

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 937/2020

Date of Institution ... 28.01.2020

Date of Decision ... 17.12.2020

Kifayatullah Khan Afridi, presently serving as Senior Additional Secretary Provincial Assembly, Khyber Pakhtunkhwa, Peshawar. ... (Appellant)

VERSUS

The Speaker Provincial Assembly of Khyber Pakhtunkhwa, Peshawar and two others. ... (Respondents)

Present.

Mr. Ali Azim Afridi,
Advocate. ... For appellant

Mr. Muhammad Riaz Khan Paindakhel,
Asstt. Advocate General ... For respondents
No. 1 & 2.

Qazi Muhammad Anwar
Advocate, ... For respondents
No. 1, 2 and 3.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MR. MIAN MUHAMMAD, ... MEMBER(E)

JUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved of notification dated 03.09.2019 issued by respondent No. 1, whereby, respondent No. 3 was promoted as Secretary (BPS-21), Khyber Pakhtunkhwa Provincial Assembly. The decision of Departmental Promotion Committee dated 02.09.2019, forming basis of the notification, has also been impugned. Declaration regarding promotion to the position of Secretary Provincial Assembly Khyber Pakhtunkhwa, in favour of the appellant, has also been made part of the prayer.

2. The facts, as laid in the memorandum of appeal, are to the effect that the appellant was appointed as Assistant Secretary (PAC) BPS-17 on 23.11.1992 in the Provincial Assembly Secretariat. On 11.02.1997 he was promoted as Deputy Secretary while on 12.03.2007 the appellant was granted promotion as Additional Secretary BPS-19. On 01.10.2009, he was recommended for promotion to the post of Senior Additional Secretary BPS-20, which was materialized. While posted as such, the appellant was required and authorized to look after the office of Secretary Provincial Assembly as well. The Additional responsibility was for 165 days altogether. On 01.08.2017, a notification was issued for constitution of DPC due to retirement of the incumbent. The name of respondent No. 3 was also included in the panel of officers to be considered for promotion against the post of Secretary. The DPC, with addition of the Deputy Secretary (Admn), was reconstituted. The added Member was subordinate to the respondent No. 3 at the relevant time, it is claimed.

The D.P.C recommended respondent No. 3, a junior to the appellant, for promotion who was accordingly promoted. The appellant questioned the promotion order/notification before this Tribunal through Service Appeal No. 1324/2017 (hereinafter referred to as previous appeal). The matter was laid before a Larger Bench comprising three Honourable Members and was decided on 10.12.2018. The appellant was granted relief by the Tribunal in terms that the order, impugned therein alongwith ensuing order of promotion of respondent No. 3 therein, was set aside and the notification dated 30.08.2018, assigning acting charge of the post of Secretary Provincial Assembly was restored in favour of the appellant. Pertinently, the

arrangement of parties in the previous appeal was the same as in the instant appeal.

The decision of Tribunal was impugned before the August Supreme Court of Pakistan which was pleased to, inter-alia, expunge remarks against respondent No. 1, as well as the erstwhile Speaker of Khyber Pakhtunkhwa Provincial Assembly. The Apex Court ordered for reconstitution of D.P.C to re-examine and decide the matter of disputed promotion. The reconstituted committee submitted its recommendations on 02.09.2019, whereupon, impugned notification dated 03.09.2019 was issued. The appellant submitted a departmental appeal which was not responded to, hence the appeal in hand.

3. The respondents, upon notice, appeared through counsel who submitted an application for deciding the question of limitation and competence of the instant appeal as preliminary issues first. The application was also accompanied by written statement of respondent No. 3. On 01.10.2020, learned counsel for the parties addressed their respective arguments regarding the preliminary objections. Remaining arguments were addressed on 30.11.2020.

4. We have heard learned counsel for the parties and with their valuable assistance gone through the available record. During the arguments both the learned counsel also repeatedly referred to the judgment in the previous appeal.

5. Agitating the preliminary objections, learned counsel for respondents argued that the appeal in hand was badly time barred as it was submitted on 12.02.2020. In that regard he referred to the calculation, as contained in the



written statement and contended that the impugned notification was issued on 03.09.2019, against which the appellant submitted appeal to the competent departmental authority on 30.09.2019. The period of ninety days wait for decision started from 01.10.2019. The period of ninety days was to expire on 29.12.2019, while the appeal in hand had to be filed within thirty days from 30.12.2019. The said period of thirty days expired on or before 28.01.2020. In his view, some fraud was committed in receipt of appeal on 28.01.2020, through diary No. 888. In support of his arguments, learned counsel referred to the judgments reported as 2017-SCMR-24, 2019-SCMR-663, 2011-SCMR-1111, PLD 1994-Supreme Court-539 and 2007-SCMR-682.

Arguing the second limb of objections regarding the competence of appeal, learned counsel referred to Section 4 of the Khyber Pakhtunkhwa Service Tribunals Act, 1974. He contended that the fitness of respondent No. 3 for impugned promotion was also an issue in the appeal in hand, therefore, it was not to be entertained in view of the provisions of law.

Learned counsel for the appellant refuted the objections and contended that the appeal was not only within time but also competent for the purpose of jurisdiction of this Tribunal. He made references to judgments in previous appeal and also relied on 2007-PLC(C.S)1246, 2002-SCMR-1056 and 1999-SCMR-1605.

Learned Asstt. A.G adopted the arguments of learned counsel for respondents.

6. It is a matter of record that the appeal in hand was initially submitted on 28.01.2020, through diary No. 888 which was returned to the appellant for removal of some deficiency. It was re-submitted, after doing the needful on


12.02.2020. As per the calculation provided in the written statement of respondent No. 3, the time for submission of appeal before this Tribunal was to end on 28.01.2020. In the stated backdrop, the objection regarding delay in submission of appeal is misconceived, therefore, is hereby overruled.

7. Adverting to the other objection regarding competence of appeal in hand, suffice it to note that the issue, also raised in previous appeal, was decided by a Larger Bench of the Tribunal in the following terms:-

"We are afraid that assertions of the learned counsel for private respondent No. 3 that under Section-4(b)(i) of Khuyber Pakhtunkhwa Service Tribunal Act, 1974 the question of fitness of a civil servant is outside the pale of jurisdiction of this Tribunal but directions of superior courts in PLD 2008(SC) 769, PLD 2008 (SC) 395, 2014 PLC(C.S) 892 and 2015 PLC(C.S)215 are not conclusive and against the consistent views expressed by the superior courts in numerous judgments relied upon by the learned counsel for the appellant. Similarly in PLC (C.S) 1161(b) and 1999-SCMR-1605, issue of fitness and promotion has also been settled by the apex court in 2005-SCMR-695, PLD 2004-65, 2002-SCMR1056, 1996-SCMR-1185. In 2002-SCMR-1056, the august Supreme Court held that:-

"Where a right to consider the civil servant has been claimed on the ground that he has been bypassed in violation of the promotion policy, the Service Tribunal can examine the question of fitness of civil servant."

The Tribunal consequently went on to decide the appeal on merits.

 The above reproduced view of this Tribunal is respectfully followed in the appeal in hand, therefore, the objection is also overruled.

8. Looking into the merits of the case of appellant, one finds that the ground forming basis for recommendation was to the effect that for promotion against selection post, merit alone is to be considered. Paragraph 12 of the minutes of the meeting dated 02.09.2019 provides as follows:-

"In view of the legal position explained in Background section, seniority is not the crucial factor for promotion against selection posts and merit alone is to be considered for comparing officers. Hence, the comparative merit position of some of the relevant factors of panel officers is as under:-

	<u>Mr. Kifayatullah Khan</u>	<u>Mr. Nasrullah Khan</u>	<u>Mr. Amjad Ali</u>
<i>Academic level</i>	<i>B.A/LLB</i>	<i>MA (International Relations)</i>	<i>M.Sc (Chemistry)</i>
<i>Experience of assembly work</i>	<i>Worked in Legislation and PAC branches.</i>	<i>Worked in Legislation, administration, Finance & Accounts, PAC branches and round the clock security wing.</i>	<i>Worked in PA, Administration and Legislation.</i>
<i>Experience of acting as Secretary Assembly</i>	<i>165 days</i>	<i>657 days.</i>	<i>----</i>
<i>Major Achievements</i>	<i>----</i>	<i>E-Parliament initiative Digital filing system Establishment of Media Centre, Women Caucus Resource Center Equalization of employees perks and privileges with parliament and other provincial assemblies Capacity building training of parliamentarians inland and abroad Construction of multipurpose underground exclusive parking for different stakeholders and a spacious cafeteria</i>	<i>Strengthening of PAC.</i>

Learned counsel for appellant also grudged the correctness of contents noted under the name of respondent No. 3 which included the experience as acting Secretary Assembly. It was also maintained that the column of experience of Respondent No. 3 contained particulars not relevant for the post of Secretary Provincial Assembly.

It is important to note here that the appellant was senior most amongst the Additional Secretaries B.S-20, however, the said factor was ignored by the DPC. For the resolution of issue, we have to fallback upon judgment in the previous appeal. In para-8 thereof, it was laid down that seniority-cum-fitness was the sole criteria/principle for promotion to the post of Secretary (BPS-21) Khyber Pakhtunkhwa Provincial Assembly. Needless to reiterate that in the previous appeal the parties were the same as arrayed in the appeal in hand. It would not be out of place to mention that Service Appeal No. 952/2014 was decided by this Tribunal on 14.09.2017 wherein the respondents No. 1 and 3 were also included in the panel of respondent. A Bench of this Tribunal was pleased to decide, inter-alia, that the criteria for promotion to the post of Secretary (BPS-21) Khyber Pakhtunkhwa Provincial Assembly Secretariat was also based on seniority-cum-fitness.

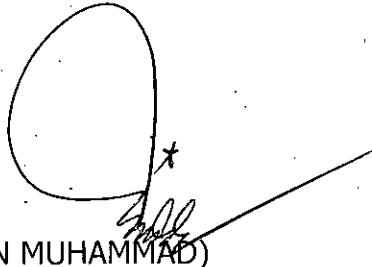
The minutes of DPC meeting reflect that the committee proceeded in line with the misconception in declaring the impugned promotion against selection post and kept in consideration the merit alone. The view of DPC was in disregard of the judgments by this Tribunal as well as those referred to in the decision of previous appeal. The finding and recommendation by the committee were based on wrong premises, therefore, the edifice built thereon



was bound to collapse. The notification dated 03.09.2019, ensuing from the decision of DPC, is not sustainable for the stated reason.

9. Ex-consequencia, the appeal in hand is allowed and the impugned notification dated 03.09.2019 is set aside. The official respondents shall constitute the DPC in accordance with law. The DPC shall consider the matter of promotion to the post of Secretary Provincial Assembly in light of decision taken in previous appeal as well as the instant judgment strictly in accordance with law/rules. The denovo exercise shall be completed within three months of receipt of copy of instant judgment.

Parties are, however, left to bear their respective costs. File be consigned to the record room.

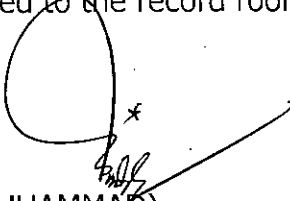



(MIAN MUHAMMAD)
MEMBER(E)



(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
17.12.2020

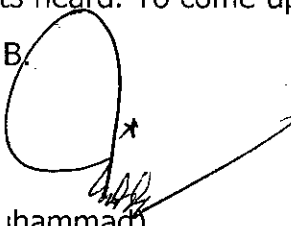
S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	17.12.2020	<p><u>Present.</u></p> <p>Mr. Ali Azim Afridi, ... For appellant Advocate</p> <p>Mr. M. Riaz Khan Paindakhel, ... For respondents Asstt. Advocate General No. 1 & 2. & Fakhre Alam, Law Officer</p> <p>Qazi Muhammad Anwar, ... For respondents Advocate No. 1, 2 and 3.</p> <p>We have heard learned counsel for the parties and with their valuable assistance gone through the available record.</p> <p>Vide our detailed judgment, the appeal in hand is allowed and the impugned notification dated 03.09.2019 is set aside. The official respondents shall constitute the DPC in accordance with law. The DPC shall consider the matter of promotion to the post of Secretary Provincial Assembly in light of decision taken in previous appeal as well as the instant judgment strictly in accordance with law/rules. The denovo exercise shall be completed within three months of receipt of copy of detailed judgment.</p> <p>Parties are, however, left to bear their respective costs.</p> <p>File be consigned to the record room.</p> <p style="text-align: center;">  (MIAN MUHAMMAD) Member(E) </p> <p style="text-align: right;">  CHAIRMAN </p> <p><u>ANNOUNCED</u> 17.12.2020</p>

937/2020

30.11.2020

Mr. Ali Azim Afridi, Advocate for appellant, Mr. Fakhre Alam, Law Officer for respondents No. 1 & 2 and respondent No. 3 in person alongwith Qazi Muhammad Anwar, Advocate for respondents No. 1, 2 and 3 present.

Arguments heard. To come up for order on 17.12.2020 before this D.B.


(Mian Muhammad)
Member(E)


Chairman

937/20

Continued
17-09-2020

and by respondent No. 3 in favour of Mr. Changez Khan, Advocate have been submitted, which are placed on record.

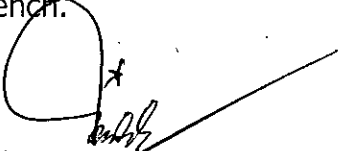
The matter is assigned to D.B for arguments on 01.10.2020. The appellant may furnish rejoinder to the reply/written statement within 10 days, if so advised.


Chairman

01.10.2020

Mr. Ali Azim Afridi, Advocate for appellant, Mr. Fakhre Alam, Law Officer for respondents No. 1 & 2 and respondent No. 3 in person alongwith Qazi Muhammad Anwar, Advocate for respondents No. 1, 2 & 3 present.

Both the learned counsel concluded their respective arguments regarding preliminary objections as well as merits of appeal. To come up for order on 09.11.2020 before this Bench.


(Mian Muhammad)
Member (Executive)


Chairman

09.11.2020

Junior to counsel for the parties present. Mr. Muhammad Jan learned Deputy District Attorney alongwith Fakhre Alam Law Officer for respondents present.

Due to power outage ^{since} (08:00) a.m. today, the instant matter is adjourned to 30.11.2020 before D.B. On next date learned counsel for parties shall address further arguments regarding merits of the appeal.


(Mian Muhammad)
Member (E)


Chairman

2013.02.20

Learned counsel for appellant present Mr. Muhammad Ali learned Deputy District Attorney along with Fakhir Alam law officer for respondents present

Due to power outage (08:00) am today the instant matter is adjourned to 30.05.2020 before D.B. On next date learned counsel for parties shall address further arguments regarding merits of the appeal.

Chairman


(Alian Muhammad)
Member (B)

31.08.2020

Learned counsel for the appellant present. Mr. Kabirullah Khattak Addl. AG alongwith Mr. Fakhre Alam Law Officer for respondent No. 1 & 2 and private respondent No.3 present.

Written reply not submitted. Representative of the respondent No. 1, 2 and private respondent No.3 requested for time to furnish written reply/comments.

Adjourned to 17.09.2020 before S.B.


Member (E)

17.09.2020

Counsel for the appellant, Addl. AG alongwith Fakhre Alam, Law Officer for respondent No. 1 & 2 and respondent No. 3 with counsel present.

Respondent No. 3 has submitted an application for correction of last order dated 31.08.2020 to the extent of mention regarding submission of written reply by the said respondent and also recording presence of his learned counsel.

Learned counsel for appellant does not object to the correction sought by respondent No. 3.

In the order dated 31.08.2020, it was noted that representative of respondents No. 1, 2 and private respondent No. 3 requested for time to furnish written reply/comments. It was, in fact, a request on behalf of official respondents No. 1 & 2 who have submitted their joint written statement alongwith reply to the application for temporary injunction today. The same are made part of the record. Reply/written statement on behalf of respondent No. 3 was submitted on the last date.

The application is, therefore, disposed of.

Wakalatnamas on behalf of respondent No. 1 & 2 executed in the name of Qazi Muhammad Anwar Advocate

937/2020

11.08.2020

Counsel for the appellant and Addl. AG for respondents No. 1 & 2 present. Nemo for respondent No. 3.

Mr. Fakhre Alam, Law Officer, Provincial Assembly states that the concerned respondents did not have any notice of the hearing today. He is before the Tribunal in connection with proceedings in Execution Petition No. 22/19 and accepts notice of instant appeal. The representative requests for time to submit requisite reply/comments. Allowed. Fresh notice be issued to respondent No. 3. Adjourned to 31.08.2020.

Alongwith the appeal there is an application for grant of temporary injunction. Notice of the application is also accepted by the representative. Reply of the application shall be submitted alongwith the reply/comments on next date of hearing.

There is another application alongwith the appeal for requisitioning of record of Service Appeal No. 1224/2017. Office is required to attach the requisite records with the Brief of instant appeal before the next date of hearing. Application disposed of.

Written reply/comments submitted: Representative of respondent No. 3 requested for time to submit their written reply/comments. Shairman

Adjourned to 31.08.2020 before SA.

(Signature) (E)

02.07.2020

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant is serving as Senior Additional Secretary, Provincial Assembly, Khyber Pakhtunkhwa, Peshawar. He was aggrieved by the notification dated 03.09.2019 whereby his junior i.e Respondent No.3 was promoted to the Post of Secretary BPS-21 depriving the appellant of his legal rights of promotion. Against the said notification the appellant preferred departmental appeal on 30.09.2019 which was not responded within the statutory period of ninety days, hence the instant service appeal. Learned counsel for the appellant further argued and contended that the post of Secretary Assembly is to be filled by way of promotion on the basis of "Seniority -cum-Fitness" but this mode has been departed from and the appellant has not been treated according to law and rules.

Points urged need consideration. Service appeal is admitted subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 11.08.2020 before S.B.

Alongwith the instant appeal, the learned counsel for the appellant submitted an application for temporary injunction. Notice of this application be also issued for the date fixed.

(MAIN MUHAMMAD)
MEMBER (E)

Appellant Deposited
Security & Process Fee

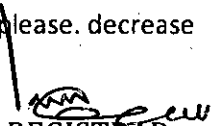



2/7/2020

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 937 /2020


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/02/2020	<p>The appeal of Mr. Kifayatullah <u>resubmitted</u> today by Mr. Mian Zakir Hussain Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p style="text-align: right;"> REGISTRAR</p>
2-	20.03.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/03/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
		<p>Nemo for the appellant. Lawyers community is on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for preliminary hearing on 23.04.2020 before S.B.</p> <p style="text-align: right;"> Member</p>
		<p>Due to public holiday on account of COVID-19, the case is adjourned to 30 07.2020 for the same. To come up for the same as before S.B.</p> <p style="text-align: right;"> Reader</p>

The appeal of Mr. Kifayatullah Khan Afridi presently serving as Senior Additional Secretary Provincial Assembly Khyber Pakhtunkhwa Peshawar received today i.e. on 28.01.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Copies of impugned orders dated 02.09.2019 and 03.09.2019 mentioned in the heading of the appeal are not attached with the appeal which may be placed on it. ✓
- 3- Copy of departmental appeal against the impugned order mentioned in para-2 of the memo of appeal is not attached ~~with the appeal~~ with the appeal which may be placed on it. ✓
- 4- Copies of documents/annexures referred to in the memo of appeal are not attached with the appeal which may be placed on it.
- 5- Annexures of the appeal may be attested.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 265 /S.T,

Dt. 28-01 /2020.



REGISTRAR

SERVICE TRIBUNAL

KHYBER PAKHTUNKHWA

PESHAWAR.

Mian Zakir Hussain Adv. Pesh.

*Respected Sir,
The objection has
been removed and
placed on file.*

BEFORE THE SERVICES TRIBUNAL KP, PESHAWAR

Service Appeal No. /2020

Kifayatullah Khan Afridi.....⁹³⁷.....Appellant

Versus

The Speaker Provincial Assembly KPK &
Others.....Respondent(s)

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Appellant

Through

Mian Zakir Hussain

Advocate, Peshawar

Contact # 0331-6757575



1

BEFORE THE SERVICES TRIBUNAL KP, PESHAWAR

Service Appeal No. 937/2020

Kifayatullah Khan Afridi, presently serving as Senior Additional Secretary Provincial Assembly, Khyber Pakhtunkhwa, Peshawar

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 888

Dated 28/01/2020

1. The Speaker Provincial Assembly of Khyber Pakhtunkhwa, Peshawar.
2. The Departmental Promotion Committee through its Secretary Provincial Assembly of Khyber Pakhtunkhwa, Peshawar.
3. Mr. Nasrullah Khan, presently serving as Secretary Provincial Assembly Khyber Pakhtunkhwa, Peshawar

APPEAL UNDER SECTION 4 OF THE KPK SERVICES TRIBUNAL ACT, 1974 IMPUGNING THEREIN THE DECISION OF DEPARTMENTAL PROMOTION COMMITTEE NO.1 DATED 02-09-2019 AND THE NOTIFICATION ISSUED THERETO ON 03-09-2019, WHEREIN THE APPELLANT THOUGH SENIOR TO RESPONDENT NO.3 WAS DEPRIVED OF PROMOTION AND INSTEAD HE BEING A JUNIOR OFFICER WAS RECOMMENDED FOR PROMOTION AND WAS APPOINTED AS SECRETARY PROVINCIAL ASSEMBLY KHYBER PAKHTUNKHWA

Respectfully Sheweth,

1. The Constitution of Islamic Republic of Pakistan aims at protecting civil servants in order to ensure smooth running of affairs of the Government and Institutions so as to benefit the public citizenry.
2. The Constitution of Islamic Republic of Pakistan equally

Filed to-day

Registrar

28/11/2020

Re-submitted to-day and filed.

28/11/2020

beshields civil servants from being treated otherwise than in accordance with law; for which courts are thereby established, which in the case at hand is "Services Tribunal" as the gravamen alluring redressal is with regard to terms and conditions¹ of a civil servant/appellant, unduly interfered and disturbed by the competent authority without any rhyme or reason. **(Copy of the Departmental Appeal dated 30.09.2019 along-with minutes of the meeting dated 02.09.2019 and impugned notification dated 03.09.2019 is annexed as Annexure "A", "A-1" and "A-2")**

ON FACTS

3. That the appellant was appointed as Assistant Secretary (PAC) - BPS-17 dated 23.11.1992, in the Provincial Assembly Secretariat; having more than 24 years service experience and that too to the satisfaction of his superiors, whom he had an opportunity to work with during the course of his service. **(Copy of the notification dated 23.11.1992 along-with relevant details are annexed as Annexure "B")**
4. Following the same; the appellant alongwith his colleague Assistant Secretary BPS - 17 conjointly were recommended for promotion in the year 1997 and was thus promoted as Deputy Secretary on 11.02.1997.
5. That the appellant after putting 10 years and above meritorious service as Deputy Secretary was promoted to the post of Additional Secretary BPS - 19, duly notified on 12.03.2007.
6. That for the sake of brevity and information; List displaying seniority among the officials working in the establishment of

¹ 2002 SCMR 1056; PLD 2004 SC 65; 1999 SCMR 1605; 2005 SCMR 695

Secretariat of Provincial Assembly was issued and duly notified dated 18.04.2007 and 20.10.2007; wherein the appellant is shown at Serial No. 2, while respondent No.3 is placed at Serial No.3.

7. That during the course of events; the appellant was again recommended for promotion against the post of Senior Additional Secretary BPS - 20, notified on 1.10.2009, which for itself speaks volumes insofar his antecedents and service career.
8. That it is important to note; the appellant while serving as Senior Additional Secretary was time and again asked for and authorized to look-after the office of the Secretary so as to act and perform as Secretary Provincial Assembly evidentially shouldering higher responsibilities.
9. That the record floating on the surface demonstrates and establishes the fact that the appellant has shouldered higher responsibilities as and when asked for to act as Secretary Provincial Assembly on various occasions, while keeping at sight that the appellant was serving as Senior Addl. Secretary of the Provincial Assembly; for which he was equally awarded with Additional Charge Allowance for the period of 165 days.
10. That in the meanwhile, notification dated 06.06.2017 was issued in anticipation to the effect of notifying retirement of the than Secretary Mr. Amanullah Khan on attaining the age of superannuation; set to retire on 14.08.2017.
11. That in the same vein, another notification dated 01.08.2017 was issued for the purposes of reconstitution of Departmental Promotion/Recruitment Committee No.1 of the Provincial Assembly Secretariat of Khyber Pakhtunkhwa,

apprising about the retirement of the than Secretary Mr. Amanullah Khan and filing up of the said vacancy from amongst the senior officers.

12. Intriguingly, it was also noted that the name of the officer at Serial No. 3 of the Departmental Promotion/Recruitment Committee, namely Mr. Nasrullah Khan, would also be included in the penal of officers to be considered for promotion against the post of Secretary; therefore, the said DPC was reconstituted with an addition of the Deputy Secretary Admin, who has been subordinate to the than Special Secretary (Admin: F & A) i.e. Respondent No.3.

13. That inclusion of the Secretary of the Provincial Assembly in the Departmental Promotion Committee has been consistent practice in the Provincial Assembly but the same was done away with while promoting respondent No.3 though a junior officer; to the credit of present respondent No.3.

*✓ The Supreme Court of Pakistan in **Nazir Ahmed's Case** held that, "Now, It is settled law that where the departmental practice has followed a particular course in the implementation of some rule whether right or wrong, it will be extremely unfair to make a departure from it after a lapse of many years and thereby disturb rights that have been settled by a long and consistent course of practice" ✓*

14. That for filing up of the vacancy of the post of Secretary a working paper for the meeting of Departmental Promotion/Recruitment Committee No.1 of the Provincial Assembly was placed before the Committee for consideration of the appellant and that of other officers, wherein

admittedly he was found to be senior most and experienced besides having very good ACRs.

- 15.** That the appellant was confident to be elevated to the position of the post of Secretary but instead of doing the same the Departmental Promotion Committee recommended Mr. Nasrullah Khan, who happens to be junior to the appellant and that too by disregarding the law governing the issue at hand.
- 16.** That appallingly, the appellant was shocked to know the dubious, unfounded and untenable reason cultivated and considered against his person for depriving him from being elevated to the position of Secretary of Provincial Assembly.
- 17.** That even otherwise the reason advanced for deprivation of the appellant is not supported by the material available on record and as such the recommendations made by the Departmental Promotion Committee, being contrary to the law; thus warranting interference of the Hon'ble Tribunal.
- 18.** That though the position of the Secretary being a non-selection post, which thereby means that the yardstick for a person to be considered for the said slot is seniority-cum-fitness but the same was not allowed to be followed by the competent authority just to favour respondent No.3, although junior to the appellant, which act itself demonstrates malafide and colourful exercise of powers.
- 19.** That the events unfolding, depriving the appellant of promotion is not confined to the grievances stated above rather the unwarranted exigencies too had paved ways for meeting such unfortunate-cum-excruciating event i.e. up-gradation and re-designation of the post of respondent No.3 besides the same he was also asked to look after the administrative-cum-financial matters in violation of the law.

20. That the colourful exercise of powers was duly responded to by the then Secretary of the Provincial Assembly; wherein certain illegalities were adverted to favoring respondent No.3 and in addition to the same the Hon'ble Speaker was apprised of the ramifications originating therefrom; up-gradation and re-designation of the post of respondent No.3, but the same remain unheeded to by the competent authority; to the discredit of the present appellant.

21. That the competent authority not only upgraded and re-designated the post of Respondent No.3 rather undue favours were extended to him, including thereto delegation of Financial and Administrative powers; time and again extension of the period of up-gradation of the post and that too to the utter most disregard and violation of the law in field.

*The Supreme Court of Pakistan in **Ali Azhar Khan Baloch's Case**³ held that, "up-gradation cannot be made to benefit a particular individual in term of promoting him to a higher post and further providing him with the avenues of lateral appointment or transfer or posting; In order to justify up-gradation, the Government is required to establish that the department needs re-structuring, reform or to meet exigency of service in public interest; in the absence of these pre-conditions, up-gradation is not permissible",* whereas no such event was referred to justifying the cause of competent authority i.e. respondent No.1.

In the similar vein; *the Supreme Court of India in **Bharat Sanchar Nigam Limited Case**⁴ held that, "Up-gradation*

³ 2015 SCMR 456

⁴ AIR 2011 SC 3793

merely confers a financial benefit by raising the scale of pay of the post without there being movement from a lower position to a higher position. In an up-gradation, the candidate continues to hold the same post without any change in the duties and responsibilities but merely gets a higher pay scale", whereas in the instant matter not only the post was upgraded rather the same also outstretched the duties and responsibilities of respondent No.3.

- 22.** That regardless of the fact that the record pertaining to the ACRs is thoroughly evaluated by the Departmental Promotion Committee, as the same demonstrates abilities and capabilities of the officials under consideration; but the same was purportedly ignored in the case of respondent No.3, as the record pertaining to his ACRs from 2002 to 2006 happens to be tainted, with remarks alluring "Further training in Parliamentary matters".
- 23.** That for the sake of information of the Hon'ble Tribunal; an inquiry was initiated regarding POL consumption in 200 KVA Generator, installed in MPA Hostel Peshawar, wherein the respondent No.3 proved to have been negligent in performing his official responsibilities; warranting recovery from the said official, which wasn't adverted to by the competent authority just to benefit respondent No.3.
- 24.** That the Hon'ble Tribunal had also set at rest the promotion given to respondent No. 3 in the like terms, "*Perusal of the notification bearing No. PA/NWFP/Admn:/2007/19866 dated 25.09.2007 mentioned above would also reveal that criteria of promotion to the higher post of Senior Additional Secretary (BPS-20) and Secretary (BPS-21) Khyber Pakhtunkhwa Assembly Secretariat is also based on seniority-cum-fitness as such*

subsequent promotions if any of junior colleagues of appellant to the higher post i.e. the post of senior Additional Secretary or Secretary, during the pendency of present appeal, is also set aside as a consequential benefit", which remain unheeded to by respondent No.1 till date.

25. That the appellant preferred departmental appeal/representation against the impugned notification No.PA/KP/Admn:2019/6027 Dated 03.09.2019, wherein Respondent No.3 is shown to have been promoted to the post of Secretary BPS - 21, depriving the appellant of the right of Promotion; which appeal was left unattended to by the competent authority till date. Hence the instant service appeal inter-alia on the following grounds:-

GROUND

- A)** That the recommendations made by the Departmental Promotion Committee promoting respondent No.3 are actuated by malice and instilled with malafide; thus illegal.
- B)** That the impugned notification dated 03.09.2019 of promotion of respondent No.3, depriving the appellant is totally uncalled for, against the law governing the subject matter.
- C)** That even otherwise, the appellant after having rendered more than 24 years of service with impeccable service record in the Assembly Secretariat, was entitled for promotion but that aspect was totally ignored by the competent authority; just to benefit respondent No.3.
- D)** That the reasons advanced for supersession of the petitioner are immaterial and not supported by record.

- E)** That respondent No. 6 is having no experience in Legislation, Finance & Accounts & Security and as such the record relied upon by the respondent(s) is tainted with malice.
- F)** That legally; the respondent having never remained as Secretary of Provincial Assembly Khyber Pakhtunkhwa, rather the experience considered by the competent authority favouring respondent No. 6 is in disregard of the Judgment(s) of the Hon'ble Court.
- G)** That the so-called major achievements relied upon by the DPC; are self-styled and have nothing to do with the available record and experience of respondent No. 6.
- H)** That neither any adverse ACR nor such remarks exist to the discredit of appellant till date augmenting the cause of competent authority but yet this aspect too was ignored, left high and dry by respondent No.2 and as such promoted respondent No.3; hence smacks malice and non-application of judicious mind.
- I)** That the competent authority recommending respondent No.3 and that too contrary to the law, speaks volumes of malafide, malice and ill-will; hence warranting interference of the Hon'ble Tribunal.
- J)** That the competent authority i.e. respondent No.1 has time and again flouted the law just to benefit respondent No.3, allowing personal interest influencing his official conduct and official decisions, in violation of the oath of his office and that too to the discredit of the appellant.

10

the promotion given was set at naught.

PRAYER

It is therefore humbly prayed that on acceptance of this Service Appeal; the impugned decision dated 02.09.2019 and the notification issued on 03.09.2019, notifying the respondent No.3 as Secretary Provincial Assembly Khyber Pakthunkhwa be set at naught besides the same, the present appellant be declared as promoted to the position of Secretary of Provincial Assembly Khyber Pakhtunkhwa from such date as his junior was promoted along with back benefits/consequential benefits.

Any such order be passed which this Hon'ble Tribunal deems fit and appropriate as the circumstances may require for determination of the subject at hand.


Appellant

Through

Mian Zakir Hussain
Advocate, Peshawar

Contact # 0331-6757575

11

BEFORE THE SERVICES TRIBUNAL KP, PESHAWAR

Service Appeal No. /2020

Kifayatullah Khan Afridi.....**Appellant**

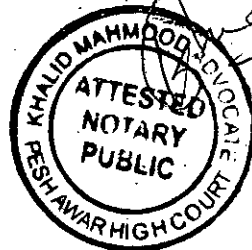
Versus

The Speaker Provincial Assembly KPK &

Others.....**Respondent(s)**

AFFIDAVIT

I, **Kifayatullah Afridi Senior Additional Secretary Provincial Assembly Khyber Pakhtunkhwa**, appellant do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge, belief and nothing has been concealed therefrom this Hon'ble Tribunal.



Deponent

12

BEFORE THE SERVICES TRIBUNAL KP, PESHAWAR

Service Appeal No. /2020

Kifayatullah Khan Afridi.....**Appellant**

Versus

The Speaker Provincial Assembly KPK &

Others.....**Respondent(s)**

MEMO OF ADDRESS OF PARTIES

Appellant

Kifayatullah Khan Afridi presently serving as Senior Additional Secretary, Provincial Assembly Khyber Pakhtunkhwa, Peshawar.

Respondent(s)

1. The Speaker Provincial Assembly of Khyber Pakhtunkhwa, Peshawar.
2. The Departmental Promotion Committee through its Secretary Provincial Assembly of Khyber Pakhtunkhwa, Peshawar.
3. Mr. Nasrullah Khan, presently serving as Secretary Provincial Assembly Khyber Pakhtunkhwa, Peshawar


Appellant

Through


Mian Zakir Hussain

Advocate, Peshawar

Contact # 0331-6757575

To

The Hon'ble Speaker,
Provincial Assembly Khyber Pakhtunkhwa.

THROUGH : PROPER CHANNEL.

Subject:-

REVIEW/REPRESENTATION AGAINST IMPUGNED NOTIFICATION No.PA/KP/Admn:/2019/6027 DATED 03/09/2019 WHEREBY MR. NASRULLAH KHAN SHOWN AS ADDITIONAL SECRETARY BPS-20 PROVINCIAL ASSEMBLY WAS PROMOTED TO THE POST OF SECRETARY BPS-21 DEPRIVING THE UNDERSIGNED OF THE RIGHT OF PROMOTION.

Respected Sir,

Feeling aggrieved by the Notification referred to above wherein Mr. Nasrullah Khan shown as Additional Secretary BPS-20 was promoted to the post of Secretary Provincial Assembly BPS-21 depriving the undersigned from the promotion without any valid justification. (Copy of notification dated 03/09/2019 attached at Annexure "A"). Thus I submit this review/re-presentation with the following submissions:-

1. The undersigned is holding the post of Senior Additional Secretary (BPS-20 regular) Provincial Assembly Khyber Pakhtunkhwa from last ten years (Copy of the promotion as Senior Additional Secretary is attached at Annexure "B") and the senior most officer of the Provincial Assembly Secretariat.
2. The post of Secretary Provincial Assembly fell vacant on the direction of the Supreme Court dated 31-07-2019 It was the Service Tribunal, who had set-aside the appointment of Mr. Nasrullah Khan, as Secretary Provincial Assembly; declaring him to be the junior officer of the Assembly Secretariat. (copy of the judgment of the Service Tribunal is attached at annexure "C").
3. On directions of the Apex Court Departmental Promotion/Recruitment Committee was constituted and simultaneously Mr. Nasrullah Khan was again promoted as Secretary Provincial to the discredit of my person and in violation of the Judgment of the Service Tribunal as well as the directions of the Supreme Court of Pakistan. (Copy of the Order(s) of the Supreme Court of Pakistan are annexed as Annexure "D")
4. Even otherwise; I was found eligible by the Service Tribunal Khyber Pakhtunkhwa vide its Judgment Dated 10.12.2018; but the Hon'ble Members of the Departmental Promotion/Recruitment Committee having failed to appreciate the same in line with the

810
SECRETARY OF KHYBER PAKHTUNKHWA
PROVINCIAL ASSEMBLY

30-09-2019

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AC

dicta laid down by the Hon'ble Tribunal and the Supreme Court of Pakistan.

5. It is important to note; that the undersigned after having applied for the requisite documents i.e. Minutes of the Meeting Dated 02.09.2019; the said were refused for oblique purposes, defeating transparency/translucency; disfavouing the undersigned, which requires interference on your part.
6. On account of non-provision of the required minutes of the meeting; the undersigned is hindered thereto from raising necessary objections.as such the same is brought to your kind attention and necessary action.
7. The criteria of promotion/transfer specified for the post of Secretary, is seniority cum fitness. The undersigned being the senior most in the cadre was required to be promoted as Secretary but was deprived of due right of promotion without justified reason.
8. That the undersigned is entitled for promotion as Secretary BPS-21 on the basis of my clean service record and seniority over Mr. Nasrullah Khan by reversal of latter's promotion order challenged here in this review petition.
9. The undersigned is filling the departmental Appeal under protest and as such would be availing remedies available under the law.

In light of the submissions stated above it is humbly prayed that your honor may kindly review/reconsider Notification No. PA/KP/Admp:/2019/6027 DATED 03/09/2019_in the interest of justice and fair play.

I further pray that the above Notification may kindly be withdrawn and the petitioner be promoted as Secretary BPS-21.

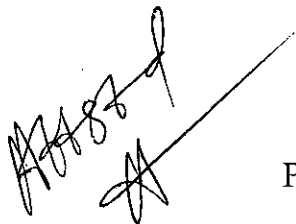
Yours faithfully,



(Kifayatullah Khan Afridi)
Senior Additional Secretary,

Provincial Assembly of Khyber Pakhtunkhwa

30/9/2019.



PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

MINUTES OF THE MEETING

A meeting of the Departmental Promotion/Recruitment Committee No.1 was held on 02-09-2019 at 11:00 AM under the Chairmanship of Mr. Babar Saleem Swati, MPA to consider promotion against the vacant post of Secretary Provincial Assembly of Khyber Pakhtunkhwa.

The following attended the meeting:-

- | | | |
|------|---|-----------------------|
| i. | Mr. Muhammad Zahoor,
MPA. | Member |
| ii. | Mr. Laiq Muhammad Khan,
MPA. | Member |
| iii. | Mr. Wakil Khan
Deputy Secretary (Admn) | Member-cum- Secretary |

2. The meeting commenced with the recitation of Holy Quran.

Background

3. Articles 87(3) and 127 of the Constitution of Pakistan provides that matters related to recruitment and conditions of service of assembly secretariat will be regulated through a law. However, pending enactment of such a law, the Speaker may frame Rules with approval of President/Governor for this purpose. In the case of this province, Recruitment Rules 1974 have already been framed. Hence, the Rules provide the **only valid and authoritative instrument** to regulate the matter. To provide for left over matters, Rule 12 and 15 provide that rules framed by the provincial secretariat or, in case provincial rules are not available, order of the speaker will be followed. Recruitment Criteria 2007 framed by the Assembly Secretariat, additionally provides for some of these matters

4. The post of Secretary (BS-21) has fallen vacant due to the retirement of Mr. Amanullah Khan. According to the Rule 6 of Recruitment Rules, in the case of selection posts, the post is to be filled on the basis of **selection on merit**. Selection posts have been defined in Government of Pakistan Revision of Promotion Policy of 2007 as those in scale 20 and above. Further, Recruitment Policy 2007 provides that the post is to be filled from Additional and Senior Additional secretaries having requisite length of service.

5. The officers in the panel for consideration have been in cross litigation for a long time right upto the highest court. However, it has been noted that the latest court judgment of the Supreme Court dated 31st July 2019 laid down that Mr. Kifayat Ullah Khan should be given Acting Charge of the post of secretary as assured by the opposite Counsel and DPC should be reconstituted to consider the promotion case afresh.

6. The former direction has already been complied in 2019 and the remaining, by the reconstituted DPC when it finalizes its recommendations.

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Handwritten notes "66 to 68" on the right margin.

Handwritten note "all DPs" with a circle around "iii" in the list of attendees.

Proceedings

7. The committee considered the following panel of 3 senior most officers out of the Final Seniority List of 5 Additional and Senior Additional secretaries:

Seniority Position	Name
1	Mr. Kifayatullah Khan, S. Additional Secretary BS-20
2	Mr. Nasrullah Khan, Additional Secretary BS-20
3	Mr. Amjad Ali, Additional Secretary BS-20

Personnel Grade

8. The Committee considered the following record in respect of the above officers:

- a. Working Paper for Promotion
- b. Final Seniority List of Additional Secretaries and S. Additional Secretaries
- c. PER dossier

9. The committee interviewed panel officers to assess their overall personality. At first instance candidates in panel were called one by one to provide them ample opportunity to share their versions of their achievements right from their induction in the Assembly Secretariat service to the present stage. The exercise apprised the Committee of various aspects of their service history and achievements while posted on different assignments.

10. The Committee also analyzed fitness of the panel officers for the post of Secretary in the following areas.

- a. Administrative capabilities.
- b. Desk Jobs.
- c. Role and Quality of output in legislative and Committees' Business.
- d. Crisis Situation Handling.
- e. Interpersonal relationship with parliamentarians to enable them perform successfully.
- f. Rendering opinion and advice to Hon. Speaker whenever required.

Findings

11. The committee after going through the record finds that all panel officers have laid down length of service and qualification, good PER

12. In view of the legal position explained in Background section, seniority is not the crucial factor for promotion against selection posts and merit alone is to be considered for comparing officers. Hence, the comparative merit position of some of the relevant factors of panel officers is as under:

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	<u>Mr. Kifayat Ullah Khan</u>	<u>Mr. Nasrullah Khan</u>	<u>Mr. Amjad Ali</u>
Academic level	BA/LLB	MA (International Relations)	MSc (Chemistry)
Experience of assembly work	Worked in Legislation and PAC branches	Worked in Legislation, Administration, Finance & Accounts, PAC branches, and round the clock security wing.	Worked in PAC, Administration and Legislation
Experience of acting as Secretary Assembly	165 days <i>How long have you served?</i>	657 days <i>never assumed the post</i>	---
Major Achievements	---	E- Parliament initiative Digital filing system Establishment of Media Center, Women Caucus Resource Center Equalization of employees perks and privileges with parliament and other provincial assemblies. Capacity building trainings of parliamentarians inland and abroad Construction of multipurpose underground exclusive parking for different stakeholders and a spacious cafeteria	Strengthening of PAC

13 The committee noted that the post of Secretary is a top position of the cadre and is both a supervisory and policy formulation position of the secretariat. It is expected that incumbents of this post have a breadth of well-rounded experience of the entire spectrum of work of the secretariat. The incumbent, in our view, should have in addition, analytical and policy formulation skills, emotional maturity and experience of working under tough conditions to successfully cope with the highest level of expectations demanded from this position.

Conclusion

14 In view of the above, we find that without belittling the capabilities of the officers at the top and bottom position of the panel, Mr. Nasrullah Khan has a far superior merit viewed from different perspectives as detailed in the comparative table aforementioned.

Amjad Ali

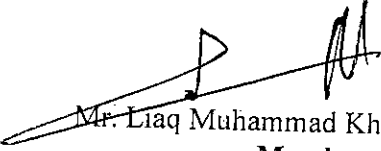
Recommendation

15.

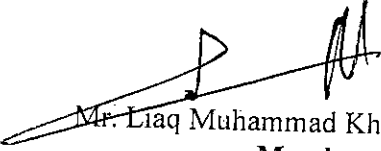
- A. In view of the foregoing, the committee unanimously recommends Mr. Nasrullah Khan, for promotion against the post of Secretary on regular basis.
- B. Mr. Kifayat Ullah Khan is not recommended for promotion. He is accordingly recommended for supersession.
- C. Mr. Amjad Ali Khan is not recommended for promotion.

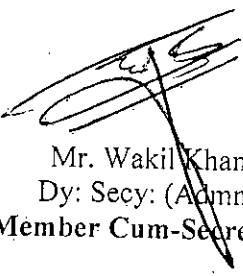

 Babar Saleem Swati MPA
 Chairman

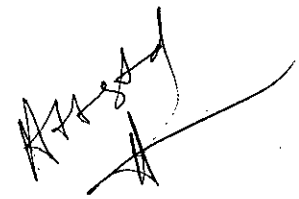
Departmental Promotion/Recruitment Committee No-I

03-09-2019


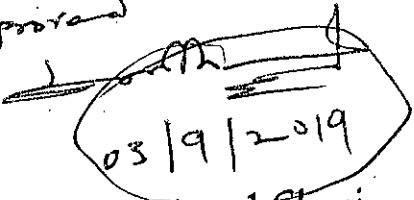

 Mr. Muhammad Zahoor MPA
 Member


 Mr. Liaq Muhammad Khan MPA
 Member


 Mr. Wakil Khan
 Dy: Secy: (Admn)
 Member Cum-Secretary



Approved


 03/9/2019
 Mushtaq Ahmad Ghani
 Speaker
 hyber Pakhtunkhwa Assembly

(19)

Annex A-2

PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 03/09/2019.

NO.PA./KP/Admn:/2019/ 6027 On the recommendation of Departmental Promotion/Recruitment Committee No.I and in exercise of the powers conferred on him by Rule-10 read with Rule-6 of the Khyber Pakhtunkhwa Provincial Assembly Secretariat (Recruitment) Rules, 1974, Mr. Speaker has been pleased to promote Mr. Nasrullah Khan, Additional Secretary BPS-20 of the Provincial Assembly Secretariat of Khyber Pakhtunkhwa, against the vacant post of Secretary (BPS-21) with immediate effect.

BY ORDER OF MR. SPEAKER

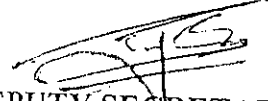
Sd/-
ADDITIONAL SECRETARY (ADMN)
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

E.NO.PA/K.P/Admn:/2019/ 6028-37 Dated 03/09/2019.

Copy of the above is forwarded for information and necessary action to: -

- 1 All the Administrative Secretaries to Govt of Khyber Pakhtunkhwa, Peshawar.
- 2 The officer concerned.
- 3 The Secretary to Mr. Speaker, Provincial Assembly of Khyber Pakhtunkhwa.
- 4 All Heads of Attached Departments, Khyber Pakhtunkhwa.
- 5 The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 6 The Director (Finance & Accounts), Provincial Assembly of Khyber Pakhtunkhwa.
- 7 The Manager, Government Printing Press, Peshawar, for publication in the next issue of Government Gazette.
- 8 The PS to Deputy Speaker, Provincial Assembly of Khyber Pakhtunkhwa.
- 9 Pay Bill Clerk, Provincial Assembly of Khyber Pakhtunkhwa.
- 10 Personal file of the officer concerned.

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DEPUTY SECRETARY (ADMN)
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 23/11

No. PA/NWFP/Admn: 92/22835 - As ~~directed~~ ^{ordered} by Mr. Speaker, Mr. Kifayatullah Khan Afridi S/O Amanullah Khan Afridi of FR Kohat, is hereby appointed as Assistant Secretary (PAC) in BPS NO. 17, on purely temporary basis, from the date of assumption of his charge, with usual allowance as admissible under the rules on the following terms and conditions :-

- 1- His employment in this Secretariat is purely temporary and his services are liable to be terminated without assigning any reason at 14 days notice or on payment of 14 days salary, in lieu of the notice period.
- 2- In case he wishes to resign he will be required to give 14 days notice or deposit 14 days salary in lieu thereof.
- 3- He will be governed by such rules and orders relating to leave, travelling allowance, medical attendance, pay etc., as may be issued by the Government for the category of Government servants to which he belongs.
- 4- He will be governed by the NWFP Provincial Assembly Secretariat Recruitment Rules, 1974 and such other orders issued from time to time as are made applicable to the staff of this Secretariat.
- 5- He will produce medical fitness certificate from the Standing Medical Board. He will also produce original certificates in connection with qualification besides domicile, character, and antecedents, health and age certificates as required under the rules.
- 6- He will join duty as his own expense.

BY ORDER OF MR. SPEAKER.

(ABBUL HAMEED KHATTAK)
Secretary,

Provincial Assembly of N.W.F.P.

Endst: NO. PA/NWFP/Admn: 92/22836-41 Dated 23/11/1992.

Copy of the above is forwarded for information and necessary action to :-

- 1- The Accountant-General, NWFP, Peshawar.
- 2- The Director, Health Services, NWFP, Peshawar.
- 3- The Manager Government Printing Press, Peshawar, for publication in the next issue of Govt. Gazette.
- 4- Mr. Kifayatullah Khan Afridi, Vill: 8 P.O. Babri Banda Distt: Kohat.
- 5- The Superintendent (Budget & Accounts) Provincial Assembly of N.W.F.P.
- 6- Personal file of the officer concerned.

Secretary,

Provincial Assembly of N.W.F.P.

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To,

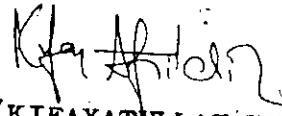
The Secretary,
Provincial Assembly of N.W.F.P.

Subject:- ARRIVAL REPORT

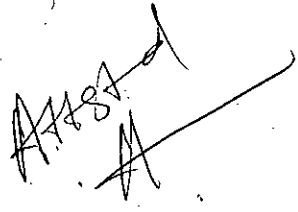
Sir,

In pursuance of your Notification
No.PA/NWFP/Admn:/92/22835 dated 23-11-1992, I beg
to submit my arrival report for duty as Assistant
Secretary in.B.P.S. No. 17 on the fore-noon of
23-11-1992.

Your obedient servant,



Dated 23/11/1992 (F.N.). (KIFAYATULLAH KHAN AFRIDI)
Assistant Secretary,
Provincial Assembly of N.W.F.P.



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NOTIFICATION.

No.PA/NWFP/Admn:197/1020

Dated Peshawar the 12/2/97

On the recommendation of Departmental Promotion/Recruitment Committee and in exercise of the powers conferred on him by Rule 10 read with rule 6 of the North West Frontier Province Provincial Assembly Secretariat (Recruitment) Rules, 1974, Mr.Speaker has been pleased to promote the following Assistant Secretaries BPS 17 to the posts of Deputy Secretary BPS 18 with immediate effect.

- 1. Mr.Aqil Ahmad.
- 2. Mr.Kifayatullah.

BY ORDER OF MR.SPEAKER.

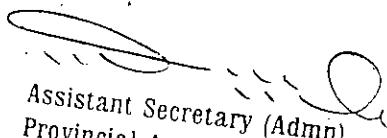
(ABDUL HAMEED KHATTAK)
SECRETARY,
PROVINCIAL ASSEMBLY OF NWFP.

Endst No.PA/NWFP/ADMN:197/1021-87

Dated Pesh.the 12/2/97

Copy of the above is forwarded for information and necessary action to:

- 1. All Administrative Secretaries to Govt.of NWFP.
- 2. All Heads of attached departments in NWFP.
- 3. The Accountant General, NWFP.
- 4. The officers concerned.
- 5. The Manager, Government Printing Press Peshawar for publication in the next issue of govt gazette.
- 6. The Assistant Secretaries Admn/Accounts, Provl.Assembly of NWFP.
- 7. Personal File of the officer concerned.


Assistant Secretary (Admn)
Provincial Assembly of NWFP.

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PROVINCIAL ASSEMBLY OF N.W.F.P.


NOTIFICATION

Dated Peshawar, the 15/2/1997.

NO. PA/NWFP/Admn: /97/ 1590 Mr. Speaker has been pleased to place the Deputy Secretaries of Provincial Assembly of N.W.F.P., against the posts noted against their names and allot them numbers in order of seniority to facilitate smooth running of office routine work, as under:-

<u>S.NO.</u>	<u>NAME OF THE INCUMBENT.</u>	<u>POST SPECIFIED IN SCHEDULE I AND II APPENDED TO THE RULES.</u>	<u>NUMBER.</u>
	<u>1</u>	<u>2</u>	<u>3</u>
1-	Mr. Amanullah.	Permanent	Deputy Secretary-I
2-	Mr. Javed Latif.	Temporary	Deputy Secretary-II
3-	Mr. Aqil Ahmad.	Temporary	Deputy Secretary-III
4-	Mr. Kifayat ullah Khan Afridi.	Temporary	Deputy Secretary-IV

BY ORDER OF MR. SPEAKER.


(ABDUL HAMEED KHATTAK)
SECRETARY

PROVINCIAL ASSEMBLY OF NWFP.

E.NO. PA/NWFP/Admn: /97/ 1591-94 Dated Peshawar, the 15/2/1997.

Copy of the above is forwarded for information and necessary action:-

- 1- The Accountant General, NWFP, Peshawar.
- 2- The Manager, Government Printing Press, Peshawar, for publication in the next issue of Govt. Gazette.
- 3- The Officers Concerned.
- 4- Personal file of the Officers concerned.

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SECRETARY
PROVINCIAL ASSEMBLY OF NWFP

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PROVINCIAL ASSEMBLY OF N.W.F.P.

PROVINCIAL ASSEMBLY OF N.-W.F.P.

NOTIFICATION

Dated Peshawar, the 12/03/2007

PA/NWFP/Admn./2007/ 5057 Mr. Speaker, on the recommendations of the Departmental Promotion/Recruitment Committee No.1 is pleased to promote the following officers of the Provincial Assembly Secretariat of NWFP to the posts noted below each with immediate effect:-

NO. NAME AND DESIGNATION

PROMOTED AS

Mr. Amanullah,
Additional Secretary (BPS-19)

Senior Additional Secretary (BPS-20)

Mr. Kifayatullah Khan Afridi,
Deputy Secretary (BPS-18)

Additional Secretary (BPS-19)

Mr. Inamullah Khan,
Assistant Secretary (BPS-17)

Deputy Secretary (BPS-18).

By order of Mr. Speaker

[Signature]
Secretary

Provincial Assembly of NWFP.

PA/NWFP/Admn./2007/ 5058-86

Dated 12/03/2007.

Copy of the above is forwarded for information to:-

1. All the Administrative Secretaries to Government of NWFP.
2. The Accountant General, NWFP, Peshawar.
3. The Manger, Govt. Printing Press, Peshawar, for publication in the next issue of Govt. Gazette. He is requested to supply three copies of the gazette to this Secretariat.
4. The Deputy Director, (Finance & Accounts), Provincial Assembly of NWFP.
5. The Officers concerned.
6. The Budget Officer IV, Government of NWFP, Finance Department.
7. Pay Bill Clerk, Provincial Assembly of NWFP.
8. Personal files of the Officers concerned.

[Signature]
Deputy Secretary (Admn),
Provincial Assembly of NWFP.

[Handwritten marks]

(25) **NOTIFICATION.** 42 Annexure "E"

Dated Peshawar, the 18/04/2007.

NO.PA/NWFP/Admn:/2007/ 7512 In supersession of this Secretariat Notification No. PA/NWFP/Admn:/2006/15515 dated 14/06/2006, the Competent Authority has been pleased to place the Additional Secretaries, Deputy Secretaries and Assistant Secretaries of the Provincial Assembly of NWFP, against the posts noted against their names and allot them numbers in order of seniority to facilitate for smooth running of office routine work, as under:-

S. No	NAME OF OFFICER	POST SPECIFIED IN SHEDULE I & II APPENDED TO THE RULES	NUMBER AS ALLOTTED
1.	Mr. Javed Latif	Permanent	Additional Secretary-I
2.	Mr. Kifayatullah Khan Afridi	Temporary	Additional Secretary-II
3.	Mr. Ghulam Sarwar	Permanent	Deputy secretary-I
4.	Mr. Nasrullah Khan khattak	Permanent	Deputy Secretary-II
5.	Mr. Zahoor Ahmad	Permanent	Deputy Secretary-III
6.	Mr. Amjad Ali	Permanent	Deputy Secretary-IV
7.	Mr. Dost Muhammad	Temporary	Deputy Secretary-V
8.	Mr. Inamullah Khan	Temporary	Deputy Secretary-VI
9.	Mr. Ghufrannullah	Permanent	Assistant Secretary-I
10.	Syed Muhammad Mahir	Permanent	Assistant Secretary-II
11.	Mr. Mumtaz Ahmad	Permanent	Assistant Secretary-III
12.	Mr. Mirza Khan	Permanent	Assistant Secretary-IV
13.	Mian Altaf-ur-Rehman	Permanent	Assistant Secretary-V
14.	Mr. Allaudin	Permanent	Assistant Secretary-VI
15.	Mr. Hidayatullah	Permanent	Assistant Secretary-VII
16.	Mr. Ashtamand	Permanent	Assistant Secretary-VIII
17.	Mr. Naeemullah Khan	Permanent	Assistant Secretary-IX
18.	Mr. Wakil Khan	Permanent	Assistant Secretary-X
19.	Mr. Muhammad Younas	Permanent	Assistant Secretary-XI
20.	Mr. Munir Raza	Temporary	Assistant Secretary-XII
21.	Mr. Tariq Mehmood	Temporary	Assistant Secretary-XIII

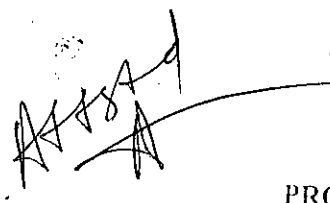

SECRETARY

PROVINCIAL ASSEMBLY OF N.W.F.P.

E.NO.PA/NWFP/Admn:/2007/ 7513-20 Dated Peshawar, the 18/04/2007.

Copy of the above is forwarded for information and necessary action to:-

1. The Accountant General, NWFP, Peshawar.
2. The Officers Concerned.
3. The PS to Mr. Speaker for information of Honourable Speaker.
4. The PS to Deputy Speaker, Provincial Assembly of N.W.F.P
5. The Manager, Government Printing and Stationery Department, NWFP, Peshawar.
6. The PS to Secretary for information of Secretary, Provincial Assembly of N.W.F.P.
7. The P.S to Senior Additional Secretary for information of Senior Additional Secretary, Provincial Assembly of NWFP.
8. Personal files of the officers concerned..


ASSISTANT SECRETARY
PROVINCIAL ASSEMBLY OF N.W.F.P.

(26) 13 13

PROVINCIAL ASSEMBLY OF N.W.F.P

NOTIFICATION

Dated Peshawar, the 20/10/2007.

No.PA/NWFP/Admn:/2007/ 29502 In supersession of this Secretariat Notification
No. PA/NWFP/Admn:/2007/7512 dated 18/04/2007, the Competent Authority has been pleased to
place the Additional Secretaries, Deputy Secretaries and Assistant Secretaries of the Provincial
Assembly Secretariat of NWFP, against the posts noted against their names and allot them
numbers in order of seniority to facilitate for smooth running of office routine work, as under:-

S. No	NAME OF OFFICER	POST SPECIFIED IN SHEDULE I & II APPENDED TO THE RULES	NUMBER AS ALLOTTED
1.	Mr. Javed Latif	Permanent	Additional Secretary-I
2.	Mr. Kifayatullah Khan Afridi	Temporary	Additional Secretary-II
3.	Mr. Nasrullah Khan Khattak	Temporary	Additional Secretary-III
4.	Mr. Ghulam Sarwar	Permanent	Deputy secretary-I
5.	Mr. Zahoor Ahmad	Permanent	Deputy Secretary-II
6.	Mr. Amjad Ali	Permanent	Deputy Secretary-III
7.	Mr. Dost Muhammad	Permanent	Deputy Secretary-IV
8.	Mr. Inamullah Khan	Temporary	Deputy Secretary-V
9.	Mr. Ghufuranullah	Temporary	Deputy Secretary-VI
10.	Syed Muhammad Mahir	Permanent	Assistant Secretary-I
11.	Mr. Mumtaz Ahmad	Permanent	Assistant Secretary-II
12.	Mr. Mirza Khan	Permanent	Assistant Secretary-III
13.	Mian Altaf-ur Rehman	Permanent	Assistant Secretary-IV
14.	Mr. Allaudin	Permanent	Assistant Secretary-V
15.	Mr. Hidayatullah	Permanent	Assistant Secretary-VI
16.	Mr. Ashtamand	Permanent	Assistant Secretary-VII
17.	Mr. Naeemullah Khan	Permanent	Assistant Secretary-VIII
18.	Mr. Wakil Khan	Permanent	Assistant Secretary-IX
19.	Mr. Muhammad Younas	Permanent	Assistant Secretary-X
20.	Mr. Tariq Mehmood	Permanent	Assistant Secretary-XI
21.	Mr. Khalid Shaheen	Temporary	Assistant Secretary-XII
22.	Mr. Tariqullah	Temporary	Assistant Secretary-XIII

7.7.11
SECRETARY
PROVINCIAL ASSEMBLY OF N.W.F.P

E.NO.PA/NWFP/Admn:/2007/ 29503-29 Dated Peshawar, the 20/10/2007.

Copy of the above is forwarded for information to: -

1. The Officers Concerned.
 2. The PS to Mr. Speaker for information of Honourable Speaker.
 3. The PS to Deputy Speaker, Provincial Assembly of N.W.F.P
 4. The PS to Secretary for information of Secretary, Provincial Assembly of N.W.F.P.
 5. The P.S to Senior Additional Secretary, for information of Senior Additional Secretary,
Provincial Assembly of NWFP.
 6. Personal files of the officers concerned.
- ASST
A

(27)

PROVINCIAL ASSEMBLY OF N.-W.F.P

NOTIFICATION

Dated Peshawar, the 1 /10/2009.

No.PA/NWFP/Admn:/2009/ 35165 On the recommendation of Departmental Promotion/Recruitment Committee No.1 and exercise of the Power conferred on him by Rule 10 read with Rule 6 of the North-West Frontier Province, Provincial Assembly Secretariat (Recruitment) Rules, 1974, Mr. Speaker has been pleased to promote the following officers of the Provincial Assembly Secretariat of NWFP, against the posts as mentioned against each, with immediate effect :-

S.No.	Name with Designation & BPS No.	Post against which promoted
1.	Mr. Amanullah, Senior Additional Secretary (BPS-20)	Secretary (BPS-21)
2.	Mr. Javed Latif, Additional Secretary (BPS-19)	Special Secretary (BPS-20)
3.	Mr. Kifayatullah Khan Afridi, Additional Secretary (BPS-19)	Senior Additional Secretary (BPS-20)
4.	Mr. Ghulam Sarwar, Deputy Secretary (BPS-18)	Additional Secretary (BPS-19)
5.	Mr. Amjad Ali, Deputy Secretary (BPS-18)	Additional Secretary (BPS-19)
6.	Syed Muhammad Mahir, Assistant Secretary (BPS-17)	Deputy Secretary (BPS-18)
7.	Mr. Mumtaz Ahmad, Assistant Secretary (BPS-17)	Deputy Secretary (BPS-18)
8.	Mr. Mirza Khan, Assistant Secretary (BPS-17)	Deputy Secretary (BPS-18)
9.	Mr. Abdul Majeed, Superintendent (BPS-16)	Assistant Secretary (BPS-17)
10.	Mr. Abdul Wahab, Superintendent (BPS-16)	Assistant Secretary (BPS-17)

BY ORDER OF THE SPEAKER

-SD-
SECRETARY

PROVINCIAL ASSEMBLY OF NWFP




E.No.PA/NWFP/Admn:/2009/ 35166-236 Dated 1 /10/2009.

Copy of the above is forwarded for information and necessary action to :-

1. All the Administrative Secretaries to Govt of NWFP.
2. All the Officers concerned.
3. All the Heads of Attached Departments in NWFP.
4. The Accountant General, NWFP, Peshawar.
5. The Manager, Govt Printing Press, Peshawar, for publication in the next issue of Government Gazette.
6. The Superintendent (Budget & Accounts), Provincial Assembly of NWFP.
7. Personal files of the officers concerned.

ASSISTANT SECRETARY (Admn:)

28

تعداد 50 روپے	25027	  
ایڈویکیٹ:	بار کونسل / ایسوسی ایشن نمبر:	
رابطہ نمبر:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب:

منجانب: کفایت اللہ امرتسر	دعوی:
کفایت اللہ امرتسر	علت نمبر:
ہیکسٹر لٹریچر بنام	مورخہ:
اسمعیلی و حیدرہ	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام _____ کیلئے _____ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 28.1.2020

_____ گواہ شد _____

مقام _____

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR

CM No. /2020

IN RE:-

Service Appeal No. 937/2020

Kifayatullah Khan Afridi.....**Appellant**

Versus

The Speaker Provincial Assembly KPK &

Others.....**Respondent(s)**

APPLICATION FOR TEMPORARY INJUNCTION

RESPECTFULLY SHEWETH,

1. That the titled case is pending adjudication before the Hon'ble Court.
2. That prima facie it is an apt case for grant of injunction, while keeping at sight the facts and circumstances available on the case file.
3. That the contents of the appeal may please be read as integral part of the instant application.
4. That balance of convenience lies in favor of the appellant enabling him to seek injunction against the respondent(s).
5. That denial of injunction to the appellant would further aggravate his agonies in shape of irreparable loss.

It is therefore humbly prayed and submitted before this Hon'ble Court that the application for grant of injunction be

accepted by restraining the respondent(s) from taking adverse action against the appellant till disposal of the case.

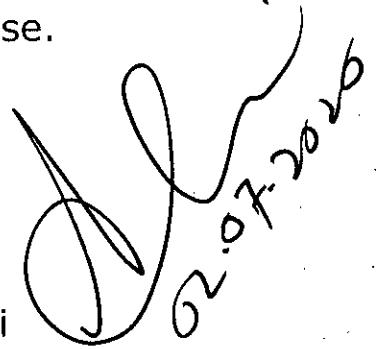
Appellant

Through

Ali Azim Afridi

Advocate High Court

Contact # 0333-9555000

Handwritten signature and date: 02.07.2020

BEFORE THE SERVICE TRIBUNAL KP, PESHAWAR

CM No. /2020

IN RE:-

Service Appeal No. /2020

Kifayatullah Khan Afridi.....**Appellant**

Versus

The Speaker Provincial Assembly KPK &

Others.....**Respondent(s)**

**APPLICATION FOR SEEKING RECORD TO BE MADE
AVAILABLE BEFORE THE HON'BLE COURT**

RESPECTFULLY SHEWETH,

1. That the titled case is pending adjudication before the Hon'ble Court.
2. That the Hon'ble Court Tribunal having decided subject matter pertaining to seniority among the parties in Service Appeal No. 1324/2017 vide Judgment dated 10.12.2018.

It is therefore humbly prayed and submitted that the office may please be directed to make available the record of the afore-mentioned case for securing the ends of justice.

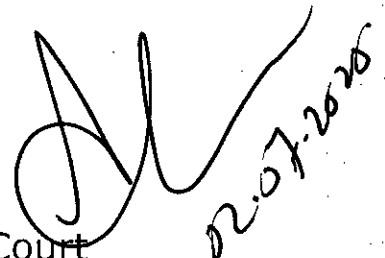
Appellant

Through

Ali Azim Afridi

Advocate High Court

Contact # 0333-9555000


2.07.2020

BEFORE THE SERVICE TRIBUNAL KP. AT PESHAWAR.

In the matter
of

Service Appeal # 937/2020

Kiffayat Ullah Khan VERSUS Speaker Provincial Assembly & others.

**APPLICATION FOR DECIDING THE QUESTIONS OF
LIMITATION AND COMPETENCY OF THE APPEAL AS
PRELIMINARY ISSUE:**

Respectfully Sheweth,


1. That the Respondent No.3 has filed the written statement to the appeal and in the preliminary objections has submitted that the appeal is time-barred and therefore is neither entertainable nor maintainable.
2. That it has also been submitted that the appeal is barred by law as no appeal to the service tribunal can be submitted against the recommendations of the departmental promotion committee as non-selection is not violation of the terms of employment and conditions of service.
3. That the preliminary objections are legal and need to be decided as questions of law.
4. That decision of the preliminary issues either-way shall have effect on the appeal.

It is humbly prayed that the preliminary objections be treated as preliminary issue and decided before touching the merits of the appeal.

31st August, 2020.


RESPONDENT No.3

Through


Qazi Muhammad Anwar
Senior Advocate Supreme Court
Pakistan

1

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

In Service Appeal No.937/2020

Kifayatullah Khan Afridi Versus The Speaker
Provincial Assembly & others

FIXED ON 31.08.2020.

WRITTEN STATEMENT BY RESPONDENT NO.3 NASRULLAH
KHAN, SECRETARY PROVINCIAL ASSEMBLY KHYBER
PAKHTUNKHWA PESHAWAR.

Respectfully Sheweth:-

Respondent No.3 begs to submit the following written statement:-

Preliminary Objections:-

- A) That the appellant has got no cause of action nor any locus standi to file the present appeal.
- B) That working paper for meeting of the DPC No.1 dated 02.09.2019 was prepared under the supervision of the appellant when he was assigned acting charge on the assurance of the learned counsel for the Speaker in the August Supreme Court of Pakistan.
- C) That the decision dated 10.12.2018 of this Tribunal, in Service Appeal No.1324/2017 Kifayatullah Khan Afridi Versus Speaker and others" was challenged in the Supreme Court of Pakistan, and Honorable Supreme Court has already expunged the adverse remarks against the Speaker.
- D) That the appeal is not competent and therefore not maintainable. An appeal is to be submitted to the tribunal constituted under Section 3 of the KP Service Tribunal Act 1974 (Act I of 1974). Such appeal shall be submitted by an aggrieved civil servant within 30 days from the final order and under Section 4(a) a civil Servant shall within 30 days submit an appeal, review or

representation to the departmental authority against order from which he is aggrieved and wait for 90 days for the decision of the appeal, review or representation. If appeal, review or representation is rejected by the departmental authority then prefer appeal to the tribunal within 30 days from such order and if no decision has been communicated by the departmental authority then appeal to the tribunal shall be filed within 30 days from the expiry of the period of 90 days.

In the instant case meeting of the DPC was held on 02.09.2019 for selecting one person as secretary Provincial Assembly from amongst three eligible candidates whose record of service was examined by the DPC and candidates were also personally interviewed. This may be mentioned here that DPC was constituted and the meeting of the DPC was held in compliance with the orders of the Hon'able Supreme Court of Pakistan and at the time of the meeting of DPC appellant Kifayatullah was functioning as Secretary of the Provincial Assembly and permanent Secretary was to be selected. The DPC selected respondent No.3 the answering respondent and submitted its recommendations to the competent authority namely the Speaker of the Provincial Assembly. The Speaker accepted the recommendations and accordingly notification of the promotion of Respondent No.3 as Secretary (BPS-21) KP Provincial Assembly was issued on 03.09.2019 against which appellant submitted appeal /review petition to the competent authority on 30.09.2019 which was within 30 days from the notification dated 03.09.2019. The period of 90 days wait for decision starts from 01.10.2019, calculation of the period is as under:-

October	2019	31 days
November	2019	30 days
December	2019 till 29 th December	29 days

Total:-

90 days

Therefore, the period of 90 days expired on 29th December 2019. The appeal was to be filed within 30 days from 30-12-2019 which expires on 28th January 2020 but no appeal was filed on or before 28th January 2020. The present appeal has been submitted before Tribunal on 12.02.2020, therefore, the same is hit by limitation and has been filed 14 days after prescribed period. There is no application for condonation of delay and nor there is any explanation of each day beyond the prescribed limit as to who and what circumstances prevented appellant from invoking jurisdiction of service tribunal, therefore, under Section 5 of the Limitation Act the appeal cannot proceed further being time barred.

E) That the appeal is barred by law. A civil servant by law is prevented from filing an appeal before Tribunal against his non selection. Under the law a civil servant has the Right to be considered for promotion by the selection committee on the basis of seniority cum fitness and once considered by the selection committee his Right has been satisfied. Under Section 4 (b) of the KP Service Tribunal Act no appeal shall lie to the Tribunal against an order or decision of DPC determining the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade. In the present appeal the appellant has come against the decision of DPC where he was considered alongwith two others but not selected. Non selection is not violation of terms and conditions of service. The law has barred appeal against non selection therefore the present appeal is not competent.

F. The present appeal is against the decision of the DPC alleging that the decision of the DPC not selecting appellant for promotion to the post of Secretary BPS-21 is malafide. Under the law malafide/malice has two types, Malafide in law or malafide by facts. DPC was composed of 4 members of the Provincial Assembly who had no like and dislike and even in the appeal the appellant has not disclosed malafide of the members of the DPC against him.

Since preliminary objections are based on Section 4 of the Tribunal Act, therefore, Tribunal may so kindly decide preliminary objections in the interest of justice and fairness.

ON FACTS:-

1. Para 1 needs no reply.
2. Para 2 is admitted to the extent that under the orders of the Supreme Court of Pakistan dated 02.07.2019 in CP No.354/2019 DPC was constituted for selecting Secretary of the Provincial Assembly. Meeting of the DPC was held on 02.09.2019 and DPC selected respondent NO.3. as secretary of Assembly.

It is submitted that appellant has not mentioned in his appeal the proceedings in the Supreme Court of Pakistan. In fact decision of the Service Tribunal dated 10.12.2018 in Service Appeal o.1324/2017 Kifayatullah Versus Speaker and others was challenged by the Hon'able Speaker and Secretary of the Provincial Assembly in two separate appeals before Supreme Court. In CP No.354/2019 vide order dated 2.7.2019 learned counsel for respondent No.3 the petitioner stated that the matter of promotion to the secretary may be placed before the DPC for consideration in due course, which may decide the matter in accordance with law uninfluenced by any extraneous observations made in the impugned judgement by the learned service tribunal, was request was allowed.

IN CP No.120-P/2019 vide para 2 of the order dated 31.7.2019 learned counsel for the Speaker assured that the direction given in the judgement of Service Tribunal regarding notification dated 30.8.2018 shall be implemented forthwith. He also assured that as envisaged in order dated 2.7.2019 a fresh Departmental Promotion Committee is being constituted to consider the matter of promotion to the post of Secretary strictly in accordance with law and on the basis of relevant criteria.

Apart from above, vide order dated 26.09.2019 of the Supreme Court in CP No.120/2018, adverse remarks recorded in the decision dated 10.12.2018 of the Hon'able Service Tribunal were also expunged therefore, in compliance of the aforesaid orders Mr. Kifayatullah Khan was given an acting charge and order dated 30.08.2018 was restored, vide Provincial Assembly Notification dated 21.08.2019. Working paper for the meeting of the DPC No.1 dated 02.09.2019 was prepared under supervision of appellant. The committee was reconstituted vide notification dated 21.08.2019 wherein appellant was also considered from amongst the panel of three senior most officers. It was concluded by the committee that respondent No.3 has far superior merit viewed from different perspectives as mentioned in the comparative table of the working paper. Therefore, keeping in view those factors, the committee unanimously recommended him for promotion against the post of Secretary on regular basis. The same has been submitted in the august Supreme Court of Pakistan as compliance report.

Not satisfied from the above mentioned orders of the supreme court and later on process made by the Secretariat in light of those orders, the appellant then filed Criminal Original petition No.181/2019 against the order dated 31.07.2019 of the Supreme Court passed in C.P No.120-P/2019 which was also dismissed on 13.04.2020.

3. Para 3 as drafted is not correct. It is submitted that appellant was appointed on 23.11.1992 as Assistant Secretary but ostensibly Rule 8 of the Provincial Assembly Recruitment Rules, 1974 has been violated. To elaborate it further, the appellant filed an application regarding his appointment on 22.11.1992 and on the next dated i.e 23.11.1992 he was appointed as Assistant Secretary, while Rule 8 of Provincial Assembly Recruitment Rules 1974, provides that appointment by direct recruitment to posts in Grade No.17 and above shall be made upon the recommendations of a selection committee,

consisting of not less than three members to be constituted by the Speaker. Apart from above, appellant was also granted relaxation in upper age limit of 2 years 5 months and 12 days with effect from 23.11.1992 vide order dated 3.2.1993. The appellant got his police clearance certificate on 25.2.1993 and medical examination on 30.12.1992. All these irregularities have been challenged in the Hon'able Peshawar High Court in W.P No.1847/2019 Shahid Mehmood Versus Kifayatullah and Others, which is still pending.

4. Para 4 as drafted is misconceived. It is submitted that age of the appellant was also short for few months of 5 years mandatory service in BPS-17 when he was promoted to the post of Deputy Secretary BPS-18 on 11.02.1997.

5-7. It may be mentioned that it has been repeatedly held by the Supreme Court that seniority is not sole factor for consideration of a civil servant for promotion. If seniority was the only factor then the word "fitness" would become irrelevant and meaningless. Seniority gives a senior civil servant the Right to be considered for promotion, meaning thereby that seniority only creates eligibility and not Right to be promoted. It is because of his eligibility that he was one of the three persons considered by the DPC.

8-9. Para 8 & 9 as drafted are misconceived. It is submitted that apart from the appellant others officers were also assigned acting charge of Secretary on various occasions, and it is correct that whenever meeting of DPC No.1 was held regarding promotion to the post of Secretary, the appellant was also considered. He was considered in the first meeting of DPC No.1 dated 11.08.2017 and also in the second meeting of DPC No.1 dated 25.09.2019. In the instant case, appellant has been considered by the DPC in the light of the Supreme Court orders but was found unfit for promotion to the post of Secretary on the grounds of lack of experience in the matters of Provincial Assembly.

10-11. Para 10-11 need no reply.

12. It is submitted that apart from the appellant, respondent NO.3 was also included in the panel of three senior most officers to be considered for promotion to the post of Secretary.

13. It is submitted that respondent No.3 is a senior officer, therefore, his name was also included in the panel of three senior most officers for promotion to the post of Secretary.

14. It is submitted that working paper for the meeting of DPC No.1 dated.02.09.2019 has been prepared under the supervision of appellant when he was assigned acting charge on the assurance given by the learned counsel for respondent No.3 in the Supreme Court of Pakistan. Appellant was also considered by the committee, as his name was included in the panel of senior most officers for the post of Secretary, but it was for the DPC to determine that who is most suitable candidate, which has been thoroughly explained in the minutes of DPC No.1 dated 3.9.2019.

15-17. Para 15-17 as drafted are misconceived. It is submitted previous decisions of this Hon'able Tribunal were challenged before the Supreme Court where the Supreme Court directed that charge of the post of Secretary be given to the appellant and DPC be constituted and Secretary be selected and appointed in accordance with law which has been narrated by the appellant in the starting paras of this appeal and DPC was constituted and meeting of DPC was held on 02.09.2019 and DPC selected respondent No.3 who was notified as Secretary BPS-21 on 3.9.2019 against which the present appeal has been filed.

18. Para 18 as drafted is not correct. There is no strict codified yardstick for determining fitness of a person to be appointed or promoted to a post. It mainly depends on the nature of the job and his efficiency and ability to perform functions of the office to the satisfaction of his superiors. Respondent no.3 is civil servant who has throughout perfumed his functions with devotion and hard work. He has not been favoured by anybody but his devotion, hard work and his commitment to perform his functions to the best of

his ability are to be appreciated by anybody who has a sense of appreciating the best of the best. The principle of best of the best is based on fitness, It is based on performance.

19-21. Para 19 to 21, relate to writ petition 1174/2016, from which these allegations have been copied. Said writ petition is pending before Peshawar High Court which matter is subjudice and cannot be discussed before this Tribunal.

22. Para 22 is misconceived. no adverse entries exist in the ACRs of respondent No.3. Excellent entries in his ACRs and respondent No.3 was recommended for accelerating promotion.

23. Para 23 as drafted is not correct. In fact the stated enquiry was conducted by appellant which demonstrates his hatred for respondent No.3. Appellant wanted that guilt of N/Q be attributed to respondent No.3 for providing POL to the MPAS hostel for which a N/Q was deputed.

24. Para 24 is not correct has been answered above.

25. Para 25 is misconceived. The entire table of events from meeting of DPC till 12.02.2020 when present appeal was filed has been given in para 1 of the preliminary objections which may be read as reply to the para 25.


GROUND:-

A) Ground (A) as drafted is not correct. The recommendations of the DPC are not open to the scrutiny by any forum. A civil servant has the Right to be considered, appellant was considered. Service Tribunal or for that matter any other judicial forum cannot substitute itself as selection committee. The process of selection cannot be interfered unless it is proved that selection was based on favouritism, nepotism or bribe. No malice or malafide has been made out in the appeal. Malafide is not only be alleged but is to be proved.

- B) Ground (B) as drafted is not correct. Notification dated 3.9.2019 is legal, proper and does not suffer from any illegality.
- C) Ground (C) as drafted is not correct. Length of service is not the only criteria for promotion.
- D) Ground (D) as drafted is not correct. There is no question of supersession. The instant selection of respondent No.3 is based on fair selection by the DPC.
- E) Ground (E) as drafted is not correct. Respondent No.3 has experience in legislation, finance and is performing his duties to the best of satisfaction of the Speaker.
- F) Ground (F) as drafted is not correct. It has been answered.
- G) Ground (G) as drafted. The recommendations of the DPC cannot be substituted and therefore such recommendations cannot be scrutinized.
- H) Ground (H) as drafted is misconceived. DPC has performed its functions according to the laid down procedure.
- I) Ground (I) as drafted is incorrect, denied. There is no malafide, no malice. With respect this Tribunal cannot substitute the findings of DPC.
- J) Ground (J) as drafted is not correct. Respondent No.1 has performing his functions under the Constitution of Islamic Republic of Pakistan, the law and the rules. The language used against respondent No.1 is regrettable. *Orders of Supreme court are annexed.*
- It is therefore, prayed that the appeal be dismissed with special costs.


Respondent No.3

Through:-


Qazi Muhammad Anwar
Senior Advocate
Supreme Court of Pakistan

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

In Service Appeal No.937/2020

Kifayatullah Khan Afridi Versus The Speaker
Provincial Assembly & others

VERIFICATION

I, respondent No.3 do here by on oath verify that the contents of the written statement from para 1 to 25 and the grounds are true and correct to the best of my knowledge and belief.

Verified at Peshawar on 31st August 2020.

[Handwritten Signature]

Respondent No.3

17301 3087051-9



31 AUG 2020

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Sh. Azmat Saeed
Mr. Justice Umar Ata Bandial

CIVIL PETITION NO.354 OF 2019 &
CIVIL PETITION NO.120-P OF 2019

(On appeal from the judgment/order dated 10.12.2018
passed by KP Service Tribunal in Appeal No.1324 of 2017)

Nasrullah Khan

... *Petitioner(s)*
(in CP.354 of 2019)

Speaker Provincial Assembly, KP
Peshawar & another

... *Petitioner(s)*
(in CP.120-P of 2019)

VERSUS

Kifayatullah Khan Afridi & others

... *Respondent(s)*
(in both cases)

For the petitioner(s) : Hafiz Arfat Ahmad Ch., ASC.
(in CP.354 of 2019)

For the petitioner(s) : Mr. M. Munir Piracha, ASC.
(in CP.120-P of 2019)

Respondent No.1 : In-person
(in both cases)

On Court's call : Barrister Qasim Wadood,
Addl. AG KPK.

Date of hearing : 02.07.2019.

ORDER

SH. AZMAT SAEED, J. CP.120-P OF 2019. It is

contended by the learned counsel for the petitioner that the observations made and the comments passed by the learned Service Tribunal in the impugned judgment with regard to the petitioner i.e. the Speaker of the Provincial Assembly of KPK, were uncalled for, unnecessary and unsubstantiated by the record.

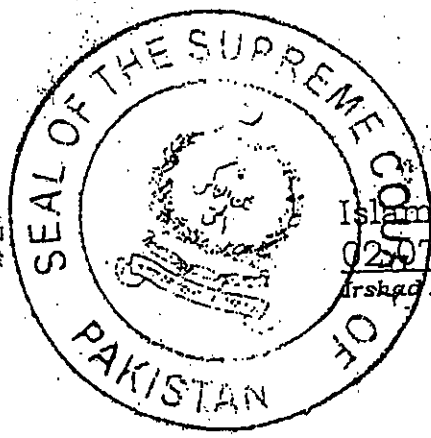
ATTESTED

Court Associate
Court of Pakistan

- 2. Notice to the respondents.
- 3. C.M.A. NO.256-P OF 2019 in CP.120-P of 2019. Notice. Until the next date of hearing, observations made in the impugned judgment against the petitioner shall remain suspended.
- 4. CP.354 OF 2019. We have heard the counsel for the petitioner as well as the respondent in-person so also the learned Additional Advocate General KPK, who appeared on Court call. A consensus has emerged that the learned counsel for the petitioner does not press this petition, however, states that the matter of promotion of respondent No.1 may be placed before the DPC for consideration in due course, which may decide the matter in accordance with law uninfluenced by any extraneous observations made in the impugned judgment by the learned Service Tribunal.
- 5. This petition stands disposed of in the above terms.

Sd/-J
 Sd/-J
 Certified to be True Copy

[Handwritten Signature]
 Court Associate
 Supreme Court of Pakistan
 Islamabad



NOT APPROVED FOR R

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Umar Ata Bandial
Mr. Justice Mazhar Alam Khan Miankhel

Civil Petition No.120-P/2019 and CMA.No.256-P/2019 in
C.P.120-P/2019

(On appeal from the judgment dated 10.12.2018 passed by the KP, Service Tribunal,
Peshawar in Appeal No.1324/17)

Speaker Provincial Assembly, K.P. Peshawar & another

.....Petitioner/Applicant

Versus

Kifayatullah Khan Afridi & another

....Respondents
(In both cases)

For the Petitioner/Applicant: Mr. Muhammad Munir Peracha, ASC

Govt. Of KPK: Barrister Qasim Wadood, Addl.AG-KP


Respondent No:1: In person

Date of Hearing: 31.7.2019

ORDER

Umar Ata Bandial, J.- Learned counsel for the petitioner has addressed arguments on behalf of the learned Speaker, Khyber Pakhtunkhwa Provincial Assembly, ("Speaker PA"). He has referred to uncomplimentary remarks made by the Khyber Pakhtunkhwa-Service Tribunal ("Tribunal") in its impugned judgment dated 10.12.2018 attributing collateral purpose to the orders passed in the present controversy by two previous Speakers-PA. This is done without grant of hearing to the Speaker-PA; and seeks their expunction. He has also apprised that the Speaker-PA has highest respect for orders passed by the Judiciary, that he does not hold any personal view on the merits of the service controversy raised between the private respondents in this petition. We consider that

ATTENDED



Court Associate
Supreme Court of Pakistan
Islamabad

the contents of paragraph No.14 of the impugned judgment by the Tribunal are judgmental and predisposed. However, we would like to read the minutes of the respective Departmental Promotional Committee (DPC) meetings that are relevant to the Tribunal's judgments dated 14.9.2017 and 10.12.2018.

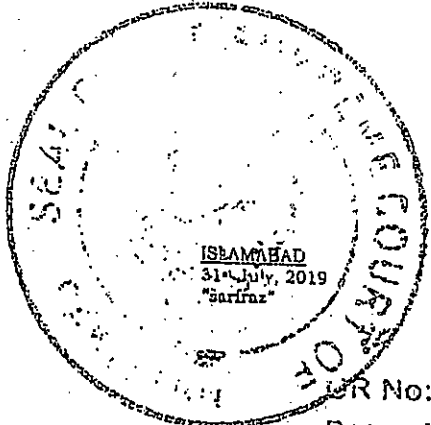
2. On account of the withdrawal of the petition filed by Mr. Nasrullah Khan (C.P.354/2019) as noted in our order dated 2.7.2019, the decision on the merits of the controversy between the private respondents by the impugned judgment dated 10.12.2018 by the Tribunal remains intact. Accordingly, the learned counsel for the Speaker-PA assures that the directions given in the said judgment regarding the notification dated 30.8.2018 shall be implemented forthwith. He also assures that as envisaged in our order dated 2.7.2019, a fresh Departmental Promotional Committee (DPC) is being constituted to consider the matter of promotion to the post of Secretary, Provincial Assembly of KP strictly in accordance with law and on the basis of relevant criteria.

3. In view of the foregoing, let this matter be fixed for hearing in the last week of September, 2019. Adjourned.

Sd/-J
Sd/-J

Certified to be True Copy

Court Associate
Supreme Court of Pakistan
Islamabad



513-P/19

CR No: _____

Date of Presentation: 8.8.19

No of Words: _____

No of Folios: _____

Requisition Fee Rs: _____

Copy Fee in: _____

Court Fee Stamps: _____

Date of Completion of Copy: 15/8/19

Date of delivery of Copy: 17/8/19

Compared by: _____

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT

Mr. Justice Umar Ata Bandial
Mr. Justice Maqbool Baqar
Mr. Justice Faisal Arab

CP No. 120-P/2019 & CMA 809/2019

Speaker Provincial Assembly, KP Peshawar *Petitioner(s)*

Versus

Kifayatullah Khan Afridi & another *Respondent(s)*

For the Petitioner(s) : Mr. Muhammad Munir Paracha,
ASC
Mian Saadullah Jandoli, AOR

For the Respondent(s) : In person (R-1)

For KPK : Mr. Qasim Wadood, Addl. AG

Date of Hearing : 26.09.2019

ORDER

Umar Ata Bandial, J. Learned counsel for the applicant has read from paragraph No. 14 of the impugned judgment dated 10.12.2018 passed by the learned KPST wherein very strong views have been expressed about the serving Speaker of the KPK Assembly as well as his predecessor. It is noted therein that both "the former and the present Speaker etc. have one point agenda to promote cronyism, nepotism and favouritism at the cost of merit, transparency, fairness, equality and justice. It amounts to misuse of official authority and is open to cognizance/judicial scrutiny by the quarters concerned." These remarks have been made because statedly an officer junior to the respondent was promoted and appointed Secretary of the Provincial Assembly. The remarks have derogatory contents and have been recorded without confronting the previous or the present Speakers of the KPK

ATTESTED

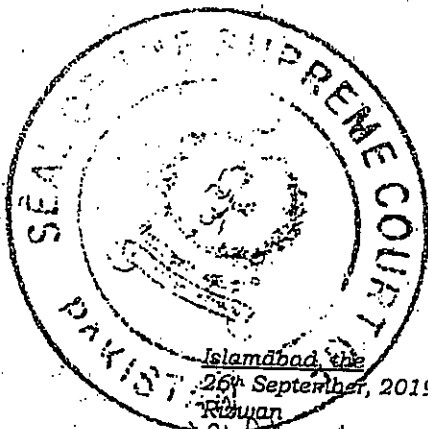
Court Associate
Supreme Court of Pakistan
Islamabad

Assembly with the allegations sustaining the same. This ought to have been done by serving notice in accordance with the rule laid down in the case of Aman Ullah and others vs. The Federal Government of Pakistan thr. Secretary, Ministry of Finance, Islamabad and others (PLD 1990 SC 1092). As a result neither of the said gentlemen was heard before the adverse remarks were recorded against him. Accordingly, the aforesaid remarks are expunged from the impugned judgment. The CMA No. 809/2019 is accordingly disposed of.

2. Learned counsel for the petitioner submits that the petitioner has no interest in the outcome of the service dispute between the civil servants litigating for the post of Secretary of the KPK Assembly. Consequently, he seeks no further relief.

3. Respondent No. 1 present in Court submits that Secretariat of the KPK Assembly has not complied with the direction of the Court issued on 31.07.2019 for a fresh DPC to consider the candidates for promotion in accordance with law. If the respondent has any grievance regarding the non-compliance of the directions issued by this Court he may file appropriate proceedings before the Court. The present petition stands disposed of accordingly.

*Alleged
Harmful*



*Islamabad, the
26th September, 2019
Rizwan*

10/10/19

Sd/-J

Sd/-J

Sd/-J

Certified to be True Copy

*Court Associate
Supreme Court of Pakistan
Islamabad*

C/3 34

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL

MR. JUSTICE QAZI MUHAMMAD AMIN AHMED

Criminal Original Petition No. 181 of 2018
(against the order dated 31.07.2019 of this Court
passed in C.P. No. 120-P/2019).

Annexure-D

Kifayatullah Khan Afridi

Petitioner(s)

Versus

Mushtaq Ahmed Ghani and others

Respondent(s)

For the Petitioner (s) : Raja Saif-ur-Rehman, ASC

For the Respondent(s) : N.R.

Date of Hearing : 13.04.2020

ORDER

Attested
H. Umair

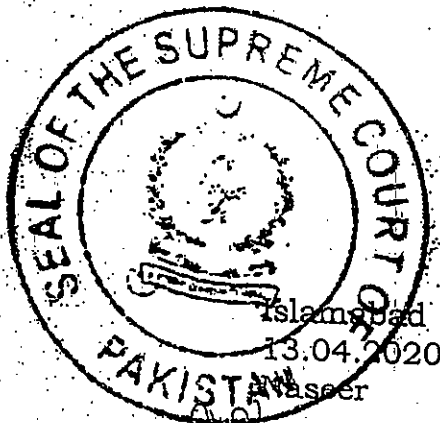
UMAR ATA BANDIAL, J.— Submits that the proceedings of the DPC held on 02.9.2019 form the subject matter of the present contempt petition. On second thought the petitioner would like to avail his remedy before the competent forum rather than plead contempt of the order of this Court dated 31.07.2019. Dismissed.

Sd/-J

Sd/-J

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad



25/4/20

Not Approved For Reporting

WAKALAT NAMA

BEFORE THE

Service Tribunal RPK, Peshawar

In Re: Service Appeal NO = 937/2010

Kifayatullah Khan
VERSUS

(Petitioner)

Speaker Provincial Assembly RPK
And Two Others
(Respondents)

I, NASRULLAH KHAN the above named Appt NO = 3 do hereby appoint and constitute QAZI MUHAMMAD ANWAR Senior Advocate, Supreme Court of Pakistan as counsel in the above mentioned case, to do all or any of the following acts, deeds and things:-

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal or any other court/tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file Plant/Written Statement or withdraw all proceedings, petitions, suit appeals, revision, review, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other document, as may be deemed necessary or advisable by him for proper conduct, prosecution or defence of the said case at any stage.
3. To receive payment of and issue receipts for all money that may become due and payable to us during the course or on the conclusion of the proceedings. To do and perform all other acts which may be deemed necessary or advisable during the course of the proceedings.

AND HEREBY AGREE :-

- a) To ratify whatever the said Advocate may do in the proceedings in my interest
- b) Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court/Tribunal when it is called for hearing or is decided against me/us.
- c) That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole OR any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this power of Attorney/Wakalat Nama hereunder the contents of which have been read/explained to me/us and fully understood by me / us this 31 day of August, 2020 at Peshawar.

[Signature]
Signature of Executant

17301-3087051-9

Accepted subject to term regarding payment of fee.

[Signature]
QAZI MUHAMMAD ANWAR

Senior Advocate, (Bc No.10-5134)

Supreme Court of Pakistan

10-A Nasir Mansion, Peshawar

Ph.No. 2214301/2211041 (Office) 5812113/5810272 (Res)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

C.M. No. _____/2020
In Service Appeal No.937/2020



Kifayatullah Khan Afridi Vs The Speaker Provincial
Assembly & others

FIXED ON 17.09.2020.

*Put up to the court along with
relevant file.*

Case No 9/19/20

Reader
APPLICATION FOR CORRECTION OF ORDER SHEET DATED
31.08.2020 IN RESPECT OF OMISSION IN THE ORDER
SHEET OF FILING OF THE WRITTEN STATEMENT BY
RESPONDENT NO.3 AND ALSO OMISSION OF RECORDING
PRESENCE OF COUNSEL OF RESPONDENT NO.3 NAMELY
QAZI MUHAMMAD ANWAR, SENIOR ADVOCATE SUPREME
COURT.

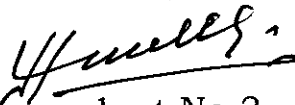
Respectfully Sheweth:-

The subject service appeal was fixed on 31.08.2020. The counsel of respondent No.3 namely Qazi Muhammad Anwar, Senior Advocate Supreme Court attended the court room of the Hon'able Member (E) at exact 9.00 AM and waited in the court room till 10.00 AM. The counsel informed the Reader that he wants to file written statement on behalf of Respondent No.3 who has engaged him as counsel. The Reader so kindly told the senior advocate appearing for respondent No.3 that he can leave the written statement and his vakalat nama with Mr. Fakhr-e-Alam Law Officer of the Provincial Assembly and he can leave because no other proceedings shall be conducted before the Hon'able Member. Accordingly the counsel left the written statement accompanied by various orders of the Supreme Court and handed it over to Mr. Fakhr-e-Alam Law Officer of the Provincial Assembly. The Law Officer handed over the written statement alongwith vakalat nama to the Reader of the Hon'able Member. The written statement was also accompanied by an application for deciding preliminary objections.

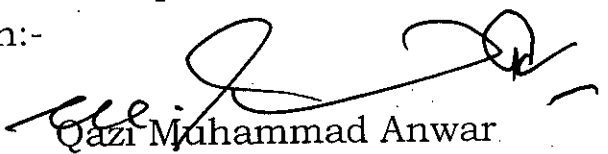
2. Unfortunately in the order sheet dated 31.08.2020 which appears to have been recorded subsequently the presence of counsel of respondent No.3 from 9.00 AM to 10.00 AM in the court room has not been recorded and also the fact that written statement of respondent No.3 has already been filed is not

mentioned. On the other hand the request has been attributed to respondent No.3 seeking time for filing written statement. Respondent No.3 was not physically present, he was in the Provincial Assembly.

It is therefore, humbly submitted that mistakes in the order sheet dated 31.08.2020 may so kindly be corrected. The written statement filed on behalf of respondent No.3 be taken on record, namely written statement alongwith documents and vakalat nama in favour of Qazi Muhammad Anwar and also application for deciding preliminary objections be taken on file of appeal with such other corrections which be appropriate.


Respondent No.3

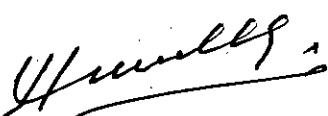
Through:-


Qazi Muhammad Anwar
Senior Advocate
Supreme Court of Pakistan

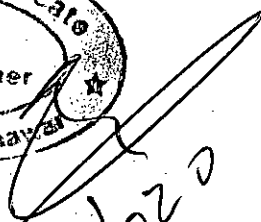
VERIFICATION

I, Nasrullah Khan, respondent No.3 do hereby on oath verify that the contents of the application are true and correct to the best of my knowledge and belief.

Verified at Peshawar this _____ day of September 2020.


Respondent No.3




9/9/2020

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

In Service Appeal No.937/2020

Kifayatullah Khan Afridi Vs The Speaker
Provincial Assembly & others

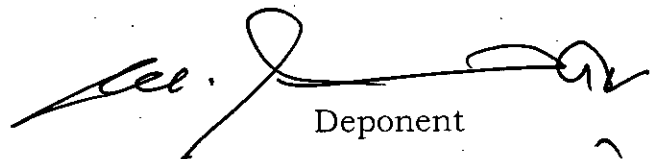
AFFIDAVIT

I, Qazi Muhammad Anwar, Senior Advocate Supreme Court do hereby on oath affirm that I have been engaged as counsel by respondent No.3, Nasrullah Khan, Secretary Provincial Assembly and I drafted written statement of said respondent under his instructions which was signed by me and his affidavit was attested and with the written statement relevant orders of the Supreme Court are annexed. Written statement is accompanied by an application for deciding preliminary objections.

I further affirm that on 31.08.2020, I attended the court room of Member (E) at exact 9.00 AM and waited in the court room till 10.00 AM when I was advised by the court staff that I need not stay for filing written statement and can hand over the same to the Law Officer of the Provincial Assembly and left the courtroom at exact 10.05 AM.

The order sheet in the case dated 31.08.2020 signed by the Hon'able Member which has been shown to me today 5th September by Mr. Fakhr-e-Alam Law Officer of the Provincial Assembly appears to be written under misinformation. My presence in the court room from 9 to 10 AM is not mentioned and also the fact that written statement of respondent No.3 has been filed is not recorded and on the other hand it is recorded in the order sheet that respondent No.3 has asked for time to file written statement which factually is not correct. Respondent No.3, after attestation of his affidavit went to the Provincial Assembly and was not physically present in the court room and Law Officer of the Assembly was present for Respondents 1 to 3 alongwith me.

I affirm that the above facts are true and correct to the best of my knowledge and belief.


Deponent

CNIC:-17301-1286059-1

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

In Service Appeal No.937/2020

Kifayatullah Khan Afridi Vs The Speaker
Provincial Assembly & others

AFFIDAVIT

I, Fakhr-e-Alam Law Officer of the Provincial Assembly do hereby on oath affirm that the contents of the above application to the extent that Qazi Muhammad Anwar Senior Advocate Supreme Court attended the court room of Member (E) from 9 to 10 AM, when he left the court room under the advice of staff of the Tribunal and handed over to me the written statement of respondent No.3 which I handed over to the Reader of the Hon'able Member and Reader supplied copy of the written statement of respondent No.3 to Mr. Ali Azeem Afridi Advocate counsel of the appellant.

I further affirm that since written statement of respondent No.3 has been filed and handed over to the Reader therefore no request on behalf of respondent No.3 was made for time for filing written statement. I affirm that above statement of facts are true and correct to the best of my knowledge and belief.



Deponent 09/09/2020



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

In Service Appeal No.937/2020

Kifayatullah Khan Afridi Vs The Speaker
Provincial Assembly & others

FIXED ON 17.09.2020.

WRITTEN STATEMENT BY RESPONDENTS 1 & 2

Respectfully Sheweth:-

Respondents 1 & 2 beg to submit the following written statement:-

Preliminary Objections:-

- A) That the appellant has got no cause of action nor any locus standi to file the present appeal.
- B) That working paper for meeting of the DPC No.1 dated 02.09.2019 was prepared under the supervision of the appellant when he was assigned acting charge on the assurance of the learned counsel for the Speaker in the August Supreme Court of Pakistan.
- C) That the decision dated 10.12.2018 of this Tribunal, in Service Appeal No.1324/2017 Kifayatullah Khan Afridi Versus Speaker and others" was challenged in the Supreme Court of Pakistan, and Honorable Supreme Court has already expunged the adverse remarks against the former and present Speaker.
- D) That the appeal is not competent and therefore not maintainable. An appeal is to be submitted to the tribunal constituted under Section 3 of the KP Service Tribunal Act 1974 (Act I of 1974). Such appeal shall be submitted by an aggrieved civil servant within 30 days from the final order and under Section 4(a) a civil Servant shall within 30 days submit an appeal, review or representation to the departmental authority against order from

which he is aggrieved and wait for 90 days for the decision of the appeal, review or representation. If appeal, review or representation is rejected by the departmental authority then prefer appeal to the tribunal within 30 days from such order and if no decision has been communicated by the departmental authority then appeal to the tribunal shall be filed within 30 days from the expiry of the period of 90 days.

In the instant case meeting of the DPC was held on 02.09.2019 for selecting one person as secretary Provincial Assembly from amongst three eligible candidates whose record of service was examined by the DPC and candidates were also personally interviewed. This may be mentioned here that DPC was constituted and the meeting of the DPC was held in compliance with the orders of the Hon'able Supreme Court of Pakistan and at the time of the meeting of DPC appellant Kifayatullah was functioning as Secretary of the Provincial Assembly and permanent Secretary was to be selected. The DPC selected respondent No.3 and submitted its recommendations to the competent authority namely the Speaker of the Provincial Assembly. The Speaker accepted the recommendations and accordingly notification of the promotion of Respondent No.3 as Secretary (BPS-21) KP Provincial Assembly was issued on 03.09.2019 against which appellant submitted appeal /review petition to the competent authority on 30.09.2019 which was within 30 days from the notification dated 03.09.2019. The period of 90 days wait for decision starts from 01.10.2019, calculation of the period is as under:-

October	2019	31 days
November	2019	30 days
December	2019 till 29 th December	29 days

Total:- 90 days

Therefore, the period of 90 days expired on 29th December 2019. The appeal was to be filed within 30 days from 30-12-2019 which expires on 28th January 2020 but no appeal was filed on or

before 28th January 2020. The present appeal has been submitted before Tribunal on 12.02.2020, therefore, the same is hit by limitation and has been filed 14 days after prescribed period. There is no application for condonation of delay and nor there is any explanation of each day beyond the prescribed limit as to who and what circumstances prevented appellant from invoking jurisdiction of service tribunal, therefore, under Section 5 of the Limitation Act the appeal cannot proceed further being time barred.

E) That the appeal is barred by law. A civil servant by law is prevented from filing an appeal before Tribunal against his non selection. Under the law a civil servant has the Right to be considered for promotion by the selection committee on the basis of seniority cum fitness and once considered by the selection committee his Right has been satisfied. Under Section 4 (b) of the KP Service Tribunal Act no appeal shall lie to the Tribunal against an order or decision of DPC determining the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade. In the present appeal the appellant has come against the decision of DPC where he was considered alongwith two others but not selected. Non selection is not violation of terms and conditions of service. The law has barred appeal against non selection therefore the present appeal is not competent.

F. The present appeal is against the decision of the DPC alleging that the decision of the DPC not selecting appellant for promotion to the post of Secretary BPS-21 is malafide. Under the law malafide/malice has two types, Malafide in law or malafide by facts. DPC was composed of 4 members of the Provincial Assembly who had no like and dislike and even in the appeal the appellant has not disclosed malafide of the members of the DPC against him.

Since preliminary objections are based on Section 4 of the Tribunal Act, therefore, Tribunal may so kindly decide preliminary objections in the interest of justice and fairness.

ON FACTS:-

1. Para 1 needs no reply.
2. Para 2 is admitted to the extent that under the orders of the Supreme Court of Pakistan dated 02.07.2019 in CP No.354/2019 DPC was constituted for selecting Secretary of the Provincial Assembly. Meeting of the DPC was held on 02.09.2019 and DPC selected respondent NO.3 as secretary of Assembly.

It is submitted that appellant has not mentioned in his appeal the proceedings in the Supreme Court of Pakistan. In fact decision of the Service Tribunal dated 10.12.2018 in Service Appeal o.1324/2017 Kifayatullah Versus Speaker and others was challenged by the Hon'able Speaker and Secretary of the Provincial Assembly in two separate appeals before Supreme Court. In CP No.354/2019 vide order dated 2.7.2019 learned counsel for respondent No.3 the petitioner stated that the matter of promotion to the secretary may be placed before the DPC for consideration in due course, which may decide the matter in accordance with law uninfluenced by any extraneous observations made in the impugned judgement by the learned service tribunal, was request was allowed.

IN CP No.120-P/2019 vide para 2 of the order dated 31.7.2019 learned counsel for the Speaker assured that the direction given in the judgement of Service Tribunal regarding notification dated 30.8.2018 shall be implemented forthwith. He also assured that as envisaged in order dated 2.7.2019 a fresh Departmental Promotion Committee is being constituted to consider the matter of promotion to the post of Secretary strictly in accordance with law and on the basis of relevant criteria.

Apart from above, vide order dated 26.09.2019 of the Supreme Court in CP No.120/2018, adverse remarks recorded in the decision dated 10.12.2018 of the Hon'able Service Tribunal were also expunged therefore, in compliance of the aforesaid

orders Mr. Kifayatullah Khan, was given an acting charge and order dated 30.08.2018 was restored, vide Provincial Assembly Notification dated 21.08.2019. Working paper for the meeting of the DPC No.1 dated 02.09.2019 was prepared under supervision of appellant. The committee was reconstituted vide notification dated 21.08.2019 wherein appellant was also considered from amongst the panel of three senior most officers. It was concluded by the committee that respondent No.3 has far superior merit viewed from different perspectives as mentioned in the comparative table of the working paper. Therefore, keeping in view those factors, the committee unanimously recommended him for promotion against the post of Secretary on regular basis. The same has been submitted in the august Supreme Court of Pakistan as compliance report.

Not satisfied from the above mentioned orders of the supreme court and later on process made by the Secretariat in light of those orders, the appellant then filed Criminal Original petition No.181/2019 against the order dated 31.07.2019 of the Supreme Court passed in C.P No.120-P/2019 which was also dismissed on 13.04.2020.

3. Para 3 as drafted is not correct. It is submitted that appellant was appointed on 23.11.1992 as Assistant Secretary but ostensibly Rule 8 of the Provincial Assembly Recruitment Rules, 1974 has been violated. To elaborate it further, the appellant filed an application regarding his appointment on 22.11.1992 and on the next dated i.e 23.11.1992 he was appointed as Assistant Secretary, while Rule 8 of Provincial Assembly Recruitment Rules 1974, provides that appointment by direct recruitment to posts in Grade No.17 and above shall be made upon the recommendations of a selection committee, consisting of not less than three members to be constituted by the Speaker. Apart from above, appellant was also granted relaxation in upper age limit of 2 years 5 months and 12 days with effect from 23.11.1992 vide order dated 3.2.1993. The

appellant got his police clearance certificate on 25.2.1993 and medical examination on 30.12.1992. All these irregularities have been challenged in the Hon'able Peshawar High Court in W.P No.1847/2019 Shahid Mehmood Versus Kifayatullah and Others, which is still pending.

4. Para 4 as drafted is misconceived. It is submitted that age of the appellant was also short for few months of 5 years mandatory service in BPS-17 when he was promoted to the post of Deputy Secretary BPS-18 on 11.02.1997.

5-7. It may be mentioned that it has been repeatedly held by the Supreme Court that seniority is not sole factor for consideration of a civil servant for promotion. If seniority was the only factor then the word "fitness" would become irrelevant and meaningless. Seniority gives a senior civil servant the Right to be considered for promotion, meaning thereby that seniority only creates eligibility and not Right to be promoted. It is because of his eligibility that he was one of the three persons considered by the DPC.

8-9. Para 8 & 9 as drafted are misconceived. It is submitted that apart from the appellant others officers were also assigned acting charge of Secretary on various occasions, and it is correct that whenever meeting of DPC No.1 was held regarding promotion to the post of Secretary, the appellant was also considered. He was considered in the first meeting of DPC No.1 dated 11.08.2017 and also in the second meeting of DPC No.1 dated 25.09.2019. In the instant case, appellant has been considered by the DPC in the light of the Supreme Court orders but was found unfit for promotion to the post of Secretary on the grounds of lack of experience in the matters of Provincial Assembly.

10-11. Para 10-11 do not relate to Respondents 1 & 2.

12. It is submitted that apart from the appellant, respondent NO.3 was also included in the panel of three senior most officers to be considered for promotion to the post of Secretary.

13. It is submitted that respondent No.3 is a senior officer, therefore, his name was also included in the panel of three senior most officers for promotion to the post of Secretary.

14. It is submitted that working paper for the meeting of DPC No.1 dated.02.09.2019 has been prepared under the supervision of appellant when he was assigned acting charge on the assurance given by the learned counsel for respondent No.3 in the Supreme Court of Pakistan. Appellant was also considered by the committee, as his name was included in the panel of senior most officers for the post of Secretary, but it was for the DPC to determine that who is most suitable candidate, which has been thoroughly explained in the minutes of DPC No.1 dated 3.9.2019.

15-17. Para 15-17 as drafted are misconceived. It is submitted that previous decisions of this Hon'able Tribunal were challenged before the Supreme Court where the Supreme Court directed that charge of the post of Secretary be given to the appellant and DPC be constituted and Secretary be selected and appointed in accordance with law which has been narrated by the appellant in the starting paras of this appeal and DPC was constituted and meeting of DPC was held on 02.09.2019 and DPC selected respondent No.3 who was notified as Secretary BPS-21 on 3.9.2019 against which the present appeal has been filed.

18. Para 18 as drafted is not correct. There is no strict codified yardstick for determining fitness of a person to be appointed or promoted to a post. It mainly depends on the nature of the job and his efficiency and ability to perform functions of the office to the satisfaction of his superiors. Respondent no.3 is civil servant who has throughout performed his functions with devotion and hard work. He has not been favoured by anybody but his devotion, hard work and his commitment to perform his functions to the best of his ability are to be appreciated by anybody who has a sense of appreciating the best of the best. The principle of best of the best is based on fitness, It is based on performance.

19-21. Para 19 to 21, relate to writ petition 1174/2016, from which these allegations have been copied. Said writ petition is pending before Peshawar High Court which matter is subjudice and cannot be discussed before this Tribunal.

22. Para 22 is misconceived. No adverse entries exist in the ACRs of respondent No.3. Excellent entries exist in his ACRs and respondent No.3 was recommended for accelerating promotion.

23. Para 23 does not relate to respondents 1 & 2.

24. Para 24 is not correct has been answered above.

25. Para 25 is misconceived. The entire table of events from meeting of DPC till 12.02.2020 when present appeal was filed has been given in para 1 of the preliminary objections which may be read as reply to the para 25.

GROUND:-

- A) Ground (A) as drafted is not correct. The recommendations of the DPC are not open to the scrutiny by any forum. A civil servant has the Right to be considered, appellant was considered. Service Tribunal or for that matter any other judicial forum cannot substitute itself as selection committee. The process of selection cannot be interfered unless it is proved that selection was based on favouritism, nepotism or bribe. No malice or malafide has been made out in the appeal. Malafide is not only be alleged but is to be proved.
- B) Ground (B) as drafted is not correct. Notification dated 3.9.2019 is legal, proper and does not suffer from any illegality.
- C) Ground (C) as drafted is not correct. Length of service is not the only criteria for promotion.
- D) Ground (D) as drafted is not correct. There is no question of supersession. The instant selection of respondent No.3 is based on fair selection by the DPC.

- E) Ground (E) as drafted is not correct. Respondent No.3 has experience in legislation, finance and is performing his duties to the best of satisfaction of the Speaker.
- F) Ground (F) as drafted is not correct. It has been answered.
- G) Ground (G) as drafted. The recommendations of the DPC cannot be substituted and therefore such recommendations cannot be scrutinized.
- H) Ground (H) as drafted is misconceived. DPC has performed its functions according to the laid down procedure.
- I) Ground (I) as drafted is incorrect, denied. There is no malafide, no malice. With respect this Tribunal cannot substitute the findings of DPC.
- J) Ground (J) as drafted is not correct. Respondent No.1 is performing his functions under the Constitution of Islamic Republic of Pakistan, the law and the rules. The language used against respondent No.1 is regrettable. Orders of Supreme court are annexed.

It is therefore, prayed that the appeal be dismissed with special costs.

Mushtaq Ahmad Ghani

Speaker

Khyber Pakhtunkhwa Assembly

Respondent No.1 & 2

Through:-

Qazi Muhammad Anwar

Senior Advocate,

Supreme Court of Pakistan

Deputy Secretary
Khyber Pakhtunkhwa Assembly

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

In Service Appeal No.937/2020

Kifayatullah Khan Afridi


Vs

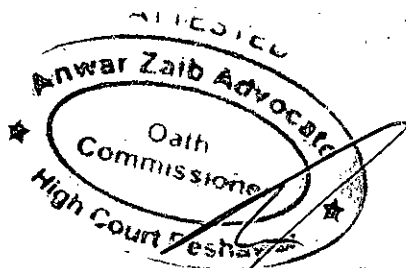
The Speaker Provincial
Assembly & others

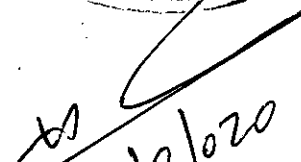
VERIFICATION

I, Mushtaq Ahmad Ghani, respondent No.1 do here by on oath verify that the contents of the written statement from para 1 to 25 and the grounds are true and correct to the best of my knowledge and belief.

Verified at Peshawar this 10th day of September 2020.


Deponent
Mushtaq Ahmad Ghani
Speaker
Khyber Pakhtunkhwa Assembly




10/9/20

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

In Service Appeal No.937/2020

Kifayatullah Khan Afridi

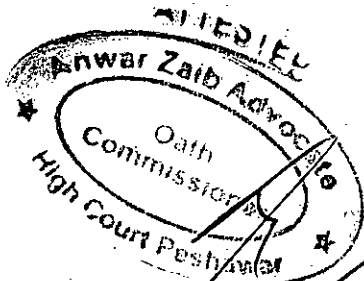
Vs

The Speaker Provincial
Assembly & others


VERIFICATION

I, Wakil Khan, Deputy Secretary (Admn) Provincial Assembly, respondent No.2 do here by on oath verify that the contents of the written statement from para 1 to 25 and the grounds are true and correct to the best of my knowledge and belief.

Verified at Peshawar this 10th day of September 2020.



10/9/20


Deponent
Deputy Secretary
Khyber Pakhtunkhwa Assembly

WAKALAT NAMA

BEFORE THE Supreme Tribunal KPK, Peshawar

In Re: Supreme Appeal NO = 937 / 2020

Kifayatullah Khan

(Petitioner)

VERSUS

Speaker Provincial Assembly KPK & Others
(Respondents)

We nos 1 & 2 the above named Respondents do hereby appoint and constitute QAZI MUHAMMAD ANWAR Senior Advocate, Supreme Court of Pakistan as counsel in the above mentioned case, to do all or any of the following acts, deeds and things:-

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal or any other court/tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file Plant/Written Statement or withdraw all proceedings, petitions, suit appeals, revision, review, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other document, as may be deemed necessary or advisable by him for proper conduct, prosecution or deface of the said case at any stage.
3. To receive payment of and issue receipts for all money that may become due and payable to us during the course or on the conclusion of the proceedings. To do and perform all other acts which may be deemed necessary or advisable during the course of the proceedings.

AND HEREBY AGREE :-

- a) To ratify whatever the said Advocate may do in the proceedings in my interest
- b) Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court/Tribunal when it is called for hearing or is decided against me/us.
- c) That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole OR any part of the agreed fee remains unpaid.

In witness whereof / We have signed this power of Attorney/Wakalat Nama hereunder the contents of which have been read/explained to me/us and fully understood by me / us this 31 day of August, 2020 at Peshawar.

Signature of Executant

Accepted subject to term regarding payment of fee

Mushtaq Ahmad Ghani

Speaker

Khyber Pakhtunkhwa Assembly

QAZI MUHAMMAD ANWAR

Senior Advocate, (Bc No.10-5134)

Supreme Court of Pakistan

10-A Nasir Mansion, Peshawar

Ph.No. 2214301/2211041 (Office) 5812113/5810272 (Res)

Rept NO: 1

#2. Secretary DRC
Deputy Secretary
Khyber Pakhtunkhwa Assembly

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

In re:-

C.M. No. _____/2020

In Service Appeal No.937/2020

Kifayatullah Khan Afridi

Vs

The Speaker Provincial
Assembly & others

FIXED ON 17.09.2020.

REPLY TO THE APPLICATION FOR TEMPORARY INJUNCTION
BY RESPONDENTS 1 TO 3

Respectfully Sheweth:-

Respondents 1 to 3 beg to submit the following reply to application for temporary injunction:-

Preliminary objections:-

- A) That the application is misconceived and is not competent and not maintainable in absence of narration of facts why appellant apprehends adverse action.
- B) That appellant has submitted application for temporary injunction for restraining respondents from taking adverse action against appellant without mentioning facts.

ON FACTS:-

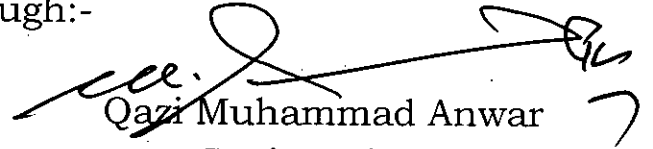
1. Para is admitted to the extent that subject appeal is pending before this Tribunal.
2. Para 2 as drafted is totally incorrect. Appellant has not disclosed as to why and under what circumstance he is apprehending departmental adverse action against him. Appellant does not have prima facie case.
3. Para 3 as drafted is misconceived. In the entire memorandum of appeal pendency of departmental disciplinary proceedings against appellant is not mentioned.
4. Para 4 is not correct. The fact is that appellant was charge sheeted on 16.05.2019 which was challenged by him in W.P No.2914/2019 "Kifayatullah Khan Afridi Vs. Speaker Provincial Assembly" Peshawar High Court on 21.05.2019 called comments from Respondent and suspended notification dated. 16.05.2019 of Respondent.

Above writ petition is pending before the High Court and order dated 21.05.2019 of the High Court is in the field.

It is therefore, prayed that application for temporary injunction being unjustified be dismissed.

Respondents 1 to 3

Through:-



Qazi Muhammad Anwar
Senior Advocate
Supreme Court of Pakistan

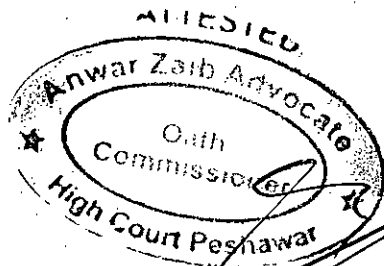
VERIFICATION

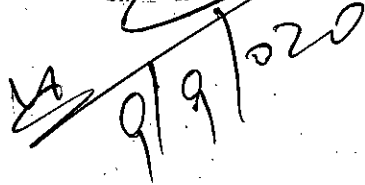
I, Fakhr-e-Alam Law Officer of the Provincial Assembly Khyber Pakhtunkhwa do here by on oath verify that the contents of the reply to application are correct to the best of my knowledge and belief.


Verified at Peshawar this 9th day of September 2020.



Deponent 09/09/2020





تہ 50 روپے	36680	 	
ایڈوکیٹ: صہیل خان ایڈوکیٹ			
بار کونسل ایسوسی ایشن نمبر: BC-17-7881		پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
رابطہ نمبر: 9351777-0333			

بعد ازاں جناب: سر جسٹس ٹریبونل صہیل غنٹوخواہ، لیسٹار

مخاطب: صہیل علیہ عمر (ج)	دعویٰ: سر جسٹس ایبل
کفایت اللہ خان	علت نمبر: ایڈیل نمبر 937/2020
بنام	مورخہ: 14-09-2020
سیکرٹری جنرل اسمبلی ریفرنس	جرم:
	تھانہ:

بابت تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ
صہیل خان ایڈوکیٹ کے لیے
 آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری ٹیکٹ فریہ یا ایبل کی برآمدگی اور منسوخی، نیز
 دائر کرنے ایبل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے
 المرقوم: **14-09-2020**

DESHAWAN BAK KHAYBER PAKHTUNKHWA

مقام **لیسٹار** کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Handwritten notes on the left margin, including a signature and some illegible text.

Handwritten notes at the bottom left, including a signature and the text "CHARTERED KHYBER ADVOCATE".

WAKALAT NAMA

BEFORE THE Supreme Tribunal KPK, Peshawar

In Re: Supreme Appeal No = 937/2020

Kifayatullah Khan

(Petitioner)

VERSUS

Speaker Provincial Assembly KPK & Others
(Respondents)

We Reps 1 & 2 the above named Respondents do hereby appoint and constitute QAZI MUHAMMAD ANWAR Senior Advocate, Supreme Court of Pakistan as counsel in the above mentioned case, to do all or any of the following acts, deeds and things:-

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal or any other court/tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file Plant/Written Statement or withdraw all proceedings, petitions, suit appeals, revision, review, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other document, as may be deemed necessary or advisable by him for proper conduct, prosecution or deface of the said case at any stage.
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AND HEREBY AGREE :-

- a) To ratify whatever the said Advocate may do in the proceedings in my interest
- b) Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court/Tribunal when it is called for hearing or is decided against me/us.
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In witness whereof / We have signed this power of Attorney/Wakalat Nama hereunder the contents of which have been read/explained to me/us and fully understood by me / us this 31 day of August, 2020 at Peshawar.

Signature of Executant

Accepted subject to term regarding payment of fee

Mushtaq Ahmad Ghani

Speaker

Khyber Pakhtunkhwa Assembly

Qazi Muhammad Anwar

QAZI MUHAMMAD ANWAR

Senior Advocate, (Bc No.10-5134)

Supreme Court of Pakistan

10-A Nasir Mansion, Peshawar

Ph.No. 2214301/2211041 (Office) 5812113/5810272 (Res)

Rept NO: 1

Deputy Secretary
Deputy Secretary
Khyber Pakhtunkhwa Assembly

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 4135 /ST

Dated 28 /12 / 2020.


To

The Speaker Provincial Assembly,
Government of Khyber Pakhtunkhwa,
Peshawar.

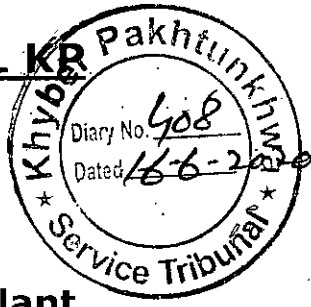
Subject: - JUDGMENT IN APPEAL NO. 937/2020, MR. KIFAYAT ULLAH KHAN.

I am directed to forward herewith a certified copy of Judgement dated 17.12.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR,
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
In Re: Service Appeal No. 937/2020



*Put up to
rebellent appeal.
16/6/2020.*

Kifayatullah Khan Afridi

.....Applicant/Appellant

VERSUS

The Speaker Provincial Assembly KPK & Others

.....Respondent(s)

APPLICATION FOR EARLY HEARING

Respected Sir,

1. That the above-titled case is pending adjudication before the Hon'ble Court and is fixed for preliminary hearing on 30-07-2020.
2. That the subject case was earlier fixed for hearing and as such was adjourned due to dysfunctionality of court(s).

It is therefore, humbly submitted that appropriate orders be passed in this regard for fixation of the case on 19.06.2020 or as deemed appropriate.

*Be accelerated to
a date in 1st week of July, 2020.
Afridi.*

Applicant/Appellant

Through

Ali Azim Afridi

Advocate High Court

Contact # 0333-9555000

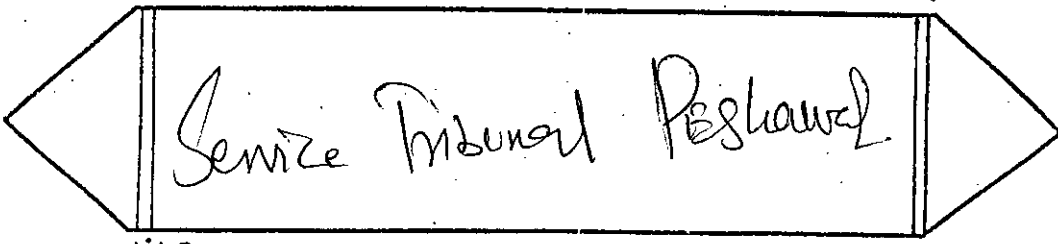
16-06-20

*16/6
02/07/2020*

بعدالت

Apel no

937/2020



کفایت اللہ نامہ بینام اسلام صوبائی عدالت
2، منجانب

موزعہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام کیلئے علی عظیم ازبیدی اور عظیم احمد رضا اور ابولکیش

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلاف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پر داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم 16 ماہ 06 2020

العبد العبد

بمقام علی عظیم ازبیدی کے لئے منظور ہے۔

By Al
16.06.2020

Al

Al