

Telephone No. 091-9211936



KHYBER PAKHTUNKHWA
PUBLIC SERVICE COMMISSION
2-FORT ROAD, PESHAWAR CANTT
(NEAR GOVERNOR HOUSE)

NO. KPK/PSC/Lit/F-1497/2023/020719

Date: 25/9/2023

To

The Secretary, Establishment Department,
Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7933

Dated 26-09-23

Subject: SERVICE APEAL NO. 221/2022 TITLED AS HUSSAIN AKBAR VS GOVT OF KHYBER PAKHTUNKHWA & OTHERS.

Dear Sir,

I am directed to refer to the subject noted above and to state that perusal of the subject Service Appeal reveals that the case relates to your department. It is therefore, requested that Joint Para Wise comments of the captioned appeal may be prepared, got vetted from Advocate General, Khyber Pakhtunkhwa, signed from all co-respondents and the same may be furnished to this office for signature of the Chairman Khyber Pakhtunkhwa Public Service Commission being respondent No. 03.

2. Being court matter, the same may please be accorded top priority.

Yours faithfully

(Faheem Ullah)
Senior Law Officer
Public Service Commission

Copy to:

✓ Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.


Senior Law Officer

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 221 /2022

Hussain Akbar, Assistant DC Office Mardan/ Divisional Coordinator Revenue Department, Mardan.

.....(Appellant)

Versus

1. The Govt of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar
2. The Secretary Establishment, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar
3. Khyber Pakhtunkhwa Public Service Commission through its Chairman, Peshawar....

.....(Respondents)

APPEAL U/S-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE DECISION OF RESPONDENT NO.1 COMMUNICATED VIDE LETTER NO. SO(HRD-II)/ED/1-10/2021(RTI)/HUSSAIN AKBAR, DATED 27.01.2022 WHEREBY THE REPRESENTATION DATED 17.12.2020 AND 22.06.2021 MADE BY THE APPELLANT (FOR RECONSIDERATION OF NOTIFICATION NO.SOE(ED)2(14)/2009, DATED 04.10.2010, SUBMITTED IN LIGHT OF ORDER DATED 15.10.2020 BY HON'BLE PESHAWAR HIGH COURT IN W.P NO. 4157-P/2020, HAS BEEN DISMISSED/REGRETTEED.

Respectfully Sheweth,

1. That the Constitution of Islamic Republic of Pakistan aims at protecting civil servants in order to ensure smooth running of affairs of the Government and Institutions so as to benefit the public citizenry.
2. The Constitution of Islamic Republic of Pakistan equally beshields Civil Servants from being treated otherwise than in accordance with law.

In Sheikh Riaz-UI-Haq's case², it was held that, "Admittedly, civil servants being citizens of Pakistan have fundamental rights including the right to access to justice as envisaged under Article-9 of the Constitution".

3. That Constitution of Islamic Republic of Pakistan evenly emphasizes on equality for the citizens; by the citizens; aimed at underpinning rule of law.

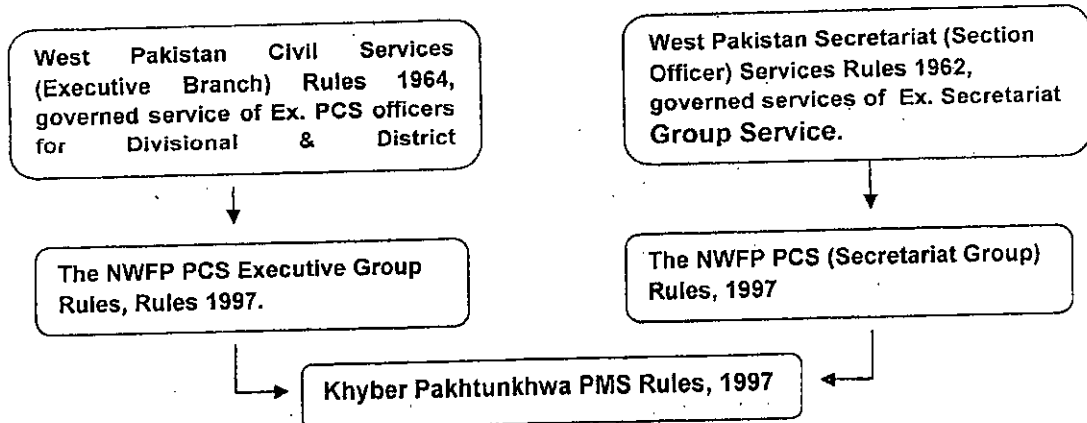
ON FACTS

1. That the appellant is presently serving as Office Assistant at District Collectorate/District Administration, Mardan, and he is also Divisional Coordinator for Revenue Department APCA, Khyber Pakhtunkhwa.
2. That the Provincial Government of Khyber Pakhtunkhwa introduced Provincial Management Service Rules vide notification dated 11.05.2007; wherein specific quotas were reserved for different class of persons.
3. That initially two separate Provincial Services were in place i.e:
 - The Executive Service (related to Divisional/District Administration) and this service would be regulated by the West Pakistan Civil Service (Executive Branch) Rules, 1964 vide which officers of BPS-17 would be appointed for District/ Divisional Administration.
 - The Secretariat Service related to Secretariat Management. The West Pakistan Secretariat (Section Officer) Services Rules 1962 would govern appointments & service matters of Section Officers in the Provincial Secretariat. **(Relevant portion of the West Pakistan Executive Branch Rules, 1964 is Annex-A)**

Pertinent to mention that in the Executive Branch Rules, 37.50% promotion quota was reserved for Tehsildars/Revenue Staff and 12.50% In-Service quota for ministerial staff, whereas, in the Secretariat Branch Rules, 1962, no such In-Service quota was provided.

4. That later on, both of the said rules were repealed and replaced by two different sets of rules i.e. the Khyber Pakhtunkhwa i.e. PCS (Executive Group) Rules, 1997 and PCS (Secretariat Group) Rules, 1997. The former would cover appointments of Extra Assistant Commissioners (BPS-17) for Divisional/District Administration; whereas, the latter would govern appointment of Section Officers (BPS-17) in the Civil Secretariat.

Again in PCS Executive Group Rules, 1997 (Rules governing Service of Revenue/Divisional/District Administration), 37.50% promotion quota was specified for Tehsildars of Revenue Department and 12.50% In-Service quota for ministerial staff through competitive examination; whereas in the Secretariat Group Rules, 1997, no such quota was provided.



(Copy of Relevant portion of PCS (E.G) Rules, 1997 is Annex-B)
 (Copy of Relevant portion of PCS (S.G) Rules, 1997 is Annex-C)

5. That the two separate cadres/services were clubbed and a new Single cadre service formed called the Provincial Management Service (PMS), governed by single rules i.e. PMS Rules, 2007. The PMS BS-17 Officers are now transferable both in the Revenue Department/ District Administration as Assistant Commissioners/Addl Assistant Commissioners and in the Civil Secretariat as Section Officers. Schedule-I of the original PMS Rules 2007, provided the following modes for initial appointment of PMS BS-17 officers:
- 50% by initial recruitment on recommendation of PSC.
 - 20% by promotion from amongst Superintendents & Private Secretaries of Secretariat
 - 20% by promotion from amongst Tehsildars of Revenue department.
 - 10% through competitive exam (In-Service) from amongst ministerial staff of the Provincial Govt.

As such all the quotas reserved in the previous rules were reflected with different ratio in the clubbed version i.e. the 40% and 37.50% promotion quota for ministerial staff of Secretariat and Tehsildars of Revenue Department respectively were reflected as 20% equal. Likewise, the 12.50% In-Service quota was also reflected as 10% (In-Service PMS) through competitive Exam from amongst ministerial staff of all govt departments. As such same criteria and mode was transformed into the new service but with different ratio. (KPK PMS Rules, 2007 is Annex-D).

6. That in the PMS In-Service 10% quota, 53 posts were advertised in 2010, open to persons holding substantive posts details of which is provided in the afore-stated rules.

