

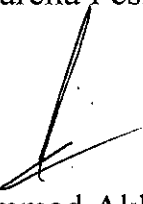
04.04.2023

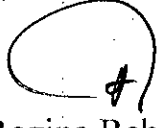
Junior to counsel for appellant present.

Asad Ali, learned Assistant Advocate General for respondents present.

Former made a request for adjournment as senior counsel for appellant is busy before the Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 05.05.2023 before D.B. Parcha Peshi given to the parties.

S. D.
Peshawar


(Muhammad Akbar Khan)
Member (E)


(Rozina Rehman)
Member (J)

2nd Nov., 2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Last opportunity is granted. To come up for arguments on 14.12.2022 before the D.B.



(Fareeha Paul)

Member (E)

14th Dec. 2022



(Kalim Arshad Khan)

Chairman

Due to strike of the Bar and Mrs. Rozina Rehman,

learned Member (J) being on leave, this matter is adjourned

to 22.02.²⁰²³ before the D.B. Office is directed to notify the next

date on the notice board as well as the website of the

Tribunal.

SCANNED
KFST
Peshawar



(Fareeha Paul)
Member(E)

22.02.2023 Bench is incomplete, therefore, case is adjourned to 10.03.2023 for the same as before.



Reader

10-3-23 Poorer bench is incomplete, there fore case is adjourned to 04.04.23.

22.07.2022

Appellant in person present. Noor Muhammad Advocate present and submitted Wakalat Nama in favor of appellant.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for respondents present.

Being freshly engaged, learned counsel for appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 26.09.2022 before D.B.



(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member (J)

26.09.2022

Appellant alongwith his counsel present.

Naseer Ud Din Shah learned Assistant Advocate General for respondents present.

Respondents are required to produce joint seniority list with a proper structure in order to apprise this Bench in respect of the procedure for appointment of Superintendent.

Adjourned to 02.11.2022 for production of record and arguments before D.B.



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

12.08.2021

Nemo for appellant.

Javid Ullah learned A.A.G for respondents present.

Preceding date was adjourned on a Reader's note, therefore, appellant/counsel be put on notice for 29.12.2021 for arguments before D.B.



(Rozina Rehman)
Member (J)



Chairman

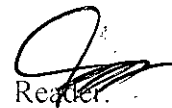
29/12/2021.

Due to winter vacations The Case is adjourned to 18/3/2022 for The same as before.



18.03.2022

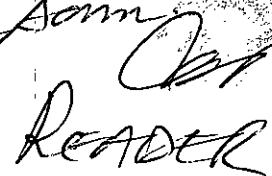
Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 10.06.2022 for the same as before.



Reader.

10.6.2022

Batch is incomplete. Therefore the case is adjourned to 22.07.2022 before the same



READER

13.01.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Add. AG for respondents present.

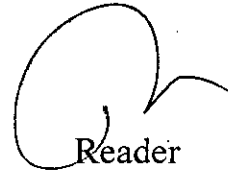
Due to COVID-19, the case is adjourned for the same on 20.04.2021 before D.B.



READER

20.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 12.08.2021 for the same as before.



Reader

13.01.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Add. AG for respondents present.

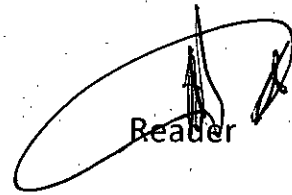
Due to COVID-19, the case is adjourned for the same on 20.04.2021 before D.B.

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 12.08.2021 for the same as before.




Reader

27.08.2020 Due to summer vacation, the case is adjourned to
03.11.2020 for the same as before.


Reader

03.11.2020 Junior to counsel for the appellant and Addl. AG for
the respondents present.

The Bar is observing general strike, therefore, the
matter is adjourned to 13.01.2021 for hearing before the
D.B.


(Mian Muhammad)
Member


Chairman

28.01.2020

None for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Due to General Strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the instant case is adjourned. To come up for further proceedings/arguments on 26.03.2020 before D.B. Appellant be put on notice for the date fixed.


Member


Member

26.03.2020


Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 15.06.2020 before D.B.


Reader

15.06.2020

No one present on behalf of appellant. Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Private respondents are also not present. Notice be issued to the appellant and respondents as well as their counsels. Adjourned. To come up for attendance and arguments on 27.08.2020 before D.B.


(Rozina Rehman)
Member


(M. Amin Khan Kundi)
Member

09.08.2019

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come for arguments on 01.10.2019 before D.B.


Member


Member

01.10.2019

Learned counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourned by way of last chance. To come up for arguments on 25.11.2019 before D.B.


Member


Member

25.11.2019


Due to general strike of the bar, the case is adjourned. To come up on 28.01.2020 before D.B.


Member


Member

30.04.2019

Appellant in person and Mr. Riaz Ahmad Painsa Kheil, Assistant AG for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned to 15.05.2019 for arguments before D.B.


(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

15.05.2019


None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG for the respondents present. Notice be issued to appellant for attendance and arguments for 17.06.2019 before D.B.

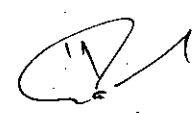

(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

17.06.2019

Hassan UK Afridi Advocate appeared and submitted Wakalat Nama in favor of appellant. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Being freshly engaged, learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 09.08.2019 before D.B.


Member


Member

09.04.2019

Appellant in person and Mr. Muhammad Jan, Deputy District Attorney for the official respondents present. Appellant seeks adjournment. Adjourned. To come up for arguments on 16.04.2019 before D.B.


(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

16.04.2019

Appellant in person and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for argument on 26.04.2019 before D.B


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

26.04.2019

Clerk to counsel for the petitioner and Astt: AG for the respondents present.

Due to general strike on the call of Bar Association instant matter is adjourned to 30.04.2019 before D.B.



(Ahmad Hassan)
Member

(M. Amin Khan Kundi)
Member

30.01.2019


Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Arguments heard. To come up for order on 12.02.2019 before D.B.



Member


Member

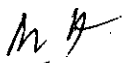
12.02.2019

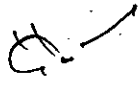
To come up before proper D.B on 01.03.2019.


(M. Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member


01.03.2019 Appellant in person present. Some points need further consideration. Adjourn. To come up for arguments on 13.03.2019 before D.B


Member


Member

13.03.2019

Appellant in person and Mr. Muhammad Jan learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 09.04.2019 before D.B


Member


Member

19.10.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 27.11.2018 before D.B.


(Hussain Shah)
Member


(Ahmad Hassan)
Member

27.11.2018

Appellant alongwith counsel and Mr. Muhammad Riaz Painsa Khel, Asstt. AG for the respondents present.

In the instant matter private respondents No. 5 and 7 were proceeded against ex-parte on 12.4.2016 and 01.06.2016, respectively, however, private respondent No. 6 is still part of proceedings but is not present today. Notice be issued to him through registered post for 03.01.2019 on which date appeal shall be taken up for hearing.


Member


Chairman

03.01.2019

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Counsel for the appellant seeks adjournment to furnish joint seniority list of the official eligible for the post of superintendent. Granted. Case to come up for such record and arguments on 30.01.2019 before D.B.



Member

Member


A. No. 126/2018


23.04.2018 Learned counsel for the appellant present. Mr. Zia Ullah, learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 31.05.2018 before D.B


(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member

31.05.2018 Neither appellant nor his counsel present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Case to come up for arguments on 04.09.2018 before the D.B.


Member


Chairman

04.09.2018 Appellant in person and Mr. Muhammad Jan learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not available. Adjourned. To come up for arguments on 19.10.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

A. No. 126/2016

06.2.2018


Appellant with counsel and Mr. Usman Ghani, District Attorney for the official respondents present. Private respondent No. 6 has not been proceeded against ex-parte. Therefore, notice be given to private respondent No. 6 for 22.3.2018 before the D.B.



Member


Chairman

21.03.2018

Learned counsel for the appellant present. Learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 16.04.2018 before D.B



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

16.04.2018

Counsel for the appellant and Muhammad Jan, DDA for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 23.04.2018 before D.B.



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

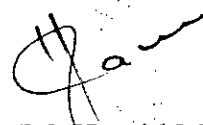
126/2016

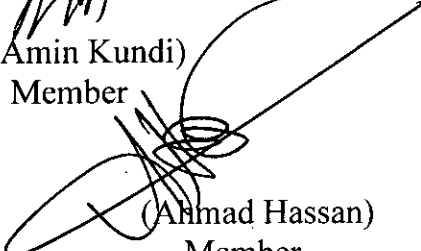
16.08.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Asstt. A.G for the respondents present. Arguments on the point of jurisdiction heard. To come up for order tomorrow on 17.08.2017 before the Larger Bench.


Chairman


(M. Amin Kundi)
Member



(M. Hamid Mughal)
Member



(Ahmad Hassan)
Member

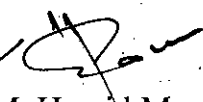
17.08.2017.

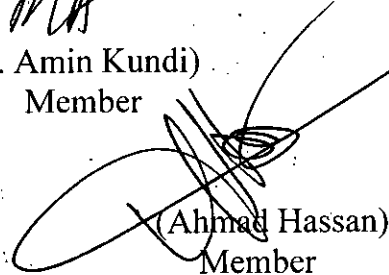
Counsel for the appellant and Mr. Kabeerullah Khattak, Asstt. A.G for the respondents present. Arguments on the point of jurisdiction heard and record perused.

Vide our detailed judgment of today, in connected service appeal No. 41/2016, entitled "Zubair Ahmad Vs. the Appellate Judge through Registrar, Peshawar High Court, Peshawar etc." this Tribunal has the jurisdiction to entertain the appeal. To come up for arguments before D.B on 26.10.2017.


Chairman


(M. Amin Kundi)
Member


(M. Hamid Mughal)
Member


(Ahmad Hassan)
Member

A-No. 126/2016

06.02.2017

Clerk counsel for appellant and Mr. Muhammad Adeel Butt, Additional AG for official respondents No. 1 to 4 present. Clerk counsel for appellant submitted rejoinder which is placed on file. To come up for arguments on 07.06.2017 before D.B.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

07.06.2017

Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Assistant AG for official respondents No. 1 to 4 also present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 16.08.2017.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

A. No. 126/2016

01.06.2016

Appellant in person. Mr. Muhammad Iqbal, English Clerk alongwith Addl AG for the respondents and private respondent No. 6 in person present. None present for private respondent No. 7 despite he was present on previous date. Proceeded ex-parte. Written reply by respondent No. 6 submitted. Written reply by respondents No. 1 & 2 already submitted. Learned Addl. AG relies on the same on behalf of respondent No. 4. The appeal is assigned to D.B for rejoinder and final hearing for 03.10.2016.


Chairman

03.10.2016

Since 3rd October, 2016 has been declared as public holiday on account of 1st Muharram therefore, case is adjourned for the same on 6-2-17.


Reader

A. No. 126/2016

08.02.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as Assistant/Reader in the Establishment of District and Sessions Judge, Kohat and being senior most was entitled for consideration to promotion to the post of Superintendent (BPS-17). That vide impugned order dated 22.12.2015 three Readers were promoted against the post of Superintendent (BPS-17) despite the fact that the appellant was to be considered against one of the said posts being senior most where-against he preferred departmental appeal on 12.1.2016 which was rejected on 23.1.2016 and hence the instant appeal on 3.2.2016.

That the method of recruitment adopted by respondents is violative to the Peshawar High Court (Subordinate Court Staff) Recruitment Rules, 2003 according to which the post of Superintendent is to be filled in by promotion on the basis of seniority-cum-fitness irrespective of any test and interview as adopted by the respondents in the case in hand and, furthermore, vide letter dated 15.12.2015 7 District and Sessions Judges were requested to ask the senior most Assistants for appearance for test and interview for the said posts and District Kohat was purposely ignored so as to deprive the appellant of his due right of promotion.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 12.4.2016 before S.B. Notice of stay application be also issued for the date fixed.

Appellant Deposited
Security & Process Fee

Chairman

12.04.2016

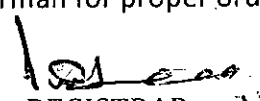
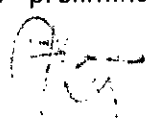
Appellant in person, Mr. Muhammad Yaseen, Asstt. and Muhammad Iqbal, English Clerk alongwith Addl. AG for the official respondents and private respondents No. 6 & 7 in person present. Written statement by respondents No. 1 & 2 submitted. None present for private respondent No. 5 despite issuance of notice, hence proceeded ex-parte. To come up for written reply/comments of the remaining respondents on 01.06.2016 before S.B.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 126/2016

| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 03.02.2016 | <p>The appeal of Syed Azmatullah Shah presented today by Mr. Kushdil Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>8-2-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| 2 | | |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 126 /2016

Syed Azmat Ullah Shah,
Assistant/Reader,
District and Sessions Judge, Kohat..... Appellant

Versus

The Hon'ble Chief Justice,
Peshawar High Court, Peshawar
through the Registrar and others. Respondents

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| 2. | Stay Application with Affidavit | | | 7-8 |
| 3. | Copy of Seniority list | | A | 0-9 |
| 4. | Copy of the impugned Notification thereby respondents No. 5 to 7 are illegally selected/ promoted | 22-12-2015 | B | 0-10 |
| 5. | Copy of letter | 15-12-2015 | C | 0-11 |
| 6. | Copy of review Petition filed by appellant | 12-01-2016 | D | 12-15 |
| 7. | Copy of letter thereby review Petition of appellant was rejected | 23-01-2016 | E | 0-16 |
| 8. | Wakalat Nama | | | |

Through

Appellant

Khush Dil Khan
Advocate,

Supreme Court of Pakistan
9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 091-2213445

Dated: 03 / 02/ 2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2016

Syed Azmat Ullah Shah,
Assistant/Reader,
District and Sessions Judge, Kohat..... Appellant

Versus

1. The Hon'ble Chief Justice,
Peshawar High Court, Peshawar
through the Registrar.
2. The Registrar,
Peshawar High Court, Peshawar
3. The Departmental Promotion Committee,
Peshawar High Court Peshawar,
through its Chairman
4. The District and Sessions Judge, Kohat
- Ex parte* (5) Mr. Saeed Ahmad Khan, Assistant,
District and Sessions Court, D .I.Khan.
6. Mr. Shafqat Ullaha Khan, Assistant,
District and Sessions Court, Bannu
- Ex parte* (7) Mr. Siraj Hussain, Assistant,
District and Sessions Court, Hangu. . Respondents.

**SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNALS ACT, 1974 AGAINST THE
IMPUGNED NOTIFICATION DATED 22-12-2015
WHILE ISSUED ON 2ND JANUARY 2016
THEREBY RESPONDENTS NO. 5 TO 7 WERE**

ILLEGALLY PROMOTED IN VIOLATION OF RULES AGAINST WHICH THE APPELLANT FILED DEPARTMENTAL APPEAL/ REVIEW ON 12-01-2016 BEFORE THE RESPONDENT NO. 1 THROUGH THE RESPONDENT NO. 2 WHICH WAS FILED/REJECTED VIDE LETTER DATED 23-01-2016 .

Respectfully Sheweth,

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

1. That appellant is the most senior assistant in the Establishment of the District Courts having more than thirty five years service at his credit with excellent and unblemished service record. Initially he was appointed as junior clerk on 24-08-1981 then promoted as senior clerk 07-09-1995 and lastly promoted to the post of assistant on 16-04-2003. Copy of seniority list is **Annexed-A**
2. That a notification dated 22-12-2015 (**Annexed-B**) was issued in vary clandestine manner thereby respondent No. 5 to 7 are promoted from the post of assistant as superintendent (BPS-17) against two existence vacancies and one accruing vacancy which will fall at the event of retirement of Mr. Mian Aziz Uddin Superintendent District and Sessions Court Kohat. On the quiry of appellant it came to know that respondents No. 5 to 7 are not promoted rather they are selected in the view of letter dated 15-12-2015 (**Annexed -C**)

3. That the post of Superintendent is non selection post in the view of Peshawar High Court (Subordinate Court Staff) Recruitment Rules, 2003 the post of superintendent is to be filled in by promotion on the basis of seniority-cum-fitness and there is no of provision of written test/interview in the rules as done in the case of respondents No. 5 to 7 in violation of said rules, the relevant part of the said rules is reproduced as under.

| 1 | 2 | 3 | 4 | 5 |
|-------|-----------------------|--|-----------|---|
| S. No | Nomenclature | Minimum qualification for appointment by initial recruitment | Age limit | Method of recruitment |
| 1 | Superintendent BPS-17 | | | By promotion, on the basis of seniority – cum-fitness, from amongst holder of the post of Assistant/Reader, Assistant/Clerk of Court, Assistant Assistant Clerk of Court, Assistant |

| | | | | |
|--|--|--|--|--|
| | | | | /Accountant and Assistant /Civil Nazir at Serial #4 to 8 (all BPS- 11) with at least five years service such: Providing that a common seniority list holder of the posts at serial #4 to 8 below shall be maintained for the purpose of promotion to the post of superintende nt BPS-17 |
|--|--|--|--|--|

4. That since the entire proceedings of promotion/ selection and the subsequent notification was illegal being violative of the rules therefore appellant filed review petition on 12-01-2016 (**Annexed-D**) before the respondents No.1 through respondent No.2 but same was filed/rejected on 23-01-2016 (**Annexed-E**).

Hence the present appeal is submitted on the following amongst other grounds:-

Grounds:

- A. That respondent No. 1 to 3 have acted in violation of law and rules and unlawfully selected/promoted respondent No.5 to 7 which is illegal, mala fidy having no legal sanctity liable to be set aside.
- B. That promotion always made against the clear existing vacancy and not made against anticipated vacancy which the respondents have done in this case with mala fidy intention to accommodate their favourit officials which is not warranted by law.
- C. That appellant is the most senior Assistant with unblemished service record and fully eligible for promotion to the post of superintendent BPS-17 but purposely respondents No.1 to 3 acted in violation of rules and made the selection/promotion of the respondents No.5 to 7 due to which the legal right of appellant was adversely affected and he was deprived of expected promotion without cogent reason and cause.
- D. That appellant is at the verge of retirement and if the anticipated vacancy is filled in in such illegal manner then the promotion chances of appellant would be diminished which is unfair, unjust and against the rules.
- E. That Respondent No. 1 has not acted in accordance with law and without considering the review Petition of appellant he rejected the same without

assigning any reason.

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned notification dated 22-12-2015 thereby respondents No5 to 7 are illegally selected/promoted to the post of superintendent (BPS-17) and the order dated 23-01-2016 thereby review Petition of appellant rejected may kindly be set aside. The respondents No. 1 to 3 may graciously be directed to act in accordance with law and rules and consider the case of appellant for due promotion to the post of superintendent (BPS-17) on the basis of seniority-cum-fitness.

