


Cost of Rs. 3000/- received in Service Appeal No. 347/23,

Titled Qaisar Alam vs. PKD

in the office of Assistant Registrar, Dated: 21/07/2023.

vide order sheet dated: 12/07/23


Assistant Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 347/2023.

QAISER ALAM

..... APPELLANT

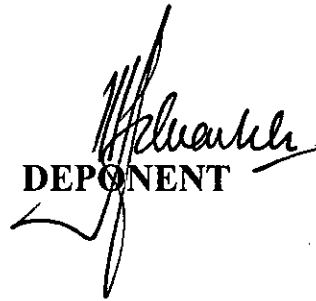
VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS

.....RESPONDENTS

INDEX

| S. No. | Description of Document | Annex | Pages |
|---------------|----------------------------------|--------------|--------------|
| 1 | Para-wise Comments | | 1-3 |
| 2 | Affidavit | | 4 |
| 3 | final seniority dated 28.10.2021 | I | 5 to 7 |
| 4 | Implementation Report | II | 8 to 9 |


DEPONENT

Section Officer (Lit-II)
Planning & Development Department

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 347/2023.

Diary No. 3641

QAISER ALAM,

Dated 22/07/23

..... APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa & others

.....RESPONDENTS

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS (1 to 3)

Respectfully Sheweth:

PRELIMINARY OBJECTIONS

- i. That the appeal is not maintainable in its present form.
- ii. That the petitioner has got no locus standi to file the instant appeal.
- iii. That the petitioner did not come to the court with clean hands.
- iv. That the appeals are not maintainable due to mis-joinder and non-joinder of necessary parties.
- v. That the petitioner concealed the material facts from the Hon'ble Tribunal.

BRIEF FACTS:

- 1) Pertains to record.
- 2) Pertains to record.
- 3) Pertains to record.
- 4) Pertains to record.
- 5) Pertains to record.
- 6) Pertains to record.
- 7) Respondents by taking into account the PPS Service Rules and in light of the Provincial Cabinet decision made in its meeting held on 09.05.2019, all planning oriented posts in BS-17 and above, of newly regularized components/units of P&D Department and Planning Cells of Administrative Departments, Civil Secretariat alongwith incumbents as well as left over posts were included in the Schedule-I of the PPS Rules vide Notification 09.01.2020.
- 8) Pertains to record.
- 9) PPS Cadre was established and PPS rules 2018 were notified for the officers of planning oriented posts in all Administrative Departments as well as in districts for better career progression. Various employees working in Planning Cells on regular basis and projects employees working in Planning Cells whose services were regularized under Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 were also required to include them in the Schedule-I of PPS Rules. In order to settle the anomalies arising out in the wake of promulgation of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018; a Ministerial

Committee was constituted. The Committee submitted its recommendations to Provincial Cabinet and recommended that all the positions created by Finance Department for all the regularized projects under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 shall be created/ placed at the strength of attached formations of respective Administrative Departments except the positions of Planning Cells which fall under the Provincial Planning Service (PPS). Recommendations of Ministerial Committee was approved by the Provincial Cabinet in its meeting held on 09.05.2019. Therefore, all the officers of Planning Cells and Officers of the projects in P&D Department regularized under the Act ibid were included alongwith their posts in the Schedule-I of PPS Rules after approval of Chief Secretary, Khyber Pakhtunkhwa. No fresh appointment was made rather employees alongwith their posts as explained above were included in the Schedule-I of PPS Rules.

