

Appeal No.251/2016

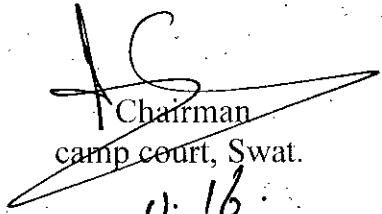
*Abdul Nasir vs Govt*

10.11.2016

Counsel for the appellant argued that grievance of the appellant has been redressed and submitted application for withdrawal of the appeal.

In the light of the above, the appeal is dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED  
10.11.2016

  
Chairman  
camp court, Swat.

10.11.16

4.05.2016

Mr. Fazle Ghafoor Advocate for appellant present and submitted Wakalatnama. The newly engaged counsel requested for adjournment. Adjourned for preliminary hearing to 08.06.2016 before S.B at camp Court, Swat.

  
Chairman  
Camp Court, Swat

08.6.2016

Agent of counsel for the appellant present. Requested for adjournment. Adjourned for preliminary hearing to 13.07.2016 before S.B at camp court, Swat.

  
CHAIRMAN  
Camp Court, Swat.

13.7.2016

None present for appellant. Notices be issued to appellant and his counsel. To come up for preliminary hearing on 08.09.2016 before S.B at camp court, Swat.

  
Chairman  
Camp Court, Swat

08.09.2016





None present for appellant despite notice served on appellant. Let another notice be issued to counsel for the appellant for preliminary hearing on 10.11.2016 before S.B at camp Court, Swat,

  
Chairman  
Camp Court, Swat.

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 251/2016


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	17.03.2016	<p>The appeal of Mr. Abdul Nasir resubmitted today by Mr. Asad Ullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	21-03-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>24-03-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	24.03.2016	<p>None present for appellant. The appeal pertains to the territorial limits of Malakand Division as such notice be issued to appellant for preliminary hearing at Camp Court Swat for 6.4.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	06.04.2016	<p>Appellant in person present. Requested for adjournment as his counsel is not available. Adjourned for Preliminary hearing to 4.5.2016 before S.B at Camp Court, Swat.</p> <p style="text-align: right;"> Chairman Camp Court, Swat.</p>

The appeal of Mr. Abdul Nasir son of Fazal Hadi Computer Operator Distt. Court Swat received to-day i.e. on 19.02.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- The documents referred to in the memo of appeal Annexures-A to F are not attached with the appeal which may be placed on it.
- 2- Copies of impugned order dated 23.9.2015 and departmental appeal against it are not attached with the appeal which may be placed on it.
- 3- Copies of rules mentioned in para-v & vi of the grounds of appeal are not attached with the appeal which may be placed on it.
- 4- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 281 /S.T,

Dt. 22-2 /2016

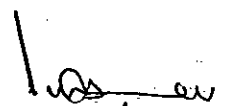
  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Asad Ullah Adv. Pesh.

Respected Sirs

petitioner want to extend  
the re-submission date because  
of completion the objection  
kindly extend the date for  
re-submission after completion the  
objections.

10 days time extended

  
7/3/16.

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

Service Appeal # 251 of 2016

**Abdul Nasir S/o Fazal Hadi Computer Operator BPS-14  
District Courts Swat (Now Stenographer on detailment in  
Peshawar High Court Mingora Bench/Dar-ul-Qaza).**

*(Appellant)*

**V E R S U S**

**The Hon'ble District & Sessions Judge/Zila Qazi Swat &  
two (02) others.**

*(Respondents)*

**I N D E X**

S.NO.	DESCRIPTION OF DOCUMENTS	ANNEXTURE	PAGES
1	Memorandum of Service Appeal	-	2-9
2	Affidavit	-	10
3	Application for requisition of certain record	-	11-12
4	Promotion order dated 23-09-2015	<b>A</b>	13
5	Minutes of DPC dated 22-09-2015	<b>A1</b>	14-16
6	Promotion order dated 07-07-2008	<b>B</b>	17-18
7	Minutes of DPC dated 02-05-2012	<b>C</b>	19
8	Minutes of DPC dated 11-03-2013	<b>D</b>	20-21
9	Copy of application filed by the appellant	<b>E</b>	22-23
10	Copy of departmental representation	<b>F</b>	24-32
11	Copy of letter No. 165/EB dated 20-01-2016	<b>G</b>	33
12	Copy of impugned order dated Nil on representation	<b>H</b>	34-35
13	Copy of PHC, Subordinate Courts Staff Rules, 2003	<b>J</b>	36
14	Copy of Rules/order of Khyber Pakhtunkhwa Public Service Commission	<b>K</b>	37-40
15	Wakalatnama	-	41

**Appellant,**

**ABDUL NASIR**

Computer Operator  
Presently on detailment  
Peshawar High Court/  
Mingora Bench Swat  
0333 946 2889  
0946-885001

**Dated: 18-02-2016.**

(2) (14)

**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL**

Service Appeal # 251 of 2016

K.W.P. Province  
Service Tribunal  
Dary No 1213  
Dated 19-2-2016

**Abdul Nasir S/o Fazal Hadi Computer Operator BPS-14  
District Courts Swat (Now Stenographer on detailment in  
Peshawar High Court Mingora Bench/Dar-ul-Qaza).**

**(Appellant)**

**V E R S U S**

- 1) **The Hon'ble District & Sessions Judge/Zila Qazi Swat**
- 2) **Mr. Mehboob Ali Stenotypist District Courts Swat the then Computer Operator.**
- 3) **Mr. Bakht Sher Ali Stenographer District Courts Swat the then Stenotypist (Now on detailment at Peshawar High Court/Mingora Bench Dar-ul-Qaza).**

**(Respondents)**

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AGAINST THE IMPUGNED ORDER DATED NIL COMMUNICATED TO THE APPELLANT VIDE LETTER # 165/E.B DATED 20-01-2016 PASSED BY THE THEN HON'BLE DISTRICT & SESSIONS JUDGE/ZILA QAZI SWAT THROUGH WHICH THE REPRESENTATION OF THE APPELLANT FOR PROMOTION HAS BEEN REJECTED**

Filed to day

*[Signature]*  
**Respectfully Sheweth:**

19/2/16

Brief facts leading to the present appeal are as under:

1. That the appellant is a regular employee as Computer Operator (BPS-14) in the District Judiciary Swat since 03-09-2003 and presently working as Stenographer on detailment in the

Re-submitted to day  
and filed.

*[Signature]*  
Registrar

17/2/16

august Peshawar High Court Mingora Bench (Dar-ul-Qaza) Swat.

2. That the appellant has rendered almost 12 years service with clean and unblemished record.
3. That the appellant holds higher qualification than the rest of the officials in the cadre of Computer Operator being Master Degree holder and having grabbed an LLB.
4. That during the DPC on dated 22-09-2015, the appellant was placed at serial # 2 in the seniority list of Computer Operators and appeared before the Departmental Promotion Committee and was interviewed while respondent # 2 in the seniority list didn't appear before the Departmental Promotion Committee on 22-09-2015 but still he was promoted. Copy of the promotion order dated 23-09-2015 is "**Annexure A**".
5. That the respondent # 2 has foregone/declined promotion three times continuously earlier than the present DPC, which fact is evident from the minutes recorded by the then honourable District & Sessions Judges. In this regard copies of the order dated 07-07-2008 and minutes of the earlier DPCs dated 02-05-2012 and 11-03-2013 are annexed herewith as "**Annexure B, C & D**" respectively.
6. That on 23-09-2015 the appellant submitted a written application to respondent # 1 raising legal objections regarding the promotion order dated

23-09-2015 of respondents # 2 and 3. Copy of said application is **“Annexure E”**.

- 7. That by virtue of the promotion order dated 23-09-2015 the vacant post of Senior Scale Stenographer was also filled through promotion of respondent # 3 which was actually the quota of initial recruitment, hence deprived the general public including the appellant of their valuable right.
- 8. That the promotion order dated 23-09-2015 to the extent of respondents # 2 and 3 was challenged/ objected by filing departmental representation before the respondent # 1. Copy of representation is annexed herewith as **“Annexure F”**.
- 9. That the respondent # 1 vide order dated Nil communicated to the appellant vide letter # 165/E.B dated 20-01-2016 (received on 21-01-2016, rejected the departmental representation. Copy of letter and order dated Nil are annexed herewith as **“Annexure G & H”** respectively.
- 10. That the impugned order is illegal having no sanctity in the eye of law and without applying judicious mind is liable to be set aside *inter alia* on the following amongst other grounds:

**GROUND:**

- i) That prior to the DPC dated 22-09-2015 respondent # 2 has foregone/declined promotion three times continuously and the same is evident from minutes of the meetings of earlier DPCs



dated 07-07-2008, 02-05-2012 and 11-03-2013 and according to Part-II **Rule 7(5)** of **the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989** he should have been treated as **“permanently superseded”**. The said Rule is reproduced hereby for ready reference of your honour:

*7...“(5) If on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next four years following order.*

*Provided that if he declines to avail the benefit of promotion for the second time, then he shall stand superseded permanently for such promotion.*

But despite having crystal clear rules on the subject the respondent # 2 was granted promotion and respondent # 1 while deciding departmental representation of the appellant didn't even bother to discuss the *ibid* rules rather he misconceived the seniority with the permanent supersessions which are two different terms because the *ibid* rules speaks of supersession not that of seniority.

- ii) That as per *ibid* rules the seniority of declining official would be intact as before, but during promotions he would not be considered meaning thereby that permanently superseded official does not mean that the official would be tumbled to the bottom of seniority list.
- iii) That the respondent # 1 in the impugned order held that the appellant has deferred his promotion and his juniors *viz* Noman Ali and Usman Malik

were promoted to the post of steno typist which comes within the definition of concealment of record because Mr. Usman Malik is one who is senior to the appellant and junior from the respondent # 2 from the very beginning of cadre. Moreover, the one Mr. Noman Ali who is junior to the appellant was promoted instead of the appellant & respondent No. 2 because of the then Chairman Committee didn't find the appellant fit for promotion on the ground of incomplete ACRs as in those days the appellant had repatriated from 02 years earned leave and respondent No 2 declined the promotion, therefore, the appellant didn't defer or decline the promotion rather he was refused which fact may be collaborated with the minutes of DPC dated 11-03-2013.

- iv) That the respondent # 1 in the impugned order also misconstrued the extra ordinary leave of the respondent # 2 and earned leave of appellant and placed both on the same footing which are two different kinds of leave as extra ordinary leave is generally not counted in service while earned leave is countable and this fact is evident from the pay slip of the respondent No. 2.
  
- v) Now adverting to the promotion of respondent No. 3, he has been promoted illegally because quota of initial recruitment as well as promotion was completed at the time of the DPC dated 22-09-2015 by the ratio of 1:3 out of total existing strength of 8 and the current 9<sup>th</sup> vacancy of the cadre should fall to the initial recruitment which

was not followed and post of initial recruitment/merit was turned into promotion for the reasons not known to the appellant, hence unlawful as per Peshawar High Court (Subordinate Courts Staff) Recruitment Rules 2003. Copy of the said Rules is "Annexure J".

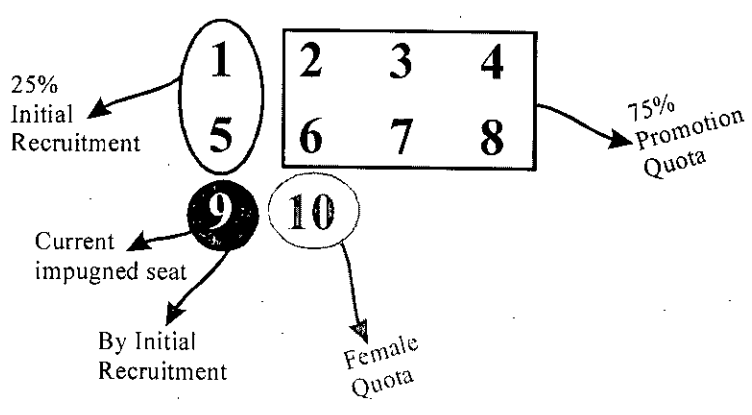
vi) That the criterion for the ratio calculations mentioned in the impugned order has been adopted that of the Federal Public Service Commission instead of the Khyber Pakhtunkhwa Public Service Commission which guidelines / rules clearly explains that the 9<sup>th</sup> vacancy will fall to initial recruitment/merit, therefore, on this core too the impugned order is beyond the parameters of justice and needs indulgence of this Hon'ble court to rectify the said order. The copies of the said rules are attached herewith as Annexure "K".

vii) That in the appendix of *ibid* Rules, in column # 5, initial recruitment by 25% has been placed **earlier** than recruitment through promotion by 75%, which gives a sense of understanding that quota of initial recruitment will be filled prior than that of recruitment through promotion, hence in that very sense the present post filled through promotion is unlawful and it should have been filled through initial recruitment.

**The Method of Recruitment is very humbly explained as under,**

- (i) 25% by initial recruitment
- (ii) 75% by promotion

Meaning thereby that in each 04 seats the **first** seat shall be filled by initial recruitment and rest of the three seats will be reserved for promotional quota etc. The following diagram will better explain the stance of the appellant:



viii) That besides the best public interest at large, the appellant is also affecting indirectly by non-observance of quota for initial recruitment in which case the petitioner would have applied and there is every hope of being selected against the said post, therefore, the appellant has got a *locus standi* to stand against it, being an aggrieved person therefore, the respondent No. 1 in the impugned order has wrongly apportioned that the appellant being the Computer Operator has no *locus standi* to object the promotion on the post of Stenographer.

ix) That further grounds will be delivered during the course of arguments with the permission of this Hon'ble Court.

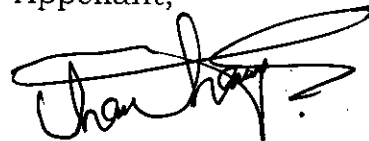
**PRAYER:**

It is, therefore, very humbly prayed that on acceptance of this Service Appeal:

- a) The impugned promotion order dated 23-09-2015 may kindly be set aside by declaring respondent No.2 as permanently superseded and the appellant being senior most for promotion may kindly be promoted against the so vacant post w.e.f 23-09-2015 and;
- b) The promotion granted to respondent No. 3 be recalled and the said post of stenographer may very graciously be filled by initial recruitment/merit as per the prescribed law and procedure for the best public interest, please.

Any other remedy which your honour may deem fit and appropriate and has not been specifically prayed for, may also very graciously be granted/ordered, please.

Appellant,



**ABDUL NASIR**

Computer Operator  
Presently on detailment  
Peshawar High Court/  
Mingora Bench Swat  
Dated: 18-02-2016.

**AFFIDAVIT:**

I, Abdul Nasir, Computer Operator presently working on detailment in the august Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat do hereby affirm that the contents of the instant service appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.

Deponent,

A handwritten signature in black ink, appearing to read 'Abdul Nasir', with a date '18/12/16' written to its right.

ABDUL NASIR

**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL**

Misl. Application # \_\_\_\_\_ of 2016  
In Service Appeal # \_\_\_\_\_ of 2016

**Abdul Nasir S/o Fazal Hadi Computer Operator BPS-14  
District Courts Swat (Now Stenographer on detailment in  
Peshawar High Court Mingora Bench/Dar-ul-Qaza).  
(Petitioner/Appellant)**

**V E R S U S**

- 1) **The Hon'ble District & Sessions Judge/Zila Qazi Swat**
- 2) **Mr. Mehboob Ali Stenotypist District Courts Swat the then Computer Operator.**
- 3) **Mr. Bakht Sher Ali Stenographer District Courts Swat the then Stenotypist (Now on detailment at Peshawar High Court/Mingora Bench Dar-ul-Qaza).  
(Respondents)**

**APPLICATION FOR REQUISITION OF RECORD:**

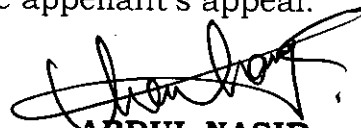
- i) Minutes of the DPC dated 07-07-2008 through which Mr. Ahmad Zeb KPO was promoted*
- ii) Seniority list of KPOs as on 07-07-2008*
- iii) Seniority list of COs as on 02-05-2012*
- iv) Seniority list of COs as on 11-03-2013*
- v) Seniority list of COs as on 22-09-2015*

**Respectfully Sheweth:**

The petitioner very humbly submits as under:

- i) That the above documents are necessary for the clear picture of the issue under consideration and for the ready reference of your lordship, the same may please be requisitioned and may be considered as part and parcel of the appeal.
- ii) That other official documents such as working papers prepared for the earlier three DPCs as well as of the current DPC, ACRs, service books etc. (through concerned office)

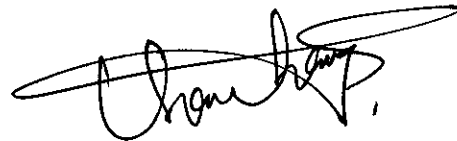
It is, therefore, humbly requested that on acceptance of this application the subject documents may please be requisitioned and considered as part and parcel of the appellant's appeal.

  
**ABDUL NASIR**  
(Appellant through counsel)

**AFFIDAVIT:**

I, Abdul Nasir, Computer Operator presently working on detailment in the august Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat do hereby affirm that the contents of the accompanied application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.

