

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal no. 1537 of 2023

Muhammad Ayub.....Appellant

Vs

Government of Khyber Pakhtunkhwa and othersRespondents

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DEPONENT

21-12-23

Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. **1537** of **2023**

Khyber Pakhtunkhwa
Service Tribunal

Muhammad Ayub
(Petitioner)

Diary No. **9941**

Dated **15-12-2023**

V E R S U S

Government of Khyber Pakhtunkhwa Through Chief Secretary & Others
(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Sheweth:

Preliminary objections:

The respondent humbly submits as under; -

1. That the appellant has no cause of actions to file the instant appeal being pre-mature, hence not maintainable.
2. That this Honorable Court lacks jurisdiction to entertain upon the instant appeal.

PARAWISE REPLY:

1. Para 1 is pertaining to record, hence no comments.
2. Para 2 pertaining to record, hence no comments.
3. Para 3 is correct to the extent that the respondent No. 02 and 03 made requisition to Khyber Pakhtunkhwa Public Service Commission for the post of Assistant Director (Administration).
4. Para 4 is correct to the extent that there is only 01 post of Assistant Director (Administration) in the Commissionerate of Mines Labour Welfare Khyber Pakhtunkhwa and as per old Service Rules the post was to be filled through initial recruitment. However, it is worth pointed out that the Standing Service Rules Committee, being competent forum amended the rules ibid and the method of recruitment was amended from "by initial recruitment" to "by promotion on the basis of seniority-cum-fitness, from amongst the holders of the posts of Superintendent (BPS-17), having 02 years' service as such.
5. Para 5 is correct to the extent that Standing Service Rules Committee, being competent forum amended the rules ibid in

order to give more chances of promotion to the experienced and senior employees of the Commissionerate of Mines. Furthermore, it is submitted that the Government has the discretion to make and amend rules as per requirements of the department, as also upheld by the Supreme Court of Pakistan in various Judgements.

6. Para 6 is correct to the extent that the appellant made his representation on 05.05.2023 after the notification of amended service rule for the post of Assistant Director (Administration). It is pertinent to mention here that the respondent No. 02 forwarded the departmental representation of the appellant to the respondent No. 04 for withdrawal of the said post from Khyber Pakhtunkhwa Public Service Commission whereby the Establishment Department opined that *“since the amended service rules notified on 05-05-2023 can not be given effect retrospectively, therefore, request of the Administrative Department regarding withdrawal of requisition for the subject post from Khyber Pakhtunkhwa Public Service Commission is not tenable at this belated stage”*.

- 7. As explained in Para-06
- 8. As explained in Para-06
- 9. No comments.

REPLY TO GROUNDS:

- A. The Act of answering respondents is legal and constitutional. No illegality whatsoever has been committed by the respondents.
- B. As explained in Para-A of the ground.
- C. Incorrect, hence denied. It is submitted that respondent No. 03 placed requisition to Khyber Pakhtunkhwa Public Service Commission in accordance with the Law and Rules.
- D. No comments.
- E. The appellant has been treated as per rules.
- F. Incorrect hence, denied. No fundamental right of the appellant has been infringed.

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- G. The answering respondents have always performed their legal and constitutional obligations in accordance with the dictates of Law, Rules and Justice.
- H. The respondents have always acted in accordance with the Law and Rules.
- I. As already explained in the preceding paras.
- J. No comments.
- K. Incorrect, hence denied. No discrimination has been made to the appellant.

It is therefore, humbly prayed that keeping in view the forgoing facts it is crystal clear that the appeal in hand is baseless and without legal footing therefore, may please be dismissed. Moreover, the respondents may be permitted to raise additional grounds during hearing/ arguments of the case.



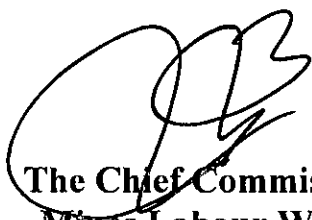
**Chief Secretary,
Govt. of Khyber Pakhtunkhwa
(Respondent No. 01)**

Nadeem Aslam Chaudhry
SECRETARY
to Govt of Khyber Pakhtunkhwa
Minerals Dev: Deptt:



**The Secretary
Mineral Development Department
Khyber Pakhtunkhwa
(Respondent No. 02)**

Hameed Ullah Shah
SECRETARY
to Govt of Khyber Pakhtunkhwa
Minerals Dev: Deptt:



**The Chief Commissioner
Mines Labour Welfare
Khyber Pakhtunkhwa
(Respondent No. 03)**

Muhammad Ilyas



**The Secretary
Establishment Department
Govt. of Khyber Pakhtunkhwa
(Respondent No. 04)**

Akhtar Saeed Turk

14-11-2023

So(L)

So(Lit-III) Estt

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SECRET
Ministry of Defence
New Delhi

SECRETARY
Ministry of Defence
New Delhi

(9)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal no. 1537 of 2023

Muhammad Ayub..... **Appellant**

Vs

Government of Khyber Pakhtunkhwa and others **Respondents**

AFFIDAVIT

I, Muhammad Ilyas, Chief Commissioner Mines (BPS-20) of Commissionerate of Mines do hereby solemnly affirm and declare that the contents of the accompanying para-wise reply are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defenses have been struck-off/*cost.*



Chief Commissioner Mines
Labour Welfare Khyber Pakhtunkhwa





COMMISSIONERATE OF MINES LABOUR WELFARE



KHYBER PAKHTUNKHWA
ATTACHED DEPARTMENT COMPLEX, KHYBER ROAD, PESHAWAR
Phone: 091-9211723 Fax: 091-9210236

AUTHORITY

Mr. Rahmat Ullah, Assistant Commissioner Mines Labour Welfare H/Q Office Peshawar is hereby authorized to attend the Honorable Service Tribunal, Peshawar in the case titled **Service Appeal No. 1537 of 2023 "M. Ayub vs Government of Khyber Pakhtunkhwa and others"**.

Chief Commissioner Mines Labour Welfare
Khyber Pakhtunkhwa, Peshawar

Secretary Minerals Development Department
Government of Khyber Pakhtunkhwa
Peshawar

SECRETARY
to Govt of Khyber Pakhtunkhwa
Minerals Dev: Deptt: