

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 1010/2015

Date of institution ... 11.09.2015

Date of judgment ... 07.11.2016

Mr. Amanullah,
District Comptroller of Accounts,
D.I.Khan.

... (Appellant)

VERSUS

1. The Gov: of Khyber Pakhtunkhwa through Chief Secretary, Gov: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Chief Secretary, Gov: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary, Finance Department, Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary, Establishment Department, Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
5. The District Treasuries & Accounts, Khyber Pakhtunkhwa Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, FOR GRANTING FULL PAY BENEFITS OF DISTRICT COMPTROLLER OF ACCOUNTS POST WITH EFFECT FROM 04.10.2013 TILL DATE AND ONWARDS AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

Mr. M.Asif Yousafzai, Advocate.

.. For appellant.

Mr. Muhammad Jan, Government Pleader

.. For respondents.

MR. MUHAMAMD AAMIR NAZIR

.. MEMBER (JUDICIAL)

MR. PIR BAKHSH SHAH

.. MEMBER(JUDICIAL)

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER: Amanullah, District Comptroller of Accounts; hereinafter referred to as appellant, has filed the instant appeal under section-4 of Khyber Pakhtunkhwa service Tribunal Act 1974 praying for grant of full pay benefits of the

As
07.11.16

post of District Comptroller of Accounts BPS-19 w.e.f 04.10.2013. The appellant filed departmental appeal in this respect but the same was not decided within the statutory period.

2. Brief facts of the case giving rise to the instant appeal are that the appellant joined the Treasury Department in the year 1985 and subsequently he was promoted to BPS-18. That the appellant has completed more than 20 years service in BPS-17 and BPS-18. That according to the rules, the post of District Comptroller of Accounts is to be filled by promotion on the basis of seniority-cum-fitness from amongst the holder of the post of Deputy Director Treasury/District Accounts Officer/Treasury Officer with 12 years' service in BPS-17 and above. That the appellant being BPS-18 officer, was posted as District Comptroller of Accounts in D.I.Khan vide order dated 18.09.2013 in his own pay and scale. That the appellant has been performing duties in higher responsibilities of BPS-19 post but despite that no monetary benefits have been granted to him. That the said post is vacant/ available since 04.10.2013 and the appellant is working on the post from the same date. That the appellant filed departmental appeal claiming financial benefits attached to the post of BPS-19 but the same was not decided within the statutory period, hence the instant appeal.

3. Learned counsel for the appellant argued before the court that the appellant being eligible for promotion to the post of District Comptroller of Accounts in BPS-19 yet he was posted to the said post in his own pay and scale without promotion. That the appellant is entitled for monetary benefits attached to the said post as per law but the same was denied to him. That the appellant filed a departmental appeal but the respondent-department has not considered the same. Learned counsel for the appellant submitted that the instant appeal be accepted and the respondents be directed to grant all monetary benefits (pay etc) attached to the post of District Comptroller of Accounts (BPS-19) with effect from 04.10.2013. That the respondents may further be directed to consider the appellant for regular promotion against that post w.e.f 04.10.2013 being qualified and eligible for the same and the post is also available since then.

07.11.16

4. The learned Government Pleader, while rebutting the arguments advanced by the learned counsel for the appellant argued before the court that the appellant is BPS-18 Officer and cannot claim financial benefits attached to the post of BPS-19. That since the appellant has been performing his duty as District Comptroller of Accounts in his own pay and scale, hence the instant appeal being devoid of any merits may be dismissed.

5. We have heard arguments of learned counsel for the appellant and learned Government Pleader for the respondents and have gone through the record available on file.

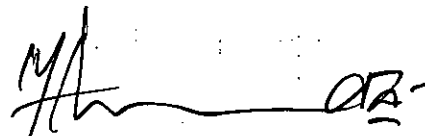
6. Perusal of the case file reveals that the appellant has been performing duties against the higher post that is the post of District Comptroller of Accounts BPS-19 from the year 2013 in his own pay scale as he is eligible and fit for the said post. As per Fundamental Rule-17, the appellant is entitled for pay/benefits of higher post during the period he holds the charge of the higher post. Similarly, in case of Secretary Finance-vs- Qazi Abdul Karim reported in 1978 SCMR 289, it was held by the apex court that the employee appointed/promoted to officiate in a higher post involving higher responsibilities held entitled to minimum pay of grade of higher post. Admittedly, the appellant is performing duties against a higher post therefore, as per rules and dictum of superior courts, he is entitled to the monetary benefits which should be extended to him without any hindrance. The pay of the higher post may be fixed presumptively with effect from the date the officer assumes charge of the higher post. In the above stated circumstances, we are constrained to accept the instant appeal on the above terms. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED

07.11.2016



(PIR BAKHSH SHAH)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

07.11.2016

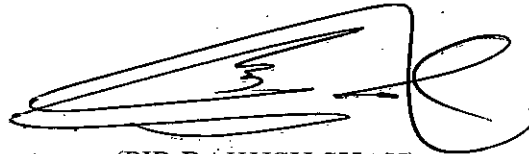
Counsels for the appellant and Mr. Muhammad Jan, GP for respondents present.

Vide our detailed judgment of today consists of three pages placed on file, admittedly, the appellant is performing duties against a higher post therefore, as per rules and dictum of superior courts, he is entitled to the ^{monetary} benefits which should be extended to him without any hindrance. The pay of the higher post may be fixed presumptively with effect from the date the officer assumes charge of the higher post. In the above stated circumstances, we are constrained to accept the instant appeal on the above terms. Parties are, however, left to bear their own costs. File be consigned to the record.

Announced
07.11.2016



(MUHAMMAD AAMIR NAZIR)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

23.02.2016

Appellant with counsel, M/S Irshad Muhammad, SO and Ihsanullah, Supdt. alongwith Addl: A.G for respondents present. Application for correcting the designation of respondent No. 5 submitted. Arguments heard and record perused. The correct designation of respondent No. 5 is Director Treasuries and Accounts, KPK, Peshawar as such the application is accepted and correction be made by the office accordingly. Written statement on behalf of respondents No. 1 to 5 including Director Treasuries and Accounts submitted. The appeal is assigned to D.B for rejoinder and final hearing for 8.6.2016.


