

BEFORE THE HON'BLE CHAIRMAN SERVICE TRIBUNAL,
PESHAWAR

CM No. /2023

IN

S. A. No. /2023

Muhammad Asad Ullah

versus

Govt. of KP & Others

APPLICATION FOR HEARING OF THE SUBJECT APPEAL AT THE
PRINCIPAL SEAT:

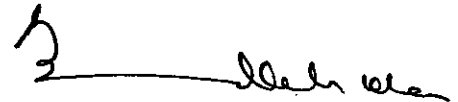
Respectfully Sheweth,

1. That subject appeal is pending disposal before this hon'ble Tribunal and no date of hearing is yet fixed for hearing.
2. That appellant was retired from service on 10-03-2022 and is pursuing of his pension case at Peshawar withheld since retirement.
3. That applicant is temporary residing at Peshawar, so the case in Preliminary hearing be heard at Principal seat at Peshawar.

It is, therefore, most humbly requested that the application be accepted as prayed for.

Appellant

Through


Saadullah Khan Marwat
Advocate

Dated. 12-06-2023

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 1306/2023

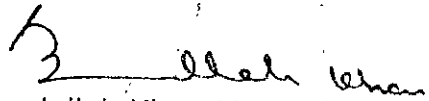
Muhammad Asad Ullah versus Govt. of KP & Others

I N D E X

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2.	Seniority list dated 30-06-2003	"A"	5
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Appellant

Through


 (Saadullah Khan Marwat)
 Advocate
 21-A Nasir Mension,
 Shoba Bazar, Peshawar.
 Ph: 0300-5872676

Dated 12-06-2023

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 1306 / 2023

Muhammad Asad Ullah
S/O Muhammad Yar,
R/O Mohallah Gosayan
Wala, Dera Ismail Khan.
Ex-Naib Tehsildar,
Revenue Department Appellant

VERSUS

1. Government of KP, through
Chief Secretary, KP, Peshawar.
2. Senior Member Board Of,
Revenue, KP, Peshawar.
3. Sher Bahadar, Assistant
Commissioner, Ladha
South Waziristan Respondents

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974
AGAINST ORDER DATED 10-03-2022 WHEREBY
APPELLANT WAS PROMOTED TO THE POST OF NAIB
TEHSILDAR WITH EFFECT FROM 25-11-2009 BUT WAS
NOT PROMOTED TO THE POST OF TEHSILDAR AND
ASSISTANT COMMISSIONER AND THUS
DISCRIMINATED AND NOT TREATED AT PAR WITH HIS
JUNIORS AND COLLEAGUES.**

Respectfully Sheweth:

1. That appellant was appointed as Junior Clerk in the year 1980 and then promoted as Junior Scale Stenographer in the year 1992.

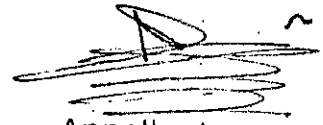
2. That in the seniority list of Junior Clerks and Assistants for the year 2003, the appellant name was figured at S. No. 02 whereas R. No. 03 figured at S. No. 03 of the seniority list. (Copy as annex "A")
3. That out of cadre incumbents were promoted by R. No. 01 through Executive orders, so appellant felt aggrieved preferred Service Appeal No. 382/2010 in the hon'ble Service Tribunal for recalling the illegal promotion orders and to promote the appellant to the post of Tehsildar as per his right. (Copy as annex "B")
4. That R. No. 01 issued orders whereby juniors were promoted to the post of Tehsildar and later on Assistant Commissioner in violation of seniority rules and merit. In the same line R. No. 03 was promoted as regular Tehsildar on 04-07-2019 during the pendency of Service Appeal No. 380/2010 in violation of provisions of Constitution and service law on the subject. The name of R. No. 03 figured at S. No. 47 of the seniority list stood on 31-12-2020 circulated on 29-01-2021. (Copy as Annex "C")
5. That the hon'ble Tribunal vide its judgment dated 24-09-2019, allowed the appeal of the appellant by directing the official respondents to consider the appellant for promotion to the post of Naib Tehsildar from the date when his erstwhile juniors were promoted. (Copy as Annex "D")
6. That R. No. 03 implemented the judgment of the hon'ble Tribunal issued Notification dated 10-03-2022 whereby the appellant was promoted to the post of Naib Tehsildar with effect from 25-11-2009. He was retired from service on 04-04-2021 but was not promoted to the post of Tehsildar and Assistant Commissioner as his junior R. No. 03 was promoted as Tehsildar now serving Assistant Commissioner Ladha North Waziristan. (Copy as annex "E")
7. That appellant preferred departmental appeal on 22-02-2023 to R. No. 01 and 02 for proforma promotion to the post of Tehsildar and Assistant Commissioner but without any response. (Copy as annex "F")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

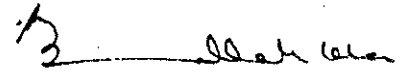
- a. That in the seniority list of Junior Clerks and Assistants, name of appellant was figured at S. No. 02, while that of R. No. 03 at S. No. 03.
- b. That the respondents made out of cadre promotions through executive orders, while appellant was left for no legal reason, so appeal was filed before the hon'ble Service Tribunal for setting aside the illegal orders of promotion and to promote him to the post of Tehsildar.
- c. That during the pendency of the appeal other orders of promotion of juniors were made to the post of Tehsildar followed by subsequent orders of promotion to the post of Assistant Commissioner in violation of law, while appellant was even not considered for the same.
- d. That the hon'ble Tribunal accepted the said appeal of appellant with direction to respondents to consider him for promotion to the post of Naib Tehsildar / Tehsildar from the date when his juniors were promoted but without any favorable action on the part of respondents.
- e. That though the judgment of the hon'ble Tribunal was implemented, yet in letter and spirit because during pendency juniors were promoted to the post of Tehsildar and Assistant Commissioner, so appellant was also entitled for the said promotion.
- f. That appellant was not treated as per the mandate of law because it was the department who promoted juniors time and again by ignoring appellant for no legal reason, such act of the respondents is not only against the law but is also based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 10-03-2022 of the respondents be set aside / modified / amended to the effect that the appellant be given proforma promotion to the post of Tehsildar and Assistant Commissioner with effect from the date his junior R. No. 03 was so promoted with all service benefits, with such other relief as may be deem proper in the circumstances of the case.




Appellant


Through



Saadullah Khan Marwat



Arbab Saiful Kamal



Amjad Nawaz
Advocates.

Dated 12-06-2023

AFFIDAVIT

I, Muhammad Asad Ullah S/O Muhammad Yar, (Appellant), do hereby solemnly affirm and declare that contents of Service Appeal are true and correct to the best of my knowledge and belief.



DEPONENT

CERTIFICATE:

As per instructions of my client, no such like Service Appeal has earlier been filed by the appellant before this Hon'ble Tribunal.



ADVOCATE

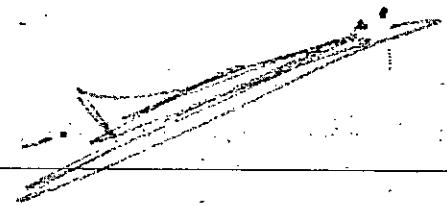
(A)

ALTERNATIVE SENIORITY LIST.

JOINT SENIORITY LIST OF ASSISTANT AND JUNIOR SCALE STENOGRAPHER IN THE OFFICE OF DISTRICT COORDINATION OFFICER, EXECUTIVE DISTRICT OFFICER (FINANCE & PLANNING) AND DISTRICT OFFICER R&E / COLLECTOR TANK STOOD ON 30TH JUNE 2003

S.No.	Name with Parentage	Designation	Scale	Qualification	Date of Birth	Date of entry in service	Date of entry in present Scale.
1.	2.	3.	4.	5	6	7	8
1.	Naimatullah Khan S/O Hamidullah Khan	Assistant DORE Office Tank.	BPS 15	B. A	11.08.1967	16.6.90	5.11.90
2.	Muhammad Assadullah S/O Muhammad Yar.	Stenographer DORE Office Tank	BPS 12	M. A	05.04.1961	10.01.1981	20.5.1992
3.	Sher Bahadar S/O Ghazanmir Khan.	Assistant DCO Office Tank.	BPS 15	MEA	07.04.1965	10.10.1992	10.10.92
4.	Zainul Abidin S/O Ghulam Hassan	- do -	BPS 15	B. A LLB	01.04.1962	- do -	- do -
5.	Muhammad Farooq S/O Qalandar Khan	Stenographer DCO Office Tank.	BPS 15	B. A	01.04.1969	07.11.1992	7.11.92
6.	Saleem Asmat S/O Haji Nasrullah	Assistant EDC F&P Tank.	BPS 15	B. A	03.1.1959	17.03.1984	1.1.1993
7.	Asmatullah S/O Sarfaraz	Assistant DCO Office Tank.	BPS 11	B. A	01.12.1959	17.2.1985	1.12.1999
8.	Gul Nazir S/O Gul Zamir	- do -	BPS 11	B. A	15.12.1958	21.1.1977	28.5.2002

SD/
D. C. O. TANK.
2.0.2003.



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B 6

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

A.T.A No. 382 2010

N.W.F.P. Service Tribunal
Peshawar
Case No. 418
Dated 25/11/2010

Muhammad Assadullah S/O Muhammad Yar ,
R/O Mohallah Gosayanwala
Tehsil and Distt: D.I.Khan.
(N.Tesildar SWA)

APPELLANT.

V/S

1. The Govt of N.W.F.P Through Senior Member Board Peshawar.
2. Commissioner D. I. Khan.
3. Shaikh Muhammad Jameel Tehsildar. |
4. Sher Bahadar Tehsildar |
5. Shaukat Iqbal Tehsildar. |
6. Sajad Khan N. Tehsildar. |

(C/O Member Board of Revenue N.W.F.P Peshawar.

RESPONDENTS.

APPEAL UNDER SECTION 4 OF NWFP SERVICE TRIBUNAL ACT
AGAINST THE OFFICE ORDER NO. 20198 DATED 18.7.2009 AND
ORDER No. 11183 DATED 2.5.2009 PASSED BY THE RESPONDENT
NO. 1 (SENIOR MEMBER BOARD OF REVENUE) WHEREIN THE JUNIOR
MOST RESPONDENTS NO. 3 TO RESPONDENT NO. 6 HAVE BEEN
PROMOTED TO THE RANK OF TEHSILDAR AND ALSO CONFIRMED
BUT THE APPELLANT HAS BEEN DEPRIVED FROM DUE RIGHT.

PRAYER.

ON ACCEPTANCE OF THE INSTANT APPEAL THE IMPUGNED
ORDERS DATED 18.7.2009 AND DATED 2.5.2009 BE SET ASIDE

Filed to Secy
Secretary 25/11/2010

Signature
Date

(7)

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-2-

AND TO ANULL ALL THE PROCEEDINGS ARISES OUT OF THE
ARBITRARY UNJUST AND DISCREMINATARY FACT OF THE RESPONDENTS
AND THE APPELLANT MAY BE PROMOTED FROM DUE DATE AND HE MAY
BE CONFIRMED AS NAIB TEHSILDAR AND THEN TEHSILDAR IN
EPS 16, FROM DUE DATE WITH ALL BACK BENEFITS.

Respectfully Sheweth,

The Appellant humbly submits as under.

1. That the Appellant was appointed firstly as Junior Clerk in District D.I.Khan and served till 30.6.1992 when the services of the Appellant was at the disposal of Deputy Commissioner Tank at that time w.e.f. 1.7.92 .
2. That the Appellant was promoted as Junior Scale Stenographer in BPS 12 vide order dated. 21.5.92 bearing No.6956-59 .Copy of which is enclosed as Annexure A.
3. That the Appellant since the date 21.5.1992 is serving on above stated Post till date.
4. That the Appellant is Senior Most and due right for Promotion in the District Tank.Copy of the Seniority list prepared by Department is enclosed as Annexure B.
5. That the Official Respondent authorities promoted and confirmed the Respondent No.3 to 6 and

dh Hay
Adv:

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kept secret from the Appellant. Copies of the impugned orders of Respondents No. 3 to 6 are enclosed as Annexure C.

6. That thereafter the Appellant submitted Departmental Appeal/Representation on 03.10.2009 when the impugned orders were came to the knowledge and conveyed to the Appellant. Copy of the Departmental Appeal alongwith the receipt of Post receipt is enclosed as Annexure D

7. That the Respondent authorities remained indifference on the Departmental appeal within stipulated period hence the instant Appeal inter alia on the following grounds.

GROUNDS.

1. That the impugned orders are against, law, principle Policy and against natural justice.

2. That the Respondent authorities have ignored the Appellant being Senior Most and promoted the officials from other Department being Surplus Pool including Education Department, which are Junior from Appellant against the promulgated Policy regarding fixing the Seniority of Surplus Pool employee SCR-1 (E & AC) 1-200/98 dated. 8.6.2001 (Para -6 read with No. SOR -V (E & Ad) 1-2/2003 dated. 5.7.2003 by the establishment department to be followed in each and every case under devaluation / restructuring policy enclosed as Annexure E

3. That the Appellant was deprived from the genuine and valuable right as envisaged by promotion Policy and guaranteed by Constitution of Pakistan 1973.

4. That the impugned order is against the Principle of law and also against the Esta Code.

Handwritten signature
Adv

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7. The Respondent No.1 has failed to exercise his jurisdiction and the acts of his omission is refusal of the claim of the Appellant, which has gives a genuine cause of grievance to the Appellant.

8. That the Respondent No.1 has misinterpreted the Tehsildar and Naib Tehsildar Service Rule 1960 as amended from time to time and the Respondent No.1 has been misadvised by the Promotion committee.

9. That the Appellant was eligible for consideration by Respondent No.1 being a confirm member of the Ministerial whereas the Respondent No.3 to 6 were not the confirmed members of the respective cadre.

10. That the Respondent No.3 to Respondent No.6 were not fit to be considered for Promotion and confirmation initially he was placed against ex-cadre supernumerary Post and the Respondent No.3 to 6 have been unjustifiably promoted by the Respondent No.1. As most of them were from Surplus Pool and were not from the Ministerial Cadre. The impugned orders of Respondent No.3 to 6 are ultravires, arbitrary, discriminatory and subjectively passed by over-stretching the scope of Seniority cum fitness when the seniority of the Respondents No.3 to 6 is at the lowest rung of the ladder.

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(5)

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11. That the Counsel of the Appellant's may please be allowed to raise further grounds during course of hearing.

In wake of submission made above it is humbly prayed that the impugned order for Promotion of Respondent No.3 to Respondent No.6 may kindly be recalled and the Appellant may kindly be promoted as Tehsildar being Senior Most in the Ministerial Staff, with all back benefits and the Appeal of the Appellant may be accepted as prayed for.

Yours Humble Appellant.

~~Signature~~
Muhammad Assadullah

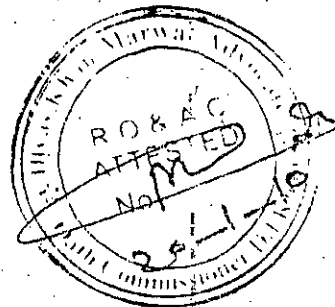
Through Counsel.

Dated. 20.1.2010.

~~Signature~~
(Shaikh Iftikharul Haq.)
Advocate High Court.

AFFIDAVIT. It is solemnly affirmed on oath that the contents of the Appeal are true and correct to the best of my knowledge and belief.

~~Signature~~
Muhammad Assadullah S/O Muhammad Yar
R/O D.I.Khan.



C 11

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.

09/12/189

Peshawar Dated the 29/01/2021

101/21/1901

ORDER

No. Estt/S.I./Tehsildar In pursuance of Section 8 of the Civil Servant Act, 1973 tentative seniority list of Tehsildars (BPS-16) in Khyber Pakhtunkhwa as it stand on 31.12.2020 is hereby published for information of all concerned.

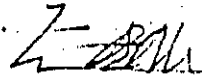
By order of
Senior Member

No. Estt/S.I./Tehsildar 2500-42

Copy along with a copy of Tentative seniority list is forwarded to:-

1. All Commissioners in Khyber Pakhtunkhwa.
2. All Deputy Commissioners in Khyber Pakhtunkhwa.
3. Office order.

They are requested to circulate the same amongst the Tehsildars working under their jurisdiction/control for their information.



Assistant Secretary (F&E)

10/12/189
101/21/1901
Peshawar Dated the 29/01/2021
09/12/189
2500-42
101/21/1901

**TENTATIVE SENIORITY LIST OF REGULAR TEHSILDARS BPS-16 IN KHYBER PAKHTUNKHWA
AS STOOD ON 31.12.2020.**

S. No	Name of Tehsildar / Qualification	Date of Birth / Domicile	Date of First entry into Govt. Service	Date of promotion as Tehsildar on regular basis	Method of Recruitment	R.
1	2	3	4	5	7	
1.	Mr. Muhammad IkramUllah (M.A)	09.3.1965 DIKhan	01.7.1995	06.09.2008	Promotee	Promoted fr
2.	Mr. Kiramatullah (MA)	20.1.1964 Tank.	08.1.1981	06.09.2008	--do--	--do--
3.	Mr. Abdul Ghaffar (BA)	15.12.1974 DIKhan	14.02.2004	04.06.2013	--do--	--do--
4.	Mr. Muhammad Taj (BA)	31.05.1966 Haripur	27.03.1986	10.02.2015	--do--	Promoted fr
5.	Mr. Waheed Ahmad (BA)	01.01.1967 Mansehra	29.01.1986	10.02.2015	--do--	Promoted fr
6.	Mr. Tahir Ashraf (MA)	24.01.1970 Abbottabad	28.02.1988	16.11.2017	--do--	Promoted fr
7.	Mr. Afsar Khan (BA)	10.04.1964 Swabi	04.12.1989	06.04.2018	--do--	Promoted fr
8.	Mr. Abdul Qayum (BA)	20.02.1965 Kohat	20.03.1988	16.11.2017	--do--	Promoted fr
9.	Mr. Waheedullah (MA/LLB)	10.02.1973 Dir Lower	20.09.1995	16.11.2017	--do--	--do--
10.	Mr. Gohar Ali (BA)	20.02.1964 Swabi	19.12.1985	26.03.2019	--do--	Promotion f
11.	Mr. Ajam Khan (BA)	15.06.1963 Khyber Agency	07.10.1987	16.11.2017	--do--	--do--
12.	Mr. Muhammad Javed (BA)	22.04.1966 Haripur	25.09.1990	16.11.2017	--do--	--do--
13.	Mr. Shah Nadeem (B.Sc)/ MA (IRs)	02.04.1983 Mardan	09.08.2004	16.11.2017	--do--	--do--
14.	Mr. Arshad Mehmood (MSC/LLB)	04.02.1967 Haripur	17.09.1991	16.11.2017	--do--	Promoted fr
15.	Mr. Muhammad Hasrat Khan (BA)	15.04.1968 Haripur	17.09.1991	16.11.2017	--do--	--do--
16.	Mr. Naimatullah (BA)	22.09.1965 Lakki	09.01.1992	16.11.2017	--do--	--do--
17.	Mr. Taswar Khan (BA)	15.04.1968 Haripur	05.03.1992	16.11.2017	--do--	--do--
18.	Mr. Ishaq Ali Khan (BA)	14.10.1963 Bannu	13.09.1992	16.11.2017	--do--	--do--
19.	Mr. Muhammad Zaman (BA)	04.01.1968 Bannu	25.10.1992	16.11.2017	--do--	--do--
20.	Mr. Muhammad Imran Zaman (BA)	05.05.1979 Mardan	23.04.2008	16.11.2017	--do--	Promoted fr
21.	Mr. Khalid Mansoor (MA)	10.03.1974 Peshawar	12.08.2008	16.11.2017	--do--	--do--
22.	Mr. Yadullah Khan Khattak(MA)	23.05.1979 Mardan	02.02.2009	17.01.2019	--do--	Promotion f

31.12.1995 = AC

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31.12.2020/12

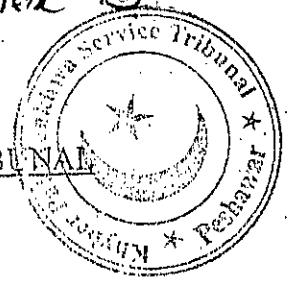
23.	Mr. Ahmad Hashmi (BA)	02.04.1983 Dir Lower	02.02.2009	06.04.2018	--do--	--do--
24.	Mr. Mujahid Ali (MA)	19.04.1974 Nowshera	02.02.2009	06.04.2018	--do--	--do--
25.	Syed Abdul Akbar Shah (MSc/MA/M.Phil)	11.04.1981 Mardan	02.02.2009	06.04.2018	--do--	--do--
26.	Mr. Rahim Shah (BA)	13.01.1969 Khyber	03.09.1990	06.04.2018	--do--	Promoted fr
27.	Mr. Muhammad Nawaz (MA)	25.12.1961 Karak	09.10.1980	06.04.2018	--do--	Promoted fr
28.	Mr. Farooq Shah (BA)	01.04.1961	01.12.1984	06.04.2018	--do--	--do--
29.	Mr. Muhammad Ayaz (MA)	20.02.1983 Mardan	30.04.2009	17.01.2019	--do--	Promoted fr
30.	Mr. KifayatUllah(MA)	09.01.1977 Peshawar	02.02.2009	17.01.2019	--do--	Promoted fr
31.	Mr. Muhammad FarazQurashi (MBA)	17.03.1982 Abbottabad	02.02.2009	17.01.2019	--do--	--do--
32.	Mr. FazalurRehman (MA)	10.07.1975 Haripur	02.02.2009	17.01.2019	--do--	--do--
33.	Mr. FarukhJadoon (BSc)	04.05.1984 Abbottabad	02.02.2009	17.01.2019	--do--	--do--
34.	Mr. Fayaz Ahmad (MA)	10.03.1982 Abbottabad	02.02.2009	17.01.2019	--do--	--do--
35.	Mr. Bilal Ahmad (BA. B.Ed)	10.10.1978 Haripur	02.02.2009	17.01.2019	--do--	--do--
36.	Mr. TanveerShahzad (MA)	30.12.1977 Mansehra	02.02.2009	17.01.2019	--do--	--do--
37.	Mr. Ejaz Ahmad (MA)	15.04.1976 Abbottabad	02.02.2009	17.01.2019	--do--	--do--
38.	Mr. Muhammad Salim (BSC)	03.05.1978 Abbottabad	02.02.2009	17.01.2019	--do--	--do--
39.	Mr. AdilWaseem (BA)	25.12.1988 Nowshera	27.02.2009	17.01.2019	--do--	--do--
40.	Mr. Saifur Khan (Matric)	05.11.1963 Mardan	16/09/1982	17.01.2019	--do--	Promoted fr
41.	Mr. Shamas Gul (D.Com)	15.03.1966 Mardan	28.08.1988	17.01.2019	--do--	--do--
42.	Mr. Muhammad Yousaf (BA)	12.04.1964	22.04.1991	26.03.2019	--do--	Promoted fr
43.	Mr. Tanzil-ur-Rehman (BA)	13.02.1988 NWA	14.04.2009	26.03.2019	--do--	Promoted fr
44.	Mr.Rab Nawaz (BA)	12.02.1964 Chitral	27.12.1983	26.03.2019	--do--	Promoted fr
45.	Mr.Abdul Qayum (BA)	24.04.1974 Kohistan	27.12.1993	26.03.2019	--do--	Promoted fr
46.	Mr.Qiyanoos Khan (BA)	14.02.1962 Kohat	01.07.1991	04.07.2019	--do--	--do--
47.	Mr. Sher Bahadar (BA)	07.04.1965 Tank	10.10.1992	04.07.2019	--do--	--do--
48.	Mr. Shaukat Iqbal (MA)	02.11.1973 D.I.Khan	19.10.1992	26.03.2019	--do--	--do--

49.	Mr. Abdur Rashid (MSC)	05.01.1962 Swabi	28.08.1988	26.03.2019	--do--	--do--
50.	Sahibzada Ahmad Ali MA (B.ed)	17.04.1962 Swabi	28.08.1988	26.03.2019	--do--	--do--
51.	Mr. Faiz Mohammad (FA)	20.03.1966 Swabi	09.09.1990	26.03.2019	--do--	Promoted fr
52.	Mr. Gohar Ali (BA)	31.03.1980 Bannu	29.05.2009	26.03.2019	--do--	Promoted fr
53.	Mr. Sher Dil (BA)	24.01.1974 Kohistan	10.04.1995	26.03.2019	--do--	--do--
54.	Mr. Muhammad Shoaib (BA)	01.01.1968 Kohat	09.12.1990	26.03.2019	--do--	--do--
55.	Mr. Muhammad Arshad (BA)	20.01.1967 Kohat	02.09.1984	26.03.2019	--do--	--do--
56.	Mr. Nawab Gul (MA)	15.11.1966 Kohat	01.01.1995	26.03.2019	--do--	--do--
57.	Mr. Imtiaz Ahmad (MA)	01.03.1963 Karak	08.01.1982	26.03.2019	--do--	Promoted fr
58.	Mr. Muhammad Younas (BA)	21.11.1972 Malakand	12.06.1991	04.07.2019	--do--	Promoted fr
59.	Mr. Shiekh Muhammad Jamil (MA)	15.02.1964 D.I. Khan	21.10.1992	04.07.2019	--do--	Promoted fr
60.	Mr. Sardar Ghulam Murtaza (FA)	01.11.1965 Abbottabad	04.06.1988	04.07.2019	--do--	--do--
61.	Mr. Mohammad Rafiq (BA)	01.03.1964 Kohat	06.03.1988	04.07.2019	--do--	Promotion f
62.	Mr. Faiz Muhammad - II (BA)	08.04.1980 Buner	23.01.2007	04.07.2019	--do--	Promoted fr
63.	Mr. Mohammad Dawood Khan (BA)	12.04.1986 Peshawar	19.06.2001	04.07.2019	--do--	Promoted fr
64.	Mr. Gul Shahzada (MA)	04.03.1979 Kohistan	28.06.2004	04.07.2019	--do--	Promoted fr
65.	Mr. Gul Faraz (BA)	01.10.1978 Kohistan	28.06.2004	04.07.2019	--do--	Promoted fr
66.	Mr. Iqbal Hussain (BA)	05.02.1961 Swat	05.08.1980	04.07.2019	--do--	Promoted fr
67.	Mr. Naimatullah (BA)	02.02.1963 Dir Upper	22.12.1985	04.07.2019	--do--	Promoted fr
68.	Mr. Tariq Khan (M. Pharmacy)	23.11.1990 Swat	09.04.2020	09.04.2020	Direct	Through PC
69.	Mr. Ali Imtiaz (BA)	23.03.1996 Abbottabad	09.04.2020	09.04.2020	Direct	Through PC
70.	Miss Lubna Iqbal (M.Phil)	14.05.1988 Haripur	09.04.2020	09.04.2020	Direct	Through PC
71.	Mr. Abdul Salam (FA)	04.11.1981 Lakki Marwat	01.09.2014	30.07.2020	Promotee	Promoted fr
72.	Mr. Muhammad Khan (BA)	06.02.1980 Mardan	24.04.2008	30.07.2020	Promotee	Promoted fr

73	Mr. Muhammad Nazeem (BA)	02.02.1961 Abbottabad	15.04.1985	30.07.2020	Promotee	Promoted from
74	Mr. Bakht Jehan (MA)	15.08.1964 Dir Lower	05.06.1986	30.07.2020	Promotee	Promoted from
75	Mr. Sahar Din M.A.	01.02.1969 Banne	09.12.1992	30.07.2020	Promotee	Promoted from
76	Mr. Amir Abdullah Khan B.A.	20.05.1972 Shingla	24.03.1993	30.07.2020	Promotee	Promoted from
77	Mr. Mohammad Ismail Shah B.A.	27.01.1967 Bannu	14.07.1987	30.07.2020	Promotee	Promoted from
78	Mr. Shah Noor-Ur-Rehman (M.A)	08.04.1964 Karak	03.11.1986	30.07.2020	Promotee	Promoted from
79	Mr. Mehboob-Ur-Rehman (M.A)	03.04.1968 Karak	07.07.1986	30.07.2020	Promotee	Promoted from
80	Mr. Said Anwar (D.Com)	25.10.1965 Mardan	11.03.1985	30.07.2020	Promotee	Promoted from
81	Mr. Javed Akhtar (B.A)	02.03.1963 Mardan	30.11.1981	30.07.2020	Promotee	Promoted from
82	Mr. Asghar Ali (Matric)	14.04.1961 Kohat	03.12.1980	19.10.2020	Promotee	Promoted from
83	Mr. Mohammad Arif (BA)	25.04.1977 Karak	02.12.1994	19.10.2020	Promotee	Promoted from
84	Mr. Shafiullah No.2 (Matric)	16.04.1965 Bannu	08.09.1988	19.10.2020	Promotee	Promoted from
85	Mr. Haider Abbas Shahani (MSC)	01.03.1972 DIKhan	27.12.2004	19.10.2020	Promotee	Promoted from
86	Mr. Ibrahim Khan (BA)	01.02.1984 Dir Upper	12.06.2007	19.10.2020	Promotee	Promoted from

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT D.I.KHAN.



Appeal No. 382/2010

Date of Institution ... 25.01.2010

Date of Decision ... 24.09.2019

Muhammad Asadullah S/O Muhammad Yari, R/O Mohallah Gosayanwala, Tehsil
and District, D.I.Khan. ... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa, through Senior Member Board of
Revenue, Peshawar and five others. ... (Respondents)

MR. ABDULLAH BALOCH,
Advocate

--- For appellant.

MR. FARHAJ SIKANDAR,
Deputy District Attorney

--- For respondents

MR. MEHAMMAD ISMAIL ALIZAI,
Advocate

--- For respondents no. 3 to 6.

MR. AHMAD HASSAN,
MR. MUHAMAD HAMID MUGHAL

--- MEMBER(Executive)

--- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the
parties heard and record perused.

ARGUMENTS:

Q2. Learned counsel for the appellant argued that he was appointed as Junior
Scale Stenographer (BPS-12) vide order dated 21.05.1992. That as per seniority list,
despite being senior most official, he was waiting for promotion for the last twenty
eight years. The respondents vide order dated 18.07.2009 promoted/appointed

ATTESTED

MEMBER (JUDICIAL)
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

private respondent no.3 as Naib Tehsildar on Acting Charge Basis in a non-transparent manner. That through order dated 02.05.2009 private respondent no. 4 and 5 were promoted as Naib Tehsildar on regular basis with immediate effect. When the appellant got knowledge of the same, he filed departmental appeal on 03.10.2009, against order dated 18.07.2009, which remained un-answered. Those promoted through order referred to above were previously in the surplus pool thus their seniority was required to be determined in accordance with the letter dated 08.06.2001 and 05.07.2003. Moreover, they were not confirmed employees, working under the administrative control of the respondents. Valuable rights accrued to the appellant were usurped by the respondents by adopting arbitrary, whimsical and unlawful procedure.

03. Learned DDA argued that under Tehsiladri/Naib Tehsildari Service Rules, 2008, the ministerial staff of the office of DCO, District Officer (R&E)/collector and EDO (E&P) were not eligible for promotion to the post of Tehsildar. Respondents no.3 to 6 were promoted as Naib Tehsildar after getting approval from the Departmental Promotion Committee. Moreover, the departmental appeal filed by the appellant was barred by time and his service record was also not satisfactory.

04. Learned DDA further contended that case of the appellant was placed before the DPC to consider him for promotion against the post of Naib Tehsildar on 24.04.2009 but deferred for want of ACR. He also provided a copy of minutes of the DPC meeting referred to above, which was placed on the file. He further added that amendments were brought in Service Rules in 2011 and the post of Junior Scale Stenographer was excluded from the category of officials eligible for promotion as

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Naib Tehsildar. Again in Service Rules of 2015 12% quota were reserved for Junior Scale Stenographer for promotion as Naib Tehsildar on the basis of joined seniority list of Junior Scale Stenographer and Senior Clerks of the office of Commissioner and Deputy Commissioner and also assured that his case would be considered for promotion on his turn.

05: Learned counsel for private respondents no. 3 to 6 relied on the arguments advanced by the learned Deputy District Attorney.

CONCLUSION:

06. The appellant joined the respondent-department as Junior Scale Stenographer on 21.05.1992 and this fact has not been disputed/contested by officials/private respondents thus there is no ambiguity/confusion so far as eligibility of the appellant for promotion to the post of Naib Tehsildar is concerned. Our view point is further validated by the minutes of the meeting of the DPC held under the Chairmanship of Senior Member Board of Revenue on 25.04.2009, in which case of the appellant was deferred for want of service record/ACRs. It merits to mention here that as per working paper available on record his name appeared at serial no.2 of the panel proposed for promotion as Naib Tehsildar. Perusal of these minutes further revealed that those belonging to ministerial staff were eligible for promotion to the post of Naib Tehsildar. In addition to above private respondent no.4 and 5 were cleared for promotion as Naib Tehsildar on regular basis in the same meeting. After minute examination of the case, we observed that the appellant could not be held responsible for deficiency if any in his service record /ACRs. It was the sole responsibility of the respondents to have ensured availability of the same well

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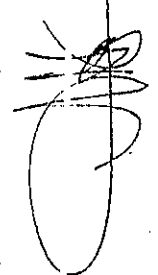
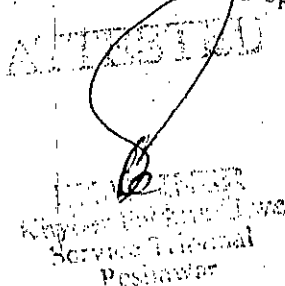
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Deputy District Attorney
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(19)

before the holding the meeting of the DPC referred to above. Moreover, the respondents with the help of relevant record were not able to attribute the delay in completion of service record/ACRs to the appellant. Whenever, a civil servant is deferred from promotion a post is invariably reserved for him to be considered in future after meeting deficiencies on the basis of which his case was earlier deferred by the forum concerned. Our view is also confirmed by the perusal of the above referred minutes out of five vacant posts, only two officials were promoted as Naib Tehsildar through order dated 02.05.2009.

07. The plea by the learned DDA that amendments in Service Rules were brought in 2011 was nothing more than a lame excuse. To our counter argument about deliberate delay on the part of the respondents between 24.05.2009 to 2011, he was simply clueless. He could not offer any valid reason why his case was not placed before the DPC during the aforementioned period? It truly exhibited inefficiency, incompetence, lethargy and insensitivity of the respondents in deciding the case of the appellant on merit. The principle of legitimate expectancy as held by the august Supreme Court of Pakistan 2011 PLC (C.S) 760 can be easily attracted in this case, alongwith dicta contained in (1998 PLC (C.S) 980 and 2017 SCMR 399).

08. Again after introduction of new Service Rules of 2015 12% quota was reserved for promotion to the post of Naib Tehsildar from amongst Junior Scale Stenographers and Senior Clerks but ever then his case was not considered by the respondents though by now almost four years have elapsed. A person having rendered 28 years satisfactory is still waiting for one step promotion which is highly regrettable and speaks of criminal negligence on the part of respondents. Those at



Service Tribunal
Peshawar

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the helm of affairs are expected to bring to justice those responsible for causing undue hardships to the appellant and bringing bad name for the department.

09. As a sequel to above, the appeal is accepted and the respondents are directed to consider the case of the appellant for promotion to the post of Naib Tehsildar from the date his erstwhile juniors were promoted. Parties are left to bear their own costs. File be consigned to the record room.

(MUHAMMAD HAMID MUGHAL)
MEMBER

(AHMAD HASSAN)
MEMBER
CAMP COURT D.I.KHAN

ANNOUNCED
24.09.2019


Certified true copy

Khan Sahib Khattak
Senior Magistrate,
Peshawar

Date of Presentation of	14-10-2019
Number of	2400
Copies of	20
Urgent	45
Total	24
Name of	
Date of Completion	14-10-2019
Date of Delivery of	14-10-2019

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31-A

	GOVERNMENT OF KHYBER PAKHTUNKHWA	
	BOARD OF REVENUE	
REVENUE & ESTATE DEPARTMENT.		
091-9213989	Peshawar Dated the 13/03/2022	091-9214208

ORDER

No. Estt: V/M.Asadullah/JSS/DIK/2022/_____ In light of Service Tribunal order dated 24.09.20219 and dated 24.11.2021 the Competent Authority on the recommendation of Departmental Promotion Committee meeting held on 24.01.2022 Muhammad Asadullah Junior scale Stenographer is hereby prompted as Naib Tehsildar with effect from 25.11.2009 till 04.04.2021 i.e date of his retirement from service.

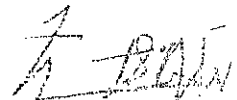
His dated of birth is 05.04.1961

By order of
Competent Authority

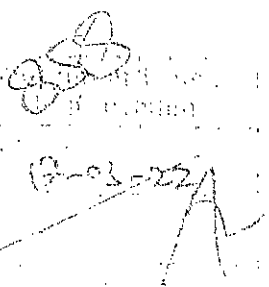
No. Estt: V/M.Asadullah/JSS/DIK/2022/ 7585-7588

Copy forwarded to the:-

1. Registrar Service Tribunal Khyber Pakhtunkhwa.
2. Commissioner DIKhan Division.
3. Deputy commissioner concerned.
4. District Accountant Officer, Southwaziristan.



Assistant Secretary (Estt.)



Estt: Asstt:



Secretary Com.
17/1/22

Commissioner Office
Diary No. 915
Date: 13.3.2022
DIKhan Division D.I.Khan

F

22

To,

The Chief Secretary,
Govt. of KP, Peshawar.

Subject:

**APPEAL / REPRESENTATION FOR PROFORMA PROMOTION
TO THE POST OF TEHSILDAR BPS-16 AND ASSISTANT
COMMISSIONER BPS-17:**

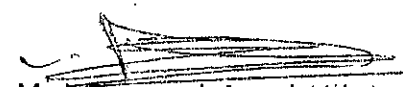
Respectfully Sheweth,

1. That applicant was serving as Junior Scale Stenographer in the department.
2. That juniors were promoted to the post of Naib Tehsildars against the law, rules and seniority.
3. That the applicant preferred appeal to the Service Tribunal for the same which was accepted in favour of applicant and resultantly he was promoted to the post of Naib Tehsildar vide order dated 10-03-2022 with effect from 25-11-2009 till 04-04-2021, but the applicant was deferred on 25-04-2009 and juniors were promoted from that date i.e. 25-04-2009 so the promotion order of applicant be given effect from 25-04-2009. (Copy of order attached)
4. That during the pendency of service appeal, juniors who were also respondents in the Service Appeal were promoted to the post of Tehsildars and Assistant Commissioners, the applicant time and again requested the department to provide the promotion order but of no avail. Anyhow the applicant got the seniority list dated 31-12-2020 of the permanent Tehsildars wherein juniors were figured at S. No. 47, Sher Bahadar at S. No. 48, Shoukat Iqbal at S. No. 59, Sheikh Mohammad Jamil, meaning thereby that juniors were promoted in violation of law. Moreover, juniors were further promoted to the post of Assistant Commissioners depriving the applicant from progression in career for no legal reason.

- 5. That applicant cannot be deprived from the progression of career as he is senior to the incumbents promoted in violation of law to the higher post / grades.

It is, therefore, most humbly requested that promotion order dated 10-03-2022 to the post of Naib Tehsildar be given effect with effect from 25-04-2009 when juniors were promoted and further more the applicant may kindly be given proforma / notional promotion to the post of Tehsildar and then to Assistant Commissioner with effect from the date when juniors were promoted to the said posts with all consequential / back benefits in the interest of justice.

Applicant



Muhammad Asad Ullah
Ex- Naib Tehsildar
Cell # 0332-7237743

Dated: 22-02-2023

To,

Senior Member Board

Of Revenue, KP, Peshawar.

Subject:

**APPEAL / REPRESENTATION FOR PROFORMA PROMOTION
TO THE POST OF TEHSILDAR BPS-16 AND ASSISTANT
COMMISSIONER BPS-17:**

Respectfully Sheweth,

1. That applicant was serving as Junior Scale Stenographer in the department.
2. That juniors were promoted to the post of Naib Tehsildars against the law, rules and seniority.
3. That the applicant preferred appeal to the Service Tribunal for the same which was accepted in favour of applicant and resultantly he was promoted to the post of Naib Tehsildar vide order dated 10-03-2022 with effect from 25-11-2009 till 04-04-2021, but the applicant was deferred on 25-04-2009 and juniors were promoted from that date i.e. 25-04-2009 so the promotion order of applicant be given effect from 25-04-2009. (Copy of order attached)
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Applicant



Muhammad Asad Ullah
Ex- Naib Tehsildar
Cell # 0332-7237743

Dated: 22-02-2023

یعد التہ جہاں سروس ٹریڈ یونیورسٹی صوبہ سندھ ایسٹ اور

مستجاب انٹالسٹ

محمد اسد اللہ
نام
محکمہ گورنمنٹ ونرس
دعوی اصل

پاکستان ٹریڈ یونیورسٹی

مختار مندرجہ عنوان بالا میں ایسی طرف سے واسطے پیرس کی وجوہات دہی رکن کاروائی متعلقہ آل مقام ایسٹ اور
کیسٹ کے استعدا اذہنہ حضانہ سرور سے ایڈریٹ، ہائی کورٹ کو وکیل مقرر کرنے کے اقرار کیا جاتا ہے کہ صاحب
موصوف کو مقررہ رکن آل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو کرنے برائے نامہ و تقریر ثالثہ وغیرہ یہ تلاف
دینے جواب دہی اور اقبال دعویٰ اور لٹریچر ڈگری کرنے اجراء اور دوسری چیک ذریعہ اور مرضی دعویٰ اور درخواست
ہر قسم کی نقد لیاؤں اور اس پر دستخط کرانے کا اختیار ہوگا نیز بصورت عدم پیرس کی یا ڈگری کی طرف یا اپیل کی برائگی
اور سروس ٹریڈ یونیورسٹی کے اپیل ٹرانس فیر انالی و پیرس کرنے کا اختیار ہوگا اور بصورت ضرورت متعلقہ مندرجہ
کے رکن یا اجزائی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا
اور وہ اپنے مقرر شدہ کو بھی وہی جملہ مندرجہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پیرس و اختیارات
قبول ہوگا اور دوران مقدمہ میں جو شرطیں جو جہانہ التوا ہونگی کہ سب سے ہوگا اس کا مستحق وکیل صاحب
موصوف ہوں گے نیز بلحاظ اور سروس ٹریڈ یونیورسٹی کے اختیار ہوگا اگر کوئی تاریخ پیشی مقام رہے
پیرس یا عدت سے باہر ہو تو وکیل صاحب یا مندرجہ ہوں گے کہ پیرس مندرجہ کریں۔

لہذا دالمت نامہ کچھ دیا کہ مندر ہے۔

الرقوم ۲۳-۰۶-۱۵

الحکد
الحکد
الحکد
۱۱
ارباب نیچہ اہتمام
ایڈووکیٹ
محمد اسد اللہ خان مرثیت
ایڈووکیٹ
محمد اسد اللہ
ایڈووکیٹ