7. That the Secretary General of the Secretariat Employees Coordination Council made a representation dated 09.08.2010 before the respondent No. 1 to the discredit of present appellant and thousands of his colleagues, stating therein that the 10% quota was actually carved out of their share by reducing their promotion quota from 40% to 20%; therefore, only employees of Secretariat had a right on that quota, in utter disregard of the above-narrated historical and factual background. **(Copy of letter dated 09.08.2010 is Annex-E)**
8. That the respondent No. 1 & 2, without bothering to go through history and background of the matter, put forward their standpoint before respondent No. 3, that the 10% quota PMS in-service meant for ministerial staff of Secretariat employees only and sought clarification to that effect; disfavoring thousands of employees of the revenue department, Commissioners and DCs' offices. **(Letter dated 19.08.2010 is Annex-F)**
9. That respondent No. 3 vide letter dated 30.08.2010 expressed its inability to issue the desired clarification, in violation of rules and suggested for necessary amendments in the rules with clear standpoint that graduate clerks of Commissioners and DCOs Offices; on account of their field experience and know-how would be more deserving and suitable for the said posts. **(Copy of letter dated 30.08.2010 is Annex-G)**
10. That to the uttermost disregard; the respondent No. 1 issued a hasty notification dated 14.09.2010 followed by the impugned notification dated No. SOE-II(ED)2(14)2009 dated 04.10.2010; wherein amendment was brought in PMS Rules, 2007 safeguarding 10% quota for ministerial staff of secretariat only. **(Copy of the amendments dated 14.09.2010 & 04.10.2010, SSRC minutes & Summary are Annex-H)**
11. That afterwards; 69 posts meant for PMS in-service were advertised on 01.12.2017; with astonishing condition being restricted to Secretariat's employees only, enabling the appellant to know about the aforementioned facts. And soon after publication of the advertisement, a detailed representation dated 27.12.2017 was submitted to Respondent No.1 & 2 but no reply was give.

(Copy of advertisement is Annex-I)

(Copy of Minutes/request dated 27.12.2017 is Annex-J)

12. That expecting fruitful result(s) of the said representation; the petitioner along with his colleagues opted for to appear in the competitive examination; out of them he qualified the written exam with 69% marks, but was not called for interview by the Commission by withholding his result.
(Copy of DMC is Annex-K)

13. That the appellant filed a W.P No. 4157-P/2020; which was disposed of vide order dated 15.10.2020; with the direction to respondents to dispose of his representations within 30 days with explicit result. **(Copy of order sheet 15.10.2021 are Annex-L).**

14. That in light of order dated 15.10.2020 by Hon'ble Peshawar High Court, the appellant submitted another representation, dated 17.12.2020, which was replied to through the RTI Commission on 25.05.2021 with vague contents & distorted facts. Therefore, the appellant vide a subsequent representation dated 22.06.2021 submitted additional grounds/counter stance with the request to dispose of his representation in light of the same. The Respondents vide letter dated 27.01.2022, informed regarding fate of the representation that the competent authority had regretted his request on the ground that the said quota meant only for ministerial staff of Secretariat and that attached departments having career progression in their respective departments can apply in General PMS and that issues regarding the said quota have been settled by Supreme Court of Pakistan in its judgment dated 25.02.201

**(Representations dated 17.12.2020, 22.06.2021 & application, dated 07.01.2022 under the RTI Act are Annex-M)
(Letter dated 25.05.2021 and 27.01.2022 are Annex-N)**

15. That for the sake of information of this Hon'ble Tribunal; employees of different department(s) challenged the amendment referred to before Hon'ble Peshawar High Court Peshawar vide Writ Petition No. 3857/2010, with certain assertions pertaining to the amendment dated 04.10.2010 was premised upon malafide and amounted to formation of groups of persons on irrational basis because the one group (secretariat employees) were benefitted twice while the other groups (remaining government employee working out of Secretariat) has been deprived of the benefits already given under the rules. The Honorable Peshawar High Court through its judgment dated 28.05.2014 struck down the amendment and restored the PMS rules to its original version.

(Copy of W.P 3857/2010 alongwith Comments is Annex-O)

(Copy of judgment dated 28.05.2014 is Annex-P)

16. That against the said judgment, the Establishment Department filed CPLA No. 1214/2015 in the Apex Court; which was accepted vide judgment dated 25.02.2016 and judgment of High Court in favour of the then respondents was set aside with the remarks that and as per the settled principle the determination of eligibility of the respondents through amendment fully falls within the domain and policy decision of the Government which does not warrant interference by the Courts..

(Judgment dated 25.02.2016 is Annex-Q)

17. That the respondents now put forward the said judgment to the appellant and his colleagues of Revenue Department—a more relevant formation of PMS Service who was neither party in that litigation nor did their standpoint is same.
18. That feeling aggrieved of the same, the instant Service Appeal is filed on the following grounds.