Chairman

08.06.2016

Counsel for the appellant and Mr. Ihsanullah, Supdt. alongwith Addl: AG for respondents present. Rejoinder submitted copy whereof handed over to learned Addl: AG. To come up for arguments on 7.11.16 before D.B.


MEMBER


MEMBER

01.10.2015

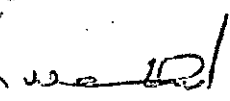
Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is Deputy Director Accounts (BPS-18) and vide notification dated 18.9.2013 appellant was appointed as District Comptroller of Accounts, D.I.Khan, a BPS-19 post and that he assumed the charge of the said post with effect from 4.10.2013 and that the appellant is entitled to draw financial benefits of higher post i.e BPS-19 but the same was declined to him and as such he preferred departmental appeal on 28.5.2015 which was not responded and hence the instant service appeal on 11.9.2015.

That the appellant is entitled to financial benefits attached to BPS-19 against which he is performing his duties. Reliance was placed on the judgment passed in service appeal on 59/2006 dated 15.6.2006.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 21.12.2015 before S.B.

Appellant Deposited

Process Fee



21-P-22


Chairman

21.12.2015

Appellant with counsel and Mr. Ihsanullah, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 23.2.2016 before S.B.


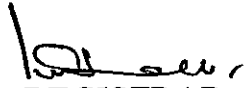



Chairman

FORM-A

FORM OF ORDER SHEET

Court _____

Case No. 1010/2015

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	11.09.2015	<p>The appeal of Mr. Amanullah presented to-day Mr. Muhammad Asif Yousafzai, Advocate  may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case be put up before the S.Bench for preliminary hearing on <u>23-9-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	23.09.2015	<p>Agent of counsel for appellant present. Requested for adjournment. Adjourned to 1.10.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 10/0 /2015

Mr. Amanullah

V/S

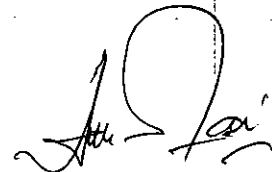
Government of KPK

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-04
2.	Copy of Service Rules.	- A -	05-07
3.	Copy of Notification (18.9.2013)	- B -	08
4.	Copy of Departmental Appeal	- C -	09-11
5.	Copy of Judgment dated 15.06.2006	-D-	12-14
6.	Wakalat Nama	----	15

APPELLANT

THROUGH:



(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

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

Appeal No. 1010 /2015

**A.W.P. Province
Service Tribunal
Diary No. 1066
Dated 11-9-15**

Mr. Amanullah,
District Comptroller of Accounts,
D.I.Khan.

APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary, Finance Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary, Establishment Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
5. The District Treasuries & Accounts, KPK Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 FOR GRANTING FULL PAY BENEFITS OF DISTRICT COMPTROLLER OF ACCOUNTS POST WITH EFFECT FROM, 4.10.2013 TILL DATE AND ONWARDS AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

.....

File to day.
11/9/15

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO PAY ALL MONETARY BENEFITS (PAY ETC) OF DISTRICT COMPTROLLER OF ACCOUNTS (B-19) POST WITH EFFECT FROM 4.10.2013 TILL DATE AND ONWARDS. THE RESPONDENTS MAY FURTHER PLEASE BE DIRECTED TO CONSIDER THE APPELLANT FOR REGULAR PROMOTION AGAINST THAT POST W.E.FROM 4.10.2013 BEING QUALIFIED AND ELIGIBLE FOR THE SAME AND THE POST IS ALSO AVAILABLE SINCE THEN. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

.....

RESPECTFULLY SHEWETH:

1. That the appellant joined the Treasury Department in the year 1985 with the passage of time the appellant has been promoted to BPS-18. The appellant has completed 22 years service in B-17 and more than 3 years service in BPS-18.
2. That according to rules, the District Comptroller of Account is to be filled in by promotion on the basis of seniority cum fitness from Deputy Director Treasury and Account/District Accounts officer/Treasury Officer with 12 years service in BPS-17 and above. The appellant has more than 22 years in BPS-17. Copies of Service Rules is attached as Annexure-A.
3. That the appellant was posted vide order dated 18.9.2013 to perform the duties as District Comptroller of Account in DI Khan in his own pay and scale which is no doubt the post of District Comptroller of Account is higher post having in BPS-19. The appellant has been still performing duties since 4.10.2013 till-date. Copy of Notification is attached as Annexure-B.

4. That the appellant has been performing and shunting out higher responsibility of BPS-19 post but despite that no monetary benefits has been granted as the appellant is performing duties against BPS-19 post. Even the said post is vacant/available since 4.10.2013 and the appellant is working against the said post from the same date.
5. That the appellant filed Departmental Appeal for his claim of financial benefits of BPS-19 post and consideration for permanent status as such on 28.5.2015. The appellant waited for statutory period of ninety days but no action what-so-ever has been taken on that appeal. Copy of Departmental Appeal is attached as Annexure-C.
6. That having no other remedy, the appellant comes to this Honourable Tribunal on the following grounds amongst the others:

GROUND:

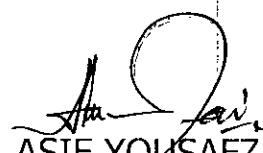
- A) That not granting the monetary benefits of BPS-19 and not taking any action on the Departmental Appeal of the appellant within statutory period which against the law, facts, norms of justice, material on record, therefore, not tenable.
- B) That the appellant has been deprived from the pay benefits of higher post despite performing and shouldering the higher responsibility of BPS-19 post is against the norms of justice and principle of fair play.
- C) That the post of District Comptroller of Account is available since 4.10.2013 and the appellant is continuously performing his duty as such without any adverse entries against him. This means that the appellant is eligible to be permanently given the status of District Comptroller of Account (BPS-19) post on regular basis with effect from 4.10.2013.

