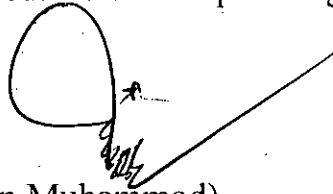


06.01.2023

SCANNED
3T
Peshawar

Appellant alongwith his counsel present. Mr. Ghulam Shabbir, Assistant Secretary alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for official respondents No. 1 to 4 present. Private respondent No. 5 alongwith his counsel also present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 22.03.2023 before the D.B.



(Mian Muhammad)
Member (E)



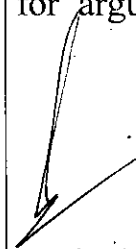
(Salah-Ud-Din)
Member (J)

22.03.2023

Learned counsel for appellant present.

Mr. Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

Learned Member Judicial (Mrs. Rozina Rehman) is on leave, therefore, case is adjourned to 07.06.2023 for arguments before D.B. Parcha Peshi given to the parties.



(Muhammad Akbar Khan)
Member (E)


SCANNED
KPST
Peshawar

Late Diary
10th Oct, 2022

Note

Despite direction for fixation of the cases for the shortest possible dates, the office has fixed this case for a longer date. The Reader of the court is warned to be careful in future. The date fixed in this case is accelerated to 16 / 11 / 2022. Notices be issued to the parties and their counsel for the date fixed.

14/11/22


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

15th Nov. 2022 Assistant to learned counsel for the appellant present.

Mr. Kabirullah Khatrak, Addl. Advocate General for the respondents present.

SCANNED
KPST
Peshawar

Former requested for adjournment due to engagement of learned senior counsel for the appellant before Honourable Peshawar High Court. Adjourned. Being old case of 2019, last chance is given. To come up for arguments on 06.01.2023 before the D.B.


(FAREEHA PAUL)
Member(E)


(ROZINA REHMAN)
Member (J)

4. Mr. Syed Javed Iqbal Superintendent was transferred to the office of Deputy Commissioner Swat on 12.09.2019 against which Mr. Shah Jehan filed an appeal before the Chief Secretary Khyber Pakhtunkhwa which was accepted and the promotion order of Syed Javed Iqbal as Superintendent was withdrawn on 07.01.2020. Aggrieved of the same Mr. Syed Javed Iqbal filed appeal against the said order before the Service Tribunal which was accepted and the Operational Part of the said Judgment is as under:-

"The upshot of the above discussion is that appeal is partially allowed. Impugned order is set aside and case is remitted to the Department with directions to prepare summary of facts, duly serve upon the appellant, who is at liberty to file reply to the summary of facts and after hearing both the parties to decide it through a speaking order within a period of 60 days of the receipt of this judgment".

5. Hence the summary of facts were duly served upon the parties and were called for personal hearing who appeared and submitted their written defence which is placed on file. The appellant contended that the Respondent No. 5 Shah Jehan has no locus standi to agitate his promotion, as the appellant was promoted Superintendent at the office of the Political Agent Bajaur Agency and the Respondent No. 5 at that time was working as Assistant in District Swat. That Respondent No. 5 Mr. Shah Jehan neither challenged the transfer order of the appellant to Bajaur Agency nor promotion orders to Superintendents. Further contended that Mr. Shah Jehan is not an aggrieved person and has no locus standi to challenge the transfer order of the appellant. The appellant relied upon :-

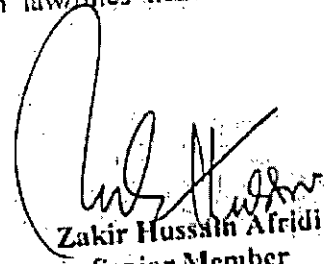
- i. 2012 PLC (C.S) 948 Lahore.
- ii. 2017 PLC (C.S) 1128.
- iii. 2017 PLC (C.S) 587.

