

26.09.2019


Junior counsel for the appellant and Mr. Attaullah, Assistant Secretary for the respondents present. Junior counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance today. Adjourned to 01.11.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

01.11.2019


Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney alongwith Muhammad Arif Superintendent present. Learned counsel for the appellant seeks adjournment. Adjourned by way of last chance. To come up for arguments on 06.12.2019 before D.B.


Member


Member

6-12-2019

The Bench is incomplete,
Therefore case is adjourned
to 11-2-2020


Rendos

1032/16


20.06.2019

Appellant in person and Mr. Muhammad Bilal DDA for the respondents present.

The appellant has deposited cost of Rs. 1000/- and has submitted an application for transfer of instant appeal to Principal Seat at Peshawar. Learned DDA does not have any objection to the request for transfer.


The application is allowed and instant appeal is transferred to Peshawar for hearing before the D.B on 10.07.2019. The respondents shall be sent notices for appearance on the date fixed.


Member


Chairman
Camp court, A/Abad

09.07.2019

Junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Muhammad Arif Superintendent present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 26.09.2019 before D.B


Member


Member

RS-1000/- deposited as cost under head C03844, and entered in the relevant register.



08.05.2019

Petitioner in person and Addl: AG for respondents present.

The instant application is with a prayer for restoration of appeal no. 1032/2016 which was dismissed for non-prosecution on 21.02.2019.

The petitioner applied for certified copy of the order dated 06.03.2019 and the same was prepared and delivered on the said date. The application in hand was preferred on 08.03.2019 which appears to be within time prescribed for the purpose.

The grounds noted in the application suggests that on the relevant date the applicant/appellant was suffering from fever and also stood transferred to Batkhela, Malakand District from Abbottabad. The contents of application are supported by a duly sworn affidavit.

In view of the above and also the available record, application in hand is allowed but on payment of cost of Rs. 1000/-. Appeal no. 1032/2016 shall be restored to its original number and shall come up for arguments before D.B at camp court Abbottabad on 20.06.2019.

Member





Chairman

Form-A

FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 147/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	08.03.2019	<p>The application for restoration of appeal No.1032/2016 submitted by Mr. Zartaj Anwar Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	22-3-19	<p>This restoration application is entrusted to D. Bench to be put up there on <u>26-04-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	26.04.2019	<p>Due to general strike of the bar, the case is adjourned. To come up for further proceedings on 10.05.2019 before D.B.</p> <p style="display: flex; justify-content: space-around;">  Member  Member </p>

16.01.2019

Appellant in person present and seeks adjournment on the ground that his counsel is not available. Mr. Muhammad Bilal learned Deputy District Attorney alongwith Muhammad Arif Superintendent present. Adjourn. To come up for arguments on 21.02.2019 before D.B. at Camp Court Abbottabad.

Member



Member

Camp Court Abbottabad

21.02.2019

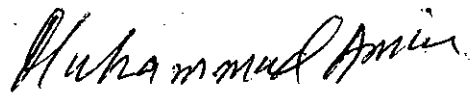
None for the appellant present. Mr. Muhammad Bilal, Deputy District Attorney alongwith Mr. Muhammad Arif, Supdt for respondents present. Called for several times but none appeared on behalf of the appellant nor the appellant was present in person. Therefore, the present service appeal is dismissed in default. File be consigned to the record room.

Announced:

21.02.2019



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member
Camp Court Abbottabad

17.10.2018

Appellant Gul Shahzad in person alongwith his counsel Mr. Zartaj Anwar, Advocate present. M/S Muhammad Arif, Superintendent (Litigation) and Bahadur Khan, Assistant alongwith Mr. Usman Ghani, District Attorney for the respondents present.

Arguments of the learned counsel for the appellant to a great extent heard. However, the learned District Attorney requested for adjournment that he has not prepared the case for today and further that he wants to place reliance on some judgments of this Tribunal ^h on similar questions after the decision of an appeal by the Larger Bench. Request is allowed. Case to come up for arguments on ~~14.1.2019~~ before the D.B at camp court, Abbottabad.



Member


Chairman
Camp Court, A/Abad

14.01.2019

Appellant in person present and submitted application for adjournment alongwith application for initiation of contempt proceedings. Mr. Muhammad Bilal learned Deputy District Attorney alongwith Muhammad Arif Superintendent for the respondents present. After the issuance of common judgment dated 15.02.2018 of this Tribunal passed in service appeal No.94/2015, the identical nature service appeals have either been dismissed or the orders of ad-interim relief passed therein were vacated. In these circumstances the restraint order lastly issued on 11.04.2018 till 14.05.2018 shall be deemed as no more in the field/vacated. Adjourn. To come up for arguments on 16.01.2019 as per request of appellant, before D.B at Camp Court Abbottabad.


Member


Member
Camp Court Abbottabad

19.09.2018

Appellant in person alongwith his counsel Mr. Zartaj Anwar Advocate present. Mr. Attaullah, Assistant Secretary alongwith Mr. Usman Ghani, District Attorney for the respondents present.

The above named representative stated that notice for hearing the arguments today was not received in the office, so he could not bring the relevant record and made a requested for adjournment. Granted. To come up for arguments on 15.10.2018 before the D.B at camp court, Abbottabad.



Member



Chairman

15.10.2018

Appellant Gul Shahzad in person present. Mr. Muhammad Arif, Superintendent (Litigation) alongwith Mr. Usman Ghani, District Attorney for the respondents present. Due to general strike of the Khyber Pakhtunkhwa Bar Council, counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 17.10.2018 before the D.B. at camp court, Abbottabad.



Member



Chairman
Camp Court, A/Abad

22.06.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Javed Iqbal, Senior Clerk for the respondents also present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 02.08.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

02.08.2018

Junior to counsel for the appellant and Learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned. To come up for arguments on 21.08.2018 before D.B.


(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member

21.08.2018

Due to Eidul Azha vacation,
the case is adjourned to 27-9-18.


Reader.

Note:
13-9-2018

Application of the appellant is allowed,
→ the case be fixed before DB at
Comp Court Ad on 19-9-2018. Notice
be of the said date be issued to
the respondents.

13-9-2018

11.04.2018


Counsel for the appellant, Mr. Usman Ghani, District Attorney alongwith Attaullah, Assistant Secretary for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 14.05.2018 before the D.B. The restraint order shall continue till the date fixed.


Member


Chairman

14.05.2018

The Tribunal is non-functional due to retirement of the Worthy Chairman. To come up for the same on 28.05.2018 before the D.B.


Reader


28.05.2018


Appellant Gul Shahzad in person present and submitted an application for transfer of appeal from principal seat to camp court, Abbottabad. Notice of application be issued to the respondents for 11.06.2018.


Chairman

11.06.2018

Learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 22.06.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

1032/16

01.03.2018

Clerk of counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mukhtiar Ali, Asstt. Secretary for the respondents present. The learned DA sent an application for adjournment, which is placed in connected appeal of Sheryar. To come up for arguments before this D.B on 29.03.2018. The restraint order shall continue till the date fixed.


Member-I


Chairman

29.03.2018

Counsel for the appellant and Addl. AG alongwith Attaullah, Assistant Secretary for the respondents present. Learned Addl. AG submitted before the court that the case was prepared by Mr. Ziaullah, DDA who has been transferred. Learned AAG requested for adjournment. Adjourned. To come up for arguments on 11.04.2018 before this D.B. The restraint order shall continue till the date fixed.


(M. Hamid Mughal)
Member-I


Chairman

06.02.2018


Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Mukhtiar Ali, Assistant Secretary for the respondents present. Arguments heard. To come up for order on 15.02.2018 before the Larger Bench. The restraint order shall continue.



(M. Hamid Mughal)
Member



Chairman



(M. Amin Khan Kundi)
Member



(Ahmad Hassan)
Member



(Gul Zeb Khan)
Member

15.02.2018

Appellant in person and Mr. Usman Ghani, District Attorney alongwith Mukhtiar Ali, Assistant Secretary for the respondents present. Vide our detailed judgment of today in service appeal No. 94/2015 entitled "Sher Yar Vs. the Government of Khyber Pakhtunkhwa, SMBR and others", this appeal to come up for arguments on 01.03.2018 before the D.B. The restraint order shall continue.



(M. Hamid Mughal)
Member



Chairman



(M. Amin Khan Kundi)
Member



(Ahmad Hassan)
Member



(Gul Zeb Khan)
Member

1032/2016

15.12.2017

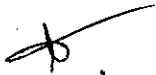
Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mukhtiar Ali, Asstt. Secretary for the respondents present. Since some other similar appeals have been adjourned due to non-availability of their counsel, counsel for the present appellant also requested for adjournment. To come up for arguments before the Larger Bench on 11.01.2018. The restraint order shall continue.



(Muhammad Hamid Mughal)
Member



(M. Amin Khan Kundi)
Member



(Ahmad Hassan)
Member



(Gul Zeb Khan)
Member

11.01.2018

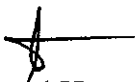
Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mukhtiar Ali, Asstt. Secretary for the respondents present. Learned DDA submitted before the court that the case was prepared by Mr. Usman Ghani, District Attorney who is not available today due to meeting of Law Officers Association. Adjourned. To come up for arguments before the larger bench on 06.02.2018. The restraint order shall continue.



(M. Hamid Mughal)
Member



(M. Amin Khan Kundi)
Member



(Ahmad Hassan)
Member



(Gul Zeb Khan)
Member

29.11.2017

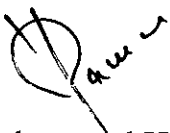
Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Mukhtiar Ali, Assistant Secretary for respondents present. All the counsels for the appellants and District Attorney for respondents unanimously requested this Tribunal that larger bench be constituted for the decision of the issue involving in the present appeal alongwith other connected appeals for the reason that some contradictory judgments have been delivered on the issue by different D.B's of this Tribunal. The request is genuine which is accepted and larger bench consisting of all Members of this Tribunal is constituted to decide the issue. To come up for arguments on 11.12.2017 before the ~~D.B.~~ The restraint order shall continue

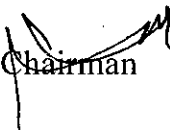

Member



Chairman

11.12.2017

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mukhtiar Ali, Assistant Secretary for the respondents present. Since some similar appeals have been adjourned due to non-availability of the learned counsel for the appellants, Counsel for the appellant in the instant appeal also requested for adjournment. Granted. To come up for arguments on 15.12.2017 before the Larger Bench. The restraint order shall continue.


(Muhammad Hamid Mughal)
Member


Chairman


(M. Amin Khan Kundi)
Member


(Ahmad Hassan)
Member


(Gul Zeb Khan)
Member

25/09/2017

Since 22.09.2017 has been declared as a public holiday on account of first Muharram. Therefore cases adjourned to 7.11.2017, for the same.


READER

07.11.2017

Junior counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Mukhtiar Ali, Assistant Secretary for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy in the worthy Peshawar High Court, Peshawar. Adjourned. To come up for rejoinder and arguments on 27.11.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kuncil)
Member

27.11.2017


Appellant in person and Mr. Ziaullah, Deputy District Attorney alongwith Mukhtiar Ali, Assistant Secretary for the respondents present. Counsel for the appellant is not in attendance. To come up for arguments on 29.11.2017 before the D.B.

Member


Chairman

09.02.2017

Counsel for appellant, Mr. Mukhtiar Ali, Superintendent and Mr. Bahadar Khan, Assistant alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Written reply by respondents No. 1 and 2 already submitted. Learned Additional AG relies on the written reply submitted by respondents No. 1 and 2 on behalf of respondents No. 3 and 4. To come up for rejoinder ~~15.05~~ arguments on ~~15.05~~ 2017 before D.B.


(ASHFAQUE TAH)
MEMBER

15.05.2017

Junior counsel for the appellant and Mr. Muhammad Ibrar, Assistant Secretary alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents present. Junior counsel for the appellant requested for adjournment due to non-availability of his senior counsel. Adjourned for rejoinder and arguments to 04.09.2017 before D.B.


(GUL ZEB KHAN)
MEMBER

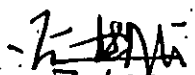

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

04.09.2017

Since 4th September, 2017 has been declared as Public Holiday on account of Eid-UI-Azha. Therefore the case is adjourned for the same on 22.9.17 before D.B. Parties be informed accordingly.



(Reader)

H62


30/8/17

03.11.2016


Counsel for the appellant and Mr. Mukhtiar Ali, Supdt. alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 05.12.2016 before S.B. Status-quo be maintained.



Member

05.12.2016


Appellant with counsel and Ms. Mukhtiar Ali, Supdt for respondent No.1 and 2 and Bahadar Khan, Assistant(lit) for respondent No 3 and 4 alongwith Asst: AG for respondents present. Written reply on behalf of respondent No.1 and 2 submitted. Representative of respondents No.3 and 4 requested for time to file written reply. Request accepted. To come up for written reply/comments of respondent No.3 and 4 on 05.01.2017. Status-quo be maintained.



MEMBER

05.01.2017

Counsel for the appellant and Mr. Mukhtiar Ali, Supdt alongwith Asst: AG for respondents present. None on behalf of respondents No.3 and 4. Notice be issued to the respondents No.3 and 4 with the direction to submit their written reply. To come up for written reply of respondents No. 3 and 4 on 09.02.2017. Status-quo be maintained.



(MUHAMMAD AAMIR NAZIR)
MEMBER

1032/2016

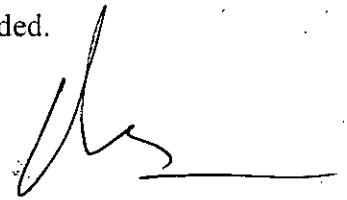
06.10.2016

Gul Shahzad vs Govt

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal, the appellant has impugned order dated 09.09.2016 vide which the promotion order of appellant as Naib Tehsildar has been withdrawn by respondent No. 2 without cogent justification. Against the impugned order the appellant filed departmental appeal which was also turned down vide order dated 06.10.2016, hence the instant service appeal. Learned counsel for the appellant argued before the court that the appellant was regularly promoted as (BPS-14) on 17.04.2010 and he has performed his duties to the entire satisfaction of the respondents. That after six years of his services as Naib Tehsildar, his promotion order was withdrawn by respondent No. 2 which is illegal, without any justification and his violation of Rule-7 of the E&D Rule 2011. Learned counsel for the appellant further submitted that similar nature appeals No. 781/2016 titled, Saeed Khan Vs SMBR, appeal No. 979/2016 titled, Dildar Khan Vs SMBR and other appeals have already been admitted for regular hearing and restrain order has been issued by this Tribunal. Learned counsel for the appellant submitted that since valuable rights of the appellant are at stake, therefore, to respondents be restrain for complying with the impugned order dated 09.09.2016.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 03-11-16. Till then the operation of impugned order is suspended.

Appellant Deposited
Security & Process Fee

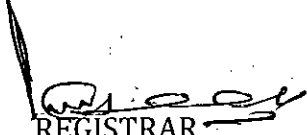
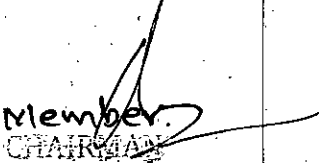


(Muhammad Aamir Nazir)
(Member)

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1032/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06/10/2016	<p>The appeal of Mr. Gul Shahzad submitted today through Mr. M. Asif Yousafzai Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	6-10-16	<p>This case is entrusted to Learned member Bench _____ for preliminary hearing to be put up there on <u>6-10-16</u></p> <p style="text-align: right;"> Member CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1632 /2016.

Gul Shahzad, N.T, VS Chief Secretary KPK etc.

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APPELLANT
GUL SHAHZAD

THROUGH:

M. Asif Yousafzai
M.ASIF YOUSAFZAI
ADVOCATE SUPREME COURT,
& *Syed Noman Ali Bukhari*
SYED NOMAN ALI BUKHARI
ADVOCTES, PESHAWAR.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1032 /2016.

Gul Shahzad, N.T,

R/O Gul Bahar, Peshawar City.....Appellant.

VERSUS

**Khyber Pakhtunkhwa
Service Tribunal**

1- The Chief Secretary, KPK, Peshawar.

Diary No. 1049

2- The SMBR, Revenue Deptt: Peshawar.

Dated 6/10/2016

3- The Commissioner Hazara Division, Abbottabad.

4- The D.C Abbottabad.

.....Respondents.

=====

**APPEAL UNDER SECTION 4 AGAINST THE
ORDER DATED. 09.09.2016 WHEREBY THE
APPELLANT'S PROMOTION ORDER AS N.T
HAS BEEN WITHDRAWN IN AN ILLEGAL
MANNER AND AGAINST THE ORDER
DATED. 6-10-2016 , WHEREBY THE
DEPARTMENTAL APPEAL OF THE
APPELLANT HAS BEEN REJECTED OR NO
GOOD GROUNDS.**

PRAYER:

That on acceptance of this appeal the order dated. 09.09.2016 and 6-10-2016 may be set-aside being passed in violation of law, rules and norms of justice. The respondents may further please be directed to restore the appellant to N.T post with all back and consequential benefits being rightly promoted. Any other remedy which this august Tribunal deems fit that may also be granted in favour of appellant.

Filed
to-day 6/10/16.

R. SHEWETH.

- 1- That the appellant was initially appointed as patwari in the year 2008 and later on promoted as Qanungo after observing codal formalities in the year 2009.
- 2- That on 18.11.2009, the appellant was promoted as N.T (B-14) on current charge basis after the approval of competent authority and by the competent authority (SMBR). **Copy of the order is attached as Annexure - A.**
- 3- That after posting/ promotion as N.T the appellant has performed his duties with full devotion at various stations up to the entire satisfaction of his superior.
- 4- That the appellant had properly filed an appeal before the then SMBR for regular promotion as N.T against the Revenue Establishment in the year 2010. The said appeal was properly sent to concerned office for comments. The SMBR, after reply of the concerned office, and in presence of respondents, accepted the appeal and the appellant was regularly promoted as N.T on 17.04.2010. **Copies of appeal, reply and decision are attached as Annexure - B, C & D.**
- 5- That after the acceptance of appeal by the SMBR, the regular promotion order was issued on 21.4.2010 and since then the appellant has enjoyed the status of regular N.T for long six years. **Copy of the order is attached as Annexure - E.**
- 6- That the appellant's name was also enlisted the seniority lists of regular N.T for the last six years at various S.Nos. This aspect also shows that the appellant's promotion remained in field, acted upon and never been challenged by any official of the Revenue Deptt: so far, which amounted to creation of valuable rights in favour of appellant. **Copies of seniority lists are attached as Annexure - E.**

- 7- That to the utter surprise of appellant the SMBR, withdrew the promotion order of appellant on 9.9.2016 in total violation of law and rules and norms of justice. The appellant filed departmental appeal against the said order but the same has also been rejected for no good grounds on 6-10-2016. **Copies of order, appeal and rejection order are attached as Annexure-F,G,H.**
- 8- That now the appellant comes to this august Tribunal on the following grounds amongst the others.

GROUND:

- A) That the notice dated. 09.09.2016 , wherein the promotion order of the appellant has been withdrawn, and the rejection order dated. 6-10-2016 are against the law, fact, norms of justice and fair play and material on record, therefore, not tenable.
- B) That the promotion order dated 21.4.2010 was passed by the then appellate authority which was fully acted upon and remained in field since 2010 (for more than 5 years) which has created valuable rights in respect of the appellant, therefore, now the appellant's promotion could not be withdrawn under the principles of **Locus Poenitentiae.**
- C) That it is also worth to mention here that the order dated 21.4.2010 was based on judicial order and interestingly in the notice dated 21.6.2016 based on notice dated 21.3.2011 also has the word "**Court matter**" which clearly shows that the worthy SMBR is trying **to review** earlier order in the Court process and that too without any review petition filed by the respondent who were available at the time of decision dated 11.4.2010 of the appeal, thus under section 24-A of the General Clauses Act as well as principle of judicial power the worthy SMBR on its

own cannot take Suo Motto action to review its earlier order passed while exercising judicial power.

- D) That after the acceptance of appeal of appellant by the then SMBR in the year 2010, the SMBR became functus officio and legally he cannot reviewed his order passed on appeal of appellant, especially, when the respondents in that appeal had not filed any appeal against the order of the then SMBR before a proper forum.
- E) That in the order passed on the appeal dated 21.4.2010 the official respondents i.e. Secretary Board of Revenue and Director Lands Record were present, but none of the respondents either challenge that order before the next appellate authority or before any competent legal forum. Thus, it is clear that the respondents Secretary Board of Revenue and Director Land Record were also in full agreement to the order passed by the then SMBR and that why the respondents are still mum over the orders passed on the appeal of the appellant.
- F) That since then (21.4.2010), the appellant has continuously enjoyed the status of regular Naib Tehsildar and also has his name in the seniority lists of Naib Tehsildar issued since 2011 till date. The appellant is at Serial No. 87 in latest tentative seniority list issued on 31.12.2015. Thus according to the judgment so of the Hon'able Supreme Court's judgments, my seniority rights could not be taken away in a fanciful manner.
- G) That while issuing order dated. 09.09.2016 ,the worthy SMBR did that without observing proper legal course as mandated in Khyber Pakhtunkhwa E&D Rules 2011 and directly issued order which is against the spirit of KPK Government Servants E&D Rules, 2011. The worthy SMBR without observing Rules-



5(a), 7(c) & 14(7) of the E&D Rules, 2011 and without passing an order regarding dispensing with inquiry declared the promotion order as illegal order.

- H) That the element of discrimination is also there because neither the then SMBR, the respondent in the Departmental Appeal are proceeded against nor other officials / offices involved in complying with the order dated 17.4.2010 have been proceeded against, and the only appellant has been pin pointed and that too in violation of E&D Rules, 2011.
- I) That the worthy SMBR has not only violated the E&D Rules in toto but also miserably failed to finalize the issue pending since the last more than 5 years. Thus the spirit of Rule-7 of E&D Rules, 2011 is violated.
- J) That the appellant has not been dealt in accordance with law and rules.
- K) That the 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 be accepted as prayed for.


APPELLANT
GUL SHAHZAD

THROUGH:


M.ASIF YOUSAFZAI
ADVOCATE SUPREME COURT,
& 
SYED NOMAN ALI BUKHARI
ADVOCTES, PESHAWAR.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. _____/2016.

Gul Shahzad, N.T, VS Chief Secretary KPK etc.

**APPLICATION FOR SUSPENDING THE
OPERATION OF ORDER DATED. 9.9.2016 AND
TILL THE DISPOSAL OF MAIN APPEAL.**

R.SHEWETH.

1. That the appellant has filed an appeal along with this application in which no date has been fixed so far.
2. That the grounds of main appeal may also be considered as integral part of this application.
3. That in a similar appeal NO. 979/2016, the withdrawal of promotion order has already been suspended by this august Tribunal, therefore, the appellant also deserves the same treatment.
4. That the appellant has a good prima facie case and all the ingredients are in favour of appellant.
5. That the appellant has been suffered for no fault on his part while the remaining officials are left without punishment. Thus the appellant has been discriminated.
6. That the appellant has enjoyed the status of regular N.T for long 6 years which created rights in favour of appellant and as such the said promotion order can not be so simply withdrawn in violation of law and principles of justice.

Therefore, it is humbly prayed that the operation of order dated. 9.9.2016 may be suspended till the decision of main appeal. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

Gul
APPELLANT
GUL SHAHZAD

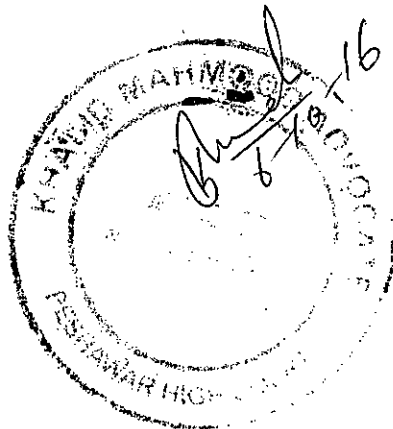
THROUGH:

M. Asif
M. ASIF YOUSAFZAI
ADVOCATE SUPREME COURT,
& *Noman*
SYED NOMAN ALI BUKHARI
ADVOCTES, PESHAWAR.

AFFIDAVIT.

It is affirmed that the contents of application are true and correct.

Gul
DEPONENT
GUL SHAHZAD.





GOVERNMENT OF NWFP
REVENUE & ESTATE DEPARTMENT

Dated Peshawar the 18/11/2009

ORDER.

No _____ /Admn:V/PF(Gul). With the approval of Competent Authority, Mr.Gul Shehzad Kanungo Dir Lower whose services have already been placed at the disposal of FATA Secretariat vide order No. 27415/ Admn:V/PF(Gul), dated 24.10.2009, is hereby promoted / appointed as Naib Tehsildar (BPS - 14) on current charge basis with immediate effect.

By Order of,
Senior Member
Board of Revenue NWFP

No 30436-42 /Admn:I/PF(Gul)

Copy to:-

1. Deputy Secretary (Law & Order) FATA Secretariat Peshawar.
2. Political Agent, Khyber Agency.
3. District Officer (R&E)/Collector, Dir Lower
4. Agency Accounts Officer, Khyber Agency.
5. Official concerned.
6. Personal File.
7. Office Order File.


Assistant Secretary (Estt)
Board of Revenue NWFP

ATTESTED

**BEFORE THE SENIOR MEMBER BOARD OF REVENUE, NWFP,
PESHAWAR**

Shahzad Shaheen Muslim Town Bostan Abad NO.1 Peshawar
(Appellant)

VERSUS

Govt: of NWFP Revenue and Estate Department.

Respondent.

**PRAYER: ON ACCEPTANCE OF THIS APPEAL THE
APPELLANT MAY BE REGULARIZED AS NAIB
TEHSILDAR (BS-14) BEING A REGULAR REVENUE
EMPLOYEE AND WORKING AS NAIB TEHSILDAR
(BS-14) ON CURRENT CHARGE BASIS.**

Sir,

Appellant humbly submits as under: -

1. That the appellant is a regular member of revenue service of the Province. He started his career as trained and qualified patwari in District Dir Lower against the regular vacancy.
2. That after serving as patwari certain posts of Kanungos had become vacant which were likely to be filled by promotion on the basis of Seniority – cum- fitness and the applicant was considered for promotion to the post of Kanungo (BS-9) on regular basis through Departmental Promotion Committee Meeting.
3. That on 18.11.2009 with the approval of Competent Authority the appellant was promoted as Naib Tehsildar and his services were placed at the disposal of FATA Secretariat on Current Charge Basis.

ATTESTED

4. That the applicant has passed the Departmental Examination of Naib Tehsildar.

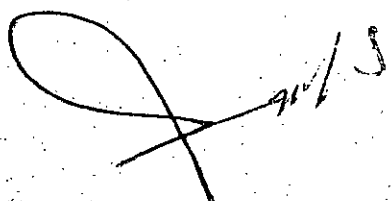
5. That the applicant is already working as Naib Tehsildar Bazar Zakha Khail Khyber Agency on Currant Charge Basis.

GROUND.

- a. That the applicant is hardworking energetic, enthusiastic and competent servant in the Revenue Department.
- b. That there is no bar on regularization on the applicant service, rather it is according to natural justice.
- c. That the applicant / appellant has good experience in field work, therefore, eligible to be regularized.

It is, therefore, humbly prayed that on acceptance of this appeal the services of applicant / appellant as Naib Tehsildar may kindly be regularized.

Any other relief which has not been specifically prayed for and which is according to law and natural justice may also be granted in favour of applicant / appellant.


Appellant / Applicant

Through: -


(Shahzada Shapur Jan)
Advocate Peshawar.

Dated : -

AFFIDAVIT: -

I Gul Shahzad S/O Shahzad R/O Shaheen Muslim Town Bostan Abad NO.1 Peshawar do hereby solemnly affirm and declare on Oath that the contents of this appeal/applicant are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

ATTESTED



DEPENDENT

CNIC NO.17301-54910927

BOARD OF REVENUE, NWFP.

Case No. 97/2010.
Date of Institution. 22/03/2010.
Date of Decision. 17/04/2010.

Gui Shehzad Naib Tehsildar, (BPS-14- Current Charge Basis) R/O Shaheen
Muslim Town Bostan Abad No. 1, District Peshawar
-----Appellant.

Versus

Board of Revenue, NWFP
-----Respondent.

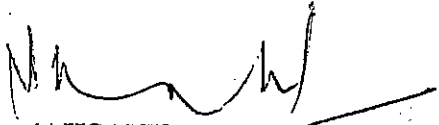
ORDER

This is a departmental appeal/representation submitted by Gul Shehzad Kanungo (BPS-09), now Naib Tehsildar (BPS-14-Current Charge Basis) for promotion as Naib Tehsildar (BPS-14) on regular basis.

Brief facts of the case are that the appellant was appointed as Patwari on 06/07/2008 in the District Lower Dir and then promoted as Kanungo (BPS-9). Later-on, his services were placed at the disposal of FATA Secretariat for further posting as Naib Tehsildar (Own Pay & Scale) on 24/10/2009 by the Board of Revenue, NWFP. He was then promoted as Naib Tehsildar (BPS-14) on current charge basis on 18/11/2009. Now the appellant requests for promotion as Naib Tehsildar (BPS-14) on regular basis.

Appellant with Counsel present. Arguments heard. Comments offered by the Assistant Secretary (Estt.), Board of Revenue, NWFP perused. Perusal of the record reveals that the appellant is regular Kanungo and has passed the Departmental examination of Naib Tehsildar and was posted as Political Naib Tehsildar (Own Pay & Scale) Bazar Zakha Khel, Khyber Agency and was appointed/promoted as Naib Tehsildar (BPS-14) on current charge basis on 18/11/2009. The appellant thus has gained sufficient experience in the Revenue matters as well as Political Administration and deserves to be promoted as Naib Tehsildar (BPS-14) on regular basis. The appeal is therefore accepted and the appellant is promoted as Naib Tehsildar (BPS-14) on regular basis with immediate effect.

ANNOUNCED.
17/04/2010


(AHSANULLAH KHAN)
SENIOR MEMBER,
BOARD OF REVENUE, NWFP.

ATTESTED




GOVERNMENT OF NWFP
REVENUE & ESTATE DEPARTMENT

PESHAWAR DATED 21/10/2010



ORDER

No. 3532 /Admn:V/(G) In pursuance of Judicial dated 17.04.2010 passed in
[appeal No. 97/2010, filed by Mr. Gul Shehzad working as Naib Tehsildar (Current Charge Basis
BS-14) is hereby regularized as Naib Tehsildar (BPS-14) with immediate effect.]

Senior Member
Board of Revenue NWFP

No. 3532 /Admn:V/(G)

Copy to:-

- 0. Accountant General, NWFP.
- 0. Commissioner, Peshawar and Malakand Divisions
- 0. District Officer (R&E)/Collector, Dir Lower.
- 0. Reader to Senior Member, Board of Revenue, NWFP.
- 0. Official Concerned.
- 0. Personal File.
- 0. Office Order File.

Senior Member
Board of Revenue NWFP

ATTESTED

9212302
9212303



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 23/08/2016.

E-13

OFFICE ORDER.

No. Estt:V/Final.S.List/Naib Tehsildar/2015/_____ In pursuance of Section 8 (i) of the Khyber Pakhtunkhwa, Civil Servant Act, 1973, final seniority list of Naib Tehsildar in Khyber Pakhtunkhwa as it stood on 31.12.2015 is hereby published for circulation of all concerned.

By order of
Senior Member

No. Estt:V/Final.S.List/Naib Tehsildar/2015/ 21490-513

Copy of final seniority list is forwarded to

1. All Deputy Commissioners in Khyber Pakhtunkhwa
2. Office Order

They are requested to circulate the same amongst the Naib Tehsildars working under your control for information

Secretary - I

ATTESTED

FINAL SENIORITY LIST OF NAIB TEHSILDAR (BPS - 14) IN KHYBER PAKHTUNKHWA AS STOOD ON 31.12.2015

14

S.No.	Name of Naib Tehsildar / Qualification	Date of Birth / Domicile	Date first entry into Government Service	Date of appointment as Naib Tehsildar on regular basis	Method of Recruitment	Remarks
1.	Mr. Abdul Qadeer (MSc)	15.8.1962 DIKhan	28.08.1995	28.08.1995	Promotee	Appointed as Tehsi (B-16) on ACB
2.	Mr. Muhammad Umar M.A	10.03.1966 Mardan	16.07.2002	17.06.2006	Promotee	Seniority assigned pursuance of Servi Tribunal order
3.	Mr. Farman Ali	04.02.1963 Mardan	16.07.2002	17.06.2006	--do--	Seniority assigned pursuance of Servi Tribunal order dat 15.04.2016
4.	S. Mazhar Hussain Shah (F.A)	07.07.1956 DIKhan	10.05.1976	26.07.2007	Promotee	Naib Tehsildar
5.	Mr. Faizullah	03.01.1957 Bannu	02.02.1981	26.07.2007	--do--	Seniority assigned pursuance of Servi Tribunal order dat 15.04.2016
6.	Mr. Aftab Hussain Shah (B.A)	04.05.1958 DIKhan	13.09.1980	01.01.2008	--do--	Naib Tehsildar
7.	Mr. Saleem Asmat (BA)	03.01.1959 DIKhan	27.03.1984	31.03.2008	--do--	Promoted throug Administrative orde SMBR
8.	Mr. Amanullah (Matric)	09.06.1956 Tank	-	29.05.2008	--do--	--do--
9.	Mr. Shah Zaman (F.A)	16.07.1958 Tank	03.07.1984	29.05.2008	--do--	--do--
10.	Mr. Abdur Rashid (Matric)	1958 DIKhan	1987	29.05.2008	--do--	--do--
11.	Muhammad Ayub (Matric)	04.11.1960 Tank	18.12.1986	29.05.2008	--do--	--do--
12.	Mr. Amir Muhammad (B.A)	06.04.1961 Swabi	28.08.1988	11.08.2008	--do--	Naib Tehsildar
13.	Mr. Shakir Ullah (MA, MBA)	15.01.1978 Khyber Agency	02.02.2009	02.02.2009	Direct	--do--
14.	Mr. Munir Ahmad (MSc)	20.03.1979 SWA	02.02.2009	02.02.2009	--do--	--do--
15.	Mr. Rahamd Ullah khan (MSc. Chem)	18.04.1978 Lakki Marwat	02.02.2009	02.02.2009	--do--	--do--

Estt:V/1

ATTESTED

15

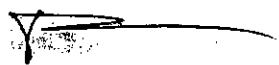
			02.02.2009	02.02.2009	Direct	Naib Tensik
	Mr. Khalid Khan (MA)	23.03.1978 Bajuar	02.02.2009	02.02.2009	--do--	--do--
18.	Mr. Fazli Wadood (BA)	04.04.1982 Mohmand Agency	02.02.2009	02.02.2009	--do--	--do--
19.	Mr. Irshad Ali (MA)	15.03.1978 Mohmand Agency	02.02.2009	02.02.2009	--do--	--do--
20.	Mr. Amir Nawaz (BSc/MBA)	22.04.1975 DIKhan	02.02.2009	02.02.2009	--do--	--do--
21.	Mr. Shah Wazir (MSc)	30.03.1980 SWA	02.02.2009	02.02.2009	--do--	--do--
22.	Mr. Sikandar Khan (M.A)	10.12.1976 Swat	02.02.2009	02.02.2009	--do--	--do--
23.	Mr. Ishtiaq Ahmad (M.A)	30.04.1979 Malakand	02.02.2009	02.02.2009	--do--	--do--
24.	Mr. Shamsul islam (MA)	10.04.1979 Malakand	02.02.2009	02.02.2009	--do--	--do--
25.	Mr. Allah Noor (MA)	11.04.1983 (FR) DIKhan	02.02.2009	02.02.2009	--do--	--do--
26.	Muhammad Ilyas (MSc)	03.03.1975 Swat	02.02.2009	02.02.2009	--do--	--do--
27.	Mr. Yasir Salman Kundi (MBA)	03.08.1979 Lakki Marwat	02.02.2009	02.02.2009	--do--	--do--
28.	Mr. Yadullah Khattak (MA)	23.05.1979 Mardan	02.02.2009	02.02.2009	--do--	--do--
29.	Mr. Ahmad Hashmi (B.A)	2.04.1983 Dir Lower	02.02.2009	02.02.2009	--do--	--do--
30.	Mr. Amin Ullah Khan (BA)	07.06.1977 DIKhan	02.02.2009	02.02.2009	--do--	--do--
31.	Mr. Zahid Younis (M.A)	20.01.1978 Karak	02.02.2009	02.02.2009	--do--	--do--
32.	Mr. Naimat Ullah (Double M.A)	26.04.1973 Dir	02.02.2009	02.02.2009	--do--	--do--
33.	Muhammad Riaz (LLB)	02.02.1980 Dir Lower	02.02.2009	02.02.2009	--do--	--do--
34.	Muhammad Yar (MA)	02.02.1979 Malakand	02.02.2009	02.02.2009	--do--	--do--
35.	Mr. Sher Ali Khan (M.A)	13.11.1974 Swat	02.02.2009	02.02.2009	--do--	--do--
36.	Mr. Munawar Shah (M.A)	12.02.1973 Dir Lower	02.02.2009	02.02.2009	--do--	--do--
37.	Mr. Iftikhar uddin (MSc)	05.08.1973 Charsadda	02.02.2009	02.02.2009	--do--	--do--