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

Through


Appellant

Khush Dil Khan,
Advocate,
Supreme Court of Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**Service Appeal No. _____/2016**

Syed Azmat Ullah Shah,
Assistant/Reader,
District and Sessions Judge, Kohat..... Appellant

Versus

The Hon'ble Chief Justice,
Peshawar High Court, Peshawar
through the Registrar and others. Respondents

Application for suspending the operation of the impugned notification dated 22-12-2015 till the final disposal of the instant appeal.

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of appellant.
3. That the balance of convenience also lies in favour of appellant and in case operation of the impugned order is not suspended the applicant/appellant will suffer irreparable loss.
4. That promotion/selection against the anticipated vacancy is totally illegal and if the impugned

notification is not suspended then the due right of promotion of appellant would be diminished which is unfair and unjust.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned notification dated 22-12-2015 may graciously be suspended till the final disposal of the appeal.

Through


Applicant

Khush Dil Khan,
Advocate, Peshawar

Dated: 03 / 02/ 2016

Affidavit

I, Syed Azmat Ullah Shah, Assistant/Reader, District and Sessions Judge, Kohat, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent

Annex-A
P-9

DESIGNATION ASSISTANTS (BPS-14) SENIORITY LIST OF MINISTERIAL STAFF OF DISTRICT COURTS, KOHAT

| S. No. | Name | Date of birth | Date of appointment | Date of Promotion as Senior Clerk | Date of promotion as Assistant | Qualification | Signature of official | Remarks |
|--------|----------------------|---------------|---------------------|-----------------------------------|--------------------------------|---------------|-----------------------|--|
| 1. | Syed Azmatullah Shah | 11.06.1959 | 24.08.1981 | 07.09.1995 | 16.04.2003 | B.A | | By Promotion |
| 2. | Farhatullah Khan | 01.03.1959 | 10.01.1979 | 23.07.1999 | 04.05.2004 | F.A | | DO |
| 3. | Muhammad Younas | 15.02.1960 | 26.04.1980 | | | B.A/LL.B | | Transfer from Hangu to Kohat on 26.03.2006, therefore kept at the bottom of category |
| 4. | Muhammad Saeed | 14.01.1962 | 13.03.1983 | | | F.A | | By promotion |
| 5. | Khalid Amin | 01.10.1976 | 11.02.2004 | | | B.A | | Appointed by initial recruitment |
| 6. | Islam Khan | 12.03.1957 | 13.03.1983 | | 20.02.2013 | BA | | By promotion |

Attested

Attested
District and Sessions Judge
Kohat
1/2/16

PESHAWAR HIGH COURT, PESHAWAR

Annex: "B"
P-10

NOTIFICATION

Dated Peshawar the 22nd December, 2015

No. 07 -J In pursuance of the recommendations of Departmental Promotion Committee vide its meeting dated 19.12.2015, the Competent Authority is pleased to promote the following Assistants (BPS-16) as Superintendent (BPS-17), against the vacant posts in the establishment of District & Sessions Judges, with effect from assumption of charge against the two available and one accruing vacancy viz 02.02.2016 in the given order.

1. Mr. Saeed Ahmad Khan,
Assistant, Sessions Court, D.I.Khan.
2. Shafqat Ullah Khan,
Assistant, Sessions Court, Bannu.
3. Mr. Siraj Hussain,
Assistant, Sessions Court, Hangu.

They shall remain on probation for a period of one year, extendable as provided under the rules.

By order of Hon'ble the Chief Justice

(MUHAMMAD AYUB KHAN)
REGISTRAR

Endst: No. 5-18 /Admn:

Dated Pesh the 2 / 11 /2016

Copy forwarded to: -

1. The District & Sessions Judges concerned.
2. The District Accounts Officers concerned.
3. The Deputy Registrar (Accounts), Peshawar High Court, Peshawar.
4. The Private Secretary to HCJ, Peshawar High Court, Peshawar.
5. The Superintendent, (Confidential), Peshawar High, Peshawar.
6. The officials concerned by name:

AT 5/11/15

(MUHAMMAD AYUB KHAN)
REGISTRAR



The
PESHAWAR HIGH COURT
 Peshawar

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No. 142579-305/Admn

Dated Peshawar, 15/12/2015

To,

The District & Sessions Judge,

1. Bannu
2. Hangu
3. Haripur
4. Kohistan
5. Mardan
6. Malakand
7. D.I Khan

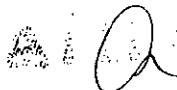
Subject: - PROMOTION TO THE POST OF SUPERINTENDENT (BPS - 17)

Dear Sir,

I am directed to refer to the subject noted above and to say that the concerned senior most Assistant(s) be asked to appear before the Chairman Test Committee / Incharge NJPIC, Peshawar High Court, Peshawar, for written test / interview on 19th of December, 2015 at 09.00 A.M, please.

Sincerely yours,


 ADDL. REGISTRAR (ADMN)
 FOR REGISTRAR



Annex: D
P-12

To,

The Hon'ble Registrar,
Peshawar High Court,
Peshawar.

Through: Proper Chanel

Subject: REQUEST FOR REVIEW OF NOTIFICATION NO. 1 I
BEARING ENDST: NO. 5-18 DATED 02.01.2016 OF
AUGUST PESHAWAR HIGH COURT, PESHAWAR
REGARDING PROMOTION OF ASSISTANT TO THE
POST OF SUPERINTENDENT.

Respected Sir,

With great reverence, I submit the following few lines for
your kind perusal and sympathetic consideration.

FACTS:-

1. That I am serving in District Judiciary Kohat since 1981 and at present my service period is about 34/35 years while my age is about 56/57 years.
2. That during this long period of service I performed my duty on different posts including Acting Superintendent (w.e.f. 12.04.2002 to 19.03.2003) in my own pay and scale with full devotion and sincerity.
3. That during this long period of service I kept my services record clear & transparent, even a simple explanation has not been called from me.
4. That during the period from 2002 to 2014 I performed my duties on admin side and remained under the direct control of the following Judicial Officers.

A. THE THEN DISTRICT & SESSIONS JUDGES, KOHAT.

- i. Mr. Qalander Ali Khan.
- ii. Mr. Subhan Sher.
- iii. Mr. Yahya Zahid Gilani
- iv. Mr. Shah Jehan Akhundzada (Late)
- v. Mr. Ayman Zia
- vi. Mr. Inam Ullah Khan.

B. THE THEN SENIOR CIVIL JUDGES, KOHAT.

- i. Mr. Ashfaq Taj
- ii. Mrs. Rozina Rehman
- iii. Mr. Hajira Rehman
- iv. Syed Obaid Ullah Shah
- v. Mr. Asif Rasheed.
- vi. Mr. Tanveer Iqbal

All the above mentioned Hon'ble Judicial Officers are well aware about my performance.

5. That during this long period of my service I faced so many challenges but I continued my service with the hope that at least the Department will recognize my services and honour me with the promotion as there is nothing more than a promotion in recognition of services for a public servant.

6. That unfortunately, the Department instead of rewarding and honouring me, deprived me from my right vide notification No.1-J bearing Endst. No. 5-18 dated 01.01.2016 and nominated much

- junior officials for promotion to the post of Superintendent, itself violating its promotion policy, causing agony to me and my family.
7. That the said Notification is totally against the Peshawar High Court, Peshawar (Subordinate Court Staff) Recruitment Rules 2003 wherein the proper method of promotion, initial recruitment, constitution of DSC/DPC has been prescribed by august Peshawar High Court, Peshawar (copy attached).
 9. That for the promotion of the post of Superintendent the said Peshawar High Court, Peshawar (Subordinate Court Staff) Recruitment Rules 2003 are quite clear wherein categorically mentioned that the post of superintendent, shall be filled up by promotion amongst the holders of the post of Assistants of the concerned District where the post is lying vacant.
 10. That the said Peshawar High Court, Peshawar (Subordinate Court Staff) Recruitment Rules 2003 also constituted the DPC for the promotion of superintendent, wherein, the Chairperson of the said committee is the Hon'ble the Chief Justice Peshawar High Court, Peshawar while the Registrar, Peshawar High Court Peshawar and the District & Sessions Judge of the concerned District where the post of superintendent is lying vacant, are the members, who as the DPC are to work connectively.
 11. That on the following grounds I am quite fit for promotion as superintendent.

GROUND FOR REVIEW

- a. I am the senior most Assistant of the Sessions Division, Kohat and my name is at serial No.1 in seniority list.

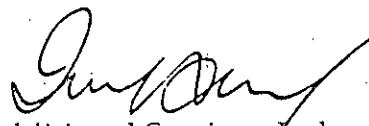
- b. That, my academic qualification is BA (though BA is not prescribed qualification for the post of superintendent filed in by promotion)
- c. That, I remained as acting Superintendent, Assistant to Superintendent and COC for the period of more than 12 years.
- d. That, the length of my service is about 34/35 years.
- e. That, my age is about 56/57 years.
- f. That, my service record is quite clear and transparent which may be perused any time. There has never been any complaint or inquiry against me.
- g. That, at present I am also Incharge of the Sub-Registry Branch, Peshawar High Court, Peshawar at Kohat.

Therefore, it is, humbly requested that the above said order/notification may kindly be reviewed and a fresh notification in suppression of notification No.1-J bearing Endst: No.5-8 dated 02.01.2016 be issued, notifying my promotion as superintendent, please.