GROUND:

- A.** That the SSRC and Chief Executive was kept in dark by concealing the important facts from them—The reason mentioned by respondents to bring clarity in the rules is wrong and unfounded because it was not an ambiguous part of the rules; rather the In-Service quota, being an integral part of the previous rules, has a long history in all the provinces, including Khyber Pakhtunkhwa.

As explained in the facts, In-Service Quota (12.50%) was reserved for employees of Revenue Department alongwith Secretariat initially in the West Pakistan Civil Service (Executive Branch) Rules 1964 followed by the NWFP PCS (Executive Group) Rules, 1997, which would regulate appointment of EACs BS-17 for the Divisional & District Administration (in KPK as well as other Provinces). Whereas in the West Pakistan Secretariat (Section Officers) Rules, 1962 and the NWFP PCS (Secretariat Group) Rules, 1997 which would govern services of S.Os for Secretariat, had no such In-Service quota. On that analogy, the In-Service 10% quota was made part of combined PMS Rules, 2007, kept open to ministerial staff of Govt Departments.

The said quota was neither new nor did cut from Secretariat share, but it was the misleading letter and pressure applied through rampant strikes by the Coordination Council which compelled the Respondent No.01 & 02 for the amendment. They failed in applying independent & impartial approach to the matter and made a hasty amendment in the rules whereby employees of more relevant formation i.e. Commissioners/DCs' offices were also excluded alongwith employees of other irrelevant Departments.

The amendment is justified to the extent of other irrelevant Departments having no link with PMS, but due to permanent relevancy of Divisional & District Administration and job experience, employees of Revenue Department more deserve to compete for speedy promotion.

- B.** That the 10% is based on relevancy & job experience as explained by respondents in comments of W.P No. 385/2010 that employees of Secretariat which make them well acquainted with job of PMS Officers. Secondly employees of other department are expert of their own field/cadres and get chances of promotion in their cadres through examinations under their respective service rules and that these posts can't be used as learning place for them.

Revenue Department/District Administration is more relevant to PMS on the following grounds:

- PMS Rules, 2007; provided equal weightage in the 20% promotion quota has been given to both sides i.e. Tehsildars of Revenue Department and for Superintendents/Private Secretaries of Secretariat. Ministerial staff of Revenue Department is promoted to PMS via Tehsildar with a small share i.e. around 3% as against 20% reserved for ministerial staff of Secretariat, yet it is good that they have some quota. No other department has such quota, therefore, amendment is correct to the extent of other irrelevant departments.
- Para 4(ii) of the note dated 17.01.2018 for Worthy Chief Secretary by Respondent No.2 further authenticates their relevancy, wherein 05% promotion quota was suggested Ministerial employees of Revenue Department through merit/in-service competition.

- The Board of Revenue vide letter dated 10.01.2019 suggested 05% quota out of 20% share of promotion quota for Tehsildars for promotion of Superintendent/Private Secretaries of Revenue Department.
- The Summary dated 12.08.2021, initiated by Respondent No.02 for Cabinet meeting wherein it has been admitted that "The Tehsildars Cadre already enjoys a lion share in promotion. The Assistants, Computer Operator and Stenographers of District Administration fall within the category of Revenue Staff, hence entitled for promotion to the posts of Tehsildars/Naib Tehsildars and subsequent promotion to the post of PMS 20% quota. The 10% share has been carved from the promotion quota of Secretariat employees.
- Letter dated 30.08.2010 and Para 6 of the Comments by Respondents No.3 in W.P No. 3857 in Hon'ble Peshawar High Court admitted inherent relevancy & job experience of the appellant's & his colleagues.
- About 80% (20 pages J.D) Job Description of PMS Officers BS-17 related to District Administration whilst carrying out duties as ACs/AACs, whereas in Secretariat as S.O he has to deal with very limited and repetitive secretarial work (one & half page J.D). Therefore, supporting staff in field have more experience regarding multiple Administrative, Judicial, implementation of policy matters, which supporting staff in Secretariat don't know about.
- On the other hand every District Collectorate is replica of Civil Secretariat in relation to office management but Civil Secretariat is not a replica of District Administration/ District Collectorate.

(Working Paper dated 17.01.2018 is Annex-R)
 (BoR letter dated 10.01.2019 is Annex-S)
 (Summary dated 12.08.2021 is Annex-T)
 (Letter dated 30.08.2010 is Annex-G)
 (Comments by Respondent No.03 are Annex-O)
 (Job Description of ACs & S.Os is Annex-U)

Thus no separate structure is available for ministerial staff of Revenue Department. About 3200 ministerial staff of Revenue Department have indirect

3% promotion quota through the post of Tehsildar as against 20% promotion quota for 1900 ministerial staff of Secretariat.

The PMS In-Service is different quota purpose of which was explained by the respondents in reply to W.P No. 3857/2010 that same quota aims to provide an opportunity of quick promotion on the basis of experience cum merit to lower grade employees and to sift out the best lot from the lower grade these 10% seats were reserved to be filled through competitive examination by KPPSC.

Therefore, being more essential formation of PMS Service, employees of Revenue Department are more deserving to have an opportunity of talent based quick promotion.

C. That as per present PMS rules, total three categories of employees are relevant and have promotion quota (although unequal & imbalanced) which are as under:

- 3195 Ministerial staff of Divisional and District Administration have about 03% indirect promotion quota through the 20% quota reserved for Tehsildars.
- 3039 Revenue Staff have 17% promotion quota out of 20% reserved for Tehsildars. (6234 employees of Revenue Deptt have 20% promotion quota collective).
- 1900 Ministerial staff have 30% quota (20% promotion quota & 10% In-Service quota).

(Ministerial Staff Details of Revenue Department & Secretariat is Annex-V)

Although there is imbalance in the internal 20% promotion quota as well, but excluding 3195 employees from a complete different quota of 10% is injustice.

The PMS In-Service is different quota purpose of which was explained by the respondents in reply to W.P No. 3857/2010 that same quota aims to provide an opportunity of quick promotion on the basis of experience cum merit to lower grade employees and to sift out the best lot from the lower grade these 10% seats were reserved to be filled through competitive examination by KPPSC.

The rules were actually amended on the unfounded & baseless stance of Coordination Council and more ironically their wrong stance has repeatedly been made part of Govt correspondence.

D. That the 10% is actually a merit-based quota through competitive examination for the ministerial staff of all those departments wherein PMS Officers BPS-17 have major scheduled/cadre postings i.e. Secretariat and Revenue department/Distt Administration only, as such employees of both the formations deserve more to have an opportunity to compete in the 10% In-Service quota.

E. That PMS rules of KPK is carbon copy of Punjab PMS rules, 2004 which still provides equal opportunity to ministerial staff of revenue department to compete in the 10% quota reserved for In-Service candidates. Likewise, the Establishment Division has even allowed ministerial staff of all Federal Department to compete with Section Officers Promotional Exam (SOPE) and here the relevant segment is disallowed. (Copies of PMS Rules Punjab, Sindh & SOPE is Annex-W)

F. That Summaries to the Chief Executive are governed by three set of rules i.e. Rules of Business, 1985, Manual of Secretariat Instructions, 2008 and KPK Estacode. All the three laws/rules have been violated to the extent & discredit of thousands of employees of Revenue Department/Divisional & District Administration Revenue as follows:

- As mentioned in the summary dated 22.09.2010, basis of the amendment was letter dated 09.08.2010 by G.S of Secretariat Employees Coordination Council coupled with letter dated 18.08.2010 by the KP PSC, but main thing pointed out by the Commission was not given any consideration, which says: **"Some of the graduate clerks in the attached departments, Commissioners and DCOs Offices, on account of their field experience and knowledge will be more deserving and suitable for the posts"**. But the SSRC minutes and summary for C.M is silent on actual facts/background and the above observation.

- Likewise, KPK Estacode (Page-257) makes it mandatory to explain all the relevant things related to proposed amendment as: *"The administrative departments are requested that all proposals for framing of new Service Rules and amendments in the existing rules should be accompanied by a working paper explaining background and justification for the proposal, particularly where the existing rules are required to be amended."*

Further violation of the above has been declared even Misconduct. *"Despite existence of these statutory provisions in the NWFP Govt. Rules of Business, 1985, the Manual of Secretariat Instructions, 2008 and other allied instructions, many cases are coming to light where Administrative Secretaries and other officials are not strictly adhering to them. It must be realized that these are not only legally binding requirements whose violation amounts to "misconduct" but also unnecessarily results in red-tapism as well as affects the quality of decisions making".*

Whereas, the Instructions contained in ESTACODE have the force and effect of rules, by virtue of S.25 (2), Civil Servants Act, 1973.

