

23.10.2019

Appeal No. 1149/2019
Muhammad Zada vs Govt

Counsel for the appellant present.

Learned counsel for the appellant argued the matter at some length and then urged that instant appeal would not be pressed in case the respondents are required to perform their obligation under the law.

Instant appeal is with the prayer for issuance of seniority list pertaining to the appellant/Junior Clerk in the Education Department Khyber Pakhtunkhwa. The issuance of seniority list mentioning the seniority status of a civil servant is not only mandatory U/S-8 of Civil Servants Act, 1973 but to find a place in the list is a right of an official.

Instant appeal is disposed of with the requirement from respondents to issue the requisite seniority list of appellant's cadre, as soon as possible, if not already issued.

File be consigned to the record room.


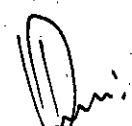

Chairman

ANNOUNCED
23.10.2019

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1149/2019 _____


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/09/2019	<p>The appeal of Mr. Muhammad Zada resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 16/9/19</p>
2-	17/09/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23/10/19.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Muhammad Zada Junior Clerk GDC Barkhalozai District Bajaur at Khar received today i.e. on 27.08.2019 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- Copy of departmental appeal mentioned in the memo of appeal is not attached with the appeal which may be placed on it. Annexure-F is an application for issuance of copy of seniority list but not a departmental appeal.

No. 1520 /S.T,

Dt. 28-8-2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note:

Sir,

*All objections have been removed,
hence re-submitted today dated 16/9/2019.*

*M- [Signature]
16/9/2019.*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1149 /2019

MUHAMMAD ZADA

VS

H/EDUCATION DEPTT:

INDEX

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7.	promotion order	E	8.
8.	Departmental appeal	F	9.
9.	Vakalatnama	10.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1149 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1208

Dated 27/8/2019

Mr. Muhammad Zada, Junior Clerk (BPS-11),
Government Degree College, Barkhalozai, District Bajaur at Khar.

..... APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Higher Education Department, Civil Secretariat, Peshawar.
- 2- The Director Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director of Education (Merged Area), Merged Area Secretariat, Warsak Road, Peshawar.
- 4- The District Education Officer, District Bajaur at Khar.
- 5- Mr. Gauhar Ali, Assistant (BPS-16), Government Girls Degree College, Ekka Ghund District Mohmand

..... RESPONDENTS

APPEAL UNDER SECTION OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT CIRCULATING/ISSUING SENIORITY LIST OF JUNIOR CLERKS (BPS-11) AND NOT ASSIGNING/GRANTING SENIORITY TO THE APPELLANT W.E.F THE DATE OF REGULAR APPOINTMENT I.E. 01/07/2007 AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the respondents may very kindly be directed to issue/circulate seniority list of Junior Clerks in light of Section-8 of the Civil servant Act, 1973 and include the name of the appellant according to the date of his first regular appointment as Junior Clerk (BPS-11) i.e. w.e.f. 1.7.2007. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant is the employee of the respondent Department and was initially appointed as Junior Clerk on Temporary & fix Pay basis of Rs. 3000/- per month after proper recommendation of Departmental Selection Committee and fulfilling all the codal

Filed to-day
Registrar
27/8/19

Submitted to-day
and filed.
Registrar
16/9/19

formalities required for the post vide order dated 02/10/2003. Copy of the appointment order is attached as annexure **A.**

2- That the appellant after receiving the order dated 02/10/2003 submitted his arrival report and started performing his duty. That where after the appellant was reappointed on temporary basis in BPS-07 vide order dated 04/07/2009 by the respondent no. 4. Copy of the order is attached as annexure **B.**

3- That the appellant was regularized by the Respondent no. 4 and the project service of the appellant was converted into regular service with effect from 01-07-2007 instead of issuance of the order dated 04-07-2009 vide order dated 23-12-2014. Copy of the regularization order dated 23-12-2014 is attached as annexure **C.**

4- That astonishingly the appellant came to know that most of the colleague who have been regularized from the same day i.e. 01/07/2007 have been given promotion to the next higher post of Assistant (BPS-16) and the appellant is still working in the same scale from the date of regular appointment. Copy regularization of respondent no. 5 & promotion is attached as annexure **D and E.**

5- That, the appellant time and again requested the respondent for issuing seniority in line with that of respondent no. 5 but all in vein and finally filed Departmental Appeal before the competent authority for his promotion which was not responded till date. Copy of Departmental Appeal is attached as annexure **F.**

6- That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others.