6. Mr. Shah Jehan Respondent No. 5 on the other hand contended that the transfer order dated 27.06.2019 of the appellant was illegal as he was transferred to Political Agent Bajaur Agency and was also promoted their against the post of Superintendent. That he was junior to me as per District seniority list of Swat, he was illegally transferred to Bajaur Agency and got promotion to the post of Superintendent and later on transferred to District Swat:

7. Perusal of the record revealed that Mr. Syed Javed Iqbal was properly adjusted at the office of the defunct Political Agent Bajaur permanently. His adjustment order was neither challenged by the employees of Political Agent Bajaur nor Respondent No. 5 Mr. Shah Jehan. The promotion case of Syed Javed Iqbal as Superintendent was forwarded by the defunct Political Agent Bajaur being the senior most Assistant in the seniority list and was accordingly promoted as Superintendent through proper DPC on his own turn vide Notification No. 16496-99 dated 14.06.2016. His promotion as Superintendent was also confirmed by the Chief Secretary Khyber Pakhtunkhwa and notified on 14.06.2016 by this Department. The

said promotion order of Mr. Syed Javed Iqbal as Superintendent has never been challenged by the Respondent No. 5 before any forum. Beside, Mr. Shah Jehan Assistant has been retired from Government Service on 19.03.2020. Furthermore, demotion or repatriation of Syed Javed Iqbal Superintendent would have no effect on the seniority / promotion of Mr. Shah Jehan. Record further shows that on 18.04.2019 a reference was made to Commissioner Malakand for provision of ACR for the year 2010 to 2015, 16.09.2016 to 31.12.2016, 2017 and 2018 in respect of Mr. Shah Jehan Ex-Assistant/Tehsildar (OPS) for promotion to the post of Superintendent, which were not provided. In the meanwhile, the rules were amended and the post of Superintendent was declared as Divisional Cadre, resultantly the name of Mr. Shah Jehan Ex-Assistant was placed at S. No. 09 of the Divisional seniority list of Malakand Division. The promotion/transfer case of Syed Javed Iqbal has no relevancy with the promotion of Mr. Shah Jehan Ex-Assistant of District Swat.

8. Keeping in view the above, and in light of Judgment of Service Tribunal dated 09.11.2021 the promotion order of Syed Javed Iqbal as Superintendent notified vide order dated 14.06.2016 is in accordance with law/rules hence confirmed accordingly.


Zakir Hussain Afridi
Senior Member

Announced

25/05/2022

BEFORE THE SENIOR MEMBER BOARD OF REVENUE,
KHYBER PAKHTUNKHWA

Syed Javed Iqbal son of Syed Altaf Hussain resident of Qandeel, Post Office Madyan, Tehsil Bahrain District Swat. Presently posted as Superintendent Deputy Commissioner Office, Swat. (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through its Chief Secretary, Civil Secretariat, Peshawar.
2. Senior Member, Board of Revenue, (Revenue & Estate Department), Govt: of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
3. Commissioner Malakand Division at Saidu Sharif Swat.
4. Deputy Commissioner Swat at Gul Kadda.
5. Shah Jehan, Ex-Assistant in the office of Deputy Commissioner Swat. (Respondents)

ORDER.

The instant appeal is filed by Syed Javed Iqbal Superintendent office of the Deputy Commissioner Swat against the order dated 07.01.2020 whereby his promotion order as Superintendent was withdrawn. The said order dated 07.01.2020 was set-aside by the Service Tribunal vide Judgment dated 09.11.2021 and the case was remanded back to this Department with the direction to prepare summary of facts, duly serve upon the appellant, who would be at liberty to file reply to the summary of facts and after hearing both the parties decide the case through a speaking order within a period of 60 days of the receipt of this judgment.

2. Facts of the case are that the then Political Agent Bajaur vide letter dated 25.02.2015 requested the Commissioner Malakand Division, for placement of services of a competent Assistant as the Administration was planning to take some new initiatives in Education and Health sectors alongwith reforms in Levies and Judicial system. The Commissioner Malakand Division, placed the services of Mr. Syed Javed Iqbal Assistant at the disposal of the then Political Agent Bajaur vide order dated 27.02.2015. The Political Agent Bajaur vide order dated 05.05.2015 adjusted him against the vacant post of Assistant under the share of direct quota.

3. On his adjustment in Bajaur he was given seniority from the date of his appointment as Assistant i.e 29.12.2008 by Political Agent Bajaur. The same was neither objected by other employees of the office of the Political Agent Bajaur nor by Mr. Shah Jehan (Respondent No. 5). Thereafter the Political Agent Bajaur forwarded working paper before the Departmental Promotion Committee for promotion of the said Assistant to the post of Superintendent. After completion of codal formalities Mr. Syed Javed Iqbal being senior most at the office of the Political Agent Bajaur, was promoted to the post of Superintendent BS-17 on 14.06.2016 in pursuance of the rules notified on 23.01.2015, whereafter, the rules were changed and the post of Superintendent was declared as Divisional Cadre Post vide Notification No. Estt:/ 11/135/SSRC/22360-67 dated 27.06.2019.

