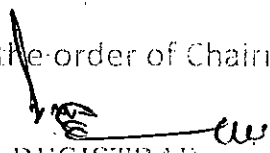


FORM OF ORDER SHEET

Court of

12(2) CPC Petition No. 221/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	03/04/2023	<p>The application U/S 12(2) CPC in appeal no. 148/2022 submitted by Mr. Muhammad Asif Yousafzai Advocate. It is fixed for hearing before Division Bench at Peshawar on _____. Original file be requisitioned. Parcha Peshi is given to representative of the applicant.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

The Misc application U/S 12(2) CPC of Mr. Babar Hayat Sr. Scale Stenographer received today i.e. on 21.03.2023 is incomplete on the following scores which is returned to the counsel for the applicant for completion and resubmission within 15 days.

1- Annexures C & G of the application is illegible which may be replaced by legible/better one.

No. 1001 /S.T.

Dt. 22/3 /2023.

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M. Asif Yousafzai Adv.
High Court Peshawar.

Sir, illegible replaced by better one, objection removed
file re-submitted.

M. Asif
31/3/23.

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

12(2) cpe petition no. 221/2023

CM (12)2CPC No. _____/2023

IN

Service Appeal No. 148/2019

Decided on 14.04.2022

Babar Hayat etc

V/S

The Commissioners KP & etc.

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of 12(2) CPC application	----	01-03
2.	Affidavit	-----	04
3.	Stay application +Affidavit	-----	05-07
4.	Copy of order	---A---	08
5.	Copy of service appeal	---B---	09-12
6.	Copy of Rules	---C---	13-17
7.	Copy of order dt: 03.01.2019	---D---	18
8.	Copy of order dt: 13.09.2019	---E---	19
9.	Copy of order dt: 19.4.2018	---F---	20
10.	Copy of seniority list 24.2.2022	---G---	21
11.	Copy of Judgment dt: 14.4.2022	---H---	22-25

PETITIONER

Babar Hayat

THROUGH:

(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.

& (S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT.

Room No.FR-08, 4th Floor,
Bilour Plaza Peshawar Cantt:
Cell # 0333910324

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

CM(12)2CPC No. _____/2023

IN

Service Appeal No. 148/2019

Decided on 14.04.2022

Babar Hayat, Sr. Scale Stenographer
Office of the Deputy Commissioner, Swabi.

PETITIONER

VERSUS

1. Ihsanullah, Senior Scale Stenographer (ACB),
O/o Commissioner Office Mardan.
2. Muhammad Ibrahim, Private Secretary (A.C.B),
O/o Commissioner Office Mardan.
3. The Commissioner, Mardan Division Mardan.
4. The Senior Member Board of Revenue, KP, Civil Secretariat,
Peshawar.

RESPONDENTS.

.....
**PETITION UNDER SECTION 12(2) CPC AGAINST
THE RESPONDENT FOR OBTAINING JUDGMENT
DATED 14.4.2022 IN APPEAL NO. 148/2019 ON THE
BASIS OF MISREPRESENTATION AND FRAUD
AND AFFECTED THE SERVICE RIGHTS OF
PETITIONER IN HIS ABSENCE WITHOUT
IMPLEADING HIM AS RESPONDENT.**

PRAYER:-

**THAT ON ACCEPTANCE OF THIS PETITION THE
JUDGMENT DATED 14.4.2022 PASSED IN SERVICE
APPEAL NO. 148/2019 MAY BE SET-ASIDE UNDER
12(2) CPC BEING OBTAINED ON THE BASIS OF
FRAUD AND MISREPRESENTATION AND
AFFECTED THE SERVICE RIGHTS OF THE
PETITIONER IN HIS ABSENCE AS HE WAS NOT
ARRAYED AS RESPONDENT IN THE SERVICE
APPEAL. ANY OTHER REMEDY DEEMS
APPROPRIATE THAT MAY ALSO BE AWARDED
IN FAVOUR OF PETITIONER.**

RESPECTFULLY SHEWETH:

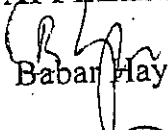
1. That the respondent No. 1 filed a service appeal No. 148/2019 in this august Tribunal against the order dated 21.12.2018 whereby his departmental appeal dated 16.11.2018 for seniority benefits was rejected. **Copy of order is attached as Annex-A.**
2. That in the service appeal, the petitioner was not arrayed as respondent while claiming seniority for the purpose of promotion to the post of Private Secretary (BPS-17). **Copy of appeal is attached as Annex-B.**
3. That as per Rules, the post of P.S is to be filled on the basis of seniority-cum-fitness from amongst Sr. Scale Stenographer (BPS-16) with 05-Years service in the Offices of Commissioners, D.Cs and Political Agendas. Thus for the purpose of promotion a joint seniority list is to be maintained. **Copy of Rules is attached as Annex-C.**
4. That the petitioner joined the D.C Office Swabi as Jr. Scale Stenographer BPS-14 on 17.7.2014 and vide order dated 03.01.2019 the petitioner was promoted/appointed on acting charge basis as Sr. Scale Stenographer. The petitioner was later on regularly promoted as Sr. Scale Stenographer BPS-16 vide order dated 13.09.2019. **Copes of orders are attached as Annex-D & E.**
5. That it is also worth to be noted that the Respondent No. 1 was promoted on acting charge basis (19.4.2018) and he is still on acting charge basis. More-over the respondent No. 1 was also shown junior to petitioner in the seniority list dated 24.2.2022. **Copy of order and seniority list is attached as Annex-F & G.**
6. That the main aim of the respondent No. 1 was to regain seniority by affecting the seniority rights of petitioner. Therefore the respondent No. 1, fraudulently, filed a CM/Application (Para-4 of judgment) for regularizing promotion instead of deciding seniority dispute, and on the basis of that application/CM, the findings have been given in favour of respondent No. 1, which has ultimately affected the seniority of the petitioner. **Copy of judgment is attached as Annex-H.**
7. That from the above narrated facts and legal position, it is clear that the impugned judgment has been obtained on the basis of fraud and misrepresentation to violate the principle of seniority i.e "Seniority from the date of regular promotion in a cadre".
8. That as the petitioner was not arrayed as respondent in appeal; therefore, he was kept deprived from defending his seniority

rights. Hence, having no other remedy the instant petition u/s 12(2) CPC is maintainable and entertainable.

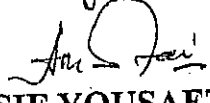
9. That the petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the application in hand may be accepted as prayed for.

APPELLANT


Babar Hayat

THROUGH:-


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.

& 
(S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT.

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

CM(12)2CPC No. _____/2023

IN

Service Appeal No. 148/2019

Decided on 14.04.2022

Babar Hayat

V/S

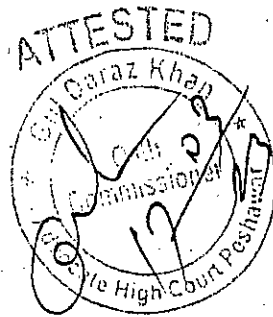
Ihsanullah and others

AFFIDAVIT

I, Babar Hayat, Sr. Scale Stenographer Office of the Deputy Commissioner, Swabi (Appellant) do hereby affirm that the contents of this CM 12(2) CPC are true and correct, and nothing has been concealed from this Honorable Tribunal.

DEPONENT

Babar Hayat



BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

CM (Stay) No. _____ / _____

IN

CM (12)2CPC No. _____ /2023

IN

Service Appeal No. 148/2019

Babar Hayat.

V/S

Ihsanullah and others

**APPLICATION FOR RESTRAINING THE OFFICIAL
RESPONDENTS FROM PASSING ANY PROMOTION
ORDER TO BPS-17 ON THE BASIS OF IMPUGNED
JUDGMENT DATED 14.04.2022 PASSED IN S.A NO.
148/2019 TILL THE DISPOSAL OF MAIN
APPLICATION U/S-12(2)CPC.**

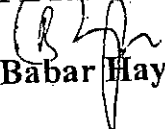
RESPECTFULLY SHEWETH:-

FACTS

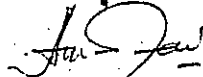
1. That the petitioner has filed CM under Section 12(2) C.P.C against the main judgment mentioned above along with this application, in which no date is fixed so far.
2. That the paras of main CM u/s 12(2) C.P.C may also be considered as integral part of this application.
3. That the petitioner has a good prima facie case and balance of convenience is also in favour of petitioner.
4. That if a restraining order is not passed then the main C.M u/s 12(2) C.P.C will be infructuous which will ultimately cause irreparable loss to the petitioner.
5. That the petitioner seeks permission to advance other grounds and proof at the time of hearing.


It is, therefore, most humbly prayed that the respondents may be restrained from passing any promotion order to BPS-17 on the basis of impugned judgment till the disposal of main writ petition u/s 12(2)CPC. Any other remedy which this august Court deems fit and appropriate that may also be awarded in the favour of the petitioner.

PETITIONER


Babar Hayat

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.

& 
(S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

CM (Stay) No. _____ / _____
IN
CM (12)2CPC No. _____ /2023
IN
Service Appeal No. 148/2019

Babar Hayat

V/S

Ihsanullah and others

AFFIDAVIT

I, Babar Hayat, Sr. Scale Stenographer Office of the Deputy Commissioner, Swabi (Appellant) do hereby affirm that the contents of this (stay application) are true and correct, and nothing has been concealed from this Honorable Tribunal.



DEPONENT
Babar Hayat

A
= (8)

**BEFORE THE SENIOR MEMBER BOARD OF REVENUE
KHYBER PAKHTUNKHWA**

Ihsanullah Appellant
Versus
Muhammad Ibrahim Respondents

Arif Q

ORDER

The instant Departmental Appeal filed by Mr. Ihsanullah Senior Scale Stenographer, office of the Commissioner Mardan Division, against the seniority of Mr. Ibrahim Junior Scale Stenographer now promoted as Private Secretary BS-17.

Facts of the case are that the appellant as well as Mr. Muhammad Ibrahim was appointed as Junior Scale Stenographer on 30.06.2009 in the office of Commissioner Mardan. In the seniority list of Junior Scale Stenographer, the appellant was placed junior to Muhammad Ibrahim Junior Scale Stenographer, the appellant filed the instant appeal on 06.11.2013 after a lapse of 08 years against the seniority list of Mr. Muhammad Ibrahim Private Secretary BS-17.

Perusal of available record and comments obtained from Commissioner Mardan, the appellant was appointed in the year, 2009, but he has never challenged the seniority of Muhammad Ibrahim uptill 2017. Beside, the respondent Muhammad Ibrahim was promoted as Senior Scale Stenographer on 22.12.2015 while the present appellant remained acquiescent for more than two years. Seniority list has been issued from time to time which has never been assailed by present petitioner/ appellant. The present appellant is relying on screening test marks which are not the sole determinant in selection.

Keeping in view the above, the instant Departmental Appeal is badly time barred and having no legal ground, hence dismissed.

Announced
21.12.2018

M. Zulair
Fakhre Alam
Senior Member

TESTED

B ②
= 1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 148 /2019

Khyber Pakhtunkhwa
Service Tribunal

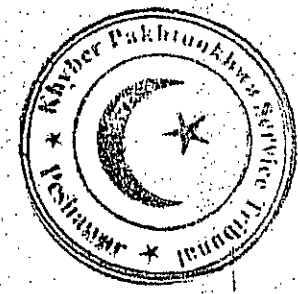
Diary No. 142

Dated 31-1-2019

Mr. Ihsanullah,
Senior Scale Stenographer (Acting Charge)
Office of the Commissioner, Mardan Division; Mardan Appellant

Versus

1. The Senior Member board of Revenue,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Commissioner,
Mardan Division, Mardan
3. Muhammad Ibrahim
Private Secretary (Acting Charge),
Commissioner Office, Mardan..... Respondents



SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 21.12.2018 COMMUNICATED ON 02.01.2019 WHEREBY RESPONDENT NO.1 DISMISSED THE DEPARTMENTAL APPEAL OF THE APPELLANT.

PRAYER:

Filed to-day
31/1/2019

On acceptance of the instant appeal, the impugned appellate order dated 21.12.2018 communicated to appellant on 02.01.2019 may graciously be set aside by considering the appellant for seniority and promotion to the post of Senior Scale Stenographer (BS-16) with all consequential back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-


1. That appellant holds degree in Journalism & Mass Communication. On 25.03.2009 (*Annex:-A*) two posts of Junior Scale Stenographers (BPS-12) were advertised by Respondent No.2. Appellant and Respondent No.3

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

applied for the same. They went through the selection process and upon the recommendation of the Departmental Promotion Committee they were appointed as such vide orders dated 29.06.2009 (*Annex:-B*).

2. That Petitioner and Respondent No.3 thereafter started serving the Department. In 2014, final Seniority List (*Annex:-C*) of the Junior Scale Stenographers as stood on 31.12.2014 was issued whereby Respondent No.3 was shown senior to the appellant. On query it was disclosed to the appellant that Respondent No.3 was placed senior on the ground that he was older in age although the appellant was qualified and had better performance in the selection process than Respondent No.3.
3. That vide Notification dated 23.01.2015 (*Annex:-D*), fresh Service Rules were framed by the Department under Rule-3(2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 whereby promotion to Senior Scale Stenographer (BPS-16) was made as 60% by promotion from amongst Stenographers (BPS-14) and 40% from amongst the Computer Operators.
4. That another Seniority List of Stenographers (BPS-14) was issued wherein too, Respondent No.3 was placed above the name of the appellant on the basis of which Respondent No.3 was promoted to the post of Senior Scale Stenographer vide Notification dated 22.12.2015 (*Annex:-E*).
5. That the appellant also preferred Representation (*Annex:-F*) for promotion as the post of Private Secretary was lying vacant, therefore, the appellant made request for promotion of Respondent No.3 for the post of Private Secretary and for his promotion to the post of Senior Scale Stenographer (BPS-16). The request of the appellant was forwarded to Respondent No.1 vide letter dated 19.10.2017 (*Annex:-G*) which was considered and vide letter dated 07.11.2017 (*Annex:-H*) the Working Paper alongwith supporting documents were requisitioned from the Respondent No.2. Consequently, on the recommendation of the Departmental Promotion Committee, Respondent No.3 was promoted as Private Secretary (BPS-16) (Acting charge basis) vide Notification dated 08.05.2018 (*Annex:-I*) and appellant was promoted as Senior Scale Stenographer (BPS-17) on Acting Charge basis vide Notification dated 19.04.2018 (*Annex:-J*).


