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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.366 of 2023

Mr. Momin Khan, Depot Cooli  
BS-04 o/o District Director  
Agriculture, District Malakand

VERSUS

Secretary to the Govt. of Khyber  
Pakhtunkhwa Agriculture,  
Department Peshawar & Others

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DEPONENT

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

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No. 366 of 2023  
Mr. Momin Khan, Depot Cooli (BPS-04),  
o/o the District Director Agriculture, Malakand.

Diary No. 7391

Dated 07/09/23

**APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Secretary Agriculture, Department Peshawar.
- 2- The Director General, Agriculture Extension Khyber Pakhtunkhwa, Peshawar.
- 3- The District Director Agriculture District Malakand at Batkhela.

**RESPONDENTS**

**JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1,2 & 3.**  
**PRELIMINARY OBJECTIONS**

**Respectfully Sheweth:-** That the respondents submit as under:-

- 1- That the instant appeal is baseless, frivolous and concocted based on malafide intentions and for ulterior motive, hence not tenable at all.
- 2- That the appellant wishes to waste the precious time of this Honorable Tribunal by filling the instant appeal.
- 3- That the appellant has got no prima facie to file the instant appeal.
- 4- That the appellant has deliberately concealed the important facts from this Honorable Tribunal.
- 5- That the instant appeal is not maintainable in its present form and liable to be dismissed.
- 6- That the appellant has no cause of action to file the instant appeal.
- 7- That the appellant has got no locus standi to file the instant appeal.
- 8- That the appellant has deliberately concealed the material fact from this Honorable Tribunal.
- 9- That the appellant has not come to this Honorable Service Tribunal with clean hands.
- 10- That the appeal is barred by law and limitation.
- 11- That the appeal is bad for mis-joinder and non-joinder of necessary parties.

(2)

**ON FACT PARA-WISE COMMENTS**

- Para-1 Correct to the extent that the appellant was appointed as Depot Cooli BS-01 by the Respondent No. 3 Vide order dated 03.08.1988 (**Annexure-A**).
- Para-2 Correct to the extent that at the time of joining the record of every official / officer including the service book and other record is maintained by the Competent Authority in each and every Department.
- Para-3 Incorrect. The appellant was initially appointed as Depot Cooli in BS-01. Later on the post of the appellant was upgraded from BS-01 to BS-02 and further upgraded from BS-02 to BS-04. The appellant is presently performing his duty on the same post as Depot Coolli (BPS-04) (**Annexure-B**).
- Para-04 Correct to the extent that services of the respondents were notified vide Notification dated 26.11.2020 wherein the prospect of promotion was provided to the Class-IV employees (**Annexure-C**).
- It is further added that at S.No. 44 the criteria for promotion to the post of Junior Clerk BS-11, 40% of the appointments shall be made by promotion on the basis of seniority-cum-fitness from amongst all Class-IV posts, Storekeeper, Typist, Depot Keeper and Laboratory Assistant with three years' service as such having second class F.A / F.Sc or an equivalent qualification from recognized board.
- Para-05 Correct to the extent that the appellant filed departmental appeal to the Respondent No.2 with the request that the appellant may be promoted to the post of Budder in the office of Respondent No.3. At S.No.24 the criteria for promotion to the post of Budder BS-07 is (a) (75) Seventy Five percent by promotion on the basis of seniority cum fitness from amongst the holders of the posts of Field Worker / Malies with five years' service as such having experience certificate in the relevant field from Agriculture Research Institute. (b) (25) Twenty Five percent by initial recruitment.
- Para-06 Incorrect. There are no such Service Rules with Agriculture Extension Department to promote the appellant from the post of Depot Cooli to the post of Junior Clerk BS-11. The appellant has no qualification as required for promotion according to the service rules. The appellant is not working as Field Worker / Malies nor does he have relevant experience certificate.

