

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR AT CAMP COUT ABOTTABAD**

SERVICE APPEAL NO. 245/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5957

Haras Khan S/O Khalid Khan, Assistant Public Prosecutor (BP-17), Abbottabad,

Dated 13/6/2023

Appellant.....


VERSUS

1. Director General Prosecution, Govt. of Khyber Pakhtunkhwa, Peshawar.
2. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar.
3. Secretary, Home & Tribal Affairs Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
4. Secretary Establishment, Govt. of Khyber Pakhtunkhwa, Peshawar.
5. Director General Prosecution, Govt. of Khyber Pakhtunkhwa, Peshawar.

Respondents.....

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Muhammad Gulzar Ali
(Superintendent)
Directorate of Prosecution,
Khyber Pakhtunkhwa

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO. 245/2023.

Mr. **Haras Khan** s/o Khalid Khan Assistant Public Prosecutor (BPS-17),
Abbottabad.

.....Appellant

VERSUS

1. **The Director General** Prosecution, Directorate of Prosecution Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa , Home & Tribal Affairs Department Peshawar.
3. Govt. Of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
4. Imran Hussain Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor Nowshera.
5. Abdul Haleem Khan Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor Chitral Lower.
6. Sameen Khan Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor Charsadda.
7. Khalid Hussain Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor Mardan.
8. Mudassar Hussain Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor D.I.Khan.
9. Naid Wali Assistant Public Prosecutor on deputation in Law Department.
10. Muhammad Shahab Alam Shah Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor D.I.Khan.
11. Hidayat Ullah Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor Chitral Lower.
12. Nisar Ahmed Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor Orakzai.
13. Ashraf Ali Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor Shangla.
14. Muhammad Imran Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor Peshawar.
15. Muhammad Javed Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor Malakand.

16. Muhammad Bilal Assistant Public Prosecutor (BPS-17) office of the District Public Prosecutor Kohat.

..... Respondents

PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 TO 3.

RESPECTFULLY SHEWETH. The Respondents submits as under;

PRELIMINARY OBJECTIONS:

1. That the Khyber Pakhtunkhwa Public Service Commission (KPPSC) has not been made a party to the instant Appeal, which is a necessary party for just conclusion of the matter, hence the Appeal is liable to be dismissed.
2. That the instant Service Appeal is not maintainable in the eyes of law.
3. That the Appellant and Respondents No. 4 to 16 were recommended for the post of Assistant Public Prosecutor, by KPPSC, vide a single Advertisement, bearing No. 01-2015 Sr. No. 58,59,60 & 61.
4. That the Impugned Seniority List has been issued according to order of the merit/inter-se Seniority, initially assigned to each candidate by the KPPSC.
5. That the Appellant has got no Cause of action to file instant Appeal.
6. That the Appellant has concealed material facts from this Honourable Tribunal hence the Appeal is liable to be dismissed.
7. That the Appellant is estopped by his own conduct to bring the present Appeal before this Honourable Tribunal.
8. That the Appeal is barred by law and limitation.
9. That the Appeal is bad for mis-joinder and non-joinder of necessary parties.

PARAWISE REPLY:-

1. Pertains to record.

2. Pertains to record.

3&4. These Paras need clarification. In fact the Appellant and 88 other candidates qualified the interview, for the post of Assistant Public Prosecutor, under the Advertisement bearing No. 01/2015, Sr. No. 58, 59, 60 & 61 of KPPSC. The Appellant, although appointed earlier in service, is not senior to Respondents No. 4 to 16, in their inter-se seniority. The Appellant and Respondents No. 4 to 16, were recommended and appointed vide the same Advertisement of KPPSC and later on, the Inter-se Seniority List/Merit List was issued by KPPSC (**Annexure-A**). The Appointing authority being bound to follow the same, has acted on the basis of this merit list provided by KPPSC, who has not been made a party to the instant Appeal. It is pertinent to mention here that after the initial recommendation by KPPSC, some recommended Candidates, submitted non-joining the Prosecution service, upon which the Respondent No.01 approached the KPPSC with the request to recommend the next candidate from the waiting list, and hence the Respondents No 4 to 16 were Appointed in the year 2017, after their subsequent recommendation from KPPSC, while one candidate was appointed during the year, 2018 due to a court case (**Annexure-B**).

5. Pertains to record.

6. In response to this para it is submitted that the Representation of the Applicant was not maintainable as the Appellant submitted the representation against the Final Seniority List instead of Tentative Seniority List. Moreover, the same issue was already decided and filed by the competent Authority being merit less in other representations (**Annexure-C**).

7. As replied vide Para 06 above.

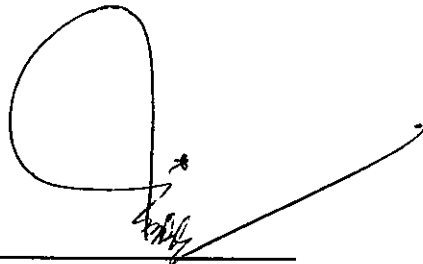
8. As replied vide Para 06 above.

GROUNDS:

- a) Incorrect hence denied.
- b) Correct, however the Appellant has already been dealt according to Law.
- c) Incorrect. As replied Vide Para 03 of the para-wise comments.
- d) Pertains to record.

PRAYER:

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



The Director General Prosecution
Khyber
Pakhtunkhwa
(Respondent No.1)



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

Home Secretary,
Khyber Pakhtunkhwa



The Chief Secretary
Government of
Khyber Pakhtunkhwa
(Respondent No.3)



KHYBER PAKHTUNKHWA PUBLIC SERVICE COMMISSION

APPENDIX-A

(TENTATIVE) COMBINED INTER-SE-MERIT OF ASSISTANT PUBLIC PROSECUTOR (B-17)
(GENERAL / FEMALE / DISABLE AND MINORITY QUOTAS) OF ADVERTISEMENT NO. 01/2015
S.NO.58, 59, 60 AND 61.

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61
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Merit order	Name with Father's Name	Domicile/Zone	Adjustment
1.	Sidra Aslam D/O Muhammad Aslam	Haripur/5	Female Quota
2.	Asif Zeb S/O Jehan Zeb	Peshawar/2	General Seats
3.	Waheed Ullah S/O Fazal Wahid	Dir (L)/3	General Seats
4.	Farinaz Ullah S/O Jangi Mar Khan	SWA/1	General Seats
5.	Muhammad Asif S/O Nasir Khan	Peshawar/2	Female Quota
6.	Fahim Ullah Khan S/O Jamshid Khan	Charsadda/2	General Seats
7.	Zulfiqar Ali S/O Arsala Khan	Peshawar/2	General Seats
8.	Sadeeq Anjum S/O Shams ul Qamar	Peshawar/2	General Seats
9.	Muhammad Kamran S/O Shamsul Islam	Mardan/2	General Seats
10.	Kamran Ullah S/O Rizwan Ullah	Peshawar/2	General Seats
11.	Sheeraz Akbar S/O Ali Akbar	Moh: Agy/1	General Seats
12.	Haroon Khan Safi S/O Muhammad Jamil Safi	Moh: Agy/1	General Seats
13.	Sikandar Zaman S/O Nadar Khan	Charsadda/2	General Seats
14.	Shah Saud S/O Abdul Ghaffar	Peshawar/2	General Seats
15.	Sohail Ahmad S/O Fida Muhammad	Mardan/2	General Seats
16.	Meena Qaiser D/O Qaiser Khan	Nowshera/2	Female Quota
17.	Zeeshan Taj S/O Taj Muhammad	Mansehra/5	General Seats
18.	Andaleeb Shabeer D/O Shabeer Ahmad	Mansehra/5	Female Quota
19.	Ata Ullah S/O Alargeer Khan	Battagram/3	General Seats
20.	Muhammad Adnan Khan S/O Muhammad Qadir	Mardan/2	General Seats
21.	Umer Mehmood S/O Jehan Zeb Khan	Swabi/2	General Seats
22.	Mukhtyar Ahmad S/O Khybareen	Shangla/3	General Seats
23.	Zohaib Ahmad Sher S/O M. Sher Khan	N.W.A/1	General Seats
24.	Imran Khan S/O Parvez Khan	Swabi/2	General Seats
25.	Abdul Waheed S/O Abdul Hamid Khan	MKD Agy/3	General Seats
26.	Mujeeb Ur Rahman S/O Mahtab Khan	Buner/3	General Seats
27.	Umer Zeb S/O Ikhrarj	Peshawar/2	General Seats
28.	Fazal Qayum S/O Hidayat Shah Khattak	Charsadda/2	General Seats

(Cont: P/2.....)

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29.	Muhammad Usman Ali S/O Fayyaz ur Rehman	Peshawar/2	Disable Quota
30.	Minhaj Khan S/O Nasrullah Khan	Mardan/2	General Seats
31.	Nigar Ahmad S/O Nazir Muhammad	Mardan/2	General Seats
32.	Hafiz Farid D/O Farid Ullah Khan	Charsadda/2	General Seats
33.	Kamran Aamir S/O M. Ismail Khan	Bannu/4	General Seats
34.	Beenish Gul D/O Muhammad Sakhi	Peshawar/2	General Seats
35.	Asad Anwar Khan S/O Muhammad Anwar Khan	Lakki Marwat/4	General Seats
36.	Daulat Khan S/O Gul Meer	Charsadda/2	General Seats
37.	Imran Ali S/O Liaqat Ali	Mardan/2	General Seats
38.	Taimur Khan S/O Noor Muhammad	Mardan/2	General Seats
39.	Sana Ajmal D/O Ajmal Khan	Swabi/2	General Seats
40.	Islah Ud Din S/O Zaki Ud Din	Dir (L)/3	General Seats
41.	Asad Ullah S/O Khurshid Kamal	Swat/3	General Seats
42.	Sardar Ali S/O Haji Pakar Khan	Peshawar/2	General Seats
43.	Hassan Khan S/O Talib Khan	Moh: Agy/1	General Seats
44.	Amjad Ali S/O Muhammad Hamayun Khan	Battagram/3	General Seats
45.	Israr Ahmad S/O Abdul Ghaffar	Bannu/4	General Seats
46.	Shehryar Khan S/O Ayub Khan	F.R Peshawar/1	General Seats
47.	Muhammad Sohail Khan S/O Hamid Ullah Khan	D. I Khan/4	General Seats
48.	Nosherwan Khan S/O Ayub Khan	Peshawar/2	General Seats
49.	Hayat Khan S/O Yousaf Khan	Peshawar/2	General Seats
50.	Tanseer Ali Mehdi S/O Altaf Hussain	D.I Khan/4	General Seats
51.	Junaid Alam S/O Khan Ghalib	Mardan/2	General Seats
52.	Manzoor Khan S/O Waris Khan	Moh: Agy/1	General Seats
53.	Amjad Ali S/O Khurshed Gul	Charsadda/2	General Seats
54.	Syed Abdul Mujeeb S/O Syed Tilawat Shah	Charsadda/2	General Seats
55.	Shakir Ullah Khan S/O Alif Khan	MKD AGY/3	General Seats
56.	Arbab Muhammad Ahtisham S/O Arbab Muhammad Jahanzeb	Peshawar/2	General Seats
57.	Farman S/O Raz Wali Khan	Moh: Agy/1	General Seats
58.	Javed Yousaf S/O Muhammad Yousaf	Haripur/5	General Seats
59.	Imran Hussain S/O Zafar Hussain	Peshawar/2	General Seats
60.	Abdul Haleem Khan S/O Abdur Razaq Khan	Chitral/3	General Seats
61.	Samiullah Ahmad S/O Muhammad Sadeeq	Peshawar/2	General Seats (Court Case) (Non Joiner)
62.	Khalid Hussain S/O Muhammad Hussain	Mardan/2	General Seats
63.	Muassir Hussain S/O Haji Muhammad Rashid	D.I KHAN/4	General Seats
64.	Muhammad Arif S/O Arsala Khan	Moh: Agy/1	General Seats

66	Muhammad Usman Ali S/O Malik Muhammad Pervaiz	Abbo. abad/5	General Seats
67	Nadir Wali S/O Hk Akbar Khan	[REDACTED]	General Seats
68	Muhammad Shahab Alam Shah S/O Zahir Shah	D.I Khan/4	General Seats
69	Inan Ullah S/O Gul Nawaz Khan	L. Marwat/4	General Seats
70	Saba Jabeen D/O Muhammad Israr Khan	Dir/3	Female Quota
71	Nisar Ahmad S/O Asal Marjan	Karak/4	General Seats (Non Joiner)
72	Ashraf Ali S/O Muhammad Ajmal Khan	Shangla/3	General Seats
73	Ajab Khan S/O Khan Zada	Upper Dir/3	General Seats (Court Case)
74	Fozia Durrani D/O Iftikhar Hussain	Peshawar/2	Female Quota
75	[REDACTED]	[REDACTED]	[REDACTED]
76	Imran Khan S/O Wilayat Khan	Haripur/5	General Seats
77	Haider Ali S/O Hazrat ur Rehman	Mardan/2	Disable Quota
78	Huma D/O Danial Murad	Peshawar/2	Minority Quota
79	[REDACTED]	M. Agy/1	General Seats
80	Jauhar Ali S/O Habib Ullah	M. Agy/1	General Seats
81	Syeda Alvina Shah D/O Syed Azhar Ali Shah Bukhari	Peshawar/2	Female Quota
82	[REDACTED]	[REDACTED]	General Seats
83	Sumaira D/O Muhizullah	Mardan/2	Female Quota
84	Bushra Ashraf D/O Muhammad Ashraf	Abbottabad/5	General Seats
85	Lubna Shahzadi D/O Aurang Zeb	Abbottabad/5	General Seats
86	Haras Khan S/O Khalid Khan	Mansehra/5	General Seats
87	[REDACTED]	Mansehra/5	General Seats
88	Rabail Afsar D/O Khan Afsar	Abbottabad/5	General Seats
89	Suneela D/O James Masih	Swabi/2	Minority Quota

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(FAZAL QAYYUM)
Assistant Director-II

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20/11/19

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CONFIDENTIAL

Phone : 091-9213561
Fax : 091-9211795
Website : www.kppsc.gov.pk

KHYBER PAKHTUNKHWA
PUBLIC SERVICE COMMISSION
2-Fort Road, Peshawar Cantt.

NO. PSC/SR-VI/ 1174

Dated: 13/03/2018



To.

The Secretary to Govt. of Khyber Pakhtunkhwa.
Home and Tribal Affairs Department.
Peshawar.

Subject:- RECRUITMENT OF SEVENTY SIX (76) POSTS OF ASSISTANT PUBLIC PROSECUTOR (BPS-17) IN HOME AND TRIBAL AFFAIRS DEPARTMENT (ADVERTISEMENT NO.01/2015 S.NO.58)

Dear Sir.

In compliance with the judgment of Honourable Peshawar High Court dated 13.03.2018 in writ Petition No.4994-P/2016, the Commission recommends Mr. Sameen Ahmad S/O Muhammad Sadeeq of Distt: Peshawar/2 to the Government for appointment against the subject cited post, provisionally subject to decision of the Govt. regarding filing or otherwise of CPLA in the August

2. Recommendation in favour of the recommendee is further provisional subject to his medical fitness and verification of all the documents / testimonials etc by the department.
3. Original application (*with enclosures*) of the above recommendee is enclosed herewith for your record.
4. Kindly acknowledge receipt the same.

Yours faithfully,

Handwritten signature and date: 13/03/18

(GHULAM DASTAGIR AHMAD)
Director Recruitment.

Encl: As above.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT 1029

NO. SO (Pros)/HD/1-27/2022/KC
Dated Peshawar the November 07, 2022.

To

The Director General Prosecution
Khyber Pakhtunkhwa
Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED FINAL SENIORITY LIST OF ASSISTANT PUBLIC PROSECUTOR (BPS-17) VIDE NOTIFICATION NO.SO (PROSECUTION) HD/SENIORITY LIST APPA/1-27/2022 DATED 1, SEPTEMBER 2022, CIRCULATED THROUGH OFFICE ORDER NO. DP/E &A/1(49) 14544-89 DATED 06-09-2022, WHEREBY JUNIORS FROM THE APPELLANT HAS BEEN ADJUSTED AS SENIOR IN AN ILLEGAL AND UNLAWFUL MANNER AND LIABLE TO BE MODIFIED BY GIVING RESPECTIVE CORRECT POSITION TO THE APPELLANT IN THE IMPUGNED SENIORITY LIST.

Dear Sir,

I am directed to refer to your letter No. DP/E&A/PF/17354-55, dated 27-10-2022, on the subject noted above and to state that application of Mr. Arbab Ihtisham, Assistant Public Prosecutors (BS-17) Peshawar was processed and considered by the competent authority and the same has been filed.

2. The officer concerned may be informed accordingly, please.

Yours faithfully,

(Signature)
10/11/22
(MADEBHA KHAN)
Section Officer (Prosecution)

Endst: No & date Even.

Copy of the Above Forwarded to the:-

1. PS to Secretary Home & Tribal Affairs Department Khyber Pakhtunkhwa.
2. Master File.

(Signature)
10/11/22
Section Officer (Prosecution)

10415
11/11/22

(Signature)
11/11
AAA

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 245/2023

Haras Khan S/O Khalid Khan, Assistant Public Prosecutor (BP-17), Abbottabad.

Appellant.....

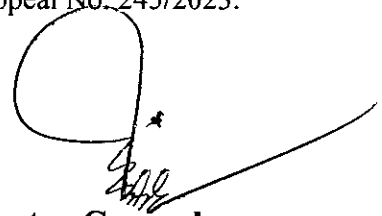
VERSUS

1. Director General Prosecution, Govt. of Khyber Pakhtunkhwa, Peshawar.
2. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar.
3. Secretary, Home & Tribal Affairs Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
4. Secretary Establishment, Govt. of Khyber Pakhtunkhwa, Peshawar.
5. Director General Prosecution, Govt. of Khyber Pakhtunkhwa, Peshawar.

Respondents.....

AUTHORITY LETTER

Muhammad Gulzar Ali , Superintendent, Directorate of Prosecution is hereby authorized to submit Para wise comments before the Khyber Pakhtunkhwa Service Tribunal, Peshawar, on behalf of Director General Prosecution, in Service Appeal No. 245/2023.



Director General
Directorate of Prosecution
Khyber Pakhtunkhwa
Peshawar

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR AT CAMP COUT ABOTTABAD

SERVICE APPEAL NO. 245/2023

Haras Khan S/O Khalid Khan, Assistant Public Prosecutor (BP-17), Abbottabad.

Appellant.....

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- 4. Secretary Establishment, Govt. of Khyber Pakhtunkhwa, Peshawar.
- 5. Director General Prosecution, Govt. of Khyber Pakhtunkhwa, Peshawar.

Respondents.....

AFFIDAVIT

I, Muhammad Gulzar Ali, Superintendent, Directorate of Prosecution, Khyber Pakhtunkhwa do hereby solemnly affirm and declare on oath that the contents of the application in the Service Appeal No. 245/2023, are true and correct to the extent of office record and nothing has been concealed from this Service Tribunal Kp, Peshawar.

Amir

Mian Subghat Ullah Shah

**Mian Subghat Ullah Shah
Senior Advocate
Notary Public High Court
Peshawar**

Gulzar Ali
Deponent

CNIC No: 17301-1440140-1
Cell No: 0332-9279260

It is further stated on oath that in this appeal the answering respondents have neither been placed ex-parte nor their defence has been struck off. *Fai*