


FORM OF ORDER SHEET

Court of _____

Appeal No. 2609/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19/12/2023	<p>The appeal of Mr. Muhammad Idrees resubmitted today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshi is given to the counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Muhammad Idrees received today i.e on 15.12.2023 is incomplete on the following score which is returned to the counsel for the-appellant for completion and resubmission within 15 days.

Page Nos. 16, 31, 32 & 33 of the appeal are illegible be replaced by legible/better one.

No. 3901 /S.T.

DL. 18-12 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Noman Ali Bukhari Adv.
High Court Peshawar.

Sir,

objection Remand & file re-submitted



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2023

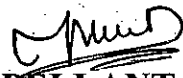
Muhammad Idrees

V/S

SMBR:

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APPELLANT
Muhammad Idrees

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT


(UZMA SYED)
ADVOCATE HIGH COURT

(1)

**BEFORE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. /2023

Muhammad Idrees S/O Muhammad Iqbal (late),
Junior Scale Stenographer BPS-14
office of the Deputy Commissioner Lakki Marwat,
Bannu Division KPK

[Appellant]

VERSUS

1. The Chief Secretary Govt: of KP Peshawar.
2. The Senior Member Board of Revenue Khyber Pakhtunkhwa Peshawar

[Respondents]

.....

**SERVICE APPEAL U/S-4 OF KPSERVICES TRIBUNAL ACT
1974 AGAINST THE RECOMMENDATIONS OF DPC
MINUTES DATED 23-05-2023 OF BOARD OF REVENUE KP
PESHAWAR WHEREBY THE PROMOTION OF THE
APPELLANT WAS DECLINED AND AGAINST NOT
DECIDING DEPARTMENTAL APPEAL OF THE
APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.**

PRAYER:

**THAT ON ACCEPTANCE OF INSTANT SERVICE APPEAL
THE IMPUGNED DPC DATED 23/05/2023 MAY BE
DECLARED AS ILLEGAL, UNLAWFUL, PERVERSE AND
INEFFECTIVE TO APPELLANT'S RIGHT OF PROMOTION
AND THE APPELLANT MAY BE DECLARED ENTITLED
FOR PROMOTION TO THE POST OF NAIB TEHSILDAR
FROM THE DATE VACANCY IN HIS QUOTA AVAILABLE
I.E 2019 UNDER OLD RULES WHICH WAS IN FIELD AT
THAT TIME IN LIGHT OF SUPERIOR COURT JUDGMENTS
WITH ALL CONSEQUENTIAL AND BACK BENEFITS. ANY
OTHER REMEDY WHICH, THIS HONORABLE TRIBUNAL**

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**MAY THINK DEEMS FIT AND APPROPRIATE THAT MAY
ALSO BE AWARDED IN FAVOR OF THE APPELLANT.**

RESPECTFULLY SHEWETH:

FACTS:

1. That appellant was initially appointed as Junior Scale Stenographer BPS-14 on 26-02-2004 in Revenue Department and due to slow process of promotion being 17 years qualifying/entire service, the appellant could not get any further promotion in the entire service. The appellant has unblemished service record and there is no complaint against him during whole service.
2. That the appellant since his appointment, always performed his assigned duties to the entire satisfaction of superiors and up to the mark of satisfaction there is no complaint against him till date.
3. That 15% quota was reserved for promotion on the basis of joint seniority amongst ministerial staff i.e. Senior Clerks+Junior Scale Stenographers of the Board of Revenue, all Commissioners and DC Offices in KPK at Divisional level, which was amended vide Notification No.6032-42/Estt:I/SSRC/Vol-II/2016 dated 30-06-2016 and 15% quota was reduced to 12% quota, enabling no such promotion of ministerial staff were made by the Board of Revenue KP Peshawar till 21-03-2019. **Copy of rules 2015, amendment 2016 and letter is attached as annexure-A, B & C.**
4. That in the meanwhile vide Notification dated 13-05-2019 the Board of Revenue Khyber Pakhtunkhwa Peshawar deleted the reserved quota of 12% for promotion of ministerial staff i.e. Senior Clerks/Jr.S.Stenographers BPS-14 to the post of Naib Tehsildar but it is pertinent to mention here that well before this amendment the right of

the promotion of the appellant was matured and two vacancies were also available in his quota and the appellant fall at S.no.2 but despite that the appellant was not considered at relevant time. **Copy of the seniority list and record are attached as annexure-D & E.**

