

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	24.06.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p style="text-align: center;">Service Appeal No. 1192/2014</p> <p>Haji Ahmad Jan Versus the Government of Khyber Pakhtunkhwa Board of Revenue, through its Senior Member, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Khalid Rahman, Advocate) and Government Pleader (Mr. Muhammad Jan) with Naeem Khan, Assistant for the respondents present.</p> <p>2. Appellant was appointed as Junior Clerk in the office of Deputy Commissioner, Charsadda vide order dated 01.08.1988. In the wake of devolution plan in the year, 2001, the appellant was declared surplus and adjusted as Secretary, Union Council under the District Government vide order dated 13.08.2001. That in the year, 2012 the Local Government Ordinance was abolished and the Commissionerate system was restored and the appellant was re-adjusted in the office of Deputy Commissioner Charsadda and posted as Reader to Tehsildar Charsadda vide order dated 14.4.2013 and is still serving there. His prayer per impugned order is as follows:</p> <p style="padding-left: 40px;">“The appellant’s prayer is that since his other colleagues were repatriated/re-adjusted in the office of DOR/DCO (now Deputy Commissioner Office) Charsadda, he is also entitled to be readjusted/repatriated in the same manner.”</p> <p>With the said prayer, he moved representation before</p>

Commissioner, Peshawar which was rejected vide order dated 10.09.2014, hence the present appeal before this Tribunal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

3. It was submitted by the learned counsel for the appellant that the appellant had rendered 29 years of his service, all under and in the offices of the Deputy Commissioner/District Coordination Officer/District Officer (Revenue & Estate)/Collector with rich experience. It was argued that inspite of adjustment as Secretary Union Council, the appellant was kept posted with district administration right from the year, 2001 till date. While referring to para-6 of the appeal, the learned counsel submitted that cases of Muhammad Zahir Shah etc. were similar to the case of present appellant, who have been re-adjusted in the office of Deputy Commissioner unlike the appellant who was not extended this treatment despite his rich experience and thus discriminated. The learned counsel for the appellant in support of his contention referred to Article 4 and 25 of the Constitution of Islamic Republic of Pakistan. He further maintained that this Tribunal while disposing of an Identical case of Zahoor Ahmad and Hamid Ali Taj in Service Appeal No. 999/2012 decided on 03.01.2013, had directed the respondent-department to repatriate the appellants to their parent department and to adjust them against vacant posts. While referring to 1996-SCMR-1185, 2005-SCMR-499 and 2009-SCMR-1, the learned

counsel for the appellant stressed that the respondent-department is legally bound to act upon decision of the courts/Tribunal in cases of those government servants, who might not have filed separate appeals. While concluding the arguments, the learned counsel for the appellant stated that the instant appeal may be allowed.

4. The learned Government Pleader resisted this appeal on the grounds that at the relevant time, the appellant had been adjusted as indicated in the impugned order and there is no provision of re-adjustment in surplus pool policy. He defended that the impugned order and requested that the instant appeal being devoid of merits, may be dismissed.

5. We have heard arguments of the parties and have perused the record.

6. This is not disputed that in the year 1988, the appellant was appointed as Junior Clerk in the office of Deputy Commissioner, Charsadda. It was also not disputed that the appellant remained posted in the offices of D.C/DCO/DOR despite his adjustment as Secretary Union Council under the District Government Department. His rich experience also cannot be denied. We have carefully gone through the impugned order and have reached on the conclusion that Commissioner, Peshawar in his impugned order has ^{not} properly appreciated in letter and spirit this Tribunal judgment rendered in appeal No. 999/2012 decided on 03.1.2013. For facility of

reference and that facts of this appeal are identical with facts of the cited appeal, we would like to reproduce para-7 and 8 of the said judgment:-

“7. The Tribunal observes that after devolution plan in the year 2001, officials of various categories serving in the defunct Commissioner and Deputy Commissioner offices became surplus. The appellant while serving as Senior Clerk in the office of Defunct Deputy Commissioner office Mardan had also been declared surplus. He was then adjusted as Secretary Union Council in his own pay and scale. On creation of DCO, DOR offices and restoration of Commissionerates, the official respondent started repatriation/adjustment of their ex-staff without framing, policy/instruction. They must frame a unified policy for adjustment of their old staff on the basis of experience and other facts, but no such policy framed hence adopted the practice of pick & chose. The appellant being adjusted against the wrong post as Secretary Union Council in his own pay and scale was more deserving for adjustment in the parent department but he has been denied for no plausible reason.

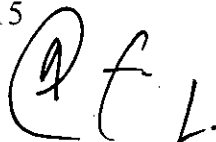
8. In view of the above discussion, the appeal is accepted and respondents No. 2 & 3 are directed to repatriate the appellant to his parent department and adjust him against the vacant post of Senior Clerk. It is further observed that Devolution plan of General Musharaf® had played havoc upon and broken the back-bone of Administrative set up. Since government is again restoring Commissionerate system, therefore, instead of fresh recruitments and repatriating the then experience staff at random, government should make amendment in “surplus staff adjustment policy” especially with respect to Ex-Commissioners and

Deputy Commissioner offices staff only for re-adjustment to facilitate smooth running of the above referred offices”.

7. While perusing the impugned order in the back-drop of the said paragraphs, it becomes evident that the cited judgment was not appreciated in letter and spirit nor any cogent and convincing ground was given in the impugned order for any distinction.

8. In the light of the stated position of the case, the Tribunal is of the considered view that having arguable case on the touch-stone of the grounds of discrimination and a previous decision of this Tribunal in another Service Appeal No. 999/2012 *ibid*, the instant case is remanded to the respondent No. 1 to look into the matter strictly in accordance with judgment in appeal No. 999/2012 and to re-decide the matter within a period of two months of the receipt of this judgment. Needless to mention that the impugned order stand, set aside. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
24.06.2015



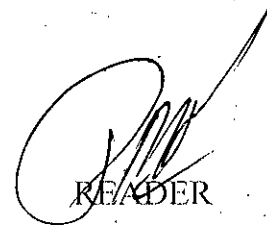
(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

19.12.2014

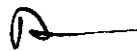
Clerk to counsel for the appellant and Mr. Kabeerullah Khattak, Asstt. A.G with Mukhtiar Ali, Supdt. for respondent No. 1 present. None is available on behalf of respondents No. 2 & 3. The Tribunal is incomplete. To come up for the same on 29.01.2015.



MEMBER

29.1.2015

Appellant with counsel, Mr. Muhammad Jan, GP with Mir Qasam, Assistant Secretary, Ayub Khan, Assistant and Zahidur Rahman, Supdt. for the respondents present and reply filed, copies whereof are handed over to counsel for the appellant. To come up for arguments on stay application on 06.3.2015. Counsel for the appellant may also file rejoinder on the date fixed.



MEMBER



MEMBER

06.3.2015

Appellant in person and Mr. Muhammad Jan, GP with Mukhtiar Ali, Supdt. and Ayub Khan, Assistant for the respondents present. Rejoinder received. To come up for arguments on 24.6.2015.



MEMBER

24.6.2015

Appellant with counsel and Mr. Muhammad Jan, Government Pleader for the respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day and placed on file, this appeal is disposed off as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
24.06.2015

MEMBER



MEMBER

Appeal No. 1192/2014
Haji Ahmad Jan

3. 31.10.2014

Appellant alongwith his counsel present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has prayed for re-adjustment at the office of the Deputy Commissioner, Charsadda alongwith original seniority. The appellant filed departmental appeal on 17.06.2014 which was rejected vide order dated 10.09.2014; hence the instant appeal on 26.09.2014. Counsel for the appellant has also filed an application alongwith the appeal for restraining the respondents from filling the available vacancies of Junior Clerks. Notice of application should also be issued to the respondents for reply/arguments

Since the matter pertains to terms and conditions of service of the appellant, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on main appeal on 05.01.2015 as well as reply/arguments on application on 20.11.2014.

Appellant deposited
Process fee & Security
Rs. 300/- Bank Receipt
attached with file

4. 31.10.2014

This case be put before the Final Bench 11 for further proceedings

Member

Chairman

20.11.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP present. None is available as representative on behalf of the respondents. The Tribunal is incomplete. To come up for the same on 19.12.2014.

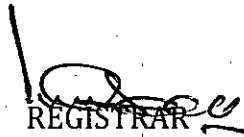

READER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1192 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26/09/2014	<p>The appeal of Mr. Haji Ahmad Jan presented today by Mr. Khaled Rehman Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	29-9-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>31-10-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1192 /2014

Haji Ahmad Jan	Versus	The Govt. and others
.....Appellant	Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
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3.	Appointment order	01.08.1988	A	08
4.	Adjustment order of appellant	13.08.2001	B	09-11
5.	Surplus Pool Policy		C	12-16
6.	Order thereby appellant was deputed to work as Junior Clerk office of DOR Charsadda	13.04.2002	D	17.
7.	Order thereby appellant was directed to work with Secretary District Transport Authority, Charsadda	09.04.2004	E	18.
8.	Posting orders of appellant against various posts	08.12.2005 13.04.2010 30.04.2012	F	19-21
9.	Order of appellant's posting as Typist in the office of the ADC Charsadda	21.01.2013	G	22-23
10.	Posting order of appellant as Reader to Tehsildar Charsadda	16.04.2013	H	24
11.	Departmental appeal		I	25-27
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Through

Ahmad
Appellant

Khaled Rahman
Advocate, Peshawar

3-D, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: 26 /09/2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1192 /2014

Haji Ahmad Jan,
Presently Reader to Tehsildar, Charsadda.....Appellant

Versus

1. The Govt. of Khyber Pakhtunkhwa
Board of Revenue through its Senior Member
Civil Secretariat, Peshawar.
2. The Commissioner,
Peshawar Division, Peshawar
3. The Deputy Commissioner,
Charsadda.Respondents

12/18
26/9/2014

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE IMPUGNED ORDER DATED 10-9-14 ISSUED
BY RESPONDENT NO.2 WHEREBY THE
DEPARTMENTAL REPRESENTATION OF THE
APPELLANT FOR HIS RE-ADJUSTMENT AT THE
OFFICE OF RESPONDENT NO.2 WAS UNLAWFULLY
REJECTED.**

PRAYER:

On acceptance of the instant appeal, the impugned order dated 10.9.2014 issued by Respondent No.2 may graciously be set aside and appellant be re-adjusted at the office the Deputy Commissioner Charsadda alongwith original seniority.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

10/9/14

1. That appellant was appointed as Junior Clerk in the office of the then Deputy Commissioner, Charsadda on 01.08.1988 (**Annex:-A**). He served as such as well as Reader/Moharrir/Steno-Typist in the Revenue Courts till the promulgation of the then Local Government Ordinance, 2001 when the Commissionerate System was abolished.
2. That thereafter the appellant was placed in the Surplus Pool and therefrom he was adjusted as Secretary Union Council under the District Coordination Officer in the District Government vide office order dated 13.08.2001 (**Annex:-B**) under the Surplus Pool Policy (**Annex:-C**) and then vide office order dated 13.04.2002 (**Annex:-D**) appellant was deputed to work as Junior Clerk in the Copy Branch of the District Revenue Officer (DOR), Charsadda in addition to his own duties.
3. That later on vide office order dated 09.04.2004 (**Annex:-E**), appellant was directed to work with Secretary District Transport Authority, Charsadda and remained on various posts as Reader/Moharrir in the Revenue Courts till December, 2012 vide office orders dated 08.12.2005, 13.04.2010, 30.04.2012 (**Annex:-F**).
4. That on 27.12.2012 the Local Government Ordinance, 2001 was abolished and consequently the District set up Government Departments stood segregated and realigned with Provincial Administrative Departments and the offices of the District Coordination Officers and District Officer

(Revenue & Estate) were reintegrated into the office of the Deputy Commissioner in each district with addition of Additional Deputy Commissioner.

5. That upon the establishment of the office of the Deputy Commissioner Charsadda, vide order dated 21.01.2013 (**Annex:-G**), appellant being a Junior Clerk was posted in the office of the Additional Deputy Commissioner Charsadda as Junior/Typist and vide office order dated 16.04.2013 (**Annex:-H**) appellant was posted as Reader to Tehsildar Charsadda where he has been performing his duties as such till date.
6. That other colleagues of the appellant namely Muhammad Zahir Iqbal, Muhammad Kaleem Khan, Jehanzeb and Liaqat Ali who too were Secretaries Union Councils under the District Coordination Officer and Mr. Asadullah, Raham Sher and Amjid Ali who were then adjusted in the offices of District Agriculture Officer, District Officer Finance & Planning were repatriated/readjusted in the office of the DOR/DCO now Deputy Commissioner, Charsadda. As the case of the appellant was also identical in nature, therefore, appellant too preferred a departmental Representation (**Annex:-I**) before Respondent No.2 but the same was rejected vide order dated 10.9.2014 (**Annex:-J**), hence this appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned order, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That throughout his service from the abolition of the Commissionerate System in 2001 and the reestablishment of the office of Deputy Commissioner, the ACRs (Annex:-K) of the appellant for the period from 2002 till 31.12.2013 were written by the DDOR/DOR/DC Charsadda, therefore, the appellant is entitled for the subject re-adjustment.
- C. That be that as it may this Hon'ble Tribunal vide its judgment dated 03.01.2013 (Annex:-L) in Service Appeal No.999/2012 allowed the appeals of Zahoor Ahmad and Hamid Ali Taj Secretary Union Councils in District Mardan and held as follows:-

"In view of the above discussion, the appeal is accepted and Respondent No.2&3 are directed to repatriate the appellant to his parent Department and adjust him against the vacant post of Senior Clerk. It is further observed that the devolution plan of General Musharaf (R) had played havoc and broken the backbone of Administrative set up. Since the Government is again restoring the Commissionerate System, therefore, instead of fresh recruitments and repatriating the then experienced staff at random, Government should make

amendment in the "surplus staff adjustment Policy" specially with respect to the ex-Commissioner and Deputy Commissioner offices staff for readjustment to facilitate smooth running of the above referred offices."

Since the case of the appellant is similar and identical, therefore, appellant is also entitled to the same relief under the law as per the judgments laid down in the case of "*Hameed Akhtar Niazi ...Vs...The Secretary Establishment Division, Government of Pakistan and others*" reported in 1996 SCMR 1185 and in the case of "*Tara Chand and others...Vs...Karachi Water and Sewerage Board, Karachi and others*" reported in 2005 SCMR 499 and another Judgment reported in 2009 SCMR 1 wherein it has been laid down that:

"When a Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covered not only the case of the civil servants who litigated, but also of other civil servants, who might have not taken any legal proceedings, the dictates of justice and rules of good governance demand that the benefits of the decision be extended to the other civil servants, who might not be parties to the litigation instead of compelling them to approach the Tribunal or any other forum."

(Copies of the Judgments **Annex:-M**)

- D. That appellant has put in about 28 years service as Reader/ Moharrir in the Revenue hierarchy and due to the abolition and restructuring of the Department and absence of proper Service Structure he remained deprived of his promotional chances, therefore, on the reestablishment of the

office of the Deputy Commissioner, it is highly in the interest of justice that he be repatriated/readjusted alongwith seniority so as to redress his grievances.

- E. That during the period w.e.f. 2002 till date, the appellant performed duties as Reader/Moharrar in the Revenue Department but drew salary against the post of Secretary U/C.
- F. That as a result of promotion of some Junior Clerks to the posts of Senior Clerks/Assistants, the posts of Junior Clerks are lying vacant in the Office of the Deputy Commissioner, Charsadda.
- G. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through


Appellant

Khaled Rahman,
Advocate, Peshawar.

Dated: 26/09/2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2014

Haji Ahmad JanApplicant

Versus

The Govt. and others.....Respondents

Application for restraining the Respondents from filling the available vacancies of Junior Clerks till the final disposal of the instant appeal.

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be as an integral part of this application, which make out an excellent prima facie case in favour of the appellant.
3. That the balance of convenience also lies in favour of appellant and in case the interim relief is not granted the appellant will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the Respondents may graciously be restrained from filling the available vacancies of Junior Clerks till the final disposal of the appeal.

Applicant

Through

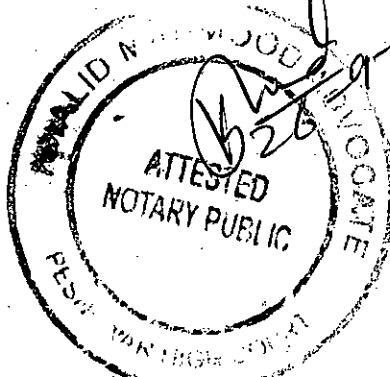
Khaled Rahman,
Advocate, Peshawar.

