

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 1623/2023

Sher Bahadar S/O Haji Nadir Khan, Office Kanungo, Tehsil & District Charsadda.

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Revenue & Estate Department, Peshawar.
2. Government of Khyber Pakhtunkhwa through SMBR, Peshawar.
3. Government of Khyber Pakhtunkhwa through Director Land Records, Peshawar.
4. Commissioner Peshawar Division, Peshawar.
5. Deputy Commissioner, Charsadda.
6. District Kanungo, Charsadda.
7. Government of Khyber Pakhtunkhwa through Secretary Finance, Peshawar.
8. Akbar Hussain S/O Awal Khan, Kanungo Charsadda.

.....Respondents

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Deponent

Signature: 

CNIC No. 17101-0257106-9

Cell No. 03129146980

DEPUTY COMMISSIONER OFFICE
CHARSADDA

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESAWAR.

Khyber Pakhtunkhwa
Service Tribunal

①

APPEAL NO. 1623/2023

Diary No. 7974

Sher Bahadar S/O Haji Nadir Khan, Office Kanungo, Tehsil & District Charsadda

28/09/23

..... Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Revenue & Estate Department, Peshawar.
2. Government of Khyber Pakhtunkhwa through SMBR, Peshawar.
3. Government of Khyber Pakhtunkhwa through Director Land Records, Peshawar.
4. Commissioner Peshawar Division, Peshawar.
5. Deputy Commissioner, Charsadda.
6. District Kanungo, Charsadda.
7. Government of Khyber Pakhtunkhwa through Secretary Finance, Peshawar.
8. Akbar Hussain S/O Awal Khan, Kanungo Charsadda.

..... Respondents

PRELIMINARY OBJECTIONS:

1. The Appeal is not maintainable.
2. The appellant has not come to this Hon'ble Tribunal with clean hands.
3. The appeal is badly time barred.
4. The appellant has no locus-standi to file this appeal.

JOINT PARA-WISE REPLIES OF RESPONDENTS NO. 1 TO 6.

Respectfully Sheweth:

- Para No. 1. Already submitted in Para-wise comments/replies in Appeal No. 502/2022 under the subject title. **(Annex-A)**
- Para No. 2. As explained in Para No. 1 above.
- Para No. 3. As explained in Para No. 1 above.
- Para No. 4. As explained in Para No. 1 above.
- Para No. 5. As explained in Para No. 1 above.
- Para No. 6. As explained in Para No. 1 above.
- Para No. 7. Correct as pertains to record.
- Para No. 8. Correct.
- Para No. 9. Correct to the extent that the appellant as well as Patwaris at S.No. 11 & 12 were promoted to the post of Girdawar (BPS-11) in DPC meeting held on 14.12.2022 **(Annex-B)** as they accepted the seniority of the appellant, while an Appeal No. 502/2022 is pending in the Hon'ble Service Tribunal Khyber Pakhtunkhwa regarding his seniority from Respondent No. 8.
- Para No. 10. The appellant has submitted an application to Respondent No. 5.
- Para No. 11. As explained in Para No. 9 above.

GROUND.

- A. Para-wise comments already submitted in Appeal No. 502/2022.
- B. Incorrect as no malafidy exists.
- C. As explained in Para No. 9.
- D. Para-wise comments already submitted in Appeal No. 502/2022.
- E. Para-wise comments already submitted in Appeal No. 502/2022.
- F. Incorrect. The seniority list was prepared in accordance with the data available in office record.
- G. Para-wise comments already submitted in Appeal No. 502/2022 under Para No. 2.

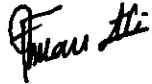
H. As explained in Para No. 9.

I. The Respondents may also be allowed to raise any additional grounds at the time of arguments.

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PRAYER:

*IN VIEW OF THE ABOVE, THE INSTANT APPEAL MAY VERY GRACIOUSLY
BE SET ASIDE BEING NOT MAINTAINABLE.*



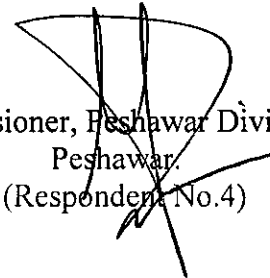
District Kanungo
Charsadda
(Respondent No.6)



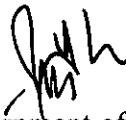
Deputy Commissioner
Charsadda
(Respondent No.5)



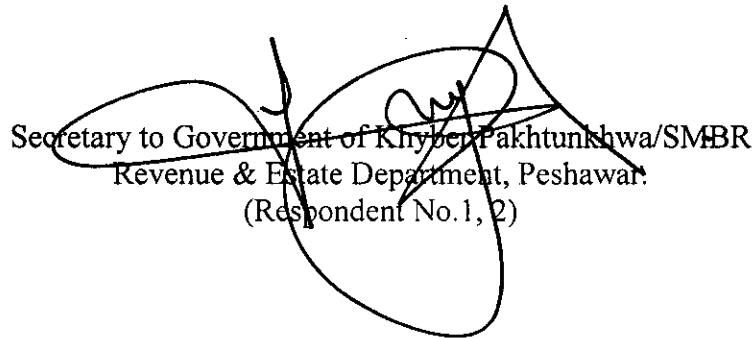
Director Land Records
Khyber Pakhtunkhwa
(Respondent No.3)



Commissioner, Peshawar Division,
Peshawar.
(Respondent No.4)



Secretary to Government of Khyber Pakhtunkhwa,
Finance Department
(Respondent No.7)



Secretary to Government of Khyber Pakhtunkhwa/SMBR
Revenue & Estate Department, Peshawar.
(Respondent No.1, 2)

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESAWAR.

APPEAL NO. 502/2022

Sher Bahadar S/O Haji Nadir Khan, Office Kanungo, Tehsil & District Charsadda.

..... Appellant

VERSUS

1. Government of Khyber Paktunkhwa through Secretary Revenue & Estate Department, Peshawar.
2. Government of Khyber Paktunkhwa through SMBR, Peshawar.
3. Government of Khyber Paktunkhwa through Director Land Records, Peshawar.
4. Commissioner Peshawar Division, Peshawar.
5. Deputy Commissioner, Charsadda.
6. to 9. Private Respondents.

PRELIMINARY OBJECTIONS:

..... Respondents

1. The Appeal is not maintainable.
2. The appellant has not come to this Hon'ble Tribunal with clean hands.
3. The appeal is badly time barred.
4. The appellant has no locus-standi to file this appeal.

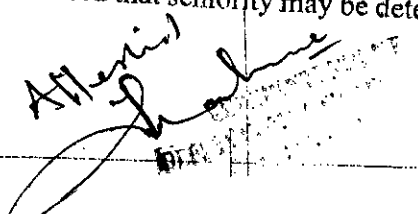
JOINT PARA-WISE REPLIES OF RESPONDENTS NO. 1 TO 5.

Respectfully Sheweth:

- Para No. 1. Pertains to record.
- Para No. 2. Pertains to record; however according to Para 3.6 of the Land Record Manual, the Patwar pass candidates should be entered in the Patwar Pass Register in accordance with the merit.
- Para No. 3. Incorrect. According to the Notification issued by the Revenue & Estate Department in the year 2016 (Annex-A) for appointment, a patwar pass candidates has to go through a written test/interview, but the appellant was selected strangely through test.
- Para No. 4. Pertains to record.
- Para No. 5. Incorrect. The seniority list issued in the year 2006 (Annex-B) was not supported by the office order of appointment of patwaris issued in 2004 (Annex-C); however the appellant never challenged it before.
- Para No. 6. Incorrect. As per the appeal, the appellant was placed on 4th or 5th position in the seniority list, but the appellant never challenged the seniority list issued in the past before any forum.
- Para No. 7. Correct; however pertains to record.
- Para No. 8. Pertains to record.
- Para No. 9. Correct to the extent that the departmental appeal of the appellant was dismissed on the basis of available record by the Respondent No. 4 vide detailed order dated 16.03.2022 (Annex-D).
- Para No. 10. No comments.

GROUNDS.

- A. Pertains to record.
- B. Incorrect as no malifidy exists.
- C. Pertains to record.
- D. Incorrect. No violation of law/rules made. The appellant had ample opportunity to challenge the same, if aggrieved within matured time period.
- E. Incorrect. The seniority list was issued on 27.12.2021 (Annex-E). while the clarified advice received from DLR Office was received on 30.12.2021 (Annex-F); however earlier, the DDLR office Khyber Pakhtunkhwa in an advice dated 10.11.2021 sought by the District Collector Charsadda advised that seniority may be determined as per Para 3.6 of the Land Record Manual,


Attested



if appointment is made after 2016, the order in enlistment register becomes irrelevant and seniority is to be determined on the basis of test/interview. It is however, mentioned here that the impugned seniority list was issued subject to advice of the DLR and Hon'ble High Court Peshawar dated 07.07.2021 and directions of the Commissioner Office dated 17.03.2020, on the basis of Patwar Pass Candidate's Register. As per Para 3.6 of the Land Record Manual, candidates shall be entered in the Patwar Pass Candidate Register on the basis of result of the patwar examination to be provided by the Director Land Records, Revenue & Estate Department and priority will be given to the merit (marks obtained in the exam); however the seniority list of 2006 was issued in this context, which was not challenged by the appellant or by other concerned.


