

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

**Service Appeal No. 507/2023**

Dr. Noor Ul Mabood.....(Appellant)

Versus

Chief Minister Government of Khyber Pakhtunkhwa through Principal  
Secretary Health Peshawar.....Respondents

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<sup>03</sup>  
Section officer (Lit-II)  
Govt: of Khyber Pakhtunkhwa  
Health Department  
Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

6/7/23

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**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**

Khyber Pakhtunkhwa  
Service Tribunal

**SERVICE TRIBUNAL PESHAWAR**

Diary No. 6515

**SERVICE APPEAL NO. 507 OF 2023**

Dated 17/7/2023

Dr. Noor Ul Mabood ..... Appellant

Versus

Chief Minister Govt. of Khyber Pakhtunkhwa through Principal Secretary &  
Others..... Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 01 TO 03**

**Respectfully Sheweth:**

**Preliminary Objections:-**

1. That the appellant has got no cause of action or locus standi to file the instant appeal.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to this Honorable Tribunal with clean hands.
7. That the appeal is barred by law and limitation.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

**ON FACTS:**

1. On the eve of supersession of Dr. Noor Ul Mabood, Ex-Management Cadre (BPS-19) by the Provincial Selection Board in its meeting held on 14.12.2012, where the appellant was superseded from the promotion in BS-19 whereas his juniors were recommended for promotion to BPS-19. Later on the appellant was promoted to BS-19 in the next PSB meeting held on 07.08.2013. In the meanwhile, the appellant approached to Khyber Pakhtunkhwa Service Tribunal for Conversion of supersession into deferment alongwith crucial date/ antedated promotion w.e.f 14.12.2012. On the directions and implementation of Khyber Pakhtunkhwa Service Tribunal Judgment dated 28.10.2016, Summary for Chief Minister Khyber Pakhtunkhwa was moved. After approval of the competent Authority (Chief Minister Khyber Pakhtunkhwa) and pursuance of the Khyber Pakhtunkhwa Services Tribunal Judgment 28.10.2016, the replying respondents promoted the appellant to BS-19 w.e.f 14.12.2012 instead of

22/6/23  
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21.10.2013 vide Notification dated 23.11.2022.it is worth to mentioned that Promotion to BS-19 under the Rules is on the ground of seniority cum fitness however to BS 20 is on the basis of merit.

- 2. Already replied in para 1 above.
- 3. Pertains to Court record.
- 4. Pertains to record.
- 5. Correct to the extent of retirement Notification dated 13-11-2017 rest of the para has been replied in para 1 of the facts.
- 6. Already replied in Para 1 above. In fact, the appellant was promoted to BS-19 after his retirement on the basis of the judgment of this honorable Tribunal however; he is not entitled for further proforma promotion after his retirement under the rules. It is further to clarify that only seniority is not the sole ground for promotion as there is other elements i.e fitness, length of service, eligibility etc. which are also to be taken into consideration for promotion of a civil servant. So far as promotion to Members of Service (BS-20) of an officer is concerned, schedule II clause 2 of the Khyber Pakhtunkhwa Health (Management) Service Rules, 2008 provides that the same is on the basis of selection on merit along with 4 months advance training in management from a recognized institutions or PHSA and not on the basis of seniority cum fitness hence the appellant dose not fulfill the criterion therefore is not entitled for promotion to Members of Service (BS-20) The relevant criterion is reproduced as under ;

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Members of Service (BS-20)

- a) By promotion, on the basis of selection on merit, from amongst the Members of Service in (BS-19) with 5 years Service as such or 17 years' service in (BS-17) and above; and
- b) Four months advance in service training in Management from a recognized institution or PHSA Khyber Pakhtunkhwa.

7. Incorrect. Already explained in Para-6 above.

8. Reply on the grounds is as under;

**ON GROUNDS:**

- A. Incorrect .the appellant has been treated in accordance with law, Rules and Constitution of Islamic Republic of Pakistan 1973.
- B. Incorrect the replying respondents have already implemented the judgment of the Honorable Tribunal by promoting the appellant to BS-19 from the dates when his juniors were promoted however the appellant is not entitled to be further promoted as the criterion for promotion to BS-19 and BS-20 of management cadre are totally

different under the rules hence the appellant is not entitled for further proforma promotion.

- C. Incorrect already replied in para 6 of the facts & B of the grounds.
- D. Incorrect already replied in para B of the grounds
- E. Pertains to record.
- F. Incorrect already replied in para 6 of the facts & B of the grounds.
- G. As per para A of the grounds.
- H. As per Para-A of the grounds.
- I. As per Para A of the grounds.

**PRAYER:**

It is therefore humbly prayed that the instant appeal of the appellant may very graciously be dismissed with costs.

*Handwritten signature*

*Handwritten signature*  
Secretary to Govt. of  
Khyber Pakhtunkhwa Health Department  
Respondent No. 02 & 03

*Handwritten signature*  
Principal Secretary to Chief Minister  
Govt. of Khyber Pakhtunkhwa  
Respondent No. 01

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

**Service Appeal No. 507/2023**


Dr. Noor Ul Mabood.....**Appellant**

**VERSUS**

Chief Minister Government of Khyber Pakhtunkhwa through Principal  
Secretary Health Peshawar.....**Respondents**

**AFFIDAVIT**

I Muhammad Tufail Section Officer (Lit-II) govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm and declare that the joint parawise comments in Service Appeal No.507/2023 is submitted on behalf of respondents is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.

  
Section officer (Lit-II)  
Govt: of Khyber Pakhtunkhwa  
Health Department  
Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa

6/7/23

Identified by:-

Addl: Advocate General,  
Khyber Pakhtunkhwa

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**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT**

**AUTHORITY LETTER**

Mr. Safi Ullah, Focal Person (Litigation-II), Health Department, Civil Secretariat is hereby authorized to attend/defend the Court Cases and file comments on behalf of Secretary Health Government of Khyber Pakhtunkhwa before the Service Tribunal and lower Courts.

*Attested*

(MAHMOOD ASLAM)

Secretary to Govt. of Khyber Pakhtunkhwa  
Health Department  
Secretary to Govt. of  
Khyber Pakhtunkhwa  
Health Department

9/15/23

*Conf*  
Section Officer (Lit-II)  
Health Department  
Khyber Pakhtunkhwa