- D) That there is no legal impediment in granting the relief to the appellant and the appellant is legally entitled for his claim and also the government is required to fill the post as per rules rather than taking duties from the official on the basis of own pay & scale which is highly un-islamic and against the spirit of fair play and equity.
- E) That this Honourable Service Tribunal has already been decided the similar appeal No.59/2006 on 15.06.2006. The said Judgment was relied on the Judgment of the Honourable Supreme Court of Pakistan reported as PLD 1978 - SC-61, 1973 SCMR-304, 1983 SCMR-883 and 1994 PLD SC-233, thus under the principle of consistency and equality and the appellant is also entitled to the same relief. Copy of Judgment is attached as Annexure-D.
- F) That the appellant has not been treated according to law and rules, the dictum laid-down by the Honourable Supreme Court of Pakistan.
- G) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT
Amanullah

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.



A Directorate of **5**
Treasuries & Accounts

No. 19-35/DT&A/07/Service Rules
Dated Peshawar the 24-06-2011

Treasuries & Accounts, District Courts Compound, Behind Jinnah Masjid, Khyber Road, Peshawar. Phone & Fax: 091-9211856

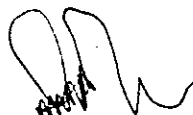
To

1. All the District Comptrollers of Accounts in Khyber Pakhtunkhwa
2. All the District Accounts Officers in Khyber Pakhtunkhwa
3. The Treasury Officer, Peshawar.

Subject: **UPDATION OF THE SCHEDULE OF NWFP TREASURIES (RECRUITMENT AND APPOINTMENT) RULES, 1981 AMENDED UPTO 03/2011**


Please refer to the subject noted above.


Enclosed please find herewith a copy of amendments in subject rules, for information and record please.


Deputy Director
Treasuries & Accounts
Khyber Pakhtunkhwa

Enclst No & date even

Copy for information is forwarded to the Director, Treasuries & Accounts, Khyber Pakhtunkhwa, Peshawar.


Deputy Director
Treasuries & Accounts
Khyber Pakhtunkhwa

ATTESTED


6

“SCHEDULE”

(See rule 2)

S.No.	Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment or by transfer.	Minimum qualification prescribed for appointment by promotion.	Age limit for initial recruitment.	Method of recruitment.
1	2	3	4	5	6
1.	*-y Director, Treasuries & Accounts.				*-y By transfer, from amongst the District Comptroller of Accounts;
1A. *-y	*-y District Comptroller of Accounts.			-	*-y By promotion, on the basis of seniority-cum-fitness from amongst the Deputy Director Treasury and Accounts / District/Agency Accounts Officers / Treasury Officer with at least 12 years service in BPS-17 and above.
1B. *-y	*-y Deputy Director / District Accounts Officer / Agency Accounts Officer / Treasury officer.			-	*-ii (i) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Assistant Treasury Officers/Sub-Treasury Officers with at least five years service as such; and (ii) Fifty percent by transfer, on deputation, for a specified period, from amongst Accounts Officers of the Audit Department of Government of Pakistan.
2.	*-iii Assistant Treasury Officer / Sub-Treasury Officer.	*-iii Second Class Master's Degree in Statistics, Economics, Business Administration or Commerce, from a recognized University.		*-iii 22 to 30 years	*-iii (i) Twenty per cent, by initial recruitment; (ii) twenty per cent, by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Assistant Accountants; and (iii) sixty per cent, by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of:- a) Assistant Accountants who have qualified SAS Examination; or b) if no SAS qualified Assistant Accountant is available, then from Sub-Accountants who have qualified SAS Examination.

ATTESTED

• inserted /substituted vide notification No.SOSR-III(FD)/ 9-53/78-Vol-III dated 01-06-1992.
 *-i substituted vide notification No.SO(Try)FD/1-16/1997 dated 20-06-2002.
 *-ii substituted vide notification No.SO(Estt)FD/1-16/97-2003 dated 24-12-2003.
 *-iii inserted / substituted vide notification No.SO(Estt)FD/1-16/06 dated 03-11-2006.
 *-iv inserted / substituted/re-numbered vide notification No.SO(Estt)FD/1-16/06 dated 31-01-2007.
 *-v inserted / substituted/re-numbered vide notification No.SO(Estt)FD/1-16/10 dated 12-03-2011.

(67A) 7

3.	Assistant Accountant.				<u>*-v</u> By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Sub-Accountants.
4.	Sub-Accountant.	<u>*-j</u> Bachelor Degree in Commerce / Business Administration or ACMA from a recognized University. Note:- Candidates with IT skill will be given preference.		18 to 25 years	By initial recruitment.
4A. <u>*-v</u>	<u>*-v</u> Driver.	<u>*-v</u> i) Matric. ii) Valid LTV/HTV Licence with 3 years practical experience as Driver.		<u>*-v</u> 18 to 30 years	<u>*-v</u> By initial recruitment and
5.	Daffari	<u>*-v</u> Secondary School Certificate from a recognized Board.	<u>*-v</u> Secondary School Certificate from a recognized Board.	18 to 25 years	<u>*-v</u> i) By promotion, on the basis of seniority-cum-fitness from amongst Naib Qasids; having Secondary School Certificate from a recognized Board and ii) If no suitable person is available for promotion then by initial recruitment.
6.	Naib Qasid	Preferably Literate.	-	18 to 40 years	By initial recruitment.
7.	Bahishti	Preferably Literate.	-	18 to 40 years	By initial recruitment.
8.	Chowkidar	Preferably Literate.	-	18 to 40 years	By initial recruitment.
9.	Sweeper	Preferably Literate.	-	18 to 40 years	By initial recruitment.

*-j Substituted vide notification No.SO(Try)FD/1-16/1997 dated 20-06-2002.

*-v inserted / substituted/re-numbered vide notification No.SO(Estt)FD/1-16/10 dated 12-03-2011.