GROUND:

A- That the inaction of the respondents by not issuing seniority list in light of section-8 of the civil servant Act, 1973 is against the law, facts, norms of natural justice and materials on the record.

B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the inaction of the respondents by issuing seniority in line with that of private respondent no. 5 and of having same service position with that of respondent is violative of Law and Rules as enshrined in Section-08 of the Civil Servant Act, 1973.

- D- That the respondents discriminated the appellant on the subject by not issuing seniority in line with that of private respondent no.5.
- E- That the respondents acted in arbitrary and malafide intentions by not issuing seniority list for the post of Junior Clerk (BPS-11).
- F- That the respondents violated Article 38(e) of the Constitution of Pakistan, 1973 by not issuing seniority list for the post of Junior Clerk (BPS-11).
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 18-08-2019

APPELLANT


MUHAMMAD ZADA

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE**

TEMPORARY APPOINTMENT

Consequent upon the Recommendation of the recruitment Committee as per established procedure of advertisements, screening test & typing test, one Mr. Muhammad Zada S/O Gul Muneer (Bajaur) a qualified candidate is hereby appointed temporarily as Junior Clerk @ Rs. 3000/- PM fixed at Govt: College (W) Barkhalozai (Bajaur Agency) purely for the project period and in line with the approved PC-1 of the scheme.

His adjustment is neither on contract nor on regular basis as creation of regular positions is awaited and the present posting is made on fixed emoluments for project life ending June 2006 extendable to further period subsequent to approval of the competent forum.

The adjustment cannot be termed as appointment unless regular posts are sanctioned and his services are regularized by the competent authority.

TA/DA is not allowed.

Charge Reports should be submitted to all concerned.

Endst: No. 1749-53/Apptt:/

dated Peshawar the 02.10.2003

RECEIVED

[Handwritten signature]

ATTESTED

[Handwritten signature]

(A)

A-9

DIRECTORATE OF EDUCATION (FATA)



Warsak Road Peshawar

TEMPORARY APPOINTMENT

Consequent Upon the Recommendation of The Recruitment Committee as per established procedure of Advertisements, Screening Test & Typing Test, One Mr. Muhammad Zada S/O Gul Muneer (Bajaur) a qualified candidate is hereby appointed temporarily as Junior Clerk @ Rs 3000/- P.M. fixed at Govt. College (W) Barkhalozai (Bajaur Agency) purely for the project period and in line with the approved PC-I of the scheme.

His adjustment is neither on contract nor on regular basis as creation of regular positions is awaited and the present posting is made on fixed emoluments for project life ending June 2006 extendable to further period subsequent to approval of the competent forum.

The adjustment cannot be termed as appointment unless regular posts are sanctioned and his services are regularized by the competent authority.

- TA/DA is not allowed.
- Charge Reports Should be submitted to all Concerned.

(Prof. Dr. Abdur. Rauf)
Director of Education
(FATA), NWFP, Peshawar

Endst No. 1749-53

App'tt/Trans/Recd. dt Peshawar 02-10-2003

Copies to:-

1. Additional Account General (PR) Peshawar
2. Agency Accounts Officer Bajaur Agency at Khar.
3. Principal Govt. College (W) Barkhalozai Bajaur Agency.
4. Asstt. Director (Colleges) local Directorate.
5. Candidate Concerned

ATTESTED

[Signature]
Director of Education
(FATA), NWFP, Peshawar

[Handwritten signatures]

[Handwritten initials]



(2) B-5

**OFFICE OF THE AGENCY EDUCATION OFFICER
BAJAUR AGENCY AT KHAR**

APPOINTMENT ORDER:

Consequent upon the approval by the Departmental Selection Committee, the following Male candidates of Bajaur Agency are hereby appointed Against Junior Clerk Post purely on temporary basis in BPS-7 plus usual allowances as admissible under the rules/new policy notified by the Govt. of N.W.F.P vide SO (R-VI) E & AD/13-1/2005 dated 10/8/2005 and civil servants amendments act 2005 vide No. PA/N.W.F.P/Legis-1,2005-20440 dated 23/7/2005 with effect from the date of taking over charge in the schools noted against their names in the interest of public service.

S.No	Name of Candidate	Father Name	Name of School where appointed	Remarks
1	Khan Zad Gul	Khaista Gul	GHS Kama dara	Against Vacant Post Vice Jan Badshah transferred
2	Fazal Munir	Abdul Haleem	GHS Badan	Against Vacant Post
3	Muhammad Zada	Gul Munir	GHSS Gardai	Against Vacant Post

TERM AND CONDITIONS:

1. The appointment of the candidates is being made purely on temporary basis & is liable to termination at any time without assigning any reason.
2. They will not be entitled to get pension/gratuity benefits, however GP Fund & CP Fund will be deducted as per rules.
3. Charge report should be submitted to all concerned in duplicate.
4. All kinds of documents should be verified from the concerned institutions before the drawl of their salaries.
5. Health and Age certificate should be produced to the Principal Head Master to be obtained from the Agency surgeon concerned.
6. Their age should be according to Govt. Policy.
7. If they failed to report of their arrival with in 15 days, their appointment order will be automatically considered as cancelled.

sd/-
(Haji Gul Rahman)
Agency Education Officer
Bajaur Agency

Endst: No: 4279-84 Date: 4/7/2009

Copy of the above is forwarded to the:-

1. Director of Education FATA N.W.F.P Peshawar
2. Agency Accounts Officer Bajaur Agency
3. Head Master concerned.
4. AAEO Concerned
5. Official Concerned
6. Accountant of the local Office.

ATTESTED

Agency Education Officer
Bajaur Agency



C-6
E4 (B)

OFFICE OF THE AGENCY EDUCATION OFFICER BAJAUR AGENCY.

ADJUSTMENT /CORREGENDUM ORDER.

The appointment order issued vide Director Education FATA Peshawar Endost: No. 1749-53 apptt: dated Peshawar the 02-10-2003 in respect of Muhammad Zada Junior clerk s/o Gul Munir Govt: Degree College Barkhalozai Bajaur Agency and in the line with the approved PC-I of the scheme is here by set aside and his service is converted into regular basis with effect from 01-07-2007 and the appointment order issued vide this office Endost:No. 4279-84 dated 4/7/2009 may please be read w.e.f 1/7/2007 instead of 4/7/2009 for the above mentioned one.

Note: Necessary entry should be made in his service book.

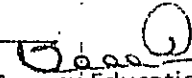
(Saeed Gul)
Agency Education Officer
Bajaur Agency.

Endost: 6662-65 Dated. 23 /12/2014.

Copy for information to the:

1. Director of Education FATA Peshawar.
2. Principal GHSS Gardai Bajaur Agency.
3. Agency Accounts Officer Bajaur Agency.
4. Official Concerned.

ATTESTED


Agency Education Officer
Bajaur Agency.

BETTER COPY

page - ①

OFFICE OF THE AGENCY EDUCATION OFFICER MOHMAND
AGENCY AT GHALLANAI

CORRIGENDUM.

The regularization/adjustment order in respect of Mr. Gauhar Ali S/O. Laiqat Ali J.Clerk Govt: Girls Degree College Ekka Ghund Mohmand Agency. issued vide this office Endst: No. 6956-59 dated 26.6.2007, may pleased be read w.e.f. 1.07.2007 instead of 01.07.2006.

(HAJI HASHAM KHAN)
Agency Education Officer
Mohmand Agency at Ghallanai

Endst No. 8119

Dated 11.08.2007

ATTESTED

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ATTESTED

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D-7

OFFICE OF THE AGENCY EDUCATION OFFICER MOHMAND AGENCY AT GHALLANAI

CORREGENDA

The regularization/adjustment order in respect of Mr. Ghanbar Ali S/O Faraj Ali J Clerk Govt. Girls Degree College Ekka Ghund Mohmand Agency issued vide this office Lndst:No.0956-59 dated 26.6.2007, may please be read w.e.f 1.7.2007, instead of 1.7.2006.

(HAJI HASHAM KHAN)
Agency Education Officer,
Mohmand Agency at Ghallanai.

Under No. 81/9033 Date: 11.7.2007.

Copy of the above is forwarded to the

- 1. Director of Education (FATA) NWFP, Peshawar.
- 2. Political Agent Mohmand Agency at Ghallanai.
- 3. Agency Accounts Officer Mohmand Agency at Ghallanai.
- 4. Principal Govt. Degree College Mohmand Agency.
- 5. Official concerned.

Attn: l
CS

Khulid Saeed
Supdt.(E) Education
(Fata) Peshawar

Agency Education Officer,
Mohmand Agency at Ghallanai.

ATTESTED

g



ADJUSTMENT ORDER

E-8

Consequent upon the recommendation of the Departmental Promotion Committee and Director Higher Education Khyber Pakhtunkhwa Notification bearing Endorsement No. 3828-81 dated 01.02.2016; the following officials are hereby adjusted against the vacant posts of Assistant upon their promotion from Senior Clerk to Assistant.

S#	Name of Official with Designation	Station / Adjusted at	Remarks
01.	Mr. Shah Khan Senior Clerk GDC Landi Kotal, Khyber Agency	GDC Landi Kotal, Khyber Agency	Adjusted against vacant post of Assistant.
02.	Mr. Yahya Jan Senior Clerk GDC Darra Adam Khel FR Kohat.	GDC Darra Adam FR Kohat	Adjusted against vacant post of Assistant.
03.	Mr. Hujat Ullah Senior Clerk GDC Ekka Ghund, Mohmand Agency.	GDC Barkhalozai, Bajaur Agency	Adjusted against vacant post of Assistant.
04.	Mr. Shakir Ullah Senior Clerk GGDC Darra Adam Khel FR Kohat presently working at GDC Kohi Sher Haider Khyber Agency against Assistant post.	GDC Kohi Sher Haider Bara Khyber Agency	Adjusted against vacant post of Assistant.
05.	Mr. Irfan Ullah Senior Clerk GGDC Ekka Ghund, Mohmand Agency.	GDC Nawagai, Bajaur Agency	Adjusted against vacant post of Assistant.
06.	Mr. Salim Khan Senior Clerk GDC Miranshah, North Waziristan Agency.	GDC Sam, South Waziristan Agency	Adjusted against vacant post of Assistant.
07.	Mr. Azmat Ayaz Senior Clerk GDC Mir Ali, North Waziristan Agency.	GGDC Wana, South Waziristan Agency	Adjusted against vacant post of Assistant.

ADJUSTMENT

08.	Mr. Shakir Ullah Senior Clerk GDC Landi Kotal presently working at GDC Landi Kotal Khyber Agency Against Assistant Post.	GDC Landi Kotal Khyber Agency	V. S. No. 01
09.	Mr. Ihsan Ullah Senior Clerk GDC Darra Adam Khel presently working at GDC Darra Adam Khel Against Assistant Post.	GDC Darra Adam Khel FR Kohat	V. S. No. 02
10.	Mr. Saadat Ullah Senior Clerk GDC Wana South Waziristan Agency	GDC Mir. Ali North Waziristan Agency	V. S. No. 07
11.	Mr. Gauhar Ali Senior Clerk GGDC Jamrud, Khyber Agency	GGDC Ekka Ghund, Mohmand Agency	V.S. No. 05
12.	Mr. Wahid Gul Senior Clerk GDC Jandola, FR Tank	GDC Ekka Ghund Mohmand Agency	V.S. No. 03

Note: - 1 Charge reports should be submitted to all concerned.

Director Education FATA

Endst: No. 3828-81 /E4/Clg: Side /MS/PROM/File Dated 14/13/2016

Copy to the:-

1. Director Higher Education Khyber Pakhtunkhwa with reference to his Notification as quoted above.
2. All Principal GDC/GGDC/GPGC concerned.
3. All Agencies / FRs Accounts Officer / District Officers concerned.

ATTESTED

گورنمنٹ سروس ڈیپارٹمنٹ (پرائیویٹ) اور گورنمنٹ سروس ڈیپارٹمنٹ

F-9

دفعہ 107/2007 سے متعلقہ تمام سہولتوں کی کاپیاں
کے متعلقہ سہولتوں کی کاپیاں

صحت عالی! گورنمنٹ سروس ڈیپارٹمنٹ کے تحت
سہولتوں کی کاپیاں عمارت بنانے کے لیے
کاھوا اور سہولتوں کی کاپیاں اور گورنمنٹ سروس ڈیپارٹمنٹ
پر 07/07/2007 سے متعلقہ تمام سہولتوں کی کاپیاں
کے لیے سہولتوں کی کاپیاں اور گورنمنٹ سروس ڈیپارٹمنٹ
اور گورنمنٹ سروس ڈیپارٹمنٹ کے ساتھ
کاھوا اور سہولتوں کی کاپیاں اور گورنمنٹ سروس ڈیپارٹمنٹ
کے لیے سہولتوں کی کاپیاں اور گورنمنٹ سروس ڈیپارٹمنٹ

گورنمنٹ سروس ڈیپارٹمنٹ کے تحت
سہولتوں کی کاپیاں عمارت بنانے کے لیے
کاھوا اور سہولتوں کی کاپیاں اور گورنمنٹ سروس ڈیپارٹمنٹ
پر 07/07/2007 سے متعلقہ تمام سہولتوں کی کاپیاں
کے لیے سہولتوں کی کاپیاں اور گورنمنٹ سروس ڈیپارٹمنٹ
اور گورنمنٹ سروس ڈیپارٹمنٹ کے ساتھ
کاھوا اور سہولتوں کی کاپیاں اور گورنمنٹ سروس ڈیپارٹمنٹ
کے لیے سہولتوں کی کاپیاں اور گورنمنٹ سروس ڈیپارٹمنٹ

6/5/2019

گورنمنٹ سروس ڈیپارٹمنٹ
کے لیے سہولتوں کی کاپیاں اور گورنمنٹ سروس ڈیپارٹمنٹ
اور گورنمنٹ سروس ڈیپارٹمنٹ کے ساتھ
کاھوا اور سہولتوں کی کاپیاں اور گورنمنٹ سروس ڈیپارٹمنٹ
کے لیے سہولتوں کی کاپیاں اور گورنمنٹ سروس ڈیپارٹمنٹ

9

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

OF 2019

Muhammad Zada

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS


Higher Education Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Muhammad Zada

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2019



CLIENT



ACCEPTED

NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

&

**MIR ZAMAN SAFI
ADVOCATES**

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Mobile No.0345-9383141

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1891 /ST Dated 29/10 /2019

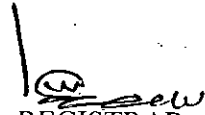
To

The Director E&SE,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - ORDER IN APPEAL NO. 1149/2019, MR. MUHAMMAD ZADA.

I am directed to forward herewith a certified copy of Judgement dated
23.10.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.