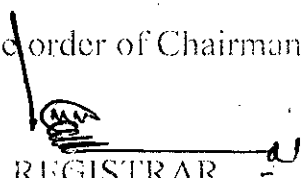


FORM OF ORDER SHEET

Court of

Case No:- 657/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/03/2023	<p>The appeal of Mr. Jan Alam resubmitted today by registered Post through Mr. Saeed Ul Ihsan, Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on _____. Notices be issued to the appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

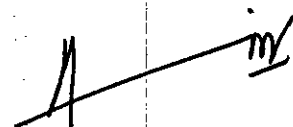
This is an appeal filed by Jan Alam today on 10/03/2023 against the order dated 28-10-2020 against which he made/preferred departmental appeal/ representation on 13.12.2022 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority report as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- 1- Appeal has not been flagged/marked with annexures marks.
- 2- Annexures of the appeal are unattested.
- 3- Copy of impugned promotion order is illegible which may be replaced by legible/better one.
- 4- 13 more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 917 /ST,

DC 10-03 /2023.


For REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Sareer ul Ehsan Adv.
High Court D.I. Khan.

It's humble Request Service Appeal be
P12 Re submit P12


SHE

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 657 of 2023

**Jan Alam Vs. Govt. of Khyber Pakhtunkhwa etc
Service Appeal**

S#	Description of Documents	Annexure	Page Numbers
1.	Service appeal	—	1 — 6
2.	Copy of the Seniority list of Senior Clerks as stood on 01.01.2020	A	7 — 9
3.	Copy of the Judgment dated 18.01.2022 of this Honourable Tribunal	B	10 — 13
4.	Copy of the office order No.03/Admn/office order/2022-23/1490 dated 25.10.2022	C	14
5.	Copy of the Minutes of the meeting of Departmental Promotion Committee held on 22.10.2020	D	15 — 16
6.	Copy of the office order bearing No.23/PHSA/ Admin/promotion class-III/2020-21/2430 dated 28.10.2020	E	17
7.	Copy of the Departmental appeal dated 12.12.2022	F	18 — 19
8.	Vakalatnama	—	20

Yours Humble Appellant


(Jan Alam)

Through Counsel

Dt. 22 03.2023

25-03-2023


SARF-E-UL-EHSAN
Advocate High Court, D.I.Khan.

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 657 of 2023

Khyber Pakhtunkhwa
Service

Registry No. 4219

Dated 10/3/2023

Jan Alam, son of Latif Shah, Senior Clerk, Paramedical Institute of Technology, D.I.Khan

APPELLANT

VERSUS

1. **Government of Khyber Pakhtunkhwa**, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. **Secretary** to Govt of Khyber Pakhtunkhwa, Health Department, Peshawar.
3. **Director General (Health)**, Provincial Health Service Academy, Khyber Pakhtunkhwa, Peshawar.
4. **Director General**, Health Services, Khyber Pakhtunkhwa, Peshawar.
5. **Principal**, Paramedical Institute of Technology, D.I.Khan.
6. **Principal**, Public Health School, D.I.Khan.
7. **Khurshid Ali** son of Firdos Khan, presently serving as office Assistant, PIMT Swat.
8. **Faridullah** son of Khalil-ur-Rehman, presently serving as Office Assistant PIMT Swat.
9. **Rehmat Ali** son of Taj Muhammad, presently serving as Office Assistant (Acting Charge) PHSA, Peshawar.
10. **Gul Benaf Shah** son of Mian Gul Bahar Shah, presently serving as Office Assistant PGCN, Peshawar.

Principal Nursing College Distt D.I.K **RESPONDENTS**

SERVICE APPEAL UNDER SECTION 4 OF THE K.P. SERVICE TRIBUNALS ACT, 1974, AGAINST OFFICE ORDER BEARING No.23/PHSA/ADMIN/PROMOTION CLASS-III/2020-21/2430 DATED 28.10.2020 ISSUED BY THE RESPONDENT No.3, WHEREBY RESPONDENTS No. 7 TO 10 HAVE BEEN PROMOTED TO THE POSTS OF

11/11
10/10/23

Registrar

**OFFICE ASSISTANTS AT THE ROLL OF PROVINCIAL
HEALTH SERVICES ACADEMY.**

PRAYER:

On acceptance of present Service Appeal and by cancellation of office order bearing No.23/PHSA/ Admin/promotion class-III/2020-21/2430 dated 28.10.2020 issued by the respondent No.3 and all other letters adversely affecting the seniority of appellant, the appellant may please be promoted to the post of Office Assistant being a senior employee (Senior Clerk) at the roll of P.H.S.A.

Respectfully Sheweth,

1. That the appellant has been serving in the Provincial Health Services Academy on the post of Senior Clerk since 09.05.2013. Copy of the Seniority list of Senior Clerks as stood on 01.01.2020 is enclosed as **Annexure A.**
2. That it is worthy to mention that the petitioner was awarded major penalty of removal from service vide order dated 21.02.2020, and thereafter, he preferred a service appeal which was allowed vide Judgment dated 18.01.2022 of this Honourable Tribunal, and resultantly the petitioner was reinstated into service vide office order No.03/Admn/office order/2022-23/1490 dated 25.10.2022 subject to outcome of the CPLA filed by the Department before worthy Supreme Court of Pakistan. Copy of the Judgment dated 18.01.2022 of this Honourable Tribunal is enclosed as **Annexure B;** and copy of the office order No.03/Admn/office order/2022-23/1490 dated 25.10.2022 is enclosed as **Annexure C.**

3. That after his reinstatement, the appellant come to know about the promotion of respondents No. 7 to 10, from the post of Senior Clerk to the post of Office Assistant on the basis of Minutes of the meeting of Departmental Promotion Committee held on 22.10.2020 (Annexure D) and office order bearing No.23/PHSA/ Admin/promotion class-III/2020-21/2430 dated 28.10.2020 (Annexure E) issued by the respondent No.3.
4. That in-fact respondents No.7 to 10 do not belong to the establishment of Provincial Health Services Academy (PHSA) rather they are the employees at the roll of Health Department under the control of Director General Health Services and therefore, cannot get place in the seniority list meant for the employees of PHSA. Hence, respondents No.7 to 10 have wrongly been promoted to the post of Office Assistant.
5. That after getting knowledge of the promotion of respondents No. 7 to 10 to the post of office assistant, the petitioner preferred a departmental appeal to the respondent No.3 but the same has not been replied within the statutory period. Copy of the Departmental appeal dated 12.12.2022 is enclosed as Annexure F.
6. That aggrieved of the letter No. SO(PSB) ED/1-4/2022/P-223(2) dated June-30, 2022 and for the purpose of restoration of his seniority as well as Promotion to BPS-16 with all back benefits, the appellant has been left with no other remedy but to file this appeal for the aforesaid prayer on, inter alia, the following grounds:

GROUND:

- i. That the impugned office order bearing No.23/PHSA/ Admin/promotion class-III/2020-21/2430 dated 28.10.2020 issued by the respondent No.3 and all Notifications/letters whereby the seniority

of appellant has been affected adversely, are unlawful, illegal, outcome of malafide, without jurisdiction, without lawful authority and having no binding effect upon rights of appellant accrued to him by dint of his seniority.


- ii. That in-fact respondents No.7 to 10 do not belong to the establishment of Provincial Health Services Academy (PHSA) rather they are the employees at the roll of Health Department under the control of Director General Health Services and therefore, cannot get place in the seniority list meant for the employees of PHSA. Hence, respondents No.7 to 10 have wrongly been promoted to the post of Office Assistant.
- iii. That previously the appellant was awarded major penalty of removal from service vide order dated 21.02.2020, and thereafter, he preferred a service appeal which was allowed vide Judgment dated 18.01.2022 of this Honourable Tribunal, and resultantly the petitioner was reinstated into service vide office order No.03/Admn/office order/2022-23/1490 dated 25.10.2022 subject to outcome of the CPLA filed by the Department before worthy Supreme Court of Pakistan. Thus because of his reinstatement the petitioner is entitled to regain his seniority and then promotion to next higher grade.
- iv. That malafide, favouritism and aspect of cherry picking is apparent through the fact that per seniority list, the date of promotion of petitioner to the post of senior clerk has been mentioned as 09.05.2013, whereas, respondent No.9 (Rehmat Ali) was promoted to the post of senior clerk on 26.07.2016, hence, he is/was much junior than the appellant. Hence, a great injustice has been done to him.

- v. That the award of promotion to junior officials by ignoring the senior one and that too without any lawful justification is squarely illegal and unlawful. The appellant upon his reinstatement was entitled to be promoted to the post of Office Assistant in presence to private respondents but they failed to properly exercise their jurisdiction. Thus, respondents have committed serious and material irregularity and illegality in not restoring seniority of appellant and giving him promotion.
- vi. That the counsel for appellant may be allowed to raise additional grounds at the time of arguments.

It is therefore, humbly prayed that the present service appeal may graciously be allowed as prayed for and thereby the impugned office order along with all the letters & notifications which adversely affect the seniority and right of promotion of appellant, may graciously be cancelled/modified in the manner that the seniority of appellant may be reckoned in preference to respondents No. 7 to 10 being officials of Health Department under the control of D.G. Health.

Such other relief in favour of appellant, not specifically prayed herein, which this Honourable Tribunal may deems appropriate in the attending circumstances of the case.

