

20.12.2016

Appellant in person, Mr. Waqar Ali Faiz Bangash, Assistant Director(Lit) for respondents No.1 and 2 alongwith Asstt: AG for official respondents and counsel for private respondents No. 4 to 8 present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 15.02.2017 before D.B.


(MUHAMMAD AAMIR NAZIR)
MEMBER

09.02.2017

Counsel for the appellant present and moved an application for early hearing as the appellant wants to withdraw the instant appeal. Case file requisitioned. Application is allowed. In this respect his signature also obtained on the margin of the order sheet. As such the appeal on hand is hereby dismissed as withdrawn. File be consigned to the record room.

Announced:
09.02.2017


(MUHAMMAD AAMIR NAZIR)
MEMBER

I want to withdraw the instant appeal.
File-2-6
9-2-2017

Appeal No. 817/2016
Irfanullah vs Govt

24.08.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant was appointed as Junior Clerk in the year, 1993. That despite his earlier appointment viz-a-viz private respondents No. 4 to 8 he was shown junior to them in the seniority list for the year, 2015 constraining the appellant to prefer departmental appeal on 10.05.2016 which was not responded and hence the instant service appeal on 11.08.2016.

That the appellant is entitled to be palced at S.No. 1 of the seniority list.

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 3.11.2016 before S.B.

Appellant Deposited
Security & Process Fee

Chairman

03.11.2016

Clerk to counsel for the appellant, Javed Iqbal for respondents No. 1 to 3 and private respondents No. 4 to 8 in person alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 20.12.2016 before S.B.


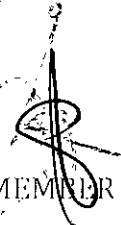
Member

Form-A

FORM OF ORDER SHEET

Court of _____

Case No. 817/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/08/2016	<p>The appeal of Mr. Irfanullah presented today by Syed Shahid Shah Advocate may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	12-08-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>24-08-2016</u>.</p> <p style="text-align: right;"> MEMBER</p>

Before the Khyber Pukhtunkhawa Service Tribunal Peshawar

Appeal No 817/2016

Irafanullah (Appellant)

Versus


Secretary Labour KPK and others..... (Respondents)

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5	Copy of Departmental appeal	B	8-10
7-	Wakalat Nama		11

Appellant

Through


10/8/2016
S. Shahid Shah Nasir Pur
Advocate

Before the Khyber Pukhtunkhawa Service Tribunal Peshawar

1

Appeal No. 817/2016

Irfanullah Junior Clerk office of the Assistant Director labour
Nowshera.

Khyber Pakhtunkhwa (Appellant)
Service Tribunal

VS

Diary No. 842

Dated 11-8-2016

1. Secretary Labour Khyber Pukhtunkhawa Civil secretariate Peshawar.
2. Director labour FC Building Peshawar.
3. Assistant Director Labour (Admin) F.C. Plaza Peshawar Cantt.
4. Mohammad Din Junior Clerk office of Assistant Director Labour Abbatabd.
5. Zaheer Hussain Junior Clerk Office of the Director Labour F.C. Plaza Peshawar
6. Mohammad Rehman Junior Clerk Office of the Director Labour F.C. Plaza Peshawar.
7. Amanullah Junior Clerk Office of Assistant Director Labour Charsadah.
8. Arifullah Junior Clerk Office of Assistant Director Labour Sawabi.

(Respondents)

Appeal against the seniority list issued by the respondent No,2 whereby name of the appellant placed junior to the respondents no,3 to 8 despite the fact the appellant is senior according to the rules the same be corrected and name of the appellant be placed at its proper place.

Respectfully sheweth,

Filed to-day

Registrar

11/8/16

1. That petitioner is serving as Junior Clerk at the Office of Assistant Director Labour Nowshera with best of his abilities and to the entire satisfaction of his superior.
2. That on 25/04/2016 tentative seniority List of junior Clerk was issued by the Director labour Peshawar wherein petitioner name was place serial No, 6 and place all other incumbent senior to him despite the fact all of them are junior to the petitioner. (Copy of seniority List is annexed)

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3. That it is also worth to mention here that since the petitioner adjustment in the labour department respondent never ever issued any seniority list so petitioner was met with utter bewilderedness when confronted with the S/list with such like insertion against his name.

4. That appellant made several request to the dealing office for the correction of tentative seniority list but was of no avail.

5. That petitioner feeling aggrieved by the above mentioned impugned seniority List filed departmental appeal on 10/05/2016 but even after the lapse of stipulated period no action has been taken so far.

6. That feeling aggrieved of the above appellant file this appeal on the following grounds.

Grounds:

A. That impugned seniority List is result of malafide and only meant to advance favoritisms.

B. That petitioner was among those incumbent who were adjusted after bifurcation of labour and Industries Department in the labour Wing.

C. That in the impugned Seniority List issued by the respondent No,1 is against the law and rules as petitioner is placed junior to those who entered in the service well later as transpired from the impugned list.

D. That there in the seniority list remarks has been inserted against the petitioner name which read thus "On 6 /07/2010 the official concern submitted willingness to

3

be place at the bottom of the S/List of J/Clerks if adjusted in the Directorate of Labour" which against the rules ,law, and fundamental rights of an individuals. It is also pertinent to mention here that there were other incumbents who were also adjusted in the same manner but were not treated like this, so the said insertion is discrimination with petitioner and had no legal status in the eyes of law.

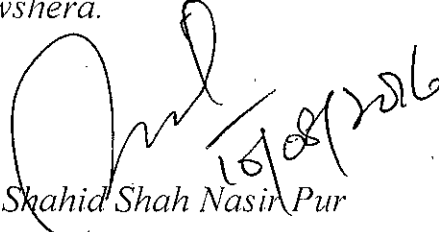
E. That impugned S/List is just to give choice to the blue eyed of the respondent thus is result of malfide intention hence not tenable in the eyes of law.

In the light of facts submitted above the impugned Seniority List may kindly be set aside and petitioner be place at the top of the Seniority List being senior most of all the incumbents and illegal insertion against the name of the petitioner may kindly be removed.


Irfanullah Junior Clerk

Office of the Assistant Director
Labour Nowshera.

Through


16/08/2016
Syed Shahid Shah Nasir Pur
Advocate.

4

Before the Khyber Pukhtunkhawa Service Tribunal Peshawar

Appeal No _____

Irfanullah (Appellant)

Versus


Secretary Labour KPK and others..... (Respondents)

**Application for suspension of operation upon the
impugned Seniority List issued on Dated
25/04/2016.**

Respectfully Sheweth,

1. That an appeal has been filed against the impugned order before this honorable Court wherein date of hearing is yet to be fixed.
2. That appellant has good prima facie case in their favour.
3. That appellant has balance of convenience in their favour.
4. That content of the appeal may kindly be read as part and parcel of the instant petition.

It is therefore humbly prayed that operation upon the impugned seniority list may kindly be suspended till the final decision of the accompanied appeal.

Through  Appellant
S.SHAHID SHAH NASIR PUR
ADVOCATE.

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Before the Khyber Pukhtunkhawa Service Tribunal Peshawar

Irfanullah (Appellant)

Versus

Secretary Labour KPK (Respondents)

Affidavit

I, Irfanullah appellant do hereby affirm and declare on oath that content of the accompanied appeal are true to the best of my knowledge and belief and nothing has been concealed from this honorable court.

ATTESTED



Attest
Deponent



GOVERNMENT OF KHYBER PAKHTUNKHWA LABOUR DIRECTORATE

6

TENTATIVE SENIORITY LIST OF JUNIOR CLERKS IN THE DIRECTORATE OF LABOUR KHYBER PAKHTUNKHWA AS STOOD ON 31.12.2015
TOTAL SANCTIONED POSTS = 30

S. No	Name of official with qualification	Date of birth with Domicile	Date of 1 st entry into Govt. Service	Regular appointment/promotion to the present post.			Present appointment	Remarks
				Date	BPS	Method of recruitment i) 30% Promotion ii) 70% Initial		
1	2	3	4	5	6	7	8	9
1.	Mr. Muhammad Din, Matric.	02.02.1976 Abbottabad	02.11.1995	14.06.2008	11	Promotion	Jr.Clerk 14.06.2008	-
2.	Mr. Zaheer Hussain, B.A.	01.09.1987 Peshawar	18.12.2009	18.12.2009	11	Initial	Jr.Clerk 18.12.2009	-
3.	Mr. Muhammad Rahman F.A	21.04.1988 Peshawar	18.12.2009	18.12.2009	11	-do-	Jr.Clerk 18.12.2009	-
4.	Mr. Amanullah, F.A.	21.12.1988 Mardan	18.12.2009	18.12.2009	11	-do-	Jr.Clerk 18.12.2009	-
5.	Mr. Arifullah, Matric.	10.02.1984 Charsadda	19.12.2009	19.12.2009	11	-do-	Jr.Clerk 19.12.2009	-
6.	Mr. Irfanullah B.A	06.09.1974 Peshawar	25.07.1993	01.07.2008	11	-do-	Jr.Clerk 01.07.2008	On 06.07.2010 the official concern submitted his willingness to be placed at the bottom of S/list of J/Clerks, if adjusted in the Directorate of Labour
7.	Mr. Anees Ahmad Riaz DAE	02.05.1992 Nowshera	11.10.2013	11.10.2013.	11	-do-	Jr.Clerk 11.10.2013	-
8.	Mr. Bilal Khan DAE	11.11.1992 Kohat	10.10.2013	10.10.2013	11	-do-	Jr.Clerk 10.10.2013	-
9.	Mr. Arshad M.B.A	02.10.1972 D.I Khan	25.10.1995	21.02.2014	11	Promotion	Jr.Clerk 21.02.2014	-
10.	Muhammad Iqbal S.S.C	03.03.1971 Mansehra	20.03.2014	20.03.2014	11	Initial	Jr.Clerk 20.03.2014	-

Nowshera

ATTESTED

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11	Mr. Munib Khan, Matric	<u>03.04.1985</u> Bannu	11.08.2005	20.11.2014	11	Promotion	<u>Jr.Clerk</u> 20.11.2014	-
12	Mr. Zia-ul-Islam, F.A.	<u>04.03.1978</u> Nowshera	25.09.2008	20.11.2014	11	Promotion	<u>Jr.Clerk</u> 20.11.2014	-
13	Mr. Ziaullah, D.Com	<u>15.04.1978</u> Mardan	25.09.2008	26.03.2015	11	Promotion	<u>Jr.Clerk</u> 26.03.2015	-
14	Muhammad Kamran, F.A	<u>27.10.1983</u> Peshawar	26.09.2008	26.03.2015	11	Promotion	<u>Jr.Clerk</u> 26.03.2015	-
15	Mr. Hassan Tariq, Matric	<u>08.11.1977</u> Nowshera	30.10.2008	26.03.2015	11	promotion	<u>Jr.Clerk</u> 26.03.2015	-
16	Mr. Samin Shah F.A	<u>10.09.1977</u> Peshawar	27.08.1996	22.02.2016	11	Promotion	<u>Jr. Clerk</u> 22.2.2016	-
17	Mr. Mansoor Khan Matric	<u>01.01.1964</u> Karrak	08.02.1987	22.02.2016	11	promotion	<u>Jr. Clerk</u> 22.2.2016	-

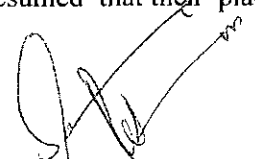
Sd/-
Director Labour
Khyber Pakhtunkhwa Peshawar

Dated 25/4 /2016

Endst:No.DL/Admn:/11/2/ 1531-50

CERTIFICATE.

Copy of the above is forwarded to all concerned officials for information. They are requested to confirm their placement in the list and if there is any objection on their placement in the seniority list, they can submit presentation within 15 -days of the receipt of this communication, otherwise it will be presumed that their placement is correct and seniority will be finally notified


(Saima Rehman)
Assistant Director Labour (Admn)

ATTESTED

By *Arifullah*
To
10/5/16

Secretary Labour KhyberPukhtunkhawa
Peshawar.

Irfanullah Junior Clerk Labour Departemt at Nowshera.

(Petitioner)

VS

By *Arifullah*
10/5

1. Director labour FC Building Peshawar.
2. Mohammad Din
3. Zaheer Hussain
4. Mohammad Rehman
5. Amanullah
6. Arifullah

(Respondents)

Departmental Representation against the Tentative
Seniority List issued on dated 25/04/2016.

Respected Sir,

1. That petitioner is serving as Junior Clerk at the Office of Assistant Director Labour Nowhera with best of his abilities and to the entire satisfaction of his superior.
2. That on 25/04 /2016 seniority List of junior Clerk was issued by the Director labour Peshawar wherein petitioner name was place serial No, 6 and place all other incumbent senior to him despite the fact all of them are junior to the petitioner.(Copy of seniority List is annexed)
3. That it is also worth to mention here that since the petitioner adjustment in the labour department respondent never ever issued any seniority list so petitioner was met with utter bewilderedness when confronted with the S/list with such like insertion against his name.

REGISTERED

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4. That petitioner feeling aggrieved by the above mentioned impugned seniority List file the instant departmental appeal on the following amongst other ground:-

Grounds:

A. That impugned seniority List is result of malafide and only meant to advance favoritisms.

B. That petitioner was among those incumbent who were adjusted after bifurcation of labour and Industries Department in the labour Wing.

C. That in the impugned Seniority List issued by the respondent No,1 is against the law and rules as petitioner is placed junior to those who entered in the service well later as transpired from the impugned list.

D. That there in the seniority list a clause has been inserted against the petitioner name which read thus "On 6 /07/2010 the official concern submitted willingness to be place at the bottom of the S/List of J/Clerks if adjusted in the Directorate of Labour" which against the rules ,law, and fundamental rights of an individuals. It is also pertinent to mention here that there were other incumbents who were also adjusted in the same manner but were not treated like this, so the said insertion is discrimination with petitioner and had no legal status in the eyes of law.

E. That impugned S/List is just to give choice to the blue eyed of the respondent thus is result of malafide intention hence not tenable in the eyes of law.

ATTESTED

10

In the light of facts submitted above the impugned Seniority List may kindly be set aside and petitioner be place at the top of the Seniority List being senior most of all the incumbents and illegal insertion against the name of the petitioner may kindly be removed.

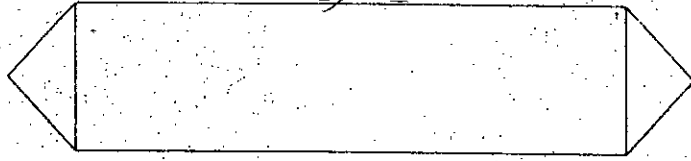
Irfanullah Junior Clerk

*Office of the Assistant Director
Labour Nowshera.*

Through

*Syed Shahid Shah Nasir Pur
Advocate.*

ATTESTED



2016ء منجانب اسٹاٹسٹ

سرفان اللہ بنام سبر کھنکو کھوہ مسروسن لکھدیا

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام کے بعد کیلئے سند کے لئے اسٹاٹسٹ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار 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 باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ 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 مذکور کریں۔ لہذا کالت نامہ لکھدیا کہ سند ہے۔

الحمد لله
سرفان اللہ

2016

اکت

ماہ

9/8/2016

الرقوم

سرفان اللہ

العواہ العواہ العواہ

کے لئے منظور ہے۔

سرفان اللہ

مقام

S.A = 817/2016

Resp. No. 4th - 8 منجانب مسئول الیہ

مورخہ

Gourt of KPK etc نام Ifanullah

مقدمہ

دعوی

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کے لیے

Bilal Ahmad Kakaizai Advocate مقرر کر کے اقرار کیا جاتا ہے۔ کہ وکیل

موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف

دینے، جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ اور عرضی دعویٰ اور

درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی

برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ (توضیح و تقرر مذکور کے کل یا

Attested &

Accepted

جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار حاصل ہوں گے اور اس کے

ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہوگا یا کوئی تاریخ پیشی

مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل

صاحب پابند ہوں گے کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Zahoor Hamid
17301-7052859-7

کے لئے منظور ہوا۔

المرقوم

بمقام

Amir ul-Adalat
Amir Ullah
17101-9688221-7

Muhammad Dim
13101-8903560-1

محمد علی خان
17301-3394566-3

AMAN ULLAH
18101-7123921-7

**IN THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

In Re: Service Appeal No. 817/2016

Irfanullah
Junior Clerk Office of the Assistant Director Labour Nowshera.

.....Appellant


Versus

**1. Secretary Labour Khyber Pakhtunkhwa Civil Secretariat
Peshawar and others.**

.....Respondents

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Deponent

**IN THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

In Re: Service Appeal No. 817/2016

**Irfanullah
Junior Clerk Office of the Assistant Director Labour Nowshera.**

.....Appellant

Versus

- 1. Secretary Labour Khyber Pakhtunkhwa Civil Secretariat
Peshawar and (7) others.**

.....Respondents

**PARAWISE COMMENTS ON BEHALF OF
RESPONDENTS NO 1,2 & 3.**

**Respectfully Sheweth,
Preliminary Objections:**

The Respondents humbly submit as under:

1. That the Appellant has no cause of action or locus standi.
2. That the Appellant has not come to the Tribunal with clean hands.
3. That the instant Appeal is not maintainable in its present form.
4. That the Appellant has filed the instant Appeal with malafide intention.
5. That the Appellant is estopped to file the instant Appeal by his own conduct.
6. That the instant Appeal is not maintainable as the Appellant has challenged the Tentative Seniority List.

ON FACTS:

1. Pertains to record.

2. Correct, to the extent of issuance of seniority list but the appellant is concealing the fact that appellant was on the strength of industries department and after bifurcation of Directorate of Labour and Industries he himself submitted his willingness on 6.7.2010 to be placed at the bottom of the seniority list of Junior Clerk if adjusted in the Directorate of labour. Further, Tentative Seniority List cannot be challenged before the Tribunal. (Copy of willingness certificate attached as Annex-A).

3. Incorrect. The appellant after his own request to be adjusted in Labour Department and written willingness to be placed at the bottom of the seniority list, the appellant is having no right to agitate any matter with respect to his placement. It may further be clarified here that at the time of bifurcation of Directorate of Industries, Commerce & Labour Respondent-4 to Respondent-8 were on the strength of the Directorate of Labour and their seniority could not be disturbed for an employee who was on the strength of Industries and wanted to be adjusted in Directorate of Labour out of his own sweet will. (Appointment Orders of some of the respondents attached as Annexure-B/1,B/2,B/3 and B/4.)

4. No Comments.

5. No Comments.

6. No Comments

ON GROUNDS:

A. Incorrect. As per paras above.

B. Incorrect. Detailed reply has been given in facts.

C. Incorrect. The impugned Tentative Seniority List is in accordance with law.

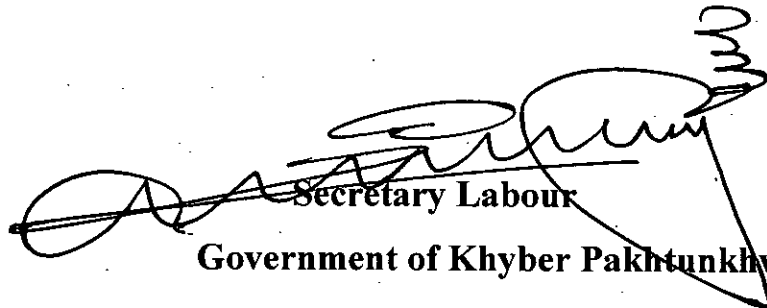
D. Incorrect. The posts of the other respondents in instant appeal were borne by the Directorate of Labour and the appellant himself opted to be adjusted in Labour Wing and for the same he has given willingness in written.

(Copy already attached at Annexure-A).

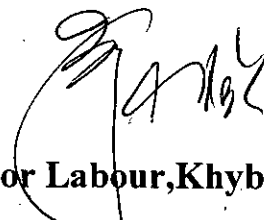
E. Denied as per paras above.

Prayer:

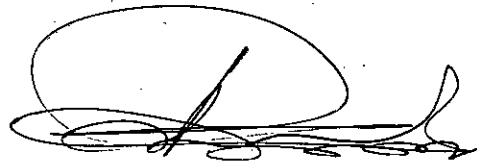
It is therefore, prayed in the interest of justice that the honourable Tribunal may kindly dismiss the Appeal with costs.



Secretary Labour
Government of Khyber Pakhtunkhwa
(Respondent No. 1)



Director Labour, Khyber Pakhtunkhwa
(Respondent No. 2)



Assistant Director Labour (Admin)
(Respondent No. 3)

ANNEX A 4

To,
The Deputy Director Labour (Admn),
Khyber Pakhtunkhwa,
Peshawar.

Subject: OPTION FOR SENIORITY.

R/Sir,

I have the honour to refer to your letter No.DL/Admn/1/2276 Dated 06/7/2010 on the subject noted above and hereby submit that I am willing to be placed at the bottom of seniority list of Junior Clerks if adjusted in the Directorate of Labour.

Yours obediently,

Dated 06/07/2010

EA-I

06/07/10

Irfanullah
Irfanullah
s/o Arifullah
Junior Clerk

483
06-07-2010

Annex - B/1
Z
(5)

**DIRECTORATE OF
INDUSTRIES, COMMERCE & LABOUR
NWFP, PESHAWAR.**

ORDER.

On the recommendation of Departmental Selection Committee Mr Mohammad Rehman S/o Shaukat Ali, Village & P.O. Hazarkhawani Tehsil & District Peshawar is hereby appointed as junior Clark BPS-07 (3530-190-9230) against the vacant post of junior Clark (BPS-07) in the Hqtrs Office, Peshawar (Labour Wing) on the following terms and conditions, and he is posted at Hqtrs Office, Peshawar.

1. He is medically fit and produce medical fitness certificate from Medical Superintendent, Distt: H/Q Hospital Peshawar.
2. He will be given minimum pay of the post in the Basic Pay Scale No.07 (3530-190-9230) per month with any other allowances which may be sanctioned by the Provincial Government from time to time.
3. He will be entitled to receive such amount contributed by him towards the Contributory Provident Fund alongwith the contribution made by the Government to his account in the said Fund, in the prescribed manner, in lieu of pension and gratuity in accordance with Government of NWFP Civil Servants (Amendment) Act, 2005 vide notification dated 23.7.2005.
4. His service will be liable to termination if his work during this period is not found satisfactory in such of event, he will be given two months notice of termination from service or two months pay in lieu thereof. In case he wishes to resign two month notice should be necessary or in lieu thereof two months pay shall be forfeited.
5. He will be liable to serve any where in NWFP.
6. He will join duty at his own expenses.
7. His seniority will be fixed according to the merit list.

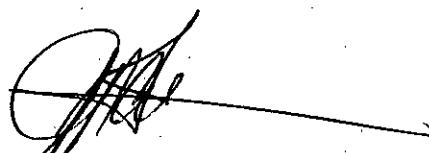
Sd/-Director, ICL NWFP.

Dated. 12/12/2009.

Endst:No. DL-Admn:/2/4 2211-15

Copy of the above is forwarded to :-

1. The Accountant General, NWFP, Peshawar.
2. The Accounts Officer, Hqtrs Office, Peshawar.
3. The Pay Assistant, Hqtrs Office, Peshawar.
4. Mr Mohammad Rehman S/o Shaukat Ali, Village & P.O. Hazarkhawani Tehsil & District Peshawar.
5. Personal file of the official concerned


(Abdul Rauf Jan)
Assistant Director (Admn)
Hqtrs Office, Peshawar.

**DIRECTORATE OF
INDUSTRIES, COMMERCE & LABOUR
NWFP, PESHAWAR.**

ORDER.

On the recommendation of Departmental Selection Committee Mr Amanullah S/o Sirajur Rehman, Mohallah Akakhel No. 2, Village & P.O. Mayar, Tehsil & District Mardan is hereby appointed as junior Clark BPS-07 (3530-190-9230) against the vacant post of junior Clark (BPS-07) in the Hqtrs Office, Peshawar (Labour Wing) on the following terms and conditions, and he is posted at Hqtrs Office, Peshawar.

1. He is medically fit and produce medical fitness certificate from Medical Superintendent, Distt: H/Q Hospital Peshawar.
2. He will be given minimum pay of the post in the Basic Pay Scale No.07 (3530-190-9230) per month with any other allowances which may be sanctioned by the Provincial Government from time to time.
3. He will be entitled to receive such amount contributed by him towards the Contributory Provident Fund alongwith the contribution made by the Government to his account in the said Fund, in the prescribed manner, in lieu of pension and gratuity in accordance with Government of NWFP Civil Servants (Amendment) Act, 2005 vide notification dated 23.7.2005.
4. His service will be liable to termination if his work during this period is not found satisfactory in such of event, he will be given two months notice of termination from service or two months pay in lieu thereof. In case he wishes to resign two month notice should be necessary or in lieu thereof two months pay shall be forfeited.
5. He will be liable to serve any where in NWFP.
6. He will join duty at his own expenses.
7. His seniority will be fixed according to the merit list.

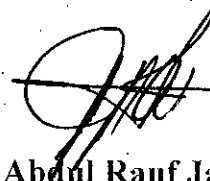
Sd/-Director; ICL NWFP.

Endst:No. DL-Admn:/2/4 2221-25

Dated. 12/12/2009.

Copy of the above is forwarded to :-

1. The Accountant General, NWFP, Peshawar.
2. The Accounts Officer, Hqtrs Office, Peshawar.
3. The Pay Assistant, Hqtrs Office, Peshawar.
4. Mr Amanullah S/o Sirajur Rehman, Mohallah Akakhel No. 2, Village & P.O. Mayar, Tehsil & District Mardan.
5. Personal file of the official concerned



(Abdul Rauf Jan)
Assistant Director (Admn)
Hqtrs Office, Peshawar.

Ammer-B/3
B/3
(7)

**DIRECTORATE OF
ES, COMMERCE & LABOUR
NWFP, PESHAWAR.**

ORDER.

On the recommendation of Departmental Selection Committee Mr Zaheer Hussain S/o Faqir Hussain, House No. 440 Moh: Barr Dabgari, Tehsil & District Peshawar is hereby appointed as junior Clark BPS-07 (3530-190-9230) against the vacant post of junior Clark (BPS-07) in the Weights and Measures Section Hqtrs Office Peshawar (Labour Wing) on the following terms and conditions, and he is posted at Hqtrs Office Peshawar.

1. He is medically fit and produce medical fitness certificate from Medical Superintendent, Distt: H/Q Hospital Peshawar.
2. He will be given minimum pay of the post in the Basic Pay Scale No.07 (3530-190-9230) per month with any other allowances which may be sanctioned by the Provincial Government from time to time.
3. He will be entitled to receive such amount contributed by him towards the Contributory Provident Fund alongwith the contribution made by the Government to his account in the said Fund, in the prescribed manner, in lieu of pension and gratuity in accordance with Government of NWFP Civil Servants (Amendment) Act, 2005 vide notification dated 23.7.2005.
4. His service will be liable to termination if his work during this period is not found satisfactory in such of event, he will be given two months notice of termination from service or two months pay in lieu thereof. In case he wishes to resign two month notice should be necessary or in lieu thereof two months pay shall be forfeited.
5. He will be liable to serve any where in NWFP.
6. He will join duty at his own expenses.
7. His seniority will be fixed according to the merit list.

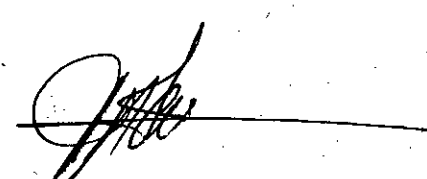
Sd/-Director, ICL NWFP.

Endst:No. DL-Admn:/2/4 2240-44

Dated. 12/12 /2009.

Copy of the above is forwarded to :

1. The Accountant General, NWFP, Peshawar.
2. The Deputy Controller Weights and Measures Hqtrs Office Peshawar.
3. The Accounts Officer, Hqtrs Office, Peshawar.
4. Mr Zaheer Hussain S/o Faqir Hussain, House No. 440 Moh: Barr Dabgari, Tehsil & District Peshawar.
- ✓ 5. Personal file of the official concerned


(Abdul Rauf Jan)
Assistant Director (Admn)
Hqtrs Office, Peshawar.

Annex-3/4



**DIRECTORATE OF
INDUSTRIES, COMMERCE & LABOUR
NWFP, PESHAWAR.**

ORDER.

On the recommendation of Departmental Selection Committee .Mr Arifullah .S/o Abdar Khan, Village Sirdari, Tehsil & Charsadda is hereby appointed as junior Clark BPS-07 (3530-190-9230) against the vacant post of junior Clark (BPS-07) in the Office of Assistant Director Labour Charsadda on the following terms and conditions.

1. He is medically fit and produce medical fitness certificate from Medical Superintendent, Distt: H/Q Hospital Charsadda.
2. He will be given minimum pay of the post in the Basic Pay Scale No.07 (3530-190-9230) per month with any other allowances which may be sanctioned by the Provincial Government from time to time.
3. He will be entitled to receive such amount contributed by him towards the Contributory Provident Fund alongwith the contribution made by the Government to his account in the said Fund, in the prescribed manner, in lieu of pension and gratuity in accordance with Government of NWFP Civil Servants (Amendment) Act, 2005 vide notification dated 23.7.2005.
4. His service will be liable to termination if his work during this period is not found satisfactory in such of event, he will be given two months notice of termination from service or two months pay in lieu thereof. In case he wishes to resign two month notice should be necessary or in lieu thereof two months pay shall be forfeited.
5. He will be liable to serve any where in NWFP.
6. He will join duty at his own expenses.
7. His seniority will be fixed according to the merit list.

Sd/-Director, ICL NWFP.

Endst:No. DL-Admn:/2/4 2221-28

Dated. 12/12 /2009.

Copy of the above is forwarded to :

1. The District Accounts Officer Charsadda.
2. The Assistant Director Labour Charsadda
3. The Accounts Officer, Hqtrs Office, Peshawar.
4. Mr Arifullah .S/o Abdar Khan, Village Sirdari, Tehsil & Charsadda.
- ✓ 5. Personal file of the official concerned

(Abdul Rauf Jan)
Assistant Director (Admn)
Hqtrs Office, Peshawar.

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In Re: Service Appeal No. 817/2016

Irfanullah
Junior Clerk Office of the Assistant Director Labour Nowshera.

.....*Appellant*

Versus

**Secretary Labour Khyber Pakhtunkhwa Civil Secretariat
Peshawar and others.**

.....*Respondents*

AFFIDAVIT

I, **Waqar Ali Faiz Bangash** Assistant Director (Litigation),
Directorate of Labour, Khyber Pakhtunkhwa at Peshawar, do hereby
solemnly affirm and declare on oath that the contents of the
accompanying **Comments** are true and correct to the best of my
knowledge and belief and nothing has been concealed from this
Honourable Court.



DEPONENT

CNIC No: 14101-7244146-7

ATTESTED

Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar

20/12/2016

Identified By:

**IN THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

In Re: Civil Misc
in
Service Appeal No. 817/2016

Irfanullah
Junior Clerk Office of the Assistant Director Labour Nowshera.

.....Appellant

Versus

**4. Secretary Labour Khyber Pakhtunkhwa Civil Secretariat
Peshawar and (7) others.**

.....Respondents

**PARAWISE COMMENTS ON BEHALF OF
RESPONDENTS NO1,2& 3.**

**Respectfully Sheweth,
Preliminary Objections:**

The Respondents humbly submit as under:

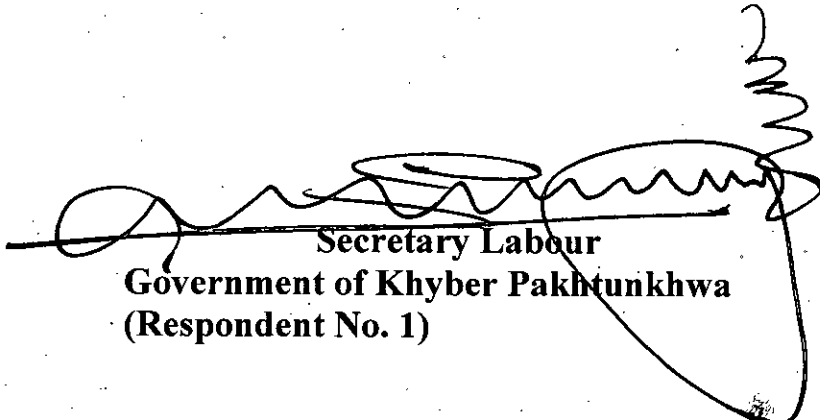
- 3. That Appellant has no locus standi and cause of action.
- 4. That the Appellant has not come with clean hands.
- 3. That the instant Appeal is not maintainable.
- 4. That the instant Appeal is based on malafide.
- 5. That the Appellant is estopped by his own conduct.


ON FACTS:


- 1. Para No.1 needs no comments.

- 2. In reply to Para-2 it is stated that appellant has no prima facie case as appellant was on the strength of Industries department and after bifurcation of Directorate of Labour and Industries he himself submitted his willingness on 6.7.2010 to be placed at the bottom of the seniority list of Junior Clerk if adjusted in the Directorate of labour. Further, the Appeal is not in accordance with Section 4 of Service Tribunal Act. (Copy of willingness certificate already attached at Annex-A of the main appeal).
- 3. Incorrect. All the three ingredients are in favour of the Respondents.
- 4. No Comments. Contents of main reply may be considered as part of this reply.

Prayer: It is therefore, requested that the petition may kindly be dismissed with costs.


Secretary Labour
Government of Khyber Pakhtunkhwa
(Respondent No. 1)


Director Labour, Khyber Paktunkhwa
(Respondent No. 2)


Assistant Director Labour (Admin)
(Respondent No. 3)

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In Re: CM No. _____

In
Service Appeal No. 817/2016

Irfanullah
Junior Clerk Office of the Assistant Director Labour Nowshera.

.....*Appellant*

Versus

**1. Secretary Labour Khyber Pakhtunkhwa Civil Secretariat
Peshawar and others.**

.....*Respondents*

AFFIDAVIT

I, **Waqar Ali Faiz Bangash** Assistant Director (Litigation),
Directorate of Labour, Khyber Pakhtunkhwa at Peshawar, do hereby
solemnly affirm and declare on oath that the contents of the
accompanying **Comments** are true and correct to the best of my
knowledge and belief and nothing has been concealed from this
Honourable Court.

Waqar

DEPONENT

CNIC No: 14101-7244146-7

ATTESTED

Oath Commissioner
Zafoor Khan Advocate
Distt: Court Peshawar

Identified By:

20/12/2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
APPEAL NO. 817/2016

13

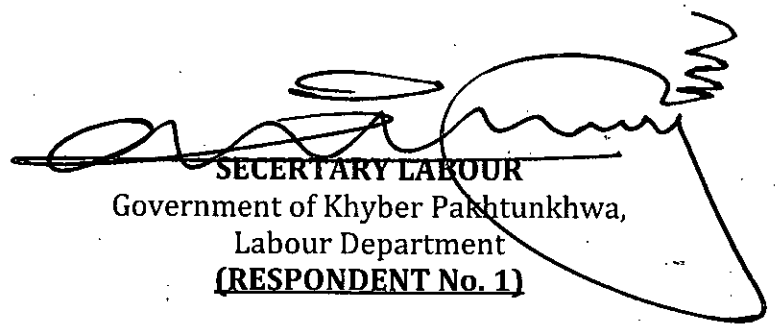
Irfan Ullah, Junior Clerk, office of the Assistant Director Labour Nowshera **APPELLANT.**


VERSUS

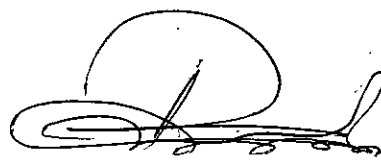
1. Secretary Labour Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. Director Labour, F.C Building Peshawar.
3. Assistant Director Labour (Admn) F.C Plaza Peshawar Cantt.
4. Muhammad Din, Junior Clerk, office of Assistant Director Labour Abbottabad.
5. Zaheer Hussian, Junior Clerk, office of the Director Labour, F.C Plaza Peshawar Cantt.
6. Muhammad Rehman, Junior Clerk, office of the Director Labour, F.C Plaza Peshawar Cantt.
7. Amanullah, Junior Clerk, office of the Assistant Director Labour Charsadda.
8. Arifullah, Junior Clerk, office of the Assistant Director Labour Swabi **RESPONDENTS.**

AUTHORITY

Mr. Waqar Ali Faiz Bangash, Assistant Director (Litigation) Peshawar is hereby authorized and deputed to appear before the Khyber Pakhtunkhwa Service Tribunal in Appeal No. 817/2016 on behalf of **(Respondents No. 1, 2 & 3)** and to produce necessary documents to the Hon'able Service Tribunal required in this behalf. The officer shall attend the court regularly on each date of hearing till the decision of the case and will be responsible for obtaining certified copy of the final order / judgment in the above appeal for submission to the Department well in time.


SECRETARY LABOUR
Government of Khyber Pakhtunkhwa,
Labour Department
(RESPONDENT No. 1)


DIRECTOR LABOUR
Khyber Pakhtunkhwa Peshawar
(RESPONDENT No. 2)


Assistant Director Labour (Admn)
F.C Plaza Peshawar.
(RESPONDENT No. 3)

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In Re: Service Appeal No. 817/2016

Irfanullah
Junior Clerk Office of the Assistant Director Labour Nowshera.

.....Appellant

Versus

**1. Secretary Labour Khyber Pakhtunkhwa Civil Secretariat
Peshawar and others.**

.....Respondents

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3.	Copy of Appointment Orders of some of the Respondents	B/1 to B/4	5-8
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Deponent

**IN THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

In Re: Service Appeal No. 817/2016

**Irfanullah
Junior Clerk Office of the Assistant Director Labour Nowshera.**

.....Appellant

Versus

- 1. Secretary Labour Khyber Pakhtunkhwa Civil Secretariat
Peshawar and (7) others.**

.....Respondents

**PARAWISE COMMENTS ON BEHALF OF
RESPONDENTS NO 1,2 & 3.**

**Respectfully Sheweth,
Preliminary Objections:**

The Respondents humbly submit as under:

1. That the Appellant has no cause of action or locus standi.
2. That the Appellant has not come to the Tribunal with clean hands.
3. That the instant Appeal is not maintainable in its present form.
4. That the Appellant has filed the instant Appeal with malafide intention.
5. That the Appellant is estopped to file the instant Appeal by his own conduct.
6. That the instant Appeal is not maintainable as the Appellant has challenged the Tentative Seniority List.

ON FACTS:

1. Pertains to record.

2. Correct, to the extent of issuance of seniority list but the appellant is concealing the fact that appellant was on the strength of industries department and after bifurcation of Directorate of Labour and Industries he himself submitted his willingness on 6.7.2010 to be placed at the bottom of the seniority list of Junior Clerk if adjusted in the Directorate of labour. Further, Tentative Seniority List cannot be challenged before the Tribunal. (Copy of willingness certificate attached as Annex-A).

3. Incorrect. The appellant after his own request to be adjusted in Labour Department and written willingness to be placed at the bottom of the seniority list, the appellant is having no right to agitate any matter with respect to his placement. It may further be clarified here that at the time of bifurcation of Directorate of Industries, Commerce & Labour Respondent-4 to Respondent-8 were on the strength of the Directorate of Labour and their seniority could not be disturbed for an employee who was on the strength of Industries and wanted to be adjusted in Directorate of Labour out of his own sweet will. (Appointment Orders of some of the respondents attached as Annexure-B/1,B/2,B/3 and B/4.)

4. No Comments.

5. No Comments.

6. No Comments

ON GROUNDS:

- A. Incorrect. As per paras above.

- B. Incorrect. Detailed reply has been given in facts.

- C. Incorrect. The impugned Tentative Seniority List is in accordance with law.

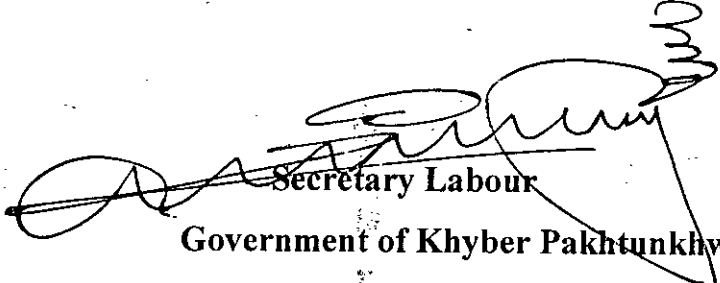
D. Incorrect. The posts of the other respondents in instant appeal were borne by the Directorate of Labour and the appellant himself opted to be adjusted in Labour Wing and for the same he has given willingness in written.

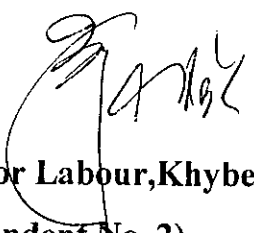
(Copy already attached at Annexure-A).

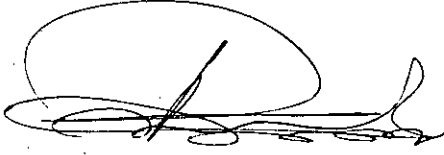
E. Denied as per paras above.

Prayer:

It is therefore, prayed in the interest of justice that the honourable Tribunal may kindly dismiss the Appeal with costs.


Secretary Labour
Government of Khyber Pakhtunkhwa
(Respondent No. 1)


Director Labour, Khyber Pakhtunkhwa
(Respondent No. 2)


Assistant Director Labour (Admin)
(Respondent No. 3)

ANNEX-# (4)

To.

The Deputy Director Labour (Admn),
Khyber Pakhtunkhwa,
Peshawar.

Subject: OPTION FOR SENIORITY.

R/Sir,

I have the honour to refer to your letter No.DI/Admn/1/2276 Dated 06/7/2010 on the subject noted above and hereby submit that I am willing to be placed at the bottom of seniority list of Junior Clerks if adjusted in the Directorate of Labour.

Yours obediently,

Dated 06/07/2010

EA-I

7
06/07/10

Irfanullah
Irfanullah
s/o Arifullah
Junior Clerk

483
D O C E (A) DP
06-07-2010

MIRKA - 371
Z (5)

**DIRECTORATE OF
INDUSTRIES, COMMERCE & LABOUR
NWFP, PESHAWAR.**

ORDER.

On the recommendation of Departmental Selection Committee Mr Mohammad Rehman .S/o Shaukat Ali, Village & P.O. Hazarkhawani Tehsil & District Peshawar is hereby appointed as junior Clark BPS-07 (3530-190-9230) against the vacant post of junior Clark (BPS-07) in the Hqtrs Office, Peshawar (Labour Wing) on the following terms and conditions, and he is posted at Hqtrs Office, Peshawar.

1. He is medically fit and produce medical fitness certificate from Medical Superintendent, Distt: H/Q Hospital Peshawar.
2. He will be given minimum pay of the post in the Basic Pay Scale No.07 (3530-190-9230) per month with any other allowances which may be sanctioned by the Provincial Government from time to time.
3. He will be entitled to receive such amount contributed by him towards the Contributory Provident Fund alongwith the contribution made by the Government to his account in the said Fund, in the prescribed manner, in lieu of pension and gratuity in accordance with Government of NWFP Civil Servants (Amendment) Act, 2005 vide notification dated 23.7.2005.
4. His service will be liable to termination if his work during this period is not found satisfactory in such of event, he will be given two months notice of termination from service or two months pay in lieu thereof. In case he wishes to resign two month notice should be necessary or in lieu thereof two months pay shall be forfeited.
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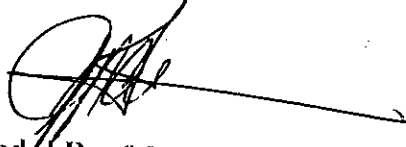
Sd/-Director, ICL NWFP.

Dated. 12/12/2009.

Endst.No. DL-Admn:/2/4 2211-15

Copy of the above is forwarded to :-

1. The Accountant General, NWFP, Peshawar.
2. The Accounts Officer, Hqtrs Office, Peshawar.
3. The Pay Assistant, Hqtrs Office, Peshawar.
4. Mr Mohammad Rehman .S/o Shaukat Ali, Village & P.O. Hazarkhawani Tehsil & District Peshawar.
5. Personal file of the official concerned


(Abdu Rauf Jan)
Assistant Director (Admn)
Hqtrs Office, Peshawar.

17/11/2009

(6)

**DIRECTORATE OF
INDUSTRIES, COMMERCE & LABOUR
NWFP, PESHAWAR.**

ORDER.

On the recommendation of Departmental Selection Committee Mr Amanullah S/o Sirajur Rehman, Mohallah Akakhel No. 2, Village & P.O. Mayar, Tehsil & District Mardan is hereby appointed as junior Clark BPS-07 (3530-190-9230) against the vacant post of junior Clark (BPS-07) in the Hqtrs Office, Peshawar (Labour Wing) on the following terms and conditions, and he is posted at Hqtrs Office, Peshawar.

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7. His seniority will be fixed according to the merit list.


Sd/-Director, ICL NWFP.

Endst:No. DL-Admn:/2/4 2221-25

Dated. 12/12/2009.

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1. The Accountant General, NWFP, Peshawar.
2. The Accounts Officer, Hqtrs Office, Peshawar.
3. The Pay Assistant, Hqtrs Office, Peshawar.
4. Mr Amanullah S/o Sirajur Rehman, Mohallah Akakhel No. 2, Village & P.O. Mayar, Tehsil & District Mardan.
5. Personal file of the official concerned


(Abdul Rauf Jan)
Assistant Director (Admn)
Hqtrs Office, Peshawar.

⑦

**DIRECTORATE OF
ES, COMMERCE & LABOUR
NWFP, PESHAWAR.**

ORDER.

On the recommendation of Departmental Selection Committee Mr Zaheer Hussain S/o Faqir Hussain, House No. 440 Moh: Barr Dabgari, Tehsil & District Peshawar is hereby appointed as junior Clark BPS-07 (3530-190-9230) against the vacant post of junior Clark (BPS-07) in the Weights and Measures Section Hqtrs Office Peshawar (Labour Wing) on the following terms and conditions, and he is posted at Hqtrs Office Peshawar.

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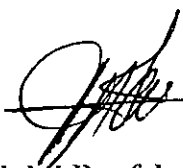
Sd/-Director, ICL NWFP.

Endst:No. DL-Admn:/2/4 2240-44

Dated. 12/12 /2009.

Copy of the above is forwarded to :

1. The Accountant General, NWFP, Peshawar.
2. The Deputy Controller Weights and Measures Hqtrs Office Peshawar.
3. The Accounts Officer, Hqtrs Office, Peshawar.
4. Mr Zaheer Hussain S/o Faqir Hussain, House No. 440 Moh: Barr Dabgari, Tehsil & District Peshawar.
- ✓ 5. Personal file of the official concerned


(Abdul Rauf Jan)
Assistant Director (Admn)
Hqtrs Office, Peshawar.

Annex-1/4
(8)

**DIRECTORATE OF
INDUSTRIES, COMMERCE & LABOUR
NWFP, PESHAWAR.**

ORDER.

On the recommendation of Departmental Selection Committee Mr Arifullah S/o Abdar Khan, Village Sirdari, Tehsil & Charsadda is hereby appointed as junior Clark BPS-07 (3530-190-9230) against the vacant post of junior Clark (BPS-07) in the Office of Assistant Director Labour Charsadda on the following terms and conditions.

1. He is medically fit and produce medical fitness certificate from Medical Superintendent, Distt: H/Q Hospital Charsadda.
2. He will be given minimum pay of the post in the Basic Pay Scale No.07 (3530-190-9230) per month with any other allowances which may be sanctioned by the Provincial Government from time to time.
3. He will be entitled to receive such amount contributed by him towards the Contributory Provident Fund alongwith the contribution made by the Government to his account in the said Fund, in the prescribed manner, in lieu of pension and gratuity in accordance with Government of NWFP Civil Servants (Amendment) Act, 2005 vide notification dated 23.7.2005.
4. His service will be liable to termination if his work during this period is not found satisfactory in such of event, he will be given two months notice of termination from service or two months pay in lieu thereof. In case he wishes to resign two month notice should be necessary or in lieu thereof two months pay shall be forfeited.
5. He will be liable to serve any where in NWFP.
6. He will join duty at his own expenses.
7. His seniority will be fixed according to the merit list.

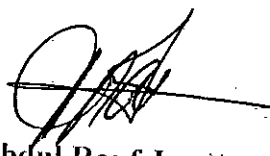
Sd/-Director, ICL NWFP.

Dated. 12/12 /2009.

Endst:No. DL-Admn:/2/4 2221228

Copy of the above is forwarded to :

1. The District Accounts Officer Charsadda.
2. The Assistant Director Labour Charsadda
3. The Accounts Officer, Hqtrs Office, Peshawar.
4. Mr Arifullah S/o Abdar Khan, Village Sirdari, Tehsil & Charsadda.
5. Personal file of the official concerned


(Abdul Rauf Jan)
Assistant Director (Admn)
Hqtrs Office, Peshawar.

**IN THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

In Re: Service Appeal No. 817/2016

Irfanullah
Junior Clerk Office of the Assistant Director Labour Nowshera.

Versus

.....*Appellant*

**Secretary Labour Khyber Pakhtunkhwa Civil Secretariat
Peshawar and others.**

.....*Respondents*

AFFIDAVIT

I, **Waqar Ali Faiz Bangash** Assistant Director (Litigation),
Directorate of Labour, Khyber Pakhtunkhwa at Peshawar, do hereby
solemnly affirm and declare on oath that the contents of the
accompanying **Comments** are true and correct to the best of my
knowledge and belief and nothing has been concealed from this
Honourable Court.

ATTESTED

Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar

20/12/2016

DEPONENT

CNIC No: 14101-7244446-7

Identified By:

**IN THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

In Re: Civil Misc
in
Service Appeal No. 817/2016

Irfanullah
Junior Clerk Office of the Assistant Director Labour Nowshera.

.....Appellant

Versus

**4. Secretary Labour Khyber Pakhtunkhwa Civil Secretariat
Peshawar and (7) others.**

.....Respondents

**PARAWISE COMMENTS ON BEHALF OF
RESPONDENTS NO1,2& 3.**

**Respectfully Sheweth,
Preliminary Objections:**

The Respondents humbly submit as under:

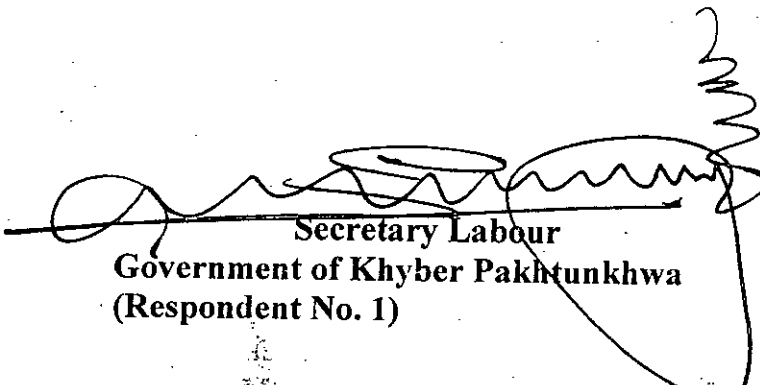
- 3. That Appellant has no locus standi and cause of action.
- 4. That the Appellant has not come with clean hands.
- 3. That the instant Appeal is not maintainable.
- 4. That the instant Appeal is based on malafide.
- 5. That the Appellant is estopped by his own conduct.

ON FACTS:

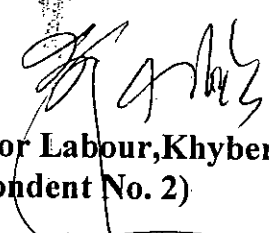
- 1. Para No.1 needs no comments.

- (11)
2. In reply to Para-2 it is stated that appellant has no prima facie case as appellant was on the strength of Industries department and after bifurcation of Directorate of Labour and Industries he himself submitted his willingness on 6.7.2010 to be placed at the bottom of the seniority list of Junior Clerk if adjusted in the Directorate of labour. Further, the Appeal is not in accordance with Section 4 of Service Tribunal Act. (Copy of willingness certificate already attached at Annex-A of the main appeal).
 3. Incorrect. All the three ingredients are in favour of the Respondents.
 4. No Comments. Contents of main reply may be considered as part of this reply.

Prayer: It is therefore, requested that the petition may kindly be dismissed with costs.



**Secretary Labour
Government of Khyber Pakhtunkhwa
(Respondent No. 1)**



**Director Labour, Khyber Paktunkhwa
(Respondent No. 2)**



**Assistant Director Labour (Admin)
(Respondent No. 3)**

**IN THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

In Re: CM No. _____

In
Service Appeal No. 817/2016

Irfanullah
Junior Clerk Office of the Assistant Director Labour Nowshera.

.....*Appellant*

Versus

**Secretary Labour Khyber Pakhtunkhwa Civil Secretariat
Peshawar and others.**

.....*Respondents*

AFFIDAVIT

I, **Waqar Ali Faiz Bangash** Assistant Director (Litigation),
Directorate of Labour, Khyber Pakhtunkhwa at Peshawar, do hereby
solemnly affirm and declare on oath that the contents of the
accompanying **Comments** are true and correct to the best of my
knowledge and belief and nothing has been concealed from this
Honourable Court.

Waqar

DEPONENT

CNIC No: 14101-7244146-7

ATTESTED
Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar

20/12/2016

Identified By:

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
APPEAL NO. 817/2016

(13)

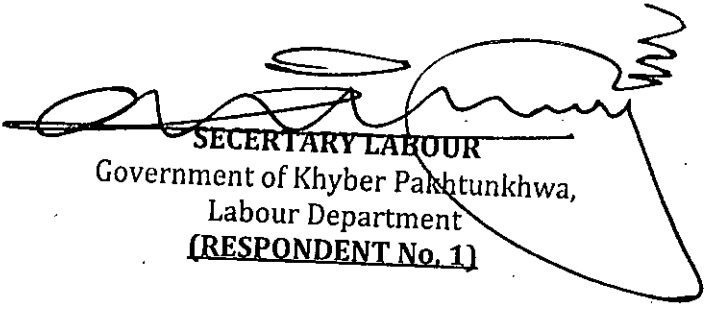
Irfan Ullah, Junior Clerk, office of the Assistant Director Labour Nowshera **APPELLANT**


VERSUS


1. Secretary Labour Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. Director Labour, F.C Building Peshawar.
3. Assistant Director Labour (Admn) F.C Plaza Peshawar Cantt.
4. Muhammad Din, Junior Clerk, office of Assistant Director Labour Abbottabad.
5. Zaheer Hussian, Junior Clerk, office of the Director Labour, F.C Plaza Peshawar Cantt.
6. Muhammad Rehman, Junior Clerk, office of the Director Labour, F.C Plaza Peshawar Cantt.
7. Amanullah, Junior Clerk, office of the Assistant Director Labour Charsadda.
8. Arifullah, Junior Clerk, office of the Assistant Director Labour Swabi **RESPONDENTS**

AUTHORITY

Mr. Waqar Ali Faiz Bangash, Assistant Director (Litigation) Peshawar is hereby authorized and deputed to appear before the Khyber Pakhtunkhwa Service Tribunal in Appeal No. 817/2016 on behalf of **(Respondents No. 1, 2 & 3)** and to produce necessary documents to the Hon'able Service Tribunal required in this behalf. The officer shall attend the court regularly on each date of hearing till the decision of the case and will be responsible for obtaining certified copy of the final order / judgment in the above appeal for submission to the Department well in time.


SECRETARY LABOUR
Government of Khyber Pakhtunkhwa,
Labour Department
(RESPONDENT No. 1)


DIRECTOR LABOUR
Khyber Pakhtunkhwa Peshawar
(RESPONDENT No. 2)


Assistant Director Labour (Admn)
F.C Plaza Peshawar.
(RESPONDENT No. 3)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No: 817 / 2016

IRFANULLAH

Versus

Government of KPK etc

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS No. 4, 5,
6, 7 & 8.

Respectfully Sheweth,

Written Statement, on behalf of Respondents No. 4 to 8, is as
under:

Preliminary Objections:

- A. That the Appellant has got no cause of action against the Answering Respondents.
- B. That Appellant has got no locus-standi to institute the present Service Appeal.
- C. That, the Appeal of the Appellant is not maintainable in its present form.
- D. That, this Honourable Tribunal has got no jurisdiction to entertain the present Appeal.
- E. That, the Appellant has been estopped by his own conduct to file the instant Appeal.
- F. That, as per law, no Appeal is permissible before the Service Tribunal against the Tentative Seniority List.

- G. That, Appellant has not come to the Court with clean hands and has suppressed material facts from this Honourable Tribunal.
- H. That, Appeal of the Appellant is time barred.

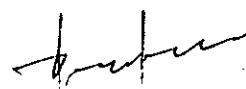
REPLY TO THE FACTS:

- 1) Pertains to record.
- 2) In response to Para 2 of the Appeal, it is submitted that the Appellant has been rightly delegated the seniority position by the Department. It merits mentioning here that at the time of bifurcation of Directorate of Labour and Directorate of Industries, Appellant was transferred to the Directorate of Industries however in the year 2010 Appellant submitted his willingness to be placed at the bottom of the Seniority List of the Directorate of Labour, if he is allowed to rejoin the Directorate of Labour as Junior Clerk, copy of the Willingness Certificate is attached as Annexure R/A.
- 3) Incorrect hence denied. Since Appellant has joined the Directorate of Labour from other Department / Directorate, therefore, he will be assigned seniority from the date when he joined the Directorate of Labour. Even otherwise the Appellant availed the benefit of promotion from Manual Assistant to the post of Junior Clerk from Industries Wing hence on bifurcation of the Industries and Labour Wing of the Directorate, the Appellant was placed at the disposal of Industries Wing however he was accommodated in the Labour Wing on his own request, willingness and surety regarding the seniority in the lowest position.
- 4) Para 4 of the Appeal is not correct. No corrections can be made by the Department in the service structure of an incumbent without adopting the proper / legal course.
- 5) Incorrect. No Departmental Appeal has been filed by the Appellant hence his Service Appeal is not maintainable. Moreover as per record, no such Appeal has ever been received in the Directorate and the Departmental Appeal attached with the Service Appeal is false and frivolous.

REPLY TO THE GROUNDS:

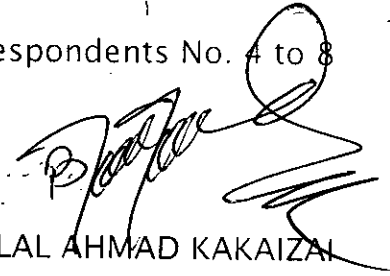
- A. Incorrect: no melafide or favoritism has been done with the Appellant rather the assigning of the Seniority to the Appellant is subject to his willingness at the time of joining the Directorate of Labour.
- B. Incorrect: Appellant availed the benefit of promotion from the Directorate of Industries however later on he requested to join the Directorate of Labour.
- C. Incorrect: The Impugned List has been issued according to law and Willingness Certificate of the Appellant. Moreover Tentative Seniority List is not challengeable before the Service Tribunal.
- D. Incorrect: No other employee has been adjusted in the Directorate of Labour like the Appellant.
- E. Incorrect: The Appellant wants to brush away the fault on his part. No melafide or favoritism can be attributed to the Department when the Appellant has placed his willingness at his own sweet will.

It is, therefore, requested that Appeal be dismissed with cost.



Respondents No. 4 to 8

Through:



BILAL AHMAD KAKAIZAI
(Advocate, Peshawar)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No: 817 / 2016

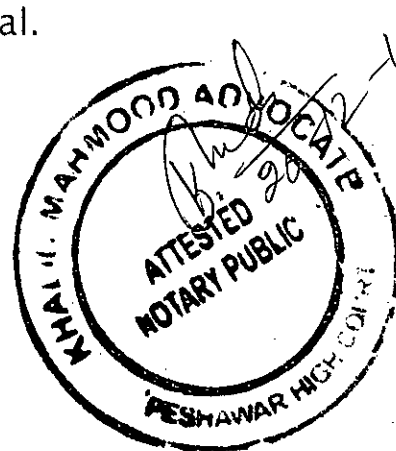
IRFANULLAH

Versus

Government of KPK etc

AFFIDAVIT

I, Raheer Hussain S/O Faqir Hussain, do hereby
on oath affirm and declare that the contents of the Reply /
Written Statement are true and correct to the best of my
knowledge and belief and nothing has been kept secret from
this Honourable Tribunal.



Raheer Hussain
Deponent

R/A

ANNEXURE

To, The Director Labour,
Khyber Pakhtunkhwa,
Peshawar.

Subject: TRANSFER FROM INDUSTRIES TO LABOUR.

R/Sir,

I have the honour to say that I was appointed as Manual Assistant in the Directorate of Labour Welfare on 25/07/1993 and worked in the Weights & Measures Cell. Then I was promoted as Junior Clerk on Industries side in the year 2008 but I continued to work with the Inspector Weights & Measures Peshawar and drawn my pay from the Industries side.

Sir, throughout my service I have performed my duties on the Labour side. It is therefore requested that I may kindly be transferred from the Industries Directorate to Labour Directorate.

Yours obediently,

Arifullah
Arifullah
s/o Arifullah
Junior Clerk

Dated 06/07/2010

Directorate of Labour, N-W.F.P.
No. DL/D/ 717-A
Dated: 06/07/2010

DDA

Arifullah
06/7

Arifullah
EA-I
06/7/10

DIRECTORATE OF LABOUR
KHYBER PAKHTUNKHWA
PESHAWAR

No. DI. Admn/1/2276

dated.06.07.2010.

Mr. Irfanullah,
Junior Clerk,
Directorate of Industries &
Commerce, Hqrt Office Peshawar

Subject:- OPETION FOR SENIORITY

I am directed to refer to your application dated 06.07.2010 and to add further that on repatriation/ adjustment in the Directorate of Labour you will be placed at the bottom of the Seniority List of the Junior Clerks.

Your option/ willingness in this regard is immediately required.

Z
o/c (Zabid Khan Afridi)
Deputy Director Labour (Admn)
Khyber Pakhtunkhwa Peshawar

To.

The Deputy Director Labour (Admn),
Khyber Pakhtunkhwa,
Peshawar.

Subject:

OPTION FOR SENIORITY.

R/Sir,

I have the honour to refer to your letter No.DI./Admn/1/2276 Dated 06/7/2010 on the subject noted above and hereby submit that I am willing to be placed at the bottom of seniority list of Junior Clerks if adjusted in the Directorate of Labour.

Yours obediently,

Dated 06/07/2010

EA-I

7
06/07/10

Irfanullah
Irfanullah
s/o Arifullah
Junior Clerk

483
D I C E (A) No.

06-07-2010

(103)

**DIRECTORATE OF LABOUR
KHYBER PAKHTUN KHWA
PESHAWAR.**

3rd floor F.C Trust Building Peshawar Cantt

ORDER

Mr. Irfanullah, Junior Clerk Hqtr: Office Peshawar is hereby transferred and posted against the vacant post of Junior Clerk in the office of the Assistant Director Labour Nowshera with immediate effect in the public interest.


-Sd-
Director Labour
Khyber Pakhtunkhwa Pesh

Endst: No.DL/Admn/2-37/ 2312-17 Dated.09.07.10

Copy of the above is forwarded for information to :-

- 1 The Director Industries & Commerce Khyber Pakhtunkhwa Peshawar w/r to his letter No.2243/6/856-Di-Admn dated 8.07.2010.
- 2 The District Accounts Officer Nowshera,
- 3 The Assistant Director Labour Nowshera.
- 4 The Official Concerned.
- 5 Personal File of the Official Concerned.

*Remind. by Admn.
by: Irfanullah
9.7.2010
vice S.No.2,3,4*


(Zahid Khan)
Deputy Director Labour (Admn)
Khyber Pakhtunkhwa
Peshawar