Dated: 26 /09/2014

Affidavit

I, Haji Ahmad Jan, Presently Reader to Tehsildar, Charsadda, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent



ANNEX A³ 8

OFFICE OF THE DEPUTY COMMISSIONER, CHARSADDA

No. 481 /G

Dated Charsadda, the 1st August, 1988

On the recommendation of the Departmental Promotion/Selection Committee for the purpose of promotion/selection and initial recruitments to the posts in P.BS-5, the following candidates are hereby appointed as Junior Clerks-cum-Typists/Readers/Moharrirs subject to the production of original documents and Medical fitness from the competent Medical authority with effect from the dates of their arrivals per terms and conditions mentioned hereunder:-

S.No & Name/Parentage/Address of the appointees

1. Mr. Fazle Akbar s/o Abdur Rahim r/o Din Bahar Colony.
2. Mr. Akhtar Ali s/o Fazle Ali r/o Mian Kili Prang
3. Mr. Shamsul Arifeen s/o Abdul Mitalib r/o Amba Dher
4. Mr. Javed Khan s/o Purdil Khan r/o Maira Utmanzai
5. Mr. Naseer Mohammad s/o Wazir Mohammad r/o Abazai
6. Mr. Jadeed Gul, J.C., Office of the Deputy Director (IG) RDD, Peshawar
(Subject to the production of original documents provided he is not overage).
7. Mr. Dalil Khan s/o Zahir Khan r/o Gonda c/o S.D.E.O. (Male), Charsadda.
8. Mohammad Sabeeh s/o Fazal Ghani r/o Prang office of the RVA, Hajizai
9. Mr. Mohd Zahir Iqbal s/o Abdul Ghafoor Khan r/o Islamabad, Chd;
10. Mr. Mohammad Wajid s/o Lutaf-ur-Rahman r/o Utmanzai, Moha. Pareesh Khel
11. Mr. Javed Ahmad s/o Sultan Mohammad r/o Dakki
12. Mr. Ahmad Saeed s/o Abdul Azim r/o Utmanzai, Moh: Peeran.
Subject to the production of original and provided he is not overage.
13. Mr. Ejaz Hussain s/o Imranud Din r/o Prang Safar Khel
14. Mr. Hidayatullah s/o Abdul Latif Khan r/o Hajizai, A.Rs Orgn: Jalozai HQ
15. Mr. Bakhtiar Ali s/o Shamshad Ali r/o Aziz Khel, Charsadda.
16. Mr. Bakhtiar Gul s/o Fateh Khan r/o Tarnab, ~~Charsadda~~
(Provided he is relieved by Govt: T.T.C., Mardan)
17. Mr. Rajwali Shah s/o Raham Bad Shah r/o Prang Yasinzai
18. Mr. Jehanzeb s/o Wazir Mohammad r/o Dadu Kili, Tangi
19. Mr. Jan Sher Khan s/o Fazle Rauf r/o Ziarat Kili, Turangzai
20. Mr. Malki Aman s/o Khan Qadir r/o Mirzai
21. Mr. Javed Khan s/o Akbar Khan r/o Ghunda Karkana
22. Mr. Fazal Gul s/o Khaista Gul r/o Mandezai
23. Mr. Sajjad Hameed s/o Noor Hameed r/o Bahra, Charsadda
24. Mr. Rahmat Karim s/o Saïd Karim r/o Prang Sado Khel. Subject to the production of original Matric Certificate and provided he is not overage.
25. Mr. Mohammad Ibrahim Jan s/o Abdus Samad, Near Jamia Masjid, Tehsil Bazar
26. Mr. Farooq Ali s/o Fazle Maabood r/o Prang Safar Khel
27. Mr. Ahmad Jan s/o Mohammad r/o Rajjar, Moh: Mohammadzai, D.A., A.R. Mardan
- (28) 28. Mr. Imdadullah s/o Abdul Ghafoor Khan, r/o Masood Khel, Charsadda
- (29) 29. S. Wahidullah s/o S. Fazle Aafee, r/o Grahi Saidan, Malakabad, Shabqadar.
30. Mr. Ghiyas-ud-Din s/o Tahri-ud-Din r/o Islamabad, Charsadda.

Terms & Conditions
Their appointments are purely temporary and are liable to termination at any time without any notice.

(ii) In case the appointees wish to quit their services, they will have to either serve the undersigned with one month's advance notice or deposit one month's pay in lieu thereof.

(iii) No T.A/M.A is allowed on first appointment.

Attested to be
True Copy

sa/-

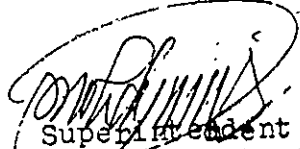
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9

OFFICE ORDER.

ANNEX B

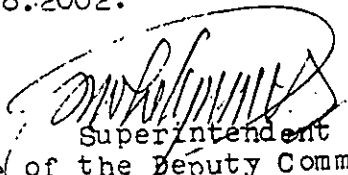
Reference D.C.O's letter No. 2524/DCO dated 6.8.2001 addressed to Secretary Establishment Department N.W.F.P.(S & GAD). The worthy D.C.O Chad: verbally directed the undersigned to inform all the adjusted officials as per list to assume the duty at adjusted post at an early date.


Superintendent
Office of the Deputy Commissioner
Charsadda.

No. 1544-1612 Dated Charsadda 13/8/2001

Copy forwarded to all concerned for information and report.

2. The D.C.O Charsadda for information with reference verbal direction dated 13.8.2002.


Superintendent
Office of the Deputy Commissioner
Charsadda.

Attested to be
True Copy

10

ADJUSTMENT OF SURPLUS STAFF IN DISTRICT CHARSADDA.

UNION COUNCILS IN DISTRICT CHARSADDA.

S.No.	Name of Official	Desig.	Present Posting	Proposed place/ Post of posting	Option	Remarks
1.	Yahya Gul Akhtar Ali	Jr. Clerk N/Q	AD RDD Chd Ex-DC Office	Secy UC Panjpano Naib Qasid UC Panjpano		
2.	M. Javed Afzal Khan	Jr. Clerk N/Q	AD RDD Chd ..do..	Secy UC Guanda Karkana Naib Qasid UC Guanda Karkana		
3.	Meher Mohammad M. Ayaz	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Dhakki Naib Qasid UC Dhakki		
4.	Nasir Mohammad Rahmanullah	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Matta Maghul Khe Naib Qasid UC Matta Maghul Khel		
5.	Zahir Iqbal Noor Din	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Agra N/Q UC Agra		
6.	Ijaz Hussain Saidul Haq	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Rashakai N/Q UC Rashakai		
7.	M. Sabeeh Said Ali Khan	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Hassanza N/Q UC Hassanza		
8.	Farooq Ali Javed Ali	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Battagram N/Q UC Battagram		
9.	Bakhtiar Ali Bakhtiar Khan	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Kangra N/Q UC Kangra		
10.	Jehanzeb No. 3 Mushfaq Ahmad	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Hajizai N/Q UC Hajizai		
11.	Malik Aman Abdul Karim	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Hisara Yasinzai N/Q UC Hisara Yasinzai		
12.	M. Wajid Kifayatullah	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Turamb N/Q UC Turamb		
13.	Jan Sher Sher Afzal Khan	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Turangzai N/Q UC Turangzai		
14.	Ahmad Jan Asmat	Jr. Clerk N/Q	Ex-DC Office ..do..	Secy UC Khannai N/Q UC Khannai		
15.	Javed Ahmad	Jr. Clerk	Ex-DC Office	Secy UC Raj ar-I		

Attested to be
True Copy

11

35	Nadir Khan	Secy	ADRDD	Secy UC Sarki Titara
	Hussain Gul	N/Q	ADRDD	N/Q Sarki Titara
36	Abdul Jamil	Secy	ADRDD	Secy UC Umerzai
	M. Shuaib	N/Q	ADRDD	N/Q Umerzai
37	Ahmad Ali	Secy	ADRDD	Secy UC Muir Umerzai
	Gul Badsah	N/Q	ADRDD	N/Q Muir Umerzai
38	M. Farooq	Secy	ADRDD	Secy UC Behl-lu
	Mumtaz Khan	N/Q	Ex-DC Office	N/Q UC Behl-lu
39	Munawar Khan	Secy	ADRDD	Secy UC M. Nari
	Umer Gul	N/Q	ADRDD	N/Q UC M. Nari
40	M. Iqbal	Secy	ADRDE	Secy UC Dargai
	Umer Hayat	N/Q	Ex-DC Office	N/Q UC Dargai
41	Ihsanullah	Secy	ADRDD	Secy UC Doshra
	Hamid Gul	N/Q	Ex-DC Office	N/Q UC Doshra
42	Anjad Ali	Secy	ADRDD	Secy UC Dheri Zardad
	Robin Masih	Sweeper	Ex-DC Office	N/Q UC Dheri Zardad
43	Abdullah	Secy	ADRDD	Secy UC Shiekho
	Jehanzeb	N/Q	Ex-DC Office	N/Q UC Shiekho
44	Shujaulmulk	Secy	ADRDE	Secy MC Chd - I
	Himayat	Jr. Clerk	ADRDE	N/Q MC Chd - I
45	Murad Ali Shah	Secy	ADRDD	Secy MC Chd - II
	Sardar Shah	Jr. Clrk	Ex-DC Office	N/Q
46	Shahenshah	Secy	ADRDD	Secy UC Utmanzai
	Qaiser Khan	Jr. Clrk	Ex-DC Office	N/Q MC Utmanzai
47	Alamgir Khan	Secy	ADRDD	MC Shab: -II
	Shamsher	daftare	Ex-DC Office	N/Q M.C Saabq
48	M. Fayyaz	Secy	ADRDD	Secy MC - III
	Saleh Mohammad	N/Q	Ex-DC Office	N/Q MC - I
49	Shaukat Zaman	Secy	ADRDE	Secy M.C Tangi
	Abdul Akbar	Jr. Clerk	Ex-DC Office	N/Q MC Tangi

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Amended

12

Surplus Pool Policy

Policy for declaring government servants as surplus and their subsequent absorption/ adjustment.

ANNEX C

I am directed to refer to the subject noted above and to say that the Provincial Government has been pleased to make the following policy for absorption/adjustment of Government Servants declared as surplus in view of the transition of District System and resultant re-structuring of the Government Organizations/Departments etc.

1. POWER WITH REGARD TO THE DECLARATION OF POSTS AS SURPLUS.

The Finance Department in consultation with Department concerned and with the approval of competent authority would decide with regard to the declaration of a particular organization, set up or individual post as redundant or inessential.

2. CREATION OF SURPLUS POOL

There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawl of pay and allowances etc by the employees declared surplus as such.

3. IMPLEMENTATION/MONITORING CELL

For the purpose of coordination and to ensure proper and expeditious adjustment/ absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:-

- a. Additional Secretary(Establishment) E&AD.....Chairman.
- b. Deputy Secretary LG&RD Department.....Member
- c. Deputy Secretary Finance Department.....Member
- d. Deputy Secretary(Establishment) E&AD.....Secretary

4. CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS SURPLUS AS A RESULT OF ABOLITION OF POST.

Consequent upon the abolition of a post in a particular cadre of a department, the junior most employee in that cadre would be declared as surplus. Such posts should be abolished in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawl of pay and allowances and also for consideration for subsequent adjustment.

5. PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES

Notwithstanding anything contained in any other law, rules or regulation to the contrary, for the time being in force, the following procedure for the adjustment of surplus staff would be followed:-

- (a) Before transferring an employee to the surplus pool, he should be given option by the concerned department.

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- (i) to proceed on retirement with normal retiring benefits under the existing rules;
- OR
- (ii) to opt for readjustment/absorption against a future vacancy of his status/BPS which may not necessarily be in his original cadre/department.
- (b) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the surplus pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustments shall be on seniority-cum-fitness basis. For this purpose, the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.
- (c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner:-
- (i) In case of occurrence of vacancies in their corresponding posts in any Government Department/ Organization, the senior most employee in the surplus pool should be adjusted first.
- (ii) In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.
- (iii) If an employee possesses the basic academic qualification but lacks the professional/technical qualification, he may be adjusted against such post subject to imparting the requisite training.
- (iv) (a) The surplus employees holding such posts which fall to promotion quota in about all the Departments, he shall remain in the surplus pool till the availability of a post in the parent department.
- OR
- (b) Where no equivalent post is available the civil servant may be offered a lower post in such manner, and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately preceding his appointment to a lower post shall remain protected.
- (v) ⁸⁴In case an employee already adjusted against a lower post is declared surplus again, he shall regain his original pay scale.
- (vi) ⁸⁵ Surplus employees, who voluntarily opt, may be allowed adjustment in Autonomous/Semi-autonomous bodies with the concurrence of these bodies, where the job is pensionable. The Government will pay pension contribution for the period they rendered regular service under the Government.

⁸⁴ Sub para c (v) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 15.2.2006.

⁸⁵ Sub para c (vi) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 31.5.2006.

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- (d) If no suitable person is available in the surplus pool to be adjusted against the vacant/revised post, such a post would be filled up by initial recruitment manner after getting clearance from the E&AD.
- (e) ⁸⁶Surplus Staff in BPS-01 to 15 shall not be adjusted in the district other than their district of domicile.
- (f) To facilitate the adjustment of surplus staff, it will be incumbent upon the Administrative Department to take up the case with Finance Department for revival of the essential posts so retrenched as a result of general directive issued by Finance Department from time to time, giving cogent reasons/justification. Against the resultant revival/restoration of the post, the concerned Department will place a requisition on the E&AD for transferring of suitable surplus employee against the said post.
- (g) Unless the surplus employees in Class-IV are fully adjusted/ absorbed against their respective graded posts in various Government Departments/Organizations, the general policy of the Finance Department regarding conversion of BPS-1 & 2 posts to posts in fixed salary @ Rs.2000/- per month for contractual appointed should be restricted to the above extent.

6. FIXATION OF SENIORITY

The inter-se seniority of the surplus employees after their adjustment in various Departments will be determined according to the following principles:-

- (a) In case a surplus employee could be adjusted in the respective cadre of his parent Department he shall regain his original seniority in that cadre.
- (b) In case, however, he is adjusted in his respective cadre but in a Department other than his parent Department, he shall be placed at the bottom of seniority list of that cadre.
- (c) In case of his adjustment against a post in a corresponding basic pay scale with different designation/nomenclature of the post, either in his parent Department or in any other department, he will be placed at the bottom of seniority list.
- (d) ⁸⁷In case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again & becoming junior to his juniors.

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⁸⁶ (3) Sub para (c) added to para 5 vide circular letter No.SORVI/E&AD/5-1/2005, dated 19.1.2007.

⁸⁷ Sub para d added to para 6 vide circular letter No. SORVI(E&AD)5-1/2005, dated 15.2.2006

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NOTE:-

In case the officer/official declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall lose the facility/right of adjustment/absorption and would be required to opt for pre-mature retirement from Government service. Provided that if he does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent authority.

7. COMPETENT AUTHORITY TO NOTIFY/ORDER ADJUSTMENT/ABSORPTION.

After the transfer of services of surplus employee to a Department for adjustment/absorption against a vacant/revived post, the Competent Authority to notify/order his absorption/adjustment, shall be the respective appointing authority under the relevant rules for the post.

Provided that the decision of adjustment/absorption of surplus employees by the E&AD shall be binding upon the respective appointing authorities.



(Authority: letter NO.SOR-I(E&AD)1-200/98, Dated 8th June, 2001)

Decision of the meeting of chief secretary with district coordination officers, on the issue of surplus pool.

I am directed to refer to the subject noted above and to say that a meeting was held on 4.8.2001 in the Cabinet Room, Civil Secretariat under the Chairman of Chief Secretary, NWFP to discuss the issues relating to adjustment of employees rendered surplus due to restructuring of the Government Departments and Devolution of Power Plan, 2000. The following decisions were taken in the said meeting:-

- i) Administrative Departments may reconsider adjustments already made against the available posts at District level. The guiding principle for reviewing the adjustment would be aimed at avoiding dislocation of the employees to the possible extent.
- ii) The DCOs will maintain the surplus pool of the employees, declared surplus in the District cadres and their subsequent adjustment against the vacant posts (District Cadres). It must be ensured that only the junior most employees in the scale in the cadre be declared surplus. At the stage of adjustment of Class-IV posts, the senior most be adjusted first. However, for the other posts besides seniority, the background of the individual and requisite experience of the posts shall be kept in view. The surplus pool of Divisional cadres be maintained by the DCOs posted at divisional headquarters.
- iii) The surplus pool of the employees of the Head Offices be maintained by the Head of the concerned Attached Department. Declaring employees surplus and their subsequent adjustment be made strictly according to the spirit of the policy of the Provincial Government issued vide circular letter No.SORI (S&GAD)1-200/98, dated 8.6.2001.

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- iv) The surplus pool of the Secretariat be maintained by the Establishment Department in consultation with the Department concerned.
- v) The salaries of the surplus employees be disbursed through their relevant offices for the time being.
- vi) It was also felt that the sanctioned staff for the office of DCO and other offices is not sufficient. The ministerial staff has no appropriate tiers for the purpose of control and promotion i.e. Senior Clerk and Superintendent etc. The post of Chowkidar/ Sweeper does not exist in the office of DCOs and other offices. Even the other required staff does not meet the bare minimum. The DCOs will, therefore, forward the required proposal for consideration of Finance Department. The budget for the same can be arranged from the available savings due to phasing away of magistracy etc.
- vii) The LR&RD Department may reconsider the adjustment of the employees of the Local Council Board, so as to find out whether any such employees have been adjusted against the regular Government posts funded from the Provincial Consolidated Fund.
- viii) For adjustment of regular Class-IV (BS 1- 4) Government Servant in surplus pool, Finance Department may consider conversion of fixed pay/ contract posts into regular.

2. It is requested that decisions taken during the meeting held on 4.8.2001 may kindly be implemented by all concerned in letter and spirit and compliance report be furnished accordingly.

(Authority; letter NO.SOR-I(S&GAD)I-200/98 (Vol.1), Dated 13th August, 2001)

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OFFICE OF THE
DISTRICT COORDINATION OFFICER,
CHARSADDA.

17

Annex D
NO:DCO(CHD)ESTT: 7(25)/B.Transfer.
Dated Chd. the 13th April, 2002.

OFFICE ORDER.

On relieving of Mr. Muhammad Waheed, Junior Clerk, Copy branch, office of the District Officer, Revenue & State, Charsadda, Mr. Ahmad Jan, Secretary, Union Council, Rajjar-I, is hereby authoris-ed to work as Junior Clerk, Copying Branch, in addition to his own duties without additional remuneration till further orders.

Assistant Coordination Officer
Charsadda.

...

Even No. & date.

Copy to :

- 1- District Officer, Revenue & State, Charsadda.
 - 2- Nazim, Union Council, Rajjar-I.
 - 3- Official concerned.
- for information and necessary action.

[Signature]
Assistant Coordination
Officer, Charsadda.

...

[Signature]
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D

ANNEX
18

OFFICE OF THE
DISTRICT COORDINATION OFFICER
CHARSADDA

No.DCO(Chd)Estt:7(25)/T.Posting
Dated Charsadda the 09/04/2004.

OFFICE ORDER

Mr. Ahmad Jan Secretary Union Council Rajjar-I is hereby directed to work with the Secretary District Regional Transport Authority Charsadda till further orders. However, he will draw his salary against his original post i.e. Secretary UC Rajjar-I.

Mr. Noorud-Din Steno Office of the Secretary District Public Safety Commission Charsadda is hereby authorized to look after the work of Secretary Union Council Rajjar-I in addition to his own duties without any remuneration till the posting of regular Secretary in the same Union Council.

Sd/-
District Coordination Officer
Charsadda

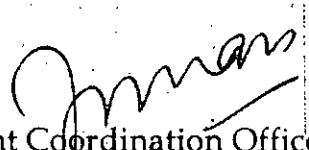
No.& Date Even.

Copy of the above is forwarded to:-

1. The Secretary District Regional Transport Authority Charsadda.
2. The Manager Muslim Commercial Bank Ltd: Charsadda.
3. Nazim Union Council Rajjar-I.
4. Mr. Noorud-Din Steno:/Secretary UC Rajjar-I.
5. Mr. Ahmad Jan for necessary action.

For information and necessary action.

Att: To be
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Assistant Coordination Officer
Charsadda

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ANNEX F
OFFICE OF THE
DISTRICT COORDINATION OFFICER
CHARSADDA

NO DCO (CHD) Est (N) CC/PLA 2963-45
Dated Charsadda the December 2005

OFFICE ORDER.

In continuation of this office order of even number dated 09-04-2004, Mr. Ahmad Jan, working as Clerk RTA Charsadda is hereby directed to ~~hand~~ ^{take} over complete record of the RTA which is presently in the custody of Mr. Jehan Zeb, Reader to DDOR Charsadda and to maintain the record in question properly.

[Signature]
District Coordination Officer
Charsadda

Even No. & Date.

Copy of the above is forwarded to:

1. The Secretary RTA Charsadda for information
2. The Concerned officials for information and compliance

Mr. Ahmad Jan
[Signature]

[Signature]
Human Resource DC Officer
Charsadda

Attested to be
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OFFICE ORDER.

26

Mr. Ahmad Jan Junior Cler (Food Clerk) of this office is hereby directed to work as Meharrir with Deputy District Officer (Revenue) Charsadda in addition to his own duties till further orders.

sd/...

DISTRICT OFFICER REVENUE & ESTATE
CHARSADDA.

OFFICE OF THE DISTRICT OFFICER REVENUE & ESTATE CHARSADDA.

No. 317-18 / DOR&E/EA-4 Dated Charsadda the 13-4-2010

Copy forwarded to:-

1. The Deputy District Officer (Revenue) Charsadda.
2. The Official concerned for information and compliance.

[Handwritten Signature]
DISTRICT OFFICER REVENUE & ESTATE
CHARSADDA.

[Handwritten Signature]
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21

Office of the

District Officer Revenue, Charsadda

Order No. DOR(Estb) 331-38

Dated: 30/4 /2012.

OFFICE ORDER

Due to shortage of staff, the following officials are directed to look after the works of Establishment Assistant and Head Clerk in addition to their own duties, till further orders.

1. Mr. Khan Zada (Senior Clerk) Reader to DDO(J), Charsadda.
2. Mr. Ahmad Jan (Sectary Union Council) working as Moharir in the Office Of DDOR Charsadda.

sd/

District Officer Revenue, *Estab*
Charsadda.

Copy forwarded for information to:

1. The Superintendent Office Of DOR, Charsadda.
2. Head Clerk Office of DOR, Charsadda.
3. Official Concerned for information and compliance.
4. ~~Office copy.~~

[Signature]
District Officer Revenue, *Estab*
Charsadda.

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OFFICE OF THE
DEPUTY COMMISSIONER CHARSADDA,

ANNEX 9

NO.DC(CHD)Estt:7(25)/Posting/Transfer
Dated: January 21, 2013.

22

OFFICE ORDER.

In pursuance of Notification No.SO(E-I)E&AD-4-49/2012 dated 27/12/2012, duties in the newly offices of Deputy Commissioner/Addl. Deputy Commissioner/Assistant Commissioners/Addl. Assistant Commissioners are hereby assigned to the officials mentioned against each:

S.No.	Name of official with designation	Present place of duty	New place of duty
ADDITIONAL DEPUTY COMMISSIONER CHARSADDA			
1.	Mr. Khan Zada, Senior Clerk	Reader DDO(J) Charsadda	Reader to ADC Charsadda
2.	Mr. Ahmad Jan, Secretary	Union Council	Typist to ADC Charsadda
3.	Mr. Naseer, Naib Qasid	DOR Office Charsadda	Naib Qasid
4.	Mr. Juma Gul, Driver	DOR Office Charsadda	Driver
ASSISTANT COMMISSIONER CHARSADDA			
1.	Mr. Rahmat Karim, Secretary	Union Council	Reader to AC Charsadda
2.	Mr. Wisal Mohammad, Steno	DOR Office Charsadda	Steno to AC Charsadda
3.	Mr. Ibrar, Mali	DOR Office Charsadda	Working as Naib Qasid
4.	Mr. Noor Mohammad, Driver	F&P, Charsadda	Driver
ADDITIONAL ASSISTANT COMMISSIONER(REVENUE) CHARSADDA			
1.	Mr. Jehan Zeb, Junior Clerk	DDO(R) Charsadda	Reader
2.	Mr. Ijaz Secretary	Union Council, Khanmai	Moharrar
3.	Mohammad Shoaib, Naib Qasid	Union Council Dargai	Naib Qasid
Additional Assistant Commissioner-I Charsadda			
1.	Mr. Bakhtiar Gul Secretary	Union Council, presently working in DC Office Charsadda	Reader (Criminal cases)
2.	Mr. Muslehuddin	Steno	Steno
3.	Mr. Salahud Din, Driver	ACO Office Charsadda	Driver
4.	Mr. Sikander Iqbal, Secretary	Union Council Panjpaol	Revenue (Moharrar)
Additional Assistant Commissioner-III Charsadda			
1.	Mr. Sabeeh Mohammad, Secretary	Union Council	Reader
2.	Mr. Mustafa, Secretary	Union Council Battagram	Moharrar
3.	Mr. Abdul Ali Naib Qasid	MC-II Charsadda	Naib Qasid
Additional Assistant Commissioner, Shabqadar			
1.	Mr. Meher Muhammad	Secretary U/C Hajizai	Reader
2.	Mr. Jan Muhammad	Secretary Union Council	Typist
3.	Mr. Malik Aman	Secretary Union Council	Moharrar
4.	Mr. Ghaffar Ali	Naib Qasid Union Council	Driver

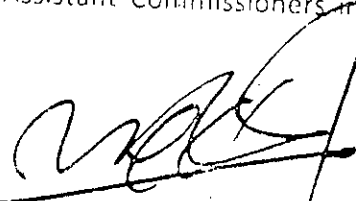
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S.No.	Name of official with designation	Present place of duty	New place of duty
ASSISTANT COMMISSIONER TANGI			
1.	Mr. Azmat Junior Clerk	DDO (R) Office	Reader
2.	Mr. Naseer Secretary Union Council	Secretary U/C	Moharrar
3.	Mr. Nasir, Driver	F&P Deptt. Charsadda	Driver
4.	Mr. Faqir Gul, Naib Qasid	U.C Mandani	Naib Qasid
ADDITIONAL ASSISTANT COMMISSIONER TANGI			
1.	Mr. Sikander Hayat, Junior clerk	DDO(J) Tangi	Reader
2.	Mr. Khurshed Junior Clerk	DOR&E Office	Moharrar
3.	Mr. Faizullah, Naib Qasid	Union Council	Naib Qasid

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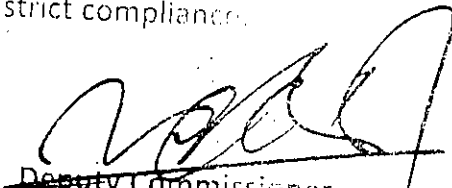
The above official are directed to take-over charge of new assignment , however, the Secretaries and Naib Qasids of Union Councils will perform their new duties with the ADC, Assistant Commissioner and Addl. Assistant Commissioners in addition to their own duties.


Deputy Commissioner
Charsadda

Even No. & Date.

Copy forwarded to the:

1. Additional Deputy Commissioner, Charsadda.
2. Assistant Commissioners, Charsadda and Tangi.
3. Addl. Assistant Commissioners, Charsadda/Tangi and Shabqadar.
4. Addl. Assistant Commissioner (Revenue), Charsadda.
5. Officials concerned for information and strict compliance.


Deputy Commissioner
Charsadda

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OFFICE OF THE
DEPUTY COMMISSIONER
CHARSADDA

Dated: April 16, 2013.

24

OFFICE ORDER

Answer 'H'

No. DC (CHD) Estt: 7(25)/T. Posting/341-33 In order to streamline the working of Deputy Commissioner and subordinate offices, the following internal postings/transfers are hereby ordered with immediate effect in the interest of public:-

S.No.	Name of Official	From	To
1	Mr. Rajwali Shah	Reader to Tehsildar Charsadda	Reader to Tehsildar Tangi
2	Mr. Ibrahim Jan	Reader to N.T Charsadda	Incharge VVR Charsadda
3	Muhammad Kalim	Reader to Tehsildar Shabqadar	Reader to NT Charsadda
4	Mr. Rahim Sher	Reader to NT Shabqadar	Reader to AAC Shabqadar.
5	Mr. Sikandar Hayat	Reader to AAC Tangi	Reader to AAC-III Charsadda
6	Mr. Azmat Khan	Reader to AC Tangi	AAC Tangi
7	Mr. Jehanzeb	Reader to Tehsildar Tangi	Reader to Tehsildar Shabqadar
8	Mr. Asad Hussain	MM to DC	MM to ADC Charsadda ✓
9	Mr. Zahir Iqbal	RBC to AAC (R)	RBC DC Office
10	Mr. Jehanzeb	Reader to AAC (R) Chd	Domicile Clerk Charsadda.
11	Mr. Mushtaq Ahmad	Reader to AAC-III Chd	Reader to NT Shabqadar
12	Mr. Bakhtiar Gul	Safety Comm. Chd	Reader to AC Tangi
13	Ahmad Jan	Typist to ADC Charsadda	Reader to Tehsildar Chd.

(Contd. P/7)

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To

The Worthy Commissioner,
Peshawar Division, Peshawar

Subject: Departmental Representation for adjustment of the appellant in the office of Deputy Commissioner, Charsadda on the analogy of the Judgment of the Hon'ble Service Tribunal dated 30.01.2013 passed in Service Appeal No.999/2012 and other colleagues of the appellant.

Respected Sir,

1. That appellant was appointed as Junior Clerk in the office of the then Deputy Commissioner, Charsadda on 04.08.1988. He served as such as well as Reader/Moharrir/Steno-Typist in the Revenue Courts till the promulgation of the then Local Government Ordinance, 2001 when the Commissionerate System was abolished.
2. That thereafter the appellant was placed in the Surplus Pool and therefrom he was adjusted as Secretary Union Council under the District Coordination Officer in the District Government vide office order dated 13.08.2001 and then vide office order dated 13.04.2002 appellant was deputed to work as Junior Clerk in the Copy Branch of the District Revenue Officer (DOR), Charsadda in addition to his own duties.
3. That later on vide office order dated 09.04.2004, appellant was directed to work with Secretary District Transport Authority, Charsadda and remained on various posts as Reader/Moharrir in the Revenue Courts till December, 2012.
4. That vide Notification dated 27.12.2012 the Local Government Ordinance, 2001 was abolished and consequently the District set up Government Departments stood segregated and realigned with Provincial Administrative Departments and the offices of the District Coordination Officers and District Officer (Revenue & Estate) were reintegrated into the office of the Deputy Commissioner in each district with addition of Additional Deputy Commissioner.
5. That upon the establishment of the office of the Deputy Commissioner Charsadda, vide order dated 21.01.2013, appellant being a Junior Clerk was posted in the office of the Additional Deputy Commissioner Charsadda as Junior/Typist and vide office order dated 16.04.2013, appellant was posted as Reader to Tehsildar Charsadda where he is performing his duties as such till date.

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6. That other colleagues of the appellant namely Muhammad Zahir Iqbal, Muhammad Kaleem Khan, Jehanzeb and Liaqat Ali who too were Secretaries Union Councils under the District Coordination Officer and Mr. Asadullah, Raham Sher and Amjid Ali who were then adjusted in the offices of District Agriculture Officer, District Officer Finance & Planning were repatriated/readjusted in the office of the DOR/DCO now Deputy Commissioner, Charsadda. As the case of the appellant is also identical in nature, therefore, appellant is also entitled to be readjusted/repatriated in the same manner under the principle of consistency and equality before law.
 7. That throughout his service from the abolition of the Commissionerate System in 2001 and the reestablishment of the office of Deputy Commissioner, the ACRs of the appellant for the period from 2002 till 31.12.2013 were written by the DDOR/DOR/DC Charsadda.
 8. That be that as it may the Hon'ble Service Tribunal vide its judgment dated 03.01.2013 in Service Appeal No.999/2012 allowed the appeals of Zahoor Ahmad and Hamid Ali Taj Secretary Union Councils in District Mardan and held as follows:-

"In view of the above discussion, the appeal is accepted and Respondent No.2&3 are directed to repatriate the appellant to his parent Department and adjust him against the vacant post of Senior Clerk. It is further observed that the devolution plan of General Musharaf (R) had played havoc and broken the backbone of Administrative set up. Since the Government is again restoring the Commissionerate System, therefore, instead of fresh recruitments and repatriating the then experienced staff at random, Government should make amendment in the "surplus staff adjustment Policy" specially with respect to the ex-Commissioner and Deputy Commissioner offices staff for readjustment to facilitate smooth running of the above referred offices."

Since the case of the appellant is similar and identical, therefore, appellant is also entitled to the same relief under the law as per the judgments laid down in the case of *"Hameed Akhtar Niazi ...Vs...The Secretary Establishment Division, Government of Pakistan and others"* reported in 1996 SCMR 1185 and in the case of *"Tara Chand and others...Vs...Karachi Water and Sewerage Board, Karachi and others"* reported in 2005 SCMR 499 and another Judgment reported in 2009 SCMR 1 wherein it has been laid down that:

"When a Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covered not only the case of the civil servants who litigated, but also of other civil servants, who might have not taken any legal proceedings, the dictates of justice and rules of good governance demand that the benefits of the decision be extended to the other civil servants, who might not be parties to the litigation instead of compelling them to

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approach the Tribunal or any other forum.”

- 9. That appellant has put in about 28 years service as Reader/ Moharrir in the Revenue hierarchy and due to the abolition and restructuring of the Department and absence of proper Service Structure he remained deprived of his promotional chances, therefore, on the reestablishment of the office of the Deputy Commissioner, it is highly in the interest of justice that he be repatriated/readjusted alongwith seniority so as to redress his grievances.

It is, therefore, humbly requested that on acceptance of this departmental appeal, the appellant may graciously be repatriated/ readjusted in the office of the Deputy Commissioner, Charsadda as now vacancies of Junior Clerks are also available due to the recent promotions of Junior Clerks to higher grades alongwith seniority.

Yours faithfully

AJ

Haji Ahmad Jan
 Secretary,
 Union Council/ now Reader
 Tehsildar Charsadda,

Dated: 17/06/2014

D/No. 7406
Dt: 17.6.2014

D/NO: 7406
dated 17/06/2014

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IN THE COURT OF
COMMISSIONER PESHAWAR DIVISION
PESHAWAR

28

ANNEX J

APPEAL NO: 57 /2014

DATE OF INSTITUTION: 17.06.2014

DATE OF DECISION: 10.09.2014

Haji Ahmad Jan, Secretary Union Council, Charsadda(Appellant)

VERSUS

Deputy Commissioner Charsadda.....(Respondent)


ORDER

This order will dispose off the instant departmental representation preferred by the above named appellant for adjustment in the office of Deputy Commissioner, Charsadda.

Brief facts of the case leading to filing the instant departmental representation is that the appellant was appointed as Junior Clerk in the office of Deputy Commissioner Charsadda. After abolition of the Deputy Commissioner's offices due to promulgation of the then Local Government Ordinance, 2001, the appellant was placed in the Surplus Pool. Subsequently, he was adjusted as Secretary Union Council in District Government, however, served in the defunct DCR's office against various posts in addition to his own duties. With the revival of DC office, the appellant was posted in the office of Additional Deputy Commissioner Charsadda and later-on transferred and posted as Reader to Tehsildar Charsadda till date.

The appellant's prayer is that since his other colleagues were repatriated/readjusted in the office of DCR/DCO (now Deputy Commissioner Office) Charsadda, he is also entitled to be re-adjusted/repatriated in the same manner. The appellant in support of his argument also referred to a judgment of Khyber Pakhtunkhwa Service Tribunal passed in Service appeal No. 999/2012 filed by a Secretary Union Council of District Mardan for re-adjustment in the office of Deputy Commissioner office where the Hon'ble court while beside accepting the appeal held that "Since the Government is restoring the Commissionerate system, therefore, instead of fresh recruitments and repatriating the then experienced staff at random, Government should make amendment in the "Surplus staff adjustment policy" especially with regard to the ex-Commissioner and Deputy Commissioner offices for readjustment to facilitate smooth running of the above referred offices".

Appellant and Representative of the Deputy Commissioner Charsadda present and heard. Comments received from the Deputy Commissioner Charsadda also examined. Perusal of the file and record reveals that though it is a similar and identical nature appeal but the judgment referred to above in its state can't benefit or provide relief to the appellant. In-fact an official once adjusted in an office can't be readjusted in another office, hence no space in law exists to provide relief to the appellant for readjustment in his parent office. Moreover, the court has directed that Government should make amendment in the surplus staff adjustment policy with regard to employees of the ex-Commissioner and Deputy Commissioner offices. Since the appellant has once been adjusted as Secretary Union Council, hence he can't be readjusted/repatriated in the Deputy Commissioner's office as per present policy. The representation in hand is, therefore, rejected. File to GRR.


COMMISSIONER
PESHAWAR DIVISION PESHAWAR.

ANNOUNCED
10.09.2014

Attested to be
True Copy

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

CONFIDENTIAL REPORT

For the period from 1-1-2002 To 31-12-2002

28
29

PART-I

ANNEX K'

- 1. Name Ahmed Jam
- 2. Designation J/C Secretary W/C Ration-I
- 3. Date of Birth 1-10-1967
- 4. Date of entry into Government Service 18-9-1986
- 5. Branches in which employed during the year, with period Secretary W/C Ration-I

PART-II

A PERFORMANCE	A1	A	B	C	D
(1) Referencing, paging of notes and correspondence.	✓				
(2) Movement of files and record of suspense cases.	✓				
(3) Keeping files and papers in tidy condition.	✓				
(4) Promptness and accuracy in disposing of work.	✓				
B PERSONAL TRAITS					
(5) Intelligence.	✓				
(6) Knowledge of procedure and regulations.	✓				
(7) Punctuality.	✓				
(8) Cooperation and tact.	✓				
(9) Amenability to discipline	✓				
(10) Skill in drafting.	✓				

Attested to be
True Copy

K

PEN PICTURE

He is a good officer. He keep his record well & is fit for promotion on his own term.