- 10) The representation of the appellant made on tentative seniority list issued on 20.02.2020 was processed/examined and regretted and filed being not covered under any rule/regulation/policy.
- 11) Correct to the extent that tentative seniority lists of PPS BS-19 officers were issued time and again but could not be finalized due to frequent observations/ objections of the officers. A committee under the chairmanship of Secretary Establishment Department, Secretary Law and Secretary, P&D as its members was constituted to resolve the issues once for all. The committee in its meeting held on 02.06.2021 unanimously agreed that P&D Department may resolve the issues of the seniorities of PPS Cadre in light of Rule-8 of PPS Rules 2018, under Section-4 and Section-6(2) of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 and under Section-8(4) of Civil Servant Act, 1973. In pursuance of the recommendations of the Committee, seniority lists of PPS BS-17 and above were finalized and final seniority lists were issued after approval of the competent authority (i.e. Chief Secretary, Khyber Pakhtunkhwa and Secretary Establishment). Moreover, the appellant has been assigned seniority in BS-19 w.e.f 24.01.2019 i.e the date of his regular promotion to the post of PPS BS-19.
- 12) The representation of the appellant dated 06.11.2020 made on the tentative seniority list issued on 23.10.2020 was processed/examined and regretted and filed being not covered under any rule/regulation/policy.
- 13) Incorrect. Service Tribunal vide its order dated 14.07.2021 directed the respondents to decide the objections of the appellant and any other objection if filed against the tentative seniority list issued in February, 2020 and October, 2020. As the seniority dispute between the appellant and private respondents seems to be outcome of regularization of the said respondents, therefore, official respondents are expected not to overlook the law on the subject, while deciding the objections about tentative seniority list. It was further directed that the official respondents shall not process the case for promotions until a final seniority list is issued. The objections of the appellant were decided as judgment of Hon'able Service Tribunal and as per rules, therefore, after approval of competent authority i.e. Chief Secretary, Khyber Pakhtunkhwa, the final seniority list issued on 28.10.2021 was in accordance with the rules/laws. **(Annex-I)**
- 14) Incorrect. Orders of the Hon'able Service Tribunal were implemented in letter and spirit and implementation report was also submitted in this regard. **(Annex-II)**

- 15) In correct. As explained in preceding paras. Appellant was assigned seniority in PPS BS-19 as per rules/laws and final seniority list was issued after fulfilling all codal formalities with the approval of competent authority, therefore, his representation was examined and filed being not covered under the rules/law/policy.
- 16) Since, the representations of the appellant were examined/processed and regretted/filed being not covered under the rules/law/policy, therefore, he has no valid grounds/justification to approach the Hon'able Tribunal.


GROUND S:

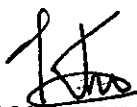
- A. Incorrect. As explained in preceding paras, the appellant is not an aggrieved person.
- B. Incorrect. No Fundamental Rights of the appellant have been violated and no illegal and unjust acts have been done by the respondents.
- C. Incorrect. Section-5 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018 is only regarding general conditions for regularization.
- D. Incorrect. The appellant was promoted to the post of PPS BS-19 on **24.01.2019** while the employees were regularized under the Act *ibid* w.e.f 07.03.2018, therefore, they were entitled for seniority in their respective cadre from the date of their regularization.
- E. Incorrect. As explained in preceding paras. Moreover, the employees regularized under the Act *ibid* were not appointed rather the incumbents alongwith posts were included in the Schedule-1 of PPS Rules after approval of Provincial Cabinet.
- F. Incorrect. The appellant has not been discriminated.
- G. Incorrect. As explained in preceding paras.
- H. Incorrect. Each and every case has its own merits and requires to be decided (**a to t**) in accordance with rules/laws/policies.

P R A Y E R:

Keeping in view of the above reasonable & just grounds, it is very humbly prayed that the Service Appeal may graciously be dismissed with cost on the appellant.


CHIEF SECRETARY
 Khyber Pakhtunkhwa
 (Respondent No. 1)


SECRETARY
 Govt: of Khyber Pakhtunkhwa
 Establishment Department
 (Respondent No. 2)


SECRETARY
 Govt: of Khyber Pakhtunkhwa
 P&D Department.
 (Respondent No. 3)

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 347/2023.

QAISER ALAM,

..... **APPELLANT**

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS

..... **RESPONDENTS**

AFFIDAVIT

I, Adnan Khan Section Officer Lit-II (BPS-17), do hereby solemnly affirm and declare that the contents of the reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

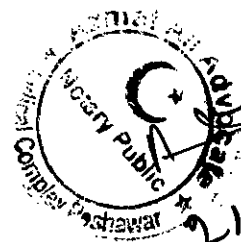
It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/cost.

DEPONENT

CNIC No.17301-1452480-9

Mobile No. 0301-5546692

ATTESTE



Handwritten signature and date: 21-07-2023



5

GOVERNMENT OF KHYBER PAKHTUNKHWA
& DEVELOPMENT DEPARTMENT

Annex-6-I

Dated Peshtawar 28/10/2021

NOTIFICATION.

No. SO(E)P&D/3-4/PPS/SLs/2020: In pursuance of Section-8 of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989 and with the approval of competent authority, Final Seniority List of Provincial Planning Service Officers (PPS BS-19) Khyber Pakhtunkhwa as stood on 28/10/2021 is hereby notified/circulated for general information.

FINAL SENIORITY LIST OF PPS BS-19 OFFICERS.

| Sr.No | NAME OF OFFICER WITH ACADEMIC QUALIFICATION | DATE OF BIRTH & DOMICILE | DATE OF 1 ST ENTRY INTO GOVT. SERVICE. | DATE OF OFFICIATION | REGULAR APPOINTMENT/PROMOTION TO THE PRESENT POST | | | REMARKS IF ANY | |
|-------|---|---------------------------------|---|---------------------|---|-------|------------------------------------|--|--|
| | | | | | DATE | BPS | METHOD OF RECRUITMENT/ APPOINTMENT | | |
| 1. | <u>Dr. Asad Ali Khan,</u> MBBS. | <u>14-03-1966</u> Kohat | 19-03-1992 | - | 01-07-2005 | BS-19 | By Initial recruitment | Director General, Law & Human Rights. (06-02-2020) | |
| 2. | <u>Muhammad Tariq Khan,</u> M.A (Economics)/ L.L.B, P.G.D (Public Administration), MA (Health Management Planning & Policy) University of Leeds, UK. | <u>30-01-1963</u> Abbottabad | 08-05-1992 | - | 22-10-2019 | BS-19 | By Promotion | Chief Planning Officer, Minerals Development Department. (02-09-2020). | Regained his Seniority w.e.f. 26-09-2017 |
| 3. | <u>Mr. Adil Saeed,</u> M.A (Economics), M.Phil (Economics), M.Sc (Disaster Management), PGD (Project Management). | <u>04-04-1981</u> Mohmand | 01-11-2004 | - | 25-09-2017 | BS-19 | By Promotion | Deputy Secretary, Prime Minister's Office, Islamabad on deputation basis. (31-03-2018) | |
| 4. | <u>Mian Khalid Ullah Jan,</u> M.Sc (Economics). | <u>01-11-1967</u> Charsadda | 09-10-1994 | - | 04-01-2018 | BS-19 | By Promotion | Chief of Section (Industries), P&D Department (01-12-2020). | |
| 5. | <u>Engr. Sher Azam Khan,</u> BSc Civil Engineering and MSc Structural Engineering. | <u>25-11-1965</u> Karak | 07-03-2018 | 28-03-2009 | 07-03-2018 | BS-19 | By Initial recruitment | Director (South), M&E, P&D Department. (01-12-2020). | |

AS

AS

Accepted

47
9/10

(6)

| | | | | | | | | | |
|-----|--|-------------------------------|------------|------------|------------|-------|---------------------------|---|--|
| 6. | Syed Zain Ullah Shah, B.Sc (Electrical Engineering). | 05-08-1974 Lakki Marwat | 07-03-2018 | 20-10-2011 | 07-03-2018 | BS-19 | By Initial recruitment | Chief of Section (PP&H), P&D Department (24-01-2020) | |
| 7. | Muhammad Ayaz, M.Sc (Hons) Horticulture | 18-03-1963 Mansehra | 07-03-2018 | 22-09-2015 | 07-03-2018 | BS-19 | By Initial recruitment | Director (Technical), M&E, P&D Deptt. (01-12-2020) | |
| 8. | Mr. Akhtar Rehman, B.Sc (Civil Engineering) | 31-03-1969 F.R Kohat | 14-04-1994 | | 24-01-2019 | BS-19 | By Promotion | Senior Chief of Section (PSDP), P&D Department in his own pay & scale. (06-08-2021) | |
| 9. | Mr. Musharaf Khan, M.A (Economics). | 02-04-1962 Buner | 06-06-1995 | | 24-01-2019 | BS-19 | By promotion | Project Director, "Public Policy & Social Projection Reforms Unit" SDU, P&D Department. (22-01-2020) | |
| 10. | Mr. Shah Nawaz Khan, M.B.A (Finance) Pakistan, M.B.A (Accounts & Finance) U.S.A. | 01-12-1977 Mardan | 12-06-2008 | | 22-10-2019 | BS-19 | By promotion | Chief Planning Officer, Local Govt. Elections & Rural Development Department (22-01-2020) | Regained his Seniority w.e.f. 24.01.2019 |
| 11. | Mr. Abdul Haleem, M.Sc (Statistics). | 15-03-1969 Hangu | 07-06-1995 | | 24-01-2019 | BS-19 | By promotion | Director (P&C), Peshawar High Court On deputation basis. (30-01-2017) | |
| 12. | Mr. Javed Khan, M.B.A. | 12-03-1966 Peshawar | 29-02-1992 | | 24-01-2019 | BS-19 | By Promotion | Chief of Section (Coordination), P&D Department (26-11-2018) | |
| 13. | Mr. Qaiser Alam Khan, M.Sc (Hons) Agriculture, M.A. Economics, M.S (Envl. Syst. Ana & Mgt) Netherlands. | 20-09-1966 Peshawar | 30-05-1989 | | 24-01-2019 | BS-19 | By Promotion | Chief Planning Officer, Health Department. (14-05-2020) | |
| 14. | Mr. Ilyas Mehmood, M.Sc (Hons) Agriculture. | 02-09-1969 Charsadda | 22-06-1995 | | 24-01-2019 | BS-19 | By Promotion. | Deputy Chief Planning Officer, Health Deptt. (07-01-2019) | |

[Handwritten signature]

[Handwritten signature]

Attested
[Handwritten signature]

7

| | | | | | | | | |
|-----|---|-------------------------------|------------|---|-------------------|-------|--------------|--|
| 15. | <u>Syed Zahir Ali Shah,</u> Master's in Public Administration. | <u>05-09-1970</u> Peshawar | 22-06-1995 | - | 24-01-2019 | BS-19 | By Promotion | DG, PCNA, P&D Department. (08-01-2019) |
| 16. | <u>Mr. Bahrullah Khan,</u> M.A (Economics). | <u>30-11-1970</u> Mohmand | 03-09-2004 | - | 24-01-2019 | BS-19 | By Promotion | Chief of Section (Health), P&D Deptt. (02-08-2019) |
| 17. | <u>Muhammad Siraj Malik,</u> M.Sc (Statistics), M.Sc (Maths) | <u>12-10-1978</u> Peshawar | 23-12-2006 | - | 22-10-2019 Pes | BS-19 | By Promotion | Chief M&E Officer "Strengthening of Planning" E&SE Deptt (22-01-2020) |
| 18. | <u>Mr. Hashmat Ali,</u> M.B.A (Finance) | <u>22-03-1978</u> Swabi | 18-05-2007 | - | 22-10-2019 | BS-19 | By Promotion | Economic Advisor, Industries Department (01-12-2020) |

CHIEF SECRETARY
KHYBER PAKHTUNKHWA.

Endst: No. & Date even.

