

30.11.2022

Learned counsel for the appellant present. Mr. Behramand, A.D  
alongwith Mr. Muhammad Jan, District Attorney for the respondents  
present.

As learned Member (Executive) Mr. Mian Muhammad was not  
feeling well and has proceeded on short leave, therefore, arguments  
could not be heard. Adjourned. To come up for arguments on  
26.01.2023 before the D.B.




(Salah-ud-Din)  
Member (J)

SCANNED  
KPST  
Peshawar

26-1-23

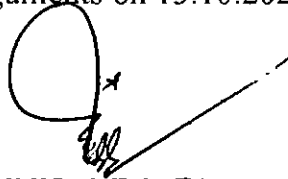
Proper DB is not available,  
The case is adjourned to 10-5-23



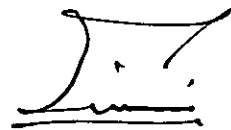
06.07.2022

Learned counsel for the appellant present. Mr. Bakhmal Jan, Assistant Director (Litigation) and Mr. Tufail, Assistant alongwith Mr. Muhammad Riaz Khan, Painsdakheil, Assistant Advocate General for the respondents present.

Learned counsel for the appellant stated that he wants to submit rejoinder, therefore, an opportunity may be granted for submission of the same. Adjourned. To come up for rejoinder as well as arguments on 13.10.2022 before the D.B.



(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)

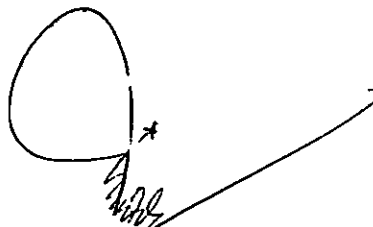


(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

13.10.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant submitted rejoinder, copy of which handed over to learned Deputy District Attorney. Adjourned. To come up for arguments before the D.B on 30.11.2022.



(Mian Muhammad)  
Member (E)



(Salah-ud-Din)  
Member (J)

Stipulated period passed reply not submitted.

29.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

Chairman

12.11.2021

Appellant in person and Mr. Kabirullah Khattak, Addl. AG alongwith Baseerullah, ADO for the respondents present.

Written reply/comments of the respondents are still awaited. Last opportunity is granted to the respondents for submission of written reply/comments on or before the date fixed. Case to come up on 15.12.2021 before the S.B.

Chairman

15.12.2021

Appellant in person present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Baseerullah, Litigation Officer for respondents present.

Written reply/comments on behalf of the respondents submitted which is placed on file. A copy of the same is also handed over to the appellant. To come up for arguments on 29.03.2022 before D.B.

(MIAN MUHAMMAD)  
MEMBER (E)

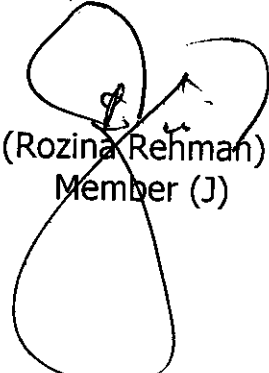
29-3-2022 Proper. DB not available. the case is adjourned to come up for the same as before on 6-7-2022

Reader

25.03.2021

Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. Appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to the respondents. To come up for written reply/comments on 28/06/2021 before S.B.


  
(Rozina Rehman)  
Member (J)

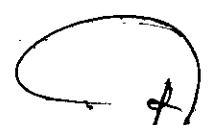
28.06.2021

Counsel for appellant present.

An application for extension of time to deposit security and process fee was submitted.

Application is allowed with direction to appellant to deposit security and process fee within 3 days, where-after notices be issued to respondents to submit written reply/comments in office within 10 days positively. If the written reply/comments are not submitted in office within stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 12.11.2021 before D.B.

  
28/6/21  
Appellant  
Security & Process Fee

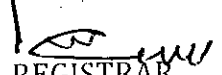

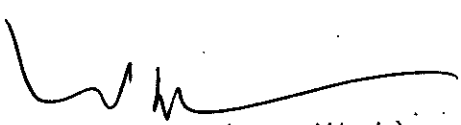
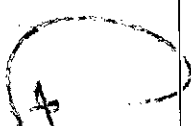
  
(Rozina Rehman)  
Member(J)

Form- A

# FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 13900 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/11/2020	<p>The appeal of Mr. Fazal Mukhtaj resubmitted today by Mr. Shahzullah Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	29.12.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>29/12/2020</u></p> <p> CHAIRMAN</p> <p>Junior to counsel for the appellant present and requested for adjournment that senior counsel for the appellant is not available today. Adjourned to 25.03.2021 for preliminary hearing before S.B.</p> <p> (Atiq-Ur-Rehman Wazir) Member (E)</p> <p></p>

The appeal of Mr. Fazal Mukhtaj (R) Assistant RITE E&SE Charsadda received today i.e. on 23.10.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copies of application and transfer order mentioned in para-2 of the memo of appeal are not attached with the appeal which may be placed on it.
- 3- In the memo of appeal places have been left blank which may be filled up.
- 4- All the annexures of the appeal are illegible which may be replaced by legible/better one.
- 5- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 6- Annexures of the appeal may be attested.
- 7- Annexures of the appeal may be flagged.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 3056 /S.T,

Dt. 27/10 /2020.

  
REGISTRAR

SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Shahzaullah Yousafzai Adv. Pesh.

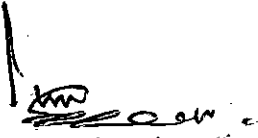
*objections removed Resubmitted  
accordingly.*

*Shahzaullah Yousafzai Advocate*

*Date: 09/11/2020*

*objections No. 3, 4 & 5 still stand.*

*The appeal is returned again to the counsel for  
the appellant for completion & resubmission  
within 10 days.*

  
10/11/2020

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

**APPEAL NO. \_\_\_\_\_/2020**

**FAZAL MUKHTAJ VS EDUCATION DEPARTMENT**

**INDEX**

<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
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2.	Copy of application	<b>A</b>	4
3.	Transfer order	<b>B</b>	5
4.	Copy of promotion order	<b>C</b>	6
5.	<del>Memo of Appeal + Judgment</del>	<b>D</b>	<del>7-14</del>
6.	Copy of promotion order	<b>E</b>	<del>15-16</del>
7.	Copy of impugned appellate order & order sheet	<b>F&amp;G</b>	<del>17-18</del>
6.	Vakalat nama	.....	19

**APPELLANT**

THROUGH: 

**SHAHZULLAH YOUSAFZAI**  
**ADVOCATE**

Flat no 4, Upper Floor,  
Juma khan plaza near FATA secretariat,  
Warsak road, Peshawar  
0302-8578851

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

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 13900/2020

Diary No. 13127

Dated 23/10/2020

Mr. Fazal Mukhtaj (Rtd:) Assistant BPS-16 RITE,  
Elementary & secondary education department District charsadda.

..... APPELLANT

**VERSUS**

- 1- The Secretary elementary and secondary education department Khyber pakhtunkhwa.
- 2- The director elementary and secondary education department Khyber pakhtunkhwa.
- 3- The district education officer (male) district charsadda.

..... RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR THE GRANT OF PRO-FORMA PROMOTION TO APPELLANT TO THE POST OF ASSISTANT (BPS-16) W.E.F. 16-04-2011 INSTEAD OF 12-10-2015 AND AGAINST THE APPELLATE ORDER DATED 22-07-2020 COMMUNICATED ON 24-09-2020 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTEED ON NO GOOD GROUNDS**

**PRAYERS:**

Filed to-day

Registrar

23/10/2020

That on acceptance of this appeal the appellate order dated 22-07-2020 may graciously be set aside and the appellant may kindly be allowed pro-forma promotion to the post of assistant (BPS-16) w.e. from 16-04-2011 instead of 12-10-2015 with all back benefits. Any other remedy which this august Tribunal deem fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

**Brief facts giving rise to the present appeal are as under:-**

That appellant was initially appointed as junior clerk in the respondents department vide order dated 14/05/1979 and was later on promoted to the post of senior clerk vide order dated 01/03/1990.

Re-submitted and filed.

Registrar

11/11/2020



- 2- That during service the appellant was transferred to GHSS Ghalanai vide order dated 12/12/2003, and was later on re transferred to district charsadda on his application vide order dated 14/08/2005. Copy of application and transferred order is attached as annexure.....**A&B.**
- 3- That the respondents promoted colleagues and junior colleagues of appellant, who were promoted along with appellant to the post of senior clerk vide order dated 01/03/1990; to the post of assistant (BPS-14) vide order dated 16/04/2011 and the appellant was ignored. Copy of promotion order is attached as Annexure ..... **C.**
- 4- That feeling aggrieved the appellant filed service appeal no. 1761/2011 before this honorable court however this honorable court treated the appeal of appellant as departmental representation and remitted the same to the respondents to decide it within a period of sixty days vide judgment dated 31/08/2015. Copy of the judgment dated 31/08/2015 is attached as annexure ..... **D.**
- 5- That it is pertinent to mention here that appellant was later on promoted to the post of Assistant BPS-16 vide order dated 12/10/2015 but with immediate effect and not from the date when his junior colleagues were promoted i.e 16/04/2011. Copy of promotion order is attached as annexure ..... **E.**
- 6- That the respondents were not implementing the judgment of this honorable court and the appellant got retired from service on 29/08/18 therefore the appellant filed implementation petition before this honorable court. That during pendency of the implementation petition the respondents issued the impugned appellate order dated 22/07/2020 communicated to appellant on 24/09/2020 vide order sheet dated 24/09/2020, whereby his departmental appeal has been regretted on no good grounds. Copy of impugned appellate order dated 22/07/2020 and order sheet dated 24/09/2020 is attached as annexure ..... **F&G.**
- 7- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on the following grounds amongst the others.

**GROUND:**

- A- That the impugned appellate order dated 22.06.2020 by not allowing the appellant proforma promotion to the post of assistant from the date when his colleagues and junior colleagues were promoted to the post of assistant i.e. 16/04/2011 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned letter dated 22.07.2020 has been issued on the basis of mala fide and arbitrary intentions and as such the same is violative of the principle of natural justice.
- D- That the respondents acted in arbitrary and malafide manner by promoting colleagues and junior colleagues of appellant to the post of assistant while ignored the appellant.
- E- That the appellant is entitle to be granted proforma promotion to the post of assistant from the date when his colleagues and junior colleagues were promoted.
- F- That it is pertinent to mention here that the seniority of ministerial staff is prepared on provincial basis and a civil servant can,t lose seniority by transfer from one district to other.
- G- That as per Rules and regulation the appellant is entitle for proforma promotion to the post of assistant (BPS-16) w.e.f 16/04/2011 with all consequential benefits.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 22.10.2020

**APPELLANT**

*Fazal Mukhtar*  
**Fazal Mukhtar**

THROUGH: *[Signature]*  
**SHAHZULLAH YOUSAFZAI**  
&

خدمت فنیاب ڈائریکٹر جی اے ایچ ایچ سرور میاں

درخواست مقرر تبادلہ

Bottom copy  
page - 4

فنیاب کیلئے

مورد بیان گزارش ہے کہ سائل C.H.S.S فنیاب احمد

الجنتی میں انجینئر سینیئر فلٹرک ایف فرائض سرانجام دیتے

فنیاب سائل موقع محرز کا فلیج چار سروس کے مسئلہ باشندہ ہے۔

چند اہم سے بچلے سال RITE چار سروس رجسٹر میں سینیئر فلٹرک

یونٹ پر تھا، لیکن پریسٹل معاہدہ RITE چار سروس کے مسئلہ

کا سروس EDO معاہدہ چار سروس کے ڈسپوزل پر کیا

دینی چار سروس میں یونٹ نہ ہو گا۔ فیوچر سے سائل سیریل

ہوا اور پھر "جیو" فائنل میں ایڈجسٹ ہوا

جیاب سائل اسٹ سینیئر ہے اور سائل کی سروس سروس

25 سال ہے۔ یہ کہ سائل کو چند رائج سے معلوم ہوا ہے

کہ فلیج چار سروس وہ ایسا رینٹسٹ کے یونٹ فائل ہے۔

سائل اسٹ لٹریچر کی عمر بیا اور بالائی سے دار ادبی

ہے اور سائل کو روزانہ اپنے جانے میں سب آفکلیف ہوتے

اور سائل سے روزانہ 50 روپے خرچ ہوتا ہے۔

اسلئے آپ سائل کے مورد بیان کے سائل کو فلیج چار سروس

میں کسی فائل یونٹ پر تبدیل کا حکم فرمائیں۔ مشکور فرمادیں

الطرحی ایف ٹائمرار فقہ کھٹا سینیئر فلٹرک

C.H.S.S فنیاب احمد ایچ ایچ

Attached  
S

66/ A-4  
DICS-2023

Al Kharaj  
Al Kharaj  
Al Kharaj

مذکورہ ذیل کے مسائل پر جواب دینا ہے۔  
1. GHSS کے بارے میں کیا معلومات دی جاسکتی ہیں؟

2. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
3. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
4. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
5. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
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9. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
10. GHSS کے تحت کون سے اسکولز شامل ہیں؟

11. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
12. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
13. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
14. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
15. GHSS کے تحت کون سے اسکولز شامل ہیں؟

16. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
17. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
18. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
19. GHSS کے تحت کون سے اسکولز شامل ہیں؟  
20. GHSS کے تحت کون سے اسکولز شامل ہیں؟

Director of  
Education, PATA,  
Kutub Bazar, and  
Director Secondary  
Education, J.F.P. Post

A copy of the above is  
being furnished to the Applicant.

11/5/2024  
G.H.S.S. Ghalib  
District Council

Attached



23

TRANSFER/ADJUSTMENT.

B-5

Consequent upon the approval of the competent authority and ben relaxation Mr. ~~Asim~~ Fazal Hutaib Senior Clerk of G.H.S.S Ghallani Molmand Agency is hereby adjusted against the vacant post of Assistant at Deputy District Officer(Male) Tangi Charasadda on his own pay scale in the interest of public service with immediate effect.

Note: NO TA/DA etc is allowed.

The reports should be sent to all concerned.

The post against which he is adjusted is down graded to BPS NO.7 till his proper adjustment.

(FAZALE SUBHAN)  
Deputy Director(Finance/Adm.)  
Directorate schools & Literacy  
MFP Peshawar.

Encl: No 3267-74 /A-23/MS/Peshawar Dated Peshawar, the 23/9/2004.

Copy to the:-

1. P.S to Minister for Education MFP Peshawar.
2. Executive District Officer(S.L)Charasadda.
3. Director of Education FATA MFP Peshawar w/r to his NO.8226/Gen.Clerk/DC dated 12/5/2004.
4. Deputy District Officer(Male)Tangi Charasadda.
5. Principal G.H.S.S. Ghallani Molmand Agency
6. District Accounts Officer Charasadda.
7. Agency Accounts Officer Ghallani Molmand Agency
8. PA to Director Schools & Literacy MFP Peshawar.

(29/09/2018)  
Rite/

Assistant Director  
Directorate Schools & Literacy  
MFP Peshawar.

ShertSC

M/11/23/9

Attended  
S



c-6

**OFFICE THE  
DISTRICT COORDINATION OFFICER  
CHARSADDA**

Dated: April 16, 2011.

**OFFICE ORDER.**

No.DCO(CDO)Estt:7(47)/Promotion/ As recommended by the Departmental Selection Committee in its meeting held on 14.03.2011, the following Senior Clerks BPS-09 of Schools & Literacy Department Charsadda are hereby promoted to the post of Office Assistant BPS-14 (4920-380-15940) plus usual allowances as admissible under the Rules and accordingly further posted on the vacant posts as mentioned against each name :-

S.N	Name of Senior Clerk.	Date of promotion	Further posting
1	Mr. Anwar Khan Senior Clerk office of the DDO(F) Charsadda	14.03.2011	Office of DDO(F) Charsadda
2	Muhammad Azim, Senior Clerk office of DDO(M) Tangi	14.03.2011	DDO(M) Tangi
3	Mr. Shah Jehan Senior Clerk Office of EDO E&SE Charsadda	14.03.2011	Office of EDO E&SE Charsadda
4	Mr. Khan Afzal Senior Clerk office of DDO(F) Tangi	14.03.2011	office of DDO(F) Tangi

  
District Coordination Officer  
Charsadda

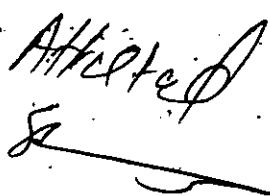
**No. & Date Even.**

Copy of the above is forwarded to:-

1. The Director, Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
2. The Assistant Director (Admn) Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar
3. The Executive District Officer E&SE Department Charsadda.
4. The Executive District Officer Finance & Planning Department Charsadda.
5. The District Accounts Officer, Charsadda.
6. The officials concerned.

For information & necessary action.

  
District Coordination Officer  
Charsadda

*Attended*  




Annexure D-7

IN THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. 1506 /2011

Fazal Muhtaj .....VS..... Executive District Officer (E&Se)

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Through

*Zia ur Rahman Tajak*

Zia ur Rahman Tajak  
Advocate, Peshawar  
Add: 26-A. Nasir Mansion 2-  
Railway Road, Peshawar.  
Cell: 0300-9357932

9689  
FILED TODAY

Deputy Registrar

14 MAY 2011

*Attended*

IN THE PESHAWAR HIGH COURT, PESHAWAR

A. NO. 1761/11

Writ Petition No. 1506 /2011

1. Fazal Muhtaj s/o Muhammad Roshan  
Sr. Clerk Executive District Officer Elementary &  
Secondary Distt: Charsadda.....Petitioner.

VERSUS

1. Executive District Officer (E&Se) Distt: Charsadda. ✓
2. District Co-ordination Officer Distt: Charsadda. ✓
3. Executive District officer (Finance) Distt: Charsadda.
4. Director Education (E&Se) Dabgari Garden Peshawar.
5. Secretary Education Govt. of Khyber Pakhtoonkhwa  
Peshawar.
6. Anwar Khan Sr. Clerk Deputy Distt: Officer Education  
(Female ) Distt: Charsadda
7. Muhammad Azeem Sr. Clerk Deputy District Officer (Male)  
Tangi District Charsadda.
8. Shah Jehan Sr. Clerk Executive District Officer (E&Se)  
Charsadda.
9. Khan Afzal Sr. Clerk Office of Deputy District Officer (F)  
Tangi ..... Respondents

WRIT PETITION UNDER ARTICLE 199  
OF THE CONSTITUTION OF ISLAMIC  
REPUBLIC OF PAKISTAN 1973.

Respectfully Sheweth:-

1. That petitioner No. 1 was appointed as Junior Clerk in  
Education Department on 14.05.1979.

FILED TODAY

Deputy Registrar

14 MAY 2011

Attended  
S

2. That petitioner was promoted to the post of Sr. Clerk on 01.03.1990 alongwith respondent No. 6. (Copy of promotion order attached as annexure A).
3. That during performance of duties in Govt. Elementary Collage for woman post of Sr. Clerk was eliminated, so petitioner was re-leaved and his duties was handed over to the Executive Distt: Officer Charsadda (E&Se) on 08.10.2003. (Copy of re-leaving order is annexure B).
4. That later on petitioner service was placed on the disposal of Director Education Peshawar on 27.10.2003 by the Executive District Officer Charsadda. (Copy of order dated: 27.10.2003 is attached as annexure C).
5. That thereafter petitioner was transferred to Govt. Higher Secondary School Ghalanay Mohmand Agency as Sr. Clerk on 12.12.2003 and then re transferred to Deputy District Officer (M) Tangi Charsadda and lastly transferred to the Office of Executive District Officer (E&Se) on 14.08.2005 and still performing his duties on the said post. (Copy of order dated: 12.12.2003, 23.09.2004 and 14.08.2005 are attached as annexure D, E and F).
6. That on 16.04.2011 respondents No. 6 to 9 were promoted to BPS-14 as Assistants by Departmental Promotion Committee under the supervision of respondent No. 2 and petitioner was ignored and not promoted to the said post for the reason best known to respondents. (Copy of promotion order dated: 16.04.2011 is attached as annexure G).
7. That petitioner being aggrieved from the discriminate treatment of respondent filed Departmental

FILED TODAY

Deputy Registrar

14 MAY 2011

Attested

10

Representation for promotion to BPS-14 to respondent No. 4 on 04.05.2011 but no reply was given to the petitioner. (Copy of Departmental Representation dated: 04.05.2011 is attached as Annexure H).

Now the petitioner being aggrieved from the discriminate treatment of respondents approached this honorable court in constitutional jurisdiction for redressal of their grievances having no other efficacious remedy inter-alia on the following grounds.

### GROUNDS

- A. That petitioner has not been treated in accordance with law and is discriminated.
- B. That petitioner and respondent no. 6 are promoted on the same date to the post of Sr. Clerk and petitioner is also Senior to the respondent No. 6 but even then respondent No. 6 was promoted and petitioner was ignored.
- C. That respondents No. 7 to 9 are junior to the petitioner and are promoted to the post of Senior Clerk in 1991. (Copy of seniority list is attached as annexure I).
- D. That even in the seniority list petitioner was required to be placed at serial No. 1 but was wrongly placed at serial No. 24 which is also incorrect, illegal, unlawful and is completely against rules, regulation relating to seniority and against the said discrimination in the seniority list also files three different representation on different dates but even then petitioner grievances were not redressed. (Copy of Departmental Representation are attached as J to J-2).

FILED TODAY  
Deputy Registrar  
14 MAY 2011

Attended  
[Signature]



- E. That petitioner is the senior most Senior Clerk of the Education Department in Distt: Charsadda and is entitled to due promotion and seniority like respondent No.6.
- F. That petitioner is purely discriminated and his non promotion to the post of Assistant BPS-14 is not only illegal, incorrect but also against the rules of propriety, fair play and Natural justice.
- G. That petitioner is famous for his hard work, honesty and transparent performance of his duties in Education Department of Distt: Charsadda but his honesty and transparency become hurdle in his promotion as well as in seniority.
- H. That petitioner had been made victim of high handedness of respondents having no fault on his part.
- I. That petitioner is eligible and fit person to be promoted to the post of Assistant BPS-14 and also because of his seniority he is legally entitled to be promoted to the said post.
- J. That any other ground will be adduced at the time of arguments with the kind permission of this Honourable Court.

It is therefore, respectfully prayed that on acceptance of this writ petition an order may kindly be issued directing the respondents

1. To promote petitioner to the post of Assistant BPS-14.
2. To place him at serial No. 1 of the seniority list being the Senior Most Sr. Clerk of Distt: Charsadda.
3. Any other relief to which the petitioner is entitled in the circumstances of the case may kindly also be granted.

FILED TODAY  
Deputy Registrar  
14 MAY 2011

Attested

12

*[Signature]*  
Petitioners

Through

*Zia ur Rahman*

Zia ur Rahman Tajak  
Advocate, Peshawar

**CERTIFICATE**

It is certified as per instructions of my clients that no such like Writ Petition has earlier been filed before this honourable court on the subject matter.

*Zia ur Rahman*

ADVOCATE

**LIST OF BOOKS:**

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Service Laws.
3. Any other law book according to need.

*Zia ur Rahman*

ADVOCATE

*Attested*  
*[Signature]*

FILED TODAY  
Deputy Registrar  
14 MAY 2011

S.No. Date of  
order  
proceedings

2

Order or other proceedings with signature of judge or Magistrate

3

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.



APPEAL NO.1761/2011

(Fazal Muhtaj -vs- Executive District Officer (E&SE) Distt. Charsadda and others).

31.08.2015

JUDGMENT

ABDUL LATIF, MEMBER:

Counsel for the appellant, Mr. Muhammad Jan, GP for official respondents and counsel for private respondents No.6 to 9 present.


2. The instant appeal had been filed by Mr. Fazal Muhtaj in the Peshawar High Court, Peshawar as Writ Petition No. 1506/2011. The august Peshawar High Court while disposing of the writ petition treated it as an appeal before the Service Tribunal and sent it to this Tribunal for decision in accordance with law.

3. Brief facts of the case are that the appellant was appointed as Junior Clerk in the Education Department on 14.05.1979 then he was promoted to the post of Senior Clerk on 01.03.1990 alongwith private respondent No.6 while posted in Government Elementary College for Women, the post of Senior Clerk was abolished and appellant was handed over to the EDO (E&SE)Charsadda on 08.10.2003. There-after his services were placed at the disposal of Director Education Peshawar on 27.10.2003 and was later on transferred to GHSS, Ghalanay Mohmand Agency on 12.12.2003. He was re-transferred to office of Deputy District Officer (M) Tangi Charsadda and subsequently to EDO (E&SE), Charsadda on 14.08.2005. That on 16.04.2011 the private respondents No. 6 to 9 were promoted to BPS-14 as Assistant and appellant was ignored. Being aggrieved from the said order he preferred representation for promotion to BPS-14 to respondent No.4 on 04.05.2011 which remained un-responded, hence the present service appeal.

4. Learned counsel for the appellant argued that the appellant had not been treated in accordance with law and was discriminated. That the

AFI

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

(14)

appellant and private respondent No.6 were promoted on the same date to the post of Senior Clerk and appellant was also senior to the private respondent No.6 but even then respondent No. 6 was promoted and appellant was ignored. That even in the seniority list petitioner was required to be placed at serial No.1 but was wrongly placed at serial No.24 which was also incorrect, illegal, unlawful and was completely against rules, regulation relating to seniority. He prayed that the appellant may be promoting to the post of Assistant BPS-14 and may be placed at Serial No. 1 of the seniority list being the senior most Senior Clerk of District Charsadda.

5. The learned Government Pleader while resisting the appeal argued that the appellant belonged to the District cadre and he was posted in GHSS, Ghalanay Mohmand Agency at his request. Moreover, the appellant never challenged his transfer order to Mohmand Agency (FATA) and on transfer to the District Charsadda his seniority was rightly fixed vis-à-vis private respondent No.6 to 9. He prayed that the appeal being devoid of any merits may be dismissed.

6. Arguments of the learned counsels for the parties heard at length and record perused with their assistance.

7. From perusal of the record it could not be ascertained as to whether the officials was transferred from the office of EDO, Charsadda to Mohmand Agency (FATA) at his express request. It also could not be ascertained from the record as to whether the appellant ever objected to the said transfer out of his original cadre. In the circumstances the Tribunal is constrained to remit the case to the respondent-department to treat it as departmental representation and decide it within a period of 60 days on merit strictly according to the law/rules. Parties are left to bear their own costs. File be consigned to the record.

*(Handwritten signature)*

(ABDUL LATIF)  
MEMBER

*(Handwritten signature)*

(PIR BAKHSI SHAIH)  
MEMBER

Certified to be true copy

*(Handwritten signature)*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ANNOUNCED  
31.08.2015

Date of Presentation of Application	11-11-2020
Number of Words	800
Copying Fee	10.00
Urgent	4.00
Total	14.00
Name of Copyist	<i>(Handwritten signature)</i>
Date of Completion of Copy	11-11-2020
Date of Delivery of Copy	11-11-2020



E-95

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION K.P.PESHAWAR.

NOTIFICATION.

Consequent upon the approval of the Departmental Promotion Committee (DPC) in its meeting held on 12.10.2015, the following Senior Clerks B-14 working in and under the Elementary & Secondary Education Department Khyber Pakhtunkhwa/ FATA/DCTE/PITE are hereby promoted/adjusted as Assistant B-16 on regular basis in the interest of public service with immediate effect.

S.#	Name	Present Address	Posted as Assistant at	Remarks
1	SHABIR AHMAD	GHSS Mayar Mardan	DEO (M) Dir (Upper)	Against V/post
2	Fazli Mukhtaj	GHSS Sherpao	RITE (F) Charsadda	Against V/post
3	Ghulam Muhammad	GHSS Sheikhan Peshawar	GGHSS Kalanga Khyber Agency	Against V/post
4	Khalid Tanveer	GGHSS Paniala D.I.Khan	DEO (M) DIKhan	Against V/post
5	Riaz Ahmad	DEO (M) Swat	DEO (M) Dir Upper	Against V/post
6	Dil Jan	GHSS Dara Pezu Lakki	DEO (F) Lakki	Against V/post
7	Bahadar Zaib	SDEO (M) Timergara Dir (L)	DEO (M) Dir Lower	Against V/post
8	Muhammad Mehfooz	GGHSS Khanpur Haripur	DEO (F) Haripur	Against V/post
9	Fayyaz Khan	GHSS Sahbaz Azmat Khel Bannu	DEO (F) Bannu	Against V/post
10	Siyar Ahmad	DEO(M) Swabi	DEO (M) Swabi	Against V/post
11	Mohammad Mahroof	GHSS Sirikoat Haripur	DEO (M) Haripur	Against V/post
12	Muhammad Zaman	GGHSS Havalian Abbottabad	DEO (F) Battagram	Against V/post
13	JEHAN AKBAR	GHSS Mardan	DEO (F) Buner	Against V/post
14	UMAR ZEB	GHSS Dadazai Buner	DEO (F) Buner	Against V/post
15	S.Naseem Hussain	GGHSS Muradpur Mansehra	DEO (M) Torghar	Against V/post
16	Perveez Anjum	DTC/GHSS No.1 Peshawar City	Directorate E&SE K.P Peshawar	Against V/post
17	LAL SAID	SDEO (M) Mardan	SDEO (M) Buner	Against V/post
18	Muhammad Dar Ali Shah	DEO (F) Bannu	DEO (M) Bannu	Against V/post
19	Mohammad Arif	DEO (M) Haripur	DEO (M) Haripur	Against V/post
20	Zahid Abdullah	GCGHSS Abbottabad	DEO (M) Torghar	Against V/post
21	Muhammad Khalid	GHSS Kairi Raiki Abbottabad	Assistant, DEO (M) Battagram	Against V/post
22	Abdur Rehman	DEO (M) Abbottabad	DEO (F) Battagram	Against V/post
23	MUHAMMAD ZAHOOR	GSAHSS No. 1 Mardan	SDEO (F) Dir Upper	Against V/post
24	Muhammad Asif	DEO (F) Mansehra	DEO (F) Battagram	Against V/post

*Attended*

*mu*

16

22	Muhammad Aqil	GGCMS, Timergara Dir L	DEO (F) Dir Lower	Against V/post
25	Rasim Dil Khan	DEO (F) Bannu	RITE (M) Bannu	Against V/post
27	SUBAIL SAQIB	SDEO (M) Dargai MKD	DEO (F) Malakand	Against V/post
33	Snamshad Muhammad	GHSS Jolazai Nowshera	SDEO (F) Kohat	Against V/post
35	RAJ MUHAMMAD	GHS Lund Khwar Mardan	DEO (F) Hangu	Against V/post
38	SHAKEEL Muhammad	DEO (M) Mardan	DEO (M) Mardan	Already occupied

Notes:

1. Charge report should be submitted to all concerned.
2. They all shall remain on probation for one year extendable for further next year.

(Muhammad Rafiq Khattak)

DIRECTOR

Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Estt. No. 2055-2200/A-23/MS/Promotion/Asstt/2015. Dated Peshawar the 12/10/2015.

Copy of the above is forwarded to the: -

1. PS to Minister for Elementary & Secondary Education Department Khyber Pakhtunkhwa.
2. PS to Secretary Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department.
3. Director Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad.
4. Director of Education (FATA) Peshawar.
5. Director Provincial Institute of Teachers Education Khyber Pakhtunkhwa Peshawar.
6. Accountant General Khyber Pakhtunkhwa Peshawar.
7. District Education Officer concerned.
8. District Accounts Officers concerned.
9. Agency Accounts Officers concerned.
10. Agency Education Officers concerned.
11. SDEOs concerned.
12. Principals concerned.
13. Officials concerned.
14. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
15. PA to Additional Directors (Estt:) & (Dev) Local Office.
16. Master File.

Assistant Director (Admn)

Directorate of Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar



8-9-2020

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR.

Phone: 091-9225344

Email: ddadm.esec@gmail.com

**NOTIFICATION**

F-017

1. **WHEREAS**, Mr. Fazal Mukhtaj Ex-Assistant now retired has submitted service appeal No 1761/2011, title "Fazal Mukhtaj VS DEO (E&SE) Charsadda and others" for promotion as Assistant BPS-14.
2. **WHEREAS**, the said Fazal Mukhtaj was posted as Senior Clerk at GEC (F) Charsadda. Due to closure of the GEC (F) Charsadda, his services were placed at the disposal of DEO (M) Charsadda vide No 163 dated 08/10/2003, who further placed/adjusted him at GHS Ghalanai Mohmand Agency. Now (District Mohmand), against a vacant post of Senior Clerk vide Directorate (S&L) now E&SE Khyber Pakhtunkhwa E/No 23772-77 dated 12/12/2003. He was further transferred/adjusted against Assistant Post at Deputy DEO (M) Tangi Charsadda on his own pay scale on his application vide this Directorate Endst No 3267-74 dated 23/09/2004.
3. **AND WHEREAS**, due to devolution plan the seniority of Junior Clerks + Senior Clerk were segregated to District Level and joint seniority of Directorate E&SE, DCTE, PITE and FATA were started since 01/07/2001, under service rules the said Fazal Mukhtaj S/Clerk on his transfer/adjustment from FATA to District Charsadda was placed at the bottom of the seniority list of S/Clerk in District Charsadda and the private respondents Serial No 6 to 9 were considered senior to him in his cadre by the DCO and were promoted at their seniority cum fitness vide order No DCO(CDO)Estt7(47)Promotion dated 16/04/2011.
4. **AND WHEREAS**, the said Fazal Mukhtaj if he would not have been transferred from GEC(F) Charsadda to Mohmand Agency FATA, he could not be promoted with the private respondent at S.No. 6 to 9 in District Charsadda, because seniority on the level of S/Clerk in E&SE Department District Charsadda and Seniority of Senior Clerk in Directorate (S&L) now E&SE, DCTE GEC (F) Charsadda/PITE and FATA were different and on his transfer from GHS Ghalanai (Mohmand Agency) to District Charsadda, he was placed at the bottom of seniority list of senior clerk as per rules.
5. **AND WHEREAS**, the said Fazal Mukhtaj Senior Clerk SDEO (M) Tangi after merging the different seniority was placed at S.No.7, in the combined seniority list on provincial level corrected up to 30/09/2013, and deferred from promotion due to lack of his ACR/PER in 2014 and sequently he was promoted as Assistant on 29/05/2015.
6. **AND WHEREAS**, from the perusal of record the seniority rules and transfer orders in r/o Mr. Fazal Mukhtaj, the appellant, promotion of private respondents Serial No at 6-9 was issued in light of rules/law and the appeal of the appellant is not justified.
7. **NOW, THEREFORE**, I Dr. Hafiz Muhammad Ibrahim, The Director E&SE Khyber Pakhtunkhwa Peshawar, in the capacity of (Appellate Authority) has decided to turn down the appeal in r/o Mr. Fazal Mukhtaj Ex-Senior Clerk now retired as Assistant.

**DIRECTOR**

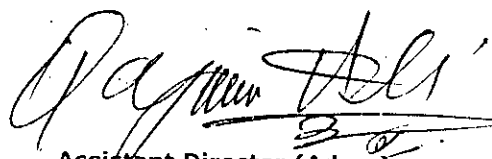
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst: No. 1850 /F.No./Lit-II EP#752/18/Charsadda Fazal Mukhtaj

Dated Peshawar the 22/7/2020.

Copy of the above is forwarded for information and n/action to the:-

- 1- District Education Officer (Male) Charsadda.
- 2- Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar w/r to his appeal No 1761/2011 implementation No 54. Appeal No 752/2019
- 3- Assistant Director (Lit-I) Local Directorate.
- 4- Assistant Director (Lit-II) Local Directorate.
- 5- District Account Officer Charsadda.
- 6- Appellant concerned.
- 7- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

  
Assistant Director (Admn)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar



e-118

24.09.2020

Petitioner in person and Addl. AG alongwith Abdul Wahid, Litigation Officer for the respondents present.

The petitioner states that his counsel is reluctant to represent him any further while it has been 11 years that he is pursuing his remedy.

Mr. Shazullah Khan, Advocate present before the Tribunal in connection with other cases, graciously volunteered to represent the petitioner whose departmental appeal was rejected on 22.07.2020. As per petitioner, after last date of hearing he is bereft of any legal aid.

Adjourned to 16.11.2020 for further proceedings.

Chairman

*[Signature]*

Certified to be a true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

ATTESTED

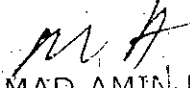
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Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 1-10-2020  
 Number of Words 3200  
 Copying Fee 34 -  
 Urgent           
 Total 34 -  
 Name of Clerk H  
 Date of Completion 1-10-20  
 Date of Delivery of Copy 1-10-20

Attested

15.06.2020


None present on behalf of the petitioner. Notice issued to petitioner and his counsel for attendance. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Irfanullah, Assistant for the respondents present. To come up for attendance of appellant and also for further proceedings on 23.07.2020 before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

23.07.2020

Petitioner himself is present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Abdul Wahid, Litigation Officer are also present.

The legal fraternity is observing strike today therefore, no proceedings could be conducted. The case is adjourned to 08.09.2020. To come up for previous proceedings before S.B.


  
(MUHAMMAD JAMAL KHAN)  
MEMBER

08.09.2020

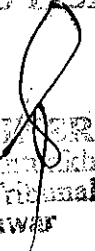
Petitioner alongwith counsel and Addl. AG, alongwith Abdul Wahid, Litigation Officer for the respondents present.

Representative of respondents has provided copy of notification dated 22.07.2020 whereby the departmental appeal of petitioner has been turned down. A copy of notification has been handed over to the petitioner as well. Learned counsel for the petitioner requests for time to prepare the brief in light of development by way of notification.

Adjourned to 24.09.2020 before S.B.

  
Chairman

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**VAKALATNAMA**

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

\_\_\_\_\_ OF 2020

Fazal Murtaza

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

EDUCATION DEPTT: \_\_\_\_\_

(RESPONDENT)  
(DEFENDANT)

I/We

Fazal Murtaza

Do hereby appoint and constitute **SHAHZULLAH YOUSAFZAI, 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. \_\_\_\_/\_\_\_\_/2020

Fazal Murtaza

CLIENT(S)

**ACCEPTED**  
**SHAHZULLAH YOUSAFZAI**  
&

KAMRAN KHAN  
**KAMRAN KHAN**  
ADVOCATES

Before The K.P. Service Tribunal Peshawar, SB

Razal Multaj

vs

Educate Dept.

Put up to the worthy chair-man  
with relevant file.

Application for submission of  
process fee

Order

01/06/2021



Respectfully Sheweth:

- order  
02/6/2021  
Request is  
regretted.
- 1) That the title case is pending adjudication before this august Service Tribunal which is fixed for reply if the respondent for 28/6/2021.
  - 2) That on previous date the case was admitted for regular hearing and after the appellant was directed to submit the prom fee.
  - 3) That the prom fee was not submitted in the time frame mentioned in the order sheet. Therefore though the instant application requested for prom fee submission.

It is therefore requested that the application be accepted and prom fee be submitted.

Applicant

Thru

Kamran Khan Advocate

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

**APPEAL NO. 13900/2020**

**FAZAL MUKHTAJ**

**VERSUS**

**EDUCATION DEPARTMENT**

**INDEX**

<b>S. NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
1.	REJOINDER	.....	1-2.
2.	SENIORITY LIST AND PROMOTION ORDERS	<b>A</b>	3-7.

**APPELLANT**

**THROUGH:**

  
**KAMRAN KHAN**  
**ADVOCATE**



1

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

**APPEAL NO. 13900/2020**

**FAZAL MUHTAJ**

**VS**

**EDUCATION  
DEPARTMENT**

**REJOINDER ON BEHALF OF THE APPELLANT IN RESPONSE  
TO THE COMMENTS SUBMITTED BY THE RESPONDENTS**

**R/SHEWETH:**

**PRELIMINARY OBJECTIONS:**

**1 TO 13:**

All preliminary objections raised by the respondent are incorrect, baseless, erroneous and frivolous, as having no legal and factual backing. That the respondents have failed to explain as why the appellant has got no locus standi and cause of action. No plausible explanation in the shape of documentary proof had been provided /submitted by the respondents in support of their contentions. Whatever the respondents have said in their preliminary objections are incorrect and the appellant has all the rights to press his contention before this Honorable tribunal. That the respondents are estopped due to their own conduct to raise any objection at this stage of the case.

**ON FACTS:**

- 1- No need of reply.
- 2- Incorrect and misconceiving, according to the seniority list of 2008-09 of the respondents the appellant was arbitrarily and unlawfully placed at serial No. 24 of that seniority and except serial No. 1 and No. 2 all the employees were juniors to the appellant and on the basis of that seniority promotion order dated 06.03.2012 and 06.04.2011 were issued and later on vide notification the rest of the junior colleagues were promoted but the appellant was ignored. Copies of the seniority list and promotion orders are attached as annexure .....**A.**
- 3- Incorrect hence denied.
- 4- Incorrect and misconceiving the said service appeal was remitted to the respondent department as departmental appeal

but the same was decided vide the appellate order dated 22.07.2020.

5- Incorrect the appellant was promoted but with immediate effect and not from the due date.

6- Incorrect hence denied.

7- Incorrect.

**ON GROUNDS:**

**(A TO J):**

All paras of grounds of appeal are correct while the reply/ comments of the respondents are incorrect and baseless. That the appellant is entitled for pro-forma promotion to the post of Assistant (BPS-16) w-e-f 16-04-2011 with all back benefits, if the same has not been done then it would be detrimental to the financial interest of the appellant.

It is therefore, humbly prayed that on acceptance of this rejoinder the appeal of the appellant may be accepted as prayed for.

**APPELLANT**  
*Fazal Mukhtar*  
**FAZAL MUKHTAR**

**THROUGH:**  
*Kamran Khan*  
**KAMRAN KHAN**  
**ADVOCATE**

affidavit

*Declared on oath that contents of this rejoinder are true & correct to best of my knowledge and belief.*

*Fazal Mukhtar*  
*Deponent*



30 19

"A"

3

**OFFICE IN CHARGE OF ELEMENTARY & SECONDARY EDUCATION, KHYBER PAKHTUNKHWA PESHAWAR.**

**NOTIFICATION**

Consequent upon the recommendations of the Departmental Promotion Committee (DPC) in its meeting held on 26-03-2014, the following Senior Clerks (B-09) working in the office under the E&SE Deptt. Khyber Pakhtunkhwa /FAIA/DCT&E/PITE are hereby promoted/adjusted as Assistant BPS-14 on regular basis in the interest of public service with retrograde effect:-

S.No	Name	Address	Adjusted at:	Remarks
1	Amir Muhammad S/Clerk	GHSS Shamozai Swat	Assistant DEO (M) Swat	Against vacant post
2	Altaf Hussain S/Clerk	GHSS Fatehpur Swat	Assistant DEO (F) Swat	Against vacant post
3	Muhammad Rasnad S/Clerk	GHSS Sijban Swat	Assistant DEO (F) Swat	Against vacant post
4	Umar Khitab S/Clerk	DEO (M) Swat	Assistant DEO (F) Shangla	Against vacant post
5	Abdur Rab S/Clerk	GHS No.1 Mingora Swat	Assistant DEO (F) Swat	Against vacant post
6	Banaras Khan S/Clerk	GHSS Uzmanzai Chd	Assistant DEO (F) Chd	Against vacant post
7	Nisar Ahmad S/Clerk	DEO (M) Swat	Assistant DEO (M) Swat	Against vacant post
8	Rahim Bakhsh S/Clerk	DEO (M) Pesh against Asstt	Assistant DEO (M) Peshawar	Already occupied
9	Inayatullah Rahman S/Clerk	GHS Malta Swat	Assistant DEO (M) Malakand	Against vacant post
10	Ghulam Muhammad S/Clerk	GHSS Titar Khel Lakki	Assistant DEO (M) Lakki Marwat	Against vacant post
11	Shah Ramand S/Clerk	GHSS Khanpur	Assistant DEO (M) Dir Lower	Against vacant post
12	Aamir Zaid S/Clerk	GHSS Bedera Swat	Assistant DEO (M) Malakand	Against vacant post
13	Ali Ghar Khan S/Clerk	GHSS No.3 Pesh city	Assistant SDEO (M) Nowshera	Against vacant post
14	NAWAZ KHAN S/Clerk	GHSS T/Bhai MRD	Assistant DEO (F) Nowshera	Against vacant post
15	FAZLI QADEEM S/Clerk	DEO (M) Mardan	SDEO (M) Buner	Against vacant post
16	SHEHZAD GUL S/Clerk	GHSS Hatnlan Mardan	Assistant SDEO (F) Dargai	Against vacant post
17	Huzrat Amin S/Clerk	GHS Shagan Saidi Swat	Assistant SDEO (M) Swat	Against vacant post
18	Hamid S/Clerk	GHS No.1 Torshar Swabi	Assistant SDEO (F) Lohar Swabi	Against vacant post
19	Rahimullah S/Clerk	SDEO (F) Swat	Assistant SDEO (F) Swat	Against vacant post
20	Khushdil Khan S/Clerk	GHSS Sujaid Sung Pesh	Assistant DEO (M) Nowshera	Against vacant post
21	LIQATA LI S/Clerk	GHSS Manga Mardan	Assistant DEO (M) Buner	Against vacant post
22	Aamir Badshah S/Clerk	GHSS Zlam Dara Dir Lower	Assistant SDEO (F) Samar Bagh	Against vacant post
23	Fida Hussain S/Clerk	GHS No. 3 A/Abad	Assistant DEO (M) A/Abad	Against vacant post
24	Gul Aftab S/Clerk	GHS Swabi	Assistant DEO (F) Swabi	Against vacant post
25	Shehzad Humayun S/Clerk	GHSS Musazai Pesh	Assistant DE&SE K.P. Peshawar	Against vacant post

52	Gul Shahin Shah S/Clerk	GHS Jhangiri Karak	Assistant DEO (M) Karak	Against vacant post
51	Muhammad Raheque S/Clerk	GCMHS Aabad	Assistant DCTE K.P.	Against vacant post
50	Far Ail Khan S/Clerk	GHS Hakim Haveli Bannu	Assistant DEO (M) Bannu	Against vacant post
49	Rais Khan S/Clerk	DEO (F) Karak	Assistant DEO (F) Karak	Against vacant post
48	Ismael S/Clerk	GHS Daag Pesh	Assistant DEO (F) Nowshera	Against vacant post
47	SAWAR KHAN S/Clerk	GHS Gujrat Mardan	Assistant DEO (M) Swabi	Against vacant post
46	Malik Aman S/Clerk	GHS Lason Nawab Mansehra	Assistant DEO (M) Mansehra	Against vacant post
45	Mohammad Wali S/Clerk	GHS Mot lasht chitral	Assistant DEO (M) Chitral	Against vacant post
44	Muhammad Ajmal S/Clerk	SDEO (M) Mansehra	Assistant SDEO (M) Mansehra	Against vacant post
43	Mumtaz Hassan S/Clerk	DE&SE K.P.	Assistant DE&SE K.P. Peshawar	Against vacant post
42	Muhammad Zubair S/Clerk	RITE (F) A Abad	Assistant DCTE A/Abad	Against vacant post
41	Maqbal Khan S/Clerk	GHS Kulu Khan Swabi	Assistant DE&SE K.P. Peshawar	Against vacant post
40	Zar Mirab S/Clerk	DEO (M) Bannu	Assistant GEC (M) Ghorwala	Against vacant post
39	Wali Rehman S/Clerk	DEO (M) Swat	Assistant DEO (M) Swabi	Against vacant post
38	Usman Ghari S/Clerk	DEO (M) Aabad	Assistant DEO (F) Shangla	Against vacant post
37	Khan Gul S/Clerk	GHS Lora Aabad	Assistant SDEO (F) Abbottabad	Against vacant post
36	Shazad Akhtar S/Clerk	Assistant DEO (F) Abbottabad	Assistant DEO (F) Abbottabad	Against vacant post
35	Azhar Rabbani S/Clerk	GHS No.2 Jarnood Khyber Agency	Assistant DEO (F) Malakand	Service placed at the disposal of DE (FATA) for further adjustment
34	Zahid Hussain S/Clerk	DEO (F) Swat	Assistant DEO (F) Abbottabad	Against vacant post
33	Muhammad Sarwar S/Clerk	DEO (M) A/Abad	Assistant DEO (M) Abbottabad	Against vacant post
32	Fazil Yezdan S/Clerk	GHS Shabadar Jori	Assistant GHS Chahani	Against vacant post
31	Jahangir Khan S/Clerk	GCMHS Lakki	Assistant DEO (F) Lakki	Against vacant post
30	Sher Bahadur Khan S/Clerk	SDEO (F) Bannu	Assistant SDEO (F) Bannu	Against vacant post
29	Muhammad Akhtar S/Clerk	GHS Lahor Swat	Assistant SDEO (M) Swabi	Against vacant post
28	Muhammad Tariq S/Clerk	DEO (M) Aabad	Assistant DEO (F) Abbottabad	Against vacant post
27	Fazil Ullah Khan S/Clerk	DEO (M) Lakki	Assistant DEO (F) Marwat	Against vacant post
26	Muhammad S/Clerk	GHS A/Abad Swat	Assistant DEO (M) Shangla	Against vacant post

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OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION CHARSADDA  
FINAL SENORITY LIST OF SENIOR CLERK IN DISTRICT CHARSADDA 2008-09

No	Name & Designation	Father Name	Address	D/O Birth	D/O 1st Appt	D/O Promot to S/Clerk	Remarks S/Grade	Taking O/C Chd
✓1	Anwar Khan	Bad Shah Khan	DDO(F)Chd	25-7-1957 ✓	11/4/1979 ✓	3/1/1990 ✓		19-1-91
✓2	Mohammad Azeem	Amir Khan	DDO(M)Tangi	5/3/1956	4/5/1981	3/8/1991 ✓		2/1/1991
✓3	Shah Jehan	Bahadra Khan	EDO(E&S)Chd	31-12-56	27-6-81	10/1/1991 ✓		14-4-2001
✓4	Khan Afzal	Sher Afzal	DDO(F)Tangi	4/4/1960	10/7/1981	19-1-91 ✓		7/1/2001
5	Sardar Ali	Fazli Ghani	GHSS Dargai	20-6-59	20-10-81	15-1-91 ✓		3/1/1993
6	Zahid Ullah	Maaz Ullah Khan	EDO(E&S)Chd	2/10/1955	14-9-81	21-2-91 ✓		5/8/1995
7	Qaiser Ali	Khan Afzal	DDO(M)Chd	3/3/1963	24-5-82	7/2/1991 ✓		7/1/2001
8	Mehar Niaz	Mohammad Aslam	GGMHS Chd	1/1/1956	22-11-56	2/7/1993 ✓		7/1/2001
9	Shamsul Qamar	Shah Pasand	EDO(E&S)Chd	14-10-61	2/5/1983	3/1/1993 ✓		12/1/1998
10	Qazi Sirajul Haq	Qazi Azizul Haq	GHSS Utmanzai	4/1/1964	3/10/1983	4/1/1993 ✓		9/1/1999
11	Nihar Mohammad	Noorul Basar	DDO(F)Tangi	1/1/1961	3/1/1983	31-5-94 ✓		7/1/2001
12	Khurshid Ahmad	Hafeezur Rahman	GHSS Hassanzai	20-4-61	27-10-83	25-5-95 ✓		10/9/2001
13	Noor Faraz Khan	Gul Faraz Khan	GHSS Sherpao	18-4-63	1/1/1984	25-5-95 ✓		6/1/1995
14	Sayyed Qasim Shah	Akbar Shah	GHSS SKF	28-4-69	21-5-84	1/10/1994 ✓		4/1/1998
15	Zafar Ullah Khan	Saeed Ullah	EDO(E&S)Chd	15-6-65	8/1/1984	1/10/1996 ✓		9/9/1995
16	Khalid Gul	Laiq Shah	DDO(M)Tangi	15-1-65	8/1/1984	1/10/1996 ✓		9/9/1995
17	Ihsan Ul Haq	Fazal Haq	GHSS Umerzai	4/1/1955	1/2/1974	27-8-96 ✓		12/1/1999
18	Mohammad Amin	Ghulam Sadiq	GHSS Chd No-1	28-4-96	5/10/1984	31-7-94 ✓		9/1/1996
19	Zahid Ali	Gul Mohammad	EDO(E&S)Chd	30-9-61	11/1/1984	25-3-97 ✓		25-3-97
20	Khan Faraz	Mohammad Rahman	GHSS Hassanzai	30-9-61	18-12-84	3/2/1998 ✓		3/2/1998
21	Sher Alam	Mohammad Afzal	GHSS Sherpao	1/7/1965	24-1-85	1/8/1998 ✓		2/10/1998
22	Sijar Mohammad	Sherein Mohammad	GHSS Turnab	20-4-60	8/5/1982	24-1-95 ✓		1/4/2004
23	Banaras Khan	Mohammad Nazir	EDO(E&S)Chd	27-3-61	3/9/1980	1/9/1990 ✓		8/5/2004
24	Fazli Mukhtaj	Mohammad Rashan	EDO(E&S)Chd	6/5/1956	14-9-79	1/3/1990 ✓		1/10/2004
25	Wajid Ali	Said Akbar	EDO(E&S)Chd	5/5/1964	21-12-85	31-5-2005 ✓		1/6/2005
26	Mohammad Islam	Noor Ali	EDO(E&S)Chd	1/4/1968	1/10/1986	31-5-2005 ✓		1/6/2005
27	Fazli Yazdan	Fazli Maula	GGHSS SKF	15-2-62	8/5/1980	19-1-91 ✓		1/7/2005
28	Parvez Gul	Wahid Gul	DDO(F)Chd	1/5/1966	21-12-89	27-9-2005 ✓	S/Grade	4/1/2007
29	Sajjad Ahmad	Sultam Mohammad	GHSS Dhakki9	15-4-73	12/6/1996	27-9-2005 ✓		7/2/2007
30	Zahir Shah	Jan Said	EDO(E&S)Chd	4/10/1962	13-12-88	12/1/2005 ✓		7/1/2008

EXECUTIVE DISTRICT OFFICER  
(E&S) EDUCATION CHARSADDA

*[Handwritten Signature]*

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**OFFICE THE  
DISTRICT COORDINATION OFFICER  
CHARSADDA**

Dated: April 16, 2011.

**OFFICE ORDER.**

No.DCO(CDO)Estt:7(47)/Promotion/ As recommended by the Departmental Selection Committee in its meeting held on 14.03.2011, the following Senior Clerks BPS-09 of Schools & Literacy Department Charsadda are hereby promoted to the post of Office Assistant BPS-14 (4920-380-15940) plus usual allowances as admissible under the Rules and accordingly further posted on the vacant posts as mentioned against each name :-

S.#	Name of Senior Clerk.	Date of promotion	Further posting
1	Mr. Anwar Khan Senior Clerk office of the DDO(F) Charsadda	14.03.2011	Office of DDO(F) Charsadda
2	Muhammad Azim, Senior Clerk office of DDO(M) Tangi	14.03.2011	DDO(M) Tangi
3	Mr. Shah Jehan Senior Clerk Office of EDO E&SE Charsadda	14.03.2011	Office of EDO E&SE Charsadda
4	Mr. Khan Afzal Senior Clerk office of DDO(F) Tangi	14.03.2011	office of DDO(F) Tangi

District Coordination Officer  
Charsadda

**No. & Date Even.**

Copy of the above is forwarded to:-

1. The Director, Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
2. The Assistant Director (Admn) Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar
3. The Executive District Officer E&SE Department Charsadda.
4. The Executive District Officer Finance & Planning Department Charsadda.
5. The District Accounts Officer, Charsadda.
6. The officials concerned.

For information & necessary action.

District Coordination Officer  
Charsadda

(7)

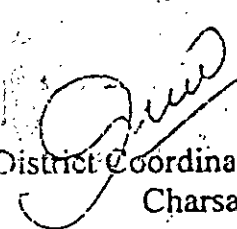
**OFFICE OF THE  
DISTRICT COORDINATION OFFICER  
CHARSADDA**

NO.DCO(CDO)Estt:7(47)/Promotion/  
Dated: March 6, 2012.

NO.DCO(CDO)Estt:7(47)/Promotion/

On the recommendations of the Departmental Selection Committee in its meeting held on 29-02-2012, the following Senior Clerks of Elementary & Secondary Education Department Charsadda are hereby promoted to the posts of Assistants, BPS-14 (8000-610-26300) with effect from 29-02-2012 in the best interest of public:-

S.No	Name of Senior Clerk	Further Posting
1.	Mr. Sardar Ali	Office of EDO, E&SE Charsadda.
2.	Mr. Zahid Ullah	Office of EDO, E&SE Charsadda.
3.	Mr. Qaisar Ali	Office of EDO, E&SE Charsadda.

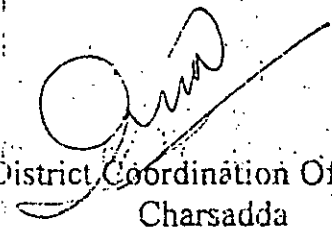
  
District Coordination Officer  
Charsadda

Even No. & Date.

Copy of the above is forwarded to the:-

1. Director, Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
2. Assistant Director (Admn) Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
3. Executive District Officer, E&SE Charsadda.
4. Executive District Officer, F&P Charsadda.
5. District Accounts Officer, Charsadda.
6. Officials concerned.

For information and necessary action please.

  
District Coordination Officer  
Charsadda

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE  
TRIBUNAL PESHAWAR.**

**Service Appeal No: 13900/2020**

**Fazal Mukhtaj Ex-Assistant BPS-16 RITE District Charsadda.....Appellant.**

**VERSUS**

**Secretary (E&SE) Department, Khyber Pakhtunkhwa & others...Respondents**

**INDEX**

S/#	Description of document	Annexure	Pages No.
1	Joint Para Wise Comments	-	1-4
2	Copy of Notification dated 22-07-2020	A	5
3	Copy of the Judgement dated 31-08-2015	B	6-8
3	Copy of Notification dated 12-10-2015	C	9-10

**Asstt: Director (Lit: II)**  
E&SE Khyber Pakhtunkhwa,  
Peshawar.

Assistant Director (Litigation)  
E&SE Department  
Khyber Pakhtunkhwa Peshawar



**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

Service Appeal No: 13900/2020

Fazal Mukhtaj Ex- Assistant BPS-16 RITE District Charsadda.....Appellant.

**VERSUS**

Secretary E&SE Department Khyber Pakhtunkhwa & others.....Respondents

**JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1-3.**

Respectfully Sheweth :-

The Respondents submit as under:-

**PRELIMINARY OBJECTIONS.**

- 1 *That* the Appellant has got no cause of action/locus standi.
- 2 *That* the instant Service Appeal is badly time barred.
- 3 *That* the Appellant has concealed material facts from this Tribunal.
- 4 *That* the instant service appeal is based on mala fide intentions.
- 5 *That* the Appellant has not come to this Honorable Tribunal with clean hands.
- 6 *That* the instant Service Appeal is against the prevailing law & rules.
- 7 *That* the Appellant has been treated as per law, rules & policy.
- 8 *That* the appeal is not maintainable in its present form.
- 9 *That* the appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 10 *That* the instant Service Appeal is barred by law.
- 11 *That* the Notification dated 12-10-2015 of the Respondent No.2 is legal & liable to be maintained being the result of due process of law and procedure.
- 12 *That* the appellant is not entitled for the grant of promotion & back service benefits as Assistant in BPS-16 w.e.f. 16-04-2011 under the Rules.
- 13 *That* no Departmental appeal has been filed by the appellant against the Notification dated 12-10-2015, hence, got final under the law of limitation Act 1908 against the appellant.

## ON FACTS

- 1 *That* Para-1, pertains to the service record of the appellant, hence, needs no comments.
- 2 *That* Para-2 is incorrect & misleading on the grounds that the appellant was posted as Senior Clerk at GEC (F) due to the closure & abolishment of GEC (F) Charsadda & consequently, the services of the appellant were placed at the disposal of the then District Education Officers (M) Charsadda vide order No.163 dated 08-10-2003 for the purpose of his further posting & adjustment as Senior Clerk at GHS Ghallani District Mohmand (NMDs) vide Notification No.23772-77 dated 12-12-2003 against the vacant post of Senior Clerk.

*However, he was further transferred & adjusted against the Assistant post in the office of the then Sub Divisional Education Officer (M) Tangi Charsadda in his own pay & scale on his application vide order No.3267-74 dated 23-09-2004 by the competent authority with his original post of senior clerk was intact in the Respondent Department but due to the devolution plan of the Govt; the seniority of Junior & Senior Clerks were segregated to District level & the joint seniority of Directorate E&SE, DCTE & FATA were started since 01-02-2001 under the Service Rules the services of the appellant due to his transferred Ex-FATA to District Charsadda was placed in the bottom in the seniority list of senior clerks cadre in District Charsadda by the then DCO Charsadda & on the basis of the seniority cum fitness, the appellant was promoted to the post of Assistant vide order dated 16-04-2011 issued by the then DCO Charsadda whom the appellant has not made as a Respondent in the instant case on mala fide as the seniority at District level & Directorate level was different that is why he was placed in the bottom of the seniority list of Senior Clerks upon his transferred from District Mohmand to District Charsadda.*

*It is further added that the appellant during his posting in the office of the SDEO (M) Tangi Charsadda due to the merger of different seniority in the form of combine of the ministerial staff corrected & as stood up to 30-09-2013, the appellant was differed from promotion for the want of ACR/PERS for processing his case for promotion as Assistant in BPS-14 vide Notification issued on 29-05-2015, hence, the claim of the appellant is liable to be rejected. (Copy of the application is Annexure-A).*

- 3 *That* Para-3 is correct to the extent of promotion of the batch mates of the appellant against the Assistant in BPS-14 post vide Notifications dated 01-03-1990 & 16-04-2011 respectively wherein, the appellant was rejected on the grounds as mentioned in para-02 of the present reply & Notification 22-07-2020 is attached as (Annexure-B).
- 4 *That* Para-4 is correct to the extent of filling of a service appeal No.1761/2011 under case titled Fazal Mukhtaj Vs Govt; which was decided by this Honorable Tribunal vide Judgment dated 31-05-2015 with the directions to the Respondent No.2 for disposal & considering the case of the appellant under the Rules as per prayer of the appellant by converting the titled service appeal into Departmental appeal which was decided accordingly by awarding promotion to the appellant against the Assistant post in BPS-16 upgradation of scale from BPS-14 to 16 under the Govt; policy vide order dated 12-10-2015 with immediate effect under the APT Rules of 1989 by the Respondent Department. (Copies of the Judgment dated 31-05-2015 & Notification dated 12-10-2015 are attached as Annexure-C & D).

- 5 *That* Para-5 is correct that the appellant has been promoted as Assistant in BPS-16 post on dated 12-10-2015 under the Rules by the Department.
- 6 **That Para-06 is also incorrect & denied** the Judgment dated 31-05-2015 of this Honorable Tribunal has been implemented by the Respondent Department vide Notification dated 12-10-2015, whereby the appellant who is falling at serial No.02 has been promoted to the post of Assistant in BPS-16 under the relevant criteria & service rules that is why the Departmental appeal of the appellant has been rejected vide order dated 22-07-2020 on merits of the case by the appellate authority.
- 7 *That* Para-7 is also incorrect & denied as hence. Hence the appeal in hand is liable to be rejected on the following grounds inter alia:-

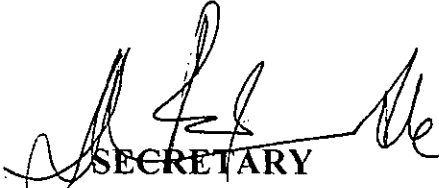
**GROUNDS**

- A. **Incorrect & not admitted.** The appellant has been treated as per Law, Rules in the instant by the Respondent vide Notification dated 22-06-2020 after observing all codal formalities, and hence, the plea of the appellant is liable to be rejected.
- B. **Incorrect & not admitted.** The stance of the appellant is without cogent proof of legal justification as fair chance of participation has been afforded by the Respondent Department prior to the Notification dated 22-06-2020.
- C. **Incorrect & not admitted.** The appellant has been treated as per Law, Rules in the instant by the Respondent vide Notification dated 22-06-2020 after observing all codal formalities, and hence, the plea of the appellant is liable to be rejected.
- D. **Incorrect & not admitted.** The appellant has been treated as per Law, Rules in the instant by the Respondent vide Notification dated 22-06-2020 after observing all codal formalities, and hence, the plea of the appellant is liable to be rejected.
- E. **Incorrect & not admitted.** The plea of the appellant is illegal as the period in which he has been transferred & posted on his own application from Charsadda to Mohmand, the seniority of ministerial staff has been dealt at District level that is why he was placed in the bottom in the seniority list of Senior Clerks Cadre by the Department under the rules.
- F. **Incorrect & not admitted.** The appellant is not entitled for the pro forma promotion against the Assistant in BPS-16 post w.e.f. 16-04-2011 as at that time he was in the bottom of the Senior Clerks Cadre under the rules in view of the maintaining of seniority of the said cadre at District level in the Respondent Department.
- G. **Legal.** However, the Respondent also seek leave of this Honorable Bench to submit additional grounds record & case law at the time of arguments on the date fixed in the titled case.

PRAYER.

In view of the above made submissions, it is requested that this Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favor of the Respondent Department.

Dated \_\_\_/\_\_\_/2021.

  
**SECRETARY**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondent No: 1).

  
**DIRECTOR**

E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondents No: 2 & 3).

AFFIDAVIT

I, Dr. Hayat Khan Asstt: Director (Litigation-II) E&SE Department, do hereby solemnly affirm and declare On oath that the contents of the instant Parawise Comments are true & correct to the best of my knowledge & belief.

  
**Deponent**



8-9-2020

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA

Phone: 091-9225344

SECONDARY EDUCATION  
VA-PESHAWAR.

Email: ddadm.eso@gmail.com

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**NOTIFICATION**

WHEREAS, Mr. Fazal Mukhtaj Ex-Assistant now retired service appeal No 1761/2011, title "Fazal Mukhtaj VS DEO (E&SE) Charsadda and others" for promotion as Assistant BPS-14.

2. WHEREAS, the said Fazal Mukhtaj was posted as Senior Clerk at GEC (F) Charsadda. Due to closure of the GEC (F) Charsadda, his services were placed at the disposal of DEO (M) Charsadda vide No 163 dated 06/10/2003, who further placed/adjusted him at GHS Ghalemai Mohmand Agency. Now (District Mohmand), against a vacant post of Senior Clerk vide Directorate (S&L) now E&SE Khyber Pakhtunkhwa E/No 23772-77 dated 12/12/2003. He was further transferred/adjusted against Assistant Post at Deputy DEO (M) Tangi Charsadda on his own pay scale on his application vide this Directorate Endst No 3267-74 dated 23/09/2004.

3. AND WHEREAS, due to devolution plan the seniority of Junior Clerks + Senior Clerk were segregated to District Level and joint seniority of Directorate E&SE, DCTE, PITE and FATA were started since 01/07/2001, under service rules the said Fazal Mukhtaj S/Clerk on his transfer/adjustment from FATA to District Charsadda was placed at the bottom of the seniority list of S/Clerk in District Charsadda and the private respondents Serial No 6 to 9 were considered senior to him in his cadre by the DCO and were promoted at their seniority cum fitness vide order No DCO(CDO)Estt7(47)Promotion dated 16/04/2011.

4. AND WHEREAS, the said Fazal Mukhtaj if he would not have been transferred from GEC(F) Charsadda to Mohmand Agency FATA, he could not be promoted with the private respondent at S.No. 6 to 9 in District Charsadda, because seniority on the level of S/Clerk in E&SE Department District Charsadda and Seniority of Senior Clerk in Directorate (S&L), now E&SE, DCTE GEC (F) Charsadda/PITE and FATA were different and on his transfer from GHS Ghalemai (Mohmand Agency) to District Charsadda, he was placed at the bottom of seniority list of senior clerk as per rules.

5. AND WHEREAS, the said Fazal Mukhtaj Senior Clerk SDEO (M) Tangi after merging the different seniority was placed at S.No.7, in the combined seniority list on provincial level corrected up to 30/09/2013, and deferred from promotion due to lack of his ACR/PER in 2014 and sequently he was promoted as Assistant on 29/05/2015.

6. AND WHEREAS, from the perusal of record the seniority rules and transfer orders in r/o Mr. Fazal Mukhtaj, the appellant, promotion of private respondents Serial No at 6-9 was issued in light of rules/law and the appeal of the appellant is not justified.

7. NOW, THEREFORE, I Dr. Hafiz Muhammad Ibrahim, The Director E&SE Khyber Pakhtunkhwa Peshawar, in the capacity of (Appellate Authority) has decided to turn down the appeal in r/o Mr. Fazal Mukhtaj Ex-Senior Clerk now retired as Assistant.

**DIRECTOR**

Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst: No. 1850-55 /F.No./Lit-II EP#752/18/Charsadda Fazal Mukhtaj

Dated Peshawar the 22/7/2020.

Copy of the above is forwarded for information and n/action to the:-

- 1- District Education Officer (Male) Charsadda.
- 2- Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar w/r to his appeal No 1761/2011 implementation No 54. Appeal No 752/2019
- 3- Assistant Director (Lit-I) Local Directorate.
- 4- Assistant Director (Lit-II) Local Directorate.
- 5- District Account Officer Charsadda.
- 6- Appellant concerned.
- 7- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

*Rajeev Ali*

Assistant Director (Admn)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

22/7/20

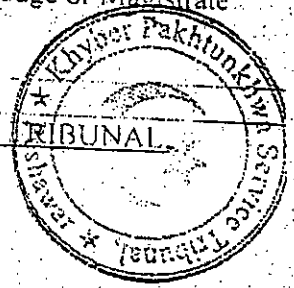
*Attended*

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the

No. Date of order proceedings

Order or other proceeding Nature of judge or Magistrate

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.



APPEAL NO. 1761/2011

(Fazal Muhtaj vs. Executive District Officer (E&SE) Distt: Dharsadda and others).

31.08.2015

JUDGMENT

ABDUL LATIF, MEMBER.

Counsel for the appellant, Mr. Muhammad Jan. GP for official respondents and counsel for private respondents No.6 to 9 present.

1. The instant appeal had been filed by Mr. Fazal Muhtaj in the Peshawar High Court, Peshawar as Writ Petition No. 1506/2011. The august Peshawar High Court while disposing of the writ petition treated it as an appeal before the Service Tribunal and sent it to this Tribunal for decision in accordance with law.

2. Brief facts of the case are that the appellant was appointed as Junior Clerk in the Education Department on 14.05.1979 then he was promoted to the post of Senior Clerk on 01.03.1990 alongwith private respondent No.6 while posted in Government Elementary College for Women. the post of Senior Clerk was abolished and appellant was handed over to the EDO (E&SE) Charsadda on 08.10.2003. There-after his services were placed at the disposal of Director Education Peshawar on 27.10.2003 and was later on transferred to GISS, Chalanay Mohmand Agency on 12.12.2003. He was re-transferred to office of Deputy District Officer, (M) Tangi Charsadda and subsequently to EDO (E&SE), Charsadda on 14.08.2005. That on 16.04.2011 the private respondents No. 6 to 9 were promoted to BPS-14 as Assistant and appellant was ignored. Being aggrieved from the said order he preferred representation for promotion to BPS-14 to respondent No.4 on 04.05.2011 which remained un-responded, hence the present service appeal.

3. Learned counsel for the appellant argued that the appellant had not been treated in accordance with law and was discriminated. That the

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appellant and private respondent No.6 were promoted on the same date to the post of Senior Clerk and appellant was also senior to the private respondent No.6 but even then respondent No. 6 was promoted and appellant was ignored. That even in the seniority list petitioner was required to be placed at serial No.1 but was wrongly placed at serial No.24 which was also incorrect, illegal, unlawful and was completely against rules, regulation relating to seniority. He prayed that the appellant may be promoting to the post of Assistant BPS-14 and may be placed at Serial No. 1 of the seniority list being the senior most Senior Clerk of District Charsadda.

5. The learned Government Pleader while resisting the appeal argued that the appellant belonged to the District cadre and he was posted in GHSS, Ghulam Mohmand Agency at his request. Moreover, the appellant never challenged his transfer order to Mohmand Agency (FATA) and on transfer to the District Charsadda his seniority was rightly fixed vis-à-vis private respondent Nos to 9. He prayed that the appeal being devoid of any merits may be dismissed.

6. Arguments of the learned counsels for the parties heard at length and record perused with the assistance of

7. From perusal of the record it could not be ascertained as to whether the officials was transferred from the office of EDO, Charsadda to Mohmand Agency (FATA) at his express request. It also could not be ascertained from the record as to whether the appellant ever objected to the said transfer out of his original cadre. In the circumstances the Tribunal is constrained to remit the case to the respondent-department to treat it as departmental representation and decide it within a period of 60 days on merit strictly according to the law/rules. Parties are left to bear their own costs. File be consigned to the record.

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*Adil Latif*  
*Member*  
*Adil Bhatti*  
*Member*

(FIR B)

ANNOUNCED  
 31.08.2015

*Adil Latif*

*7-8-2015*  
*7-8-2015*  
*7-8-2015*  
*7-8-2015*  
*7-8-2015*

15.06.2020

None present on behalf of the petitioner. Notice issued to petitioner and his counsel for attendance. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Irfanullah, Assistant for the respondents present. To come up for attendance of appellant and also for further proceedings on 23.07.2020 before S.B.

*MA*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

23.07.2020

Petitioner himself is present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Abdul Wahid, Litigation Officer are also present.

The legal fraternity is observing strike today therefore, no proceedings could be conducted. The case is adjourned to 08.09.2020. To come up for previous proceedings before S.B.

*(Signature)*  
(MUHAMMAD JAMAL KHAN)  
MEMBER

08.09.2020

Petitioner alongwith counsel and Addl AG alongwith Abdul Wahid, Litigation Officer for the respondents present.

Representative of respondents has provided copy of notification dated 22.07.2020 whereby the departmental appeal of petitioner has been turned down. A copy of notification has been handed over to the petitioner as well. Learned counsel for the petitioner requests for time to prepare the brief in light of development by way of notification.

Adjourned to 24.09.2020 before S.B.

*(Signature)*  
Chairman

ATTESTED

*(Signature)*  
EXAMINER  
Khyber Pakhtunkhwa  
Services Tribunal,  
Peshawar



24.09.2020

Petitioner in person and Addl. AG alongwith Abdul Wahid, Litigation Officer for the respondents present.

The petitioner states that his counsel is reluctant to represent him any further while it has been 11 years that he is pursuing his remedy.

Mr. Shazulah Khan, Advocate present before the Tribunal in connection with other cases, graciously volunteered to represent the petitioner whose departmental appeal was rejected on 22.07.2020. As per petitioner, after last date of hearing he is bereft of any legal aid.

Adjourned to 16.11.2020 for further proceedings.

Chairman

Certified to be a true copy

Signature of Litigation Officer  
Litigation Officer  
Services Tribunal,  
Peshawar

ATTACHED

Signature of Mr. Shazulah Khan  
Mr. Shazulah Khan  
Advocate  
Services Tribunal,  
Peshawar

Date of Presentation of Appeal: 1-10-2020  
 Number of Pages: 3200  
 Copying Fee: 34 -  
 Stamp: 34 -  
 Total: 34 -  
 Name of Applicant: Sh  
 Date of Order: 1-10-20  
 Date of Delivery of Copy: 1-10-20

Attested  
Signature



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DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION K.P.P

NOTIFICATION

Consequent upon the approval of the Departmental Promotion Committee (DPC) in its meeting held on 12.10.2015, the following Senior Clerks B-14 working in and under the Elementary & Secondary Education Department Khyber Pakhtunkhwa/FATA/DCTE/PITE are hereby promoted/adjusted as Assistant B-16 on regular basis in the interest of public service with immediate effect.

S.#	Name	Present Address	Posted as Assistant at	Remarks
1	SHABIR AHMAD	GHSS Mayar, Mardan	DEO (M) Dir (Upper)	Against V/post
2	Fazli Mukhta	GHSS Sherpao	RITE (F) Charsadda	Against V/post
3	Ghulam Muhammad	GHSS Sheikhan Peshawar	GGHSS Kalanga Khyber Agency	Against V/post
4	Khalid Tanveer	GGHSS Paniala D.I.Khan	DEO (M) DIKhan	Against V/post
5	Riaz Ahmad	DEO (M) Swat	DEO (M) Dir Upper	Against V/post
6	Dil'Jan	GHSS Dara Pezu Lakki	DEO (F) Lakki	Against V/post
7	Bahadar Zaib	SDEO (M) Timergara Dir (L)	DEO (M) Dir Lower	Against V/post
8	Muhammad Mehfooz	GGHSS Khanpur Haripur	DEO (F) Haripur	Against V/post
9	Fayyaz Khan	GHSS Sahbaz Azmat Khel Bannu	DEO (F) Bannu	Against V/post
10	Siyar Ahmad	DEO(M) Swabi	DEO (M) Swabi	Against V/post
11	Mohammad Mahroof	GHSS Sirikoat Haripur	DEO (M) Haripur	Against V/post
12	Muhammad Zaman	GGHSS Havalian Abbottabad	DEO (F) Battagram	Against V/post
13	JEHAN AKBAR	GHSS Mardan	DEO (F) Buner	Against V/post
14	UMAR ZEB	GHSS Dadazai Buner	DEO (F) Buner	Against V/post
15	S.Naseem Hussain	GGHSS Muradpur Mansehra	DEO (M) Torghar	Against V/post
16	Perveez Anjum	DTC/GHSS No.1 Peshawar City	Directorate E&SE K.P Peshawar	Against V/post
17	LAL SAID	SDEO (M) Mardan	SDEO (M) Buner	Against V/post
18	Muhammad Dar Ali Shah	DEO (F) Bannu	DEO (M) Bannu	Against V/post
19	Mohammad Arif	DEO (M) Haripur	DEO (M) Haripur	Against V/post
20	Zahid Abdullah	GCGHSS Abbottabad	DEO (M) Torghar	Against V/post
21	Muhammad Khalid	GHSS Kairi Raiki Abbottabad	Assistant, DEO (M) Battagram	Against V/post
22	Abdur Rehman	DEO (M) Abbottabad	DEO (F) Battagram	Against V/post
23	MUHAMMAD ZAHOOR	GSAHSS No. 1 Mardan	SDEO (F) Dir Upper	Against V/post
24	Muhammad Asif	DEO (F) Mansehra	DEO (F) Battagram	Against V/post

Error! No bookmark name given.

*Attended*

*Amir*

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Muhammad Aqil	GGCMS Timergara Dir L	DEO (F) Dir Lower	Against V/post
Farooq Dil Khan	DEO (F) Bannu	RITE (M) Bannu	Against V/post
ELHAJIL SAQIB	SDEO (M) Dargai MKD	DEO (F) Malakand	Against V/post
Shamsud Muhammad	GHSS Jolazai Nowshera	SDEO (F) Kohat	Against V/post
FAL MUHAMMAD	GHS Lund Khwar Mardan	DEO (F) Hangu	Against V/post
SARKEEL Muhammad	DEO (M) Mardan	DEO (M) Mardan	Already occupied

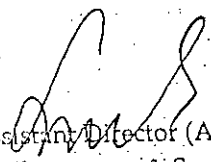
- Charge report should be submitted to all concerned.
- They all shall remain on probation for one year extendable for further next year.

(Muhammad Rafiq Khattak)  
**DIRECTOR**  
 Elementary & Secondary Education  
 Khyber Pakhtunkhwa, Peshawar

Encl. No. 2055-2200/A-23/MS/Promotion/Asstt/2015. Dated Peshawar the 12/10/2015.

Copy of the above is forwarded to the:-

- PS to Minister for Elementary & Secondary Education Department Khyber Pakhtunkhwa.
- PS to Secretary Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department.
- Director Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad.
- Director of Education (FATA) Peshawar.
- Director Provincial Institute of Teachers Education Khyber Pakhtunkhwa Peshawar.
- Accountant General Khyber Pakhtunkhwa Peshawar.
- District Education Officer concerned.
- District Accounts Officers concerned.
- Agency Accounts Officers concerned.
- Agency Education Officers concerned.
- SDEOs concerned.
- Principals concerned.
- Officials concerned.
- PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- PA to Additional Directors (Estt.) & (Dev) Local Office.
- Master File.

  
 Assistant Director (Admn)  
 Directorate of Elementary & Secondary Education  
 Khyber Pakhtunkhwa, Peshawar