Yours obediently,

(Syed Azmatullah Shah)
Assistant/Reader

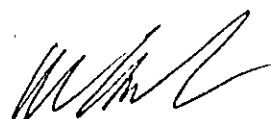
Forwarded in original to District & Sessions Judge Kohat, please


Additional Sessions Judge-III, Kohat

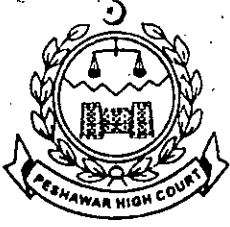
No. 25 /D&SJ Kohat

Dated: 12/1/2016

Forwarded in original to the Hon'ble Registrar Peshawar High Court, Peshawar, please.


District & Sessions Judge

Annex: E
P-16



The
PESHAWAR HIGH COURT
Peshawar

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phcph@gmail.com

No. 375 /Admn:

Dated Pesh the 23rd / 01 /2016

To:

The District & Sessions Judge,
Kohat.

Subject:

REQUEST FOR REVIEW OF NOTIFICATION NO.1-J BEARING ENDST: NO.5-18 DATED 02.01.2016 OF AUGUST PESHAWAR HIGH COURT, PESHAWAR REGARDING PROMOTION OF ASSISTANT TO THE POST OF SUPERINTENDENT.

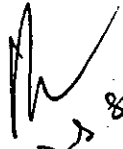
Dear Sir,

I am directed to refer to your Endst: No.25 dated 12.01.2016 and to say that the application of Syed Azmatullah Shah, Assistant/Reader is meritless, hence filed.

Sincerely yours,


ADDITIONAL REGISTRAR (ADMN)
FOR REGISTRAR

Official concerned
be informed accordingly


D.J. ST
28-01-2016

ATTACHED

WAKALAT NAMA

IN THE COURT OF A.P. Service Tribunal Lahore

Syed Azmatullah Shah
Advocate Appellant(s)/Petitioner(s)

VERSUS

The Honble Chief Justice
& other Respondent(s)

I/We Syed Azmatullah Shah do hereby appoint
Mr. Khush Dil Khan, Advocate Supreme Court of Pakistan in the above
mentioned case, to do all or any of the following acts, deeds and things.


1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

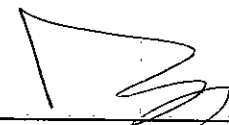
AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by


Khush Dil Khan,
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion
Off: Tel: 091-2213445


Signature of Executants

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 126 of 2016

Syed Azmat Ullah Shah

(Appellant)

.....Vs.....

The Hon'ble Chief Justice, Peshawar High Court, through The Registrar
& others.

(Respondents)

COMMENTS ON BEHALF OF RESPONDENT NO. 1 & 2

Respectfully Sheweth,

Preliminary objections:

- a. The appeal is incompetent in its present form.
- b. The appellant hasn't come to the Tribunal with clean hands hence his appeal deserves dismissal on this score alone.
- c. The appellant has got no cause of action/locus standi to file the present appeal.
- d. The appellant is estopped by his own conduct.
- e. The tribunal or any other court cannot substitute the view recorded by the competent authority in service matter of an official.
- f. The tribunal lacks the jurisdiction to entertain the issue of fitness for promotion as the administrative order of the Peshawar High Court cannot be challenged, keeping in view the dictum reported as, 2010, SCMR, 632 in Case titled 'Muhammad Iqbal and other .Vs. The Lahore High Court through Registrar and others'.

On facts:

1. Para No. 1 of the petition to the extent of appellant appointment, promotion is correct.
2. Para No. 2 of the appeal to the extent of notification dated, 22.12.2015, through which respondent No. 5 to 7 promoted from the post of Assistant as Superintendant is correct, rest of the Para is denied.
3. Para No. 3 of the appeal is correct to the extent that, the post of Superintendant is non selection post under the Peshawar High Court, Subordinate Court Staff Recruitment Rules, 2003, and post of Superintendant is to be filled by promotion on the basis of seniority-cum-fitness, rest of the Para is denied.
4. Para No. 4 of the appeal to the extent of filling review petition dated, 12.01.2016, and rejection of the same vide dated, 23.01.2016 is correct, rest of the Para is denied.

Grounds:

- A. Para **A** of the ground is denied totally incorrect.
- B. Para **B** incorrect, hence denied.
- C. Para **C** is replied that, the post of Superintendant is transferable in the whole province thus Superintendant promoted in one district can be transferred to another district for service and at present few of the superintendants are serving in their domicile district. About 7 districts got no representation in the service, therefore, the Hon'ble Chief Justice approved Para No.15, and 16 of the summery dated, 21.03.2015, according to which it was proposed that as a fair

PESHAWAR HIGH COURT, PESHAWAR

NOTIFICATION

Dated Peshawar the 01st June, 2019

No. 131 -J In pursuance of the recommendations of Departmental Promotion Committee vide its meeting dated 01.06.2019, Syed Azmat Ullah, Assistant (BPS-16) is promoted as Superintendent (BPS-17) against the vacant post in the Court of District & Sessions Judge, Kohat, with immediate effect.

He shall remain on probation for a period of one year, extendable as provided for under the rules.

By order of Hon'ble the Chief Justice

(KHAWAJA WAJAH-UD-DIN)
REGISTRAR

Endst: No 120017-58 /Admn:

Dated Pesh the 3 / 6 /2019

Copy forwarded to :-

1. All the District & Sessions Judges/Zilla Qazis in the Khyber Pakhtunkhwa.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The District Accounts Officer, Kohat.
4. The SCS to Hon'ble Chief Justice, Peshawar High Court, Peshawar.
5. The Director (B&A), Peshawar High Court, Peshawar.
6. The Accounts Officer, Peshawar High Court, Peshawar.
7. The AR (Confidential), Peshawar High Court, Peshawar.
8. The official concerned by name.

Retired on 11/6/19


(KHAWAJA WAJAH-UD-DIN)
REGISTRAR

Seen

10/6/19
District & Sessions Judge
Kohat

policy, equal representation to all the district be given and the non representative district will have the first right of promotion when a post of superintendant became vacant in future, consequent that decision a list of 3 (three) senior Assistant of each non representative districts were called for to file up the 3 (three) available vacancies for promotion and ultimately after conducting test and interview respondent No.5 to 7 were promoted who are domicile of non representative districts.

- D. Para **D** is also incorrect, denied.
- E. Para **E** is also denied.

It is, therefore, most graciously prayed that the write petition may be dismissed with cost.

Respondent No. 1 & 2.



REGISTRAR,
Peshawar High Court,
Peshawar.

AFFIDAVIT

I, **Muhammad Ayub Khan, Registrar, Peshawar High Court, Peshawar**, respondent, solemnly affirm and declare that the contents of the comments are true to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



REGISTRAR,
Peshawar High Court,
Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No. 126 of 2016

Syed Azmat Ullah Shah - - - - (Appellant)

----- VS. -----

The Hon'ble Chief Justice, Peshawar High Court
Through ^{the} Registrar and others. (Respondents)

Written Statements of Respondent No. 6

Respectfully sheweth.

I, hereby rely on para wise comments
submitted by Respondents No. 1 & 2 with
request that appeal of the appellant
may be dismissed with cost.

Dated:- 01-06-2016.

Respondent No. 6.



SHAEFATULLAH KHAN.

Superintendent
the then Assistant,
District and Sessions Court
Bannet.



70455

ایڈوکیٹ/دستخط: Amshiبار کونسل ابار ایسوسی ایشن نمبر: bc-09-1376رابطہ نمبر: 0334998907

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: سروس ٹریبونل سٹاؤ

| | |
|-----------|-------------------------|
| دعویٰ: | منجانب: |
| علت نمبر: | |
| موضوع: | سید طارق اللہ شاہ |
| جرم: | Distt and Session court |
| تھانہ: | |

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام پشاور کیلئے سید صدر شہیر ذادہ اینڈ خوشنما خان ایڈووکیٹس کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر حالت و فیصلہ برصفت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ
 میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 6-2-2017الع بد گواہ شد الع بدمقام پشاور کے لئے منظور ہے۔

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 126/2016

**Syed Azmat Ullah Shah,
Assistant/Reader,
District and Sessions Judge, Kohat..... Appellant**

Versus

**The Hon'ble Chief Justice,
Peshawar High Court, Peshawar
through the Registrar and others. Respondents**

INDEX

| S.No. | Description of Documents | Date | Annexure | Pages |
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| 1. | Memo of Rejoinder | | | 1-3 |

Through

Appellant

**Khush Dil Khan
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 091-2213445**

Dated: 04 / 02 / 2017

- IV. That the principle of estoppel is not applicable in this case.
- V. That the competent authority has not above the law and his illegal and unlawful order can be challenged in a competent court of law.
- VI. That the post of superintendent is non-selection post which be filled in by promotion on the basis of seniority and fitness. In this case the authority has acted in excess of his power and authority and unlawfully accommodated his favorites against the post of superintendent at the cost of the rights of appellant. The judgment as referred by the answering respondents is different and distinguished from the present subject matter and wrongly quoted.

Rejoinder to Reply of Facts:

1. That the contents of Para No. 1 of the appeal have been admitted as correct by the answering respondents so no need of further elucidation
2. That the reply is incorrect so denied because the selection of respondent No. 5 to 7 was made in violation of law and rules on subject by which appellant was deprived of his right of promotion in arbitrary manner.
3. That the contents of Para No. 3 of the appeal have been admitted by answering respondents as correct so no need of further elucidation.
4. That the contents of Para No. 4 of the appeal have been admitted by answering respondents as correct so no need of further elucidation.