25th July, 2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Qasim Khan, Supdt for respondents present.

The service appeal No. 2227/2019 was adjourned sine die vide order dated 09.11.2021 till the decision by the competent authority in respect of the departmental appeal of one Syed Javed Iqbal. The petitioner was at liberty to seek restoration of the instant appeal after the decision of the departmental appeal of Syed Javid Iqbal, if so desired.

Since, admittedly the departmental appeal of Syed Javid Iqbal has been decided on 25.05.2022 by the SMBR, therefore, the petitioner has come to this Tribunal for restoration of appeal adjourned sine die on 09.11.2021. As the petitioner was allowed to get it restore^d after the decision of the departmental appeal of Syed Javid Shah, which has ^{since} been decided, therefore, this application for restoration is allowed and service appeal No 2227/2019 stand restored to its original number and be fixed before the D.B for arguments on 10.10.2022.



(Kalim Arshad Khan)
Chairman

10.10.2022

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Imran, Assistant for respondents present.

Appellant requests for adjournment due to engagement of his learned counsel before the Hon'ble High Court. To come up for arguments on 15.12.2022 before D.B.



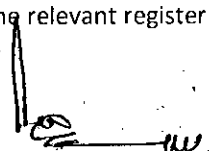


(Farceha Paul)
Member (E)

(Kalim Arshad Khan)
Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 282/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	13.05.2022	<p>The execution petition of Mr. Shah Jehan submitted today by Mr. Fazal Shah Mohmand Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR.</p>
2-	<p>25-5-22 1-</p> <p>14th June, 2022</p>	<p>This execution petition be put up before Single Bench at Peshawar on <u>14-6-22</u>. Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p> CHAIRMAN</p> <p>Clerk of counsel for the petitioner present.</p> <p>Counsel are on strike. Notice be issued to the respondents. To come up for implementation report on 25.07.2022 before S.B. Original file be requisitioned.</p> <p> (Kalim Arshad Khan) Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Execution petition No. 282/2022

CM No _____/2022

In

Service Appeal No 2227/2019

Shah Jahan**Applicant/Appellant**

VERSUS

SMBR and Others.....**Respondents**

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Application with Affidavit		1-2
2.	Copy of Judgment/order dated 09-11-2021	A	3-10
3.	Copy of reply	B	11-12
4.	Vakalat Nama		13

Dated:-12-05-2022

[Signature]
Petitioner

Through

[Signature]

Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841

Email:- fazalshahmohmand@gmail.com

-1-

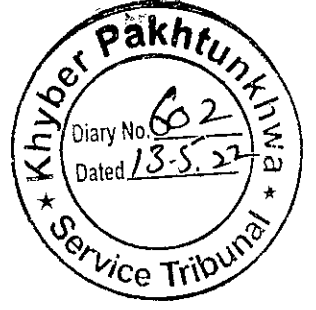
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

CM No _____/2022

In

Service Appeal No 2227/2019



Shah Jahan.....**Applicant/Appellant**

VERSUS

SMBR and Others.....**Respondents**

**APPLICATION FOR THE RESTORATION OF THE TITLED SERVICE
APPEAL WHICH WAS ADJOURNED SINE-DIE ON 09-11-2021.**

Respectfully Submitted:-

1. That the above titled Service Appeal along with others appeals was pending before this honorable Tribunal and vide Order/Judgment dated 09-11-2021, the connected appeal No 4938/2020 titled as Syed Javed Iqbal VS Govt. was partially allowed remitting the matter to the departmental authority for decision within sixty days while the titled appeal was adjourned sine die vide the same order. **(Copies of Order/Judgment is enclosed as Annexure A & B).**
2. That the applicant was called by the departmental authority who submitted his detailed reply which as per the information of the applicant has been decided but with no response to the applicant.
3. That as the case of the applicant was adjourned sine die till the decision of departmental authority within sixty days which has been decided by now hence the appeal of the applicant is required to be restored for further proceedings in accordance with law.
4. That the valuable rights of the applicant is involved as the applicant has filed the titled appeal for his promotion as Superintendent (BPS-

17), and being retired employee his case will have no adverse bearing on any one.

It is therefore prayed, that on acceptance of this application, the above titled Service Appeal may kindly be restored and respondents may kindly be summoned for further proceedings accordingly.

Dated:-12-05-2022

[Signature]
Petitioner

Through

[Signature]

**Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan**

AFFIDAVIT

I, Shah Jahan Ex Assistant, Office of Deputy Commissioner Swat(appellant), do hereby solemnly 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 honorable Tribunal.

[Signature]
DEPONENT

ATTESTED
Gul Daraz Khan
Oath Commissioner
Advocate High Court Swat
[Signature]

4-4 A^o -3-

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 2227 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1619

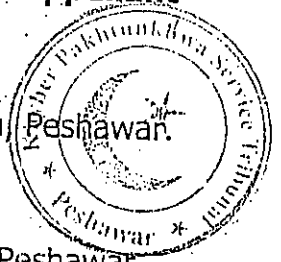
Dated 13/11/2019

Shah Jahan, Assistant (BPS-16), Office of Deputy Commissioner, Swat.....

Appellant

V E R S U S

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa
2. Commissioner, Malakand Division, Swat.
3. Deputy Commissioner, Swat.
4. Govt. of Khyber Pakhtunkhwa, through Chief Secretary Peshawar.
5. Syed Javed Iqbal Superintendent (BPS-17), Office of Deputy Commissioner, Swat.



.....**Respondents**

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR THE GRANT OF PROMOTION TO THE APPELLANT AS SUPERINTENDENT (BPS-17) WITH EFFECT FROM 07-01-2019 FOR WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:-

~~File~~ On acceptance of this appeal the respondents may kindly be directed to promote the appellant as Superintendent (BPS-17) in the Office of Deputy Commissioner Swat with effect from 07-01-2019 with all back benefits.

[Signature]
Registrar
13/11/19

Respectfully Submitted:-

1. That the appellant is highly qualified, has passed his Master Degree and he joined the respondent department on 22-08-1982, was promoted as Assistant (BPS-16) on 23-04-2004 and since then he

[Signature]

TESTED
[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Appeal No. 2227/2019-4-
Shah Jahan vs Govt



09.11.2021

Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General for official respondents present. Counsel for private respondent No.5 present.

The appellant has filed the instant service appeal for grant of promotion to the post of Superintendent (BS-17) w.e.f 07.01.2019. He had filed a departmental appeal to the competent authority against the order of promotion of one Syed Javid Iqbal to the post of Superintendent (BS-17) and his posting against the vacant post in the Deputy Commissioner office, Swat. Service appeal filed by Syed Javid Iqbal has been partly allowed and remitted to the Department for decision afresh, copy whereof has been placed on file of instant appeal.

In view of the peculiar facts and circumstances of the case, this appeal is adjourned sine die till the decision by the competent authority in respect of the departmental appeal of Syed Javid Iqbal. The appellant would be at liberty to seek restoration of the instant appeal after the decision of the departmental appeal of Syed Javid Iqbal, if so desired.

(Ahmad Sultan Tareen)
Chairman

(Rozina Rehman)
Member(J)

Date of Presentation of Application 09-11-2021
Number of Words 800
Copying Fee 10.00
Urgent —
Total 10.00
Name of Copyist —
Date of Completion of Copy 24-12-2021
Date of Delivery of Copy 20-01-2022

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED
TO BE TRUE COPY
20/01/22

-A- -S-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.4938/2020

Date of Institution: 02.06.2020
Date of Decision: 09.11.2021



Syed Javed Iqbal S/O Syed Altaf Hussain R/O Qandeel Post Office, Madyan, presently posted as Superintendent, Deputy Commissioner Office, Swat.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and four others.

(Respondents)

Amin ur Rehman Yousafzai, Advocate

For appellant.

Muhammad Adeel Butt, Additional Advocate General

For official respondents.

