

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

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9028

Dated 15-11-2023

Appeal No. 614 / 2022

Iftikhar Muhammad S/O Nisar Khan, 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:

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. Need no comments being facts on record.
2. Correct to the extent of preparation of separate seniority list in the establishment of respondent No. 3 in the seniority list of 2006-07, wherein appellant being junior most was positioned at the bottom.

However, none of his colleagues in the said seniority list were promoted to the post of Junior Clerk. Moreover, the promotion orders annexed by the appellant, being Naib Qasid, with regard to promotion of bailiffs to the post of Naib Nazir are irrelevant to him.

3. 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.
4. 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.
5. Correct in the sense that there was no clear cut direction in respect of separate or joint seniority list of both the establishments of respondents No.2 and 3. Even the Esta Code would provide the word "common seniority list" of different cadre of posts i.e. Chowkidar, Naib Qasid, Sweeper etc., but there is no mention of the word "joint seniority". Nonetheless, the Hon'ble High Court in response to the guidance sought by this office clarified the issue vide letter dated 18.04.2014 and joint seniority list was prepared where appellant was placed at position No.6.
6. No comments as the appellant himself admitted that his appeal was dismissed due to certain deficiencies.
7. 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.

Grounds:


- A. Totally incorrect. The appellant has been given due place in seniority list. Moreover, no objection was raised by the appellant to the seniority

list within the stipulated period and even appeal of the appellant is badly time barred.


- 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. Even the Esta Code would reflect the word "separate common seniority list" as no where the word "joint seniority list" was mentioned.
- E. Incorrect.
- F. Ground so raised is irrelevant to the case of appellant.
- G. Incorrect. No malafide can be reflected from the record. The appellant was in deep slumber. He never objected the separate seniority lists issued by respondents No.2 and 3. The appeal is badly time barred.
- 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
Saina Bano

Respondent No.2


District & Sessions Judge,
Charsadda.
Muhammad Asif Khan
District & Session Judge
Charsadda

Ifthikhar Muhammad

To

The Hon'ble Chairman,
KPK, Service Tribunal,
Peshawar.

Subject: REMISSION OF FINE

Dear Sir,

I have the honor to submit with reference to the order sheet dated 04.10.2023 in service appeal No. 614/2022 titled "Ifthikhar Muhammad Versus the District & Sessions Judge and others", wherein Rs. 2000/- fine was imposed due to delay in submission of reply of the said appeal. In this regard it is submitted that reply of the same was prepared in time, but a reasonable time has been spent in vetting process, therefore the reply was not submitted in time.

In view of the above it is submitted that fine may kindly be remitted, please.

Regards,

Sauw
Senior Civil Judge (Admn)
Charsadda.

MS SAUABANO
Senior Civil Judge (Admn) / JJK
Charsadda

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 614/2022.

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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.