Reporting Officer's Signature [Signature]

Name (in Block Letters) SAJID IKHAIL

Designation Inspector UIC Rajkot

Dated: 11/2/2013

General Remarks by higher officers:

Countersigning Officer's Signature [Signature]

Name (in Block Letters) _____

Designation Assistant
Coordination Officer
Chasulda

Dated: _____

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

30

CONFIDENTIAL REPORT

For the period from 1-1-2003 To 31-12-2003

PART-I

1. Name Ahmad Jan
2. Designation J-2, Secretary UIC Region-I
3. Date of Birth 1-10-1967
4. Date of entry into Government Service 18.9.1986
5. Branches in which employed during the year, with period Secretary UIC Region-I

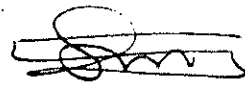
PART-II

A	PERFORMANCE	A1	A	B	C	D
(1)	Referencing, paging of notes and correspondence.	✓				
(2)	Movement of files and record of suspense cases.	✓				
(3)	Keeping files and papers in tidy condition.	✓				
(4)	Promptness and accuracy in disposing of work.	✓				
B	PERSONAL TRAITS					
(5)	Intelligence.	✓				
(6)	Knowledge of procedure and regulations.	✓				
(7)	Punctuality.	✓				
(8)	Cooperation and tact.	✓				
(9)	Amenability to discipline	✓				
(10)	Skill in drafting.	✓				

Attested to be
True Copy

PEN PICTURE

He is a great official hard worker
Heel has vedant will He is fit
for promotion in his own term



Reporting Officer's Signature

Name (in Block Letters)

SAJID KHAN

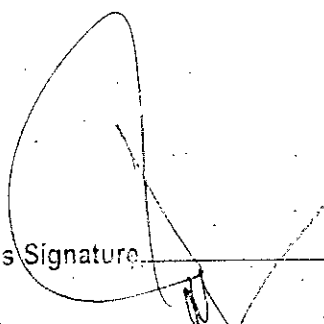
Designation

Magistrate VHC Raikot

Dated:

17/2002

General Remarks by higher officers:



Countersigning Officer's Signature

Name (in Block Letters)

Assistant
Coordination Officer
Charsada

Dated:

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

31

CONFIDENTIAL REPORT

For the period from 1-1-2004 To 31-12-2004

PART-I

1. Name Ahmad Jan
2. Designation TIC RTA Clerk
3. Date of Birth 1-10-1967
4. Date of entry into Government Service 18-9-1986
5. Branches in which employed during the year, with period RTA, Clerk

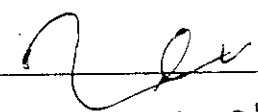
PART-II

A PERFORMANCE	A1	A	B	C	D
(1) Referencing, paging of notes and correspondence.		u			
(2) Movement of files and record of suspense cases.		u			
(3) Keeping files and papers in tidy condition.		u			
(4) Promptness and accuracy in disposing of work.	u				
B PERSONAL TRAITS					
(5) Intelligence.		u			
(6) Knowledge of procedure and regulations.	u				
(7) Punctuality.	u				
(8) Cooperation and tact.	u				
(9) Amenability to discipline					
(10) Skill in drafting.		u			

Attested to be
True Copy

PEN PICTURE

He is young, energetic and co-operative official and is fit for promotion

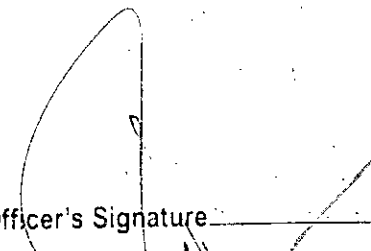
Reporting Officer's Signature 

Name (in Block Letters) MOHAMMAD JAMIL

Designation Secretary RTA, Charsadda

Dated: 31.12.2014

General Remarks by higher officers:

Countersigning Officer's Signature 

Name (in Block Letters) _____

Designation Assistant
Coordination Officer
Charsadda

Dated: _____

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

32

CONFIDENTIAL REPORT

For the period from 01-01-2005 To 31-12-2005

PART-I

1. Name Ahmad Jall
2. Designation J/C
3. Date of Birth 01-10-1967
4. Date of entry into Government Service 18.9.1986
5. Branches in which employed during the year, with period RFA clere

PART-II

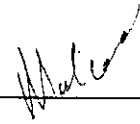
A PERFORMANCE	A1	A	B	C	D
(1) Referencing, paging of notes and correspondence.	✓				
(2) Movement of files and record of suspense cases.	✓				
(3) Keeping files and papers in tidy condition.		✓			
(4) Promptness and accuracy in disposing of work.		✓			
B PERSONAL TRAITS					
(5) Intelligence.	✓				
(6) Knowledge of procedure and regulations.	✓				
(7) Punctuality.		✓			
(8) Cooperation and tact.	✓				
(9) Amenability to discipline	✓				
(10) Skill in drafting.					

Attested to be
True Copy

PEN PICTURE

He is a good stereo, hard worker &
keeps record very well. He is fit
for promotion his own time.

Reporting Officer's Signature



Name (in Block Letters)

POST MOHAMMAD

Designation

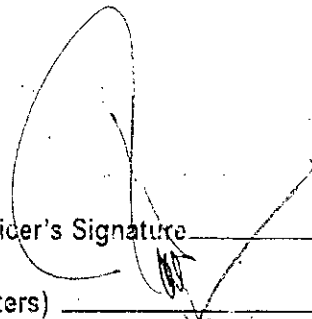
Secretary PTA, SDP/CLW

Dated:

31/12/2005

General Remarks by higher officers:

Countersigning Officer's Signature



Name (in Block Letters)

Assistant

Coordination Officer

Designation

Dated:

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

CONFIDENTIAL REPORT

33

For the period from 1-1-2006 To 31-12-2006

PART-I

1. Name Ahmad Jan
2. Designation J/c RTA, Clerk
3. Date of Birth 1-10-1967
4. Date of entry into Government Service 18-9-1986
5. Branches in which employed during the year, with period RTA, Clerk


PART-II

A	PERFORMANCE	A1	A	B	C	D
(1)	Referencing, paging of notes and correspondence.		✓			
(2)	Movement of files and record of suspense cases.		✓			
(3)	Keeping files and papers in tidy condition.	✓				
(4)	Promptness and accuracy in disposing of work.		✓			
B	PERSONAL TRAITS					
(5)	Intelligence.	✓				
(6)	Knowledge of procedure and regulations.		✓			
(7)	Punctuality.		✓			
(8)	Cooperation and tact.		✓			
(9)	Amenability to discipline	✓				
(10)	Skill in drafting.		✓			

Attested to be
True Copy


PEN PICTURE

Well disciplined official, knows his job very well fit for promotion.

Reporting Officer's Signature 
Name (in Block Letters) MIAN ASFANDIYAR
Designation Secretary R.T.A
Chansadka

Dated: _____

General Remarks by higher officers:

Countersigning Officer's Signature 
Name (in Block Letters) _____
Designation Assistant
Coordination Officer
Baran

Dated: _____

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

CONFIDENTIAL REPORT

34

For the period from 1-1-2007 To 31-12-2007

PART-I

1. Name Ahmed Jan
2. Designation Jr Clerk
3. Date of Birth 1-10-1967
4. Date of entry into Government Service 18.9.1986
5. Branches in which employed during the year, with period RTA, Clerk

PART-II

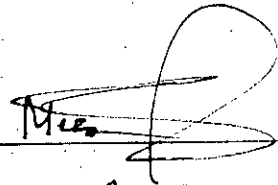
A	PERFORMANCE	A1	A	B	C	D
(1)	Referencing, paging of notes and correspondence.	✓				
(2)	Movement of files and record of suspense cases.		✓			
(3)	Keeping files and papers in tidy condition.	✓				
(4)	Promptness and accuracy in disposing of work.		✓			
B PERSONAL TRAITS						
(5)	Intelligence.	✓				
(6)	Knowledge of procedure and regulations.		✓			
(7)	Punctuality.		✓			
(8)	Cooperation and tact.	✓				
(9)	Amenability to discipline		✓			
(10)	Skill in drafting.		✓			

Attested to be True Copy

PEN PICTURE

Fit for accelerated promotion.

Reporting Officer's Signature



Name (in Block Letters)

MAN ASFANDIYA R

Designation

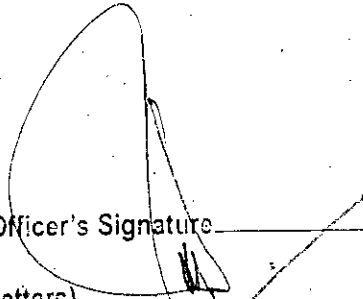
Secretary R/A

Charsadda

Dated: _____

General Remarks by higher officers:

Countersigning Officer's Signature



Name (in Block Letters)

Assistant

Designation

Coordination Officer

Charsadda

Dated: _____

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

CONFIDENTIAL REPORT

35

For the period from 1-1-2008 To 31-12-2008

PART-I

1. Name Ahmad Jan.
2. Designation 7/C
3. Date of Birth 1-10-1967
4. Date of entry into Government Service 18-9-1986
5. Branches in which employed during the year, with period R.T.A. Clerk
with secretary R.T.A, Charsada.

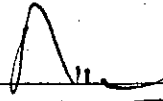
PART-II

A	PERFORMANCE	A1	A	B	C	D
(1)	Referencing, paging of notes and correspondence.	<u>Ac</u>				
(2)	Movement of files and record of suspense cases.	<u>Ac</u>				
(3)	Keeping files and papers in tidy condition.		<u>Ac</u>			
(4)	Promptness and accuracy in disposing of work.	<u>Ac</u>				
B PERSONAL TRAITS						
(5)	Intelligence.	<u>Ac</u>				
(6)	Knowledge of procedure and regulations.		<u>Ac</u>			
(7)	Punctuality.	<u>Ac</u>				
(8)	Cooperation and tact.		<u>Ac</u>			
(9)	Amenability to discipline	<u>Ac</u>				
(10)	Skill in drafting.		<u>Ac</u>			

Attch to be
True Copy

PEN PICTURE

Punctual, hardworking and dependable official

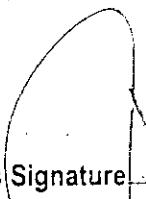
Reporting Officer's Signature 

Name (in Block Letters) **NADEEM ULLAH**

Designation **Secretary RDA,
Charsadda.**

Dated: 31/12/2008

General Remarks by higher officers:

Countersigning Officer's Signature 

Name (in Block Letters) _____

Designation **Assistant
Coordination Officer
Charsadda**

Dated: _____

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

CONFIDENTIAL REPORT

36

For the period from 1-1-2004 To 31-12-2004

PART-I

1. Name Abmad Jan
2. Designation 7/1 class
3. Date of Birth 1-10-1967
4. Date of entry into Government Service 18-9-2000
5. Branches in which employed during the year, with period Domestic class

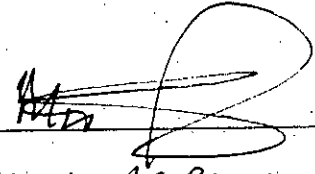
PART-II

A PERFORMANCE	A1	A	B	C	D
(1) Referencing, paging of notes and correspondence.	✓				
(2) Movement of files and record of suspense cases.		✓			
(3) Keeping files and papers in tidy condition.	✓				
(4) Promptness and accuracy in disposing of work.		✓			
B PERSONAL TRAITS					
(5) Intelligence.	✓				
(6) Knowledge of procedure and regulations.		✓			
(7) Punctuality.	✓				
(8) Cooperation and tact.	✓				
(9) Amenability to discipline	✓				
(10) Skill in drafting.		✓			

Attested to be
True Copy

PEN PICTURE

He carries his job well. keep record
of office work. obedient official &
fit for promotion on his own terms.

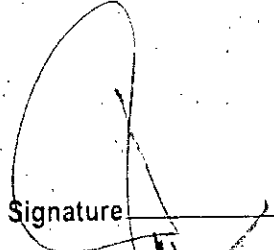
Reporting Officer's Signature 

Name (in Block Letters) ANIL ASHANIYAN

Designation Inspector

Dated: _____

General Remarks by higher officers:

Countersigning Officer's Signature 

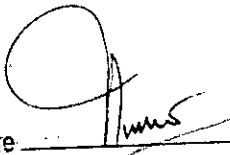
Name (in Block Letters) _____

Designation Assistant
Coordination Officer
Gwalior

Dated: _____

PEN PICTURE

Knows very well his job. Done commendable job in distribution of relief goods in transparent manner amongst the flood affected. Took keen interest in price checking in the entire district. He was found hard worker, energetic and honest.

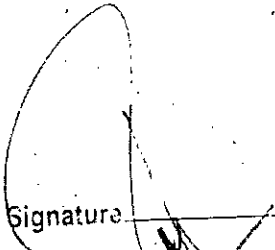
Reporting Officer's Signature 

Name (in Block Letters) IHSAN ULLAH

Designation Deputy District Officer, (D) Chel.

Dated: _____

General Remarks by higher officers:

Countersigning Officer's Signature 

Name (in Block Letters) _____

Designation Assistant Coordination Officer
Charanada

Dated: _____

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

38

CONFIDENTIAL REPORT

For the period from 1-1-2011 To 30-11-2011

PART-I

1. Name Ahmad Jan
2. Designation J/C
3. Date of Birth 1-10-1967
4. Date of entry into Government Service 18-9-1986
5. Branches in which employed during the year, with period revenue division

PART-II

A PERFORMANCE	A1	A	B	C	D
(1) Referencing, paging of notes and correspondence.	h				
(2) Movement of files and record of suspense cases.	h				
(3) Keeping files and papers in tidy condition.	h				
(4) Promptness and accuracy in disposing of work.	h				
B PERSONAL TRAITS		h			
(5) Intelligence.	h				
(6) Knowledge of procedure and regulations.	h				
(7) Punctuality.					
(8) Cooperation and tact.		h			
(9) Amenability to discipline	h				
(10) Skill in drafting.		h			

Attested to be
True Copy

PEN PICTURE



Knows his job very well. He done tremendous job in Census
 operation 2011. Police keen interest in court work as well as
 price checking with U.S. He was found hard working and
 honest. Put for promotion in his own time.

Reporting Officer's Signature

Name (in Block Letters)

SHAWKAT ALI

Dated:

30-11-2011

Designation

Deputy District Officer (Police)

General Remarks by higher officers:

Countersigning Officer's Signature

Name (in Block Letters)

A. I. Khan
 Coordination Officer
 Chitradgarh

Dated:

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

CONFIDENTIAL REPORT

39

For the period from 01-01-2012 To 31-12-2012

PART-I

1. Name Abmal Jan
2. Designation 7/clerk
3. Date of Birth 01-10-1967
4. Date of entry into Government Service 18-09-1986
5. Branches in which employed during the year, with period Mohamud D Doo/C/O

PART-II

A PERFORMANCE	A1	A	B	C	D
(1) Referencing, paging of notes and correspondence.		IR			
(2) Movement of files and record of suspense cases.		IR			
(3) Keeping files and papers in tidy condition.		IR			
(4) Promptness and accuracy in disposing of work.	IR				
B PERSONAL TRAITS					
(5) Intelligence.	IR				
(6) Knowledge of procedure and regulations.	IR				
(7) Punctuality.	IR				
(8) Cooperation and tact.	IR				
(9) Amenable to discipline		IR			
(10) Skill in drafting.	IR				

Attested to be
True Copy

PEN PICTURE

The official is experienced, intelligent and honest. His performance during the period under report remains v. good

Reporting Officer's Signature

[Handwritten Signature]

Name (in Block Letters)

SAJID AHMAD

Designation

DEPUTY DISTRICT OFFICER
REVENUE, CHARSADDA

Dated:

13/9/2012

General Remarks by higher officers:

Countersigning Officer's Signature

[Handwritten Signature]

Name (in Block Letters)

Dated:

Assistant
Coordination Officer
Charsadda

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

40

CONFIDENTIAL REPORT

For the period from 01-7-2013 To 31-12-2013

PART-I

1. Name Haji Ahmad Jan
2. Designation JIC 01-10-1967
3. Date of Birth 18 Sept 1986 1-10-1967
4. Date of entry into Government Service 18 Sept 1986
5. Branches in which employed during the year, with period Reader to JHS, BACU

PART-II

A PERFORMANCE	A1	A	B	C	D
(1) Referencing, paging of notes and correspondence.	W				
(2) Movement of files and record of suspense cases.	W				
(3) Keeping files and papers in tidy condition.	W				
(4) Promptness and accuracy in disposing of work.		W			
B PERSONAL TRAITS	W				
(5) Intelligence.		W			
(6) Knowledge of procedure and regulations.		W			
(7) Punctuality.	W				
(8) Cooperation and tact.	W				
(9) Amenability to discipline.	W				
(10) Skill in drafting.					

Attested to be
True Copy

PEN PICTURE

The official is a hardworking cooperative
He knows his job well He is
fit for promotion

Reporting Officer's Signature *Attaullah*

Name (in Block Letters) **ATTAULLAH**

Designation *Tehsil Deputy C.O.*

Dated: 30-12-2013

General Remarks by higher officers:

Countersigning Officer's Signature *[Signature]*

Name (in Block Letters) _____

Designation *Deputy Commissioner, Chanyal*

Dated: _____

GOVERNMENT OF N.-W.F.P.

DEPARTMENT

CONFIDENTIAL REPORT

For the period from 1-1-2013 To 30-6-2013

41

PART-I

1. Name Haji Ahmad Jinn
2. Designation J/C Typist
3. Date of Birth 1-10-1967
4. Date of entry into Government Service 18.9.1986
5. Branches in which employed during the year, with period Typist to ADC Charsualla

PART-II

A PERFORMANCE		A1	A	B	C	D
(1)	Referencing, paging of notes and correspondence.	<u>Plus</u>				
(2)	Movement of files and record of suspense cases.	<u>Plus</u>				
(3)	Keeping files and papers in tidy condition.	<u>Plus</u>				
(4)	Promptness and accuracy in disposing of work.		<u>Plus</u>			
B PERSONAL TRAITS						
(5)	Intelligence.	<u>Plus</u>				
(6)	Knowledge of procedure and regulations.		<u>Plus</u>			
(7)	Punctuality.	<u>Plus</u>				
(8)	Cooperation and tact.	<u>Plus</u>				
(9)	Amenability to discipline	<u>Plus</u>				
(10)	Skill in drafting.	<u>Plus</u>				

Attested to be Plus
True Copy

PEN PICTURE

The official was found punctual, hard working and docile. Always helps his colleagues and deep order of seniors. Fit for promotion.

Reporting Officer's Signature

[Handwritten Signature]

Name (in Block Letters)

HAZARULLAH

Dated:

30-6-13

Designation

ADC, CHARSADDA

General Remarks by higher officers:

I agree with the remarks of IO.

Countersigning Officer's Signature

[Handwritten Signature]

Name (in Block Letters)

JAMAL ZAHAR AHMED

Dated:

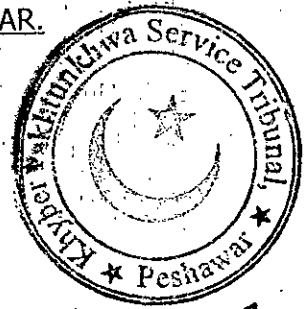
Designation

Deputy Commissioner

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 999/2012

Date of Institution. ... 11.9.2012
Date of Decision ... 3.01.2013



Zahoor Ahmad, Secretary U/C Rustam/Senior Clerk,
Mardan. ...

(Appellant)

VERIFIED

Amir

42

1. The Government of Khyber Pakhtunkhwa through Secretary, Establishment & Administration Civil Secretariat, Peshawar.
2. The District Coordination Officer, District, Mardan.
3. The District Officer (Revenue & Estate) Peshawar.
4. Samiullah, Junior Clerk, Distt. Officer (R&E) Mardan.
5. Muhammad Sohail, Junior Clerk, District Officer (R&E) Mardan.
6. Ghulam Sarwar, Junior Clerk, DCO office, Mardan. (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT 1974, AGAINST THE IMPUGNED ORDER COMMUNICATED VIDE LETTER DATED 4.9.2012 ISSUED BY RESPONDENT NO. 2 VIDE WHICH THE DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS REJECTED/FILED.

MR. KHALID RAHMAN,
Advocate

For appellant.

MR. SHERAFGAN KHATTAK,
Addl. Advocate General

For official respondents.

MR. AMJAD ALI,
Advocate

For private respondents.

MR. NOOR ALI KHAN,
SYED MANZOOR ALI SHAH,

MEMBER
MEMBER

JUDGMENT

NOOR ALI KHAN, MEMBER This appeal has been filed by Zahoor Ahmad, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 4.9.2012 issued by respondent no.2, whereby his departmental appeal for repatriation to parent department has been rejected. It has been prayed that on acceptance of the appeal, the impugned order may be set aside and the appellant be repatriated to his parent department and adjusted against the vacant post of Senior Clerk with all other consequential benefits.

ATTESTED

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Khyber Pakhtunkhwa
Service Tribunal,

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2. Brief facts of the case are that the appellant was initially appointed as Junior Clerk on 3.6.1982 in the office of the then Deputy Commissioner Mardan and later on promoted to the post of Senior Clerk. The department has also maintained service book of the appellant wherein necessary entries have been made from time to time. At the moment appellant has at his credit more than 29 years service. In the year 2001 the Devolution system was introduced under which the Commissionerate System was abolished resultantly appellant and others were declared surplus and were placed under the surplus pool. Vide order dated 8.9.2001 appellant was adjusted as Secretary Union Council Maho Dheri Mardan and later on posted to Union Council Rustam (Mardan) where he has been performing his duties till date. Recently three vacancies of Senior Clerks in the office of respondent No. 3 became vacant. The appellant filed departmental representation to respondent No. 2 on 25.6.2012 for his adjustment against one of the posts, which was rejected/filed vide impugned order communicated vide letter dated 4.9.2012, hence the present appeal.

3. The appeal was admitted to regular hearing on 20.9.2012 and notices were issued to the respondents. The respondents have filed their written replies and contested the appeal. The appellant also filed rejoinder in rebuttal.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that the appellant has not been treated in accordance with the law, rule and policy on the subject. In similar circumstances other colleagues of the appellant namely Malak Junaid, Israr Muhammad, Liaqat Ali, Kifayatur Rahman, Senior Clerks working in Defunct Deputy Commissioner office became surplus due to devolution plan and then adjusted in other departments. On creation of posts, they were repatriated and readjusted in their parent department. Mr. Liaqat Ali and Kifayatur Rahman, who were adjusted in the Education Department, Malak Junaid and Israr Muhammad in Excise & Taxation Department were repatriated and readjusted in DOR office Mardan. Similarly private respondent No. 4 namely Samiullah, who was adjusted as Secretary Union Council, has been transferred mutually and adjusted as Junior Clerk in DOR office Mardan vide order dated 26.1.2006. Likewise, M/S Murad Ali, Assistant, adjusted in Fisheries/Agriculture Department, Khalid Pervez, Senior Clerk in Education Department, Aftab Ali Junior Clerk in Health Department, Syed Shah Hussain, Junior Clerk in Education Department, Syed Maqbool Shah, Lab. Assistant in Education Department, and Tariq Hussain, Lab. Assistant in Education Department were repatriated and re-adjusted in Commissioner office Mardan, vide order dated 8.7.2009. On 1.8.2009, six more officials of various categories adjusted in other

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departments permanently have been repatriated and re-adjusted in their parent Department i.e. Commissioner's office Mardan. He further argued that no policy regarding adjustment of ex-staff had been framed by the respondents as yet and they are trying to adjust them through pick and chose, the practice against the law/rules. All the citizens are equal before law and should be treated equally in accordance with the law as per Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan. The appellant being adjusted against a wrong post was more deserving for repatriation and adjustment in his parent department but he has been discriminated. He requested that the appeal may be accepted as prayed for.

6. The learned counsel for private respondents No. 4 to 6 opposed the plea taken by the appellant regarding repatriation of his other colleagues to the office of District Officer (Revenue & Estate) Mardan because the persons as referred to above are almost Junior Clerks and Assistants while the appellant is a Senior Clerk. The appellant while serving as Senior Clerk in the defunct Deputy Commissioner Office Mardan became surplus due to devolution plan. He was then adjusted as Secretary Union Council and after 11 years service under District Government, he could not ask for his repatriation to his parent department. In fact there are three posts of Senior Clerk lying vacant in the District Officer (R&E), DCO and Finance & Planning offices Mardan against which DPC meeting was called to consider the promotion cases of Junior Clerks including the private respondents, and if the appellant is repatriated, the private respondents would suffer irreparable loss and would be deprived of their legitimate rights of promotion. He requested that the appeal may be dismissed. The learned AAG also adopted the arguments advanced by the learned counsel for the private respondents.

7. The Tribunal observes that after devolution plan in the year 2001, officials of various categories serving in the defunct Commissioner and Deputy Commissioner offices became surplus. The appellant while serving as Senior Clerk in the office of Defunct Deputy Commissioner office Mardan had also been declared surplus. He was then adjusted as Secretary Union Council in his own pay and scale. On creation of DCOs, DOR offices and restoration of commissionerates, the official respondents started repatriation/adjustment of their ex-staff without framing policy/instructions. They must frame a unified policy for adjustments of their old staff on the basis of experience and other factors; but no such policy framed and adopted the practice of pick & chose. The appellant being adjusted against the wrong post as Secretary Union Council in his own pay and scale was more deserving for adjustment in his parent department but he has been denied for no plausible reason.

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8. In view of the above discussion, the appeal is accepted and respondents No. 2 and 3 are directed to repatriate the appellant to his parent department and adjust him against the vacant post of Senior Clerk. It is further observed that Devolution plan of General Mir Hamraff (II) had played havoc upon, and broken the back-bone of Administrative set up. Since government is again restoring Commissionerate system, therefore, instead of fresh recruitments and repatriation the then experience staff at random, government should make amendment in "surplus staff adjustment policy" specially with respect to Ex-Commissioner and Deputy Commissioner offices staff only for readjustment to facilitate smooth running of the above referred offices.

9. This order will also dispose of Service Appeal No. 1002/2012 titled "Hamid Ali Taj Versus the Government of Khyber Pakhtunkhwa through Secretary Establishment & Administration Department, Peshawar etc.", in the same manner.

ANNOUNCED.
3.1.2013

Sd/- Noor Ali Khan
Member
Sd/- Iqbal Mansoor Ali Shah
Member

Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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1996 S C MR 1185

[Supreme Court of Pakistan]

Before Ajmal Mian, Saiduzzaman Siddiqui and Mukhtar Ahmad Junejo, JJ

HAMEED AKHTAR NIAZI---Appellant

versus

THE SECRETARY, ESTABLISHMENT DIVISION, GOVERNMENT OF PAKISTAN and others---Respondents

Civil Appeal No.345 of 1987, decided on 24th April, 1996.

(On appeal from the judgment dated 11-12-1986 of the Federal Service Tribunal, Islamabad, passed in Appeal No. 124(L) of 1980).

Per Ajmal Mian, J.; Saiduzzaman Siddiqui, J. agreeing---**(a) Civil Servants Act (LXXI of 1973)---**

----S. 8(4)---Constitution of Pakistan (1973), Art. 212(3)---Establishment Secretary's D.O. Letter No.2/4/75-AVI, dated 2-10-1975---Seniority---Merger of four occupational groups of civil servants--
 -Leave to appeal was granted to consider the questions as to whether the seniority list of 1979 was properly prepared in accordance with law and what was the effect of the reliance from the Government side in the Supreme Court in another appeal on the list of 1976; whether when preparing the list of 1979, S. 8(4) of the Civil Servants Act, 1973 and other related provisions of law had been kept in view; whether a civil servant could be allowed to count his seniority in a post from a date earlier than the one of his actual regular continuous officiation in that post; if not whether the fact that the respondents in appeal belonged to the different civil services of Pakistan would make any difference; whether one uniform principle of seniority would apply to all members of the Secretariat Group or the officers joining the Group from different sources/cadres would have to be treated differently; if so, whether such treatment with or without the support of statutory rules or directions would not be in contravention of the relevant provisions of Civil Servants Act, 1973 and in that context what was the effect of the abolition of C.S.P. Cadre; whether the eligibility of civil servant for appointment to a selection post conferred any right of seniority in that post and cadre without issuance of a formal promotion/appointment order in accordance with the prescribed procedure and whether in that context a civil servant belonging to ex C.S.P. Cadre was entitled to ' automatic promotion to the post of Deputy Secretary after he had completed eight years of service but without the requirement of being actually selected/promoted or appointed; and what was the effect of the Supreme Court judgment in Khizar Haider Malik ad others v Muhammad Rafiq Malik and another 1987 SCMR 78 on the case.

(b) Civil Servants Act, (LXXI of 1973)---

----Ss. 8 & 23---Seniority---Merger of C.S.P and P.S.P cadres and creation of APUG---Seniority of such an officer, who was working in province or elsewhere, could not be distorted/disturbed to his detriment on account of the merger of said groups and creation of APUG and junior of such civil servant could not be made senior to him nor a junior to his junior could be made senior to him but this has to be done within the framework of the rules of reorganization of services---If the case of

any civil servant does not fall within the ambit of said re-organisation rules, S. 23 of the Civil Servants Act, 1973 can be pressed into service by the President of Pakistan to oblivate the inequitable and unjust result arising out of the merger of the two cadres in respect of seniority of any of the civil servants.

ESTACODE, 1989 Edn., pp. 1014, 1096 and 1097 ref.

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(c) Service Tribunals Act (LXX of 1973)---

---S. 4---Constitution of Pakistan (1973), Art.212---Appeal to Service Tribunal or Supreme Court---
Effect---If the Service Tribunal or Supreme Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates and rule of good governance demand that the benefit of such judgment by Service Tribunal/Supreme Court be extended to other civil servants, who may not be parties to the litigation instead of compelling them to approach the Service Tribunal or any other forum.

Per Mukhtac Ahmad Junejo, J.---

(d) Service Tribunals Act (LXX of 1973)---

---S. 4---Appeal to Service Tribunal, scope and extent.

M. Bilal, Senior Advocate Supreme Court and Ejaz Muhammad Khan, Advocate-on-Record for Appellant.

Raja Muhammad Bashir, Deputy Attorney-General and Ch. Akhtar Ali, Advocate-on-Record for Respondents.

Dates of hearing: 7th and 8th April, 1996.

JUDGMENT

AJMAL MIAN, J.---This is an appeal with the leave of this Court against the judgment dated 11-12-1986 passed by the Federal Service Tribunal, Islamabad, hereinafter referred to as the Tribunal, passed in Appeal No.124(1)

of 1980, filed by the appellant, praying for the following reliefs:--

"16. In view of the above, the appellant (who was eventually promoted with effect from 28-8-1980) humbly prays that this honourable Tribunal may kindly direct the respondent No. 1 to proceed in accordance with law and to declare him to have been promoted before the ineligible and junior officers promoted in August, 1979 and February and May, 1980. It is further prayed that full salary and all other benefits may also kindly be allowed to the appellant from the date on which he would have been promoted if his name had been put up for the consideration of the C.S.B. according to his seniority. Cost may also graciously be allowed."

dismissing the same for the reasons recorded in Appeal NO. I 16(R) of 1981, filed by one M. Ramizul Haq.

2. Leave to appeal was granted to consider inter alia the following questions:--

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- (a) Whether the seniority list of 1979 was properly prepared in accordance with law and what is the effect of the reliance from the Government side in the Supreme Court in another appeal on the list of 1976?
- (b) Whether when preparing the list of 1979, section 8(4) of the Civil Servants Act, 1973 and other related provisions of law, have been kept in view?
- (c) Whether a civil servant can be allowed to count his seniority in a post from a date earlier than the one of his actual regular continuous officiation in that post; if not, whether the fact that the respondents belonged to the defunct Civil Service of Pakistan will make any difference?
- (d) Whether one uniform principle of seniority will apply to all members of the Secretariat Group or the officers joining the Group from different source/cadres would have to be treated differently; if so, whether such treatment whether with or without the support of statutory rules or directions would not be in contravention of the relevant provisions of the Civil Servants Act, 1973, and in this context what is that effect of the abolition of the C.S.P. Cadre? and
- (e) Whether the eligibility of a civil servant for appointment to a selection post confers any right of seniority in that post and cadre without issuance of a formal promotion/appointment order in accordance with the prescribed procedure and whether in this context a civil servant belonging to ex-C.S.P cadre is entitled to automatic promotion to the post of Deputy Secretary after he completes eight years of service but without the aforementioned requirement of being actually selected/promoted or appointed? and
- (f) What is the effect on this case of the judgment of this Court in Khizar Haider Malik and others v. Muhammad Rafiq Malik and another 1987 SCMR 78.?

3. It may be observed that the order of granting leave was recalled on 10-2-1992, but upon review, the same was set aside through an order dated 14-2-1994 and thereby the aforesaid leave granting order was restored.

4. The brief facts are that the appellant joined Pakistan Military Lands and Cantonments Service on the basis of the results of competitive examination held in June, 1960. It is the case of the appellant that in 1967, he proceeded to U.S.A. on study leave and obtained a Master's Degree in Public Administration from the Maxwell School of Public Affairs and Citizenship, Syracuse University. It is also his case that in June/July, 1972, the Planning Division recommended him for promotion to the post of Deputy Secretary to the Government of Pakistan. It is his further case that pending approval of the Establishment Division, Planning Division promoted him as Deputy Secretary by an order dated 9-8-1972. The above order reads as follows:-- .

"OFFICE ORDER

It has been decided that Mr.Hameed Akhtar Niazi, PML & CS will look after the work of Deputy Secretary (Administration) with immediate effect. He will be designated as Officer on Special Duty (Administration).

Mr. Zafar Iqbal is posted as Deputy Secretary, Programming."

It has also been averred by the appellant that he was promoted as Deputy Secretary on regular basis on 9-4-1973 and posted in the Establishment Division.

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5. It seems that in August, 1973, C.S.P. and P.S.P. cadres were merged into All Pakistan Unified Grades, hereinafter referred to as APUG. It further seems that after the aforesaid merger, four occupational groups were created, namely, Tribal Areas Group, District Management Group, Secretariat Group and Police Group. The appellant opted for the Secretariat Group. It is the case of the appellant that the Gradation List of Deputy Secretaries i.e. of the Secretariat Group was prepared in accordance with the provision of section 8(4) of the Civil Servants Act, 1973, hereinafter referred to as the Act, which provides that "Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post". According to the appellant, the above Gradation List was circulated in June, 1976, wherein the appellant's name appeared at Serial No. 69. However, the appellant learnt in August, 1979, that civil servants belonging to erstwhile Civil Service of Pakistan (C.S.P.), whose names appeared much below the appellant in the aforesaid Gradation Lists of 1976, were being promoted to the rank of Joint Secretary (Grade-20) and his name had not been put up for promotion to the General Selection Board for consideration. He first made efforts to get redress from the department, but eventually, he filed the aforementioned service appeal in the Tribunal, which was dismissed as stated above. After that he filed a petition for leave to appeal in this Court, which was granted to consider the above questions.

6. It may be pertinent to observe that in the above appeal, besides the Federation, 14 civil servants were arrayed as respondents. It may further be observed that, in addition to the above respondents, 7 other civil servants were impleaded pursuant to an application dated 4-1-1988. Dr. Sh. Aleem Mehmood was impleaded as a respondent (respondent No. 23 in the present appeal) on his own application, whereas the applications of Muhammad Aslam and Tariq Junejo for being impleaded, remained pending till today: However, they were heard. One, Malik Zahoor Akhtar, has also appeared though he had not filed any application for getting himself impleaded in the aforesaid appeal.

7. Be that as it may, in support of the above appeal, Mr. M. Bilal, learned Sr. A.S.C. for the appellant, has vehemently contended that after the merger of the two cadres, namely, C. S. P. and P. S. P. and creation of APUG, the Gradation List of the Deputy Secretaries prepared in 1976 could not have been disturbed and that certain civil servants could not have been given seniority over the appellant from a date prior to their regular appointments as the Deputy Secretaries in the above cadre. To reinforce the above submission, reliance has been placed by him inter alia on section 8(4) of the Act and para. 8 of ESTACODE, 1989 Edition, under the caption "Secretariat Group" at Serial No. 19 incorporated on the authority of O.M.No.2/2/75-ACR, dated 12-4-1976.

The aforementioned newly added respondent supports Mr. Bilal's contention.

On the other hand, Mr. Raja Muhammad Bashir, learned Deputy Attorney-General, has contended that seniority inter se of the civil servants belonging to C.S.P. cadre obtaining prior to its merger could not have been distorted to the detriment of any of the above civil servants and, therefore, if C.S.P. officers, who were not actually posted as Deputy Secretaries but were deputed to various Provinces on account of public exigencies, could not have been made junior to civil servants who were junior to them prior to the merger of aforesaid two cadres and who were working as Deputy Secretaries and were senior inter alia to the appellant.

