


FORM OF ORDERSHEET

Court of _____

Misc. application No. 90/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	21/02/2023	<p>The Misc. application in appeal no. 4533/2021 resubmitted today by Mr. Saadullah Khan Marwat Advocate. It is fixed for hearing before Single Bench at Peshawar on _____. Original file be requisitioned. Parcha Peshi is given to applicant/counsel.</p> <p>By the order of Chairman  REGISTRAR</p>

The Misc application of Mr. Muhammad Nadeem Rafiq received today i.e. on 17.02.2023 is incomplete on the following scores which is returned to the counsel for the petitioners for completion and resubmission within 15 days.

- 1- Application is not on proper shape.
- 2- Spare copies/sets for respondents be submitted with the application.

No. 653 /S.T,

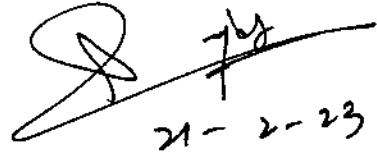
Dt. 21-02 /2023

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Saadullah Khan Marwat Adv.
High Court Peshawar.

Sir,

Re-submitted after removing the
objections.


21-2-23

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Misc. A. No. 90/2023

IN

S. A. No. 4533/2021

Muhammad Nadeem Rafique

versus

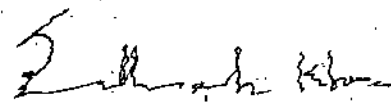
DG & Others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Application		1-2
2.	Affidavit		3
3.	Applications	"A"	4-5
4.	DPC minutes dated 20-01-2023	"B"	6-7
5.	Promotion order dated 13-02-2023	"C"	8

Appellant

Through



(Saadullah Khan Marwat)

Advocate

21-A Nasir Mension,

Shoba Bazar, Peshawar.

Ph: 0300-5872676

Dated 16-02-2023

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Misc. A. No. 90 / 2023

IN

S. A. No. 4533/2021

Muhammad Nadeem Rafique,
Assistant Sub-Inspector,
Office of the Director General
Excise, Taxation & Narcotics
Control, Department, KP,
Peshawar Appellant

VERSUS

1. Director General, Excise,
Taxation & Narcotics
Control Department,
KP, Peshawar.
2. Secretary, Government of
KP, Excise and Taxation
Department, Peshawar Respondents

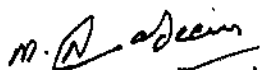
**APPLICATION FOR SETTING ASIDE NOTIFICATION DATED
13-02-2023 OF THE INCUMBENTS MENTIONED THEREIN BY
APPOINTING / PROMOTING AS SUB INSPECTORS B-14 ON
ACTING CHARGE BASIS:**


Respectfully Sheweth,

1. That applicant filed Service Appeal No. 4533 / 2021 before this hon'ble Service Tribunal for correction of seniority position assigned to the applicant viz-a-viz contesting respondents.
2. That applicant filed the said appeal on 25-02-2021 before the hon'ble Tribunal for correction of the seniority position. The appeal was admitted for regular hearing and is pending disposal.

3. That during the pendency of the appeal official respondents initiated without correction of the seniority position process of promotion to the post of Sub-Inspector B-14 and then on 04-01-2023 and 16-01-2023, applicant submitted application before the department as well as the hon'ble Tribunal to not finalize process of promotion till the decision of the pending appeal. (Copies as annex "A")
4. That no heed was paid to the same and then on 20-01-2023 Departmental Promotion Committee held meeting for promotion of the incumbents mentioned therein. (Copies as annex "B")
5. That even then no heed was paid to the request of applicant regarding non finalization of process of promotion in utter disregard of law issued the impugned notification wherein 12 candidates were promoted to the post of Sub-Inspector B-14 on acting charge basis. (Copy as annex "C")
6. That the incumbents mentioned in the notification ibid are not only juniors but seniority position was also in dispute amongst them as are figured in the appeal.
7. That per the law and judgments of the apex court (2009 SCMR 396) when seniority position is in dispute and not clear, then no promotion be made.
8. That the respondents never took any notice of the pending appeal between the parties and mis-used of their powers, not vested with them in such a situation.

It is, therefore, most humbly requested that the impugned Notification dated 13-02-2023 of the respondents be set aside with such other relief as may be deemed proper and just in circumstances of the case may also be issued / ordered / given.


