

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.

C.M No: \_\_\_\_\_/2023

IN

Appeal No:3248/2021

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Khyber Pakhtunkhwa  
Service Tribunal

Registry No. 3674

Dated 17/2/2023

Mr.Asad Iqbal

V/S

Revenue Department

.....

**APPLICATION FOR RESTRAINING THE  
RESPONDENTS FROM MAKING PROMOTION TO  
THE POST OF KANUNGO ON THE BASIS OF  
DISPUTED SENIORITY TILL THE DISPOSAL OF  
MAIN APPEAL.**

.....

**RESPECTFULLY SHEWETH:**

1. That the appellatant has filed an appeal against the seniority list of Patwari which is fixed on 28/03/2023.
1. That the appellatant has a good prima facie case and all the ingredients are in favour of the appellatant.
2. That the few posts of Kanungo are lying vacant in the respondent Department and the respondent department prepared working paper for filling said post on the basis of impugned seniority list.
3. That the impugned seniority list on the basis of which the respondent department prepared working paper for filling said post is already challenge in this Hon'able Tribunal. Copt of letter is attached.
4. That an application has been filed for seeking interim relief among others for appellatant till final outcome of the appeal. Obviously, when the dispute about seniority list is has been admitted for regular hearing, therefore it seems just to direct the respondents in case the appellatant succeeded in getting his right of seniority in accordance with law then as per Establishment Department Regulation Wing Notification No.SO(Policy)/E&AD/1-16/2017 dated 05-12-2017 amendments in the Khyber Pakhtunkhwa promotion policy, 2009. After sub-para(h) of para IV the following sub-para(i) shall be inserted:

The mere fact that the seniority is sub-juiced will not debar the competent forum to make recommendation. However, in such cases following shall be applicable:

- i. All promotion based on sub-judice seniority will be conditional i.e. subject to final outcome of court cases.
  - ii. An officer who gets his seniority restored and becomes senior to already promoted officers in the cadre will be considered for promotion by the relevant board from the date when his junior got promoted.
  - iii. In case, the officer expired or retires from service and subsequently, his seniority is restored his case will be considered from proforma promotion along with all financial benefits.
  - iv. Juniors promoted on sub-judiced seniority list will be assigned seniority as per final court orders and will be reverted in case there is no vacancy.
5. That if the interim injunction was not granted and department will not be restrained from making promotion in this case the appellant will suffer an irreparable loss and will lead to implicitly of litigation.

It is, therefore, most humbly prayed that on acceptance of this application, an interim injunction may kindly be granted to the effect that the respondent be restrained from making promotion against the vacant post of kanungo or make conditional promotion in the respondent department on the basis of impugned seniority list and maintain status quo till final disposal of the main appeal. Any other remedy with this august Tribunal deems fit may also be awarded in favour of appellant.

**PETITIONER/Applicant**  
Asad Iqbal

THROUGH:

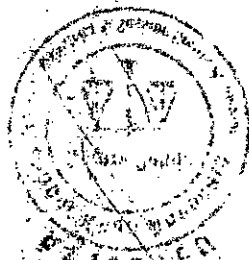
  
**(SYED NOMAN ALI BUKHARI)**  
ADVOCATE, HIGH COURT

**AFFIDAVIT:**

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.

  
**DEPONENT**





~~SECRET~~

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
REVENUE & ESTATE DEPARTMENT

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VERIFICATION OF RESULT

Reference is made to the office order no. 17913 dt 19/06/11  
in which it is stated that the following candidates have passed in the examination  
held on 12/06/11.

S. No.	Name & Parentage	Examination Year	Remarks
1	K. M. Khan & P. Khan	2011	Passed
2	M. A. Khan & P. Khan	2011	Failed

  
Superintendent Land Records  
Khyber Pakhtunkhwa

Revenue Officer, Khyber Pakhtunkhwa

  
Superintendent Land Records  
Khyber Pakhtunkhwa

Ahsan



**Office of the Deputy Commissioner, Haripur**

Phone No. 005 010 700 220 011 to 5 005 010 41

No. 12913 HARIPUR  
D.S. 11/12/2017

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To

The Director Land Records,  
Khyber Pakhtunkhwa, Peshawar

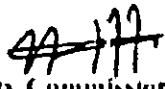
Subject- **VERIFICATION OF RESULT / PASSING CERTIFICATES OF PATWARI  
KANINGO AND N.T. DEPARTMENTAL EXAMINATION.**

Reference your office letter No. 377-747 (L.R./D.L.R) Verification dated 09/03/2017 in  
re above noted subject and to state that the undersigned will convene meeting of Departmental  
Promotion & Selection Committee for promotion of following 02 Patwaris to the post of Kaningos  
ACB who have passed Kaningos Examination

1. Mr. Khazada Khan, Patwari
2. Mr. Hafeez Khan, Patwari

In light of the instructions contained in the above reference letter, verification  
of examination of the candidates is obligatory prior to promotion to next higher grade to avoid  
discrimination and unnecessary litigation.

Therefore, certificates of Kaningos Passed Examination in respect of above named  
candidates are sent herewith for verification so that promotion process could be finalized to the satisfaction.

  
Deputy Commissioner  
Haripur

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H. H. S. D.

It is stated that 02 posts of Girdawar (BPS-11) have been lying vacant due to the promotion of following Girdawars to the post of Naib Tehsildar (BPS-14) on Acting Charge Basis (Annexure-A):

Sr	Name of Girdawar	Date of Promotion	Remarks
1.	Mr. Rab Nawaz	21.10.2022	Promoted as Naib Tehsildar (ACB)
2	Mr. Nisar Ahmed	21.10.2022	-do-

According to the Appointment and Promotion Rules, the post of Girdawar (BPS-11) is to be filled from amongst senior most Patwaris on the basis of seniority-cum-fitness, having departmental examination of Girdawari and 03 year qualifying service (Rules attached as Annexure-B)

As per Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, under Rule 9(4) acting charge appointment shall be made against posts which are likely to fall vacant for a period of six months or more and as per Rule- 9(5) such appointments shall be made on the recommendations of the Departmental Selection & Promotion Committee (Annexure C & D).

The following panel of senior most Patwaris according to the Seniority List of the year 2021 is hereby placed before DS / PC for consideration and approval:

Sr	Name of Patwari	Seniority No in the Seniority List 2021	Date of appointment as Patwari	Kanungo Examination (Pass / Fail)	Remarks
1.	Alian Saad Hussain	1 <sup>st</sup>	27.10.1992		
2.	Mr. Taj Muhammad	2 <sup>nd</sup>	03.05.1993		
3.	Mr. Abdul Haleem	3 <sup>rd</sup>	24.07.1993		
4.	Mr. Khalid Mehmood-I	4 <sup>th</sup>	12.02.1996		
5.	Muhammad Ishaq	5 <sup>th</sup>	03.06.1996		
6.	Muhammad Firdous	6 <sup>th</sup>	01.09.1997		
7.	Mr. Dilnawaz Khan	7 <sup>th</sup>	23.05.1998	Passed	Already promoted as Girdawar on regular basis
8.	Mian Muhammad Irfan	8 <sup>th</sup>	23.05.1998		
9.	Fakhar Nawaz	9 <sup>th</sup>	23.05.1998		Kanungo Examination Result withheld at DLR Office
10.	Sardar Sohrab Khan	10 <sup>th</sup>	10.12.1998		
11.	Mian Abdul Qayyum	11 <sup>th</sup>	09.04.2002	Passed	He passed Kanungo Examination recently in December 2022
12.	Muhammad Siddique	12 <sup>th</sup>	09.04.2002	Passed	Already promoted as Girdawar on regular basis
13.	Muhammad Zia Khan	13 <sup>th</sup>	09.04.2002	Passed	Already promoted as Girdawar on regular basis
14.	Muhammad Javed Khan	14 <sup>th</sup>	04.04.2003		
15.	Syed Rizwan Ali Shah	15 <sup>th</sup>	18.08.2003		
16.	Mr. Zahid ur Rehman	16 <sup>th</sup>	18.08.2003	Passed	Already promoted as Girdawar on regular basis
17.	Muhammad Javed Iqbal	17 <sup>th</sup>	18.08.2003		
18.	Mr. Zulfikar Ali	18 <sup>th</sup>	18.08.2003		
19.	Mr. Khanzada Khan	19 <sup>th</sup>	18.03.2004	Passed	
20.	Mr. Hafeez ur Rehman	20 <sup>th</sup>	18.01.2004	Passed	

It may be pointed out that the Patwaris at S Nos 1, 2, 3, 4, 5, 6, 8, 10, 14, 15, 17 & 18 in the Seniority list of the year 2022 have either passed partially or not appeared in the Kanungo Examination, hence they are not eligible for the said promotion to the post of Girdawar (BPS-11) on A.C.B (seniority list is attached as Annexure-E).

The Patwaris at S. Nos 7, 12, 13 & 16 in the seniority list have already been promoted to the post of Girdawar (BPS-11) on regular basis. However, Patwaris at S. No. 11, 19 & 20 who have also passed Kanungo Examination and fulfill the condition of promotion on A.C.B. It is added that the said Patwaris as mentioned at S. No. 19 & 20 are also working against the post of Kanungo on OPS basis. Furthermore, Kanungo Examination of Mr. Fakhar Nawaz mentioned at S # 9 is not declared by DLR Office Peshawar.

The Seniority List of Patwaris, Synopsis alongwith original ACRs, Non-involvement Certificates, Kanungo Passed Certificates and Verification Letter from Directorate of Land Records in respect of passed candidates are placed before the DP & SC.

The DP & SC is requested to accord approval for promotion against 2 posts of Girdawar (BPS-11) on Acting Charge Basis.