Rejoinder to Reply of Grounds:

- A. That no proper reply was given to ground-A meaning thereby that answering respondents have nothing in rebuttal.
- B. That in the reply only used the word "incorrect" nothing else which is not considerable.
- C. That the reply is evasive in nature so denied. No one is above the law. The respondents have acted in violation of law and rules and unlawfully selected the respondents No. 5 to 7 which is illegal and unfair.
- D. That no proper reply is filed.
- E. That no proper reply is filed.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through


Appellant

Khush Dil Khan
Advocate,
Supreme Court of
Pakistan

Dated: 11 / 02 / 2017



The
PESHAWAR HIGH COURT
Peshawar

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phcpsh@gmail.com

ORDER

Dated Peshawar, the 21st January, 2019

Mr. Rab Nawaz Khan, Superintendent to the Court of District & Sessions Judge, Kohat shall be attaining the age of superannuation on **01.03.2019 (A.N)**, whereas the date of birth of the officer (as per service record), is **01.03.1959**.

The Hon'ble Chief Justice is therefore pleased to accord sanction for the drawal of pension/commutation, encashment of LPR, final payment of G.P. Fund, retirement grant, payment of retirement benefit & death compensation as well as retirement TA subject to the entitlement in favour of above named officer.

By Order of Hon'ble the Chief Justice

(KHWAJA-WAJIH-UD-DIN)
REGISTRAR

Endst: No. SDJ/PHC/REG/70-V.II-11/293-301

Dated: 28/01/2019

Copy forwarded for information and necessary action to:

1. The District & Sessions Judge, Kohat.
2. The District Accounts Officer, Kohat.
3. The Director Budget & Accounts, Peshawar High Court, Peshawar.
4. The Director IT, Peshawar High Court, Peshawar.
5. The Assistant Registrars (Judicial, General & Confidential), Peshawar High Court, Peshawar.
6. The Officer Concerned by name.
7. Office Orders file/Personal file.


(KHWAJA-WAJIH-UD-DIN)

بعد الت جناب جسٹریٹ جی کے سرکاری سرپرستوں کے

کورٹ میں

۲۰ء منجانب -

مقدمہ

علت نمبر حسرت علی خان

جرم زبردفعہ

Service Appeal - 126/16

مورخہ

تھانہ

باعث تحریر آنک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جوابدہی کل کارروائی متعلقہ آں مقام کے لیے

صحتاً - جسٹریٹ جی کے سرکاری سرپرستوں کے

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا اختیار ہوگا۔ نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف دینے بواب ذہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجرا اور وصولی چیک در روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی و نیز دائر کرنے اپیل نگرانی نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل یا جزو کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اس کے مستحق کیا صاحب موصوف ہوں گے نیز بقایا خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

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ماہ

المرقوم

کے لیے منظور ہے

مقام کوہاٹ

HASSAN UL-KAFRIDI
High Court

DISTRICT JUDICIARY KHYBER PAKHTUNKHWA, KOHAT
OFFICE OF THE DISTRICT & SESSIONS JUDGE KOHAT



Phn# 0922-9260041
Fax# 0922-9260216

Email: dsjkohat@yahoo.com

DESIGNATION : ASSISTANT (BPS 16)
COMMON SENIORITY LIST OF ASSISTANTS OF DISTRICT COURTS, KOHAT

| S.No | Name | Present Designation | Date of Birth | Date of Appointment | Qualification |
|------|-----------------------|---------------------|---------------|--|---------------|
| 1 | Syed Azmat Ullah Shah | READER | 11.06.1959 | 24.8.1981 | B.A |
| 2 | Farhat Ullah Khan | READER | 01.03.1959 | 06.12.1981 | F.A |
| 3 | Muhammad Younas | READER | 15.02.1960 | 26.07.1980 | B.A /L.L.B |
| 4 | Muhammad Saeed | READER | 14.01.1962 | 13.03.1983(J.C) 03.11.1981 (P.S) | F.A |
| 5 | Khalid Amin | READER | 01.10.1976 | 11.02.2004 | B.A |
| 6 | Sardar Alam | Civil Nazar | 04.01.1963 | 14.4.1987 | Matric |
| 7 | Riffat Ali | COC | 20.04.1969 | 03.07.1993 | B.A |
| 8 | Muhammad Shahid | READER | 11.09.1977 | 01.06.1995 | B.A |



(Signature)
(SHOAIB KHAN)
District & Sessions Judge,
Kohat

ATTESTED TRUE COPY

(Signature)
COPING & EXAMINED
26/19
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- (iv) action taken in fraud of the law; and
 (v) abuse of the process of law.

The application of respondent No.1 does not show that any of the above-mentioned facts were alleged and proved, therefore, the learned High Court under the constitutional jurisdiction had also no jurisdiction to interfere with the investigation or pass the impugned order.

16.(sic) In the light of what has been discussed above, the High Court has exceeded the jurisdiction and the order passed by it is an abuse of process of Court and Law. Consequently, the impugned order is set aside. The petition is converted into appeal, which is allowed.

M.H./G-33/SC

Appeal allowed.

2010 S C M R 632

[Supreme Court of Pakistan]

Present: *Sardar Muhammad Raza Khan*
and Nasir-ul-Mulk, JJ

MUHAMMAD IQBAL and others---Appellants

versus

LAHORE HIGH COURT through
 Registrar and others---Respondents

Civil Appeals Nos.338, 339, 340 and 342 of 2006, decided on 1st February, 2010.

(On appeal from the judgment of Lahore High Court, Lahore, dated 11-11-2005 passed in Writ Petitions No.10485, 10767, 10769 and 13972 of 2005 respectively).

Punjab Judicial Service Rules, 1994---

---R. 4---Notification No.SOR-IV(E&AD), dated 3-11-2001 issued by the Government of N.-W.F.P.---Constitution of Pakistan (1973), Arts.192 & 199---Constitutional petition challenging non-selection of petitioner by High Court as Additional and Sessions Judge---Dismissal of such petition by High Court for being not maintainable against impugned order protected under Art.199(5) of the Constitution---Validity---In cases of appointment, both Lahore High Court and Peshawar High Court or the Chief Justice exercise delegated powers of

Governor of their respective Provinces as appointing authority---According to Art.192 of the Constitution, Chief Justice along with other Judges would constitute a 'High Court'---All judicial orders passed by a High Court could be challenged in accordance with Constitution or law---All non-judicial or administrative orders of High Court were protected under Art.199(5) of the Constitution---Ground that aggrieved person had no further remedy could not be pressed, if relief claimed by him was not otherwise tenable---Supreme Court upheld impugned judgment in circumstances---Principles

[pp. 635, 636,637] A, B, C, D & E.

Kaleem Arshad Khan's case 2004 PLC (C.S.) 1558 overruled.

High Court of Madhya Pradesh v. Mahesh Prakash AIR 1994 SC 2595 and Nusrat Elahi's case 1991 MLD 2546 ref.

Asif Saeed's case PLD 1999 Lah. 350 rel.

Ch. Mushtaq Ahmed Khan, Senior Advocate Supreme Court for Appellants (in C.A. No.338 of 2006).

Syed Zafar Abbas Naqvi, Advocate-on-Record and Syed Azhar Naveed Shah, Advocate Supreme Court for Appellants (in C.A. No.339 of 2006).

Appellants in person (in C.A. No.340 of 2006).

Shafqat Abbasi, Advocate Supreme Court for Appellants (in C.A. No.342 of 2006).

Saeed Yousaf, Additional Advocate-General, Zahoor Ahmed, Sub-Assistant Registrar (Confdl.) Lahore High Court for Respondents.

Date of hearing: 8th December, 2009.

JUDGMENT

SARDAR MUHAMMAD RAZA KHAN, J.---The appellants, by leave of the Court, have filed these appeals from the judgment dated 11-11-2005 of a learned Judge in chambers of Lahore High Court, whereby, their writ petitions stood dismissed as barred by Article 199(5) of the Constitution.

2. The brief facts of the case are that against an advertisement dated 3-4-2003, issued by Lahore High Court for 29 posts of Additional District and Sessions Judge, Muhammad Iqbal Khan, Arshad Mehmood, Amir Iqbal Basharat, Waqar-ul-Hassan and Javaid Hussain qualified the competitive examination, but were not selected for the reasons that they did not fulfil the required length of practice etcetera. Javaid Hussain

appellant though qualified yet could not hit the merit list of 29 candidates. He was placed on the waiting list. He claimed his selection and appointment in the subsequent batch or batches, next first being that of 2005. Such non-selection was challenged through writ petitions, dismissed as afore-said.

3. Coming directly to the real point in dispute arising out of Article 199(5) of the Constitution, the learned High Court is of the view that the orders passed by the High Court are protected under the afore-said sub-Article and cannot be challenged before the High Court under Article 199. To the contrary, the stance taken by the appellant is that the orders protected by Article 199(5) of the Constitution are only the judicial orders and not those passed on administrative side. That the order of non-selection of the appellants passed by the High Court was in its administrative capacity and hence no immunity could be claimed under Article 199(5) of the Constitution. Learned counsel appearing on behalf of the appellants placed reliance on a Division Bench judgment of Peshawar High Court in Kaleem Arshad Khan's case 2004 PLC (CS)1558, whereby, the non-selection of writ petitioner therein was considered to be an administrative order, amenable to challenge under Article 199 of the Constitution. The learned counsel further placed reliance upon a Division Bench judgment of Indian Supreme Court in High Court of Madhya Pradesh v. Mahesh Prakash AIR 1994 SC 2595. The Indian Supreme Court was of the view that the orders passed by a High Court in its administrative capacity could be challenged before the High Court, exercising constitutional jurisdiction.