Yours Humble Appellant



(Jan Alam)

Through Counsel



SAREE-UL-EHSAN

Advocate High Court, D.I.Khan.

Dt. 22.03.2023

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. _____ of 2023

**Jan Alam Vs. Govt. of Khyber Pakhtunkhwa etc
Service Appeal**

VERIFICATION:


I, the appellant, on this day of March-2023, herein mentioned above, do hereby verify that all the contents of this appeal are true & correct and also that it is the first appeal on the subject matter and no such appeal has earlier been filed.

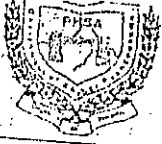

Appellant

AFFIDAVIT:

I, the appellant; do hereby solemnly affirm and declare on oath that all the Para-wise contents of above **Service Appeal** are true & correct to the best of my knowledge, belief and information; and that, nothing has been deliberately concealed from this Honourable Tribunal.


Identified by Counsel:
Saree-U-Ehsan Baloch Adv.


Deponent.



PROVINCIAL HEALTH SERVICES ACADEMY
Government of Khyber Pakhtunkhwa
Department of Health



No. 46 /Admn/Seniority list/ 287-93

Dated: 13/01/2020


NOTIFICATION:-

In exercise of power confer in section 8(1&5) of Chapter-II of NWFP Civil Servant Act 1973 as well as in pursuance of section-4(2)(i) part-1 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules 1989, the undersigned is pleased to notify the final seniority list of Senior Clerks (BS-14) of PHSA and its network Health Department Khyber Pakhtunkhwa as stood on 01/01/2020 for information of all concerned.

-Sd-
DIRECTOR GENERAL (HEALTH)
PHSA PESHAWAR.

Endorsement of Even No & Date.

1. The Principals PGPI and PGCN Peshawar for information and circulation amongst the concerned.
2. The Principals PIMT Swat, Abbottabad and DI Khan for information and circulation amongst the concerned.
3. The Deputy Directors DHDC Mardan, Swat, Chitral, Abbottabad and Bannu for information and circulation amongst the concerned.
4. The Principal Public Health Schools Nishterabad and Hayatabad Peshawar, Abbottabad and DI Khan for information and circulation amongst the concerned.
5. The Principals SoN LRH, KTH and HMC Peshawar, Mardan, Swat, Abbottabad, Kohat, Bannu and DI Khan for information and circulation amongst the concerned.
6. Computer Programmer, PHSA Peshawar.
7. PS to Secretary Health Government of Khyber Pakhtunkhwa, Peshawar. for information please.


DIRECTOR GENERAL (HEALTH)
PHSA PESHAWAR.

8

FINAL SENIORITY LIST OF SENIOR CLERK (BPS-14) WORKING IN PHSA & ALLIED INSTITUTE AS STOOD ON 01.01.2020

S. #	Name/Father Name	Academic Qualification	Date of Birth	Domicile	Date of entry in Govt. Service	BPS at the time of entry in Govt. Service	Present Posting		Place of Present Posting	Remarks
							Method of Recruitment/ Appointment	Date of Promotion/ Appointment		
2	3	4	5	6	7	8	9	10	11	
1.	Khurshid S/O Firdos Khan	SSC	01-05-1963	Swat	19-10-1986	(BS-05) (BS-07) (BS-11) (BS-14)	Initial recruitment Up Gradation By Promotion Up Gradation	As J/Clerk 19-10-1986 As J/Clerk 01-07-2007 As S/Clerk 09-05-2013 As S/Clerk 20-05-2014	SON Swat	
2.	Faridullah S/O Khalil Ur Rehman	B.A	04-02-1970	Swat	06-04-1991	(BS-05) (BS-07) (BS-11) (BS-14)	Initial recruitment Up Gradation By Promotion Up Gradation	As J/Clerk 06-04-1991 As J/Clerk 01-07-2007 As S/Clerk 09-05-2013 As S/Clerk 20-05-2014	SoN Swat	
3.	Rehmat Ali S/O Taj Muhammad	Matric	01-06-1973	Swat	25-01-2002	(BS-05) (BS-07) (BS-11) (BS-14)	Initial recruitment Up Gradation Up Gradation By Promotion	As J/Clerk 25-01-2002 As J/Clerk 01-07-2007 As J/Clerk 20-05-2014 As S/Clerk 26-07-2016	SON Swat	
4.	Gul Benaf Shah S/o Mian Gul Bahar Shah	Matric	10-04-1962	Bannu	14-03-1995	(BS-05) (BS-07) (BS-11) (BS-14)	(Surplus Pool) Up Gradation By Promotion Up Gradation	As J/Clerk 1-08-2005 As J/Clerk 01-07-2007 As S/Clerk 09-05-2013 As S/Clerk 20-05-2014	SON Bannu	
5. ✓	Jan Alam S/O Latif Shah	BA	15-03-1969	Kohat	1-10-1987	(BS-01) (BS-07) (BS-11) (BS-14)	(Surplus Pool) By Promotion By Promotion Up Gradation	As Chowkidar 1/10/1987 As Junior Clerk 31/01/2011 As S/Clerk 09-05-2013 As S/Clerk 20-05-2014	PIMT DI Khan	
6.	Inam Ullah S/O Roshan Khan	Matric	02-03-1970	Peshawar	01-08-1991	(BS-01) (BS-07) (BS-11) (BS-14)	Initial recruitment By Promotion By Promotion Up Gradation	As N/Qasid 1-08-1991 As J/Clerk 31-01-2011 As S/Clerk 09-05-2013 As S/Clerk 20-05-2014	SON HMC	
	Ahmad	FA	10-8-1968	Peshawar	26-8-1991	(BS-01)	Initial recruitment	As N/Qasid 26-8-1991	PHS	

	S/O Qalander Khan					(BS-07) (BS-11) (BS-14)	By Promotion By Promotion Up Gradation	As J/Clerk 31-01-2011 As S/Clerk 09-05-2013 As S/Clerk 20-05-2014	Hayatabad
8.	Javed Khan S/O Niqab Gul	Matric	06-10-1974	Peshawar	03-05-1992	(BS-01) (BS-07) (BS-11) (BS-14)	Initial recruitment By Promotion Up Gradation By Promotion	As N/Qasid 3-05-1992 As J/Clerk 19-05-2011 As J/Clerk 20-05-2014 As S/Clerk 26-07-2016	RHS Nishterabad Peshawar
9.	Sahib Jamal S/O Gul Rehman	Matric	01-03-1976	Peshawar	31-05-1994	(BS-01) (BS-07) (BS-11) (BS-14)	(Surplus Pool) By Promotion Up Gradation By Promotion	As N/Qasid 8-12-2001 As J/Clerk 09-05-2013 As J/Clerk 20-05-2014 As S/Clerk 26-07-2016	SoN Kohat
10.	Yasir Habib S/O Habib Ullah	Matric	05-04-1976	D.I.K	28-6-1994	(BS-01) (BS-07) (BS-11) (BS-14)	Initial recruitment By Promotion Up Gradation By Promotion	As N/Qasid 28-6-1994 As J/Clerk 09-05-2013 As J/Clerk 20-05-2014 As s/Clerk 26-07-2016	SoN DIK
11.	Qadar Khan S/O Bahadar Khan	Matric	4-2-1978	Peshawar	26-3-1999	(BS-01) (BS-07) (BS-11) (BS-14)	Initial recruitment By Promotion Up Gradation By Promotion	As Cook 23-3-1999 As J/Clerk 09-05-2013 As J/Clerk 20-05-2014 As S/Clerk 26-07-2016	PHSA
12.	Mr. Naeem Ullah	SSc	1/05/1974	Peshawar	26-03-1999	(BS-01) (BS-07) (BS-11) (BS-14)	Initial recruitment By Promotion Up Gradation By Promotion	As N/Qasid 26-3-1999 As J/Clerk 09-05-2013 As J/Clerk 20-05-2014 As S/Clerk 26-07-2016	PGPI Peshawar
13.	Khan Bahadar S/O Abdul Hanan	Matric	02-04-1963	Nowshera	21-06-1999	(BS-01) (BS-07) (BS-11) (BS-14)	Initial recruitment By Promotion Up Gradation By Promotion	As Chowkidar 21/06/1999 As J/Clerk 09-05-2013 As J/Clerk 20-05-2014 As S/Clerk 26-07-2016	SON LRH

Certificate: - Certified that the above seniority list is undisputed and may be considered as final.

[Handwritten Signature]

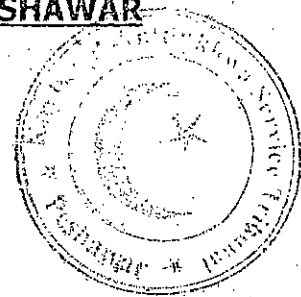
Anx B
10

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 5690/2020

Date of Institution ... 10.06.2020

Date of Decision ... 18.01.2022



Pir Jan Alam Ex-Senior Clerk Paramedical Institute of Technology (PIMT) Dera
Ismail Khan. ... (Appellant)

VERSUS

Secretary Health Khyber Pakhtunkhwa Peshawar and others. ... (Respondents)

Roeda Khan,
Advocate ... For Appellant

Javed Ullah,
Assistant Advocate General ... For respondents

AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQ-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant while serving as a Senior Clerk, was proceeded against on the charges of misconduct and was ultimately awarded with major punishment of removal from service vide order dated 21-02-2020, against which the appellant filed departmental appeal dated 06-03-2020, which was not responded within the statutory period, hence the instant service appeal with prayers that the impugned order dated 21-02-2020 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, hence his rights secured under the Constitution has badly been violated; that there is no proof and evidence available

DATED
[Signature]

with respondents against the appellant regarding the allegations leveled against the appellant; that no opportunity of personal hearing or defense has been afforded to the appellant and the appellant was condemned unheard; that neither statement of any witness was recorded in presence of the appellant nor the appellant was afforded opportunity to cross-examine such witnesses, thus skipped a mandatory step as prescribed in law; that the appellant is not competent authority to make appointments; that the penalty so awarded is harsh which does not commensurate with gravity of the guilt.

03. Learned Assistant Advocate General for the respondents has contended that disciplinary proceedings against the appellant were initiated on 14-11-2019 and the inquiry committee found the appellant involved in dealing of a fake appointment order/recruitment of one Mr. Muzamil; that the appellant was found working as a middle man in issuance of fake appointment order; that the inquiry committee found that the appellant had taken Rs. 300000/- from father of Muzamil and gave it to other official Fayaz, who provided fake appointment order to father of Muzamil; that role of the appellant was very vital in the issue and he was required to be dealt with accordingly; that before imposition of major penalty, all codal formalities were fulfilled, the appellant was properly charge sheeted, proper inquiry was conducted and the appellant was afforded appropriate opportunity of defense, but the appellant utterly failed to prove his innocence.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was posted as senior clerk in the office of Paramedical Institute of Technology (PITM) DIKhan. A fake appointment order in respect of one Mr. Muzamil, who was son of a retiring class-iv employee and who otherwise was eligible to be appointed against the post on retired son quota was handed over to him, upon which Mr. Muzamil reported his arrival in the office of Public Health School D.I.Khan, but his appointment order was sent by the

ATTESTED
[Signature]
Secretary, Institute

principal of the school to the appointing authority for verification, which was found bogus. To this effect, a preliminary inquiry was conducted and found involved the appellant as well as others in issuance of the fake appointment order, for which the appellant was served with charge sheet/statement of allegation dated 14-11-2019. The appellant responded and denied all such allegations. The appellant was issued show cause notice dated 08-01-2020, which was also responded by the appellant and inquiry to this effect was also conducted. The inquiry committee neither recorded statement of any witnesses in presence of the appellant nor the appellant was afforded any opportunity to cross-examine such witnesses, thus skipped a mandatory step as prescribed in law and in a manner, the appellant was deprived of an opportunity to defend his cause. The respondents also violated rule 11(1) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. There were no evidences, examination of prosecution witnesses or opportunity of cross-examination, hence the proceedings so conducted were not in accordance with law and such practice has already been disapproved by the apex court contained in its judgments PLD 1989 SC 335, 1996 SCMR 802, 2018 PLC (CS) 997 and 2019 SCMR 640.


06. The inquiry officer without any solid proof only based his findings on the statement of a single person i.e. father of Muzamil and that too, without any support of other witnesses. The inquiry committee preferred to consider this single reason enough for holding him responsible based on presumptions; facts however, had to be proved and not presumed, particularly for awarding major penalty of dismissal from service. Reliance is placed on 2002 PLC (CS) 503 and 2008 SCMR 1369. The inquiry officer failed to establish as to how in the absence of any incriminating evidence charges can be established against the accused. It has been held in various judgments of the apex court that regular inquiry is must before imposition of major penalty of dismissal from service, which however was


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not done in case of the appellant. We are of the considered opinion that the respondents badly failed to prove the allegations leveled against the appellant and penalized the appellant only because of presumptions, which however was not warranted. Another interesting aspect of the case is that Mr. Muzamil, who was initially appointed on fake appointment order, was later on regularly appointed against such post, without penalizing him for acquiring his appointment order through illegal means. Father of Mr. Muzamil also confessed that he had received the amount taken from him as bribe, but without mentioning as to who returned such amount to him. Moreover, keeping in view merit of the case, the penalty so awarded appears to be harsh. Competent authority had jurisdiction to award any of the punishments mentioned in law to the government employee but for the purpose of safe administration of justice such punishment should be awarded which commensurate with the magnitude of the guilt. Otherwise the law dealing with the subject would lose its efficacy. Reliance is placed on 2006 SCMR 1120

07. We are of the considered opinion that though role of the appellant was dubious, but charges were not fully established against him, hence keeping in view the above cited discussion, we are inclined to partially accept the instant appeal by converting the major punishment of removal from service into stoppage of two annual increments for two years. The intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
18.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


Certified to be correct
(ATIQU-UR-REHMAN WAZIR)
MEMBER (E)
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



OFFICE ORDER

WHEREAS Mr. Jan E Alam Ex-Senior Clerk (BS-14) was removed from service under E&D Rules 2011, vide No. 42/PHSA/Admn/Enquiry/2019-20/1128-32 dated. 21.02.2020:

AND WHEREAS, feeling aggrieved, he filed Service Appeal in Khyber Pakhtunkhwa Service Tribunal Peshawar No. 5630/2020, dated. 10.06.2020:

AND WHEREAS, after several rounds of arguments, the KP Service Tribunal announced judgment on 18.01.2022 stated as:

"We are inclined to partially accept the instant appeal by converting the major punishment of removal from service into stoppage of two annual increments for two years. The intervening period is treated as leave without pay"

AND WHEREAS, in compliance of the above judgment, he submit arrival report on 1.04.2022,

AND WHEREAS the department, after getting opinion from law department, filed CPLA No. 452-p/2022 in the Apex Court, which is still pending for adjudication;

AND WHEREAS the appellant again filed Execution Petition No. 278/2022 for implementation of judgment dated. 18.01.2022;

AND WHEREAS Tribunal directed to come up for implementation: report on 27.10.2022;

NOW THEREFORE, in compliance, the judgment dated. 18.01.2022 is hereby conditionally implemented subject to the outcome of the ibid CPLA in Supreme Court of Pakistan as follow:

1. Mr. Jan E Alam Ex-Senior Clerk (BS-14) is hereby re-instated into service with effect from 21.02.2020 with stoppage of two annual increments for two years.
2. The intervening period with effect from 21.02.2020 till 31.03.2022 is hereby converted into leave without pay.
3. The pay with effect from date of his arrival i.e 1.04.2022 till date is hereby adjusted against the vacant post at Paramedical Institute of Medical Technologies (PIMT) DI Khan

Subsequent to the above, Mr. Jan E Alam Senior Clerk (BPS-14) is hereby posted at PIMT DI Khan against the vacant post of Senior Clerk (BPS-14) in the best public interest.

-Sd-

DIRECTOR GENERAL
PHSA PESHAWAR.

Dated 25/10/2022

No. 93 /Admn/Office order/2022-23/ 1090

Copy forwarded for information;

- Registrar Service Tribunal Khyber Pakhtunkhwa.
- Chairman Service Tribunal Camp court DI Khan.
- Principal PIMT DI Khan.
- Section Officer Lit-II Health Department Peshawar
- District Accounts Officer DI Khan.
- Deputy Director IT PHSA Peshawar.
- Litigation Officer:PHSA Peshawar.
- PS to Secretary Health Khyber Pakhtunkhwa Peshawar.
- PA to Deputy Secretary (Litigation) Health Department Peshawar.
- Mr. Jan E Alam Senior Clerk PIMT DI Khan.
- Personal file.

DIRECTOR GENERAL,
PHSA PESHAWAR.

Attest
[Signature]

Annex D (15)

P-17

MINUTES OF DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 22.10.2020 UNDER THE CHAIRMANSHIP OF THE DIRECTOR GENERAL PHSA IN HIS OFFICE.

A Departmental Promotion Committee was held on 22.10.2020 at 11 AM under the chairmanship of the Director General PHSA in his office. The following attended the meeting:

1. Dr. Arshad Ahmad Khan Director General PHSA Chairman
2. Dr. Rizwan Ullah Director (Public Health) PHSA Member.
3. Mr. Lateef Ur Rehman Section Officer-III HD KP Member.

Agenda of the meeting was to decide the promotion cases of Senior Clerk (BS-14) of PHSA network to the posts of Assistant (BS-16).

1. The committee thoroughly checked the ACRs/Synopsis etc of the following senior Clerks (BS-14) of PHSA Network.

S.No.	Name with Designation	Place of posting
1	Mr. Khurshid Ali Senior Clerk BS-14	PIMT Swat
2	Mr. Farid Ullah Senior Clerk BS-14	SON Swat
3	Mr. Rahmat Ali Senior Clerk BS-14	SON Mardan
4	Mr. Gulbanaf Shah Senior Clerk BS-14	SON Bannu
5	Mr. Inam Ullah Senior Clerk BS-14	SON HMC Peshawar
6	Mr. Bashir Ahmad Senior Clerk BS-14	Public Health School Hayatabad Peshawar.

2. The committee also check the total sanctioned posts under PHSA network as per budget book as well as filled and vacant position of the posts.
3. Total sanctioned of Assistant (BS-16), of PHSA Network, is eight (08), out of which six (06) is lying vacant in different institutions.
4. According to Establishment & Administration Department (Regulation Wing) Services Rules for promotion of Ministerial Staff, duly notified vide Notification No. SORI (S&GAD)4-7/86(A) dated 21 December 1982, 75% of the vacant posts of Office Assistant (BS-16) will be filled through promotion on seniority cum fitness.
5. The PHSA Services Rules notified vide Khyber Pakhtunkhwa Health Department Notification No. SO(Reg)8-96/2002/Vol-IV dated. 10.01.2003 amended vide Notification No. SOH-III/10-4/19/PHSA/SSRC dated.

Section Officer-III
Health Department
Khyber Pakhtunkhwa

- 04.04.2020 also states, to fill 75% vacant posts of assistants on seniority cum fitness.
- The committee decided that as per above notifications, four posts may be filled on seniority cum fitness from amongst the incumbents of the seniority list as in para-1 and two may be filled by fresh appointment.
 - After a long discussion, the committee agreed and decided to promote the following Senior Clerks (BS-14) to the posts of Assistant (BS-16), on seniority cum fitness, with immediate effect:

S.#	Name with Designation & BPS	Present Place of posting	Promoted to	Remarks
1	Mr. Khurshid Ali Senior Clerk BS-14	PIMT Swat	Assistant BS-16	On regular basis
2	Mr. Farid Ullah Senior Clerk BS-14	SON Swat	Assistant BS-16	On regular basis
3	Mr. Rahmat Ali Senior Clerk BS-14	SON Mardan	Assistant BS-16	On acting charge basis in pursuance of section 9(1) of APT Rules 1989.
4	Mr. Gulbanaf Shah Senior Clerk BS-14	SON Bannu	Assistant BS-16	On regular basis

due to incompleteness of list of 85.0000

[Handwritten Signature]

Dr. Rizwan Ullah
 Director (Public Health)
 PHSA Peshawar.
 Member
 Provincial Health Services Academy
 Department of Health
 Govt. of Khyber Pakhtunkhwa

[Handwritten Signature]

Dr. Arshad Ahmad Khan
 Director General
 PHSA Peshawar
 Chairman
 Provincial Health Services Academy
 Department of Health
 Govt. of Khyber Pakhtunkhwa

[Handwritten Signature] 26/4/20

Mr. Latif Ur Rehman
 Section Officer-III
 Health Department
 Member
 Section Officer-III
 Health Department
 Khyber Pakhtunkhwa.



PROVINCIAL HEALTH SERVICES ACADEMY
Government of Khyber Pakhtunkhwa
Health Department



OFFICE ORDER

Consequent upon the recommendation of the departmental promotion committee held on 22nd October 2020, the competent authority has been pleased to promote the following Senior Clerks (BPS-14) to the post of Assistant (BPS-16) with immediate effect.

They will on probation for a period one year.

S#	Name with Designation	Present place of duty
1.	Mr. Khurshid Ali Assistant BS-16	PIMT Swat
2.	Mr. Farid Ullah Assistant BS-16	SoN Swat
3.	Mr. Rahmat Ali Assistant BS-16	SoN Mardan
4.	Mr. Gul Banafshah Assistant BS-16	SoN Bannu

Sub sequent to the above the following posting/adjustments are hereby ordered with immediate effect in the best public interest:-

S#	Name of officials	POSTED TO	Remarks
1.	Mr. Khurshid Ali Assistant BS-16	PIMT Swat	Against vacant post of Assistant (BPS-16), Regular basis
2.	Mr. Farid Ullah Assistant BS-16	PIMT Swat	Against vacant post of Assistant (BPS-16), Regular basis
3.	Mr. Rahmat Ali Assistant BS-16	PHSA Peshawar	Against vacant post of Assistant (BPS-16), Acting Charge Basis
4.	Mr. Gul Banafshah Assistant BS-16	PGCN Peshawar	Against vacant post of Assistant (BPS-16), Regular basis

Note: Arrival/Departure report should be submitted to this directorate accordingly. In case of non-implementation of order within 15 days, the name of the official will be withdrawn from the promotion.

S/d*****
Director General (Health)
PHSA, Khyber Pakhtunkhwa

No.23/PHSA/Admn/promotion class-III/2020-21/2430

Dated: 28-10-2020

Copy for information:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Section officer-III, Health Department, Khyber Pakhtunkhwa, Peshawar.
3. Director HRD, PHSA, Peshawar.
4. Principal PIMT, Swat.
5. Vice Principal SON Bannu.
6. Vice Principal SON, Mardan.
7. Vice Principal SON Swat.
8. District Comptroller Accounts, Swat, Bannu, Mardan.
9. Account officer, PHSA, Peshawar.
10. Official concerned.
11. Personal file.

Director General (Health)
PHSA, Khyber Pakhtunkhwa

Alloster
2/13/22

MX F

(18)

No. 4138

dated 13-12-22

Secretary Health K.P.K.

To

The Director General
Provincial Health Services Academy
Khyber Pakhtoonkhwa Peshawar.

SUBJECT: DEPARTMENTAL APPEAL AGAINST PROMOTION SENIOR CLERK BPS-14 TO ASSISTANT BPS-16

R/Sir,

With reference to DG.PHSA KPK Office Order No.23/PHSA/Admn/Promotion Class.III/2020-21/2430 .dated.28-10-2020 (Annex-A) Where in the 04 No. of Senior Clerk BPS-14 Was Promoted to the Post of Assistant BPS-16 which is total against the Seniority List.

As per DG.PHSA. office letter No.23/Admn/Seniority list/5065-88. Dated .31-7-2019 Wherein Mr. Rehmat Ali S/O Taj Mohammad. Senior Clerk BPS-14. Was Found at Serial No.04 of the Seniority List of Senior Clerk BPS-14. Who was promoted as Senior Clerk BPS-14. as mentioned as On 26-07-2016. And the undersigned was Promoted to Senior Clerk on 09-5-2013. Which is crystal Clear that Mr. Rehmat Ali was wrongly mentioned at Serial No.04 and the undersigned has already submitted Appeal for side correction but no reply was made to the undersigned till date (Annex-A) .

According to the Director General Health service Khyber Pakhtunkhwa Peshawar office order No. 7707-30/personnel dated 28-12-2012 (Annex-A) wherein the 02 members of above promoted employees(Mr. Khursheed Ahmad and Faridullah) was relived by Director PHSA and repatriated against their original place of posting under the control of DG Health Services, which is crystal clear that such employees was on the disposal of DG Health Services and their seniority may be count at DG Health Services not in DG PHSA.

According to the meeting held with DG PHSA as on 09th September 2020 wherein DG PHSA has satisfied the undersigned that the claim for seniority / promotion shall be cleared before calling the DPS meeting, but nothing was cleared and promoted the below seniorities to the post of assistant and deprived the right holders.

It is therefore requested that by accepting the representation the promotion orders of Mr. khursid Ali senior clerk PIMT swat, Mr. farid ullah senior clerk SON swat and Mr. Rehmat Ali senior clerk SON Mardan may be set-aside being juniors to the appellent and consequently the appellent may be promoted as Office Assistant in BPS -16 please.

Dated 13-12-2022.



JAN ALAM.

Senior Clerk BPS-14.PIMT,DI.Khan.

Copy:-

1. The Secretary Health Khyber Pakhtoonkhwa Peshawar.
2. The Director General Health Services Khyber PakhtoonKliwa Peshawar.

19
2020
13/10/20
Health Services Academy
Department, KP

To

✓ The Director General
Provincial Health Services Academy
Khyber Pakhtoonkhwa Peshawar.

SUBJECT: DEPARTMENTAL APPEAL AGAINST PROMOTION SENIOR CLERK BPS-14 TO ASSISTANT BPS-16

R/Sir, -

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It is therefore requested that by accepting the representation the promotion orders of Mr. khursid Ali senior clerk PIMT swat, Mr. farid ullah senior clerk SON swat and Mr. Rehmat Ali senior clerk SON Mardan may be set-aside being juniors to the appealant and consequently the appealant may be promoted as Office Assistant in BPS -16 please.

Dated - 12/12/2022


Jan Alam

Senior Clerk BPS-14.PIMT,DI.Khan.

Copy:-

1. The Secretary Health Khyber Pakhtoonkhwa Peshawar.
2. The Director General Health Services Khyber PakhtoonKhwa. Peshawar.

3) Principal PIMT, D.I. Khan.

4) Principal PHS, D.I. Khan.

WAKALAT NAMA

(Power of Attorney)

KHYBER PAKHTUNKHWA
BAR COUNCIL

SAREE UL EHSAN
Advocate High Court
bc-12-3367
Date of Issue: 08-04-2018
Valid upto: 07-04-2019



ADVOCATE HIGH COURT

70

Before the Honble Khyber Pakhtunkhwa Service Tribunal
Peshawar

Jan Alam

- (Petitioner)
- (Plaintiff)
- (Applicant)
- (Appellant) ✓
- (Complainant)
- (Decree Holder)

Versus

Govt of KPK. et

- (Respondent)
- (Defendant)
- (Accused)
- (Judgment Debtor)

I, Jan Alam
 in the above noted Service Appeal
 do hereby appoint and constitute Saree ul Ehsan, Advocate, High Court
 District Bar, DIKhan to appear, plead, act in any Court, in compromise,
 withdraw or refer to arbitration for me as my Counsel in the above noted
 matter without any liability for their default and with the authority to
 engage/appoint any other Advocate/Counsel at my matter.

Attested & Accepted

Saree ul Ehsan,
 Advocate High Court, New Hall,
 District Bar, Dera Ismail Khan
 Cell: 0300-579-2794
 Mail ID: dilawaizbaloch56@gmail.com

Jan Alam s/o Latif Shah

CLIENT

Clerk Paramedical Insti
 Technology ATK.