Fazal Shah Mohmand, Advocate

For Private respondent #.5

Ahmad Sultan Tareen
Rozina Rehman

Chairman
Member (J)

JUDGMENT

Rozina Rehman, Member(J): Briefly stating the facts necessary for the disposal of the lis in hand are that the services of the appellant posted as Assistant in the office of Commissioner Malakand Division at Saidu Sharif were placed at the disposal of the then Political Agent Bajaur and accordingly he was adjusted against the vacant post of Assistant in the office of the then Political Agent Bajaur on 05.05.2015. The appellant being senior most was promoted as

ATTESTED

[Signature]
Member (J)
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

[Signature]
Member (J)
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Superintendent on 14.06.2016. The promotion Notification of the appellant was challenged by one Ghulam Muhammad and Alamgir Khan however both were turned down by the competent authority. Feeling aggrieved from the decision of the Chief Secretary, Alamgir Khan preferred service appeal while one Shah Jehan Khan filed departmental appeal which was allowed on 07.01.2020. Feeling aggrieved the appellant approached the competent authority through departmental representation which was not responded to, hence, the present service appeal.

2. We have heard Amin ur Rehman Yousafzai Advocate learned counsel for appellant, Muhammad Adeel Butt, learned Additional Advocate General for official respondents and Fazal Shah Mohmand Advocate learned counsel for private respondent No.5 and have gone through the record and the proceedings of the case in minute particulars.

3. Amin ur Rehman Yousafzai Advocate learned counsel appearing on behalf of appellant, in support of appeal contended with vehemence that impugned Notification dated 07.01.2020 of the respondent No.1 is against law and facts hence, untenable. He contended that prior to issuance of the impugned Notification dated 07.01.2020, neither any regular inquiry was conducted nor opportunity of personal hearing was afforded to the appellant and that appellant was condemned unheard which attracts the doctrine of *Audi Alteram partem*. Learned counsel for appellant further submitted that respondent No.1 was having no lawful justification to entertain repeated departmental appeals against the promotion Notification dated 14.06.2016 of the appellant particularly in view of previous

TESTED

KALINER
 Vice Tribunal
 Peshawar

decisions vide which similarly placed appeals were rejected. He contended that the appellant was promoted as Superintendent (BS-17) under the District Ministerial Service Rules, 2001 published in the Official gazette on 18.01.2010 and subsequently amended vide Notification dated 23.01.2015 through which the post of Superintendent has to be filled by promotion on the basis of seniority cum fitness from amongst the Assistants of the district concerned with at least five years service in the offices of respective Deputy Commissioners and Political Agents but astonishingly when the rules ibid were amended vide Notification dated 27.06.2019 and the post of Superintendent was ordered to be filled by promotion on the basis of seniority cum fitness from amongst the Assistants with five year service in the offices of Commissioners and Deputy Commissioners on the basis of joint seniority list of Assistant Commissioners and Deputy Commissioners of the division concerned. He submitted that the appellant was promoted as Superintendent much prior from the amendments dated 27.06.2019, therefore, the respondent No.5 was having no cause of action or *locus standi* even to challenge basic promotion Notification dated 14.06.2016 of the appellant. He submitted that the respondent No.1 has passed the impugned Notification on 07.01.2020 in presence of his own decision dated 05.11.2019 vide which departmental appeal of another employee of the same office i.e. Alamgir Khan was turned down. Lastly, he submitted that the appellant being qualified and eligible was promoted against vacant post of Superintendent in District Bajaur by the competent authority in due course of law governing the subject,

ATTESTED

EXAMINER
Khizer Palchtarkhan
Service Tribunal
Peshawar

FILED

hence, the Notification dated 07.01.2020 is liable to be set at naught being illegal and void.

4. Conversely, learned A.A.G assisted by the learned counsel for private respondent No.5, submitted that appellant was the domicile holder of District Swat and was the employee of Commissioner Office Swat and that his services were wrongly placed at the disposal of the then Political Agent, Bajaur. He contended that the appellant was having no right to have been adjusted in the office of the then Political Agent as he was not the employee of District Bajaur nor had the requisite length of five year service in Bajaur but he was promoted in violation of law and rules. He submitted that not only the promotion order of the appellant but also his posting order was challenged and being junior to respondent No.5, appellant was promoted as Superintendent in violation of the norms of justice.