ATTESTED

Khyber Pakhtunkhwa
Service Tribunal

6. That in the meanwhile, the decision was delivered by Respondent No.2 in a departmental appeal filed by one Mr. Sajjad Ahmad against the order of Deputy Commissioner, Swabi, wherein the Deputy Commissioner Swabi had allowed seniority to one Mr. Babar Hayat on the basis of his merit position in the merit list and seniority on Mr. Sajjad Ahmad on the basis of his age factor was set aside (relevant documents (Annex:-K).
7. That consequently appellant also made a Request on 26.10.2018 (Annex:-L) for providing the merit list so as to ascertain his merit position as he believed that his merit position was better than Respondent No.3 but still Respondent No.3 was placed senior to appellant on account of his age factor and accordingly Merit List (Annex:-M) was provided wherein appellant came to know that he was at the top of Merit List and therefore should have been senior to Respondent No.3. Accordingly, Departmental Representation was preferred to Respondent No.1 on 06.11.2018 (Annex:-N) through proper channel for his grant of seniority and promotion which was processed and comments were called from the Respondent No.2 who submitted the same vide letter dated 14.12.2018 (Annex:-O), however, the appeal was dismissed vide impugned appellate order dated 21.12.2018 (Annex:-P) communicated on 02.01.2019.
8. That appellant, being aggrieved of the impugned appellate order dated 21.12.2018 communicated on 02.01.2019, challenged the same through this appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned order, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That Respondent No.3 is an established junior to the appellant as is evident from the seniority list *ibid* and therefore was not entitled for such promotion but due to clandestine efforts, he was promoted to the higher grade in violation of the law and rules by depriving the appellant from her due rights.
- C. That the appellant has been discriminated inas much as he being entitled to the subject promotion was deprived of the same and at his cost, Respondent

ATTESTED


 EXAMINER
 Khair Pakhtunkhwa
 Service Tribunal
 Peshawar

No.3 was unlawfully promoted which has resulted in serious miscarriage of justice.

- D. That clear discrimination has been meted out towards the appellant by the Respondents. It would not be out of place to add here that under similar circumstances, the office of the Deputy Commissioner Swabi has granted seniority on the basis of Merit List and not on the basis of age factor, therefore, appellant is also entitled to be treated at par with the same employees.
- E. That as per Rule-17(1)(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 The seniority inter se of civil servants appointed to service, cadre or post shall be determined in case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission or, as the case may be, the Departmental Selection Committee; provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons to the persons selected in a later selection. Hence appellant was at better position than Respondent No.3 in the merit list and as per law, appellant is an established senior to him.
- F. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Certified to be true copy

Through

F. J. J. R.
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Appellant

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

Date of Presentation of Application _____

Number of Pages Page 4 07-3-23

Copying Fee: 20/-

Urgent 5/-

Total: 25/-

Name of Copy _____

Date of Completion of Copy 07-3-23

Date of Delivery of Copy 07-3-23

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE /REVENUE AND ESTATE DEPARTMENT.

NOTIFICATION
Peshawar, dated 23/01/2015

11/135/SS RC/2033. In pursuance of provisions contained in Sub-Rule (2) of rule 3 of the North West-West Frontier Province Civil Servants (Promotion and Transfer) Rules, 1989, and in supersession of all rules issued in this behalf, the Revenue Department in consultation with the Personnel and Administration Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions in column 3 to 5 of the appendix to the notification which shall be applicable to post born in the cadre of Commissioners Specified in Column 2 of the notification.

AMENDMENTS

Nomenclature of post with pay scale	prescribed qualifications	Age	Method of recruitment
Superintendent (BPS - 17)			By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants (BPS-16) with five years service as such in the offices of Commissioners of the Division concerned.
Private Secretary (BPS - 17)			By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Peonies, Stenographers (BPS-16) with at least five years service in the offices of Commissioners, Deputy Commissioners and Political Agents of the Division concerned.
Accounts Officer (BPS-16)			By transfer from the Treasury Department/ Accountant General Office Khyber Pakhtunkhwa. Provided that an official earlier adjusted from surplus pool will be considered as rightly adjusted.