8. It appears that the Tribunal proceeded on the premises as urged by learned Deputy Attorney-General. It may be advantageous to reproduce: the relevant portion of the impugned judgment, which reads as follows:--

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"It appears that the question of seniority was not examined when persons not being Members of the Service were appointed to APU J with the approval of the President vide Notification No.1/1/73-ARC, dated 14-9-1973. Nevertheless, the seniority lists were prepared of the Deputy Secretaries and Joint Secretaries, etc. and they included only those officers of the former C.S.P. who at the relevant time were serving against these posts. At that time, the Rule for appointment of the Deputy Secretaries was that a C.S.P. Officer who had completed 8 years' service could be appointed as Deputy Secretary. No doubt, subsequently by Office Memo. No.3/7/74-AR.II, dated the 20th May, 1974, 12 years period was provided for Grade-19 and for horizontal movement of Grade-18 Officers to the post of Deputy Secretary vide para. 3 of Office Memo. No. 2/2/75-ARC, dated 21-2-1975, but this deviation in the length of service is immaterial as far as C.S.P. Officers are concerned. Their names already existed as Members of C.S.P. and subsequently of APUG. Their seniority was to be changed in accordance with some principle and not by making any, rule affecting their vested right. All Rules made under the Civil Servants Act or the Civil Servants Ordinance have to be construed with prospective operation and not with retrospective operation. All those Rules which affect the former Officers of the C.S.P. have to be applied for the situations existing after the enactment of the Civil Servants Ordinance, 1973, and the Rules made thereunder. The seniority of the C.S.P. Officers in APUG could not, therefore, be distorted. Any seniority to which a Member of the Cadre was entitled before the constitution of Secretariat Group, could not be affected by the provisions of section 8(4) of the Civil Servants Act, 1973. In other words, the seniority of such, a person cannot be destroyed by any subsequent change in the principles of seniority. By making a provision in the relevant Officer Memorandum that seniority shall count from the date when an officer becomes Deputy Secretary or is promoted to Grade-19, whichever is earlier, the distortion in the seniority of other Federal Services was removed, but in case of C.S.P. Officers this formula could not work as there was no scale comparable to Grade-19 (Junior Administrative Grade) and the C.S.P. Officers used to be promoted to the Joint Secretary's grade from Senior C.S.P. Scale which is comparable with Grade-18, and the post of Deputy Secretary was never a promotion post in the cadre. Thus, in our opinion, if after the coming into force of the Civil Servants Act, an officer of former C.S.P. who was senior to his colleagues working as Deputy Secretary in the Secretariat, but an officer who was working, in the Province or elsewhere would, when brought to the Secretariat later, retain his seniority vis-a-vis his own colleagues. In other words, if an officer of the former C.S.P. is appointed as Deputy Secretary in the Secretariat Sub-Group, within APUG, he would count his seniority from the date he completes 8 years of service if any of his colleagues junior to him had already been promoted. It is this principle, which the Establishment Division has applied and we think that this is a proper course by which the distortion in the seniority can be removed."

9. In this regard, it may be pertinent to refer to page 1014 of the ESTACODE, 1989 Edition, in which under the caption "Reorganisation of APUG in to four Occupational Groups Seniority of members of the Group" at Serial No. 17 has provided as under on the basis of Establishment Secretary's D.O. Letter No.2/4/75-AVI, dated 2-10-1975:--

"Sl. No. 17:

Kindly refer to Establishment Secretary's Circular D.O. Nos.5/1/73ARC, dated the 7th September, 1973, 2/2/73-AVI, dated the 26th November, 1973, and 2/1/74-AVI, dated the 29th May, 1974, alongwith which the combined seniority lists of officers of All-Pakistan Unified Grades in various grades were circulated.

2. In the meantime, the All-Pakistan Unified Grades has been organised into four Occupational Groups---the Secretariat Group, the District Management Group, the Police Group and the Tribal

Areas Group. The rules and procedures etc. governing the administration of each of these Groups have already been issued and sent to you vide the Establishment Division's Office Memoranda No.2/2/75-ARC, dated 21st February, 1975 (Secretariat Group) No.2/2/74-ARC, dated 23rd February, 1974 (District Management Group), No.3/2/75-ARC, dated 31st May, 1975 (Police Group) and D.O. No. 1/6/73-ARC, dated 20th October, 1973 (Tribal Areas Group). Consequently the seniority lists have now been drawn up separately in respect of each Group.

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3. As already indicated, each group will henceforth be managed under the respective rules quoted above. A member of a particular Group will be governed by prospects of promotion and advancement available within the Group. While entry into other Groups by horizontal movement is possible with the approval of Central Selection Board, there will be no automatic mobility from one Group to the other. In other words, officers shown in any particular Group will now belong to that Group once for all unless specifically selected and approved for movement to another Group.

4. You may now kindly inform the officers under your administrative control accordingly. Officers shown in the Secretariat Group but belonging originally to some other Group may let this Division know finally as to whether they would like to remain in the Secretariat Group or go back to their parent Group. Option once exercised will be final. Such option should reach us not later than 31st October, 1975. Failure to exercise option by that date will be presumed to be an option for the Group where the name appears presently.

5. In the meantime, these lists may be treated as provisional and in case there are any omissions or discrepancies, these may please be communicated to us immediately for rectification."

10. Reference may also be made to paras. 3 and 8 of the ESTOCODE, 1989 Edition, at pages 1096 and 1097 thereof under the caption "Secretariat Group" at Serial No. 19 and which read as under:--

Para. 3 of the ESTACODE: 3. Deputy Secretary.--Appointment to the post of Deputy Secretary will be made in accordance with the following methods: --

(i) By promotion of Grade-18 Officers of Office Management Group and the Secretariat Group on the recommendations of the Central Selection Board.

(ii) By horizontal movement from other Occupational Groups of Grade 19 Officers who have been recommended by the Ministries/Divisions, Departments or Provincial Governments and have been found fit by the Central Selection Board.

(iii) By direct appointment or the recommendations of the Federal Public Service Commission of persons possessing such qualifications and experience etc., as may be prescribed.

Para. 8 of the ESTACODE: 8. Deputy Secretary.--Seniority would be determined from the date of continuous regular . officiation as Deputy Secretary, or in a post in Grade-19, whichever is earlier."

11. We may observe that in the present case, section 8(4) of the Act is relevant as it will be covered by the rules framed for. regulating APUG. It is evident from afore-quoted para. 4 of ESTACODE, 1989 Edition, at page 1014 that after the creation of Secretariat Group, the civil servants were given the option to opt the above Group or any other Group by 31-10-1975. Whereas above quoted para. 3 of the ESTACODE at page 1096 under the caption" Secretariat Group" at Serial No.19, indicates as to how the appointment to the post of Deputy Secretary will be made i.e. by promotion of Grade-18 Officers by horizontal movement and by direct appointment on the recommendation of the Federal Public Service Commission.

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12. It may further be noticed that para. 8 of the above ESTACODE at page 1097 provides that seniority would be determined from the date of continuous regular officiation as Deputy Secretary or in a post in Grade-19, whichever is earlier.

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13. The Tribunal has not taken into consideration that above relevant provisions of the ESTACODE while dilating upon the controversy in issue. It should have decided, whether the respondents had exercised the options in terms of aforesaid para. 4 of the above ESTACODE at page 1014, by 31-10-1975 and whether the seniority list was prepared as per aforesaid para. 8 of the ESTACODE, i.e. from the date of continuous regular officiation as Deputy Secretary or in a post in Grade-19, whichever is earlier.

14. There is no doubt that the seniority of an officer, who is working in a Province or elsewhere, cannot be distorted/disturbed to his detriment on account of the merger of above two cadres of C.S.P. and P.S.P. and creation of APUG. His junior cannot be made senior to him nor a junior to his junior can be made senior to him. But, this is to be done within the framework of the rules of reorganisation as given in the above ESTACODE. If the case of any civil servant does not fall within the ambit of the above rules, section 23 of the Act can be pressed into service by the President to obliterate the inequitable and unjust result arising out of the above reorganisation in respect of seniority of any of the civil servants.

15. It was also contended by Mr. Raja Muhammad Bashir, learned Deputy Attorney-General, that since that appellant has already been promoted to Grade-20, the above appeal has become in fruituous. However, this contention was refuted by Mr. Bilal and it was urged by him that the appellant is entitled to get his seniority restored according to the rules.

16. In our view, it will be just and proper to remand the case to the Tribunal with the direction to re-examine the above case after notice to the affected persons and to decide the same afresh in the light of above observations. We may observe that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings; in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum.

17. The above appeal stands disposed of in the above terms, with no order as to costs.

(Sd.)

Ajmal Mian, J.

(Sd.)

Saiduzzaman Siddiqui, J.

MUKHATAR AHMAD JUNEJO, J.--My learned brother Ajmal Mian, J. was kind enough to send me draft of the judgment proposed to be delivered by him in Civil Appeal No.345 of 1987 (Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan etc.) With due respects to my learned brother, I am unable to agree with him that this matter be remanded to the Federal Service Tribunal with some directions including the direction to re decide the case.

The facts of the case have already been given by my learned brother and they need not be reiterated. In the context of the facts given in para.4 of the draft judgment, appellant Hameed Akhtar Niazi filed his appeal before the Federal Service Tribunal under section 4 of the Service Tribunals Act with

(Signature)

prayer in the following words:--

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"In view of the above the appellant who was eventually promoted with effect from 28-8-1980 humbly prays that this Honourable Tribunal may kindly direct the respondent No.1 to proceed in accordance with law and to declare him to have been promoted before the ineligible and junior officers promoted in August, 1979 and February and May, 1980. It is further prayed that full salary and all other benefits may also kindly be allowed to the appellant from the date on which he would have been promoted if his name had been put up for the consideration of the C.B.S. according to his seniority. Cost may also graciously be allowed. "

Perusal of the prayer shows that the appellant seeks his promotion from a date earlier than the dates of promotion of certain officers termed by him to be ineligible and junior. According to section 4 of the Service Tribunals Act, a civil servant can invoke jurisdiction of the Tribunal in respect of any of his terms and conditions of service. However, no appeal shall lie to a Tribunal against an order or decision of a departmental authority determining the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade, vide clause (b) of the proviso to section 4 of C the said Act. By asking the Tribunal to direct his promotion on a date earlier than the promotion of ineligible and junior officers, the appellant wanted the Tribunal to determine him to be fit for promotion and to determine the other officers to be ineligible for promotion by labelling them as ineligible. As regards the claim for salary and monetary benefits, the same is again based on the presumptive promotion of the appellant. Since the main relief of promotion cannot be given to the appellant by the Tribunal, the consequential relief can also not be given to him.

In my humble view appellant's appeal before the Federal Service Tribunal was not maintainable and it required to be rejected. In my humble view this appeal merits dismissal.

(Sd.)

Mukhtar Ahmad Junejo, J.

ORDER OF THE COURT

By majority judgment this appeal is allowed, .The case is remanded to the Tribunal in terms of the majority view.

(Sd.)

Ajmal Mian, J.

(Sd.)

Saiduzzaman Siddiqui, J.

(Sd.)

Mukhtar Ahmad Junejo, J.

M.B.A./H-251/S

Appeal allowed



2005 S C M R 499

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[Supreme Court of Pakistan]**Present: Nazim Hussain Siddiqui, C.J., Javed Iqbal and Abdul Hameed Dogar, JJ****TARA CHAND and others---Petitioners****Versus****KARACHI WATER AND SEWERAGE BOARD, KARACHI and others---Respondents**

Civil Review Petition No.259 of 2002, Civil Miscellaneous Applications Nos.874 and 875 of 2001 in Civil Appeal No. 1235 of 2000, decided on 14th December, 2004.

(On review against the judgment of this Court, dated 14-5-2002 passed in Civil Appeal No. 1235 of 2000).

(a) Constitution of Pakistan (1973)---

----Arts. 185, 188 & 25---Supreme Court Rules 1980, O.XXXIII, R.5--Civil Procedure Code (V of 1908), O.XLI, R.33---Review petition--Civil service---Contentions of the petitioner were that neither notice about grant of leave to appeal by the Supreme Court nor that of ex parte order by the Supreme Court was served upon him; that he was one of the petitioners who impugned the departmental orders of retrenchment and termination before the High Court, which were set aside to appeal by the Supreme Court; that the moment he came to know about the decision of the Supreme Court, he had approached the Court and filed Civil Review Petition well within time and that though he was a non-appealing party in the appeals, yet he was entitled to the same relief on the basis of principle of equality---Validity---Held, since the services of all such persons were dispensed with by, single order, as such, there was no distinction between their case and that of the appellants and was identical on all fours---When Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covered not only the case of civil servants who litigated, but also of other civil servants, who might have not taken any legal proceedings, the dictates of justice and rule of good governance demand that the benefit of the decision be extended to other civil servants, who might not be parties to the litigation instead of compelling them to approach the Tribunal or any other legal forum--Article 25 of the Constitution was also explicit on the point that all citizens were equal before law and were entitled to equal protection of law.

Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185; Abdul Hameed Nasir and others v. National Bank of Pakistan and others 2003 SCMR 1030; Hakim Muhammad Nabi Khan and 2 others v. Warasatullah through Legal Representatives 1987 SCMR 1698; Province of Punjab through Collector Bahawalpur, District, Bahawalpur and others v. Col. Abdul Majeed and others 1997 SCMR 1692 ref.

(b) Judgment in personam---

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----Definition.

A judgment determining the rights of persons inter se in or to any money or property in dispute, but not affecting the status of persons or things or determining any interest in property except between the parties. They include all judgment for money.

Normally a judgment binds only those who are parties to it. Such judgments are known as Judgments in personam.

Judgments in personam or inter parties are those which determine the rights of parties inter se to or in the subject-matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or un liquidated demand, but do not affect the status of either persons or things, or make any disposition of property or declare or determine any interest in it except as between the parties litigant. They include all judgments which are not judgments in rem.

A judgment in personam determines the rights of the parties inter se to or in the subject-matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but does not affect the status of either persons or things, or make any disposition of property, or declare or determine any interest in it except as between the parties litigant. Judgments in personam include all judgments which are not judgments in rem, but as many judgments in the latter class deal with the status of persons and not of things, the description "Judgment inter parties" is preferable to 'Judgment in personam'.

A judgment against a particular person, as distinguished from a judgment against a thing or a right or status.

The Oxford Companion to Law by Dawid M. Walker; K.J. Aiyar's Judicial Dictionary (10th Edition 1988); Words and Phrases legally defined (Vol: 3 I-N) and Black's Law Dictionary with pronunciations (6th Edition) ref.

(c) Judgment in rem---

----Definition.

A legal determination binding not only the parties but all persons. It applies particularly to judgments in Admiralty, declaring the status of a ship, matrimonial causes, grants of probate and administration and condemnation of goods by a competent Court.

A judgment which gives to the successful party possession or declaration of some definite right which right is available against the whole world.

A judgment in rem may be defined as the judgment of a Court of competent jurisdiction determining the status of a person or thing, or the disposition of a thing (as distinct from the particular interest in it of a party to the litigation). Apart from the application of the term to persons, it must affect the res in the way of condemnation, forfeiture, declaration of status or title or order for sale or transfer.

An adjudication pronounced upon the status of some particular thing or subject-matter, by a Tribunal, having competent authority is judgment in rem, It is founded on a proceeding instituted against or on

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something or subject-matter whose status or condition is to be determined or one brought to enforce a right in the thing itself. It operates upon the property. It is a solemn declaration of the status of some person or thing. It is binding- upon all persons insofar as their interests in the property are concerned.

The Oxford Companion to by Dawid M. Walker; K.J. Aiyar's Judicial Dictionary (10th Edition 1988); Words and Phrases legally defined (Vol: 3 I-N) and Black's Law Dictionary with pronunciations (6th Edition) quoted.

Syed Iftikhar Hussain Gillani, Senior Advocate Supreme Court for Petitioner (in Civil Review Petition No.259 of 2002).

Ibrar Hussain, Advocate Supreme Court for Respondents (in Civil Review Petition No.259 of 2002).

M. Bilal, Senior Advocate Supreme Court and Ch. Akhtar Ali, Advocate-on-Record for Applicants (in Civil Miscellaneous Applications Nos.874 and 875 of 2001).

Ibrar Hussain, Advocate Supreme Court for, Respondents Nos. 1-3 (in Civil Miscellaneous Applications Nos.874 and 875 of 2001).

Raja Abdul Ghafoor, Advocate-on-Record for Respondents Nos.4-5 (in Civil Miscellaneous Applications Nos.874 and 875 of 2001).

Date of hearing: 14th December, 2004.

ORDER

ABDUL HAMEEIJ DOGAR, J.--The background leading to the filing of the above mentioned matters are that about 130 employees of Karachi Water and Sewerage Board including petitioner Tara Chand (in Civil Review Petition No.259 of 2002) and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher (In Civil Miscellaneous Applications Nos.874 and 875 of 2001) challenged the orders, dated 11-7-1998, 18-7-1998 and 20-7-1998 passed by Vice Chairman about retrenchment and termination of their services through Constitution Petition No.D-1151 of 1998 before the learned High Court of Sindh at Karachi. The said petition was dismissed vide judgment, dated 4-6-1969 by the learned Division Bench of High Court of Sindh, Karachi. The said judgment was challenged in Civil Petition Nos.352-K, 396-K and 464-K of 1999. in which leave to appeal was granted and the appeals were numbered as Civil Appeals Nos.1232 to 1235 of 2000. In the aforesaid appeals, petitioner Tara Chand and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher were arrayed as respondents. After grant of leave to appeal, the notices were issued to them but were not served upon them and an ex parte order was passed by the Assistant Registrar (Civil) against them on 13-3-2001. However, above appeals were heard and allowed by this Court vide judgment, dated 14-5-2002 and the orders, dated 11-7-1998, 18-7-1998 and 20-7-1998 passed by-the Vice Chairman of the Board were set aside and were declared without lawful authority. All the appellants therein were reinstated in service.

2. On coming to know about the above decision, petitioner Tara Chand along with Javed Hussain,

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Muhammad Shah, Kanyolai, Muhammad Hanif Shaikh, Abdul Shakoor, Mujahid Hanif and Muhammad Iqbal Palejo filed Review Petition No.259 of 2002 on 11-6-2002 wherein they urged that in fact they were respondents in the aforesaid Civil appeals but were not served, as such, ex parte order passed against them in their absence be set aside and they may be allowed- the same relief as granted to appellants.

