

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR


PROFORMA FOR EARLY HEARING

FORM 'A'

To be filled by the Counsel/Applicant

7993  
28/09/23

Case Number	S.A 1184 /22		
Case Title	Fida Hussain VS Govt & others		
Date of Institution	27.09.2023		
Bench	SB		DB <input checked="" type="checkbox"/>
Case Status	Fresh		Pending
Stage	Notice		Reply <input checked="" type="checkbox"/> Argument <input checked="" type="checkbox"/>
Urgency to clearly stated.	Directions of the Apex Court order		
Nature of the relief sought.	07.04.2023 Reversed on 21.06.2023 for sixty days — as above — therefore request for early hearing		
Next date of hearing	01.12.2023		
Alleged Target	Next week		
Date			
Counsel for	<input checked="" type="checkbox"/> Petitioner	<input type="checkbox"/> Respondent	<input type="checkbox"/> In person

  
Signature of counsel/party

Mr. Noor Muhammad Khattak

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing \_\_\_\_\_ -p/20 \_\_\_\_\_

In case No. S.A 1184/22 -p/20 22

Fida Hussain vs Govt & others

Presented by Appellant on behalf of \_\_\_\_\_ Entered  
in the relevant register.

Put up alongwith main case

REGISTRAR

Last date fixed	
Reason(S) for last adjournment, if any by the Branch Incharge.	
Date(s) fixed in the similar matter by the Branch Incharge	
Available dates Readers/Assistant Registrar branch	

Assistant Registrar

REGISTRAR

06.07.2023

Appellant alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Noor Saeed, Superintendent for official respondents No. 1 to 3 present. Private respondent No. 4 alongwith his counsel present.

Reply/comments on behalf of official respondents as well as private respondent No. 4 have already been submitted Preliminary arguments heard.

The appeal is admitted for regular hearing subject to all just and legal objections by the other side. Appellant is directed to deposit security fee within 07 days. To come up for arguments on 20.07.2023 before D.B. Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar

(Muhammad Akbar Khan)  
Member (B)

\*Eamranullah\*

20-7-23

Due to public holiday on account of 1st Moharram ul Haram. To come up for the same on 4-08-23

On  
Read

ACCEPTED  
J  
JUDGE  
D.B. PARCHA PESHAWAR

50172  
116

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE SYED ATA UR RAHMAN, CJ  
MR. JUSTICE MUHAMMAD AMIN MAZHAR

**CIVIL PETITION NO. 1777 OF 2020**  
(Against Order judgment of 24.04.2020 passed  
by the Peshawar High Court, Peshawar in  
W.P.No.4181-P/2018)

Fida Hussain

...Petitioner

**Versus**

Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat,  
and others

... Respondents

For the Petitioner: in person

For the Respondents: Mr. Asif Hameed Qureshi, ASC  
Respondent No. in person

Date of Hearing: 07.04.2023

**JUDGMENT**

**MUHAMMAD ALI MAZHAR, J.:** This Civil Petition for leave to appeal is directed against the judgment dated 24.04.2020 passed by the Peshawar High Court in W.P.No.4181-P/2018 whereby the writ petition filed by the respondent No.7 was allowed.

2. The transient facts of the case are that the respondent No. 07 was appointed as Patwan on Adhoc basis on 14.09.1988 by respondent No. 06 with the condition that the appointment would be made regular after qualifying the Patwar Training Course from a Patwar Training School. According to the petitioner, the respondent No.7 appeared in the Patwar Course Examination in November, 1996, without possessing the Intermediate Qualification, whereas the petitioner was appointed as Patwari on regular basis on 21.07.1996. Actually, the dispute cropped up between the petitioner and respondent No. 07 with regard to the inter-se seniority as Patwari. The petitioner filed Service Appeal No. 603/2017 before the learned Khyber Pakhtunkhwa Service Tribunal, Peshawar ("Tribunal") which was allowed vide its Judgment dated 26.11.2019. During the pendency of the Appeal, the petitioner on the basis of some documents came to discover some irregularities in the appointment of respondent No. 07, therefore, he filed a complaint to the Chief Secretary, KPK, Peshawar. A fact finding inquiry

**ATTESTED**

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

After the respondent No. 6 filed the inquiry report on the basis of inter-se seniority between the parties was pending adjudication before the learned Tribunal. The respondent No. 2 directed the respondent No. 6 to comply with recommendation of the Inquiry Officer and conduct *de novo* inquiry. The respondent No. 07, being aggrieved of the order of conducting *de novo* inquiry, filed Writ Petition No. 4181-P/2018 in the learned Peshawar High Court which was allowed vide impugned Judgment dated 24.04.2020 with the observation that direction of conducting *de novo* inquiry resulted in a miscarriage of justice.

