

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Misc; Application No; 754/2022

In S.A No; 5200/2021

SCANNED
KPST
Peshawar

Asmat Ullah & others

VS

Tariq Saleem & others

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Respondent No; 1

Through Counsel


SHAHID SALIM MINA KHEL
ADVOCATE SUPREME COURT
OF PAKISTAN

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Misc; Application No; 754/2022

In S.A No; 5200/2021

Asmat Ullah & others

VS

Tariq Saleem & others

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6401

Dated 12/07/23

SCANNED
KPST
Peshawar

Reply on behalf of Respondent No; 1 of application u/s 12 (2) CPC:-

Preliminary objections:-

- 1) That applicants have got no cause of action and no locus standi to file above mentioned application u/s 12(2) CPC.
- 2) That applicants have not come to this Hon'ble Tribunal with clean hands and have concealed material facts from this Hon'ble Tribunal including the fact that applicants have got promotions from time to time in their service. Where applicants No; 1 and 2 have been promoted from Junior Clerks to Senior Clerks and then from senior Clerks to the post of Assistant in the year 2010. Similarly applicants No 3 & 4 (who are only matriculate) have been promoted from the posts of chokidar and process server respectively to the post of Assistant/Civil Nazir . But the respondent No; 1 is still working as Assistant / Reader from his induction in service in the year 2003 up till now and has not been promoted yet.
- 3) That all the four applicants have accepted the seniority lists prepared on yearly basis for the post of Assistant / Reader since 2005 up till 2020 and have not raised any objection on the seniority position of the respondent No; 1 for the post of Assistant/Reader. Even in the year 2017, the applicants have not raised any objection on the same seniority list when Peshawar High Court, Peshawar approved the same seniority list and promoted the senior most Nasr Ullah Khan as Superintendent. The detail of which has been discussed by the respondent No;4 in his reply to Registrar Peshawar High Court, Peshawar dated; 30/07/2020 which is already attached as Annexure-F in main Service Appeal.

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- 4) The applicants are estopped by their own conduct and as such principle of estoppel applies upon applicants. Therefore, the Misc; Application u/s 12(2) CPC is liable to be dismissed.
- 5) That applicant No;1 i.e. Asmat Ullah has dually admitted the seniority position of respondent No;1 in his Departmental Appeal while seeking promotion to the post of Assistant, followed by the Judgment dated; 23/09/2011 of Peshawar High Court, Peshawar, in Departmental Appeal of Applicant No;1.
- 6) That applicant No; 2 has already got retirement from service on medical ground and has got retired on 15/03/2023 from service. The above mentioned Misc; Application u/s 12(2) CPC has been filed just to create hurdles for promotion of respondent No; 1 and to presurize him.

REPLY ON FACTS:-

Respectfully Sheweth;

The respondent No; 1 respectfully submits as under;-

- 1) That the Para No: 1 is wrong, incorrect and mis-leading one to the extent of concealment of facts by respondent No;1. The respondent No;1 has not concealed anything from this Hon'ble Tribunal. In fact, respondent No:1 has challenged the office order dated: 08/01/2021 of Registrar Peshawar High Court Peshawar. This Hon'ble Tribunal vide Judgment dated 25/11/2022 has struck down the afore-said office order dated 08/01/2021 of Registrar Peshawar High Peshawar.

It is pertinent to mention here that respondent No;2 i.e. Registrar Peshawar High Court Peshawar implemented the Judgment dated 25/11/2022 of this Hon'ble Tribunal in its true letter and spirit on dated: 14/02/2023 by restoring the previous position of respondent No;1 as Assistant/Reader in the establishment of District & Sessions Judge, Lakki Marwat. The Peshawar High Court Peshawar has not filed appeal before Supreme Court of Pakistan against the Judgment dated: 25/11/2022 of this Hon'ble Tribunal. Meaning thereby that Peshawar High Peshawar has not found any illegality whatsoever in the afore-said Judgment of this Hon'ble Tribunal and previous position of respondent No;1 is restored as Assistant/Reader, on dated: 14/02/2023. Copy of office order dated: 14/02/2023 is attached as **Annexure-A**.

Not only this but the Peshawar High Court Peshawar has also constituted Departmental Promotion Committee on 27/05/2023 to fill the vacant Post of Assistant/Reader in Anti-Terrorism Court, Bannu which was left vacant after restoring the previous position of respondent No;1 vide Judgment dated: 25/11/2022 of this Hon'ble Tribunal. Mr. Aamir Ali ASJ-I Lakki Marwat was the nominee of the Peshawar High Court Peshawar in the afore-said Departmental Promotion Committee which conducted its meeting on 14/06/2023 and one Abid Khan (Senior Clerk) is promoted to the post of Assistant / Reader on vacant post in Anti-Terrorism Court Bannu. This promotion is made according to Anti-Terrorism Courts Staff Recruitment Rules,2020 and Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules, -1989. As such the employees of Anti Terrorism Court are civil servants for all intents and purposes. Copies of PHC Letter dated 27/05/2023;

and Minutes of Meetings of ATC are attached as **Annexure-B**.

- 2) That, Para No; 2 pertains to office record, hence, no reply.
- 3) That Para No; 3 pertains to office record, hence no reply.
- 4) That Para No; 4 pertains to office record. However, in detail comments filed by the respondent No;4 i.e. District & Sessions Judge, Lakki Marwat vide letter dated 30/07/2020, the respondent No;4 has also categorically stated that all the Applicants have got their promotions from Junior Clerk, time to time according to their own Seniority positions. Therefore applicants have not been effected from common seniority list of Assistant / Reader prepared since 2005.
- 5) That Para No; 5 is wrong, incorrect and misleading one to the extent of concealment of facts. The respondent No;1 has neither concealed facts from this Hon'ble Tribunal nor acted any misrepresentation. Moreover, true facts have been stated above.
- 6) That Para No;6 is wrong, incorrect and misleading one. True facts have been stated above.
- 7) That Para No;7 is wrong, incorrect and misleading one. The respondent No:1 has not misled this Hon'ble Tribunal even on legal position as well. The reply to the objection raised in para No; 7 (a) is as under:-

“The Government of Khyber Pakhtunkhwa has enacted Anti-Terrorism Courts Staff Recruitment Rules, 2020 vide which the Government of Khyber Pakhtunkhwa has laid down the method of recruitment, qualification and other conditions of Service in pursuance of the provisions contained in Sub Rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. The Peshawar High Court Peshawar has incorporated the afore-said Staff Recruitment Rules of Anti-Terrorism Courts in Judicial Esta Code as well. Moreover, all the Judges of Anti-Terrorism Courts have been made as Appointing Authority from the Posts of BPS-1 to BPS-16 by the Peshawar High Court Peshawar vide Notification dated: 26/01/2010. Copies of Notification date: 26/01/2010 and Anti-Terrorism Courts Staff

Recruitment Rules, 2020 along with Notification dated: 29/09/2020 are attached as **Annexure-C**.

Recently on 11/05/2023, the Peshawar High Court Peshawar has circulated office order regarding **Clarification Regarding Appointment under Rule 10 (4) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989,**

Which is also applicable to the staff of Anti-Terrorism Courts and circulated to Judges of all Anti-Terrorism Courts in Khyber Pakhtunkhwa as well. Copies of office letter dated 11/05/2023 and office order of Government of Khyber Pakhtunkhwa Establishment Department dated: 28/04/2023 is attached as **Annexure-D**.

It is pertinent to mention here that Section 13 of Anti-Terrorism Courts, 1997 provides for Establishment of Anti-Terrorism Courts and states that;-

“Section 13: Establishment of Anti-Terrorism Courts ;-(1) For the purpose of providing for the speedy trial of the cases [under this act] and of scheduled offences, the Federal Government, or if so directed by the Government, the Provincial Government may establish by notification one or more Anti-Terrorism Courts in relation to [each territorial area as specified by the High Court concerned]”.

The language of afore-said Section is very much clear and says that the provincial Government may establish Anti-Terrorism Courts if so directed by the Federal Government. Thus the Anti-Terrorism Courts are established by the Provincial Government on the direction of Federal Government. This is the reason that the Government of Khyber Pakhtunkhwa has promulgated the Anti-Terrorism Courts Staff Recruitment Rules, 2020 for the recruitment of Staff of Anti-Terrorism Courts. As such all the Laws of Government of Khyber Pakhtunkhwa are applicable to the employees of Anti-Terrorism Courts and they are civil servants as well. Copies of title page of Anti-Terrorism Act 1997 and Section 13 are attached as Annexure-E.

From the above stated facts, it is very much clear that the respondent No: 1 is a Civil Servant and all the laws of Government of Khyber

Pakhtunkhwa are applicable upon the respondent No; 1. The respondent No; 1 has not misled this Hon'ble Tribunal in this respect.

The objection raised by the applicants in Para No;7(b) of application is wrong, incorrect and mis-leading. The respondent No; 1 has filed Service Appeal within time. The impugned order was issued on 08/01/2021. The respondent No; 1 filed Departmental Appeal on 27/01/2021. Thereafter 90 days have been passed but official respondents have not decided Departmental Appeal of the respondent No; 1. Then respondent No; 1 filed Service Appeal on 19/05/2021, even at that time, official respondents have not decided the Departmental Appeal of respondent No;1. During pendency of Appeal, the official respondents decided Departmental Appeal of the respondent No;1 which was also challenged by the respondent No:1 by filing amended appeal, with the permission of this Hon'ble Tribunal. As such all the precedent Laws mentioned by the applicants in their application are irrelevant and not attracted to the facts and circumstances of the case of respondent No:1.

The objection raised in Para No:7(c) is wrong, incorrect and mis-leading one. The applicant No; 1 & 2 have been appointed as Junior Clerks who have been given promotions from time to time by maintaining their own seniority list. Where applicants No;1 & 2 have been promoted firstly from Junior Clerks to Senior Clerks and then both of them were promoted from Senior Clerks to the Post of Assistant / Reader.

Similarly applicants No;3 & 4 whose qualification is Matric and were appointed as Chokidar & Process Server, have been given promotions from time to time and lastly promoted to the post of Assistant / Reader. Copy of Provisional Seniority list for year 31/12/2022 is attached as Annexure-F.

In the year 2010, while seeking promotion from the post of Senior Clerk to the post of Assistant / Reader the applicant No:1 namely AsmatUllah has admitted the legality and seniority position of respondent No:1 in his Departmental Appeal followed by Judgement dated: 23/09/2011 passed by the Hon'ble Senior Puisne Judge of Peshawar High Court Peshawar in Departmental Appeal of applicant No:1. As such principle of estoppel applies to the applicant No:1 namely AsmatUllah for his admitting the legal and seniority position of respondent No:1 as Assistant / Reader in District Judiciary Lakki Marwat and also for the post of Assistant / Reader.

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Copies of Departmental Appeal, Office Letter dated: 30/09/2011 and Judgment dated 23/09/2011 are attached as Annexure-G.

Whereas applicant No;2 has already been retired from service on medical ground on 15/03/2023. Copy of retirement order dated 05/05/2023 is attached as Annexure-H.

Moreover the Service Appeal of respondent No:1 was pending adjudication before this Hon'ble Tribunal for about one and half year. During this period, all the applicants were aware of the pendency of appeal of respondent No:1 but non of the applicants made application for impleadment. The applicant No:1 was serving as Acting Superintendent in District Judiciary of Lakki Marwat during this period who was well in knowledge of the Service Appeal and all the correspondence of Peshawar High Court Peshawar and other Departments was done through his hands.

Keeping in view the above mentioned facts, all the applicants have no Locus standi nor any cause of action to file instant application. The seniority list of Assistant/Reader was maintained in the year 2005. The applicants have not raised any objection upon the seniority position of the respondent No; 1 upto 15/16 years. The Peshawar High Court Peshawar has also raised no objection whatsoever upon the common seniority list of Assistant/Reader prepared since 2005 in which the respondent No:1 was placed at bottom initially and then from to time the respondent No:1 came on top position of the seniority list. Even in the year 2017, the same applicants made complaint before Peshawar High Court Peshawar for seniority list of Assistant/Reader but Peshawar High Court, Peshawar turned down their objection upon seniority list & promoted official namely Amir NasirUllah as Superintendent on 17/04/2017, from the same seniority list in which respondent No: 1 was at serial No: 2 at that time.

- 8) That Para No;8 is wrong, incorrect and mis-leading one. The Judgment dated; 25/11/2022 of this Hon'ble Tribunal has only struck down the impugned order dated; 08/01/2021 of Peshawar High Court, Peshawar. Where after the Peshawar High Court, Peshawar has only restored the previous position of respondent No:1 as Assistant/Reader in the District Judiciary Lakki Marwat. The afore-said Judgment of this Hon'ble Tribunal is totally silent about regularization and back date seniority of the respondent No;1 nor had the respondent No;1 claimed / prayed for regularization or back date seniority in his Service Appeal. It is pertinent to mention here that prior to filing service appeal, the respondent No;1 was

already on top of seniority list prepared for the post of Assistant / Reader. The respondent No;1 was appointed as Assistant/Reader on regular vacant post in the year 2003 and after successful completion of probation period, the respondent No;1 was confirmed.

9) The Para No;9 is wrong, incorrect and mis-leading one. True facts have been stated above.

For what has been stated above, it is therefore most humbly requested that Misc. Application u/s 12 (2) CPC of applicants may be dismissed with costs throughout.

[Signature]
Respondent No 1

Through Counsel

[Signature]
SHAHID SALIM MINA KHEL
ADVOCATE SUPREME COURT
OF PAKISTAN

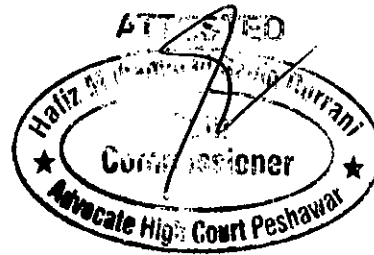
Dated: 12/07/2023

Verification / Affidavit

Verified on oath that contents of instant reply are correct and true to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

It is further stated on oath that in this 12(2) Respondent No 1 have neither been placed on file nor their has been struck off.
Deponent

12 JUL 2023



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Annex - A

PESHAWAR HIGH COURT, PESHAWAR

ORDER

Dated Peshawar the 07th February, 2023

In pursuance of the Judgment dated 25.11.2022, passed in Service Appeal No.5200/2021 by the Khyber Pakhtunkhwa Service Tribunal, Peshawar, the Competent Authority has been pleased to withdraw this Court's order bearing Endst: No.296-301/Admn: dated 08.01.2021 and restore Mr. Tariq Saleem to his previous position as Assistant/Reader in the establishment of District & Sessions Judge, Lakki Marwat.

By order of Hon'ble the Chief Justice

(INAMULLAH KHAN)
REGISTRAR

Endst: No. 2484-90 /Admn:

Dated Pesh the 14/02/2023

Copy forwarded to: -

1. The Member Inspection Team, Peshawar High Court, Peshawar.
2. The Director (HR&W) SDJ, Peshawar High Court, Peshawar.
3. The District & Sessions Judge, Lakki Marwat.
4. The Judge, Anti-Terrorism Court, Bannu.
5. The District Accounts Officers, Bannu & Lakki Marwat.
6. The SCS to Hon'ble Chief Justice, Peshawar High Court, Peshawar.
7. The official concerned by name.


(INAMULLAH KHAN)
REGISTRAR

(9)

Annex-B



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210149-58
Off: 9210135
Fax: 9210170

www.peshawarhighcourt.gov.pk
info@peshawarhighcourt.gov.pk
phcpsh@gmail.com

No. _____/Admn:

Dated Pesh the ____/____/2023

To:

The Judge,
Anti-Terrorism Court,
Bannu.

Subject: **MEETING OF DEPARTMENTAL PROMOTION COMMITTEE.**

Dear Sir,

Reference your letter No.142 dated 12.05.2023, on the subject. Mr. Aamir Ali, Additional District & Sessions Judge, Lakki Marwat is nominated as nominee of this Court for the meeting of DPC of your establishment, scheduled to be held on 03.06.2023.

Sincerely yours,

(Aabid Sarwar)
ADDITIONAL REGISTRAR (ADMN)

Endst: No. S643-44 Admn:

Dated Pesh the 27/05/2023

Copy forwarded to: -

1. The District & Sessions Judge, Lakki Marwat;
2. The officer concerned by name.

(Aabid Sarwar)
ADDITIONAL REGISTRAR (ADMN)
26/5/23

**MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION
COMMITTEE HELD ON 14TH JUNE, 2023 IN THE OFFICE OF
THE JUDGE ANTI-TERRORISM COURT, BANNU DIVISION**

Meeting of Departmental Promotion Committee was held to consider the promotions against Posts of Assistant (BPS-16), Senior Clerk (BPS-14) and Junior Clerk (BPS-11) falling vacant in the establishment of the Judge Anti-Terrorism Court, Bannu Division.

The following attended the meeting:

Mr. Aurangzeb Khattak, (Chairman)
*District & Sessions Judge/Judge Anti-Terrorism Court
Bannu Division*

Mr. Amer Ali, (Member)
*Additional District & Sessions Judge-I Lakki Marwat,
(Nominee of the Hon'ble PHC, Peshawar)*

Mr. Shabbir Muhammad Durrani, (Member)
*Additional Sessions Judge-VI/JC/JCPC, Bannu.
(Nominee of the Chairman of DPC, A.T.C Bannu Division)*

Judge Anti-Terrorism Court
Bannu Division Bannu.

The proceedings of meeting started with recitation from the Holy Quran.

The agenda of the meeting was to consider the promotions of One (01) post of Senior Clerk (BPS-14) to Assistant (BPS-16). One post of Junior Clerk (BPS-11) to Senior Clerk (BPS-14) and One (01) post of Class IV (Naib Qasid, Chowkidar, Sweeper, Mali) to Junior Clerk (BPS-11) on regular basis. The office of Judge Anti-Terrorism court /Chairman has already prepared working papers and communicated the same to the august Peshawar High Court, Peshawar.

PROMOTION AGAINST THE POST OF ASSISTANT (BPS-16)

One Senior Clerk (BPS-14) was considered for promotion to fill up One (01) vacant post of Assistant (BPS-16) as per working paper (Working paper Annexure-A). As per Anti-Terrorism Courts Staff Recruitment Rules, 2020 vide Notification No. SO(Prosecution)/1101/1-5/2020/Vol-I Peshawar the dated 29th September, 2020, the required criteria for promotion to the post of Assistant (BPS-16) is as under: -

- a) *Seventy five percent (75%) by promotion, on the basis of seniority-cum-fitness from amongst Senior Clerks with at least five-year service as Junior and Senior Clerks.*

10-A

After taking into account the service record of official, who was initially appointed as Chowkidar on 17.09.2002 in the establishment of Anti-Terrorism Court, Bannu Division. Later on, he was promoted to the post of Junior Clerk on 19.03.2015 and to the post of Senior Clerk on 14.03.2020. Hence the combined service of the official as Junior Clerk as well as Senior Clerk is Eight (08) years. Hence the official qualifies the requisite experience. The Committee unanimously recommended the official named below for promotion against the vacant post of Assistant (BPS-16) on the basis of seniority-cum-fitness.

S.No	Name of Official	Current Post held	Promoted To
1	Abid Khan	Senior Clerk (BPS-14)	Assistant (BPS-16)

Judge Anti-Terrorism Court
Bannu Division Bannu.

PROMOTION AGAINST THE POST OF SENIOR CLERK (BPS-14)

One Junior Clerk (BPS-11) was considered for promotion to fill up One (01) vacant post of Senior Clerk (BPS-14) as per working paper. (Working paper Annexure-B). As per Anti-Terrorism Courts Staff Recruitment Rules, 2020 vide Notification No. SO(Prosecution)/HOD/1-5/2020/Vol-I Peshawar the dated 29th September, 2020, the required criteria for promotion to the post of Senior Clerk (BPS-14) is as under: -

"By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Junior Clerks (BPS-11) with at least two years' service as such:"

After taking into account the service record of official as per working paper, the Committee unanimously recommended the official named below for promotion against the vacant post of Senior Clerk (BPS-14) on the basis of seniority-cum-fitness.

S.No	Name of Official	Current Post held	Promoted To
1	Mati Ur Rehman	Junior Clerk (BPS-11)	Senior Clerk (BPS-14)

PROMOTION AGAINST THE POST OF JUNIOR CLERK (BPS-11)

Two officials including Sweeper & Chowkidar (BPS-03) were considered for promotion to fill up One (01) vacant post of Junior Clerk (BPS-11) as per working paper (Working paper Annexure-C). As per Anti-Terrorism Courts Staff Recruitment Rules, 2020 vide Notification No. SO(Prosecution)/HOD/1-5/2020/Vol-I Peshawar the dated 29th September, 2020, the required criteria for promotion to the post of Junior Clerk (BPS-11) is as

10-B

(a) Fourth percent (40%) by promotion, on the basis of seniority-cum-fitness from amongst the Naib Qasids, Chowkidars and Sweepers including holders of other equivalent posts, who have passed FA/F.Sc Examination or its equivalent qualification from a recognized Board, with two year service as such;

Note: For the purpose of promotion, there shall be maintained a common seniority list of Naib Qasids, Chowkidars, Sweepers etc. with reference to the dates of their acquiring the FA/F.Sc qualification. Provided that-

- (i) If two or more officials have acquired the FA/F.Sc qualification in the same session, the inter se seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post;
- (ii) Where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials. Provided further that the condition of FA/F.Sc or its equivalent qualification from a recognized Board, as laid down at clause (a) shall not apply for a period of four years from the date of commencement of this Notification to the existing matriculate incumbents of the post of Naib Qasid, Chowkidar and sweeper including holders of other equivalent posts for promotion to the post of Junior Clerk (BPS-11)

Judge Anti-Terrorism Court
Bannu Division Bannu.

As per compliance of PIIC letter No. 19657-19706/DSC-DPC/ADMN: dated 09.12.2017 and keeping in view their seniority cum fitness, as mentioned in working paper Annexure-C, and to sift competent from incompetent, a test was conducted in order to assess seniority cum fitness of the candidates. As a result of test, Mr. Ihsan Ullah Khan at Serial No. 01 of the Working Paper Annexure-C, was recommended for promotion to the post of Junior Clerk (BPS-11).

S.No	Name of Official	Current Post held	Promoted To
1	Ihsan Ullah Khan	Sweeper (BPS-03)	Junior Clerk (BPS-11)

10-e

The meeting ended with a vote of thanks to and from the Chair.




Mr. Amer Ali

Add: District & Sessions Judge, Lakki Marwat
(Nominee of Hon'ble PHC, Peshawar)



Mr. Shabbir Muhammad Durrani,

Add: District & Sessions Judge-VI, Bannu
(Nominee of the Judge A.T.C. Bannu Division)


(Aurangzeb Khattak)

District & Sessions Judge/Judge Anti-Terrorism Court, Bannu Division.
(Chairman)

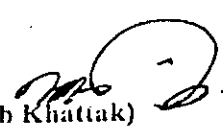
Judge Anti-Terrorism Court
Bannu Division Bannu.

Endst: No. ~~202-05~~ Judge A.T.C

Dated Bannu the: 14/06/2023

Copies forwarded for information to the:

1. The Worthy Registrar, Hon'ble Peshawar High Court, Peshawar.
2. All Members of the Committee.
3. Office File.


(Aurangzeb Khattak)

District & Sessions Judge/Judge Anti-Terrorism Court
Bannu Division. (Chairman)

Judge Anti-Terrorism Court
Bannu Division Bannu.

(11)
I-Ministerial Establishment of District Courts

4.	<ol style="list-style-type: none"> 1) Chowkidar 2) Naib Qasid 3) Sweeper 4) Mali 5) Water Carrier 	<ol style="list-style-type: none"> 1. Senior Civil Judge/Aa'la A'laqa Qazi concerned-Chairman 2. Nominee of High Court- Member 3. Nominee of Senior Civil Judge/Aa'la A'laqa Qazi concerned-Member 	Senior Civil Judge/Aa'la A'laqa Qazi concerned
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Annex-C

III. Process Serving Establishment

5	<ol style="list-style-type: none"> 1) Assistant 2) Civil Nazir 3) Junior Clerk 4) Bailiff 5) Process Server 	<ol style="list-style-type: none"> 1. Senior Civil Judge/Aa'la A'laqa Qazi concerned-Chairman 2. Nominee of High Court- Member 3. Nominee of Senior Civil Judge/Aa'la A'laqa Qazi concerned-Member 	Senior Civil Judge/Aa'la A'laqa Qazi concerned
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(No. D.R Peshawar dated the 14th November, 2002.)

C.No. 8(3-1)

**ANTI TERRORISM COURTS APPOINTING AUTHORITIES,
CONSTITUTION OF DEPARTMENTAL SELECTION AND
DEPARTMENTAL PROMOTION COMMITTEES**

**PESHAWAR HIGH COURT
NOTIFICATION**

Dated Peshawar the 26th January, 2010

No. 21-J: In exercise of the powers conferred by Rule 2 read with Rule 5 of the ¹[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, Hon'ble the Chief Justice is please to

¹ Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

authorize all the Judges, Anti-Terrorism courts in the ¹[Khyber Pakhtunkhwa] as Appointing Authority for the posts from BPS-01 to 15 borne on the ministerial establishment of their respective Courts.

The composition of Departmental Promotion Committee and Departmental Selection Committee shall be as follow:-

- 1. Judge Anti-Terrorism Court concerned CHAIRPERSON
- 2. Nominee of Peshawar High Court MEMBER
- 3. Nominee of Judge ATC concerned MEMBER

C.No. 9(3-1)

ANTI TERRORISM COURTS' JUDGES AS APPOINTING AUTHORITIES, FOR THE POSTS OF BPS-01 TO 16.

PESHAWAR HIGH COURT NOTIFICATION

Dated Peshawar the 24th November. 2015

No.194-J: In partial modification of this Court's Notification No.21-J dated 26.01.2010, the Competent Authority is pleased to authorize all the Judges of Anti-terrorism Courts in the Khyber Pakhtunkhwa as Appointing Authority for the posts from BPS-01 to 16 borne on the ministerial establishment of their respective Courts.

C.No. 10(3-1)

ANTI-TERRORISM COURTS STAFF RECRUITMENT RULES, 2020 NOTIFICATION

Peshawar, dated the 29th September, 2020

No. SO(Prosecution) / HD/1-5/2020/Vol-I: In pursuance of the provisions contained in sub rule (2) of the rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Home and Tribal Affairs Department in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions, specified in column NOs.3 to 5 of the Appendix to this Notification, which shall be applicable to various posts of Anti-terrorism Courts, as specified in column No.2 of the said Appendix.

APPENDIX

1.	2.	3.	4.	5.
S.#	Nomenclature of posts.	Minimum qualification for appointment by initial recruitment.	Age limit	Method of recruitment

¹ Substituted by The Khyber Pakhtunkhwa Laws (Amendment) Act, 2011

1.	Superintendent	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst Assistant, Senior Scale Stenographer and Computer Operators, with at least five year service as such. Note: For the purpose of promotion there shall be maintained a joint seniority list of Assistants, Senior Scale Stenographer and Computer Operators.
2.	Senior Scale Stenographer	(a) At least second class Bachelor's Degree, from a recognized University; (b) A speed of seventy (70) words per minute in shorthand and forty given (45) words per minute in typing; (c) In the districts where Urdu is the Court language, speed of thirty (30) words per minute in typing in Urdu as well; as (d) Knowledge of computer in using MS Word, MS Excel.	20-32 years	By Initial Recruitment.
3.	Assistant	At least second class Bachelor's Degree from a recognized University.	20-32 years	(a) Seventy five percent (75%) by promotion, on the basis of seniority-cum-fitness from amongst Senior Clerks with at least five year service as Junior and Senior Clerks; and (b) Twenty five (25%) by initial recruitment (c)
4.	Computer Operator	At least:- a. Second class Bachelor's Degree in Computer Science /	20-32 years	By initial recruitment.

BETTER COPY

TO BE SUBSTITUTED FOR THE SAME NUMBER AND DATE

GOVERNMENT OF THE KHYBER PAKHTUNKHWA HOME AND TRIBAL AFFAIRS DEPARTMENT
Peshawar, dated the 29th September, 2020.

NOTIFICATION

No. SO (Prosecution)/HD/1-5/2020/Vol: In pursuance of the provisions contained in sub rule (2) of the rule 3 of the Khyber Pakhtunkhwa Civil Servant (Appointment Promotion and Transfer) Rules 1989, the Home and Tribal Affairs Department in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions, specified in column Nos. 3 to 5 of the Appendix to this Notification which shall be applicable to various posts of Anti-Terrorism Courts, as specified in column No.2 of the said Appendix.

APPENDIX

1.	2.	3.	4.	5.
S.#	Nomenclature of posts	Minimum qualification for appointment of initial recruitment.	Age limit	Method of recruitment.
1.	Superintendent			By promotion, on the basis of seniority-comes fitness, from amongst Assistants Senior Scale Stenographer and computer operators, with at least five years service as such. Note: for the purpose of promotion there shall be maintained a joint seniority list of Assistants, Senior Scale Stenographer and Computer Operators.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HOME AND TRIAL AFFAIRS DEPARTMENT

It has been dated the 29th September, 2020.

TO BE SUBSTITUTED FOR THE SAME NUMBER AND DATE



NOTIFICATION

No. S.O. (P) 1000/2020/Vol. I
In pursuance of the provision contained in sub-rule (2) of rule 3 of the
Khyber Pakhtunkhwa Civil Service (Appointment, Promotion and Transfer) Rules, 1997, the following Trial Affairs Department,
in consultation with the Establishment Department and the Finance Department, hereby, the mode of recruitment,
qualification and other conditions, specified in column Nos. 2 to 5 of the Appendix to this Notification which shall be applicable to
various posts of Anti Terrorism Courts, etc. in column 6 of the said Appendix.

APPENDIX

Sl. #	Nomenclature of post	Minimum qualification for appointment	Age limit	Medical requirement	Other
1.	Independent				
2.					
3.					
4.					
5.					

Hy promotion on the basis of seniority cum
fitness from amongst Assistants, Senior Scale
Stenographers and Computer Operators, with
at least five years service as such
Note: For the purpose of promotion there
shall be maintained a joint seniority list of
Assistants, Senior Scale Stenographer and
Computer Operators

15

16

Amex - D



The PESHAWAR HIGH COURT Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name. Exch: 9210149-58 Off: 9210135 Fax: 9210170 www.peshawarhighcourt.gov.pk info@peshawarhighcourt.gov.pk phcpsh@gmail.com

No. 4955-58 / Admn:

Dated Pesh the 11/05/2023

To:

- 1. All the Additional Registrars of PHC Benches
2. All the District & Sessions Judges/Zilla Qazis
3. All the Judges of Anti-Terrorism Courts
4. All the Senior Civil Judges (Admin)

in the Khyber Pakhtunkhwa.

Subject: CLARIFICATION REGARDING APPOINTMENT UNDER RULE 10(4) OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION & TRANSFER) RULES, 1989.

Sir/Madam,

Enclosed find herewith copy of letter No. SO(Policy)E&AD/1-3/2023/APT Rules dated 28.04.2023, on the subject, received from the Section Officer (Policy), Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar, for information and compliance, please.

Sincerely yours,

(Aabid Sarwar) ADDITIONAL REGISTRAR (ADMN) 8/5/23

Endst: No. & Date Even:

Copy forwarded for information to the Section Officer (Policy), Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar with reference to his letter referred to above.

(Aabid Sarwar) ADDITIONAL REGISTRAR (ADMN)



GOVT. OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

No. SO(Policy)/E&AD/1-3/2023/APT Rules
Dated Peshawar, the April 28, 2023

17

To

1. The Additional Chief Secretary, Khyber Pakhtunkhwa.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. All Divisional Commissioners in Khyber Pakhtunkhwa.
5. All Heads of Attached Departments in Khyber Pakhtunkhwa.
6. All Deputy Commissioners in Khyber Pakhtunkhwa.

Peshawar High Court, Peshawar.	
Receipt No	5753
Date	3-5-2023
For action	AMC
Signature	[Signature]

Subject:

**CLARIFICATION REGARDING APPOINTMENT UNDER RULE 10(4) OF THE
KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENTS
PROMOTION & TRANSFER) RULES, 1989**

Dear Sir,

I am directed to refer to the subject noted above and to state that Rule 10(4) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 provides for appointment of one of the children, widow or wife of such civil servant who dies during service or is rendered incapacitated/invalidated during service or retired on medical grounds.

2. In this regard, clarification was issued vide this Department's letter of even No. dated 21.02.2020 that daughter after contracting marriage becomes liability of her husband and hence not entitled for such appointment under Rule 10(4) of the APT Rules, 1989.

3. It is to further clarify that a married daughter after separation from her husband and dependent on her parents is also entitled to appointment under Rule 10(4) of APT Rules, 1989 subject to the conditions that:

- i. In case the married daughter is separated judicially, she has to produce a divorce certificate duly issued by NADRA.
- ii. In case she has separated customarily she has to produce a certificate from the Deputy Commissioner concerned to the effect that she is separated and is fully dependent on her parents after separation.

Yours faithfully,

(Issa Muhammad Khan)
SECTION OFFICER (POLICY)

Endst: No & Date Even.

A copy of the above is forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Registrar, Peshawar High Court, Peshawar.
4. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar
5. Provincial Ombudsman, Khyber Pakhtunkhwa.
6. All Heads of Authorities/Autonomous/Semi-Autonomous bodies in Khyber Pakhtunkhwa.
7. Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
8. All Special Secretaries/Additional Secretaries/Deputy Secretaries/Section Officers in E&A Department.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Secretary, Establishment Department.

SECTION OFFICER (POLICY)

PSF 2/4/05

THE ANTI-TERRORISM ACT, 1997

18

¹(XXVII OF 1997)

Annex-E

An act to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences;

Whereas it is expedient to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences and for matters connected therewith and incidental thereto;

It is hereby enacted as follows:-

1. Short title, extent and commencement. - (1) This Act may be called the Anti-terrorism Act, 1997.

(2) It extent to the whole of Pakistan.

*

(3) It shall come in to force at once.

2. Definitions. In this Act, unless there is anything repugnant in the subject or context,-

(a) "armed forces" means the Military, Naval and Air Forces of Pakistan and the Reserves of such Forces;

(b) "civil armed forces" means the Frontier Constabulary, Frontier Corps, Pakistan Coast Guards, Pakistan Rangers or any other civil armed force notified by the Federal Government as such;

(c) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);

²[(d) "child" means a person who at the time of the commission of the offence has not attained the age of eighteen years;

(e) "court" means an Anti-terrorism Court established under section 13;

(f) "explosives" means any bomb, grenade, dynamite, or explosive substance capable of causing an injury to any person or damage to any property and includes any explosive substance as defined in the Explosives Act, 1884 (Act IV of 1884);

(g) "firearms" means any or all types and gauges of handguns, rifles and shotguns, whether automatic;

¹The Anti-terrorism Act, 1997 and all Rules, Notifications and Orders issued there under have been adopted in the Northern Areas vide S.R.O No. 496(1) 2000, dated 11-7-2000.

²Subs. by the Anti-terrorism (Amdt.) Ordinance, 2001(39 of 2001), s. 2, for cls. (d) to (h), which was previously ins. by Ord. 13 of 1999, s.3.

*It shall apply to the PATA of the Khyber PakhtunKhwā vide Notification No. 1/75-SOS 11/HD/2002 dated 15.12.2002.

funds of the organization to which he belongs or from his own personal resources or assets for the hurt or damage or destruction caused as a result of the commission of the offence under sub-section (1).

(3) A person commits an offence if he addresses a meeting or gathering or delivers a sermon to a religious gathering by any means whether verbal, written, electronic, digital or otherwise to incite religious, sectarian or ethnic hatred and contempt, and shall, on conviction, be punishable with imprisonment not less than ¹[five years] and not more than ¹[ten years] or fine or with both.

12. Jurisdiction of ²[Anti-terrorism Court].— (1) Notwithstanding anything contained in the Code or in any other law, a scheduled offence committed in an area in a Province ³[or the Islamabad Capital Territory] shall be triable only by the ²[Anti-terrorism Court] exercising territorial jurisdiction in relation to such area.

(2) Notwithstanding anything contained in sub-section (1), if, in respect of a case involving a scheduled offence committed in any area, the Government, having regard to the facts and circumstances of the case, is satisfied that in order to ensure a fair trial, or for the protection and safety of witnesses, that such offence should be tried by ²[an Anti-terrorism Court] established in relation to any other area, the Government may make a declaration to that effect.

Explanation.— Where ²[an Anti-terrorism Court] is established in relation to two or more areas, such ²[Anti-terrorism Court] shall be deemed, for the purpose of this sub-section, to have been established in relation to each of such areas.

(3) Where a declaration is made in respect of an offence committed in an area in a Province ³[or the Islamabad Capital Territory] any prosecution in respect of such offence shall be instituted only in the ²[Anti-terrorism Court] established in relation to such area, and , if any prosecution in respect of such offence is pending immediately before such declaration in any other court, the same shall stand transferred to such ²[Anti-terrorism Court] and such ²[Anti-terrorism Court] shall proceed with such case from the stage at which it was pending at the time without the necessity of recalling any witnesses.

⁴[13. Establishment of Anti-terrorism Court.— (1) For the purpose of providing for the speedy trial of the cases ³[under this Act] and of scheduled offences, the Federal Government, or if so directed by the Government, the Provincial Government may establish by notification one or more Anti-terrorism Courts in relation to ⁵[each territorial area as specified by the High Court concerned].

(2) Where more Anti-terrorism Courts than one have been established in any area, the Government in consultation with the Chief Justice of the High Court shall ⁵[designate a judge of any such Court to be an administrative judge] and all cases trial under this Act pertaining to the said area shall be filed before the ⁵[said court and such judge may either try the case himself] or , assign any case, or cases, for trial to any other Anti-terrorism Court at any time prior to the framing of the charge. The cases shall be assigned to a court one case at a time:

¹Subs. by the Act No. II of 2005, s. 5.

²Subs. by the Ordinance No. XIII of 1999, s. 2.

³Ins. by the Anti-terrorism (Second Amdt.) Act, 2013 (XX of 2013), ss. 10 and 11.

⁴Subs. by the Anti-terrorism (Amdt.) Ordinance, 2002 (6 of 2002), s. 2.

⁵Subs. and shall be deemed to have always been so subs. by the Anti-terrorism (Second Amdt.) Ordinance, 2002 (134 of 2002).

Amex-F

PROVISIONAL COMMON SENIORITY LIST AMONGST HOLDER OF THE POSTS OF ASSISTANT/READER (BPS-16), ASSISTANT/COC (BPS-16) AND ASISTANT/CIVIL NAZIR (BPS-16) FOR THE PURPOSE OF PROMOTION TO THE POST OF SUPERINTENDENT (BPS-17), DISTRICT: LAKKI MARWAT AS STOOD ON 31-12-2022.

Total Sanctioned Strength : 05
District & Session Judge : 03
Senior Civil Judge : 02
Vacant Post : 00

20

Sr.	Name of official	Father's Name	Academic Qualification	Date of Birth	Present post held with BPS	Date of 1st entry in Dist. Judiciary on regular basis as	Date of regular promotion as (BS-05)	Date of regular promotion as Junior Clerk (BS-11)	Date of regular promotion as Senior Clerk (BS-14)	Date of regular promotion as Assistant (BS-16)	Mode of Recruitment	Date of attaining Superannuation	Acknowledged
1	Tariq Saleem	Muhammad Saleem	BA	4/1/1981	Assistant/Reader (BPS-16)	21/04/2003 as (Assistant, BS-16)	0	0	0	0	Direct	3/1/2039	
2	Asmat Ullah	Haji Mir Sahib Khan	BA	1/9/1972	Assistant/COC (BPS-16)	21/1/1991 as (Junior Clerk, BS-11)	0		14/12/1995	17/10/2010 as Assistant (BPS-16)	Promotion	31/8/2032	
3	Zardad Khan	Yousaf Jan	Matric	12/8/1966	Assistant/Civil Nazir (BPS-16)	13/9/1985 as (Process Server, BS-05)	0	25/04/1996 as Execution Clerk	0	26/2/2018 as Civil Nazir/Assistant, BS-16	Promotion	11/8/2026	
4	Sami Ullah	Haji Bakht Jamal	Matric	1/11/1966	Assistant/Reader BS-16	4/12/1993 as (Junior Clerk BS-11)	0	0	15/9/2003	20/12/2019 as Assistant (BS-16)	Promotion	31/10/2026	
5	Muhammad Iqbal	Gul Faraz	Matric	20/03/1973	Assistant/Reader (BPS-16)	22/1/1990 as (Chowkidar BS-01)	0	13/11/1993	23/9/2010	26/11/2022 as Assistant (BS-16)	Promotion	19/3/2033	

District & Sessions Judge
Lakki Marwat
District & Sessions Judge
Lakki Marwat

THE REGISTRAR,
PESHAWAR HIGH COURT,
PESHAWAR.

