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REGISTERED
No. C.P. 5202/2021 &
C.M.A. 9796/2021 - SCJ
SUPREME COURT OF PAKISTAN

Islamabad, dated 11-11-2023

From The Registrar,
Supreme Court of Pakistan,
Islamabad.

To The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

No. 9187

Dated 17-11-23

Subject: **CIVIL PETITION 5202/2021 AND CMA.9796/2021**
Dr. Momin Khan

(in C.P.5202/2021)
(in C.M.A.9796/2021)

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar
and others

(in C.P.5202/2021)
(in C.M.A.9796/2021)

On appeal from the Order/Judgment of the Khyber Pakhtunkhwa
Service Tribunal Service Tribunal, Peshawar dated 28/06/2021 in
A.-622/2018

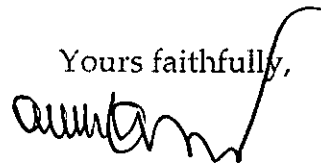
Dear Sir,

I am directed to enclose herewith a certified copy of the Order/Judgment
of this Court dated 12/10/2023 dismissing the above cited CPLA and disposing of the
CMA in the terms stated therein for information and further necessary action.

Please acknowledge receipt of this letter along with its enclosure
immediately.

Encl: Order/Judgment:

Yours faithfully,



(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Qazi Faez Isa, C.J.
Mr. Justice Amin-ud-Din Khan
Mr. Justice Athar Minallah

Civil Petition No.5202 of 2021 along with CMA No.9796 of 2021
(Against judgment dated 28.06.2021 of the Khyber Pakhtunkhwa Services Tribunal, Peshawar passed in Service Appeal No.622 of 2018) (CMA for impleadment of Dr. Muhammad Zafran and Dr. Khurshid Ali as proforma respondents Nos.5 & 6 respectively.)

Dr. Momin Khan ...Petitioner/applicant

Versus

Govt. Khyber Pakhtunkhwa thr.
Chief Secretary, Peshawar and others...Respondents

For the petitioner: Hafiz S. A. Rehman, Sr. ASC
Hafiz Hifzur Rehman, ASC

For the respondents: Not represented.

Date of hearing: 12.10.2023

ORDER

Qazi Faez Isa, C.J.

The learned counsel for the petitioner states that the petitioner was belatedly promoted and after his promotion he sought that it should take effect from the date the post had become vacant. However, the petitioner instead of filing appeal before the Khyber Pakhtunkhwa Services Tribunal (**'the Tribunal'**) filed a writ petition before the High Court, which was dismissed on the ground that the High Court lacked jurisdiction. By the time the petitioner approached the Tribunal considerable time had elapsed. The Tribunal dismissed the petitioner's appeal on the ground that it was time barred, and did not concede to his request to condone the delay in filing the appeal.

2. The learned counsel relied upon a judgment of a two-member Bench of this Court whereby appeals filed by the then government of N.W.F.P. were dismissed. We also confronted the learned counsel with the 'Promotion Policy' contained in the Establishment Code of the Khyber Pakhtunkhwa wherein it is stipulated that promotion is to be notified with immediate effect, and not from the date the post had become vacant. The Promotion Policy has not been challenged. The referred to judgment is not applicable since in that case the persons were holding officiating charge of the post to which they were subsequently promoted. In the

ATTESTED



Court Associate
Supreme Court of Pakistan
Islamabau

given circumstances, leave to appeal is declined and consequently the instant petition is dismissed.

CMA No.9796/2021:

In view of the fact that the CPLA has been dismissed, this CMA stands disposed of.

Sd/- - - - - HCS
Sd/- - - - - J
Sd/- - - - - J

Certified to be True Copy

**Court Associate
Supreme Court of Pakistan
Islamabad**

Islamabad
12.10.2023
M. Azhar Malik/•

25/10/23