Applicant

Through 
Saadullah Khan Marwat
Advocate.
Cell # 0311-9266609

Dated: 16-02-2023

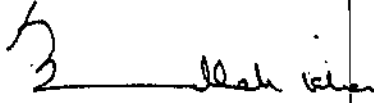
INTERIM RELIEF

By keeping in view the aforesaid facts and law point operation of the impugned notification be suspended till the final decision of the case.

ADDRESSES OF PROMOTEE INCUMBENTS FOR SERVICE UPON:-

1. Muhammad Tahir
2. Kamran Ali
3. Rashid Munir
4. Farhad Ullah Khan
5. M. Kamran Mandoori
6. Sajjad Ali
7. Qazi Bilal-UI-Haq
8. Haris Khan,

All acting Sub-Inspectors office of Director General, Excise, Taxation & Narcotics Control Department, Peshawar.


ADVOCATE

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Misc. A. No. /2023

IN

S. A. No. 4533/2021

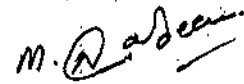
Muhammad Nadeem Rafique

versus

DG & Others

AFFIDAVIT

I, Muhammad Nadeem Rafique, Applicant, do hereby solemnly affirm and declare that contents of **Application** are true and correct to the best of my knowledge and belief.



DEPONENT

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To,

Director General, Excise,
Taxation & Narcotics Control
Department, Government of
KP, Peshawar.

Subject:

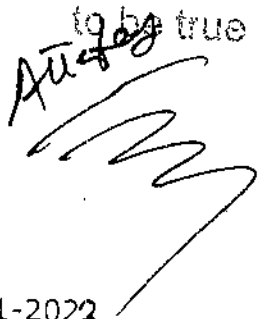
**APPLICATION FOR NOT FINALIZING PROCESS FOR
PROMOTION / DPC MEETING IF ANY / PROMOTION OF
ASSISTANT SUB-INSPECTORS TO THE RANK OF SUB-
INSPECTORS:**

Respectfully Sheweth,

1. That applicant filed Service Appeal No. 4533 / 2021 before the hon'ble Service Tribunal for correction of seniority position and the said appeal is pending disposal before the hon'ble Tribunal and is fixed for hearing on 16-01-2022. (Copy attached)
2. That during the pendency of the appeal, through some reliable sources it came to the knowledge of applicant that juniors to applicant are going to be promoted to the rank of Sub-Inspectors, the matter which is already sub-judice before the hon'ble Service Tribunal.
3. That as per the judgments of the apex court when list of seniority position is in dispute and not finalized, the department cannot make promotion and such fact have already been brought to the notice of the department. (2009 SCMR 396)
4. That it would be in the interest of justice to stop the process of promotion and to not finalized the said promotion.

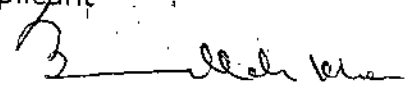
It is, therefore, most humbly requested that the process of promotion be not finalized till the decision of the case pending disposal before the hon'ble Service Tribunal regarding dispute of seniority position.

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August


Applicant

Through


Saadullah Khan Marwat
Advocate.

Office 21-A, Nasir
Mansion, Shoba Bazar,
Peshawar

Cell # 0311-9266609

Dated: 04-01-2022

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Misc. A. No. /2023

IN

S. A. No. 4533/2021

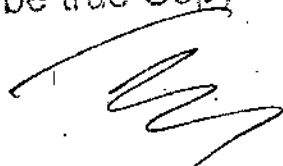
Muhammad Nadeem Rafique versus DG & Others

APPLICATION FOR NOT FINALIZING PROCESS FOR PROMOTION / DPC MEETING IF ANY / PROMOTION OF ASSISTANT SUB-INSPECTORS TO THE RANK OF SUB-INSPECTORS:**Respectfully Sheweth,**

1. That applicant filed Service Appeal No. 4533 / 2021 before this hon'ble Service Tribunal for correction of seniority position and is fixed for hearing on 16-01-2022.
2. That during the pendency of the appeal, through some reliable sources it came to the knowledge of applicant that juniors / private respondents to applicant are going to be promoted to the rank of Sub-Inspectors, the matter which is already sub-judice before this hon'ble Service Tribunal.
3. That as per the judgments of the apex court when list of seniority position is in dispute and not finalized, the department cannot make promotion and such fact have already been brought to the notice of the department. (2009 SCMR 396)
4. That it would be in the interest of justice to stop the process of promotion and to not finalized the said promotion.


It is, therefore, most humbly requested that the process of promotion be not finalized till the decision of the case pending disposal before this hon'ble Service Tribunal regarding dispute of seniority position.

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Applicant

Through


Saadullah Khan Marwat
Advocate.

Dated 16-01-2023

B 6

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING OF EXCISE, TAXATION & NARCOTICS CONTROL OFFICIALS HELD ON 20-01-2023 AT 11:00 AM.

A meeting of the Departmental Promotion Committee of Excise, Taxation and Narcotics Control Department Khyber Pakhtunkhwa was held on 20-01-2023 at 11:00 AM, in the office of Director General, Excise, Taxation, and Narcotics Control, Khyber Pakhtunkhwa, Peshawar to discuss and consider the appointment of fourteen (14) Assistant Sub-Inspectors (BPS-11) to the post of Sub-Inspector (BPS-14); on acting charge basis, the following members attended the meeting:

1. **Mr. Adeel Shah,**
Director General, Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa, Peshawar **Chairman.**
2. **Mr. Mansoor Arshad,**
Director (Admn), Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa, Peshawar. **Member.**
3. **Representative of Administrative Department,**
Excise, Taxation and Narcotics Control Department, Khyber Pakhtunkhwa, Peshawar. **Member.**

The Committee, after thorough examination and scrutiny of service record of the officials in line of promotion as per the final seniority list stood on 31.12.2021 of officials, decided as mentioned below against each:-

Agenda items # 01

APPOINTMENT OF FOURTEEN (14) ASSISTANT SUB-INSPECTORS (BPS-11) TO THE POST OF SUB INSPECTOR (BPS-14) ON ACTING CHARGE BASIS.

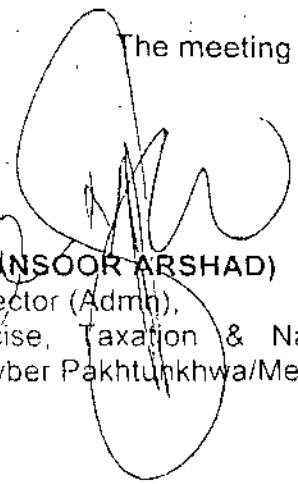
S#	NAME OF ASSISTANT SUB-INSPECTOR	DATE OF APPOINTMENT/ ADJUSTMENT/PROMOTION AS ASSISTANT SUB-INSPECTOR	Decision/ Whether Recommended for Promotion or not?
1	Mr. Hidayatullah Khan	10.09.1995	Not considered for promotion as the official has got retirement from the services on 10.05.2022
2	Mr. Asif Mir Dad	07.12.2010	Recommended for Appointment as Sub-Inspector (BPS-14) on Acting Charge Basis.
3	Mr. Tariq Khan	07.12.2010	
4	Syed Touqeer Abbas	07.12.2010	Differed as the official is under inquiry
5	Mr. Shah Nawaz	07.12.2010	Appointment as Sub-Inspector (BPS-14) on Acting Charge Basis.
6	Mr. Waheed Akbar	10.12.2010	
7	Muhammad Tahir	13.03.2012	
8	Mr. Kamran Ali	14.03.2012	
9	Mr. Rashid Munir	13.03.2012	
10	Mr. Farhad Ullah Khan	15.03.2012	

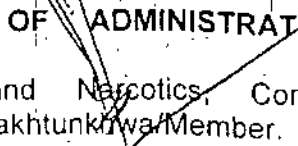
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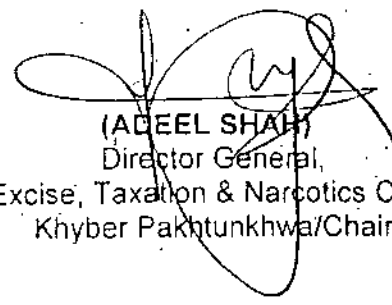
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11	Mr. Faqir Muhammad	13.03.2012	Differed as the official has not produced ACRs
12	Muhammad Kamran Mandoori	13.03.2012	Recommended for Appointment as Sub-Inspector (BPS-14) on Acting Charge Basis.
13	Mr. Sajjad Ali	13.03.2012	
14	Qazi Bilal ul Haq	13.03.2012	
15	Mr. Haris Khan	13.03.2012	

The meeting ended with a vote of thanks to and from the Chair.


(MANSOOR ARSHAD)
Director (Admn),
Excise, Taxation & Narcotics Control,
Khyber Pakhtunkhwa/Member.


REPRESENTATIVE OF ADMINISTRATIVE
DEPARTMENT,
Excise, Taxation and Narcotics, Control
Department, Khyber Pakhtunkhwa/Member.


(ADEEL SHAH)
Director General,
Excise, Taxation & Narcotics Control,
Khyber Pakhtunkhwa/Chairman.

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ORDER

No. 6324/Estb/XXXV.D-246. In pursuance of the recommendation of the Departmental

Promotion Committee of Excise, Taxation & Narcotics Control, Khyber Pakhtunkhwa meeting held on

20/01/2023, the following twelve (12) Assistant Sub-Inspectors (BPS-11) of Excise, Taxation, &

Narcotics Control Khyber Pakhtunkhwa, Peshawar are hereby appointed as Sub-Inspectors (BPS-14)


on acting charge basis with immediate effect with usual allowances as admissible under the Rules.

S#	Name of Officials	Remarks
1	Mr. Asif Mir Dad	Appointed as Sub Inspector (BPS-14) on acting charge basis.
2	Mr. Tariq Khan	
3	Mr. Shah-Nawaz	
4	Mr. Waheed Akbar	
5	Muhammad Tahir	
6	Mr. Kamran Ali	
7	Mr. Rashid Munir	
8	Mr. Farhad Ullah Khan	
9	Muhammad Kamran Mandoori	
10	Mr. Sajjad Ali	
11	Qazi Bilal ul Haq	
12	Mr. Hans Khan	

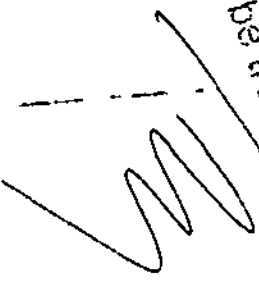
The officials will remain on probation for a period of one year under Rule-

15(1) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989

(updated upto 20th January, 2009)


DIRECTOR GENERAL,
EXCISE, TAXATION & NARCOTICS CONTROL,
KHYBER PAKHTUNKHWA, PESHAWAR.

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6324-14

Estb/XXXV.D-246

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Misc. A. No. 541- /2023 Khyber Pakhtunkhwa
Service Tribunal

IN

S. A. No. 4533/2021

Entry No. 3660
Dated 17-2-23

Muhammad Nadeem Rafique

versus

DG & Others


**APPLICATION FOR SETTING ASIDE NOTIFICATION DATED
13-02-2023 OF THE INCUMBENTS MENTIONED THEREIN BY
APPOINTING / PROMOTING AS SUB INSPECTORS B-14 ON
ACTING CHARGE BASIS:**

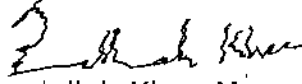
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1. That applicant filed Service Appeal No. 4533 / 2021 before this hon'ble Service Tribunal for correction of seniority position assigned to the applicant viz-a-viz contesting respondents.
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Applicant

Through 
Saadullah Khan Marwat
Advocate.
Cell # 0311-9266609

Dated: 16-02-2023

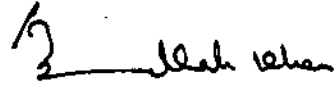
INTERIM RELIEF

By keeping in view the aforesaid facts and law point operation of the impugned notification be suspended till the final decision of the case.

ADDRESSES OF PROMOTEE INCUMBENTS FOR SERVICE UPON:-

1. Muhammad Tahir
2. Kamran Ali
3. Rashid Munir
4. Farhad Ullah Khan
5. M. Kamran Mandoori
6. Sajjad Ali
7. Qazi Bilal-UI-Haq
8. Haris Khan,

All acting Sub-Inspectors office of Director General, Excise, Taxation & Narcotics Control Department, Peshawar.


Advocate.