Deponent,



ABDUL NASIR

Petitioner/Appellant



Annexure "A"  
ORDER

13



On the recommendations of the Departmental Promotion Committee meeting held on 22/09/2015, the following officials are hereby promoted as per detail mentioned against each with immediate effect:

S#	Name of official with designation	Promoted as
1	Mr. Bakht Sher Ali Khan son of Deray	Stenographer (BPS-16)
2	Mr. Roshan Ali son of Zoor Muhammad Khan	Reader /Assistant (BPS-16)
3	Mr. Muhammad Jamil son of Muhammad Yousaf Khan	Reader /Assistant (BPS-16)
4	Mr. Mehboob Ali son of Rahmat Ali	Steno Typist (BPS-14)
5	Mr. Qismat Ali son of Momin Khan	Reader/ Senior Clerk (BPS-14)
6	Mr. Niaz Muhammad son of Fazal Hanan	Reader/ Senior Clerk (BPS-14)
7	Mr. Murad Ali son of Fazal Akbar	Reader/ Senior Clerk (BPS-14)
8	Mr. Arshad Ali son of Bashir Ahmad	Reader/ Senior Clerk (BPS-14)
9	Mr. Hayat Ali son of Muhammad Haleem	Muharrir/Junior Clerk (BPS-11)
10	Mr. Ubaidullah son of Rahmani Gul	Daftari (BPS-05)

They shall remain on probation for the period prescribed in the relevant rules.

*(Signature)*  
O/c  
(MOHAMMAD TARIQ)  
District & Sessions Judge/  
Zilla Qazi, Swat.

**OFFICE OF THE DISTRICT & SESSIONS JUDGE/ZILLA QAZI, SWAT**

Endst: No. 4443-49 /

Dated: 23/09/2015.

- Copy forwarded to:-
1. The Registrar, Peshawar High Court, Peshawar.
  2. All Courts concerned for information.
  3. The District Comptroller of Accounts, Swat.
  4. The Accountant /Nazir of this Court.
  5. The Civil Nazir to the Court of Senior Civil Judge/ A'ala Illaqa Qazi, Swat.
  6. Officials by name.
  7. Personal files of the officials concerned.

*(Signature)*  
O/c  
(MOHAMMAD TARIQ)  
District & Sessions Judge/  
Zilla Qazi, Swat

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE IN  
DISTRICT JUDICIARY SWAT.

A meeting of the departmental promotion committee was held in the chamber of District & Sessions Judge/Zila Qazi, Swat today on September 22, 2015.

The following attended:-

1	MR. MOHAMMAD TARIQ, District & Sessions Judge/Zilla Qazi, Swat.	Chairperson
3	MR. AABID SARWAR Additional District & Sessions Judge Mardan	Nominee of Peshawar High Court.
2	MR. AJMAL SHAH Additional District & Sessions Judge/Izafi Zilla Qazi-III, Swat	Nominee of District & Sessions Judge/Zilla Qazi, Swat.

The committee considered promotion cases for the following vacant positions:

S.N	Post	BPS	No: of vacancies	To be promoted from
1	Stenographers	16	1	Steno typists (BPS-14)
2	Assistant / Reader	16	2	Senior Clerk/ Reader (BPS-14)
3	Steno Typist	14	1	Computer Operators (BPS-14)
4	Senior Clerk	14	4	Junior Clerk/Muharrir (BPS-11)
5	Junior Clerk	11	1	Daftari (BPS-03)
6	Daftari	5	1	Class-IV (BPS-01)

**STENOGRAPHER (BPS-16):**

Service records/A.C.Rs of the following senior most steno typists was scrutinized on the criterion of seniority cum fitness:

1	Mr. Bakht Sher Ali Khan s/o Deray	Steno Typist
2	Mr. Muhammad Rahman s/o Ahmad	Steno Typist
3	Mr. Attaullah s/o Muhammad Salahudin	Steno Typist

The committee unanimously recommended Mr. Bakht Sher Ali Khan, senior most serving steno typist (on detailment in the Peshawar High Court Mingora Bench/ Darul Qaza Swat) for promotion to the vacant position of Stenographer (BPS-16).

**READER / ASSISTANT (BPS-16):**

Service records/A.C.Rs of the following senior most Senior Clerks/Readers was assessed on the criterion of seniority cum fitness:

1.	Mr. Roshan Ali s/o Zoor Muhammad Khan	Senior Clerk / Reader
2.	Mr. Muhammad Jamil s/o Muhammad Yousaf Khan	Senior Clerk / Reader



3.	Mr. Shamsul Uloom s/o Hazrat Umar	Senior Clerk / Reader
4.	Mr. Muhammad Rashid s/o Muhammad Ibrahim	Senior Clerk / Reader
5.	Mr. Wali Khan s/o Zarif Khan	Senior Clerk / Reader
6.	Mr. Fazal Mabood s/o Sher Afzal	Senior Clerk / Reader

The committee unanimously recommended (1) Mr. Roshan Ali and (2) Mr. Muhammad Jamil, Senior Clerks/Readers, the first two in the order of their seniority, for promotion to the post of Assistant/Reader (BPS-16).

**STENO TYPIST (BPS-14):**

Service record/A.C.Rs of the following senior most Computer Operators was scrutinized on the criterion of seniority cum fitness. They were interviewed as well:

1	Mr. Mehboob Ali s/o Rahmat Ali	Computer Operator
2	Mr. Abdul Nasir s/o Fazal Hadi	Computer Operator
3	Mr. Shah Saoud s/o Mahmood	Computer Operator

Mr. Mehboob Ali Computer Operator placed at S.No. 1 of the seniority list was found fit, therefore, was unanimously recommended by the committee for promotion to the vacant position of Steno Typist (BPS-14).

**SENIOR CLERK/READER (BPS-14):**

Service records/A.C.Rs of the following senior most Junior Clerks/Muharrirs was evaluated at the touchstone of seniority cum fitness:

1	Mr. Qismat Ali s/o Momin Khan	Junior Clerk / Muharrir
2	Mr. Niaz Muhammad s/o Fazal Hanan	Junior Clerk / Muharrir
3	Mr. Murad Ali s/o Fazal Akbar	Junior Clerk / Muharrir
4	Mr. Arshad Ali s/o Bashir Ahmad	Junior Clerk / Muharrir
5	Mr. Allama Iqbal s/o Qaimat Gul	Junior Clerk / Muharrir
6	Mr. Niaz Ali s/o Amir Hatam	Junior Clerk / Muharrir

The committee unanimously recommended (1) Mr. Qismat Ali (2) Niaz Muhammad (3) Murad Ali & (4) Arshad Ali, Muharrirs / Junior Clerks the first four in order of their seniority for promotion to the post of Senior Clerk/Reader (BPS-14).

JUNIOR CLERK/MUHARRIR (BPS-11)

16



Service record/A.C.Rs of the following Daftari(s) was perused on the criterion of seniority cum fitness:

1	Muhammad Hayat s/o Khuna Gul	Daftari
2	Hayat Ali s/o Muhammad Haleem	Daftari


The committee unanimously recommended Mr. Hayat Ali placed at S.No.2 for promotion to the post of Junior Clerk/Muharrir, as Mr. Muhammad Hayat Daftari placed at S.No. 1 does not possess the required educational qualification.

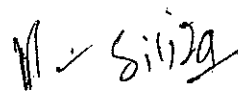
DAFTARI (BPS-05):


Service records/A.C.Rs of the following Class-IV (joint seniority) was considered on the criterion of seniority cum fitness:

1	Mr. Ubaidullah s/o Rahmani Gul	Naib Qasid
2	Mr. Raza Khan s/o Dilfaroze	Chowkidar
	Mr. Musa Khan s/o Qalandar	Chowkidar

The committee unanimously recommended Mr. Ubaidullah Naib Qasid for promotion to the post of Daftari (BPS-05).

  
(MOHAMMAD TARIQ)  
District & Sessions Judge/  
Zila Qazi, Swat / Chairman.

  
MR. AABID SARWAR  
Additional District & Sessions Judge  
Mardan

  
MR. AJMAL SHAH  
Additional District & Sessions Judge/  
Izafi Zilla Qazi-III, Swat

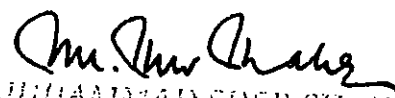
ORDER.