5. From the record, it is evident that the then Political Agent Bajaur vide letter dated 25.02.2015 requested the Commissioner Malakand Division for the services of a competent Assistant for initiating some new assignments. The Commissioner Malakand placed the services of Syed Javid Iqbal/appellant at the disposal of Political Agent Bajaur vide order dated 27.02.2015. Political Agent Bajaur adjusted the appellant in his office vide order dated 05.05.2015. On adjustment of appellant in Bajaur, he was given seniority from the date of his appointment as Assistant i.e. 29.12.2008 by the Deputy Commissioner, Bajaur. Under the relevant service rules, the post of Assistant in the district was required to be filled from candidates of the district concerned. Admittedly, the present appellant held the domicile of Swat but was adjusted against the vacant post of Assistant against

[Handwritten signature]

TESTED
[Signature]
Member
of Pakhtunkhwa
High Court
Peshawar

TESTED
[Signature]

the quota meant for direct recruitment. From the Notification dated 07.01.2020 it is evident that one Shah Jehan, an Assistant in the office of Deputy Commissioner Swat filed an appeal to the respondent No.1 on 17.09.2019 for declaring the promotion of appellant as illegal and discriminatory. Shah Jehan has also filed Appeal No 2227/2019 in this Tribunal which is still pending. One Alamgir also filed an appeal No.1609/2019, wherein, transfer posting of the present appellant has been challenged with a request for promotion. We have observed that appellant was kept deprived of having appropriate opportunity of defense as is required under the law. The entire proceedings were carried out at the back of the appellant which is not warranted under the relevant law and rules. We find that appellant has been condemned unheard and order was passed against him without adopting the required and mandatory procedure resulting in manifest injustice. He was not provided full chance of defense as enshrined in the maxim "*audi alteram partem*"

6. The upshot of the above discussion is that appeal is partly allowed. Impugned order is set aside and case is remitted to the Department with directions to prepare summary of facts, duly serve upon the appellant, who is at liberty to file reply to the summary of facts and after hearing both the parties to decide it through a speaking order within a period of 60 days of the receipt of this judgment.

7. Before parting with this judgment, it is deemed appropriate to mention that a copy of this judgment be placed on files of Service Appeal No.1609/2019 titled Alamgir Khan Vs. Government of Khyber Pakhtunkhwa through Chief Secretary & Others and Service Appeal

ATTSTED

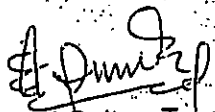
Sd/-
 Member
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

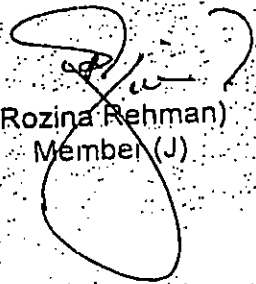
TESTED

~~4~~ -10-


No.2227/2019 titled Shah Jehan Vs Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar & others. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
09.11.2021



(Ahmad Sultan Tareen)
Chairman


(Rozina Behman)
Member (J)

Certified to be true copy


EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 09-11-2021
Number of Words 2400
Copying fee 26/-
Urgent -
Total 26/-
Name of Copyist -
Date of Completion of Copy 24-12-2021
Date of Delivery of Copy 20-01-2022


FILED

To:-

**The Senior Member,
Board of Revenue,
Khyber Pakhtunkhwa
Peshawar.**


**Subject: Reply to the summary received through the office of Deputy
Commissioner Swat vide letter no 18802021 dated 12/01/2022.**

Sir!

It is requested that the summary papered by the Board of Revenue Khyber Pakhtunkhwa Peshawar is not in accordance with the Judgment dated 09/11/2021 of Khyber Pakhtunkhwa Services Tribunal Peshawar, rather it is in contravention of law, "factless" and concealment of facts throughout on the following grounds:-

- a. That the official is most joiner not only to me but from dozens of other officials in Malakand Division, seniority lists refers. He has been transferred without legal authority to Bajawar District and promoted there to the post of Superintend in BPS 17 against the post meant for direct recruitment from the said District while he (Javid Iqbal) hails from District Swat. The whole process has been culminated in contravention of rules notified by Board of Revenue, KPK Peshawar (annexure "A")
- b. That at the time of his illegal transfer and then promotion it is/was against the service rules well elaborated in the order of the Honorable, Chief Secretary, Khyber Pakhtunkhwa Peshawar, made by him on my written complaint to the Director General, National Accountability Bureau, Peshawar (Annexure "B") also been admitted by Board of Revenue, Khyber Pakhtunkhwa Peshawar in the self speaking order dated 07/01/2020 (Annexure "C")
- c. That the summary prepared is totally against the directions of the competent court of Law and service record of the above named official and myself, which would show that I am much much senior to him and now been retired for service on 19/03/2020, however I could not receive my pension in full and wondering here and there for my legitimate rights since long. Similarly another judgment of the competent court of law under the Tehsildari / Naib Tehsildari rules 2001 have not been implemented so as to safe guard illegal promotion and accordingly my services career destroyed. (Annexure "D")
- d. That it is to bring in notice that the post of superintendent BPS-17 was vacant since 04/01/2019 in the office of Deputy Commissioner Swat and I was the sole eligible and highly qualified condidate, standing on serial No 1 of the seniority list of Assistants BPS-16, and accordingly my case of promotion as such was recommended by the office of Deputy Commissioner, Swat, and Commissioner Malakand Division against the said vacancy, however Board of Revenue, Khyber PakhtunKhwa Peshawar and the official named in my complaint referred to above using delaying tactics unless and until service rules were modified on 27/06/2019, and to that very pretext I have still waiting for my promotion which is due much before the service rules were changed (Annexure "E").