EsR:V/2

ATTESTED

					Direct	Naib Tehsildar
39.	Mr. Mujahid Ali (M.A)	19.04.1974 Nowshera	02.02.2009	02.02.2009	--do--	--do--
40.	Syed Abdul Akbar Shah (MSC/M.A)	11.04.1981 Mardan	02.02.2009	02.02.2009	--do--	--do--
41.	Syed Sultan Haider Shah (BA. LLB)	08.12.1972 Peshawar	02.02.2009	02.02.2009	--do--	--do--
42.	Mr. Aftab Ahmad (MSc)	08.12.1982 Peshawar	02.02.2009	02.02.2009	--do--	--do--
43.	Mr. Dil Nawaz Khan (LLB)	22.03.1979 Swabi	02.02.2009	02.02.2009	--do--	--do--
44.	Mr. Kifayat Ullah (M.A)	09.01.1977 Peshawar	02.02.2009	02.02.2009	--do--	Removed from service 26.5.2014
45.	Mr. Faqir Hussain (BA)	10.10.1983 Nowshera	02.02.2009	02.02.2009	--do--	Naib Tehsildar
46.	Mr. Zulfiqar Khan (M.Com)	15.04.1983 Peshawar	02.02.2009	02.02.2009	--do--	--do--
47.	Mr. Waqar Ahmad (M.A)	24.04.1980 Mansehra	02.02.2009	02.02.2009	--do--	--do--
48.	Muhammad Faraz Qurashi (MBA)	17.03.1982 Abbottabad	02.02.2009	02.02.2009	--do--	--do--
49.	Mr. Fazal ur Rehman (M.A)	10.07.1975 Haripur	02.02.2009	02.02.2009	--do--	--do--
50.	Mr. Farukh Jadoon (BSc)	04.05.1984 Abbottabad	02.02.2009	02.02.2009	--do--	--do--
51.	Mr. Fayaz Ahmad (M.A)	10.03.1982 Abbottabad	02.02.2009	02.02.2009	--do--	--do--
52.	Mr. Bilal Ahmad (BA. B.Ed)	10.10.1978 Haripur	02.02.2009	02.02.2009	--do--	--do--
53.	Mr. Tanveer Shahzad (M.A)	30.12.1977 Mansehra	02.02.2009	02.02.2009	--do--	--do--
54.	Mr. Ejaz Ahmad (M.A)	15.04.1982 Abbottabad	02.02.2009	02.02.2009	--do--	--do--
55.	Muhammad Salim (BSC)	03.05.1978 Abbottabad	02.02.2009	02.02.2009	--do--	--do--
56.	Mr. Sajid Saleem (MA Political Science)	01.04.1978 Tank	06.11.1996	10.02.2009	Promotee	Promoted through Administrative order c SMBR
57.	Mr. Adil Waseem (BA)	25.12.1988 Nowshera	27.02.2009	27.02.2009	Direct	Dismissed from service 23.7.2014
58.	Mr. Tanzil-ur-Rehman (BA)	13.02.1988 NWA	14.04.2009	14.04.2009	--do--	Naib Tehsildar

ATTESTED



			27.12.1993	02.05.2009	Promotee	Naib Tehsildar
60.	Mr. Roohul Amin (Matric)	25.10.1966 Kohat	01.04.1985	02.05.2009	--do--	--do--
61.	Mr. Qanoos Khan (BA)	14.02.1962 Kohat	01.07.1991	02.05.2009	--do--	--do--
62.	Mr. Latif-ur-Rehman (Matric)	01.07.1956 Shangla	01.03.1978	02.05.2009	--do--	--do--
63.	Mr. Jehan Wali (FA)	01.02.1957 Shangla	01.03.1978	02.05.2009	--do--	--do--
64.	Mr. Amir Zarin (Matric)	06.08.1959 Shangla	01.03.1978	02.05.2009	--do--	--do--
65.	Mr. Shah Wazir (Matric)	02.02.1960 Swat	05.04.1981	02.05.2009	--do--	--do--
66.	Mr. Sher Bahadar (BA)	07.04.1965 Tank	10.10.1992	02.05.2009	--do--	--do--
67.	Mr. Shaukat Iqbal (M.A)	2/11/1973 DIKhan	19.10.1992.	02.05.2009	--do--	--do--
68.	Mr. Abdur Rashid (MSC)	05.01.1962 Swabi	28.08.1988	02.05.2009	--do--	--do--
69.	Mr. Ahmad Ali M.A (B.Ed)	17.04.1962 Swabi	28.08.1988	02.05.2009	--do--	--do--
70.	Mr. Faramosh Khan (BA)	01.12.1957 Bajaur	26.11.1975	12.05.2009	--do--	Promoted through Administrative order SMBR,
71.	Mr. Abdul Haseeb (Matric)	01.09.1959 Bajaur	18.02.1977	12.05.2009	--do--	--do--
72.	Mr. Gohar Ali (B.A)	31.03.1980 Bannu	29.05.2009	29.05.2009	Direct	Naib Tehsildar
73.	Mr. Mehmood Shah (Matric)	01.02.1959 Peshawar	04.10.1977	02.06.2009	Promotee	--do--
74.	Mr. Sher Dil (BA)	24.01.1974 Kohistan	10.04.1995	02.06.2009	--do--	--do--
75.	Muhammad Shoaib (BA)	01.01.1968 Kohat	09.12.1990	02.06.2009	--do--	--do--
76.	Muhammad Arshad (BA)	20.01.1967 Kohat	02.09.1984	26.06.2009	--do--	--do--
77.	Mr. Zafar Iqbal (B.A. L.L.B)	25.02.1963 Kohat	02.04.1987	02.07.2009	--do--	--do--
78.	Mr. Nawab Gul (M.A)	15.11.1966 Kohat	01.01.1995	02.07.2009	--do--	--do--
79.	Mr. Umbaras Khan (B.A)	30.06.1960 Mardan	30.08.1988	07.07.2009	--do--	--do--
80.	Mr. Shakeel-ul-Rehman	10.02.1978 Bannu	06.01.2009	11.07.2009	Direct	--do--

18

	Mr. Bashir Ahmad (I. A)	01.01.1957 DIKhan	10.12.1983	18.07.2009	--do--	--do--
83.	Sardar Yousaf (BA)	15.03.1959 Bajaur	22.02.1978	17.09.2009	Promotee	Promoted through Administrative or SMBR,
84.	Mr. Saz Muhamamd (BA)	01.02.1963 Bajaur	25.11.1981	17.09.2009	--do--	--do--
85.	Mr. Ghulam Sacedullah (FA)	01.01.1957 Bajaur	24.11.1975	18.09.2009	--do--	--do--
86.	Mr. Muhammd Saeed (FA)	Peshawar		30.09.209	--do--	--do--
87.	Mr. Riaz-ul-Haq (BA)	11.01.1969 Bajaur	04.07.1987	22.10.2009	--do--	--do--
88.	Mr. Jehanzeb Khan (BA)	01.04.1965 Malakand	13.12.1982	08.01.2010	--do--	--do--
89.	Mr. Asmatullah (BA)	25.05.1973 NWA	01.06.1996	22.01.2010	--do--	--do--
90.	Mr. Gul Shehzad	15.01.1986 Peshawar		21.04.2010	--do--	--do--
91.	Mr. Dildar Khan (BA)	15.05.1975 Abbottabad	01.09.2003	25.06.2010	--do--	--do--
92.	Mr. Sardar Ghulam Murtaza FA	01.11.1965 Abbottabad	04.06.1988	30.06.2010	--do--	Promoted through Decision
93.	Syed Musadiq Hussain (MA. Arabic)	27.10.1962 Hanug	15.03.1980	23.07.2010	--do--	Promoted through Administrative or SMBR,
94.	Mr. Fazle-Rehman (Matric)	10.06.1958 DIKhan		02.09.2010	--do--	--do--
95.	Mr. Haq Nawaz (Matric)	03.07.1960 DIKhan		02.09.2010	--do--	--do--
96.	Mr. Gohar Zaman (FA)	20.04.1965 DIKhan		02.09.2010	--do--	--do--
97.	Mr. Anwar Hussain (FA)	23.03.1972 Kohat		15.10.2010	--do--	--do--
98.	Mr. Ghuncha Gul (C.com)	24.04.1967 Mohmand	22.12.1998	20.11.2010	--do--	--do--
99.	Mr. Abdul Jalil (MA)	15.01.1964 SWA		04.11.2010	--do--	--do--
100.	Mr. Muhammad Amin (Matric)	19.06.1957 Swat	06.04.1981	08.11.2010	--do--	--do--
101.	Mr. Kamailstan (Matric)	01.04.1958 Swat	06.04.1981	08.11.2010	--do--	--do--

				Promotee	Administrative SMBI
103.	Mr. Haqdad Khan (F.A)	06.04.1959 Battagram 06.02.1956 Bannu	01.01.1977 22.04.1981	11.11.2010 27.05.2015	
104.	Mr. Abdul Salam (FA)	14.11.1981 Lakki Marwat	01.09.2004	27.05.2015	Naib Teh: --do--
105.	Mohammad Khan (FA)	06.02.1980 Mardan	24.04.2008	27.05.2015	--do--
106.	Mohammad Naeem (BA)	02.02.1961 Abbottabad	15.04.1985	27.05.2015	--do--
107.	Mr. Jehan Ali (FA)	05.03.1962 Malakand	11.08.1993	27.05.2015	--do--
108.	Mr. Adam Khan (Matric)	03.06.1956 Dir Lower	01.10.1980	27.05.2015	--do--
109.	Mr. Bakht Jehan (MA)	15.03.1964 Dir Lower	05.06.1986	27.02.2015	--do--
110.	Mr. Alamzeb (Matric)	20.04.1959 Dir Lower	01.06.2006	27.05.205	--do--
111.	Mr. Nisarullah (Matric)	01.11.1959 Mardan	04.11.1984	27.05.2015	--do--
112.	Mr. Inayatullah (BA)	27.09.1958 Bannu	12.02.1982	21.08.2015	--do--
113.	Mr. Rashid Khan (FA)	19.03.1958 Bannu	28.11.1982	21.08.2015	--do--


Secretary




GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar Dated 9/09/2016

ORDER

No. Estt:V/PF/(Gul)/ 22720 Whereas, Mr. Gul Shahzad was appointed as Naib Tehsildar on 18.11.2009 on current charge basis through Administrative order.

AND WHEREAS, he was regularized as Naib Tehsildar on 17.04.2010 also through an administrative order without holding of Departmental Promotion Committee meeting.

NOW THEREFORE, in pursuance of order passed by the Senior Member, Board of Revenue on 01.09.2016 the promotion / regularization order dated 18.11.2009 and order dated 17.04.2010 notification bearing No. 8584-90/Admn:V.G, dated 24.04.2010 being made in violation of Service Rules and instructions governing promotions is withdrawn with immediate effect.

By Order of
Senior Member

No. Estt:V/PF/(Gul)/ 2272126

Copy forwarded to the:-

1. Commissioner, Malakand Division.
2. Deputy Commissioner, Dir Lower. *incl Abbottabad*
3. District Accounts Officer, Dir Lower.
4. Official concerned.

[Signature]
Assistant Secretary (Estt)

ATTESTED
[Signature]

G

(21)

PS/O.G Khyber Pakhtunkhwa
Diary No. 8399
Date 19-9-06

15

The Chief Secretary
Govt. of Khyber Pakhtunkhwa
Peshawar

PS/SMBR
Dr No 5784
Date 19/9/16
G.O. No. 9999

Subject: Departmental Appeal against the order dated 9.9.2016 of SMBR Peshawar.

Prayer on acceptance of this departmental appeal the order dated 09-09-2016 of Senior Member Board of Revenue may please be set aside and the appellant may be restored to its original position.

RESPECTFULLY SUBMITTED:-

1. The Appellant was initially appointed as Patwari Halqa in District Lower Dir. The next post of the channel of promotion to the post of Patwari is Qanungo, the Appellant was having seniority in this cadre was duly considered for promotion to the post of Qanungo, the Departmental Promotion Committee held its meeting on 25.06.2009, and accordingly the Appellant was promoted as Qanungo.
2. That vide order dated 24.10.2009 the services of the Appellant were placed at the disposal of the FATA Secretariat for his further posting as Tehsildar. The Appellant was accordingly posted as Political Naib Tehsildar Bazar Zakha Khel Khyber Agency vide order dated 14.11.2009,
3. That while holding the post of Naib Tehsildar, the Appellant was promoted/appointed as Naib Tehsildar on current charge basis vide order dated 18.11.2009 by the competent authority. The Appellant was transferred to the Board of Revenue vide order dated 20.03.2010, for further posting and the services of the Appellant were placed at the disposal of Commissioner Peshawar Division vide office

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order dated 19.05.2010, the Appellant was posted as Naib Tehsildar PDA Peshawar against vacant post.

4. That during his posting as Naib Tehsildar, the Appellant also qualified the departmental examination of Naib Tehsildar. That after serving in the said capacity for considerable time, became the Appellant became eligible for the post of Naib Tehsildar, similarly there were vacant post available, however, the respondents were purposely delaying holding of the meeting of departmental promotion committee, hence the Appellant submitted appeal to senior Member Board of Revenue for his promotion and regularization against the post of Naib Tehsildar, and after through deliberation the appeal of the Appellant was accepted and vide Judicial order dated 17.04.2010, Appellant was allowed promotion and regularization vide order dated 21.04.2010.
5. That the Appellant while serving as Naib Tehsildar was served with a notice by the Senior Member Board of Revenue, questioning his eligibility for being promoted as Naib Tehsildar under the administrative order. It was learnt that besides the Appellant, there were as many as 46 other officials promoted under the administrative order, they were also subjected to the same proceedings. The Appellant submitted details reply, besides appeared on different dates of hearing. The proceedings were therefore left and it was learnt that after the circulation of final seniority list of Naib Tehsildars, the matter was dropped.
6. That in the meantime the Appellant was also issued notices by the NAB authorities whereto the Appellant explained his position regarding his promotion, however, they also found

3
3

nothing pertaining to corrupt practices in the matter of promotion.

- 7. That during this period the present Senior Member Board of Revenue was transferred and posted out from the revenue Department, on his transfer the matter of questioning the promotion of the Appellant was dropped by the incoming SMBR, however, on his re-transfer to the post of Senior Member Board of Revenue, the present SMBR again re-initiated the process from 27.01.2015 and his adamant to undo the lawful promotion of the Appellant.

- 8. That after my promotion as a Qanungo the seniority list was circulated which clearly reflect the name of the Appellant , the seniority list and appeal for promotion submitted through proper channel to the court of SMBR on which vide order dated 17.04.2010, in case No.97/2010, the appeal was accepted and the Appellant was promoted as Naib Tehsildar on regular basis with immediate effect, Departmental promotion and selection committee duly considered name of the Appellant for the promotion to the post of Naib Tehsildar and vide order dated 24.04.2010, Appellant was promoted, soon after the promotion to the post of Naib Tehsildar seniority list was prepared and circulated which is never been challenged by any of the colleague of the Appellant and still in field, moreover, on vacation of the post of Qanungo and after promotion of the Appellant , the posts of Qanungo are also filled through promotion from the posts of Patwari's, thus disturbing the promotion of Appellant at this stage would also create complications for those other cadres of Qanungo's and Patwari's too.

- 24
9. That very recently the respondents department issued notice vide order dated 26.04.2016 for appearance before the senior Member Board of Revenue in unlawful promotion case, I duly appeared and produce all the relevant documents and explain the possession while explaining that all the promotion were taken its legal authenticity and which were issued by the competent authority by following all the legal and caudal formalities.
10. That the Appellant earlier filed writ petition No.2676-P/2015 filed before this Honourable Court challenging the same illegality which was disposed of by this Honourable Court as a premature, however the Appellant was directed to approach the proper forum after receiving final order vide order and judgment dated 10.02.2016.
11. That he above acts and omission of the respondents in re-inquiring the promotion of the Appellant to the post of Naib Tehsildar are illegal, unlawful in violation of the rules.
12. That withdrawal of promotion/Revision to lower post amounts to major punishment for which proper charge sheet and regular inquiry is necessary coupled with allowing full opportunity of defence to the Appellant at each stage of the proceedings, however, the Appellant has not been served with any charge sheet or statement of allegations nor any inquiry has been conducted thus the notice issued to him is uncalled for and liable to be set-aside.
13. That the acts and omission of the respondents in discriminating the Appellant in respect of his valid promotion is illegal, in violation of law, without lawful authority and against the rights of the Appellant.

CS
HS

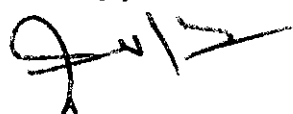
14. That this Honourable Court will appreciate that the reinitiating the matter of the promotion of the Appellant is extreme mala-fide, the matter of promotion of the Appellant has twice attained finality and is a past and closed transaction, it shows the efforts of the hidden hands in depriving the Appellant of his promotion. Such re-initiation amounts to double jeopardy and show the intention of the respondents, to award the penalty to the Appellant at any cost.
15. That the respondents have acted discriminately as similarly placed employees are still holding their promotion on regular basis but the Appellant has been subjected to the illegal proceedings.
16. That the Appellant was perfectly eligible for promotion to the post of Naib Tehsildar, he has passed the NT Examination and there is no irregularity or illegality committed which promoting the Appellant, rather the then SMBR has followed the law.
17. That in fact interfering in the order of promotion of the Appellant is violative of law and illegal, because the Judicial order has attained finally and it should be honoured and not frustrated in any manner what so ever.
18. That it is rather a bad precedent that the order of predecessor is reversed or violated, because officer may change but Govt remained in perpetuity thus the order of regularization of the Appellant is quite legal and in accordance with law, similarly lapses of the authorities could not be attributed to the Appellant but the person who made these orders.

- 19. That during the Army operation, the Appellant worked with IDPs in District Dir Lower, Landi Kotal, FR Peshawar.
- 20. That the Appellant is fit and eligible for the post of Naib Tehsildar (BPS-14) and was thus rightly promoted vide order dated 17.04.2010, and now re-inquiring about the matter of promotion is illegal and seriously affecting the rights of the Appellant .
- 21. That the Senior Member Board of Revenue is competent under the recruitment rules, he himself issued valid promotion orders, similarly the order was acted upon, seniority lists were issued and circulated, subsequently he cannot be allowed to turn around after about 5 years to alleged that the promotion orders were not competently issued. Repeatedly seniority list of NT shows the name of the Appellant at his proper place.
- 22. That the Appellant was promoted by the competent authority after observing all legal formalities, he has taken charge of his higher post, have performed duties against such higher post and have received salaries against the higher post, the order of promotion had acted upon since long an valuable rights have been created in favour of the Appellant the same cannot be undone or snatched away with one stroke of pen.

HIGH COURT
 PESHAWAR
 DISTRICT DIR LOWER
 LANDI KOTAL

Filed

it is therefore, most humbly prayed that on acceptance of this departmental appeal the order dated 9.9.2016 of the Senior Member Board of Revenue KPK Peshawar may be set aside and the appellant may be restored to its original position.


 Gul Shahzad
 Naib Tehsildar
 Abbotabad.

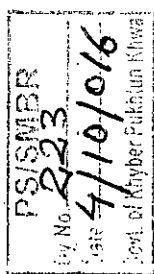
NOTE FOR CHIEF SECRETARY

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 09.09.2016 OF SENIOR MEMBER BOARD OF REVENUE PESHAWAR.

Attention is requested to representation filed by Mr. Gul Shehzad, Ex-Naib Tehsildar (Annexure-A).

Parawise comments are as under: -

1. Pertains to record.
2. Correct to the extent of placement of services of the appellant at the disposal of FATA Secretariat and posting as Naib Tehsildar Bazar Zakha Khel in (Own Pay Scale).
3. Incorrect. The appellant was posted as Naib Tehsildar on current charge basis and then on regular basis through Administrative Order without proper procedure i.e holding of Departmental Promotion Committee as required under Khyber Pakhtunkhwa Civil Servants (Appointment Promotion & Transfer) Rules, 1989.
4. Incorrect passing of departmental examination does not make eligible the appellant for out of turn promotion, moreover the Departmental appeals are filed against order that effect the terms and service conditions of an official. Furthermore he was the junior most Kanungo of Malakand Division and was not eligible for promotion as Naib Tehsildar at that time.
5. Correct to the extent that all the 46 officials promoted through Administrative order were called for personal hearing to explain their illegal promotion orders. So far as inclusion of his name in the seniority list is concerned in the remarks column it has clearly been mentioned that he was promoted through Administrative Order.
6. Incorrect. NAB has also taken cognizance and a reference is pending before the NAB Court.
7. Incorrect. The proceedings never permanently stopped by the Department. However, on receipt of advice from NAB & Establishment Department review proceedings were restored.
8. Incorrect. His promotion was totally made through Administrative Order which does not cover the rules. Besides, he was the junior most Kanungo of Malakand Division and was not eligible for promotion as Naib Tehsildar. Neither his case was placed before the Departmental Promotion Committee, nor he was considered as Naib Tehsildar on current charge basis or on regular basis by the Departmental Promotion Committee.
9. Incorrect. His reply was not found satisfactory and accordingly his illegal promotion was withdrawn by the Competent Authority.
10. Correct to the extent that his Writ Petition was returned to the department being pre-mature.



- 11. Incorrect. All the proceedings have been carried out according to law.
- 12. Incorrect. He was properly heard by the Competent Authority but his promotion was found illegal; therefore his promotion was rightly withdrawn.
- 13. Incorrect. No discrimination has been done with the appellant.
- 14. Incorrect. Illegal and void order cannot get finality and can any time be reviewed by the Competent Authority.
- 15. As in para -- 13 above.
- 16. Incorrect. The promotion is always made through proper Departmental Promotion Committee and not through Administrative order. Besides passing of examination does not make eligible the appellant for out of turn promotion.
- 17. Incorrect. No violation of any rules committed by the Department. Beside, as stated in the proceeding paras illegal and void order cannot get finality.
- 18. As in Para -- 17 above. A reference to the mis use of authority in the instant cases is pending before the NAB court.
- 19. Pertains to record.
- 20. Incorrect. As the appellant is junior most Kanungo, therefore he was not eligible for promotion as Naib Tehsildar.
- 21. Correct to the extent that the Senior Member Board of Revenue is Competent Authority for promotion of Naib Tehsildar but under the provision of Departmental Promotion Committee and keeping in view the seniority which has not been done in the instant case.
- 22. Incorrect. The formalities of rules have not been fulfilled. His promotion was not considered by the Departmental Promotion Committee which is mandatory for promotion to the next stage.

3- As the appellant has succeeded getting stay order from Peshawar High Court Abbottabad Bench (Annexure -- B), therefore this departmental appeal became anfractuous as the appellant cannot avail double benefits. The appeal of the appellant is not entertainable which may be dismissed.

4/1/10
 Senior Member
 S.M.B.

Chief Secretary

3-O Reg-IV
SAGAD, Diary No. 771
Dated 5-10-2016

3763
4-10-16

PS2-III E&AS
Diary No. 576
Date 05/10/2016

Sp: Secretary (Regulation)
Establishment Dept.
Diary No. 2414
Dated 04/10/16

PS/Secy 1863
Diary No. 1863
Dated 04-10-16

4. Examine please.

~~Secretary Establishment~~

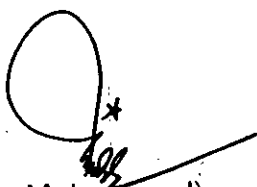
Sd/-
Chief Secretary
04.10.2016

P.T.O

5. Note for Chief Secretary, Khyber Pakhtunkhwa submitted by Revenue Department in connection with departmental appeal of Mr. Gul Shahzad, Kanungo, against the order dated 09.09.2016 wherein his order as Naib Tehsildar (Own Pay scale) was withdrawn, has been examined.

6. The appellant was promoted to the post of Naib Tehsildar by the former SMBR through an administrative order exercising powers of Revenue Court who has no jurisdiction to process service matters. Moreover, appointment is required to be made in the prescribed manner. According to Service Rules of Board of Revenue, 2015 (**Annex-C**) promotion from respective category was to be made as "Twenty five percent by promotion on the basis of seniority-cum-fitness from amongst Kanungos with at-least five years service as such, who have passed the Departmental Examination of Naib Tehsildar". Such promotion is always made on the recommendation of Departmental Promotion Committee. Since the prescribed method of promotion was not followed, the promotion order was therefore without lawful authority, hence, rightly reversed.

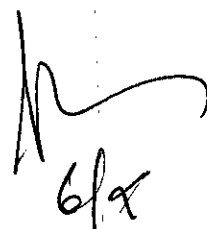
7. As the case is in court of law and status quo stands granted (**Annex-B**) proposal contained in para-3 is, therefore supported.


(Mian Muhammad)
Special Secretary (Regulation)
Establishment Department
October 25, 2016

Chief Secretary
Khyber Pakhtunkhwa

As proposed

SMBR


Chief Secretary
Govt. of Khyber Pakhtunkhwa

Copy No. 2414
Date 5.10.16
Establishment Department

(3)

GOVERNMENT OF KHYBER PAKHTUN KHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

No. Estr: V/PF/Gul Shahzad/24-80

Peshawar dated the 06/10/2016

To

Mr. Gul Shahzad,
Ex-Naib Tehsildar.

Through

Deputy Commissioner, Abbottabad.

SUBJECT

DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 19.09.2016
OF SENIOR MEMBER BOARD OF REVENUE

Reference your appeal dated 19.09.2016 on the subject has been examined
and dismissed by the appellate Authority.

M

Secretary

*Ali Akbar
Jai*

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Gul Shahzad

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Chief Secretary etc.

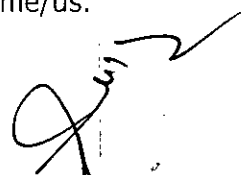
(Respondent)
(Defendant)

I/We, Gul Shahzad (Appellant).

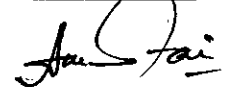
Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.


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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20


Gul Shahzad
(CLIENT)

ACCEPTED


M. ASIF YOUSAFZAI
Advocate Supreme Court
Peshawar.


S. Noman Ali Bukhara

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar
Cell: (0333-9103240)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 1032/2016

Gul Shehzad Naib TehsildarAppellant

VERSUS

Chief Secretary and othersRespondents

PRELIMINARY OBJECTIONS.

1. That the appellant has no cause of action or locus standi.
2. That the appeal is bad for non- joinder and mis- joinder of unnecessary parties.
3. That appellant is estopped by his own conduct to institute the instant appeal.
4. The appellant has not come to the Tribunal with clean hands.
5. That the appeal is not maintainable in its present form.

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2 ARE AS UNDER.

RESPECTFULLY SHEWETH.

ON FACTS

1. Pertains to record needs no comments.
2. Correct to the extent that the official was appointed as Naib Tehsildar on (Current Charge Basis) through Administrative order in violation of Rules.
3. Pertains to record need no comments.
4. Incorrect. Departmental appeal is filed against order that effect the terms and conditions of an official and not for out of turn promotion.
5. Incorrect. The Senior Member Board of Revenue is Competent Authority for promotion of Naib Tehsildar but in light of relevant section of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules 1989. Since his promotion was made through Administrative Order therefore does not cover the rules.
6. Incorrect. The name of the appellant was included in the seniority list but in the remarks column it has clearly been mentioned that the promotion of the appellant was made through Administrative order.
7. Incorrect. Order dated 09.09.2016 and 06.10.2016 are according to law and rules.
8. The appeal of the appellant is not maintainable.

GROUND

- A. Incorrect. As his promotion was made through an illegal order therefore the appointing authority / Competent Authority has rightly withdrawn his illegal promotion order.
- B. Incorrect. Void and illegal order can any time be withdrawn.
- C. As his promotion order was made through Administrative order without proper procedure, therefore illegal and void order can any time be withdrawn.

- D. Incorrect. As his promotion was made through an illegal order therefore the appointing authority / competent authority has rightly withdrawn his illegal promotion order.
- E. Incorrect. Director Land Record and Secretary – I Board of Revenue has no authority of agreement with the illegal promotion order of the appellant.
- F. Incorrect. In the seniority list of Naib Tehsildar it has clearly been mentioned that he has been promoted through Administrative order which means that his promotion was made through an illegal order which does not cover under the rules and rightly been withdrawn.
- G. Incorrect. The illegal order was withdrawn after observing all legal formalities and according to law / rules.
- H. Incorrect. No discrimination has been done with the appellant. As his promotion was not made under the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989 which was rightly withdrawn.
- I. Incorrect. There was no (E&D) proceedings but the question involve in the promotion order that has not been issued under the provision of Appointment Promotion and Transfer Rules 1989.
- J. Incorrect. The appellant was treated in accordance with law / rules.
- K. The respondent shall also seek permission to advance additional grounds at the time of hearing.

Keeping in view of the above, the appeal of the applicant has no legal ground and may be dismissed with costs.

[Handwritten Signature]
Respondent No. 1 & 2
29/11/2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1032/2016

Gul Shehzad Naib TehsildarAppellant

VERSUS


Chief Secretary KPK and others.....Respondents

COMMENTS on stay application ON BEHALF OF RESPONDENT NO. 1 AND 2 ARE AS

UNDER: -

- 1 No comments.
- 2 Facts and ground of appeal cannot be considered as part of stay application.
- 3 Every case having different grounds and facts.
- 4 Incorrect. Balance of convince is in favour of Respondent.
5. Incorrect. All of his colleagues have already been reverted to their original positions.
6. Incorrect. Illegal and void order can any time be reviewed / withdrawn.

Keeping in view the above, stay application having no legal ground may be rejected.

 29/11/2016
Respondent No. 1 & 2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1032/2016

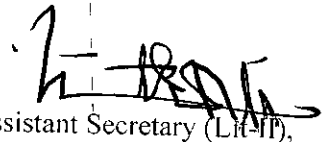
Gul Shehzad, Naib Tehsdildar.....Appellant

VERSUR

Senior Member Board of Revenue, Khyber Pakhtunkhwa & Others.....Respondents

AFFIDAVIT

I Mr.Mukhtiar Ali, Superintendent (Lit-II), Board of Revenue Khyber Pakhtunkhwa do hereby solemnly affirm that the contents of the written reply are true and correct to the best of my knowledge and belief information provided to me and nothing has been deliberately concealed from this Hon'able Tribunal.


Assistant Secretary (Lit-II),
Board of Revenue

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

S.A 1032/16

Gul Shehzad

VS

SMBR etc

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 195

Dated 16/02/2018

Subject: Transfer of the instant case to the Camp Court Abbottabad

Sir,

1. That the case of the petitioner is pending adjudication before this Tribunal in which the next date of hearing is fixed 01/03/2018.
2. That the appellant is serving as Naib Tehsildar Commissioner Hazara Division office Abbottabad.
3. That the respondents also belong to Hazara Division.
4. That appellant is facing trouble in arguing the instant appeal from Abbottabad.

It is therefore request that the case of the petitioner may kindly be transferred to Camp Court Abbottabad.

Put up to the court along with appeal.

Reader.

16/2/18.

Petitioner

(GUL SHAHZAD)
NAIB TEHSILDAR

MINUTES OF THE DEPARTMENTAL PROMOTION/SELECTION
COMMITTEE BOARD OF REVENUE, N.W.F. PROVINCE.

A meeting of the Departmental Promotion/Selection Committee Board of Revenue, NWFP, was held on 11/1/2003 at 8.30 AM in the office of Senior Member, Board of Revenue, NWFP to consider the regularization case of Political Naib Tehsildars. The following attended:-

1. Syed Mazhar Ali Shah
Senior Member, BOR. In chair
2. Mr. Abdullah Khan Mohmand
Secretary-I, BOR. Member
3. Mr. Hoochullah
Dy:Secretary-I, BOR. Member
4. Mr. Ghulam Sabir,
Asstt:Secretary(ADM)BOR. Secretary

2. The Committee after thorough examination of service record of the following Political Moharrirs who were promoted/appointed as Political Naib Tehsildars (BS-14) on adhoc/officiating/acting charge basis in the years 1991, 1995 & 1999 by the defunct Commissioner Peshawar Division being appointing authority against the posts of Naib Tehsildar meant for promotion quota under the rules, has decided to regularize their services as Naib Tehsildar (BS-14) against the posts occupied by them on the basis of their service record/performance which is satisfactory with immediate effect and recommend them accordingly:-

1. Mr. Khalid Khan, PNT Pindali Mohmand Agency.
2. Mr. Bakhtiar Khan, PNT Torkhan Khyber Agency.
3. Mr. Gul Sam Khan, PNT Prang Char, Mohmand Agency.
4. Mr. Ghulam Farooq Khan, PNT Mulegori Khyber Agency.
5. Mr. Naz Amin, PNT Nawagai Bajaur Agency.

(MR. HOCHULLA)
MEMBER

(MR. ABDULLAH KHAN MOHMAND)
MEMBER

(SYED MAZHAR ALI SHAH)
CHAIRMAN.

گورنمنٹ سروس کمیشن، لاہور۔ ایف ڈی او ایس ایف ڈی او ایس ایف ڈی او

رٹوں کی درخواست عمارت ٹرانسپورٹ کمپنی ایف ڈی او 1032/16

Khyber Pakhtunkhwa Service Tribunal
Diary No. 412
Dated 11/04/2018

put up to the court with relevant appeal.

خدا علی

11/4/18
میں نے اس کی کاپی اور اس کے ساتھ ساتھ اپنی اپنی کاپی اور

میں نے اس کی کاپی اور اس کے ساتھ ساتھ اپنی اپنی کاپی اور

اور اس کی کاپی اور اس کے ساتھ ساتھ اپنی اپنی کاپی اور

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اور اس کی کاپی اور اس کے ساتھ ساتھ اپنی اپنی کاپی اور

10/04/2018

محمد رفیق
ایف ڈی او ایس ایف ڈی او ایس ایف ڈی او

Before the Chairman Khyber Pakhtunkhwa
Tribunal Peshawar.

Appeal No 1032/16

Khyber Pakhtunkhwa
Service Tribunal

Case No. 987

Dated 13-9-18

Gul Shehzad vs SMBR etc.

Put up to the court
with relevant appellate
subject

Transfer of the instant case
to the camp court Abbottabad.

13/9/18. Sir,

Respected

(i) That the case of the appellant
is pending adjudication before
this Honble Tribunal in which
the next date of hearing is
fixed 27-09-2018.

Put up with
13-9-2018

(ii) That the appellant is serving
as Naib Tehsildar Commissioner
Hazara Division office Abbottabad
and recently transfer to
Haripur as Naib Tehsildar.

Order: 13-9-2018. Mr. Zoya Anwar
advocates present a
keeping is view the
contentious viz contents
of the application
the same is allowed.
Be filed on 19-9-2018.
DB at camp court
Afd: 13-9-2018

That the matter in hand is
wrongly clasp together with other
case, where as the instant
case is different in nature
from the rest.

(iv) That this Honble Tribunal
in their larger Bench
Judgment clearly mentioned

That each case be heard separately
on their own merit of the
case.

(v) That if the case is transferred
to Camp Court Abbottabad it
will be convenient to the appellant
as well as to the Respondent
Department.

It is therefore humbly requested
that the case may be transferred
to Camp Court Abbottabad.

Qu'Z.
Appellant -

Through Jamil Khan
Zartaj Anwar
Advocate High Court -
contents of

Affidavite.

It is affirmed that the application
is true and correct to the best
of my knowledge Qu'Z.
Deponent.



Before the Chairman Khyber Pakhtunkhwa
Tribunal Peshawar.

Appeal No 1032/16

Gulshanzad vs SMBR etc.

Subject Transfer of the instant case
to the camp court Abbottabad.

Sir,

- (i) That the case of the appellant is pending adjudication before this Honble Tribunal in which the next date of hearing is fixed 27-09-2018.
- (ii) That the appellant is serving as Naib Tehsildar Commissioner Hazara Division office Abbottabad and recently transfer to Hanpur as Naib Tehsildar.
- (iii) That the matter in hand is wrongly clasp together with other case, where as the instant case is different in nature from the rest.
- (iv) That this Honble Tribunal in their larger Bench Judgment clearly mentioned

That each case be heard separately on their own merit of the case.

(v) That if the case is transferred to Camp Court Abbottabad it will be convenient to the appellant as well as to the Respondent-Department.

It is therefore humbly requested that the case may be transferred to Camp Court Abbottabad.

Qu'Z.
Appellant-

Affidavite.

Through Jamil Khan
Zartaj Anwar
Advocate High Court -
contents of
It is affirmed that the application
are true and correct to the best
of my knowledge
Qu'Z.
Deponent.

Before the Chairman Khyber Pakhtunkhwa
Tribunal Peshawar.

APPEAL NO 1032/16

Gul Shehzad vs SMBR etc.

Subject Transfer of the instant case
to the camp court Abbottabad.

Sir,

- (i) That the case of the appellant is pending adjudication before this Honble Tribunal in which the next date of hearing is fixed 27-09-2018.
- (ii) That the appellant is serving as Naib Tehsildar Commissioner Hazara Division office Abbottabad and recently transfer to Hanpur as Naib Tehsildar.
- (iii) That the matter in hand is wrongly clasp together with other case, where as the instant case is different in nature from the rest.
- (iv) That this Honble Tribunal in their larger Bench Judgment clearly mentioned

That each case be heard separately
on their own merit of the
Case.

(v) That if the case is transferred
to Camp Court Abbottabad it
will be convenient to the appellant
as well as to the Respondent
Department.

It is therefore humbly requested
that the case may be transferred
to Camp Court Abbottabad.

Qu'Z.
Appellant -

Through Jamil Khan
Zartaj Anwar
Advocate High Court -
contents of

Affidavite.

It is affirmed that the application
is true and correct to the best
of my knowledge Qu'Z.
Deponent.

Before the Chairman Khaydar Palattunkhwa
Tribunal Peshawar.

Appeal No 1032/16

Guishangad vs SMBR etc.

Subject transfer of the instant case
to the camp level - Abbottabad.

Shr. (i) The case of the appellant -
is pending adjudication before
- this Honble Tribunal in which
the next date of hearing is
fixed 27-09-2018.

(ii) The appellant is serving
an Naib Tehsildar Commission
Harara Division Office Abbottabad
and recently transfer to
Hampur an Naib Tehsildar.

(iii) The matter in hand is
with other things together
wrongly stay on the instant
case, where on the instant
case is different in nature
from the first.

(iv) The Honble Tribunal
in the larger Bench
in the instant clearly mentioned

That each case be heard separately
on their own merit of the
Case.

(v) That if the case is transferred
to Camp Court Abbottabad it
will be convenient to the appellant
as well as to the Respondent
Department.

It is therefore humbly requested
- that the case may be transferred
to Camp Court Abbottabad.

Qu'Z.
Appellant -

Through Jamil Khan
Zartaj Anwar
Advocate High Court -
contents of

Affidavite.

It is affirmed that the application
are true and correct to the best
of my knowledge Qu'Z.
Deponent.

Before the MPK Chairman Service Tribunal Peshawar

Gul shehzaad vs SPBR and others
S.A-1032/16

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 589

Dated 28/05/2018

Application for transfer of appeal
from principle Bench/seat to Camp
Court Abbottabad

RESPECTFULLY
SHEWETH

(1) That the above captioned appeal is pending before
this august tribunal which is final for today
Dated 28-05-18.

(2) That the applicant is posted at Abbottabad as
Naib Tehsilदार and it is inconvenient for the
applicant to leave the office and attend this
august tribunal at Peshawar.

Det up to
Present date
Signed M

Recd

It is requested that the titled appeal
may kindly be transferred to camp Court
Abbottabad.

Gul

Applicant

Gul shehzaad

Date 28-05-18
28/5/18

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In
Service appeal No 1032 /2016

Gul Shehzad(Complainant)

V E R S U S

Govt Of Khyber Pakhtunkhwa through chief secretary and others.
(Respondents)

Application for adjournment

Respectfully Submitted:

1. That the above noted petition is pending in this Honorable Tribunal and fixed on 14.01.2019.
2. That the counsel for the applicant is busy before the Peshawar High Court Peshawar, having different writ petitions fixed before different benches at the Principle Seat on 14.01.2019.
3. That due to the above reason the undersigned would be unable to attend this Honorable tribunal on 14.01.2019.

It is therefore prayed that on acceptance of this application the hearing in the noted petition may please be adjourned to some other date convenient to this Honourable tribunal.

Applicant

Through



ZARTAJ ANWAR

Advocate Peshawar

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In
Service appeal No 1032 /2016

Gul Shehzad(Complainant)

V E R S U S

Govt Of Khyber Pakhtunkhwa through chief secretary and others.
(Respondents)

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1	Memo of Contempt petition		1-
2	Affidavit		
3	Addresses of Parties		
4	Copy of order dated 06.10.2016	A	
5	Copy of notification dated 17-8-2018 and 07-9-2018	B	
6	Other relevant documents		

Complainant

Through


Zartaj Anwar

Advocate High Court
Office FR , 3-4 Forth Floor Bilour
Plaza Peshawar Cantt.
Cell: 0331-9399185
Email: Zartaj9@yahoo.com

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In
Service appeal No 1032 /2016

Gul Shehzad(Complainant)

V E R S U S

Govt Of Khyber Pakhtunkhwa through chief secretary and others.
(Respondents)

**Application for initiation of Contempt proceedings
enabling laws against the respondent's for willfully
violating order dated 06.10.2016 of this Honourable
Tribunal**

Respectfully Submitted:

1. That the complainant has filed service appeal No. 1032/2016 in this Honourable tribunal which is still pending for adjudication and next date of hearing is fixed for 14.01.2019.
2. That the appeal was entertained and on the preliminary hearing by admitting by service appeal the operation of the impugned order was suspended (Copy of the order dated 06.10.2016 is attached as annexure A).
3. That the identical cases were pending before the honorable tribunal in which the stay was also granted but due to non appearance of the counsel of the appellant of the cases mentioned above, the given stay was vacated upon which the department of the Board of revenue issue the repatriation orders of all those employees in whom cases the stay was vacated but mistakenly the name of the present appellant was also mentioned and issued his repatriation order as well it is worth to mention here that due to the place of posting of present appellant the case was transferred to Abbottabad Camp court and the restraining order in favour of the present appellant is still intact but due to the ulterior motives and malafide intention of the respondent department issues such illegal orders by violating the clear cut of the honourable tribunal.
4. That the respondent department vide order dated 17-8-2018 the junior most kanungos of Malakand Division were posted as Naib Tehsildar (OPS) against the vacant post but in that too as well the right of the appellant was violated which clearly shows the malafide intension of the department whereas even the appellant could we posted as well in own pay scale till the next DPC being senior most and stood at s. no. 08 of

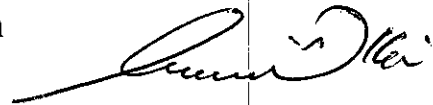
the seniority of kanungos of Malakand Division (copy attached annexure-B)

5. That the respondents are willfully flouting and violating order of this Honorable tribunal, and had made themselves liable to be proceeded against for the contempt of court.
6. That in the interest of justice and for the sake of rule of law, the respondents deserve exemplary punishment so that the dignity and honour of the Courts is maintained.

It is, therefore, prayed that on acceptance of this application appropriate contempt proceedings be initiated against the respondents for willfully flouting and violating orders of this Honorable tribunal.

Through

Complainant



ZARTAJ ANWAR

Advocate Peshawar

AFFIDAVIT

I, Gul Shahzad Naib Tehsildar Haripur do hereby solemnly affirm and declare that the contents of the above application are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Court.

Deponent



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT,
Facebook ID: www.facebook.com/bor.kpk92
Twitter ID: [@RevenueBoardkp](https://twitter.com/RevenueBoardkp)
Fax No: 091.9213989

No. Estt: I/Posting/Transfer/2019 913-19
Peshawar dated the 09 /01/2019.


All the Commissioners,
In Khyber Pakhtunkhwa.

SUBJECT: REPATRIATION OF CURRENT CHARGE BASE ALONGWITH
ADMINISTRATIVE ORDER TEHSILDARS/NAIB TEHSILDARS.

Dear Sir,

I am directed to refer to the subject and to state that on completion of mandatory training of newly selected/promoted regular Tehsildars/Naib Tehsildars a number of Current Charge Base (CCB) Tehsildars/Naib Tehsildars were repatriated to their parent offices vide this Department notification No. Estt: I/57/PT/27057 dated 09.07.2018 and No. Estt: I/PT/30393-430 dated 17.08.2018. Some of them went in appeal before the Service Tribunal and succeeded getting status quo against their repatriation order. Now the Service Tribunal vide order dated 02.01.2019, has vacated the status quo with the direction to the Department to hold Departmental Promotion Committee meeting for promotion of regular Tehsildars/Naib Tehsildars.

Keeping in view, the above, I am directed to request you that the Current Charge Base (CCB) Tehsildars/Naib Tehsildars already repatriated through the above mentioned notifications may be relieved forthwith the direction to assume their duties in their respective offices, otherwise strict disciplinary action shall be taken against them. Lists of the Current Charge Base alongwith administrative order Tehsildars/Naib Tehsildars are enclosed for facilitation.


Assistant Secretary (Estt)

LIST OF CURRENT CHARGE BASE (CCB)

S. No.	Name & Designation	Present posting.	Parent office.
1.	Mr. Abdrur Rehman Assistant	RO PESCO (CCB) Khyber Circle.	Comr: Peshawar
2.	Mr. Asad Umair Assistant	RO PESCO (CCB) Peshawar Circle	Comr: Peshawar
3.	Mr. Azmat Ali Assistant	Tehsildar (CCB) Reconciliation Peshawar	DC Hangu
4.	Mr. Amjad Imran Assistant	Tehsildar (CCB) Kohistan	Comr: Bannu
5.	Mr. Said Manan Assistant	Tehsildar (CCB) Balambat	DC Hangu
6.	Mr. Muhammad Ghufan Kanungo	Tehsildar (CCB) Lal Qilla	DC Malakand
7.	Mr. Hasnain Ahmad Assistant	In DC Office Tank	DC Tank
8.	Mr. Kifayatullah SSS	Tehsildar (CCB) Tank	DC NW
9.	Mr. Zardad Khan Assistant	RO PESCO Abbottabad	DC Peshawar
10.	Mr. Faizullah SSS	Tehsildar (CCB) Thall	DC Kohat
11.	Mr. Feroz Khan Assistant	Tehsildar (CCB) NW	DC NW Tribal
12.	Mr. Naseer Abbas JSS	NT Buner	DC Hangu
13.	Mr. Nawab Ali Senior Clerk	Naib Tehsildar Khwaza khela	DC Buner
14.	Mr. Nabi Ullah JSS	CNT Peshawar	Comr Peshawar
15.	Mr. Mustamir Shah Senior Clerk	NT Khariabad	DC Nowshera

LIST OF ADMINISTRATIVE ORDER.

S. No.	Name & Designation	Present posting.	Parent office.
1.	Mr. Dildar Khan, Kanungo	Naib Tehsildar Kandar	DC Chitral
2.	Mr. Salim Asmat, Assistant DIKhan	Under suspension (In Jail)	DC DIKhan
3.	Mr. Mohammad Asghar Khan Assistant	Naib Tehsildar Kabal	DC Shangla
4.	Mr. Ghuncha Gul Political Muharrir	Naib Tehsildar Torkham	DC Mohmand
5.	Mr. Gul Shehzad Kanungo	Naib Tehsildar Haripur	DC Dir Lower
6.	Mr. Muhammad Saeed Junior Clerk	Naib Tehsildar (CLCP) Khyber District	DC Peshawar
7.	Mr. Anwar Hussain Political Moharrir	At the disposal of Board of Revenue	DC Kohat
8.	Mr. Jehanzeb Assistant	At the disposal of Board of Revenue	DC Malakand
9.	Mr. Abdul Jalil Assistant	Naib Tehsildar (CLCP) SW	DC Tank

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 09/01/2019

NOTIFICATION.

No.Estt:I/posting/transfer/2019/_____ In pursuance of Service Tribunal judgment / order dated 02.01.2019 in case titled Naseer Abbas Naib Tehsildar (OPS) VS Chief Secretary Khyber Pakhtunkhwa and others, the Competent Authority is pleased to repatriate the following Assistant/ Kanungo/Political Moharrir to their parent offices and posts mentioned against their names with immediate effect:-

S. No.	Name & Designation	Present posting.	Parent office.
1.	Mr. Dildar Khan, Kanungo	Naib Tehsildar Kandar	DC Chitral
2.	Mr. Salim Asmat, Assistant DIKhan	Under suspension (In Jail)	DC DIKhan
3.	Mr. Mohammad Asghar Khan Assistant	Naib Tehsildar Kabal	DC Shangla
4.	Mr. Ghuncha Gul Political Muharrir	Naib Tehsildar Torkham	DC Mohmand
5.	Mr. Gul Shehzad Kanungo	Naib Tehsildar Haripur	DC Dir Lower
6.	Mr. Muhammad Saeed Junior Clerk	Naib Tehsildar (CLCP) Khyber District	DC Peshawar
7.	Mr. Anwar Hussain Political Moharrir	At the disposal of Board of Revenue	DC Kohat
8.	Mr. Jehanzeb Assistant	At the disposal of Board of Revenue	DC Malakand
9.	Mr. Abdul Jalil Assistant	Naib Tehsildar (CLCP) SW	DC Tank.

By order of
Senior Member

No.Estt:I/Posting/Transfer/2019/ 920-45

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Commissioners of the respective Divisions.
3. Deputy Commissioners of the respective Districts.
4. District Accounts Officers of the respective District.
5. Officials concerned.
6. Personal Files.


Assistant Secretary (Estt.)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



Service Appeal No. 94/2015

Date of Institution. ... 12.01.2015
Date of Decision. ... 15.02.2018

Shehryar Khan, Political Naib Tehsildar, Yakaghund Mohmand Agency.
... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Senior Member Board
of Revenue; Civil Sectt: Peshawar and two others. (Respondents)

Mr. Shaibar Khan, Advocate
Mr. Abdul Latif Afridi, Advocate
Mr. Rizwanullah, Advocate
Mr. Muhammad Asif Yousafzai, Advocate
Mr. Noor Muhammad Khattak, Advocate
Mr. Hassan U.K Afridi, Advocate
Mr. Fazal Shah, Advocate
Mr. Bilal Ahmad Kakaizai, Advocate
Mr. Yasir Salim Advocate.
Mr. Taimur Ali, Advocate,
Syed Numan Shah Bukhari, Advocate
Syed Rifaqat Shah, Advocate

... For appellants.

Mr. Usman Ghani,
District Attorney


... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUGHAL,
MR. MUHAMMAD AMIN KHAN KUNDI,
MR. AHMAD HASSAN,
MR. GUL ZEB KHAN,

... Chairman.
... Member.
... Member.
... Member.
... Member.

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN-

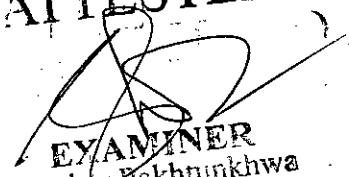
ATTESTED

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Peshawar

The following appeals are also clubbed with this appeal for decision of common issue explained below:-

1. Appeal No: 305/2011, Imran Khan, ✓
2. Appeal No: 1196/2014 Fazal Malik,
3. Appeal No: 95/2015 Shakeel Ahmad,
4. Appeal No: 130/2016 Saleem Asmat,
5. Appeal No: 720/2016, Muhammad Alam,
6. Appeal No: 781/2016, Muhammad Saeed Khan,
7. Appeal No: 979/2016, Dildar Khan, ✓
8. Appeal No: 1000/2016, Riyaz-ul-Haq,
9. Appeal No: 1130/2016 Jehanzeb,
10. Appeal No: 1032/2016, Gul Shahzad, ✓
11. Appeal No: 1033/2016, Asmatullah,
12. Appeal No: 1044/2016, Ghuncha Gul,
13. Appeal No: 1132/2016, Anwar Hussain,
14. Appeal No: 1128/2016, Muhammad Asghar Khan,
15. Appeal No: 1178/2016, Muhammad Sajid Salim,
16. Appeal No: 1214/2016, Hazrat Yousaf,
17. Appeal No: 1239/2016, Syed Musadiq Hussain Shah,
18. Appeal No: 23/2017, Dildar Khan, ✓
19. Appeal No: 113/2017 Saleem Asmat,
20. Appeal No: 409/2017, Shafiqur Rehman,

FACTS:

2. In two service appeals the issue of promotions against rules was the subject before a DB of this Tribunal. The said orders of promotion were withdrawn by successor in office of the authority issuing the promotion orders. Those appeals are 1020/2016 entitled *Abrar Ahmed v*

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 Khyber Pakhtunkhwa
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 Peshawar

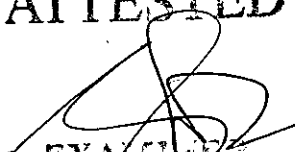
SMBR and Others decided on 06-09-2017 and 1155/2016 entitled *Muhammad Amin v The Government of KPK and 2 Others* decided on 09-08-2017. The bench held that no action could be taken against the civil servants and accepted their appeals. The principle involved in withdrawing the orders of promotion was *locus poenitentiae*. Subsequently another DB in appeal # 447/2017 entitled *Mr Gohar Zaman v The Government of KPK and 3 Others* decided on 04-10-2017 held a contrary view allegedly in similar matter and appeal was dismissed. When other similar matters were again put up before one of the DBs the above two opinions were pressed into service by the counsel for the parties and the Chairman constituted a larger bench for decision of the issue having different opinions by two benches. A number of appeals are clubbed together with this appeal involving the same issue of withdrawal of illegal promotions.

ARGUMENTS:-

3. The learned counsel for the appellants strongly defended the judgments of the first DB, *inter alia*, on the following grounds:

- a. That it had been the consistent view of the superior courts regarding exercise of the powers of *locus poenitentiae* that once the order was acted upon it could not be withdrawn.

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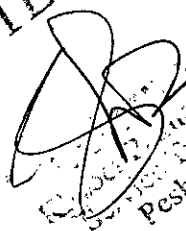
- 4
- b. That the authority responsible for illegal order should be taken to task and employees could not be the sufferers.
 - c. That still many employees were dealt with differently by successor in office withdrawing the orders and right of equality demanded that all should have been treated equally.
4. In support of these grounds the learned counsel relied on many rulings of superior courts which shall be discussed in conclusion part of this judgment.

5. The learned District Attorney defended the judgment of second DB, *inter alia*, on the following grounds:

- a. There were three exceptions to the rule of *locus poenitentiae* i.e. order passed by incompetent authority, order obtained by fraud and illegal order.
- b. That the successor in office seized of the matter when this Tribunal remitted one such appeal to the authority for decision in line with similarly placed employees. That the authority while deciding the issue came to the conclusion that orders passed in similarly placed employees were illegal and hence he withdrew the orders.
- c. That no right accrued to any employee on the basis of illegal order which could be withdrawn at any time.

In support of these grounds he also relied on many rulings of superior courts which shall be discussed in conclusion part of this judgment.

ATTESTED

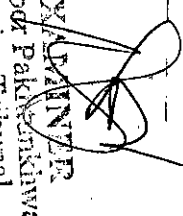

Secretary
Peshawar

CONCLUSION:

6. The issue of illegal appointments/promotions etc has been a subject of judgments of superior courts in so many dicta. One set of such judgments favoring the employees on the grounds of making authority responsible or stage of withdrawing the order is before decisive step is taken or non adherence to principle of *audi alterim partem* or non applicability of disciplinary rules to employees in such cases. The second set of judgments holds that illegal order can be withdrawn at any time as it does not create any right in favor of employees or that no vested right is created on the basis of illegal order or illegal order cannot be allowed to be perpetuated or order obtained by fraud cannot be used for beneficiary to his own benefit and that no notice is required before withdrawal of such order.

7. The important judgments of first ilk are as follows; *Secretary to Government of N.-W.F.P v Sadullah Khan (1996 SCMR 413)Director Social Welfare v N-W.F.P V Sadullah Khan (1996 SCMR 1350), Province of Punjab v Zulfiqar Ali(2006 SCMR 678), Chief Secretary Government of Sindh v Sher Muhammad Makhdoom (PLD 1991 SC 973), Collector of Customs and 2 Others v Abdul Waheed and 7 Others (2004 SCMR 303),630, Chairman Minimum Wage Board and another v Fayaz Khan Khattak (1999 SCMR 1004), Tariq Javed v Province of Punjab and 2 others (2008 SCMR 598), Jawad Ali and Others v Superintendent Jail*

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and Others (2017 PLC (C.S) 587), Muhammad Nawaz v Federation of Pakistan(1992 SCMR 1420) and District Cordination Officer v Rozi Khan(2009 SCMR 663).

8. The important judgments of second ilk are as follows; *Nazar Hussain and Others v Deputy District Education Officer and Others (2003 SCMR 1269), Fazl Hakeem v Secretary State & Foreign Region 2015 SCMR 795), The Engineer-in- Chief v Jalaluddin (PLD 1992 SC 207), Ferozuddin and others v Mazhar Hussain Shah and 5 others(PLD 2009 K 397), Muhammad Nadeem Arif and other v Inspector-General and others (2010 PLC (C.S) 924)Nazir Ahmed Panwhaer v Government of Sindh(2009 PLC (C.S) 161)Bashir Ahmed v Deputy District Edcation Officer,(2005 SCMR 1040) Muhammad Shoaib v Government of N-W.F.P (2005 PLC (C.S) 1056).*

9. These two opinions are relied upon by rival claimants in their favor. Majority of the students of law are misled as to properly understanding the import of these opinions and are of the view that these rulings are not consistent qua the illegal orders in appointment/promotion and it is open for the executive functionaries and courts to adopt either of the two opinions at their whims and caprices. This perception, we afraid, is not correct and in order to clarify the concept on the issue we would have to delve deep into the reasons for different views in these rulings.

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Service Tribunal,
Peshawar

10. Every judgment as we know is contextual and no opinion can be understood without knowing the facts of each case. In these rulings the following different principles and rights are involved and then these are prioritized contextually. The result is that no absolute principle is set out for all circumstances. With change of circumstances the priority of a particular right also changes. At times the competing rights and values pose problems for courts as each is to be respected and enforced but cannot be done concomitantly due to mutual destruction. For example right to freedom of movement and right to privacy cannot be enforced fully at the same time. One has to be curtailed in order to safeguard another but the priority of one is changed *vis a vis* the other in different circumstances. But the rival claimants without referring to difference of context of their cases and reported cases borrow principle of their choices suiting to their cases and create confusion. Now we are to discuss the rights and principles involved in these judgments and their changing priority with reference to context.


Rights and principles Involved.

11. These are then grouped into two i.e. positive and negative.

Positive

- i. Vested rights
- ii. Right to be dealt with in accordance to law
- iii. Equal treatment
- iv. Service protection and job security
- v. Certainty

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 Peshawar

Negative

- i. Non condemnation without hearing
- ii. Non perpetuation of illegality
- iii. No damage for other's fault
- iv. No benefit for one's own wrong
- v. No remedy beyond Limitation
- vi. Incompetency of Authority

12. Every individual while coming to court would argue that he has a vested right in the order; that he has a right to be dealt with in accordance with law; that he be treated equally with others; that service protection and job security demands that there should be end to interference at all stages and certainty is to be ensured by prohibiting government functionaries to undo the act acted upon; that he cannot be condemned unheard; that he cannot be damaged for fault of Authority. On the other hand the rival claimant would argue that there is no vested right in illegal orders; that illegality cannot be perpetuated; that no one can take benefit of his own fault by procuring wrong orders; that any order passed by an incompetent authority is a nullity; that equal treatment cannot be meted out if the base is illegal treatment.

13. Now each individual judgment referred to above does not cover all possible rival principles and rights and is given with reference to only those principles and rights involved in that particular case. And thus we do not find any holistic view which gives us a guide that how all competing values in all probabilities are to be balanced which result in

ATTESTED

confusion with every new set of competitive principles and rights. For example right of hearing has been held to be a cardinal principle of justice but in the judgment reported as 2005 PLC (C.S) 1056 (Muhammad Shoaib case) it has not been given the due importance and the learned District Attorney in present appeal argued that there was no need of personal hearing in illegal orders by presuming it to be an absolute rule. But this is not correct. The context of this judgment is that the employees were on probation and in probation there was no need of notice under the law and secondly the departmental appellate authority did provide hearing to the employees. On this line we would further approach the decisions in different contexts while discussing right of dealing everyone in accordance with law and stages and authorities competent to exercise different powers.

14. **Right of dealing everyone in accordance with law:** This right is of vital importance not only for the subjects but for rulers and executive bodies as it is two edged weapon. All the executive functionaries and rulers are to first bear in mind that they are to respect law in exercising their powers and shall not exceed the limits set out by law. And while exercising these powers they shall treat all equal before law. The laws have settled the limits and domain of each authority including judicial.

15. **Stages, forum and authorities competent to exercise different powers:** Now we have many laws which deal with exercise and non

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Service Tribunal,
Peshawar

ALLIED

exercise of powers and set stages and limits of exercise of these powers. If these limits and stages are not adhered to then it would result in violation of law itself and nobody can take shelter under the garb of ensuring justice by exceeding the limits and stages set out by law. For example law of limitation cannot be trampled for ensuring justice (except in recognized circumstances). If this is done then law of limitation would become redundant. While putting their claim rival parties rely on different rulings favoring them without seeing that what was the forum, authority or stage undoing a particular act. For example the cases of absorption of civil servants and out of turn promotions were declared unlawful after many years by the Supreme Court (2015 SCMR 456) and learned District Attorney in this case borrows the principle for exercise of power of undoing at any stage by executive. But there is no such power with government functionary at all stages. Similarly cases of illegal appointments in EOBI were undone by courts in exercise of regular powers and not by any government functionary. In case of illegal appointment, promotion and absorption in Islamabad High Court Establishment (PLD 2016 SC 961) the august Supreme Court declared the same illegal but not by executive authority. It should be borne in mind that in different rulings the courts are to decide these different issues and give verdicts. The issues are what is the limit for a government functionary to undo an illegal order? What is the power and limit of a court to undo an illegal order? Whether law of limitation is attracted in a

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 Khayr Pak
 Service In
 Peshawar

particular case to courts? And if courts cannot enter into an issue due to law of limitation whether a government functionary can enter into that issue? What would be result of an order passed by government functionary or courts without hearing the aggrieved? Are other venues and laws still open for government functionaries to resort if stage of *locus poenitentiae* is over or declared by court/tribunal as such?

16. The answer to these questions would resolve the whole imbroglio which we are facing. The courts/tribunals are more powerful than government functionaries as to decision of a particular issue qua law of limitation and declaring an order to be illegal on any ground. So much so that courts can even declare a law to be *ultra vires* which government functionaries cannot do. Now the competing powers are power of *locus poenitentiae* available to government functionaries for undoing an illegal order and regular jurisdiction of courts/tribunals under any law. For the exercise of these powers the functionary and courts are obliged to follow the law and assume the jurisdiction first in accordance with law. Any assumption of jurisdiction not vested by law is itself illegal and culpable in any form. For example this Tribunal cannot assume jurisdiction unless certain preliminaries are fulfilled like some original order then departmental appeals and then tribunal. But all these preliminaries must not only be complied with but be done so within time. If any appellant relies on the earlier decision of courts in order to prove that challenged order is illegal on merits then can a tribunal declare that order illegal

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straight away without adhering to preliminaries and fulfilling conditions precedent? Of course, no. We are therefore, to see whether order of government functionary recalling the earlier illegal order was passed at proper stage as he has the authority to withdraw the same up to a particular time like limitation for courts. It has been the consistent jurisprudence that no such power can be exercised after taking of decisive step. Now wherefrom we shall borrow that in cases of illegal orders no limitation would be attracted? The judgments referred to above by learned District Attorney in this regard have different connotations. The rule of limitation can be relaxed in certain situations and not in all illegal orders. Had this been the rule that there was no limitation for illegal orders then almost all the appeals before courts/tribunals would be within time because in almost all the cases there is some element of illegality. The consistent view of courts in this regard is that no limitation would be attracted in void orders though the courts have used the word 'illegal' in some cases mentioned above. But if we see those judgments holistically we will reach the conclusion that the illegality used was for those cases which vitiated the orders for similar reasons of making an order void and illegality was of severe nature. Secondly all void orders are illegal (not vice versa) and the courts in some cases have used illegal in the context of void. The illegality in those cases is of worst nature making them void. According to settled jurisprudence the following are some of the examples of void orders in the context of

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present controversy. This jurisprudence can be gathered from above mentioned rulings if studied in true context. These rulings have been given in the context of peculiarities of each case and cannot be said to be an absolute rule for all situations. This list may not be all encompassing and any other act may be included if circumstances of a particular case rendered the order as void but keeping in view the guiding principles given by jurisprudence as discussed above.

- i. Order passed by an incompetent authority
- ii. Order obtained by fraud.
- iii. Order obtained by using any tool/pressure whereby chances of free consent are minimized (means order obtained without free consent of the authority passing the order)
- iv. Missing of basic qualification for a post.
- v. Missing of advertisements in cases meant for recruitment from general public (if law does not exempt such advertisement for particular posts).

17. Now we are to decide whether the right of hearing would be must before recalling any order. And if no hearing is given what would be the fate of the recalling order. It is acknowledged principle that nobody can be condemned unheard. The introduction of Right to Fair trial in the Constitution of Islamic Republic of Pakistan has now changed the scenario. And now even a law not providing for sufficient elements of fair trial can be held *ultra vires*. The judgment of *Muhammad Shoaib* referred

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to above was first delivered in particular circumstances of probationers' civil servants and secondly right of hearing was provided by departmental appellate authority. And now after introduction of Article 10A in the Constitution the judgment would be seen in new perspective if there are any shortcomings in full realization of right to free trial. Another situation where such right of hearing can be dispensed with is non prejudice of aggrieved party. Such non prejudice can be in cases of admission made by aggrieved party on those issues which needed hearing or if there are no chances of change of situation before and after hearing. But in our view in cases of non hearing the concerned authority may be directed to decide the matter after hearing instead of declaring the order as illegal.

18. Now the next issue is whether after lapse of limitation an illegal order can be withdrawn by Authority in exercise of powers of *locus poenitentiae*. This question is dependent upon circumstances of each case. However the disciplinary action has no limitation and whenever it comes to the knowledge of an Authority that a civil servant has committed misconduct or otherwise guilty of any other act culpable under disciplinary law he can be proceeded against. But the question of hot debate before this Tribunal was that no disciplinary action could be taken against appointees and as per many judgments of Superior courts it was the authority to be proceeded. This argument again is out of context of each case. There are different circumstances under which such

illegal order is obtained or passed. Some are due to pure fault of Authority without involvement of beneficiaries, some are where both are involved and some are where only beneficiary is involved like practicing fraud on the Authority. Such proceedings can be taken against one or both keeping in view the involvement of authority and/ or beneficiary. And if order cannot be passed under *locus poenitentiae*, of course, the disciplinary proceedings are available to the Authority. And declaring exercise of powers under *locus poenitentiae* alone as wrong by courts/tribunals would not debar Authority to proceed under disciplinary rules at any time thereafter. Similarly if withdrawal order passed under *locus poenitentiae* is set aside by court/tribunal being passed after decisive step then it never means that order has been legalized but only would mean that the authority was not competent to withdraw the order under *locus poenitentiae* for being issued after limitation (decisive step). Other legal courses can be adopted like culpability under criminal law, disciplinary action etc.

19. Another issue of relevance is that some beneficiaries are not touched having similar situation and equal treatment principle demanded that the aggrieved be also treated with those favored. It looks strange to get protection under those favored illegally. Here we shall have to differentiate again that those favored were favored in accordance with law or favor was against law. In the former case the plea of aggrieved is genuine but in latter case the claim is illegal. In latter case

equality does not demand that the aggrieved be also favored illegally but those favored illegally be treated like aggrieved. For this the favored can be brought to their legal entitlements but not un-favored to their illegal entitlements. This can be done by challenging illegal favors before proper forum.

20. Yet another point raised by learned District Attorney was that in majority of these appeals the successor authority took cognizance of the matter when one such appeal was remitted by this Tribunal for decision. That the authority then took stock of all similar cases as the appellant in that appeal wanted to be treated similarly like earlier cases. Now the question is whether on remand of an appeal the authority is competent to examine all the earlier similar matters. To our understanding, if this practice is allowed unfettered then even tribunals/courts having more powers than the government functionary would be allowed to open all such cases when in one case/appeal it is found that orders of other employees are also illegal. But we don't think this is the scheme of law. However if an order is void then the executive authority, of course, can withdraw that order at any time and without limitation as discussed above but not on the sole ground of remand of a similar case.


21. The different judgments of two benches of this Tribunal were given the peculiar circumstances of the appeals in which they were delivered and cannot be said to be conflicting. The issue referred to this larger

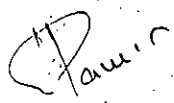
EXAMINED
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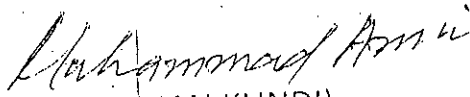
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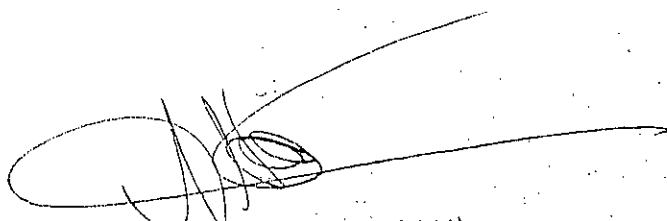
bench to our understanding has been decided to a greater extent. Keeping in view these guidelines each individual case involving such issue shall be decided on its own merits as each case has its own peculiarities. However we have a touchstone now in the shape of this judgment which shall guide us in deciding individual cases. All appeals be fixed before DB for decision.

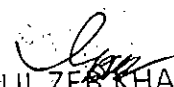
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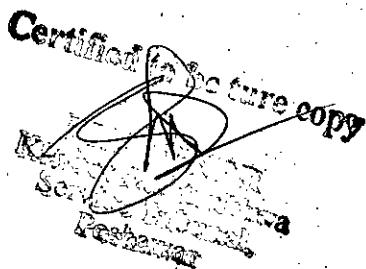

(NIAZ MUHAMMAD KHAN)
Chairman


(M. HAMID MUGHAL)
Member.

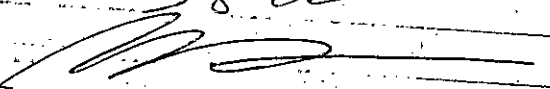

(M. AMIN KHAN KUNDI)
Member


(AHMAD HASSAN)
Member


(GUL ZEB KHAN)
Member

Certified to be true copy


(Approved for reporting)

Date of Presentation of Appeal 16-2-2018
Number of Writs 6860
Copying Fee 36.00
Warrant 2.00
Total 38.00
Name of Clerk 
Date of Filing 16-02-2018
Date of Disposal 16-02-2018

evidence available on the record and are of the view that the learned judge of the appellate as well as the constitutional court has not assigned any reasons while discussing the evidence on the record in respect of the maintenance claim of the petitioner and such judgments therefore, cannot be sustained in law. However, after having heard the learned counsel for the parties with respect to this particular claim, we are inclined to modify the judgment and decree of the trial court, in that, the petitioner shall be entitled to the lump sum amount of Rs.75,000 (rupees seven thousand) as against her claim of Rs.1,02,000, which amount shall be paid by the respondent to the petitioner within a period of one month. In the light of the above, the judgment and decree of the appellate court as has been affirmed in the writ jurisdiction by the learned High Court is modified to the extent of the maintenance and also for the recovery of the petitioner i.e. the suit of the petitioner with regard to articles of dowry shall stand decreed as per the list provided by the respondent (Exh.P5) and in case, the respondent is not in a position to return the articles/items in accord with the said list, he shall be liable to pay the value/price with respect to such articles/items in the list of dowry articles (Ex.P1) brought on the record by the petitioner. Thus this petition is converted into an appeal and allowed in terms noted above.

MWA/S-2/SC

Appeal allowed

P L D 2014 Supreme Court 338

Present: Anwar Zaheer Jamali,
Khilji Arif Hussain and Gulzar Ahmed, JJ

SAROSH HAIDER---Appellant

versus

MUHAMMAD JAVED CHUNDRIGAR
and others---Respondents

Civil Appeal No.187-K of 2010, decided on 20th December, 2013

(a) Civil service---

---Promotion---Inter se seniority---Considerable delay in challenge of seniority list---Acquiescence---Effect---Vested right, creation of Estoppel---Locus poenitentiae, principle of---Appellant and respondent (both civil servants) were appointed on the same date i.e. 16-6-1986. Appellant was senior in age to the respondent and also submitted a joining report on 30-6-1986, whereas respondent submitted his joining report on 1-7-1986---Appellant was shown as senior to respondent in the record---The respondent

in 2001---Respondent never challenged such lists and notification and was satisfied being junior to the appellant---Seniority of appellant was challenged for the first time on 30-3-2002 by filing an appeal before the competent authority, which was rejected as being time barred--- Respondent filed another appeal before the Chief Secretary on 20-11-2002, which was allowed and after an intervening period of almost 14 years seniority of appellant was all of a sudden reversed in favour of respondent--- Appellant enjoyed position of seniority above that of respondent for such a long period of time, which created a vested right in the appellant of being senior to respondent---Such right of appellant could not have been upset as principle of locus poenitentiae would come into application and competent authority could have no power to recede, more so, when appellant was not provided any right of hearing whatsoever by the Chief Secretary, which was violation of the mandatory provision of audi alteram partem--- Respondent had more than one occasion to agitate about his seniority but he himself chose not to challenge the same and allowed it to attain finality---Respondent could have challenged the seniority lists and notification within the limitation period prescribed by law to have them corrected or set aside, but he chose not to do so---Respondent himself acquiesced and abandoned his right to claim seniority over that of appellant through his own act and conduct, thus principle of Estoppel would debar respondent from asserting right of seniority--- Order passed by Chief Secretary was not in accordance with law, thus not sustainable---Appeal was allowed accordingly. [pp. 341, 342, 343, 346] A, B, C, D, E & G

Abdul Ghani v. Mst. Shaheen and others 2007 SCMR 834 distinguished.

Wazir Khan v. Government of N.-W.F.P. through Secretary Investigation, Peshawar and 4 others 2002 SCMR 889 and Faris Rahman Khan v. Federation of Pakistan through Secretary, Establishment Division Islamabad and others 1995 SCMR 579 ref.

(b) Civil service---

Competent authority passing a voidable order---Setting aside of such order---Limitation---Where competent authority did any act or passed an order, which was adverse to any person, who had full knowledge of the same, then such order would remain in the field and operate fully until it was challenged through proceedings within the prescribed limitation period---Such an order would not be void ab initio but merely voidable order, which could be corrected if proceedings against it were brought within prescribed period of limitation. [p. 345] F

Chairman District Screening Committee, Lahore and another vs. Sharif Ahmed Hashmi PLD 1976 SC 258 ref.

M. M. Aqil Awan, Senior Advocate Supreme Court
Appellant.

Noor Muhammad Memon, Advocate Supreme Court
Ghulam Qadir Jatoi, Advocate-on-Record for Respondent No.1.

Adnan Karim Addl. A.G. Sindh for Respondents Nos. 2 and 3

Date of hearing: 20th December, 2013.

ORDER

GULZAR AHMED, J.---By this appeal, appellant Sarosh Hashmi has challenged the order dated 28-4-2010 passed by a learned Division Bench of High Court of Sindh, Circuit Court, Hyderabad, by which Constitutional Petition No.D-302 of 2009, filed by the respondent No.1 was allowed and the official respondents were directed to implement the order dated 29-5-2004 of Chief Secretary allowing the seniority of respondent No.1 over and above the appellant.

2. Vide order dated 8-9-2010 leave to appeal was granted in appeal in law, to consider the question as to whether the order of Chief Secretary dated 29-5-2004 was justifiable and legal and whether promotion was merely granted on the opinion of Law Department.

3. We have heard the learned counsel for the parties and have perused the record.

4. Learned Senior Advocate Supreme Court for the appellant has vehemently argued that though the appellant and respondent No.1 were appointed on the same date i.e. 16-6-1986 as Draftsman BPS-13 in the Town Planning Department, Hyderabad but the appellant was senior in age and has also submitted his joining report on 30-6-1986, whereas respondent No.1 submitted his joining report on 1-7-1986 and pursuant to these differences, the name of appellant, always appeared above that of respondent No.1 in seniority list. In this respect he referred to seniority list of December, 1991, of December 1994, the notification dated 14-12-1995, whereby the appellant and respondent No.1 were promoted to the post of Sr. Draftsman BPS-16 and the seniority list dated 1-1-2000. He contended that none of these seniority lists were ever challenged by respondent No.1 and it was only at the stage of the recommendation for promotion to the post of Chief Draftsman BPS-17 was initiated the respondent No.1 filed a belated appeal on 30-3-2002 claiming seniority over and above the appellant. This

the respondent No.1 was rejected by the competent authority being time barred vide letter dated 20-10-2002. He contended that vide notification dated 8-11-2002 the appellant was promoted to the post of Chief Draftsman BPS-17 in the Directorate of Town Planning Sindh with immediate effect. He further contended that it was after such promotion the appellant was made that the respondent No.1 submitted an appeal on 18-11-2002 to the Chief Secretary, whereby he sought his seniority to be corrected with that of appellant. He contended that the appeal did not come to the Chief Secretary and even otherwise it was time-barred. He further contended that promotion of the appellant as Chief Draftsman BPS-17 was never challenged by respondent No.1 through proper remedy. He has further contended that no notice of hearing of appeal of respondent No.1, was issued to the appellant and further the order of Chief Secretary is a non-speaking one and does not assign any reasons. In support of his submissions, the learned counsel relied upon the case of ABDUL MAJEED ZAFAR and others v. GOVERNOR OF PUNJAB THROUGH CHIEF SECRETARY and others (2007 SCMR 330).

On the other hand, learned Advocate Supreme Court appearing for respondent No.1 has supported the impugned order and has contended that in terms of Law Department's opinion, opportunity of being provided to the appellant and appellant could not have any grievance against the order of Chief Secretary. In support of his submissions, he has relied upon the case of ABDUL GHANI v. MST. SHAHEEN and others (2007 SCMR 834).

On Court directions, learned Additional Advocate General Sindh placed on record copy of appeal dated 18-11-2002 of respondent No.1 along with office noting. He has referred to para 15 of notes appended to appeal and has contended that while the appellant and respondent No.1 were appointed on one and same date, respondent No.1 secured higher marks than that of appellant, his seniority was rightly maintained.

The facts that appellant and respondent No.1 were appointed on the same date i.e. 16-6-1986 as Draftsman BPS-13 in the Town Planning Department, Hyderabad and that the appellant being senior in age than that of respondent No.1 and has submitted his joining report on 30-6-1986 and respondent No.1 has submitted his joining report on 1-7-1986 are not disputed. Further more, it is also not disputed that seniority lists of December 1991, December 1994, the notification dated 14-12-1995 by which the appellant and respondent No.1 were promoted as Sr. Draftsman in BPS-16, the seniority list dated 1-1-2000 and seniority list dated 13-8-2001 were not objected to or challenged by respondent No.1. In all these seniority lists and the notification the appellant was shown senior to respondent No.1. It is also an admitted

fact that it was at the stage when recommendation for promotion to the post of Chief Draftsman BPS-17 was initiated; the respondent No. 1 filed an appeal dated 30-3-2002 claiming seniority over and above the appellant and this appeal of respondent No. 1 was rejected as time barred on 20-10-2002. In the meanwhile, on 8-11-2002 the appellant was promoted to the post of Chief Draftsman BPS-17 and it was, after the promotion of appellant, that the respondent No.1 filed an appeal on 8-11-2002 to the Chief Secretary, in which his claim was for the correction of seniority with that of appellant on the basis of the recommendation for initial appointment dated 4-3-1986, where respondent No.1 was shown in the category of draftsman the name of respondent No.1 was shown at Serial No.1 while that of appellant at Serial No.2 and this appears to be for the reasons that respondent No.1 has obtained 39 marks while the appellant has obtained 36 marks out of 50 marks.

8. Learned Advocate Supreme Court for respondent No. 1 heavily relied upon Rule 11 Sindh Civil Servants (Probation, Confirmation and Seniority) Rules, 1975 and has contended that the seniority of the respondent No.1 could not have been changed from the one assigned to him on initial appointment. He contended that the order of the Chief Secretary has already been implemented and the respondent No.1 has been placed as Senior to the appellant.

9. There cannot be two views with regard to the provision of Rule 11 that the inter se seniority of civil servant, appointed in the same or on the same date is to be based in order of merit, assigned by the selection authority. In the present case though the name of respondent No. 1 was above that of appellant at the time of selection in 1986, the seniority lists of December 1991, December 1994, the notification dated 14-12-1995, the seniority list dated 1-1-2000, the name of the appellant appeared as senior to that of the respondent No. 1. From December 1991 upto 1-1-2000, which is the period of almost about nine years, the respondent No. 1 was satisfied with his seniority position and was junior to the appellant and did not either make any representation or file any appeal. From the office note dated 22-8-2002 it appears that the seniority list dated 13-8-2001 of senior draftsmen was issued and circulated amongst the senior draftsmen. Against this seniority list the respondent No.1 did not file any appeal, but when the appellant was taken up for promotion as Chief Draftsman BPS-17, the respondent No.1 rose from his deep slumber and for the first time filed an appeal dated 30-3-2002, which was rejected by competent authority on 20-10-2002 as being time barred. In the meanwhile, the appellant was promoted as Chief Draftsman by the Departmental Promotion Order and notification dated 8-11-2002 of promotion of appellant was issued. The respondent No.1 then preferred further appeal on 20-11-2002 to the Chief Secretary which as it appears has been

rejected on 29-5-2004 and the seniority which the appellant was enjoying on the basis of which he was promoted as senior draftsman and Chief Draftsman, was all of sudden reversed in favour of respondent No. 1. The total intervening period being that of almost 14 years.

Having enjoyed the position of seniority by the appellant above respondent No. 1 for such a long period, created a vested right in the appellant of that being senior to the respondent No. 1 and such right could not have been upset as principle of *locus poenitentiae* comes into application in that authority will have no power to recede, when no hearing whatsoever was provided to the appellant considering the case of seniority. Thus the mandatory provision of *audi alteram partem* has been seriously violated by the Chief Secretary while passing the order dated 29-5-2004. The learned counsel for respondent No.1 has relied upon the case of Abdul Ghani (supra) and decides the case on the basis of order passed in violation of the mandatory provision of law and it was held that no limitation would run against challenging such order. We may note that this judgment relied upon by the learned counsel for respondent No. 1 would be of no help for the appellant as the respondent No. 1 had more than one occasions to agitate his seniority but he himself chose not to challenge the same and acquiesced to them to attain finality and thus he himself acquiesced and waived his right to claim seniority over that of appellant and principle of *locus poenitentiae* will surely come into operation and debar the respondent from asserting the right of seniority over and above that of appellant which he himself through his own act and conduct has rested.

In the case of CHAIRMAN, DISTRICT SCREENING COMMITTEE, LAHORE and another v. SHARIF AHMED HASHMI (1996 SC 258), this court has elaborately dealt with and has laid down the distinction between the word "Void" and "Voidable" and in this case has observed as follows:--

There is great looseness in the use of the words "void" and "voidable" and very often they are used interchangeably. Nevertheless there is a clear distinction between things "void" and "voidable" though the two terms are not infrequently used without special regard for the difference or distinction particularly where such distinction is of no consequence or where the attention of the Court is not particularly directed to this distinction. The expression "Void" in the strict or accurate sense means "absolutely null" that is to say incapable of ratification or confirmation and of no effect whatever. The word "voidable" on the other hand is something which could be voided or confirmed and which is not absolutely void. In other

words what is voidable has some force or effect, but which may be set aside or annulled for some error or inherent vice or defect. "Thus that which is voidable operates to accomplish the thing sought to be accomplished until the fatal vice in the transaction has been judicially ascertained and declared." (Corpus Juris Secundum Volume 92 pp. 1021-1024). A common place instance of a void act or transaction in the sense of absolute nullity is an agreement by a person under a legal disability e.g. a minor or a person of unsound mind. Such an act is void *ab initio* and is incapable of ratification or confirmation. See section 11 of the Contract Act, 1872. Law forbids the enforcement of such a transaction even if the minor were to ratify it after attaining majority. This is clearly distinguished from a case in which a thing or an act is "relatively void" which the law condemns as wrong to the individual concerned who may avoid it by appropriate proceedings. A common place instance of such transaction is that which is brought about by undue influence, fraud etc. which remains of full effect unless annulled by appropriate proceedings. In the relevant field, an order of dismissal etc. of a Government servant by an authority who is *ab initio* no authority will fall under the first category. For instance, if the respondent had been retired by a Superintendent of Police instead of appellant No. 2 the order would have been *ab initio*. On the other hand an order by competent authority suffering from a procedural defect will be voidable and fall under second category. The first case is of total incapacity assimilable to a defect falling under section 11 of the Contract Act and the resulting act is a dead letter. In the latter case the order is by the competent authority though in violation of procedural rules.

Bearing this distinction in mind, the cardinal fact in the present case is that respondent was retired compulsorily by appellant No. 2 who was his Appointing Authority and not an interloper. Under the Constitution of 1956 read with the Continuation in Force Order, 1958 appellant 2 being the Appointing Authority was fully competent to do so. However to satisfying certain procedural requirements Appellant 2 purported to act under the Public Conduct (Scrutiny) Ordinance, 1959 (Ordinance III of 1959) and the Public Conduct (Scrutiny) Rules, 1959 framed thereunder, Rule 2 of the Rules as Originally framed provided as follows:--

"Where a Committee is of the opinion that there is cause to believe that person to whom the Ordinance applies--

- (a) is corrupt...

is inefficient or has ceased to be efficient and is not likely to recover his efficiency.

It may so inform that person and call upon him to explain any fact or circumstance appearing against him."

This covered the respondent's case. But by a subsequent amendment clause (c) of the rule was omitted with effect from 28-2-1957. Appellant 2 however, apparently ignorant of the amendment proceeded against the respondent as if the rule as originally framed had continued and ordered respondent's compulsory retirement, on the report of the Screening Committee constituted under section 3 of the Ordinance. Any penal action properly taken under the rules was protected under section 10 *ibid*. But the impugned order not being under the rules is not protected and is therefore, open to challenge.

The result therefore is that the impugned order was made by the authority otherwise competent to make it: it is under attack because of the defective procedure. But all the same it had taken effect as from 1-7-1959 according to its tenor and has not been recalled notwithstanding many representations made by the respondent. In this situation, it is in my opinion wholly wrong to treat the order void *ab initio* in the sense of an absolute nullity. It was made by the authority inherently competent to make it, though a wrong procedure was followed. Appellant 2 could have proceeded under the Civil Servants (Efficiency and Discipline) Rules. It was therefore, merely voidable which could have been avoided by the respondent by appropriate proceedings. This he did, but not until after the lapse of twelve years. Since then further three years have gone by.

Therefore, it can scarcely be controverted that the respondent's writ petition in the High Court suffered from inordinate delay and ordinarily relief should have been refused to him as it was done by the learned single Judge for reasons of gross Laches."

In the present case, it is not disputed that the seniority lists and classification by which the appellant and respondent No. 1 were appointed as Senior Draftsmen were issued by the competent authority. Where the competent authority does any act or passes any order, which is adverse to any person and he being in full knowledge of the nature of such act and order remains in the field and operates fully until it is annulled through a proceeding within prescribed limitation period, such order will not be void *ab initio* but merely be a voidable which

can be corrected if proceedings against it is brought within prescribed limit of limitation. Thus, in the present case, seniority lists and notification which admittedly were issued by the competent authority at all were adverse to respondent No. 1, he could have challenged the same within limitation period prescribed by the law to have it corrected or set aside which he did not do so.

13. In the case of WAZIR KHAN v. GOVERNMENT OF N.-W.F.P. THROUGH SECRETARY IRRIGATION, PESHAWAR and 4 others (2002 SCMR 889), this Court has observed as follows:--

"The next question relates to the limitation. It is not denied upon rejection of the representation by the competent Authority against the revised seniority list published in 1981, the appellant did not prefer appeal before the Service Tribunal and allowed the same to attain finality. The appellant also did not raise any objection to the seniority list issued periodically in the intervening period and consequently it would be deemed that he has accepted the seniority assigned to him in the revised seniority list published in the year 1981. The matter relating to the seniority of private respondents inter se having attained finality would be deemed as past and closed transaction and could not be re-agitated after lapse of a period of about 15 years through a fresh representation.

14. In another case of FARIS RAHMAN KHAN v. FEDERATION OF PAKISTAN THROUGH SECRETARY, ESTABLISHMENT DIVISION, ISLAMABAD and others (1995 SCMR 579), this Court has observed as follows:--

"The facts as stated above, clearly show that after the recommendation of September 1981 was returned, appellant's case was reconsidered many times during the years 1983 to 1989 and on all occasions it was rejected and persons junior to him were promoted superseding him. The appellant remained on the list till 1990 and agitated after he was promoted on the basis of the recommendation made by the Board on 12-4-1989. The delay in making claim is fatal to the appellant's case. The learned counsel for the appellant contended that the appellant was not aware of what had been happening as no list of the persons considered for promotion was circulated nor any information was supplied. This seems to be a naïve argument. Every servant is aware of the promotion and supersession."

15. In view of the above pronouncements of this Court, there is hardly any justification for the learned Division Bench of High Court to pass order that of implementation of the order dated 29-5-2004 of

Secretary which in terms as noted above was not in accordance with law. The impugned order, therefore, suffers from defects, which is unsustainable in law.

16. For the foregoing reasons, this appeal is allowed, the impugned order dated 28-4-2010 of High Court of Sindh is set aside.

WA/S-1/SC

Appeal allowed.

P L D 2014 Supreme Court 347

Present: Anwar Zaheer Jamali and
Sarmad Jalal Osmany, JJ

MUHAMMAD NISAR---Appellant

versus

IZHAR AHMED SHAIKH and others---Respondents

Special Appeal No.62-K of 2013, decided on 23rd October, 2013.

(Against the Judgment dated 20-3-2013 passed by High Court of Sindh, Sukkur Bench in C.P. No.S-2406 of 2010.)

(a) Sindh Rented Premises Ordinance (XVII of 1979)---

S.2(j)---Devolution of tenancy onto legal heirs of tenant---Scope---
Under S.2(j) of Sindh Rented Premises Ordinance, 1979 each legal heir of the tenant after his demise became a tenant. [p. 349] A

(b) Sindh Rented Premises Ordinance (XVII of 1979)---

S.2(j)---Devolution of tenancy onto legal heirs of tenant---Scope---
Landlord filed rent application against son of deceased-tenant/appellant on the ground of default of payment of rent---Son of deceased tenant claimed that he had purchased the rented premises from the landlord through an agreement to sell after the death of his tenant-father; that on the demise of his tenant-father, he was not in possession of the premises but his family members were---Validity---Such contention would not displace the law under S.2(j) of Sindh Rented Premises Ordinance, 1979, which stated that each legal heir of the tenant after his demise became a tenant, therefore relationship of landlord and tenant did exist between the parties---When son of deceased-tenant put a plea in the rent application that he had purchased the property and that he had to file a suit for his remedies and vacate the premises and after if he succeeded, he would be entitled to take possession of the premises again---Appeal was dismissed accordingly. [p. 349] A, B & C

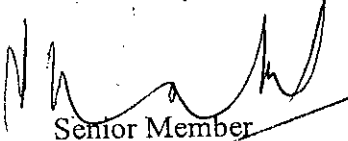


GOVERNMENT OF NWFP
REVENUE & ESTATE DEPARTMENT

Dated Peshawar the 10/03/2010

ORDER

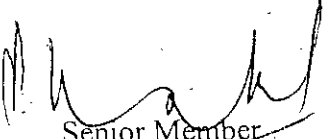
No 6174 /Admn:V/PF(Abdul Latif) In pursuance of Judgement of Senior Member Board of Revenue NWFP dated 08.03.2010 passed in Appeal No. 59/2010, services of Mr. Abdul Latif Tehsildar Acting Charge basis presently posted as Tehsildar Mandanr District Buner, are hereby regularized with immediate effect.


Senior Member
Board of Revenue NWFP

No 6175-82 /Admn:V/PF(Abdul Latif)

Copy to:-

1. Commissioner, Malakand Division.
2. District Coordination Officer, Buner
3. District Officer (R&E)/Collector, Buner
4. District Accounts Officer Buner.
5. Reader to Senior Member Board of Revenue NWFP
6. Officer concerned.
7. Office Order File.
8. Personal file.


Senior Member
Board of Revenue NWFP




GOVERNMENT OF NWFP
REVENUE & ESTATE DEPARTMENT

Dated Peshawar the 10/03/2010

ORDER

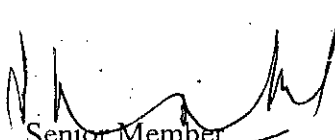
No _____ /Admn:V/PF(Qaiser Khan) In pursuance of Judgement of Senior Member Board of Revenue NWFP dated 08.03.2010 passed in Appeal No. 59/2010, services of Mr. Qaiser Khan Tehsildar Acting Charge basis presently posted as Tehsildar Gagra District Buner, are hereby regularized with immediate effect.


Senior Member
Board of Revenue NWFP

No 6184-91 /Admn:V/PF(Qaiser Khan)

Copy to:-

1. Commissioner, Malakand Division.
2. District Coordination Officer, Buner
3. District Officer (R&E)/Collector, Buner.
4. District Accounts Officer Buner.
5. Reader to Senior Member Board of Revenue NWFP.
6. Officer concerned.
7. Office Order File.
8. Personal file.

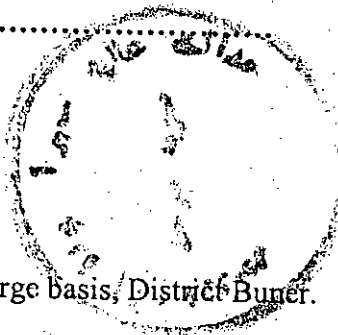

Senior Member
Board of Revenue NWFP

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(10) 5

**IN THE COURT OF AHSANULLAH KHAN SENIOR MEMBER
BOARD OF REVENUE NWFP**

Case No. 59/2010
Date of institution. 16.02.2010
Date of Decision 08.03.2010



1. Abdul Latif Tehsildar Mandanr Acting Charge basis, District Buner.
2. Qaiser Khan Tehsildar Gagra Acting Charge basis District Buner
..... (Appellants)

Versus

1. District Officer (R&E)/Collector, Buner,
2. Senior Member Board of Revenue NWFP.....(Respondent)

ORDER
08.03.2010

This is a Departmental appeal filed by M/S Abdul Latif and Qaiser Khan Tehsildars (Acting Charge Basis), District Buner for promotion as Tehsildar on regular basis.

Appellants with their counsel present. Arguments heard. Comments received from Assistant Secretary (Estt) Board of Revenue NWFP and record of the case gone through.

Brief facts of the case are that the appellants are regular District Kanungo (BPS-14) and they were promoted to the post of Tehsildar (BPS-16) on Acting Charge basis on 22.10.2009 and at present they are working as Tehsildars in District, Buner.


Counsel for the appellants pleaded that the appellants have rendered sufficient service in Revenue Department and are serving as Tehsildars on Acting Charge basis and have passed the Departmental Examination of Tehsildars and he referred to Section-9 of the NWFP (Appointment, Promotion and Transfer) Rules, 1989 regarding appointment on Acting Charge basis. The counsel for the appellants further argued that the appellants are already holding the posts of Tehsildars and their regular appointment / promotions as Tehsildars will not affect any one nor disposes any other officials from the post of Tehsildars (BPS-16) against which they are already working on Acting Charge basis and also availing the financial benefits. The counsel for the appellants submitted verdicts of Supreme Court of Pakistan in certain cases whereby the Supreme Court of Pakistan held that where a

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post was available against which civil servant could be promoted where such civil servant was qualified to be promoted to such higher post and where he was put on such higher post on officiating or acting charge basis only because requisite exercise of allowing regular promotion to such post was being delayed by Competent Authority and where he was subsequently found fit for such promotion and was so promoted on regular basis, then the civil servant was entitled not only to the salary attaching to such post but also to all consequential benefits from that very date from which he had put on the said post on officiating or Acting Charge basis.

In light of above authorities of Supreme Court of Pakistan submitted by the counsel of appellants and under circumstances of the case and comments of Establishment Section of Board of Revenue NWFP that the SSRC has already decided in a meeting that District Kanungo, HCR, District Revenue Accountants included in the Seniority List of Naib Tehsildars for the purpose of Promotion to the post of Tehsildar as all the above posts i.e. District Kanungo, HCR District Revenue Accountant and Naib Tehsildar carries equal grades (BPS-14) and are encircled in the Revenue heirachy and the next step for the above categories is Tehsildar Cadre.. As such the appeals of appellants are accepted and the appellants are selected/ promoted to the post of Tehsildar (BPS-16) on regular basis with immediate effect.

ANNOUNCED
08.03.2010


(Asanullah Khan)
Senior Member,
Board of Revenue NWFP.

B

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No 1154/2016

Date of Institution... 16.11.2016

Date of decision... 04.10.2017



Kamalistan Tehsildar Barikot, District Swat.

... (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar
and 2 others. ... (Respondents)

MR. IMDADULLAH,
Advocate

... For appellant.

MR. MUHAMMAD ZUBAIR,
District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN,

... CHAIRMAN
... MEMBER

JUDGMENT

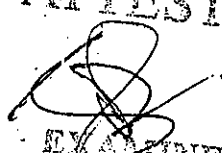
NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned

counsel for the parties heard and record perused.

FACTS

2. The appellant was shown at S.No. 18 in the seniority list of Kanungos issued on 31.12.2008. Thereafter he was promoted as Naib Tehsildar on 08.11.2010 by the order of the Senior Member Board of Revenue, purportedly on the basis of a judicial order dated 20.10.2010. Then another seniority list was prepared on 26.4.2013 and he was shown at S.No. 167 in the seniority list of Naib Tehsildars as it stood on 31.12.2012. But on 09.09.2016 an order was passed by the Senior Member Board of Revenue by withdrawing the order of promotion dated 20.10.2010 on the ground that the promotion/regularization was made in

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

violation of the service rules and instructions without holding the meeting of the Departmental Promotion Committee. Against this order a departmental appeal was preferred by the appellant on 19.9.2016 which was dismissed on 07.11.2016 and thereafter the present appeal was filed on 16.11.2016.


ARGUMENTS

3. The learned counsel for the appellant argued that the a similar case entitled "*Muhammad Amin Vs. the Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 2 others*" bearing service appeal No. 1155/2016 has been decided by this Tribunal on 09.08.2017. That on the principles of similarity and equal treatment, the present appeal is liable to be accepted. He further argued the appeal on two scores. That an order of promotion once passed cannot be withdrawn on the ground that the promotion was made in violation of rules or law and in this respect the learned counsel for the appellant relied upon judgments reported as 1996-SCMR-1350 and 2004-SCMR-630. The second argument was that on the principle of *locus poenitentiae* the authority withdrawing the order must adhere to the minimum standard of due process. In this regard the learned counsel for the appellant relied upon a judgment reported as 1992-SCMR-1420. According to the learned counsel for the appellant no chance of hearing or any notice was ever served on the appellant.

4. On the other hand the learned District Attorney argued that the original order dated 20.10.2010 was illegal and the SMBR has rightly withdrawn his earlier order.

CONCLUSION

5. There can be no two opinions about this settled proposition of law that if any irregularity or illegality is committed by the department then the sufferer

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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should not be the civil servant and in this respect the two former reported judgments pressed into service by the learned counsel for the appellant are very much clear. Though defence of *locus-poentitiae* is available only in those orders which are not void but before withdrawing any order the minimum standard of due process, at least, should be honored which has not been done in the instant case.

6. The nutshell of the above discussion is that the present appeal is accepted and the order dated 09.09.2016 is set aside. The appellant shall be entitled to all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

SD/-Niaz Muhammad Khan,
Chairman
Camp Court Swat

SD/-Gulzar Khan
Member

Copy
Stamp
Signature

Date of Presentation of Application	11-10-2017
Number of Vols	1200
Copying Fee	8-
Urgent	
Total	8-
Name of C	M
Date of Completion	23-10-17
Date of Delivery of Slips	23-10-17

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT

Service Appeal No 1020/2016

Date of Institution... 30.09.2016

Date of decision... 06.09.2017



Abrar Ahmad presently posted as Tehsildar Babozai, Swat. ... (Appellant)

Versus

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar and others. ... (Respondents)

MR. SHAMSUL HADI,
Advocate

For appellant.

Abim r/o Swat

MR. MUHAMMAD ZUBAIR,
District Attorney

For respondents.

*Patwari (Swat)
Kang (Dis opp)
Tehsilda (Bmt)*

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN,

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned

counsel for the parties heard and record perused.

FACTS

The appellant was recruited as Patwari in 1985. Later on he was promoted as Naib Tehsildar on acting charge basis on 09.10.2009. That against this order some of his colleagues moved a departmental appeal which was decided vide order dated 18.11.2009 and the original order of promotion was kept intact to the extent of appellant. But after lapse of 7 years respondent No. 1 through an order dated 09.09.2016 withdrew earlier promotion order on the ground that promotion/regularization was made in violation of service rules and instructions without holding of Departmental Promotion Committee. Against this order a

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departmental appeal was filed which was rejected on 29.09.2016 and thereafter the present appeal.

ARGUMENTS

3. The learned counsel for the appellant argued the appeal on two scores. That an order of promotion once passed cannot be withdrawn on the ground that the promotion was made in violation of rules or law and in this respect the learned counsel for the appellant relied upon judgments reported as 1996-SCMR-1350 and 2004-SCMR-630. The second argument was that on the principle of *locus poenitentiae* the authority withdrawing the order must adhere to the minimum standard of due process. In this regard the learned counsel for the appellant relied upon a judgment reported as 1992-SCMR- 1420. According to the learned counsel for the appellant no chance of hearing or any notice was ever served on the appellant.

4. On the other hand the learned District Attorney argued that the original order dated 20.10.2010 was illegal and the SMBR has rightly withdrawn his earlier order.

CONCLUSION

5. There can be no two opinions about this settled proposition of law that if any irregularity or illegality is committed by the department then the sufferer should not be the civil servant and in this respect the two former reported judgments pressed into service by the learned counsel for the appellant are very much clear. Though defence of *locus poenitentiae* is available only in those orders which are not void but before withdrawing any order the minimum standard of due process, at least, should be honored which has not been done in the instant case.

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6. The nutshell of the above discussion is that the present appeal is accepted and the order dated 09.09.2016 is set aside. The appellant shall be restored to his position of acting charge basis as stood on 09.09.2016. The department is at liberty to proceed further in accordance with law while considering the appellant on acting charge basis on 09.09.2016. Parties are left to bear their own costs. File be consigned to the record room.

Announced
06.09.2017

SD/- Niaz Muhammad Khan,

Chairman
Appellate Staff

SD/- Ahmad Hassan,

Member

Certified true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the October, 30, 2012

NOTIFICATION

NO.SOE.II(ED) 2(192)2012- Consequent upon the recommendations of the Provincial Selection Board, the competent authority is pleased to order the promotion of the following PMS BS-17 (Acting Charge)/Tehsildars to the post of Provincial Management Service (BS-17), on regular basis with immediate effect:-

S.NO	NAME OF OFFICER
1.	Mr. Sajid Nawaz
2.	Mr. Kashmir Khan
3.	Mr. Khalid Qayyum
4.	Mr. Muhammad Yousaf Kareem
5.	Mr. Muhammad Imran
6.	Mr. Sohail Ahmed Khan
7.	Mr. Muhammad Shah Jamil
8.	Mr. Naveed Akber
9.	Mr. Hamid Ali Gigyani
10.	Mr. Akber Shah
11.	Mr. Muhammad Ali Shah
12.	Mr. Muhammad Zaman Khattak
13.	Mr. Bagh Bostan
14.	Mr. Amjad Ali
15.	Mr. Safdar Azam Qureshi
16.	Mr. Sajid Hussain
17.	Mr. Israr Ahmad
18.	Mr. Muhammad Fahim
19.	Mr. Adalat Khan
20.	Mr. Said Qadir
21.	Mr. Jan Alam
22.	Mr. Abdul Wali Khan
23.	Mr. Samiullah
24.	Mr. Abdul Naseer

25.	Mr. Haider Hussain
26.	Mr. Qaisar Naz
27.	Mr. Muhammad Riaz
28.	Mr. Muhammad Naib Din
29.	Mr. Abdul Latif
30.	Mr. Qaisar Khan

2. On promotion the above officers will be on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act 1973, read with Rule-15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

3. Consequent upon above, the following postings/transfers are ordered with immediate effect:-

S.#	Name of Officer	From	To
1.	Mr. Sajid Nawaz	DO(R), Bannu.	Retained on the same post and station.
2.	Mr. Kashmir Khan	Tehsildar/ Inspector Stamps, D.I.Khan	DDO(R), Paharpur D.I.Khan against the vacant post.
3.	Mr. Khalid Qayyum	Tehsildar, Irrigation D.I.Khan	DDO(R), D.I.Khan against the vacant post.
4.	Mr. Muhammad Yousaf Kareem	Political Tehsildar, FR Kohat	DDO(J), Hangu against the vacant post relieving Mr. M. Abid, DDO(R), Hangu of the additional charge of the post.
5.	Mr. Muhammad Imran	Assistant Commissioner, Malakand	Retained on the same post and station
6.	Mr. Sohail Ahmed Khan	DDO(J), Khawazakhela.	Retained on the same post and station
7.	Mr. Muhammad Shah Jamil	Tehsildar, Lal Qilla Dir Lower	DDO(J), Sharingal Dir Upper against the vacant post.
8.	Mr. Naveed Akber	APA FR, Peshawar.	Retained on the same post and station
9.	Mr. Hanid Ali Gigyani	Finance Officer, MSDP, LG&RDD	Secretary District Public Safety Commission, Peshawar against the vacant post.
10.	Mr. Akber Shah	Tehsildar/Reader to SMBR	Deputy Secretary, Board of Revenue against the vacant post
11.	Mr. Muhammad Ali Shah	DDO(R), Swabi.	Retained on the same post and station
12.	Mr. Muhammad	DO(R), Kohat	Retained on the same post and station

	Zaman Khattak		station
13.	Mr. Bagh Bostan	Political Tehsildar, Upper Orakzai	DDO(R), Takhtbhai Mardan against the vacant post.
14.	Mr. Amjad Ali	Tehsildar, Swabi Scarp WAPDA, Mardan	DDO(J), Swabi against the vacant post relieving Syed Muhammad Ali Shah, DDO(R), Swabi of the additional charge of the post.
15.	Mr. Safdar Azam Qureshi	Tehsildar, Mansehra	Secretary District Public Safety Commission, Mansehra relieving Mr. M. Anwar Khan Sherani, DDO(J), Mansehra of the additional charge of the post.
16.	Mr. Sajid Hussain	Tehsildar, Balakot	DDO(F), Haripur against the vacant post
17.	Mr. Israr Ahmad	DDO(R), Booni Chitral.	Retained on the same post and station
18.	Mr. Muhammad Fahim	Tehsildar, Barikot.	DDO(F), Swat against the vacant post.
19.	Mr. Adalat Khan	Political Tehsildar, Khar Bajaur	HRDO, Shangla against the vacant post.
20.	Mr. Said Qadir	Tehsildar, Khal	DDO(F), Shangla against the vacant post relieving Mr. Anwar Zeb, DDO(J), Alpuri Shangla of the additional charge of the post.
21.	Mr. Jan Alam	Tehsildar, Babuzai	Secretary District Public Safety Commission, Dir Upper against the vacant post.
22.	Mr. Abdul Wali Khan	Tehsildar, Dir Upper	DDO(J), Dir Upper against the vacant post relieving Mr. Arshad Ali, DDO(R), Dir Upper of the additional charge of the post.
23.	Mr. Samiullah	Tehsildar, Bannu	DDO(J), Bannu against the vacant post
24.	Mr. Abdul Naseer	Tehsildar, Rajar Swabi.	HRDO, Peshawar against the vacant post
25.	Mr. Haider Hussain	Assistant to Commissioner (Rev), Kohat.	Retained on the same post and station
26.	Mr. Qaisar Naz	Tehsildar, Kohat.	Secretary, RTA, Kohat against the vacant post
27.	Mr. Muhammad Riaz	Tehsildar, Lahor Swabi	DDO(R), Lahor Swabi against the vacant post.
28.	Mr. Muhammad Naib Din	Tehsildar, FATA Sectt:	Section Officer, FATA Sectt: against the vacant post.
29.	Mr. Abdul Latif	Political Tehsildar, Mamund Bajaur	DDO(R), Khado Khel Buner against the vacant post.
30.	Mr. Qaisar Khan	Tehsildar, Gagra Buner	DDO(F), Buner against the vacant post

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: NO. & DATE EVEN

A copy is forwarded to:-

1. Additional Chief Secretary, FATA.
2. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. Secretary to Governor, Khyber Pakhtunkhwa.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. Secretary to Govt. of Khyber Pakhtunkhwa, Transport Department.
6. All Divisional Commissioners in Khyber Pakhtunkhwa.
7. All District Coordination Officers in Khyber Pakhtunkhwa.
8. Secretary (Admn. & Coord), FATA Secretariat
9. Accountant General, Khyber Pakhtunkhwa.
10. Accountant General (PR), Sub- Office, Peshawar.
11. Political Agents, Bajaur & Orakzai.
12. All District Accounts Officers in Khyber Pakhtunkhwa.
13. Agency Accounts Officers, Bajaur & Orakzai
14. Project Director, Municipal Services Delivery Programme (PMU), Peshawar.
15. SO(Secret)/SO(Admn)/SOE-I/ EO/Librarian, E&A Department.
16. PS to Chief Secretary, Khyber Pakhtunkhwa.
17. PS to Secretary Establishment.
18. PS to Special Secretary (Estt), Establishment Department.
19. PAs to AS(E)/ AS(HRD)/ DS(E) Estab: Deptt:
20. Officers concerned.
21. Office order file.
22. Personal file of the officers concerned.

HAJIRAN AFRIDI

naizam
30/10/12
(NAJIM-US-SAHAR)
SECTION OFFICER (E-II)