On the recommendation of Departmental Promotion Committee, the following promotions amongst the Ministerial staff of this Establishment are hereby ordered with immediate effect:

S.No.	Name of official	Designation	Promoted as
1.	Mr. Khurshid	Senior Clerk/ Reader (BPS-09)	Assistant / Reader (BPS-14)
2.	Mr. Abdul Wadood	Senior Clerk/ Record Keeper (BPS-09)	Assistant / Reader (BPS-14)
3.	Mr. Ahmad Zeb	K.P.O (BPS-10)	Steno Typist (BPS-12)
4.	Mr. Wali Khan	Junior Clerk/ Muharrir (BPS-07)	Senior Clerk/ Reader (BPS-09)
5.	Mr. Baktyar	Junior Clerk/ Muharrir (BPS-07)	Senior Clerk/ Reader (BPS-09)
6.	Mr. Abdul Dayan	Junior Clerk/ Muharrir (BPS-07)	Senior Clerk/ Reader (BPS-09)
7.	Mr. Abdullah	Junior Clerk/ Muharrir (BPS-07)	Senior Clerk/ Reader (BPS-09)
8.	Mr. Hazrat Bilal	Junior Clerk/ Muharrir (BPS-07)	Senior Clerk/ Reader (BPS-09)
9.	Mr. Altaf Hussain	Sweeper (BPS-02)	Junior Clerk/ Muharrir (BPS-07)
10.	Mr. Izat Gul	Naib Qasid (BPS-02)	Junior Clerk/ Muharrir (BPS-07)
11.	Mr. Sardar Ali	Naib Qasid (BPS-02)	Junior Clerk/ Muharrir (BPS-07)
12.	Mr. Aftab Ali	Naib Qasid (BPS-02)	Daftari (BPS-04)
13.	Muhammad Rehman	Process server (BPS-03)	Baliff (BPS-04)

NOTE:

The promotee officials shall remain on probation for the period prescribed by the relevant Rules.

  
MUHAMMAD SFER SHAH  
District & Sessions Judge/  
Zila Court, Swat.

OFFICE OF THE DISTRICT & SESSIONS JUDGE/ZILA QAZI, SWAT


Endst: No. 1872-1890

Dated: 07/07/2008

Copy forwarded to :-

- 1) The worthy Registrar Peshawar High Court, Peshawar for information, please.
- 2) Mr. Khalid Khan Mohmand, Senior Civil Judge/ Aala Illaqa Qazi, Swat, Member / nomine of the authority.
- 3) Qazi Attaullah, Civil Judge-cum-Judicial Magistrate, Malakand, Member / nominee of the august Peshawar High Court, Peshawar.
- 4) The District Comptroller of Accounts, Swat.
- 5) All the officials by name.
- 6) Personal files of the officials concerned.
- 7) Incharge Information Center, District Courts, Swat.

  
District & Sessions Judge/  
Zila Qazi, Swat.

 (19)

**MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE  
IN DISTRICT JUDICIARY SWAT HELD ON 02/05/2012.**

Annexure C

A meeting of the Departmental Promotion Committee was held in the chamber of District & Sessions Judge/Zila Qazi, Swat, today on 02/05/2012. The following attended:-

1	MR. MUHAMMAD AYUB KHAN, District & Sessions Judge/Zilla Qazi, Swat.	Chairperson
2	MR. AMJAD MAKHDOM Additional District & Sessions Judge/Izafi Zilla Qazi-III, Swat.	Nominee of Peshawar High Court.
3	MRS. HINA KHAN Senior Civil Judge/A'ala Illaqa Qazi, Swat.	Nominee of the chairperson.

The committee considered promotion cases for the following vacant position.

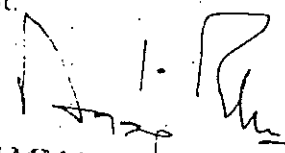
S.No	Designation	Posts
1	Stenographer (BPS-15)	01
2	Steno Typist (BPS-12)	01


**STENOGRAPHER (BPS-15):**

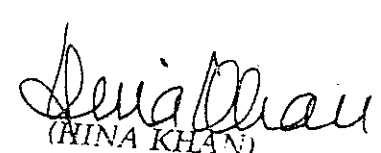
After scrutinizing the service record/A.C.Rs of the senior most steno typist on the criterion of seniority cum fitness, the committee then unanimously recommended Mr. Abdul Hai, serving steno typist for promotion to the vacant position of stenographer vacated after the retirement of Mr. Khadim Jan, Stenographer.

**STENO TYPIST (BPS-12):**

After scrutinizing the service record/A.C.Rs and interviewing five senior most Computer Operators on the criterion of seniority cum fitness, the top two computer operators refused the offer of promotion and Mr. Abdul Nasir placed at S.No.3 of seniority list was also not found fit. Only Mr. Noman Ali, Computer Operator placed at S.No. 4 of the seniority list opted for the said post. He was also found fit, therefore, was unanimously recommended by the committee for promotion to the vacant position of steno typist.

  
(MUHAMMAD AYUB KHAN)  
District & Sessions Judge/  
Zila Qazi, Swat / Chairman.

  
(AMJAD MAKHDOM)  
Additional District & Sessions  
Judge/Izafi Zilla Qazi-III, Swat/  
Nomine of the Peshawar High Court,  
Peshawar

  
(HINA KHAN)  
Senior Civil Judge/A'ala Illaqa Qazi,  
Swat/Nomine of the Chairperson

**MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE  
IN DISTRICT JUDICIARY SWAT HELD ON 11/03/2013.**

20

A meeting of the Departmental Promotion Committee was held in the chamber of District & Sessions Judge/Zila Qazi, Swat today on 11/03/2013. The following attended:-

1	MR. MUHAMMAD AYUB KHAN, District & Sessions Judge/Zilla Qazi, Swat.	Chairperson
2	MR. MUHAMMAD ZUBAIR KHAN Additional District & Sessions Judge/Izafi Zilla Qazi-II, Swat	Nominee of Peshawar High Court.
3	MR. IJAZ AHMAD Senior Civil Judge/A'ala Illaqa Qazi, Swat.	Nominee of the chairperson.

The committee considered promotion cases for the following vacant position.

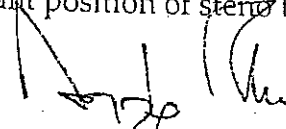
S.No	Designation	Posts
1	Stenographer (BPS-16)	01
2	Steno Typist (BPS-14)	01

**STENOGRAPHER (BPS-16):**


After scrutinizing the service record/A.C.Rs of the senior most steno typist on the basis of seniority cum fitness, the committee unanimously recommended Mr. Muhamunad Rafiq, serving as steno typist for promotion to the vacant position of stenographer.

**STENO TYPIST (BPS-14):**

After scrutinizing the service record/A.C.Rs and interviewing senior most Computer Operators on the basis of seniority cum fitness, Mr. Mahboob Ali Computer Operator placed at S.No.1 of the seniority list was lacking short-hand skills and was not willing to be promoted. Thus Mr. Usman Malik, Computer Operator placed at S.No.2 was found fit and was unanimously recommended by the committee for promotion to the vacant position of steno typist.

  
(MUHAMMAD AYUB KHAN)  
District & Sessions Judge/  
Zila Qazi, Swat / Chairman.

(MUHAMMAD ZUBAIR KHAN)  
Additional District & Sessions  
Judge/Izafi Zilla Qazi-II, Swat/  
Nomine of the Peshawar High Court,  
Peshawar

  
(IJAZ AHMAD)  
Senior Civil Judge/A'ala Illaqa Qazi,  
Swat/Nomine of the Chairperson



(21)

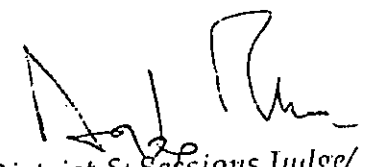
15

OFFICE OF THE DISTRICT & SESSIONS JUDGE/ZILLA QAZI  
CHAIRMAN DEPARTMENTAL PROMOTION COMMITTEE SWAT

No. 1359-13631

Dated: 11 / 13 / 2013

- Copy forwarded to:
- The Registrar, Peshawar High Court, Peshawar.
- All Members.
- The personal files of the officials concerned.
- Office copy.

  
District & Sessions Judge/  
Zila Qazi, Swat.

To,

Annexure "E"

(16)

The Honourable  
District & Sessions Judge/Zila Qazi Swat/  
Chairman Departmental Promotion Committee

22

Through: PROPER CHANNEL

Subject: REQUEST FOR PROMOTION

**Respected Sir,**

I have the honour to submit that I am working as Computer Operator in District Courts Swat since 03-09-2003. In the Seniority List of Computer Operator the applicant is at serial # 2. Yesterday on 22-09-2015 I appeared before the Departmental Promotion Committee and was interviewed because the official at serial # 1 namely Mehboob Ali didn't opt to avail promotion and forgo, therefore, he didn't appear before the Departmental Promotion Committee on 22-09-2015. Moreover, he has availed 02 years Extra Ordinary Leave which is not countable as qualifying service which is evident from his pay slip/accounts record and this fact placed Mr. Mehboob Ali Computer Operator at the bottom of the Seniority List. Thus for the reasons above the applicant is eligible for promotion to the post of Steno Typist.

