

22.10.2019

Taimoor Khan Advocate, learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Sher Muhsin ul Mulk Inspector for official respondents present. Learned counsel for the appellant submitted an application for withdrawal of the instant appeal with the permission to file fresh one on the ground mentioned in the application. The application is placed on record accordingly. The application is accepted. The present service appeal is ^{dismissed as in} withdrawn with the permission to institute fresh appeal subject to all legal objections. File be consigned to the record room.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

ANNOUNCED.

22.10.2019

08.04.2019

Counsel for the appellant present. Asst: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 10.06.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

10.06.2019

Counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.

Learned counsel for the appellant requests for adjournment due to over-occupation in many cases today. Adjourned to 29.07.2019 before the D.B.


Member


Chairman

29.07.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Mubashir Hassan H.C present. Heard.

The appellant was promoted as Senior Clerk vide order dated 13.07.2015 however he seeks seniority w.e.f 31.05.2008. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 22.10.2019 before D.B.


Member

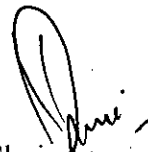

Member

S.A No. 750/2016

19.11.2018

Counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents present. Learned counsel for the appellant yet again requested for adjournment as the date of hearing was not recorded in his diary inadvertently. The other side has no objection. Adjourned to 08.01.2019 for arguments before the D.B.



Member


Chairman

08.01.2019

Appellant in person and Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 21.02.2019 before D.B


Member


Member

21.02.2019

Learned counsel for the appellant and Mr. Riaz Paindakhel learned Asst; AG for the respondents present.

Due to paucity of time the matter is adjourned to 08.04.2019 before D.B


Member


Chairman

09.04.2018

Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 11.06.2018 before D.B.

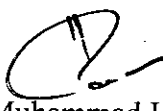

(Ahmad Hassan)
Member


(M. Hamid Mughal)
Member

11.06.2018

Appellant with counsel Mr. Taimur Ali Khan Advocate present. Learned Deputy District Attorney present. Mr. Taimur Ali Advocate submitted wakalat nama in favor of appellant which is placed on file and seeks adjournment. Adjourned. To come up for arguments on 09.08.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

09.08.2018

Clerk to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 04.10.2018 before D.B.

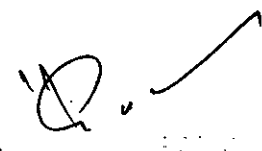

(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

04.10.2018

Clerk to counsel for appellant and Mr. Zia ul Haq learned Deputy District Attorney for the respondent present. Counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 19.12.2018 before D.B.

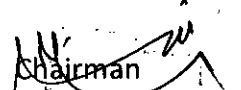




15/9/2017

Clerk of counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Clerk of counsel for the appellant seeks adjournment. Adjourned. To come up for rejoinder and arguments on 18/12/2017 before DB.


MEMBER


Chairman

18.12.2017

Appellant in person and Mr. Muhammad Jan, DDA for the respondents present. Counsel for the appellant is not in attendance. To come up for arguments on 19.02.2018 before the D.B.


Member


Chairman

19.02.2018

Due to non availability of D.B. Adjourned. To come up on 09.04.2018 before D.B.


(Gul Zehra Khan)
Member

16.03.2017

Counsel for the appellant and Addl: AG for the respondents present. Written reply not submitted despite another last opportunities. Requested for further adjournment. Another last opportunity further extended subject to payment of cost of Rs. 1000/- which shall be borne by respondents from their own pockets. To come up for written reply/comments on 06.04.2017 before S.B.

(AHMAD HASSAN)
MEMBER

06.04.2017

Counsel for the appellant and Mr. Mubashir, Reader alongwith Addl. AG for the respondents present. Written reply submitted. Cost of Rs. 1000/- also paid and receipt thereof obtained from the learned counsel for the appellant. The appeal is assigned to D.B for final hearing on 25.05.2017.

Chairman

25.05.2017

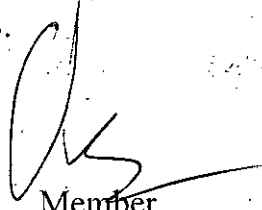
Clerk of the counsel for appellant present. Mr. Mubashir Hassan, Head Constable alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for rejoinder and arguments on 15.09.2017 before D.B.

(GUL ZEB KHAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

30.11.2016

Appellant in person and Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply on 9.01.2017 before S.B.


Member

09.01.2017

None present on behalf of the appellant. Additional AG for the respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 13.02.2017 before S.B.


Chairman

13.02.2017

Appellant in person and Addl. AG for respondents present. Written reply not submitted despite last opportunities. Requested for further adjournment. Last opportunity further extended subject to payment of cost of Rs. 500/- which shall be borne by respondents from their own pockets. To come up for written reply/comments on 06.03.2017 before S.B.



(AHMAD HASSAN)
MEMBER

28.07.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant is serving as Senior Clerk in Police Department Dir Upper. That he was demoted due to departmental enquiry where-against he preferred service appeal No. 1102/2014. That during pendency of the said appeal appellant was promoted vide notification dated 13.07.2015 with immediate effect constraining the appellant to withdraw the said appeal. That the appellant preferred departmental representation dated 18.2.2016, after the withdrawal of the service appeal on 09.2.2016, which was not responded and hence the instant service appeal on 17.06.2016.

That the appellant is entitled to promotion with effect from 31.05.2008 with all back benefits and as such the impugned notification dated 13.7.2015 is liable to modification

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 29.09.2016 before S.B.


Chairman

Appellant Deposited
Security & Process Fee

29.09.2016



Counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 30.11.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 750/2016

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 21/07/2016 | <p>The appeal of Mr. Fazal Khaliq resubmitted today by Mr. Umar Ali Shah Utmankhel Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | 25-7-16 | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>28-7-16</u></p> <p style="text-align: right;"> CHAIRMAN</p> |

The appeal of Mr. Fazal Khaliq son of Amirdullah Khan Senior Clerk Upper Dir Police Department received to-day i.e. on 17.06.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copy of impugned order/seniority list is not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal may be flagged.
- 3- Approved file cover is not used.
- 4- Three more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1047 /S.T,

DL. 20-6 /2016

Fazal Khaliq
20.6.16
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Umar Ali Shah utmankhel Adv.

4-7-2016

Respected Sir, Request for Extension of Time.

The required documents have not been provided by the appellatant yet, therefore, reasonable time may be given for resubmission of this appeal.

Umar Ali Shah
Utmankhel

Time is extended up to 15-7-16 Adv. 4/7/16

Fazal Khaliq
04/7/16
Registrar

As time extended.

Umar Ali Shah
15/7/16

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 750 /2016

Fazal Khaliq Appellant

Versus

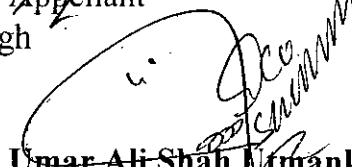
Inspector General of Police, KPK, Peshawar & others..... Respondents

I N D E X

| S.No. | Description of documents. | Annexure | Pages. |
|-------|---|-------------------------|--------|
| 1 | Memo of appeal | | 1-5 |
| 2 | Affidavit. | | 6 |
| 3 | Copy of appointment order dated 5.11.1989 of the appellant. | A | 7 |
| 4 | Copy of charge sheet, punishment order dated 8.10.2005 and final order rejecting the representation. | B,C,D | 8-10 |
| 5 | Copy of judgment of JMIC Chitral dated 24.4.2007 | E | 11-13 |
| 6 | Copy of judgment of Service Tribunal dated 25.2.2009 | F | 14-17 |
| 7 | Copy of amended order dated 25.7.2009 and representation | G-H | 18-20 |
| 8 | Copies of willingness reports, information letter regarding seniority list dated 31.3.2014, representation filed by the appellant and service appeal No.1102/2014 | J,J/1 to J3, K and L | 21-33 |
| 9 | Copy of the notification dated 13.7.2015 and order of this Hon'ble Tribunal dated 9.2.2016 | M-N | 34-35 |
| 10 | Copy of representation dated 18.2.2016 | O | 36-38 |
| 11 | Copy of seniority list of senior clerks. | P | 39 |
| 12 | Wakalatnama. | | 40 |


Appellant

Through


Umar Ali Shah Utmankhel
Advocate High Court,
Peshawar.

BEFORE THE KHYBER PUKHTOON KHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No 750 of 2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 640

Dated: 17-6-2016

Fazal Khaliq S/O Amirdullah Khan R/O
Village Kuju, Tehsil and District Chitral,
Presently serving as Senior clerk Upper Dir.....Appellant

Versus

1. Inspector General of Police, Government of Khyber,
Pukhtoon Khwa Peshawar.
2. Additional Inspector General of Police, (H.Qrs),
Government of Khyber, Pukhtoon Khwa Peshawar.
3. Provincial Police Office Government of Khyber,
Pukhtoon Khwa Peshawar.
4. District Police Officer (DPO)
Chitral.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF
THE KHYBER PUKHTOON KHWA
SERVICE TRIBUNAL ACT 1974, FOR
UPDATING/REVISING THE SENIORITY
LIST OF THE APPELLANT W.E.F 31-5-2008
AND WITH ALL CONSEQUENTIAL BACK
BENEFIT AND ARREARS, FOR GRANT OF
THESE BENEFITS THE DEPARTMENTAL
REPRESENTATION/APPEAL DATED 18-2-
2016 HAS NOT BEEN REPLIED BY THE
RESPONDENTS.**

Filed to day
Registrar 20-6-16

Respectfully Sheweth:

1. That the appellant was appointed as junior clerk (BPS 5)
by the Deputy. Inspector General of police Peshawar Vide
office order No 18725 dated 5-11-1989. (Copy of the
appointment order is attached as Annexure "A").

Re-submitted to day
Registrar
21/7/16

2. That on 31-01-2005 a criminal complaint was lodged against the appellant with the allegation that he has taken out the medical injury sheet and other important documents to facilitate the main accused so that bail could be granted to them. An FIR No. 42 dated 02.02.2005 U/S 419/420/204/217 PPC at Police Station Chitral was registered against the appellant.
3. That the departmental proceedings were initiated against the appellant and ultimately he was declared guilty of the offences mentioned above by the department and major penalty of reduction to a time scale junior Clerk was awarded to him. (Copies of the charge sheet, Punishment order dated 08.10.2005 and final order rejecting the representation passed by the department are attached as Annexure B, C and D).
4. That it is pertinent to mention here that proper trial before the Judicial Magistrate Chitral was conducted against the appellant and he was acquitted from the charges leveled against him. (Copy of the judgment is attached as Annexure E).
5. That the appellant preferred an appeal against the final order dated 16.04.2007 before this Hon'able Tribunal which was finally heard on 25.02.2009 and consequently the same was dismissed. This Hon'able Tribunal observed that the appellant has been awarded major penalty of reduction to time scale Junior Clerk BPS-5 and Rule 4 of the NWFP Government (Efficiency & Discipline) Rules 1973 provides the major penalty "Reduction to a lower post, Grade or time scale or to a lower stage in a time scale" since the appellant has not been posted in a lower post, in fact he could be reduced to a lower time scale or to the next lower stage in a time scale. This Hon'able Tribunal observed that there is nothing on record to show that there was any lower time scale for the junior clerk and there was not only one time scale for him. He could be reduced to a lower stage in the same time scale hence the respondents were directed to correct the impugned order dated 08.10.2005 to this extant. (Copy of the judgment dated 25.02.2009 is attached as Annexure F).
6. That the respondent No. 2 when received the judgment of this Hon'able Tribunal and the direction therein corrected the punishment order dated 08.10.2005 and the appellant was reduced to lower stage in his existing pay scale from the date of issuing that order dated 08.10.2005. The appellant submitted an application/representation to the respondents against the amended order dated 25.07.2009 but no response was given to that representation. (Copies of the amended order dated 25.07.2009 and the representation against the same are attached as Annexure G and H).

7. That the appellant time and again filed several representations before the competent authorities to the effect that he has been acquitted from the charges leveled against him in FIR and most of the Juniors Clerks have been promoted as Senior Clerks BPS-14 but in vain and finally the appellant submitted a representation against the seniority list dated 09.04.2014 which too was not replied by the respondents and against that the appellant preferred appeal No. 1102/2014 before this Hon'able Tribunal for promotion as Senior Clerk with all consequential benefits and arrears. (Copies of the willingness reports, information letter regarding the seniority list dated 31.03.2014, representation filed by the appellant and the service appeal No. 1102/2014 are attached as Annexure J, J-1 to J-3, K and L).

8. That during the pendency of the above noted Service Appeal No. 1102/2014 the respondents promoted the appellant to the post of the Senior Clerk BPS-14. The appellant produced the promotion notification dated 13.07.2015 before this Hon'able Tribunal and consequently the appeal was dismissed as withdrawn and the appellant was directed to approach the competent authority for the back benefits and arrears in prescribed manner as this remedy was sought by appellant from this Hon'able Tribunal. (Copies of the notification and order of this Hon'able Tribunal dated 09.02.2016 are attached as Annexure M and N).

9. That the appellant approached the respondents by making a representation dated 18.02.2016 to the effect that since he has already been promoted as Senior Clerk BPS-14 but the seniority and consequential back benefits and arrears have not been given to the appellant but no response has been given to that representation. (Copy of the representation dated 18.02.2016 is attached as Annexure O).

10. That the appellant approaches this Hon'able Tribunal for updating/revising the seniority list of the Senior Clerks and the grant of all the back benefits on the following grounds amongst others.

GROUND:

- A. That the appellant has not been treated in accordance with law, Rules and his rights guaranteed under the law therefore, this conduct of the respondents tantamount to naked violation of the provisions of the Civil Servants laws.

- B. That not updating the seniority list of the Senior Clerks and allowing the back benefits to the appellant is against the principles governing the civil servants, because most of the Junior Clerks are enjoying the higher position in the seniority list therefore, this discriminatory conduct of the respondents should be discouraged.
- C. That even otherwise the punishment order dated 25.07.2009 was also illegal as no period for which it was to be effected was mentioned therefore, on this score alone it clearly shows the malafide on the part of the respondents.
- D. That the appellant has been acquitted on 24.04.2007 and since then he has made several representations before the respondents but not even a single representation has been decided by the respondents to give the reason as to why the appellants has been deprived of his rights guaranteed under the law.
- E. That the conduct of the respondents is a clear violation of the Article 4 of the Constitution of Islamic Republic of Pakistan 1973 which provides for treatment of every citizen in accordance with law.
- F. That on one hand the respondents promoted the appellant to Senior Clerk BPS-14 vide notification dated 13.07.2015 therefore admitting his rights to seniority, but at the same time not allowing his consequential back benefits and updating/revising the seniority list for the same purpose amounts to grave miscarriage of the settled principles of justice.
- G. That the notification dated 13.07.2015 promoting the appellant along with other Clerks is illegal to the extant that the period of the promotion of the appellant should have been counted from 31.05.2008 but instead it was given effect from 2015 which is against law, facts and material on record.
- H. That the appellant has an excellent service record through out and there is nothing irregular against him on record which could be used as a pretext or reason for not updating his seniority list as per the rules and depriving him of his back benefits. This conduct of

the respondents severely affects the service record of the appellants.

- I. That the actions of the respondents not redressing the grievances of the appellant in accordance with law is against the established principles of good governance and rules laid down by the Superior Courts of the country.
- J. That the appellant seeks the permission of this Hon'able Tribunal to rely on any additional ground if any at the time of the arguments.

It is, therefore, respectfully prayed that on acceptance of this appeal this Hon'able Tribunal may be pleased to direct the respondents to update the seniority list of the appellant w.e.f 31.05.2008 and to grant all the consequential back benefits and arrears to which he is entitled under the law.

Umar
Shah
Appellant

Through

DATED: 17-06-2016

Umar
Shah
Umar Ali Shah Utmanikhel

Muhammad
Harooun
Shinwari
Muhammad Harooun shinwari
Advocates Peshawar.

**BEFORE THE KHYBER PUKHTOON KHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No _____ of 2016

Fazal KhaliqAppellant

Versus

Inspector General of Police, Peshawar and othersRespondents

Affidavit

I, Fazal Khaliq S/O Amirdullah Khan R/O Village Kuju, Tehsil and District Chitral, Presently serving as Senior clerk Upper Dir, do hereby solemnly affirmed and declare on oath that the contents of this **Appeal** are true and correct to the best of knowledge and belief and nothing has been concealed from this Hon'ble Court.



Fazal Khaliq
Deponent

FOR PUBLICATION IN THE NWFP POLICE GAZETTE PART-II
ORDERS BY THE DY: INSPECTOR GENERAL OF POLICE HQRS NWFP PESHAWAR:

NOTIFICATION

DATED PESHAWAR THE 5/11/1989

No.18723/E-III CANCELLATION:- This office Gazette Notification No.18230/E-III dated 25.10.89 so for it relates to the posting of Mr. Ajmal Khan s/o Haji Amanullah Khan r/o House No.2351-A Mohallah Sarbanan, Sabz Pir Road, I/S Lahori Gate Peshawar City on appointment as Jr: Clerk to Chitral District issued over Endst:No.18231-37/E-III of even date in hereby cancelled.

No.18724/E-III POSTING:- On appointment on Jr: Clerk Mr. Ajmal Khan s/o Amanullah Khan r/o House No.2351-A Mohallah Sarbanan, Sabz Pir Road, I/S Lahori Gate Peshawar City is posted to the Office of Supdt: of Police Dir.

No.18725/E-III APPOINTMENT/ POSTING:- Mr. Fazal Khaliq son of Amirdullah Khan village Kuju Tehsil and Distt; Chitral is appointed as Jr: Clerk (BPS-5) purely on temporary basis in the NWFP Police with effect from the date he actually reports for duty to his place of posting subject to medical fitness and verification of character and antecedents etc.

On appointment he is posted to the office of SP Chitral.

The condition of his series are as under:-

- i) His services are liable to be terminated within 14 days notice without assigning any reason.
- ii) He will neither be confirmed as Jr: Clerk nor considered for promotion as Offg: Sr: Clerk until and unless he passes type test/ departmental training etc; during the period of his service as Jr: Clerk failing which the services will be dispensed with.

Sd/-

DY: INSPECTOR GENERAL OF POLICE,
HQRS: NWFP PESHAWAR

No.18726-31/E-III Dated Peshawar the 5/11/1989

Copy forwarded for information and n/action to the:-

1. Dy: Inspector General of Police, Malakand Range Saidu Sharif Swat.
2. Supdt: of Police Dir.
3. Supdt: of Police Chitral.
4. Supdt: Estt: CPO Peshawar. (5) ASstt: Secret CPO Peshawar.
6. Mr. Ajmal Khan s/o Amanullah Khan r/o House No.2351-A Mohallah Sarbanan, Sabz Pir Road, I/S Lahori Gate Peshawar City.
7. Mr. Fazal Khaliq s/o Amirdullah village Kuju Teh: & Distt: Chitral.

TRUE COPY

[Handwritten signature]

[Handwritten notes]

1. By: Inspector General, Police, and Hange Saidu Sheriff BWA.
2. Superintendent of Police, Chitral.
3. Superintendent of Police, Chitral.
4. Superintendent of Police, Chitral.
5. Superintendent of Police, Chitral.
6. Superintendent of Police, Chitral.
7. Superintendent of Police, Chitral.

Copy forwarded for information and action to the
1989. No: 18126-31/W-III dated November the 5/11

DI: INSPECTOR GENERAL POLICE
CHITRAL

[Handwritten notes and stamps]

(1) He will not be promoted as the period of his service as District Officer is not completed. He will be considered for promotion as District Officer only after the completion of the period of his service as District Officer. The period of his service as District Officer will be reckoned from the date of his appointment as District Officer.

(2) His services are liable to be terminated within 14 days of the completion of his services as District Officer.

On appointment he is posted to the office of District Officer, Chitral. The completion of his services as District Officer is subject to medical fitness and certification of character and antecedents. The date he actually reports for duty to the office of District Officer, Chitral, on temporary basis in the office of District Officer, Chitral, will be the date of his appointment as District Officer, Chitral.

W-III Appointment/Posting: Mr. Hange Saidu Sheriff son of Hange Saidu Sheriff, Chitral. He is appointed as District Officer, Chitral. The date of his appointment as District Officer, Chitral, is 05/11/1989. The date of his posting to the office of District Officer, Chitral, is 05/11/1989.

W-III Appointment/Posting: Mr. Hange Saidu Sheriff son of Hange Saidu Sheriff, Chitral. He is appointed as District Officer, Chitral. The date of his appointment as District Officer, Chitral, is 05/11/1989. The date of his posting to the office of District Officer, Chitral, is 05/11/1989.

[Handwritten signature]



CHARGE SHEET

8 A Annex. B

I, Khurshid Alam, Khan, Addl: IGP HQrs: NWFP, Peshawar, as competent authority, hereby charge you Fazli Khaliq J/Clerk of DPO Chitral as follows :-

1. That you, while posted as J/Clerk in the office of DPO Chitral has been charged in a criminal case vide FIR No. 42 dated 2/2/2005 u/s 419/420/204/217/34 PPC PS Chitral and arrested by Police on 14-02-2005 and sent to jail when your bail before arrest application was rejected.
2. By reasons of the above, you appear to be guilty of misconduct under section 3 of the NWFP, Removal from service (Special Power) Ordinance, 2000, and have rendered yourself liable to all or any of the penalties specified in section 3 of the Ordinance ibid.
3. You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Committee/Enquiry Officer as the case may be.
4. Your written defence, if any, should reach the Enquiry Officer/committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall follow against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

Khurshid Alam Khan
(KHURSHID ALAM KHAN)
Addl: Inspector General of Police,
HQrs: NWFP, Peshawar.
(COMPETENT AUTHORITY)

TRUE COPY

MH

ORDER

9

Amex. C

This is an order on the Departmental Enquiry against Jr:Clerk Fazal Khaliq of D.O/Chitral involved in case FRS No:42 U/S 419/420/204/217 PPO PS Chitral for removing Medico legal report of victim from Case FIR No:315 dated 22/8/2004 U/S 324/337(1)(IV)/147 PPO PS Chitral from the Judicial file which he had received from the Office of PI for onward dispatch to Peshawar High Court through PIA for argument on the bail petition of accused who was relative of the accused official.

He was issued charge Sheet and Statement of allegations under NWFP removal from service (Special Powers) Ord:2000, a Committee under Section-5 of the Ordinance was constituted to conduct enquiry into the matter. The enquiry Committee finalized the enquiry and submitted finding wherein the enquiry Officer has held him responsible for removing the medico legal report from case file. The Enquiry Officer recommended him for major punishment. Enquiry report alongwith relevant record received and perused. Final Show Cause Notice was issued to the defaulter official. He was also heard in person by the undersigned but he could not give any satisfactory reply on account of his illegal act.

On going through the finding and recommendations of the Enquiry Officer and having been considered the material placed record and other connected papers as well as explanation of the official. I Khurshid Alam Khan Addl:IGP/NWFS being competent authority in exercise of powers vested in me under Removal from Service (Special Powers) Ordinance 2000, hereby award him the major punishment of reduction to a time scale J-111 or with immediate effect.

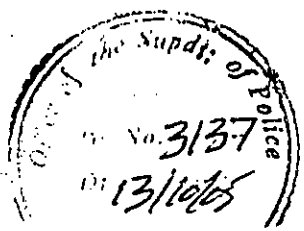
Khurshid Alam Khan
(KHURSHID ALAM KHAN)
ADDL:IGP/NWFS
FOR PROVINCIAL POLICE OFFICER
NWFP PESHAWAR

NO: 17731-33 /E-III Dated Peshawar the 08/10/2005.

TRUE COPY. Copy of above is forwarded for information and necessary action to the :-

1. Deputy Inspector General of Police Malakand Region-III Swat.
2. Distt: Police Officer Chitral.
3. Assistant Secret CEO Peshawar.

Copy to J.C. Fazal Khaliq through DSP/In-charge Chitral.



EC
For on to the S/C a report -
compliance

ORDER

This is an order on the Departmental Enquiry against Jr: Clerk Fazal Khaliq of DPO/Chitral involved in case FIR No:42 U/S 419/420/204/217 PPC PS Chitral for removing Medico legal report of victim from Case FIR No:315 dated 22/8/2004 U/S 324/337(1)(IV)/147 PPC PS Chitral from the Judicial file which he had received from the office of PI for onward dispatch to Peshawar High Court through PIA for argument on the bail petition for accused who was relative of the accused official.

He was issued charge Sheet and Statement of allegations under NWFP removal from service (Special Powers) Ord:2000, a Committee under Section-5 of the Ordinance was constituted to conduct enquiry into the matter. The enquiry Committee finalize the enquiry and submitted finding wherein the enquiry Officer has hold him responsible for removing the medico legal report from case file. The Enquiry Officer recommended him for major punishment. Enquiry report alongwith relevant record received and perused. Final Show Cause Notice was issued to the defaulter official. He was also heard in person by the undersigned but he could not give any satisfactory reply on account of his illegal act.

On going through the finding and recommendations of the Enquiry Officer and having been considered the material placed on record and other connected papers as well as explanation of the Official. I Khurshid Alam Khan Addl: IGP/HQRS being competent authority in exercise of powers vested in me under Removal from Service (Special Powers) Ordinance 2000, hereby award him the major punishment of reduction to a time scale Jr: Clerk BPS-5 with immediate effect.

Sd/-

(KHURSHID ALAM KHAN)

ADDL: IGP/HQRS

FOR PROVINCIAL POLICE OFFICER
NWFP PESHAWAR

NO: 17731-33/E-III Dated Peshawar the 08/10/2005

Copy of above is forwarded for information and necessary action to the:-

1. Deputy Inspector General of Police Malakand Region-III Swat.
2. Distt: Police Officer, Chitral.
3. Assistant Secret CPO Peshawar.



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ORDER

This order will dispose of departmental appeal filed by junior clerk Fazal Khaliq office of the DPO/Chitral. He while posted in the office of DPO/Chitral, had allegedly removed medico legal report from the record i.e. case file of case FIR No.315 dated: 22.08.2004 U/S 324/337(1)(IV)/147 PPC PS Chitral which he had received from the office of Inspector Legal for onward submission to Peshawar High Court through PIA in connection with bail petition of the accused. A criminal case vide FIR No.42 dated: 04.09.2004 u/s 419/420/204/217/34 PPC PS Chitral was also registered against him.

He was charge sheeted for the above allegations and an enquiry committee was constituted to conduct proper departmental enquiry. The inquiry officer on the conclusion of inquiry held the accused official guilty of the misconduct/ charges and recommended him for major punishment of reduction to time scale junior clerk.

On the basis of finding he was awarded major punishment of reduction to time scale junior clerk. He preferred the present representation and requested to set aside the punishment.

Relevant record was perused. Beside the representationist was also summoned and heard in person in the orderly room held on 07.04.2007.

Perusal of the record reveals that the charges leveled against the accused officials are proved beyond any doubt. Therefore, I, found no grounds to interfere in the decision made by the competent authority, which is up held. His appeal is rejected accordingly.

Order announced.

