

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

Service Appeal No. 1162/2023

Usman Ali

.....

Appellant

Versus

Govt. of Khyber Pakhtunkhwa etc

.....

Respondents

**INDEX**

S.No	Name of Documents	Annexure	Page No.
01	Parawise Comments		1-2
02	Affidavit		3
03	Notification for amendment in the Service Rules for the post of Junior Clerk by the Law Department Khyber Pakhtunkhwa	"A"	4-5
04	Authority letter		126

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL****PESHAWAR.**

Service Appeal No 1162/2023

Usman Ali

.....Appellant.

**VERSUS**

Advocate General KhyberPakhtunkhwa&amp; Others

...Respondents

**COMMENTS ON BEHALF OF RESPONDENTS NO 1& 2****Respectfully Submitted:-****Preliminary Objections:**

1. That the appellant has got no cause of action and locus standi to file instant appeal.
2. That the Instant appeal is not maintainable in its present form.
3. That the appellant is estopped by his own conduct to bring instant appeal.
4. That the appellant has not come to this honorable Tribunal with clean hands.
5. That the appellant has concealed material facts from this honorable Tribunal.
6. That this honorable Tribunal has got no jurisdiction to entertain and adjudicate upon the matter.
7. That the appeal is bad due to non-joinder and miss-joinder of necessary parties.
8. That appeal of the appellant is time barred.

**PARAWISE COMMENTS ON FACTS**

1. Para No 1 pertains to the service record of the appellant.
2. Para No 2 is incorrect as the name of the appellant is placed at Serial No 48 and not at Serial No 43.
3. Para No 3 pertains to record.
4. In reply to Para no 4, it is submitted that in service appeal No 652/2023 the appellant claimed his ssc examination in the year 2017 whereas in the instant appeal the appellant says that he has passed ssc examination in the year 2015 which are self-contradictory statement on his part.
5. Para 5 pertains to record hence no comments.
6. Para 6 pertains to record hence no comments.
7. Para No 7 is correct to the extent of mentioned rules, however according to the "Note" mentioned "for the purpose of promotion, there shall be maintained **common seniority list with reference to the date of acquiring the Intermediate Certificate**", which qualification was previously SSC. (Copy of rules is Annexure-A)
8. Para 8 pertains to record hence no comments.
9. Para 9 pertains to record hence no comments.
10. Para 10 pertains to record hence no comments.
11. Para 11 pertains to record hence no comments.

Khyber Pakhtunkhwa  
Service Tribunal

8954

Date: 10-11-2023

12. Para 12 pertains to record hence no comments.
13. Para under reply correct to the extent of promotion of private respondents, while rest of the Para is incorrect, as according to rules, the seniority list is to be maintained with reference to the date of acquiring Intermediate Certificate, as the private respondents had acquired the requisite qualification prior to the appellant, thus they were placed senior to the appellant, and were promoted according to their seniority.
14. Para 14 pertains to record hence no comments.
15. Para to the extent of departmental appeal pertains to record. However the promotion order of private respondent was issued by the competent authority on recommendation by the departmental committee held on 30/09/2022 hence the appellate has no cause of action.

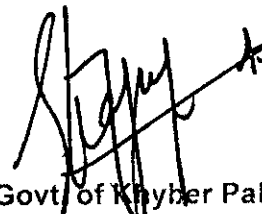
**REPLY TO GROUNDS:**

- A. Incorrect. The appellant is not senior to private respondents as according to rules, seniority list was maintained with reference to the date of acquiring requisite qualification.
- B. Incorrect. The appellant was not in promotion zone as per seniority list mentioned by the official respondents.
- C. Incorrect. The appellant was treated in accordance with relevant law and rules and has never been deprived of promotion.
- D. As stated in above Paras, the seniority list was prepared with reference to the date of acquiring of Intermediate certificate.
- E. Incorrect. Rules on the subject are very much clear which are never objected.
- F. The respondents Seek leave to raise additional grounds during the course of arguments.

**It is therefore prayed that appeal of the appellant may kindly be dismissed with heavy costs.**



Amir Javed  
Advocate-General,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 1)



Secretary to Govt of Khyber Pakhtunkhwa,  
Law Department Peshawar

(Respondent No.2)  
Shagufta Naveed

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

Service Appeal No. 1162/2023

Usman Ali

.....

Appellant

**VERSUS**

Govt. of Khyber Pakhtunkhwa & others .....

Respondents

**AFFIDAVIT**

I, Habib Anwar, Additional Advocate General, Khyber Pakhtunkhwa Services Tribunal, Peshawar do hereby solemnly affirm and declare on oath that the contents of the **parawise comments** on behalf of **Respondents No. 1 & 2** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*Habib Anwar*

Deponent

CNIC # 16201-1280869-9

Habib Anwar,

Additional Advocate, General,

Khyber Pakhtunkhwa

Service Tribunal, Peshawar.