4. The learned counsel for the respondent claimed, in nutshell, that the orders passed by the High Court whether in its judicial or administrative capacity, are both protected under Article 199(5) of the Constitution and hence the view of Lahore High Court was perfectly valid. Reliance was placed on an earlier judgment of Lahore High Court in Nusrat Elahi's case 1991 MLD 2546 and a subsequent judgment of a full Bench of Lahore High Court in Asif Saeed's case PLD 1999 Lah. 350. Lahore High Court consistently seems to be of the view that orders passed by a High Court, whether judicial or administrative, are protected under Article 199(5) of the Constitution.

5. For sake of convenience, the relevant provision of the Constitution is reproduced:---

"199(5) In this Article, unless the context otherwise requires,---

"person" includes anybody politic or corporate, any authority of or under the control of the Federal Government or of a Provincial Government, and any Court or Tribunal, other than the Supreme Court, a High Court or a Court or tribunal

established under a law relating to the Armed Forces of Pakistan; and

-
 (a)
 (b)"

6. As the conflict of judgments has been arisen between Lahore High Court and Peshawar High Court, we may point out that in cases of appointment in both the High Courts, the High Court or the Chief Justice exercise the delegated powers of the Governor. Punjab Judicial Service Rules, 1994 as framed by the Governor, operate to delegate power under Rule 4 thereof to the High Court as appointing authority. On the other hand, Notification No.SOR-IV(E&AD)/3-11/2001, issued by Government of N.-W.F.P., Establishment and Administration Department, the Governor happened to delegate such power of appointment to the Chief Justice, Peshawar High Court. To our mind, the use of two different words like "High Court" and "Chief Justice" in the two provinces, make the least difference, because under Article 192 of the Constitution, the Chief Justice along with other Judges constitutes the High Court. So, we are left with only question of difference between judicial and the administrative powers exercised by the High Court with reference to the immunity given by Article 199(5) of the Constitution.

7. The view held by Lahore High Court is challenged in the light of Mahesh Prakash's case (supra), which is very well distinguished by Mr. Justice Mian Saqib Nisar speaking on behalf of the full Bench in Asif Saeed's case (supra). The learned Judge distinguished the Indian ruling on the ground that there are no provisions in the Indian Constitution analogous or parallel to Article 199(5) of our Constitution. Secondly, it was reasoned that the Indian Supreme Court was of the view, despite no analogous provision in their Constitution, that no writ would lie against the judicial order of a High Court. Meaning thereby "that the true purpose of this sub-Article is more pointed towards protecting the non-judicial actions/orders/steps of this Court rather than its judicial orders". We perfectly agree with the view taken by Lahore High Court that all judicial orders passed by a High Court can be challenged in accordance with the Constitution or the law and are individually and specifically protected. For such purpose of protecting judicial orders, there was no need absolutely to enact the provisions of sub-Article (5) of Article 199 and that such provisions were given in the Constitution to protect, rather, the non-judicial orders of the High Court. We are further of the view that if such orders are allowed to be

challenged before the same High Court, it would lead to creating ludicrous situations and hazardous consequences.

8. If a Chief Justice of a High Court transfers a subordinate officer, so to say, in his administrative capacity and if the same is set aside by another Bench of the same High Court, one can well imagine the devastating consequences. This can be visualized about any order of the High Court and the resultant consequences thereof. It runs diametrically opposed to the principles of comity and can lead to the complete destruction of judicial as well as administrative fabric of the institution.

9. While discussing the implications involved, the learned author Judge of Asif Saeed's case (supra) has gone further to reinforce his reasoning, saying:---

"It is clear that the Supreme Court of Pakistan has also been excluded from the definition of the word "person" clubbed, together with the High Court. Undoubtedly, it is inconceivable that the order of the Supreme Court on its judicial side can be challenged before the High Court in writ, irrespective of sub-Article (5). Now if the interpretation of the petitioners that administrative order of the High Court can in writ be challenged is accepted, the same rule would also apply to the Supreme Court, situation may arise where a full Court of the apex forum takes a non-judicial decision then on the basis of above reasoning a Single Judge of this Court may issue writ to quash the same which would be just preposterous. This also applies to the administrative decision taken by the Full Court of a High Court, particularly, when the same Judge/Judges are party to such a decision. There can be numerous examples cited to show fallacy of such an interpretation. If the same rule is allowed to prevail, rules made by the Supreme Court, under Article 191 and by the High Courts, under Articles 203, and 208 are not safe from attack and may become subject of every day's litigation leading to a hazardous situation.

16. To our mind the judicial orders of the Supreme Court and the High Court on jurisprudential plane, were already protected from the exercise of writ. It is only the administrative/executive or consultative functions/orders and acts which in fact have been saved under the sub-Article. By plain reading of sub-Article (5) and by applying settled rules of interpretation, High Court cannot be deemed to be conferred with two distinct characters i.e. one judicial, which is immune from writ, and the other administrative which is amenable to the writ."

10. Whether such person aggrieved has any remedy, is to be seen in the light of each case but the fact remains that this ground of having no further remedy cannot be pressed into service if the relief claimed is not otherwise tenable. This Court in Muhammad Ikram Chaudhry's case PLD 1998 SC 103 has emphatically held that "the factum that the aggrieved party may have no other legal remedy simpliciter will not bring this case within the purview of Article 199 of the Constitution, if otherwise, it does not fall within its compass". In Asif Saeed's case (supra) almost every aspect of the case has very elaborately been discussed, answered and distinguished wherever necessary. In the instant case the scenario would have been altogether different if the appointments had been challenged by someone seeking a writ of quo warranto.

11. Consequently, we are of the firm view that Article 199(5) of the Constitution protects all orders passed by the High Court, including the administrative one. The consistent view taken in this behalf by Lahore High Court is perfectly valid and that of Peshawar High Court, as reported in Kaleem Arshad Khan's case (supra) is not in accord with the true spirit of sub-Article (5). The same is overruled. The impugned judgment dated 11-11-2005 is upheld and the instant appeals are hereby dismissed, holding that the impugned orders were protected under Article 199(5) of the Constitution.

S.A.K./M-17/SC

Appeals dismissed.

2010 S C M R 637

[Supreme Court of Pakistan]

*Present: Anwar Zaheer Jamali, Khilji Arif Hussain
and Rahmat Hussain Jaffer, JJ*

MUHAMMAD IBRAHIM---Petitioner

versus

AHMED ALI and others---Respondents

Criminal Petition No.69-K of 2009, decided on 24th November, 2009.

(Against judgment, dated 27-4-2009 of the High Court of Sindh,
Circuit Court Hyderabad, passed in Criminal Appeal No.4 of 2004).*Penal Code (XLV of 1860)---**---S. 302(b)---Qatl-i-amd---Reappraisal of evidence---Benefit of*

C.No. 2(2-2)

**PESHAWAR HIGH COURT (SUBORDINATE COURTS
STAFF) RECRUITMENT RULES, 2003****NOTIFICATION**

Dated Peshawar the 26.3.2003

No. 39-J In pursuance of the provisions contained in Sub Rule (2) of Rule 3 of the North West Frontier Province Civil Servants (appointment, Promotion and Transfer) Rules, 1989, and in supersession of all previous rules, issued in this behalf, the Competent Authority is pleased to lay down the method of recruitment, qualifications and other conditions specified in column 3 to 5 of the Appendix to this Notification, which shall apply to posts in Subordinate Courts in the N.W.F.P specified in column # 2 of the said Appendix.

APPENDIX

Peshawar High Court (Subordinate Courts Staff) Recruitment Rules, 2003.

| 1 | 2 | 3 | 4 | 5 |
|-----------------|-----------------------------|---|------------------|---|
| S No | Nomenclature of Post | Minimum qualification for appointment by initial recruitment | Age Limit | Method of recruitment |
| 1 | Superintendent BPS-16 | | | By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Assistant/Reader, Assistant/Clerk of Court, Assistant/Assistant Clerk of Court, Assistant/Accountant and Assistant/Civil Nazir at serial # 4 to 8 (all BPS-11) with at least five years service as such: Provided that a <u>common seniority list of holders of the posts at serial # 4 to 8 below</u> shall be maintained for the |

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| | | | | purpose of promotion to the post of Superintendent BPS-16. |
| 2 | Senior Scale Stenographer BPS-15 | <p>i. Bachelor's Degree from a recognized University and speed of 100 words per minute in Shorthand and 40 words per minute in typing in English. Preference will be given to the candidates having knowledge of MS Office.</p> <p>ii. In the Districts where Urdu is the Court language, speed of 30 words per minute in typing in Urdu as well.</p> | 18 – 30 years | <p>i. Twenty five percent by initial recruitment; and</p> <p>ii. seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Stenotypist (BPS-12) with at least three years service as such.</p> |
| 3 | Steno typist BPS-12 | <p>i. Intermediate or equivalent qualification from a recognized board; and</p> <p>ii. a speed of [50] words per minute in shorthand and 35 words per minute in</p> | 18 – 30 years | <p>i. Seventy five percent by initial recruitment; and</p> <p>ii: twenty five percent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Key Punch Operator (BPS-10) who possesses the required qualification as mentioned in column # 3.</p> |