THROUGH:- PROPER CHANNEL

Subject: REPRESENTATION/APPEAL AGAINST DPC
PROCEEDINGS / SELECTION.

Respected Sir,

1. That on 26.03.2003, the Competent Authority issued Notification known as "Peshawar High Court (Subordinate Court Staff) Recruitment Rules, 2003" regarding appointment, promotion and transfer of the Subordinate Staff in supersession of all the previous rules wherein method of recruitment, qualifications and other conditions were specified in the appendix of the Notification for various posts from BPS-1 to BPS-16.

At S.No 4 Assistant/Reader BPS-11 now BPS-14 was specified Qualifications for the said post was Bachelors Degree from a recognized University. Age limit is 18 - 30 years. Ratio is

- (i) 25% by initial recruitment; and
- (ii) 75% by promotion on the basis of seniority cum fitness from amongst holders of the posts of senior clerks with at least 3 years service as such. (copy as Annex-A).

ATTESTED

Signature
District and Sessions Judge
Lakki Marwat
9/10/09

That Mr. Shah Alam Khan, Assistant/Reader was retired from service on 12.09.09 vide order dated 10.09.09 and Mr. Abdul Manan, Assistant/Record Keeper was retired on 15.10.09 vide order dated 15.10.09 of the District and Sessions Judge, Lakki Marwat, meaning thereby that two(2) posts became vacant in the quota of promotion. (copy as Annex-B & C).

3. That to fill up the said posts, District and Sessions Judge, Lakki Marwat wrote letter to your honour to permit him to fill up in the vacant posts to convene DPC meeting for 17.02.10. (copy as Annex-D).

That vide letter dated 02.02.10, meeting of DPC was held on 17.02.10 but the matter could not be finalized as ACR of Sher Shah, Senior Clerk were not available (copy as Annex-B).

5. That again on 15.04.10, DPC held meeting which was again postponed as District and Sessions Judge was transferred and next DPC meeting was fixed for 21.09.10. In this meeting, it was considered that the said two posts need to be advertized for direct recruitment. (copy as Annex-F).

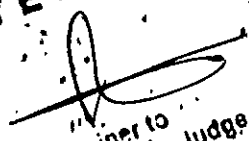
6. That Mr. Sher Shah and Asmatullah, Senior Clerks submitted application before the District and Sessions Judge/Chairman DPC to review the aforesaid calculation of DPC as the two posts were meant for quota of promotion and not for the quota of direct recruitment. On this application, the authority wrote: "Decision of the DPC was with-held, putup this petition for consideration in the next DPC" sd/D&SJ. (copy as Annex-G).

7. That on 21.12.10, the DPC held further meeting where in one post was made for promotion and one for direct recruitment. Sher Shah, Senior Clerk was recommended for promotion to the post of Assistant BPS-14 (copy as Annex-H).

8. Hence this appeal, inter alia, on the following grounds.

a. That the DPC failed to appreciate the true picture regarding the said posts. There are total five (05) posts of Assistants, four (04) posts are in the office of District and Sessions Judge while one (01) post in the office of S.C.J. Out of which one (01) post was filled up through promotion on 09.10.2000 namely Nasrullah, Senior Clerk. In the year 2003, one new post of Assistant was created which was also filled up through transfer of one Tariq Saleem, Assistant ATC, Bannu to Lakki Marwat, meaning thereby that the post of Assistant was filled up through direct quota on 21.04.2003. Third and Fourth post of Assistant became available on 12.09.09 and 15.10.09 through the retirement of Mr. Shah Alam Khan and Abdul Mannan, Assistants. Another one new post of Assistant was

ATTESTED


Examiner to
District & Session Judge
Lakki Marwat

9/6/28

created on 01.07.10 which was advertised and one Taj Muhammad was recruited directly as Budget Assistant BPS-14 on 28.09.2010.

- b. That the aforesaid calculation clearly stipulate that direct recruitment quota had already been observed by appointing Tariq Saleem and Taj Muhammad as Assistants and two posts of Assistants were filled up through promotion of Nasrullah and Sher Shah. As the ratio was 25 and 75%, so the subsequent left over one post of Assistant falls in the category of promotional quota of Assistants.
- c. That the DPC recommendation regarding promotion to the post of Assistant of Sher Shah and leaving appellant is not based on true perspective as the position has been cleared in the preceding para.
- d. That appellant has the required experience as of Senior Clerk and is quite eligible and fit for promotion to the post of Assistant, BPS-14.
- e. That vested right of future Service carrier for better and high post of appellant were put at stake by the DPC, so the proceedings were unfair and based on ulterior motive.

It is, therefore, most humbly requested that appellant be promoted to the post of Assistant, BPS-14 with effect from 1st DPC meeting held on 17.02.2010 with all service benefits.

Dated 18/01/2011

Appellant,

(Asmatullah)

Senior Clerk/Reader to ADJ

District & Sessions Court, Lakki.

ATTESTED

Examiner to District & Session Judge Lakki Marwat

9/6/11

OFFICE OF THE DISTRICT AND SESSIONS JUDGE, LAKKI MARWAT.

No. 3009 Dated Lakki the 13/1/2011.

Forwarded in original to the Registrar, Peshawar High Court, Peshawar for further necessary action please.

(Muhammad Masood Khan) District & Sessions Judge, Lakki

(24)



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar, Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210119-58
Off: 9210135
Fax: 9210170

No. 11486/Admn-1

Dated Peshawar the 30/09/2011

From:-

The Registrar,
Peshawar High Court,
Peshawar.

To: -

The District & Sessions Judge,
Lakki Marwat.

Subject: - DEPARTMENTAL APPEAL NO.03/2011.
Asmatullah...Vs...D&SJ, Lakki Marwat.

Dear Sir,

Enclosed find herewith, copy of judgment dated 23.09.2011, passed by the Hon'ble Senior Puisne Judge of this Court in the subject appeal, for information and compliance, please.

Yours faithfully,

(NIAZ MUHAMMAD KHAN)
ADDITIONAL REGISTRAR (ADMN)
FOR REGISTRAR

JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT PESHAWAR

Departmental Appeal No. 3/2011

JUDGMENT

Date of hearing 23.09.2011.

