

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1303-2023

Niaz Gul S/o Awal Gul, Librarian (BPS-18), Provincial Assembly, Khyber Pakhtunkhwa,
Peshawar

.....Appellant

VERSUS

The Secretary, Provincial Assembly Khyber Pakhtunkhwa Peshawar & Others

.....Respondents

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9942 **WRITTEN ARGUMENTS ON BEHALF OF RESPONDENTS NO-3**

Dated 15-12-2023 The matter in question pertains to the re-designation and upgradation of various posts within the Provincial Assembly Secretariat, as approved in the order dated 12.10.2022. Mr. Niaz Gul has contested this decision on the grounds that it infringes upon the ongoing promotion case and introduces external officers into the ladder of promotion, thereby disturbing his seniority.

FACTUAL BACKGROUND:

- 1- A meeting of the Finance Committee of the Provincial Assembly of Khyber Pakhtunkhwa was held on 11th April 2022, chaired by the Honorable Speaker, to address the restructuring and strengthening of various cadres of the Provincial Assembly Secretariat.
- 2- Item No.01 of the minutes addressed the restructuring through upgradation and re-designation of different cadres/posts to meet the increased strength of Assembly members.
- 3- Rule-4 of Khyber Pakhtunkhwa Secretariat (Recruitments) Rules 1974 empowers the Chairman/Speaker of the Provincial Assembly to increase or reduce the number of posts, add new categories, or amend existing schedules.
- 4- After detailed discussion, the committee approved the proposed restructuring and upgradation of various designations as outlined in Annexure-A.
- 5- The decision to restructure and upgrade various designations, as per the enclosed Annexure-A, was made based on the increased demand for staff due to the enhanced strength of Assembly members.

ARGUMENTS:

1. Procedural Compliance:

- A. The decision to re-designate and upgrade various posts was made after due consideration in the Finance Committee meeting, as outlined in the minutes.
- B. Rule-4 of the Khyber Pakhtunkhwa Secretariat (Recruitments) Rules 1974 grants the Speaker the authority to make such decisions, ensuring procedural compliance. Thus, the decision to restructure and upgrade various posts was made following the established rules and procedures laid down in Rule-4.

2- Requisite Needs:

- A- The restructuring decision was necessitated by the increased strength of Assembly members, demanding a corresponding adjustment in Secretariat staff.
- B- The decision was made to address the exigencies of the Secretariat in light of the expanded responsibilities.

3- Rule-4 Empowerment:

- A- Rule-4 explicitly grants the Speaker the authority to amend schedules, increase or reduce posts, and add new categories as deemed necessary.
- B- The decision to redesignate and upgrade posts aligns with the empowerment provided by Rule-4, ensuring the legality and validity of the process.

4- Non-Inclusion in Appellant's Cadre:

- A- The approval of redesignation and upgradation during Finance Committee meeting dated 12 April 2022 did not affect the appellant's ladder of promotion as these posts were redesignated and upgraded without amending the existing Recruitment Order 2007 relevant to appellant's promotion. Moreover, it is pertinent to highlight that the redesignated and upgraded posts are isolated positions, devoid of any structured promotional hierarchy, thereby rendering them incomparable to the appellant's cadre.
- B- The redesignation and upgradation of subject posts stand as distinct entities, existing in isolation without predefined promotional hierarchy and sans any amendment in

said Order 2007, thus any attempt to draw a comparison with the appellant's cadre would be inappropriate and inconclusive.

5- Jurisdiction and Appropriate Forum:

A- In the event that any party is aggrieved by the upgradation, it is pertinent to note that the appropriate forum for such grievances is the High Court, as established by legal precedent. Reference may be made to the judgment in 2015 SCMR 456, which reinforces the jurisdiction of the High Court in matters of this nature. Therefore, the Service Tribunal may not be the suitable avenue for addressing concerns related to the upgradation, and the proper course of action would be to seek redressal through the High Court.

In light of the above arguments, it is evident that the decision to redesignate and upgrade posts within the Provincial Assembly Secretariat was made in accordance with established rules, procedural norms, and the necessities of the Secretariat. The decision did not infringe upon the right of appellant, nor did it impact his ladder of promotion.

It is respectfully requested that the appeal filed by the Appellant may kindly be dismissed.

Respondents No-3

Through



(MOHSIN YOUNIS)

**Assistant Law Officer
Khyber Pakhtunkhwa Provincial
Assembly Peshawar**



(MALIK KHAWAS)

**Assistant Law Officer
Khyber Pakhtunkhwa Provincial
Assembly Peshawar**