3. However the aforesaid Civil Review Petition was returned by Assistant Registrar (Civil) on 13-3-2001 to the Advocate-on-Record with the objection that the same was not entertainable under Order XXVI rule 6 of Supreme Court Rules, 1980 as the counsel who had drawn this review petition did not appear and argue the case in the above mentioned appeals. The said order was challenged through Civil Miscellaneous Appeal No.42 of 2003 under Order V rule 33 of Supreme Court Rules, 1980; which was allowed only to the extent of petitioner Tara Chand were as against others, it was dismissed for non-prosecution by a learned Judge in Chambers, vide order, dated 20-11-2003. Petitioner Tara Chand filed amended review petition whereas applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher moved Civil Miscellaneous Application No.874 of 2001 for setting aside the order, dated 13-3-2001 as Civil Miscellaneous Application No.875 of 2001 for transposition from the side of respondents to the side of appellants.

4. We have heard Messrs Syed Iftikhar Hussain Gillani, learned Senior Advocate Supreme Court for petitioner, M. Bilal, Senior Advocate Supreme Court for applicants and Messrs Ibrar Hussain and Raja Abdul Ghafoor, learned Advocates Supreme Court for the respondents and have gone through the record and proceedings in minute particulars.

5. Syed Iftikhar Hussain Gillani, learned Advocate Supreme Court, contended that in fact petitioner Tara Chand was arrayed as respondent No.47 in Civil Appeal No.1235 of 2000. According to him, neither notice about grant of leave to appeal nor that of ex parte order, dated 13-6-2001 was served upon him. Admittedly, he was one of the petitioners who impugned the departmental orders of retrenchment and termination before the learned High Court of Sindh, which were set aside in appeal by this Court. The moment he came to know about the decision, he approached this Court and filed above mentioned civil review petition well within time. Though he is a non-appealing party in the aforementioned appeals, yet is entitled to the same relief on the basis of principle of rule of equality. In support, he relied upon the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185.

6. Mr. M. Bilal, learned Senior Advocate Supreme Court on behalf of applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher contended that the applicants were also the petitioners before the learned High Court of Sindh and had challenged the departmental orders passed against them. They were also arrayed as respondents Nos. 50, 58, 92 and 104 in Civil Appeal No. 1235 of 2000 before this Court, which was allowed. Their matter is identical on all aspects with those appellants, therefore, deserves the same relief.

7. On the other hand, Messrs Ibrar Hussain and Raja Abdul Ghafoor, learned Advocate Supreme Courts, vehemently opposed the above contentions and argued that the judgment of this Court passed in the aforesaid civil appeals was in fact judgment in personam and not in rem, as such, the petitioner and applicants are not entitled to any relief. According to them, this being a service matter, they should have approached the Service Tribunal for redressal of their grievance which jurisdiction was not invoked by them.



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8. Admittedly, petitioner Tara Chand and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadullah Saher had challenged the orders, dated 11-7-1998, 18-7-1998 and 20-7-1998 of their retrenchment and termination along with other petitioners in writ petition before learned High Court of Sindh. It is also an admitted fact that petitioner and applicants were arrayed as respondents in Civil Appeal No. 1235 of 2000 before this Court wherein the above said order of learned High Court was challenged. Since the services of all of them were dispensed with by single order, as such, there is no distinction in between their case and that of appellants and is identical on all fours.

9. As to whether impugned judgment is 'judgment in personam' or 'judgment in rem', it would be appropriate to reproduce their definitions as defined in various dictionaries:

(I) The Oxford Companion to Law by David M. Walker

Judgment in personam.--- A judgment determining the rights of B persons inter se in or to any money or property in dispute, but not affecting the status of persons or things or determining any interest in property except between the parties. They include all judgments for money.

Rem, Judgment in.--- A legal determination binding not only the parties but all persons. It applies particularly to judgments in Admiralty, declaring the status of a ship, matrimonial causes, grants of probate and administration and condemnation of goods by a competent Court.

(II) K. J. Aiyar's Judicial Dictionary (10th Edition 1988)

Normally a judgment binds only those who are parties to it. Such judgments are known as Judgments in personam.

Rem, Judgment in.--- A judgment which gives to the successful party possession or declaration of some definite right which right is available against the whole world.

(III) Words and Phrases legally defined (Vol. 3 I-N)

Judgment, In personam.--- A judgment in personam or inter parties are those which determine the rights of parties inter se to or in the subject-matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but do not affect the status of either persons or things, or make any disposition of property or declare or determine any interest in it except as between the parties litigant. They include all judgments which are not judgments in rem.

A judgment in personam determines the rights of the parties inter se to or in the subject matter in dispute, whether it be corporeal property of any kind whatever or a liquidated or unliquidated demand, but does not affect the status of either persons or things, or make any disposition of property, or declare or determine any interest in it except as between the parties litigant. Judgments in personam include all judgments which are not judgments in rem, but as many judgments in the latter class deal with the status of persons and not of things, the description "Judgment inter parties" is preferable to 'Judgment in personam'.

Judgment, In Rem.--- A judgment in rem may be defined as the judgment of a Court of

competent jurisdiction determining the status of a person or thing, or the disposition of a thing (as distinct from the particular interest in it of a party to the litigation). Apart from the application of the term to persons, it must affect the res in the way of condemnation, forfeiture, declaration of status or title, or order for sale or transfer.

(IV) Black's Law Dictionary with pronunciations (6th Edition).

Judgment in personam or inter parties. A judgment against a particular person, as distinguished from a judgment against a thing or a right or status.

Judgment in rem. An adjudication pronounced upon the status of some particular thing or subject-matter, by a Tribunal, having competent authority. Booth v. Copley, 238 Ky.23, 140 S.W 2d, 62, 666. It is founded on a proceeding instituted against or on something or subject-matter whose status or condition is to be determined. Eureka Building and Iran Assn v. Shultz, 139E Kan, 435, 32 P.2d 477, 480; or one brought to enforce a right in the thing itself. Federal Land Bank of Omaha v. Jafferson, 229 Iowa 1054, 295 N.W. 855, 857. It operates upon the property, Guild v. Walis, 150 Or. 69, 40 P. 2nd 747, 742. It is a solemn declaration for the status of some person or thing. Jones v. Teat, Tex Civ. Appellant. 57 S.W. 2d. 617, 620. It is binding upon all persons in so far as their interests in the property are concerned.

10. To further elaborate the above aspect, it would be relevant to refer the case of Hameed Akhtar Niazi (supra) wherein this Court has held that when Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the Civil servants who litigated, but also of other civil servants, who may have not taken any legal proceedings, the dictates of Justice and rule of C good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum. This Court in the case of Khawaja Abdul Hameed Nasir and others v. National Bank of Pakistan and others 2003 SCMR 1030 also extended the benefit to all the persons falling within the same category in order to do complete justice. To further fortify, reference is made to the case of Hakim Muhammad Nabi Khan and 2 others v, Warasatullah through Legal Representatives 1987 SCMR 1698, wherein this Court had allowed benefit of relief to non-appearing party of doing complete justice. Irrespective of above, this Court in the case of Province of Punjab through Collector Bahawalpur, District, Bahawalpur and others v. Col. Abdul Majeed and others 1997 SCMR 1692, while discussing the provisions of Order XLI, rule 33, C.P.C. and Order XXXIII; rule 5 of the Supreme Court Rules, 1980, has held at page 1709 as under:---

"Not only this it is now well-settled that under Order XLI, rule 33, C.P.C., that the High Court and under Order XXXIII, rule 5 of the Supreme Court Rules this Court, can exercise the appellate powers in favour of all or any of the respondents or parties although such respondents or parties may not have filed any appeal or objection".

11. Irrespective of above case laws, our Constitutional provisions are also explicit. According to Article 25 of the Constitution of Islamic Republic of Pakistan, 1973, all citizens are equal before law and are entitled to equal protection of law.

12. The result, therefore, is that for the reasons stated above, we find force in the contentions of learned counsel for petitioner and applicants and allow Civil Review Petition No.259 of 2002 and Civil Miscellaneous Applications Nos. 874 and 875 of 2001. Accordingly, petitioner Tara Chand and applicants, namely, Muhammad Haneef, Bashir Ahmad, Muhammad Dawood and Asadulah, Saher are

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also extended the same relief which has been allowed by this Court on 14-5-2002 in Civil Appeal No. 1235 of 2000.

M.B.A./T-11/S

Order accordingly.

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2009 S C M R 1

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[Supreme Court of Pakistan]

Present: Abdul Hameed Dogar, C.J., Ijaz-ul-Hassan Khan, Muhammad Qaim Jan Khan and Ch. Ejaz Yousaf, JJ.

GOVERNMENT OF PUNJAB, through Secretary Education, Civil Secretariat, Lahore and others---Petitioners

Versus

SAMEENA PARVEEN and others---Respondents

Criminal Petitions Nos.71-L and 72-L, Civil Petitions 215-L, 216-L, 217-L, 218-L, 224-L to 236-L of 2006, decided on 29th April, 2008.

(On appeal from the judgment, dated 29-1-2008 of the Lahore High Court, Lahore passed in Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 64'3 and 11619 of 2008).

Civil service---

---Administration of justice---If a Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum---All citizens are equal before law and entitled to equal protection of law as per Art.25 of the Constitution.

Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 and Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005 SCMR 499 fol.

Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867 ref.

Ms. Afshan Ghazanfar, A.A.-G., Punjab and Rana Abdul Qayyum, D.S. (Education) Punjab for Petitioners.

S.M. Tayyab, Senior Advocate Supreme Court for Respondents (in Cr.Ps. Nos.71-L, 72-L and C.P.224-L of 2008).

Nemo for other Respondents.

ORDER



ABDUL HAMEED DOGAR, C.J.---Through this order we intend to dispose of above captioned petitions filed against common judgment, dated 29-1-2008 passed by learned Judge in Chambers of

Lahore High Court, Lahore whereby Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008 filed by respondents were allowed and the impugned orders passed by petitioner/authority were set aside.

2. Briefly, stated facts giving rise to the filing of instant petitions are that respondents were appointed as PTC Teachers during the year 1995/1996 after completion of all legal requirements and they joined their respective place of posting. After sometime, their appointments were cancelled being bogus vide order No.277/E-1, dated 3-4-1998. This order was assailed before learned Lahore High Court, Lahore and same was declared to be without lawful authority in the case reported as Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867. The relevant paragraph is reproduced as under:--

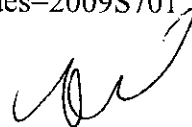
"Consequently the petitioners are declared to be in service and the action of the Headmasters/Incharge of the Schools stopping the petitioners from performance of their duties as PTC Teachers on the basis of the above said impugned order, is declared to be without lawful authority. It is, however, clarified that the department is at liberty to proceed against petitioners, if so desired, on individual basis under the relevant law and under the Punjab Civil Servant (Efficiency and Discipline) Rules, 1975."

In view of above judgment, the respondents were absolved of the charges of bogus appointments. But later on once again the services of respondents were terminated vide order, dated 3-8-2005, which order was challenged before learned Lahore High Court, Lahore through Writ Petition No.16864 of 2005. The said writ petition was allowed vide judgment, dated 11-12-2006 and the impugned order, was declared as illegal and without lawful authority. Similarly, one of the teachers namely Mst. Naseem Akhtar assailed the order, dated 3-8-2005 before Punjab Service Tribunal, Lahore through Appeal No.903 of 2006 which was also allowed vide judgment, dated 4-9-2006. The said judgment was maintained by this Court in Civil Petition No.1960-L of 2006 vide judgment, dated 2-11-2006. On 26-9-2007 once again the services of respondents were terminated. Feeling aggrieved they filed above mentioned petitions before the learned Lahore High Court, Lahore which were allowed vide impugned judgment as stated above.

3. It is mainly contended by learned A.A.-G. Punjab appearing on behalf of petitioners that the jurisdiction of the learned High Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 in matters involving determination of terms and conditions of civil servants. She further contended that the appointments of the respondents were bogus and fake as they were never selected by the competent authority, therefore the orders of dismissal passed by departmental authority were in accordance with law, which did not call for any interference by this Court.

4. On the other hand, Mr. S. M. Tayyub, learned Senior Advocate Supreme Court appearing on behalf of some of the respondents supported the impugned judgment and contended that appointments of respondents had taken place in accordance with rules and prescribed procedure. They submitted their applications in pursuance of advertisement of the posts of PTC Teachers. They passed the required test and were appointed by the competent authority. According to him, the respondents were in service for about 9-10 years and during this period no objection was raised, and subsequently on vague allegations they were dismissed from service. He further contended that cases of respondents were at par with Mst. Naseem Akhtar which was decided by this Court in Civil Petition No. 1960-L of 2006 vide judgment, dated 2-11-2006.

5. We have considered the arguments of both the parties and have gone through the record and proceedings of the case in minute particulars. The matter has already been decided by this Court in



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the case of Mst. Naseem Akhtar (supra), and it has been held that the appointment orders of the respondents as PTC Teachers were genuine. It was held by this Court in the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 that if a Tribunal or this Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation instead of compelling them to approach the Tribunal or any other legal forum. This view was reiterated by this Court in the case of Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005 SCMR 499 and it was held that according to Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 all citizens are equal before law and entitled to equal protection of law.

6. In this view of the matter, we are of the view that no ground for interference in the impugned judgment is made out. Accordingly, the petitions being devoid of force are dismissed and leave to appeal refused.

M.B.A./G-13/SC

Petitions dismissed



WAKALAT NAMA

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IN THE COURT OF

K. P. L. Service

Flair Ahmad (Appellant(s)/Petitioner(s))

VERSUS

Q. A. L. E.

Respondent(s)

I/We Flair Ahmad do hereby appoint Mr. Khaled Rehman, Advocate in the above mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by

Khaled Rehman, Advocate, Peshawar.

Signature of Executants

To

The Deputy Commissioner.
Charsadda.

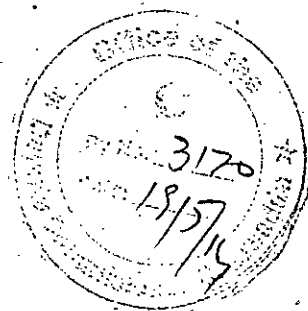
Subject: APPEAL BEFORE THE DEPUTY COMMISSIONER
CHARSADDA FOR THE ADJUSTMENT OF APPLICANT
HAJI AHMAD JAN J/C (SECRETARY U/C) WORKING IN
DOR / OFFICE OF DEPUTY COMMISSIONER
CHARSADDA W.E.F 13/04/2002 TILL NOW.

Respected sir,

It is requested as under:-

1. That I was permanent employee as J/C of Deputy Commissioner Office, Charsadda from 1988 to 13/08/2001.
2. That due to devaluation I was adjusted as Secretary U/C by the District Coordination Officer Charsadda.
3. That the District Coordination Officer Charsadda vide order No. DCO(CHD) Estt: 7 (25) P.T dated 13/04/2002 transfer the applicant to work in Copying Branch Office of the District Officer Revenue & Estate Charsadda.
4. That on 02/12/2002 vide Order No.411/DDOR the applicant was directed to perform duty as Permit Clerk office of the Deputy District Officer Revenue Charsadda.
5. That the District Coordination Officer Charsadda vide order DCO/(CHD) Estt: (25)T/Posting dated 09/04/2004 posted the applicant with the Deputy District Officer Revenue / Secretary District Transport Authority Charsadda.
6. That on 213/04/2008 vide office No. 317-18/DOR(CHD), the applicant was posted as Moharrar in the Court of Deputy District Officer Revenue Charsadda.

DC	
EA	



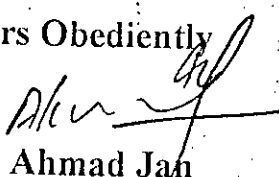
7. That on 20/01/2012 vide Office No. 42/DOR(CHD), the applicant was directed to work as focal person for revenue department to resolve PESCO Issues.
8. That on 30/04/2012 vide Office order No.336/38/DOR(CHD) the applicant was directed to work with the Estt: Assistant and Head Clerk as well as Moharrar to DDOR Charsadda.
9. That on 01/01/2013 after the establishment of Deputy Commissioner Office Charsadda, the Deputy Commissioner Charsadda vide office Order No. DC/(CHD) Estt: (25) T.P dated 21/01/2013 posted the applicant as J/C (Typist) in Office of the Additional Deputy Commissioner Charsadda.
10. That on 16/04/2013 vide office order No.DC/(CHD) Estt: 7(25) T.P the applicant was posted as reader Tehsildar Charsadda.
11. That all ACRs during the period w.e.f 2002 to 31/12/2013 were written by the Deputy District Officer Revenue / District Officer Revenue / Deputy Commissioner Charsadda.
12. That during the period w.e.f 2002 till now, the applicant perform duties as Reader/ Moharrar in the revenue department but draw salary against the post of Secretary U/C.
13. That as a result of promotions of some junior clerks to the post of senior clerk/ Assistants, the post of junior clerk are laying vacant in officer of Deputy Commissioner Charsadda.

Keeping in view the above experience and being parent department it is therefore requested that I may kindly be adjusted against the vacant post of Junior Clerk and oblige.

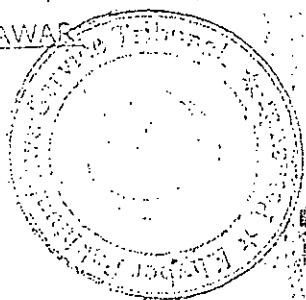
(All posting orders are annexed.)

dated: 19/05/2014

Yours Obediently


Haji Ahmad Jan
J/C (U/C),
Reader Tehsildar Charsadda.

0345 9199585



Appeal No. 999/2012

Date of Institution ... 11.9.2012
Date of Decision ... 3.01.2013

Zahoor Ahmad, Secretary U/C Rustam/Senior Clerk
Mardan.

(Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary, Establishment & Administration Civil Secretariat, Peshawar.
2. The District Coordination Officer, District, Mardan.
3. The District Officer (Revenue & Estate) Peshawar.
4. Samiullah, Junior Clerk, Distt. Officer (R&E) Mardan.
5. Muhammad Sohail, Junior Clerk, District Officer (R&E) Mardan.
6. Ghulam Sarwar, Junior Clerk, DCO office, Mardan. (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT 1974, AGAINST THE IMPUGNED ORDER COMMUNICATED VIDE LETTER DATED 4.9.2012 ISSUED BY RESPONDENT NO. 2 VIDE WHICH THE DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS REJECTED/FILED.

MR. KHALID RAHMAN,
Advocate ... For appellant.

