


09.08.2023

Learned counsel for the petitioner present and submitted an application for restraining the respondents from promoting the respondents No. 1 & 2 on the basis of the judgment of this august court dated 14.04.2022 against which CM 12(2)CPC is pending. Notice of this application be issued to respondents. To come up for reply and arguments on 23.08.2023 before D.B. P.P given to parties.

(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

*KaleemUllah

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

Misc. Application # 590/2023

In Re:

CM (12)2 CPC No. _____/2023

IN

Service Appeal No. 148/2019



Babar Hayat, Sr. Scale Stenographer
Office of the Deputy Commissioner, Swabi.

APPELLANT

VERSUS

1. Ihsanullah, Senior Scale Stenographer (ACB),
O/o Commissioner Office Mardan.
2. Muhammad Ibrahim, Private Secretary (A.C.B),
O/o Commissioner Office Mardan.
3. The Commissioner, Mardan Division Mardan.
4. The Senior Member Board of Revenue, KP, Civil Secretariat,
Peshawar.

RESPONDENTS

.....
**APPLICATION FOR RESTRAINING THE
RESPONDENTS FROM PROMOTING THE
RESPONDENTS NO. 01 & 02 ON THE BASIS OF THE
JUDGMENT OF THIS AUGUST COURT DATED
14.04.2022 AGAINST WHICH CM 12(2)CPC IS
PENDING.**

.....

RESPECTFULLY SHEWETH:

1. That the applicant has filed the above 12(2)CPC CM against the Judgment dated 14.04.2022 passed in Service Appeal No. 128/2019. The said C,M has been noticed to the respondents and is still subjudice before this august Tribunal.
2. That as the respondent No. 01 & 02 who were otherwise junior to the appellant have been given seniority on the basis of above mentioned judgment to which the applicant was not a party.
3. That now the respondents are going to convene the meeting of DPC in first week of August, 2023 and if the respondents were

*put up to the court
with relevant file,
reader concerned.*

*Muhammad
8/8/23*

allowed promotion, based on the impugned judgment, then the main petition under 12(2) CPC of the applicant will be infructuous and the door of further unnecessary litigation will also be opened.

4. That to avoid legal complications and unnecessary litigation, it would be in the interest of justice to restrain the respondents from promoting the respondent No. 1 & 2.

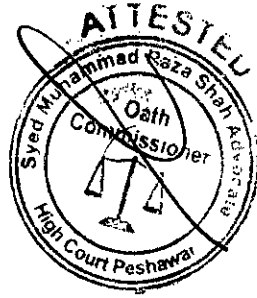
It is, therefore, most humbly prayed that the respondents may be restrained from promoting Respondents No. 1 & 02 to next higher grade on the basis of seniority given to them by virtue of impugned judgment of this august Tribunal to which the application was not a party and against that judgment the petition under 12(2)CPC is pending. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in the favour of the petitioner.

APPLICANT

THROUGH:

M. Asif Yousafzai

**(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.**



**&
(S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT**

AFFIDAVIT

It is affirmed and declared that the contents of the above application are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Tribunal.

DEPONENT

M. Asif Yousafzai

18-8-27

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

12(2)

DB

Appeal No. 221 of 2023

Babar Hayat

Appellant/Petitioner

Commissioner Versus Office Marban

Respondent

Respondent No.

Notice to:

Senior Member Board of Revenue Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 23/08/2023 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of..... 23 20

For Reply Arguments

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays. 2. Always quote Case No. While making any correspondence.