

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**Service Appeal No. 888/2015**

Date of Institution ... 06.08.2015

Date of Decision ... 28.08.2018

Liaqat Ali, Ex-Political Naib Tehsildar, Bazar Zakha Khel, Landi Kotal,
Khyber Agency,
R/o Village Shalam Salai,
P.O Zareef Kor, Tehsil Ekkaghund, Mohmand Agency.

... (Appellant)

VERSUS

1. The Senior Member, Board of Revenue, Government of Khyber
Pakhtunkhwa, Peshawar and four others.

... (Respondents)

MR. KHUSH DIL KHAN,
Advocate

--- For appellant.

MR. ZIAULLAH,
Deputy District Attorney

--- For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI

... MEMBER (Executive)
... MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the
parties heard and record perused.

FACTS

2. The brief facts of the case are that the appellant was appointed as Junior Clerk in the office of Political Agent, Mohmand Agency on 01.02.1980. He got promotion as Senior Clerk in 1993. That vide order dated 26.11.2008 he was posted as Political Naib Tehsildar, Upper Mohmand in own pay and scale. Through order dated 23.06.2009 the appellant was promoted as Political Naib Tehsildar (BPS-14) on adhoc basis. Presently he is aggrieved from impugned order dated 09.07.2015 through which his departmental representation was rejected by the competent authority, hence, the instant Service Appeal.

ARGUMENTS

3. Learned counsel for the appellant argued that on 06.05.2009, he submitted an application to SMBR that Sheharyar & Shakeel Ahmad Political Moharirs though junior to him were regularized as Naib Tehsildar, so same benefit may also be extended to him. Appeal was dismissed on 10.12.2009, on the ground that it fell in the domain of Commissioner concerned. That he filed Service Appeal in this Tribunal and vide judgment dated 17.06.2010, it was remanded to the respondents for consideration according to rules. That he filed Writ Petition No. 1473-P/2014 in Peshawar High Court, Peshawar. During the pendency of Writ Petition, he reached the age of superannuation on 17.03.2014 and got retired from service vide notification dated 07.04.2014. While disposing the Writ Petition, the Peshawar High Court, Peshawar vide judgment dated 03.06.2015 directed the SMBR to decide his departmental appeal within one month. That vide impugned order dated 09.07.2015 respondent No. 1 dismissed his representation. In support of his arguments he placed reliance on invogue Service Rules for the post of Tehsildar and Naib Tehsildar. He worked as Naib Political Tehsildar on acting charge basis for seven years so he had a genuine claim for regular promotion.

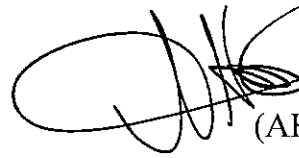
4. On the other hand learned Deputy District Attorney argued that he was posted as Naib Tehsildar in own pay and scale and later on adhoc basis vide order dated 23.06.2009. He was never posted as Naib Tehsildar on acting charge basis. There was no provision in the service rules for promotion of Senior Clerk to the post of Naib Tehsildar. During his posting as Naib Tehsildar on adhoc basis he reached the age of superannuation and was retired from Government service on 17.03.2014. Promotion of Mr. Shakeel and Mr. Sheharyar was made through administrative order and was subsequently withdrawn being illegal/unlawful.

CONCLUSION

5. The appellant was posted as Naib Tehsildar on adhoc basis. There was no provision in the service rules for promotion of Senior Clerk to the post of Naib Tehsildar. Normally adhoc appointment of eligible candidates is made through

initial recruitment. The appellant was neither eligible for appointment as Naib Tehsildar nor appointed through initial recruitment. So far as the issue of promotion/appointment through administrative order is concerned it was deliberated at length in Service Appeal No. 94/2015 decided by this Tribunal on 15.02.2018. There is no place for promotion through administrative order in the rules, therefore, promotion orders of Mr. Sheharyar and Mr. Shakeel were withdrawn on 24.09.2014. As such, appellant could not take benefits of these illegal orders. That the issue of similar appointment has also been decided vide judgment dated 02.08.2018 in Appeal No. 1239/2016.

6. As a sequel to the above, the appeal is dismissed with no order as to cost. File be consigned to the record room.



(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

ANNOUNCED
28.08.2018

10.08.2018

Clerk to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 17.08.2018 before D.B.



(Muhammad Amin Kundi)
Member



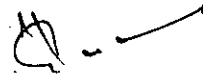
(Muhammad Hamid Mughal)
Member

17.08.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 28.08.2018 before D.B.



(Muhammad Amin Kundi)
Member




(Muhammad Hamid Mughal)
Member

28.08.2018

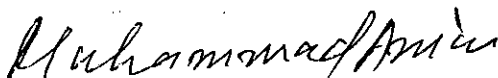
Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Attaullah, Assistant Secretary for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today placed on file, the appeal is dismissed with no order as to cost. File be consigned to the record room.

ANNOUNCED
28.08.2018



(AHMAD HASSAN)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

29.03.2018

Counsel for the appellant and Addl. AG alongwith Attaullah, Assistant Secretary for the respondents present. Learned Addl. AG submitted before the court that the case was prepared by Mr. Ziaullah, DDA who has been transferred. Learned AAG requested for adjournment. Adjourned. To come up for arguments on 11.04.2018 before this D.B.


(M. Hamid Mughal)
Member-I


Chairman

11.04.2018

Counsel for the appellant, Mr. Usman Ghani, District Attorney alongwith Attaullah, Assistant Secretary for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 21.06.2018 before the D.B.


Member


Chairman

21.06.2018

Counsel for the appellant and Adll: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 10.08.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

Brief Facts of the case are that the appellant was appointed as Junior Clerk in the office of Political Agent Dohmand on 1.2.1980. He got promotion as Senior Clerk in 1993. That vide order 26.11.2008 he was posted as Political Naib Tehsildar, upper Dohmand in own Pay & Scale. Through order dated 23.6.2009 the appellant was promoted as PNT (BPS-14) on adhoc basis. Presently he is aggrieved from impugned order dated 9.7.2015 through which his departmental representation was rejected by the competent authority, hence, to instate Service Appeal.

Learned Counsel for the appellant argued that on 6.5.2009, he submitted an application to ~~SECRET~~ SMAR for Mr. Shehryar & Mr. ~~Shahid~~ Shateel Ahmed Political Moharirs though junior to him were regularised as Naib Tehsildar, so same benefit may also be extended to him. Appeal was dismissed 10.12.2009, on the ground that it fell in the domain of Commissioner concerned. That he filed Service Appeal in this Tribunal and vide judgment — it was remanded to the respondents for consideration according to rules. That he filed Writ Petition no. 1473-P/2014 in Peshawar High Court Peshawar. During the pendency of Writ Petition, he reached the age of superannuation on 17.3.2014 and was retired from service vide notification dated 7.4.2014. While disposing the Writ Petition, the PHC vide judgment dated 3.6.15 directed the SMAR to decide his departmental appeal within one month. That vide ~~order~~ impugned order 9.7.2015 respondent no.1 dismissed his representation,

vacancy on officiating/acting charge...

The learned member in appeal referred on 22/7/10
1938.

41

In light of the above, the appeal of the appellant is allowed and the services rendered by the appellant on acting charge basis with effect from 18/6/1938 is to be counted towards regular service and for the purpose of seniority at proper place.

ANNOUNCED
16/07/2010

MANSANULLAH KHAN
SENIOR MEMBER
BOARD OF REVENUE
MIRANSHAH

Amended
[Signature]

22/7/10

Reader to
Senior Members
Board of Revenue,
Miranshah.

[Signature]

[Signature]

OFFICE ORDER

As per verbal permission of the Addl:Chief Secretary FATA, in absence of the Secretary Law & Order and due to transfer of Mr. Javed Khan PNT Upper Mohmands Mr. Liaqat Ali Reader to PA Mohmands will look after the duties of PNT Upper Mohmands till filling of the post.

Due to proceeding on Ex-Pakistan leave of Mr. Maqsood Hassan, P.T. Upper Mohmands, Mr. Ihsanuddin Political Moharrir Upper Mohmands will look after the duties of P.T. Upper Mohmands till his return from leave.

Political Agent Mohmands,
Ghallaanai.

No 4672-76/Acctt:

Dated Ghallaanai the 8.11. /2008

Copy forwarded to:

1. The Secretary Law & Order FATA Sectt: Peshawar.
2. The Deputy Secretary (L&O) FATA Sectt: Peshawar.
3. The PS to ACS Peshawar.
4. The APAs of all Sub division.
5. The Manager NADRA Ghallaanai.

Political Agent Mohmands,
Ghallaanai

12.01.2018

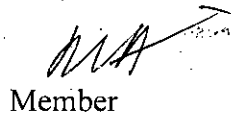
Clerk of the counsel for appellant present and Mr. Zia Ullah, DDA for the respondents present. Clerk of the counsel for appellant seeks adjournment as his counsel is not attendance today. Granted. To come up for arguments on 7-2-18 before D.B.



Member


Chairman

07.2.2018

Appellant with counsel and Mr. Ziaullah, Deputy District Attorney alongwith Muhammad Yousaf, Superintendent for the respondents present. Learned counsel for the appellant requested that this case be fixed after the decision of the Larger Bench in similar cases. To come up for arguments on 01.03.2018 before D.B.

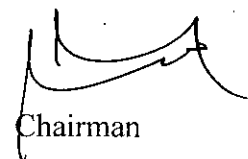

Member


Chairman

01.03.2018

Clerk to counsel for the appellant and Addl: AG for respondents present. Clerk to counsel for the appellant seeks adjournment as counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 29.03.2018 before D.B.



Member

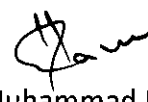

Chairman

Service Appeal No. 888/2015

08.08.2017


Appellant in person present. Mr. Mukhtiar Ali, Assistant Secretary alongwith Mr. Ziaullah, Deputy District Attorney for the respondents present. Arguments could not be heard as lawyer community is on general strike. Adjourned. To come up for arguments on 31.10.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

31.10.2017


Appellant with counsel and Mr. Usman Ghani, District Attorney alongwith Mr. Mukhtiar Ali, Assistant Secretary for the respondents present. Learned counsel for the appellant seeks adjournment. Granted. To come up for arguments on 07.12.2017 before the D.B.