Sd/-
(MUHAMMAD SHARIF VIRK)
Provincial Police Officer
NWFP Peshawar

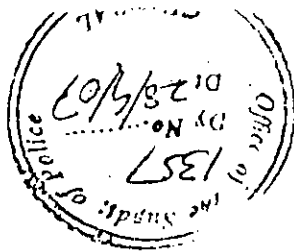
No.8308-10/E-III Dated Peshawar the 16/04/2007

Copy of above is forwarded for information and necessary action to the:-

1. DIG/Malakand Region-III, Swat.
2. DPO/Chitral.
3. Assistant Secret CPO Peshawar.
4. Official concerned.

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Received today on 30-4-07
District Police Officer
Central
28/4/07

- 1. DIO/Malakand Region-III, Swat
- 2. DPO/Central
- 3. Assistant Secret (PO), Peshawar
- 4. Official concerned

Copy of above is forwarded for information and necessary action to the

No. 8302-10 /M-III, dated Peshawar the

MUHAMMAD SHARIF VIRK
Provincial Police Officer
MWP, Peshawar
10/4/16/2007

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MA

District Police Officer
CENTRAL

[Handwritten signature]

Order announced.

Perusal of record reveals that the charges levelled against the accused officials are proved beyond any doubt. Therefore, I found no grounds to interfere in the decision made by the competent authority, which is up held. His appeal is rejected accordingly.

Relevant record was perused. Beside the representationist was also summoned and heard in person in the orderly room held on 07.04.2007. On the basis of above finding he was awarded major punishment of reduction to time scale junior clerk. He preferred the present representation and requested to set aside the punishment.

recommended him for major punishment of reduction to time scale junior clerk. conclusion of inquiry held the accused official guilty of the misconduct / charges and was constituted to conduct proper departmental enquiry. The inquiry officer on the he was charge sheeted for the above allegations and an enquiry committee

This order will dispose of departmental appeal filed by junior clerk Fazal Khaliq office of the DPO/Central. He while posted in the office of DPO/Central, had allegedly removed medico legal report from the record no. case file of case FIR No. 315 dated: 22.08.04 U/S 324/37(D) (V) 147 PPC, 171 and which he had received from the office of thepector legal for onward submission to Peshawar English court through PIA in connection with bail petition of the accused. A court case vide FIR No. 42 dated: 04.09.2004 U/S 119/420/204/217/54 PPC, PS Central was also registered against him

ORDER

Amok D



27-16/07

Annex. E

بعد الت جناب اجمل خان وزیر سینئر سول جج رجوڈیشنل مجسٹریٹ چترال

نمبر مقدمہ

2005 سال 64/FIR

تاریخ رجوعہ

13/4/2005

تاریخ فیصلہ

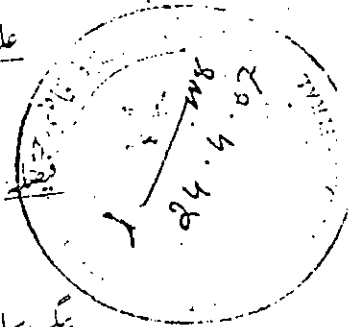
24/04/2007

سرکار بذریعہ کنٹریبل آف میر علی شاہ نمبر ۱۸۳ متعینہ چوکی عشریت تھانہ دروش ضلع چترال ----- (مستغیث)

بنام

فضل خالق ولد میر دولہ خان سکنہ کچو بالا حال ملازم جوئیئر کلرک دفتر DPO چترال ----- (ملزم)

علت نمبر 42 مورخہ 02/02/2005 تحت دفعہ PPC 419/420/204/217 تھانہ چترال



مستغیث مقدمہ کنٹریبل آف میر علی شاہ نمبر 183، آمیر الدین خان، آمیر علی خان اور محمد رحیم بیگ ساکنان کچو بالا نے مورخہ 31/1/2005 کو ایک درخواست ڈسٹرکٹ پولیس آفیسر چترال کو بدین طور گزاری کہ ملازم ذولفقار علی شاہ وغیرہ نے سائیلان پر کلاشکوف سے فائرنگ کی جس کے نتیجے میں ساکنان کو شدید زخم لگے اور نقشہ ضرر میں بھی کلاشکوف کی فائرنگ سے زخمی ہونا بیان کیا گیا ہے۔ یہ کہ ملازم کے خلاف FIR نمبر 315 بحرہ 22/8/2004 تحت دفعات PPC (i) 147/148/149/324/337 تھانہ چترال میں درج کیا گیا ہے۔ یہ کہ ملازم ذولفقار علی شاہ کے خلاف ایک اور مقدمہ علت نمبر 333/2004 تحت دفعات PPC 468/479/471 بھی چاک کیا گیا۔ اسی مقدمہ میں ملازم کے ساتھ سنی فضل خالق ولد میر دولہ خان سکنہ کچو بالا حال جوئیئر کلرک DPO آفیس کے خلاف بھی دعویٰ گزاری کی گئی تھی مگر مقامی پولیس نے صرف FIR میں اس کا نام ظاہر کیا مگر کسی قسم کی کارروائی عمل میں نہیں لائی۔ یہ کہ ملازم ذولفقار علی شاہ کی حاضر ضمانت کو ڈسٹرکٹ اینڈ سیشن جج صاحب چترال نے مسترد کیا۔ یہ کہ ملازم نے عدالت پشاور ہائیکورٹ پشاور میں ضمانت کیلئے درخواست دائر کر کے اپنی رہائی کو ناممکن تصور کرتے ہوئے ملازم اور فضل خالق نے Dispatcher کو ورغلا کر مش مقدمہ میں سے نقشہ ضرر اور دیگر اہم ریکارڈ سوچے سمجھے منصوبے کے تحت بدینتی سے متفقہ طور پر اکھاڑ کر غائب

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[Signature]

[Signature]
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یہاں یہ لہ مذکورہ بالا کارڈ پابند ضمانت بھی ہو چکا ہے۔ یہ کہ مذکورہ بالا اشخاص کے خلاف دھوکہ دہی اور فراڈ سے سرکاری ریکارڈ غائب کرنے اور اپنی فرائض منصبی میں غفلت برتنے کے جرم میں تعزیرات پاکستان کے تحت قانونی کارروائی عمل میں لانے کا حکم صادر فرما کر مشکور فرمائیں۔

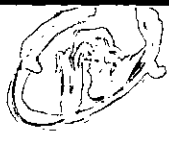
درخواست مذکور تھانہ چترال بھیجے پر برخلاف ملزم وڈ سپر اسم نامعلوم دفتر PI چترال مقدمہ ہذا بروئے علت نمبر 42 مورخہ 02/02/2005 جرم 02/02/2005 جرم 02/02/2005 PPC419/420/204/217/34 قائم کیا جا کر موقع پر رسی و قانونی کارروائی کی تکمیل پر چالان مکمل برخلاف ملزم فضل خالق مورخہ 13/04/2005 کو داخل عدالت کیا گیا۔

مورخہ 20/09/2005 کو ملزم فضل خالق پر فرد جرم عائد کیا گیا تو ملزم نے اعتراف جرم سے انکاری ہوا تو شہادت استغاثہ کو طلب کیا جا کر بیان عنایت اللہ انسپیکٹر کو بطور 1-PW، میر آدم خان DHC تھانہ چترال کو بطور 2-PW، میر صوت خان سب انسپیکٹر تھانہ چترال کو بطور 3-PW، کنسٹیبل محمود غزنوی نمبر 584 دفتر DPO چترال کو بطور 4-PW، کنسٹیبل آ میر علی شاہ نمبر 183 چوکی شہریت کو بطور 5-PW، کنسٹیبل فیض الرحمن نمبر 332 ریڈر ٹوائی PI چترال کو بطور 6-PW، فضل نبی چترال DPO آفیس چترال کو بطور 7-PW، محراب علی خان ولد تاج محمد خان سکنہ کچھو کو بطور 8-PW، بطور 9-PW قلمبند کیا گیا۔ جبکہ وکیل سرکار نے گواہان محمد رحیم بیگ، رحمت خان اور شیر احمد کو غیر ضروری قرار دے کر ترک کئے اور گواہان استغاثہ کی تکمیل پر بیان ملزم زیر دفعہ 342 ض ف قلمبند کیا گیا۔ ملزم نے بیان برحلف اور صفائی پیش نہ کرنے کا عندیہ دیا۔

24.4.05

دلائل فاضل وکیل سرکار اور وکیل صفائی کو تفصیل سے سنا اور مثل مقدمہ کا باریک بینی سے ملاحظہ کیا گیا۔ ملاحظہ مثل سے عیاں ہے کہ ملزم کے خلاف مقدمہ ہذا بدین وجہ دائر کیا گیا کہ ملزم نے مثل مقدمہ علت نمبر 315 مورخہ 22/08/2004 جرم (i) PPC149/148/147/324/337 تھانہ چترال کو عدالت پشاور ہائیکورٹ پشاور مرسل کرتے ہوئے مثل مذکور سے نقشہ ضرور دیا گیا، ہوا ہوا ہو سکے۔ مقدمہ ہذا کو ثابت کرنے کیلئے استغاثہ کی طرف سے کم و بیش دس گواہان پیش ہوئے لیکن کسی گواہ نے یہ ذکر نہیں کیا کہ اس نے ملزم کو مثل مذکور سے نقشہ ضرور وغیرہ نکالتے ہوئے دیکھا ہے۔ بیان کنسٹیبل فیض الرحمن نمبر 332 ریڈر ٹوائی PI (6-PW) سے عیاں ہے مثل مذکور علت نمبر 315 مورخہ 23/11/2004 کو PI آفیس میں موصول ہوا اور مورخہ 07/12/2004 تک اسکے پاس PI کے میز پر پڑا رہا اور مورخہ 07/12/2004 کو پشاور ہائیکورٹ پشاور سے مثل مذکور کی طلبی ہوئی۔ تو PI نے کوریٹنگ لیٹر دستخط کر کے اس نے ریکارڈ برانچ سے اس پر محمد غزنوی سے ڈسپنچ نمبر لگا

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کر واپس کیا۔ ڈسپنچ رجسٹر کی بابت تفتیشی آفیسر (PW-3) نے بیان کیا کہ اس نے ڈسپنچ رجسٹر کا متعلقہ صفحہ کی فوٹو کاپی بروئے فرد مقبولنگی PW-2/1 Ex بقیہ میں لی لیکن دوران جرح اس نے یہ درست تسلیم کیا کہ نہ تو مذکورہ صفحہ پر موجود ہے اور نہ ہی اسکا ذکر انڈکس میں کیا گیا ہے۔ مزید یہ کہ گواہ فضل نبی چچرا اسی دفتر DPO چترال نے اپنے بیان زیر دفعہ 164 ض ف محررہ 17/02/2005 میں کہا ہے کہ ملزم نے اسکو ایک لفافہ برائے کارگو کرنے کیلئے دیا تھا۔ لیکن بطور PW-7 گواہ فضل نبی نے کہا کہ ملزم فضل خالق کلرک نے ذولفقار علی شاہ کے مثل کولا کر لفافہ میں بند کر کے کارگو کرنے کیلئے اسکو حوالہ کیا اور دوران جرح گواہ فضل نبی نے یہ بھی درست قرار دیا کہ اسکے بیان 164 ض ف محررہ 17/2/2005 اور ارج کے بیان میں واضح فرق ہے۔ اس طرح مستغیث امیر الدین (PW-9) نے دوران جرح یہ درست تسلیم کیا کہ اسکا پیش کردہ درخواست نے اپنا آج کا بیان Develop کیا ہے۔ مزید یہ کہ نہ تو ملزم متعلقہ اہلکار تھا اور نہ ہی اسکی یہ ذمہ داری تھی کہ وہ عدالتوں کو ریکارڈ وغیرہ مرسل کرے۔ علاوہ ازیں تین یوم حراست پولیس کے باوجود نہ تو ملزم سے دستاویزات مذکورہ کی برآمدگی ہوئی اور نہ ہی ملزم نے اقبال جرم کیا۔

مذکورہ بلا حالات سے روز روشن کی طرح عیاں ہو چکا ہے کہ استغاثہ ملزم کے خلاف مقدمہ ہذا بلا شک و شبہ ثابت کرنے میں ناکام ہوا ہے۔ لہذا ملزم کو شک کا فائدہ دیا جا کر بری کیا جاتا ہے اور اسکے ضامنان کو بھی ضمانت نامے کی پابندیوں سے مخلصی دی جاتی ہیں۔ مثل بعد از ترتیب و تکمیل کے داخل دفتر ہوں۔

فیصلہ سنا گیا۔

24/04/2007

اجمل خان وزیر
سینئر سول جج رجسٹریشنل مجسٹریٹ چترال

سرٹیفیکٹ
تصدیق دی جاتی ہے کہ حکم ہذا مشتملہ تین (۳) صفحات ہے۔ ہر صفحہ بعد از درستی میرا دستخط کردہ ہے۔

اجمل خان وزیر
سینئر سول جج رجسٹریشنل مجسٹریٹ چترال

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BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Anna F

APPEAL NO.939/2008

Date of institution ... 09.07.2008
Date of decision ... 25.02.2009

Fazli Khaliq Junior Clerk,
Office of the D.P.O Chitral.

(Appellant)

VERSUS

1. The Govt. of NWFP through Secretary, Home & Tribal-Affairs Department, Peshawar.
2. The Provincial Police Officer, NWFP, Peshawar.
3. Additional Inspector General of Police (H.Qrs) NWFP, Peshawar.
4. The District Police Officer, Chitral. (Respondents)

Service Appeal U/S 4 of the NWFP Service Tribunals Act, 1974 against the order bearing Endst: No.17731-33-III dated 8.10.2005 passed by respondent No.3, whereby major penalty of reduction to a time scale of Junior Clerk (BPS-5) was imposed on the appellant and the departmental appeal dated 28.10.2005 by the appellant to respondent No.2 was declined on 16.4.2007 on acquittal of the appellant of the false charge by Judicial Magistrate Chitral on 24.4.2007, the appeal dated 11.5.2007 to respondent No.2 on fresh grounds was moved which is as yet unactioned meaning thereby that the same has been declined.

Mr. Naqibullah Khan Khattak,
Advocate,
Mr. Zahid Karim Khalil,
Addl: Govt. Pleader

For appellant

For respondents

Mr. Justice (R) Salim Khan,
Mr. Bismillah Shah

Chairman
Member

JUDGMENT

JUSTICE(R) SALIM KHAN, CHAIRMAN:- The appellant was a Junior

Clerk (BPS-5) in the office of the District Police Officer, Chitral. A complaint dated 31.1.2005 was submitted against the appellant for allegation that the appellant had malafidely and with ulterior motive taken out medical injury sheet and other important documents from the Police file to the benefit of the accused so that bail could be granted to them. F.I.R No.42 dated 2.2.2005 was registered against the appellant. A charge sheet and statement of allegations was served against him on 12.2.2005. Atta-ur-Rehman D.S.P, Inquiry

Officer, asked for the defence reply on 28.3.2005 which was complied with on 7.4.2005. Further reply was asked for from the appellant which was submitted. The report dated 13.4.2005 was submitted wherein it was mentioned that the action against the appellant he subjected to the decision of the Court conducting criminal trial.

2. Respondent No.3 appointed Mir Qalam Khan, D.S.P Chitral for conducting denovo inquiry proceedings vide order dated 14.5.2005. It was on 25.6.2005 that the representative of the department and the appellant submitted separate replies wherein they did not want to produce fresh evidence and they relied on the statements already recorded. The new Inquiry Officer held the appellant guilty of the offence and proposed major penalty against the appellant. A show cause notice was given to the appellant on 15.8.2005, and major penalty of reduction to time scale Junior Clerk BPS-5 was passed against the appellant on 8.10.2005 with immediate effect. The appellant submitted departmental appeal dated 28.10.2005 which was declined on 16.4.2007.

3. The learned Judicial Magistrate Chitral acquitted the appellant on 24.4.2007. The appellant filed fresh departmental appeal on 11.5.2007. But no reply was given to him till the filing of this appeal on 9.7.2008.

4. The respondents contested the appeal on the ground of limitation as well as other grounds. They were of the view that thorough probe and impartial proceedings were conducted by the Inquiry Officer.

5. We heard the arguments and perused the record.

6. The learned counsel for the appellant contended that the inquiry proceedings were not proper because the appellant was not given chance of cross-examining the witnesses and that the inquiry proceedings were

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concluded by Mir Qalam Khan DSP on the basis of the previously recorded evidence only. The appeal by itself shows that the appellant had agreed that he did not want to produce fresh evidence and be relied on the previously recorded statements recorded before the Inquiry Officer. The appellant cannot step back from his own commission at this stage.

7. The learned counsel for the appellant further contended that the present appeal and the departmental appeal dated 11.5.2007 were well within time from the judgment of the learned Judicial Magistrate dated 24.4.2007. It has been admitted by the appellant that he had previously filed departmental appeal on 28.10.2005 which was declined on 16.4.2007. The learned counsel contended that fresh cause of action arose for the appellant when he was acquitted after the criminal trial. It has repeatedly been held by the Courts of competent jurisdiction that criminal proceedings are altogether different from the departmental proceedings, and both the sets of proceedings can run simultaneously and, even, one after the other. The appellant had not filed any Service Appeal when his previous departmental appeal was declined. No fresh cause of action has arisen to the appellant regarding the same departmental proceedings.

8. The only question which needs consideration in this case is that the major penalty granted to the appellant is reduction to time scale Junior Clerk (BPS-5). Rule 4 of the N.W.F.P Government Servants (Efficiency & Discipline) Rules 1973, provides the major penalty "reduction to a lower post, grade or time scale, or to a lower stage in a time scale." The appellant has not been posted to a lower post. He has been appointed as time scale Junior Clerk. In fact he could be reduced to a lower time scale or to the next lower stage in a time scale. There is

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nothing on record to show that there was any lower time scale for the Junior Clerk and there was not only one time scale for him. He could be reduced to a lower stage in the same time scale. The respondents, therefore, have to correct the impugned order to this extent from the date of its issue.

9. Finding no other merit in the present appeal, we dismiss the same but leave the parties to bear their own costs.

ANNOUNCED

25.02.2009

Sd/- Justice(R) Salim Khan
Chairman

Sd/- Bismillah Shah
Member

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(19)

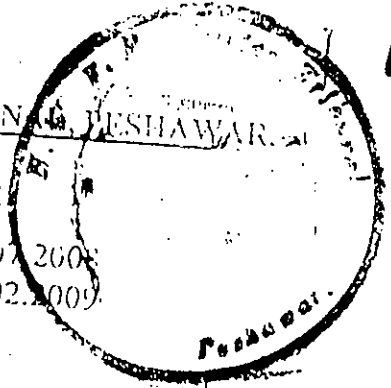
Annex F

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO. 939/2008

Date of institution ... 09.07.2008

Date of decision ... 25.02.2009



Fazli Khaliq, Junior Clerk,
Office of the D.P.O Chitral.

(Appellant)

VERSUS

1. The Govt. of NWFP through Secretary, Home & Tribal Affairs Department, Peshawar.
 2. The Provincial Police Officer, NWFP, Peshawar.
 3. Additional Inspector General of Police (H.Qrs) NWFP, Peshawar.
 4. The District Police Officer, Chitral.
- (Respondents)

Service Appeal U/S 4 of the NWFP Service Tribunals Act, 1974 against the order bearing Endst. No. 17731-33-III dated 8.10.2005 passed by respondent No.3, whereby major penalty of reduction to a time scale of Junior Clerk (BPS-5) was imposed on the appellant and the departmental appeal dated 28.10.2005 by the appellant to respondent No.2 was declined on 16.4.2007 on acquittal of the appellant of the false charge by Judicial Magistrate Chitral on 24.4.2007, the appeal dated 11.5.2007 to respondent No.2 on fresh grounds was moved which is as yet unactioned meaning thereby that the same has been declared.

Mr. Naqibullah Khan Khattak,
Advocate.

Mr. Zahid Karim Khalil,
Addl. Govt. Pleader.

For appellant

For respondents

Mr. Justice(R) Salim Khan,
Mr. Bismillah Shah.

Chairman
Member

JUDGMENT

JUSTICE(R) SALIM KHAN, CHAIRMAN:-

The appellant was a Junior Clerk (BPS-5) in the office of the District Police Officer, Chitral. A complaint dated 31.1.2005 was submitted against the appellant for allegation that the appellant had malafidely and with ulterior motive taken out medical injury sheet and other important documents from the Police file to the benefit of the accused so that bail could be granted to them. F.I.R. No.42 dated 2.2.2005 was registered against the appellant. A charge sheet and statement of allegations was served against him on 12.2.2005. Atta-ur-Rehman, D.S.P., Inquiry

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NWFP Service Tribunal
Peshawar

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Officer, asked for the defence reply on 25.3.2005 which was complied with on 7.4.2005. Further reply was asked for from the appellant which was submitted. The report dated 13.4.2005 was submitted wherein it was mentioned that the action against the appellant be subjected to the decision of the Court conducting criminal trial.

2. Respondent No.3 appointed Mir Qalam Khan, D.S.P Chitral for conducting denovo inquiry proceedings vide order dated 14.5.2005. It was on 25.6.2005 that the representative of the department and the appellant submitted separate replies wherein they did not want to produce fresh evidence and they relied on the statements already recorded. The new Inquiry Officer held the appellant guilty of the offence and proposed major penalty against the appellant. A show cause notice was given to the appellant on 15.8.2005, and major penalty of reduction to time scale Junior Clerk BPS-5 was passed against the appellant on 8.10.2005 with immediate effect. The appellant submitted departmental appeal dated 28.10.2005 which was declined on 16.4.2007.

3. The learned Judicial Magistrate Chitral acquitted the appellant on 24.4.2007. The appellant filed fresh departmental appeal on 11.5.2007. But no reply was given to him till the filing of this appeal on 9.7.2008.

4. The respondents contested the appeal on the ground of limitation as well as other grounds. They were of the view that thorough probe and impartial proceedings were conducted by the Inquiry Officer.

5. We heard the arguments and perused the record.

6. The learned counsel for the appellant contended that the inquiry proceedings were not proper because the appellant was not given chance of cross-examining the witnesses and that the inquiry proceedings were

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concluded by Mir Aslam Khan DSP on the basis of the previously recorded evidence only. The appeal by itself shows that the appellant had agreed that he did not want to produce fresh evidence and he relied on the previously recorded statements recorded before the Inquiry Officer. The appellant cannot step back from his own commission at this stage.

7. The learned counsel for the appellant further contended that the present appeal and the departmental appeal dated 11.5.2007 were well within time from the judgment of the learned Judicial Magistrate dated 24.4.2007. It has been admitted by the appellant that he had previously filed departmental appeal on 28.10.2005 which was declined on 16.4.2007. The learned counsel contended that fresh cause of action arose for the appellant when he was acquitted after the criminal trial. It has repeatedly been held by the Courts of competent jurisdiction that criminal proceedings are altogether different from the departmental proceedings, and both the sets of proceedings can run simultaneously and, even, one after the other. The appellant had not filed any Service Appeal when his previous departmental appeal was declined. No fresh cause of action has arisen to the appellant regarding the same departmental proceedings.

8. The only question which needs consideration in this case is that the major penalty granted to the appellant is reduction to time scale Junior Clerk (BPS-5). Rule 4 of the N.W.F.P Government Servants (Efficiency & Discipline) Rules 1973, provides the major penalty "reduction to a lower post, grade or time scale, or to a lower stage in a time scale." The appellant has not been posted to a lower post. He has been appointed as time scale Junior Clerk. In fact he could be reduced to a lower time scale or to the next lower stage in a time scale. There is

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nothing on record to show that there was any lower time scale for the Junior Clerk and there was ^{only} one time scale for him. He could be reduced to a lower stage in the same time scale. The respondents, therefore, have to correct the impugned order to this extent from the date of its issue.

9. Finding no other merit in the present appeal, we dismiss the same but leave the parties to bear their own costs.

ANNOUNCED
25.02.2009

sd/- Justice (2) Kalishankar
Chavhan
sd/- Bismita K. Bhatt
Member

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Annex "G"

ORDER

Appeal preferred by Junior Clerks Fazal Khaliq against the order of Punishment of reduction to a time scale issued vide this office Endst: No.17731-33/E-III dated 08.10.2005 was dismissed by the Service Tribunal for finding no other any merit.

The court observed that there is nothing on record to show that any lower time scale for the junior clerk & there was not only one time Scale for him. The respondents therefore have to correct the impugned order to this extent from the date of its issue.

Therefore the above order is amended and the Junior Clerk is reduced to the lower stage of his existing pay scale from the date of issuing of the order date 08.10.2005.

Sd/-
(ABDUL MAJEED KHAN MARWAT)
PSP

Add: IGP/HQrs
For Provincial Police Officer,
NWFP, Peshawar

No.18784-86/E-III, dated Peshawar the 25/7/2009

Copy of above is forwarded for information and necessary action to the:-

1. Deputy Inspector General of Police, Malakand Region-III Swat.
2. District Police Officer Chitral alongwith a copy of Court decision.
3. Office Supdt: Secret CPO.

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DISTRICT POLICE OFFICER
MAHAKAND REGION

For Information
E

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Account Officer

Deputy Inspector General of Police Mahakand Region III Swat
District Police Officer (Junior) along with a copy of Court decision
Office Supply Serial C/PZ

copy of above is forwarded for information and necessary action

ADDITIONAL MAJORED (M.A. MAHAKAND)
PSP
ADDITIONAL POLICE OFFICERS
For Provincial Police Officer
MWERP, Peshawar
25/2/2009

8784-86

The order dated 08.10.2005
The order dated 08.10.2005
The order dated 08.10.2005

...therefore the above order is amended and the Junior Clerk is reduced
...respondents therefore have to correct the impugned order to this extent from
...there was not only one time scale for the junior clerk & there was not only one time scale for
...The Court observed that there is nothing on record to show
...dated 08.10.2005 was dismissed by the Service Tribunal for
...this office issued vide this order dated
...against the order
...performed by the officers Fazal Khanji against the order

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Annex-"H"

The Provincial Police Officer,
Khyber, Pakhtunkhwa, Peshawar.

Through: Proper Channel

Subject: APPLICATION FOR SPECIFICATION / DETERMINATION OF PUNISHMENT AWARDED TO APPLICANT VIDE ORDER DATED 8-10-2005 REDUCING THE APPLICANT TO LOWER STAGE IN HIS EXISTING PAY-SCALE

- 1- That the Applicant is presently serving as Junior Clerk in the office of District Police Officer, District Chitral.
- 2- That the Applicant was awarded major punishment by the Additional Inspector General of Police (Headquarters) by reducing him to time scale Junior clerk (BPS-5) vide Order dated 8-10-2005.
- 3- That the Applicant filed a service appeal against the aforesaid order dated 8-10-2005 before the Khyber Pakhtunkhwa Service Tribunal. However, the same was dismissed with the observation that " There is nothing on record to show that there was any lower time scale for the junior clerk and there was not only one time scale for him. He could be reduced to a lower stage in the same time scale. The Respondents, therefore, have to correct the impugned order to this extent from the date of its issue."
- 4- That the Applicant preferred Civil petition No. 180-P of 2009 in the august Supreme Court of Pakistan from the afore-said judgment of the Honorable Tribunal. However, the same was dismissed by the august Supreme Court of Pakistan vide order dated 8-4-2010.
- 5- That the Additional Inspector General of Police (Headquarters) vide order dated 25-7-2009, amended the order dated 8-10-2005 and the Applicant was reduced to the lower stage of his existing pay scale from the date of issuance of the Order dated 8-5-2005.
- 6- That however, the order dated 25-7-2009 is silent about the time period of reduction to lower stage of the Applicant.
- 7- That furthermore, the same Order is also lacking in clarifying the status of seniority of the Applicant.

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It is therefore, humbly requested that on acceptance of this application the Applicant may be graciously allowed the following remedies;

- I- The period of time of reduction to lower stage as awarded vide Order dated 25-7-2009 may be determined and declared.
- II- The seniority of the Applicant may be counted from the date of order dated 31-5-2008.

Thanking You.

Yours faithfully,

(Fazal Khaliq)

Junior Clerk, D.P.O. Office,
Chitral.

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District Police Officer
Chitral

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District Police Officer
Chitral
No. 5612 /EB.
Copy of above is submitted to the Regional Officer Malakand Range
Saibu Sharif Swat for favour of information please.

Memo:-
Kindly refer to your office Signal No. 11541-9075-III, dated 21.05.2013 on the subject cited above.
In this connection it is submitted that Junior Clerk Fazal Khaliq of this District is willing for promotion as Senior Clerk and there is no departmental enquiry pending against him at present. His written option is enclosed for perusal please.

PROMOTION

Subject:-
No. 5609 /EB, dated Chitral the 23-5-2013

To:-
The Provincial Police Officer,
Khyber Pukhtunkhwa Peshawar

From:-
The District Police Officer,
Chitral

Phone No. 0943-412077
Fax No. 0943-412228



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Annex: 5

Respected Sir,

In pursuance of Provincial Police Officer Khyber Pukhtunkhwa Peshawar Signal No. 11541-90/E-III, dated 21.05.2013, in connection with the willingness for promotion to the cadre of senior clerks.

I am willing for promotion as senior clerk.

Dated 23.05.2013

Yours' obedient Servant

(FAZAL KHALIQ)

JC DPO Office Chitral

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Phone No 0943-412077

F a x No. 0943-412228

From: - The District Police Officer,
Chitral

To: -, The Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar

No. 3871 EC, dated Chitral the 25/03 /2014

Subject: - WILLINGNESS
Memo:-

In continuation of this office letter No. 3018/EB, dated 03.03.2014 on the subject cited above.

It is submitted that Junior Clerk Fazal Khaliq of this District is now willing for promotion as Senior Clerk (BPS-9), his written option is enclosed for kind perusal please.

District Police Officer,
Chitral

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From : The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

To : All Head of Police Offices,
in Khyber Pakhtunkhwa.

All Office Superintendents,
in CPO.

No. 603-70 /E-V, dated Peshawar the 31 / 03 /2014.

Subject : SENIORITY LIST.

Memo :

Please refer to this office endst: No. 212-38/E-V, No. 240-62/E-V, and
No. 264-99/E-V, dated 11.03.2014.

The period of submission of representation against seniority list issued
on the above quoted references is extended up-to one month instead of one week as desired
by the competent authority. Therefore, any objection / representation may be submitted to
this office up-to 10.04.2014 positively. However, in future no representation will be accepted.


(JAVED IQBAL)
Registrar,

For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

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31/03/14

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Annex-K

To,

The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar

Through: Proper Channel

Subject: **SENIORITY LIST-REPRESENTATION**

Respected Sir,

Kindly refer to CPO Peshawar letter No.603-70/E-V, dated 31.03.2014 received through Regional Police Officer, Malakand vide office Endst; No.2674-85/E, dated 07.04.2014 on the subject cited above (copy enclosed).

It is very humbly submitted for sympathetic consideration:-

- 1) That I am Senior Most Junior Clerk serving in Police Department (DPO Office, Chitral) since 16.11.1989.
- 2) That I was promoted as Senior Clerk vide Order Notification No.14723/E-III, dated 31.05.2008.
- 3) That later on the promotion was withdrawn vide Notification No.15229/E-III, dated 04.06.2008 on the grounds of pending Departmental Enquiry against me in the august Service Tribunal, Khyber Pakhtunkhwa.
- 4) That the august Service Tribunal, Khyber Pakhtunkhwa in its decision passed order and the major punishment awarded to me in year, 2005, was converted into minor punishment (copy enclosed for perusal please).
- 5) That promotion has been given to a large number of Junior Clerks in Khyber Pakhtunkhwa despite being junior from me.
- 6) That I had already submitted written willing for promotion since 2009 but due to unknown reason I have been deprived from promotion till yet.
- 7) As far the ACRs are concerned, all my ACRs have already been sent to quarter concerned and no any adverse remarks has been received to me.

Therefore, keeping in view the facts, it is prayed that I may very kindly be promoted from May 2008 being the senior most Junior Clerk and obliged please.

I shall be very thankful for your kindness.

Dated: 09.04.2014

Yours obediently,

Fazal Kialiq

(FAZAL KIALIQ)
Junior Clerk
DPO Office, Chitral

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From:- The District Police Officer,
Chitral

To:- The Provincial Police Officer,
Khyber Pukhtunkhwa Peshawar.

No. 4729 /EB, dated Chitral the 9/04 /2014

Subject:- SENIORITY LIST /REPRESENTATION

Memo:-

Kindly refer to CPO memo No.603-70/E-V, dated 31.03.2014 on the subject cited above.

Enclosed Please find herewith a representation submitted by Junior Clerk Fazal Khaliq of this Office for favor of further necessary action please.


District Police Officer,
Chitral

No. 4730 /EB,

Copy of above is submitted to the Regional Police Officer, Malakand at Saidu Sharif Swat for information with reference to his office Endst; No.2674-85/E, dated 07.04.2014.


District Police Officer,
Chitral

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Annex. 2

BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 1102 of 2014

Fazal Khaliq S/O Amirdullah Khan R/O village Kuju,
Tehsil and District Chitral, presently serving as
Junior clerk D.P.O office Chitral.....Appellant

V E R S U S

1. Government of Khyber Pakhtun Khwa through secretary Home and Tribal affairs department Peshawar.
2. The Provincial Police officer Peshawar.
3. Additional Inspector General of Police (H.Qrs) K.P.K Peshawar.
4. District Police officer (DPO) Chitral.

..... Respondents

Service appeal under section 4 of the Khyber Pukhtun Khwa Service Tribunal Act 1974, for allowing promotion to the appellant from junior clerk (BPS 5) to senior clerk (BPS 9) w.e.f from 31-05-2008 being most senior, with all consequential benefits and arrears, and for grant of these benefits the departmental representation dated 9-04-2014 has not been replied so far.

Respectfully Sheweth:

1. That the appellant was appointed as junior clerk (BPS 5) by the Dy. inspector General of Police Peshawar vide order No 18725

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dated 5-11-1989 while arrival dated is 16-11-1989. (Copy of the Appointment order is attached as Annexure A).

2. That on 31-01-2005 a complaint was submitted against the appellant with the allegation that the appellant with malafide and ulterior motive taken out medical injury sheet and other important documents from the police file to the benefit of the accused so that bail could be granted to them. In this respect a case vide FIR No 42 dated 2-2-2005 U/S 419/420/204/217 PPC police station Chitral was registered against the appellant.
3. That keeping in view the above, departmental proceedings were initiated against the appellant and ultimately the appellant was declared guilty of the offence and major penalty was proposed to the appellant. (Copy of the charge sheet and order for departmental inquiry dated 14-5-2005 are attached as Annexure B and B/1 respectively).
4. That on recommendation of the inquiry officer a show cause notice dated 15-8-2005 was given to the appellant and major penalty of reduction to time scale junior clerk (BPS 5) was imposed on the appellant on 18-10-2005 with immediate effect. Aggrieved with the order dated 18-10-2005, the appellant submitted departmental representation before the competent authority which was declined on 16-4-2007. It is pertinent to mention here that on 31-1-2007 an order No 1685-87/E-III was issued by respondent No. 3 which reads as follows:-

The inquiry officer conducted proper departmental inquiry and submitted inquiry report, in his finding he recommended that as criminal case is subjudice in the court,

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hence the inquiry be kept pending till the decision of the court. Since 2002 the case is remained under trail in the court. However on 27-7-2006 the parties effected compromise in both cases as a result both the accused charged in the cases were acquitted. In view of the above I Khurshid Alam Khan Add: I.G.P Hqrs N.W.F.P Peshawar being competent authority in exercise of power vested in me hereby awards him fallowing punishment.

1. Warned to be careful in future.
2. He is reinstated in service from the date of suspension.

(Copies of the order dated 8-10-2005, 16-4-2007 and 31-1-2007 are attached as Annexure C, D and E) respectively.

5. That on 24-4-2007 the learned judicial Magistrate Chitral acquitted the appellant from the charges leveled against him in case FIR No 42 dated 2-2-2005 U/S 419/420/204/217 PPC police station Chitral, the appellant again filed departmental representation on 11-5-2007 with fresh grounds but no reply was given to him. (Copy of the order of JMIC Chitral dated 24-4-2007 is attached as Annexure F).
6. That on 20-9-2007 the respondent No 2 has asked written willingness for promotion from all those junior clerks including the appellant whose promotion is due. (Copies of the letters are attached as Annexure G and G/1 respectively)
7. That the appellant aggrieved with the order dated 8-10-2005 filed service appeal No 939/2008 before this hon'ble court on 9-2-2008. The respondents contested the same and finally this hon'ble court dismissed the appeal of the appellant with these observation:-

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The only question which needs consideration in this case is that the major penalty granted to the appellant is reduction to time scale junior clerk BPS 5, rule 4 of the NWFP government servants Efficiency and Discipline Rules 1973 provides the major penalty "reduction to a lower stage in a time scale or to a lower stage in a time scale. The appellant has not been posted to a lower post. He has been appointed as time scale junior clerk. In fact he could be reduced to a lower time scale or to the next lower stage in a time scale. There is nothing on record to show that there was any lower time scale for the junior clerk and there was not only one time scale for him. He could be reduced to a lower stage in the same time scale. The respondents therefore, have to correct the impugned order to this extent from the date of its issuance.

(Copy of the order of this hon'ble court dated 25-2-2009 is attached as Annexure H)

8. That it is worth-mentioning here that between this period the appellant was promoted as senior clerk (BPS 9) on 31-5-2008 with other employees of the department, but letter on the same has been withdrawn due to departmental proceeding and punishment awarded to him, the appellant aggrieved with the same filed another department appeal before the competent authority but no reply was given to the appellant.(Copies of the order dated 31-5-2008, 4-6-2008 and representation are attached as Annexure J,J/1 and J/2 respectively.
9. That after announcing the judgment of this hon'ble court and keeping in view the observation therein the appellant filed an application that his punishment order dated 8-10-2005 may be corrected and consequently on the perusal of the application the respondent No2 amended the said vide order dated 25-7-2009 and the appellant was reduced to lower stage of his existing pay scale from the date of issuance of the order dated 8-10-2005.The appellant aggrieved with same filed departmental representation taking many grounds including ground of time period of reduction to lower stage.(Copies of the application & order dated 25-7-2009 and representation etc are attached as Annexure K and K/1 L L/1 and L/2.
10. That the respondent No 2 in the year 2013 again asked written willingness for promotion from those employees who are due for promotion but unfortunately most of junior employees in all over KPK have been promoted and the appellant was ignored

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again.(Copies of the letter and seniority lists are attached as Annexure M, M/1 to M/8 respectively).

11. That the appellant remained deprived of his rights for promotion since 2008 by filling many representations before the competent authority but the respondents did not replied so far, lastly on 9-4-2014 the appellant approached to the respondents by filling another representation for his promotion but no reply was given.(Copy of the representation and other documents are attached as Annexure N).
12. That the appellant was neither allowed promotion nor his departmental representation was replied despite the laps of 90 days hence this appeal inter-alia on the fallowing grounds:-

GROUNDS

- a. That the appellant has not been treated in accordance with the law his rights secured and guaranteed under the law have been violated.
- b. That the batch-mates and most junior employees in the department have been promoted as senior clerk (BPS 9) on regular basis. The appellant was required to have been promoted to BPS 9 senior clerk; hence this is against the rule of service.
- c. That since the appellant has been acquitted from the charges leveled against him by the learned Judicial Magistrate on 24-4-2007, the good governance require, that the keeping in view the acquittal of the appellant, the appellant should have been promoted to BPS 9.
- d. That in view of the timely promotion of other employees of the department, most junior employees to the appellant are enjoying senior position while the appellant has been deprived of his right which is guaranteed by the constitution of Islamic republic of Pakistan 1973.
- e. That the order dated 25-7-2009 is silent about the time period of reduction to lower stage of the appellant therefore, the same is also lacking in clarifying the status of the seniority list of the appellant.

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- f. That the appellant filed many representations and written willingness for his promotion but due to unknown reason no reply has been given so far.
- g. That the appellant seeks the permission of this hon'ble court to rely on additional grounds at the time hearing of this appeal.

It is, therefore, humbly prayed that on acceptance of this appeal the appellant may please be allowed to be promoted as senior clerk BPS 9 w.e.f from 31-5-2008 with all consequential benefits and arrears.

Appellant

Fazal Khaliq

Through

Umar Ali Shah

Advocate, Peshawar

Dated 19-8-2014

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Umar Ali Shah

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**BEFORE THE KHYBER PUKHTUN KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No _____ of 2014

Fazal KhaliqAppellant

VERSUS

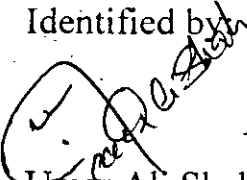
Government of Khyber Pakhtun Khwa and othersRespondents

AFFIDAVIT

I, Fazal Khaliq S/O Amirdullah Khan R/O village Kuju, Tehsil and District Chitral, presently serving as Junior clerk D.P.O office Chitral do hereby solemnly affirm and declare on oath that the contents of the accompanying **appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Identified by

DEPONENT


Umar Ali Shah
Advocate, Peshawar

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Office of the Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.

Subject: FOR PUBLICATION IN THE KHYBER PAKHTUNKHWA
POLICE GAZZETE PART-II ORDERS BY THE PROVINCIAL
POLICE OFFICER KHYBER PAKHTUNKHWA PESHAWAR

NOTIFICATION

No. 1002 CPB/ Promotion as Senior Clerk BPS-14

Having been recommended by the DPC held on 02.07.2015
And approved by Provincial Police Officer Khyber Pakhtunkhwa the
following Junior Clerks are hereby promoted as Senior Clerks in (BPS-14)
with immediate effect.

| S.NO | NAMES OF OFFICER | DISTT OF DOMICILE | PRESENT POSTING |
|------|--------------------|-------------------|--------------------------------|
| 1. | Attiq ur Rehman | Peshawar | Investigation unit CPO |
| 2. | Farman Ali | Peshawar | CCP Peshawar |
| 3. | Fazal Khaliq | Chitral | DPO Office Chitral |
| 4. | Muhammad Ibrahim | Charsadda | DPO Office Charsadda |
| 5. | Sakhi Muhammad | Lakki Marwat | Office of SSP Traffic Peshawar |
| 6. | Qaiser Khan | Charsadda | DPO Office Charsadda |
| 7. | Sher Muhammad | Mardan | RPO Office Mardan |
| 8. | Abdul Ghafoor | Lakki Marwat | CCP Peshawar |
| 9. | Muhammmad Farooq | Dir Lower | DPO Office Dir Lower |
| 10. | Latif Ahmad Khan | Tank | RPO Office D I Khan |
| 11. | Dilawar | Abbot Abbad | RPO Office Abbot Abbad |
| 12. | Muhammad Ilyas | Peshawar | CCP Peshawar |
| 13. | Zainoor Shah | Nowshetra | FRP Headquarters |
| 14. | Rashid Khan | Sawabi | FRP Headquarters |
| 15. | Jawad Ullah Khaki | Peshawar | CCP Peshawar |
| 16. | Mufti Sheraz Ahmad | Peshawar | CCP Peshawar |

This Promotion will take effect from the date they actually take over the charge of their higher responsibilities.

Mian Muhammad Asif
Addl: IGP Headquarters
For IGP KPK, Peshawar

No.1003-22/CPB Dated Peshawar: 13.07.2015

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Office of the Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.

Subject:

FOR PUBLICATION IN THE KHYBER PAKHTUNKHWA POLICE
GAZETTE PART-II ORDERS BY THE PROVINCIAL POLICE
OFFICER KHYBER PAKHTUNKHWA PESHAWAR

NOTIFICATION

No 1002 CPB Promotion as Senior Clerks BPS-14.

Having been recommended by the DPC held on 02-07-2015 and approved by Provincial Police Officer Khyber Pakhtunkhwa, the following Junior Clerks are hereby promoted as Senior Clerks in (BPS-14) with immediate effect:-

| S.NO | NAME OF OFFICER | DISTT: OF DOMICILE | PRESENT POSTING |
|------|--------------------|--------------------|--------------------------------|
| 1. | Antiq-ur-Rehman | Peshawar | Investigation Unit CPO |
| 2. | Farran Ali | Peshawar | CCP Peshawar |
| 3. | Fazal Khaliq | Chitral | DPO Office, Chitral |
| 4. | Muhammad Ibrahim | Charsadda | DPO Office, Charsadda |
| 5. | Sakki Muhammad | Lakki Marwat | Office of SSP Traffic Peshawar |
| 6. | Qaisar Khan | Charsadda | DPO Office, Charsadda |
| 7. | Sher Muhammad | Mardan | RPO Office, Mardan |
| 8. | Abdul Ghafoor | Lakki Marwat | CCP Peshawar |
| 9. | Muhammad Farooq | Dir Lower | DPO Office, Dir Lower |
| 10. | Laur Ahmad Khan | Tank | RPO Office, D.I.Khan |
| 11. | Dilawar | Abbottabad | RPO Office, Abbottabad |
| 12. | Muhammad Iqbal | Peshawar | CCP Peshawar |
| 13. | Zainoor Shah | Nowshera | FRP Headquarters |
| 14. | Rashid Khan | Swabi | FRP Headquarters |
| 15. | Jawad Ali Khaki | Peshawar | CPC Peshawar |
| 16. | Mufti Sheraz Ahmad | Peshawar | CCP Peshawar |

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24/7/15

Their promotion will take effect from the date they actually take over the charge of their higher responsibilities.

for m...
District Police Officer
CHITRAL

(MIAN MUHAMMAD ASIF)
Add: IGP/Headquarters,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

No. 1003-22 CPB dated Peshawar the 13/07/2015

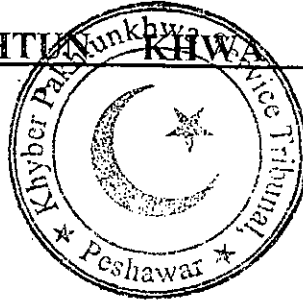
True COPY

- Copy of above is forwarded for information and necessary action to:-
1. The Addl: Inspectors General of Police, HQRS: & Investigation, Khyber Pakhtunkhwa Peshawar.
 2. The Deputy Inspector General of Police, HQRS: Khyber Pakhtunkhwa, Peshawar.
 3. The Capital City Police Officer, Peshawar.
 4. The Commandant, Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar.
 5. The Regional Police Officers, Mardan, Hazara, Malakand & D.I.Khan Regions.
 6. The District Police Officers, Charsadda, Mardan, Dir Lower, Chitral & D.I.Khan.
 7. The Senior Supdt of Police, Traffic, Peshawar.
 8. The Director, Campus Peace Corps, Peshawar.
 9. The Registrar, CPO, Peshawar.
 10. The Supdt Secret, CPO, Peshawar.
 11. The Supdt. Establishment-V, CPO, Peshawar.
 12. The Incharge, Central Registry Cell, CPO, Peshawar.

35

Annex. "N"

BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR



Service Appeal No 1102 of 2014

1089
19-8-2014

Fazal Khaliq S/O Amirdullah Khan R/O village Kaju, Tehsil and District Chitral, presently serving as Junior clerk D.P.O office Chitral.....Appellant

VERSUS

1. Government of Khyber Pakhtun Khwa through secretary Home and Tribal affairs department Peshawar.
2. The Provincial Police officer Peshawar.
3. Additional Inspector General of Police (H.Qrs) K.P.K Peshawar.
4. District Police officer (DPO) Chitral.

.....Respondents

09.02.2016

Counsel for the appellant and Mr. Kabirullah Khan Khattak, Assistant AG for respondents present. Learned counsel for the appellant submitted notification dated 13.7.2015 and requested for withdrawal of appeal as the appellant has been promoted but back benefits not granted regarding which the appellant is to seek redressal of his grievances in the prescribed manners.

In view of the above, the appeal is dismissed as withdrawn. The appellant may seek redressal of his grievances, if any and arising out on the basis of notification referred to above. File be consigned to the record room.

*Sd/-
Chairman*

ANNOUNCED
09.02.2016

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

TRUE COPY

Date of Registration of Application 12-02-2016
 N. of Application 4
 Urgent 0
 Total 6
 Name of Officer Sd/-
 Date of Completion of Work 12-02-2016
 Date of Delivery of Copy 12-02-2016

36

Annex: 0

The Provincial Police Officer
Khyber PakhtunKhwa.

Through: Proper Channel.

Subject: **Appeal/Representation for updating revised seniority list from 31.05.2008 with all the consequential back benefits and arrears.**

Respectfully Submitted:

1. That the applicant was appointed as Junior Clerk in the year 1989 and on 31.01.2005 an FIR No-42 dated 02.02.2005 U/S 419/420/204/217 PPC was registered in Police Station Chitral against the applicant.
2. That the departmental proceedings were initiated against the applicant and major punishment was awarded as Time Scale Junior Clerk and later on the same order was converted to Lower Stage of his existing pay scale from the date of issuance of that order by the competent authority.
3. That a proper trail has been conducted by the Judicial Magistrate Chitral and the applicant was acquitted on 24.04.2007 from the charges leveled against in the said FIR.
4. That the applicant being most senior, was ignored and has not been promoted to senior Clerk due to the said punishment, filed an appeal before the KPK Service Tribunal for his promotion.
5. That in the meanwhile a notification dated 13.07.2015 was issued and the applicant was promoted to Senior Clerk BPS-14 but his seniority and back benefits have not been given to the applicant.
6. That after allowing me promotion to BPS-14 as Senior Clerk I produced the notification dated 13.07.2015 before the KPK Service Tribunal and withdrew the appeal. The learned Chairman of the Service Tribunal directed the applicant to approach the Competent Authority for back benefits and updating the seniority from 31.05.2008. (Copy of the order of KPK Service Tribunal is attached)
7. That I have been acquitted by the JMIC from the charges leveled against me and since I have been promoted to Senior Clerk BPS-14 have a right to the seniority and the back benefit in accordance with the law.

It is, therefore, humbly requested that my revised seniority list may be updated from 31.05.2008 and all the back benefits may kindly be given in the light of the acquittal order and promotion order dated 13.07.2015.

Dated : 18-2-2016

TRUE COPY

Your's obediently,

(Fazal Khaliq)

SC SP investigation Office
Dir Upper

37

From: The Superintendent of Police,
Investigation, Dir Upper

To: The Regional Police Officer,
Malakand at Saidu Sharif Swat


No. 367 /EB, dated Dir Upper the 18.02 -2016

Subject: APPEAL/REPRESENTATION

Memo:

Enclosed please find herewith an application in r/o Mr. Fazal Khaliq S.C of this office for updating revised seniority list is submitted for onward submission to quarter concerned please.

Encl: (2)


Superintendent of Police,
Investigation, Dir Upper

TRUE COPY

MA

o/c

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| | | | | | | | |
|--|--|---|--------------------------------|---------|--|----------|------|
| VTCS | | Consignment Note No. | | | Sales Tax Invoice | | |
| Call: 11-123-456 GST-NO. 12-00-9808-002-73 | | Acct / Coupon | 470 | 6612313 | Org? | Dest. | |
| Mode of Payment <input type="checkbox"/> Coupon <input type="checkbox"/> FOC <input type="checkbox"/> CDO <input type="checkbox"/> Account <input type="checkbox"/> Cash | | Insured <input type="checkbox"/> Yes <input type="checkbox"/> No | Dimension L(cm) W(cm) H(cm) | | | Wt (kgs) | Pcs. |
| From (Shipper) | | To (Consignee) | | | Service Type <input type="checkbox"/> Overnight <input type="checkbox"/> Holiday <input type="checkbox"/> Extra Sp. <input type="checkbox"/> Same Day <input type="checkbox"/> Second Day | | |
| Phone | | Description | | | Service Charges | | |
| E-mail | | PICKUP INFORMATION | | | Weight | 1.30 | |
| Description | | Courier Code | Date | Time | Handling | 1.30 | |
| Shipper's Signature | | Insurance Premium | | | Other | | |
| AS PER P.O. ACT 1996, TCS WILL NOT CARRY LETTER POSTCARDS. | | TOTAL | | | GST | 1 | |
| | | | | | Insurance Premium | 1.20 | |

TRUE COPY
MA

3-12/15

39

The seniority list of Senior Clerks is published for information of all concerned.

| S/NO | NAME | DATE OF BIRTH | DOMICILE | EDUC. QUAL. | DATE OF APPOINTMENT | DATE OF PROMOTION AS SENIOR CLERK | DATE OF RETIREMENT | REMARKS |
|------|-----------------|---------------|-----------|-------------|---------------------|-----------------------------------|--------------------|---------|
| 1 | Qamar Zaman | 05.02.56 | Bannu | BA | 30.9.80 | 27.3.90 | 04.02.2016 | |
| 2 | Abdus Ali | 9.2.63 | Swat | 10th | 17.1.82 | 17.7.90 | 08.02.2022 | |
| 3 | Atam Khan | 22.56 | Swat | BA | 16.80 | 01.5.92 | 01.02.2016 | |
| 4 | Habib Khan | 30.09.63 | Bannu | FA | 19.8.82 | 15.8.92 | 31.08.2023 | |
| 5 | Muhammad Yousaf | 25.12.62 | A. Abad | 10th | 25.11.83 | 22.8.93 | 24.12.2022 | |
| 6 | Sana Ullah | 11.3.63 | Charsadda | BA | 18.4.85 | 25.4.94 | 10.03.2023 | |
| 7 | Abdul Waseed | 09.03.60 | Chitral | 10th | 19.03.80 | 16.11.98 | 08.03.2020 | |
| 8 | Ali Nurad | 15.01.59 | Chitral | FA | 14.09.87 | 16.11.98 | 14.01.2019 | |
| 9 | Zahirullah | 10.05.61 | Charsadda | 10th | 20.12.81 | 17.12.99 | 09.05.2021 | |
| 10 | Muhammad Faraz | 02.07.63 | Peshawar | BA | 20.10.07 | 24.12.99 | 01.07.2023 | |
| 11 | Noor Muhammad | 01.03.55 | Malakand | 10th | 07.11.87 | 16.01.2008 | 31.07.2015 | |
| 12 | Taj Muhammad | 06.09.69 | Mardan | BA | 17.02.88 | 16.01.2008 | 05.09.2029 | |

Registrar

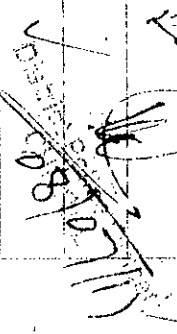
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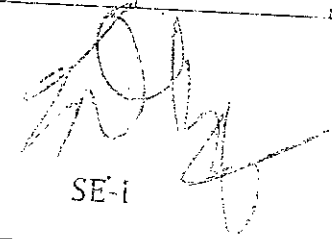
03, CP