ATTESTED


21/01/2022

-12-

- e. That the case has been remanded to hear both (appellant and Respondent No 5) and the wires of the orders it (annexure "C" are still intact and two service appeals of senior most officials are still there before the competent court of Law, while instead of that he has been mentioned as superintendent which reflects the mindset by whom it has been summarized for decision, which is contempt of the orders of the competent court of law.

In view of the above undeniable facts put forward duly supported by the service records, which can will be verified from the offices of yours and other concerned, I shall be promoted from the date 04/01/2019 and my native office/District to the post of office superintendent BPS-17 in support of Law, rules, so as I could avail the outstanding benefits as such please.

Dated:-24/01/2022

Shah Jahan
Deponent/ Respondent No 5
in case bearing No 4938/2020
before the KPK Services tribunal
Peshawar

Copy forwarded to:-

1. To the Honorable, Chief Secretary Khyber Pakhtun Khwa Peshawar.
2. To the Honorable, Director General National Accountability Bureau Khyber Pakhtun Khwa Peshawar.
3. To the Honorable Chairman services Tribunal Khyber Pakhtun Khwa Peshawar.
4. To the Honorable Junaid Khan Deputy Commissioner Swat.

For information with reference to my complaint referred to above with the request to ensure justice and supremacy of Law and service rules.

Shah Jahan
Deponent/ Respondent No 5
in case bearing No 4938/2020
before the KPK Services tribunal
Peshawar

ATTESTED
[Signature]
[Stamp]

VAKALATNAMA
BEFORE THE KP SERVICE TRIBUNAL PESHAWAR.

Appeal No. _____/2022

Shah JehanAppellant


V E R S U S

SmbrRespondent(s)


I Shah Jehan) the Appellant, do hereby appoint and constitute, **FAZAL SHAH MOHMAND** Advocate Supreme Court. To act, appear and plead in the above-mentioned matter and to withdraw or compromise the said matter or submit to arbitration any differences or dispute that shall arise touching or in any manner relating to the said matter and to receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said matter.

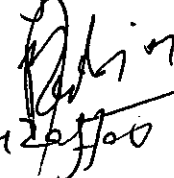
1. To draft and sign files at necessary pleadings, applications, objections, affidavits or other documents as shall be deemed necessary and advisable for the prosecution of the said matter at all its stages.
2. To employ any other Legal Practitioner, authorizing him to exercise the power as conferred on the undersigned Advocate, wherever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the above matter. I also hereby agree not to hold the Advocate or his substitute responsible for the result of the said matter in consequence of his absence from the Court when the said matter is called up for hearing. I further hereby agree that in the event for the whole or any part of the fee to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the above matter. Received by me on 12-04-2021.


.....Respondent(s)

ACCEPTED BY:


FAZAL SHAH MOHMAND
ADVOCATE,
SUPREME COURT OF PAKISTAN.

Accepted by

Rabin Muzaffar
Advocate

OFFICE:-Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841
(Clerk) Cell# 03339214136
Email: - fazalshahmohmand@gmail.com.

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO: 2227 OF 2023

Shah Jehan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

SMBR

(RESPONDENT)
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** 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 / 03 / 2023


CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT
(BC-10-0853)
(15401-0705985-5)


KAMRAN KHAN


UMAR FAROOQ MOHMAND


WALEED ADNAN

&


MUHAMMAD AYUB
ADVOCATES

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)