3. The petitioner in person argued that the High Court has wrongly held that the petitioner filed the first application dated 21.03.2018, and the second application on the same facts, but as a matter of fact, the petitioner in his service appeal before the Tribunal only questioned the seniority list published in 2017, whereas the second application was for the implementation of the fact finding inquiry report. The administrative order passed by the respondent No. 02 for conducting the fact finding inquiry was in accordance with law. In the revenue hierarchy the ultimate authority is the Senior Member of the Board of Revenue ("BOR"), then come the Members BOR, the Director (Land Record Manual), the Commissioners and the Deputy Commissioners in their respective capacities as provided in the Land Revenue Act, 1967. He further argued that the respondent No.06 was not justified in filing the Fact Finding Inquiry Report instead of taking action on it.

4. Heard the arguments. In fact the bone of contention in the matter was with regard to the eligibility of respondent No.7 to be appointed as a Patwari. The fact finding inquiry was conducted but the competent authority was dissatisfied with the outcome of the inquiry, hence it was filed. After the filing of the report, another application was submitted to the respondent No.2, whereby the respondent No. 6 was directed to take action in view of the recommendations made by the Inquiry Officer. The respondent No.7 (petitioner before the High Court), being aggrieved by the initiation of the second round of disciplinary action, challenged it in the High Court. The predominant disagreement between the petitioner and respondent No.7 was in essence

**ATTESTED**

Senior Court Associate  
Supreme Court of Pakistan

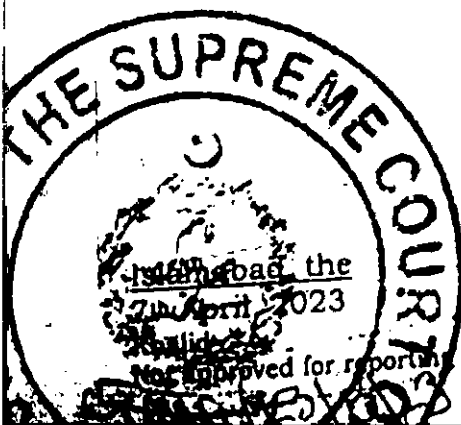
07.04.2023  
Received on  
21.06.2023

Service Appeal No. 6/2017. The learned Tribunal disposed of the order, which was disposed of with the observation that, in the Tribunal's judgment dated 26.11.2019, the impugned seniority list of the year 2014-15 was set aside and the respondents were directed to draw a fresh seniority list and, as a consequence thereof, the respondent-department, while following the procedure laid down in Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, issued the seniority list on 18.01.2022 with which the petitioner was not satisfied at all. The learned Tribunal held that the judgment dated 26.11.2019 has been implemented by the respondents according to its spirit and if the petitioner is aggrieved by the seniority list dated 18.01.2022, it gives a fresh cause of action to the petitioner, who is at liberty to approach the competent forum, if he is so advised.

6. After arguing at some length, the petitioner admitted that his Service Appeal No.1184/2022 is pending before the Tribunal with regard to the fixation of inter se seniority, so he submits that he would be satisfied if some directions are issued to the learned Tribunal to decide his pending appeal expeditiously to which the respondent No.7 and his learned counsel also concede.

6. In the wake of the above discussion, although we do not find any irregularity or perversity in the impugned judgment passed by the learned High Court, but at the same time we feel it is appropriate to dispose of this Civil Petition with the direction to the learned Khyber Pakhtunkhwa Service Tribunal to decide the pending appeal of the petitioner within a period of two months after receiving a copy of this judgment. The petition is disposed of accordingly.

CL/HCT  
CL/J



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Senior Court Associate  
Supreme Court of Pakistan  
Islamabad