ATTESTED



F.Name,Rule 1981 (P-2-3)

SECRETARY TO GOVERNMENT
KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT.



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Dated Pesh: the 18-9-2013./

NOTIFICATION

NO:SO(ESTT)FD/1-4/2013/GPT. The competent authority has been pleased to order the posting/transfer of the following officers of Treasury Establishment with immediate effect in the public interest:-

Sl: No.	Name of Officer & Designation	From	To	Remarks
1.	Mr. Muhammad Riaz Awan, District Comptroller of Accounts.	District Comptroller of Accounts, Kohat.	District Comptroller of Accounts, Abbottabad.	Vice No.3
2.	Mr. Said Akbar, District Comptroller of Accounts.	District Comptroller of Accounts, DIKhan.	District Comptroller of Accounts Kohat.	Vice S.No.1
3.	Mr. Shahid Pervez Bhatti, District Comptroller of Accounts, in his own pay & scale.	District Comptroller of Accounts, Abbottabad.	District Accounts Office, Haripur.	Posted as District Accounts Officer. Vice No.4
4.	Mr. Muhammad Haroon, District Accounts Officer, in his Own pay & scale.	District Accounts Office, Haripur.	District Accounts Office, Kohistan.	Vice No.5
5.	Mr. Amanullah, District Accounts Officer	District Accounts Office, Kohistan.	District Comptroller of Accounts, DI Khan.	Posted as District Comptroller of Accounts, in his own pay & scale. Vice. No.2

SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

No.SO(Estt)FD/1-4/2013/GPT/

Dated Pesh: the 18-9-2013.

Copy forwarded for information to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Accountant General, Pakistan Revenue Sub Office, Peshawar.
3. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
4. The Deputy Commissioner, Kohat, Abbottabad, DIKhan, Haripur & Kohistan.
5. The District Comptroller of Accounts, Kohat, Abbottabad & DIKhan.
6. The District Accounts Officer, Haripur & Kohistan.
7. PS to Finance Secretary, Finance Department, Peshawar.
8. Officers concerned.
9. Office order file.

(MUHAMMAD AMAN)
SECTION OFFICER(ESTT)



OFFICE OF THE
DISTRICT COMPTROLLER OF ACCOUNTS
D.I.KHAN

9

No. DCA-DIK/TRY/Admn: /735,

Dated: 28.05.2015.

To

The Director,
Treasuries & Accounts
Khyber Pakhtunkhwa, Peshawar.

SUBJECT: APPEAL FOR THE GRANT OF FINANCIAL OTHERS BENEFITS AND STATUS CONFIRMATION AS DISTRICT COMPTROLLER OF ACCOUNTS, B-19.

Memo:

Kindly find herewith an appeal made to the Chief Secretary, Khyber Pakhtunkhwa, Peshawar on the subject.

In the light of Khyber Pakhtunkhwa, Government Servants appeal rules 1986 No. 3 in respect of the Undersigned for further necessary action, please.

(Amanullah)
District Comptroller of Accounts
Dera Ismail Khan.

ATTESTED

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To

The Chief Secretary,
To Govt: of Khyber Pakhtunkhwa,
Peshawar.

Trough: Proper Channel.

SUBJECT: APPEAL FOR THE GRANT OF FINANCIAL/OTHERS BENEFITS
AND STATUS CONFIRMATION AS DISTRICT COMPTROLLER
OF ACCOUNTS, B-19.

Respectfully Sir,

With great humbly an appeal is made over the Order of the Secretary to Government of Khyber Pakhtunkhwa, Finance department bearing No. SO (ESTT) FD/1-45/2015/Amanullah/, dated 27.04.2015 in response to my application (Copies are enclosed as annexure A & B) in the light of Khyber Pakhtunkhwa Government Servants appeal Rules 1986 No. 3 that's.

- 1). I, Amanullah resident of District Battagram, after serving as District Accounts Officer, Kohistan, B-18 for 7 years have posted/appointed as District Comptroller of Accounts, D.I.Khan B-19 since 04.10.2013 on current Charge basis (Own Pay & Scale) vide Notification of Secretary to Government of Khyber Pakhtunkhwa, Finance department bearing No. SO(ESTT)FD/1-4/2013/GPT, dated 18.09.2013 at S. No. 5 (Copy attached). The Khyber Pakhtunkhwa Appointment Promotion/Transfer rules 1989, allow as such till Six Months period instead. I, have served in the present Post of District Comptroller of Accounts, B-19 for about Two years and still continued, in the circumstances that, I have made requests to my Administrative department for the grant of Pay and other benefits accordingly to my working and posted status.
- 2). I am fully qualified in all respect for appointment/promotion to the post of District Comptroller of Accounts, B-19 and discharging responsibilities/duties in the higher post accordingly.
- 3). In the similar situation and circumstances the Supreme Court of Pakistan already been granted relief in Civil Petition No. 194-P/97 of Secretary Education, Khyber Pakhtunkhwa and others as Petitioner Versus Mr. Muhammad Sultan, Subject Specialist of District Karak (Copy attached) and PLD-1978 by Supreme Court Justice Hamood ur Rehman in case of Post Master General, Eastern Circle (EP), Dacca Versus Muhammad

ATTESTED


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Hashim, Supreme Court of Pakistan 2006 SCMR 1938, in case Luqman and others, Petitioners Versus Secretary Education, Khyber Pakhtunkhwa and others (All the relevant Copies are attached).

- 4). In the light of rule No. 17 of Khyber Pakhtunkhwa, Appointment/ Promotion & Transfer rules 1989 regarding determination of Seniority of a Civil Servant provided in explanation-III, "A junior person shall be deemed to have superseded a Senior person only if both the junior and senior person were considered for the higher post and junior person was appointed in preference to the Senior persons" accordingly been done in my case by the Administrative department but, presently not acceded to my request in either case of Financial Benefits, confirmation of status and other benefits, while Two further posts of District Comptroller of Accounts, B-19 are vacant due to the retirement usually since my posting as such.
- 5). My Posting/Appointment made over my three seniors after consideration all of them and one was reverted by the Administrative department in the public interest and no option or request have been made by me for my posting/appointment as such.