Amended 10/1/15
D-9

Handwritten signature and initials.

Handwritten circled number 13.

Grade of post with	prescribed qualification	Age	Method of recruitment
(BPS-15)	At least Second Class Bachelor's Degree from a recognized University.	20 to 32 years.	(a) Seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks with at least five years service as Junior and Senior Clerk in the Office of Commissioner of Division concerned; and (b) twenty five percent by initial recruitment.
Senior Scale Stenographer (BPS - 15)	(i) At least Second Class Bachelor's Degree, from a recognized University; (ii) a speed of 70 words per minute in shorthand in English and 45 words per minutes in typing; and knowledge of computer using MS Word, MS Excel.	20 to 32 years.	(a) Sixty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Stenographers with atleast five years service as such in the office of Commissioner concerned; and (b) forty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Computer Operators with atleast five years service as such in the office of Commissioner concerned. Provided that if no suitable candidate is available for promotion, then by initial recruitment.
Stenographer (BPS - 14)	(i) At least second class Intermediate or equivalent qualification from a recognized Board (ii) A speed of 50 words per minute in shorthand in English and 35 words per minute in typing; and Knowledge of computer in using MS Word, MS Excel.	16 to 30 years.	By initial recruitment.
Senior Clerk (BPS-14)		----	By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Clerks of the offices of Commissioner concerned with at least two years service as such.
Head Vernacular Clerk / Head Clerk (BPS 14)		----	(a) By transfer from amongst Senior Clerk (BPS-14) of the offices of Commissioner and Deputy Commissioner having at least one year experience of Revenue and Land acquisition matters; or (b) Naib Tehsildars (BPS-14) of the Division concerned.

127

Handwritten signature and initials.

S.No	Nomenclature of post with pay scale	prescribed qualification	Age	Method of recruitment
7.	Computer Operator (BPS - 12)	i. At least second Class Bachelor Degree in Computer Science/ Information Technology (BCS/BIT four years), from a recognized university; or ii. At least Second Class Bachelor's Degree from a recognized university with one year Diploma in Information Technology from a recognized Board of Technical Education.	18-25 Years.	By initial recruitment.
8A	Caretaker (BPS-11)	At least second class Bachelor Degree or equivalent qualification from recognized university alongwith Certificate / Diploma in Housekeeping / hotel management from a recognized institute.	15-22 Years.	By initial recruitment.
8.	Junior Clerk (BPS - 11)	(i) At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) A speed of 30 words per minute in typing.	18 - 50	a) Thirty three percent by promotion, on the basis of seniority-cur-fitness, from amongst the Qasids and Naib Qasids including holders of other equivalent posts in the Division concerned with two years service as such, who have passed Secondary School Certificate Examination; and b) Sixty seven percent by initial recruitment. Note: For the purpose of promotion there shall be maintained a common seniority list of Qasids and Naib Qasids etc with reference to the date of their regular appointment. Provided that no separate seniority list of male and non-male BS-1 (Class-IV) employees can be maintained being single cadre. Their seniority shall be fixed with reference to the date of their regular appointment. Provided further that where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials.
9.	Driver BPS - 4)	Literate having LTV driving license issued by the competent authority. preference will be given to those who have sufficient experience in driving, repair and maintenance of vehicles.	18 - 32 years	By initial recruitment.

15

	pay scale	professional qualification	Age	Method of recruitment:
10A	Cook / Waiter (BPS-4)	Literate with ten years practical experience in any hotel or guest house as cook / waiter.	18-32 Years.	By initial recruitment.
10B	Qasid			
10	Naib Qasid / Chowkidar / Behishtfi / Mali / Sweeper (BPS - 01)	Literate	18-32 Years.	By promotion on the basis of seniority-cum-fitness, from amongst the Naib Qasids with two years service as such; and By initial recruitment.

Sd/-
SECRETARY TO GOVERNMENT
REVENUE AND ESTATE DEPARTMENT

APPROVED

152

13

1. Government of Sindh
 2. Government of Punjab
 3. Government of Baluchistan
 4. Government of Ferozpur
 5. Government of Bahawalpur
 6. Government of Hyderabad
 7. Government of West Punjab
 8. Government of East Punjab
 9. Government of Jammu & Kashmir
 10. Government of Rajasthan
 11. Government of Uttar Pradesh
 12. Government of Bihar
 13. Government of Madhya Pradesh
 14. Government of Andhra Pradesh
 15. Government of Karnataka
 16. Government of Kerala
 17. Government of Tamil Nadu
 18. Government of Maharashtra
 19. Government of Gujarat
 20. Government of Madhya Pradesh
 21. Government of Uttar Pradesh
 22. Government of Bihar
 23. Government of West Bengal
 24. Government of Assam
 25. Government of Orissa
 26. Government of Jharkhand
 27. Government of Chhattisgarh
 28. Government of Madhya Pradesh
 29. Government of Uttar Pradesh
 30. Government of Bihar
 31. Government of West Bengal
 32. Government of Assam
 33. Government of Orissa
 34. Government of Jharkhand
 35. Government of Chhattisgarh

DEPUTY SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
 REVENUE & ESTATE DEPARTMENT

ATTESTED

17



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 03 /01/2019

NOTIFICATION

No. Estt: II/DPC/_____, On the recommendation of Departmental Promotion Committee, Mr. Babar Hayat, Junior Scale Stenographer (BS-14) office of the Deputy Commissioner Swabi is hereby appointed as Senior Scale Stenographer (BS-16) on Acting Charge Basis with immediate effect.

By order of
Senior Member

No. Estt: II/DPC/ 334-36

Copy forwarded to the:-

1. Deputy Commissioner Swabi.
2. District Accounts Officer Swabi.
3. Official concerned


Assistant Secretary (Estt.)



E
19

DEPUTY COMMISSIONER SWABI

Tel #: 0938 - 221300

E-mail: dcswabi@yahoo.com

Fax #: 0938 - 221917 - 221500

No. 1990 /DCS/EA

Dated 13 /09/2019

OFFICE ORDER:

On the recommendation of Departmental Promotion Committee held on 12-09-2019, Mr. Babar Hayat Senior Scale Stenographer (BS-16) on acting charge basis is hereby promoted to the Post of Senior Scale Stenographer (BS-16) on regular basis with immediate effect.

However, he will be on probation for one year.

Deputy Commissioner
Swabi

Copy to the:

1. Commissioner, Mardan Division Mardan
2. Additional Deputy Commissioner, Swabi
3. District Account Officer, Swabi
4. Account Local Office.
5. Mr. Babar Hayat, Senior Scale Stenographer (BS-16) DC's Office Swabi.

Deputy Commissioner
Swabi

Deputy Commissioner
Swabi

Deputy Commissioner
Swabi

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 19/09/2018

(30)

Annex J³ 19

NOTIFICATION

No. Estt:II/Promotion of JSS to SSS/_____ On the recommendation of Departmental Promotion Committee, Mr. Ihsan Ullah Junior Scale Stenographer office of the Commissioner, Mardan Division is appointed as Senior Scale Stenographer (BS-16) on Acting Charge Basis with immediate effect.

By order of
Senior Member

End: No. Estt:II/Promotion of JSS to SSS/18906-8

Copy forwarded to the:-

- ✓ 1. Commissioner, Mardan Division, Mardan
2. District Accounts Officer, Mardan.
3. Official concerned.

Assistant Secretary (Estt.)

ATTACHED

Form-27
1374

20 APR 2018 10:21 AM

ADAR 17 2018

OFFICE OF THE COMMISSIONER MARDAN DIVISION MARDAN

Website: <http://sites.google.com/site/commissionerMardandivision>
 Address: Opposite Town Hall, Phone: 0937-9230572-73
 Near College Chowk Mardan Fax: 0937-9230578
 Email: commissionermrd@yahoo.com

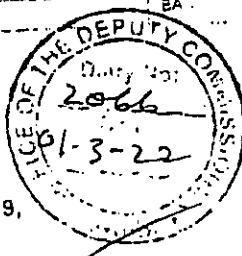
17 EA
=

Subject: Final Joint Seniority List of Assistants/Senior Scale Stenographers of this Commissioner Office and the Offices of Deputy Commissioners Mardan & Swabi as Stood on 31/12/2021.

Consequent upon Tentative Joint Seniority List of Assistants and Senior Scale Stenographers (BPS-16) of this office and the office of Deputy Commissioner Offices Mardan & Swabi vide letter no. 174/Sec/EA/2-19 dated 02/02/2022 is hereby considered as final.