(40)

| NAME | DATE OF BIRTH | DOMICILE | EDU: QUAL: | DATE OF APPOINTMENT | DATE OF PROMOTION AS SENIOR CLERK | DATE OF RETIREMENT | REMARKS |
|----------------------|---------------|------------|------------|----------------------------|-----------------------------------|--------------------|--------------------------------------|
| 28. Riaz Muhammad | 14.04.63 | Abbottabad | BA | 28.09.89 | 16.01.2008 | 13.04.2023 | |
| 29. Abdul Aziz -II | 10.02.70 | Mardan | 10th | 01.06.89 | 16.01.2008 | 09.02.2030 | |
| 30. Waheed ur Rehman | 25.12.68 | Abbottabad | D.Com | 22.10.89 | 16.01.2008 | 25.12.2028 | |
| 31. Nizakat Khan | 20.04.69 | Haripur | 10th | 16.10.89 | 16.01.2008 | 19.04.2029 | |
| 32. Naseer Ahmad | 04.10.65 | Peshawar | FA | 07.01.90 | 16.01.2008 | 03.10.2025 | |
| 33. Ishtiaq Hussain | 20.08.71 | Charsadda | 10th | 10.01.90 | 16.01.2008 | 19.08.2031 | |
| 34. Muhammad Humayun | 04.04.65 | Charsadda | 10th | 01.09.89 FC 29.03.90 JC | 16.01.2008 | 03.04.2025 | |
| 35. Muhammad Ramzan | 15.03.69 | DIKhan | 10th | 01.07.90 | 16.01.2008 | 14.03.2029 | |
| 36. Shafaqat Hayat | 29.12.69 | Kohat | 10th | 09.07.90 | 16.01.2008 | 28.12.2029 | |
| 37. Haq Nawaz | 06.01.59 | Mansehra | 10th | 01.12.81 | 08.08.2009 | 05.01.2019 | |
| 38. Muhammad Javed | 11.09.64 | Peshawar | 10th | 01.10.83 | 11.12.2012 | 10.09.2024 | Assigned revised/inter-se-seniority. |
| 39. Muhammad Aslam | 18.05.65 | Banna | 10th | 06.10.85 | 02.12.2009 | 17.05.2025 | |
| 40. Dildar Hussain | 20.06.62 | Kohat | 10th | 10.12.87 | 05.06.2009 | 19.06.2022 | |
| 41. Muhammad Fahim | 10.03.66 | Mardan | 10th | 02.03.88 | 05.06.2009 | 09.03.2026 | |

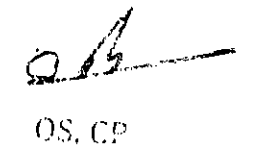

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(41)

| S/NO | NAME | DATE OF BIRTH | DOMICILE | EDU: QUAL: | DATE OF APPOINTMENT | DATE OF PROMOTION AS SENIOR CLERK | DATE OF RETIREMENT | REMARKS |
|------|------------------|---------------|-----------------|------------|---------------------|-----------------------------------|--------------------|---------|
| 42. | Amjad | 21.04.65 | Mansehra | FA | 10.03.88 | 05.06.2009 | 20.04.2025 | |
| 43. | Muhammad Tayyub | 27.03.62 | Charsadda | 10th | 01.01.87 | 05.06.2009 | 26.03.2022 | |
| 44. | Muhammad Yousaf | 01.04.61 | Peshawar | 10th | 30.09.87 | 02.12.2009 | 31.03.2021 | |
| 45. | Muhammad ishtiaq | 12.01.67 | Abbottabad | 10th | 06.03.88 | 05.06.2009 | 11.01.2027 | |
| 46. | Sardar Alam | 02.10.63 | Charsadda | FA | 02.05.88 | 05.06.2009 | 01.10.2023 | |
| 47. | Sikandar Khan | 04.04.64 | Kohat | BA | 01.08.88 | 08.08.2009 | 03.04.2024 | |
| 48. | Zahid Ullah | 04.03.69 | Peshawar | 10th | 01.08.88 | 08.08.2009 | 03.03.2029 | |
| 49. | Abdul Hakim | 28.10.63 | Swabi | FA | 16.08.88 | 05.06.2009 | 27.10.2023 | |
| 50. | Muhammad Nasir | 11.11.70 | Kohat | BA | 07.12.88 | 05.06.2009 | 10.11.2030 | |
| 51. | Jehanzeb Haideri | 04.06.65 | Peshawar | BA | 11.10.89 | 05.06.2009 | 03.06.2025 | |
| 52. | Muhammad Riaz | 08.09.63 | Peshawar | 10th | 08.08.88 | 05.06.2009 | 07.09.2028 | |
| 53. | Inayat Ullah | 10.04.67 | Malakand Agency | D.Com | 11.10.89 | 06.05.2009 | 09.04.2027 | |
| 54. | Sibghatullah | 08.05.64 | Bannu | 10th | 30.10.89 | 02.12.2009 | 07.05.2024 | |
| 55. | Alamzeb | 11.09.67 | Mansehra | 10th | 16.01.90 | 05.06.2009 | 10.09.2027 | |
| 56. | Muhammad Bashir | 02.01.71 | Mansehra | 10th | 16.06.90 | 05.06.2009 | 01.01.2031 | |

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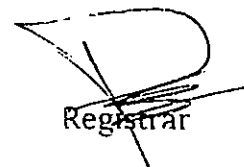
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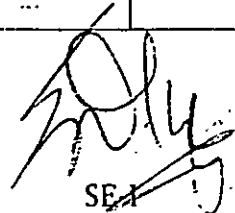
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(42)

| S/NO | NAME | DATE OF BIRTH | DOMICILE | EDU. QUAL. | DATE OF APPOINTMENT | DATE OF PROMOTION AS SENIOR CLERK | DATE OF RETIREMENT | REMARKS |
|------|------------------|---------------|-----------------|------------|---------------------|-----------------------------------|--------------------|---------|
| 42. | Amjad | 21.04.65 | Mansehra | FA | 10.03.88 | 05.06.2009 | 20.04.2025 | |
| 43. | Muhammad Tayyub | 27.03.62 | Charsadda | 10th | 01.01.87 | 05.06.2009 | 26.03.2022 | |
| 44. | Muhammad Yousaf | 01.04.61 | Peshawar | 10th | 30.09.87 | 02.12.2009 | 31.03.2021 | |
| 45. | Muhammad Ishtiaq | 12.01.67 | Abbottabad | 10th | 06.03.88 | 05.06.2009 | 11.01.2027 | |
| 46. | Sardar Alam | 02.10.63 | Charsadda | FA | 02.05.88 | 05.06.2009 | 01.10.2023 | |
| 47. | Sikandar Khan | 04.04.64 | Kohat | BA | 01.08.88 | 08.08.2009 | 03.04.2024 | |
| 48. | Zaid Ullah | 04.03.69 | Peshawar | 10th | 01.08.88 | 08.08.2009 | 03.03.2029 | |
| 49. | Abdul Hakim | 28.10.63 | Swabi | FA | 16.08.88 | 05.06.2009 | 27.10.2023 | |
| 50. | Muhammad Nasir | 11.11.70 | Kohat | BA | 07.12.88 | 05.06.2009 | 10.11.2030 | |
| 51. | Jehanzeb Haideri | 04.06.65 | Peshawar | BA | 11.10.89 | 05.06.2009 | 03.06.2025 | |
| 52. | Muhammad Riaz | 08.09.63 | Peshawar | 10th | 08.08.88 | 05.06.2009 | 07.09.2028 | |
| 53. | Inayat Ullah | 10.04.67 | Malakand Agency | D.Com | 11.10.89 | 06.05.2009 | 09.04.2027 | |
| 54. | Sitghatullah | 08.05.64 | Bannu | 10th | 30.10.89 | 02.12.2009 | 10.05.2024 | |
| 55. | Alamzeb | 11.09.67 | Mansehra | 10th | 16.01.90 | 05.06.2009 | 10.09.2027 | |
| 56. | Muhammad Bashir | 02.01.71 | Mansehra | 10th | 16.06.90 | 05.06.2009 | 01.01.2031 | |


Registrar


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(43)

| NO | NAME | DATE OF BIRTH | DOMICILE | EDUC. QUAL. | DATE OF APPOINTMENT | DATE OF PROMOTION AS SENIOR CLERK | DATE OF RETIREMENT | REMARKS |
|-----|-----------------|---------------|-----------|------------------|---------------------|-----------------------------------|--------------------|---------|
| 314 | Bilal Hussain | 06.01.80 | Peshawar | BA | 12.06.2009 | 22.07.2013 | 05.01.2040 | |
| 315 | Iftikhar Ahmad | 16.03.86 | Charsadda | BA | 12.06.2009 | 22.07.2013 | 15.03.2046 | |
| 316 | Malik Aman Khan | 06.05.85 | Nowshera | B.Sc | 12.06.2009 | 22.07.2013 | 15.05.2045 | |
| 317 | Saif ud Din | 10.08.84 | Kohat | F.Sc | 12.06.2009 | 22.07.2013 | 09.08.2044 | |
| 318 | Farman Ali | 11.03.87 | Shangla | FA | 12.06.2009 | 22.07.2013 | 10.03.2047 | |
| 319 | Muhammad Nawaz | 03.03.71 | Dir Upper | BA | 12.06.2009 | 22.07.2013 | 07.03.2031 | |
| 320 | Muhammad Haroon | 27.07.90 | DIKhan | 10 th | 12.06.2009 | 22.07.2013 | 26.07.2050 | |
| 321 | Kifayat Ullah | 14.03.88 | Bannu | FA | 12.06.2009 | 22.07.2013 | 13.03.2048 | |
| 322 | Muhammad Shoaib | 05.04.88 | Lakki | B.Sc (honors) | 12.06.2009 | 22.07.2013 | 04.04.2048 | |
| 323 | Jalal ud Din | 22.02.84 | Lakki | FA | 12.06.2009 | 22.07.2013 | 01.02.2044 | |
| 324 | Irfanullah | 08.04.89 | Lakki | F.Sc | 12.06.2009 | 22.07.2013 | 07.04.2049 | |
| 325 | Harooq Shah | 07.04.85 | Charsadda | MA | 12.06.2009 | 22.07.2013 | 06.04.2045 | |

(MIAN MUHAMMAD ASIF)
 Addl: IGP/Headquarters,
 For Provincial Police Officer,
 Khyber Pakhtunkhwa, Peshawar.


No. 4122-95 E-V, dated Peshawar, the 17 / 06 /2015.

Copy of above is forwarded for information and necessary action to the:-

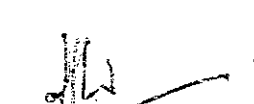
1. All Heads of Police Offices in Khyber Pakhtunkhwa.
2. All Branches in CPO, Peshawar.
1. Incharge, Central Registry Cell, CPO, Peshawar.

They are requested to inform all the officers serving under their command. Any officer who has any objection regarding his seniority/missing of name/date of birth etc. he must submit his representation within one month after the issuance of the list. otherwise no representation will be entertained.

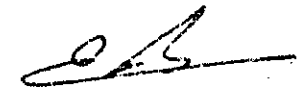

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SE-IV


OS, CP

BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.750 of 2016.

Fazal Khaliq S/O Amirdullah Khan R/O Village Kuju,

Tehsil and District Chitral,

Presently serving as Senior Clerk Dir UpperAppellant

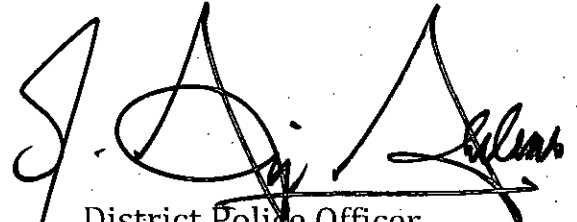
Versus

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police (H.Qrs) Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer Malakand, Swat
4. District Police Officer (DPO) Chitral

.....Respondents

Index

| S.No. | Description of Documents | Annex | Pages |
|-------|---------------------------------|-------|-------|
| 1 | Para wise comments | - | 1,2 |
| 2 | Authority Letter | - | 3 |
| 3 | Affidavit | - | 4 |
| 4 | Counter Affidavit. | - | 5 |
| 5 | Court decision dated 24.04.2007 | A | - |
| 6 | Amended order dated 25.07.2009 | B | - |


District Police Officer,
Chitral

BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.750 of 2016.

Fazal Khaliq S/O Amirdullah Khan R/O Village Kuju,

Tehsil and District Chitral,

Presently serving as Senior Clerk Dir UpperAppellant

Versus

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police (H.Qrs) Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Malakand, Swat
4. District Police Officer (DPO) Chitral

.....Respondents

Parawise Comments on behalf of Respondents No.1 to 4

Preliminary objections:-

- (1) That the appellant has got no locus standi to institute the present appeal.
- (2) That the applicant has not come to the Tribunal with clean hands.
- (3) That the appeal is bad in the eye of Law due to misjoinder/ nonjoinder of necessary parties as the appellant has not made party his other colleagues granted seniority.

On facts:-

- (1) No comments as the para relates to Service record.
- (2) That para No.2 is admitted as correct.
- (3) That para No.3 is also admitted as correct.
- (4) That para No. 4 is correct to the extent that on the conclusion of trial the appellant was acquitted, but he was acquitted on **benefit of doubts** and not acquitted **honorably**. Copy of Court decision is attached as annexure "A"
- (5) That para No.5 pertains to record.
- (6) That the para No.6 is correct to the extent that his departmental punishment order was amended/corrected in light of honorable Tribunal decision dated 25.02.2009 and since the Tribunal decision had been implemented, hence there was nothing further to do on the part of respondents, hence his irrelevant representation/application were not entertained. Amended order of Respondents No.2 is attached as (annexure..... "B")
- (7) That para No.7 is admitted to the extent that the appellant had made representation for his seniority, but he being departmentally convict lost his seniority and hence the same were not considered till further.
- (8) That para No.8 is correct to the extent that the appellant was promoted during the pendency of S.A 1102/2014, upon which the appellant withdraw his Service appeal, but his promotion notification was prospective in nature which in no sense had entitled the appellant to get any back benefits and withdrawal of the Service appeal was his own mistake.
- (9) That para 9 is denied. Reply is as in para No.8.
- (10) That by reason stated in para No.8 and 9, the appellant has lost any locus standi to pray and get any seniority and back benefits and his prayer at this stage is time barred also.

On grounds:-

- A. That para A is incorrect and denied. The appellant has been treated according to law.
- B. That para B is not correct. The appellant has lost his seniority when departmentally convicted and later on he has been promoted and justice has been done with him.
- C. That para C is incorrect. The punishment order dated 25.07.2009 has been upheld by this honorable Tribunal by making some amendment in it.
- D. That para D is irrelevant and denied. He has been already promoted after his departmental conviction and his Court acquittal on benefit of doubt is of no use for him to get any benefits.
- E. That para E is incorrect. The appellant is enjoying/getting all Service benefit as Senior Clerk. What he has suffered is due to his own fault and illegal involvement in criminal activity, which the law and the constitution forbids.
- F. The reply is given above the promotion of the appellant has been ordered at its time and not the result of Tribunal proceeding or any its direction. The appellant had lost his seniority order when he was punished and as a result his other colleagues had superseded him.

His promotion order has got no retrospective effect, therefore no question of back benefit arises.

- G. That para G is incorrect. The appellant has not challenged the notification, nor made his other colleagues as party.

In the light of referred notification the appellant has withdrawn his Service Appeal No.1102/2014.

- H. That para H is incorrect. The appellant was involved in case FIR No.42 dated 02.02.2005 u/s 419/420/204/217 PPC PS Chitral, he remained in Jail and later on acquitted on **benefit of doubt**. He has been departmentally punished which has been upheld by this honorable Tribunal with some modification.
- I. That I is correct the appellant has been promoted at its proper time and nothing injustice has been done with him.
- J. The respondents also seek permission to raise additional grounds at the time of arguments.

Prayer:

In light of these facts it is prayed that the appeal may be dismissed with cost.

1. Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar.

2. Additional Inspector General of Police
(H.Qrs) K.P.K Peshawar.

3. Regional Police Officer,
Malakand Saidu Sharif Swat.

4. District Police Officer (DPO) Chitral

BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.750 of 2016.

Fazal Khaliq S/O Amirdullah Khan R/O Village Kuju,

Tehsil and District Chitral,

Presently serving as Senior Clerk Dir UpperAppellant

Versus

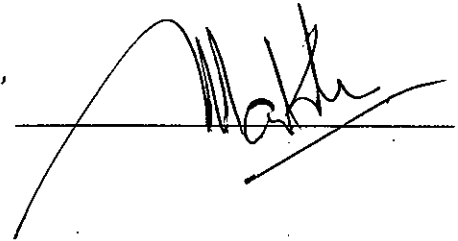
1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police (H.Qrs) Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Malakand, Swat
4. District Police Officer (DPO) Chitral

.....Respondents

Authority Letter.

HC Mubashir Hassan Reader, legal Branch of District Police Chitral is hereby authorized/deputed to proceed to the office of Govt: Pleader, Service Tribunal, KPK, Peshawar in connection with the vetting of Service Appeal No.750/2016 titled Fazal Khaliq S/O Amirdullah Khan R/O Village Kuju, Tehsil and District Chitral VS Inspector General of Police Khyber Pakhtunkhwa, etc.

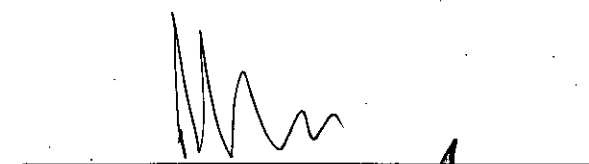
1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.



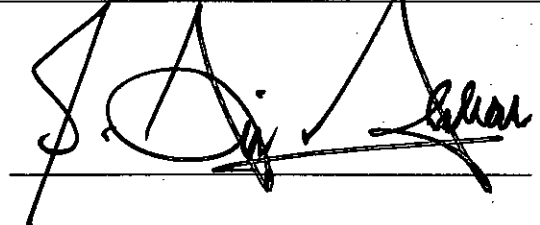
2. Additional Inspector General of Police (H.Qrs) K.P.K Peshawar.



3. Regional Police Officer, Malakand Saidu Sharif Swat.



4. District Police Officer (DPO) Chitral



.....Respondents

BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.750 of 2016.

Fazal Khaliq S/O Amirdullah Khan R/O Village Kuju,

Tehsil and District Chitral,

Presently serving as Senior Clerk Dir UpperAppellant

Versus

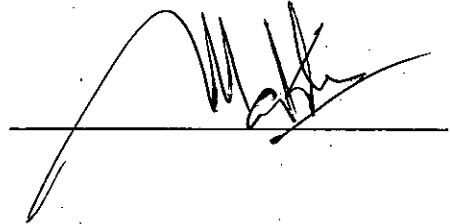
1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
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3. Regional Police Officer, Malakand, Swat
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.....Respondents

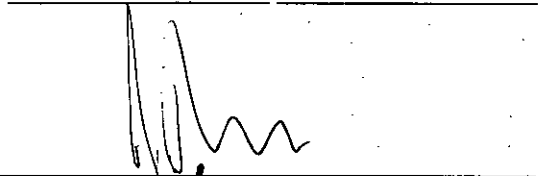
Affidavit

We the following respondents do hereby solemnly affirm that the contents of Parawise comments are true to the best of our knowledge and belief and nothing has been concealed from the Honorable Tribunal.

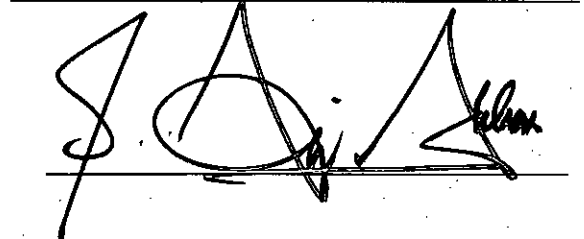
1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.



2. Additional Inspector General of Police (H.Qrs) K.P.K Peshawar.



3. Regional Police Officer, Malakand Saidu Sharif Swat.



4. District Police Officer (DPO) Chitral

.....Respondents

(5)

BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.750 of 2016.

Fazal Khaliq S/O Amirdullah Khan R/O Village Kuju,

Tehsil and District Chitral,

Presently serving as Senior Clerk Dir UpperAppellant

Versus

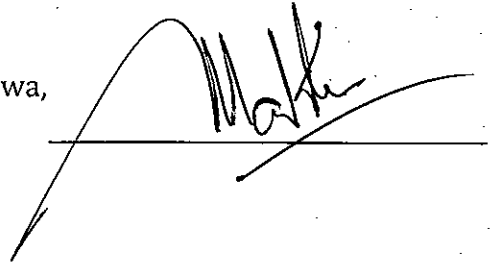
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2. Additional Inspector General of Police (H.Qrs) Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Malakand, Swat
4. District Police Officer (DPO) Chitral

.....Respondents

Counter Affidavit.

Verified that the contents of Parawise comments/ reply are true and correct and noting have been concealed from the tribunal.

1. Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.



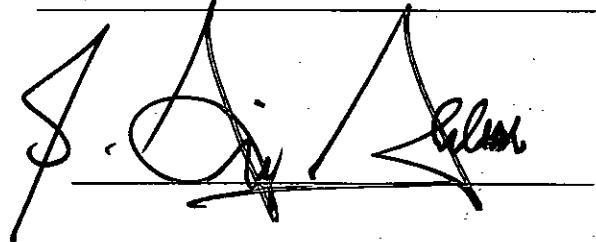
2. Additional Inspector General of Police (H.Qrs) K.P.K Peshawar.



3. Regional Police Officer, Malakand Saidu Sharif Swat.



4. District Police Officer (DPO) Chitral



.....Respondents

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یہ لہ مذکورہ بالا کلرک پابند ضمانت بھی ہو چکا ہے۔ یہ کہ مذکورہ بالا اشخاص کے خلاف دعوہ کیے اور فراڈ سے سرکاری ریکارڈ غائب کرنے اور اپنی فرائض منصبی میں غفلت برتنے کے جرم میں تعزیرات پاکستان کے تحت قانونی کارروائی عمل میں لانے کا حکم صادر فرما کر مشکور فرمائیں۔

درخواست مذکورہ تھانہ چترال بھیجنے پر برخلاف ملزم وڈ سپر اسم نامعلوم دفتر PI چترال مقدمہ ہذا برائے علت نمبر 42 مورخہ 02/02/2005، جرم 02/02/2005، جرم PPC 419/420/204/217/34 قائم کیا جا کر موقع پر رکی و قانونی کارروائی کی تکمیل پر چالان مکمل برخلاف ملزم فضل خالق مورخہ 13/04/2005 کو داخل عدالت کیا گیا۔

مورخہ 20/09/2005 کو ملزم فضل خالق پر فرد جرم عائد کیا گیا تو ملزم نے اعتراف جرم سے انکاری ہوا تو شہادت استغاثہ کو طلب کیا جا کر بیان عنایت اللہ انسپیکٹر کو بطور 1-PW، میر آدم خان DHC تھانہ چترال کو بطور 2-PW، میر صوات خان سب انسپیکٹر تھانہ چترال کو بطور 3-PW، کنشیل محمود غزنوی نمبر 584 دفتر DPO چترال کو بطور 4-PW، کنشیل آ میر علی شاہ نمبر 183 چوکی شہریت کو بطور 5-PW، کنشیل فیض الرحمن نمبر 332 ریڈر ٹو PI چترال کو بطور 6-PW، فضل نبی چترال DPO آفیس چترال کو بطور 7-PW، بحراب علی خان ولد تاج محمد خان سکنہ کچو کو بطور 8-PW، میر الدین ولد یوسف خان سکنہ کچو کو بطور 9-PW اور ظفر احمد ولد شیر وزیر سکنہ راغ کا بیان بطور 10-PW قلمبند کیا گیا۔ جبکہ وکیل سرکار نے گواہان محمد رحیم بیگ، رحمت خان اور شیر احمد کو غیر ضروری قرار دے کر ترک کئے اور گواہان استغاثہ کی تکمیل پر بیان ملزم زیر دفعہ 342 ض ف قلمبند کیا گیا۔ ملزم نے بیان برحلف اور صفائی پیش نہ کرنے کا عندیہ دیا۔

دلائل فاضل وکیل سرکار اور وکیل صفائی کو تفصیل سے سنا اور مثل مقدمہ کا باریک بینی سے ملاحظہ کیا گیا۔ ملاحظہ مثل سے عیاں ہے کہ ملزم کے خلاف مقدمہ ہذا بدین وجہ دائر کیا گیا کہ ملزم نے مثل مقدمہ علت نمبر 315 مورخہ 22/08/2004، جرم (i) PPC 149/148/147/324/337 تھانہ چترال کو عدالت پشاور ہائیکورٹ پشاور مرسل کرتے ہوئے مثل مذکور سے نقشہ ضرر و دیگر اہم

دستاویزات اس نیت کے ساتھ غائب کئے تاکہ ملزم ذوالفقار کا ضمانت پشاور ہائیکورٹ پشاور سے ہو سکے۔ مقدمہ ہذا کو ثابت کرنے کیلئے استغاثہ کی طرف سے کم ذمہ دس گواہان پیش ہوئے لیکن کسی گواہ نے یہ ذکر نہیں کیا کہ اس نے ملزم کو مثل مذکور سے نقشہ ضرر وغیرہ نکالتے ہوئے دیکھا ہے۔ بیان کنشیل فیض الرحمن نمبر 332 ریڈر ٹو PI (6-PW) سے عیاں ہے مثل مذکور علت نمبر 315 مورخہ 23/11/2004 کو PI آفیس میں موصول ہوا اور مورخہ 07/12/2004 تک اسکے پاس

P کے میز پر پڑا رہا اور مورخہ 07/12/2004 کو پشاور ہائیکورٹ پشاور سے مثل مذکور کی طلبی کی۔ تو PI نے کورینگ لیٹر دستخط کر کے اس نے ریکارڈ برائے اس پر محمد غزنوی سے ڈسپچ نمبر لگا

TELETYPE COPY

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Annex. B

ORDER

... preferred by Junior Clerk Fazal Khaliq against the order of punishment of reduction to a time scale issued vide this office Encl. No. 731-55/13-III dated 08.10.2005 was dismissed by the Service Tribunal for finding no other any merit. The Court observed that there is nothing on record to show that the lower time scale for the junior clerk & there was not only one time scale for the respondents therefore have to correct the impugned order to this extent from the date of issuance.

Therefore the above order is amended and the Junior Clerk is reduced to the pay scale of his existing pay scale from the date of issuing of the order date 08.10.2005.

mm
(ABDUL MAJEED KHAN MARWAT)
PSP
Addl. IGP/IGs
For Provincial Police Officer,
NWFP, Peshawar

8784-86

Encl. III, dated Peshawar 25/7/2009

Copy of above is furnished for information and necessary action.

- 1 Deputy Inspector General of Police Malakand Region III Swat.
- 2 District Police Officer Chitral alongwith a copy of Court decision.
- 3 Office Supdt: Secy: CPZ.

MA Current Record

EC
For information
[Signature]
DISTRICT POLICE OFFICER
CHITRAL
11/8

TRUE COPY
[Signature]

Before The Khyber Pachtunkhwa Service
Tribunal Peshawar.

Service appeal No 750/2016.


Fazal Kheliq, vs. IGP and others.

Receipt of receiving an
Amount of Rs. 1000/-
Fine imposed on the
respondents. The above
mentioned amount has been
received today i.e. 6/4/2017.
by the counsel for the
Appellant.

dt 6/4/2017



Attested
06.04.17

Counsel for
the appellant


Aman Ali Shah

Utmanchah

Adv.

| | | | |
|---------|-----------------------------|--|-------|
| 50 روپے | ایڈوکیٹ: |   | 41340 |
| | بار کونسل ایسوسی ایشن نمبر: | | |
| | رابطہ نمبر: | | |
| | | پشاور بار ایسوسی ایشن، خیبر پختونخواہ | |

بعدالت جناب:

| | |
|------------------------|--------------------|
| منجانب: فصل خالین | دعویٰ: اپیل 750/16 |
| | علت نمبر: |
| | مورخہ: |
| | جرم: |
| | تھانہ: |
| باعث تحریر آنکہ | |

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام پشاور کیلئے جمہور علی خان ریسرو کیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم:

العبد _____ واہ شد _____ العبد

مقام _____ کے لیے منظور ہے۔

Attested & Accredited

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