It is therefore, accordingly been prayed that all financial benefits connected with my post of District Comptroller of Accounts, B-19 and others be confirmed and granted to me w.e.f 04.10.2013 the date of assumption as higher post and responsibilities, please.

(Amanullah)
District Comptroller of Accounts,
Dera Ismail Khan.

ATTESTED

BEFORE THE N.W.F.P. SERVICE TRIBUNAL, PESHAWAR.

12



APPEAL NO. 59/2006

Date of institution 27.07.2006

Date of decision 15.06.2006

Mohammad Khan, Retd: Principal,
GHS, Sama Garhi, Khyber Agency.

.. Appellant

VERSUS

1. The Secretary Education (S&L),
NWFP, Peshawar.

2. The Director Education (FATA),
NWFP, Peshawar.

3. The Secretary Finance, NWFP,
Peshawar.

.. Respondents

APPEAL U/S 4 OF THE NWFP SERVICE TRIBUNALS
ACT, 1974 FOR GRANTING MONETARY BENEFITS OF BS-18

Mr. Muhammad Asif Yousafzai,
Advocate.

.. For appellant

Mr. Noor Zaman Khan,
Addl: Govt. Pleader.

For respondents

Mr. Abdul Sattar Khan,
Mr. Faizullah Khan Khattak.

Chairman
Member

JUDGMENT

ABDUL SATTAR KHAN, CHAIRMAN: The appellant

namely Mohammad Khan joined the Education Department initially in 1978. On the recommendation of the NWFP Public Service Commission, he was posted as Subject-Specialist vide order dated 19.12.92. Vide Annexure-B,

RECEIVED
EXAMINER
NWFP Service Tribunal
Peshawar

2/21

APPELLANT
A

(13)

the appellant performed duty as Incharge Principal in his own pay & scale in different schools in Khyber Agency. Now he claims monetary benefits of higher post against which he served. After exhausting his departmental remedy, the appellant has approached the Tribunal for the redressal of his grievances.

2. Notices were sent to the respondents. They turned up and contested the appeal by filing a joint written reply. Various factual and legal pleas were raised. It was also inter-alia alleged that the appellant has got no cause of action; & that he is estopped to institute the instant appeal. It was also alleged that the appellant was basically a Subject Specialist in BS-17, therefore, he was given pay and all other allowances attached to that post; that the claim of BS-18 is unjustified and that the appellant was qualified for the post, but proper order of appointment was not passed by the respondents in BS-18. No replication was filed in rebuttal by the appellant.

3. Arguments heard and record perused.

4. Learned counsel for the appellant argued that the appellant has admittedly served against Grade-18 post involving higher responsibilities, but he was paid the pay of Grade-17 post and in view of plethora of authorities of the august Supreme Court of Pakistan, he is entitled to the pay of higher post against which he served. Reliance was placed on PLD 1978 SC 61, 1973 SCMR 304, 1983 SCMR 883 and PLD 1994 SC 233.

5. In reply it was urged by the learned AGP that

ATTESTED
EXAMINED
BY
SPECIAL JUDGE
PESHAWAR

ATTESTED

(14)

the appellant was serving against a post of BS-18 on stop-gap arrangement in his own pay and scale, therefore, he is not entitled to the pay of that post.

6. The Tribunal holds that the claim of the appellant is bonafide. The above reports fully covers the case of the appellant. He has admittedly served against a higher post involving higher responsibilities for more than eight years, therefore, he is entitled to the salary and benefit connected with the higher grade from specified date when he was appointed to higher post in his own pay and status minus special pay already drawn for that period. In the circumstances, the appellant has made out a case for indulgence of the Tribunal. Accordingly, the instant appeal is accepted and it is directed that the appellant be given the monetary benefits of BS-18 in accordance with law and rules. No order as to costs. File be consigned to the record.

ANNOUNCED

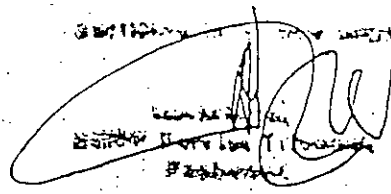
15.06.2006

(ABDUL SATTAR KHAN)
CHAIRMAN
NWFP SERVICE TRIBUNAL
PESHAWAR.

Hand 15⁶/₀₅



(FAIZULLAH KHAN KHATTAK)
MEMBER



Date of presentation of appeal	13.6.08
Number of words	1200
Copying fee	8
Pages	7
Panel	10
Time of copy	
Date of completion of copy	13.6.08
Date of delivery of copy	13.6.08

ATTESTED



(15)

VAKALAT NAMA

NO. _____/20

IN THE COURT OF KPK Service Tribunal Peshawar

Amanullah

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt. of KPK etc


(Respondent)
(Defendant)

I/We Amanullah (Appellant)

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 11-9 /2015


(CLIENT)

ACCEPTED


M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240



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

Appeal No. 1010/2015

Mr. Amanullah, District Comptroller of Accounts..... **APPELLANT**

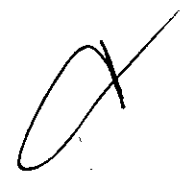

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil secretariat, Peshawar.
3. The Secretary, Finance Department, Government of Khyber Pakhtunkhwa, Civil secretariat, Peshawar.
4. The Secretary, Establishment Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
5. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa, Peshawar..... **RESPONDENTS**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 5

RESPECTFULLY SHEWETH

PRELIMINARY OBJECTIONS

1. That without prejudice to the foregoing, the appeal is bad, both in form as well as in substance.
 2. That the appeal is not at all maintainable in its present form.
 3. That the appellant neither has any locus standi nor a cause of action to approach this honorable tribunal.
 4. That the appellant has tried to twist and bend facts to his own advantage/benefit.
 5. That the appellant has willfully withheld to disclose the true attending circumstances and correct picture of the matter in hand and has thus approached the honorable tribunal with sallied hands and is therefore, disentitled to seek any remedy.
 6. That the appeal is not maintainable for non-joinder and mis-joinder of unnecessary parties.
 7. That this Honorable Tribunal has got no jurisdiction to entertain the Appeal.
- 


