

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

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 615 / 2022

Diary No. 9079

Dated 15-11-23

*Azam Ali Khan S/O Abdul Ghaffar, Junior Clerk / Muharrir (BPS-11),
O/o District & Sessions Judge, Charsadda*

..... *Appellant*

VERSUS

The Registrar, Peshawar High Court, Peshawar and others

..... *Respondents*

**APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974 AGAINST THE APPELLATE ORDER DATED
29.10.2016**

Respectfully sheweth,



Para-wise comments on behalf of respondents No. 2 & 3, i.e.
District & Sessions Judge, Charsadda & Senior Civil Judge (Admin),
Charsadda are as follows:

Preliminary objections:

- Saw*
1. That the appellant has got no cause of action to file instant appeal.
 2. That the appeal of the appellant is barred by law and limitation.
 3. That the appeal is bad from mis-joinders and non-joinder of necessary parties.
 4. That the appellant has not come to this Hon'ble tribunal with clean hands.

On Facts:

1. The initial appointment order was passed at District Nowshera and respondents No.2 & 3 have no concern with the same.
2. No comments as not related to the respondents No. 2 & 3.
3. Related to record.

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4. Correct. However, contents of the said application itself would reflect that appellant's mind was not clear as to whether he solicited seniority from the post of Process Server or Naib Qasid.
 5. Correct to the extent that the appellant's name was inadvertently not included in the seniority list of 2003 which was rectified / updated in the seniority list 2006-2007, however, appellant due to his deep slumber had not challenged the seniority list of 2003 for want of inclusion of his name therein.
 6. Correct to the extent that appellant's name was mentioned in the seniority list of 2006-07. However, stance of the appellant that he was not considered for promotion in the year 2008 was due to the fact that said Departmental Promotion Committee Meeting dated 31.07.2008 was with regard to promotion of posts of Bailiffs only.
 7. Comments of respondent No.3 submitted to respondent No.2 are self-explanatory, hence need no further explanation.
 8. Response of Hon'ble Peshawar High Court, Peshawar dated 22.06.2010 to the application of appellant is very much clear that only Process Server and Bailiff can be promoted to the post of Naib Nazir while Naib Qasid to the post of Junior Clerk. The then learned SCJ, Charsadda vide order dated 19.07.2010 clarified that since there is no vacancy of the posts of Naib Nazir/Junior Clerk; therefore, the matter was kept pending till availability of vacancies.
 9. As mentioned earlier, a Naib Qasid cannot be promoted to the post of Naib Nazir, so application of the appellant dated 01.02.2014 is against the prescribed rules.
 10. Correct in the sense that there was no clear-cut direction in respect of separate or joint/common seniority list.
 11. No comments as the appellant himself admitted that his appeal was dismissed due to certain deficiencies.
 12. The seniority list was prepared in accordance with rules wherein the date of promotion / regular appointment in the cadre is taken into consideration for determining seniority. Moreover, the appellant has not objected upon the seniority list issued on 22.03.2022.
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Grounds:

- A. Incorrect. The appellant has been given due place in seniority list.
- B. It is incorrect. Every official is treated on equal footing in accordance with law and rules.
- C. It is incorrect.
- D. Correct to the extent of ambiguity as there were no clear-cut directions in this regard.
- E. Incorrect.
- F. Ground so raised is irrelevant to the case of appellant.
- G. Incorrect. No malafide can be reflected from the record.
- H. The appellant would be entitled if he succeeded in proving his stance.
- I. Not related as the same is discretion of the Tribunal.

In view of the above it is solicited that appeal of the appellant being devoid of merits and against the facts, may be dismissed with cost.

Respondent No. 3



Senior Civil Judge (Admin),
Charsadda.

Senior Civil Judge (Admin);
Charsadda

Sameer Bano

Respondent No.2



District & Sessions Judge,
Charsadda.

District & Sessions Judge
Charsadda

M. Asif Khan

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 615/2022.

Azam Ali Khan,

Appellant


VERSUS

The District & Sessions Judge, Charsadda and others.

Respondents

AFFIDAVIT

I, the undersigned do hereby solemnly affirm and declare that the contents of the reply of Appeal is true and correct to the best of my knowledge and this office record.


Muhammad Ali
Superintendent,
Sessions Court, Charsadda.

