

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In S.A 84/2023

Falak Naz Khan

Versus

Govt of Khyber Pakhtunkhwa & Others

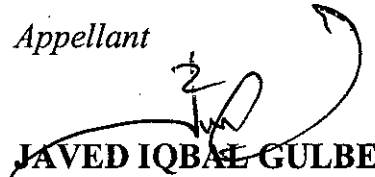
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1.	Rejoinder		
2.	Affidavit.		

Dated: 30/10/2023

*Appellant*

Through

  
**JAVED IQBAL GULBELA,**  
Advocate, Supreme Court of  
Pakistan

**Off Add: B-1, Al-Nimrah Centre, Govt College Chowk Peshawar**

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Khyber Pakhtunkhwa  
Service Tribunal

Case No. 8747

Dated: 1-11-23

**REJOINDER ON BEHALF OF THE APPELLANT TO THE**  
**COMMENTS FILED BY THE RESPONDENTS.**

**Respectfully Sheweth,**

**Reply to Preliminary Objections:**

1. Incorrect hence denied. Appellant has got good cause of action and prima-facia case.
2. Para No. 2 is incorrect. Appeal is maintainable and the appellant rightly came to this Hon'ble Tribunal for recognition and enforcement of his right.
3. Incorrect and denied. Moreover reply is given in above para.
4. Incorrect and denied. Moreover the appeal is in time.
5. Incorrect and misleading hence denied. Moreover the instant appeal is regarding (Promotion) and not about Up-gradation, while the case to hear decide therein about promotion is the exact jurisdiction of the Service Tribunal. Having no concerned with those hinted apex court Judgment.

**On Facts:**

1. No comments are necessary; hence, no further elaboration is required.
2. No comments, pertaining to record.
3. That the department concerned confessed the reality. Hence, no further elaboration is required.
4. That the correctness of this statement is acknowledged, and no further comment is needed.
5. No comments. Pertaining to record.
6. Incorrect hence denied. The appellant's sole demand is promotion, which aligns with the Government of Khyber Pakhtunkhwa Promotional Rules, the department's view on irrelevant means does not hold.

7. Incorrect and denied. After the 18th Constitutional amendment in 2011, which devolved power to the provincial government of KPK, the appellant found himself in a challenging situation due to the absence of service structure and rules. The employee should not bear the penalty for the department's inaction. The appellant was promoted to BS-18 under the Federal Government's 4-tier Formula structure in 2008, and the provincial government's lack of action is evident.
8. Incorrect. The appellant has been a civil servant in NWFP since October 16, 1993, and continued this status. In 2018, the appellant was absorbed in the province, but the devolution to the province occurred on April 1, 2011, as per the constitutional amendment. The department's lack of seriousness in addressing employee concerns is noted.
9. Incorrect. The appellant's sole demand is Promotion, and the 4-tier formula structure adopted by the Federal Government is not relevant to the department of Social Welfare & Special Education of KPK.
10. Incorrect hence denied. The department's conflicting statements do not change the core issue, which is Promotion under the provincial government policy of 2009, as enclosed with the case.
11. Incorrect. The factual position was explained in preceding para.
12. Incorrect hence denied. Reply already given in the above para.

**On Grounds:**

- A. No comments.
- B. Incorrect, hence denied. The factual position has been detailed in the preceding paragraphs.
- C. Incorrect, The points raised by the respondents in this paragraph are considered absurd, baseless, and irrelevant, as they do not pertain to the appellant's prayer in the suit.
- D. Incorrect and need no comments. Factual position has been elaborated in the previous para.

- E. Need no comments. Reply already is given.
- F. Incorrect and is denied. While the appellant assumed the charge of BS-17 in August 2001 and was promoted to BS-18 by the Federal Government, it is important to note that this was under the purview of the Federal Government, not the KPK government. The appellant's government service began on October 16, 1993, and, based on provincial service rules, is fully eligible for promotion to BS-20 in 2015 after a long period of active service.
- G. Incorrect, hence denied. Need no comments.
- H. Incorrect.
- I. No comments.

*It is, therefore, humbly prayed that on acceptance of the instant rejoinder, the appeal of the Appellant may graciously be allowed, as prayed for therein.*

Dated: 30/10/2023.

Through

Appellant

Javed Iqbal Gulbela  
ASC

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**AFFIDAVIT**

I, **Falak Naz Khan**, do hereby solemnly affirm and declare on oath that contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

Deponent *Falak Naz Khan*  
CNIC: 14301-2070052-7

Identified By:-

**Javed Iqbal Gulbela**  
**Advocate Supreme Court**  
**Of Pakistan**

*Javed Iqbal Gulbela*  
30/10-23