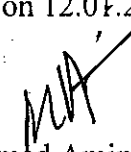

Member


Chairman

07.12.2017

Appellant in person present. Mr. Usman Ghani, District Attorney for the respondents also present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 12.01.2018 before D.B.


(Ahmad Hassan)
Member (E)

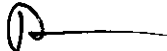

(Muhammad Amin Khan Kundi)
Member (J)

09.08.2016

Appellant in person and Mr. Ziaullah, GP for respondents present.

Arguments could not be heard due to general strike of the bar. To come up

for arguments on 14.12.16.



Member



Member

14.12.2016

Agent to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Agent to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 25.4.2017 before D.B.



(ASHFAQ TAJ)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

25.04.2017

Appellant with counsel and Mr. Muhammad Ibrar, Assistant Secretary alongwith Mr. Ziaullah, Government Pleader for the respondents present. Seniority list has not been produced. Last opportunity granted. To come up for such record and final hearing on 08.08.2017 before D.B.




Member



Chairman

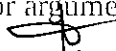
11.02.2016

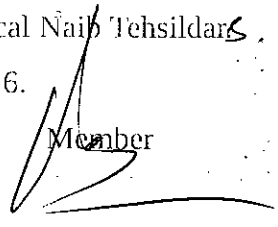
Appellant in person and Mr. Mukhtiar Ali, Supdt. alongwith Addl: A.G for respondents present. Written reply by respondents No. 1, 2 and 5 submitted. The learned Addl: AG relies on the same on behalf of respondents No. 3 and 4. The appeal is assigned to D:B for rejoinder and final hearing for 26.5.2016.


Chairman

26.5.2016

Counsel for the appellant and Mukhtiar Ali, Supt. alongwith Mr. Muhammad Jan, GP for respondents present. Arguments partly heard and case file perused. The appellant claim for promotion to the rank of Political Naib Tehsildar on the basis of seniority-cum-fitness. Furthermore, from the record produced before the court, seniority list is not available, therefore respondent/department is directed to provide the seniority list of the appellant alongwith the record of ~~the~~ department promotion *committee meeting* held by the promotion to the post of political Naib Tehsildars. To come up for arguments and such record on 9.8.2016.


Member


Member

12.08.2015

Appellant Deposited
Security & Process Fee


Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Political Naib Tehsildar on acting charge basis and was entitled to be appointed as such on regular basis but he was ignored despite seniority-cum-fitness and two junior officials were promoted constraining the appellant to knock at the door of the Service Tribunal wherein the respondent No. 1 i.e SMBR was directed to reconsider the stance of the appellant which was not considered constraining the appellant to file Writ Petition wherein directions were issued for redressing grievances of the appellant vide judgment dated 3.6.2015. That on the strength of the judgment of the august Peshawar High Court respondent No. 1 dismissed the stance of the appellant vide impugned order dated 9.7.2015. That against the said final order appellant has preferred the instant appeal on 6.8.2015.

That the appellant has retired from service but entitled to proforma promotion from the date when junior officials were promoted and appellant ignored.

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 27.10.2015 before S.B.


Chairman

27.10.2015

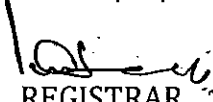

Appellant in person and Mr. Mukhtiar Ali, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 11.02.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 888 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06.08.2015	<p>The appeal of Mr. Liaqat Ali presented today by Mr. Khushdil Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p> REGISTRAR</p>
2	10-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>12-8-2015</u>.</p> <p> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 888 / of 2015

Liaqat Ali,
Ex, Political Naib Tehsildar..... Appellant

VERSUS

The Senior Member,
Board of Revenue KPK and others..... Respondents

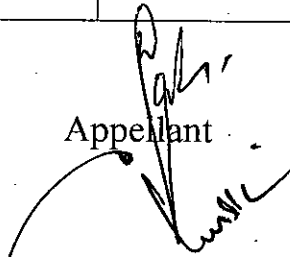
I N D E X

S.No	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-12
2.	Copy of order whereby appellant was posted as Reader to Political Agent Mohmand in his own Pay Scale	26.11.2008	A	0-13
3.	Copy of order whereby appellant was posted as Naib Tehsildar	23.06.2009	B	0-14
4.	Copy of the letter whereby the regularization of promotion of appellant as Political Naib Tehsildar was recommended.	08.07.2009	C	0-15
5.	Copy of letter whereby recommendation regarding the regularization of promotion of appellant was endorsed by respondent No.4	09.07.2009	D	01-16
6.	Copy of letter from the Office of Respondent No.1	28.07.2009	E	0-17
7.	Copy of Departmental Appeal of appellant	12.09.2009	F	18-20
8.	Copy of the order of respondent No.1	10.12.2009	G	0-21
9.	Copy of service appeal No. 240/2010		H	22-24
10.	Copy of order of the Service Tribunal whereby service appeal of appellant was remanded to respondent No.1 for consideration the case of promotion under the rules	17.06.2010	I	25-26

11.	Copy of application thereby appellant requested to respondent No.1 for the Implementation of order of the Service Tribunal	26.06.2010	J	27-30
12.	Copy of the Note Sheet thereby application for implementation was held in abeyance by respondent No.1	18.6.2011	K	0-31
13,	Copy of order thereby appellant was Retired from service on Superannuation w.e.f. 17.03.2013	07.04.2014	L	0-32
13.	Copy of the order of the Peshawar High Court Peshawar.	03.06.2015	M	33-35
14.	Copy of the impugned order thereby Departmental Appeal of the appellant was dismissed by respondent No.1	09.07.2015	N	0-36
15.	Wakalat Nama			

Through:

Appellant



(Khush Dil Khan)
Advocate

Supreme Court of Pakistan
9-B, Haroon Mansion
Khyber Bazar Peshawar
Cell # 0300-5887691

Dated: 05.08.2015

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 888 / of 2015

K.W.P. Province
Service Tribunal

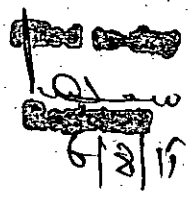
Slary No 941

Date 06-8-2015

Liaqat Ali,
Ex, Political Naib Tehsildar
Bazar Zakha Khel, Landi Kotal,
Khyber Agency.
R/o Village Shalam Salai,
P.O Zareef Kor, Tehsil Ekkaghund,
Mohmand Agency..... Appellant

VERSUS

1. The Senior Member,
Board of Revenue,
Govt. of Khyber Pakhtunkhwa,
Peshawar.
2. The Secretary,
Board of Revenue,
Govt. of Khyber Pakhtunkhwa,
Peshawar.
3. The Secretary,
Law & Order Department
FATA Secretariat,
Warsak Road, Peshawar.
4. The Commissioner,
Peshawar Division, Peshawar.
5. The Govt. of Khyber Pakhtunkhwa
through its Chief Secretary,
Civil Secretariat, Peshawar..... Respondents


6/8/15

**SERVICE APPEAL UNDER SECTION 4 OF
THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNALS ACT, 1974 AGAINST THE**

(2)

**IMPUGNED ORDER DATED 09.07.2015
(ANNEX:-N) THEREBY DEPARTMENTAL
APPEAL OF APPELLANT WAS DISMISSED.**

Respectfully Sheweth:

Facts giving rise to the present appeal are as under:-

1. That appellant initially appointed as Junior Clerk in the office of the Political Agent, Mohmand Agency on 01.02.1980. In view of his excellent service record and efficiency, he was promoted to the post of Senior Clerk in the year 1993. It is pertinent to mention that in the offices of Political Agents Junior Clerks/Senior Clerks are named "Political Muharrirs" and having similar nature of duties and the job description is also the same.
2. That respondent No.3 issued an Office Order dated 26.11.2008 (Annex:-A) whereby appellant was posted as Political Naib Tehsildar, Upper Mohmand in his own pay and scale. Then the respondent No.1 issued an order - dated 23.06.2009 (Annex:-B) whereby appellant was promoted to the post of Political Naib Tehsildar (BPS-14) on adhoc basis.
3. That in view of the excellent performance of appellant and dedicated to his duties during the period of worst law and order situation in the Agency, the Political Agent, Mohmand Agency wrote a letter on 08.07.2009 (Annex:-C) to respondent No.4 for the regularization of his promotion as Political Naib Tehsildar against which he was already working on acting charge basis which was also endorsed by respondent

No.4 to respondent No.1 for favourable necessary action vide letter dated 09.07.2009 (Annex:-D). In pursuance of which, the respondent No.1 addressed a letter dated 28.07.2009 (Annex:-E) to appellant and stated therein; **“Your request will be considered when new amended rules are notified which are under active process of the Government.”**

4. That since appellant was the senior most Political Muharrir/Senior Clerk and eligible for the regular promotion to the post of Political Naib Tehsildar in all respect so he challenged the letter dated 28.07.2009 before the respondent No.1 through his departmental appeal dated 12.09.2009 (Annex:-F), which was dismissed on 10.12.2009 (Annex:-G) against which he filed Service Appeal No. 240/2010 (Annex:-H) which was remanded to Department for consideration under the rules vide order dated 17.06.2010 (Annex:-I).

5. That then appellant filed an application dated 29.06.2010 (Annex:-J) before the respondent No.1 for the implementation of the order of the Hon'ble Service Tribunal Khyber Pakhtunkhwa but same was not processed rather the same kept pending without cogent reason vide Note Sheet dated 18.06.2011 (Annex:-K).

6. That when the application of appellant for implementation was not considered in due course of time so he was constrained to file a Writ Petition No. 1473-P/2014 in the Hon'ble Peshawar High Court, Peshawar. It is pertinent to mention that during the pendency of this Writ Petition appellant was got

retirement on Superannuation with effect 17.03.2014 vide Notification dated 07.04.2014 (Annex:-L).