S#	Name	Cadre	Qual.	Date of Birth	Date of 1st Appointment	Date of Promotion to the Present Post	Remarks
01	Said Bacha	Assistant	M Com	14/04/1980	09/05/2007	09/05/2007	Initial
02	Fida Hussain	Do	BA	12/05/1982	01/04/1980	13/06/2008	Promotion
03	Sahib Zada	Do	FA	28/02/1958	28/08/1988	20/09/2008	Do
04	Asfandiyar	Do	BA	08/11/1981	08/01/2009	08/01/2009	Do
05	Umair Khan	Do	B SC	02/03/1983	08/01/2009	26/06/2009	Do
06	Syed Mustafa Shan	Do	MBA/LLB	29/07/1983	29/08/2009	29/06/2009	Do
07	Javed Inam Khan	Do	BCS	12/04/1984	28/06/2009	30/06/2009	Do
08	Ashfaq-ur-Rehman	Do	MA	24/03/1978	30/06/2009	30/06/2009	Do
09	Muhammad Uzair	Do	MA	01/03/1980	30/06/2009	30/06/2009	Do
10	Eshid Mahmood	Do	BA	01/01/1980	30/06/2009	30/06/2009	Do
11	Mouzam Ali Khan	Do	BA	06/04/1981	17/09/2009	17/09/2009	Do
12	Yahir Ak Safi	Do	BA	20/03/1982	06/09/2010	08/09/2010	Do
13	Hussain Akbar	Do	MALLB	15/02/1985	23/05/2009	29/10/2010	Promotion
14	Hazrat Shar	Do	BA	20/11/1986	30/11/2009	04/07/2012	Initial
15	Musadq Hussain	Do	BA	01/02/1988	17/07/2012	17/07/2012	Promotion
16	Karim Gul	Do	BA	19/03/1988	29/08/1988	09/07/2013	Do
17	Ali Baswar	Do	Metric	02/03/1983	26/03/1981	28/03/2014	Do
18	Shamir Khan	Assistant	BSC	05/04/1989	01/11/1992	12/01/2016	Do
19	Nazar Muhammad	Do	MA	03/04/1967	03/12/1989	01/08/2017	Do
20	Sami Ullah	Do	EA	02/10/1967	29/08/1988	11/08/2017	Do
21	Munammad Ali	Do	SSC	01/08/1963	01/11/1989	10/10/2017	Do
22	Malak Junaid	Do	SSC	15/03/1970	21/12/1992	01/02/2019	Do
23	Muhammad Gohar	Do	BA	30/11/1973	09/01/1993	01/02/2019	Do
24	Mir Zaman	Do	FA	10/01/1974	25/07/1993	01/02/2019	Initial
25	Fahim Farooq	Do	BBA	11/06/1987	07/10/2019	07/10/2019	Do
26	Muhammad Junaid Ullah	Do	MS	13/06/1989	07/10/2019	07/10/2019	Promotion
27	Babar Hayat	S/Scale Stenographer	MA	25/03/1986	17/07/2014	13/09/2019	Do
28	Israr Muhammad	Assistant	SSC	15/04/1962	01/01/1984	06/07/2020	Do
29	Zarshan	Do	SSC	15/01/1968	29/08/1988	08/07/2020	Do
30	Hushad Ali	Do	FA	22/02/1975	18/11/1996	06/07/2020	Do
31	Kilayat-ur-Rehman	Do	SSC	01/01/1971	04/12/1995	17/09/2020	Do
32	Jehanzab	S/Scale Stenographer	FA	01/05/1964	26/01/1983	25/09/2020	Do
33	Riaz Sarwar	Do	SSC	10/04/1965	04/12/1989	21/12/2020	Do
34	Goha Zaman	Do	BA	10/12/1966	04/12/1989	21/12/2020	Do
35	Ihsan Ullah	S/Scale Stenographer	MA	02/03/1984	30/08/2009	30/06/2021	Do
36	Tulab Ahmad	Assistant	BA	03/02/1989	18/06/1987	21/10/2021	Do
37	Nisar Muhammad	Do	SSC	04/12/1980	28/10/2010	21/10/2021	Do
38	Laq Shah	Do	BA	10/04/1984	29/10/2010	21/10/2021	Do

EA



Secretary to Commissioner
Mardan Division Mardan
dated Mardan the: 24/02/2022

No. 227 /Sec/EA/2-19,

- Copy to the:
- Deputy Commissioner Mardan & Swabi with the request to circulate amongst all the concerned of your good offices for their information please
 - Assistant Secretary (Estt) Board of Revenue, Revenue & Estate Department Khyber Pakhtunkhwa Peshawar with the office letter no. Estt/Joint S/Assts &SSS/2021/750-83 dated 11/01/2022
 - PS to Commissioner Mardan Division

H (22)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 148/2019

Date of Institution ... 31.01.2019

Date of Decision ... 14.04.2022



Ihsanullah, Senior Scale Stenographer (Acting Charge), Office of the Commissioner, Mardan Division, Mardan.

... (Appellant)

VERSUS

The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and two others.

... (Respondents)

MR. MUHAMMAD AMIN AYUB,
Advocate

For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

For official respondents No. 1 & 2.