Copy forwarded to the:

1. Secretary to Govt of Pakistan, Prime Minister's Office, Islamabad.
2. Secretaries to Govt of Khyber Pakhtunkhwa, Law & Parliamentary Affairs, Industries & Commerce, Minerals Development, Local Government & Rural Development, Home & Tribal Affairs, Health, Social Welfare and Elementary & Secondary Education Department.
3. Registrar, Peshawar High Court, Peshawar.
4. Director General (SDU), P&D Department.
5. Director General (M&E), P&D Department.
6. Officers concerned.
7. In-charge, Resource Centre, P&D Department with the request to upload the same on the official website of P&D Department.
8. PS to Additional Chief Secretary, P&D Department
9. PS to Secretary, P&D Department.
10. PS to Special Secretary, P&D Department.
11. FAs to Additional Secretary-II/Deputy Secretary-II, P&D Department.

AS

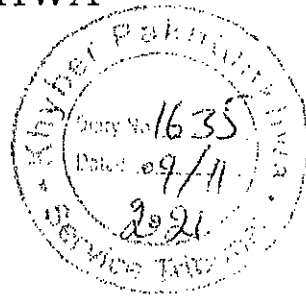
Attested
[Signature]

[Signature]
(SONAL KHAN)
Section Officer (Establishment)

8

Annex-II

BEFORE THE
HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL



In Re:

Implementation Petition No. 327 /2021

In Service Appeal No. 5964/2021

Decided on: 14. 07. 2021

**Qaiser Alam, Chief of Section, P&D Department, Presently
Posted as Chief Planning Officer Health Department.**

(Appellant)

Versus

1. **The Government of Khyber Pakhtunkhwa
through Chief Secretary, Civil Secretariat, Peshawar.**
2. **The Additional Chief Secretary,
P&D Department, Civil Secretariat, Peshawar.**
3. **The Secretary,
Govt. of Khyber Pakhtunkhwa, Establishment Department,
Civil Secretariat, Peshawar**
4. **The Deputy Secretary,
Planning & Development Department Peshawar**
5. **Mr. Sher Gul, Senior Chief P&D Department.**
6. **Mr. Adil Saeed Safi, Deputy Secretary, Pr
Secretariat, Islamabad**
7. **Mr. Javed Khan, Chief Coordination, P&D Department
Peshawar.**

(Signature)
CHIEF SECRETARY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(Respondents)

EXECUTION PETITION TO GIVE EFFECT & IMPLEMENT
THE JUDGMENT OF THIS HONORABLE TRIBUNAL
DATED 14-07-2021.

Respectfully Sheweth.

Attested
(Signature)

Time: 11:11

(Signature)

9

Execution Petition 327/2021


13th June, 2022

Petitioner in person present. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Mr. Asad Ullah Khan, SO (Litigation) for respondents present.

Petitioner states that final seniority list was issued, copy of the same is placed on file today. The petitioner if finds himself aggrieved of the said seniority list, may file fresh appeal against the said in accordance with law and rules. Since the order of the Tribunal has been complied with, therefore, the instant execution petition is disposed off. Consign.

Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 13th day of June, 2022.




(Kalim Arshad Khan)
Chairman



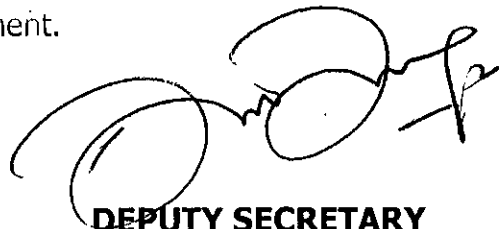

Attested

7

(28)
P.

AUTHORITY LETTER

Mr. Adnan Khan, Section Officer (Litigation-II) of Planning & Development Department is hereby authorized to persue / defend court cases of Service Tribunal, Khyber Pakhtunkhwa and Civil / District Courts as well as submit Para-wise Comments / Replies in the cases duly sworn on affidavit in the courts on behalf of Additional Chief Secretary and Secretary P&D Department.



**DEPUTY SECRETARY
P&D Department**

Deputy Secretary (Estt)
P&D Department
Govt. of Khyber Pakhtunkhwa

