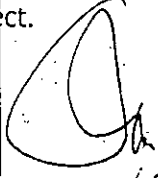

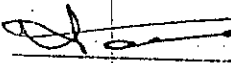
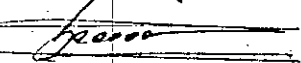
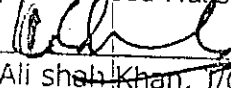
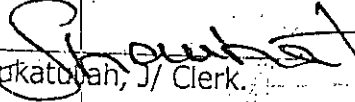
It is respectfully stated that we are the officials of Political Agent's establishment and have rendered prong and credible services on our account. Our further promotion is due for the last about few years and to this effect we have already submitted certain applications for convening a meeting for Departmental Promotion Committee but could not take place as yet. As a result we are facing irreparable financial losses due to no increase in our pay to next entitled higher grade / pay scale.

It is brought into your kind notice that Muhammad Ismail and Pir Aslam Shah have been retired from service in the recent past but they could not get their due promotion because of convening no Departmental Promotion Committee meeting and have been deprived of their further promotion and they have been put to undue great financial losses towards pay and pension / gratuity privileges. There is apprehensive that if D.P.C meeting in our promotion case is not called timely or over delayed then we may also suffer such losses which is not quite justified.

It is, therefore, your kind majesty is appealed that Departmental Promotion Committee meeting may kindly be convened as early as possible so that we being on the verge of retirement sooner or later, are not deprived of our basic rights i.e. promotion to the next post / grade and also not suffered from financial losses towards pension / gratuity likewise the above mentioned two retired officials. Moreover, we may kindly be granted promotion with effect from due date and not for immediate effect.

We all will pray for your long life and prosperity.

- 1) 
Qayum Nawaz Senior Clerk.
- 3) 
Abdul Samad, J/Clerk.
- 7) 
Sarwar Jan Mehsud J/Clerk.
- 9) 
Amir Hussain Shah, J/clerk
- 11) 
Muhammad Aslam S/Clerk.

- 2) 
Sarwar Zaman, S/ Clerk.
- 4) 
Fazal Rehman, J/Clerk.
- 5) 
Sanaulah, J/Clerk.
- 8) 
Syed Naveed Hussain J/C.
- 10) 
Ali Shah Khan, J/Clerk.
- 12) 
Shoukat, J/ Clerk.

10.22
28-09-15

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7/4/15

Plt. To action Please

AD

(4) P/B

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27/3/15

Annexure C 3

(12)

Muzaffar

NO
40

FOR CONSIDERATION ON HUMANITARIAN AND COMPASSIONATE GROUND

To:

Honourable
Senior Member Board of Revenue
Khyber Paktoon Khawha Peshawar.

Through: Political Agent South Waziristan Agency.

Subject: PROMOTION OF MINISTERIAL STAFF.

Respected Sir,

With extreme veneration it is submitted as under:-

1. That I am serving as Senior Clerk (BPS-14) in the Office of Political Agent South Waziristan Agency and after attaining the age of superannuation I will proceed on retirement from service with effect from 14/11/2017 but case for promotion to the post of Assistant (BPS-16) is pending decision since long. It is pointed out that my colleagues namely Muhammad Aslam and Sarwar Zaman, senior clerks have already proceeded on retirement from service.
2. That the Seniority List of Senior Clerks as it stood on 31/12/2015 and Annual confidential Reports have since been submitted to your office vide Political Agent South Waziristan Agency Memo : No.534/Supdt; dated 2/3/2016,
3. That it is humbly pointed out that all the Rules and Regulations issued by the Provincial Government from time to time are applicable on all the officials appointed by the Political Agents.
4. That it would not be out of place to mention ^{here} that I have served the Government with meticulous record of service at my credit and my case for promotion to the post of Assistant (BPS-16) has been lingered unfortunately with no fault on my part and I shall also retire from service rendered by me without any complaint what so ever.

Attended

Muzaffar

25/3/17

Sp...

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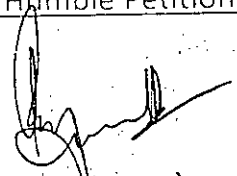
13

That last but not the least, it may be mentioned that I reserve the right to knock at the door of Higher Forum to seek my remedy in case my case is not finalized as quickest as possible.

Prayer:

In view of the above submissions, it is humbly prayed that my case for promotion to the post of Assistant (BPS-16) may graciously be placed before the Departmental promotion Committee, on priority basis for the reasons that I have to proceed on retirement from service in the near future so that I may be relieved of mental worries.

Your Humble Petitioner

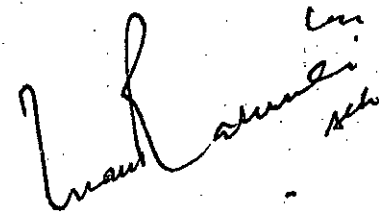


(Qayyum Nawaz)
Senior Clerk (BPS-14)
Office of the Political Agent
South Waziristan Agency Tank.

Dated: 14/12/2016

Copy to:
PS to Chief Secretary KPK Peshawar for information please.

Attended



Annexure 'D' 5

Amir Khan

14

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No. 1099 /Supdt:

Dated Tank the 04 /06/2015

From:

The Political Agent,
South Waziristan Agency, Tank

To:

The Secretary,
Admin: Infrastructure & Coordination,
FATA Secretariat, Peshawar.

Subject:

PROMOTION OF SENIOR CLERKS TO THE POST OF OFFICE ASSISTANT

Memo:

04-Posts of Office Assistant are lying vacant in the office of Political Agent, South Waziristan Agency and the officials of this office are entitled for the promotion to the post of Office Assistant BPS-16 against 04-vacant posts.

The Political Agent's in FATA are empowered to appoint / promote the official from BPS-01 to 15.

