


21.03.2023

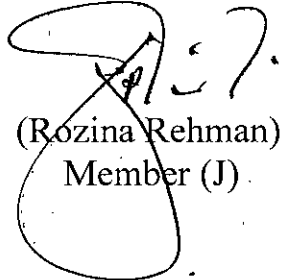
Nemo for the appellant.

Asif Masood Ali Shah, Deputy District Attorney for official respondents present. Private respondents No. 7, 8 & 9 present in person. Private respondent No. 7 filed comments which are placed on file.

Notice be issued to the appellant and his counsel for 05.06.2023 for arguments before D.B.

As per record ex-parte proceedings were initiated against respondent No. 7 vide order sheet dated 29.03.2022. However, he had submitted an application for setting aside ex-parte proceedings on 11.04.2022 which is allowed and ex-parte proceedings initiated against respondent No. 7 stands set aside. To come up for further proceedings on the date fixed. Parcha Peshi given to the parties.

  
(Muhammad Akbar Khan)  
Member (E)

  
(Rozina Rehman)  
Member (J)

On 23/06/2023  
Appellant was  
informed telephonically  
for the date fixed  
(05/06/23)


SCANNED  
KPST  
Peshawar


14.02.2023

Appellant in person present. Mr. Naseer-ud-Din Shah,  
Assistant Advocate General for official respondents present. Private  
respondents No. 8 & 9 in person also present.

Private respondent No. 8 requested for adjournment on the  
ground that his counsel is busy in the august Islamabad High Court.  
Adjourned. To come up for arguments on 21.03.2023 before the D.B.

SCANNED  
BY PST  
Peshawar

  
(Fareeha Paul)  
Member (E)


  
(Salah-ud-Din)  
Member (J)


28.09.2022

Appellant present in person.

Nascer Ud Din Shah, learned Assistant Advocate General alongwith Hamid Saleem and Naeed Wali, Assistant Law Officer for respondents present.

Both parties requested for adjournment. Adjourned.  
To come up for arguments on 25.11.2022 before D.B.

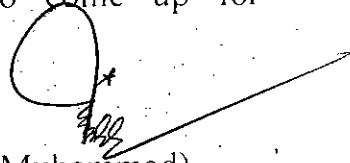
  
(Farceha Paul)  
Member (E)

  
(Rozina Rehman)  
Member (J)

25.11.2022

Learned counsel for the appellant present: Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents present.  
Private respondent No. 8 in person present.

Learned Member Judicial Mr. Salah-ud-Din is on leave, therefore, bench is incomplete. Adjourned. To come up for arguments on 14.02.2023 before the D.B.


  
(Mian Muhammad)  
Member (E)

SCANNED  
KPCT  
Peshawar

25<sup>th</sup> May, 2022

Learned counsel for the appellant present. Mr. Muhammad Rashid, Deputy District Attorney alongwith Naid Wali, Assistant Law Officer and Hamid Saleem, Law Officer for official respondents present.

Private respondent No. 8 & 9 submitted written reply/comments, which is placed on filed. A copy of the same is handed over to the learned counsel for the appellant. To come up for arguments on 21.07.2022 before D.B.

  
(Fareeha Paul)  
Member(E)


  
(Kalim Arshad Khan)  
Chairman

21.07.2022

Appellant in person present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Former made a request for adjournment as his counsel is not available today. Adjourned. To come up for arguments on 28.09.2022 before D.B.

  
(Fareeha Paul)  
Member(E)

  
(Rozina Rehman)  
Member (J)

11.01.2022

Appellant in person present. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Naheed Gul Assistant and Hamid Saleem Law Officer on behalf of official respondents present. Private respondents No. 7 to 9 in person present. None present on behalf of private respondent No. 10, hence proceeded ex-parte.


Reply/comments on behalf of official respondents as well as private respondent No. 7 to 9 are still awaited. Representative of official respondents as well as private respondents sought time for submission of reply/comments. Last opportunity is granted to respondents to furnish reply/comments on or before next date, failing which their right to submit reply/comments shall be deemed as struck off by virtue of this order. To come up for arguments before the D.B on 29.03.2022.



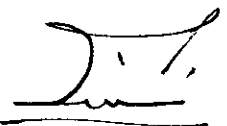
(Atiq-Ur-Rehman Wazir)  
Member (E)

29.03.2022

Appellant in person present. Mr. Naid Wali, Assistant Law Officer, Mehtab Gul, Law Officer and Hamid Saleem, Law Officer alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General on behalf of official respondents No. 1 to 6 present and submitted joint para-wise comments on behalf of the said respondents, which are placed on file. Private respondents No. 8 & 9 in person present and sought further time for submission of written reply/comments. Last opportunity given. None present on behalf of private respondent No. 7, therefore, he is placed ex-parte. Adjourned. To come up for submission of written reply/comments on behalf of private respondents No. 8 & 9 on 25.05.2022.



(Rozina Rehman)  
Member (J)



(Salah-ud-Din)  
Member (J)

28.10.2021

Appellant in person present. Preliminary arguments have been heard. Memorandum of appeal and the copies of record annexed there with have been perused.

He has involved the jurisdiction of this Tribunal to impugned the seniority list whereby he has been placed on wrong place in disregard to his due number of his seniority. Let the respondents be heard. This appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 11.01.2022 before the D.B.

15/10/21  
Appellant Deposited  
Security & Process Fee

28/10/21




  
Chairman

Form- A

FORM OF ORDER SHEET

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

Case No.- 7272 /2021

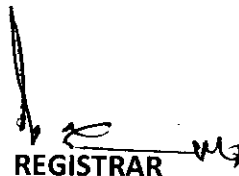
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/08/2021	<p>The appeal of Mr. Muhammad Tariq Khan Tareen resubmitted today personally may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar. Notice be issued to appellant/counsel for preliminary hearing to be put up there on <u>01/10/21</u>.</p> <p> CHAIRMAN</p>
	01.10.2021	<p>Appellant in person present.</p> <p>Appellant requested for adjournment to further prepare the brief. Adjourned. To come up for preliminary hearing before the S.B on <u>28.10.2021</u>.</p> <p> (MIAN MUHAMMAD) MEMBER (E)</p>

The appeal of Mr. Muhammad Tariq Khan Tareen Deputy District Attorney Haripur received today i.e. on 09.08.2021 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of impugned seniority list and departmental appeal against it are not attached with the appeal which may be placed on it.
- 2- Certificate be given to the effect that appellatant has not been filed any service appeal earlier on the subject matter before this Tribunal.
- 3- Check List is not attached with the appeal.
- 4- Address of respondent no. 10 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.

No. 1607 /S.T,

Dt. 11/08 /2021

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Muhammad Tariq Khan Tareen appellatant.



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

7272/23

Muhammad Tariq Khan

Vs

Province of Khyber Pakhtunkhwa etc

**Service Appeal**

**INDEX**

<b>S.No</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Page No</b>
1.	Memo of Service Appeal		1-6
2.	copy of the recommendations of KPK public service commission	A	7
3.	Copy of Promotion Order of Respondent # 7,8 & 10. Notification number SO(G)LD/15-14/2015-vol-1/ dated 14-10-2019 is annexed	B	8
4.	Copy of the departmental appeal and intimation by respondent no. 6.	C & D	10-15
5.	copy of the seniority list,	E	16-20
6.	Certified copy of the judgments of Supreme Court, (civil Appeal # 87 to 92-P of 2011 & C.Ps No.313 & 314-P/2011 reported as 2013 SCMR 890 & Civil Petition # 636 of 2014	F&G	21-34
7.	Copy of the letter issued by the office of worthy Advocate General Khyber Pakhtunkhwa to the Respondent # 3 for taking corrective measures.	H	35-36

Dated: \_\_\_\_\_

Appellant

(In Person)

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

①

1. Muhammad Tariq Khan Tareen S/O Sakhi Sultan Khan R/O Village Dingi Tehsil & District Haripur Presently Working as Deputy District Attorney (OPS), Office of District Attorney Swabi. Cell No. 03335080545.

(Appellant)

VERSUS

1. Province of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Establishment, Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
3. Secretary Law, Parliamentary Affairs & Human Rights Department Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. Secretary Finance, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
5. Khyber Pakhtunkhwa Public Service Commission Through its Secretary, Peshawar.
6. Director General, Directorate General of Law & Human Rights, Peshawar. Plot No. 21, Sector B-2, Phase-v, Hayatabad Peshawar, Contact No. 091-9217204.
7. Mr. Amjid Khan S/O Yaqoob Khan R/O Jadid Abadi No. 2, Jamia Road, House No. 3 Bannu City, Presently working as Deputy District Attorney, Mansehra. Contact No. 0334-1910676.
8. Sajid Wali Khan S/O Naik Wali Khan R/o Mula Khel, P/o Sikandar Khel Bala Tehsil & District Bannu, Presently working as Deputy District Attorney Bannu, Contact No. 0333-9730865.
9. Noor Elahi Khan, presently working as District Attorney at the office of District Attorney, Peshawar. Tasneem Plaza floor #02, near Jones Bakery, Peshawar. Contact No. 0333-9168593.
10. Abdul Waheed S/O Haider Zaman R/o House No. 1494 Sector No. 4 Khalabat Township, Haripur, contact No. 0333-5095666. *Deputy District Attorney Haripur*

(Respondents)

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**Service Appeal under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974 & the Rules framed thereunder against the illegal/wrong placement in seniority list upon which the Respondent No. 01 to 05 has wrongly & illegally promoted the respondent No. 7 to 8 and as such the appellant left out from the promotion to BPS-18, which is against the law & facts, hence not tenable.**

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**PRAYER:-**

**On Acceptance of instant Service Appeal, directions may please be issued to Respondents # 1 to 4 to place the appellant at serial # 34 of the seniority list of BPS-18 of 2021 by giving ante-dated promotion from 24-05-2019 along with all back/running monetary benefits.**

Any other relief which this Hon'able Tribunal deem proper may also be given to appellant.

Respectfully Sheweth:

I have the Honour to seek for indulgence of this worthy Tribunal in the matter by preferring this Service appeal against the injustice caused by the respondents to appellant. The appellant submits as under:-

**Brief and important facts are:-**

- 1 The appellant is a civil servant and performing his duties as "Deputy District Attorney" on own pay scale (OPS) at the office of District Attorney Swabi.
- 2 That the appellant joined the Law Department as "Additional Government Pleader BPS-17" after recommended by the respondent No. 5. The respondent No. 5 assigned the merit order No. 5 to appellant and forwarded his recommendations to Respondent No. 3 for further necessary action. (Photocopy of recommendation are annexed as ANX-A).
- 3 That being the **confidential** matter the said placement of "**merit order**" has never been communicated to appellant and upon basis of aforesaid recommendation the Respondent No. 3 completed the recruitment process where after issued time to time the seniority list of officers of BPS-17 on the basis of Serial number & not on the basis of "merit order".
- 4 That in accordance with service rules, after completion of 5 years service the Respondent No. 3 forwarded the case of promotion to Respondent No. 1, 2 and 4 (who are also the member of provincial selection board (PSB) upon the basis of wrong placement in the seniority list of BPS-17. the Respondent No. 1 to 4 illegally promoted the Respondents No.7 & 8 by ignoring the appellant. (copy of the notification number SO(G)LD/15-14/2015-vol-1/ dated 14-10-2019 is annexed as Annexure ANX-B)

3

- 5 That the appellant managed to obtain the copy of recommendations of Respondent No. 5 and filed the departmental appeal to respondent No.1 through proper channel on 26-04-2021 but except the respondent No.6, no one turned around within the statutory period which has been elapsed. (Copy of the departmental appeal and intimation by respondent no. 6 are annexed as annexure ANX- C & D respectively).
- 6 That the Hon'able Supreme Court vide its Judgments in 2013 SCMR 890 and C.P No. 636 of 2014 declared the appointment of Respondent No. 7 as **"without lawful authority"** and further the Provincial Government of Khyber Pakhtunkhwa undertakes before the worthy Supreme Court of Pakistan to initiate proceedings not only against the Respondent No. 7 but also against those who had appointed the Respondent No. 7. This Hon'able Tribunal will astonish that the name of Respondent No. 7 is still on the seniority list and holding the position of serial No. 29. (copy of the seniority list of BPS-18 of 2021, Certified copy of the judgments of Supreme Court, (civil Appeal # 87 to 92-P of 2011 & C.Ps No.313 & 314-P/2011 reported as 2013 SCMR 890 & Civil Petition # 636 of 2014, are annexed as ANX-E, F&G respectively).
- 7 That vide office letter Number 19333-34/AG dated 15-11-2014 addressed to Respondent # 3 the office of Advocate General Khyber Pakhtunkhwa ask for the "corrective measures" in accordance with the undertaking before the worthy Supreme Court of Pakistan. (copy of the said letter is Annexed as ANX-H)
- 8 That the seniority list of BPS-18 of 2021 has not been communicated to appellant.
- 9 That the instant service appeal is well in time and this Hon'able Tribunal

(4)

10 That the others fellow (AGPs) has not been impleaded in the instant service appeal as they have joined the judiciary and they are not in service.

11 The appellant based the instant service appeal on the following grounds inter alia besides the grounds already taken in department appeal which may be read as part and parcel of this service appeal.

**Grounds:-**

- a) That the seniority of a civil servant should be made in accordance of "merit order" as per Section 8 (3) of civil Servant Act 1973 read with Section 17 of Khyber Pakhtunkhwa civil servant (APT Rules) 1989. and section 2 (2) of Civil Servant (Seniority) rules 1993.
- b) That the respondent No. 3 on the basis of misconception and misinterpretation arranged the illegal and wrong seniority list of BPS-17 & forwarded the case to PSB whereby the Respondent No. 7 & 8 were promoted wrongly along with Respondent No. 10. The appellant has not been considered by the PSB as the Respondent No. 3 has not forwarded the case of appellant to PSB. So the appellant deserve the due course of law and should be given his due rights (i-e) ante dated promotion since 24-05-2019 along with the just placement in seniority list / order as prayed for.
- c) That the respondent No, 1 to 4 have not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article 4 of Islamic Republic of Pakistan 1973 and initially issued the wrong seniority list and later on promoted the Respondent No. 7 & 8 vide notification already annexed as ANX-B. Which is against the facts and law, hence not tenable.

5

- d) That the inaction / non-action and malfunctioning of the authority cannot sabotage the due right of promotion and the appellant is discriminated and illegally treated for no fault. The Respondents # 1 to 04 are legally bound to follow the law & rules in its letter & spirit.
- e) That the appellant has been subjected to injustice and the case of appellant has not been dealt with under the principle of fair play.
- f) That it deserve due merit that the appointment of Respondent No. 9 has been declared **"without lawful authority"** (copy of the judgments is already annexed as ANX-F&G) but his name is illegally reflected at Serial No. 29 on the seniority list issued by the respondent No. 3 which not only amounts to lower the authority & integrity of Hon'able Supreme Court of Pakistan but also amounts to contempt of court. Such malpractice is certainly not warranted in the eye of law and should be treated with iron hands.
- g) That due to facts narrated in para No. (e) The Respondent No. 9 is still holding the charge of sanctioned post of Deputy District Attorney and for the reason thereof the name of appellant has not been forwarded to PSB. Legally the respondent No. 9 have no rights to retain the post of Deputy District Attorney, since the announcement of judgment, and the post of Deputy District Attorney is considered to be vacant since its declaration by the worthy Supreme Court.
- h) That the grounds taken in the departmental appeal may be treated as the part and parcel of instant service appeal.
- i) That any other ground and case will presented at the time of humble submission at the Bar.

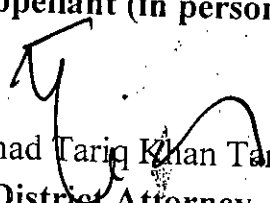
⑥

*It is, therefore, most humbly prayed that the instant service appeal may graciously be accepted and directions may please be issued to the Respondent No. 1 to 4 to place the name of appellant at serial No. 34 of the seniority list of officers of BPS-18 by giving ante-dated promotion from 24-05-2019 along with all back/running monetary benefits.*

*Any other relief which this Hon'able Tribunal deem proper may also be granted.*

I will be highly obliged for this act of kindness.

**Appellant (in person)**

  
Muhammad Tariq Khan Tareen  
Deputy District Attorney, (OPS)  
Swabi

**Affidavit:**

It is verified on oath that the contents of instant service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or exaggerated from this Hon'able Tribunal.

**Deponent**

  
Muhammad Tariq Khan Tareen

I am directed to refer to your letter No. F&A/13/17-17/130/11/11 dated 05.12.2013 on the subject noted above and to state that the Commission is not for appointment to the Govt. for the subject cited post

(1/2)  
(B)  
11/11/11

4<sup>th</sup> Block

Vacancy Rotation	Allocation	Merit Order	Name with Father's Name	Dist
5 <sup>th</sup>	Zone-4	8	Ajmal Khan S/O Yaqoob Khan	Ba
7 <sup>th</sup>	Zone-5	2	Syed Adnan Shah S/O Mian Amir Shah	M
8 <sup>th</sup>	Zone-1	6	Sheh Hassan Khan S/O Gul Hassan Khan	S
9 <sup>th</sup>	Merit	1	Abdul Qayum Khan S/O Abdul Ahad	I
10 <sup>th</sup>	Zone-2	3	Muhammad Tariq Khan S/O Muhammad Miskeen	
11 <sup>th</sup>	Zone-3	12	Hina Ghafoor D/O Fazli Ghafoor	
12 <sup>th</sup>	Zone-4	10	Sajid Wali Khan S/O Nek Wali Khan	
13 <sup>th</sup>	Merit	4	Abdul Wahed S/O Haider Zaman	
14 <sup>th</sup>	Zone-5	5	Muhammad Tariq Khan S/O S/O Sakhi Sultan	arec
15 <sup>th</sup>	Zone-1	11	Inam Ullah S/O Sadeq Khan	
16 <sup>th</sup>	Zone-2	7	Muhammad Nisat Muhammad Nisat	S
17 <sup>th</sup>	Merit	9	Muhammad Nisat Abdullah Shah	S





GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS  
& HUMAN RIGHTS DEPARTMENT

(8)  
( ' ANX-B ' )

Dated Peshawar the 14.10.2019

**NOTIFICATION:**

SO(G)LD/15-14/2015-Vol-I/

The Competent Authority, on the recommendations of the Provincial Selection Board, in its meeting held on 23-09-2019, is pleased to promote the following Assistant District Attorneys (BS-17), to the post of Deputy District Attorney (BS-18), on regular basis with immediate effect:-

S. #	Name of Officers	Present Posting
1.	Mst. Zara Tajwar	Assistant District Attorney, Peshawar
2.	Mr. Amjad Khan	Deputy District Attorney Bannu (O.P.S)
3.	Mr. Sajjid Wali Khan	Deputy District Attorney, Lakki Marwat (O.P.S)
4.	Mr. Abdul Waheed	Assistant District Attorney, Kohistan

02. The Officers on promotion shall remain on probation for a period of one year extendable for another year, in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

03. Posting/ Transfer notification of the officers will be issued later on.

Sd/-  
SECRETARY LAW  
KHYBER PAKHTUNKHWA

**Endat: No. & Date Even:**

**Copy forwarded to the:-**

1. Director General Law and Human Rights.
2. District Attorney Peshawar, Bannu, Lakki Marwat and Kohistan.
3. Section Officer (PSB), Establishment Department Khyber Pakhtunkhwa.
4. District Accounts Officers Peshawar, Bannu, Lakki Marwat and Kohistan.
5. Officers concerned.
6. PS to Minister Law, Parliamentary Affairs and Human Rights Khyber Pakhtunkhwa.
7. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
8. Master file.

*Shamshad*  
Section Officer (General)



Office of the District Attorney, Swabi.

No 1158-63 /DA

Dated Swabi the: 28/4 /2021

9

To

The Director General,  
Directorate General of Law & Human Rights,  
Government of Khyber Pakhtunkhwa,  
Hayatabad, Peshawar.

Subject:

DEPARTMENTAL APPEAL.

Dear Sir,

Please find enclosed herewith a departmental appeal of Mr. Muhammad Tariq Khan Tareen Deputy District Attorney, Swabi (OPS) for further necessary action at your end please.

Mohammad Kamran Qureshi  
District Attorney  
Swabi

Copy to:

1. P.S to Secretary Law, Parliamentary Affairs & Human Rights Department Khyber Pakhtunkhwa Peshawar.
2. Office Record.

Mohammad Kamran Qureshi  
District Attorney  
Swabi

(10)

**BEFORE THE WORTHY CHIEF SECRETARY, KHYBER PAKHTUNKHWA,**  
**PESHAWAR.**

("ANNEX-C")

Muhammad Tariq Khan Tareen , Deputy District Attorney (OPS), Swabi.

**Departmental Appeal**

*(Through Proper Channel)*

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2.	copy of the recommendation	A	5
3.	Copy of Promotion Order	B	6
4.	Copy of the final seniority list	C	7-10
5.	Copies of judgements of Supreme Court of Pakistan alongwith reported Judgment cited as 2013 SCMR 890	D	11-18
6.	Copy of the letter by the Advocate General Khyber Pakhtunkhwa to Worthy Secretary Law, Parliamentary Affairs & Human Rights Department Khyber Pakhtunkhwa.	E	19-20

Dated: 26.4.2021

  
Petitioners

(In Person)

(11)

**BEFORE THE WORTHY CHIEF SECRETARY KHYBER PAKHTUNKHWA,**  
**PESHAWAR.**

**Muhammad Tariq Khan Tareen, Deputy District Attorney (OPS), Swabi.**

**Departmental Appeal**

*(Through Proper Channel)*

**Respectfully Sheweth:**

- 1 That the petitioner joined this Department as "Additional Government Pleader" (BPS-17) after recommendations by the Khyber Pakhtunkhwa Public Service Commission (herein after called "the commission") on 26-05-2014. (copy of the recommendation letter is annexed as "ANX-A").
- 2 That the commission has referred the aforesaid recommendations to the Law Department by mentioning therein the "Merit Order" at column No. 03 wherein the petitioner managed to obtain the merit order No. 5 but his name was placed at Serial No. 09.
- 3 That the Law Department arranged the seniority lists on the basis of the above said misconception and mis-interpretation of the law, the petitioner was placed in the annual seniority list much below from his due placement, which ought to have been at serial No. 05. The Serial Nos. Should be adjusted in accordance with the merit order of the commission and should not be in accordance with the existed serial numbers.
- 4 That the above said recommendations of the Commission which reflect the merit order has not ever been communicated to the petitioner but any how

(12)  
(12)

the petitioner has managed to get this document few days ago and was astonished to see that his merit order is 05 instead of 09.

- 5 That some of AGPs left this cadre and joined the judiciary as Judicial Officers and their lien has been expired, hence their name are not reflecting in the seniority list, and after their relieving Mr. Amjid Khan S/o Yaqoob Khan holds serial # 01 (whereas on the merit order he is at **merit order #07** ). And Mr. Sajid Wali Khan S/o Nek Wali Khan holds serial # 07 (whereas on the **merit order he is at # 10**).
- 6 In result of para No. 05 Mr. Abdul Waheed S/o Haider Zaman was placed at serial #08 (original merit order # 04) and the petitioner placed at serial # 09 (original merit order # 05).
- 7 That Mr. Amjid, and Mr. Sajid Wali were promoted to BPS-18 on the basis of illegal and wrong seniority list and the name of petitioner was not forwarded for consideration of promotion to PSB, hence he was left out from the benefit of promotion due to departmental irregularities. (copy of said promotion order is annexed as "ANX-B").
- 8 That the seniority of the petitioner should be adjusted in accordance with law (Section 8 (3) of Civil Servant Act 1973 readwith Section 17 of KPK Civil Servant (Appointment, Promotion and Transfer) Rules 1989 and Section 2 (2) of Civil Servants (Seniority) Rules, 1993.
- 9 The name of the petitioner is further to be adjusted one step upward at serial No. 34 of final seniority list of BPS-18 for the year of 2021 after awarding Ante-dated promotional right. (copy of the final seniority list is annexed as

10 That the Law Department has not given an opportunity to the petitioner to object the said seniority list.

11 The petitioner has recently learnt that the Hon'able Supreme Court judgments alongwith its reported judgment cited as 2013 SCMR 890 at paragraph number 10 declared the regularization of service of Noor Elahi khan (Deputy District Attorney) is "without law full authority". Despite the fact his name is still reflecting at serial # 29 on the Seniority List issued by the Law Department on 05-04-2021. The aforesaid judgment attains the status of finality and as such he is legally in no more service, hence his name from the seniority list may be deleted and after deletion the petitioner may be placed by giving one step excel at serial No. 34 with ante-dated back benefits. (copy of the aforementioned judgements are annexed as ANX-D).

12 That the office of Advocate General vide letter No. 19333-34/AG dated 15-11-2014 addressed to Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs & Human Rights, Peshawar had brought the matter mentioned in para No. 11 of the instant Departmental Appeal for taking corrective measures. (copy of the said letter is annexed as ANX-E).

13 That the seniority list of BPS-18 should be readjusted after considering the above said observations.

14 That the Law Department has issued the final seniority list of BPS-18 on 05-04-2021 which has not even been communicated to the petitioner.

15 That any other grounds and case will be presented at the time of humble submissions.

(14)

*Keeping in view the above said facts and circumstances the seniority of the petitioner may be readjusted as requested and the petitioner may please be granted ante-dated promotion to BPS-18 alongwith all back benefits from the date when the other batch mates were wrongly promoted. Any other relief which your honour deem proper may also be granted.*

I will be highly obliged for this act of kindness.

Your's Sincerely

Muhammad Tariq Khan Tareen  
Deputy District Attorney, (OPS)

Endst. No. 1158-63

Dated 28-4-2021 Swabi

Copy to:

1. Worthy Registrar, Supreme Court of Pakistan for information & necessary action please.
2. Auditor General of Khyber Pakhtunkhwa Peshawar with respect to Para No. 11 for necessary action, please.
3. Worthy Registrar, Service Tribunal Khyber Pakhtunkhwa, Peshawar.
4. Director General, Directorate General of Law & Human Rights Khyber Pakhtunkhwa Peshawar.
- ✓ 5. P.S to Secretary Law, Parliamentary Affairs & Human Rights Department Khyber Pakhtunkhwa.

Muhammad Tariq Khan Tareen  
Deputy District Attorney, (OPS)  
Swabi



**DIRECTORATE GENERAL OF LAW & HUMAN RIGHTS  
KHYBER PAKHTUNKHWA, PESHAWAR**

Phone: 091-9217204

Email: [dlr.kpk@gmail.com](mailto:dlr.kpk@gmail.com)

Website: [www.humanrights.kp.gov.pk](http://www.humanrights.kp.gov.pk)

Plot No. 21, Sector B-2, Phase-V, Hayatabad, Peshawar

(15)

No: DG/SLT/AD/17-3/2019/4881-82  
Dated: - 31/05/2021

To,

The Section Officer (General),  
Law Department.

("ANX-D")

Subject: DEPARTMENTAL APPEAL.

R/Sir,

I am directed to refer to the subject noted above and to forward herewith a self-explanatory letter No. 158/DA, dated 28.04.2021 (in original) in respect of Muhammad Tariq Tareen Deputy District Attorney (OPS) received from District Attorney Office Swabi for further necessary action, please.

Yours Faithfully,

ASSISTANT SOLICITOR  
(M&E)

Enclst: No. and date even.

70 ✓ Copy forwarded for information to District Attorney Swabi with reference to his letter quoted above

*[Signature]*  
ASSISTANT SOLICITOR  
(M&E)

*Scanned  
To Being  
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official  
concern*

District Attorney  
SWABI

Copy No. 479 Date 07-06-21



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS  
DEPARTMENT

No. SO(G)/LD/15-14/2020/DDA Seniority List

Dated: Peshawar the 08<sup>th</sup> April, 2021/4202-08/we

(16)

To

All District Attorney Offices  
Khyber Pakhtunkhwa.

"ANX-E"

Subject: FINAL SENIORITY LIST OF DEPUTY DISTRICT ATTORNEYS  
(BS-18) AS STOOD ON 30-03-2021

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith copies of Final Seniority List in respect of Deputy District Attorneys (BS-18) of Law, Parliamentary Affairs and Human Rights Department as stood on 30-03-2021 with the request to circulate the same amongst the concerned Deputy District Attorneys working under your control for information, please.

*Aurangzeb*

(AURANGZEB)

Section Officer (General)

Endst: No & Date Even:

Copy forwarded to:-

1. Director General, Law & Human Rights Khyber Pakhtunkhwa with the request to take similar necessary action.
2. Mr. Shakir Ullah, Deputy District Attorney/Law Officer, Advocate General office Khyber Pakhtunkhwa.
3. Mr. Zia Ullah, Deputy District Attorney, Health Department.
4. PS to Minister for Law, Parliamentary Affairs & Human Rights-Khyber Pakhtunkhwa.
5. PS to Secretary, Law, Parliamentary Affairs & Human Rights Department.
6. Assistant Director (IT), Law Department with the request to upload the final Seniority list of Deputy District Attorneys on official website of Law Department.

Section Officer (General)

Received by  
*[Signature]*  
12/04/2021



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS  
DEPARTMENT

17

Dated Peshawar, the 05/04/2021

**Notification**

**NO.SO(G)LD/15-14/2019:** In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the final seniority list of Deputy District Attorney (BPS-18) Law Department, approved by the Competent Authority (as stood on 30-03-2021) is hereby notified/circulated for general information..

**FINAL SENIORITY LIST OF DEPUTY DISTRICT ATTORNEYS (BPS-18), LAW DEPARTMENT IN KHYBER PAKHTUNKHWA AS STOOD ON 30-03-2021.**

S.#	Name of the officer	Date of birth and Domicile	Date of entry into Govt: service	Regular Appointment/ Promotion to present posts			Present Posting
				Date	BP S	Method of Recruitment	
1	2	3	4	5	6	7	8
1.	Mr. Masood U Hassan Mohmand	17-04-1972	15-10-2008	09-08-2012	18	Initial Appointment/Upgradation	District Attorney Khyber
2.	Mr. Farhaj Sikandar Yar Khan	10-11-1976 D.I Khan	02-05-2008	-do-	18	--do--	District Attorney, D.I Khan (OPS)
3.	Mr. Jamal Abdul Nasir	01-10-1975 Nowshera	03-11-2008	-do-	18	--do--	District Attorney Swat
4.	Mr. Noor Ullah	16-04-1973 Charsadda	15-10-2008	-do-	18	--do--	District Attorney Nowshera
5.	Mr. Mohammad Kamran Qureshi	23-03-1978 Swabi	15-10-2008	-do-	18	--do--	District Attorney Swabi
6.	Mr. Tahir Iqbal	03-04-1972 Karak	15-10-2008	-do-	18	--do--	Solicitor, DG Law & HR (OPS)
7.	Mr. Azmatullah Khan	18-04-1974 Bannu	03-11-2008	-do-	18	--do--	Deputy Law Officer, Law Department
8.	Mr. Abid Jamal	01-01-1977 Peshawar	03-11-2008	-do-	18	--do--	Deputy Solicitor, DG Law and HR
9.	Mr. Samad Khan	02-12-1973	15-10-2008	-do-	18	--do--	Deputy District Attorney, Nowshera



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS  
DEPARTMENT

18

S.#	Name of the officer	Date of birth and Domicile	Date of entry into Govt: service	Regular Appointment/ Promotion to present posts			Present Posting
				Date	BP S	Method of Recruitment	
1	2	3	4	5	6	7	8
10.	Mr. Muhammad Rasheed	Mohmand 03-04-1977 Peshawar	15-10-2008	-do-	18	--do--	Service Tribunal, Peshawar
11.	Mr. Amir Qadar	15-04-1971 Swat	03-11-2008	-do-	18	--do--	District Attorney, Shangla (OPS)
12.	Mr. Nazir Khan	14-02-1974 Abbottabad	30-05-2009	-do-	18	--do--	Deputy District Attorney, Abbottabad
13.	Mr. Anwar Ul Haq	29-03-1977 Swat	30-05-2009	-do-	18	--do--	Deputy District Attorney, Malakand
14.	Mr. Maqbool Ur Rehman	02-03-1978 Bannu	30-05-2008	-do-	18	--do--	District Attorney Bannu (OPS)
15.	Mr. Arshad Alam	01-03-1977 Mardan	30-05-2009	-do-	18	--do--	Deputy District Attorney, Dir (Lower)
16.	Miss. Bushara Bibi	01-10-1977 Haripur	30-05-2009	-do-	18	--do--	Deputy District Attorney, Abbottabad (on 03 years E.O.L w.e.f 27-11-2019 to 26-11-2022)
17.	Mr. Muhammad Jan	20-12-1976 Peshawar	30-05-2009	-do-	18	--do--	Section Officer (Opinion), Law Department
18.	Syeda Yusra Aman	12-03-1974 Nowshera	30-05-2009	-do-	18	--do--	Deputy District Attorney, Mardan
19.	Mr. Khursheed Ahmad	03-01-1975 Mardan	30-05-2009	-do-	18	--do--	Deputy District Attorney, Mardan
20.	Mr. Muhammad Bilal	01-05-1979 Abbottabad	30-05-2009	-do-	18	--do--	Deputy District Attorney, Haripur



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS  
DEPARTMENT

19

S.#	Name of the officer	Date of birth and Domicile	Date of entry into Govt: service	Regular Appointment/ Promotion to present posts			Present Posting
				Date	BP S	Method of Recruitment	
1	2	3	4	5	6	7	8
21.	Mr. Shakirullah	08-02-1978 Peshawar	22.06.2009	-do-	18	--do--	Law Officer, Advocate General Office.
22.	Mr. Akhtar Hayat Khan	19-07-1977 Battagram	22.06.2009	-do-	18	--do--	Deputy District Attorney, Abbottabad
23.	Mr. Zubair Muhammad	03-10-1973 South Waziristan	05-09-2009	-do-	18	--do--	Deputy District Attorney, Kohat
24.	Mr. Noor Ali Khan	09-01-1976 Mohmand	05-09-2009	-do-	18	--do--	Deputy Director (Admn), DG Law & HR.
25.	Mr. Zia Ullah	16-04-1979 Peshawar	31-05-2010	-do-	18	--do--	Health Department on Deputation basis
26.	Mr. Asif Masood Ali Shah	17-01-1973 Peshawar	01-12-2008	-do-	18	--do--	Deputy District Attorney, Service Tribunal Peshawar.
27.	Mr. Amer Mehmood	04-09-1975 Bannu	01-12-2008	-do-	18	--do--	District Attorney Karak (OPS)
28.	Mr. Hayatullah	18-09-1976 Charsadda	01-12-2008	-do-	18	--do--	Deputy District Attorney, Mardan
29.	Mr. Noor Elahi	27-04-1977 Peshawar	01-12-2008	-do-	18	--do--	Deputy District Attorney, Peshawar
30.	Miss. Shazia Mughal	01-06-1978 Abbottabad	15-07-2010	-do-	18	--do--	Deputy District Attorney, Mansehra
	Mr. Sikandar Khan	05-02-1969 Charsadda	01-12-2008	-do-	18	--do--	Deputy District Attorney, Charsadda

*[Handwritten signature]*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS  
DEPARTMENT

190

S.#	Name of the officer	Date of birth and Domicile	Date of entry into Govt: service	Regular Appointment/ Promotion to present posts			Present Posting
				Date	BP S	Method of Recruitment	
1	2	3	4	5	6	7	8
32.	Miss. Bibi Amina	02-10-1978 Malakand	07-01-2011	-do-	18	-do-	Deputy District Attorney, Swat
33.	Miss. Zara Tajwar	04-10-1980 Peshawar	01-03-2013	14-10-2019	18	By Promotion	Deputy District attorney, District Attorney office Peshawar
34.	Mr. Amjad Khan	07-08-1986 Bannu	24-05-2014	-do-	18	--do--	Deputy District Attorney, D.I Khan
35.	Mr. Sajid Wali Khan	18-04-1984 Bannu	29-05-2014	-do-	18	--do--	Deputy District Attorney, Bannu
36.	Mr. Abdul Waheed	19-03-1982 Haripur	26-05-2014	-do-	18	--do--	Deputy District Attorney, Haripur

Secretary to Govt: of Khyber Pakhtunkhwa  
Law, Parliamentary Affairs & Human  
Rights Department

Endst: No. SO(G)LD/15-14/2019/

Copy forwarded to:-

1. Director General, Law & Human Rights Khyber Pakhtunkhwa.
2. All Districts Attorneys in Khyber Pakhtunkhwa with request to circulate amongst concerned.
3. PS to Minister for Law, Parliamentary Affairs & Human Rights Khyber Pakhtunkhwa.
4. PS to Secretary, Law, Parliamentary Affairs & Human Rights Department.
5. Assistant Director (IT), Law Department is requested to upload the final Seniority list on the website of Law Department.

Section Officer (General)

21

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE TASSADUQ HUSSAIN JILLANI  
MR. JUSTICE MIAN SAQIB NISAR  
MR. JUSTICE SARMAD JALAL OSMANY

**Civil Appeals No. 87 to 92-P of 2011 &**  
**Civil Petitions No. 313 & 314-P of 2011**

Chief Secretary KPK etc

... Appellants

**VERSUS**

Bilal Ahmed Kakazai and others

... Respondents

For the Appellants:  
(in all cases)

Syed Arshad Hussain Shah, Addl.  
AG KPK

For the Respondents

Ghulam Nabi Khan, ASC (in CA 87)  
Mr. S.M. Attique Shah, ASC (in CA  
88 to 90 and 92)  
Malik Haroon Khan, ASC  
(in 89, 90, 313)  
In person in CA 314-P/11

Date of Hearing:

8.11.2012

**ORDER**

Before the break, learned Additional Advocate General, NWFP was directed to find out as to whether the appellant-Provincial Government is prepared to regularize the respondents on the completion of their five years period of experience particularly on account of the fact that one of the co-writ petitioners was granted this relief during the

*[Handwritten signature]*

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Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

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pendency of the constitutional petitions before the High Court as also the fact that about 5000 adhoc employees were regularized notwithstanding the lack of five years experience in accord with section 3 of Act XVI of 2009. He has appeared to submit that the Chief Secretary, Government of KPK is in a meeting with the Prime Minister of Pakistan and requests for a short adjournment. Adjourned to 12.11.2012.

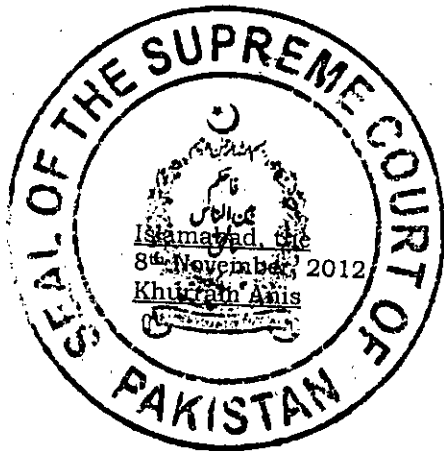
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Supreme Court of Pakistan  
Islamabad



GR No: 2327/21 Civil/Criminal

Date of Presentation: 3.2.21

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Compared by: Tariq Aziz

(23)

**IN THE SUPREME COURT OF PAKISTAN**  
**(APPELLATE JURISDICTION)**

**PRESENT:**

MR. JUSTICE TASSADUQ HUSSAIN JILLANI  
MR. JUSTICE MIAN SAQIB NISAR  
MR. JUSTICE SARMAD JALAL OSMANY

**CIVIL APPEALS NO.87-P TO 92-P OF 2011 &**  
**CIVIL PETITIONS NO.313-P & 314-P OF 2011**

Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar  
and others

...Appellants/Petitioners  
(in all cases)

**VERSUS**

Bilal Ahmed Kakaizai and others

...Respondents  
(in all cases)

...

For the appellants/petitioners:  
(in all cases)

Lal Jan Khattak, Addl.A.G.

For the respondents:

Ghulam Nabi Khan, ASC  
(In C.A.87-P/11)  
Mr. S. M. Attique, Shah, ASC  
(In C.A.88, 89, 90 & 92-P/11)  
Nemo  
(In C.A.91-P/11)  
Malik Haroon Khan, ASC  
(In C.A.89-P & 90-P & C.Ps.313-P/11)  
In person  
(In C.P.314-P/11)

Date of hearing:

12.11.2012

...

**ORDER**

Learned Additional Advocate General, KPK requests for a  
short adjournment to seek instructions from the Chief Secretary, KPK.

Adjourned to 14.11.2012.

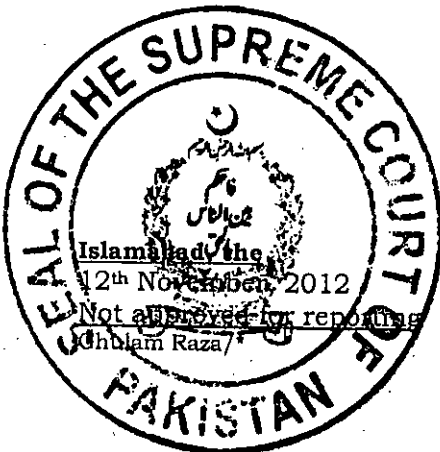
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Senior Court Associate  
Supreme Court of Pakistan  
Islamabad





(24)

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE TASSADUQ HUSSAIN JILLANI  
MR. JUSTICE MIAN SAQIB NISAR  
MR. JUSTICE SARMAD JALAL OSMANY

**CIVIL APPEAL NOS. 87-P TO 92-P OF 2011 &**  
**CIVIL PETITION NOS. 313-P & 314-P OF 2011**

Government of Khyber Pakhtunkhwa through Chief Secretary and  
others

... Appellants/Petitioners

**VERSUS**

Bilal Ahmed Kakaizai and others

... Respondents

For the App/Petitioners: Mr. Lal Jan Khattak, Addl. A.G. KPK  
(In all cases)

For the Respondent: Mr. Ajmal Khan, AOR  
(In CA 87-P/2011)

For the Respondent: Mr. S. M. Attique Shah, ASC  
(In CAs 88-P & 92-P/2011)

For the Petitioner: In person  
(In CP 314-P/2011)

Date of Hearing: 14.11.2012

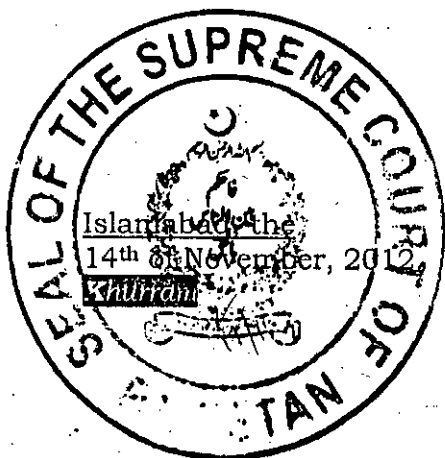
**ORDER**

Learned Additional Advocate General submits that he could not establish contact with the Chief Secretary, Government of KPK but he did speak to the Law Secretary and would like to file a concise statement after having sought instructions from the Chief Secretary with particular reference to the issue of regularization of Noor Elahi Khan and its effect on the case of the respondents. The case is adjourned, to be fixed in the 1<sup>st</sup> week of December, 2012. Learned Law Officer shall file a concise statement within 10 days.

Sd/ J

Sd/ J

Sd/ J



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Supreme Court of Pakistan  
Islamabad

(25)

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE TASSADUQ HUSSAIN JILLANI  
MR. JUSTICE ASIF SAEED KHAN KHOSA  
MR. JUSTICE IJAZ AHMED CHAUDHRY

**CIVIL APPEAL NOS. 87-P TO 92-P OF 2011 AND**  
**CIVIL PETITION NOS. 313-P & 314-P OF 2011**

Government of KPK thr Chief Secretary etc (In all cases)  
... Appellants / Petitioners

**VERSUS**

Bilal Ahmed Kakazai and another	(In CA 87-P/2011)
Muhammad Israr Khan	(In CA 88-P/2011)
Minhaj Khan	(In CA 89-P/2011)
Mudasir Iqbal	(In CA 90-P/2011)
Syed Azam Shah	(In CA 91-P/2011)
Saleem Gul	(In CA 92-P/2011)
Jalal-ud-Din etc	(In CP 313-P/2011)
Arshad Khan etc	(In CP 314-P/2011)

... Respondents

For the App/Petitioners: Mr. Lal Jan Khattak, Addl. A.G

For the Respondents: Mr. Ghulam Nabi Khan, ASC  
(In CA 87-P/2011)

Mr. S. M. Attique Shah, ASC  
(In CAs 88-P to 90-P & 92-P/11)

Nemo  
(In CA 91-P/2011)

Malik Haroon Iqbal, ASC in CA 89-90-P/11 & CP 313-P/11  
In person  
(In CP 314-P/2011)

Date of Hearing: 12.02.2013

**ORDER**

Learned Additional Advocate General submits that in terms of this Court's order dated 14.11.2012 he discussed the matter with the Chief Secretary and Law Secretary, Government of KPK. They admitted that regularization of Noor Elahi Khan had come against the rules but the said case may not be a precedent. However, adds on court query that no action was taken against the officer who regularized the services of Noor Elahi Khan. Faced with this, learned Law Officer requested for a week's time to have

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Supreme Court of Pakistan  
Islamabad

another meeting with the competent authority in the Government of KPK. Adjourned. To be fixed after a week.

26

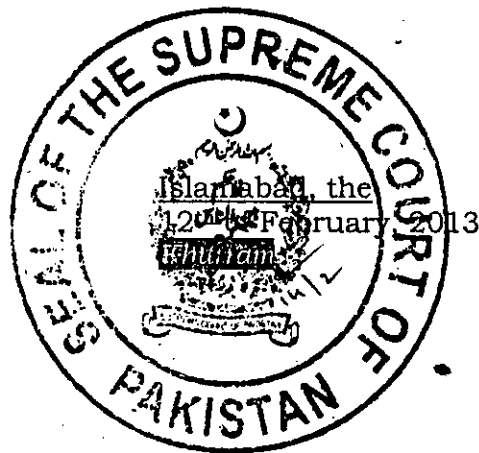
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Supreme Court of Pakistan  
Islamabad



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Compared by/Prepared by: \_\_\_\_\_

Received by: Jais Mir

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#13

(27)

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

PRESENT:  
MR. JUSTICE NASIR-UL-MULK  
MR. JUSTICE AMIR HANI MUSLIM  
MR. JUSTICE MUHAMMAD ATHAR SAEED

Civil Appeals No.87-P to 92-P of 2011 & C.Ps.No.313 and 314-P/2011.  
(On appeal from judgment dated 10.3.2010 of the Peshawar High Court, passed in W.Ps.No.142, 1300, 1368, 1542, 2037, 2544, 503 of 2010 and judgment dated 7.10.2010 in W.Ps.No.220/2010)

Government of KPK through Chief  
Secretary and others.

...Appellants/Petitioners.  
(in all cases)

VS

Bilal Ahmad Kakaizai and another (in C.A.No.87-P/11)  
Muhammad Israr Khan (in C.A.No.88-P/11)  
Minhaj Khan (in C.A.No.89-P/11)  
Mudasir Iqbal (in C.A.No.90-P/11)  
Syed Azam Shah (in C.A.No.91-P/11)  
Saleem Gul (in C.A.No.92-P/11).  
Jalal ud Din (in C.P.No.313-P/11)  
Arshad Khan (in C.P.No.314-P/11).

...Respondents.

For the appellants: Mr. Lal Jan Khattak, Addl.A.G, KPK.

For the respondents: Mr. S.M. Attique Shah, ASC.  
(in C.As.No.88-P, 90-P and C.P.313-P/11)

In-person (in C.P.No.314-P/11)

Date of hearing: 14.3.2013.

JUDGMENT

AMIR HANI MUSLIM, J. – These appeals, by leave of the Court, and civil petitions, involving common question of law and facts, are directed against the impugned judgments of the learned Peshawar High Court, whereby writ petitions filed by the respondents were accepted and their services were regularized.

2. Facts necessary for the disposal of the present appeals are that the Government of NWFP advertised posts of Additional Government

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Supreme Court of Pakistan  
Islamabad

Pleader (BS-17) for recruitment on adhoc basis on 29.09.2008, prescribing the qualification of LLB with five years experience as an Advocate preferably on civil side, as provided by Notification No.E&A (LD) 2-58/93 dated 15.7.2006. The respondents were appointed on different dates in the year 2008 on adhoc basis for a period of six months till the arrival of appointees of the Public Service Commission. After completion of six months, their services were terminated. The respondents filed departmental appeals which were dismissed. The respondents filed constitutional petitions before the learned Peshawar High Court, seeking regularization of their services by invoking the provision of Section 3 of Act XVI of 2009, which was enacted on 24.10.2009, as a corollary to the North West Frontier Province Employees (Regularization of Services) Ordinance 2009, issued on 24.9.2009.

3. During the pendency of the writ petitions, the Government of NWFP issued notification dated 9.3.2011, by which the requirement of five years experience as contained in the notification dated 15.7.2006 was dispensed with. The learned High Court, while relying upon the notification dated 9.3.2011, accepted the writ petitions directing the appellants to regularize the services of the respondents by the impugned judgments. The Government of KPK filed civil petitions challenging the judgments of the learned Peshawar High Court, when on 13.7.2011, leave to appeal was granted.

4. It is contended by the learned Additional Advocate General, KPK, that the learned High Court has overlooked the provision of Regularization of Services Act, 2009, which apply to only those who

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Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

qualifies to hold the post sought to be regularized. In this respect he submitted that none of the respondents had five years experience on the date when they were appointed as Additional Government Pleaders.

5. He next contended that the respondents were never qualified for their appointment as Additional Government Pleaders and the term 'regularization' clearly envisage that only those appointees shall be considered for regularization who were holding same qualification and experience prescribed for a regular post. He submitted that adhoc appointees cannot seek benefit of such a concession and provision of section 3 of the Act would only apply to those employees who were in service and not to the employees whose services were terminated after lapse of time stipulated in the notification of their appointments.

6. He further contended that services of one of the adhoc appointee namely Noor Elahi Khan were regularized though he did not have the required experience of five years, could not be made a ground for regularization of the services of the respondents. According to him, the Government has already initiated departmental proceedings not only against him but also against the responsible officer who has committed this illegality

7. As against this the learned counsel for the respondents has contended that during pendency of the writ petitions before the learned High Court, notification dated 9.3.2011 was issued through which the condition of five years experience, as provided in the earlier notification dated 15.7.2006 was disposed with, therefore, the respondents were qualified to be considered for regularization.

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Supreme Court of Pakistan  
Islamabad

8. He next contended that the respondents were discriminated against, as services of Noor Elahi Khan, one of the co-petitioner, were regularized by the appellant, for which no plausible explanation has been offered.

9. We have heard the leaned counsel for the parties at length and have also perused the record. In the first place, admittedly the respondents did not have the required five years experience on the date when they were appointed as adhoc Additional Government Pleaders for a term of six months. The services of the respondents were terminated on expiry of their term before the Act XVI of 2009 was promulgated as an Act of the Provincial Assembly. In order to gather the intent of the legislature promulgating Regularization Act, section 3 is reproduced herein below:-

"3. Regularization of services of certain employees -  
(1) All employees including recommendees of the High Court appointed on contract basis or adhoc basis and holding that post on 31<sup>st</sup> December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post."

The respondents did not have the required experience of five years standing as an Advocate on civil side on the date of promulgation of the Act. The notification dated 9.3.2011 came late in time by which condition of required five years experience was dispensed with. Therefore, the notification dispensing with the condition of five years experience for the post could not be applied retrospectively to extend the benefit of the Regularization Act.

The language of section 3 of the Act is unambiguous on that score.

ATTESTED

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

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10. Moreover, once the services of the respondents were terminated, they were required to compete for the post through the public service commission. The adhoc appointment of the respondents will not give them a vested right for seeking their regularization on the basis of the Act. As far as the regularization of services of Noor Elahi Khan is concerned, ex facie, it is without lawfully authority, for which departmental proceedings have been initiated. We, for the aforesaid reasons, are clear in our mind that the respondents cannot seek benefit of regularization on such a ground. The impugned judgments of the learned High Court are contrary to the established law and are liable to be set aside.

11. In view of above, the appeals are allowed. The civil petitions are converted into appeals and allowed. The impugned judgments in the civil petitions are set aside.

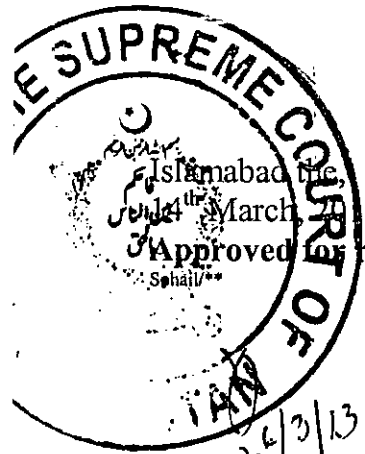
Sd/ J

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Certified to be True Copy

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad



GR No: 2327/21 Civil/Criminal

Date of Presentation: 3.7.21

No of Words: 1500

No of Pages: 8

Requisition Fee: 1000

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Court Fee Stamps: 14.30

Date of Completion of Copy: 8/2/21

Date of Delivery of Copy: 3/2/21

Compared by/Prepared by: [Signature]

Received by: [Signature]



IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Jawwad S. Khawaja  
Mr. Justice Iqbal Hameedur Rahman  
Mr. Justice Dost Muhammad Khan

Civil Petition No. 636 of 2014  
(On appeal from the judgment dated  
04.02.2014 passed by the Peshawar High  
Court in W.P.No.4276/10)

Haji Bahadar Ali etc.

Petitioners

VERSUS

Government of Khyber Pakhtunkhwa thr. Chief Secretary, etc.

Respondents

For the petitioner: Raja Zulqarnain, ASC

For respondents No.1-4: Mr. Waqar Ahmad Khan, Addl. A.G. KPK

Respondents No.5-22: Nemo

Date of hearing: 15.10.2014

JUDGMENT

DOST MUHAMMAD KHAN, J.— The petitioners are seeking leave to appeal from the judgment of learned Division Bench of the Peshawar High Court dated 4.2.2014 given in W.P.No.427 of 2010.

2. The epitome of the controversy is that the petitioners were appointed as Additional Government Pleaders on ad-hoc basis for a period of six months on 31.12.2007 by the government of KPK. On expiry of the first term, their services were extended for further six months' period on 15.08.2008 however, on 26.08.2008 their services were terminated because by then NWFP (KPK) Public Service Commission had sent the names of the recommendees, who had successfully undergone the screening test and the interview before Public Service Commission. Before the appointment of the recommendees, respondents No.5 to 22 were appointed on ad-hoc basis probably because no final decision was taken by the relevant department of the government of KPK about the

ATTESTED

Superintendent  
Supreme Court

2  
appointment of those, who were recommended by the Public Service Commission.

3. The main thrust of the learned ASC was that the then NWFP (KPK) Employees (Regulation of Services) Ordinance, 2009 came into force in the year 2009, which was made an Act by the Provincial Assembly, within 30 days therefore, the petitioners were eligible and entitled for regularization of their services on the posts they were holding earlier. Next, it was contended with considerable vehemence that a notification bearing No. E&A (LD)-9-2/AGPs/04-8238-49 dated 15.06.2008 was issued, extending the lifeline of the services of the petitioners on ad-hoc basis for further six months. It is to be noted that the notification was given effect from 05.07.2008 thus, they were not practically working on the posts they were holding and it was not a continuous service on the basis of ad-hoc appointment.

4. The petitioners were appointed on ad-hoc basis and their services were liable to be terminated without giving any reason, which was done according to the terms & conditions mentioned in the appointment letter.

5. It appears that the grievance of the petitioners is that after they were terminated, instead of appointing the recommendees of the Public Service Commission, ad-hoc appointments of those who were the choice of the influentials, were made and that one of the appointees appointed along with the petitioners namely Noor Elahi Khan was retained in service.

6. Barrister Waqar Ahmad Khan, Additional Advocate General, KPK referred to the judgment of this Court given in the case of Government of KPK and others v. Bilal Ahmad Kakaizai and others (2013 SCMR 890) where, in the same circumstances, relief was not granted to those petitioners similarly placed and who were terminated in a similar way and under similar circumstances.

7. In the concluding paragraph of the judgment, this Court has declared the appointment of Noor Elahi Khan as without lawful authority. It was stated at the bar by the Law Officer for the Government of KPK that Noor Elahi Khan has been removed/his service has been terminated and he is no more there; even an inquiry was initiated against the officer concerned.

ATTESTED

Supervisor  
Statistical Section

33  
107

8. We have given deep thought to the facts and circumstances of the case and the law points however, It is crystal clear that the petitioners were not serving as contract or ad-hoc employees on the relevant date therefore, they could not get the benefit of the provisions of section 3 of the then NWFP (KPIK) Employees (Regulation of Services) Act, 2009. Hence this petition is found devoid of all legal merits, the same is thus dismissed and leave to appeal is refused.

18  
34



Sd/- Jawwad S.Khawaja, J  
Sd/- Iqbal Hameedur Rahman, J  
Sd/- Dost Muhammad Khan, J

Certified to be True Copy

*[Handwritten Signature]*  
Supreme Court  
Islamabad

Islamabad, the  
27<sup>th</sup> October, 2014  
Hear /-

Not Approved For Reporting

6  
20/10/14



OFFICE OF ADVOCATE-GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 19833-34 /A.G.  
Address: High Court Building, Peshawar.  
Tel. No. 091-9211013

Dated 15/11/2014.  
Exchange No 9213833  
Fax No. 091-9210270

25

MOST IMMEDIATE/COURT MATTER/OUT TO-DAY.

1. The Secretary,  
Govt. of Khyber Pakhtunkhwa,  
Law, Parliamentary and Human  
Rights Department, Peshawar.

2. The learned Advocate-General,  
Khyber Pakhtunkhwa, Peshawar.

Subject:- WRONG BRIEFING TO LAW OFFICER IN  
C.P. NO.636/2014 BEARING TITLE HAJI  
BAHADUR ALI VS. GOVT. OF KHYBER  
PAKHTUNKHWA ETC

ANX - "H"

Respected Sir,

With reference to subject cited above, it is submitted that the case mentioned in the subject was pending before the August Supreme Court of Pakistan and was fixed for hearing on 14.11.2014. Mr. Shakeel Asghar, Deputy Solicitor, Law Department came to my office at Peshawar High Court, Peshawar before the said date for briefing the undersigned about the case. He brought with him a photocopy of the judgment bearing title Govt. of KPK etc Vs. Bilal Kakzai & others reported in 2013 SCMR 890. I went through the said judgment there was mention of one Noor Elahi Khan about whom the Court had been informed that departmental proceedings were in progress against him. Besides certain observations had also been passed regarding him in the said judgment. So I particularly enquired from Mr. Shakeel Asghar as what had happened to him and he replied that all the people who were respondents in the said writ petition including Mr. Noor Elahi Khan had been removed from service.

I argued the case before the August Supreme Court of Pakistan at Islamabad. The case was decided in our favour.

A couple of days before i.e. on 12.11.2014 a lawyer visited my office and brought copy of judgment of the referred case with him and said that he is Noor Elahi Khan about whom I had given a statement in the August Supreme Court that his services had been terminated. He is still serving as Assistant Government Pleader and

36

had not been removed from service. I was stunned to know this and am greatly upset since then. This has never been my practice to tell lie in my normal life and likewise it is unthinkable and unimaginable for me to give a wrong statement in the Courts of law for which I will be answerable to Al-Mighty Allah on the day of resurrection. I was also at a loss to understand that why Mr.Shakeel Asghar a responsible officer told lie to me. It is also not clear to me as to what enticed him to have given the said wrong information to me and compelled him to conceal the facts that the departmental inquiries referred to in the judgment reported in 2013 SCMR 890, had been finalized in favour of Noor Elahi Khan. Because whatever the facts and situation of the case were, he should have disclosed it to me frankly and I would have argued the case accordingly. I had no reason by then to have doubted whatever information had been conveyed to me.

Now that what has happened, is brought to your kind notice for taking corrective measures. Copies of the judgment dated 14.10.2014 and judgment reported in 2013 SCMR 890 which had been brought by Mr.Shakeel Asghar with himself and produced to me are annexed herewith for ready reference. It may also be communicated to the undersigned as to whether the above referred inquiry has in fact been finalized in favour of Mr.Noor Elahi Khan or not.

15.11.2014  
(WICAR AHMAD)  
ADDL: ADVOCATE-GENERAL-I,  
KHYBER PAKHTUNKHWA,  
PESHAWAR.

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

**Muhammad Tariq Khan Tareen.**

***Vs***

**Province of Khyber Pakhtunkhwa etc**

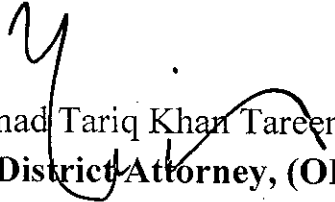
**Service Appeal**

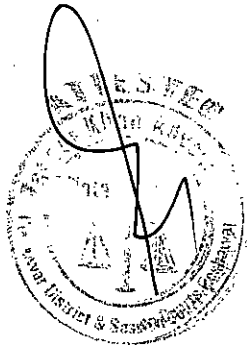
**CERTIFICATE**

Respectfully Sheweth.

It is certified that the Appellant has'nt filed any other appeal on the subject before any other forum except the instant appeal.

**Appellant (in person)**

  
**Muhammad Tariq Khan Tareen.**  
**Deputy District Attorney, (OPS)**  
**Swabi**





GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS  
& HUMAN RIGHTS DEPARTMENT

No.SO(G)LD/15-14/2019/

Dated: Peshawar the 15-01-2020

1025-57

To

1. Director General of Law and Human Rights,  
Khyber Pakhtunkhwa.
2. All District Attorneys,  
in Khyber Pakhtunkhwa.

Subject:- **TENTATIVE SENIORITY LIST OF DISTRICT ATTORNEY (BS-19), ASSISTANT DISTRICT ATTORNEYS (BS-17) AND SUPERINTENDENTS (BS-17) OF LAW DEPARTMENT AS STOOD ON 15-01-2020.**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith copies of tentative seniority lists of the following officers as it stood on 15-01-2020 alongwith Certificate Proforma with the request that the same may be circulated amongst the concerned officers working in your office:

- i. District Attorneys (BPS-19).
- ii. Assistant District Attorneys (BPS-17).
- iii. Superintendents (BPS-17) Solicitor Wing.
- iv. Superintendents (BPS-17) District Attorneys' Offices.

2. I am, further directed to request you to direct all concerned that the enclosed certificate may be returned to this Department duly signed, indicating error/omission, if any, for the purpose of rectification alongwith attested supporting documents up to 15-02-2020. In case of receipt of no response by the due date, it would be considered that particulars have been accepted as correct.

Yours faithfully,

*Ijaz Khan*  
(IJAZ KHAN)

Section Officer (General)

**Endst: No & Date Even:**

Copy forwarded for information to the:

1. Mr. Shakeel Asghar, Additional Secretary (Opinion), Law Department alongwith relevant enclosure.
2. Assistant Director (IT), Law Department is requested to upload the lists on Law Department Website.
3. PS to Minister for Law Parliamentary Affairs and Human Rights, Khyber Pakhtunkhwa.
4. PS to Secretary Law Parliamentary Affairs and Human Rights Department.

(IJAZ KHAN)  
Section Officer (General)

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ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS  
& HUMAN RIGHTS DEPARTMENT

Dated Peshawar, the 15<sup>th</sup> January, 2020.


**Notification**

**NO.SOGLMIS-14/2019/**

In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the tentative seniority list of Assistant District Attorney (BPS-17) (as stood on 15-01-2020) Law Department is hereby notified/circulated for general information.

**TENTATIVE SENIORITY LIST OF ASSISTANT DISTRICT ATTORNEY (BPS-17) LAW DEPARTMENT IN KHYBER PAKHTUNKHWA AS ON 15-01-2020.**

S.No	Name of officer	Qualification	Date of birth and Domicile	Date of entry into Govt: service	Date of regular appointment to the present post.	Remarks
1.	Mr. Sber Hassan Khan	BA/LLB	02-01-1987 South Waziristan	28-05-2014	28-05-2014	Appointed as Civil Judge-Cum Judicial Magistrate (BPS-18) Lien retained for a period of 02 years w.e.f. 05-04-2018.
2.	Ms. Hina Ghafoor	BA/LLB	01-12-1985 Malakand	26-05-2014	26-05-2014	Appointed as Civil Judge-Cum Judicial Magistrate (BPS-18) Lien retained for a period of 02 years w.e.f. 05-04-2018.
3.	Mr. Muhammad Tariq Khan Tareen	MA/LLB	01-04-1982 Haripur	26-05-2014	26-05-2014	According to PSC Seniority List
4.	Mr. Muhammad Nadeem Asghar	LLM	04-03-1984 Abbottabad	29-05-2018	29-05-2018	-do-
5.	Mr. Fayaz Ahmed	LLM	04-04-1988 Karak	29-05-2018	29-05-2018	-do-
6.	Mr. Shafiq Ahmed	MA/LLB	01-01-1988 Chitral	29-05-2018	29-05-2018	-do-
7.	Mr. Waqar Ahmed	LLB	09-04-1984 Mardan	29-05-2018	29-05-2018	-do-

  
-Sd-  
Secretary to Govt. of Khyber Pakhtunkhwa  
Law, Parliamentary Affairs & Human  
Rights Department

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**ATTESTED**  






GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS  
& HUMAN RIGHTS DEPARTMENT

NO. SO (G)/LD/15-14/2017  
Dated: Peshawar the 22.07.2019

145296

To

All District Attorneys,  
Khyber Pakhtunkhwa, Hayatabad

Subject:

**FINAL SENIORITY LISTS OF OFFICERS OF ASSISTANT  
DISTRICT ATTORNEY BS-17 LAW DEPARTMENT.**

I am directed to refer to the subject noted above and to enclose herewith Final Seniority list of the Assistant District Attorneys (BS-17) for information and record please.

*Ijaz Khan*  
(IJAZ KHAN)  
Section Officer (General) 22/7/19

**Endst: No & Date Even:**

Copy forwarded for information to the-

1. Directorate General for Law & Human Rights, Khyber Pakhtunkhwa, Hayatabad, Peshawar.
2. PS to Minister for Law, Parliamentary Affairs and Human Rights, Khyber Pakhtunkhwa.
3. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.

Section Officer (General)

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS  
& HUMAN RIGHTS DEPARTMENT

Notification

NO.SO(G)/LD/15-14/2018:

Dated Peshawar, the 22.07.2019

In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the Final Seniority List of Assistant District Attorney (BPS-17), Law Department is hereby notified/circulated for general information.

FINAL SENIORITY LIST OF ASSISTANT DISTRICT ATTORNEY (BPS-17) LAW DEPARTMENT IN KHYBER PAKHTUNKHWA AS ON 31.12.2018.

S.No	Name of officer	Designation	Qualification	Date of birth	Date of entry into Govt: service	Date of regular appointment to the present post.	Domicile	Remarks
1.	Ms. Zara Tajwar	Assistant District Attorney	MBA/LLB	04-10-1980	01-03-2013	01-03-2013	Peshawar	According to PSC Seniority List
2.	Mr. Amjad Khan	Assistant District Attorney	BA/LLB	07-08-1986	24-05-2014	24-05-2014	Bannu	-do-
3.	Syed Adnan Shah	Assistant District Attorney	MA/LLB	19-02-1980	26-05-2014	26-05-2014	Mansehra	Appointed as AD&SJ, Lien retained for a period of 02 years w.e.f 11.01.2018
4.	Mr. Sher Hassan Khan	Assistant District Attorney	BA/LLB	02-01-1987	28-05-2014	28-05-2014	South Waziristan	Appointed as Civil Judge-Cum Judicial Magistrate (BPS-18). Lien retained for a period of 02 years w.e.f 05.4.2018
5.	Ms. Hina Ghafoor	Assistant District Attorney	BA/LLB	01-12-1985	26-05-2014	26-05-2014	Malakand	Appointed as Civil Judge-Cum Judicial Magistrate (BPS-18) Lien retained for a period of 02 years w.e.f 05.4.2018

ATTESTED

6.	Mr. Sajid Wali Khan	Assistant District Attorney	BA/LLB	18-04-1984	29-05-2014	29-05-2014	Bannu	According to PSC Seniority List
7.	Mr. Abdul Waheed	Assistant District Attorney	B.Com/LLB	19-03-1982	26-05-2014	26-05-2014	Haripur	-do-
8.	Mr. Muhammad Tariq Khan Tareen	Assistant District Attorney	MA/LLB	01-04-1982	26-05-2014	26-05-2014	Haripur	-do-
9.	Mr. Muhammad Nadeem Asghar	Assistant District Attorney	LLM	04.3.1984	29.05.2018	29.05.2018	Abbottabad	-do-
10.	Mr. Fayaz Ahmed	Assistant District Attorney	LLM	04.4.1988	29.05.2018	29.05.2018	Karak	-do-
11.	Mr. Shafiq Ahmed	Assistant District Attorney	MA/LLB	01.01.1988	29.05.2018	29.05.2018	Chitral	-do-
12.	Mr. Waqar Ahmed	Assistant District Attorney	LLB	09.4.1984	29.05.2018	29.05.2018	Mardan	-do-

Secretary to Govt. of Khyber Pakhtunkhwa  
Law, Parliamentary Affairs & Human  
Rights Department

Endst. No. SO(G)/LD/15-14/2018:

Copy forwarded to:-

1. All District Attorneys in Khyber Pakhtunkhwa are requested to circulate amongst concerned Assistant District Attorney.
2. PS to Secretary, Law Department.
3. Reference & Research Officer, Law Department is requested to upload on Law Department Website.

*Mumtaz*  
Section Officer (General)

22/7/18

**ATTACHED**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS  
& HUMAN RIGHTS DEPARTMENT

TENTATIVE SENIORITY LIST OF ADDITIONAL GOVERNMENT PLEADERS (BPS-17) IN KHYBER PAKHTUNKHWA AS ON 25/04/2016.

S.No	Name of officer	Designation	Qualification	Date of birth	Date of entry into Govt. service	Date of regular appointment to the present post.	Domicile	Remarks
1	Ms Zara Tajwar	Additional Govt. Pleader	MBA/LLB	04-10-1980	01-03-2013	01-03-2013	Peshawar	
2	Mr Amjad Khan	Additional Govt. Pleader	BA/LLB	07-08-1986	24-05-2014	24-05-2014	Bannu	
3	Syed Adnan Shah	Additional Govt. Pleader	MA/LLB	19-02-1980	26-05-2014	26-05-2014	Mansehra	
4	Mr Sher Hassan Khan	Additional Govt. Pleader	BA/LLB	02-01-1987	28-05-2014	28-05-2014	SW Agency Swat	
5	Mr Abdul Qayum Khan	Additional Govt. Pleader	BA/LLB	15-02-1984	23-05-2014	23-05-2014	Peshawar	
6	Mr Muhammad Tariq Khan	Additional Govt. Pleader	MA/LLB	12-10-1980	24-05-2014	24-05-2014	Malakand	
7	Ms Hina Ghafoor	Additional Govt. Pleader	BA/LLB	01-12-1985	26-05-2014	26-05-2014	Bannu	
8	Mr Sajid Wali Khan	Additional Govt. Pleader	BA/LLB	18-04-1984	29-05-2014	29-05-2014	Harpur	
9	Mr Abdul Waheed	Additional Govt. Pleader	LLB	19-03-1982	26-05-2014	26-05-2014	Harpur	
10	Mr Muhammad Tariq Khan Tareen	Additional Govt. Pleader	BA/LLB	01-04-1982	26-05-2014	26-05-2014	SW Agency	
11	Mr Inam Ullah	Additional Govt. Pleader	BA/LLB	05-05-1984	29-05-2014	29-05-2014	SW Agency	

*Signature*  
1/1/16

**BEFORE THE WORTHY CHIEF SECRETARY, KHYBER PAKHTUNKHWA,**  
**PESHAWAR.**

Muhammad Tariq Khan Tareen , Deputy District Attorney (OPS), Swabi.

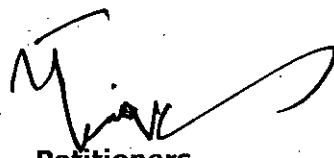
**Departmental Appeal**

(Through Proper Channel)

**INDEX**

<b>S.No</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Page No</b>
1.	Memo of Departmental Appeal		1-34
2.	copy of the recommendation	<b>A</b>	5
3.	Copy of Promotion Order	<b>B</b>	6
4.	Copy of the final seniority list	<b>C</b>	7-10
5.	Copies of judgements of Supreme Court of Pakistan alongwith reported Judgment cited as 2013 SCMR 890	<b>D</b>	11-18
6.	Copy of the letter by the Advocate General Khyber Pakhtunkhwa to Worthy Secretary Law, Parliamentary Affairs & Human Rights Department Khyber Pakhtunkhwa.	<b>E</b>	19-20

Dated: \_\_\_\_\_



**Petitioners**

**(In Person)**

①

**BEFORE THE WORTHY CHIEF SECRETARY KHYBER PAKHTUNKHWA,**  
**PESHAWAR.**

**Muhammad Tariq Khan Tareen, Deputy District Attorney (OPS), Swabi.**

**Departmental Appeal**

*(Through Proper Channel)*

**Respectfully Sheweth:**

- 1 That the petitioner joined this Department as "Additional Government Pleader" (BPS-17) after recommendations by the Khyber Pakhtunkhwa Public Service Commission (herein after called "the commission") on 26-05-2014. (copy of the recommendation letter is annexed as "ANX-A").
- 2 That the commission has referred the aforesaid recommendations to the Law Department by mentioning therein the "**Merit Order**" at column No. 03 wherein the petitioner managed to obtained the merit order No. 5 but his name was placed at Serial No. 09.
- 3 That the Law Department arranged the seniority lists on the basis of the above said misconception and mis-interpretation of the law, the petitioner was placed in the annual seniority list much below from his due placement, which ought to have been at serial No. 05. The Serial Nos. Should be adjusted in accordance with the **merit order** of the commission and should not be in accordance with the existed serial numbers.
- 4 That the above said recommendations of the Commission which reflect the merit order has not ever been communicated to the petitioner but any how

the petitioner has managed to get this document few days ago and was astonished to see that his merit order is 05 instead of 09.

- 5 That some of AGPs left this cadre and joined the judiciary as Judicial Officers and their lien has been expired, hence their name are not reflecting in the seniority list, and after their relieving Mr. Amjid Khan S/o Yaqoob Khan holds serial # 01 (whereas on the merit order he is at **merit order #07**). And Mr. Sajid Wali Khan S/o Nek Wali Khan holds serial # 07 (whereas on the **merit order he is at # 10**).
- 6 In result of para No. 05 Mr. Abdul Waheed S/o Haider Zaman was placed at serial #08 (original merit order # 04) and the petitioner placed at serial # 09 (original merit order # 05).
- 7 That Mr. Amjid, and Mr. Sajid Wali were promoted to BPS-18 on the basis of illegal and wrong seniority list and the name of petitioner was not forwarded for consideration of promotion to PSB, hence he was left out from the benefit of promotion due to departmental irregularities. (copy of said promotion order is annexed as "ANX-B").
- 8 That the seniority of the petitioner should be adjusted in accordance with law (Section 8 (3) of Civil Servant Act 1973 readwith Section 17 of KPK Civil Servant (Appointment, Promotion and Transfer) Rules 1989 and Section 2 (2) of Civil Servants (Seniority) Rules, 1993.
- 9 The name of the petitioner is further to be adjusted one step upward at serial No. 34 of final seniority list of BPS-18 for the year of 2021 after awarding Ante-dated promotional right. (copy of the final seniority list is annexed as

10 That the Law Department has not given an opportunity to the petitioner to object the said seniority list.

11 The petitioner has recently learnt that the Hon'able Supreme Court judgments alongwith its reported judgment cited as 2013 SCMR 890 at paragraph number 10 declared the regularization of service of Noor Elahi khan (Deputy District Attorney) is "without law full authority". Despite the fact his name is still reflecting at serial # 29 on the Seniority List issued by the Law Department on 05-04-2021. The aforesaid judgment attains the status of finality and as such he is legally in no more service, hence his name from the seniority list may be deleted and after deletion the petitioner may be placed by giving one step excel at serial No. 34 with ante-dated back benefits. (copy of the aforementioned judgements are annexed as ANX-D).

12 That the office of Advocate General vide letter No. 19333-34/AG dated 15-11-2014 addressed to Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs & Human Rights, Peshawar had brought the matter mentioned in para No. 11 of the instant Departmental Appeal for taking corrective measures. (copy of the said letter is annexed as ANX-E).

13 That the seniority list of BPS-18 should be readjusted after considering the above said observations.

14 That the Law Department has issued the final seniority list of BPS-18 on 05-04-2021 which has not even been communicated to the petitioner.

15 That any other grounds and case will be presented at the time of humble submissions.



(4)

*Keeping in view the above said facts and circumstances the seniority of the petitioner may be readjusted as requested and the petitioner may please be granted ante-dated promotion to BPS-18 alongwith all back benefits from the date when the other batch mates were wrongly promoted. Any other relief which your honour deem proper may also be granted.*

I will be highly obliged for this act of kindness.

**Your's Sincerely**

Muhammad Tariq Khan Tareen  
Deputy District Attorney, (OPS)

Endst No. 158-63 Dated 28/9/2021 Swabi

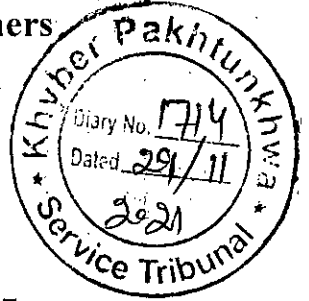
Copy to:

1. Worthy Registrar, Supreme Court of Pakistan for information & necessary action please.
2. Auditor General of Khyber Pakhtunkhwa Peshawar with respect to Para No. 11 for necessary action, please.
- ✓ 3. Worthy Registrar, Service Tribunal Khyber Pakhtunkhwa, Peshawar.
4. Director General, Directorate General of Law & Human Rights Khyber Pakhtunkhwa Peshawar.
5. P.S to Secretary Law, Parliamentary Affairs & Human Rights Department Khyber Pakhtunkhwa.

  
Muhammad Tariq Khan Tareen  
Deputy District Attorney, (OPS)  
Swabi

**BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR**

**Muhammad Tariq Khan Tareen VS Government of Khyber  
Pakhtunkhwa & Others**



Put up to the court with  
relevant appeal.

Service Appeal No. 7272/21

29/11/2021

Application for rectification of the serial number from "Respondent No. 07 to Respondent No. 09" in Para #06 of Facts of captioned Appeal.

Respectfully Sheweth;

The petitioner submits as under;

1. That the captioned appeal is pending for adjudication before this august Tribunal and fixed for 11-01-2022.
2. That inadvertently and by typographically mistake the respondent No. 7 has been shown in para No. 6 of the facts of instant appeal which was infact Respondent No. 9 about whom the observation of Hon'ble Supreme Court has been mentioned in para No. 6.
3. That ground "f" & "g" of captioned appeal fortify the para 2 of instant application.
4. That the rectification will promote the larger interest of justice and precious rights of petitioner are involved.
5. That the appeal is in its initial stage and this rectification will not change the complexion of the captioned appeal.

*It is, therefore, most humbly prayed that the application may graciously be allowed in the best interest of administration of justice.*

Date: 29 / 11 /2021

Applicant/Petitioner (in person)

**Affidavit:**

Verified on oath that the content of forgoing application are true and correct to the best of my knowledge and belief.

**ATTESTED**

Deponent

Muhammad Tariq Khan Tareen



13302-0478237-9

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.7272/2021**

Mr. Muhammad Tariq Tareen, Deputy District Attorney (OPS)  
office of District Attorney Swabi.

.....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa through the Chief Secretary, Govt. of Khyber  
Pakhtunkhwa, Peshawar & others.

.....Respondents.

**AFFIDAVIT**


I, Naid Wali, Assistant Law Officer, Govt. of Khyber Pakhtunkhwa, Law  
Department, do hereby solemnly affirm and declare on oath that the Parawise comments  
on behalf of respondent No.03 is true and correct to the best of my knowledge and belief  
that nothing has been concealed from this Hon'ble Court.

N SW  
Deponent ?

CNIC No..173d-9113868-5

Cell No..0331-9222681.

Identified By;

  
Additional Advocate General  
Service Tribunal Khyber Pakhtunkhwa, Peshawar

For  
Additional Advocate General  
Khyber Pakhtunkhwa  
Service Tribunal Peshawar

59

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA**

**Service Appeal No.7272/2021.**

Mr. Muhammad Tariq Tareen S/o Sakhi Sultan r/o village Dingi Tehsil & District Haripur presently working as Deputy District Attorney (OPS), office of District Attorney Swabi.

.....Petitioners

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary & Others....Respondents.

**JOINT PARAWISE BETTER COMMENTS ON BEHALF OF RESPONDENTS NO.1-6.**

**Respectfully Sheweth.**

**PRELIMINARY OBJECTION:**

1. That the appellant has no cause of action.
2. That the appellant has no locus standi to ask for the relief claimed.
3. That the instant Service Appeal is defective and not maintainable in its present form.
4. That there is no violation of any right of the Appellant at the hands of respondents.
5. That there is no iota of evidence which could be titled / labeled as discriminatory on the part of respondents.
6. That this Hon'ble Tribunal has got no jurisdiction to entertain the instant appeal.
7. The appellant is estopped by his own conduct to file the instant appeal due to acceptance of the terms & conditions of the service.

**On facts:**

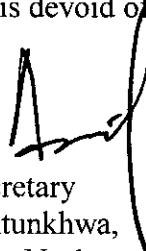
1. It is correct.
2. Pertains to record.
3. The merit order issued according to law and as per rules.
4. Incorrect, hence denied.
5. Pertains to record.
6. Pertains to record.
7. Pertains to record.
8. Incorrect, hence denied. The seniority list has been duly communicated to all through the District Attorney offices in Khyber Pakhtunkhwa vide letter No. SO(G)/LD/15-14/2020/DDA Seniority list/4202-08 dated 08.04.2021 already annexed with the appeal of the appellant as Annex-E. The tentative seniority list has not been challenged by the appellant, therefore, became final.
9. Incorrect. The present appeal is time barred. The appellant is no right to appeal.
10. Pertains to record.
11. The service appeal is devoid of force, therefore, may be dismissed with cost.

**Grounds:**

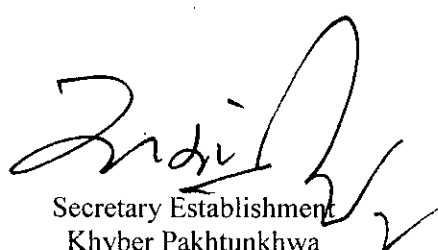
- a) Incorrect that the respondents issued seniority list as merit order according to law & order.
- b) Incorrect, hence denied. Moreover, PSB correctly considered promotion of the respondents 07, 08 & 10 mentioned in appeal. The appellant is not eligible for promotion.
- c) Incorrect, hence denied. The Department even cannot think about violation of Article 04 of the Constitution.
- d) Incorrect, hence denied. The Department has not made any discrimination against the appellant.
- e) Incorrect, hence denied. The Department always endeavor to adopt principles of fair play.
- f) Pertains to record. Moreover, respondent Department adopted all procedure according to law & rules.
- g) Incorrect, hence denied. Own pay scale does not create any right for regular promotion.
- h) Incorrect, hence denied.
- i) That the respondents also seek permission of this Hon'ble Tribunal to raise further points at the time of arguments.

**Prayer:**


Keeping in view the facts of the case and grounds mentioned above, it is therefore humbly requested that the present Service Appeal is devoid of force, therefore, may be dismissed with cost



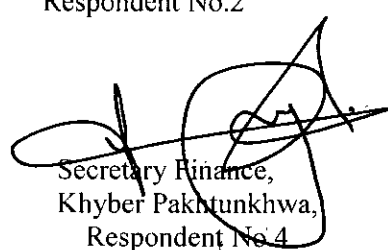
Chief Secretary  
Khyber Pakhtunkhwa,  
Respondent No.1



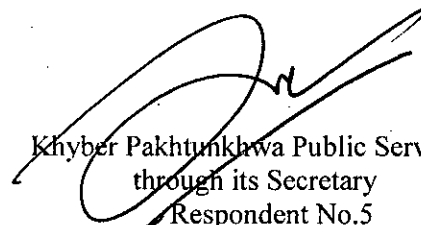
Secretary Establishment  
Khyber Pakhtunkhwa  
Respondent No.2




Secretary Law  
Khyber Pakhtunkhwa  
Respondent No.3



Secretary Finance,  
Khyber Pakhtunkhwa,  
Respondent No.4



Khyber Pakhtunkhwa Public Service Commission  
through its Secretary  
Respondent No.5



Director General, Law & Human Rights  
Khyber Pakhtunkhwa,  
Respondent No.06

BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER

PAKHTUNKHWA

Service Appeal No.7272/ 2021


Mr. Muhammad Tariq Tareen S/o Sakhi Sultan ..... Appellant

Versus


Govt of Khyber Pakhtnkhwa through Chief Secretary and others  
..... Respondents

**I N D E X**

S.No.	Description of documents.	Annexure	Pages.
1)	Reply to Service Appeal and affidavit		1-6
2)	Copy of Appointment Order dated 23.05.2014		7-8
3)			

  
Respondent No.8  
Sajid Wali Khan  
Deputy District Attorney (BPS-  
18) Bannu

Through

  
**Inayat Ullah Khan**  
Advocate Supreme Court  
of Pakistan  
LLM (UK)

BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA

Service Appeal No.7272/ 2021

Mr. Muhammad Tariq Tareen S/o Sakhi Sultan

R/o Village Dingi Tehsil & District Haripur

Presently working as Deputy District attorney Own Pay Scale (OPS) at the  
Office of Deputy Attorney Swabi.

..... Appellant

Versus

Govt of Khyber Pakhtunkhwa through Chief Secretary and others

..... Respondents

PARAWISE COMMENTS ON BEHALF OF  
RESPONDENT NO.8.

***Respectfully Sheweth;***

**Preliminary Objections:-**

1. That the departmental appeal as well as service appeal both are hopelessly time-barred and the appellant need to explain each and every day as to why he failed to approach this Hon'ble tribunal within the time stipulated in the relevant law.

It is pertinent to mention that the appellant needs to approach this Hon'ble Service Tribunal within 120 days from the date of impugned original order/ seniority list.

2. The appellant has got no cause of action.

3. The appellant has no locus standi to claim antedated promotion which cannot be granted in the given facts and circumstances of the case.
4. That the appellant has approached this Hon'ble Tribunal with unclean hands and concealed material facts.
5. That the department has circulated many seniority lists since 2014 while the appellant has challenged the issue in the year 2021, therefore, equity demands that the seniority order already maintained by the department shall not be disturbed at all because the indolence of the appellant cannot be condoned who slept over the issue for a considerable long time. In the meanwhile valuable rights have been accrued to respondent No.8 therefore, the same cannot be disturbed at such a belated stage.
6. That the appellant is estopped by his own conduct to file the instant appeal as he waived his right if any.
7. That the appellant has also failed to attach necessary documents with the instant appeal which may reflect the true facts, hence on this score alone the appeal is liable to be dismissed with costs.
8. This Hon'ble Tribunal has no jurisdiction to entertain the instant appeal as the controversy is regarding appointment order dated 23.05.2014 which needs to be challenged through Writ Petition before the Hon'ble Peshawar High Court Peshawar.

#### **ON FACTS**

- 1) Para No.1 needs no reply.
- 2) Para-2 needs confirmation subject to relevant record.



- 3) In Para No.3 of the appeal the appellant himself admitted that yearly seniority lists were issued since 2014 till date while he needs to challenge the issue at its initial stage but failed to do so, therefore, no challenge vis-à-vis seniority and promotion rights of respondent No.8 be raised at such a belated stage, therefore, the appeal is liable to be dismissed with cost.

It is pertinent to mention that the appellant has raised questions regarding recruitment process, which cannot be called in question in service appeal before this Hon'ble Tribunal rather the same needs to be challenged through writ petition, therefore, the instant appeal is liable to be dismissed on the point of maintainability and jurisdiction.

- 4) Para No.4 is incorrect hence denied. The Respondent No. 7 and 8 were promoted according to their due places in the seniority list and rightly promoted from BPS-17 to BPS-18 on 14.10.2019.

It is pertinent to mention that the appellant needs to prefer his departmental appeal dated 26.04.2021 within 30 days from the date of impugned notification enclosed at page 8 as well as the yearly circulated seniority lists since 2014/2015, but the same has not been challenged within the stipulated time therefore, not only the departmental appeal is hopelessly time barred but the service appeal as well, which has been filed before this Hon'ble Tribunal on 09.08.2021.

- 5) Para No.5 is incorrect hence denied. The appellant failed to challenge the issue within time, therefore, the same cannot be challenged at belated stage.

**It is pertinent to mention that the appellant failed to challenge the provincial selection board decisions vis-à-vis promotion of respondents No.7 and 8 likewise the appellant also failed to challenge the order of merit as mentioned in the appointment order, therefore, the instant appeal needs to be dismissed on this**

**ground alone. (Copy of appointment order dated 23.05.2014 is enclosed as R1).**

- 6) With regard to Para No.6 it is humbly submitted that the judgment of Hon'ble Supreme Court having distinguish facts does not relate to the issue in hand, therefore, having relevancy at all.
- 7) Para No.7 is not related to the controversy therefore, the same is denied being incorrect.
- 8) Para No.8 is incorrect hence denied. Infact concealment has been made by the appellant which is evident from the fact that the seniority list was duly circulated throughout the province vis-à-vis district attorneys vide Letter. No.SO(G)/LD/15-14/2020/DDA Seniority List/202-08 dated 08.04.2021.

It is also important to mention that the appellant dispute relates to the appointment as well as the yearly circulated seniority lists which were duly circulated and notified and the same has not been called in question within the required time, therefore, the appellant has tried his best to justify the long delay on the basis of a flimsy plea which cannot be justified within the four corners of law.

- 9) That the instant appeal is hopelessly time barred as explained in the above paras.
- 10) Para No.10 needs no reply.
- 11) Para No.11 having no prima facie case, therefore all the grounds raised are irrelevant.

**ON GROUNDS**

- a) Ground "a" is incorrect, hence denied. The appellant failed to challenge the order of merit as mentioned in the appointment order therefore, the appeal is incompetent and the Tribunal having no jurisdiction to rectify any controversy vis-à-vis appointment order dated 23.05.2014. If there was any concern

the same needs to be challenged through writ petition before the Hon'ble Peshawar High Court Peshawar.

Once the appointment order was duly accepted and arrival report was made therefore, the same cannot be called in question at such a belated stage therefore, he is estopped by his own conduct to challenge the same.

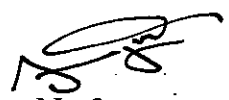
- b) Ground "b" is incorrect, hence denied. The seniority list were strictly prepared in accordance with the appointment order issued by Respondent No.3.
- c) Ground "c" is incorrect, hence denied.
- d) Ground "d" is incorrect, hence denied.

It is infact there is inaction on the part of the appellant to challenge the issue in due time but since he failed to challenge the same, therefore, he cannot shift the blame on departmental hierarchy, which is evident from his conduct.


- e) Ground "e" is incorrect, hence denied.
- f) Ground "f" is irrelevant and does not relate to controversy in hand.
- g) Ground "g" is incorrect and does not relate to controversy in hand.
- h) Ground "h" to "i" are incorrect as the appellant failed to make out a case for interference in the issue in hand by this Hon'ble Tribunal.

Keeping in view what has been stated in above, it is therefore, earnestly requested to dismiss the service appeal being devoid of merit and substance as no antedated promotion can be allowed as per various judgments delivered by the Apex Court.

Dated: 25.05.2022

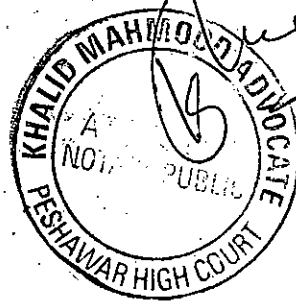
  
Respondent No.8  
Sajid Wali Khan  
Deputy District Attorney (BPS-  
18) Bannu

Through

  
**Inayat Ullah Khan**  
Advocate Supreme Court  
of Pakistan  
LLM (UK)

**AFFIDAVIT**

I, do hereby affirm and declare on oath that the contents of reply are true and correct and nothing has been concealed from this Hon'ble Tribunal.



  
DEPONENT



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS  
& HUMAN RIGHTS DEPARTMENT

(7)

Dated Peshawar the 23.05.2014

**NOTIFICATION**

**NO.E&A/LD/9-2/AGP/2014:-** The Competent Authority on the recommendations of the Khyber Pakhtunkhwa Public Service Commission is pleased to order appointment of the following candidates as Additional Government Pleader (BPS-17) with immediate effect subject to the terms & conditions mentioned hereunder:-

1. Mr. Amjad Khan
2. Syed Adnan Shah
3. Sher Hassan Khan
4. Abdul Qayyum Khan
5. Muhammad Tariq Khan
6. Hina Ghafoor
7. Sajid Wali Khan
8. Abdul Waheed
9. Muhammad Tariq Khan Tareen
10. Inamullah
11. Muhammad Haris Nisar
12. Muhammad Farooq Ahmad

*Annex*  
*R-1*

2. Consequent Upon their appointment as Additional Government Pleader BPS-17 the following posting/transfer is ordered with immediate effect in the public interest as noted against each:-

S.NO	NAME OF CANDIDATE WITH FATHER'S NAME	PLACE OF POSTING
1	Mr. Amjad Khan S/O Yaqoob Khan	Office of Senior Govt. Pleader, Kohat
2	Syed Adnan Shah S/O Mian Amir Shah	Office of Senior Govt. Pleader Abbottabad
3	Sher Hassan Khan S/O Gul Hassan Khan	Office of Senior Govt. Pleader D.I.Khan
4	Abdul Qayyum Khan S/O Abdul Ahad	Office of Senior Govt. Pleader Shangla
5	Muhammad Tariq Khan S/O Muhammad Miskeen	Office of Senior Govt. Pleader Nowshera
6	Hina Ghafoor D/O Fazli Ghafoor	Office of Senior Govt. Pleader Peshawar
7	Sajid Wali Khan S/O Nek Wali Khan	Office of Senior Govt. Pleader Tank
8	Abdul Waheed S/O Haider Zaman	Office of Senior Govt. Pleader Abbottabad
9	Muhammad Tariq Khan Tareen S/O Sakhi Sultan	Office of Senior Govt. Pleader Mansehra
10	Inamullah S/O Sadey Khan	Office of Senior Govt. Pleader Lakki

*AAAC*

23.5.14

*True copy*

			Marwat
11	Muhammad Haris Nisar Muhammad Nisar	S/O	Office of Senior Govt: Pleader Chitral
12	Muhammad Farooq Ahmad		Office of Senior Govt: Pleader Swat

3

**TERMS & CONDITIONS**

- They shall be governed by the Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and the Rules made there-under.
  - They shall, initially, be on probation for a period of one year extendable upto 2 years.
  - Their services will liable to termination at any time without assigning any reason before the expiry of the period of probation/extended period of probation, if their performance during this period is not found satisfactory.
  - They will be given one month's notice of termination from service or one month's pay in lieu thereof. In case they wish to resign at any time, one month's notice shall be necessary or in lieu thereof a month's pay shall be forfeited.
  - NO TA/DA is admissible on their first appointment as Additional Government Pleader (BPS-17).
3. If the above terms & conditions are acceptable to them, they should assume their duty immediately against their posts in Law, Parliamentary Affairs and Human Rights Department. The offer of appointment shall be deemed to have been cancelled if they fail to report within one month from the date of issuance of this Notification.

**(MUHAMMAD ARIFEEN)**

Secretary to Govt. of Khyber Pakhtunkhwa  
Law, Parliamentary Affairs &  
Human Rights Department

**Endst: No & Date of even:**

Copy forwarded for information to:-

- The Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department
- The Accountant General, Khyber Pakhtunkhwa
- The Advocate General, Khyber Pakhtunkhwa
- The Director Information, Khyber Pakhtunkhwa
- The Secretary, KP Public Service Commission
- The Manager Government Printing Press, Peshawar.
- PS to Special Assistant on Law Parliamentary Affair & HR
- PS to Chief Secretary.
- District Accounts Officers, Kohat, Abbottabad, D.I.Khan, Shangla, Nowshera, Peshawar Tank, Mansehra, Lakki Marwat, Chitral and Swat.
- The Senior Government Pleaders, Kohat, Abbottabad, D.I.Khan, Shangla, Nowshera, Peshawar, Tank, Mansehra, Lakki Marwat, Chitral and Swat
- PS to Secretary, Law, PA and HR Department
- Accountant Law Department.
- All the Officer concerned.

*True Copy*

4144  
23/5/22  
**(IMRAN KHAN)**  
Section Officer General

بعدالت

IN Provincial Service Tribunal KP.

2 جناب

Mohammed  
Tariq Khan  
Tareen

vs  
Govt of KP etc.

29/3/2022

Service Appeal

" " "

Nid

Service Appeal

باعث تحریر آنکہ No. 7272/2021

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کاروائی متعلقہ  
Inayatullah Khan  
Adv Supreme Court Peshawar  
of Pakistan LLM (UK)

آن مقام مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا۔ نیز  
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک دروپیا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لایا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ  
پر داخست منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 29 مارچ 2022

Inayatullah Khan  
Adv  
Supreme Court of  
Pakistan  
LLM  
(UK)

Peshawar

Sajid wali Khan  
Respondent no. 8.

B.C. No 10.7560

126700			
Manzoor Fadaid	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
10-9370	بار کونسل / ایسوسی ایشن نمبر:		
03322224455	رابطہ نمبر:		

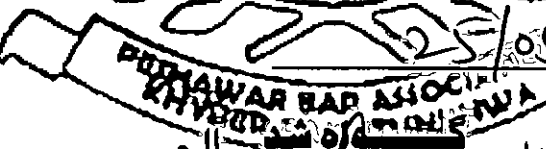
بعدالت جناب: Chairman Services Tribunal  
K.P.K

مخانب: Respondant No 9	دعوی:
Muhammed Tariq	علت نمبر:
	مورخہ:
Govt of K.P.K through Chief Secretary	جرم:
	تھانہ:

**باعت تحریر آگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام لسٹور ایگے منظور فار اٹوکلٹس کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرے گا و تقرری ثالث و فیصلہ بر خلف دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل انگریزی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی ہوا اپنے ہمراہ یا اپنے بھائی کے اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور ان کا استعمال پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو چیز چاہے ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 22/05/2022  


مقام \_\_\_\_\_ کے لیے منظور ہے۔

نہدہ  
25/05/2022

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

کوہاٹ کی عدالت میں  
کوہاٹ کی عدالت میں  
کوہاٹ کی عدالت میں



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

Service Appeal No.72720/2021

Muhammad Tariq Tareen S/O Sakhi Sultan R/O Village Dingi Tehsil  
and District Haripur, presently working as Deputy District Attorney  
(OPS) Office of District Attorney Swabi.

.....Appellant

VS

Government of Khyber Pakhtunkhwa through Chief Secretary and  
others

.....Respondents

**PARAWISE COMMENTS ON THE BEHALF OF RESPONDENT**  
**NO.09.**

**Respectfully Sheweth:-**

**Preliminary Objections:-**

1. That the appellant has no cause of action against the answering respondent.
2. That the appellant has no locus standi to ask for the relief from the answering respondent.
3. That the appeal of the appellant is badly time barred.
4. That the appeal of the appellant is bad for mis-joinder and non-joinder of necessary parties.
5. That the instant service appeal is defective and not maintainable in its present form.

6. That there is no violation of any right of the appellant at the hand of the answering respondent, hence the instant appeal is not maintainable in the eyes of law.
7. That there is no iota of evidence which could be titled/labeled as discriminatory on the part of the answering respondent.
8. That this Hon'ble Tribunal has got no jurisdiction to entertain the instant appeal as the matter is already decided through writ petition no.1562-A of 2019 judgment on dated:14.12.2021. (Copy of the Writ petition is attached).
9. That the appellant is estopped by his own conduct to file the instant appeal.
10. That the appeal of the appellant is not maintainable for the reason of non-raising any objections on the tentative seniority list.
11. That the answering respondent was appoint<sup>ed</sup> in the year of 2008 and was upgraded to the post of Deputy District Attorney (BPS-18) in the year of 2012 while the appellant was appointed as Additional Government Pleader (BPS-17) in the year 2014.

**ON FACTS:-**

1. Para No.01, subject to proof
2. Para No.02, subject to proof.
3. Para No.03 not related to answering respondent.
4. Para No.04 not related to the answering respondent.
5. Para No.05 is no concern with respondent No.09.
6. Para No.06 is totally incorrect, hence denied. It is pertinent to mention that the answering respondent was appointed on adhoc basis as per policy in vogue and thereafter regularized in terms of Khyber Pakhtunkhwa Regularization Act, 2009, and from the date of regularization the answering respondent has

performed his duty regularly. Moreover after a proper departmental inquiry, the answering respondent has been exonerated and the answering respondent has never been terminated, dismissed from his service as a result of any proceedings. It is pertinent to mention here that the appellant is not the batch-mate of answering respondent as he was appointed as Additional Government Pleader (BPS-17) in the year 2014 whereas the answering respondent was upgraded to the post of Deputy District Attorney (BPS-18) 2012.

7. Para No.07 pertains to record.
8. Para No.08 is totally incorrect, hence denied. It is submitted that tentative and final seniority list of each year have been communicated to all respective offices of the District Attorney, hence the stance of the appellant is totally wrong.
9. Para No.09 incorrect that the appeal of the appellant is badly time barred, hence not maintainable in its present form.
10. Para No.10 incorrect, that the appellant has not arrayed the necessary parties in the instant appeal, hence the appeal of the appellant is liable to be dismissed in this score alone.
11. Para No.11 incorrect.

**ON GROUNDS:-**

- A. Para No.A not related to the answering respondent.
- B. Para No.B not related to the answering respondent.
- C. Para No.C not related to the answering respondent.
- D. Para No.D not related to the answering respondent.
- E. Para No.E not related to the answering respondent.
- F. Para No.F is totally incorrect, hence denied. It is submitted that the answering respondent was appointed in the year 2008 and thereafter upgraded to the post of Deputy District Attorney (BPS-18) in the year of 2012 while the appellant was appointed as Additional Government pleader (BPS-17) in the year 2014. It is crystal clear that no match between the answering respondent and the appellant. Moreover on the basis of the

judgment of worthy Supreme Court Judgment 2013 SCMR, an inquiry was initiated against the answering respondent and after the completion of the inquiry, the answering respondent was exonerated.

G. Para No.G is totally incorrect, hence denied. It is submitted that appellant want to misconceive this Hon'ble Tribunal while no such right of the appellant has been violated by the answering respondent nor the answering respondent was appointed on the post of the appellant hence the stance of the appellant is totally infructuous and wrong.

H. Para No.H is incorrect.

I. Para No.I, that the respondent No.09 also seek permission of this Hon'ble Tribunal to raise further grounds at the time of arguments.

**It is, therefore, humbly requested that the appellant has not claimed any relief against the answering respondent, therefore, the instant appeal is devoid of merit hence may be dismissed with heavy cost.**

Respondent No.09

Through

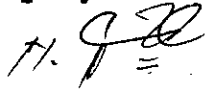
  
Manzoor Qadir

Advocate,

25/05/2022

And Respondent in person

Deputy District Attorney



**AFFIDAVIT:-**

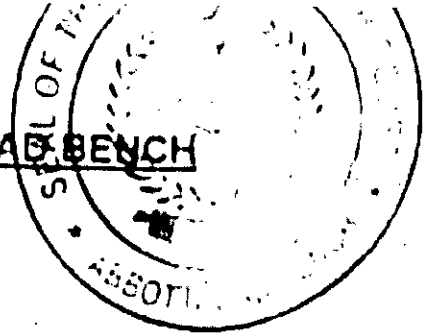
It is certified that the contents of this Parawise comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

  
DEPONENT



JUDGMENT SHEET

PESHAWAR HIGH COURT, ABBOTTABAD BENCH



JUDICIAL DEPARTMENT

Writ Petition No.1562-A of 2019

JUDGMENT

Date of hearing ..... 13.12.2021 .....

Petitioner(s) (Muhammad Tariq Khan Tareen and four others)  
Petitioner No. 1 in person.....

Respondent(s) (Government of Khyber Pakhtunkhwa and others)  
by Sardar Muhammad Asif, Assistant Advocate  
General alongwith Mirrat Shah Superintendent,  
Litigation-III Finance Department, Peshawar

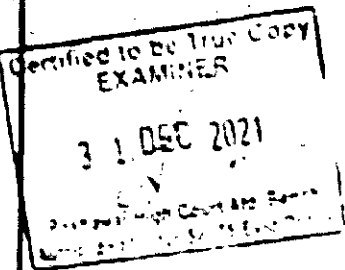
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SHAKEEL AHMAD, J.- The present petition has been filed by Muhammad Tariq Khan Tareen and others for the following reliefs:

*"It is humbly prayed that the impugned restriction and bifurcation may graciously be set aside and the respondents may graciously be directed to allow the petitioners in BPS-18 from the date of induction in the service alongwith all back benefits.*

*Any other relief, which this Honourable Court deem proper may also be granted."*

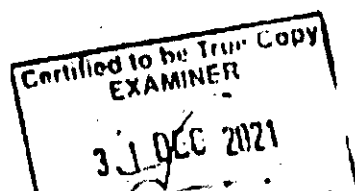
2. The facts necessary for the adjudication of the present petition are that petitioners are the employees of Law, Parliamentary Affairs and Human Rights Department Khyber Pakhtunkhwa. They were



appointed as Additional Government Pleaders in BPS-17 on different dates. Vide Notification No.E&A(LD)17-17/AGP(II)/2012 dated 9.8.2012, the posts of Additional Government Pleaders (BPS-17) and Government Pleaders were upgraded by one step and placed in BPS-18 and BPS-19, respectively. Vide Notification No.SOG(LD)/15-20/2014 dated 7.4.2017, the nomenclature of Additional Government Pleader was changed as Assistant District Attorney. The petitioners raised their voice for upgradation of their posts from BPS-17 to BPS-18 through representations. The cry of the petitioners borne some fruit and ultimately, the respondent No.2 recommended their case to Finance Department vide letter dated 24.03.2017 for upgradation of their post from BPS-17 to BPS-18, which was not acceded to, hence, necessitated to file the present petition.

3. Pursuant to the order of this Court, the respondents submitted their parawise comments raising therein many factual and legal objections qua maintainability of writ petition.

4. It has been, Inter alia, contended by the petitioner that the post of Additional Government Pleaders and Pleaders were upgraded from BPS-17 and 18 to BPS-18 and 19, respectively, and there is no



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reason to discriminate them and to refuse to give them the same benefit, which has been given to other Additional Government Pleaders or Pleaders; that the petitioners and other Additional Government Pleaders possess the same qualification and perform the same functions/duties. they are similarly placed and deserve the same treatment; that Government of Baluchistan has already upgraded the post of Assistant District Attorney and District Attorney from BPS 17 and 18 to BPS-18 and 19. In support of his contention, he read out notification No.2-34/96/Admn.Law/5328-5443 dated 31.07.2017 issued by Government of Baluchistan Law and Parliamentary Affairs Department and prayed for acceptance of the writ petition.

5. Conversely, the learned AAG appearing on behalf of the respondents argued that the petitioners were appointed as Additional Government Pleaders in BPS-17, which is the entry point of their service. He next argued that petitioner No.1 was appointed as Additional Government Pleader on 23.05.2014, while the remaining petitioners joined service on 29.5.2018 as such. He further argued that the notification dated 9.8.2012 only 23 posts of Additional District Prosecutors were upgraded, and it was issued much before joining of service of the petitioners as one time exercise,

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therefore, the petitioners cannot take benefit of the same. While referring to the notification of Government of Baluchistan, he added that protection of equal law does not mean that all laws must be uniform and prayed for dismissal of writ petition.

6. We have heard the petitioner No.1 and learned AAG representing the respondents at length and examined the documents appended with the record with their able assistance.

7. It is evident from the record that the petitioners are employees of Law, Parliamentary Affairs and Human Rights Department Khyber Pakhtunkhwa. They were appointed as Additional Government Pleaders in BPS-17, on the recommendation of the Khyber Pakhtunkhwa Public Service Commission vide notification dated 23.05.2014 and 29.05.2018, respectively. The Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs and Human Rights Department upgraded the post of Additional Government Pleaders and Government Pleaders from BPS-17 and 18 to BPS-18 and 19, respectively, vide No.E&A(LD)/17-17/AGP(II)/2012 dated 9<sup>th</sup> August, 2012, reproduced hereinbelow:

**"GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS  
DEPARTMENT  
DATED PESH: THE 9<sup>TH</sup> AUGUST:2012**



**NOTIFICATION**

No.EAA(LD)17-17/AGP(II)/2012. Consequently upon the recommendations of the Upgradation Committee the Competent Authority has been pleased to approve that:

1. The existing Additional Government Pleaders (BPS-17) and Government Pleaders (BPS-18) are upgraded by one step and placed in BPS-18 & BPS-19 respectively with immediate effect. The entry point in the service in BPS-17 as Additional Government Pleaders will remain intact.
2. To upgrade 27 posts of Government Pleaders from (BPS-18) to (BPS-19) as Senior Government Pleaders and 36 posts of Additional Government Pleaders (BPS-17) to BPS-18) out of 59.
3. After upgradation of these posts, the service rules will be amended as per the following nomenclature by applying the formula i.e.

S.No.	Nomenclature	No. of posts
i	Additional Government Pleaders (BPS-17)	23
ii	Government Pleaders (BPS-18)	36
iii	Senior Government Pleaders (BPS-19)	27

4. The service rules for the existing cadre shall be amended to provide avenue for initial recruitment vis-à-vis promotion according to the revised strength of the cadre to ensure a justifiable pyramid promotion structure for officers in BPS-17 as well as to make a quality addition in the cadre through initial recruitment at BPS-18 level on the basis of higher qualification and experience.

Secretary to Government of Khyber Pakhtunkhwa  
Law, Parliamentary Affairs & Human Rights  
Department"

It will also be appropriate to reproduce the relevant service rules of the petitioners as under:-

**"GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS  
DEPARTMENT  
DATED PESHAWAR THE 26-04-2012**

**NOTIFICATION**

No.SO(G)/LD/15-18/2014/1344-64: In continuation of this deptt's Notification No.SO(G)/LD/15-18/2014/2768-2837 dated 12.01.2016 and in pursuance of the provisions contained in sub rule (2) of rule 3 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all previous rules made in this behalf the Law, Parliamentary Affairs and Human Rights Department, in consultation with the Establishment and Finance Departments, hereby lays down the method of recruitment, qualification

and other condition of service specified in columns 3 to 5 in following table which shall be applicable to posts in the offices of the Senior Government Pleaders as specified in column 2 of the table given below:

Sr #	Nomenclature of post	Qualification	Age Limit	Method of recruitment
1	District Attorney (B-19)			By promotion on the basis of seniority-cum-fitness from amongst the Deputy District Attorney having twelve years service in BPS-17 and above with at least three years service in BPS-18 Provided that the length of service for promotion of persons appointed in BS-18 by initial recruitment shall be seven years as such
2	Deputy District Attorney (B-18)	a) Practising Lawyer with 2 <sup>nd</sup> class LL.M degree from a recognized University with five years standing at the Bar experience, preferably on civil side, OR b) Practising Lawyer with 2 <sup>nd</sup> class LL.B degree from a recognized University with total eight years standing at the Bar experience including three years High Court level practice, preferably on civil	25-40 years	i) 70% by promotion, on the basis of seniority-cum-fitness, from amongst Assistant Attorneys with five years' service as such. ii) 30% by initial recruitment

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Bhopal Under Secy to Govt

3	Assistant District Attorney (B-17))	side Practicing Lawyer with 2 <sup>nd</sup> Class LLB degree or equivalent qualification from recognized University with three years standing at the Bar experience.	25-35 years	By initial recruitment
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Perusal of the notification No.SOG(LD)/15-18/2014 dated 26.4.2017, reflects that the post of Additional Government Pleader now Assistant District Attorney BPS-17 are to be filled through initial recruitment. As per ibid notification the entry point in the service of Additional Government Pleader/Assistant District Attorney is BPS-17.

8. A plain reading of the notification dated 9<sup>th</sup> August, 2012 makes it crystal clear that Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs and Human Rights Department was pleased to approve the upgradation of posts of the Additional Government Pleader from BPS-17 and Government Pleader BPS-18 to BPS-18 and 19, respectively, of the existed incumbents on 9<sup>th</sup> August, 2012. It was allowable only to the extent it was granted. The contention raised by the petitioners that earlier incumbents were upgraded by the department from the date of upgradation of the posts and as such, the petitioners are also entitled to

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upgradation, but it was not so done by the respondent department and the petitioners were thus discriminated. However, this contention of the petitioners does not carry weight firstly, because the notification dated 9<sup>th</sup> August, 2012, was issued much before the joining of service of the petitioners secondly, it was for the existing incumbents of that time, thirdly that the entry point of the service of the petitioners was BPS-17 as is reflected from their service rules notified on 26.4.2017, and, fourthly, that they have the chance of promotion as Government Pleaders/Deputy District Attorneys BPS-18 against 70% quota as per their service rules.

9. Now turning to the claim of the petitioners that they have been discriminated, this contention of the petitioners appears to be devoid of any substance. In our view refusal of the Finance Department to grant benefit of notification dated 9.8.2012 does not offend the provisions of Article 25 read with Article 4 of the Constitution. In this context, reference may be made to the most celebrated judgment of the august Supreme Court of Pakistan reported as '*I.A. Sherwani & others v. Government of Pakistan*' (1991 SCMR 1041), wherein, the question regarding equality of citizens before law, entitlement to equal protection of law and principle of the reasonable classification as provided in

Article 25 (1) of the Constitution were dilated upon and examined in depth. It would be advantageous to reproduce the relevant portion of the judgment as under:

*"(i) that equal protection of law does not envisage that every citizen is to be treated alike in all circumstances, but it contemplates that persons similarly situated or similarly placed are to be treated alike;*

*(ii) that reasonable classification is permissible but it must be founded on reasonable distinction or reasonable basis;*

*(iii) that different laws can validly be enacted for different sexes, persons in different age groups, persons having different financial standings, and persons accused of heinous crimes;*

*(iv) that no standard of universal application to test reasonableness of a classification can be laid down as what may be reasonable classification in a particular set of circumstances may be unreasonable in the other set of circumstances;*

*(v) that a law applying to one person or one class of persons may be constitutionally valid if there is sufficient basis or reason for it, but a classification which is arbitrary and is not founded on any rational basis is no classification as to warrant its exclusion from the mischief of Article 25;*

*(vi) that equal protection of law means that all persons equally placed be treated alike both in privileges conferred and liabilities imposed;*

*(vii) that in order to make a classification reasonable, it should be based--*

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*(a) on an intelligible differentia which distinguishes persons or things that are grouped together from those who have been left out;*

*(b) that the differentia must have rational nexus to the object sought to be achieved by such classification.*

*Principles as to classification are as under:*

*(a) A law may be constitutional even though it relates to a single individual if, on account of some special circumstances, or reasons applicable to him and not applicable to others, that single individual may be created as a class by himself.*

*(b) There is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles. The person, therefore, who pleads that Article 25, has been violated, must make out that not only has he been treated differently from others but he has been so treated from persons similarly circumstanced without any reasonable basis and such differential treatment has been unjustifiably made. However, it is extremely hazardous to decide the question of the constitutional validity of a provision on the basis of the supposed existence of facts by raising a presumption. Presumptions are resorted to when the matter does not admit of direct proof or when there is some practical difficulty to produce evidence to prove a particular fact;*

*(c) it must be presumed that the Legislature understands and correctly appreciates the needs of its own people, that its laws are directed to problems made manifest by experience, and that its*

**discriminations are based on inadequate grounds;**

**(d) the Legislature is free to recognize the degrees of harm and may confine its restriction to those cases where the need is deemed to be the clearest;**

**(e) in order to sustain the presumption of constitutionality, the Court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation;**

**(f) while good faith and knowledge of the existing conditions on the part of the Legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the Court on which the classification may reasonably be regarded as based, the presumption of the constitutionality cannot be carried to the extent of always holding that there must be some undisclosed and unknown reasons for subjecting certain individuals or corporations to hostile or discriminating legislation;**

**(g) a classification need not be scientifically perfect or logically complete;**

**(h) the validity of a rule has to be judged by assessing its overall effect and not by picking up exceptional cases. What the Court has to see is whether the classification made is a just one taking all aspects into consideration.**

The case of the petitioners has also been considered and examined on the touchstone of the principles and guidelines provided in the above judgment of Apex

Court and with reference to Articles 4 and 25 of the Constitution and found that the case of the petitioners is not covered by the ibid notification.

10. Now adverting to the last contention of the petitioners with reference to the notification dated 17.2.2007 issued by the Government of Baluchistan, whereby, the posts of Assistant District Attorney and District Attorney have been upgraded from BPS-17 & 18 to BPS 18 and 19, respectively. Suffice it to say that protection of equal laws does not mean that all laws must be uniform in all the provinces, therefore, this contention of the petitioner also does not carry any weight.

11. For what has been discussed hereinabove, this petition being bereft of merits is hereby dismissed.

**Announced,**  
**Dt.14.12.2021.**

MS/10/17/21

JUDGE

JUDGE

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