- F. Pertains to record.
- G. Incorrect. The seniority list was issued and revised on the direction of Hon'ble High Court.
- H. Incorrect. All things have been done in accordance with the law/rules in the matter.
- I. Pertains to record.
- J. The Respondents may also be allowed to raise any additional grounds at the time of arguments.

PRAYER:

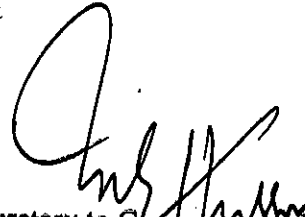
IN VIEW OF THE ABOVE, THE INSTANT APPEAL MAY VERY GRACIOUSLY BE SET ASIDE BEING NOT MAINTAINABLE.

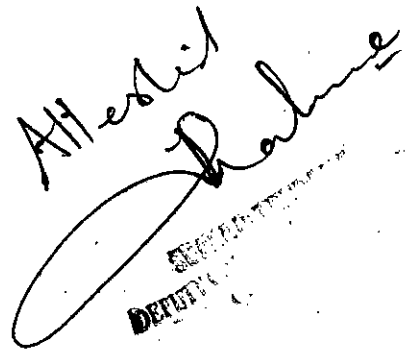

 Deputy Commissioner
 Charsadda
 (Respondent No.5)


 Commissioner, Peshawar Division
 Peshawar
 (Respondent No.4)


 Director Land Records
 Khyber Pakhtunkhwa
 (Respondent No.3)

Senior Member Board of Revenue,
 Revenue & Estate Department, Peshawar.
 (Respondent No.2)


 Secretary to Government of Khyber Pakhtunkhwa,
 Revenue & Estate Department, Peshawar.
 (Respondent No.1)

Attested

 DEPUTY COMMISSIONER
 CHARSADDA

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 14.12.2022 FOR THE PROMOTION OF FIVE PATWARI (BPS-09) TO THE VACANT POSTS OF KANUNGO/GIRDAWAR (BPS-11).

The subject meeting was held on 14.12.2022 at 03:00 pm under the Chairmanship of the Additional Deputy Commissioner (General), Charsadda on behalf of Deputy Commissioner Charsadda regarding promotion of Five Patwari (BPS-09) to the vacant posts of Kanungo/Girdawar (BPS-11).

The following Committee Members participated:

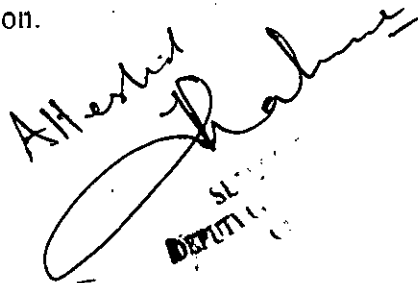
- | | |
|--|----------|
| 1. NAWAB SAMEER HUSSAIN LAGHARI
Additional Deputy Commissioner (G), Charsadda | Chairman |
| 2. MUHAMMAD AYUB
Representative of Commissioner, Peshawar Division. | Member |
| 3. ZAHID UR RAHMAN
Superintendent, DC Office Charsadda. | Member |
| 4. FARMAN ALI
District Kanungo, Charsadda | Member |

The meeting started in the name of Almighty Allah. The Chair welcomed the participants. It was informed that there are 13 sanctioned posts of Kanungo/Girdawar (BPS-11) in the Office of the Deputy Commissioner Charsadda as per the current year 2022-23 budget, wherein five posts have recently been vacated due to the promotion of Kanungos/ Girdawars to the posts of Naib Tehsildar.

According to the promotion rules, a Patwari must have completed three years successful service and should have passed Kanungo Examination and that there should be no departmental, anti-corruption or NAB inquiries and there should be no government dues pending against him.

The seniority list of Patwari (BPS-09) has been maintained in the office of the Deputy Commissioner Charsadda and according to that list, the Patwaris at S.No. 1,2, 4,5 and 6 have been retired from Government service, while Mr. Ali Gohar Shah at S.No. 3 died during service. Mr. Sajjad Muhammad is at S.No. 7, but he has not passed the Kanungo examination, therefore he was considered ineligible for promotion. Mr. Khurshid Ullah is at S.No. 10 and Mr. Akbar Hussain is at S.No. 12, who have already been promoted to the post of Kanungo/Girdawar. Mr. Kiramat Shah is S.No. 8, Mr. Amjid Ali is at S.No. 9. Mr. Atta ul Haq is at S.No. 11, Mr. Sardar Ali is at S.No. 13, Mr. Imran Khan, is at S.No. 14 and Mr. Sher Bahadar is at S.No. 15.

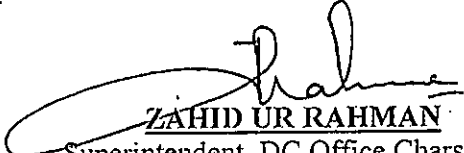
According to the office record, Mr. Sardar Ali, Patwari has been awarded three years minor penalty on his promotion, therefore his case was deferred. As there are five vacant posts, therefore the next name is of Mr. Sher Bahadar, who is eligible for promotion. The chair directed that all relevant documents must be made a part of the record in order to avoid any unfavorable situation.

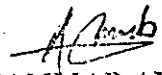
Attested

 DEPUTY COMMISSIONER

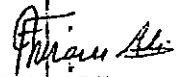
The Departmental Promotion Committee thoroughly checked all the documents and unanimously agreed to promote the following eligible Patwaris to the vacant posts of Kanungo/ Girdawar (BPS-11).

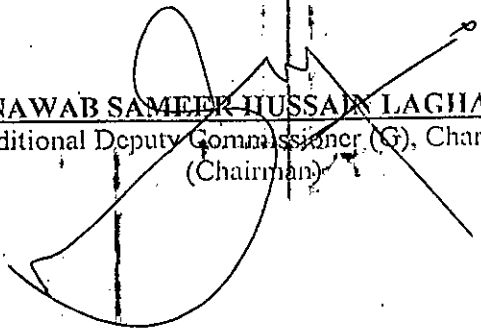
1. Mr. Kiramat Shah S/O Tawab Shah. S.No. 8.
2. Mr. Amjid Ali S/O Abdul Hakeem. S.No. 9
3. Mr. Attaul Haq S/O Sabech Ullah. S.No. 11
4. Mr. Imran Khan S/O Mukhtiar Ahmad. S.No. 14
5. Mr. Sher Bahadar S/O Haji Nadir Khan. S.No. 15

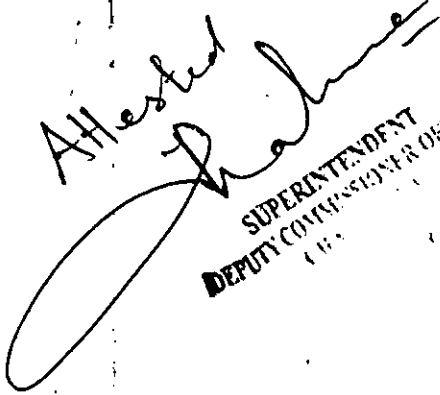
The meeting ended with a vote of thanks to and by the chair.


ZAHID UR RAHMAN
 Superintendent, DC Office Charsadda
 (Member)


MUHAMMAD AYUB
 Representative of
 Commissioner Peshawar Division,
 (Member)


FARMAN ALI
 District Kanungo Charsadda.
 (Member)


NAWAB SAMEER HUSSAIN LAGHARI
 Additional Deputy Commissioner (G), Charsadda
 (Chairman)


 Attested
SUPERINTENDENT
DEPUTY COMMISSIONER'S OFFICE
 (G)

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 1623/2023

Sher Bahadar S/O Haji Nadir Khan, Office Kanungo, Tehsil & District Charsadda.

.....Appellant

VERSUS

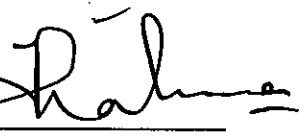
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7. Government of Khyber Pakhtunkhwa through Secretary Finance, Peshawar.
8. Akbar Hussain S/O Awal Khan, Kanungo Charsadda.

.....Respondents

AFFIDAVIT

I, Zahid ur Rahman, Superintendent, Deputy Commissioner Office Charsadda do hereby solemnly affirm and declare on oath that the contents of the joint Para-wise Comments on behalf of Respondents No: 1 to 7 are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal deliberately.

Deponent

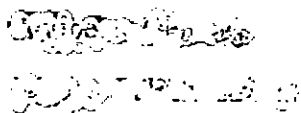
Signature: 

CNIC No. 17101-0257106-9

Cell No. 03129146931

**SUPERINTENDENT
DEPUTY COMMISSIONER OFFICE-1
CHARSADDA**

Identified by



**AMIR JAFAR
AC. Oath
Oath Commission
Charsadda**




OFFICE OF THE
DEPUTY COMMISSIONER
CHARSADDA

8
Email: dccharsadda@gmail.com
Ph: # 091- 9220024, 9220144
Fax #: 091-9220021

NO. DC (CHD)/Estt: 7(55)/Court Matters/ 7232
Dated: 11 / 9 / 2023.

AUTHORITY LETTER.

Mr. Zahid ur Rahman, Superintendent of this office is hereby authorized to attend the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar in connection with submission of Para-wise comments in Appeal No. 1623/2023 titled " Sher Bahadar Versus Govt. of Khyber Pakhtunkhwa & others".


DEPUTY COMMISSIONER
CHARSADDA
DEPUTY COMMISSIONER
CHARSADDA