Now when the post of Office Assistant has been upgraded to BPS- 16, therefore, kindly consider the cases of promotion of the following officials:-

1. Muhammad Aslam, Senior Clerk
2. Haji Qayum Nawaz, Senior Clerk
3. Sarwar Zaman, Senior Clerk
4. Ali Shah Khan, Senior Clerk

No. 1100 /Supdt:

Copy to:-

- 1- The Additional Chief Secretary, FATA Secretariat Peshawar

Attention
N
POLITICAL AGENT,
South Waziristan Agency, Tank
27/3/15

N
POLITICAL AGENT,
South Waziristan Agency, Tank
04.6.15



FATA SECRETARIAT
 (ADMINISTRATION, INFRASTRUCTURE & COORDINATION DEPARTMENT)
WARSAK ROAD PESHAWAR

No. FS/E/100-11 (Vol-9)/9473-80
 Dated 29/7/2015

To

1. Political Agent,
North Waziristan Agency.
2. Political Agent,
South Waziristan Agency.

Annexure 'E'

(15)

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Subject: PROMOTION TO THE POST OF OFFICE ASSISTANT (BS-16) AND SENIOR SCALE STENOGRAPHER (BS-16)

I am directed to refer to your letter No.2808/DPC dated 10-06-2015 and No.1099/Supdt: dated 04-06-2015 respectively and to state that the matter regarding method of promotion on the subject posts was referred to Board of Revenue vide our letter No.FS/E/100-11 (Vol-9)/8698-8700 dated 26-06-2015 for opinion with a copy thereof also endorsed to your offices.

2- In response, the Board has desired the requisite documents/information for placement before Departmental Promotion Committee vide letter No.Estt:II/DPC/Commr/Bannu/16650 dated 10-07-2015 (copy enclosed).

3- I am, therefore, to request to furnish Working Paper for promotion of the subject categories of staff with documents/information in required number of copies as mentioned in the letter to this office for onward submission to the Board.

[Signature]
 Section Officer (Estab)

Encl: (As above)
 Copy to:-

- Secretary-I, Board of Revenue Khyber Pakhtunkhwa for information.
 - Political Agent Kurram Agency with reference to this department letter No.FS/E/100-11 (Vol-9)/9049 dated 10-07-2015 for similar action.
 - Political Agent Mohmand Agency
 - Political Agent Bajaur Agency
 - Political Agent Khyber Agency
 - Political Agent Orakzai Agency
- alongwith a copy of Board of Revenue Khyber Pakhtunkhwa letter referred to above for information and future compliance.

[Signature]
 Section Officer (Estab)

2032
19-08-15

10/8/15

Annexure F 5

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

(16)

(45)

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING REGARDING PROMOTION OF JUNIOR SCALE STENOGRAPHER TO THE POST OF SENIOR SCALE STENOGRAPHER (BS-16), AND SENIOR CLERKS TO THE POST OF ASSISTANT (BS-16) IN THE OFFICES OF POLITICAL AGENT NORTH WAZIRISTAN AGENCY AND DEPUTY COMMISSIONERS BANNU AND KOHAT.

A meeting of Departmental Promotion Committee was held on 12.01.2016 at 11:00 AM in the office of Senior Member, Board of Revenue under his Chairmanship for consideration of the promotion cases of the staff of Political Agent North Waziristan Agency and Deputy Commissioners Bannu and Kohat. The following attended the meeting: -

- 1. Mr. Arshad Khan Afridi, Member
Deputy Secretary,
Finance Department.
- 2. Mr. Muhammad Fayaz Khan, Member
Section Officer (Regulation-IV),
Establishment Department.
- 3. Mr. Fakhruz Zaman, Secretary
Secretary-I, Board of Revenue

Arshad Khan Afridi
Muhammad Fayaz Khan

Atalia
Zaman

The following items were discussed in the meeting.

Item No. 1 PROMOTION OF JUNIOR SCALE STENOGRAPHER TO THE POST OF SENIOR SCALE STENOGRAPHER (BS-16) IN POLITICAL AGENT'S OFFICE NORTH WAZIRISTAN AGENCY.

There is one sanctioned post of Senior Scale Stenographer (BS-16) in the office of Political Agent North Waziristan Agency lying vacant due to promotion of Mr. Ghulam Manzoor Shah Senior Scale Stenographer as Private Secretary (BS-17). The Committee examined the record of Junior Scale Stenographers included in the panel and made the following recommendation.

S.No.	Name of official	Recommendation
1.	Mr. Kifayatullah Khan, Junior Scale Stenographer	He was considered being a senior most and found suitable for promotion as Senior Scale Stenographer (BS - 16) on regular basis.

Item No. 2 PROMOTION OF SENIOR CLERKS TO THE POST OF ASSISTANT (BS-16) IN POLITICAL AGENT'S OFFICE NORTH WAZIRISTAN AGENCY.

There are 6 sanctioned posts of Assistant (BS-16) in Political Agent's office North Waziristan Agency Miranshah which are lying vacant due to retirement of M/S Zarey Gul, Muhammad Saleem, Sher Bahdar and Noor Sadey Jan. Under 75% quota 4.50 posts comes in promotion quota. The Committee examined the record of Senior Clerks included in the panel and made the following recommendations.

S.No.	Name of official	Recommendation
1.	Mr. Muhammad Akbar Khan	He was considered being a senior most and found suitable for promotion as Assistant (BS - 16) on regular basis.
2.	Mr. Ashraf Khan	He was considered and found suitable for promotion as Assistant (BS - 16) on regular basis.
3.	Mr. Feroz Khan	He was considered and found suitable for promotion as Assistant (BS - 16) on regular basis.

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Item No. 3

PROMOTION OF SENIOR CLERK (BS-14) TO THE POST OF ASSISTANT (BS-16) IN THE OFFICE OF DEPUTY COMMISSIONER BANNU.

There are 14 sanctioned posts of Assistant (BS-16) in Deputy Commissioner office Bannu out of which two posts lying vacant under 75% promotion quota. The Committee examined the record of Senior Clerks included in the panel and made the following recommendations.

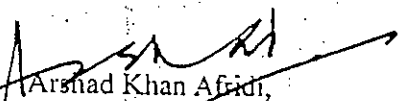
S.No.	Name of official	Recommendation
1.	Mr. Ali Jan	He was considered and found suitable for promotion as Assistant (BS - 16) on regular basis.
2.	Mr. Ghulam Qadir	He was considered and found suitable for promotion as Assistant (BS - 16) on regular basis

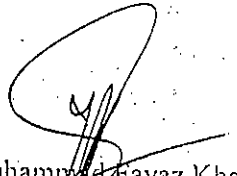
Item No. 4

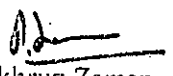
PROMOTION OF SENIOR CLERK (BS-14) TO THE POST OF ASSISTANT (BS-16) IN THE OFFICE OF DEPUTY COMMISSIONER KOHAT.

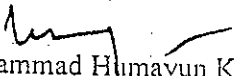
There are 15 sanctioned posts of Assistant (BS-16) in Deputy Commissioner office Kohat out of which two posts lying vacant due to promotion of Mr. Dil Rehman as Superintendent (BS-17) and death of Mr. Tanvir Hussain which comes under 75% promotion quota. The Committee examined the record of Senior Clerks included in the panel and made the following recommendations.

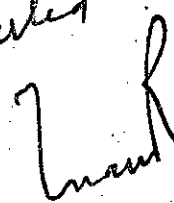
S.No.	Name of official	Recommendation
1.	Mr. Muhammad Raza	He was considered and found suitable for promotion as Assistant (BS - 16) on regular basis.
2.	Mr. Noor Muhammad	He was considered and found suitable for promotion as Assistant (BS - 16) on regular basis


 Arshad Khan Afridi,
 Deputy Secretary,
 Finance Department.


 Muhammad Fayaz Khan,
 Section Officer (Regulation-IV)
 Establishment Department.


 Fakhruz Zaman,
 Secretary-I,
 (SECRETARY)


 Muhammad Humayun Khan,
 Senior Member,
 (CHAIRMAN)

Minutes

Adh

BEFORE THE HONOURABLE PESHAWAR HIGH COURT,
DERA ISMAIL KHAN BENCH.

Annexure 9
18

Writ Petition No. _____ of 2017

Haji Qayum Nawaz

Senior Clerk, Political Agent Office South Waziristan, Tank

Petitioner

VERSUS

1. **Secretary to Government of KPK, Revenue and Estate Department/Senior Member Board of Revenue, Peshawar.**
2. **Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar**
3. **Secretary Admin, Infrastructure & Coordination, FATA Secretariat, Warsak Road, Peshawar.**
4. **Departmental Promotion Committee, Peshawar.**
5. **Political Agent South Waziristan Agency, Tank**
6. **Commissioner Dera Ismail Khan.**
7. **Deputy Commissioner, Tank.**
8. **Deputy Commissioner, Dera Ismail Khan**
9. **Assistant Political Agent South Waziristan Agency, Tank**

25.03.2017
Law
Haji Qayum Nawaz

Respondents

(18) (19)

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973**

RESPECTFULLY SHEWETH:

FACTS:

1. **That** addresses of the parties mentioned above shall suffice the object of service.
2. **That** Petitioner was serving in the office of Political Agent South Waziristan Agency as senior Clerk (BS-09) and later on due to the up gradation policy of the pay scales the Petitioner was upgraded to (BS-14) on the same post and at the moment, Petitioner is serving as Senior Clerk (BS-14).
3. **That** certain posts of Assistant (BS-16) are lying vacant in the department. So, in order to consider the cases of promotion of senior clerks from (BS-14) to Assistant (BS-16), a meeting of the Departmental Promotion Committee was convened on 01.05.2016 and the matter was discussed through agenda item No 6 which reads as under;

“Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner Office Tank

The case was deferred due to ambiguity of sanction of Assistants in the office of the Deputy Commissioner Tank. The representative of Deputy Commissioner Office was directed to produce relevant portion of Budget Book 2015-16 to the Board of Revenue for placing the case before the next Departmental Promotion Committee meeting.”

Copies of the minutes of the meeting Dated 01.05.2016 are enclosed as **Annexure “A”**.

4. **That** kind perusal of the minutes of the Departmental Promotion Committee of the department clearly reflects inaction and lethargic approach on the part of Departmental Authorities towards the valuable rights of the Petitioner, while on the other hand the Petitioner is at the verge of his retirement and will get the age of superannuation on 14.11.2017.
5. **That** the Petitioner along with other colleagues sent an application to the competent authority for consideration of promotion to the post of Assistant (BS-16) and the Petitioner also sent an appeal for convening of Departmental Promotion Committee to the Political Agent South Waziristan Tank on 27.04.2015. Copies of the

(11) (20)

application Dated 14.12.2016 and Appeal Dated 27.04.2015 are enclosed as **Annexure "B" & "C"** respectively.

6. **That** it is a matter of record that the matter of promotion of Petitioner was also voiced at the departmental level vide letter No 1099 Dated 04.06.2015 and letter Dated 29.07.2015. It is pertinent to mention here that other colleagues of the Petitioner got the age of Superannuation as Senior Clerk (BS-14) due to the inaction and lethargic approach of the Departmental Authority, despite the fact that they were eligible in all respects to be promoted as Assistant (BS-16) and now there is every likelihood that Petitioner will be meted out with the same treatment, hence constrained to file this Petition. Copies of the Letter Dated 04.06.2015 and Dated 29.07.2015 are enclosed as **Annexure "D" & "E"** respectively.
7. **That** it is also a matter of record that a meeting of the Departmental Promotion Committee was convened by the competent authority for the promotion of Senior Clerks (BS-14) to the post of Assistant (BS-16) of Districts Bannu and Kohat on 12.01.2016 and vide agenda item No 2, the colleagues of the Petitioner has been recommended for promotion while the petitioner has been discriminated and singled out. Copy of the Minutes of the Departmental Promotion Committee Meeting is enclosed as **Annexure "F"**.
8. **That** feeling aggrieved from the inactions of the Respondents, the Petitioner is left with no other alternate or efficacious remedy, thus constrained to agitate the matter before this Honourable Court for seeking justice and justice alone, inter alia on the following grounds.

G R O U N D S

- I. **That** the inaction of the Respondents by not considering the case of the Petitioner for promotion to the post of Assistant (BS-16) and promoting the other colleagues of the petitioner through minutes of the meeting Dated 12.01.2016 is against law, facts of the case, based on discrimination and material available on the record, hence not tenable in the eyes of law which is liable to be rectified by this venerable court in its constitutional corrective jurisdiction.

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- II. **That** as it is the inalienable fundamental rights of the Petitioner to be dealt in with accordance of law and that too within a prescribed period so, deferment of the case of the Petitioner amounts to negation of his fundamental rights which is not warranted by any cannons of law, thus the controversy in hand may please be resolved by issuing a Writ of Mandamus against the Respondents.
 - III. **That** as the Petitioner is at the verge of his retirement and on 14.11.2017 he will be no more in the Department, while on the other hand the case of the Petitioner is due for promotion and he is suffering irreparable loss due to the inaction of the Departmental Authorities. Thus the matter needs judicial review by this Honorable Court.
 - IV. **That** it is a matter of record that 03 sanctioned post of (BS-16) are lying vacant vide minutes of the Departmental promotion Committee Dated 05.05.2016 and Petitioner fulfills all the requisite criteria and pre-conditions for promotion for the post of Assistant (BS-16), so the inaction on the part of Departmental Authorities has to be dealt with in accordance with law. Copy of the minutes Dated 05.05.2016 are enclosed as **Annexure "G"**.
 - V. **That** the inaction on the part of Respondents on written request filed by the Petitioner is virtually a refusal of the relief as asked for therein, to which he is entitled.
 - VI. **That** to seek the protection of law and to be treated in accordance with law is a guarantee provided to every citizen by the Constitution of Islamic Republic of Pakistan but Petitioner has been deprived of this Constitutional protection.
 - VII. **That** obedience to the Constitution and law is bounden duty of every one under the Constitution of Pakistan but the Respondents have failed to perform such Constitutional obligation.

It is, therefore, most humbly prayed that on acceptance of instant Constitutional petition, this Honourable Court may very graciously be pleased to:

- i. **Direct the Respondents to hold the meeting of the Departmental Promotion Committee and to consider the case of the Petitioner for promotion to the post of Assistant (BS-16)**

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- ii. Issue writ of *mandamus* directing the Respondents to act in accordance with law and to decide the case of the petitioner for promotion for the post of Assistant (BS-16)
- iii. Issue and make such other writ or directions, as may be deemed most appropriate in the circumstances of this case.

Your Humble Petitioner

Dated: 25.03.2017

Haji Qayum Nawaz
Through Counsel

ZIA-UR-REHMAN KAZI
Advocate High Court
Dera Ismail Khan.

AFFIDAVIT

I, **Haji Qayum Nawaz**, Senior Clerk, Political Agent Office, Tank, the petitioner, do hereby solemnly affirm and declare on oath that all the para-wise contents of the **Writ Petition** are true and correct to the best of my knowledge and belief; and that nothing has been deliberately concealed or kept secret from this Honourable Court.

Dated: 25.03.2017

Deponent

12201-1870340-5

Identified by:-

Zia-ur-Rahman Kazi
Advocate High Court
Dera Ismail Khan

227A

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
Peshawar dated the 10/10/2017

Annexure
"H"

NOTIFICATION

No.Fsu.U/DPC/2017/ . On the recommendation of Departmental Promotion Committee, the following Senior Clerks (BS-14) of the offices mentioned against their names are promoted as Assistant (BS-16) on regular basis with immediate effect.

S. No.	Name/ Designation	Office	Promoted
1.	Mr. Muhammad Salmaan Senior Clerk (BS-14)	Commissioner office Malakand.	Assistant (BS-16)
2.	Mr. Salmar Khan Senior Clerk (BS-14)	Commissioner office Malakand.	Assistant (BS-16)
3.	Mr. Shahid Khan Senior Clerk (BS-14)	Commissioner office Malakand.	Assistant (BS-16)
4.	Mr. Naveed-ur-Rehman Senior Clerk (BS-14)	Deputy Commissioner office Haripur.	Assistant (BS-16)
5.	Mr. Naveed-ur-Rehman Senior Clerk (BS-14)	Deputy Commissioner office Haripur.	Assistant (BS-16)
6.	Mr. Muhammad Ali Senior Clerk (BS-14)	Deputy Commissioner office Mardan.	Assistant (BS-16)
7.	Mr. Ghulam Mustafa Senior Clerk (BS-14)	Deputy Commissioner office Hangu.	Assistant (BS-16)

On promotion, they will be on probation for a period of one year in terms of Section-6 (2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rules 15 of Khyber Pakhtunkhwa Civil Servant, Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules, 1989.

By order of
Senior Member

No.Fsu.U/DPC/2017/ 20654-60

Copy forwarded to the:-

1. Commissioner Malakand Division Saidu Shrif Swat.
2. Political Agent South Waziristan Agency.
3. Deputy Commissioners of the receptive Districts.
4. Agency Account Officer South Waziristan Agency.
5. District Account Officers of the receptive Districts.
6. Officials concerned.

Assistant Secretary (Distt)

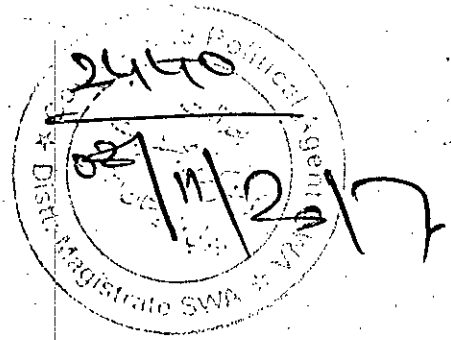
Promotion
order A KIWP
18-11

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~~XXXXXXXXXX~~

To

The Worthy
Chief Secretary
Khyber Pakhtunkhwa Province
Peshawar



Subject:- DEPARTMENTAL APPEAL/REPRESENTATION WITH THE REQUEST TO MODIFY THE IMPUGNED PROMOTION ORDER/NOTIFICATION HAVING ENDORSEMENT NO DPC/2017/20654-60 DATED 10.10.2017 AND TO PROMOTE THE PETITIONER WITH EFFECT FROM 01.04.2014 OR FROM THE DATE WHEN HIS PROMOTION BECAME DUE UNDER THE RULES WITH ALL ENSUING BENEFITS

