

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, AT CAMP COURT, SWAT**

Service Appeal No. 1865/2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5654

Date: 29/5/2023

**Mr. Mujarrab Khan s/o Alkamat Khan Resident of KuzaHurja, Chakersar,
District Shangla presently Saidu Sharif, Swat**

.....Appellant

Versus

- 1. Government of Khyber Pakhtunkhwa through chief Secretary Khyber
Pakhtunkhwa & Others.**

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Superintendent

Directorate of Prosecution, Peshawar
Khyber Pakhtunkhwa

8/6/2023

Swat

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 1865/ 2022.

Mr. **Mujarrab Khan** s/o Alkamat Khan Resident of Kuza Hujra, Chakesar, District Shangla presently Saidu Sharif, Swat.

.....APPELLANT

VERSUS

1. **Government of Khyber Pakhtunkhwa**, through Chief Secretary Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Home & Tribal Affairs Department at Civil Secretariat Peshawar.
3. The Secretary to the Government of Khyber Pakhtunkhwa Establishment Department at Civil Secretariat Peshawar.
4. The Secretary Law Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
5. The Secretary Finance Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
6. The Director General Prosecution, Directorate of Prosecution Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa Peshawar.

..... RESPONDENTS

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1, 2 & 6.

Respectfully Sheweth :- The respondents submit as under:

PRELIMINARY OBJECTIONS:

1. The Appellant has already retired from Government service and hence cannot invoke the jurisdiction of this Honorable Tribunal.
2. That at the time of his retirement, 04 of posts of Regional Director Prosecution BPS-20 were lying vacant while the Appellant was at serial No.06 of the Seniority list, hence not entitled for Promotion.
3. That the instant Service Appeal is not maintainable in the eyes of law.
4. That the Appellant has got no Cause of Action.
5. That the Appellant has concealed material facts from this Honourable Tribunal hence incompetent.
6. That the Appellant is estopped by his own conduct to bring the present Appeal before this Honourable Tribunal.
7. That the Appeal is barred by law of limitation.

RESPECTFULLY SHEWETH.

PARAWISE REPLY:-

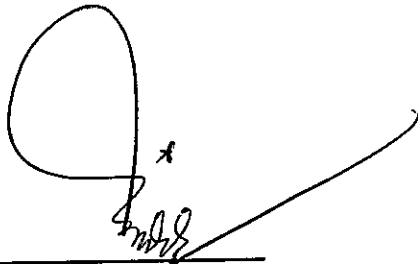
1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Correct to the extent that the Appellant was serving as District Public Prosecutor Swat, however at attaining the age of superannuation, the Appellant retired from Government service on 02.03.2020. Rest of the Para is incorrect and misleading which needs clarification. In fact, at the time of retirement of the Appellant, 04 posts of Regional Director Prosecution, BPS-20, were lying vacant while the Appellant was at serial No.06 of the Seniority list (as is evident from the Seniority List attached by the Appellant with his Service Appeal). At the time of his retirement, 05 officers were senior to him therefore he could not be recommended for Promotion. The Promotion is always dealt with in accordance with the seniority list and no one can be promoted out of turn by superseding senior Officers on the Seniority list.
5. Incorrect. The Directorate of Prosecution has never received any application from the Appellant regarding his promotion hence question of rejection of his application does not arise.
6. Pertains to record.
7. Pertains to record.
8. Pertains to record. However, the Appellant being a retired Civil servant cannot invoke the jurisdiction of this Honorable Tribunal.

GROUNDS:

- i. Incorrect hence denied.
 - ii. Incorrect hence denied.
 - iii. Incorrect hence denied. The Grounds of the Impugned order/ notification are correct valid cogent and legal. Moreover, the same was issued by the competent Authority after due process, on merits.
 - iv. Incorrect hence denied. As replied vide Para 04 of the Para-wise Reply.
 - v. Incorrect hence denied. As replied vide 03 above.
 - vi. That the respondents also seek permission of this Honourable tribunal to raise further points at the time of arguments.
-
09. Incorrect, as already replied that this court has got no jurisdiction to entertain the appeal in hand.

PRAYER:

In the light of above factual and legal aspects, the instant Service Appeal, being devoid of any legal substance, may kindly be dismissed with Costs, please.



The Director General Prosecution
Government of Khyber
Pakhtunkhwa
(Respondent No.6)



The Secretary , Home & Tribal Affairs
Department, Government of Khyber
Pakhtunkhwa
(Respondent No.2)
Home Secretary,
Khyber Pakhtunkhwa



The Chief Secretary, Government of Khyber
Pakhtunkhwa
(Respondent No.1)

SOC Litigation - (I) Home

11 April, 2023

Appellant in person present. Mr. Fazal Shah Mohmand, Addl:AG alongwith Mr. Anwar Ali, Dy: Public Prosecutor and Mr Hashmat Ullah, Superintendent for the respondents present.

The appellant was Assistant Public Prosecutor and the appellate order was passed by Chief Secretary on 18.07.2022. In this case besides the Chief Secretary and Secretary Establishment and Parliamentary Affairs Department as well as Director General Prosecution, the appellant has also arrayed Secretary to the Government of Khyber Pakhtunkhwa Establishment Department, Secretary to the Government of Khyber Pakhtunkhwa Law Parliamentary Affairs and Human Rights Department and Secretary Finance Government of Khyber Pakhtunkhwa, which are neither necessary nor proper parties, therefore, request is made by the appellant to delete their names. Names of respondents No. 3 to 5 are, therefore, deleted. Office is directed to make entry in the memo and grounds of appeal as well as in the relevant register. Mr. Anwar Ali, DPP, Swat on behalf of respondents No. 1,2 and 6 is present and seeks some time to file comments/reply. Last chance is given to the respondents No. 1,2 and 6 to file reply within fifteen days at the Principal Seat Peshawar failing which their right to file reply shall be deemed to have been struck off. To come up for Arguments on 03.05.2023 before D.B at camp court Swat.

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(Kalim Arshad Khan)
Chairman
Camp Court Swat

Identified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Attended
Fazal
Supdt.

Date of Presentation
Number
Copy
Case
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11-4-23
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BEFORE THE HONORABLE SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT, SWAT

SERVICE APPEAL NO. 1865 of 2022

Mr. Mujrrab Khan S/O Alkamut khan r/o Kuza Hujra, Chakesar, District Shangla presently Saidu Sharif, Swat.

Appellant.....

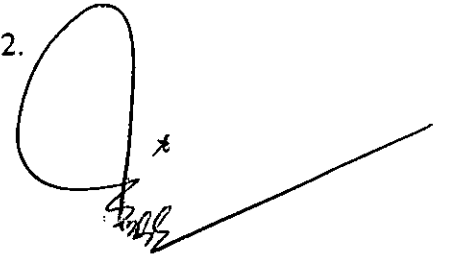
VERSUS

- 1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat Peshawar.**
- 2. Secretary to Govt. of Khyber Pakhtunkhwa, Home and Tribal Affairs Department Civil Secretariat Peshawar.**
- 3. The Secretary to the Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat Peshawar.**
- 4. The Secretary to the Government of Khyber Pakhtunkhwa, Law Parliamentary Affairs & Home Rights Department**
- 5. The Secretary to the Government of Khyber Pakhtunkhwa, Finance.**
- 6. The Director General (Prosecution) Khyber Pakhtunkhwa, Peshawar.**

Respondents.....

AUTHORITY LETTER

Mr. Muhammad Gulzar Ali, Superintendent, is hereby nominated to submit Parawise comments before the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar, on behalf of Directorate of Prosecution, in Service Appeal No. 1865/2022.



Director General Prosecution
Directorate of Prosecution
Home & Tribal Affairs Department
Khyber Pakhtunkhwa
Peshawar

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AT CAMP COURT, SWAT

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APPELLANT.....

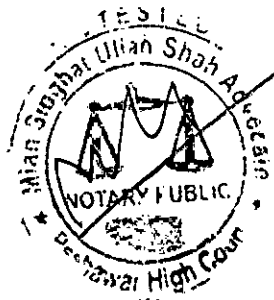
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3. The Secretary to the Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat Peshawar.
4. The Secretary to the Government of Khyber Pakhtunkhwa, Law Parliamentary Affairs & Home Rights Department
5. The Secretary to the Government of Khyber Pakhtunkhwa, Finance.
6. The Director General (Prosecution) Khyber Pakhtunkhwa, Peshawar.

Respondents.....

AFFIDAVIT

I, Muhammad Gulzar Ali, Superintendent, Directorate of Prosecution, Khyber Pakhtunkhwa do hereby solemnly affirm and declare on oath that the contents of the application in the Service Appeal No. 1865/2022, are true and correct to the extent of office record and nothing has been concealed from this Service Tribunal Kp, Peshawar.



[Signature]
Deponent

CNIC No: 17301-1440140-1

Cell No: 0332-9279260