5. That after fulfillment of all codal formalities, the appellant had filed Service Appeal before this Hon'ble Tribunal bearing No.547/2022, titled "MUHAMMAD IDREES VS SMBR" which was decided by this Hon'ble Tribunal and passed an order dated 11-04-2023 (Para-4) in favour of appellant with the directions to respondents that "So far as the appeal of appellant Muhammad Idrees is concerned the same is remitted to the competent authority to constitute DPC for considering the case of the appellant in light of the Judgment dated 22-09-2021 rendered by this Tribunal in service appeal No.1022/2019 filed by Munir Akhtar. In case the appellant Muhammad Idrees is aggrieved of any order passed in view of the recommendations of DPC so constituted he may avail remedy in accordance with law and rules.(Copy of judgment is attached as Annexure-F).
6. That, the said verdict of this Hon'ble Tribunal dated 11/04/2023 was duly intimated upon the respondents for compliance and for further necessary action vide this Hon'ble Tribunal order along with an application of petitioner bearing Diary No.3397 dated 27-04-2023.(Copy of application is attached as Annexure-G).
7. That on 15-05-2023, the appellant filed Execution Petition No.300/2023 in SA No.547/2022 titled "Muhammad Idrees VS SMBR" for implementation of judgment. During the pendency of execution petition the department produced DPC minutes dated 23/05/2023 on 04/08/2023. So the execution petition was disposed off by this Hon'ble Tribunal on 04-08-2023.(Copy of execution order and impugned DPC are attached as Annexure-H & I).

- ④
8. That thereafter, the appellant as per judgment filed departmental appeal before the Respondents on dated 21-08-2023 being aggrieved from the impugned DPC minutes dated 23/05/2023 submitted on 04/08/2023 before Tribunal. But the appeal of the appellant was not responded within statutory period 90 days hence the present appeal on the following grounds amongst other: **(Copy of Departmental Appeal is attached as annexure-J).**

GROUND:

- A) That the impugned DPC dated 23/05/2023 is against the law, rules and material on record, therefore liable to be set-aside and undersigned may be promoted from the date appellant was eligible and vacancies were available in his quota.
- B) That according to Superiors Courts judgment cited as *1985 SCMR 1158, 2010 PLC C.S 760* and tribunal judgment in appeal number *1564/2010* that if post is available in promotion quota then civil servant should be promoted on regular base from the date he become eligible and vacancies were available in his quota.
- C) This is well law, set out by superior courts that promotion in quota should always be made from availability of vacancy (*1997 SCMR 515, 1997 PLC (CS) 1210, 1985SCMR 1158, 1998 PLC (CS) 980*) and in view of judgment rendered by superior courts, posts for promotion can not be kept vacant for some one who was not qualified at the time of DPC rather it should be filled by promoting the next in seniority (*2017 SCMR 399*) which was continuously violated by BOR. Such illegal practice on part of department resulted in huge financial loss to appellant.
- D) The Sub-Registrars, a completely different cadre, were made part of seniority list jointly with Naib Tehslidars without any logical grounds containing the plea of avenues for future promotion and career growth of the Sub Registrars .

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- E) That Valuable rights of the appellant have been affected by not granting him, his due promotion from the date of his actual entitlement.
- F) That the appellant was ignored and deprived from the date when the eligible and entitle for promotion and in illegal manner. Which is such action is part of respondent department is not sustainable in eyes of law.
- G) That the post of Naib Tehsildar BPS-14 was available since long and the appellant was also eligible for promotion but he has been deprived from his right of promotion in time i.e 2019, which means that delay was caused by the department for which the appellant should not be punished. said principle is illustrate in Superior court judgment cited as *1997 SCMR 515*.
- H) That according to Superior Court Judgment reported as *1997 SCMR 515* in which it is held that delay in making promotion had entirely due to reason that officer of that department not carry out fairly simple exercise with reasonable period so the appellant is entitled to the promotion from back date.
- I) That the appellant are not treated equally and in accordance with law and existing rules and deprived them from extended relief.
- J) That it is well settled principle of justice that no one should be suffered from the arbitrary acts of public functionaries and the public functionaries are required to act in accordance with rules and law with fair means. But in case of appellant such principle has been violated.
- K) That the Supreme Court held in many cases that though the Civil Servant could not claim promotion as matter of right but it was incumbent upon the department/Authority. That when they grant promotion, then in that case the promotion should be granted from the due date of Civil Servant / Availability of post. Thus the appellant is entitled to antedated promotion
- L) That there are lots of contradictions in the recommendations/minutes of the DPC meeting held on 23-05-2023 and true facts are that "According to the seniority list for the year-2018, the appellant placed at serial No.4. The person namely Shakib Khan Junior Scale Stenographer who has been shown at Sr.No.1 in the seniority list has already been given promotion to the post of Senior Scale Stenographer BPS-16 on 07-03-