In utter disregard of the above, the summary put up to Chief Minister and minutes of the Standing Services Rules Committee, dated 09.09.2010 seems willfully silent regarding background of the PMS Service, its formation, ex. Position and relevancy of revenue department/Distt Administration and the observation made by the Commission regarding Revenue Department/Distt Administration in the letter dated 18.08.2010.

- Rules- 8(1) of the KP Rules of Business, 1985 provides: *"when the subject of a case concerns more than one Department: (a) the*

Department Incharge shall be responsible for consulting the other Departments concerned; and (b) no orders shall issue, nor shall the case ordinarily be submitted to the Chief Minister or the Cabinet until it has been considered by all the Departments concerned and they agree to it.

- Likewise, Rule-9 sub rule (i) of the *ibid* rules provides that ***"It shall be the responsibility of the Chief Secretary to coordinate the work of all Departments of Government"***. But in the instant case there seems complete lack of coordination among the Establishment and Revenue department whilst amending the most important civil service rules of the province.

- Further, Sub Rule (3) of rule 9 of the *ibid* rules provide:

"The Establishment and Administration Department shall be responsible for:

- a) the determination of the principles of control of Government Servants, including recruitment, conditions of service and discipline;
- b) The coordination of the policy of all Departments with respect to services under their control so as to secure consistency of treatment;
- c) Securing to all Government servants the rights and privileges conferred on them by or under any law for the time being in force,

The respondents have deviated from the basic procedure by getting approved the unilateral summary of impugned amendment from the Chief Minister, without any consultation and getting input of an integral department of PMS Service (Revenue Department)/Secretary Revenue. Therefore, the impugned amendment is ineffective ab-initio upon the inherent rights of the Petitioner.

- Para-7, Schedule-II of the Khyber Pakhtunkhwa Rules of Business, 1985 further provides that *Revenue Department will deal: "Matters connected with the recruitment, training, pay, allowances, promotions, leave, postings and transfers of Revenue Field staff and District and Divisional Establishment (ministerial, except those entrusted to the Establishment and Administration Department)"*.

But in the instant case its employees have been deprived of due right without bringing into notice of the Revenue Department.

- Section 89 of Manual of Secretariat Instruction, 2008 provides:
"A summary for the Provincial Cabinet shall be prepared in accordance with Rule-21 of Govt of NWFP Rules of Business and shall be in the following form (e)(iv) Contents: views of the department and of any other department if concerned".



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9210626

Dated: 22nd September, 2023

NOTIFICATION

NO.SO(MC) E&SED/ 4-16 /2023/ Posting/ Transfer/ SDEO (F) Lakki/Pesh/Nowshera/: In light of Service Tribunal Judgment dated 06.09.2023 in Service Appeal No.1309/2023 and 1312/2023, this department Notification of even number dated 26.05.2023 regarding posting/ transfer of Mst. Farhat Yasmin, Mst. Shehnaz Begum and Mst. Riffat bano is hereby **Restored**.

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No.& date:

Copy forwarded for information to the: -

1. Registrar Khyber Pakhtunkwa Service Tribunal Peshawar.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
4. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
5. Section Officer (Lit-II) E&SE Department.
6. District Education Officer (Female) Lakki Marwat/Nowshera/Peshawar.
7. District Accounts Officer Lakki Marwat/Nowshera/Peshawar.
8. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
9. Master file.

7/1/1/2023
22.9.2023
(IMRAN ZAMAN)

SECTION OFFICER (Management Cadre)

Registrar Service
Tribunal

Whereas, Section 89(a)(i) makes it mandatory to write about history and background of the case with relevant facts.

Further, section 125 to 137 of the said Instructions further made the meaningful consultation with the relevant department mandatory, and same have not been complied with in the instant case, which show complete malafide on the part of Respondents.