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ON FACTS:

1. No comments. Pertains to record.
2. (i) Correct to the extent that under the prescribed service rules, the post of District Comptroller of Accounts is required to be filled in by promotion on the basis of seniority-cum-fitness from amongst the Deputy Director, District/Agency Accounts Officer, Treasury officer with at least 12 years' service in BS-17 and above. **(Annexure A of Appeal)** As per final notified seniority list of Dy: Director, District/Agency Accounts Officer/Treasury Officer as stood on 31-12-2014, the appellant stands at S.No.9, and has not yet completed 12 years regular service in BS-17 and above as required under the rules for promotion to the post of District Comptroller of Accounts, therefore, he is not eligible for promotion on regular basis.
(ii) As regard claim of the appellant about rendering 22 years service in BPS-17, the same is incorrect and denied as the appellant was placed in BPS-17 (Selection Grade w.e.f 27.03.2001). **(Annex-A)**
3. Incorrect. Posting of the appellant is a stop gap arrangement in his Own Pay & Scale as he himself admitted in the Para and still discharges the duty as such. Any Stop Gap Arrangement/Posting in Own Pay & Scale does not confirm his right against the post unless and until proper promotion is made by the competent authority in light of relevant Service Rules.
4. Correct to the extent that the post of District Comptroller of Accounts was available, however, as no officer in the cadre i.e. Dy: Director, District/Agency Accounts Officer, Treasury Officer was eligible for promotion to the post of District Comptroller of Accounts (BS-19) due to non completion of 12 years service in BS-17 and above, as required under the rules, therefore, the appellant was posted as District Comptroller of Accounts in his own pay & scale in exigency of services as stop gap arrangement. He will be considered for promotion on his own turn under the prescribed service rules and procedure. The rest of the para is denied.
5. Incorrect. The appellant from time to time filed appeals/cases wherein he tried to twist and bend the facts and mis interpretation of rules to avail pecuniary benefits over his seniors for which he was warned vide letter No.SO(Estt)FD/1-45/2015/Amanullah dated

27-04-2015 to be careful in future in correspondence with government/administrative departments. **(Annexure-B)**

6. No comments. Detail reply on the grounds are as under:-

Grounds:

- A. Incorrect. The appellant has been treated strictly in accordance with relevant laws /rules and without any discrimination.
- B. Incorrect. The officer has been posted to look after the post as stop gap arrangement in his own pay & scale and cannot be promoted to the post of District Comptroller of Accounts as he is junior one and is not eligible for promotion or other benefits at the moment.
- C. Incorrect. The appellant holds the post as a stop gap arrangement and not eligible for promotion as he is junior most and cannot be promoted to the post of District Comptroller of Accounts and also does not fulfill the terms & conditions for appointment against such post including fulfillment of condition of seniority and fitness.
- D. Incorrect. There is prescribed rules/policy for promotion of officers on regular basis against higher posts. The appellant is junior officer in BS-18 and not eligible for promotion against the higher post on regular basis while his out of turn promotion shall badly effect the benefit/right of promotion of large number of senior officers as per seniority list at **Annex-C**. His posting as District Comptroller of Accounts, D.I. Khan is a stop gap arrangement, in his own Pay & Scale. The Government is fully competent about posting of its employees in anywhere in the Province against any position in light of Section 10 of Khyber Pakhtunkhwa, Civil Servant Act, 1973. Such orders of the Government are neither un-Islamic nor illegal.
- E. As already stated above that the appellant is at S.No. 09 of the Seniority List and not eligible for promotion as District Comptroller of Accounts, BPS-19 or salaries thereof. The appellant is admittedly working against the post of District Comptroller of Accounts in his own Pay & Scale without any additional benefits.
- F. The appellant has been treated in accordance with relevant rules without any discrimination.
- G. No remarks, however, necessary arguments/documents will be provided in support of the case of respondents during final hearing.

In view of the above, it is earnestly prayed that the appeal may be dismissed with cost.



CHIEF SECRETARY
GOVT: OF KHYBER PAKHTUNKHWA
(Respondents No.1 & 2)

30/11/11



SECRETARY FINANCE
GOVT: OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(Respondent No. 3)

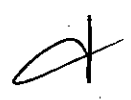
30/11/11



SECRETARY ESTABLISHMENT
GOVT: OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Respondent No. 4)



DIRECTOR
TREASURIES & ACCOUNTS
KHYBER PAKHTUNKHWA
(Respondent No. 5)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1010/2015

Aman-ullah,
District Comptroller of Accounts,
D.I.Khan.

.....

Appellant

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, Finance Department,
Government of Khyber Pakhtunkhwa, Peshawar.
3. The Secretary, Establishment Department,
Khyber Pakhtunkhwa, Peshawar.
4. The District Treasuries & Accounts,
Khyber Pakhtunkhwa, Peshawar.

.....

Respondents

AFFIDAVIT

I Irshad Muhammad, Section Officer(Litigation-II), Finance Department do hereby solemnly affirm and declare that the contents of accompanying Parawise Comments are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Tribunal.



DEPONENT

**SECTION OFFICER(LIT-II)
Govt. of Khyber of Pakhtunkhwa
FINANCE DEPARTMENT**

*Section Officer (Lit-II)
Finance Department
Govt. of Khyber Pakhtunkhwa*

GOVERNMENT OF N.W.F.P.
FINANCE DEPARTMENT

Dated Peshawar, the 27th December, 2006.

NOTIFICATION.

NO:SO(ESTT)FD/1-4/2006. On the recommendation of Departmental Promotion Committee, the competent authority is pleased to allow Selection Grade (BPS-17) to the following Assistant/Sub-Treasury officers (BPS-16) of Treasury Establishment with effect from the dates noted against each:-

Sl. No.	Name of Officers	Present posting	Selection Grade w.e.f.
1.	Fazali Raziq	Treasury Officer, Peshawar.	12-10-1999 (Instead of 27-3-2001).
2.	Pervez Khan.	Financial Advisor, Finance Department, NWFP Peshawar.	12-10-1999 (Instead of 27-3-2001).
3.	Habib-ur-Réhman	District Accounts Officer, Nowshera.	14-01-2000 Instead of 16-11-2001).
4.	Shahid Pervez Bhatti	DDO(F) o/o EDO (F&P) District Government, Abbottabad.	27-03-2001 Instead of 16-11-2001).
5.	Amanullah	District Accounts Officer, Kohistan.	27-3-2001

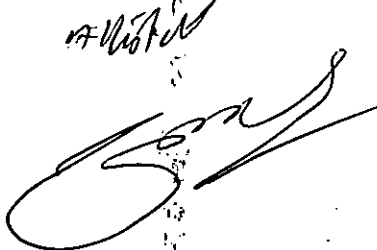
SECRETARY TO GOVT OF NWFP
FINANCE DEPARTMENT.

No.SO(ESTT)FD/1-4/2006

Dated Peshawar, the 27th December, 2006.

Copy forwarded to:-

1. The Accountant General, NWFP, Peshawar.
2. All the Sr. District Accounts Officers in NWFP.
3. All the District Accounts Officers in NWFP.
4. The Treasury Officer, Peshawar.
5. Officers concerned.
6. PS to Secretary to Government of NWFP, Finance Department, Peshawar.
7. PA to Provincial Finance Controller, Finance Department, Peshawar.
8. PA to Deputy Secretary (ESTT/B-IV), Finance Department, Peshawar.


(NASRULLAH KHAN)
SECTION OFFICER (ESTT)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
No:SO(ESTT)FD/1-45/2015/Amanullah/
Dated Pesh: the 27-4-2015.

Annex = B

3/3

To

Mr.Amanullah Khan,
District Comptroller of Accounts,
DIKhan.

Subject:- TENTATIVE SENIORITY LISTS OF DAOs/AAOs AS IT STOOD ON 31-12-2014 IN THE KHYBER PAKHTUNKHWA TREASURY ESTABLISHMENT.

I am directed to refer your letter No.DCA/DIK/594 dated 12-3-2015 on the above noted subject received through Directorate of Treasuries & Accounts, Khyber Pakhtunkhwa and to say that the competent authority has taken notice of your application dated 12-3-2015 for grant of pecuniary benefits over others by mis- interpretation of rules.

2. You are, therefore, warned to remain careful in future and strictly abide by conduct and service rules & regulation in correspondence with Administrative Department. In case of non compliance strict action will be taken against you under the rules.
3. This issue with the approval of competent authority.

(MUHAMMAD AMAN)
Section Officer (Estt)

Endst:No & Date even.

Copy forwarded for information to the Director, Treasuries & Accounts, Khyber Pakhtunkhwa with reference to his letter No.1-45/DT&A/ Seniority List/ DCA/DIK/967 dated 20-3-2015.

Section Officer (Estt)

16

Annex - C
34

TENTATIVE SENIORITY LIST OF DISTRICT/AGENCY ACCOUNTS OFFICERS / TREASURY OFFICERS (BS-18) OF TREASURY ESTABLISHMENT KHYBER PAKHTUNKHWA AS IT STOOD ON 31-12-2015.

S#	NAME OF OFFICERS	DOMICILE	EDUCATIONAL QUALIFICATION	WHETHER SAS QUALIFIED OR OTHERWISE	DATE OF BIRTH	DATE OF IST ENTRY INTO GOVERNMENT SERVICE	DATE OF REGULAR PROMOTION IN LOWER POST (AS ACCOUNTANT, STO/ATO).	DATE OF REGULAR APPOINTMENT BY PROMOTION AS D.A.O.	Whether Regular / Temporary	PLACE OF PRESENT POSTING	REMARKS
1	Fazal Wahab	Swat	M.A.	SAS	06-06-1956	25-08-1982	03-01-1989	06-03-2002	Regular	Posted as DCA Swat (On acting charge basis).	
2	Said Akbar	Karak	B.A.	SAS	10-02-1964	14-10-1984	03-01-1989	03-06-2002	Regular	Posted as DCA Kohat on acting charge basis.	
3	Muhammad Imran	Mardan	B.A.	SAS	14-04-1958	09-02-1981	19-10-1989	22-02-2003	Regular	Posted as DCA Bannu (On acting charge basis).	
4	Fida Muhammad	Malakand	B.A.	SAS	01-09-1956	07-04-1977	03-11-1991	22-02-2003	Regular	Posted as DCA Mardan (On acting charge basis).	
5	Fazal-e-Raziq	Mardan	B.A.LLB	SAS	25-04-1958	06-08-1981	03-11-1991	22-02-2003	Regular	Posted as D.C.A. Peshawar on acting charge basis.	
6	Pervez Khan	Abbottabad	B.A.	SAS	17-06-1957	22-08-1981	03-11-1991	02-12-2004	Regular	Working as Director (Finance), AMI A.Abad.	
7	Habib-ur-Rehman	Nowshera	B.A.	SAS	01-07-1957	05-05-1979	03-11-1991	17-05-2006	Regular	Deputy Director T&A Khyber Pakhtunkhwa.	
8	Shahid Pervez Bhatti	Abbottabad	B.A.	SAS	04-10-1959	06-07-1983	03-11-1991	07-08-2007	Regular	DAO Haripur.	
9	Amanullah	Battagram	B.Com.	SAS	01-01-1965	21-09-1985	21-06-1992	21-04-2012	Regular	DCA DIKhan in his own pay & scale.	
10	Muhammad Iqbal	Mardan	B.A.	SAS	20-04-1958	22-03-1981	04-06-1994	21-04-2012	Regular	DAO Charsada.	
11	Muhammad Hanif	Abbottabad	D.Com.	SAS	22-02-1958	13-12-1980	20-08-1995	21-04-2012	Regular	Working as District Officer F&P, A.Abad.	
12	Muhammad Yar	Swat	M.A.	SAS	07-01-1956	13-06-1982	20-08-1995	21-04-2012	Regular	Working as District Officer F&P, Swat.	
13	Nawab Khan	Karak	B.A.	SAS	01-09-1961	15-03-1986	20-08-1995	21-04-2012	Regular	Agency Accounts Officer, Kurram.	
14	Saeed-ur-Rehman	Karak	B.A.	SAS	10-01-1961	25-03-1981	19-12-1996	21-04-2012	Regular	DAO Hangu.	