**GROUND**

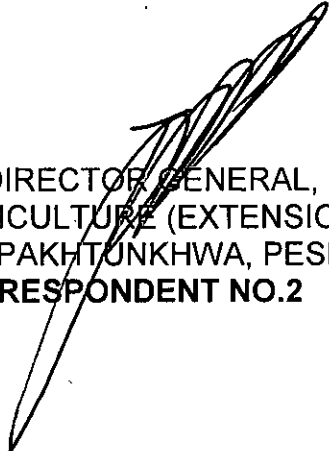
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- Para-A Incorrect. Detailed comments given in Para-05 above.
- Para-B Incorrect. The appellant has been treated by the respondents department in accordance with law and rules and not violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- Para-C Incorrect. That the impugned action of the respondents is not arbitrary and is in accordance with law and rules.
- Para-D Detailed comments given in above paras.
- Para-E Incorrect. That the appellant has not been discriminated against by the respondents and respondents have not violated the principle of natural justice.
- Para-H The respondents may also be allowed to raise additional grounds during the course of arguments.

It is hereby humbly prayed that on acceptance of the para wise comments, the appeal of the appellant may kindly be dismissed with cost.



SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
AGRICULTURE DEPARTMENT, PESHAWAR  
**RESPONDENTS NO.1**



DIRECTOR GENERAL,  
AGRICULTURE (EXTENSION)  
KHYBER PAKHTUNKHWA, PESHAWAR  
**RESPONDENT NO.2**



DISTRICT DIRECTOR AGRICULTURE  
DISTRICT MALAKAND  
**RESPONDENT NO.3**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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Appeal No. 366 of 2023  
Mr. Momin Khan, Depot Cooli (BPS-04),  
o/o the District Director Agriculture, District Malakand.

APPELLANT

VERSUS

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- 2- The Director General, Agriculture Extension Khyber Pakhtunkhwa, Peshawar.
- 3- The District Director Agriculture District Malakand at Batkhela.

RESPONDENTS

COUNTER AFFIDAVIT

We the undersigned hereby solemnly declare / affirm that the contents of the Para-wise reply / comments are true and correct to the best of our knowledge and belief and nothing has been kept secret from this Honorable Tribunal.

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

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
AGRICULTURE DEPARTMENT, PESHAWAR  
RESPONDENTS NO.1

DIRECTOR GENERAL,  
AGRICULTURE (EXTENSION)  
KHYBER PAKHTUNKHWA, PESHAWAR  
RESPONDENT NO.2



*Shafiq-Ur-Rehman Shabab*  
07/09/23

DISTRICT DIRECTOR AGRICULTURE  
DISTRICT MALAKAND  
RESPONDENT NO.3

LEGIBLE COPY

Annexure -

(A)  
(S)

**OFFICE ORDER**

Mr. Momin Khan Son of Wakeel Khan village and post office Dargai pattack Malakand Agency is hereby appointed as Depot Cooli in BPS No 1 @ Rs. 600-13-860) against the vacant post in the office of the undersigned.

- 1) His appointment is purely temporary and his services can be terminated without any notice and any reasons being assigned irrespective of the fact that he is holding a post then the one to which he is originally recruited.
- 2) He has to join duty at his own expenses.
- 3) If he wishes to resign from service, he will give 14 days notice to the department or in lieu thereof one month pay will be forfeited, to the Government.
- 4) He will be governed by such rules and orders relating to leave, travelling allowances, pay etc as may be issued by the Government for the category of the Government servants to which he will belong.
- 5) The offer will be cancelled, if no reply is received on or before 15.08.1988.
- 6) He will be liable for transfer any where in Malakaang Agency.
- 7) He will produce the medical fitness examination certificate from the Agency surgeon Malakand at batkhela before joining duty.
- 8) He will be on probation period of one year from the date of joining duty.

(Sd/- Attaur Rehman Khan)  
Ex Asstt: Director of Agril,  
Malakand Agency Dargai

No 1074-77/7/23E.A.D.A Dargai MArd: Agency Dated 03.08.1988

Copy forwarded to:-

1. Mr. Momin Khan son of Wakeel Khan village and PO Dargai Pattack Malakand Agency.
2. The Agency Accounts Officer Malakand for information.
3. The Deputy Director of Agriculture malakand Division Amankot Swat for information.
4. The Establishment Clerk of this Office for necessary action.

