


21/03/2023

# FORM OF ORDER SHEET

Court of

Case No.

617/2023


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/03/2023	<p>The appeal of Mr. Shah Nawaz resubmitted today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant and his counsel.</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: right;"> REGISTRAR</p>

The appeal of Mr. Shah Nawaz Junior Clerk O/O District Session Judge A. Abad received today i.e. on 20.03.2023 is incomplete on the following score which is returned to the co Counsel for the appellant for completion and resubmission within 15 days.

Copy of departmental appeal against the impugned minutes dated 17.12.2022 is not attached with the appeal which may be placed on it.


No. 994 /S.T.

Dt. 21/3 /2023

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Noor Muhammad Khattak Adv.  
High Court at Peshawar.

→ In light of the Departmental Representation/  
Appeal DPC was conducted for considering  
the appellant for promotion but he was  
defeated and appeal was also rejected  
So the merits <sup>be considered</sup> ~~and~~ along with the  
appellate order for submission of  
this appeal. Kindly be placed before  
the Hon'ble Bench.

 21/3/23

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

SERVICE APPEAL No. 617 / 2023

SHAH NAWAZ

VS

JUDICIARY

**I N D E X**

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**APPELLANT**

Through:

  
**NOOR MOHAMMAD KHATTAK**  
ADVOCATE, SUPREME COURT OF PAKISTAN.

-1-

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 617 /2023

Mr. Shah Nawaz, Junior Clerk (BPS-11),  
O/O District & Sessions Judge, Abbottabad.

..... APPELLANT

**VERSUS**

- 1- The Administrative Judge of the High Court through Registrar Peshawar High Court, Peshawar.
- 2- The District & Sessions Judge, Abbottabad.

..... RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED MINUTES DATED 17.12.2022 WHEREBY PROMOTION OF THE APPELLANT WAS DIFFERED ON THE BASIS OF NOT EARNING PER AND AGAINST THE APPELLATE ORDER DATED 23.02.2023 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS ALSO BEEN REGRETED.**

**PRAYER:**

**That on acceptance of this appeal the impugned minutes dated 17.12.2022 to the extent of appellant and the appellate order dated 23.02.2023 may please be set aside and the appellant be considered for promotion to the post of senior clerk (BPS-14) with all back benefits including seniority and other ancillary matters. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.**

**R/SHWETH:**

**ON FACTS:**

1. That while serving as Junior Clerk (BPS-11) in the District Judiciary, District Abbottabad, the appellant was proceeded and was compulsory retired from service vide order dated 30.11.2022, feeling aggrieved the appellant preferred departmental appeal which was dismissed vide order dated 25.04.2016 and the same was challenged before this August Service Tribunal in appeal No. 838/2016 which was allowed in the favour of the appellant by re-instating him in to service and converting the major penalty in to minor penalty of stoppage of two annual increments vide judgment dated 30.05.2022. Copy of the memo of appeal and judgment dated 30.05.2022 are attached as annexures ..... **A.**
2. That in compliance of the judgment ibid the appellant was re-instated vide order dated 07.10.2022 and pursuance to which the appellant submitted his arrival report on 22.10.2022. Copies of the order dated 07.10.2022 and arrival are attached as annexure ..... **B & C.**

3. That it is pertinent to mention that according to the seniority list of the junior clerks District & Sessions Judge Abbottabad the appellant is on top of the seniority list. Copy of the seniority list is attached as annexure..... **D.**
4. That keeping in view the mentioned situation the appellant preferred departmental appeal on 23.11.2022 for consideration of the period from the date of compulsory retirement till reinstatement for promotion and other benefits. Copy of the departmental appeal is attached as annexure ..... **E.**
5. That the departmental promotion committee meeting was held on 17.12.2022 and the appellant was not considered for promotion on the basis of not earning PER after his reinstatement. Copy of the minutes of DPC dated 17.12.2022 is attached as annexure ..... **F.**
6. That vide order dated 23.02.2023 the departmental appeal was also dismissed. Copy of the appellate order is attached as annexure ..... **G.**
7. That having no other remedy the appellant preferred the instant appeal on the following grounds amongst others.

**GROUND:**

- A- That the action and inaction of the respondents by issuing the impugned minutes dated 17.12.2022 to the extent of appellant by not considering him for promotion with all back benefits including seniority is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified/rectified to the extent of the appellant by promoting him with all back benefits including seniority.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That, the treatment meted out to the appellant is clearly based on discrimination and mala fide and as such the respondents violated the principle of natural justice.
- D- That appellant is fully entitled to be promoted as from the date of his compulsory retirement till reinstatement the period is to be counted for the reason that the very order of compulsory retirement was set aside, therefore, the appellant is to be considered on the post w.e.f. 2011 and is due for promotion in light of the section 9 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 read with the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989.
- E- That the stance of the respondents of not earning PER till reinstatement is not admissible as the appellant was kept out of service by an illegal order which was set aside by the august service Tribunal, hence, not earning PER is not the part of the appellant but due to the illegal order of the respondents.

- F- That respondents violated Article 38(e) of the Constitution of Islamic Republic of Pakistan 1973, according to which state is bound to eliminate disparity in the income and earning of individuals including persons in the services of the Federation, thus in light of the above quoted Article of the Constitution the respondents are duty bound to promote the appellant with all back benefits including seniority.
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 17.03.2023

  
**APPELLANT  
SHAH NAWAZ**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK  
ADVOCATE SUPREME COURT**

  
**KAMRAN KHAN**

  
**UMER FAROOQ**

  
**MUHAMMAD AYUB**

  
**MUJIB UR REHMAN**

  
**MUHAMMAD AIZAZ  
ADVOCATES**

**AFFIDAVIT**

I Shah Nawaz, Junior Clerk (BPS-11), O/O District & Sessions Judge, Abbottabad, do hereby solemnly affirm that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

  
**DEPONENT**

"A"

4-

(1)

BEFORE THE SERVICE TRIBUNAL, KPK, PESHAWAR.

\*\*\*

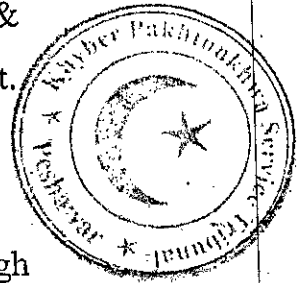
Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 806

Dated 04-08-2016

Service Appeal No. 838 /2016.

Shah Nawaz, Ex-Junior Clerk, Office of the District &  
Sessions Judge, Abbottabad.....Appellant.



-Vs-

1-Senior Puisne Judge through Registrar, Peshawar High  
Court, Peshawar.

2-District & Sessions Judge, Abbottabad.....Respondents.

Appeal against the Judgment/Order  
dated 25.04.2016 of the learned  
respondent No.1, and dt 30.11.2011, 12/2011 of respondent No.2

\*\*\*\*

Prayer in Appeal.

By acceptance of this appeal, the impugned  
Judgment/Order, dated 25.04.2016, 30.11.2011, 12/2011 of the learned  
respondent(s) may please be set aside and the appellant  
may be re-instated in service with all back benefits or any  
other order deem fit may be passed in favour of the  
appellant.

\*\*\*

Registrar

Respectfully Sheweth:

ATTESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



The appellant respectfully submits as under:-

Facts.

- 1- That the appellant was given a charge sheet on 12.9.2011 by the learned Senior Civil Judge/Authorized Officer, Abbottabad to the effect "that on 15.6.2011, the appellant who was Muharrir of Addl. Sessions Judge-VI, Abbottabad had handed over the release warrant to Saeed Akhtar, Sweeper for taking it to the District Jail, Mansehra which amounts to gross negligence and misconduct within the meanings of NWFP, Government Servants (Efficiency and Discipline) Rules, 1973".
- 2- That the appellant had given a detailed reply of it on 1.7.2011 and 22.9.2011 to the learned Civil Judge, Abbottabad and as well as a reply was also given to the final show-cause notice on 25.10.2011.
- 3- That after recording the statement of only one witness, namely, Hayat, Naib Nazir of Senior Civil Judge, Abbottabad on 23.9.2011, the statements of the appellant, and Saeed Akhtar, Sweeper, were recorded on the same day.
- 4- That the learned Civil Judge-V, Abbottabad, who was appointed as Inquiry Officer submitted his report on 23.9.2011 and sent to the learned Senior Civil Judge/Authorized Officer, Abbottabad on the same day.
- 5- That after the receipt of the Inquiry Report, the learned Authorized Officer/Senior Civil Judge, Abbottabad

ATTESTED  
EXAMINER  
ABDUL RAHMAN  
Service Tribunal  
2011/11/11



recommended major penalty to the appellant vide its order dated 24.9.2011.

6- That on the basis of the above said recommendation of the learned Authorized Officer/Senior Civil Judge, Abbottabad, the learned District & Sessions Judge, Abbottabad compulsory retired the appellant from service with immediate effect vide impugned orders dated 30.11.2011 and 1.12.2011.

7- That the appellant then filed a departmental appeal before the learned respondent No.1 but it has been dismissed vide impugned judgment/order dated 25.04.2016 and hence, this appeal is submitted on the following grounds:-

#### Grounds of Appeal.

- 1- That the impugned judgment dated 25.04.2016 of the learned respondent No.1 is illegal, against facts, and is liable to be set aside.
- 2- That in the charge sheet dated 12.09.2011, the only allegation leveled against the appellant was that he had handed over a release warrant to one Saeed Akhtar, Sweeper of the said department for taking it to the District Jail, Mansehra and there is no allegation of corruption etc against the appellant and as such major penalty has illegally been imposed on him by retiring him compulsory which does not at all commensurate with the alleged offence committed by him in good faith and not with any

ATTEST  
[Signature]  
Senior Civil Judge  
Service Tribunal  
Mansehra



malafide intention, particularly, when the co-official, Saeed Akhtar, Sweeper has been awarded punishment of with-holding two increments only. In this respect, 2002 SCMR-690 and 2003 SCMR-207 are referred to.

3- That no regular inquiry was conducted in accordance with the provision of KPK Removal from Service Special Powers Ordinance, 2002 and the appellant was not given any opportunity to cross-examine the witness and no chance of hearing and producing defence was also given to him.

4- That there was no allegation in the show-cause notice regarding the previous conduct and a criminal case against the appellant, particularly, when the FIR case was registered under Section 489-F PPC which was of a civil nature and compromise was made between the appellant and the complainant in that case and he has been acquitted about six years ago vide order dated 7.10.2010 (copy of which is attached herewith) and the learned respondents have illegally attributed this case as amounting to misconduct on the part of the appellant, particularly, when it was not the subject matter of the inquiry in dispute.

5- That giving of a release warrant by the appellant to an official of the said department for taking it to District Jail, Mansehra does not amount to "misconduct" at all but the appellant has acted in good faith to get the accused-person in jail to be released in time which amounts to his

ATTESTED

Signature of the attesting officer.  
Stamp: Service Tribunal  
Mansehra

efficiency in doing his official duty by not delaying the release warrant which was urgent in nature.

6- That the appellant has got 11/12 years of service and no adverse entries in the Annual Confidential Reports (ACRs) was made during this long period and he has been awarded harsh punishment of compulsory retiring from service instead of taking lenient view of stoppage of increment etc as was done with the co-accused against whom the same allegations were made and the appellant has been discriminated also.

It is, therefore, humbly prayed that by acceptance of this appeal, the impugned judgment/order dated 25.04.2016<sup>30.11.2011/12/2011</sup> of the learned respondent No1<sup>and 2</sup> may please be set aside and the appellant may be re-instated in service with all back benefits or any other order deem fit may be passed in favour of the appellant.

Dated: 03/8/2016.

Appellant,

Certified true copy  
Services Tribunal  
Peshawar

*Handwritten signatures and initials*

Through: (Haji Muhammad Zahir Shah),  
Advocate, Peshawar.

3/8

Date of the order issued: 25/11/12  
Number of Writs: 2000  
Urgent: 5/1  
Date of Delivery of copy: 25/11/12

Haji Muhammad Zahir Shah  
Advocate  
Supreme Court of Pakistan  
Peshawar

1 408 -9-

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**



Service Appeal No. 838/2016

BEFORE:            MRS. ROZINA REHMAN            ...    MEMBER (J)  
                         MISS. FAREEHA PAUL            ...    MEMBER(E)

Shah Nawaz Ex-Junior Clerk, Office of the District and Sessions Judge  
Abbottabad.

... (Appellant)

Versus

1. Senior Pusine Judge through Registrar, Peshawar High Court, Peshawar.
2. District & Sessions Judge, Abbottabad.

... (Respondents)

Mr. Noor Muhammad Khattak  
Advocate

...

For appellant

Mr. Muhammad Adcel Butt  
Addl. Advocate General

...

For respondents

Date of Institution.....04.08.2016  
Date of Hearing.....30.05.2022  
Date of Decision.....30.05.2022

**JUDGEMENT**

**FAREEHA PAUL MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned orders dated 30.11.2011 and 01.12.2011 of respondent No. 2 through which the appellant had been awarded major penalty of compulsory retirement from service and judgment of the learned Senior Pusine Judge Peshawar High Court dated 25.04.2016 through which the penalty had been upheld. The appellant has prayed to set aside the orders and reinstate him in service with all back benefits or any other order deemed fit in his favor.

**ATTIESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal



2. Brief facts of case, as given in the memorandum of appeal, are that the appellant was served with a charge sheet on 12.09.2011 by the learned Senior Civil Judge Abbottabad on the ground that on 15.06.2011 the appellant who was Muharrir of Additional Sessions Judge-VI, Abbottabad had handed a release warrant to Saeed Akhtar(Sweeper) for taking it to District Jail Mansehra which was gross negligence and misconduct within the meaning of NWFP Government Servants (E&D) Rules, 1973. The appellant replied to it on 01.07.2011 and 22.09.2011. He also submitted reply on 25.10.2011 to the final show cause notice issued to him on 14.10.2011. Statement of a witness, Hayat, Naib Nazir of Senior Civil Judge, Abbottabad was recorded on 23.09.2011 and on the same day statements of the appellant and Saeed Akhtar (Sweeper) were also recorded. The learned Civil Judge-V Abbottabad who was appointed as Inquiry Officer submitted his report on 23.09.2011 before the Senior Civil Judge. The learned Senior Civil Judge recommended major penalty to the appellant vide order dated 24.09.2011. Based on that, the learned District & Sessions Judge Abbottabad compulsorily retired the appellant from service with immediate effect vide impugned orders dated 30.11.2011 and 01.12.2011. The appellant filed departmental appeal which was rejected and his penalty of compulsory retirement was withheld vide judgment dated 25.04.2016. The appellant hence filed the instant appeal before this Service Tribunal.

3. Respondents were put on notice who submitted written replies/ comments on the appeal. We have heard the learned counsel for the appellant as well as the Assistant Advocate General and perused the case file with connected documents minutely and thoroughly.

4. Learned counsel for the appellant contended at the very onset that the appellant had been proceeded against under NWFP Government Servants (E&D) Rules 1973 as stated in his charge sheet dated 12.09.2011 whereas (E&D) Rules

ATTORNEY  
S. AKHTAR  
Senior Counsel  
Service Tribunal  
Peshawar

*[Handwritten signature]*

were repealed and Removal from Service Ordinance 2000 (RSO 2000) was in place at that time. He further contended that the only allegation levelled against the appellant was that he handed over a release warrant to Saeed Akhtar (Sweeper) of the said department for taking it to District Jail Mansehra and that there was no allegation of corruption as such. Based on that allegation major penalty was imposed on him which did not commensurate with the alleged offence committed by him. Handing over the release warrant by the appellant to an official of the said department for taking it to District Jail Mansehra did not amount to "misconduct", rather the appellant had acted in good faith to get the accused person in jail to be released in time, instead it showed the efficiency in doing his official duty and not delaying the release warrant which was urgent in nature. Moreover, no regular inquiry was conducted in light of provisions of Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance 2000, and the appellant was not given an opportunity to cross-examine the witness and no chance of hearing and producing defense was given to him. The learned counsel for appellant further argued that there were no allegations in the show cause notice regarding previous conduct and a criminal case against the appellant, particularly when a case was registered under Section 489-F PPC, which was a civil nature case and compromise was made between the appellant and complainant, and he was acquitted vide order dated 07.10.2010. Hence it was illegal on the part of respondents to attribute that case as amounting to misconduct on the part of appellant when it was not subject matter of the inquiry in dispute.

5. Learned Additional Advocate General contended that the appellant had admitted in his own statement that he handed a release order to Saeed Akhtar (Sweeper) who was not authorized messenger of the court, and for delivering the same to Mansehra Jail he had to abandon his duty on the main gate of Judicial

WITNESSED

Complex Abbottabad, thus leaving the gate at the mercy of terrorists. By handing

WITNESSED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

*[Handwritten signature]*

over the release order to an unauthorized person, the appellant committed gross negligence and proved himself guilty of corrupt practice. He further contended that the major penalty was right and commensurate with the gravity of offence.


6. After hearing the arguments and going through the available record it transpires that disciplinary action against the appellant was initiated under (E&D) Rules, 1973 and as a result major penalty of compulsory retirement from service was awarded to him. It was noted that disciplinary action was initiated by the District & Sessions Judge Abbottabad on 29.06.2011 in the form of an explanation served to Mr. Shah Nawaz, Muharrir to Additional District & Sessions Judge VI Abbottabad and Saeed Akhtar (Sweeper), office of Senior Civil Judge Abbottabad on the ground of being absent from duty from 9.00 am to 2.00 pm on 15.06.2011. The same explanation mentioned the handing over of release warrant by the appellant to Mr. Saeed Akhtar (Sweeper). The process continued and statement of allegations was issued on 12.09.2011 under the same (E&D) Rules, 1973. At the time when the entire disciplinary proceedings were initiated the (E&D) Rules had been repealed and Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance 2000 was promulgated till such time that it was repealed through Khyber Pakhtunkhwa Removal from service (Special Powers) (Repeal) Act 2011 passed by Provincial Assembly of Khyber Pakhtunkhwa on 12.09.2011 and assented to by the Governor of the Khyber Pakhtunkhwa on 15.09.2011. Record reveals that charges against Shah Nawaz and Saeed Akhtar were of similar nature but penalty awarded to them was different which tantamounts to discrimination; one of them was given the penalty of stoppage of two annual increments whereas the appellant was awarded major penalty of compulsory retirement. If we keep aside the disciplinary proceedings initiated under the rules which were not in place at that time, and consider the proceedings to be conducted in the way it had to be done, even then the punishment seems discriminatory and harsh. Therefore, we

ATTESTED

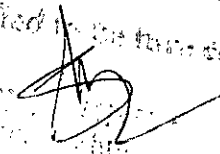
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

allow the appeal in hand and convert the major penalty of compulsory retirement of the appellant into minor penalty of stoppage of two annual increments. Intervening period is treated as leave of the kind. Parties are left to bear their own costs. Consign.

7. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 30<sup>th</sup> day of May, 2022.

  
(ROZINA REHMAN)  
Member (J)

  
(FAREEHA PAUL)  
Member (E)

Certified to be true copy  
  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of presentation of application 25/11/22  
No. of sheets 2000  
27/  
4/1  
26/  
25/11/22  
Date of delivery of copy 25/11/22



"B" - 14 -



OFFICE OF THE  
DISTRICT AND SESSIONS JUDGE  
ABBOTTABAD

Phone: 0992-921051  
Fax: 0992-921594  
Email: dsjtd@gmail.com

OFFICE ORDER

In compliance of decision passed in service appeal No. 838/2016 of Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar, major penalty of compulsory retirement already awarded to Mr. Shah Nawaz Ex-Junior Clerk is converted into minor penalty of stoppage of two annual increments due from 01.12.2022 and 01.12.2023 are hereby withheld, intervening period is treated as leave of kind. Official concerned is hereby re-instated in service with immediate effect.

2181-2187

No. \_\_\_\_\_ 2/4 & 2/52

District & Sessions Judge  
Abbottabad  
07/10  
Dated Abbottabad the \_\_\_\_\_ /2022

Copy forwarded to the: -

1. Registrar, Peshawar High Court, Peshawar.
2. Members Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Senior Civil Judge (Admn), Abbottabad.
4. District Comptroller of Accounts, Abbottabad.
5. Budget & Accounts Assistant, District Courts, Abbottabad.
6. Official concerned by name.
7. Office copy.

District & Sessions Judge  
Abbottabad

2/4

110"  
ARRIVAL REPORT -15-


In compliance with the order of Hon'ble District & Sessions Judge, Abbottabad bearing endorsement No. 2181-2187-2/4 dated 7<sup>th</sup> October 2022, I Shahnawaz s/o Noor Hassan do hereby submit my arrival report today on 22.10.2022 (After noon).

*Shahnawaz*  
Shahnawaz s/o Noor Hassan

*See*  
24.10.2022

**SENIORITY LIST OF THE ESTABLISHMENT OF THE COURT OF DISTRICT & SESSIONS JUDGE, AJMER**

S#	Name of Official	Date of Birth	Date of first appointment	Date of appointment/promotion in the present grade	Existing pay scale	Date of retirement on qualifying service of 25 years	Date of Retirement on superannuation	Signature of official
<b>JUNIOR CLERKS (BPS-11)</b>								
1	Shahnawaz	01.02.1976	31.05.2000	31.05.2000	BPS-11			Reinstated on 07.10.2022
2	Saqib Zia Asghar	27.11.1977	12.09.2003	12.09.2003	BPS-11	12.09.2028	27.11.2037	Reinstated on 08.12.2016
3	Kashif Mehmood	17.05.1983	27.03.2010	27.03.2010	BPS-11	27.03.2035	17.05.2043	
4	Faisal Qureshi	10.08.1983	05.06.2009	27.03.2010	BPS-11	05.06.2034	10.08.2043	
5	Qasim Ijaz	23.03.1986	27.03.2010	27.03.2010	BPS-11	27.03.2035	23.03.2043	
6	Muhammad Naeem	28.10.1986	27.03.2010	27.03.2010	BPS-11	27.03.2035	28.10.2046	
7	Nazakat Hussain	30.08.1989	27.03.2010	27.03.2010	BPS-11	27.03.2035	30.08.2049	
8	Muhammad Khalid	14.08.1975	17.01.2002	29.05.2010	BPS-11	17.01.2027	14.08.2035	
9	Shahid Mehmood	06.01.1976	08.10.2001	29.05.2010	BPS-11	08.10.2025	06.01.2036	
10	Tahir Mehmood	04.05.1976	01.10.2000	29.05.2010	BPS-11	01.10.2025	04.05.2036	
11	Nadeem Masih	28.02.1977	01.02.1999	29.05.2010	BPS-11	01.02.2024	28.02.2037	
12	Sufeer Ahmad	10.03.1979	20.10.2001	29.05.2010	BPS-11	20.10.2026	10.03.2039	
13	Junaid Wadood	13.03.1985	29.05.2010	29.05.2010	BPS-11	29.05.2035	13.03.2045	
14	Zahid Ali	02.04.1986	29.06.2009	29.05.2010	BPS-11	29.05.2035	29.05.2046	
15	Qamish Ali	09.03.1989	24.02.2009	29.05.2010	BPS-11	24.02.2034	09.03.2039	
16	Abdul Qadeer	18.08.1978	30.03.2010	30.05.2012	BPS-11	30.03.2035	18.08.2038	
17	Kashif Jameel	20.03.1984	30.05.2012	30.05.2012	BPS-11	30.05.2037	20.03.2044	
18	Iftikhar Ahmad	06.06.1969	26.09.2001	31.05.2012	BPS-11	26.09.2026	06.06.2029	
19	Abdul Salam	18.08.1982	13.09.2003	01.06.2012	BPS-11	13.09.2028	13.09.2042	
20	Zahoor Ahmad	24.04.1981	20.10.2001	01.06.2012	BPS-11	20.10.2026	24.04.2041	

  
 EXAMINER  
 District & Session Judge  
 Ajmer

"E"

-17-

To

The Honorable District and Sessions Judge,  
Abbottabad.

Subject: **COUNTING OF SERVICE WITH EFFECT FROM 01.12.2011 TO 07.10.2022 ON ACCOUNT OF RE-INSTATEMENT IN SERVICE IN THE LIGHT OF THE JUDGEMENT DATED 30.05.2022 PASSED BY WORTHY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

Honorable Sir,

This is with reference to subject cited above. In this regard, with due respect, it is submitted that the applicant is re-instated in service, vide Judgment passed by Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 30.05.2022 in appeal bearing No. 838/2016 vide their judgment dated 30.05.2022. The Honorable Tribunal by accepting the appeal of applicant/undersigned was kind enough to convert the major penalty of compulsory retirement into minor penalty of stoppage of two annual increments. (Attested copy of the said judgment is attached herewith for your good-self kind perusal).

*2*  
Superintendent  
District & Sessions Judge  
Abbottabad  
23-11-22

Later on, re-instatement order bearing No. 2181-2187-2/4


& 2/52 dated 07.10.2022 was issued by your good office, whereby undersigned had reported on 22.10.2022 before your good office. Thereafter, undersigned was posted as Reader to

ATTES  
TRUE COPY  
2023  
EXAMINE  
District & Sessions Judge  
Abbottabad

Judicial Magistrate-I, Havelian vide order bearing No. 2303-2313-2/4 dated 26.10.2022.

In this context, undersigned humbly requests your good office to kindly consider the said period of pension i.e. 01.12.2011 to 07.10.2022 towards my pay, seniority, promotion and pension matters etc. of the undersigned as per service rules.

Undersigned shall be grateful for this act of kindness.

  
SUPERINTENDENT to  
District & Sessions Judge  
Abbottabad


23-11-22

ATTESTED to be  
True Copy



2023

EXAMINER  
District & Sessions Judge  
Abbottabad

  
(Shahnawaz)  
Junior Clerk (BPS-11)  
Reader to Judicial Magistrate-I,  
Havelian Abbottabad

2022 DL 2/4 JLB Com T  
-19- "F"

**MINUTES OF DEPARTMENTAL PROMOTION COMMITTEE, HELD IN THE  
OFFICE OF DISTRICT & SESSIONS JUDGE, ABBOTTABAD**

A meeting of Departmental Promotion Committee held today on 17.12.2022, The following participants attended the meeting.

1. Mr. Ikhtiar Khan, District & Sessions Judge, Abbottabad. (Chairman/competent authority).
2. Mr. Muhammad Iqbal, Additional District & Sessions Judge, Abbottabad (Nominee of The District & Sessions Judge)
3. Syed Hassan Raza Shah, Additional District & Sessions Judge, Haripur (Nominee of the High Court)

The committee considered the promotion against one vacant post of Senior Scale Stenographer (BPS16), two vacant posts of Senior Clerk (BPS-14) and one post of Junior Clerk (BPS-11).

**1. Promotion of Senior Scale Stenographer (BPS-16)**

The committee considered the working papers prepared by the office in which the senior most officials Muhammad Tariq and Aqeel Khan, Junior Scale Stenographers at serial No. 1 & 2, respectively, for promotion. To determine their fitness, they were put to shorthand and typing tests. Muhammad Tariq could not comprehend the dictation in shorthand and failed to convert the same in descriptive form, as required. He could not achieve the required result in the typing test, as well. Moreover, his PERs for the last three years are average and the Reporting Officer in the last PER for the year 2021, has opined the official as not fit for promotion. The official Muhammad Tariq is, therefore, not considered for promotion being unfit.

The official at serial No. 2 of the seniority list; Mr. Aqeel Khan taken the dictation in shorthand and converted the same into descriptive form, i.e. long hand. He also achieved the required speed during the typing test. Considering fitness of Mr. Aqeel Khan coupled with his previous good PERs for the last three years, the committee unanimously decided and recommended to promote him to the post of Senior Scale Stenographer (BPS-16).

**2. Promotion of Senior Clerks (BPS-14)**

The committee considered the working papers prepared by the office in which the two senior most Junior Clerks i.e. Shah Nawaz and Saqib Zia Asghar were not found fit for promotion to the posts of Senior Clerks. Mr. Shah Nawaz was compulsory retired from service on 01/12/2011. He preferred service appeal No. 838/2016 which was allowed on 30/05/2022, it is however, observed that only his major penalty of compulsory retirement has been converted into minor penalty of stoppage of two annual increments. In compliance with the referred judgment, he has been reinstated into service on 07/10/2022 and not earned any PER; after his reinstatement. The said official, therefore, not considered for promotion to the post of Senior Clerk.

2/4

Mr. Saqib Zia Asghar's service appeal No. 923/2020 is pending disposal before the Khyber Pakhtunkhwa Service Tribunal. His PERs for the year 2019, 2020 are average and that of 2021 is below-average; therefore, considered not fit for promotion.

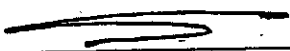
The committee then decided to consider official Mr. Kashif Mehmood, figuring at serial No. 3 and considered him fit for promotion against the post of Senior Clerk (BPS-14) having earned last three good PERs.


The committee also unanimously agreed to consider official Mr. Faisal Qureshi, at serial No. 4 being fit for promotion, to the posts of Senior Clerk (BPS-14), having obtained three good PERs for the last three years.

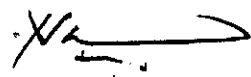
The committee unanimously recommended officials Mr. Kashif Mehmood and Mr. Faisal Qureshi, Junior Clerks for promotion to the posts of Senior Clerks (BPS-14).


**3. Promotion of Junior Clerk (BPS-11)**

The committee considered the working paper prepared by the office for the post of Junior Clerk (BPS-11). In the seniority list of Daftri/Record Lifters, no one was found eligible due to lack of requisite three years length of service as Daftri/Record Lifter. In the seniority list of Naib Qasids, Mr. Shahid Gul, Naib Qasid figuring at serial No. 1 was found by the committee fit for promotion, after adjudging his fitness in light of the guidelines set-forth by the honourable High Court in letter No. 19657-19706/DSC-DPC/Admn dated 09/12/2017. He is, therefore, recommended for promotion against the post of Junior Clerk (BPS-11).

  
**IKHTIAR KHAN**  
District & Sessions Judge/ Chairman  
Abbottabad.

  
**MUHAMMAD IQBAL**  
Additional District & Sessions Judge-V,  
Nominee of District & Sessions Judge,  
Abbottabad  
17-12-2022

  
**SYED HASSAN RAZA SHAH**  
Additional District & Sessions Judge, Haripur  
Nominee of Peshawar High Court  
Peshawar  
17.12.2022

  
EXAMINER  
District & Sessions Judge  
Abbottabad

Form "B"

"6"

-21-

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other proceedings with Signature of Judge or Magistrate and that of parties or council where necessary
1	2	3
	<p><u>Or.....07</u> 23.02.2023</p>	<p>Applicant Shah Nawaz marked his attendance in the morning.</p> <p>. By way of instant application, Shah Nawaz (Junior Clerk, BPS-11), Reader to JM-I, Havelian, Abbottabad requested for counting the period of pension i.e. 01.12.2021 to 07.10.2022 toward his pay, seniority, promotion and pension etc.</p> <p>Facts leading to the filing of instant application are that the applicant is the employee of District Judiciary, Abbottabad. On 12.09.2011, the learned Senior Civil Judge/authorized officer, Abbottabad had issued charge sheet to the applicant on the allegations that on 15.06.2011, the applicant was on duty as Moharrir with the Court of ADJ-IV, Abbottabad and handed over the release warrant to Saeed Akhtar (Sweeper) for taking it to District Jail, Mansehra, which amounts to gross negligence and misconduct within the meaning of Government Servants (Efficiency and Discipline), Rules 1973. After completion of inquiry on the said allegation, major penalty was recommended to be imposed on the applicant. My learned predecessor in office, being competent authority had</p>

266/V/

232  
23

23-07-2023

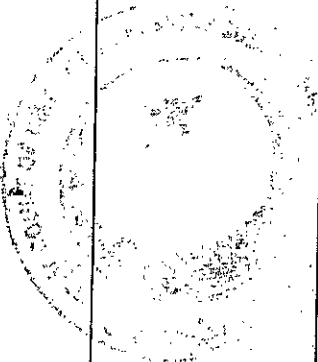

ATTORNEY  
FIRAZ KHAN  
2023

CHAIRMAN  
Pension Judge  
Abbottabad



Form "B"

2

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other proceedings with Signature of Judge or Magistrate and that of parties or council where necessary
1	2	3
	 <p>23-02-2023</p> <p>ATTESTED to be TRUE COPY</p> <p></p> <p>2023</p> <p>EXAMINER District &amp; Session Judge Abbottabad</p>	<p>compulsorily retired the applicant from the service with immediate effect vide orders dated 30.11.2011 and 01.12.2011. The applicant had assailed the validity of said orders before the Service Tribunal, Khyber Pakhtunkhwa Peshawar, in service appeal No. 838/2016, which was allowed vide judgment dated 30.05.2022. The major penalty of compulsory retirement of the applicant was converted into minor penalty of stoppage of two annual increments. The intervening period was treated as lieu of the kind.</p> <p>In compliance of the order of Honourable Service Tribunal, the applicant was reinstated vide order bearing No. 2181-2187-2/4 &amp; 2/52 dated 07.10.2022 by the undersigned/this office.</p> <p>Now, by way of instant application, the applicant requested for counting the intervening/pension period i.e. 01.12.2011 to 07.10.2022 towards his pay, seniority, promotion, pension and other matters.</p> <p>To consider the request of the applicant, I have gone through the judgment of Honourable Service Tribunal and also sought opinion of the District Comptroller of</p>

Form "B"

-23-

3

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other proceedings with Signature of Judge or Magistrate and that of parties or council where necessary
1	2	3
		<p>Accounts (DCA), Abbottabad. The judgment of Honourable Service Tribunal is silent about back benefits to the applicant while as per the comments of District Comptroller of Accounts, Abbottabad, the meaning of "leave in kind" is that the official will be granted/treated out of his leaves account, as first leave on full pay or on half pay and on exhaustive leave on pay, then leave without pay, the DCA, Abbottabad also appoint that the total service of official is 11 years &amp; 06 months and was working in Vacation Department, therefore, his total leave at his credit on full pay comes to 138 days only or on half pay 276 days, and he is not entitled to any other relief; rather, all the received/paid benefits on account of pension as on compulsory retirement be recovered back from him, so, keeping in view the judgment of the Honourable Service Tribunal and opinion of the DCA, Abbottabad, the application in hand is devoid of any merit; therefore, dismissed. File be consigned to record room.</p> <p><b>Announced:</b> 23.02.2023 02.03.23</p> <p style="text-align: right;">(IKHTIAR KHAN) D&amp;SJ, Abbottabad</p> <p style="text-align: center;">Bill</p> <p style="text-align: center;">02.03.23 11-03-23</p>

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B

By: [Signature] Judge

No. 3722  
D. O. P. No.  
No. 11  
D. O. P. No.  
D. O. P. No.

02.03.23  
11-03-23

-24-

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

APPEAL NO: \_\_\_\_\_ OF 2023

Shah Nawaz

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Judiciary

(RESPONDENT)  
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 18/3 /2023

*Noor Mohammad*  
**CLIENT**

**ACCEPTED**

**NOOR MOHAMMAD KHATTAK  
ADVOCATE SUPREME COURT**

(BC-10-0853)  
(15401-0705985-5)

**KAMRAN KHAN**

**UMAR FAROOQ MOHMAND**

*Adnan*  
**WALEED ADNAN**

&

*Muhammad Ayub*  
**MUHAMMAD AYUB  
ADVOCATES**

**OFFICE:**

Flat No. (TF) 291-292 3<sup>rd</sup> Floor,  
Deans Trade Centre, Peshawar Cantt.  
(0311-9314232)