MR. SHERAFGAN KHATTAK,
Advocate General ... For official respondents.

MR. AMJAD ALI,
Advocate ... For private respondents.

MR. NOOR ALI KHAN, ... MEMBER
MR. SYED MANZOOR ALI SHAH, ... MEMBER

JUDGMENT

NOOR ALI KHAN, MEMBER:- This appeal has been filed by Zahoor Ahmad, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 4.9.2012 issued by respondent no.2, whereby his departmental appeal for repatriation to parent department has been rejected. It has been prayed that on acceptance of the appeal, the impugned order may be set aside and the appellant be repatriated to his parent department and adjusted against the vacant post of Senior Clerk with all other consequential benefits.

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal.

2. Brief facts of the case are that the appellant was initially appointed as Junior Clerk on 3.6.1982 in the office of the then Deputy Commissioner Mardan and later on promoted to the post of Senior Clerk. The department has also maintained service book of the appellant wherein necessary entries have been made from time to time. At the moment appellant has at his credit more than 29 years service. In the year 2001 the Devolution system was introduced under which the Commissionerate System was abolished resultantly appellant and others were declared surplus and were placed under the surplus pool. Vide order dated 8.9.2001 appellant was adjusted as Secretary Union Council Maho Dheri Mardan and later on posted to Union Council Rustam (Mardan) where he has been performing his duties till date. Recently three vacancies of Senior Clerks in the office of respondent No. 3 became vacant. The appellant filed departmental representation to respondent No. 2 on 25.6.2012 for his adjustment against one of the posts, which was rejected/filed vide impugned order communicated vide letter dated 4.9.2012, hence the present appeal.

3. The appeal was admitted to regular hearing on 20.9.2012 and notices were issued to the respondents. The respondents have filed their written replies and contested the appeal. The appellant also filed rejoinder in rebuttal.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that the appellant has not been treated in accordance with the law, rules and policy on the subject. In similar circumstances other colleagues of the appellant namely Malak Junaid, Israr Muhammad, Liaqat Ali, Kifayatur Rahman, Junior Clerks working in Defunct Deputy Commissioner office became surplus due to devolution plan and then adjusted in other departments. On creation of posts, they were repatriated and readjusted in their parent department. Mr. Liaqat Ali and Kifayatur Rahman, who were adjusted in the Education Department, Malak Junaid and Israr Muhammad in Excise & Taxation Department were repatriated and readjusted in DOR office Mardan. Similarly private respondent No. 4 namely Samiullah, who was adjusted as Secretary Union Council, has been transferred mutually and adjusted as Junior Clerk in DOR office Mardan vide order dated 26.1.2006. Likewise, M/S Murad Ali, Assistant, adjusted in Fisheries/Agriculture Department, Khalid Pervez, Senior Clerk in Education Department, Aftab Ali Junior Clerk in Health Department, Syed Shah Hussain, Junior Clerk in Education Department, Syed Maqbool Shah, Lab. Assistant in Education Department, and Tariq Hussain, Lab. Assistant in Education Department were repatriated and re-adjusted in Commissioner office Mardan, vide order dated 8.7.2009. On 1.8.2009, six more officials of various categories adjusted in other

KHYBER PAKHTUNKHA
SERVICES TRIBUNAL
PESHAWAR

departments permanently have been repatriated and re-adjusted in their parent Department i.e. Commissioner's office Mardan. He further argued that no policy regarding adjustment of ex-staff had been framed by the respondents as yet, and they are trying to adjust them through pick and chose, the practice against the law/rules. All the citizens are equal before law and should be treated equally in accordance with the law as per Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan. The appellant being adjusted against a wrong post was more deserving for repatriation and adjustment in his parent department but he has been discriminated. He requested that the appeal may be accepted as prayed for.

6. The learned counsel for private respondents No. 4 to 6 opposed the plea taken by the appellant regarding repatriation of his other colleagues to the office of District Officer (Revenue & Estate) Mardan because the persons as referred to above are almost Junior Clerks and Assistants while the appellant is a Senior Clerk. The appellant while serving as Senior Clerk in the defunct Deputy Commissioner Office Mardan became surplus due to devolution plan. He was then adjusted as Secretary Union Council and after 11 years service under District Government, he could not ask for his repatriation to his parent department. In fact there are three posts of Senior Clerk lying vacant in the District Officer (R&E), DCO and Finance & Planning offices Mardan against which DPC meeting was called to consider the promotion cases of Junior Clerks including the private respondents, and if the appellant is repatriated, the private respondents would suffer irreparable loss and would be deprived of their legitimate rights of promotion. He requested that the appeal may be dismissed. The learned AAG also adopted the arguments advanced by the learned counsel for the private respondents.

7. The Tribunal observes that after devolution plan in the year 2001, officials of various categories serving in the defunct Commissioner and Deputy Commissioner offices became surplus. The appellant while serving as Senior Clerk in the office of Defunct Deputy Commissioner office Mardan had also been declared surplus. He was then adjusted as Secretary Union Council in his own pay and scale. On creation of DCOs, DOR offices and restoration of commissionerates, the official respondents started repatriation/adjustment of their ex-staff without framing policy/instructions. They must frame a unified policy for adjustments of their old staff on the basis of experience and other factors; but no such policy framed and adopted the practice of pick & chose. The appellant being adjusted against the wrong post as Secretary Union Council in his own pay and scale was more deserving for adjustment in his parent department but he has been denied for no plausible reason.

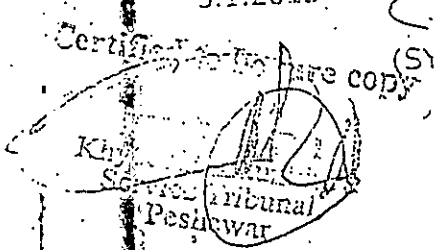
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8. In view of the above discussion, the appeal is accepted and respondents No. 2 and 3 are directed to repatriate the appellant to his parent department and adjust him against the vacant post of Senior Clerk. It is further observed that Devolution plan of General Musharraf (R) had played havoc upon and broken the back-bone of Administrative set up. Since government is again restoring Commissionerate system; therefore, instead of fresh recruitments and repatriating the then experience staff at random, government should make amendment in "surplus staff adjustment policy" specially with respect to Ex-Commissioner and Deputy Commissioner offices; staff only for readjustment to facilitate smooth running of the above referred offices.

9. This order will also dispose of Service Appeal No. 1002/2012 titled "Hamid Ali Taj Versus the Government of Khyber Pakhtunkhwa through Secretary Establishment & Administration Department, Peshawar etc.", in the same manner.

ANNOUNCED
3.1.2013

Gh. Noor Ali Khan
Member
Sd/- Ghad Mangoor Ali Shah
Member



Date of Presentation of Application 10-1-2013
 Number of Applicants 1600
 Cases 10
 Fees 0
 Number of Copies 10
 Date of Issuance of Copy 12-2-2013
 Date of Delivery of Copy 12-2-2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1192/2014

Haji Ahmad JanAppellant

Versus

The Govt. and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE
TO REPLY FILED BY RESPONDENTS NO.2&3.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous, the detailed replies thereof are as under:-

- 1&4. That valuable rights of the appellant have been infringed through the impugned order which has been challenged through the instant appeal under the law, therefore, appellant has got a strong cause of action and for that matter locus standi to file the instant appeal.
3. That the appeal is maintainable.
4. That appellant has approached the Hon'ble Tribunal with a bonafide claim inas much as he has been treated in violation of the law.

Facts:

- 1-5. Being admitted need no further clarification.

relief because law mandates equal protection.

- D. Being not replied hence admitted.
- E. Being admitted needs no further clarification. The appellant only drew salary from LG & RDD.
- F. Incorrect. Vacancies of Junior Clerk do exist. M/S Sikandar Hayat, Raham Sher, Saif-ur-Rahman and Jehanzeb were Junior Clerks and were promoted as Office Assistants, therefore, 04 seats of Junior Clerks are lying vacant. One Arsalan was appointed as Junior Clerk in 100% Deceased Sons quota while 03 seats of Junior Clerks are still vacant.
- G. Being not replied hence admitted.

It is, therefore, humbly prayed that the reply of answering Respondents No.2&3 may graciously be rejected and the appeal as prayed for may graciously be accepted with costs. The appellant has been serving since devolution which started in the year 2001 in the office of the defunct DOR now DC till Local Govt. System was replaced.

Through

Appellant

Khaled Rahman
Advocate, Peshawar

Dated: 06 /02/2015

Affidavit

I, Haji Ahmad Jan, presently Reader to Tehsildar Charsadda, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

ATTESTED



Haji Ahmad Jan
Deponent

Service Appeal No.1192/2014

Haji Ahmad JanAppellant

Versus

The Govt. and others.....Respondents

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Facts:

- 1-5. Being admitted need no further clarification.

6. Incorrect hence vehemently denied. All the stated employees i.e. M/S Kalim Jan, Zahir Iqbal, Liaqat Ali and Jehanzeb remained Secretaries Union Councils for long period and then were re-adjusted as Junior Clerk in the office of the defunct DOR now DC Charsadda. Similarly M/S Raham Sher and Amjad Ali were Junior Clerks in the Finance and Planning Department and after a long period, they were then re-adjusted in the office the defunct DOR now DC Charsadda. All of them were similarly placed and were subsequently repatriated/re-adjusted in the parent Department and now are serving over there. The case of the appellant is identical, therefore, he is also entitled to the same relief under the law but his request was turned down without any legal justification.

Grounds:

- A. Incorrect. The acts and actions of the answering Respondents are not in accordance with law. All are equal in the eye of law. When the cited employees were re-adjusted in their Parent Departments then treating the Petitioner with a different yardstick is utter discrimination.
- B. Incorrect. Throughout his service from the abolition of the Commissionerate System in the year 2001 till the re-establishment of the office of the Deputy Commissioner, the appellant has remained in the same establishment and therefore his ACRs were taken down by the same heads i.e. DDOR/DOR/DC, Charsadda.
- C. Misconceived hence denied. The case of Mr. Zahoor Ahmad and Hameedullah was on poor footing as compared to the case of appellant yet they have been granted the relief and were repatriated, therefore, appellant is also entitled for the same

relief because law mandates equal protection.

- D. Being not replied hence admitted.
- E. Being admitted needs no further clarification. The appellant only drew salary from LG & RDD.
- F. Incorrect. Vacancies of Junior Clerk do exist. M/S Sikandar Hayat, Raham Sher, Saif-ur-Rahman and Jehanzeb were Junior Clerks and were promoted as Office Assistants, therefore, 04 seats of Junior Clerks are lying vacant. One Arsalan was appointed as Junior Clerk in 100% Deceased Sons quota while 03 seats of Junior Clerks are still vacant.
- G. Being not replied hence admitted.

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Through **Appellant**

Khaled Rahman
 Advocate, Peshawar

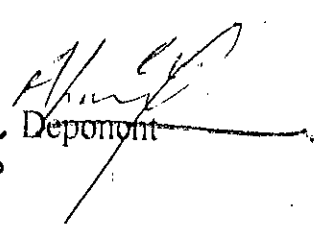
Dated: 06/02/2015

Affidavit

I, Haji Ahmad Jan, presently Reader to Tehsildar Charsadda, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

ATTESTED




 Deponent

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.**

Appeal No. 1192/2014

Haji Ahmad Jan. Appellant/Petitioner.

Versus

1. The Government of Khyber Pakhtunkhwa through Senior Member Board Revenue Peshawar.
2. The Commissioner, Peshawar Division, Peshawar.
3. The Deputy Commissioner, Charsadda.

Para wise comments in respect of Respondents No. 2 & 3

Respectfully Sheweth.

Para-wise reply/comments on behalf of Respondents No. 2 & 3

PRELIMINARY OBJECTIONS.

1. The appellant has got no cause of action.
2. That the petition is not maintainable.
3. The petitioner has not come to the Court with clean hands.
4. The petitioner has no locus standi to file petition against the respondents.

FACTS.

Para No. 1 Correct.

Para No. 2 Correct

Para No. 3 Correct

Para No. 4 Correct

Para No. 5 Correct

Para No. 6 Not Correct. The officials indicated at Para 6, although were absorbed in initial stage, but they were not willing on their adjustment in the Local Govt: and on occurrence of vacancies, their cases were re-considered in the Revenue Department. For example in case of Assad Ullah, the Agriculture Department was not agreed on his adjustment, as the post of Forester was a technical one, therefore the services of Mr. Assad Ullah were withdrawn from Agriculture Department and later on posted on the original post of Senior Clerk on the availability of vacancy.

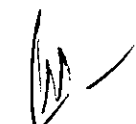
GROUNDS.

- A. Not correct. All the actions taken in case of the appellant and others indicated in the Para 6 were dealt in accordance with the rules, law/policy, received from the Establishment Department.
- B. Correct to the extent that he remained in the offices of Revenue Department for the period indicated in the para and his services were utilized in the Revenue Department on administrative grounds, therefore the ACRs of the appellant are completed from time to time.
- C. Not correct. The Hon'ble Services Tribunal, Peshawar decided cases of Senior Clerks namely Zahoor Ahmad and Hameed Ullah on case to case basis and not of all Junior clerks, both the officials were Senior Clerks at the time of declaring Surplus and were adjusted against the policy of the Govt:. Whereas the present appellant Ahmad Jan was adjusted in accordance with policy of the Govt: on his own pay scale, such like other Junior Clerks. It is crystal clear, that the Hon'ble: Services Tribunal clear cut order for making amendment in the policy to consider the experience hand personals, is under process in the Establishment Department and further action could be taken as and when the surplus policy is amended by the Govt:., per directions of the Hon'ble: Services Tribunal.
- D. No comments.
- E. Correct to the extent, that he is still an employee of the Local Govt: and drawing his salary from that department.
- F. Not correct. No vacancy of Junior Clerk exists at present.
- G. No comments.

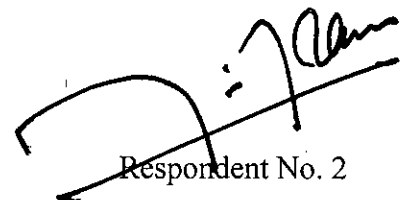
PRAYER

Since, the Local Govt: system was not invoked, therefore the services of appellant were utilized on various seats on administrative grounds. As the Hon'ble Services Tribunal has given directions for making amendment in the adjustment policy, which is still under process and as and when, the Govt: circulate the required amendment, case of the appellant and other similar officials would be considered on merit.

It is therefore prayed that the appeal of the appellant may be dismissed having no solid grounds.



Respondent No. 3



Respondent No. 2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1192/2014.

Haji Ahmad Jan Presently Reader to Tehsildar, Charsadda

VERSUS

Senior Member, Board of Revenue, Khyber Pakhtunkhwa, and others.

COMMENTS ON BEHALF OF RESPONDENTS NO.1.

Preliminary objection.

1. The appeal is not competent in its present form.
2. That appellant has got no cause of action.
3. That appeal is bad due to mis-joinder/ non-joinder of necessary parties.
4. That appellant is estopped by his own conduct.
5. That appellant has not come to the Tribunal with clean hands.

ON FACTS.

1. Pertains to record.
2. Pertains to record.
3. Relates to respondent No.3.
4. Relates to respondent No.3.
5. As in above.
6. Incorrect. The official once adjusted in an office cannot be readjusted in another office.

GROUND.

- a. Incorrect. The appellant was treated in accordance with law, rules and policy hence the act of respondent is just, fair and sustainable in the eye of law.
- b. Relates to respondent No.3.
- c. Incorrect. The official once adjusted in an office cannot be readjusted in another office.
- d. Incorrect.
- e. Relates to respondent No.3.

- f. Relates to respondent No.3.
- g. The replying respondent seek permission of this honorable Tribunal to raise additional grounds at the time of arguments.

It is requested that the appeal may be dismissed with cost.

In now

Respondent No.1.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1192/2014

Haji Ahmad Jan Presently Reader to Tehsildar Charsadda.....Appellant

VERSUS

Senior Member, Board of Revenue, and others.....Respondents

AFFIDAVIT

I Mir Qasim Assistant Secretary (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 noting has been deliberately concealed from this Hon'able Tribunal.


Assistant Secretary (lit;II)
Board of Revenue

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1192/2014.

Haji Ahmad Jan Presently Reader to Tehsildar, Charsadda

VERSUS

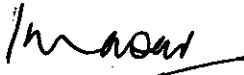
Senior Member, Board of Revenue, Khyber Pakhtunkhwa, and others.

COMMENTS ON BEHALF OF RESPONDENT'S NO.1 ON STAY APPLICATION IS AS UNDER:-

Respectfully Sheweth.

1. No comments.
2. Incorrect. Facts and grounds taken in the parawise comments may kindly be read as integral part of this reply. The applicant has no prima facie case in his favour.
3. Incorrect. Balance of convenience is in favour of respondents if the interim relief is granted, the respondent will suffer irreparable loss.

As the applicant does not have a prima facie case and will not suffer irreparable loss, therefore application for suspension of impugned order having no legal footing may kindly be dismissed with costs.


Respondent No.1

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1027 /ST

Dated 1 / 7 / 2015

To


The SMBR,
Peshawar.

Subject: - Judgement

I am directed to forward herewith a certified copy of Judgement dated 24.6.2015 passed by this Tribunal on subject Judgement for strict compliance.

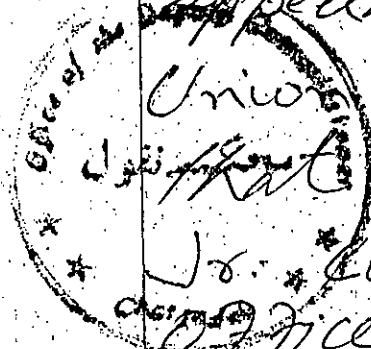
Encl: As above

o/c


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

01/16/14 - EA No. 1/14

Ref: attached appeal. The appellant Haji Ahmad (Secretary Union Council N.G. Deptt. states that before devolution, he was Sr. Clerk in Deputy Commissioner's office and now on occurrence of Sr. Clerk vacancy, he may be adjusted in his parent Deptt.



Para 1st: In support of his appeal, he has enclosed copy of a judgement of Services Tribunal, Peshawar, where in such appeal has been accepted.

Submitted please.

DC

M. discuss

05/16/14

EA 05/16/14

Discussed. As no amendment has yet been received from the Establishment Deptt. regarding re-adjustment of levels staff, therefore, the appellant should wait till receipt of amendment in the Staff Readjustment Policy.

13-6-14

D.C 10/6/14

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