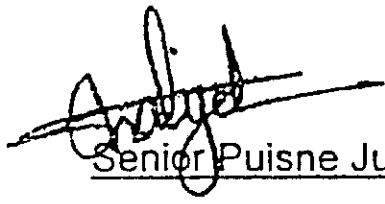
Appellant (Asmatullah) in person.

Respondent (D&SJ Lakki Marwat) by Mr. Awal Zaman,
Superintendent.

SHAH JEHAN KHAN YOUSAFZAI, J.- There were five posts of Assistants (BPS-14) available for filling during the period 2000 to 2009. Four posts of Assistant (BPS-14) were available for filling in the office of District & Sessions Judge while one post in the office of Senior Civil Judge, Lakki Marwat respectively. On 9.10.2000 one Nasrullah Senior Clerk (BPS-9) was promoted against 75% reserved quota for senior clerk. In the year, 2003 one new post of Assistant (BPS-14) was created which was filled on transfer of one Tariq Saleem serving as Assistant in the Anti-Terrorism Court, Bannu. The remaining two posts which were available for filling on 12.9.2009 and 15.10.2009 due to the retirement of Shah Alam Khan and Abdul Manan Assistants and one fresh post of Assistant was created on 1.7.2010 which was advertised for filling through Departmental Promotion Committee against 25% reserved quota for direct recruitment. Tariq Saleem and

Taj Muhammad were appointed on the recommendation of Departmental Promotion Committee and the fifth post is still vacant.

2. The appellant is undisputedly senior most Senior Clerk (BPS-9) had legitimate expectancy of promotion upon the said vacant post of Assistant (BPS-14) as only two Senior Clerks (BPS-9) were promoted senior to him and on the direct recruitment post against 25%, already two persons have been appointed. The appellant was wrongly refused promotion to the fifth vacant post of Assistant (BPS-14). I, therefore while allowing this Departmental Appeal, direct the respondent to hold meeting of the Department Promotion Committee for filling fifth post of Assistant (BPS-14) and the appellant being senior most Senior Clerk (BPS-9) in the office of District & Sessions Judge, Lakki Marwat be considered for the said post along with other senior clerks provided there is no other impediment in the way of his promotion.


Senior Puisne Judge

Announced.
Dated: 23.9.2011

As per the judgment of the Peshawar High Court, Peshawar, DPC meeting & requisitioning for 15.10.2011. Appeal no 3/2011.

(27)

Annex - H

DISTRICT JUDICIARY KHYBER PAKHTUNKHWA,

Office of the District & Sessions Judge, Lakki Marwat

Phone#0969-538150 Fax# 0969-538152

E-Mail:dsjlakki@Yahoo.com

No. 1652 /DSJ/L.M

Dated. 05/05/2023

OFFICE ORDER

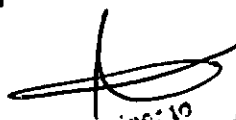
Subject: **RETIREMENT ON MEDICAL GROUNDS.**

In response to this office letter bearing No.2890/DSJ/L.M. dated 07-02-2023, the medical examination report dated 15/03/2023 of the Standing Medical Board, constituted by the Medical Superintendent, Police/ Services Hospital, Peshawar, on the directions issued by the Addl:Director General (Admn), Directorate General Health Services, Khyber Pakhtunkhwa, Peshawar, Mr.Sami Ullah Khan S/O Bakhat Jamal, Assistant (BPS-16), Establishment of the undersigned, has been declared as medically unfit for further active services in the government department due to suffering from Hypertension, Depressive illness and Ischemic Heart disease. He is having difficulty in walking, bending and standing for prolong period of time. His MRI LS spine shows central disc herniation at L4-L5 level causing spinal canal stenosis with resultant nerve root compression, central and left par central disc herniation at L5-S1 level causing bilateral lateral recess narrowing and nerve root compression. He is unable to continue his Government job and he was suggested to be boarded out on medical grounds.

In light of the above mentioned medical examination report, Mr. Sami Ullah Khan S/O Bakhat Jamal, Assistant (BPS-16), Establishment of undersigned, stands retired from his service on medical grounds w.e.f. date of his examination i.e. 15/03/2023.

Sanctions for the drawl of pension/commutation, encashment of LPR, final payment of G.P Fund, retirement grant, retirement benefits & death compensation and all other pensionary benefits (if any) are hereby accorded subject to entitlement in favor of above named official.

ATTESTED

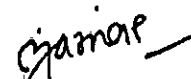


Examine: to
District & Session Judge
Lakki Marwat

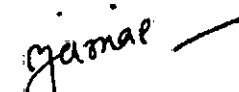
Endst: No. 1653-56 /DSJ/L.M

Copy forwarded to:

1. The Registrar, Hon'ble Peshawar High Court, Peshawar for information, please.
2. The learned Senior Civil Judge (Admn), Lakki Marwat for information.
3. The District Accounts Officer, Lakki Marwat for information and necessary action.
4. Official concerned.


(IJAZ RASHID)
District & Sessions Judge,
Lakki Marwat.

Dated Lakki, the 05/05/2023.


District & Sessions Judge,
Lakki Marwat.

وکالت نامہ

بعدالت خیر خواہ سروس ٹریبونل ایشیا اور

Respondent
No: 1

۲۰۲۳ء منجانب

مورخہ 23/05/2023

طارق سلیم وغیرہ

عصمت وغیرہ
بنام

مقدمہ CM 12(2)

جرم

باعث تحریر آنکہ

تھانہ

مقدمہ مندرجہ بالا عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ ان مقام مکمل صورت کیلئے

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ تقریر ثالث و فیصلہ پر حلف دینے جو اب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک، روپیہ اور عرضی اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت ڈگری کرانے اجراء اور وصولی چیک، روپیہ اور عرضی اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرفہ یا اپیل کی برآمدگی اور منسوخی دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے کسی اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا کوئی اپنے بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور بالا اختیارات حاصل ہوں گے اور اس کا ساختہ و پرداختہ بھی منظور قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی کوئی تاریخ پیشی مقام دورہ پر ہو یا پیشی سے باہر تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مقدمہ مذکور کریں۔ نیز اگر کسی بھی وجہ مثلاً بیماری، معذوری، علالت وغیرہ کی وجہ سے عارضی یا مستقبل پیروی مقدمہ نہ کر سکیں تو بھی وکیل صاحب یا اس کے لواحقین کو بقایا فیس (اگر کوئی ہے) ادا کرنے کا پابند ہونگے اور ادا شدہ فیس کی واپسی کا تقاضہ کرنے کا حق نہیں ہوگا۔ مضمون وکالت نامہ سن اور سمجھ کر وکالت نامہ لکھ دیا تاکہ سند رہے۔

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ماہ مئی

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العبد گواہ شدہ

23 المرقوم

العبد