7. That later on, the above Writ Petition was disposed off on 03.06.2015 (Annex:-M) in the terms **“that the decision of the Senior Member Board of Revenue qua holding in abeyance the said representation/appeal is behind our comprehension. Therefore, we without touching the merits of the case, lest it may prejudice the case of either party, would like to restore the representation/appeal of the petitioner to its original position and direct the learned Senior Member Board of Revenue to decide the same strictly in accordance with law through a speaking order as earlier as possible but not later than one month, after receipt of this order by keeping in mind that some juniors to the petitioner were promoted during his service and his case was not considered, which alone is a state of heartburning, which has to be avoided to its maximum level.”**

7. That after decision of the Peshawar High Court Peshawar, the respondent No.1 decided the representation of appellant and dismissed the same on 09.07.2015 (Annex:-N) in slipshod manner and against the rules on subject.

8. That it will not be out of context to refer the rules which governed the services of Tehsildar and Naib/Tehsildar which were amended from time to time with the changed scenario so the relevant

provisions of the rules are reproduced for convenience of this Honourable Tribunal as under:-

(A) Firstly these rules were named 'West Pakistan Tehsaldari and Naib/Tehsidlari Services Rules 1962,' the relevant provisions to the appointment/promotion as Naib Tehsildar are as under:-

Rule 1(13) "Subordinate service" shall Comprise---

(a) for the purpose of appointments to the post of Naib Tehsildars.

(i) -----

(ii) -----

(iii) -----

(iv) Ministerial employees (including Vernacular Assistants and Political Moharrirs) who have worked for at least five years in the Revenue Establishment of a District/Division or the Board of Revenue or in the offices of the of the Directors of Land Records, and

(v) -----

(B) The aforesaid rules (Rules 1962) were superceded by Notification dated 27.11.2001 which was further amended vide Notification dated 31.10.2002, the relevant provisions regarding the

promotion to the post of Naib Tehsildar are as under:-

At serial No.2 in column No.6 of the amended Notification dated 31.10.2012⁰² the following entries are made:-

- (a) -----
- (b) -----
- (c) 12% by selection on merit from amongst Assistants and Senior Scale Stenographers of Board of Revenue, Director Land Records and the **Offices of Political Agents** and Assistants and Junior Scale Stenographers in the Offices of District Officer (Revenue and Estate)/Collectors with 3 years service as such;

(C) Then the Rules dated 27.11.2001 were replaced by the new rules vide Notification dated 26.12.2008. The relevant provisions regarding the promotion to the post of Naib Tehsildar are as under:-

At serial No.2 in column No. 7, the following entries are made:-

- (a) -----
- (b) -----
- (c) 20% by promotion, on the basis of joint seniority cum fitness from

amongst junior scale Stenographers and Assistants in the **Office of Political Agent and Assistant Political Agent Frontier Region,** Assistant/Junior Scale Stenographer of Ex. Deputy Commissioners/Commissioners Offices presently working in the offices of DCO/ACO/EDO (F&P) and DOR, who are graduate with 5 years service as such;

- (D) The rules as notified on 26.12.2008 were further amended and relevant amended provisions regarding the promotion to the post of Naib Tehsildar are as under:-

At serial No.2 in Column No. 7 the following entries are made:-

- (a) -----
- (b) -----
 - (i) -----
 - (ii) 20% from amongst graduate Assistants of the Offices of the Commissioners, Additional Commissioners, District Coordination Officers, District Officers (R&E)/Collectors and Executive District Officers (F&P), **Political Moharrirs of the**

||

Office of the Political Agents and Assistant Political Agents (FR) with at least 5 years service as such;

(E) By Notification dated 2.12.2011, further amendments were made in the notification dated 26.12.2008. The relevant amended provisions regarding the promotion to the post of Naib Tehsildar are as under:-

At serial No.2, in column No.7 the following entries were made:-

- (b) -----
- (c) 25% by promotion on the basis of joint seniority cum fitness from amongst Assistants of the Office of BOR, Commissioners, Additional Commissioners, DCOs, DOR Office and Executive District Officers (F&P) with at least 5 years service, **Political Moharrirs of the Office of Political Agent/Assistant Political Agents with 10 years.**
- (d) -----

Explanation:-----

Note:-----

9. That appellant being aggrieved of the impugned order dated 09.07.2015, files the present appeal on the following amongst other grounds:-

GRUNDS:

- a. That appellant was not treated in accordance with the rules on subject and unlawfully deprived of the right of promotion on regular basis as Naib Tehsildar (**BPS-14**).
- b. That at the relevant time, appellant was entitled to the promotion to the post of Naib Tehsildar in view of his eligibility and seniority but he was malafidely ignored and his case was not placed before the Departmental Promotion Committee for unknown reasons due to which he was deprived of such right during his active service and suffered for no fault of him.
- c. That appellant has worked on the post of Political Naib Tehsildar for more than 7 years on acting charge basis regularly and continuously which created vested rights in his favour but then respondent No.1 acted in arbitrary manner and not regularized his services as Political Naib Tehsildar without

legal justification which was unfair and unjust and not sustainable under the rules on subject.

d. That the impugned order dated 09.07.2015 was passed in deviation of the directions of the Honourable Peshawar High Court Peshawar by respondent No.1 advertantly violated the same. Hence the impugned order is illegal, without lawful authority and malafide being violative of the decision of the Peshawar High Court Peshawar and liable to be set aside.

e. That in compliance of aforesaid rules, the juniors Political Moharrirs were promoted to the post of Naib Tehsildar but inspite of recommendations of the Political Agent and Commissioner of the concerned Agency and Division, the services of appellant as Political Naib Tehsildar were not regularized and ignored him in arbitrary manner which is not sustainable under the rules.

f. That the plea taken by the respondent No.1 that in the rules on subject no provision existed of promotion of the senior clerk to the post of Naib Tehsildar which is totally incorrect and

against the rules as in the rules on subject the nomenclature of Political Moharrir mentioned therein and not named as junior clerk or senior clerk for the reason that similar duties performed by them. Thus this reason given in the impugned order is not tenable and liable to be set aside.

g. That respondent No.1 has misconceived the case of appellant and relied on irrelevant ground that appellant was not eligible for appointment as Political Naib Tehsildar. It is not the case of initial recruitment to the post of Naib Tehsildar rather appellant prayed for the regularization of his promotion to the post of Naib Tehsildar as he remained on that very post for more than 7 years in addition to his eligibility for such promotion under the rules which was not done fairly, consequently he was deprived of regular promotion for no fault of him during his service.

h. That the ground No.3 mentioned by respondent No.1 in the impugned order regarding the withdrawal of promotion order of Shehryar and Shakeel is not applicable to the case of appellant because that very order has already been challenged by the aggrieved persons, therefore, such reason is not sustainable.

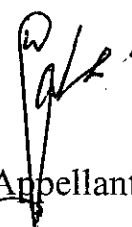

i. That appellant was fully qualified and eligible under the rules on subject for the promotion to

the post of Political Naib Tehsildar during his service but malafidely he was ignored of such benefits for unknown reasons that meanwhile he was retired.

It is, therefore, humbly prayed that on acceptance of this appeal the impugned order dated 09.07.2015 may kindly be set aside and respondents No.1 may graciously be directed to consider case of the appellant for promotion to the post of Naib Tehsildar from the date when he was eligible under the rules on subject with all back benefits or proforma promotion with financial benefits from due date.

Any other relief as deemed appropriate in the circumstances of the ^{case} not specifically asked for may also be granted to the appellant.

Through:


Appellant


(Khush Dil Khan)
Advocate
Supreme Court of Pakistan

Dated: 05.08.2015

Annex-A


1 P-13

FATA SECRETARIAT
LAW AND ORDER DEPARTMENT
PESHAWAR

NO.CSF/L&O/37/6979-25
Dated 26-11-2008.


OFFICE ORDER

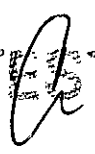

The Competent Authority is pleased to post Mr. Liaqat Ali, Reader to Political Agent Mohmand as PNT Upper Mohmand in his own pay scale in the public interest.


Deputy Secretary
Law & Order

Copy to

- 1- Commissioner Peshawar Division.
- 2- Secretary Board of Revenue, NWFP.
- 3- Political Agent, Mohmand Agency.
- 4- Agency Accounts Officer Mohmand Agency.
- 5- PS to ACS FATA.
- 6- PS to Secretary Law & Order.
- 7- ✓ Officer concerned.


Deputy Secretary
Law & Order

ATTESTED





GOVERNMENT OF NWFP
REVENUE & ESTATE DEPARTMENT

2 Annex-B
P-14

Dated 23/06/2009

ORDER

No. 18229 /Admn:V/PF(L). The Competent Authority has been pleased to appoint / promote Mr. Liaqat Ali Political Moharrir of the office of Political Agent Mohmand Agency, presently working as Political Naib Tehsildar Upper Mohmand Ghallanai, Mohmand Agency (BPS - 14) as Naib Tehsildar on adhoc basis. He will continue as Political Naib Tehsildar Upper Mohmand Ghallanai Mohmand Agency.

Senior Member,
Board of Revenue NWFP

No. _____ /Admn:V/PF(I).

Copy forwarded to the: -

1. Secretary Law & Order FATA Secretariat Warsk Road Peshawar.
2. Political Agent Mohmand.
3. Agency Accounts Officer Mohmand.
4. Official concerned.
5. Personal File.
6. Office Order File.

Assistant Secretary (Admn)
Board of Revenue NWFP

B

F/E

Annex - A

Annex - C

P-15

No. 3947

Acctt.

Dated Ghallanai the 8 07 / 2009

(7)

The Political Agent,
Mohmands of Ghallanai

The Commissioner,
Peshawar Division, Peshawar

Subject

PERMANENTLY ABSORPTION AS POLITICAL NAIB
TEHSILDAR.

Memorandum

It is submitted that Pakistan Army, Mohmand Rifles and Political Administration under took search operation in Bidmanai and Shamshah area of Baizai Sub Division on 29.06.2009. During movement to Shamshah, the vehicle of Political Naib Tehsildar Upper, Mr. Liaqat Ali was ambushed by some militants at Jabar Jaywar, area of Shamshah. Resultantly, Mr. Liaqat Ali was seriously wounded. He was shifted to Lady Reading Hospital, Peshawar for medical treatment in very critical condition, where he is now reported to be stable and recovering.

The post of Naib Tehsildar, Upper was lying vacant since quite some time due to lack of competent Political Officers, who could have been transferred / appointed against the post. In order to fill in the vacant post in the interest of public service, on the recommendation of this office, Mr. Liqat Ali was appointed as Naib Tehsildar on adhoc basis by the Revenue and Estate Department, NWFP.

During the on-going law enforcement operations against militants, conducted by Mohmand Rifles and Political Administration, Mr. Liaqat Ali remained an active member. During the above operation he got seriously wounded by the militants. Keeping in view his commitment to his duty and sacrifice rendered for this administration in general and particularly for the nation, he therefore, deserves to be encouraged by the Government.

It is, therefore, requested that with the approval of competent authority Mr. Liaqat Ali PNT on adhoc basis may please be recommended to the Revenue and Estate Department, NWFP for absorbing him as Political Naib Tehsildar on regular basis.

(Signature)

(Signature)
Political Agent Mohmand
of Ghallanai

No. 3947 /Acctt.

Copy forwarded to the Additional Chief Secretary (FA/PA), FA/PA Secretariat Peshawar.



OFFICE OF THE
COMMISSIONER PESHAWAR DIVISION
PESHAWAR

(Sub-office II, No. 173 Shami Road Peshawar Tel. 9214045 Fax. 9213673)

No. AC(R)/Pesh/3-2/2009/
Dated Pesh: the 9th July, 2009

8

To
The Senior Member,
Board of Revenue NWFP,
Peshawar.

Subject: PERMANENTLY ABSORPTION AS POLITICAL NAIB
TEHSILDAR.

Dear Sir,

I am directed to forward herewith a copy of the Political Agent Mohmands Memo: No. 3946/Acctt: date 08:07.2009 (self explanatory) on the subject noted above and to state that this office recommends the proposal contained wide the Political Agent Mohmands Memo: under reference.

Yours faithfully,

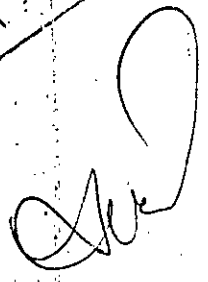

MUNTAZIR KHAN
ASSISTANT COMMISSIONER (Rev/GA)

Endst: & Date even. / 10/11/09

1. Copy forwarded to:-
The Political Agent Mohmands w/r to his Memo: quoted to above.
2. PS to Additional Chief Secretary, FATA, Peshawar.
3. PS to Commissioner Peshawar Division Peshawar.

ATTESTED


ASSISTANT TO COMMISSIONER (Rev/GA)



Annex - C

Annex - E

GOVERNMENT OF NWFP
REVENUE & ESTATE DEPARTMENT

No 20936 / Admn: V/PF(L).

Peshawar dated the 28/07/09

To.

Mr. Liaqat Ali,
Naib Tehsildar
C/O Commissioner Peshawar
Division Peshawar

9

Subject: PARENTALLY ABSORPTION AS POLITICAL NAIB
TEHSILDAR

Attention is invited to Commissioner Peshawar Division
No AC(R)/PSH/3-2/2009/1241, dated 9th July 2009, on the subject noted
above.

Your request will be considered when new amended Rules are
notified which are under active process of the Government.

Assistant Secretary (Estt)
Board of Revenue NWFP

ATTACHED

Annex-F

P-18

BEFORE THE SENIOR MEMBER BOARD OF REVENUE NWFP
PESHAWAR.

Liaqat Ali Political Niab Tehsildar
Upper Mohmand Agency.

17

VERSUS.

ANNEX G

Secretary Board of Revenue NWFP Peshawar.

Departmental Appeal against the order dated
28-7-2009 whereby the claim of appellant for
regular absorption as Political Niab Tehsildar
refused on flimsy grounds.

Prayer:

On acceptance this departmental appeal the
respondents may be direct to absorb the appellant on
regular basis as PNT, in light of old rules as others
junior official have been absorbed /promoted regularly.

R. SHEWETH.

- 1- That the appellant was appointed as junior Clerk in the office of PA Mohmmand Agency on 01-2-1980 and later on the appellant was promoted as S.Clerk in the year 1993.
- 2- That on 26-11-2008 vide Fara Secretariat order no: CSF/LNO/37/6979-85, the appellant was promoted /posted as PNT but in own pay and scale.
- 3- That vide Revenue Deptt order no 18230-35/admn.V/PF(L) dated 23-6-2009 the appellant was promoted as Niab Tehsildar but on Adhoc basis

ATTESTED

Two ✓

AW

18

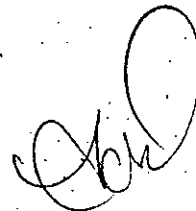
P-19

- 4- That the PA Mohmand has also forwarded the appellant case on 5-3-2009 to Commissioner Peshawar Division for permanent absorption as PNT which was further recommended by the Commissioner Peshawar on 17-3-2009 to the concerned office for regular promotion /absorption as PNT and for the second time again the appellant's case was recommended on 3.7.09 by the P.A and then by Commissioner Peshawar on 9.7.09
- 5- That in response to the above recommendation of PA & Commissioner Peshawar division the Revenue Deptt refused the said recommendation flimsy basis and informed the appellant on 28.7.2009, That his case will be considered when new rule are notified the said letter received by appellant on 2.9.2009.
- 6- That now the appellant comes to this Honorable forum against the order dated 28.7.2009 (received on 2.9.2009) on the following grounds Amongst the others

GROUND.

- A- That the impugned order dated 28.7.2009 against the law, facts, natural justice and material on record hence not tenable.
- B- That many junior colleagues of the appellant namely Sher yar, Shakeel Ahmad, Israr Khan, Shah Riaz, have been permanently absorbed /promote as Niaz Tehsildar. Despite the facts that new rules does not favor them and they are also most junior to the appellant.
- C- That the appellant has been discriminated because junior colleagues have been benefited from the promotion of PNT/PNT, while the same benefits has not been extended to the appellant despite of the facts that the appellant not only senior to them but also has much better record than those who have been promoted and as such the order dated 28.7.2009 is against the Article 4 & 25 of the constitution of Pakistan 1973.
- D- That the appellant has served the Deptt with zeal & honesty and there is no adverse entry in the service record or any complaint against the appellant.
- E- That he appellant seeks permission to advance other ground and proof at the time of hearing.

ATTESTED



19 P-20

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

APPELLANT.

Liaqat
LIAQAT ALI.

PNT UPPER MOHMAND
GHALANIA MOHMAND AGENCY.

12/9/09

[Signature]
ATTESTED

[Signature]

IN THE COURT OF AHSANULLAH KHAN, SENIOR MEMBER,
BOARD OF REVENUE, NWFP.

Annex-6
P-21
20

Case No. 198/2009.
Date of Institution. 12/09/2009.
Date of Decision. 10/12/2009.

Liaquat Ali Naib Tehsildar, Upper Mohmand Agency

[Signature]
Appellant.

Versus

Secretary, Board of Revenue, NWFP

Respondent.

ORDER

This is departmental appeal against the order dated 28/07/2009, of Board of Revenue NWFP whereby the request of appellant for regular promotion as Political Naib Tehsildar was not considered.

Brief facts of the case are that the appellant was appointed as Junior Clerk in the office of Political Agent, Mohmand Agency on 01/02/1980. He was later on promoted as Senior Clerk in the year 1993. He was posted as Political Naib Tehsildar Upper Mohmand Agency by the FATA Secretariat on 26/11/2008. Later on the appellant was appointed/promoted as Naib Tehsildar (BPS-14) on Adhoc basis by the Board of Revenue NWFP vide order dated 23/06/2009. The appellant approached the Board of Revenue NWFP through Commissioner, Peshawar Division for absorbing him as Political Naib Tehsildar on regular basis. He was informed that his request will be considered when new amended rules are notified, vide letter bearing No. 20936/Admn/V(PF)(L) dated 28/07/2009 issued by the Assistant Secretary (Distt.) Board of Revenue NWFP. Hence the present appeal.

Appellant present and heard. Comments offered by the Board of Revenue NWFP perused.

Perusal of the file reveals that the appellant was promoted/appointed as Naib Tehsildar (BPS-14) on Adhoc basis against the initial quota of NWFP Public Service Commission which has since been filled in. Moreover, vide Notification dated 12th October, 2009 issued by the Establishment NWFP, the powers to deal with posting/transfer and service matters/Departmental Promotion Committee, etc of Naib Tehsildars, District Kanungos, District Revenue Accountant and Head Vernacular Clerks will be in the purview of the Divisional Commissioner in their respective Division as per past practice.

In view of the above the claim of the appellant for regularization of his service as Naib Tehsildar is not based on fact, hence the appeal is dismissed.

ANNOUNCED.
10/12/2009.

ATTESTED

[Signature]
(AHSANULLAH KHAN)
SENIOR MEMBER,
BOARD OF REVENUE, NWFP.

Attested
21-12-09

H

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Annex H

P-22

Service Appeal No 240 /2010

21

Liaqat Ali Political Naib Tehsildar,
Ghalanai, Mohmand Agency.

ANNEX I
Appellant

Versus

1. Government of NWFP through Secretary Revenue and Establishment Department, NWFP Peshawar.
2. Senior Member Board of Revenue, Government of NWFP, Peshawar.
3. The Additional Chief Secretary, FATA, Governor Secretariat FATA, Peshawar.
4. Political Agent, Ghalanai, Mohmand Agency.
5. Sheharyar Khan, Naib Tehsildar under settlement Training at Chitral.
6. Shakeel Ahmad, Naib Tehsildar Land Acquisition at Charsadda

Respondents

Appeal under section 4 of NWFP Service Tribunal Act, 1974.

Prayer:-

On acceptance of this appeal the respondent be directed to regularize absorb the appellant as Political Naib Tehsildar.

Respectfully Sheweth,

Brief but relevant facts of the appeal are as follows:-

1. That the appellant is serving the respondent Department since 1980. Initially he was appointed as Junior Clerk on 01-02-1980 and later on he was promoted to the post of Senior Clerk (BPS-9) in the Year 1993. He was posted as Reader with Political Agent, Assistant Political Agent, Tehsildar and others at different occasions.
2. That during his services the appellant was bestowed with numerous commendations from the higher authorities and was also selected for cash prize on his best performance in the Department.