MR. NOOR MUHAMMAD KHATTAK,
Advocate

For private respondent No. 3

MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Brief facts as alleged by the appellant in his appeal are that he alongwith private respondent No. 3 namely Muhammad Ibrahim were appointed as Junior Scale Stenographers (BPS-12) vide order dated 29.06.2009, upon recommendations of Departmental Selection Committee. According to the merit list, issued by Departmental Selection Committee, the position of the appellant was higher than the private respondent No. 3, however when the seniority list of the year 2014 was issued, private respondent No. 3 was placed senior to the appellant and on query of the appellant, he

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

was being told that private respondent No. 3 has been placed senior for the reason that he was older in age than the appellant. Seniority of civil servant appointed through initial recruitment is based upon merit list, which is prepared on the basis of marks obtained in the initial recruitment. In the seniority list of the year 2015, private respondent No. 3 was again placed senior to the appellant and was thus promoted as Senior Scale Stenographer (BPS-16) vide order dated 22.12.2015. The post of Private Secretary was laying vacant, therefore, the appellant preferred written request to Commissioner Mardan Division Mardan that private respondent No. 3 may be promoted to the post of Private Secretary, while the appellant may be promoted to the post of Senior Scale Stenographer. Consequently, upon recommendations of Departmental Promotion Committee, private respondent No. 3 was promoted to the post of Private Secretary, while the appellant was promoted to the post of Senior Scale Stenographer on acting charge basis vide Notification dated 19.04.2018. While preparing tentative seniority list of Junior Scale Stenographers, one Babar Hayat was placed senior to Sajjad Ahmad on the ground that Babar Hayat was holding higher position in the merit list issued by Departmental Selection Committee. The departmental appeal filed by Junior Scale Stenographer namely Sajjad Ahmad was also declined by Commissioner Mardan Division Mardan vide order dated 31.10.2018. The appellant being senior in merit list, also submitted departmental representation but the same was dismissed vide order dated 21.12.2018, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Arguments heard and record perused.

4. During the course of arguments, learned counsel for the appellant submitted an application that appellant would

27

ATTESTED
 JUDGE
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

24

3

be satisfied, if his promotion as Senior Scale Stenographer (BPS-16) is regularized with effect from 19.04.2018 i.e the date on which the appellant was promoted as Senior Scale Stenographer on acting charge basis. Learned counsel for private respondent No. 3 endorsed no objection on the application so submitted by learned counsel for the appellant.

5. In view of the application so submitted by the appellant, we would refrain from giving any findings regarding the controversy of inter-se seniority of the appellant and private respondent No. 3. While analyzing the record in context of the request so made by the appellant through the application submitted by him, it is evident that vide Notification dated 23.01.2015, issued by Government of Khyber Pakhtunkhwa Board of Revenue/Revenue and Estate Department, various amendments were made in the relevant rules. In view of the said rules, private respondent No. 3 namely Muhammad Ibrahim and three other employees were promoted as Senior Scale Stenographers (BPS-16) on regular basis, vide Notification dated 22.12.2015. The appellant as well as private respondent No. 3 were appointed as Junior Scale Stenographers through same appointment order, however vide Notification dated 19.04.2018, the appellant was promoted as Senior Scale Stenographer (BPS-16) on acting charge basis instead of regular basis. The appellant was appointed as Junior Scale Stenographer in the year 2009. According to the relevant rules in field, 60% quota has been prescribed for promotion of the Stenographers to the post of Senior Scale Stenographer, subject to the condition that they possess at least 05 years service as such in the offices of Commissioners concerned. The appellant was thus possessing the prescribed length of service, therefore, he was required to have been promoted on regular basis instead of promoting him on acting charge basis vide Notification dated 19.04.2018. During the pendency of the instant appeal, the appellant has been promoted to the post

ATTIESTED

SECRETARY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

25

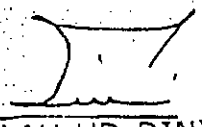
of Senior Scale Stenographer on regular basis with immediate effect, vide Notification dated 30.06.2021.

6. In view of the above discussion, we have come to the conclusion that as the appellant was entitled for his promotion as Senior Scale Stenographer on regular basis on 19.04.2018, therefore, respondents are directed to issue corrigendum of notification dated 30.06.2021 considering the appellant as regularly promoted to the concerned post with effect from 19.04.2018 with all consequential benefits. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
14.04.2022



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 07-03-2023

Number of Words Page 4

Copying Fee 20/-

Urgent 5/-

Total 25/-

Name of Copyist _____

Date of Completion of Copy 07-03-2023

Date of Delivery of Copy 07-03-2023

26

VAKALAT NAMA

NO. _____/20

IN THE COURT OF _____

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

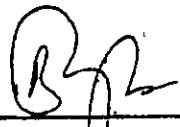
(Respondent)
(Defendant)

I/We, _____

Do hereby appoint and constitute **Mr. M. Asif Yousafzai, ASC** 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20



(CLIENT)

ACCEPTED


M. ASIF YOUSAFZAI, ASC,


SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar