

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR** (1)

APPEAL NO. 1332/2022

Mr. Qazi Sher Afzal Assistant Accountant  
O/o District Comptroller Of Accounts Peshawar.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1203

Dated 09-09-2022

(Appellant)

**VERSUS**

1. The Govt of KP through Chief Secretary, KP, Peshawar .
2. The Chief Secretary, Khyber Pakhtunkhwa Peshawar.
3. The Secretary Finance Deptt: KP, Peshawar.
4. The Director, Treasuries & Accounts Khyber Pakhtunkhwa Peshawar.

(Respondents)

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APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 FOR DIRECTING THE RESPONDENTS TO CONSIDER THE APPELLANT FOR PROMOTION AS ASSISTANT TREASURY OFFICER (BPS-17) FROM HIS DUE DATE/ VACANCY WAS AVAILABLE IN HIS QUOTA AND AGAINST NOT DECIDING DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

**PRAYER:**

THAT ON THE ACCEPTANCE OF THIS APPEAL THE INACTION /OMISSION OF THE RESPONDENTS NOT PROMOTING THE APPELLANT AS ASSISTANT TREASURY OFFICER (BPS-17) FROM HIS DUE DATE/ VACANCY WAS AVAILABLE IN HIS QUOTA MAY BE DECLARE AS ILLEGAL, UNLAWFUL, AGAINST THE PROMOTION RULES AND NORMS OF JUSTICE AND THE RESPONDENTS MAY PLEASE BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION AS ASSISTANT TREASURY OFFICER (BPS-17) FROM HIS DUE DATE/ VACANCY WAS AVAILABLE IN HIS QUOTA BEING ELIGIBLE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to-day

Regisrar

09/09/2022

**RESPECTFULLY SHEWETH:**

**FACTS:**

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1. That the appellant was joined the Treasury Deptt: as Sub Accountant BPS-11 on 17/09/1989 and was promoted to BPS-16 as Assistant Accountant Bps-16 on 09.08.2012. Appellant had performed his duties assigned to him with zeal and devotion and up to entire satisfaction of his superiors.
2. That numerous post of Assistant Treasury Officer (BPS-17) are lying vacant in promotion quota of Assistant Accountant. According to rules "twenty Per cent by promotion, on the basis of seniority cum fitness, from amongst the Assistant Accountant". **Copy of rules is attached as annexure-A.**
3. That according to seniority list dated 26/02/2021 the appellant was at S.no 13, thereafter Mr Hakeem Khan and Noor Nawaz was retired. Thereafter tentative seniority list stood on 31.12.2021 was issued wherein the appellant was at S.no 11. The Deputy Director Issued letter wherein 10 Vacancy shown as vacant. Thereafter, another employee Fida Muhammad was retired on 14.02.2022. So, on retirement of Fida Muhammad the appellant got S.no.10 in seniority and became eligible for promotion quota. **Copy of seniority list letter, seniority list and retirement order are attached as annexure-B, C. D & E.**
4. That the appellant made request for promotion to the post of ATO BPS-17 on 01/03/2022 which is forwarded on 02/03/2022 and 08.03.2022. **Copy of request and letters is attached as annexure-F & G.**
5. That the deputy director Treasuries & Accounts KP wrote letter to Section Officer Govt of KP finance deptt and requested to submit working paper for promotion to the post of ATO BPS-17. But no fruit full result was came out, thereafter the appellant feeling aggrieved filed departmental appeal for consideration of promotion wherein clearly written that the appellant going to retired on 15/11/2022 but no action was taken till date. **Copy of letter and departmental appeal is attached as Annexure-H & I.**
6. That now the appellant comes to this august Tribunal on the following grounds amongst the others.

**GROUND:**

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- A. That not considering the appellant to the post of Assistant Treasury officer BPS-17 despite having seniority/eligibility, qualification is against the law, facts, norms of justice and material on record, therefore, not tenable in the eye of law.
- B. That the post of promotion for the appellant is availability since February, 2022 but till date that no DPC meeting was held for the reason showing that the promotion was upheld due to upgradation of the appellant was conditional and subject to CPLA. But that plea not hold water for the reason that the deptt himself promoted some assistant accountant to the of ATO-BS-17 vide order dated 14.11.2019. Therefore, the appellant is legally entitled to be considered for promotion from his due date. **Copy of promotion order os attached as annexure-J**
- C. That inaction and omission of respondent department, not to consider the appellant for promotion is against the spirit of section-9 of Civil Servants Act,1973 and service rights duly protected under the Civil Servants laws .
- D. That the appellant was fully eligible according to rules and also in seniority list of Assistant Accountants BS-16 but despite that no DPC was conducted and appellant was not considering despite the request that the appellant going to retired on 15/11/2022. It is the duty of deptt: to complete the proceedings in time. So all the actions of deptt: is against the law and rules. **Copy of rules and seniority list is attached as annexure-E & F.**
- E. That the apex Court has already clearly held in case of Anita Turab (PLD-2013 Supreme Court Page No. 195) that matter of tenure, appointment, posting, transfer and promotion, of service could not be dealt with in an arbitrary manner but could only be sustained if it was in-accordance with law. Whenever there was statutory provision or rules or regulation of government the matter of appointment of Civil Servants that must be followed honestly and scrupulously and discretionary must be exercised and structured, transparent and reasonable manner, thus the verdict of the Honorable Supreme Court fully favours the appellant's case.
- F. That as there is no any order regarding the stoppage of promotion of appellant, therefore, the appellant has legal vested rights to be considered for promotion from the date when post is available for him in his quota. (97-SCMR-1997-515).


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- G. That the Honorable Apex Court is also given the verdict that every civil servants is the legal right to be dealt with in-accordance with the law and rules under the which is legal service rights are protected. Thus the appellant has legal and genuine claim.
- H. That the appellant was not treated according to law and rules.
- I. That the appellant seeks permission to advance the other ground and proof at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

  
**APPELLANT**  
Qazi Sher Afzal

THROUGH:

  
**SYED NOMAN ALI BUKHARI**  
(ADVOCATES HIGH COURT)

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**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2022

Qazi Sher Afzal

V/S

Govt of KP:

**CERTIFICATE:**

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

*J*  
DEPONENT

**LIT OF BOOKS:**

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.

*Noman Ali Bukhari*  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT

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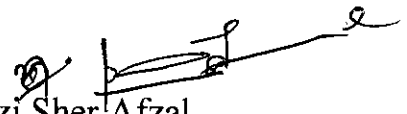
V/S

Govt of KP

**AFFIDAVIT**

I, Qazi Sher Afzal, (Appellant) hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT

  
Qazi Sher Afzal