SECTION OFFICER (ESTT)
FINANCE DEPARTMENT
Govt. of Khyber Pakhtunkhwa

75



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

Appeal No. 1010/2015

Amamullah

V/S

Govt: of KPK

.....

**APPLICATION FOR CORRECTING THE DESIGNATION OF
RESPONDENT NO. 5 IN THE INSTANT APPEAL**

.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal for granting monitory benefits of BPS-19 as he is performing duties against BPS-19 post.
2. That the appeal is in reply stage and is fixed for today i.e 23.2.2016 before this Honourable KPK Service Tribunal.
3. That in the instant appeal, the actual designation of respondent No.5 is the Director Treasuries & Accounts KPK, Peshawar while it was inadvertently written as District.
4. That it will be in the interest of justice to correct the word as mention in the above para.

It is, therefore, most humbly prayed that on acceptance of this application, the words as mentioned in the above para may be corrected. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

Appellant
Amanullah

THROUGH:



(M. ASIF YOUSAFZAI)



(TAIMUR ALI KHAN)
ADVOCATES, PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.


Deponent



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO. FD (PRC) 1-1/ 2016
Dated Peshawar the: 01-09-2016

To:
The Section Officer (Estt.),
Finance Department,
Peshawar.

Subject: - APPOINTMENT OF AN OFFICER OF LOWER GRADE TO A POST OF HIGHER GRADE AND GRANT OF PAY OF THE HIGHER POST.

I am directed to refer to the subject noted above and to convey concurrence of Finance Department to the grant of pay of higher post BPS-19 to Mr. Habib-ur-Rehman, Deputy Director (E-18) for holding the charge of the post of District Comptroller of Accounts (BPS-19), Directorate of Treasures & Accounts, Khyber Pakhtunkhwa w.e.f 20-06-2016 till the promotion / relinquishment of higher post whichever is earlier subject to the fulfillment of all codal formalities / following conditions:-

- i. The pay of the higher post will be fixed presumptively w.e.f the date the officer assumes charge of the higher post and it will include the increments of the pay scale of the higher post for the period of higher post appointment on that post. In such cases premature increment shall not be admissible. However, the officer will be entitled to the arrears of pay and allowances from the date he assumes the charge of the higher post.
- ii. On relinquishment of charge of the higher post or on transfer or on regular promotion to that higher post, the pay will be re-fixed with reference to original scale of pay of the post, held by the officer and increments carried (if any) on higher post will count for increments in his original scale as per provisions of FIR-26.
- iii. The pay of the higher post shall not be accounted for the calculation of emoluments towards the pension.

SECTION OFFICER (SR-1)

Pls send to DIV:TA A/DCA sw
MTH:
X
2/1

S. O. C.
Diary No.
Dated

BEFORE THE KKP, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1010/2015

Amanullah

VS

Govt of KPK etc

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 No comments endorsed by the respondents department which means that they have admitted Para-1 Of the appeal is correct as relevant record is already in the custody of department.
- 2 In first portion of reply respondent's department admitted half Para-2 of the appeal as correct. Incorrect. While rest of Para-2 of reply is incorrect. Moreover, according to rules appellant completed service length in BPS-17.
- 3 Incorrect. While Para-3 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover department admitted that appellant working as district controller of accountant, so appellant hold the post of District Account Controller they must be entitled of pay etc of such post of which appellant being holding charge.
- 4 In first portion of reply respondent's department admitted half Para-4 of the appeal as correct. Incorrect. While rest of Para-4 of reply is incorrect.

Moreover, appellant completed length of service in BPS-17 according to rules which required for the promotion.

- 5 Incorrect, while Para-5 of the appeal is correct as mentioned in the main appeal of the appellant.
- 6 No comments

GROUND:

- A- Incorrect. While Para-A of the ground of the appeal is correct as mentioned in the main of the appellant. That not granting the monitory benefits of BPS-19 and not taking action on the departmental appeal of the appellant with in statutory period is against the law, facts, norms justice and material on record, therefore, not tenable.
- B- Incorrect. While Para-B of the ground of the appeal is correct as mentioned in the main of the appellant.
- C- Incorrect. While Para-C of the ground of the appeal is correct as mentioned in the main of the appellant. Moreover, appellant completed length of service in BPS-17 according to rules which required for the promotion.
- D- Incorrect. While Para-D of the ground of the appeal is correct as mentioned in the main of the appellant.
- E- Incorrect and not replied according to Para-E of the appeal. Moreover Para-E of the appeal is correct.
- F- Incorrect. While Para-F of the ground of the appeal is correct as mentioned in the main of the appellant.
- G- Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT
Amanullah

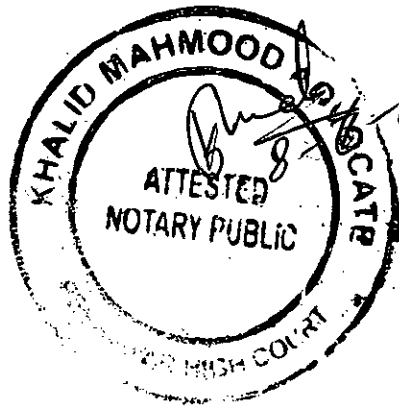
Through:



(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the honorable Tribunal.




DEPONENT

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1896 /ST

Dated 14 / 11 / 2016

To


The Secretary Finance,
Peshawar.

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 7.11.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.