Ex Asstt: Director of Agril,  
Malakand Agency Dargai

Annexure (B)

Dist. Govt. NWFP-Provincial  
District Accounts Office Malakand  
Monthly Salary Statement (October-2022)

Personal Information of Mr MOMIN KHAN d/w/s of WAKEEL KHAN

Personnel Number: 00243079

CNIC: 1540106962909

NTN:

Date of Birth: 01.07.1970

Entry into Govt. Service: 04.08.1988

Length of Service: 34 Years 02 Months 029 Days

Employment Category: Active Permanent

Designation: DEPOT COOLI

80002408-DISTRICT GOVERNMENT KHYBE

DDO Code: MD6099-DISTRICT DIRECTOR AGRICULTURE MKD

Payroll Section: 001

GPF Section: 010

Cash Center:

GPF A/C No

Interest Applied: Yes

GPF Balance:

91,320.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 04

Pay Stage: 27

Wage type		Amount	Wage type		Amount
0001	Basic Pay	32,510.00	1001	House Rent Allowance 45%	2,187.00
1210	Convey Allowance 2005	1,785.00	1300	Medical Allowance	1,500.00
1911	Compen Allow 20% (1-15)	1,000.00	2148	15% Adhoc Relief All-2013	483.00
2199	Adhoc Relief Allow @10%	325.00	2311	Dress Allowance - 2021	1,000.00
2312	Washing Allowance 2021	1,000.00	2313	Integrated Allowance 2021	600.00
2341	Dispr. Red All 15% 2022KP	3,267.00	2347	Adhoc Rel Al 15% 22(PS17)	3,267.00

Deductions - General

Wage type		Amount	Wage type		Amount
3004	GPF Subscription	-830.00	3501	Benevolent Fund	000.00
1904	Benefit & Death Comp:	-300.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
0505	GPF Loan Principal Instal	68,000.00	-3,000.00	62,000.00

Deductions - Income Tax

Payable: 0.00 Recovered till October-2022: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 48,924.00 Deductions: (Rs.): -4,730.00 Net Pay: (Rs.): 44,194.00

Payee Name: MOMIN KHAN

Account Number: PLS 7781-5

Bank Details: NATIONAL BANK OF PAKISTAN, 230620 NBP DARGA IMALAKAND AGENCY NBP DARGA IMALAKAND AGENCY.

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: DARGAI MALAKAND AGENCY

City: MALAKAND

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

Attested

Muhammad Agriculture  
Batkhele

GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
AGRICULTURE, LIVESTOCK, FISHERIES AND  
COOPERATION DEPARTMENT

NOTIFICATION

Peshawar, dated the November 26<sup>th</sup>, 2020

No. SOE(AD)2(2)429/2020/EW/SSRC: in pursuance of the provision contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer Rules 1989, the Agriculture, Livestock, Fisheries and cooperation Department, in consultation with the Establishment Department and the Finance Department, hereby direct that in this department's Notification No.SOE(AD)2(2)429/2011, dated 20.04.2012, the following further amendments shall be made, namely.

AMENDMENTS

In the APPENDIX,-

- (a) in PART-I, under the heading "PROFESSIONAL STAFF".
- (i) against Serial No.4, in Columns No.2 and 5, for the existing entries, the following shall be substituted, namely:

2	5
"Agriculture Officer / Public Relation & Publication Officer / Instructor (BPS-17)	(a) Twenty-five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Agriculture Supervisors with twenty years service as Agriculture Supervisor, Agriculture Inspector and Field Assistant; and (b) Seventy-five percent by initial recruitment."

- (ii) against Serial No.5, in Columns No.2 and 3, for the existing entries, the following shall be substituted, namely:

2	3
"Instructor Islamiyat. (BPS-17)	At least second Class Master's Degree in Islamiyat or equivalent qualification from a recognized university."

- (iii) against Serial No.6A, in Column No.5, for the existing, the following shall be substituted, namely:

5
"By promotion, on the basis of seniority-cum-fitness, from amongst the Agriculture Inspectors having twelve years service as Agriculture Inspector and Field Assistant."