**Esteemed Sir,**

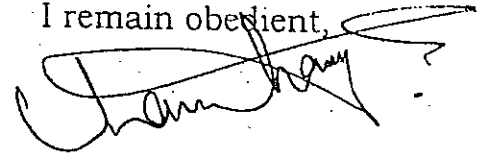
It is pertinent to mention here that the office failed to bring true picture of the working paper for the promotions and carried out a post of Stenographer to promotional quota which required and supposed to be filled by initial recruitment as out of 9 posts so far 01 post has been filled by initial recruitment and current post also falls in the quota of initial recruitment as per the prescribed law.

**Honourable Sir,**

It is, therefore, humbly requested that my application may kindly be considered and a chance of personal hearing may kindly be given to me.

Thanking you in anticipation!

I remain obedient,



**ABDUL NASIR**  
Computer Operator  
(Presently on detailment  
at Dar-ul-Qaza  
Dated: 23-09-2015

(PTO)

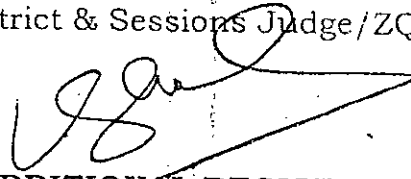
OFFICE OF THE ADDITIONAL REGISTRAR PESHAWAR HIGH COURT  
MINGORA BENCH SWAT

Endst No. 2867 /Admn

Dated: 23-09-2015

17  
23

Forwarded in original to the learned District & Sessions Judge/ZQ Swat for further necessary action, please.

  
ADDITIONAL REGISTRAR  
Peshawar High Court  
Mingora Bench Swat

23/9/15

SENDING REPORT

23 Sep. 2015 11:27AM

YOUR LOGO : HIGH COURT MINGORA BENCH  
YOUR FAX NO. : 0946885004

NO.	OTHER FACSIMILE	START TIME	USAGE TIME	MODE	PAGES	RESULT
01	713893	23 Sep. 11:26AM	00'50	SND	01	OK

TO TURN OFF REPORT, PRESS 'MENU' #04.  
THEN SELECT OFF BY USING '+' OR '-'.

SENDING REPORT

23 Sep. 2015 11:28AM

YOUR LOGO : HIGH COURT MINGORA BENCH  
YOUR FAX NO. : 0946885004

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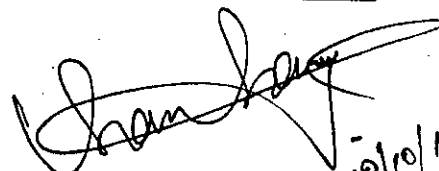
TO TURN OFF REPORT, PRESS 'MENU' #04.  
THEN SELECT OFF BY USING '+' OR '-'.


Annexure "F"  
(Representation)

24

INDEX

S#	Description	Annexure	Page Number
1.	Departmental Representation a/w affidavit	-	1 - 7
2.	Application for requisition of certain record	-	8
3.	Impugned Promotion Order dated 23-09-2015	A	9
4.	Minutes of DPC dated 22-09-2015	A1	10 - 12
5.	Minutes of DPC dated 02-05-2012	B	13
6.	Minutes of DPC dated 11-03-2013	C	14-15
7.	Copy of application dated 23-09-2015	D	16-17
8.	Copy of Rules KPK Civil Servants (Appointment, Promotion & Transfer) 1989	E	18
9.	Copy of Rules PHC (Subordinate Courts Staff) Recruitment, 2003	F	19

  
ABDUL NASIR  
Petitioner  
10-10-2015

Received  
  
10/10/2015

To,

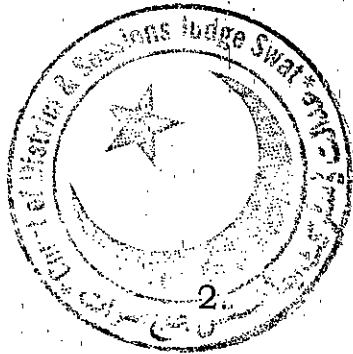
**The Hon'able  
District & Sessions Judge/  
Zila Qazi Swat**

Subject: REPRESENTATION AGAINST THE PROMOTION  
ORDER BEARING ENDST: # 4443-49 DATED  
23-09-2015 TO THE EXTENT OF OFFICIALS  
MENTIONED THEREIN AT SERIAL # 4 AND 1

**Esteemed Sir,**

With great reverence the petitioner submits as  
under:

1. That the petitioner is a regular employee as  
Computer Operator (BPS-14) in the District  
Judiciary Swat since 03-09-2003 and presently  
working on detailment in the august Peshawar  
High Court Mingora Bench (Dar-ul-Qaza) Swat.



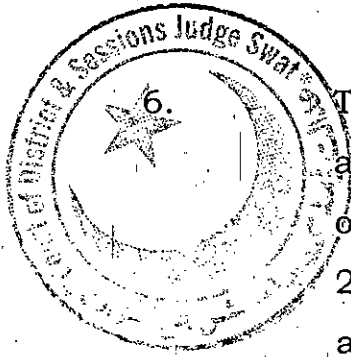
2. That the petitioner has rendered almost 12 years  
service with clean and unblemished record.

3. That the petitioner holds higher qualification than  
the rest of the officials in the cadre of Computer  
Operator being Master Degree holder and having  
grabbed an LLB.

4. That during the DPC on dated 22-09-2015, the  
petitioner was placed at serial # 2 in the seniority  
list of Computer Operators and appeared before  
the Departmental Promotion Committee and was  
interviewed while official at serial # 1 in the  
seniority list didn't appear before the  
Departmental Promotion Committee on 22-09-  
2015 but still he got selected. Copy of the

impugned promotion order dated 23-09-2015 is **"Annexure A"** while copy of minutes of DPC dated 22-09-2015 is **"Annexure A1"**.

5. That the official mentioned at serial # 4 in the impugned promotion order dated 23-09-2015 has foregone/declined promotion three times continuously earlier than the present DPC, which fact is evident from the minutes recorded by the then honourable District & Sessions Judges. In this regard copies of the minutes of the earlier DPCs dated 02-05-2012 and 11-03-2013 are annexed herewith as **"Annexure B & C"** respectively.



6. That on 23-09-2015 the petitioner also submitted a written application to your good-self raising legal objections on the promotion order dated 23-09-2015 of the subject noted officials. Copy of said application is **"Annexure D"**.

7. That by virtue of the said impugned promotion order dated 23-09-2015 the vacant post of Senior Scale Stenographer was also filled through promotion of official at serial # 1 of the impugned promotion order which was actually the quota of initial recruitment, hence deprived the general public including the petitioner of their valuable right.

8. That the promotion order dated 23-09-2015 to the extent of officials mentioned therein at serial # 4

and 1 is liable to be set aside *inter alia* on the following amongst other grounds:

**GROUND:**

- i) That prior to the DPC dated 22-09-2015 official at serial # 4 in the promotion order dated 23-09-2015 has foregone/declined promotion three times continuously and the same is evident from minutes of the meetings of earlier DPCs dated 07-07-2008, 02-05-2012 and 11-03-2013 and the said official has also submitted in black and white the refusal to promotion but the office despite petitioner's insistence didn't provide neither particulars nor the said document and minutes of DPC dated 07-07-2008 (therefore cannot be annexed for ready reference) and according to Part-II **Rule 7(5) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989** he should have been treated as "**permanently superseded**". The said Rule is reproduced hereby for ready reference of your honour:

***7...“(5) If on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next four years following order.***

***Provided that if he declines to avail the benefit of promotion for the second time, then he shall stand permanently superseded for such promotion.***

But despite having crystal clear rules on the subject the official at serial # 4 was granted promotion which is against law and facts. Copy of the ibid rules is "**Annexure E**".



- ii) That as per law the official at serial # 4 should have been permanently superseded in terms of Rule 7(5) *ibid* but the office for the reasons best known to them didn't brought this fact before your honour in the working paper prepared for the said DPC. On this core alone the impugned order is liable to be set aside.
- iii) That the document/letter in which the official, at serial # 4 in the impugned promotion order, has declined in writing the promotion was not provided to the petitioner on one or the other pretext, therefore, the said document as well as minutes of DPC dated 07-07-2008 cannot be provided with the instant petition, but on the basis of available record one can easily conclude that the findings recorded by the then District and Sessions Judges in the minutes of the earlier three DPCs carry strong presumption of truth that the official at serial # 4 in the impugned promotion order, foregone/refused promotion three times continuously which is much more appealing to prudent mind that three times refusal will carry much more weight than one time refusal in black and white.
- iv) That inspite of permission granted by your honour, the concerned branch informed the petitioner that on the eve of DPC dated 07-07-2008 no minutes were issued and only promotion order was issued directly. This seems a lame excuse and increase the suspicion of petitioner that facts were intentionally concealed by some





unknown elements inside the office which also needs a probe.

v) That another fact about the service of official at serial # 4 has not been brought into your honour's kind notice during preparation of the said working papers that the official at serial # 4 has availed Extra Ordinary Leave which is generally not counted in the qualifying service of a civil servant which is evident from his pay slip/service record. In view of above the official at serial # 4 is thus less in qualifying service as compare to the petitioner.

vi) Now adverting to the promotion of official at serial # 1, he has been promoted illegally because quota of initial recruitment as well as promotion was completed at the time of the DPC dated 22-09-2015 by the ratio of 1:3 out of total existing strength of 8 and the current 9<sup>th</sup> seat of the cadre should fall to the initial recruitment which was not followed and post of initial recruitment was turned into promotion for the reasons not known to the petitioner, hence unlawful as per Peshawar High Court (Subordinate Courts Staff) Recruitment Rules 2003. Copy of the said Rules is "**Annexure F**".

vii) That in the appendix of *ibid* Rules, in column # 5, initial recruitment by 25% has been placed **earlier** than recruitment through promotion by 75%, which gives a sense of understanding that quota of initial recruitment will be filled prior than that of

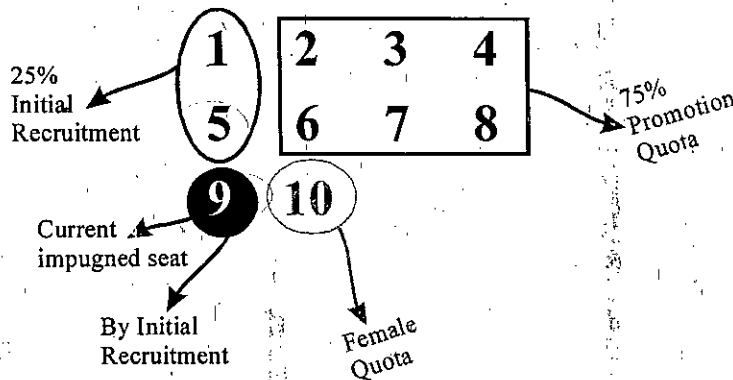


recruitment through promotion, hence in that very sense the present post filled through promotion is unlawful and it should have been filled through initial recruitment.

**The Method of Recruitment is very humbly explained as under, please:**

- (i) 25% by initial recruitment
- (ii) 75% by promotion

Meaning thereby that in each 04 seats the **first** seat shall be filled by initial recruitment and rest of the three seats will be reserved for promotional quota etc.



viii) That besides the best public interest at large, the petitioner is also affecting indirectly by non-observance of quota for initial recruitment in which case the petitioner would have applied and there is every hope of being selected against the said post, therefore, the petitioner has got a *locus standi* to stand against it, being an aggrieved person.

ix) That the petitioner shall be pleased enough to your good-self if heard personally in the matter under consideration, please.

**PRAYER:**

It is, therefore, very humbly prayed that on acceptance of this departmental representation:

- a) The impugned promotion order dated 23-09-2015 may kindly be set aside by declaring official at serial # 4 as permanently superseded and the petitioner being senior most for promotion may kindly be promoted against the so vacant post w.e.f 23-09-2015 and;
- b) The promotion granted to official at serial # 1 be recalled and the said post of stenographer may very graciously be filled by initial recruitment as per the prescribed law and procedure for the best public interest including the petitioner, please.

Any other remedy which your honour deems fit and appropriate and has not been specifically prayed for, may also very graciously be granted/ordered, please.



I remain obedient,

*Handwritten signature of Abdul Nasir*  
10/10/2015

**ABDUL NASIR**  
Computer Operator  
Presently on detailment  
Peshawar High Court/  
Mingora Bench Swat  
Dated: 10-10-2015

**AFFIDAVIT:**


I, Abdul Nasir, Computer Operator presently working on detailment in the august Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat do hereby affirm that the contents of the instant petition are true and correct to the best of my knowledge and belief and nothing has been kept concealed from your honour.

Deponent,

*Handwritten signature of Abdul Nasir*  
**ABDUL NASIR**

ATTESTED TO BE TRUE COPY

*Handwritten signature of District Judge*  
District & Sessions Judge  
Zila Gual, Swat

  
**BEFORE THE HONOURABLE DISTRICT & SESSIONS**  
**JUDGE/ZILA QAZI SWAT/CHAIRMAN DEPARTMENTAL**  
**PROMOTION COMMITTEE**  
(Representation)

32

**APPLICATION FOR REQUISITION OF RECORD:**

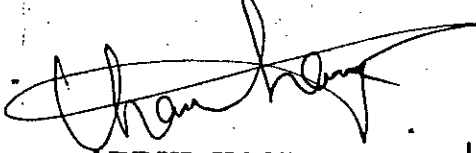
- i)** Minutes of the DPC dated 07-07-2008 through which Mr. Ahmad Zeb KPO was promoted
- ii)** Document/letter through which Mr. Mehboob Ali KPO refused to avail promotion
- iii)** Seniority list of KPOs as on 07-07-2008
- iv)** Seniority list of COs as on 02-05-2012
- v)** Seniority list of COs as on 11-03-2013

**Respected Sir,**

The petitioner very humbly submits as under:

- i) That the petitioner submitted an application for the provision of certain necessary documents which has to be appended with the representation but the same were not provided.
- ii) That in addition, subject documents at serial # 2 to 5 are necessary for the clear picture of the issue under consideration and for the ready reference of your honour, the same may please be ordered to be annexed by the office with this petition/representation and may be considered as part and parcel of the petition/representation.

It is, therefore, humbly requested that on acceptance of this application the subject documents may kindly be requisitioned and considered as part and parcel of the representation of the petitioner.



**ABDUL NASIR**  
Computer Operator  
Presently on detailment at  
PHC Mingora Bench  
Dated: ~~29-09-2015~~

10/10/15

حیدوانا صرٹیکوٹو ٹریڈنگ کمپنی - حال دارالقضاء سوات

Annexure "G"

33

No. 165 /E.B

Dated: 20 / 01 / 2016.

From: Office of the District & Sessions Judge/  
Zila Qazi, Swat.

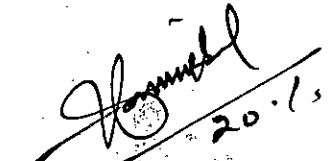
To: Mr. Abdul Nasir,  
Computer Operator  
presently at Peshawar High Court, Mingora Bench/  
Darul Qaza Swat.

SUBJECT: REPRESENTATION AGAINST THE PROMOTION  
ORDER BEARING ENDST: NO.4443-49 DATD  
23/09/2015 TO THE EXTENT OF OFFICIALS  
MENTIONED THEREIN AT SERIAL #4 AND 1

Memo:

I have been directed to convey remarks of the Hon'ble  
District & Sessions Judge/Zilla Qazi Swat / Authority on your  
representation as under:

"The petitioner's representation, being devoid  
of merits is rejected".

  
20.1.2016  
(HAMID IQBAL)  
Superintendent to  
District & Sessions Judge/  
Zila Qazi, Swat.

REPRESENTATION BY ABDUL NASIR COMPUTER OPERATOR AGAINST THE PROMOTION ORDER BEARING ENDST: NO.4443-49 DATED 23/09/2015 TO THE EXTENT OF OFFICIALS MENTIONED THEREIN AT SERIAL #4 AND 1

ORDER

Mr. Abdul Nasir, Computer Operator of this Sessions Division (presently on detailment in the Peshawar High Court Mingora Bench), filed representation against promotion order bearing No. 4443-49 dated 23/09/2015 to the extent of officials at S.No. 4 (Mehboob Ali, Stenotypist) and at S.No.1 (Bakhtsher Ali Khan Stenographer). The petitioner has raised the following objections against promotion of Mr. Mehboob Ali, Steno Typist:



- **That official at S.No.4 has declined promotion to the post of Steno Typist several times, hence he should have been permanently superseded;**
- **That official at S.No.4 has availed extra ordinary leave therefore his qualifying service is less than the petitioner, therefore, the petitioner should has been promoted instead.**

As per record of this office, promotions of official at S.No.4 (Mehboob Ali) as well as petitioner himself have been deferred on some occasions and other junior officials (Noman Ali & Usman Malik) were promoted to the post of Steno Typist. Neither of them declined in writing, nor objected to the promotion of junior Computer Operators as Steno Typist. However, in the Departmental Promotion Committee meeting held on 22/09/2015, Mr.Mehboob Ali Computer Operator was asked to appear before the committee or decline in writing (he being the senior most), who requested the committee for his promotion.

Moreover, Mr.Mehboob Ali, availed 609 days extra ordinary leave till 15/04/2008, while the petitioner availed 730 days earned leave till 12/12/2010. After arrival of Mr. Mehboob Ali from leave, several seniority lists have been issued on yearly basis by the office wherein signatures of the petitioner and others were obtained confirming its accuracy. Neither the petitioner nor anyone else objected the same, for so many years, hence, Mr.Mehboob Ali remained on top of the seniority till his promotion as Steno Typist.

The petitioner also objected to the promotion of Mr. Bakhtsher Ali Khan, Stenographer (at S.No.1 of the promotion order), **that ratio of quota for appointment / promotion has not been observed properly.**

*[Handwritten signature]*  
District & Sessions Judge  
Swat

ATTESTED TO BE TRUE COPY

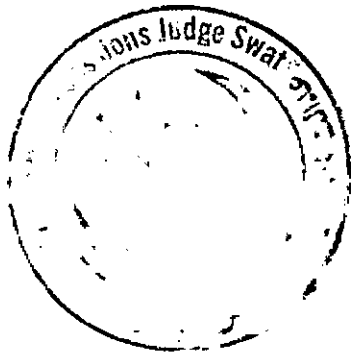
*[Handwritten signature]*  
District Judge  
Swat  
26-2-16

Firstly petitioner being Computer Operator has no locus standi to object to the promotion on the post of Stenographer. However to put the record straight, the position is clarified below.

As per this office record calculation of quota for appointment/promotion to the post of Stenographer has been maintained in light of Peshawar High Court (Subordinate Courts Staff) Recruitment Rules 2003 in the following manner:

Quota of post	Post (total 9)	Working ratio before DPC	Working ratio after DPC
25% initial recruitment out of 9 posts	2 / 2.25	2	2
75% by promotion out of 9 posts	7 / 6.75	6	7

The following excerpt / guideline is reproduced, which better explains the ratio calculations for a given number of posts:




**Sl. No. 200 Filling-up of Vacancies - Distribution According to Quota for Promotion, Transfer and Direct Recruitment:**

A question has arisen as to how the vacancies caused by resignation, transfer, etc. of the persons appointed against the quota of departmental candidates or direct recruits, before confirmation of such persons should be filled. The matter has been considered in consultation with the Federal Public Service Commission and it has been decided that the vacancies in various services/posts caused by any reason, should be filled on the basis of the quotas fixed for promotion, transfer and direct recruitment. For this purpose the total number of posts in a cadre should be distributed in accordance with the fixed quotas and the vacancies in such posts should be filled so as to achieve the overall quotas fixed for departmental candidates and direct recruits etc.

Authority:- Estt. Division O.M. No. 5(1)11/67-D.V., dated 21-3-1968].

Keeping in view the above discussion, the petitioner's representation being devoid of merits is rejected. The official be informed accordingly.

  
**(MOHAMMAD TARIQ)**  
 District & Sessions Judge/  
 Zila Qazi, Swat.  
 District & Sessions Judge  
 Swat at Saidu Sharif.



				purpose of promotion to the post of Superintendent BPS-16.
2	Senior Scale Stenographer BPS-15	i. Bachelor's Degree from a recognized University and speed of 100 words per minute in Shorthand and 40 words per minute in typing in English. Preference will be given to the candidates having knowledge of MS Office. ii. In the Districts where Urdu is the Court language, speed of 30 words per minute in typing in Urdu as well.	18 - 30 years	i. Twenty five percent by initial recruitment; and ii: seventy five percent by promotion; on the basis of seniority-cum-fitness, from amongst holders of the post of Stenotypist (BPS-12) with at least three years service as such.
3	Steno typist BPS-12 ✓	i. Intermediate or equivalent qualification from a recognized board; and ii. a speed of [50] words per minute in shorthand and 35 words per minute in	18 - 30 years	i. Seventy five percent by initial recruitment; and ii: <u>twenty five percent by promotion</u> , on the basis of seniority-cum-fitness, from amongst holders of the post of Key Punch Operator (BPS-10) who possesses the required qualification as mentioned in column # 3.



### Zonal Allocation in Initial Recruitment

In exercise of the powers conferred by Article 241 of the Constitution of the Islamic Republic of Pakistan and in supersession of this Department's Notification No.SOS.III (S&GAD)3-39/70 dated 25th March,1971 the Governor of the North-West Frontier Province is pleased to direct that notwithstanding anything to the contrary contained in any service/ Recruitment Rules under the rule making authority of the Governor of the North-West Frontier Province, vacancies to be filled by initial recruitment and by promotion shall be filled in the following manner:-

1. In the case of initial recruitment:-

<sup>69</sup>(a) there shall be block of 24 vacancies in the former Gazetted Service or post (including un-classified services or Posts) or equivalent status, which shall be filled in the following manner:-

- (i) Six such vacancies shall form merit quota and shall be filled on merit from among the candidates domiciled in any part of the North-West Frontier Province including the Federally Administered Tribal Areas attached thereto; and
- (ii) the remaining 18 vacancies shall be reserved for bona fide residents of the zones specified in column 2 of the Appendix to this Notification in accordance with the number of posts shown against each zone in column 4 thereof;"

(b) there shall be block of 18 vacancies in non-Gazetted Services or posts in the Secretariat Department and the Headquarters Offices of the Attached Departments which shall be reserved for bona fide residents of the zones specified in column 2 of the Appendix to this Notification in accordance with the number of posts shown against each zone in column 4 thereof;

Provided that where a zone has been further sub-divided into parts specified in column 3 of the said Appendix, the vacancies allocated to that zone shall be made available to each part of the zone in equal shares or by rotation, as the case may be;

<sup>70</sup>Provided further that in the case of vacancy allocated to a zone or, as the case may be, a part of that zone if no suitable candidate from that zone or part is available, the vacancy shall be filled from any other zone or part of that zone, as the case may be, and the vacancy of the latter zone or part of that zone, as the case may be when available shall be filled from former zone, or as the case may be a part of that zone, where no suitable candidate was available.

2. In the case of vacancies to be filled by promotion in the manner specified in the Service/Recruitment Rules of the Service concerned;

**Note:** See NWFP Civil Service (Sectt Group) Rules, 1997 & NWFP Civil Service (Executive Group) Rules, 1997 issued by Notification No. SOR-IV (S&GAD)/3-7/95-Vol.II, dated 26.6.97.

<sup>69</sup> Sub.Para (a) of Para 1 substituted by circular letter No.SORI(S&GAD)3-39/70, dated 3.2.90.  
Proviso substituted by Notification No.SOSIII(S&GAD)3-39/70,dated 21.1.74

<sup>70</sup> See also NWFP Civil Service (Sectt Group) rules, 1997 & NWFP Civil Service (Executive Group) rules,1997 issued through Notification No.SORIV(S&GAD)3-7/95 Vol.II, dated 26.6.97.

Provided that if in the opinion of the appointing authority no suitable officer/official is available for promotion to any post in the Provincial Secretariat from among the officers/officials constituting the Secretariat Services the vacancies, not exceeding ten per cent of the total cadre strength of the Service concerned, may be filled by transfer or promotion of suitable officers/officials serving in any Department of the Government of the North-West Frontier Province.

(Authority: NWFP,S&GAD Notification No.SOS.III(S&GAD)3-39/70 Dated 2.10.1973.)

### <sup>71</sup>APPENDIX

Sl. No	Zone	Parts of Zones	No. of posts for each Zone
1	2	3	4
1	Agencies of Bajaur, Mohmand, Khyber, Orakzai, North Waziristan, South Waziristan, Kurram, Frontier Regions attached to the districts of Peshawar, Kohat, Bannu and D.I.Khan.	Areas as detailed in column 2 against Serial No.1.	4
2	Peshawar,Nowshera,Charsadda, Mardan and Swabi District.	Areas as detailed in column 2 against Serial No.2.	4
<sup>72</sup> 3	District of Swat, Upper Dir, Lower Dir, Chitral, Buner, Shangla, Kohistan, Malakand Protected Areas (Swat Ranizai and Sam-Ranizai), backward areas of Haripur, Mansehra and Swabi District.	<ul style="list-style-type: none"> <li>i. Swat District.</li> <li>ii. Upper Dir District.</li> <li>ii a) Lower Dir District</li> <li>iii. Chitral District.</li> <li>iv. Buner District.</li> <li>v. Malakand Protected Area (Swat Ranizai and Sam-Ranizai).</li> <li>iv. Backward Areas of Mansehra consisting areas of District Battgram.</li> <li>vii. Kala Dhaka Area.</li> <li>viii. Upper Tanawal Area.</li> <li>ix. Kohistan District.</li> <li>ixa) Shangla District</li> <li>x. Gadoon Area in Swabi District.</li> </ul>	4
4	Dera Ismail Khan, Tank, Bannu, Lakki, Kohat and Karak Districts.	Areas as detailed in column 2 against Srl. No. 4.	3
5	Districts of Abbottabad, Haripur and Mansehra excluding backward areas of Mansehra District which form part of Zone-III.	Areas detailed in column 2 against Serial No.5.	3

<sup>71</sup> Appendix subst. by Notification No.SOR.I(S&GAD)3-39/70(Vol.III), dated 22nd September, 1992.

