GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

Dated Peshawar the 6th August, 2021

NOTIFICATION

NO.SOE(E.II)E&AD/3(45)/2021:- The Competent Authority on the recommendation of Provincial Selection Board, in its meeting held on 31/07/2021, is pleased to promote the following (PMS BS-17 a.c.b) to PMS (BS-17) on regular basis with immediate effect:-

S.#	Name of Officer	Place of Posting
1.	Mr. Muhammad Ali	Section Officer, C&W Department
2.	Mr. Rangeen Khan	Section Officer, Energy & Power Department
3.	Mr. Hamid Hussain Shah	Section Officer (HRD-I), E&AD
4.	Mr. Muhammad Anwar	Section Officer, Social Welfare Department
5.	Syed Irfan Shah	Waiting for posting in Establishment Department.
6.	Mr. Zia ul Haq	Section Officer (E.I), Establishment Department
7.	Mr. Tariq Rehman	Section Officer, PHE Department
8.	Mr. Muhammad Shakeel	Assistant Director, KP-PSRA
9.	Mr. Shams ul Haq	Section Officer, Industries Department
10.	Mr. Sadaqat	Section Officer, Environment Department
11.	Mr. Muhammad Naeem	Section Officer, PHE Department

2. The officers on promotion will remain on probation for a period of one year, in terms of Section-6(2) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and extendable for another year with the specific orders of appointing authority within two months of the expiry of first year of probation period as provided in rule-15(2) of rules ibid.

3. Consequent upon promotion, they are allowed to actualize their promotions against the already occupied post. Posting / transfer notification in respect of officer at serial no. 5 (Syed Irfan Shah) will be issued separately.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

06/08/2021

3(1034)18

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

Copy of the above is forwarded to the:-

1. Additional Chief Secretary, Khyber Pakhtunkhwa.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa
3. Principal Secretary to Governor, Khyber Pakhtunkhwa
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
5. Administrative Secretaries of concerned departments
6. Accountant General, Khyber Pakhtunkhwa
7. Manager Govt: Printing Press
8. Section Officers (Admin) (Secret) (E.IV), P.S.B & Estate Officer E&A Departments
9. PS to Chief Secretary, Khyber Pakhtunkhwa
10. PS to Secretary Establishment Department
11. PS to Special Secretaries (Estt / Reg) Establishment Department
12. PA to Additional Secretaries (Estt/Reg/HRD), Establishment Department
13. Officers concerned for necessary action under intimation to this section.
14. Office Order File

06/08/2024

(MUHAMMAD IRFAN USMAN)
SECTION OFFICER (E-II)
ESTABLISHMENT DEPARTMENT

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

Dated Peshawar, the 20.02.2020

NOTIFICATION

No.SOE.IV(E&AD)1-13/2020:- In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkha Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the Seniority list of Personal Assistants (BPS-16) (as stood on 20.02.2020), Civil Secretaria Peshawar is hereby notified/circulated for general information.

FINAL SENIORITY LIST OF PERSONAL ASSISTANTS (BPS-16) (WHO OPTED FOR PS CADRE) OF CIVIL SECRETARIAT, PESHAWAR AS STOOD ON 20.02.2020

S.No	Name of official	Academic qualification	Date of Birth	Domicile	Date of entry into Govt: service	Date of promotion as S.S.S	Date of promotion as Personal Assistant	Department	Remarks
1	Mr. Rahid Ullah	M.A	09.03.1977	Peshawar	24.02.1998	12.02.2011	22.12.2016	E&AD (O/O DS (Policy)	Personal Assistant
2	Mr. Sajjad Qaiser	B.A	15.10.1973	Peshawar	23.10.1993	02.07.2011	22.12.2016	E&AD (O/O CS KPK)	Personal Assistant
3	Mr. Naveed Khan S/O Asmatullah Khan	B.Com	08.03.1970	Kohat	24.02.1998	02.07.2011	22.12.2016	E&AD (O/O ASR-II)	Personal Assistant
4	Mr. Muhammad Idrees	B.A	05.06.1972	Swabi	24.02.1998	02.07.2011	22.12.2016	E&AD (PS (OPS) to Special Assistant to CM for Industries)	Personal Assistant
5	Mr. Lal Bahadur Khan	M.A	22.03.1960	Mardan	24.02.1998	02.07.2011	22.12.2016	Labour Deptt.	Personal Assistant
6	Mr. Javed Khan S/O Muhammad Yousaf	B.A	05.01.1971	Peshawar	01.09.1991	13.01.2012	22.12.2016	E&AD (O/O Special Assistant to CM for Excise & Taxation)	Personal Assistant
7	Mr. Younas Shah S/O Yousaf Shah	B.Com	10.05.1967	Kohat	15.05.1993	13.01.2012	22.12.2016	E&AD (O/O of PSO)	Personal Assistant
8	Mr. Redi Khan	F.A	01.06.1974	Kyber Agency	17.04.2000	13.01.2012	22.12.2016	E&AD (O/O Special Assistant to CM for Anti-Corruption Estt)	Personal Assistant
9	Mr. Munawar Khan S/O Nazar Ali	Matric	06.05.1965	Nowshera	18.06.1983	13.01.2012	31.05.2017	E&AD (O/O Minister for Irrigation)	Personal Assistant
10	Mr. Baltur Rehman	Matric.	01.01.1968	Peshawar	29.09.1987	03.12.2012	31.05.2017	Food Deptt.	Personal Assistant

From S.No 1 to S.No 3 Promoted to PS to B-17 on dt: 9.2.2020

Retired

① Promoted = 3
② Retired = 4
KM stands at S.No 7

S.No 11 = 4

FINAL SENIORITY LIST OF PERSONAL ASSISTANTS (BPS-16) (WHO OPTED FOR PS CADRE) OF CIVIL SECRETARIAT, PESHAWAR AS STOOD ON 20.02.2020

S.No	Name of official	Academic qualification	Date of Birth	Domicile	Date of entry into Govt. service	Date of promotion as S.S.S	Date of promotion as Personal Assistant	Department	Post
11	Mr. Khan Muhammad Khan	M.A	07.09.1963	Lakki Marwat	05.10.1982	03.12.2012	31.05.2017	E&AD (O/O DS Cabinet)	Personal Assistant
12	Mr. Ghulam Hassan	D.Com	10.03.1979	Khyber Agy	23.08.2003	28.05.2013	31.05.2017	Finance Deptt	Personal Assistant
13	Mr. Alim Jan S/O Abdul Qayyum	D.Com	03.10.1978	Charsadda	23.08.2003	28.05.2013	30.10.2017	E&AD (O/O Advisor to CM for Merged Areas)	Personal Assistant
14	Mr. Ghias-ud-Din	F.A	25.08.1971	Dir	18.03.2004	28.05.2013	30.10.2017	Irrigation Deptt	Personal Assistant
15	Mr. Ismail Khan S/O Khan Haider	B.A	01.05.1964	Khyber Agy	10.01.1990	30.05.2013	30.10.2017	E&AD (Policy Section)	Personal Assistant
16	Mr. Muhammad Nadeem S/O Muhammad Saddique	F.A	15.04.1971	D.I.khan	21.10.1993	30.05.2013	30.10.2017	Information Deptt	Personal Assistant
17	Mr. Muhammad Saeed Khan	M.A	13.04.1982	Peshawar	05.09.2006	30.05.2013	30.10.2017	E&AD (PS (OPS) to Special Assistant to CM for Population Welfare)	Personal Assistant
18	Mr. Naveed Khan	M.A	10.02.1983	Peshawar	05.06.2006	30.05.2013	12.02.2018	E&AD (R-VI Section)	Personal Assistant
19	Mr. Irfanullah	M.A	12.01.1982	Peshawar	02.08.2007	12.02.2014	25.05.2018	E&AD (Impl. Section)	Personal Assistant
20	Mr. Jehangir Khan	M.A	16.10.1979	Peshawar	01.08.2007	26.02.2015	22.01.2019	E&AD (PA to Minister for Information)	Personal Assistant
21	Mr. Arif Ullah Khan S/O Zafar Ali Khan	B.A	13.04.1984	Bannu	01.08.2007	26.02.2015	22.01.2019	Agriculture Deptt	Personal Assistant
22	Mr. Ikramul Haq	B.A	01.03.1986	Swabi Disable Quota	06.08.2007	26.02.2015	22.01.2019	Sports Deptt	Personal Assistant
23	Mr. Maqsood-ur-Rehman Shah S/O Usman Shah	M.Com	01.02.1987	Bannu	01.08.2007	26.02.2015	22.01.2019	E&AD (O/O DS(Admn))	Personal Assistant
24	Mr. Muhammad Tariq S/O Fazal Raziq	B.A	10.03.1983	Malakand Agy	01.08.2007	26.02.2015	22.01.2019	E&AD (O/O Special Assistant to CM for Mines & Mineral as PS (OPS))	Personal Assistant
25	Mr. Nausheed Baz	B.A	03.05.1988	Khyber Agy	06.08.2007	02.11.2015	22.01.2019	Irrigation Deptt	Personal Assistant

FINAL SENIORITY LIST OF PERSONAL ASSISTANTS (BPS-16) (WHO OPTED FOR PS CADRE) OF CIVIL SECRETARIAT, PESHAWAR AS STOOD ON 20.02.2020

S.No	Name of official	Academic qualification	Date of Birth	Domicile	Date of entry into Govt: service	Date of promotion as S.S.S	Date of promotion as Personal Assistant	Department	Remarks
26	Mr. Kaleemullah Khan S/O Nasrullah Khan	B.A	02.06.1988	Lakki Marwat	01.08.2007	02.11.2015	22.01.2019	E&SE Deptt.	Personal Assistant
27	Mr. Zafar Ali Shah S/O Syed Noor Ali Shah	B.A	10.04.1985	Lakki Marwat	01.08.2007	02.11.2015	22.01.2019	E&AD (PS (OPS) Advisor to CM for ST&IT)	Personal Assistant
28	Mr. Inayatullah	M.Com	19.05.1976	Peshawar	22.09.2008	28.01.2016	31.05.2019	E&AD (O/O Special Assistant to CM for LGE&RDD)	Personal Assistant
29	Mr. Irfan Haider	B.A	24.09.1985	Hangu	26.09.2008	28.01.2016	31.05.2019	Higher Education Deptt.	Personal Assistant
30	Mr. Muhammad Tayyab	M.Com	24.02.1988	Peshawar	20.09.2008	27.05.2016	31.05.2019	On deputation to PDMA w.e.f 15.08.2018 to 14.08.2021 for 03 years.	Personal Assistant
31	Mr. Farhatullah	D.Com	01.11.1988	Lakki Marwat	22.09.2008	27.05.2016	31.05.2019	E&AD (Lit Section)	Personal Assistant

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

Endst: No.SOE.IV(E&AD)1-13/2020

Dated Peshawar, the 20.02.20

Copy forwarded to: -

1. All Administrative Secretaries (except Board of Revenue) to Govt of Khyber Pakhtunkhwa.
2. The Military Secretary to Governor, Khyber Pakhtunkhwa.
3. Principal Secretary to Governor Khyber Pakhtunkhwa.
4. The Director, Staff Training Institute, Khyber Pakhtunkhwa.
5. The Deputy Director (IT), Establishment & Administration Deptt with the request to publish on official website.

(HAZRAT JAMAL)
SECTION OFFICER (E-IV)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

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Dated Peshawar, the January 22, 2021.

NOTIFICATION

No.SOE.IV(E&AD)1-7/2020:- On the recommendations of Departmental Promotion Committee, the competent authority is pleased to promote the following Personal Assistants (BS-16) of the Civil Secretariat, Khyber Pakhtunkhwa, Peshawar as Private Secretaries (BS-17), on regular basis, with immediate effect:-

S.No	Name of Officers
1.	Mr. Rahid Ullah
2.	Mr. Sajjad Qaiser
3.	Mr. Naveed Khan S/O Asmatullah Khan

2. The above Private Secretaries on their promotion shall remain on probation for a period of one year, in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and extendable for another year with the specific orders of appointing authority within two months of the expiry of first year of probation period as specified in Rule-15(2) of Rules ibid.

3. Consequent upon their promotion, the following posting/ transfers / adjustment are hereby made:-

S.No.	Name of Officer	From	To
1.	Mr. Rahid Ullah	E&AD (O/O DS Policy)	**Retained in** E&AD, (O/O DS Policy)
2.	Mr. Sajjad Qaiser	E&AD (O/O PSO to CS, Khyber Pakhtunkhwa)	**Retained in** E&AD (O/O PSO to CS, Khyber Pakhtunkhwa)
3.	Mr. Naveed Khan S/O Asmatullah Khan	E&AD (O/O DS Judicial)	Law Deptt, (PS to Secretary Law) **Vice.S.No. 04**
4.	Mr. Fazl-e-Rabbi, Private Secretary (BS-17)	Law Deptt.	Home Deptt.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST. NO. & DATE EVEN.

A copy is forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. PSO to CS, Khyber Pakhtunkhwa.
3. Section Officer (Secret), Establishment Department.
4. Section Officer (Admn), Administration Department.
5. Estate Officer, Administration Department.
6. **All Section Officers (Admn/Estt/Gen_____) of the concerned Administrative Department of Civil Secretariat.**

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Next Page- K.M

7. Deputy Director (IT), Establishment & Administration Department.
8. PS to Secretary Establishment, Establishment Department.
9. PS to Special Secretary (Estt:), Establishment Department.
10. PS to Special Secretary (Reg), Establishment Department.
11. PS to Addl: Secretary (HRD Wing) Establishment Department.
12. PA to Addl: Secretary (Estt:), Establishment Department.
13. PA to Deputy Secretary (Policy), Establishment Department.
14. PA to Deputy Secretary (Judicial), Establishment Department.
15. Officers concerned.

(SIRAJ MUHAMMAD)
SECTION OFFICER (E-IV)

Government Of Khyber Pakhtunkhwa
Local Government, Elections & Rural Dev. Department
LOCAL COUNCIL BOARD
NUMBER #13, SECTOR E-8, OPPO.#33 PHAZE-VII HAYATABAD
Ph#091-9219043, Email.localcouncilboard@gmail.com

45
Amn
F

Dated Peshawar the 09th July, 2021

ORDER

No.AO1/LCB/Estt/[illegible]/2021. In continuation to this office orders of even number, both dated 28th April, 2017 and in pursuance to the verdict of the Hon'able Peshawar High Court, Peshawar in WP#4692-P/2018 issued vide order sheet 07/10/2020, the competent authority is pleased to allow consideration of the promotions of the following Officers of the LCs PMU(Admn.Cadre), from BPS-16 to BPS-17 with retrospective effect from the dates as mentioned against each hereunder :-

S#	Name of the Official/Officer	Date of promotion to BPS-17 & BPS-18:	Existing scale
1	Syed Ikramullah, BPS-17	19th March, 2013	BPS-18
2	Mr.Faiq Khattak BPS-17	19th March, 2013	Retired in BS-17
3	Mr.Muhammad Ayub Khan BPS-17	19th March, 2013	BPS-18
4	Mr.Muhammad Saleem BS-17	19th March, 2013	Retired in BS-17
5	Syed Maqsood Shah, BPS-17	19th March, 2013	BPS-18
6	Mr.Muhammad Ishaq BPS-17	19th March, 2013	Retired in BS-17
7	Mr.Noor Shah Ali BPS-17	19th March, 2013	BPS-18
8	Mr.Tauseef Hussain BPS-17	19th March, 2013	BPS-18
9	Mr.Saqib Hussain BPS-17	19th March, 2013	BPS-18
10	Mr.Nadir Shah BPS-17	19th March, 2013	Retired in BS-17
11	Mr.Abdur Rasheed BPS-17	19th March, 2013	Retired
12	Mr.Jehangir Khan BPS-17	19th March, 2013	BPS-18
13	Mr.Attaullah BPS-17	19th March, 2013	BPS-18
14	Mr.Muhammad Owais BPS-17	19th March, 2013	BPS-18
15	Mr.Hameedullah BPS-17	19th March, 2013	BPS-18
16	Mr.Muhammad Zada BPS-17	19th March, 2013	Retired in BS-17
17	Mr.Muhammad Afzal BPS-17	19th March, 2013	BPS-18
18	Mr.Muhammad Ayaz BPS-17	19th March, 2013	BPS-18
19	Mr.Noor Shahbaz BPS-17	19th March, 2013	Retired in BS-17
20	Mr.Iqbal Hassan BPS-17	19th March, 2013	BPS-18
21	Mr.Sohail Ahmed BPS-17	19th March, 2013	BPS-18
22	Mr.Riaz Ahmed Awan BPS-17	19th March, 2013	BPS-18
23	Mr.Said Ali Shah BPS-17	19th March, 2013	Retired in BS-17
24	Mr.Muhammad Amin BPS-17	19th March, 2013	BPS-18
25	Mr.Kareemullah BPS-17	19th March, 2013	BPS-18
26	Mr.Muhammad Rehman Khattak, BPS-17	19th March, 2013	BPS-18

LOCAL COUNCIL BOARD
Diary/Letter No. 1265
Dated 09/07/21

SECRETARY,
LCOAL COUNCIL BOARD,
KHYBER PAKHTUNKHWA.

Endst. Of Even number & date.

Copy of the above is forwarded to the :-

1) Director, Local Fund Audit, KP, Peshawar w/r to his letter No.LFA/(Pen)/1.117/209, dt.3/3/2017 & letter No.LFA(Pen)/1.50/509, dt. 12/11/2015.
2) Resident Asst.Director Audit, LCB, KP, Peshawar.
3) Dy:Secretary(Finance), LCB, KP, Peshawar
4) Dy:Secretary(Admn.), LCB, KP, Peshawar.
5) Senior Accounts Officer, LCB, KP, Peshawar.
6) All Officers/petitioners named above for information.
7) PS to Secretary, LGE&RDD, KP, Peshawar.
8) PS to Secretary, LCB, KP, Peshawar.

ADMN.OFFICER-I
LOCAL COUNCIL BOARD,

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

SEAL OF HIGH COURT PESHAWAR

Writ Petition No. 4692 of 2018

1- *Syed Ikram Ullah, Town Officer Regulation, Town-IV, Peshawar*
2- *Tariq Khattak, Town Officer, Regulation TMA, Charsadda (Retired from Service)*
3- *Mohammad Ayub Town Municipal Officer(TMO) Parova (Retired from Service)*
4- *MohammadSaleem Khan Town Municipal Officer, TMA Bannu. (Retired from Service)*
5- *Syed Maqsood Shah Deputy Director, Colleges District Government Peshawar*
6- *MohammadIshaq, Assistant Town Officer, TMA Town-IV Peshawar (Retired)*
7- *Noor Shah Ali Town Municipal Officer, TMA Batkhela*
8- *Tanzeel Hussain, Chief Officer, Town Council, Sadda.*
9- *Saqib Hussain, TMO, TMA Allai*
10- *Nadir Shah District Tax Superintendent District Dir Lower (Retired from Service)*
11- *Abdur Rasheed District Tax Superintendent District Mansehra (Retired from Service)*
12- *Jehangir Khan TMO, TMA Rustom.*
13- *Atta Ullah, TMO, TMA Timergara District Dir Lower.*
14- *MohammadAwais TMO, TMA District Dasso.*
15- *Hamid Ullah TMO, TMA District Tank.*
16- *Iqbal Hassan TMO, TMA, Munda*
17- *Sohail Ahmad Town Officer Regulation, TMA Mardan*
18- *Raiz Ahmad Awan, Assistant Director City District Govt:, Town – I Peshawar*
19- *Said Ali Shah TMO, TMA, Jehangira District Nowshera.*
20- *Mohammad Amin, TMO, District Lachi*
21- *Karim Ullah TMO, TMA Mastooj, Chitral*
22- *Mohammad Rehman Khattak Town Officer Regulation TMA- Town-I Peshawar*
23- *Mohammad Zada, TMO, TMA District Daggar*
24- *Mohammad Afzal, TMO TMA District Alpori.*

ATTESTED
EXAMINER
Peshawar High Court

FILED TODAY
Deputy Registrar
27 SEP 2018

Judgment Sheet

PESHAWAR HIGH COURT, PESHAWAR

Judicial Department

W.P No. 4692-P/2018

Syed Ikramullah & others
Versus
Govt of Khyber Pakhtunkhwa & others

JUDGMENT

Date of hearing	:	07.10.2020
Petitioners by	:	Mr. Muhammad Furqan Yousafzai, Advocate
Govt of KP by	:	Mr. Arshad Ahmed, AAG
Respondent – 3 by	:	Arbab Fakhar-e-Alam, Advocate

****

ROOH-UL-AMIN KHAN, J.- Through the instant Constitutional Petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, the petitioners Syed Ikram Ullah alongwith others have invoked the Constitutional jurisdiction of this court with the following prayer:-

> *"It is, therefore, humbly prayed that on acceptance of the instant petition, a writ may kindly be granted in favor of petitioners by:*
>
> *i. Directing the respondents to notify and consider the promotion of the petitioner with effect from 19.03.2013 the date on which the same was approved by the Local Council Board KPK on the recommendation of the High Selection Committee vide meeting*

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Peshawar High Court

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dated 26.02.2013 instead of 01.7.2014 with all back benefits.

ii. *Declaring the impugned order No. AO-I/LCB/Estt:/12-8/2013 dated Peshawar the 1st July 2014, as illegal, void ab-initio not warranted and ineffective upon the rights of the petitioners hence needs to be set aside.*

iii. *Any other relief which deems fit by this August Court may also be granted in light of the identical writ petition No. 3311-P/2013 titled Muhammad Nawaz and others vs Government of KPK through Secretary LG, & and RDD & others decided on 31.03.2016.*

2. The respondents put on notice; who appeared and contested the writ of the petitioners by filing their respective comments.

3. Arguments of learned counsel for the parties heard and record gone through.

4. From bare perusal of the record it divulges that in essence, the petitioners prayed for declaring the office order dated 01.07.2014 as illegal, void *ab-initio*, not warranted and ineffective upon their rights and liable to be set aside and the promotion of the petitioners be considered with effect from 19.03.2013 the date on which the same was approved by the Local Council Board KPK on the recommendation of the High

ATTESTED
EXAMINER
Peshawar High Court

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Selection Committee vide meeting dated 26.02.2013 instead of 01.7.2014 with all back benefits. This Court had already decided the same question through an elaborate judgment in ***W. P No. 3311-P/2013*** titled ***"Muhammad Nawaz and others vs Government of Khyber Pakhtunkhwa through Secretary Local Government, Elections & Rural Development Department, & others"***, the relevant Para is reproduced as under:-

> *"18. In view of above, it is held that the impugned order of promotion in favour of respondents No. 3 to 6 dated 28.03.2013 is illegal, unlawful and void, the non-implementation of recommendation regarding promotion of petitioners w.e.f. the date of recommendation, 19.3.2013 is not lawful act of the officials respondents and as such writ petition No. 3311-P and 3310-P of 2013 are allowed as prayed for and writ petition No. 95-P/2014 is dismissed."*

5. It was held in by the august Supreme Court of Pakistan in ***2009 SCMR-1*** titled ***"Government of Punjab, through Secretary Education, Civil Secretariat, Lahore and others vs. Sameena Parveen and others"***, which reads as under:-

> *"Administration of justice. If a Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servant also, who*

ATTESTED
EXAMINER
Peshawar High Court

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may not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum."

6. Consequently, while relying on the dictum of august Supreme Court of Pakistan mentioned above and the petitioners, being similarly placed with the petitioners of the **W.P No.3311-P/2013**, this writ petition is allowed and; the respondents are directed to treat the petitioners in the like manner.

Announced:
07.10.2020

Judge

Judge

M. Piaz, SSS *D.B* Hon'ble Mr. Justice Rooh-ul-Amin Khan, J
Hon'ble Mr. Justice S.M Attique Shah, J

No. 537
Date of Presentation of Application 14/7/2021
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EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 87 of
The Qanun-e-Shahadat Order, 1984.
14 JUL 2021

محکمہ اطلاعات او ڈینگی کانگو اور لشمینیا کی روک تھام کیلئے کڑی نگرانی اور لوگوں کے بچاؤ کیلئے ہر ممکن اقدامات (باقی صفحہ 10 بقیہ نمبر 6)

سروسز محکمہ اطلاعات نے تمام ڈسٹرکٹ ہیلتھ افسران خصوصاً افغان سرحد بلوچستان اور پشاور سے

آتشزدگی کے بعد مقامی لوگ آگ پر قابو پانے کی کوشش کر رہے ہیں

بلدیات ایڈمن کیڈر کے 26 افسروں کی 2013ء سے ترقی کے احکامات

7 افسر ترقی کے بغیر ریٹائر ہو گئے عدالت کے احکامات پر محکمہ بلدیات نے ترقی کا اعلامیہ جاری کر دیا

پشاور (جنرل رپورٹر) محکمہ بلدیات و دیہی ترقی خیبر پختونخوا کے ایڈمن کیڈر کے 26 افسران نے 2013 سے گریڈ 16 سے 17 میں ترقی کا کیس جیت لیا جس پر ان کی متعلقہ تاریخ سے ترقی کا اعلامیہ جاری کر دیا گیا عدالت سے کیس جیتنے والوں میں گریڈ 17 کے 7 ریٹائرڈ افسران بھی شامل ہیں محکمہ بلدیات کے 26 افسران نے 2013 میں گریڈ 16 سے گریڈ 17 میں ترقی نہ دینے کیخلاف عدالت (باقی صفحہ 10 بقیہ نمبر 8)

1500 100000 114000

اطلاع دی گئی۔

بقیہ نمبر 8 افسر ترقی

میں رٹ دائر کر رکھی تھی جس پر عدالت نے افسران کے حق میں فیصلہ جاری کر دیا اور محکمہ بلدیات کو ملازمین کو 2013 سے گریڈ 16 سے 17 میں ترقی دینے کا حکم دیدیا ہے کیس جیتنے والے افسران میں سید اکرام اللہ، طارق خٹک، محمد ایوب خان، محمد سلیم، سید مقصود شاہ، محمد اسحاق، نور شاہ، تنزیل حسین، ثاقب حسین، نادر شاہ، عبدالرحمن، جہانگیر خان، عطا اللہ، محمد ادریس، حمید اللہ، محمد زادہ، محمد افضال، محمد آیاز، نور شہباز، اقبال حسن، سہیل احمد، ریاض احمد اعوان، سید علی شاہ، محمد امین، کریم اللہ، اور محمد رحمان خٹک شامل ہیں۔

بقیہ نمبر 9 کرک بیوی قتل

والد کی رپورٹ پر خاوند کے خلاف مقدمہ درج کر لیا گیا پولیس ذرائع کے مطابق حضرت اللہ ولد محمد زمان نے گولی مار کر کے اپنی بیوی مسماۃ (س ب) کو موت کے گھاٹ اتار دیا، مقتولہ کے والد محمد رؤف کی مدعیت میں درج ایف آئی آر میں خاوند حضرت اللہ کے خلاف دعویداری کی گئی ہے۔

بقیہ نمبر 10 ٹک ٹاک

رائیڈرز سکواڈ کے جوان ناردرن بائی پاس کے قریب معمول کی گشت پر موجود تھے کہ اس دوران دو نو جوان معروف سوشل میڈیا ایپ ٹک ٹاک کیلئے اسلحہ سمیت ویڈیو بنانے میں مصروف تھے جس پر سٹی پٹرولنگ فورس کے جوانوں نے ڈرامائی انداز میں دونوں ملزمان ماجد ولد شوکت اور ساجد ولد اکبر علی کو گرفتار کر کے ان کے قبضے سے اسلحہ برآمد کر لیا جبکہ گرفتار ملزموں کو تھانے چمکنی کے حوالے کر دیا گیا ہے۔

بقیہ نمبر 11 جمرود حادثہ

سے رکشہ سڑک کنارے واقع نہر میں جا گرا۔ جس میں سوار 05 افراد میں سے 03 سواریوں کو امی لوگوں نے اپنی مدد آپ کے تحت نہر سے لیا جبکہ خاتون اور بچے کی لاش کو کئی گھنٹے کی کے بعد نہر سے نکالا گیا۔ یاد رہے کہ نادرن سک کریونٹی کینال پر حفاظتی

بقیہ نمبر 19 نعشیں برآمد

قریب ایک معمر شخص کی نعش پڑی ہے جو پر اسرار طور پر جاں بحق ہوا ہے اطلاع ملتے ہی پولیس موقع پر پہنچ گئی اور نعش تحویل میں لیکر مردہ خانہ منتقل کر دی ادھر تھانہ گلبہار کی حدود میں بی آر ٹی پل کے قریب بھی ایک شخص کی نعش برآمد ہوئی جسے پولیس نے تحویل میں لے لیا پولیس کے مطابق دونوں نعشوں کی شناخت نہ ہو سکی تاہم رپورٹ درج کر کے ورثاء کی تلاش شروع کر دی گئی ہے۔

بقیہ نمبر 20 ایس ایچ او معطل

نے گزشتہ روز عوامی شکایت پر فوری کارروائی کرتے ہوئے ایس ایچ او تھانہ شاہ پور افتخار خان کو معطل کر کے لائن حاضر کر دیا سی سی پی او کے مطابق پشاور پولیس میں اختیارات کے غلط استعمال اور حد سے تجاوز کرنے والے عناصر کے لئے کوئی جگہ نہیں سی سی پی او نے تمام پولیس افسران کو ایک بار پھر مخاطب کرتے ہوئے کہا کہ پولیس اہلکار خود کو حقیقی معنوں میں عوام کا خادم سمجھ کر فرائض منصبی کو انجام دیں۔

بقیہ نمبر 21 شبقدر قتل

موبائل چوری کی۔ جس پر جرگہ ہو رہا تھا کہ اچانک عبداللہ اور اس کے ساتھیوں عثمان، سجاد عرف کوکو ساکنان غنی تالہ نے فائرنگ کی جس سے وہ موقع پر جاں بحق ہو گیا۔ ملزم فرار ہوتے وقت مقتول کی موٹر کار بھی لے گئے۔ پولیس تھانہ شبقدر نے مقدمہ درج کر کے تفتیش شروع کر دی۔

بقیہ نمبر 22 لڑکا قتل

ہمراہ وانڈہ زیڑان سے گاؤں آبا خیل جا رہا تھا کہ راستے میں قبرستان کے نزدیک ملزمان گوہر ایوب اور حکمت اللہ نے سامنے آ کر کریم اللہ پر فائرنگ کر دی جس سے وہ موقع پر جاں بحق ہو گیا۔ انہوں نے کہا کہ ملزمان کافی عرصے سے اس کے بیٹے کو دوستی کرنے پر مجبور کر رہے تھے۔ پولیس کا کہنا ہے کہ کریم اللہ کی لاش گورنمنٹ سٹی ہسپتال میں پوسٹ مارٹم کے بعد تدفین کے لئے ورثاء کے حوالے کر دی گئی جبکہ ملزمان کے خلاف مقدمہ درج کر کے تفتیش شروع کر دی گئی۔

ترین شاہراہوں کی فہرست میں شامل کیا ہے۔ وکی کیپرز پہاڑوں، سمندری کناروں، صحراؤں سمیت دیگر دلفریب مقامات کیلئے سیاحتی خدمات فراہم کرنے والی دنیا کی معروف ویب سائٹ ہے، جو امریکہ، یورپ، لاطینی امریکہ سمیت دنیا بھر میں مہم جو افراد کو خدمات فراہم کر رہی ہے۔ جمعہ کو وکی کیپرز نے اپنے ویب سائٹ پر قراقرم ہائی وے کی خوبصورت تصاویر کیساتھ تفصیلات جاری کی ہیں اور کہا کہ قراقرم دنیا کی دوسری سب سے بلند ترین ہائی وے ہے جو 4693 میٹر کی بلندی پر واقع ہے اور چین کو پاکستان سے ملاتی ہے۔ قراقرم پہاڑی سلسلے میں بعض چوٹیوں کی بلندی سات ہزار میٹر سے بھی زیادہ ہے۔ ویب سائٹ کا کہنا ہے کہ قراقرام کے خوبصورت اور دلفریب مناظر پاکستان سمیت دنیا بھر کے سیاحوں کیلئے مثالی ہیں۔

بقیہ نمبر 32 قرنطینہ مراکز

لئے خصوصی انتظامات کئے گئے ہیں گزشتہ روز بارڈر سے 549 شہری واپس آئے جن میں سے 25 کے ٹیسٹ مثبت آئے اور ان کو فوری طور پر لنڈی کوتل میں قائم 3 اور باڑہ میں قائم قرنطینہ سنٹر میں قرنطینہ کر دیا گیا جبکہ پشاور میں یونیورسٹی روڈ اور دورا پور میں قرنطینہ مراکز قائم کئے گئے ہیں جن میں 216 اور 17 میل اور فی میل طلبہ کو قرنطینہ کیا گیا ہے کمشنر کے مطابق بارڈر سے آنے والے مکمل ویکسین لگانے والے افراد کا بھی ٹیسٹ کیا جاتا ہے اور منفی آنے پر ہی گھر جانے دیا جاتا ہے ویکسین کی ایک خوراک لینے والوں کا بھی ٹیسٹ ہوتا ہے اور منفی آنے پر بھی انہیں قرنطینہ کر دیا جاتا ہے جبکہ مثبت آنے والے شہریوں کو 10 دن کا قرنطینہ گزارنا ہوتا ہے جن کا پی سی آر منفی آنے پر ہی گھر جانے دیا جائے گا افغانستان سے آنے والے پنجاب اور دیگر صوبوں اور اضلاع کے شہریوں کے لئے ٹرانسپورٹ کا بندوبست کیا گیا ہے کیونکہ زیادہ تعداد کے باعث ان صوبوں اور اضلاع کے قرنطینہ مراکز ان کو منتقل کیا جاتا ہے۔

بقیہ نمبر 33 باپ قتل

کر کے اپنے باپ خان سید کو گولی مار کر قتل کر دیا۔ دوسرے واقعے میں تھانہ متنی کے حدود میں

درہ آدم خیل سے [illegible] راستے جنوبی اضلاع کو سمگل کیا جا رہا تھا [illegible] گرفتار سمگلروں نے اعتراف کر لیا [illegible] برآمد اسلحہ سمگلروں کا تعلق [illegible] جن کے خلاف تھانہ جرما میں مقدمہ درج کر لیا گیا ہے ناکہ بندی کے دوران درہ آدم خیل کی [illegible] سے آنیوالی موٹر کار کے خفیہ خانوں [illegible] مہارت سے چھپایا گیا اسلحہ [illegible] شکوف، 21 پستول، 3800 کارتوس اور 70 چارجرز شامل ہیں۔

بقیہ نمبر 30 نئے قوانین

اور نئی ایکسپورٹ سہولت سکیم 2021 [illegible] پر لاگو ہو جائے گی نئی ایکسپورٹ سہولت سکیم 2021 کے ڈرافٹ قوانین کو ایف بی آر ویب سائٹ پر دیکھا جا سکتا ہے نئی ایکسپورٹ سہولت سکیم کے تحت کم از کم ڈاکیومنٹیشن کی ضرورت [illegible] کی جس سے چھوٹے اور درمیانے [illegible] انٹر پرائزز [illegible] اور پاکستان سنگل ونڈو کے تحت مکمل طور پر خودکار ہوگی۔ اس سکیم کی نمایاں خصوصیت [illegible] کلیرنس آڈٹ اور کنٹرول شامل ہے۔ اس سکیم نے انٹرنیشنل ڈول مینوفیکچرنگ کو بھی [illegible] ہے۔ اس سکیم کے تحت استعمال کرنے والوں کو ایکسپورٹرز کی پروفائل کو دیکھتے ہوئے دو سال سے بڑھا کر پانچ سال تک کر دیا گیا ہے توقع ہے کہ اس نئی سکیم کی وجہ سے کاروباری لاگت میں کمی آئے گی، ٹیکس آڈیٹ آسان [illegible] تجارتی آسانی فراہم ہوگی، ایکسپورٹرز کے لئے [illegible] مسائل کم ہوں گے اور تجارت [illegible]

بقیہ نمبر [illegible] طورخم بارڈر

کے ہدایات کی روشنی میں 24 گھنٹوں کے دوران مجموعی طور پر 816 شہری افغانستان سے طورخم بارڈر کے ذریعے پاکستان داخل ہوئے جن میں کلینر ہونے کے باعث 789 شہریوں کو سیکورٹی حصار میں [illegible] روانہ کر دیا گیا ہے۔ دیگر 29 شہریوں میں سے 27 شہریوں کے کورونا رپورٹ مثبت آنے پر جرنیل [illegible] گورنمنٹ ڈگری کالج [illegible] قرنطینہ کر دیا گیا۔

آج 10 11 جولائی 2021ء پشاور

کے مطابق گریڈ 17 کے ڈینٹل سرجن ڈاکٹر سعد ایوب کا تبادلہ ٹائپ ڈی ہسپتال جمرود سے کر دیا گیا انہیں ڈی جی ہیلتھ، رپورٹ کرنے کی ہدایت کی گئی ہے گریڈ 17 کی ڈینٹل سرجن ڈاکٹر نائلہ نور کا تبادلہ ڈی ایچ کیو ہسپتال شمالی وزیرستان

وامان کے حوالے سے ہونیوالے عالیہ اجلاس میں کیا گیا ہے، اجلاس میں ضلع مردان کے علاقے کاٹلنگ میں امن وامان کی مجموعی صورت حال اور ٹارگٹ کلنگ کے بڑھتے ہوئے واقعات

نوجوان سعید خان ولد اقبال خان سکنہ لونڈ میر عالم بورانی کو موت کے گھاٹ اتار دیا ملزمان موقع واردات سے فرار ہو گئے 4 جولائی کو پستول کی فائرنگ سے زخمی ہونے والے محب اللہ ولد نقیب

اور انہوں نے دونوں فریقین کے درمیان [illegible] کیلئے مذاکرات شروع کر دیئے [illegible] اقوام نے جن شرائط کو جرگہ ممبران کے سامنے

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing_____-p/20____

In case No. 877 -p/20 14

Khan Muhammad Vs Secy. Estb.

Presented by M. Shah Tasleem Adv. on behalf of Khan M. Entered in the relevant register.

Put up alongwith main case ✓

REGISTRAR

Last date fixed	24-02-2022
Reason(S) for last adjournment, if any by the Branch Incharge.	Defunct.
Date(s) fixed in the similar matter by the Branch Incharge	—
Available dates Readers/Assistant Registrar branch	NFA

11/04/22

Assistant Registrar

REGISTRAR

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

CM No:_____/2021

In

Re Execution Petition No:33/2019

with S.A No. 877/2014

Khan Muhammad
VERSUS
Secretary Govt of KPK & Other

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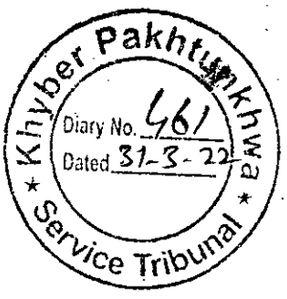
Dated: 31/03/2022

Petitioner

Through

Mukammil Shah Taskeen
Advocate, High Court,
Peshawar.

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR



CM No:_____/2021

In

Re Execution Petition No:33/2019

with S.A No. 877/2014

Put up to the Worthy Chairman with relevant appeal.

31/3/2022.

Reader.

Khan Muhammad

VERSUS

Secretary Govt of KPK & Other

APPLICATION FOR EARLY HEARING OF THE ABOVE TITLE CASE

Respectfully Sheweth,

1. That the above title execution petition is pending adjudication before this Hon'ble Service Tribunal & is fixed for 10-05-2022.

2. That in the matter, petitioner is going to file an accompanied application for suspension of the proceeding initiated by the respondent which need to be hard on early date.

3. That if the captioned case is not fixed for an early date, the Appellant will suffer irreparable loss.

4. That in the given circumstances early fixation of the instant case is indispensable.

It is, therefore, most humbly prayed that on acceptance of this Application, the above title case may kindly be fixed for an early date as convenient to this Hon'ble Tribunal.

Dated: 31/03/2022

Petitioner

Through

Mukammil Shah Taskeen
Advocate, High Court,
Peshawar.

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

CM No:_____/2021
In
Re Execution Petition No:33/2019
with S.A No. 877/2014

Khan Muhammad

.....Petitioner

VERSUS

1. Secretary, Government of Khyber Pakhtunkhwa.

.....Respondents

APPLICATION FOR SUSPENSION OF PROMOTION PROCEDING, FROM PRIVATE SECRETARY BPS-17 TO SENIOR PRIVATE SECRETARY BPS-18, TILL THE FINAL DISPOSAL OF THE EXECUTION PETITION NO. 33/2019 IN S.A NO: 877/2014.

RESPECTFULLY SHEWETH:

1. That the Petitioner has filed a S.A No. 877/2014, which was allowed vide judgment & order dated 10/04/2018 by this Hon'ble Tribunal.

2. That in the matter execution petition No. 33/2019 has been filed before this Hon'ble Tribunal for its implementation which is fix for 10/05/2022.

3. That in the matter, the respondents (Department) are going to proceed promotion from private secretary BPS-17 to senior

private secretary BPS-18, in order to deprive to the petitioner from his legal right

4. That if the impugned proceeding as mentioned above is not suspended the Petitioner will suffer irreparable loss.

5. That in the given circumstances the suspension of operation of the impugned proceeding are indispensible.

It is, therefore, humbly prayed that impugned proceeding as mentioned above may kindly be suspended till final disposal of the execution, in the ends of justice.

Any other relief which this Hon'ble Tribunal deems fit may also extended in the favor of the petitioner.

Dated: 31/03/2022

Petitioner

Through

Mukammil Shah Taskeen
Advocate, High Court,
Peshawar.

Note:
No such like petition has earlier filed by the petitioner in any court of law, prior to this one.

Advocate

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

CM No:_____/2021

In

Re Execution Petition No:33/2019

with S.A No. 877/2014

Khan Muhammad
VERSUS
Secretary Govt of KPK & Other

AFFIDAVIT

I, Khan Muhammad S/o Gul Muhammad, Senior Scale Stenographer, Home & Tribal Affairs Department, Peshawar, do hereby solemnly affirm & declare on oath that contents of instant application are true & correct to the best of my knowledge and belief and nothing has been kept concealed or misstated.

DEPONENT
CNIC: 17301-1262675-3

ATTESTED

Azmat Ali Advocate
Notary Public
Judicial Complex

31/3/2022

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

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Secretary Govt of KPK & Other

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Dated: 09/06/2021

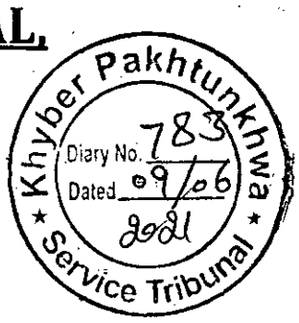
Petitioner

Through

Mukammil Shah Taskeen
Advocate, High Court,
Peshawar.

(1)

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR



CM No: 115 /2021

In

Re Execution Petition No:33/2019

with S.A No. 877/2014

Khan Muhammad S/o Gul Muhammad, Senior Scale Stenographer, Home & Tribal Affairs Department, Peshawar.

.....Petitioner

VERSUS

1. Secretary, Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
2. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.

.....Respondents

APPLICATION FOR RESTORATION OF THE EXECUTION PETITION NO. 33/2019 IN S.A NO: 877/2014 WHICH OPERATION WAS SUSPENDED BY THIS HON'BLE COURT VIDE ORDER/ JUDGMENT DATED 26/11/2019.

ESPECTFULLY SHEWETH:

1. That the Petitioner has filed a S.A No. 877/2014, which was allowed vide judgment & order dated 10/04/2018 by this Hon'ble Tribunal.

2. That in the matter execution petition No. 33/2019 was filed before this Hon'ble Tribunal for its implementation.

3. That meanwhile CPLA was filed before the Apex Court by the Respondent and operation of the execution petition was suspended by this Hon'ble Court vide order dated 26/11/2019 till the decision of the Apex Court. (Copy of order dated 26/11/2019 is annexed as Annexure "A")

4. That CPLA / Appeal of the Respondents was dismissed by the Apex Court vide order / judgment dated 26/02/2020. (Copy of Order dated 26/02/2020 is annexure "B")

5. That proceeding of the Execution Petition No. 33/2019 is need to be restored for its implementation because the Respondent was not implemented the order of this Hon'ble Tribunal in its true letter & spirit. Hence the instant application for its restoration.

It is, therefore, humbly prayed that execution petition mentioned above may kindly be restored, in the ends of justice.

Any other relief which this Hon'ble Tribunal deems fit may also extended in the favor of the petitioner.

Dated: 09/06/2021

Petitioner

Through

Mukammil Shah Taskeen
Advocate, High Court,
Peshawar.

Note:
No such like petition has earlier filed by the petitioner in any court of law, prior to this one.

Advocate

(4)

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

CM No:_____/2021

In

Re Execution Petition No:33/2019

with S.A No. 877/2014

Khan Muhammad
VERSUS
Secretary Govt of KPK & Other

AFFIDAVIT

I, Khan Muhammad S/o Gul Muhammad, Senior Scale Stenographer, Home & Tribal Affairs Department, Peshawar, do hereby solemnly affirm & declare on oath that contents of instant application are true & correct to the best of my knowledge and belief and nothing has been kept concealed or misstated.

DEPONENT
CNIC: 17301-1262675-3

ATTESTED

KHALIDA RAHMAN ADVOCATE
PESHAWAR

(1) (5)

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 33/2019

In Re Application No# _____/ 2018

In S.A. No. 877/2014

Khan Muhammad S/o Gul Muhammad, Senior Scale Stenographer, Home & Tribal Affairs Department, Peshawar.

Petitioner

VERSUS

1. Secretary, Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
2. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.

Respondents

APPLICATION FOR IMPLEMENTATION OF THE ORDERS/ JUDGMENT OF THIS AUGUST COURT IN S.A. No. 877/2014 DATED 10/04/2018.

RESPECTFULLY SHEWETH,

1. That the petitioners has filed a **S.A. No. 877/2014**, which was allowed vide judgment and order dated 10/04/2018 by

(6)

26.11.2019 Petitioner with counsel and Mr. Usman Ghani, District Attorney alongwith Mr. Zar Muhammad, Assistant for respondents present.

The representative of the respondent NO.1 has produced copy of order dated 05.11.2019 passed by the apex court in civil petition No. 524-P/2018. Inter-alia, the august court has been pleased to suspend the operation of judgment under implementation.

In view of the developments, instant proceedings are consigned to the record room. The petitioner may apply for restoration of the proceedings after the decision in appeal by the apex court, if need be.

Announced:
26.11.2019

Chairman

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application	09/3/2021
Number of Words	850
Copying Fee	10/-
Urgent	4/-
Total	16/-
Name of Copyist	
Date of Completion of Copy	09/3/21
Date of Delivery of Copy	09/3/21

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Gulzar Ahmed, CJ
Mr. Justice Ijaz ul Ahsan
Mr. Justice Sajjad Ali Shah

C.A.No.1764 of 2019

[Against the judgment dated 10.04.2018, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Appeal No.877/2014]

Secretary to Govt. of KP Establishment Peshawar & another. ...*Petitioner(s)*

Versus

Khan Muhammad & others. ...*Respondent(s)*

For the Petitioner(s) : Mr. Zahid Yousaf Qureshi, Addl.A.G.

For Respondent No.1 : Mr. Nasir Mehmood, ASC
Mr. M.S. Khattak, AOR

For the Respondent No.2 : Nemo.

Date of Hearing : 26.02.2020

ORDER

Gulzar Ahmed, CJ:- We have heard the learned counsel for the parties.

2. Respondent No.1 (**the respondent**) was employed as a Steno-typist (BPS-8) in the Directorate of Education, Peshawar on 06.10.1982. He was promoted in BPS-15 on 29.12.1994 and was granted move-over to BPS-16 with effect from 1.12.1995. On 03.09.2001, he was declared surplus and then was adjusted in the Establishment Department on 06.08.2003 in BPS-12 under the surplus policy. On 01.07.2006, the seniority list was issued wherein the respondent was shown at bottom of the seniority list of the BPS-12 employees, which he challenged by filing of a departmental appeal. The departmental appeal was rejected. The

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

respondent then filed a service appeal in the Khyber Pakhtunkhwa Service Tribunal, Peshawar. Such appeal after hearing was allowed and the petitioners were directed to place the seniority of the respondent as per the clarification made *vide* letter dated 15.02.2006, issued by the Establishment Department, Government of NWFP (now KPK), which provides for as follows: -

> "(d) In case of adjustment against a post lower than his original SC he shall be placed at the top of seniority list of that cadre, so a(sic.) save him from being rendered surplus again & becoming junior to his juniors."

3. Learned AAG contends that the rules were amended by this letter dated 15.02.2006 and it could not be given retrospective effect, for that, the adjustment of the respondent had taken place in the year 2003. We have note that this very submission of the learned AAG has been considered by the learned Tribunal in the impugned judgment and has noted that the letter dated 15.02.2006 is not an amendment, to operate prospectively, but is a clarification to the earlier policy dated 08.06.2001.

4. Learned AAG then relied upon Section 11A of the KPK Civil Servants Act, 1973. We have gone through such provision of the Act and have noted that in the first place, it provides that when an absorption of a civil servant is made, who has become surplus, he will be appointed to a post, carrying basic pay scale equal to the post hold by him before such appointment, and that if he is offered a lower post, then pay being drawn by him in higher post, shall remain protected. The matter of seniority is not dealt with by this provision of the Act.

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

5. The question of seniority has been adverted to by the letter dated 15.02.2006 and the Tribunal having considered the same in every respect, while giving the impugned judgment dated 10.04.2018, we find no reason to interfere with the same.

6. The question of limitation though raised by the learned AAG but we find that the case of the respondent was that of recurring cause of action and thus, will not be effected by limitation; more so, when he immediately filed departmental appeal, which, as stated by the counsel for the respondent, was decided on 09.05.2014. Learned AAG was confronted with such, he referred to a letter dated 04.01.2007 (at page027 of the record) and stated that departmental appeal of the respondent was rejected by this letter. We note that this letter has been issued by the Section Officer, Establishment Department and addressed to the Section Officer (General), Home and TAs Department, in which reference has been made to the policy notified on 15.02.2006 and thus; it is observed that the request of the official cannot be acceded to. We have asked the learned AAG to show whether this letter exactly pertains to the case of the respondent, as there is no mention of the name of the respondent in the same. Learned AAG referred to the departmental appeal of the respondent (at page-36), which is dated 12.08.2006, but reference to such departmental appeal has not been made in the letter dated 04.01.2007 and further, what we note is that *vide* letter dated 23.03.2006, the departmental appeal of the respondent was forwarded by the Section Officer (General), Home and TAs Department to the Special Secretary (Regulations), Establishment and Admn. Department (Regulation Wing),

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

Government of NWFP. Apparently, the letter dated 04.01.2007 does not deal with the case of the respondent and thus, we are not persuaded to accept that such was the reply to his departmental appeal. The Tribunal has also considered such aspect of the matter in the impugned judgment. Thus, no case for such interference is made out

7. The appeal is, therefore, dismissed with no order as to costs.

Sd/-HCJ
Sd/-J
Sd/-J

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad

SEAL OF THE SUPREME COURT OF PAKISTAN

Bench-I
Islamabad
26.02.2020
NOT APPROVED FOR REPORTING
Rabbani*/
10/3/20

Allowed
Nabbani

GR No: 5062/20 Civil/Criminal
Date of Presentation: 04.03.20
No of Words: 1200
No of Folios: 12
Requisition Fee Rs: 5-00
Copy Fee In: 7.44
Court Fee Stamps: 12-44
Date of Completion of Copy: 10/3/20
Date of delivery of Copy: 13/3/20
Compared by/Prepared by:
Received by:

قیمت 50 روپے

85775

ایڈوکیٹ: حکمل شاہ کیس

بارکونسل/ایسوسی ایشن نمبر: KE-10-7570

رابطہ نمبر: 03429000402

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: خیبر پختونخواہ سروس ٹریبونل پشاور

دعویٰ: _____

علت نمبر: _____

مورخہ _____

جرم: _____

تھانہ _____

منجانب: سائل

بنام

باعث تحریر آنکہ

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

آن مقام پشاور کیلئے حکمل شاہ کیس ایڈووکیٹ 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 وتقرر ثالث وفیصلہ 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 ونظر ثانی وپیروی 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 بااختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور وقبول ہوگا دوران مقدمہ میں جو خرچہ ہرجانہ 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، لہٰذا وکالت نامہ لکھ دیا تا کہ سند رہے

المرقوم: _____

PESHAWAR BAR ASSOCIATION
KHYBER PAKHTUNKHWA

العبد العبد

مقام پشاور کے لیے منظور ہے۔

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

IN THE HON'BLE SERVICE TRIBUNAL,KHYBER PAKHTUNKHWA PESHAWAR

In Re CM # _____ /2021

In CM # 115/2021

With S.A No: 877/2014

Khan Muhammad

VS

Secretary Establishment Govt: of Khyber Pakhtunkhwa & Others

INDEX

Dated **18-09-2021**

Applicant/ Appellant

Through

Mukamil Shah Taskeen
Advocate High Court,
Peshawar.

(1)

IN THE HON'BLE SERVICE TRIBUNAL,KHYBER PAKHTUNKHWA PESHAWAR

In Re CM # _____ /2021

In CM # 115/2021

With S.A No: 877/2014

Khan Muhammad

VS

Secretary Establishment Govt: of Khyber Pakhtunkhwa & Others

APPLICATION FOR PLACING ON FILE APPEAL NO: 831/2015 AND APPEAL NO: 349/2017

Respectfully Sheweth,

1. That the captioned case is pending adjudication before this Honorable Tribunal, which is fixed for i.e 12-10-2021.

2. That in previous date, it was observed that Appeal No: 831/2015 & Appeal No: 349/2017 is the necessary part of S.A No: 877/2014. (Copies are annexed)

3. That placing on file, hereby annexed documents is necessary for the proper and fair adjudication of the lis.

4. That in the given circumstances, placing on file the above mentioned Documents are indispensable.

It is, therefore, humbly prayed that on acceptance of the instant application, the annexed documents may graciously be placed on file.

Applicant/ Appellant

Through

Mukamil Shah Taskeen
Advocate High Court,
Peshawar.

Note:
No Such like application has earlier been filed prior to this one.

Advocate

IN THE HON'BLE SERVICE TRIBUNAL,KHYBER PAKHTUNKHWA PESHAWAR

In Re CM # _____ /2021

In CM # 115/2021

With S.A No: 877/2014

Khan Muhammad

VS

Secretary Establishment Govt: of Khyber Pakhtunkhwa & Others

AFFIDAVIT

I, Khan Muhammad S/o Gul Muhammad, Private Secretary Auqaaf Department, Civil Secretariat, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Deponent

CNIC: 17301-1262675-3

Cell No: 0316-9091802

(4)

S.No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

CAMP COURT ABBOTTABAD

APPEAL NO. 831/2015

Mr. Muhammad Naveed Versus Government of Khyber Pakhtunkhwa through Secretary Establishment & Administration Department, Peshawar and another.

JUDGMENT

15.08.2016

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

Appellant with counsel and Mr. Muhammad Siddique, Senior Government Pleader for respondents present.

2. Mr. Muhammad Naveed son of Fazal Dad hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for seeking seniority by placing him at S.No. 1 of the seniority list maintained by the Food Department for BPS-06.

3. Brief facts giving rise to the present appeal are that the appellant was serving as Senior Clerk (BPS-07) in the office of Deputy Commissioner, Mansehra and was declared surplus in the year, 2001 and later-on adjusted in Food Department in BPS-06 vide office order dated 26.01.2006. That the appellant was to be placed at the top of the seniority list in BPS-06 but he was placed at the bottom of the same constraining the appellant to institute Writ Petition No. 494-A/2012

15.08.16

ATTESTED

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(5)

which was disposed of vide judgment dated 17.01.2013 with the directions to respondent No. 1 to decide the grievances of the appellant within a period of 60 days. That the department did not acceded to the request of the appellant constraining the appellant to prefer another Writ Petition No. 23-A/2014 which was dismissed by the hon'ble High Court. Abbottabad Bench vide judgment dated 24.09.2014 where-against the appellant preferred Civil Petition No. 2336/2014 before the august Supreme Court of Pakistan which was disposed of on 25.3.2015 with the direction to the respondents to decide the departmental appeal/representation of the appellant by the departmental authority. That vide order dated 13.05.2015 the departmental appeal of the appellant was turned down and hence the instant service appeal.

4. Learned counsel for the appellant argued that as per policy of the provincial government issued vide notification dated 08.06.2001 read with amended policy issued vide notification dated 15.02.2006 the appellant was entitled to enlistment at S.No. 1 of the seniority list as he was serving in BPS-07 while he was adjusted as Food Grain Inspector in BPS-06.

5. Learned Senior Government Pleader argued that the appellant was adjusted as Food Grain Inspector BPS-06 on 26.01.2006 in the light of notification dated 08.06.2001 while the amended policy was issued on 15.02.2006 and as such the appellant was not entitled to claim seniority on the strength of the said notification with retrospective effect. That the appeal is therefore liable to dismissal.

6. We have heard arguments of learned counsel for the parties and

15.08.16

ATTESTED

perused the record.

7. According to notification dated 08.06.2001 issued by Establishment and Administration Department of the provincial government policy for declaring government servants as surplus and their subsequent absorption/adjustment was laid down which was further amended vide circular letter dated 15.02.2006 wherein the following sub-para (d) added to para-(6) of the original policy issued vide notification dated 08.06.2001.

"Sub para-(d) added to para (6).

(d) In case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again and becoming junior to his juniors."

8. A careful perusal of para-6 of the policy letter dated 08.06.2001 would suggest that in case of adjustment of a surplus employee against a post in corresponding basic pay scale with different designation/nomenclature of the post. was to be placed at the bottom of the seniority. It is no where mentioned in the said circular that an employee is to be placed at the bottom of the seniority list even if he is adjusted against a post lower than his original scale. The subsequent circular dated 15.02.2006 is in fact a clarification of the policy earlier issued by the provincial government vide letter dated 08.06.2001 with an object to remove the anomaly and as such the appellant cannot be deprived of his right to claim senior position at the top of the seniority list of the cadre in which he was adjusted against a post lower than his original scale. It is note worthy that an employee otherwise junior to appellant but if adjusted against a lower post after the amended policy

(7)

letter dated 15.2.2006 at the top of seniority list would rank senior to appellant. Therefore depriving the appellant from seniority may not be in accordance with mandate of service structure/laws. We therefore hold that the appellant was entitled to be placed at the top of seniority list at the relevant time after the clarification of policy as he was adjusted against a post lower than his original scale. The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

(Muhammad Azim Khan Afridi)
Chairman
Camp Court, A/Abad.

(Abdul Latif)
Member

ANNOUNCED
15.08.2016

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 25/8/21
Number of Words 2100
Copying Fee 22-
Urgent 4-
Total 26-
Name of Copyist
Date of Completion of Copy 25/8/21
Date of Delivery of Copy 25/8/21

IX

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR

Appeal No. 349/2017

Date of Institution ... 13.04.2017

Date of Decision ... 08.02.2018

Noor Khan (AFC BPS-14) son of Gulfam Khan R/O village Abdara, Ghari Tajik Muhammad Post Office University of Peshawar, Tehsil and District, Peshawar.
... (Appellant)

VERSUS

1. Director Food, Khyber Pakhtunkhwa, Peshawar and two others.
... (Respondents)

MR. TAIMUR HAIDER KHAN, Advocate ... For appellant

MR. MUHAMMAD JAN, Deputy District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. MUHAMMAD AMIN KHAN KUNDI, ... MEMBER

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was declared surplus from Government Printing & Press Department and was adjusted in the Food Department in the year, 2004 in BPS-06.

He was appointed in his original department in BPS-07. He was then promoted as Assistant Food Controller in the year, 2016. One Muhammad Naveed who was also declared surplus from the office of Deputy Commissioner, Mansehra and was adjusted in the Food Department in the year, 2006 in BPS-06 from BPS-07, was placed at the bottom of the seniority list of BPS-06 like the appellant. The said Muhammad Naveed was also promoted as Assistant Food Controller in the year, 2016. Muhammad Naveed had knocked the door of different courts for placing him in his correct seniority position and finally this Tribunal vide judgment dated 15.08.2016 in service appeal No. 831/2015 decided the appeal in his favour directing the department to place him at the top of the seniority list of BPS-06 in the year, 2006 when he was adjusted. Thereafter a revised seniority list was issued in pursuance of the judgment of this Tribunal. The appellant then feeling himself at par with the said Muhammad Naveed, filed a departmental appeal on 27.3.2017 which was rejected on 06.04.2017 and thereafter he filed the present service appeal on 13.04.2017

ARGUMENTS.

3. The learned counsel for the appellant argued that the case of the appellant is of seniority and stood at the same footings as that of Muhammad Naveed and in view of judgment reported as 1999-SCMR-1, similarly placed employees should have been treated similarly. That if the benefit of the judgment of Naveed's case was extended to the appellant, then the appellant would rank even senior to said Muhammad Naveed as the appellant was adjusted in the year, 2004 and Muhammad Naveed was adjusted in the year, 2006. The learned counsel for the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Tribunal.

(10)

appellant further argued that there was no need of even filing of departmental appeal by the appellant or to come to this Tribunal as it was the duty of the department to have extended the benefit of the judgment of Naveed's case to all the similarly placed employees.

4. On the other hand, the learned Deputy District Attorney argued that two other employees who were adjusted through the same order whereby the appellant was adjusted on 25.08.2004 also approached this Tribunal after the judgment of the said Naveed's case and this Tribunal vide judgment dated 24.11.2017 extended the benefit of the said Naveed's case to those two other employees (Muhammad Akbar and Muhammad Saleem Iqbal). That in the said judgment this Tribunal added that while extending the benefits of judgment of Muhammad Naveed all those direct recruits as AFCs prior to the promotion of those two persons should be placed senior to those two appellants. He next contended that as per the said judgment, the department issued a revised seniority list and placed those two persons and the present appellant at S.Nos. 22 to 24 by placing the direct recruits senior to these three persons. He next contended that the case of the appellant was more similar to those two subsequent named persons then the case of Naveed, therefore, he was rightly placed junior to direct recruits. He added that the reason for this placement of junior position to direct recruits was non-impleadment of direct recruits in the appeals filed by those two persons.

CONCLUSION.

5. It is an admitted position that the appellant was adjusted in the year, 2004, under the surplus pool policy from BPS-07 to BPS-06. He should have been placed

ATTESTED

EXAMINER

at the top of the seniority list of BPS-06 at that time. This aspect of the matter had already been discussed by this Tribunal in the judgment of Muhammad Naveed delivered on 15.08.2016. In that very judgment this Tribunal did not place any condition of placing the said Muhammad Naveed junior to direct recruits and as such he was placed at the due position above the direct recruits. In the later judgment of this Tribunal delivered on 24.11.2017 the same judgment was followed with alteration that the direct recruits should be placed senior to those two appellants.

Now this Tribunal is to follow one of the two judgments. It appears that the philosophy behind the earlier judgment was based on the principle that had Naveed been placed at the top of the seniority list of BPS-06 in the year, 2006 then he should have been promoted prior to the direct recruits that is why the Tribunal did not put this condition of placing the said Naved Junior to direct recruits. In the subsequent judgment this aspect seems to have been ignored and the direct recruits who were promoted in the year, 2015 were given seniority over the appellants who were promoted in the year, 2016. It appears that this Tribunal in subsequent judgment had overlooked this aspect of the matter that had the appellants in those appeals been given correct seniority in the year, 2006 then they would have been promoted prior to the direct recruits. Secondly when this Tribunal in the subsequent judgment was to extend the benefit of Naveed's case to those appellants then no restriction could have been imposed on those two appellants which restriction was not imposed on Muhammad Naveed. The result was that the benefit of the judgment of Naveed was not extended fully to those two appellants. The objection of the learned Deputy District Attorney regarding non-impleadment of direct recruits is

ATTESTED

EXAMINER
Khyber Pakhtunkhwa

12

untenable because in Naveed's case none of the direct recruits was arrayed as party and the Tribunal granted the relief to said Muhammad Naveed. This Tribunal in a case entitled *"Naeem Akhtar Versus the Chief Secretary Government of Khyber Pakhtunkhwa Peshawar and others"* in service appeal No. 394/2013 decided on 11.1.2018 had elaborately discussed the issue of non-impleadment of necessary party in ante-dated promotion case and had decided that when a right of promotion accrued to a civil servant prior to the induction of direct recruits then it was not necessary to implead the direct recruits as party to the appeal. On the basis of the same principle the right of seniority accrued to the present appellant in the year, 2004 prior to the recruitment of direct recruitees in the year, 2016 as such they were not necessary party in Naveed's appeal,appeals of Muhammad Akbar and Muhammad Saleem Iqbal or in the present appeal.

7. As a sequel to the above discussion, this Tribunal would follow the first judgment of Naveed and would dispose of the appeal in the terms as that of appeal of Naveed dated 15.08.2016. Parties are left to bear their own costs. File be consigned to the record room.

Announced
08.02.2018

SD/- Niaz Muhammad Khan
Chairman

SD/- M. Amin Khan Kundi
Member

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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IN THE HON'BLE SERVICE TRIBUNAL,KHYBER PAKHTUNKHWA PESHAWAR

In Re CM # _____ /2021

In CM # 115/2021

With S.A No: 877/2014

Khan Muhammad

VS

Secretary Establishment Govt: of Khyber Pakhtunkhwa & Others

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Dated **18-09-2021**

Applicant/ Appellant

Through

Mukamil Shah Taskeen
Advocate High Court,
Peshawar.

SB 12/10

(1)

IN THE HON'BLE SERVICE TRIBUNAL,KHYBER PAKHTUNKHWA PESHAWAR

In Re CM # _____ /2021

In CM # 115/2021

With S.A No: 877/2014

Place of the Case with regard

Khan Muhammad

VS

Secretary Establishment Govt: of Khyber Pakhtunkhwa & Others

APPLICATION FOR PLACING ON FILE APPEAL NO: 831/2015 AND APPEAL NO: 349/2017

Respectfully Sheweth,

1. That the captioned case is pending adjudication before this Honorable Tribunal, which is fixed for i.e 12-10-2021.

Reader

2. That in previous date, it was observed that Appeal No: 831/2015 & Appeal No: 349/2017 is the necessary part of S.A No: 877/2014. (Copies are annexed)

3. That placing on file, hereby annexed documents is necessary for the proper and fair adjudication of the lis.

4. That in the given circumstances, placing on file the above mentioned Documents are indispensable.

(2)

It is, therefore, humbly prayed that on acceptance of the instant application, the annexed documents may graciously be placed on file.

Applicant/ Appellant

Through

Mukamil Shah Taskeen
Advocate High Court,
Peshawar.

Note:
No Such like application has earlier been filed prior to this one.

Advocate

C3

IN THE HON'BLE SERVICE TRIBUNAL,KHYBER PAKHTUNKHWA PESHAWAR

In Re CM # _____ /2021

In CM # 115/2021

With S.A No: 877/2014

Khan Muhammad

VS

Secretary Establishment Govt: of Khyber Pakhtunkhwa & Others

AFFIDAVIT

I, Khan Muhammad S/o Gul Muhammad, Private Secretary Auqaaf Department, Civil Secretariat, Peshawar, do hereby solemnly affirm and declare on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

ATTESTED
GHAZANFAR ALI ADVOCATE
Oath Commissioner
Notary Public
A. GHAZANFAR ALI ADVOCATE PHC
18-9-21

Deponent

CNIC: 17301-1262675-3

Cell No: 0316-9091802

(4)

S.No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

CAMP COURT ABBOTTABAD

APPEAL NO. 831/2015

Mr. Muhammad Naveed Versus Government of Khyber Pakhtunkhwa through Secretary Establishment & Administration Department. Peshawar and another.

JUDGMENT

15.08.2016

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

Appellant with counsel and Mr. Muhammad Siddique, Senior Government Pleader for respondents present.

2. Mr. Muhammad Naveed son of Fazal Dad hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for seeking seniority by placing him at S.No. 1 of the seniority list maintained by the Food Department for BPS-06.

3. Brief facts giving rise to the present appeal are that the appellant was serving as Senior Clerk (BPS-07) in the office of Deputy Commissioner, Mansehra and was declared surplus in the year, 2001 and later-on adjusted in Food Department in BPS-06 vide office order dated 26.01.2006. That the appellant was to be placed at the top of the seniority list in BPS-06 but he was placed at the bottom of the same constraining the appellant to institute Writ Petition No. 494-A/2012

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which was disposed of vide judgment dated 17.01.2013 with the directions to respondent No. 1 to decide the grievances of the appellant within a period of 60 days. That the department did not acceded to the request of the appellant constraining the appellant to prefer another Writ Petition No. 23-A/2014 which was dismissed by the hon'ble High Court, Abbottabad Bench vide judgment dated 24.09.2014 where-against the appellant preferred Civil Petition No. 2336/2014 before the august Supreme Court of Pakistan which was disposed of on 25.3.2015 with the direction to the respondents to decide the departmental appeal/representation of the appellant by the departmental authority. That vide order dated 13.05.2015 the departmental appeal of the appellant was turned down and hence the instant service appeal.

4. Learned counsel for the appellant argued that as per policy of the provincial government issued vide notification dated 08.06.2001 read with amended policy issued vide notification dated 15.02.2006 the appellant was entitled to enlistment at S.No. 1 of the seniority list as he was serving in BPS-07 while he was adjusted as Food Grain Inspector in BPS-06.

5. Learned Senior Government Pleader argued that the appellant was adjusted as Food Grain Inspector BPS-06 on 26.01.2006 in the light of notification dated 08.06.2001 while the amended policy was issued on 15.02.2006 and as such the appellant was not entitled to claim seniority on the strength of the said notification with retrospective effect. That the appeal is therefore liable to dismissal.

6. We have heard arguments of learned counsel for the parties and

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perused the record.

7. According to notification dated 08.06.2001 issued by Establishment and Administration Department of the provincial government policy for declaring government servants as surplus and their subsequent absorption/adjustment was laid down which was further amended vide circular letter dated 15.02.2006 wherein the following sub-para (d) added to para-(6) of the original policy issued vide notification dated 08.06.2001.

"Sub para-(d) added to para (6).

(d) In case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again and becoming junior to his juniors."

8. A careful perusal of para-6 of the policy letter dated 08.06.2001 would suggest that in case of adjustment of a surplus employee against a post in corresponding basic pay scale with different designation/nomenclature of the post. was to be placed at the bottom of the seniority. It is no where mentioned in the said circular that an employee is to be placed at the bottom of the seniority list even if he is adjusted against a post lower than his original scale. The subsequent circular dated 15.02.2006 is in fact a clarification of the policy earlier issued by the provincial government vide letter dated 08.06.2001 with an object to remove the anomaly and as such the appellant cannot be deprived of his right to claim senior position at the top of the seniority list of the cadre in which he was adjusted against a post lower than his original scale. It is note worthy that an employee otherwise junior to appellant but if adjusted against a lower post after the amended policy

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letter dated 15.2.2006 at the top of seniority list would rank senior to appellant. Therefore depriving the appellant from seniority may not be in accordance with mandate of service structure/laws. We therefore hold that the appellant was entitled to be placed at the top of seniority list at the relevant time after the clarification of policy as he was adjusted against a post lower than his original scale. The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

(Muhammad Azim Khan Afridi)
Chairman
Camp Court, A/Abad.

(Abdul Latif)
Member

ANNOUNCED
15.08.2016

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IX

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL, PESHAWAR

Appeal No. 349/2017

Date of Institution ... 13.04.2017

Date of Decision ... 08.02.2018

Noor Khan (AFC BPS-14) son of Gulfam Khan R/O village Abdara, Ghari Tajik Muhammad Post Office University of Peshawar, Tehsil and District, Peshawar.
... (Appellant)

VERSUS

1. Director Food, Khyber Pakhtunkhwa, Peshawar and two others.
... (Respondents)

MR. TAIMUR HAIDER KHAN, Advocate ... For appellant

MR. MUHAMMAD JAN, Deputy District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. MUHAMMAD AMIN KHAN KUNDI, ... MEMBER

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Peshawar

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was declared surplus from Government Printing & Press Department and was adjusted in the Food Department in the year, 2004 in BPS-06.

He was appointed in his original department in BPS-07. He was then promoted as Assistant Food Controller in the year, 2016. One Muhammad Naveed who was also declared surplus from the office of Deputy Commissioner, Mansehra and was adjusted in the Food Department in the year, 2006 in BPS-06 from BPS-07, was placed at the bottom of the seniority list of BPS-06 like the appellant. The said Muhammad Naveed was also promoted as Assistant Food Controller in the year, 2016. Muhammad Naveed had knocked the door of different courts for placing him in his correct seniority position and finally this Tribunal vide judgment dated 15.08.2016 in service appeal No. 831/2015 decided the appeal in his favour directing the department to place him at the top of the seniority list of BPS-06 in the year, 2006 when he was adjusted. Thereafter a revised seniority list was issued in pursuance of the judgment of this Tribunal. The appellant then feeling himself at par with the said Muhammad Naveed, filed a departmental appeal on 27.3.2017 which was rejected on 06.04.2017 and thereafter he filed the present service appeal on 13.04.2017

ARGUMENTS.

3. The learned counsel for the appellant argued that the case of the appellant is of seniority and stood at the same footings as that of Muhammad Naveed and in view of judgment reported as 1999-SCMR-1, similarly placed employees should have been treated similarly. That if the benefit of the judgment of Naveed's case was extended to the appellant, then the appellant would rank even senior to said Muhammad Naveed as the appellant was adjusted in the year, 2004 and Muhammad Naveed was adjusted in the year, 2006. The learned counsel for the

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appellant further argued that there was no need of even filing of departmental appeal by the appellant or to come to this Tribunal as it was the duty of the department to have extended the benefit of the judgment of Naveed's case to all the similarly placed employees.

4. On the other hand, the learned Deputy District Attorney argued that two other employees who were adjusted through the same order whereby the appellant was adjusted on 25.08.2004 also approached this Tribunal after the judgment of the said Naveed's case and this Tribunal vide judgment dated 24.11.2017 extended the benefit of the said Naveed's case to those two other employees (Muhammad Akbar and Muhammad Saleem Iqbal). That in the said judgment this Tribunal added that while extending the benefits of judgment of Muhammad Naveed all those direct recruits as AFCs prior to the promotion of those two persons should be placed senior to those two appellants. He next contended that as per the said judgment, the department issued a revised seniority list and placed those two persons and the present appellant at S.Nos. 22 to 24 by placing the direct recruits senior to these three persons. He next contended that the case of the appellant was more similar to those two subsequent named persons then the case of Naveed, therefore, he was rightly placed junior to direct recruits. He added that the reason for this placement of junior position to direct recruits was non-impleadment of direct recruits in the appeals filed by those two persons.

CONCLUSION.

5. It is an admitted position that the appellant was adjusted in the year 2004 under the surplus pool policy from BPS-07 to BPS-06. He should have been placed

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at the top of the seniority list of BPS-06 at that time. This aspect of the matter had already been discussed by this Tribunal in the judgment of Muhammad Naveed delivered on 15.08.2016. In that very judgment this Tribunal did not place any condition of placing the said Muhammad Naveed junior to direct recruits and as such he was placed at the due position above the direct recruits. In the later judgment of this Tribunal delivered on 24.11.2017 the same judgment was followed with alteration that the direct recruits should be placed senior to those two appellants.

Now this Tribunal is to follow one of the two judgments. It appears that the philosophy behind the earlier judgment was based on the principle that had Naveed been placed at the top of the seniority list of BPS-06 in the year, 2006 then he should have been promoted prior to the direct recruits that is why the Tribunal did not put this condition of placing the said Naved Junior to direct recruits. In the subsequent judgment this aspect seems to have been ignored and the direct recruits who were promoted in the year, 2015 were given seniority over the appellants who were promoted in the year, 2016. It appears that this Tribunal in subsequent judgment had overlooked this aspect of the matter that had the appellants in those appeals been given correct seniority in the year, 2006 then they would have been promoted prior to the direct recruits. Secondly when this Tribunal in the subsequent judgment was to extend the benefit of Naveed's case to those appellants then no restriction could have been imposed on those two appellants which restriction was not imposed on Muhammad Naveed. The result was that the benefit of the judgment of Naveed was not extended fully to those two appellants. The objection of the learned Deputy District Attorney regarding non-impleadment of direct recruits is

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untenable because in Naveed's case none of the direct recruits was arrayed as party and the Tribunal granted the relief to said Muhammad Naveed. This Tribunal in a case entitled *"Naeem Akhtar Versus the Chief Secretary Government of Khyber Pakhtunkhwa Peshawar and others"* in service appeal No. 394/2013 decided on 11.1.2018 had elaborately discussed the issue of non-impleadment of necessary party in ante-dated promotion case and had decided that when a right of promotion accrued to a civil servant prior to the induction of direct recruits then it was not necessary to implead the direct recruits as party to the appeal. On the basis of the same principle the right of seniority accrued to the present appellant in the year, 2004 prior to the recruitment of direct recruitees in the year, 2016 as such they were not necessary party in Naveed's appeal,appeals of Muhammad Akbar and Muhammad Saleem Iqbal or in the present appeal.

7. As a sequel to the above discussion, this Tribunal would follow the first judgment of Naveed and would dispose of the appeal in the terms as that of appeal of Naveed dated 15.08.2016. Parties are left to bear their own costs. File be consigned to the record room.

Announced
08.02.2018

SD/- Niaz Muhammad Khan
Chairman

SD/- M. Amin Khan Kundi
Member

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