

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Service Appeal No. 1533/2022

5255
10/5/2023

SYED SHAH SYED.....PETITIONER

VERSUS

**GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY
INDUSTRIES & OTHERSRESPONDENTS**

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M. Ali
Assistant Director Litigation
Directorate General of
Industries & Commerce
Khyber Pakhtunkhwa, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1533/2022

Syed Shah Syed, Superintendent BPS-17, Printing Press Headquarter, Peshawar

..... Petitioner

VERSUS

- 1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
- 2. The Secretary Industries, Commerce and Technical Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3. Director General, Industries and Commerce Department, Peshawar.

..... Respondents

JOINT PARA-WISE-COMMENTS ON BEHALF OF RESPONDENTS NO.1, 2&3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:

- A. That the Appellant has no locus standi to file the instant Appeal.
- B. That the Appellant has no cause of action.
- C. That the Appellant has not come to this Honorable Court with clean hands.
- D. That the Service Appeal is bad for non-joinder of necessary parties.
- E. That the Appeal is based on malafide intention and it has been filed with ulterior motives to coerce and pressurize the respondents.
- F. That the Appellant is estopped by his own conduct from instituting this Appeal.
- G. That the instant Appeal is barred by law.

ON FACTS.

- 1. No Comments/Pertaining to record.
- 2. No Comments/Pertaining to record.
- 3. Correct.
- 4. Correct to the extent that in summary it is mentioned that seniority lists will be merged, however, Deputy Director, Printing Press was asked vide letter No. 1504/1/22/DI-Admn: dated 03.02.2023 to provide seniority lists of the last three years which were provided. Later on some other relevant record was asked vide letter No. 2483/1/22-DI-Admn: dated 27.02.2023 which was provided & accordingly combined tentative seniority list of Superintendent(BPS- 17) of Directorate General of Industries, Commerce & Printing Press Department was issued.(Annex-I)
- 5. Incorrect. Departmental appeal has been decided taken thereon. (Annex-II)
- 6. The appellant has got no cause of action.

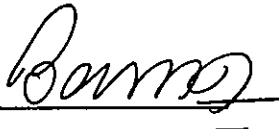
GROUND.

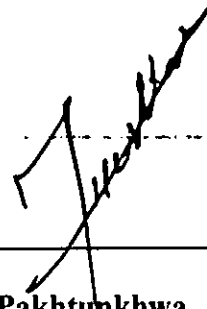
- A- Incorrect. The preparation of joint seniority lists of the ministerial staff is under process and will be completed soon on provision of record. The allegations of the appellant are baseless and concocted.


- B- Incorrect as explain above.
- C- Incorrect. The respondents did not violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973 as the appellant has been treated in accordance with the laws and rules by processing his appeals.
- D- Incorrect as explain above and the allegations of the appellant are baseless, concocted and having no grounds.
- E- Incorrect. The respondents did not acted in arbitrary and mala fide manner as the combine seniority lists of the ministerial staff will be issued soon after completion of legal formalities while the allegations of the appellant are false, concocted with no grounds.
- F- Incorrect. The respondents are interested in issuance of combine seniority lists of the ministerial staff of both entities.
- G- The respondents also seek permission to advance other grounds and proofs at the time of hearing

That the respondents acted in arbitrary and mala fide manner, therefore, the same is not tenable in the eye of law

Keeping in view the above, it is very humbly prayed that the Appeal in hand being devoid of merit, may graciously be dismissed with cost.

Respondent No.1 
 Chief Secretary to
 Government of Khyber Pakhtunkhwa,


 Respondent No.2
 Secretary to
 Government of Khyber Pakhtunkhwa,
 Industries, Commerce & Technical
 Education, Department


 Respondent No.3
 Director General,
 Industries & Commerce, Khyber Pakhtunkhwa.
 Director GENERAL
 Directorate General of
 Industries & Commerce
 Khyber Pakhtunkhwa, Peshawar



Annex-I (4)

**DIRECTORATE GENERAL,
INDUSTRIES AND COMMERCE
KHYBER PAKHTUNKHWA, PESHAWAR**

Government Printing Press Building Shami Road, Peshawar.

No. 1507 /1/22-DI-Admn:

Dated. 3/2 /2023.


To

The Deputy Director,
Printing Press, Hqtrs Office, Peshawar.

Subject: **SENIORITY LIST OF MINISTERIAL STAFF**

I am directed to refer to the subject noted above and to invite your kind attention towards Para-4 of the approved summary of merger which states that "Seniority of the ministerial Staff of both entities will be considered from their date of appointment/promotion and will be merged in their corresponding cadre/scale accordingly".

You are therefore requested to provide Seniority List for the last three years dully verified/attested of all the Ministerial Staff of Printing Press to proceed further in the matter please.

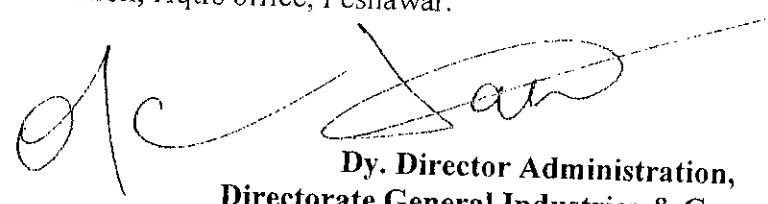

**Dy. Director Administration,
Directorate General Industries & Commerce,
Khyber Pakhtunkhwa Peshawar**

Endst: No. 1505-06 /1/22-DI-Admn:

Dated. 3/2 /2023.

Copy of the above is forwarded to:

1. PS to Director General, Industries & Commerce, Khyber Pakhtunkhwa, Peshawar.
2. PA to Director Administration, Hqtrs office, Peshawar.


**Dy. Director Administration,
Directorate General Industries & Commerce,
Khyber Pakhtunkhwa Peshawar**


**Assistant Director Litigation
Directorate General of
Industries & Commerce
Khyber Pakhtunkhwa, Peshawar**



**DIRECTORATE GENERAL,
INDUSTRIES AND COMMERCE
KHYBER PAKHTUNKHWA, PESHAWAR**

Annex - I

REMINDER-I

5

Government Printing Press Building Shami Road, Peshawar.

No. 1836 /1/22-DI-Admn:

Dated 13/02 /2023.

To

The Deputy Director,
Printing Press, Hqtrs Office, Peshawar.

Subject: **SENIORITY LIST OF MINISTERIAL STAFF**

I am directed to refer to this office letter No. 1504/1/22-DI-Admn: Dated. 03.02.2023 on the subject noted above and to say that the requisite information is still awaited from your end which may please be furnished at your earliest to proceed further in the matter please.

[Signature]
Administrative Officer
Directorate General Industries & Commerce,
Khyber Pakhtunkhwa Peshawar

Endst: No. 1837-38 /1/22-DI-Admn:

Dated. 13/02 /2023.

Copy of the above is forwarded to:

1. PS to Director General, Industries & Commerce, Khyber Pakhtunkhwa, Peshawar.
2. PA to Director Administration, Hqtrs office, Peshawar.

[Signature]
Administrative Officer
Directorate General Industries & Commerce,
Khyber Pakhtunkhwa Peshawar

[Signature]
Assistant Director Litigation
Directorate General of
Industries & Commerce
Khyber Pakhtunkhwa, Peshawar

GOVERNMENT OF KHYBER PAKHTUNKHWA
INDUSTRIES, COMMERCE AND
TECHNICAL EDUCATION DEPARTMENT

Annex-I (6)

ICnTED-57-77-50174

SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA


Subject: MERGER OF DIRECTORATE GENERAL, INDUSTRIES & COMMERCE AND
GOVERNMENT PRINTING & STATIONERY DEPARTMENT.

As per Rules of Business 1985, Directorate of Industries & Commerce, Khyber Pakhtunkhwa and Government Printing Press are attached formations of the Industries, Commerce & Technical Education Department, Khyber Pakhtunkhwa. The Directorate of Industries & Commerce, Khyber Pakhtunkhwa has recently been up-graded (under Finance Act 2021-22) to Directorate General, Industries & Commerce, Khyber Pakhtunkhwa. Its main functions include regulation of Industries, Trade and Prices/ Supplies of Essential Goods & Services in the province. While Government Printing & Stationery Department is basically an industry, provides printing services to the Government/ Semi Government Departments/ Autonomous Organizations.

2. It is suggested that after expansion of Directorate of Industries & Commerce into Directorate General, Industries & Commerce, Khyber Pakhtunkhwa, both the subject Attached Departments may be Merged into a single entity i.e. "Directorate General, Industries, Commerce and Printing Press, Khyber Pakhtunkhwa (DG-ICP)". Under the proposed set-up, Director Industries under the Director General ICP, will supervise/ regulate industrial sector including Government Printing Press which will not only reduce cost but also provide better coordination/ exposure to the Government Press which will help in maximum utilization of its capacity and enhancement of Government Receipts. Further, the merger will cause zero-cost and will require only change of cost centre by Finance Department.

3. Currently there are 235 sanctioned posts in Govt. Press, from BPS-3 to 18 (Annex-I), while in Directorate General of Industries & Commerce, number of posts are 698 from BPS-3 to 20 (Annex-II).

4. In addition, after proposed merging of the subject Attached Departments, seniority of the ministerial Staff of both entities will be considered from their date of appointment/ promotion and will be merged in their corresponding cadre/ scale accordingly. While, the current technical staff of Govt. Press will continue to retain their separate cadre and their appointment/ promotion will be carried out according to their existing service rules. Similarly, operational activities of the press will be carried out under the "Govt. Press Manual" and other relevant rules and may amend it if required necessary.


Assistant Director-Litigation
Directorate General of
Industries & Commerce
Khyber Pakhtunkhwa, Peshawar

4. Keeping in view of above, it is proposed that merger of Directorate of Industries & Commerce, Khyber Pakhtunkhwa and Government Printing Press may be considered in the public interest.

5. Law Department may add its views en-route.

(Signature)
20/5/21

(Hamayun Khan)
Secretary Industries Commerce &
Technical Education Department

Secretary, Law Department

Chief Secretary Khyber Pakhtunkhwa

Chief Minister Khyber Pakhtunkhwa

(Signature)
Assistant Director Litigation
Directorate General of
Industries & Commerce
Khyber Pakhtunkhwa, Peshawar

Annex-2

(8)

**COMBINE TENTATIVE SENIORITY LIST OF SUPERINTENDENTS (BPS-17) OF
INDUSTRIES & COMMERCE AND PRINTING PRESS, AS STOOD ON 31.03.2023**

TOTAL SANCTIONED PERMANENT POSTS OF SUPERINTENDENT= 12-POSTS Industries=10 P.Press=02.

S. No.	Name of Officers with qualification.	Date of birth with domicile	Date of Ist entry into Govt. Service	Regular appointment/ promotion to the present post.			Present appointment with date	Remarks
				Date	BP S	Method of Recruitment/ Appointment		
1	2	3	4	5	6	7	8	9
1.	Mr. Asif Zaman, B.A.	01.04.1974 Bannu	14.10.2000	17.06.2019	17	By Promotion	Superintendent 17.06.2019	Promoted as Admn. Officer on acb
2.	Sayed Shah Sayed, M.Sc (Physics)	06.01.1987 Orakzai Agency	19.06.2013	18.10.2016	17	By promotion	Superintendent 18.10.2016	-
3.	Abdul Qayum, M.A.	09.04.1963 Peshawar	23.07.1985	04.08.2021	17	-do-	Superintendent 04.08.2021	-
4.	Muhammad Mansoor M.A.	10.10.1980 Peshawar	15.08.2014	21.10.2021	17	-do-	Superintendent 21.10.2021	-
5.	Mohammad Daud Matric	18.11.1965 D.I.Khan	03.11.1992	21.10.2021	17	-do-	Superintendent 21.10.2021	-
6.	Mohammad Jamil, Matric	13.08.1972 Peshawar	01.06.1991	21.10.2021	17	-do-	Superintendent 21.10.2021	-
7.	Qazi Aftab Ahmad M.A.	05.10.1971 Khyber	02.08.1992	21.10.2021	17	-do-	Superintendent 21.10.2021	-
8.	Mr. Fayaz Khan B.A.	06.11.1972 Peshawar	21.10.1989	21.10.2021	17	-do-	Superintendent 21.10.2021	-
9.	Mr. Hazrat Amin D.Com.	20.02.1968 Peshawar	15.07.1992	21.10.2021	17	-do-	Superintendent 21.10.2021	-
10.	Fazal Dad, Matric	22.03.1966 Peshawar	07.08.1984	02.12.2021	17	-do-	Superintendent 02.12.2021	-
11.	Mohammad Ajan B.A.	14.11.1978 Peshawar	07.09.2006	09.12.2021	17	-do-	Superintendent 09.12.2021	-

Director General, IC,
Khyber Pakhtunkhwa.
Dated: 12/04/2023.

Endst: No. 3842-53/1/42-DI-Admn:

Copy of the above is forwarded to all concerned officers for information. They are requested to confirm their placement in the list and if there is any objection on their placement in the seniority list, they can submit representation within 15-days of the receipt of this communication, otherwise it will be presumed that their placement is correct and seniority will be finally notified.

Claw
**Assistant Director Litigation
Directorate General of
Industries & Commerce
Khyber Pakhtunkhwa, Peshawar**

[Signature]
**Administrative Officer
Directorate General Industries & Commerce
Khyber Pakhtunkhwa, Peshawar**



DIRECTORATE GENERAL,
INDUSTRIES AND COMMERCE
KHYBER PAKHTUNKHWA, PESHAWAR

Annexure-II
8 9

No. 2483 /22-DI-Admn:
To

Dated/ 23/5 /2023.

The Deputy Director,
Govt. Printing Press, Hqtrs Office,
Peshawar.

Subject: **COMBINE SENIORITY LIST OF MINISTERIAL STAFF.**

In continuation of this office letter No. 1504/1/2-DI-Admn: dated 03.02.2023 on the subject cited above and to state that the following documents in connection of appointment and promotion of the ministerial staff holding position in the seniority list of Superintendent (BPS-17), Assistant (BPS-16), Senior Scale Stenographer (BPS-16, Computer Operator (BPS-16), Senior Clerk (BPS-14), Junior Clerk (BPS-11) Assistant Store Keeper (BPS-07) and Class-IV (BPS-03) duly verified may kindly be provided to this office within a week time to merger the seniority of ministerial staff after merger please.

Initial Appointment.

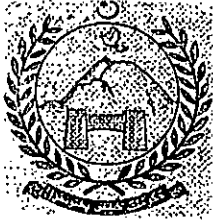
01. Copy of Service Rules from 1984 to till date.
02. Strength Detail of Ministerial Posts alongwith filled and vacant.
03. Detail of Reserved Quotas in each cadre.
04. Detail of Initial/Promotion Quota in each cadre.
05. Copy of Advertisements alongwith zonal allocation / distribution of posts
06. Nature of Appointment (whether through Departmental test, Testing Agency, KP PSC or otherwise)
07. Criteria for Recruitment.
08. Copies of Minutes of Departmental Selection Committee Meetings for selection in each cadre.
09. 1st Appointment Order and Arrival Report, Medical Certificate.
10. Detail of Reserved Quotas Observed in each cadre.

Promotion.

01. Detail of Posts falls under Promotion Quota in each cadre.
02. Option for Promotion.
03. Copies of Working Papers for Promotion in each cadre of each individual.
04. Copies of Minutes of Departmental Promotion Committee Meetings for Promotion in each cadre.
05. Copies of Promotion Orders.

Dy. Director Administration,
Directorate General, Industries & Commerce,
Khyber Pakhtunkhwa, Peshawar.

Assistant Director Litigation
Directorate General of
Industries & Commerce
Khyber Pakhtunkhwa, Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
INDUSTRIES, COMMERCE & TECHNICAL
EDUCATION DEPARTMENT

Fax No. 091-9210896

Email: sog.admn@gmail.com

No. E&A (IND)3-1/2023 / 5096-5101

27th January, 2023

To

1. The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa,
Law Department
3. Director General,
Directorate of IC&TE.

Subject: - MINUTES OF THE MEETING HELD ON 11.01.2023 REGARDING
APPEAL/REPRESENTATION.

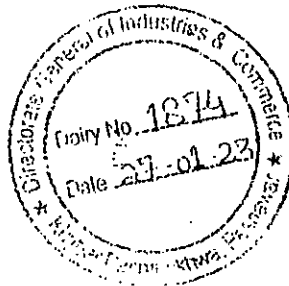
ILLEGAL TRANSFER TO THE TECHNICAL CADRE POST ASSISTANT
DIRECTOR STATISTICS (BS-17) KOHAT

NON-ISSUANCE OF POST MERGER REVISED SENIORITY LIST OF
SUPERINTENDENT (BS-17) IN DIRECTORATE GENERAL OF INDUSTRIES &
COMMERCE

NON-PROMOTION OF THE POST OF ADMINISTRATION OFFICER (BS-17) IN
DG INDUSTRIES

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of minutes of meeting held on 11-01-2023 under the Chairmanship of Special Secretary, Industries Commerce & Technical Education Department for information and further necessary action, please.



Yours faithfully,

(Signature)
(ADNAN KHAN) 27/1/23
SECTION OFFICER (ADMN)

(Encl: As above)

Copy forwarded for information to the:

- i. PS to Secretary IC & TE Department.
- ii. PA to Special Secretary IC & TE Department.
- iii. PA to Deputy Secretary (Admn) IC & TE Department.

D-Director (Admin)

(Signature)
Assistant Director Litigation
Directorate General of
Industries & Commerce
Khyber Pakhtunkhwa, Peshawar

(Signature)
(ADNAN KHAN)
SECTION OFFICER (ADMN)

Subject:- MINUTES OF THE MEETING HELD ON 11.01.2023 REGARDING APPEAL / REPRESENTATION

ILLEGAL TRANSFER TO THE TECHNICAL CADRE POST ASSISTANT DIRECTOR STATISTICS (BS-17) KOHAT,

NON-ISSUANCE OF POST MERGER REVISED SENIORITY LIST OF SUPERINTENDENT (BS-17) IN DIRECTORATE GENERAL OF INDUSTRIES & COMMERCE

NON-PROMOTION OF THE POST OF ADMINISTRATION OFFICER (BS-17) IN DG INDUSTRIES

A meeting on the subject was held on 11.01.2023 at 02:00 PM under the Chairmanship of Special Secretary, Industries Commerce & Technical Education Department in his office. The following attended the meeting:-


- i. Mr. Maqbool Hussain,
Deputy Secretary (Admn), IC&TE Department.
- ii. Ms. Hamsheeda Begum,
DLO, Law Department.
- iii. Syed Habib ul Hassan Gillani,
DS (Reg-I), Establishment Department.
- iv. Mr. Adnan Khan,
Section Officer (Admn), IC & TE Department.

2. The meeting started with the recitation of the Holy Quran, followed by a round of introduction. At the very outset the Chair welcomed the participants and discussed / examined the contents of appeal one by one.

3. After detailed discussion, the following recommendations were made:

- i. The appeal of the appellant at Sr. No. 1, is irrelevant as a Civil Servant can be posted anywhere in the Province on any post under provision of Civil Servant Act 1973.
- ii. With regard to point at Serial No. 02 i.e. non-issuance of post merger revised seniority list of Superintendent (BS-17) in Directorate General of Industries & Commerce, the forum was of the view that since merger notification has already been issued therefore, the Director General Office should prepare joint seniority list in view of approval already granted in the summary of joint seniority list.
- iii. The forum discussed the point at Serial No.03 i.e. non-promotion of the appellant to the post of Administrative Officer and it was observed that Mr. Asif Zaman was appointed on Acting charge basis on dated 05.08.2021 before merger of the Printing Press with Directorate of Industries and Commerce on the basis of separate rules and seniority list applicable at that time.

The meeting ended with vote of thanks to and from the Chair.


Assistant Director Litigation
Directorate General of
Industries & Commerce
Khyber Pakhtunkhwa, Peshawar

IN THE PESHAWAR HIGH COURT, PESHAWAR

Service Appeal No. 1533/2022

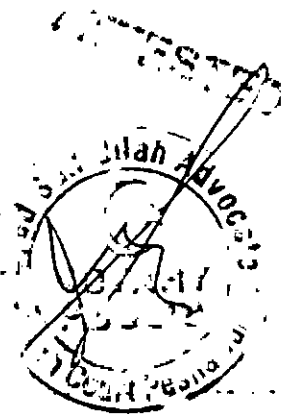
SYED SHAH SYED.....PETITIONER

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY
INDUSTRIES & OTHERSRESPONDENTS

AFFIDAVIT

I, Muhammad Mansoor, Assistant Director Litigation (BPS-17) in Directorate General of Industries & Commerce, Khyber Pakhtunkhwa (Attorney for Respondent No.01,02 & 03) do hereby solemnly affirm and declare, on oath that the contents of the accompanying comments/ reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

CNIC: 17301-3240835-5

CELL: 0332-9228808

Assistant Director Litigation
Directorate General of
Industries & Commerce
Khyber Pakhtunkhwa, Peshawar

A handwritten signature in black ink, which appears to be "Muhammad Mansoor".



**DIRECTORATE GENERAL OF INDUSTRIES AND
COMMERCE KHYBER PAKHTUNKHWA, PESHAWAR.**
Government Printing Press Building, Shami Road, Peshawar. (091) 9210234

POWER OF ATTORNEY

Muhammad Mansoor, Assistant Director Litigation, H/Qtrs Office Peshawar is hereby authorized to defend Secretary Industries, Commerce and Technical Education Department Khyber Pakhtunkhwa (Respondent No.2) & Director General Industries & Commerce Khyber Pakhtunkhwa, Peshawar (Respondent No.3) in the Service Tribunal, Khyber Pakhtunkhwa, Peshawar and to submit any documents on behalf of the aforementioned respondent whenever required by the Honourable Court in Service Appeal No.1533/2022 in the case titled as:

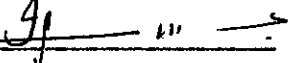
SAYED SHAH SAYED

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.

Respondent No.2 
Secretary Industries, Commerce and Technical Education
Department, Khyber Pakhtunkhwa.

Secretary
Govt of Khyber Pakhtunkhwa
Industries, Commerce &
Technical Education Deptt

Respondent No.3 
Director General of Industries & Commerce,
Khyber Pakhtunkhwa, Peshawar.

DIRECTOR GENERAL
Directorate General of
Industries & Commerce
Khyber Pakhtunkhwa, Peshawar