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| | | typing in English. Preference will be given to the candidates having knowledge of MS Office. iii. In the Districts where Urdu is the Court language, speed of 30 words per minute in typing in Urdu as well. | | |
| 4 | Assistant/Reader. BPS-11 | Bachelor's Degree from a recognized University. | 18 – 30 years | i. Twenty five percent by initial recruitment; and ii: seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Senior Clerks at serial # 10 to 12 (all BPS-7) with at least three years service as such. |
| 5 | Assistant/Clerk Of Court BPS-11 | Bachelor's Degree from a recognized University. | 18 – 30 years | i. Twenty five percent by initial recruitment; and ii: seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Senior Clerks at serial # 10 to 12 (all BPS-7) with at least three years service as such. |
| 6 | Assistant/Assistant Clerk of Court BPS-11 | Bachelor's Degree from a recognized University. | 18 – 30 years | i. Twenty five percent by initial recruitment; and. ii: seventy five percent by promotion on the basis of seniority-cum-fitness, from amongst holders of the posts of |

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| | | | | Senior Clerks at serial # 10 to 12 (all BPS-7) with at least three years service as such. |
| 7 | Assistant/Accountant BPS-11 | Bachelor's degree from a recognized University. Preference will be given to Bachelor's degree with Commerce, Economics or Mathematics/Statistics as Special subject. | 18 – 30 years | By initial recruitment. |
| 8 | Assistant/Civil Nazir BPS-11 | | | By promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Junior Clerk/Naib Nazir (BPS-5), capable of keeping and examining accounts in English and Urdu, with five years service as such. |
| 9 | Key Punch Operator BPS-10 | i. Intermediate with Statistics/Economics/Mathematics/Physics as one of the subjects; and ii. a minimum speed of ten thousand key operations per hour for punching data entry/verification. | 18 – 30 years | By initial recruitment. |

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| 10 | Senior Clerk/ Reader BPS- 7 | | <p>By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Junior Clerk/Nazir, Junior Clerk/Copyist, Junior Clerk/Copy Clerk, Junior Clerk/Examiner, Junior Clerk/Muharrir and Junior Clerk/Typist at serial # 13 to 18 (all BPS-5) with at least three years service as such:</p> <p>Provided that a <u>common seniority list</u> of the holders of the posts from serial # 13 to 18 below shall be maintained for the purpose of promotion to the post of Senior Clerk/Reader.</p> |
| 11 | Senior Clerk/Record Keeper BPS-7 | | <p>By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Junior Clerk/Nazir, Junior Clerk/Copyist, Junior Clerk/Copy Clerk, Junior Clerk/Examiner, Junior Clerk/Muharrir and Junior Clerk/Typist at serial # 13 to 18 (all BPS-5) with at least three years service as such:</p> <p>Provided that a <u>common seniority list</u> of the holders of the posts from serial # 13 to 18 below shall be maintained for the purpose of promotion to the post of Senior Clerk/Record Keeper.</p> |

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| 12 | Senior Clerk/English Clerk BPS-7 | | | <p>By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Junior Clerk/Nazir, Junior Clerk/Copyist, Junior Clerk/Copy Clerk, Junior Clerk/Examiner, Junior Clerk/Muharrir and Junior Clerk/Typist at serial # 13 to 18 (all BPS-5) with at least three years service as such:</p> <p>Provided that a common seniority list of the holders of the posts from serial # 13 to 18 below shall be maintained for the purpose of promotion to the post of Senior Clerk/English Clerk.</p> |
| 13 | Junior Clerk/Nazir BPS-5 | <p>i. Secondary School Certificate Examination or equivalent qualification from a recognized Board, preference will be given to holders of additional qualifications in Accounts; and</p> <p>ii. a speed of 30 words per minute in typing.</p> | 18 – 30 years | <p>i. Not less than 70 percent by initial recruitment; and</p> <p>ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and Record Lifter with Matric and three years service as such; and in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such:</p> <p>Note. For the purpose of promotion, <u>separate common seniority lists</u> of (i) the holders of the posts of Daftari and</p> |

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| | | | | <p>Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier shall be maintained with reference to the date of their acquiring the Secondary School Certificate: Provided that:</p> <p>a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and</p> <p>b. where a senior official does not possess the requisite experience at the time of filling up a vacancy, the official next junior to him possessing the requisite experience shall be promoted in preference to the senior official.</p> |
| 14 | Junior Clerk/Copyist BPS-5 | <p>i. Secondary School Certificate Examination or equivalent qualification from a recognized Board; and</p> <p>ii. a speed of 30 words per minute in typing.</p> | 18 – 30 years | <p>i. Not less than 70 percent by initial recruitment; and</p> <p>ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and Record Lifter with Matric and three years service as such; and in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper,</p> |

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| | | | | <p>Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such.</p> <p>Note. For the purpose of promotion, separate <u>common seniority lists of (i) the holders of the posts of Daftari and Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier</u> shall be maintained with reference to the date of their acquiring the Secondary School Certificate: Provided that:</p> <p>a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and</p> <p>b. where a senior official does not possess the requisite experience at the time of filling up a vacancy, the official next junior to him possessing the requisite experience shall be promoted in preference to the senior official.</p> |
| 15 | Junior Clerk/Copy Clerk BPS-5 | i. Secondary School Certificate Examination or equivalent qualification | 18 – 30 years | <p>i. Not less than 70 percent by initial recruitment; and</p> <p>ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and</p> |

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| | | <p>from a recognized Board; and</p> <p>ii. a speed of 30 words per minute in typing.</p> | <p>Record Lifter with Matric and three years service as such: and in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such.</p> <p>Note. For the purpose of promotion, separate <u>common seniority lists</u> of (i) the holders of the posts of Daftari and Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier shall be maintained with reference to the date of their acquiring the Secondary School Certificate: Provided that:</p> <p>a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials: and</p> <p>b. where a senior official does not possess the requisite experience at the time of filling up a vacancy, the official next junior to him possessing the requisite experience</p> |
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| | | | | shall be promoted in preference to the senior official. |
| 16 | Junior Clerk/Examiner BPS-5 | <p>i. Secondary School Certificate Examination or equivalent qualification from a recognized Board; and</p> <p>ii. a speed of 30 words per minute in typing.</p> | 18 – 30 years | <p>i. Not less than 70 percent by initial recruitment; and</p> <p>ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and Record Lifter with Matric and three years service as such; and, in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such.</p> <p>Note. For the purpose of promotion, separate <u>common seniority lists</u> of (i) the holders of the posts of Daftari and Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier shall be maintained with reference to the date of their acquiring the Secondary School Certificate. Provided that: if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and where a senior official does not</p> |

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|----|------------------------------------|---|---------------|---|
| | | | | possess the requisite experience at the time of filling up a vacancy, the official next junior to him possessing the requisite experience shall be promoted in preference to the senior official. |
| 17 | Junior Clerk/Muharrir/Reader BPS-5 | i. Secondary School Certificate Examination or equivalent qualification from a recognized Board; and ii. a speed of 30 words per minute in typing. | 18 – 30 years | i. Not less than 70 percent by initial recruitment; and ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and Record Lifter with Matric and three years service as such; and in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such. Note. For the purpose of promotion, separate common seniority lists of (i) the holders of the posts of Daftari and Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier shall be maintained with reference to the date of their acquiring the Secondary School Certificate: Provided that: a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and b. where a senior official does not possess the requisite experience at the time of filling up a vacancy, the official next junior to him possessing the requisite experience shall be promoted in preference to the senior official. |

| | | | | |
|----|-------------------------------|---|---------------|--|
| 18 | Junior Clerk/Typist BPS-5 | i. Secondary School Certificate Examination or equivalent qualification from a recognized Board; and ii. a speed of 30 words per minute in typing. | 18 – 30 years | i. Not less than 70 percent by initial recruitment; and ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and Record Lifter with Máric and three years service as such; and in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such. Note. For the purpose of promotion, separate common seniority lists of (i) the holders of the posts of Daftari and Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier shall be maintained with reference to the date of their acquiring the Secondary School Certificate Provided that: a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and b. where a senior official does not have the requisite service at the time of filling up a vacancy, the official next junior to him having the requisite service and qualification shall be promoted in preference to the senior official. |
| 19 | Junior Clerk/Naib Nazir BPS-5 | | | By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Bailiff, who have passed |

| | | | | |
|----|--------------|---|----------------|---|
| | | | | <p>Secondary School Certificate Examination, with at least three years service as such:</p> <p>Provided that in case no suitable candidate from amongst holders of the post of Bailiff is available, then by promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Process Server who have passed Secondary School Certificate Examination with at least five years service as such.</p> <p>Note. Seniority of the officials in the same BPS shall be reckoned with reference to the date of their acquiring Secondary School Certificate:</p> <p>Provided that:</p> <p>a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and</p> <p>b. where a senior official does not have the requisite service at the time of filling up a vacancy, the official next junior to him having the requisite service and qualification shall be promoted in preference to the senior official.</p> |
| 20 | Driver BPS-4 | Middle standard and in possession of; i. HTV license or; ii. LTV License in case of light duty vehicle with at least five years experience as | 30 -- 45 years | By initial recruitment. |

| | | such. | | |
|----|--------------------------------|------------------------|------------------|---|
| 21 | Daftari BPS-2 | | | By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier (all BPS-1) with at least two years service as such and having passed Middle Standard examination: Provided that a <u>common seniority list</u> of holders of the posts at serial # 25 to 30 below shall be maintained for the purpose of promotion to the post of Daftari. |
| 22 | Record Lifter BPS-2 | | | By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier (all BPS-1) with at least two years service as such and having passed Middle Standard examination: Provided that a <u>common seniority list</u> of holders of the posts at serial # 25 to 30 below shall be maintained for the purpose of promotion to the post of Daftari. |
| 23 | Bailiff BPS-2 | | | By promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Process Server. |
| 24 | Process Server BPS-1 | Matric | 18 – 35 years | By initial recruitment. |
| 25 | Chowkidar BPS-1 | Preferably literate | 25 – 40 years | By initial recruitment. |
| 26 | Naib Qasid BPS-1 | Preferably Literate | 18 – 40 years | By initial recruitment. |
| 27 | Sweeper BPS-1 | Preferably literate | 18 – 40 years | By initial recruitment. |
| 28 | Chowkidar cum-Mali BPS-1 | Literate | 25 – 40 years | By initial recruitment. |
| 29 | Mali BPS-1 | Preferably literate | 18 – 40 years | By initial recruitment. |

| | | | | |
|----|---------------|---------------------|---------------|-------------------------|
| 30 | Water Carrier | Preferably literate | 18 - 40 years | By initial recruitment. |
|----|---------------|---------------------|---------------|-------------------------|

