

18-05-2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1879/2022

Muhammad Arif (Computer Assistant).....Appellant

VERSUS

Senior Member Board of Revenue, Khyber Pakhtunkhwa & others.....Respondents

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5404

Dated 18/5/2023

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| 2. | Comments | -- | 02-03 |
| 3. | Notification dated 29.07.2016 | A | 04 |
| 4. | Notification dated 01.07.2022 | B | 05 |
| 5. | Order Sheet in COC dated 18.12.2022 | C | 06 |

6. Authority letter

7

Assistant Secretary Lit-II
Board of Revenue

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SA No.1879 /2022

Muhammad Arif (Computer Assistant).....Appellant

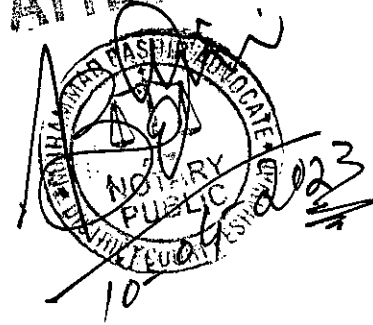
VERSUS

Senior Member, Board of Revenue KPK, & others.....Respondent

AFFIDAVIT

I, Imran Akbar, Assistant (Lit-II) Board of Revenue, Khyber Pakhtunkhwa , do hereby solemnly affirm and declare that the contents of the accompanying **Para-wise Comments** provided by Assistant Secretary Establishment, incharge of Establishment Section of Board of Revenue, are hereby submitted in the subject Service Appeal, which are true and correct to the best of my knowledge and belief in light of available record and that nothing has been concealed from this Honorable Service Tribunal.

ATTESTED



Im Akbar
01-03-2023
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1879/2022

Muhammad Arif Computer AssistantAppellant.

VERSUS

Senior Member, Board of Revenue Khyber Pakhtunkhwa & other.....Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO 1 & 2:-

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action to file instant appeal.
2. That the appeal is bad for mis-joinder and non joinder of necessary parties.
3. That the appellant is estopped by his own conduct to file the appeal.
4. The Deputy Commissioner Mardan being appointing authority of Computer Assistants have not been made necessary party.
5. That the appeal is barred by law and limitation.

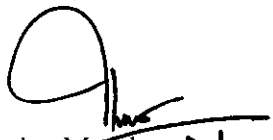
ON FACTS.


1. Pertains to record.
2. Pertains to record of the offices of Deputy Commissioners concerned.
3. Correct to the extent that all these technical posts mentioned in the para were merged together and upgraded with change of nomenclature of Computer Operator (BS-12) in the year 2010 to cater the parity in the cadre for better utilization of their services.
4. Correct that the post of Data Processing Supervisor and Computer Operator were merged in the notification dated 29.07.2016 (Annexure-A).
5. Correct to the extent that after merger the post of Computer Operator have been upgraded to BPS-16 on 29.07.2016. The nature of job of Assistant and Computer Assistant was not the same.
6. Incorrect. The appellant has already included in the Joint Seniority List from 01.07.2022 and will be promoted to the post of Tehsildar BS-16. It is important to mention that no objection with respect to seniority list was made.
7. Incorrect: As per Notification dated 01.07.2022, they will be placed in seniority list at proper place.
8. Incorrect. They will be promoted to the post of Tehsildar as per their seniority in light of Notification dated 01.07.2022 (Annexure-B).
9. Correct to the extent that the appellant has approached the Peshawar High Court Peshawar in Writ Petition No. 3087-P of 2019. However, the order of the Peshawar High Court has already been implemented.
10. Incorrect. Order of Peshawar High Court has been implemented and seniority list will also be issued in due course of time.
11. Incorrect. The appellant has submitted a simple application which was filed by the Competent Authority.
12. The COC of the appellant was dismissed by the Peshawar High Court on 08.12.2022 (Annexure-C).
13. Correct to the extent that the appellant has filed appeal before the Khyber Pakhtunkhwa Service Tribunal.

GROUNDS.

- A. The appellant is treated as per law/rules.
- B. No discrimination has been done with the Appellant.
- C. Incorrect. As mentioned in Para-A of the grounds.
- D. Incorrect. No discrimination has been done with the appellant.
- E. As in "C" above.
- F. Incorrect. He will be placed at proper place in the joint seniority list as and when issued.
- G. Incorrect. As per Para-F above.
- H. Incorrect. The appellant have been treated in accordance with law and no violation of Article 4, 25 and 27 of the constitution of Islamic Republic of Pakistan is committed.
- I. Incorrect. As mentioned in Para-A of the grounds.
- J. Incorrect. As mentioned in Para-A of the grounds.
- K. Incorrect. The appellant will be adjusted in the joint seniority list as per law/rules.
- L. The respondents will also submit additional grounds at the time of arguments.

Keeping in view the above, Service Appeal of the appellant having no legal grounds may graciously be dismissed with costs.


Senior Member
Respondent No. 22/2/2023


Secretary Board of Revenue
Respondent No. 2

(CC) SP1

~~VX~~
Annex B

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(21)
[Signature]



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar, the 29-07-2016

NOTIFICATION

NO/KG/ED/SO(FR)/7-3/2015-16. The Competent Authority has been pleased to upgrade and re-designate all the existing posts of Computer Operator and Data Processing Supervisors Computer Operator (BPS-16) in all the Departments / Offices of the Government of Khyber Pakhtunkhwa with immediate effect as per details given below:-

| S.No. | Existing Nomenclature | Present BPS | Up-graded to BPS |
|-------|----------------------------|-------------|------------------|
| 1 | Computer Operator | 12 | 16 |
| 2 | Data Processing Supervisor | 14 | 16 |

- i) The pay of the existing incumbents of the posts shall be fixed in higher pay scales at a stage next above the pay in the lower pay scale.
- ii) All the concerned Departments will amend their respective service rules to the same effect in the prescribed manner.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Encl. No. & Date even.

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


1. PS to Additional Chief Secretary, FATA.
2. All Administrative Secretaries Government of Khyber Pakhtunkhwa.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. Secretary to Government, Khyber Pakhtunkhwa, Peshawar.
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. Registrar, Peshawar High Court, Peshawar.
10. All Deputy Commissioners, Political Agents, District Sessions/Judges/Executive District Officers in Khyber Pakhtunkhwa.
11. Chairman, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
12. Registrar, Service Tribunal Khyber Pakhtunkhwa.
13. All the Autonomous and Semi Autonomous Bodies in Khyber Pakhtunkhwa.
14. Secretary to Govt of Punjab, Sindh and Balochistan, Finance Deptt. Lahore, Karachi and Quetta.
15. The District Commissioners of Azad Jammu, Kohat, Rawal, Abbottabad, Swat and D.I. Khan.
16. The Senior Unit Audit Officer Peshawar, Swabi, Dera Ismail Khan, Mardan, Mansehra and Dir Lower.
17. The Treasury Officer, Peshawar.
18. All District/Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
19. PS to Minister for Finance, Khyber Pakhtunkhwa.
20. PSO to Chief Secretary, Khyber Pakhtunkhwa.
21. Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
22. PS to Finance Secretary.
23. PAS to All Additional Secretaries/ Deputy Secretaries in Finance Department.
24. All Section Officers/Budget Officers in Finance Department.
25. Director PMU/All Budget Officer Finance Department to take effect in the budget books.
26. Syed Hashim Shah, President of Information Technology Staff Association (ITSA), Chief Secretariat, Khyber Pakhtunkhwa.

M. J. Iqbal
[Signature]

JAVED IQBAL Gul Bala
Daudzai Law Chambers
Advocate High Court Peshawar
Mob: 045-9405601
SECTION OFFICER (FR)

JAVED IQBAL GULBELA
Advocate
Supreme Court of Pakistan
(ASC # 5317)

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| | | |
|---|---|-------------|
|  | GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT. | |
| 091-9213989 | Peshawar Dated the <u>01/07/2022</u> | 091-9214208 |

NOTIFICATION:


No. Estt:II/WP/3087-P/19/Azhar Iqbal Mughal/ 18628-35 Consequent upon the acceptance of Review Petition in connection with the order of the Peshawar High Court Peshawar issued on 16.03.2022 in Writ Petition No. 3087-P/2019 titled Azhar Iqbal Mughal and Usman Akhtar, Computer Assistants Versus Government of Khyber Pakhtunkhwa and others, the Competent Authority is pleased to adjust names of the petitioners (Thirteen 13 in numbers) in the joint seniority list of Assistants and Senior Scale Stenographers offices of the Commissioners and Deputy Commissioners at Provincial level with immediate effect.


**With the approval of
Competent Authority**

No. & Date Even.

Copy forwarded to the:-

1. Commissioners of the respective Division.
2. Deputy Commissioners of the respective Districts.
3. PS to Senior Member Board of Revenue.
4. PS to Member-III Board of Revenue.
5. PS to Secretary-I Board of Revenue.
6. Officials concerned.
7. Office order file.


(NOOR KHAN)
Assistant Secretary (Estt)
Board of Revenue

Accepted


PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

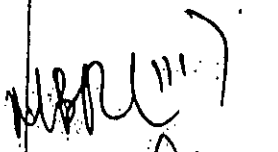
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| Date of order. | Order or other proceedings with the order of the Judge |
|----------------|--|
| 08.12.2022 | <p><u>COC No.474-P of 2022 in W.P.No.3087-P of 2019.</u></p> <p>Present: Mr.Javed Iqbal Gulbela, advocate for the petitioners.</p> <p>Mr.Asad Jan Durrani, AAG alongwith Mr.Sadullah Khan, Assistant Secretary on behalf of the respondent.</p> <p><u>LAL JAN KHATTAK, J.:-</u> As the order of this court dated 16.03.2022 has been complied with by the respondent by issuing the desired Notification dated 01.07.2022, whereby names of the petitioners in the joint seniority list of <u>Assistants and Senior Scale Stenographers working in the offices of the Commissioners and Deputy Commissioners at provincial level</u> have been included, therefore, this petition has achieved its goal and is dismissed as such. However, if the petitioners are still aggrieved, they can approach the proper forum for the redressal of their grievance, if so advised.</p> |

JUDGE 

JUDGE 


19/12

Sadq.Shah, CS-(DB) (Hon'ble Mr. Justice Lal Jan Khattak & Hon'ble Mr. Justice Shakeel Ahmed)

AS (ESTH.)



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19/12/2022

S-S

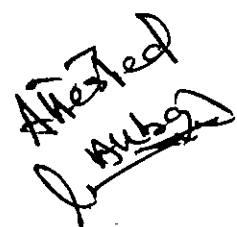


MRSR-10

19/12

20/12

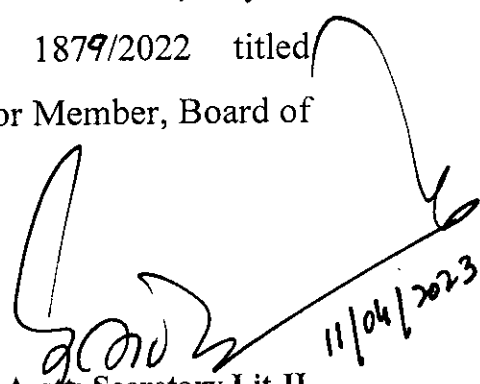
20/12/22

Attested


**GOVERNMENT OF KHYBER PAKHTUNKHWA
REVENUE AND ESTATE DEPARTMENT**

AUTHORITY LETTER

Mr. Imran Akbar, Assistant Litigation-II (BS-16) Board of Revenue, is hereby authorized to attend and submit comments in Service Tribunal, Khyber Pakhtunkhwa Peshawar, in Service Appeal No. 1879/2022 titled Muhammad Arif (Computer Assistant) & others Versus Senior Member, Board of Revenue on behalf of this department.


11/04/2023
Asst. Secretary Lit-II
Board of Revenue
Khyber Pakhtunkhwa