(Working portion of KP Estacode is Annex-X)

(Working Portion of Rules of Business is Annex-Y)

(Working Portion of Manual of Secretariat Instructions is Annex-Z)

K. That later on, in subsequent similar cases, the Superintendents & Private Secretaries of DC/Commissioner offices submitted an application, dated 04.10.2018 to the Respondent No.1 requesting therein for share in the 20% promotion quota in PMS, on the pattern of quota already reserved for the Superintendents & Private Secretaries of Secretariat. The Respondents letter, dated 29.10.2018 sought comments of Secretary Revenue ^ Estate Department who shared views of the Revenue department vide letter No. dated 10.01.2019 and supported stance of the applicants. In another case, in a note for Chief Minister dated 17.01.2018, the first two respondents suggested to reserve 5% quota in PMS for ministerial staff of Revenue Department, wherein also, input of the revenue department was got.

All these confirm that only in the case of impugned amendment, relevant laws/rules have been violated at the detriment of thousands of deserving candidates of Revenue Department; whereas in the subsequent all cases, same have been followed, which shows discriminatory approach & ulterior motive in this case.

Had the Respondent No.1 and 2 followed the rules, and got comments of the Respondent No.3, circumstances would have been different as Respondent No.3 vide dated 18.01.2021 forwarded stance of the Petitioner to Respondent No.1 and 2 for consideration.

(Application dated 04.10.2018 is Annex-AA)

(Letter dated 29.10.2018 is Annex-BB)

(Letter dated 10.01.2019 is Annex-CC)

(Note dated 17.01.2018 is Annex-R)

(Representation to SMBR dated 18.01.2021 is Annex-DD)

(Letter dated 21.02.2021 is Annex-EE)

Class dealing with more than a dozen of laws with more multiplied Field Job Description, regarding which ministerial staff of the revenue department has experience. (S.7 of Land LRA,1967 is Annex-F)

G. That till date, three times vacancies in PMS-Inservice quota have been advertised for 165 position but, but only 42 (34+8) candidates from Secretariat could qualify just the written exam and they all were recommended, which is against the spirit of competition ^ merit, while the rest of vacancies are still vacant even after 15 years of promulgation of the rules; why because the remaining posts mean for the Revenue department. (Advertisements are Annex-GG; Results are Annex-HH)

H. That collective will & wisdom i.e. the KP Provincial Assembly is also convinced on the due right of the appellant and his colleagues, therefore, passed a unanimous resolution No. 1141 for retention/restoration of 10% PMS (In-Service) quota for them. Implementation of the said resolution have repeatedly been delisted from agenda of Cabinet meetings due to pressure of time Coordination Council Civil Secretariat.

(Resolution No. 1141 is Annex-ii)
(Pressers/letters by Coordination Council are Annex-JJ)

L. That "Expressio Unis Est Exclusio Alterius", commanding that when law requires a thing to be done in particular manner then, it should be done in that manner as anything done in conflict of the command of law shall be unlawful being prohibited.

M. That "*Ignorantia juris non excusat*", commanding that ignorance of the law excuses not.

N. That the purported omission(s) on the part of Respondents itself speaks volumes engraving danger to the notion of good governance, hence requires interference of the Hon'ble Tribunal.

In **Qaisar Iqbal's Case**³, it was held that, " Rule of Law meant Supremacy of Laws opposed to arbitrary authority of the Government; said supremacy guaranteed three concepts; first, the absence of arbitrary power; second, equality before law and third the rights of citizens'.

O. That one of the mainstay of the respondent(s) is judgment dated 25.02.2016 rendered by August Supreme Court of Pakistan in CPLA No. 1214/2015; considering the facts and circumstances of the issue at hand.

³ 2018 PLD Lahore 34

P. That the said case was filed by different persons, with totally different cause of action & ground as explained in earlier.

Q. The appellant may be allowed to adduce further grounds during arguments.

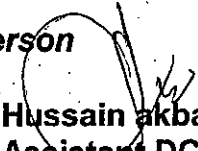
PRAYER

It is therefore humbly prayed and submitted that on acceptance of this Service Appeal:

1. To declare the amendment dated 04.10.2010 ultravires and set aside the same to the extent of Revenue Department/Divisional & District Administration.
2. Respondent No. 03 may be directed to complete necessary process on the withheld result of the appellant.
3. Any such order be passed which this Hon'ble Tribunal deems fit and appropriate as the circumstances may require for determination of the subject at hand.

Appellant

In person


Hussain akbar
Assistant DC Office Mardan
Contact# 0300-5844549

(4)
RST

SB

13-10