- (iv) against Serial No.7, in Columns No.2, 3 and 4, for the existing entries, the following shall be substituted, namely:

2	3	4
"Artist (BPS-12)	(i) At least second class Higher Secondary School Certificate or equivalent qualification from a recognized board; and	18 to 30 years."



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against Serial No.13, in Columns No.2, 3 and 4, for the existing entries, the following shall be substituted, namely;

2	3	4
"Artist-Cum-Photographer (BPS-10)	(i) At least Second Class Intermediate or equivalent qualification from a recognized board; and  (ii) Diploma in Arts from a recognized Institute of Arts with sufficient experience in photography.	18 to 30 years."

(x) against Serial No.14, in Columns No.5, for the existing entries the following shall be substituted, namely;

5
"By promotion, on the basis of seniority-cum-fitness, from amongst the Field Assistants with at least seven year's service as such, and  (i) having three (3) years Diploma in Agriculture Sciences or (ii) Certificate of passing two years training course form Agriculture Services Academy, alongwith six (6) months condense course passing certificate to be arranged by the Department."

(xi) against serial No.15, in Columns No.2, 3 and 4, for the existing entries the following shall be substituted, namely;

3	4
At least Second Class Secondary School Certificate with science or equivalent qualification from a recognized board; and  (i) Three years Diploma of Agriculture Sciences (DAS) from a recognized Institute; or  (ii) Certificate of passing two yeas training course form Agriculture Services Academy, alongwith six (6) months condense course passing certificate to be arranged by the Department."	19-32 years"

(xii) against Serial No.16, in Columns No.2, 3 and 4, for the existing entries the following shall be substituted, namely;

2	3	4
"Veterinary Assistant (BPS-9)	(i) At least Second Class Secondary School Certificate with Science or equivalent qualification from a recognized Board; and  (ii) Three years Diploma in Veterinary Sciences (DVS) from a recognized Institute.	19 to 30 years;



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(xviii) for Serial No.24, the following shall be substituted, namely;

1	2	3	4	5
"24	Budder (BPS-7)	(i) At least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and	18.30 Years	(a) (75) Seventy Five percent by promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of Field Workers / Malies with five years' service as such; having experience certificate in the relevant field from Agriculture Research Institute;  (b) (25) Twenty Five percent by initial recruitment."

(xix) Against Serial No.25, in Columns No.2,3 and 4, for the existing entries, the following shall be substituted, namely;

2	3	4
"Electrician (BPS-7)	(i) At-least Second Class Secondary School Certificate or equivalent qualification from a recognized Board; and  (ii) Certificate of passing one year training course of Electrician from a recognized institute,";	18 - 30 years."

(xx) Against Serial No.26, in Columns No.2 and 3, for the existing entries, the following shall be substituted, namely;

2	3
Tractor Driver (BPS-7)	Having Tractor driving license issued by the competent authority with two years experience in handling tractor."

(xxi) against Serial No.27, In Columns No.2 & 3, for the existing entries, the following shall be substituted, namely;

2	3
"Vehicle Driver (BPS-6)	Literate having LTV driving license issued by the competent authority,";

(xxii) against Serial No.28, in Columns No. 2 & 3 for the existing entries, the following shall be substituted, namely;

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(xxiii) after Serial No.33, as so amended, the following new entries shall be inserted, in respective Columns, namely:

1	2	3	4	5
33-A	Laboratory Attendant (BPS-3)	At least Middle pass Certificate or equivalent qualification with one year experience in the relevant field.	18 to 40 years	By initial recruitment; and

(b) in PART-II, under the heading "MINISTERIAL STAFF"

(i) against Serial No.34, in Columns No.5, for the existing entries, the following shall be substituted, namely:

5
"By promotion, on the basis of seniority-cum-fitness, from amongst the Superintendents with three years service as such"

(ii) for Serial No.35, the following shall be substituted, namely:

1	2	3	4	5
"35	Superintendent (BPS-17)			(a) Seventy-five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistants having five years service as such or five years service as Assistants and Administrative Officers; and  (b) Twenty-five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographer with at least five years service as such."

(iii) for Serial No.36, the following shall be substituted, namely:

1	2	3	4	5
"36	Administrative Officer (BPS-16)			By transfer from amongst the Assistant (BS-16)."

(iv) against Serial No.37, in Columns No.2 and 5, for the existing entries, the following shall be substituted, namely:

2	5
"Senior Scale Stenographer (BPS-16)	By promotion, on the basis of seniority-cum-fitness, from Junior Scale Stenographer with three years' service as such."

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(ix) against Serial No.43, in Columns No.2, for the existing entries, the following shall be substituted, namely:

2
"Senior Auditor (BPS-14)"

(x) for Serial No.44, the following shall be substituted, namely:

1	2	3	4	5
"44	"Junior Clerk (BPS-11)	<p>(a) At least Second Class FA / F.Sc. or an equivalent qualification from recognized Board; and</p> <p>(b) A speed of 30 words per minute in typing and knowledge of computer in MS office</p>	18-30 years	<p>(a) Forty (40%) percent by promotion on the basis of seniority-cum-fitness, from amongst all Class-IV posts and Store Keeper, Typist, Depot Keeper and Laboratory Assistant with three years service as such having second class F.A. / F.Sc. or an equivalent qualification from recognized board. The department maintained combined seniority list of the above officials on their initial regular recruitment.</p> <p>(b) Sixty (60%) percent by initial recruitment.</p> <p>Provided that: -</p> <p>i. If two or more official 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.</p> <p>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.</p> <p>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 till the expiration of period as specified in column No.5 against serial No 4 of the Establishment Department amendment Notification No. SOE-IV(E&amp;D)/1-35/2014 dated 18.07.2019 to the existing matriculate incumbents of the post of all Class-IV as well as Store Keeper, typist, Depot Keeper and Laboratory Assistants including holders of other equivalent posts for promotion to the post of Junior Clerk (BS-11)"</p>

(xvi) against Serial No.50, in Columns No.2, 3 and 4, for the existing entries, the following shall be substituted, namely:


2	3	4
"Chowkidar and Security Guard (BPS-3)	Having experience in watch and ward duty. Preference will be given to Ex. Service men of Armed Forces.	18 to 40 years."

SECRETARY TO THE  
GOVERNMENT OF KHYBER PAKHTUNKHWA,  
AGRICULTURE, LIVESTOCK, FISHERIES  
AND COOPERATION DEPARTMENT

No. SOE(AD)2(2)429/EW/SSRC2020: Dated Peshawar, the November 26<sup>th</sup>, 2020

Copy of the above is forwarded to the:

1. Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Law Department.
3. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
4. Director General, Agriculture (Extension), Khyber Pakhtunkhwa, Peshawar.
5. Manager Printing Press, Peshawar for Publication in Official Gazette Notification and also to provide (10) copies of the same.
6. P.S to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
7. P.S to Secretary, Agriculture, Livestock, Fisheries & Cooperative Department.
8. Web Administrator for Uploading on the Official website of Agriculture, Livestock, Fisheries & Cooperative Department.

  
SECTION OFFICER ESTT:  
AGRICULTURE DEPARTMENT

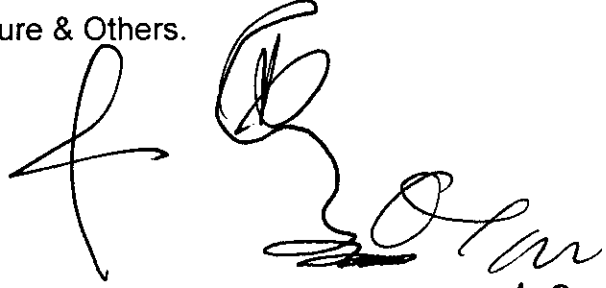
DIRECTORATE GENERAL, AGRICULTURE EXTENSION  
KHYBER PAKHTUNKHWA, PESHAWAR

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AUTHORITY LETTER

Mr. Asad Ud Din Asif Jah, HQ Office is hereby authorized for attending, vetting the para wise comments and submission of para wise comments in the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 366 of 2023 titled Momin Khan v/s Govt. of Khyber Pakhtunkhwa through Secretary Agriculture & Others.

  
DIRECTOR GENERAL 4.9.2023