C.No. 3(2-2)

APPOINTING AUTHORITIES, CONSTITUTION OF DEPARTMENTAL SELECTION AND DEPARTMENTAL PROMOTION COMMITTEES

The Honourable Chief Justice has been pleased to direct that for all the District Courts the Officers specified in column 3 of the table below shall perform the functions of Chairman and Members of the Departmental Promotion Committee (DPC) and Departmental Selection Committee (DSC), respectively, for the purposes of making selection and recommendations to the appointing authorities authorized and specified in column 4 of the said table for appointment, by promotion and initial recruitment, to posts specified in column 2 of the said table:

TABLE

| S#. | POSTS | CHAIRMAN/MEMBERS OF DPC & DSC | APPOINTING AUTHORITY |
|-----|-------|-------------------------------|----------------------|
| 1 | 2 | 3 | 4 |

I. SESSIONS COURTS (DISTRICT & SESSIONS JUDGES) ESTABLISHMENT

| | | | |
|----|---|---|---|
| 1. | 1) Superintendent | 1. Hon'ble Chief Justice-Chairman 2. Registrar-Member 3) District & Sessions Judge concerned-Member | Hon'ble Chief Justice |
| 2. | 2) Senior Scale Stenographer 3) Assistant 4) Reader | 1. District & Sessions Judge/Zila Qazi concerned-Chairman | District & Sessions Judge/Zila Qazi Concerned |

| | | |
|---|--|--|
| <ul style="list-style-type: none"> 5) Key Punch Operator 6) Record Clerk 7) Senior Clerk 8) Copiest 9) Copy clerk 10) Junior Clerk 11) Moharrir 12) Moharrir/ Clerk 13) Nazir 14) Driver 15) Daftari 16) Record Lifter 17) Water Carrier 18) Chowkidar 19) Chowkidar Cum Mali 20) Mali 21) Naib Qasid 22) Sweeper | <ul style="list-style-type: none"> 2. Nominee of High Court- Member 3. Nominee of District & Sessions Judge/Zila Qazi concerned-Member | |
|---|--|--|

**II. CIVIL COURTS (CIVIL JUDGES)
ESTABLISHMENT**

| 1 | 2 | 3 | 4 |
|----|--|---|---|
| 3. | 1) Junior Scale Stenographer 2) Steno typist 3) Stenographer 4) Assistant 5) Key Punch Operator 6) Reader 7) Senior Clerk 8) Civil Moharrir 9) Junior Clerk 10) Moharrir 11) Typist 1[12) Driver] | 1. District & Sessions Judge/Zila Qazi concerned- Chairman 2. Nominee of High Court- Member 3. Nominee of District & Sessions Judge/Zila Qazi concerned-Member | District & Sessions Judge/Zila Qazi Concerned |
| 4. | 1) Chowkidar 2) Naib Qasid 3) Sweeper 4) Mali 5) Water Carrier | 1. Senior Civil Judge/Aa'la A'laqa Qazi concerned- Chairman 2. Nominee of High Court- Member 3. Nominee of Senior Civil Judge/Aa'la A'laqa Qazi concerned-Member | Senior Civil Judge/Aa'la A'laqa Qazi concerned |

**III. Process Serving
Establishment**

| | | | |
|---|---|--|--|
| 5 | 1) Assistant 2) Civil Nazir 3) Junior Clerk | 1. Senior Civil Judge/Aa'la A'laqa Qazi concerned- | Senior Civil Judge/Aa'la A'laqa Qazi |
|---|---|--|--|

1 Added vide PHC No. 7060/Admn dated 25-06-2008

| | | | |
|--|---------------------------------|--|-----------|
| | 4) Baillif 5) Process Server | Chairman 2. Nominee of High Court- Member 3. Nominee of Senior Civil Judge/Aa'la A'laqa Qazi concerned-Member | concerned |
|--|---------------------------------|--|-----------|

(No. D.R Peshawar dated the 14th November, 2002.)

C.No. 3A(2-2)

**ANTI TERRORISM COURTS APPOINTING AUTHORITIES,
CONSTITUTION OF DEPARTMENTAL SELECTION AND
DEPARTMENTAL PROMOTION COMMITTEES**

PESHAWAR HIGH COURT

NOTIFICATION

Dated Peshawar the 26th January, 2010

No. 21-J: In exercise of the powers conferred by Rule 2 read with Rule 5 of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, Hon'ble the Chief Justice is please to authorize all the Judges, Anti-Terrorism courts in the NWFP as Appointing Authority for the posts from BPS-01 to 15 borne on the ministerial establishment of their respective Courts.

The composition of Departmental Promotion Committee and Departmental Selection Committee shall be as follow:-

1. Judge Anti-Terrorism Court concerned CHAIRPERSON
2. Nominee of Peshawar High Court MEMBER
3. Nominee of Judge ATC concerned MEMBER

DISTRICT JUDICIARY KHYBER PAKHTUNKHWA, KOHAT
OFFICE OF THE DISTRICT & SESSIONS JUDGE KOHAT



Phn# 0922-9260041
Fax# 0922-9260216

Email: dsjkohat@yahoo.com

No. 733 /DSJ, Kohat

Dated:- 9 / 4 / 2019

The Registrar,
Peshawar High Court,
Peshawar.

Subject: **PROMOTION AGAINST VACANT POST OF
SUPERINTENDENT SESSIONS COURT.**

Dear Sir,

With reference to subject cited above, I have the honour to submit that Mr. Rab Nawaz Khan, Superintendent, Sessions Court, Kohat has been retired on 01.03.2019 on attaining age of superannuation and present / his position is vacant. Common seniority list is annexed for your kind perusal and further appropriate orders.

In view of this vacant position of Superintendent, I deem it appropriate to mention here the request of candidate on top of the Seniority List who has solicited the mercy of his Lordship Hon'ble the Chief Justice for earlier E PC owing to his retirement just after two months i.e. on 10.06.2019.


(SHOAIB KHAN)
District & Sessions Judge,
Kohat

VAKALATNAMA

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

APPEAL NO: 126/2016 OF 2022

Syed Azmat Ullah Shah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

District Judiciary

(RESPONDENT)
(DEFENDANT)

I/We Syed Azmat Ullah Shah

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. 22/7/2022

CLIENT

ACCEPTED

**NOOR MOHAMMAD KHATTAK
(BC-10-0853)
15401-0705985-5**

**KAMRAN KHAN
&
UMAR FAROOQ**

**MUHAMMAD MAAZ MADNI
ADVOCATES**

OFFICE:

Flat No.:(TF) 291-292 3rd floor
Deans trade centre Peshawar cantt:
Mobile No. 0334-5277323



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210149-58
Off: 9210135
Fax: 9210170

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info@peshawarhighcourt.gov.pk
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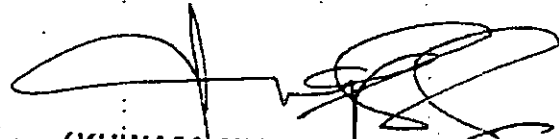
ORDER

Dated Peshawar, the 24-06, 2019

Mr. Syed Azmat Ullah Shah, Superintendent to the Court of District & Sessions Judge, *Kohat* shall be attaining the age of superannuation on **10.06.2019 (A.N)**, whereas the date of birth of the officer (as per service record), is **11.05.1959**.

The Hon'ble Chief Justice is therefore pleased to accord sanction for the drawal of pension/commutation, encashment of LPR, final payment of G.P. Fund, retirement grant, payment of retirement benefit & death compensation as well as retirement TA subject to the entitlement in favour of above named officer.

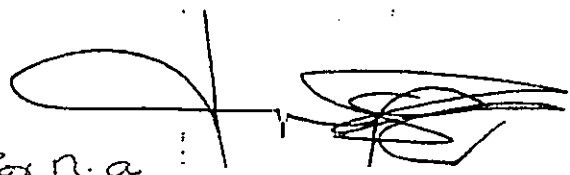
By Order of Hon'ble the Chief Justice



(KHWAJA-WAJIH-UD-DIN)
REGISTRAR

Endst: No. SDJ/PHC/REG/70-V.II-11/ 3539-47 Dated: 24-06 /2019

Copy forwarded for information and necessary action to:

1. The District & Sessions Judge, Kohat.
2. The District Accounts Officer, Kohat.
3. The Director Budget & Accounts, Peshawar High Court, Peshawar.
4. The Director IT, Peshawar High Court, Peshawar.
5. The Additional Registrar Judicial, Peshawar High Court, Peshawar.
6. The Assistant Registrars (General & Confidential), Peshawar High Court, Peshawar.
- ✓ 7. The Officer Concerned by name.
8. Office Orders file/Personal file.


Seen/BTA for n.a.


District & Sessions Judge
Kohat

25/06/2019.