



SENIOR CIVIL JUDGE(A), TANK

Phone # 0963-510824, Fax #0963-510170

Email: scj.tank@gmail.com



No. 35a /SCJ(A)

Dated Tank the 27th March , 2023

To,

**The Registrar,
KPK, Service Tribunal
Peshawar.**

Khyber Pakhtunkhwa
Service Tribunal

Case No. 4659

Dated 31/3/2023

*Put up to the court with
relevant appeal.*

Subject:

**SUBMISSION OF APPLICATION FOR
RESTORATION OF DEFENCE AND REPLY OF
SERVICE APPEAL NO.7567/2021.**

Resd Sir,

31/3/2023

Kindly find enclosed herewith an application for restoration of defence of respondent No. 5 in pending service appeal No. 7567/2021 and also reply of the same alongwith four separate copies for necessary action and its placement on relevant record.

Sincerely yours

[Signature]
Senior Civil Judge(A), Tank

(FAFIZ AURANGZEB KHAN)
Senior Civil Judge (Admn) Tank

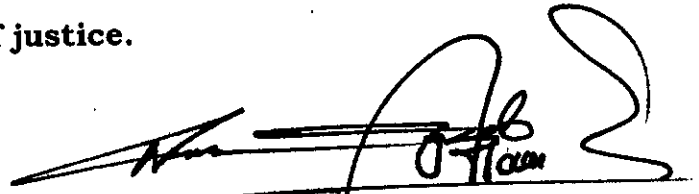
BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No: 7567/2021

Muhammad Riaz**V E R S U S****Qudrat Ullah & 04 others****APPLICATION UNDER RULE 27 OF THE KPK SERVICE
TRIBUNAL RULES 1974 FOR THE PURPOSE OF
RESTORATION OF DEFENSE****Respected Sir,**

1. That instant service appeal is pending adjudication before this Hon'ble Tribunal which is fixed for hearing on 21.03.2023.
2. That respondent no. 5 was not served upon, therefore, could not attend the proceedings. Law favors the adjudication of disputes on merits rather than be knocked off on the basis of technicalities. The instant application is accompanied by the reply/comments; therefore, the defense of the respondent no. 5 may kindly be restored in best interest of justice.

It is, therefore, requested that application may kindly be accepted and the defense of respondent no. 5 may kindly be restored in the best interest of justice.



HAFIZ AURANGZEB KHAN
Senior Civil Judge (Admin)
District Tank
(Respondent No. 5)

Dated: 20 / 03 / 2023

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No: 7567/2021

Muhammad Riaz

V E R S U S

Qudrat Ullah & 04 others

**PARA WISE REPLY ON BEHALF OF SENIOR CIVIL JUDGE
(ADMIN) TANK (Respondent No. 5)**

PRELIMINARY OBJECTIONS:

1. That the instant service appeal is not maintainable in its present form.
2. That the instant appeal is time-barred as well as the representation petition of the appellant; as the parties had been appointed on 10.12.2014 on the recommendations of Departmental Selection Committee (D.S.C).
3. That earlier on 19.07.2018, the appellant has already agitated the same issue before the District & Sessions Judge Tank via a written application and such representation had been dismissed in the light of report dated: 09.10.2018 against which the appellant never filed any departmental appeal and, thus, those proceedings have attained finality.
4. That appellant, before approaching to this hon'ble Tribunal, has filed Departmental Appeal No. 03/13 of 2020 before Hon'ble District & Sessions Judge Tank which has been withdrawn by the appellant; thus appellant is not entitled to file service appeal when departmental appeal has been withdrawn by him.

ON FACTS:

1. That para no. 1 needs no reply.
2. That para no. 2 is correct.
3. That para no. 3 is correct.
4. That para no. 4 is incorrect, misconceived, hence denied.
The seniority list of subordinate staff has been compiled with

great care, caution and due attention. The representation petition of appellant dated: 31.01.2020 has been rightly dismissed by learned Senior Civil Judge (Admin) being time barred in the presence of appellant and decision was so announced because, earlier on 19.07.2018, the appellant had already agitated the same issue before the District & Sessions Judge Tank via a written application and such representation had been dismissed in the light of report dated: 09.10.2018 against which the appellant never filed any departmental appeal and, thus, those proceedings have attained finality. **Application/representation dated: 19.07.2018 of appellant is annexed.**

5. That para no. 5 is incorrect, misconceived, hence denied. Order dated: 01.02.2020 was announced in the presence of appellant.
6. That para no. 6 is correct. Furthermore, it is note-worthy to mention here that departmental appeal was withdrawn vide Order dated: 11.09.2021. Thus, instant Service Appeal is not maintainable especially when departmental appeal has been withdrawn.
7. That para no. 7 is correct to the extent that appellant has withdrawn his departmental appeal but rest of the para is incorrect, misconceived, hence denied. The appellant cannot file service appeal when departmental appeal has been withdrawn.
8. That para no. 8 is incorrect, misconceived, hence denied. As departmental appeal has been withdrawn by the appellant, he is precluded from filing service appeal before the hon'ble Tribunal.

ON GROUNDS:

- A. That para A is incorrect, misconceived, hence denied. The seniority list of subordinate staff has been compiled with great care, caution and due attention.
- B. That para B is incorrect, misconceived, hence denied. The appellant along with other respondents were appointed vide single appointment Order on 10.12.2014. Earlier on 19.07.2018, the appellant has already agitated the same issue before the competent authority and such representation had been dismissed against which the

appellant never filed any departmental appeal and, thus, those proceedings have attained finality. Moreover, Order dated: 01.02.2020 is a well-reasoned Order which was passed on second representation petition of appellant and announced in presence of appellant.

- C. That para C is incorrect, misconceived, hence denied. The appellant is alleging the seniority lists of the years 2018 & 2019 to which the appellant has no concern whatsoever. When the parties were appointed, their seniority list was prepared and circulated among themselves in due course regarding which the appellant kept a mum since 2018 and filed representation petition firstly on 19.07.2018 and secondly on 31.01.2020. And if their seniority list was not provided to them after their initial appointment, the appellant too, didn't bother to fetch it copy from the office to examine it. There is nothing on the record to satisfy this hon'ble court that the appellant had ever tried to get attested copy of the seniority list and he has been denied so.
- D. That para D is incorrect, misconceived, hence denied. The parties were appointed in the light of Peshawar High Court (Subordinate Court Staff) Recruitment Rules 2003 read with Khyber Pakhtunkhwa Civil Servants (appointment, promotion and transfer) Rules 1989. The procedure for appointment of process servers is provided under Peshawar High Rules 2003. According to Peshawar High Court Rules 2003, over all merit of the candidates for the post of process server is based on "Academic marks + Higher Qualification + Experience + Test + Interview". The appellant can be given advantage of his Older Age in case of merit ties between two candidates. If one candidate attains higher marks being younger in age will stand above the others Older in age to him. **Minutes of the Meeting are annexed.**
- E. That para E is incorrect, misconceived, hence denied. The representation petition of appellant was decided by learned Senior Civil Judge (Admin) in the presence of appellant and decision was so announced, thus, the representation petition dated: 31.01.2020 is badly time-barred.
- F. That para F is incorrect, misconceived, hence denied. Appellant was very well-aware of the whole proceedings carried so far and remained indolent and sleeping over his

rights, therefore, cannot claim his rights at this stage when service appeal is not maintainable.

- G. That para G is incorrect, misconceived, hence denied. The appellant is never victimized. All the recruitment proceedings were conducted meritoriously by the Departmental Selection Committee (D.S.C). District Judiciary, being the custodian of justice, fairness and equity, cannot think of otherwise. The solemnity of selection proceedings conducted by the Departmental Selection Committee (D.S.C) as well as the record whereby the merit was prepared has never been challenged by the appellant before any competent forum.
- H. That para H is incorrect, misconceived, hence denied.

It is, therefore, requested that the appeal may kindly be dismissed.



HAFIZ AURANGZEB KHAN
 Senior Civil Judge (Admin)
 District Tank
 (Respondent No. 5)
 Dated: 20 / 03 / 2023

خدمت جناب ڈسٹرکٹ اینڈ سیشن جج صاحب ٹانک

درخواست برادر :- کہ جو موہات ذیل، میٹ لسٹ پیارہ طان
میں من سائل کو منسٹ نر ریٹے جانے کا
حکم صادر فرمائیں۔

جناب عالی

نوڈبانہ گذارش ہے کہ من سائل نے دیگر چار افراد کے مورخہ 10/12/2014

کو بطور پیارہ بھرتی ہوئے تھے۔ من سائل دیگر چار افراد سے

عمر کے لحاظ سے بھی اور تعلیمی معیار کی مناسبت سے سینئر

انٹیکار ہوں۔ جبکہ موجودہ میٹ لسٹ پیارہ طان میں ان

سائل کو ان چار انٹیکاروں سے جو سینئر رکھا گیا ہے۔ جو کہ

سائل کے ساتھ زیادتی، نا انصافی کے مترادف ہے۔ اور جو موہات

بالا من سائل ان چار افراد سے سینئرٹی میں منسٹ کا

حق دار ہوں۔ اس بنا پر آپ جناب کو وسیع تر اختیارات

حاصل ہیں نیز مگر چار سال میں من سائلان نے نہ تو کوئی میٹ لسٹ پر دستخط کیے ہیں اور نہ

ہی میٹ لسٹ جیسا کہ ہے۔ ابھی من سائل کو عہدہ ہوا ہے وہیں وہ درخواست گزار ہوں

لہذا استدعا ہے کہ جو موہات بالا من سائل ان چار انٹیکاروں

سے سینئر منسٹ درج تحریر کرنا کلا حکم صادر فرمائیں

سائل نا حیات رہا گو رہیگا۔ مزی مورخہ 19/7/08

سائل نہ تو دریا میں۔ پیارہ سینئر سول جج صاحب ٹانک

شیر

Seji, Tank for
report.

Signature

The Meeting

MINUTES OF THE MEETING OF THE DEPARTMENTAL SELECTION COMMITTEE (DSC) HELD IN THE CHAMBER OF SENIOR CIVIL JUDGE, TANK ON 10TH DECEMBER, 2014.

A Meeting of Departmental Selection Committee (DSC) was held in the Office of the Senior Civil Judge Tank on 10th December 2014. The following attended.

1. **Mr. Nadeem Muhammad**
Senior Civil Judge Tank.....Chairman.
2. **Raja Muhammad Shoaib Khan**
Civil Judge DIK.....Member/Nominee of Peshawar High Court Peshawar.
3. **Mrs. Tania Hashmi**
Civil Judge Tank.....Member / Nominee of Senior Civil Judge, Tank

The applicants/candidates for recruitment to the following posts were considered.

1. PROCESS SERVER BPS-03:-

In response to the advertisement 428 applications were received for appointment on five (05) vacancies of Process Servers. 305 applicants were found eligible out of these and same were called for screening test. 292 candidates appeared in the screening test, out of which 47 cleared the test. They were called for the interview. After interview the committee thus unanimously recommended the following for appointment as Process Servers (BPS-03).

S.No	Name/Father Name	Pos/BPS	Resident of
1	Qudrut Ullah Son of Sarwar Jan	Process Server/BPS-03	Village Muhammad Akbar.
2	Muhammad Mubashar Kamal son of Khizar Hayat	Process Server/BPS-03	Village Dolat Khan Kamala.
3	Fauzeef Waqar son of Zulfikar	Process Server/BPS-03	Mohallah Qutab Colony Tank City.
4	Ashfaq Ahmed son of Meharban	Process Server/BPS-03	Mohallah Qutab Colony Tank City.
5	Muhammad Riaz son of Ghulam Qadir	Process Server/BPS-03	Mohallah Illahi Abad Tank City.

2. NAIB QASID BPS-02:-

In response to the advertisement 305 applications were received for appointment on one (01) vacancy of Naib Qasid. 13 applicants were found ineligible out of these and 292 candidates were called for the interview. 188 appeared in interview. The committee thus unanimously recommended the following for appointment as Naib Qasid (BPS-01).

Minutes of 10.12.14

01
02
03
04
05
06
07
08
09
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

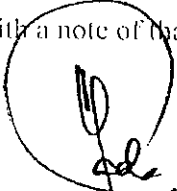
S.No	Name/Father Name	Post/BPS	Resident of
1.	Abdullah son of Ayaz Khan	Naib Qasid/BPS-01	Village Pai Tehsil & District Tank.


3. SWEEPER BPS-01:-

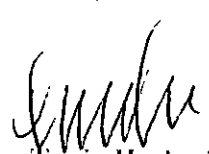
In response to the advertisement 75 applications were received for appointment on one (01) vacancy of Sweeper. 04 applicants were found ineligible out of these and 71 candidates were called for the interview. 23 candidates were absent. The committee thus unanimously recommended the following for appointment as Sweeper (BPS-01)

S.No	Name/Father Name	Post/BPS	Resident of
1.	Muhammad Yousaf son of Muhammad Jan	Sweeper/ BPS-01	Garrah Hayat Tehsil & District Tank.

The meeting ended with a note of thanks.


(Nadeem Muhammad)
Senior Civil Judge Tank/ Chairman


Raja Muhammad Shoaib Khan
(Nominee of Peshawar High Court Peshawar)



(Mrs. Tania Hashmi)
Civil Judge-I Tank, Nominee of SCJ Tank

No 332 - 335 SCJ/JM Tank

Dated: 10th December 2014

Copy forwarded for information to:-

1. ✓ The Registrar Peshawar High Court Peshawar
2. The Hon' able District and Sessions Judge, Tank.
3. Office copy
4. Members of the Departmental Selection Committee


(Nadeem Muhammad)
Senior Civil Judge Tank