17

4

29



**GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT**

2425-32

1817  
01/03/2021

92  
01/03/2021

**NOTIFICATION**

Peshawar dated the 25.02.2021

**No. E&A/LD/2-12/2020.**

In exercise of the powers conferred by sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Law, Parliamentary Affairs and Human Rights Department, in consultation with the Establishment and the Finance Department, hereby directs that in the Khyber Pakhtunkhwa Office of Advocate General (Recruitment and Appointment) Rules, 1981, the following further amendment shall be made, namely:

**AMENDMENT**

In the Appendix, against Serial No. 9, in Columns No. 3 and 6, for the existing entries, the following shall be substituted, namely:

3	6
<p>(i) At least Second Class Intermediate Certificate or equivalent qualification from a recognized Board; and</p> <p>(ii) a speed of thirty (30) words per minute in typing.</p> <p><i>Amended</i></p> <p><i>Amended</i></p> <p>Senior Administrative Officer Advocate General Office Khyber Pakhtunkhwa Peshawar</p>	<p>(a) Forty percent (40%) by promotion, on the basis of seniority-cum-fitness, from amongst the Daftaris, Naib Qasids and other officials having equivalent posts with two years service as such and having qualification prescribed for initial recruitment; and</p> <p>(b) sixty percent (60%) by initial recruitment.</p> <p><b>Note:</b> For the purpose of promotion, there shall be maintained a <u>common seniority list</u> of Daftaris, Naib Qasids and other officials having equivalent posts with reference to the dates of their acquiring the Intermediate Certificate:</p> <p>Provided that-</p> <p>(i) if two or more officials have acquired Intermediate Certificate in the same session, the inter-se seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post; and</p> <p>(ii) where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior</p>

Am

(12) (5)

		Provided further that the condition of Intermediate Certificate or its equivalent qualification from a recognized Board as laid down at clause (a) shall not apply till the expiration period as specified in Column No. 5 against Serial No. 4 of the Establishment Department's amendment Notification No. SOE.IV (E&AD)1-35/2014, dated: 18-07-2019, to the existing matriculate incumbents of the posts of Daftaris, Naib Qasids and official of other equivalent posts for promotion to the post of Junior Clerk (BPS-11)."
--	--	--

Secretary to Government of the Khyber Pakhtunkhwa  
Law, Parliamentary Affairs and Human  
Rights Department

No.E&A/LD/2-12/2020

Peshawar, dated the 25.02.2021

Copy forwarded for information to the:-

1. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa.
3. Director of Archives and Libraries, Khyber Pakhtunkhwa Peshawar.
4. Registrar, Peshawar High Court, Peshawar.
5. Advocate General, Khyber Pakhtunkhwa.
6. Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
7. District Accounts Officers.
8. Manager, Government Printing Press, Khyber Pakhtunkhwa for publication in Government Gazette. He is requested to send ten (10) copies of the same to this Department.
9. Librarian, Establishment/Administration Department, Khyber Pakhtunkhwa.
10. Senior Librarian, Law Department with the request to kindly upload the same in the official website.
11. P.S. to Chief Secretary, Khyber Pakhtunkhwa.
12. P.S. to Minister for Law, Parliamentary Affairs and Human Rights Khyber Pakhtunkhwa.
13. PS to Secretary, Law, Parliamentary Affairs and Human Rights Department.
14. PA to Legal Drafter Law, Parliamentary Affairs and Human Rights Department.

*Asst. Secy*  
*Asst. Secy*

Senior Administrative Officer  
Advocate General Office,  
Khyber Pakhtunkhwa Peshawar

*Aurangzeb*  
(AURANGZEB)  
SECTION OFFICER (GENERAL)

126

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No 1162/2023

Usman Ali

.....Appellant.

**VERSUS**

Advocate General Khyber Pakhtunkhwa & Others

...Respondents

**AUTHORIZATION FOR SUBMISSION OF PARAWISE COMMENTS ON BEHALF OF  
RESPONDENTS IN THE ABOVE TITLED APPEAL.**

Mr. Habib Anwar, Additional Advocate General, Khyber Pakhtunkhwa, Service Tribunal is hereby authorized to appear before the Khyber Pakhtunkhwa Service Tribunal Peshawar in the titled service appeal and also submit Para wise comments in the subject Service Appeal on behalf of respondents.



**(JALAL UD DIN AKBAR AZAM GARA)**

**A. ADVOCATE GENERAL KHYBER PAKHTUNKHWA**