<sup>72</sup> As amended vide Notification No.SORVI(E&AD)1-17/2003/Vol-V. dated 24.2.2004

### ZONAL ALLOCATION FORMULA

I am directed to refer to the subject noted above and to state that in accordance with the provisions of the S&GAD Notification No.SORI(S&GAD) 3-39/70, dated 3.2.1990 there shall be a block of 24 vacancies for posts carrying BPS-16 & 17 for the purpose of zonal allocation. Of these six shall form merit quota and the remaining 18 shall be reserved for bona fide residents of Zone 1,2,3,4 & 5.

2. For the purpose of practical application of the new zonal formula a new rotational cycle of 24 vacancies shall become operative with immediate effect in the following order:-

<u>Vacancy</u>		<u>Zonal Allocation</u>
Ist	...	Merit
2nd	...	Zone 1
3rd	...	Zone 2
4th	...	Zone 3
5th	...	Merit
6th	...	Zone 4
7th	...	Zone 5
8th	...	Zone 1
<u>9th</u>	<u>...</u>	<u>Merit</u>
10th	...	Zone 2
11th	...	Zone 3
12th	...	Zone 4
13th	...	Merit
14th	...	Zone 5
15th	...	Zone 1
16th	...	Zone 2
17th	...	Merit
18th	...	Zone 3
19th	...	Zone 4
20th	...	Zone 5
21st	...	Merit
22nd	...	Zone 1
23rd	...	Zone 2
24th	...	Zone 3

3. In view of the changed formula the Commission has decided that fresh allocation/adjustment of all the vacancies will start from the first vacancy of first block of the new formula, provided that in a cadre the over and under subscription as it stood on the date of commencement of new formula shall be taken into account in future allocation of vacancies under the new system.

4. I am accordingly to request you that fresh requisition may be placed on the Commission on the basis of the new zonal allocation formula indicating the previous over/under subscription of various zones.

(Authority No.3-89-DS/3241, dated 19.3.1990 (PSC))

PART-II  
APPOINTMENT BY PROMOTION OR TRANSFER

40 19

7. **Appointment by Promotion or Transfer.**---<sup>1</sup>[(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee.]

(2) Appointment by transfer shall be made from amongst the persons who are eligible for appointment on regular basis in the same basic pay scale, in which the posts to be filled, exist.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down in the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

<sup>2</sup>[(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18, 19, 20 or 21, if the officer concerned has completed such minimum length of service as may be specified from time to time, or, in case of posts in Basic pay Scale 19 to 21, the officer, besides having the minimum length of service for the time being required for promotion, has also attended such training and passed such departmental examination as may be prescribed from time to time.]

<sup>3</sup>[(5) If on an order of promotion or before promotion any civil servant declines to accept promotion, such civil servant shall not be considered for such promotion for the next two years following the order:

Provided that if he declines to avail the benefit of promotion for the second time, he shall stand superseded permanently for such promotion.]

8. **Inter-Provincial Transfer.**---(1) Persons holding appointment in BPS 1 to 18 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:--

Provided that:-

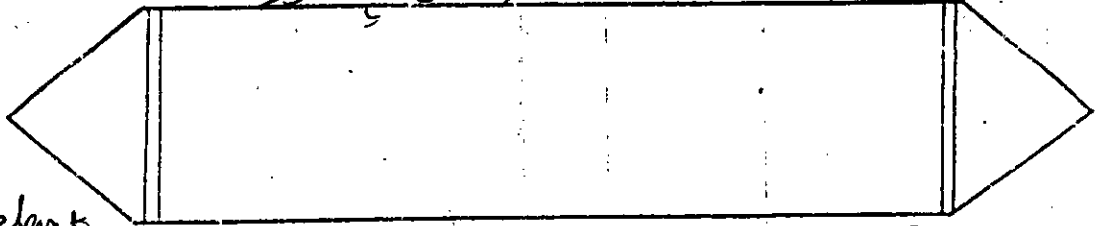
- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience for the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;
- (iv) the person concerned is a bonafide resident of the Khyber Pakhtunkhwa;
- (v) a vacancy exists to accommodate the request of such a transfer; and
- (vi) provided further that in most deserving cases, the merit of which is determined on case basis and the decision of the Competent Authority on that behalf shall be final, Government may allow transfer of a civil servant to BPS 18 and above, subject to the aforesaid conditions.

1. Sub-rule(1) of rule 7 substituted by Notif. No. SORI(S&GAD)4- 1/80(Vol.II), dated 14-01-1980.

2. Sub-rule 4 of Rule 7 substituted by Notif. No. SOR-I(S&GAD)4-1/80 (Vol-III) dated 30-12-1980.

3. Sub-rule (5) of Rule 7 added by Notif. No. SOR-VI(E&AD)1-3/2009/Vol-VIII dated 22-10-2009.

بعدالت سرویس ٹریبونل شاور



Appellant

عبدالناصر بنام سروسٹریڈنگ اینڈ ٹریڈنگ کمپنی سوان ہسٹری

موزخہ 2016-02-19

مقدمہ

دعویٰ سرویس اپیل

جرم

باعث تحریر یا نکتہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
آن مقام بمقام کیلئے اسرار اللہ ایڈووکیٹ شاور

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو عدم کی کل کارروائی کا کامل اختیار دیا گیا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک در پیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا کٹرفہ یا اپیل کی برادگی اور منسوخی  
نیز دائر کرنے اپیل ٹکرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Chamkhat

Attested and accepted

الرقوم 19 ماہ فروری 2016

بمقام شاور

Asad Ullah  
Advocate

کے لئے منظور ہے۔

بمقام شاور


AS

ایڈوکیٹ اور خط  
 بار کونسل نمبر: 61-13-4201  
 بار ایسوسی ایشن نمبر:  
 رابطہ نمبر: 0345-9454811

5946

ڈسٹرکٹ بار ایسوسی ایشن سوات

بعدالت جناب: فیصلہ کن وٹوان سروس ٹریبونل اور کیسپ کورٹ کورٹ

منجانب: اپیلانٹ	دعویٰ اور خواہش:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

**بامثل تحریر آگے**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام عمل کردہ / سروس ٹریبونل **فیصلہ کن وٹوان سروس ٹریبونل** کو دیکل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز دیکل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے دعویٰ، جواب دعویٰ، اقبال دعویٰ، واپسی مقدمہ اور درخواست ازہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف ذرا ایجنسی کی برآمدگی اور منسوخی نیز دائر کرنے ایجنس کرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور دیکل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ برداشت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ دیکل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو دیکل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، مقدمہ کی بھی عدالت میں بیجہ عدم پیروی داخل دفتر ہونے کی صورت میں دیکل موصوف ذمہ دار نہیں ہوگا، لہذا نکات نامہ لکھ دیا تاکہ سندر ہے۔

المرقوم: 03-05-16

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الع ہد واہ شد الع ہد

مقام عمل کردہ / سروس ٹریبونل کے لئے منظور ہے۔

Attestat et Accepted

Handwritten signatures and names at the bottom of the page.

Before The Service Tribunal Camp Court  
At Gulradra Swat.

Abdul Nasir Vs District & Sessions Judge etc.

Application for withdrawal The Service  
Appeal titled above due to the  
following reasons.


Respectfully Sheweth:-

① That the above mentioned Service appeal is  
pending before this Honorable Court in which  
the next date of hearing has been fixed  
as 10-11-2016.

② That the grievance of the Petitioner/Appellant  
has been redressed and the Petitioner  
is no more interested to pursue the case  
mentioned above.

It is, therefore, humbly prayed that the  
Case mentioned above may kindly be  
withdrawn -

Dated = 8/11/2016

Petitioner/Appellant  
through:   
J. Jamullah Khan  
Advocate.