ATTESTED

[Handwritten Signature]

3. That the higher authorities in the Department always appreciate the services, efficiency, honesty and dutifulness of the appell. and in this respect repeatedly recommended him for promotion/absorption to the post of Political Naib Tehsildar. It may be noted that the petitioner is also at the top of seniority list of Senior Clerks/Readers.
4. Those certain posts of Political Naib Tehsildar were lying vacant in the Department out of which the Appellant along with private respondents were promoted to the post of Political Naib Tehsildar.
5. That vide Office Order No CSF/L & O/37/6979-85 dated 26-11-2008, the appellant was posted as Political Naib Tehsildar Upper Mohmand but in his own pay scale. He served the Department as Naib Tehsildar for about 07 months in his own pay and scale.
6. That being the senior most and senior most clerk and at the top of the seniority list the appellant was promoted was appointed/promoted as Political Naib Tehsildar on adhoc basis vide office order No 18229/Admn:V/PF(L) dated 23-06-2009.
7. That the appellant remained an active member during the operation against the militants by Mohmand Rifles and Political Administration of Mohmand Agency. Even he got serious injuries in the encounter with the militants/miscreants. He remained hospitalized for certain long period.
8. That meanwhile the Political Agent forwarded the case of appellant to Commissioner Peshawar Division, for permanent absorption against the post of Political Naib Tehsildar which was recommended by the Commissioner Peshawar Division on 17-03-2009. the above said recommendation was not replied by the respondents, thus the same exercise was again repeated by the competent authority.
9. That the above said recommendation was not considered and the appellant was informed vide letter dated 28-07-09 with the following words "Your request will be considered when new amended Rules are notified which are under active process of the Government". Aggrieved with the afore said order the appellant approached respondent No 1 through a departmental appeal which was dismissed vide order dated 10-12-2009. Hence this appeal on the following amongst other grounds:-

GROUNDS

- a. That the impugned order dated 10-12-2009 is against law, facts and based on discrimination, hence untenable and liable to be set aside.
- b. That the appellant has filed appeal on 12-09-09 which was decided on 10-12-2009. In the instant order the respondent No 1 was pleased to

ATTESTED

hold that the power to deal with posting/transfer and service matter/departmental promotion committee etc of Naib Tehsildar, District Kanungo, District Revenue Account and Head vernacular clerk will be in the purview of the Divisional Commissioner in their respective Divisions as per past practice. On the same subject made one Riaz ul Haq PNT (own pay and scale) Bajaur Agency had filed appeal on 19-09-09 which was accepted on 15-10-09 by the same respondent.

- e. That the private respondents are junior most and even picked from the junior clerks while the appellant is the senior most senior clerk/reader in the Department, having a splendid service record. That the impugned order is the worst example of nepotism and favoritism.
- d. That the appellant's regularization was not considered on flimsy pretext merely to frustrate and the ends of justice.
- e. That the appellant has served the department for about 30 years with a clean and unblemished record. He was discriminated by the Department merely to adjust the blue eye.
- f. That the case of the appellant found strong support from the recommendation of Political Agent, Mohmand Agency and Commissioner Peshawar Division. Moreover the case of the appellant is on better footings from the private respondents, even than they were promoted to the post of PNT on regular basis and the appellant was ignored on flimsy pretext.
- g. That the appellant is more senior and highly qualified/educated from the private respondents. The respondent Department ignored the appellant on contradictory grounds.

It is, therefore, humbly prayed that on acceptance of this appeal the respondents be directed to regularize the appellant as Political Naib Tehsildar with effect from the date of posting as PNT in own pay and scale. Any other relief deemed fit by this Honorable Tribunal in circumstances of the case may graciously be granted.

Appellant,

Through

Rooh ul Amin
Advocate Peshawar

ATTESTED

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Annex-1
P-25

Service Appeal No 2110 / 2010

Liaqat Ali Political Naib Tehsildar,
Ghalanai, Mohmand Agency.

11



Appellant

Versus

29
7-1-2010

1. Government of NWFP through Secretary Revenue and Establishment Department, NWFP Peshawar.
2. Senior Member Board of Revenue, Government of NWFP, Peshawar.
3. The Additional Chief Secretary, FATA, Governor Secretariat FATA, Peshawar.
4. Political Agent, Ghalanai, Mohmand Agency.
5. Sheharyar Khan, Naib Tehsildar under settlement Training at Chitral.
6. Shakeel Ahmad, Naib Tehsildar Land Acquisition at Charsadda

Respondents

Appeal under section 4 of NWFP Service Tribunal Act, 1974.

Prayer:-

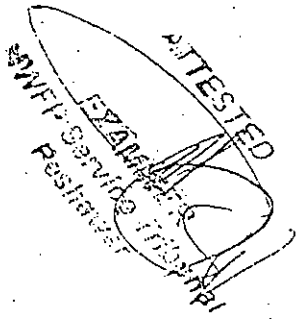
On acceptance, of this appeal the respondent be directed to regularize absorb the appellant as Political Naib Tehsildar.

Respectfully Sheweth,

Brief but relevant facts of the appeal are as follows:-

1. That the appellant is serving the respondent Department since 1980. Initially he was appointed as Junior Clerk on 01-02-1980 and later on he was promoted to the post of Senior Clerk (BPS-9) in the Year 1993. He was posted as Reader with Political Agent, Assistant Political Agent, Tehsildar and others at different occasions.
2. That during his services the appellant was bestowed with numerous commendations from the higher authorities and was also selected for cash prize on his best performance in the Department.

ATTESTED



Submitted to-day
21/1/2010

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J

12

6.2010

Counsel for the appellant, Tahir Iqbal AGP alongwith Altaullah Assistant for Respondents No. 5 and 6 present. No one is present for Respondents No. 3 and 4.

This case was fixed for submission of written reply of the respondents. Counsel for the appellant stated that written reply of Respondents No. 1 and 2 has been received and placed on file and requested that he may be allowed to argue the case on available evidence/record.

He argued that the appellant was appointed as Naib Tehsildar on adhoc basis vide order dated 23.6.2009 by the SMBR K.P.K. on the recommendation of the Political Agent Mohmand and endorsed by the Commissioner to SMBR vide order dated 23.6.2009 appointed the appellant on adhoc basis..

Counsel for the appellant further argued that Respondents No. 4 and 5 who were junior to the appellant have been regularized by the SMBR which is against the rules. He also submitted that the appellant may also be regularized at par with Respondents No. 4 and 5 who were junior to him.

Counsel for Respondents No. 4 and 5 argued that he has no reservation if the appellant is treated at par with Respondents No. 4 and 5.

In view of the above, the case is remanded to Revenue Department for consideration under the rules. The parties are, however, left to bear their own costs. File be consigned to the record

ANNOUNCED.
17.6.2010.

Member.

Member.

ATTESTED

[Signature]

17/6/10
6/2/10
24/6/10

[Signature]

BEFORE THE SENIOR MEMBER BOARD OF
REVENUE, KHYBER PAKHTUNKHAWA

Annea-J
P-27

16

Application No. _____ of 2010

Liaqat Ali, Political Naib Tehsildar, Presently serving in the
Office of Commissioner, Peshawar.

Applicant
~~Applicant~~

Versus

Secretary, Board of Revenue, Province of Khyber
Pakhtunkhawa.

APPLICATION FOR AND ON BEHALF OF LIAQAT
ALI, POLITICAL NAIB TEHSILDAR, FOR
IMPLEMENTATION OF THE ORDERS OF
HONOURABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHAWA.

Humbly sheweth:

FACTS:

Facts leading to the institution of the present application are as
under:

ATTESTED

k

1- That the Applicant was appointed as Political Naib Tehsildar upper Mohmand vide office order dated Office Order No CSF/L & O/37/6979-85 dated 26.11.2008 in his own pay and scale.

True Copy of the Order dated 26.11.2008 is annexed as mark "A"

2- That on the basis of his seniority, the Applicant was appointed/promoted as Political Naib Tehsildar Upper Mohmand on adhoc basis vide office order No 18229/Admn:V/PF(L) dated 23.06.2009.

True Copy of the Order dated 23.06.2009 is annexed as mark "B"

3- That the Applicant represented to the Commissioner, Peshawar for permanent absorption on the post of Political Naib Tehsildar, and the Applicant was duly recommended.

True Copy of the Recommendation letter is annexed as mark "C"

4- That pursuant to the above, the Applicant filed his departmental Representation before the Senior Member Board of Revenue, Khyber Pakhtunkhwa for permanent absorption against the post of Political Naib Tehsildar, but the Honourable Tribunal was pleased to dismiss the Representation of the Applicant vide its order dated 10.12.2009. It is important to mention that the Applicant was at the top of Seniority List, but in spite of this, candidates junior to him were permanently absorbed as

ATTESTED

P. 28

18

"Moreover, vide Notification dated 12 October, 2009 issued by the Establishment N.W.F.I, the powers to deal with posting/transfer and service matter/Departmental Promotion Committee, etc of said Tehsilbar, District Revenue Accountant and Head Vernacular Clerks will be in the purview of the Divisional Commissioner in their respective Division as per past practice."

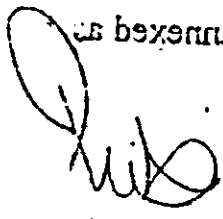
True Copies of the Order dated 10.12.2009 and the Orders of permanently absorbed candidates are annexed as mark "D-D"

2- That aggrieved from it, the Applicant filed Appeal under section 4 of the N.W.F.P. Service Tribunal Act, 1973 which was disposed off vide order dated 17.06.2010.

"Counsel for Respondents No 4 & 5 argued that he has no reservation if the Appellant is treated at par with Respondents No 4 & 5.

In view of the above, the case is remanded to Revenue Department for consideration under the rules."

True Copy of the Order dated 17.06.2010 are annexed as mark "E"



6- That in the light of the above judgment of the Honourable Service Tribunal, Khyber Pakhtunkhwa the Applicant be treated in accordance with law which is the mandated of Article 4 and 18 of the Constitution of the Pakistan, 1973

ATTACHED

"Moreover, vide Notification dated 12 October, 2009 issued by the Establishment N.W.F.P, the powers to deal with posting/transfer and service matter/Departmental Promotion Committee, etc of Naib Tehsildar, District Revenue Accountant and Head Vernacular Clerks will be in the purview of the Divisional Commissioner in their respective Division as per past practice."