REGISTERED A.D./THROUGH PROPER CHANNEL/BY HAND

RESPECTED SIR:

The Petitioner humbly submits as under;

1. That Petitioner was serving in the office of Political Agent South Waziristan Agency as senior Clerk (BS-09) and later on due to the up gradation policy of the pay scales the Petitioner was upgraded to (BS-14) on the same post and at the moment, Petitioner is serving as Senior Clerk (BS-14).
2. That certain posts of Assistant (BS-16) were lying vacant in the department. So, in order to consider the cases of promotion of senior clerks from (BS-14) to Assistant (BS-16), a meeting of the Departmental Promotion Committee was convened on 01.05.2016 and the matter was discussed through agenda item No 6 which reads as under;

"Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner Office Tank

The case was deferred due to ambiguity of sanction of Assistants in the office of the Deputy Commissioner Tank. The representative of Deputy Commissioner Office was directed to produce relevant portion

24

of Budget Book 2015-16 to the Board of Revenue for placing the case before the next Departmental Promotion Committee meeting."

Copies of the minutes of the meeting Dated 01.05.2016 are enclosed as Annexure "A".

3. **That** kind perusal of the minutes of the Departmental Promotion Committee of the department clearly reflects no action on the part of Departmental Authorities towards the valuable rights of the Petitioner.
4. **That** the Petitioner along with other colleagues sent an application to the competent authority for consideration of promotion to the post of Assistant (BS-16) and the Petitioner also sent an appeal for convening of Departmental Promotion Committee to the Political Agent South Waziristan Tank on 27.04.2015. Copies of the application Dated 14.12.2016 and Appeal Dated 27.04.2015 are enclosed as Annexure "B" & "C" respectively.
5. **That** it is a matter of record that the matter of promotion of Petitioner was also voiced at the departmental level vide letter No. 1099 Dated 04.06.2015 and letter Dated 29.07.2015. It is pertinent to mention here that other colleagues of the Petitioner got the age of Superannuation as Senior Clerk (BS-14) due to the inaction of the Departmental Authority, despite the fact that they were eligible in all respects to be promoted as Assistant (BS-16) and now there is every likelihood that Petitioner will be meted out with the same treatment, hence constrained to file this Petition. Copies of the Letter Dated 04.06.2015 and Dated 29.07.2015 are enclosed as Annexure "D" & "E" respectively.
6. **That** it is also a matter of record that a meeting of the Departmental Promotion Committee was convened by the competent authority for the promotion of Senior Clerks (BS-14) to the post of Assistant (BS-16) of Districts Bannu and Kohat on 12.01.2016 and vide agenda item No 2, the colleagues of the Petitioner has been recommended for promotion while the petitioner has been discriminated and singled out. Copy of the Minutes of the Departmental Promotion Committee Meeting is enclosed as Annexure "F".
7. **That** feeling aggrieved from the no action of the Departmental Authority, the Petitioner was constrained to file a Writ Petition No 303-D/2017 Titled "Haji Qayum Nawaz VS Secretary to Govt of KPK" in the Honorable Peshawar High Court Bench D.I.Khan on 25.03.2017 for redressal of his grievances. Copy of the Writ petition is enclosed as Annexure "G".

F
Promotion
order A NWP

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8. That during the pendency of Writ Petition before the Honorable Peshawar High Court the Departmental Authority issued the promotion Order/Notification of the Petitioner on 10.10.2017, but to utter surprise of the Petitioner with immediate effect and not with effect from 01.04.2014 or from the date when the promotion of the Petitioner became due, thus instant departmental Appeal on the following grounds;

G R O U N D S

- I. That the inaction of the Departmental Authority by not considering the case of the Petitioner for promotion to the post of Assistant (BS-16) from 01.04.2014 or from the date when his promotion became due is against law, facts of the case, based on discrimination and material available on the record, hence not tenable in the eyes of law which is liable to be rectified by this Appellate authority in its departmental Appellate jurisdiction.
- II. That as it was the inalienable fundamental rights of the Petitioner to be dealt in with accordance of law and that too with in a prescribed period so, deferment of the case of the Petitioner from 01.04.2014 or from the date when his promotion became due amounts to negation of his fundamental rights which is not warranted by any cannons of law, thus the controversy in hand may please be resolved through instant Departmental Appeal.
- III. That as reflected from the record of the case, grant of antedated promotion was due to the Petitioner on 01.04.2014 or from the date when his promotion became due, so granting promotion to the Petitioner from the immediate effect destroyed the fundamental rights of the Petitioner guaranteed under the Constitution of Islamic Republic of Pakistan.
- IV. That to seek the protection of law and to be treated in accordance with law is a guarantee provided to every citizen by the Constitution of Islamic Republic of Pakistan but Petitioner has been deprived of this Constitutional protection.
- V. That obedience to the Constitution and law is bounden duty of every one under the Constitution of Pakistan but the Respondents have failed to perform such Constitutional obligation.

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It is, therefore, most humbly prayed that on acceptance of instant Departmental Appeal, kindly modify the impugned promotion order/notification having endorsement No dpc/2017/20654-60 dated 10.10.2017 and to promote the petitioner with effect from 01.04.2014 or from the date when his promotion became due under the rules with all ensuing benefits

Your Humble Petitioner



Dated: 08.11.2017

Haji Qayum Nawaz

Assistant (BPS-16), Political Agent Office

South Waziristan, Tank

Mobile No:- 03318997288



Establishment Section

FATA SECRETARIAT
(ADMINISTRATION, INFRASTRUCTURE & COORDINATION DEPARTMENT)
WARSAK ROAD PESHAWAR

No. FS/E/100-11 (Vol-10)/ 824
Dated 22/01/2018

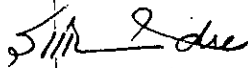
To,

Haji Qayum Nawaz,
Assistant (BS-16), Political Agent Office,
South Waziristan, Tank.

Subject: **DEPARTMENTAL APPEAL.**

I am directed to refer to your Departmental Appeal received through Worthy Chief Secretary, Khyber Pakhtunkhwa on dated: 08-11-2017 on the subject captioned above and to state that according to Para-VI of promotion policy 2009, promotion *is* always notified with immediate effect and not from retrospective effect (copy of relevant portion is enclosed).

Encl: As above.


DEPUTY SECRETARY (SERVICES)

27

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BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No of 2018

WAKALAT-NAMA

Haji Qayum NawazPetitioner

Versus

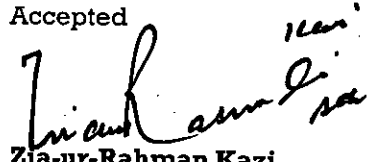
Govt of K.P.K etcRespondents

WRIT PETITION

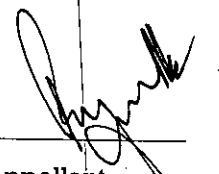
I **Haji Qayum Nawaz**, Senior Clerk, Political Agent Office, District, Petitioner do hereby appoint and constitute **Mr. Zia-ur-Rahman Kazi** Advocate High Court as my counsel in the subject proceedings/Service Appeal and authorize him to file, appear, act, plead etc compromise, withdraw or refer the matter for arbitration for me/us without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel at our/my expense and receive all sums and amount payable to me and do all such acts which they may deem necessary for protecting my/our interest in the matter. He is also authorized to appear, file instant Appeal/review/application for restoration/application for contempt proceedings or application for setting aside ex-parte decree and proceedings/Miscellaneous Applications on my/our behalf.

16th February, 2018

Accepted


Zia-ur-Rahman Kazi

Advocate High Court



Appellant

Haji Qayum Nawaz

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

S.A No. 231/D /2018

Haji Qayyum Nawaz Versus Government of Khyber Pakhtunkhwa etc:

PARAWISE REPLY ON BEHALF OF RESPONDENT NO. 3 & 4

4 & 5

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS

- 1- That the appeal is not maintainable and incompetent in the eyes of law in the present form.
- 2- The appeal is estopped due to his own conduct to file this appeal.
- 3- That the appellant has got no cause of action and locus standee to file instant appeal.
- 4- That the appellant does not come to the Tribunal with clean hands and has suppressed all relevant facts.
- 5- The appeal is bad for misjoinder / non-joinder of necessary parties.
- 6- That the appeal is badly time bared and the appellant has concealed the material facts from Honourable Tribunal.
- 7- The Honourable Service Tribunal has no jurisdiction to entertain the instant appeal in its present form.
- 8- That the appeal has been mis-oriented, mis-constructed and mistakenly drawn and is incompetent in its present frame and context, and is liable for rejection.
- 9- That the appeal is weak having no force, fabricated, fictitious, based on ill will, mollified and having no footings in the eyes of law.
- 10- That the proceeding with the instant appeal would be a futile exercise and just wastage of the precious time of this Honourable Tribunal.
- 11- That as stated in the objection supra, the appeal is bereft of cause of action and is liable to dismissal.
- 12- That the promotion is not a vested right.

COMMENTS

1. Pertain to record, hence, no comments.
2. Incorrect: The case of promotion of S/Clerk was timely submitted to the Board of Revenue Khyber Pakhtunkhwa through FATA Secretariat, Peshawar vide letter No.1099/Suptd: dated 04.06.2015 and no delay was caused on the part of respondent No. 3 & 4 but not approved by the forum owing to the ambiguity in confirmation of competency whether the power of promotion is vested with Senior Member Board of Revenue or SAFRON in respect of the S/Clerk working in the offices of P.A's (Minutes are attached).

through S.O (E&A) Department vide letter No.1936/Supdt: dated 16.10.2015.

(Copy enclosed)

Reminder No.34/Supdt: dated 07.01.2016 & No.2195/Supdt: dated 07.11.2016 were also issued.

4. The case was followed in letter Spirit as explain above in Para No.3 but owing to non-completion of his ACR his promotion was not ordered. He completed his ACR in 2017 and consequently promoted on 10.10.2017.
5. Incorrect the appellant was promoted as office assistant on 10.10.2017 and proceeded on retirement with effect from on 14.11.2017
6. Incorrect it is matter of fact that the member of Departmental Promotional Committee is bound to examine the service record of each & every candidate to their entire satisfaction on seniority cum fitness basis. The members observed that the ACR of the appellant were missing from 2001, 2007, 2008 & 2009.
7. Need no comments each & every citizen are at liberty to present appeal in any court of Law for his right. His appeal was dismissed by the Honourable Peshawar High Court Bench D.I.Khan.
8. Not related to this office. The matter relates to senior member Board of Revenue Khyber Pakhtunkhwa.

GROUND.

1. Incorrect: The case of promotion of the appellant was followed in letter & spirit. The respondent No.3 & 4 were not competent to accord promotion from BPS-14-16 hence their case was forwarded to law & Order Department for onward submission to Board of Revenue Khyber Pakhtunkhwa. The official was promoted after completion of ACR for year 2001-2007 & 2008 as per observation of Departmental Promotional Committee in 2017.
2. As explained vide Para- No.1
3. Promotion is not a vested right of the official and ordered with immediate effect.
4. No comments pertain to record.
5. As explained in Para No.1 above.
6. Incorrect: The case of petitioner was taken up at proper time.
7. Incorrect: Not related to this office.

In the light of above submission this office has processed the case of promotion of the petitioner as per rules and regulation. There was vaccum in framing the rules and regulation in respect of the officials of Political Agent Offices. Hence the case may graciously dismiss with cost.



DEPUTY COMMISSIONER
South Waziristan Tribal District



COMMISSIONER, 22.04.19.

District DIKhan, Division, DIKhan

~~Muzammil Muzammil~~
9 Annexure "A"

Item No. 6. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office D.L.Khan.

The case was discussed and deferred due to non attachment of copy of relevant portion of the Budget Book for the year 2015-16 with working paper. Beside, ACR of Mr. Hidayat Hussain Senior Clerk has also not been countersigned.

Item No. 7. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office of South Waziristan Agency.

The case was deferred due to non-availability of the representative of the office of Political Agent, South Waziristan Agency.

Item No. 8. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office Tank.

The case was deferred due to ambiguity of sanction of Assistants in the office of Deputy Commissioner Tank. The representative of Deputy Commissioner Office was directed to produce relevant portion of Budget Book 2015-16 to the Board of Revenue for placing the case before the next Departmental Promotion Committee meeting.

Item No. 9. Promotion of Senior Clerk (BPS-14) to the post of Assistant (BS-16) Deputy Commissioner office Charsadda.

The case was deferred due to non-availability of the representative of the office of Deputy Commissioner Charsadda.

(Fakhrul Zaman)
Secretary-I,
Board of Revenue
(Secretary)

(Mr. Arshad Khan Afridi)
Deputy Secretary (Regulation-IV)
Finance Department
(Member)

(Muhammad Fayyaz Khan)
Section Officer (Regulation-IV),
Establishment Department.
(Member)

Attended

Muzammil Muzammil

372
13

3/5/2016
(Afzal Latif)
Secretary,
Revenue & Estate Department
(Chairman)

Note:- This Deptt has already advised the AD to amend the Service Rules according to P/A copy attached.

[Signature]

Encl: 2-3
P-4
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4 MAY 2016 9:23AM P2

FORM NO.: 0915213839

FROM: SWR OFFICE

No. 1099 /Supdt:

Dated Tank the 04 /06/2015

From:

The Political Agent,
South Waziristan Agency, Tank

To:

The Secretary,
Admin: Infrastructure & Coordination,
FATA Secretariat, Peshawar,

Subject: **PROMOTION OF SENIOR CLERKS TO THE POST OF OFFICE ASSISTANT**

Memo:

04-Posts of Office Assistant are lying vacant in the office of Political Agent, South Waziristan Agency and the officials of this office are entitled for the promotion to the post of Office Assistant BPS-16 against 04-vacant posts.

The Political Agent's in FATA are empowered to appoint / promote the official from BPS-01 to 15.


Now when the post of Office Assistant has been upgraded to BPS- 16, therefore, kindly consider the cases of promotion of the following officials:-


1. Muhammad Aslam, Senior Clerk
2. Haji Qayum Nawaz, Senior Clerk
3. Sarwar Zaman, Senior Clerk
- ✓ 4. Ali Shah Khan, Senior Clerk

No. 1100 /Supdt:

Copy to:-

- 1- The Additional Chief Secretary, FATA Secretariat Peshawar


POLITICAL AGENT,
South Waziristan Agency, Tank


POLITICAL AGENT,
South Waziristan Agency, Tank

No. 1936 /Supdt: Dated . Tank the 16 /10 /2015

From: The Political Agent,
South Waziristan Agency, Tank

To: The Section Officer (Estab),
Admin., Infrastructure & Coordination,
FATA Secretariat, Peshawar.

Subject; PROMOTION TO THE POST OF OFFICE ASSISTANT (BS-16) AND
SENIOR SCALE STENOGRAPHER (BS-16).

Memo:

Reference your Office Letter No. FS/E/100-11 (Vol-9)/9473-80 dated 29/7/2015 on the subject cited above.

It is submitted that four posts of Office Assistant BS-16 are lying vacant in the office of Political Agent, South Waziristan Agency. The sanctioned posts reflected from Budget manual are endorsed for ready reference.

The under mentioned documents in respect of Senior Clerks of Political Agent Office SW Agency are enclosed:

1. Undisputed Seniority List Staff of Political office, SW Agency.
2. ACR documents..
3. Synopsis /Character roll.
4. Non involvement certificate.
5. Photo copy of sanctioned posts/Budget Copy 2014-15.

It is, requested to kindly recommend forward the same to Board of Revenue Khyber Pakhtunkhwa for consideration and early promotion of suitable staff.

20
POLITICAL AGENT,
South Waziristan Agency, Tank

22

OFFICE OF THE POLITICAL AGENT, SOUTH WAZIRISTAN AGENCY, TANK.

Working papers regarding promotion of Senior Clerks to the Post of Office Assistant (BPS-16).

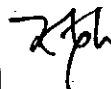
There are 05-Sanctioned posts of Office Assistant in respect of the Office of Political Agent, South Waziristan Agency. The detail of these posts are given as under:-

- | | | |
|------------------------------|---|-----------|
| 1. General Account Branch. | → | 03-Posts. |
| 2. Rationing Branch. | → | 01-Posts. |
| 3. Khassadar Account Branch. | → | 01-Posts. |

Out of these posts only one post is filled and the remaining posts are lying vacant:-

The seniority list of the staff of the Political Agent, South Waziristan Agency (undisputed) is attached for perusal where in four Senior Clerks having the required length of service for the post of Office Assistant are per rules is completed. There is no disciplinary action proceeding against these officials.

Therefore, the service record alongwith A.C.Rs are placed before Departmental Promotion Committee for consideration.


POLITICAL AGENT,
South Waziristan Agency, Tank

No. 34 /Supdt: Dated Tank the 07/01/2016 23

From: The Political Agent,
South Waziristan Agency, Tank

To: The Section Officer (Estab),
Admin., Infrastructure & Coord: Department,
FATA Secretariat, Peshawar.

Subject; PROMOTION TO THE POST OF OFFICE ASSISTANT (BS-16) AND
SENIOR SCALE STENGRAPHER (BS-16)

Memo:
Kindly refer to this office Letter No.1936/Supdt: dated 16/10/2015
on the subject cited above.

The incumbents (Senior Clerks) who are eligible for promotion as
Assistant (BS-16) are facing great inconvenience due to delay in their promotion case
already sent vide this office letter under reference.

It is, requested that the concerned forum may kindly be
approached to expedite their promotion case as the same has already been delayed.

OL POLITICAL AGENT,
South Waziristan Agency, Tank

ATTENTION
11/01/16

No. 2195 /Supdt:

Dated Tank the 07 /11/2016

From:

The Political Agent,
South Waziristan Agency, Tank

To:

The Section Officer (Estab),
(Admn: Infrás: & Coordination Department)
FATA Secretariat, Peshawar.

Subject:

PROMOTION OF SENIOR CLERK TO THE POST OF ASSISTANT.

Memo:

Reference your letter No. FS/E/100-11(Vol-9)/12781 dated 17.10.2016 on the subject cited above.

The documents mentioned in your letter were sent to your office vide this office letter No. 1936/Supdt: dated 16.10.2015 which were subsequently forwarded to the office of Senior Member Board of Revenue, Khyber Pakhtunkhwa and resultantly two DPCs were held upon these documents. The meeting of last DPC was held in May, 2015 in the office of Senior Member Board of Revenue. The promotion cases of FATA were deferred as the representative of Secretary Administration, Khyber Pakhtunkhwa was of view that Political Agents are not even competent to appoint a Junior Clerk. No further information/minute of the meeting has been received to this office. Meanwhile two Senior Clerks out of the list provided at that time have been proceeded on retirement.

It is therefore, requested to kindly approach the office of Senior Member Board of Revenue, Khyber Pakhtunkhwa for further process/progress.

No. 2196 /Supdt:

Copy to:-

Secretary-I, Board of Revenue, Khyber Pakhtunkhwa, with request to kindly apprise this office for further action.


POLITICAL AGENT,
South Waziristan Agency, Tank


POLITICAL AGENT,
South Waziristan Agency, Tank

Vetted copy

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2019

Haji Qayyum Nawaz Versus Government of Khyber Pakhtunkhwa etc:

PARAWISE REPLY ON BEHALF OF RESPONDENT NO. 3 & 4

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS

- 1- That the appeal is not maintainable and incompetent in the eyes of law in the present form.
- 2- The appeal is estopped due to his own conduct to file this appeal.
- 3- That the appellant has got no cause of action and locus standee to file instant appeal.
- 4- That the appellant does not come to the Tribunal with clean hands and has suppressed all relevant facts.
- 5- The appeal is bad for misjoinder / non-joinder of necessary parties.
- 6- That the appeal is badly time bared and the appellant has concealed the material facts from Honourable Tribunal.
- 7- The Honourable Service Tribunal has no jurisdiction to entertain the instant appeal in its present form.
- 8- That the appeal has been mis-oriented, mis-constructed and mistakenly drawn and is incompetent in its present frame and context, and is liable for Rejection.
- 9- That the appeal is weak having no force, fabricated, fictitious, based on ill will, mollified and having no footings in the eyes of law.
- 10- That the proceeding with the instant appeal would be a futile exercise and just wastage of the precious time of this Honourable Tribunal.
- 11- That as stated in the objection supra, the appeal is bereft of cause of action and is liable to dismissal.
- 12- That the promotion is not a vested right.

COMMENTS

1. Pertain to record, hence, no comments.
2. Incorrect: The case of promotion of S/Clerk was timely submitted to the Board of Revenue Khyber Pakhtunkhwa through FATA Secretariat, Peshawar vide letter No.1099/Supdt: dated 04.06.2015 and no delay was caused on the part of respondent No. 3 & 4 but not approved by the forum owing to the ambiguity in confirmation of competency whether the power of promotion is vested with Senior Member Board of Revenue or SAFRON in respect of the S/Clerk working in the offices of P.A's (Minutes are attached).
3. Incorrect clear picture of sanction post was insisted to the Board of Revenue Khyber Pakhtunkhwa Administration Co-ordination and Infrastructure Department

3. Incorrect clear picture of sanctioned posts was intimated to the Board of Revenue Khyber Pakhtunkhwa Administration Co-ordination & Infrastructure Department through S.O (E&A) Department vide letter No.1936/Supdt: dated 16.10.2015. (Copy enclosed), reminder No.34/Supdt: dated 07.01.2016 and No.2195/Supdt: dated 07.11.2016 were also issued.
4. The case was followed in letter of Spirit as explained above in Para No.3 but owing to non-completion of his ACR his promotion was not ordered. He completed his ACR in 2017 and consequently promoted on 10.10.2017.
5. Incorrect the appellant was promoted as office assistant on 10.10.2017 and proceeded on retirement with effect from 14.11.2017
6. Incorrect it is matter of fact that the member of Departmental Promotion Committee is bound to examine the service record of each and every candidate to their entire satisfaction on seniority cum fitness basis. The members observed that the ACR of the appellant are missing from 2001, 2007, 2008 & 2009.
7. Need no comments each & every citizen are at liberty to present appeal in any court of Law for his right. His appeal was ~~not maintain~~ ^{dismissed} by the Honourable Peshawar High Court, 7 Bench Dikhan.
8. Not related to this office. The matter relates to senior member of Board of Revenue Khyber Pakhtunkhwa.

GROUNDS.

1. Incorrect: The case of promotion of the appellant was followed in letter & spirit. The respondent No.3 & 4 were not competent to accord promotion from BPS-14-16 hence his case was forwarded to law & Order Department for onward submission to Board of Revenue Khyber Pakhtunkhwa. The official was promoted after completion of ACR for year 2001-2007 & 2008 as per observation of Departmental Promotion Committee in 2017.
2. As explained vide Para- No.1
3. Promotion is not a vested right of the official and ordered with immediate effect.
4. No comments pertain to record.
5. As explained in Para No.1 above.
6. Incorrect: The case of petitioner was taken up at proper time.
7. Incorrect: Not related to this office.

In the light of above submission this office has processed the case of promotion of the petitioner as per rules and regulation. There was vacuum in framing the rules and regulation in respect of the officials of Political Agent Offices. Hence the case may graciously dismiss with cost.

Sd/-
DEPUTY COMMISSIONER
South Waziristan Tribal District

Vetted
Jaheer
Sd/-
COMMISSIONER,
District DIKhan, Division, DIKhan

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 2193 /ST

Dated 13-12- 2019

To


The Senior Member Board of Revenue,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 231/2018, HAJI QAYUM NAWAZ.

I am directed to forward herewith a certified copy of Judgement dated 27.11.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.