

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1658/2022

Altaf Hussain, Assistant Director, Labour, (BPS-17) District Labour Office, Nowshera
Khyber Pakhtunkhwa..... Appellant.

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Secretary Labour Government of Khyber Pakhtunkhwa Civil Secretariate Peshawar.
3. Director, Directorate of Labour Khyber Pakhtunkhwa, 3rd floor FC Trust Building Sunehri Masjid Road, Peshawar.
4. Miss Sidra Jabeen, Statistical Officer, Directorate of Labour Khyber Pakhtunkhwa, 3rd floor FC Trust Building Sunehri Masjid Road, Peshawar..... Respondents

INDEX

S.No	Particulars	Annexure	Page No.
1.	Comments on behalf Respondents No. 1 & 3.	-	1-3
2.	Affidavit	-	4
3.	Authority	-	5
4.	Relevant portion of the mentioned rules.	A	06 - 07
5.	Copy of the promotion order is attached of respondent No.4	B	08
6.	Copies of seniority lists of both cadres.	C	09 - 10


Deponent

CNIC No: 17301-1392156-3

Contact Number: 0343-7779998

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1658/2022

Diary No. 7704

Dated 20/09/23

**Altaf Hussain, Assistant Director, Labour, (BPS-17) District Labour Office, Nowshera
Khyber Pakhtunkhwa..... Appellant.**

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Secretary Labour Government of Khyber Pakhtunkhwa Civil Secretariate Peshawar.
3. Director, Directorate of Labour Khyber Pakhtunkhwa, 3rd floor FC Trust Building Sunehri Masjid Road, Peshawar.
4. Miss Sidra Jabeen, Statistical Officer, Directorate of Labour Khyber Pakhtunkhwa, 3rd floor FC Trust Building Sunehri Masjid Road, Peshawar.....**Respondents**

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 2 and 3.

Respectfully Sheweth that the respondent submits as under.

Preliminary Objections:

1. That appellant has got no locus standi and cause of action to file the instant appeal.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the instant appeal is not maintainable.
4. That the instant appeal is based on malafide with ulterior motive to coerce and pressurize the respondents.
5. That the appellant is estopped by his own conduct.
6. That the appeal of the applicant is badly time barred.
7. That respondent No.1 is an unnecessary party.

ON FACTS:

1. Para No. 1 pertains to record, needs no comments.
2. That Para No. 2 pertains to record needs no comments.

- 3. In reply to Para No. 3, it is submitted that the appellant had completed his five years of service in 2019 but due to no vacancy at that time, his case for promotion was sent for consideration in January, 2021.
- 4. That Para No. 4 pertains to record, needs no comments.
- 5. That Para No. 5 pertains to record, needs no comments.
- 6. As per para-4 above.
- 7. Para - 7 is misconceived. According to the Service Rules i.e, Notification No. (SOGLD)/2-62/2019/5181-5263 dated 15-09-2020. The statistical Officer BPS-17 has a separate line of promotion and does not cross lines with Assistant Director Labour separate seniority lists are issued for both the cadres.

(Relevant portion of the mentioned rules is attached as Annexure-A)

- 8. Para No. 8 is incorrect. Respondent No.4 was promoted in light of the current Rules in the field i.e, Notification No. (SOGLD)/2-62/2019/5181-5263 dated 15-09-2020.

(Copy of the promotion order is attached of respondent No.4 is attached as Annexure-B)

- 9. In reply to para-9 it is submitted that the replying respondents have not delayed the case of appellant and considered him for promotion in time. However, the appellant could not be promoted in 2021 due to an interim order issued by this Hon'ble Tribunal. As soon as the case against the appellant was withdrawn his case was sent for promotion and after due process he was promoted.

ON GROUNDS:

- A. In reply to Ground-A it is submitted that the case of promotion of the appellant was processed in accordance with the law, prevailing rules and the orders issued by the Hon'ble Tribunal time to time.
- B. As per Ground -A
- C. In reply to Ground-C it is submitted that case for promotion is moved after creation of a vacancy. The case of the appellant was sent for consideration in the year 2021 and no delay exist on part of the replying respondents.
- D. As per Ground-A.
- E. That Ground-E is incorrect. The same has been discussed in detail in para-7.
- F. Ground-F relates to respondent No.4.

- G. In reply to Ground-G it is submitted that the line of promotion of both appellant and Respondent No.4 are separate. Separate seniority lists are issued for both the cadres.

(Copies of seniority lists of both cadres are attached as Annexure-C)

- H. As per Ground-A.
I. As per Ground-C.
J. As per Ground-A.
K. As per Ground-A.
L. As discussed in detail in Ground-A
M. No. Comments.
N. That replying respondents seek permission to raise additional Grounds at the time of this Appeal.

It is therefore, prayed that instant appeal of the appellant may kindly be dismissed in accordance with law.

**Secretary to Govt. of Khyber Pakhtunkhwa
Labour Department
(Respondent No. 2)**

**Director Labour
Directorate of Labour Khyber Pakhtunkhwa
(Respondent No. 3)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

4

Service Appeal No. 1658/2022

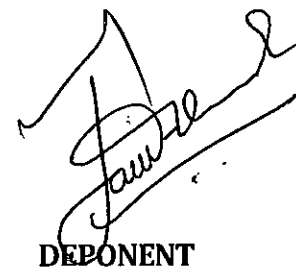
**Altaf Hussain, Assistant Director, Labour, (BPS-17) District Labour Office, Nowshera
Khyber Pakhtunkhwa..... Appellant.**

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Secretary Labour Government of Khyber Pakhtunkhwa Civil Secretariate Peshawar.
3. Director, Directorate of Labour Khyber Pakhtunkhwa, 3rd floor FC Trust Building Sunehri
Masjid Road, Peshawar.
4. Miss Sidra Jabeen, Statistical Officer, Directorate of Labour Khyber Pakhtunkhwa, 3rd floor FC
Trust Building Sunehri Masjid Road, Peshawar.....**Respondents**

AFFIDAVIT

I, Jamil Ahmad Qureshi, Assistant Director Labour (Litigation), Directorate of Labour, Khyber Pakhtunkhwa at Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.



DEPONENT

CNIC No: 17301-1392156-3

Contact Number: 0343-7779998

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1658/2022


**Altaf Hussain, Assistant Director, Labour, (BPS-17) District Labour Office, Nowshera
Khyber Pakhtunkhwa..... Appellant.**

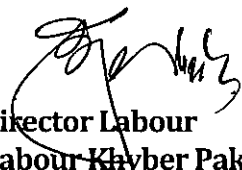
Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Secretary Labour Government of Khyber Pakhtunkhwa Civil Secretariate Peshawar.
3. Director, Directorate of Labour Khyber Pakhtunkhwa, 3rd floor FC Trust Building Sunehri
Masjid Road, Peshawar.
4. Miss Sidra Jabeen, Statistical Officer, Directorate of Labour Khyber Pakhtunkhwa, 3rd floor FC
Trust Building Sunehri Masjid Road, Peshawar.....**Respondents**

AUTHORITY

Mr. **Jamil Ahmad Qureshi**, Assistant Director Labour (Litigation), is hereby authorized and deputed to appear before the Honourable, Khyber Pakhtunkhwa Service Tribunal, Peshawar on behalf of the respondents No. 2 and 3 in the above title case and to produce necessary documents to the Honourable Court required during the proceedings of instant service appeal. The officer shall attend the Court regularly on each date of hearing till the decision of the case and will be responsible for obtaining certified copy of the final order/ judgment in the above case for submission to the department well in time.


**Secretary to Govt. of Khyber Pakhtunkhwa
Labour Department
(Respondent No. 2)**


**Director Labour
Directorate of Labour Khyber Pakhtunkhwa
(Respondent No. 3)**

EXTRAORDINARY
GOVERNMENT



Annex - "A" (6)
REGISTERED NO. FIII

GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 24th SEPTEMBER, 2020.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LABOUR DEPARTMENT

NOTIFICATION

Dated Peshawar, the 15th September, 2020.

No. SOG(LD)/2-62/2019/5181-5263 --- In exercise of the powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all previous notifications issued in this behalf, the Labour Department, in consultation with the Establishment and Finance Department, hereby lay down the method of recruitment, qualifications and other conditions specified in Column Nos.1 to 5 of the Appendix to this Notification which shall be applicable to the posts borne in the Directorate of Labour, Khyber Pakhtunkhwa, specified in Column No. 2 of the said Appendix.

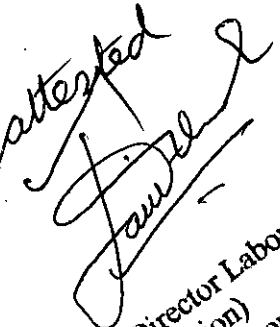
1257-
01/10/20

709 346
Dated 1-10-2020

Witnessed
Jawid R

Assistant Director Labour
(Liaison)
Directorate of Labour KP

10.	Inspector of Factories (Technical) (BPS-17)	<p>(i) First Class Bachelor's Degree in Mechanical, Electrical, Chemical, Civil, Mining, Electronics or Mechatronics Engineering or equivalent qualification in the same discipline from a recognized University; and</p> <p>(ii) six months certificate in Advance Office automation from a recognized Institute.</p>	25 to 35 years	By initial recruitment.
11.	Statistical Officer (BPS-17).	<p>(i) Atleast Second Class Master's Degree in Statistics, Mathematics or equivalent qualification in the same disciplines from a recognized University; and</p> <p>(ii) six months certificate in Advance Office automation from a recognized Institute.</p>	25 to 35 years	<p>(a) Seventy-five percent (75%) by promotion, on the basis of seniority-cum-fitness, from amongst the Research and Statistical Officers and Statistical Investigators; and</p> <p>(b) twenty-five percent (25%) by initial recruitment.</p>

attested

 Assistant Director Labour
 (Litigation)
 Directorate of Labour KP



GOVERNMENT OF KHYBER PAKHTUNKHWA
LABOUR DEPARTMENT

Dated: Peshawar the 15th December, 2021

Annex - B^u

8

NOTIFICATION

No. SOG/LD/3-12/DL/DPC/2021/Vol-I/6554-56 The Competent Authority on the recommendations of Departmental Promotion Committee in its meeting held on 05-11-2021, is pleased to promote the following Officers of Directorate of Labour Khyber Pakhtunkhwa on the posts noted against their names on regular basis with immediate effect:

Sr.#	Name of Officer	Promoted as
1	Mr. Akbar Khel Research & Statistical Officer (BS-16)	Statistical Officer (BS-17)
2	Miss Sidra Jabeen Statistical Investigator (BS-16)	Statistical Officer (BS-17)

2. The above named officers on their promotion shall remain on probation for a period of one year, in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and extendable for another year with the specific orders of appointing authority within two months of the expiry of first year of probation period as specified in Rule-15(2) of Rules Ibid.

3. Consequent upon their promotion, Mr. Akbar Khel & Miss Sidra Jabeen are hereby posted as Statistical Officers (BS-17) in the Directorate of Labour (Hqtr: Office) Peshawar.

212-1
27/12/21

D(A)/PA

Endst: No. & date even

Copy forwarded to :

1. Accountant General, Khyber Pakhtunkhwa.
2. Director Labour, Directorate of Labour, Khyber Pakhtunkhwa.
3. Officers concerned.
4. PS to Secretary, Labour Department, Khyber Pakhtunkhwa.

Sd/xxx
Secretary Labour
Khyber Pakhtunkhwa

attested
Jawid

27/12/21

DL/Admn: 2382/
Dated: 27/12/2021

Section Officer (General)

Chief Officer
S/O

[Signature]

S/O
[Signature]

DLU

11/58

2/28



OFFICE ORDER

Annex - "C" (9)

**DIRECTORATE OF LABOUR
KHYBER PAKHTUNKHWA**

Dated Peshawar the 21/02/2020

DL/Admn/11/235/1384-85 : In pursuance of Section-08 of Khyber Pakhtunkhwa, Civil Servants Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989, with the approval of Competent Authority, **Final Seniority List of Statistical Investigator (BPS-16) and Statistical Assistant (BPS-12)** Directorate of Labour, Khyber Pakhtunkhwa as stood on 31-12-2019 is hereby notified/circulated for general information. Total Sanctioned Posts of Statistical Investigator=01 and Statistical Assistant=01.

S No	Name of Officer with Qualification.	Date of Birth with Domicile	Date of 1st Entry into Govt. Service	Regular Appointment/Promotion to the present post.			Present Appointment with Date	Remarks
				Date	BPS	Method of Recruitment		
1	2	3	4	5	6	7	8	9
1	Miss. Sidra Jabeen MSc (Statistics) B.Ed.	15.04.1985 Peshawar	01.08.2012	01.08.2012	16	By Initial Recruitment	Statistical Investigator 01.08.2012	The post of Statistical Investigator was upgraded from (BPS-14) to (BPS-16) vide Finance Department Notification No.SOL (LD)/8-4/2016 Dated: 01.09.2016.
2	Miss. Sumaira Fida MSc (Statistics)	24.05.1987 Mardan	04.02.2014	04.02.2014	12	By Initial Recruitment	Statistical Assistant 04.02.2014	-

-Sd/-
Director Labour,
Khyber Pakhtunkhwa Peshawar

Dated 21/2/2020

Assistant Director Labour (Admn)
Hqtr: Office Peshawar

Ends DL/Admn/11/235/1384-85

CERTIFICATE

It is certified that the Seniority list has been circulated amongst all the Officers/Officials and is final/undisputed.



19

**DIRECTORATE OF LABOUR
KHYBER PAKHTUNKHWA**

Annex - C^N 19

Dated Peshawar the 12/10/2020

OFFICE ORDER

DL/Admn/11/235/6780-84 : In pursuance of Section-08 of Khyber Pakhtunkhwa, Civil Servants Act, 1973 read with Rule-17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989, with the approval of Competent Authority, Final Seniority List of Labour Officer (BPS-16) Directorate of Labour, Khyber Pakhtunkhwa as stood on 01-10-2020, as per revised Service Rules issued vide Gazette Notification dated 24.09.2020, is hereby notified/circulated for general information. Total Sanctioned Posts of Labour Officer=10, Labour Officer (Female)=05 and Social Mobilizer=07 Total =22

S No	Name of Officer with Qualification.	Date of Birth with Domicile	Date of 1st entry into Govt. Service	Regular Appointment / Promotion to the Present Post			Present Appointment with Date	Remarks
				Date	BPS	Method of recruitment		
						Labour Officer		
						a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Labour Officers with at least five years service as such; and b) fifty percent by initial Appointment		
1	2	3	4	5	6	7	8	9
1	Mr. Altaf Hussain M.Sc, MBA (IT)	05.01.1983 Peshawar	03.02.2014	03.02.2014	16	By initial	Labour Officer 03.02.2014	
2	Mr. Sharif Ahmad M.Sc (Economics)	15.02.1990 Chitral	29.06.2015	29.06.2015	16	-do-	Labour Officer 29.06.2015	
3	Mr. Mohammad Yaqoob M.A (Political Science), LLB	07.06.1972 D.I.Khan	24.10.2009	09-10-2017	16	By Promotion	Labour Officer 09.10.2017	
4	Mr. Qaisar Farooq MBA	01-04-1987 Karak	30-06-2017	17-04-2018	16	By Initial	Labour Officer 17.04.2018	
5	Miss. Nabeela Safdar MPA	01-03-1988 Hangu	10-04-2018	10-04-2018	16	-do-	Labour Officer 10.04.2018	

Ends No: DL/Admn/11/235/6780-84

CERTIFICATE

It is certified that the Seniority list has been circulated amongst all the Officers/Officials and is final/undisputed.

-Sd/-
Director Labour,
Khyber Pakhtunkhwa Peshawar
Dated 12/10/2020

Assistant Director Labour (Admn)
Hqtr: Office Peshawar