True Copies of the Order dated 10.12.2009 and the Orders of permanently absorbed candidates are annexed as mark "D1-D2"

5- That aggrieved from it, the Applicant filed Appeal under section 4 of the N.W.F.P Service Tribunal Act, 1973 which was disposed off vide order dated 17.06.2010.

"Counsel for Respondents No 4 & 5 argued that he has no reservation if the Appellant is treated at par with Respondents No 4 & 5.

In view of the above, the case is remanded to Revenue Department for consideration under the rules".

True Copy of the Order dated 17.06.2010 are annexed as mark "E"

6- That in the light of the above judgment of the Honourable Service Tribunal, Khyber Pakhtunkhawa the Applicant be treated in accordance with law which is the mandated of Article 4 and 18 of the Constitution of the Pakistan, 1973.

ATTESTED

19

In view of the above, it is respectfully prayed that the Applicant be absorbed as Political Naib Tehsildar and be treated in the same manner as other equally placed Political Naib Tehsildar.

Appellant

g/ax
Liaqat Ali
Political Naib Tehsildar,
Commissioner, Peshawar.

20/6/2010
29.6.2010

ATTESTED *[Signature]*

Annex-K

P-31

Respondent: Shri Yash N.T. has submitted Medical Certificate/application with the reason that he is ill and unable to appear. The case is adjourned to 28.5.2011 for further proceedings

28.5.2011

ANNEX N, (34) Mr. SMBR

Parties present without submission of written reply. They should come up with reply on 04-6-2011.

SMBR

04-6-2011

Parties present - P & A on leave to come up for further proceedings on 18-6-2011.

Mr. Reader

18.06.2011

Appellant with counsel present and heard. He has filed the present appeal against the officials senior to him who were involved as RTI. The inquiry proceedings against these officials is pending. The appeal of appellant is hereby held in abeyance till the decision of case of R/S, B.

Appellant with counsel present and heard. He has filed the present appeal against the officials senior to him who were involved as RTI. The inquiry proceedings against these officials is already under process hence the appeal of the appellant is hereby held in abeyance till the discussion on Departmental No 526.

ATTESTED

SMBR

Annex-L
P-32

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

No.V/Liqat Ali/ NT/ 7533
Peshawar dated 07 /04/2014

To

The Political Agent,
Mohmand Agency.

47
ANNEX R

SUBJECT: - RETIREMENT FROM SERVICE.

I am directed to enclose a copy of Assistant to Commissioner (Rev/GA), Peshawar letter No. 6/7/EA/II/3213, dated 19/3/2014 alongwith its enclosures to issue retirement orders in respect of Mr. Liaqat Ali of your office working as Political Naib Tehsildar Bazar Zakhat Khel (on adhoc basis) on superannuation with effect from 17/3/2013.


Assistant Secretary (Estt:)

No.V/Liqat Ali/ NT/ _____

Copy forwarded to Assistant to Commissioner (Rev/GA), Peshawar Division with reference to his letter referred to above.

Assistant Secretary (Estt:)

ATTESTED

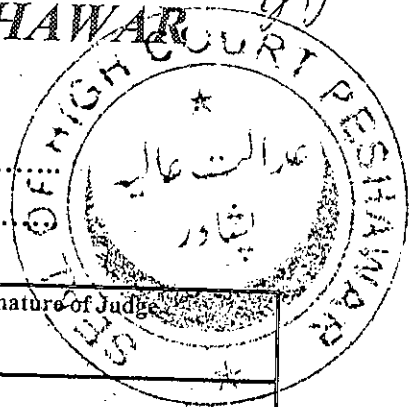


PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

Case No.....of.....



Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge
1	2	3
	<p>ORDER 03.06.2015</p>	<p><u>Writ Petition No.1473-P/2014</u></p> <p>Present: Mr. Khaled Rehman, Advocate, for Liaqat Ali, petitioner.</p> <p>Mr. Qaiser Ali Shah, Addl. AG, for the respondents.</p> <p>*****</p> <p><u>MAZHAR ALAM KHAN MIANKHEL, CJ.-</u></p> <p>Liaqat Ali, petitioner herein, through the instant constitutional petition, has asked for the issuance of an appropriate writ directing the respondents to decide his departmental representation by regularizing him as Political Naib Tehsildar w.e.f. 23.06.2009 and also to issue his retirement order accordingly with all back benefits.</p> <p>2. We have gone through the available record carefully and considered the submissions made by the learned counsel for both the parties.</p>

m →

ATTESTED

ATTESTED

EXAMINER
Peshawar High Court.

11 JUN 2015

3. The record of the case would reveal that the learned Services Tribunal vide judgment dated 17.06.2010, remanded the case of the petitioner to the Revenue Department for consideration under the rules and thereafter, the petitioner also filed a representation / appeal before the Senior Member Board of Revenue for implementation of the aforesaid judgment, who vide order dated 18.06.2011, held in abeyance the said representation / appeal being pre-mature. When the representation / appeal of the petitioner was filed before the competent / departmental authority, it should have been decided one way or the other in accordance with law. The decision of the learned Senior Member Board of Revenue qua holding in abeyance the said representation / appeal is beyond our comprehension. Therefore, we without touching the merits of the case, lest it may prejudice the case of either party, would like to restore the representation / appeal of the petitioner to its original position and direct the learned Senior Member Board of Revenue to decide the same strictly in accordance with law through a speaking order as early as possible but not later than one month, after receipt of this order by keeping in mind that some juniors to the petitioner

m →

ATTESTED

ATTESTED

EXAMINER
PASHAWATI COURT

1.1.JUN 2011

34

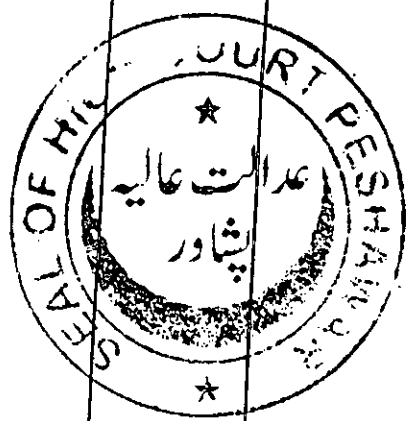
P-35

40

were promoted during his service and his case was not considered, which alone is a state of heartburning, which has to be avoided to its maximum level. This writ petition is disposed of accordingly.

Announced.
03.06.2015

Muzher Ali Khan - J
M. Dawood Khan. J



CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized With Order No. 67 of
The General Administration Order 1987
11 JUN 2015

No. 23691
Date of Presentation of Application 04/6/15
No of Pages 12
Copying fee /
Urgent Fee /
Total 24.00
Date of Preparation 11/6/15
Date Given For Delivery 11/6/15
Date of Delivery of Copy 11/6/15
By M. Amin

ATTESTED

(Fayaz)

9.7.15

2015 One Liaqat Ali instituted a writ petition (1473-P/2014) before the Peshawar High Court with the prayer that the respondents may be directed to decide his departmental representation, regularize his services as Political Naib Tehsildar w.e.f. 23-06-2009, and to issue his retirement orders accordingly with all back benefits. While deciding the writ petition the Peshawar High Court restored the departmental representation by setting aside the orders of the Senior Member Board of Revenue (SMBR) to hold the departmental appeal in abeyance, and directed that the same be decided within one month strictly in accordance with law. The Court further directed that while deciding the representation, the Authority should keep in mind that some officials juniors to the petitioner were promoted during his service and his case was not considered.

2. On receipt of the Court orders, the representation was requisitioned from office. The petitioner had moved the Service Tribunal for regularization of his services as Naib Tehsildar as two officials i.e. Shehryar Khan and Shakeel Ahmed Political Naib Tehsildars, junior to him had been promoted by the then SMBR. The Service Tribunal after hearing the parties remanded the Service Appeal to the Revenue Department for consideration under the rules.

3. The facts of the case briefly are that the Political Agent Mohmands Agency through a communication dated 12-09-2007 recommended the petitioner, a senior clerk posted as Reader to Political Agent Mohmands, for promotion as Naib Tehsildar 'in his own pay and scale'. Acting upon the communication, the Deputy Secretary Law & Order FATA Secretariat with approval of 'Competent Authority' posted the petitioner as Political Naib Tehsildar Upper Mohmand in his own pay and scale on 26-11-2008. Subsequently the Board of Revenue issued an order on 23-06-2009 indicating that the Competent Authority was pleased to appoint/promote the petitioner as Naib Tehsildar on adhoc basis.

4. The petitioner on 06-05-2009 moved the then SMBR with an application that his services as Naib Tehsildar may be regularized as Messers Shehryar, and Shakeel Ahmed Political Moharirs, both junior to him, had been regularized as Naib Tehsildars. The then SMBR on 10-12-2009 dismissed the appeal as matters pertaining to promotion of Naib Tehsildars etc. had been devolved to the respective Commissioners by the Establishment Department. Against this order an appeal was instituted in Service Tribunal which was remanded for consideration under the rules.

5. Upon receipt of the Service Tribunal decision, the petitioner and private respondents i.e. Shehryar and Shakeel Naib Tehsildars, junior to petitioner, were summoned. Perusal of their record showed that they had been promoted as Naib Tehsildars through Administrative orders by the then SMBR without recourse to the Departmental Promotion Committee and that there was no provision in service rules for promotion of Junior Clerk/Political Moharir as Naib Tehsildar. The private respondents were asked to provide law/rules under which their promotion had been ordered so that the petitioner's case could be decided on the same footing. The private respondents, who had been put on notice as to why their illegal promotion may not be withdrawn, started delaying finalization of the proceedings therefore a decision could not be taken as to whether the petitioner could be promoted as Naib Tehsildar on the same analogy. As the fate of

ATTESTED

ATTESTED

11/13-7-2015

Reader To SMBR

Khyber Pakhtunkhwa


petitioner's representation hinged on the outcome of the private respondents' proceedings, the representation was held in abeyance.

6. The promotions of the private respondents were held to have been made in complete disregards to: a) service rules i.e. there was no provision of a Political Moharir (Junior Clerk) for promotion to Naib Tehsildar; b) Khyber Pakhtunkhwa (Appointment and Promotion Transfer) Rules, 1989 as no Departmental Promotion Committee meeting was held to consider their promotion; and c) the SMBR was not vested with authority under any law/rules to promote officials through an Administrative order. Accordingly reversion orders indicating in detail the legal position were issued on 24-09-2014. Unfortunately, office lost sight of the petitioner's representation which after the decision of private respondents' proceedings should have been revived and decided as per rules.
7. The petitioner in support of his representation stated that at the time of heightened militancy in tribal areas, regular Naib Tehsildars used extraneous pressures to avoid postings in tribal areas; most of the officials serving in tribal areas did not have the requisite experience to deal with tribal affairs, therefore recourse was made by appointing experienced political ministerial staff as Naib Tehsildars. Hence he cannot be held accountable or punished for irregular acts of the political administration or Board of Revenue who appointed him to the post.
8. The representation of the petitioner has been given due consideration and has been rejected on the following grounds as administrative authorities are not empowered to take decisions based on equity:
 - i) The Service Rules, at the time the petitioner was posted as Naib Tehsiladar on adhoc basis or representation was made, did not provide for promotion of senior clerk to the post of Naib Tehsildar;
 - ii) Adhoc appointments are made through initial recruitment from amongst eligible persons. The petitioner was neither eligible for appointment as Naib Tehsildar nor was appointed through initial recruitment;
 - iii) The promotion of Shehryar and Shakeel had been withdrawn through detail orders issued on 24-09-2014, therefore the petitioner could not be promoted on their analogy; and
 - iv) 'Adhoc promotion' is not recognized by any rule or law; as such the petitioner cannot derive any benefit out of it.

For the foregoing reasons the representation is untenable and dismissed. A copy of order has been provided to the petitioner for his record. A copy may also be forwarded to the Additional Registrar indicating that the directions of the Peshawar High Court have been complied with.

ATTESTED

11/1
14
13-7-15
Reader To
SMBR
Khyber Pakhtunkhwa


Senior Member

ATTESTED

WAKALAT NAMA

IN THE COURT OF K.P. Service Tribunal Peshawar

Liaqat Ali

Mr. Political Ais Tehmide Appellant(s)/Petitioner(s)

VERSUS

SMBR Govt.

K.P. + others

Respondent(s)

I/We Liaqat Ali do hereby appoint **Mr. Khush Dil Khan, Advocate Supreme Court of Pakistan** in the above mentioned case, to do all or any of the following acts, deeds and things.


1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

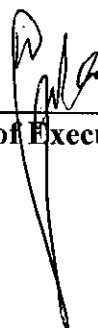
- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by



Khush Dil Khan,
Advocate,
Supreme Court of Pakistan


Signature of Executants

9-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2213445

(5) (6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 888 of 2015

Liaqat Ali, Ex Political Naib TehsildarAppellant

VERSUS

Senior Member Board of Revenue Khyber Pakhtunkhwa and orthers.....Respondents

PRELIMINARY OBJECTIONS.

1. The appeal is not maintainable in its present form.
2. The appellant has got no cause of action.
3. The appeal is bad due to mis-joinder / non-joinder of necessary parties.
4. The appellant has been estopped by his own conduct.
5. The appellant has not come to the Tribunal with clean hands.

COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2 & 5


ON FACTS.

1. Pertains to record of the office of Political Agent Mohmand.
2. Correct to the extent that the appellant was posted as Naib Tehsildar by FATA Secretariat in (OPS) and later-on posted as Naib Tehsildar on adhoc basis on 23.06.2009.
3. Incorrect. The appellant has never been posted as Naib Tehsildar (ACB). Further more at that time, service rules, did not provide promotion of Senior Clerk to the post of Naib Tehsildar, however, amendments were in process, therefore the appellant was advised that your request will be considered as and when rules are finalized.
4. Incorrect. As there was no provision in the service rules for promotion of Senior Clerk as Naib Tehsildar, therefore his departmental appeal was dismissed.
5. Incorrect. Upon the receipt of the Service Tribunal decision, the appellant and private respondents i.e Shehryar and Shakeel Naib Tehsildar junior to the appellant were summoned and they were asked to provide law / rules under which their promotion had been ordered so that the appellant's case could be decided on the same footing. But private respondent started delaying finalization of the proceedings therefore; decision could not be taken as to whether the appellant could be promoted on the same analogy. As the fate of the appellant's case hinged on the outcome of the private respondents proceedings, the representation was held in abeyance.
6. Incorrect. During his posting as Naib Tehsildar Adhoc basis he crossed the age of Superannuation and a letter was issued to Political Agent Mohmand Agency to issue his retirement order as he was basically Senior Clerk.
7. Correct to the extent that writ petition of the appellant was remanded by Peshawar High Court on 03.06.2015.
7. Correct to the extent that on remand of his writ, the appellant was heard and after due consideration his appeal / representation was disposed off through a detailed order on 09.07.2015.
8. Incorrect. Rules were amended from time to time on need basis through proper SSRC with the approval of Competent Authority.

GROUNDS

- A. Incorrect. The appellant has been treated in accordance with law.
- B. Incorrect. There was no provision in service rules for promotion of Senior Clerk of the office of Political Agent as Naib Tehsildar at that time.
- C. Incorrect. The appellant was posted as Naib Tehsildar in (OPS) and adhoc basis. The appellant cannot claim posting in (OPS) and adhoc basis for regular promotion as Naib Tehsildar.
- D. Incorrect. As the appellant was posted as Naib Tehsildar on adhoc basis, therefore, he has to retired from his regular post i.e Senior Clerk.
- E. As in para – 5 of the facts.
- F. As in para – 4 of the facts.
- G. Incorrect. As there was no provision in service rules for promotion of Senior Clerk as Naib Tehsildar therefore, he was not considered for promotion as Naib Tehsildar on regular basis. Beside the appellant has reached the age of 60 years on 17.03.2014.
- H. M/S Shakeel and Sheryar whose promotion was made through Administrative Order without adopting proper procedure has been withdrawn.
- I. Incorrect. As there were no provisions for promotion of Senior Clerk as Naib Tehsildar therefore, he was not considered for promotion as Naib Tehsildar.

It is prayed that appeal having no merit may be dismissed with costs.


Respondent No. 1 & 5


Respondent No. 2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 888/2015

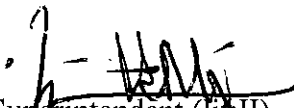
Mr. Liaqat Ali Ex-Political Naib TehsildarAppellant

VERSUS

Senior Member, Board of Revenue, and others.....Respondents

AFFIDAVIT

I Mukhtiar Ali Superintendent (Lit;II), Board of Revenue Khyber Pakhtunkhwa do hereby solemnly affirm that the contents of the written reply are true and correct to the best of my knowledge and belief information provided to me, and noting has been deliberately concealed from this Hon'able Tribunal.


Superintendent (lit;II)
Board of Revenue

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

At Sno 103 of N.Ts. List.

Writ Petition No. 491/2003

Abdul Malik, Political Agent, Moharrir Cum Senior Clerk P.A. Office Bajaur and others. Petitioner.

VERSUS

Govt: of NWFP and others. Respondents.

AFFIDAVIT

I, Saifur Rehman Superintendent Board of Revenue Peshawar do hereby solemnly affirm and declare that the contents of the accompanying para wise comments submitted by respondent No. 2 to 4 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

Saifur Rehman DEPONENT 12/7/2003

Identified by:

Adv. Syed Saifur 12/7/03 YADVOCATE-GENERAL, NWFP., Peshawar.

certified that the above was verified on solemn affirmation before me in office of the undersigned on 12/7/2003 by Saifur Rehman, Superintendent Board of Revenue, Peshawar, NWFP, Peshawar, who was identified by the undersigned who is personally known to me.

Oath Commissioned Peshawar High Court, 12/7

S.No	Name of Naib Tehsildar Qualification	Date of Birth / Domicile	Date of First entry into Government Service	Date of appointment as Naib Tehsildar on regular basis	Method of Recruitment	Remarks
100	Sardar Yousaf (BA)	15.03.1959 Bajaur	22.02.1978	17.09.2009	Promotee	Promoted through Administrative order of SMBR
101	Mr. Saz Muhammad (BA)	01.02.1961 Bajaur	25.11.1981	17.09.2009	--do--	--do--
102	Mr. Ghulam Saeedullah (FA)	01.01.1957 Bajaur	24.11.1975	18.09.2009	--do--	--do--
103	Mr. Abdul Malik (FA)	01.08.1955 Bajaur	24.11.1975	25.09.2009	--do--	--do--
104	Mr. Muhammad Saeed	Peshawar		30.09.2009	--do--	--do--
105	Mr. Riaz-ul-Haq (BA)	11.01.1969 Bajaur	04.07.1987	22.10.2009	--do--	--do--
106	Mr. Umar Said (BA)	16.10.1960 Mardan	05.09.1988	07.01.2010	--do--	--do--
107	Mr. Jehanzeb Khan (BA)	01.04.1965 Malakand	13.12.1982	01.01.2010	--do--	--do--
108	Mr. Asmatullah (BA)	25.05.1973 NWA	01.06.1996	21.01.2010	--do--	--do--
109	Mr. B. Ghulam	15.01.1960 Peshawar		21.04.2010	--do--	--do--
110	Mr. Muhammad Alam (FA)	FR (Lakki)		03.06.2010	Promotee	--do--
111	Mr. Abbas Ali Shah (FA)	06.08.1957 Battagram	14.05.1979	24.06.2010	--do--	--do--
112	Mr. Dildar Khan (BA)	15.05.1975 Haripur	04.09.2003	25.06.2010	--do--	--do--
113	Mr. Sardar Ghulam Murtaza FA	01.11.1965 Abbottabad	04.06.1988	30.06.2010	--do--	Promoted through Peshawar High Court Bench judgment dated 26.09.2007

GOVERNMENT OF N.W.F. PROVINCE
REVENUE & ESTATE DEPARTMENT.

PESHAWAR. DATED 13/1/2003.

ORDER.

NO. _____/ESTB(F)/ADM-I/DPG(P). On the recommendations of the Departmental Promotion/Selection Committee, Board of Revenue, NWFP, the services of the following Political Naib Tehsildars (BS-14) are hereby regularised with immediate effect:-

1. ✓ ~~Mr. Khalid Khan,~~
PNT Pindarl Mohmand Agency.
2. Mr. Bakhtiar Khan,
PNT (Passport) Torkham,
Khyber Agency.
3. ✓ Mr. Gul Sam Khan,
PNT Prang Ghar.
4. Mr. Ghulam Ferooz Khan,
PNT Mulagori Khyber Agency.
5. Mr. Naz Amin,
PNT Nawagai Bajuar Agency.

So _____

SENIOR MEMBER
BOARD OF REVENUE, N.W.F.P.

ENDST: NO. 807-20 /ADM-I.

Copy forwarded to the:-

1. Accountant General NWFP.
2. Political Agents Khyber, Mohmand & Bajuar.
3. Agency Accounts Officers Khyber, Mohmand & Bajuar.
4. ✓ Officials concerned.
5. Personal files.

Sabir.

Sabir
SECRETARY
BOARD OF REVENUE, NWFP.

DETAILS OF POLITICAL MUNARRIRS WHO HAVE BEEN PROMOTED AS NALB
 DESIRED OUT OF QUOTA OF MINISTERIAL STAFF/POLITICAL MUNARRIRS
 OF F.A.T.A.

S.No.	NAME OF P.M.	DATE OF PROMOTION TO THE POST OF NALB.	NAME OF AGENCY
1.	Mohammad Hasham Khan	1979	Bajaur Agency
2.	Said Ahmad Jan.	1981	-do-
3.	Abdul Hameed Jan.	1981	-do-
4.	Fazle Rehman.	1998	-do-
5.	Masood Khan.	1983	-do-
6.	Ghulam Tarooq.	2002	-do-
7.	Naz Amin.	2002	-do-
8.	Rasad Gul.	1990	Khyber Agency
9.	Eabibur Rehman.	1990	-do-
10.	Mawaz Khan.	1994	-do-
11.	Usman.	Retd.	Mohmand Agency
12.	Gul Sam.	2002	-do-
13.	Khalid.	acting.	-do-
14.	Bakhtiar Khan.	2002	-do-
15.	Mohammad Zarif.	Retd.	-do-
16.	Rahim Gul.		-do-
17.	Sher Mohammad.		Khyber Agency
18.	Wilayat Shah.		Mohmand Agency
19.	Azim Khan, Masood.	Retd. as PA. (Political Agent) by Secretary	South Agency.
20.	Iqbal Burgish.		D.I. Khan.
21.	Said Ahmad Shah.		Khyber Agency
22.	Sheloyan	2003	Mohmand Agency

Regd.

B

OFFICE OF THE COMMISSIONER, D. I. KHAN DIVISION, D. I. KHAN.No. 9504 / 1995.Dated DIKhan the 28/8 1995.ORDER.

In exercise of the powers conferred under Rule- 4 of the West Pakistan Tehsildari and Naib Tehsildari Service Rules, 1952 and in accordance with the recommendations of the Departmental Selection/Promotion Committee of D. I. Khan Division, the following have been selected as Naib Tehsildar candidates against the subordinate service quota in D. I. Khan Division:-

1. Mr. Alamgir Khan s/o Jehangir Khan, Reader to Additional Commissioner, DIKhan Division, DIKhan.
2. Mr. Abdul Qadeer Khan s/o Abdul Wahab Khan Assistant Commissioner's Office DIKhan Divn; DIKhan.
3. Mr. Ghazi Nawaz s/o Umar Daraz Senior Clerk Commissioner's Office DIKhan Division, DIKhan.
4. Mr. Qayyum Nawaz s/o Khadim Hussain ~~McCarthy~~ ^{McCarthy} 20 Tehsildar D. I. Khan (Deputy Commissioner's Office DIK).
5. Mr. Kiramatullah Khan s/o Mohammad Sultan Junior Clerk Deputy Commissioner's Office Tank.
6. Mr. Aurangzeb Khan s/o Mahmood Khan, Senior Clerk Political Agent's Office South Wazir Agency.

Their seniority inter-se will be determined in due course under Rule 9 (b) of the West Pakistan, Tehsildari and Naib Tehsildari Service Rules, 1952.

COMMISSIONER,
D. I. KHAN DIVISION, D. I. KHAN

(Next Page...2.)

1
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 888/2015

Liaqat Ali,
Ex-Political Naib Tehsildar
Bazar Zakha Khel, Landi Kotal,
Khyber Agency.
R/o Village Shalam Salai,
PO Zareef Kor, Tehsil Ekkaghund,
Mohmand AgencyAppellant

Versus

The Senior Member
Board of Revenue,
Govt. of Khyber Pakhtunkhwa,
Peshawar and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN
RESPONSE TO REPLY FILED BY RESPONDENTS
NO. 1, 2 & 5.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous so denied

Rejoinder to Reply of Facts:

1. Furnished no reply so no need of further elucidation.
2. That Para No. 2 of the appeal was admitted by the answering respondents as correct.
3. That the answering respondents have impliedly admitted the contents of Para No.3 as correct.

4. That the reply is totally against the facts. The departmental appeal of appellant was dismissed on the plea that vide notification dated 12-10-2009 issued by the establishment department thereby empowered the divisional commissioners to deal with the matters of posting/ transfer and promotion of the revenue staff i.e. Naib Tehsildar, District Kanungo, District Revenue Accountant and Head Vernacular Clerks. It is further added that one Ghuncha Gul who was serving as Khassadar Clerk (BPS-3) was promoted to the post of Naib Tehsildar on 14-07-2010 and whose promotion is still intact while the case of appellant was delayed purposely that meanwhile he was retired. Copy of the order dated 14-07-2010. (Reapplication/A)
5. That the answering respondents have impliedly admitted the facts of the Para N. 5 as correct.
6. That the reply is incorrect so denied.
7. That the answering respondents have admitted the facts of Para No. 7 so no need of further elucidation.
7. That the answering respondents have admitted the facts of this Para.
8. That the answering respondents have admitted the facts of this Para.

Rejoinder to reply of Grounds:

- A. That the reply is incorrect.
- B. That the reply is incorrect so denied.

- C. That the reply is incorrect so denied. It is an established practice that firstly an employee promoted on adhoc basis then consider for regular promotion as done in the cases of Shakeel and Sheryar.
- D. The reply is incorrect so denied.
- E. The reply is incorrect so denied.
- F. The reply is incorrect so denied.
- G. The reply is incorrect so denied.
- H. The reply is incorrect so denied.
- I. The reply is incorrect so denied.

It is, therefore, humbly prayed that the reply of answering Respondents No. 1, 2 & 5 may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through **Appellant**
Khush Dil Khan
Advocate,
Supreme Court of
Pakistan

Dated: 21/5/2016

IN THE COURT OF ANSARULLAH KHAN, SENIOR MEMBER,
BOARD OF REVENUE, KHYBER PAKHTUNKHWA.

Case No. 182/2010.
Date of Institution. 17/07/2010
Date of Decision. 14/07/2010.

40

Departmental Appeal of Ghuncha Gul Naib Tehsildar (BPS-14) Acting Charge Basis

Appellant.

ORDER

This is a Departmental Appeal filed by Ghuncha Gul Naib Tehsildar (BPS-14) on Acting Charge Basis for regularization of his service as Naib Tehsildar (BPS-14) with effect from 18/01/2010.

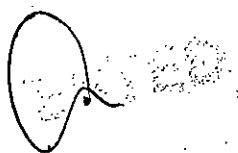
Brief facts of the case are that the appellant was appointed as Junior Clerk/Political Moharrir in the Office of Political Agent Mohmand Agency in the year 1992 and because of his excellent and satisfactory performance his name was recommended by the Political Agent Mohmand Agency to the Commissioner, Peshawar Division for promotion as Naib Tehsildar. He referred his case to the Board of Revenue, Khyber Pakhtunkhwa. He was also posted as Political Naib Tehsildar Anbar in his (Own Pay & Scale) by the FATA Secretariat. Since in SSRC Meeting held in May, 2009, wherein the Political Moharrirs had been made eligible for promotion/selection as Naib Tehsildars. The appellant was therefore appointed/promoted as Naib Tehsildar (BPS-14) on Acting Charge Basis by the Board of Revenue, Khyber Pakhtunkhwa on 18/01/2010. Hence the present appeal.

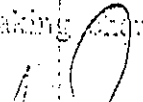
Appellant with counsel present. Arguments heard. The learned counsel while arguing the case contended that the appellant was entitled for ante-date promotion, but was deprived of his rights. In support of his submission he referred to Khyber Pakhtunkhwa Service Tribunal, Peshawar's judgment dated 11/03/2009 passed in case titled "Muhammad Iqbal Khattak APA, Khar Bajaur Agency Versus Government of Khyber Pakhtunkhwa through Secretary Establishment, Khyber Pakhtunkhwa and stressed that the appellant is also entitled for the same benefits i.e. ante-date promotion. The operative part of the said judgment is reproduced below:-

"We accept both the appeals and direct the appellants to ante-date the promotion of each of the two appellants to the respective dates on which a vacancy became available for the respective turn of the appellant of from the respective dates of their taking charge of such

22/7/10

Ansarullah Khan
Senior Member,
Board of Revenue,
Khyber Pakhtunkhwa





vacancy on officiating/acting charge basis and ...
The learned counsel has placed reliance on ...
1983.

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In light of the above, the appeal of the appellant is accepted and
the services rendered by the appellant on acting charge basis with effect from
18/07/2010 is to be counted towards regular service and for the purpose of
seniority at proper place.

ANNOUNCED
14/07/2010

SAIBATULLAH KHAN
MEMBER
BOARD OF REVENUE,
KHYBER PAKHTUNKHWA.

Attested
[Signature]

22/7/10

Reader to
Senior Member,
Board of Revenue,
Khyber Pakhtunkhwa.

[Signature]

[Signature]