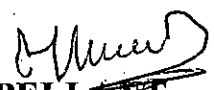
2019 as per Service Rules notified by Board of Revenue. The person at Sr.No.2 of the seniority list is namely Muhammad Sajjad who has already forgo/decline to take promotion to the post of NaibTehsildar on 23-03-2019. So the appellant came at S.no.2 and two seats were available at that time.

- M) That in the above mention scenario, the appellant is now at Sr.No.1 of the above mentioned seniority list after the promotion of aforesaid Amir Bayan who was at Sr.No.1 of the seniority list.
- N) That in the minutes of Departmental Promotion Committee meeting held on 13-07-2022 in case titled "Amir Bayan VS SMBR" it is admitted facts that under the 12% quota reserved as per amended Rules-2016, share of promotion quota is 2.4 in Bannu Division, while in the minutes of DPC meeting held on 23-07-2023 for the appellant, it is also admittedly point out that under the 12% quota reserved as per amended Rules-2016, share of promotion quota is 1.4 in Bannu Division which is totally wrong and malafide. **Copy of Minutes is attached as annexure-K.**
- O) That the promotion of Muhammad Khan Senior Clerk is concern, it is very much clear that as per Tehsildari Rules-2015, Muhammad Khan Senior Clerk has already been promoted to the post of Naib Tehsildar on 27-05-2015 on regular basis which falls under 15% quota and that time 17 post were available and 15 % quota is equal to 2.55 share which was equal to 3 vacancies, fall under the quotaof appellant and the Khan Muhammad was not promoted under 12% amended Rules-2016 the Khan Muhammad was promoted under 2015 rules. The appellant seek his promotion to the post of Naib Tehsildar under 12% of Tehsildari Rules which were amended in the year 2016. **Copy of promotion order and comments filed by the SMBR is attached as annexure-L & M.**
- P) That on 11-04-2023 order passed by the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar in light of the judgment dated 22.09.2021 filed by Munir Akhtar but there is no touch nor mentioned any decision in the recommendations/minutes of the DPC meeting held on 23.05.2023 in light of the ibid judgment dated 22.09.2021 titled Munir Akhtar VS SMBR.
- Q) That as per judgment of Supreme Court Cited as 2023 SCMR 111 and 2012 SCMR 965 etc, if the right of promotion was accrued in year 2019 and rules was amended thereafter , so the new rules cannot deprived the


employee from promotion which was accrued in his favor under the old rules. so he is entitled to be considered for promotion under the old rules. The same yard stick was followed by this hon'able tribunal in numerous cases. **Copy of judgment is attached as annexure-N.**

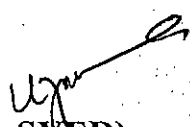
R) That the appellant seeks permission to advance other grounds and proofs at the time hearing.

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


APPELLANT
Muhammad Idrees

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT


(UZMA SYED)
ADVOCATE HIGH COURT

8

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2023

Muhammad Idrees

V/S

SMBR:

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.


DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

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BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____ /2023

Muhammad Idrees

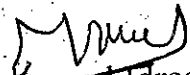
V/S


SMBR:

AFFIDAVIT

I, Muhammad Idrees, (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT


Muhammad Idrees

ATTESTED

15-12-2023

A

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GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE /REVENUE AND ESTATE DEPARTMENT.


NOTIFICATION
Peshawar, dated 23- 01-2015

No. 1942/Estt:I/135/SSRC. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the North West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 read with the Cabinet Division Notification No. SRO. 457(1)/2001 dated 28th June, 2001 and in supersession of all previous rules issued in this regard, the Revenue and Estate Department, in consultation with the Establishment and the Finance Department, hereby lays down the method of recruitment, qualification and conditions specified in column 3 to 7 of the Appendix to this Notification and applicable to posts born on the cadre, strength of Revenue and Estate Department specified in column 2 of the said appendix:-

APPENDIX

1	2	3	4	5	6	7
S.No	Nomenclature of the post	Appointing Authority	Minimum Qualification for appointment by initial recruitment or by transfer	Minimum Qualification for appointment by promotion	Age limit	Method of recruitment
1.	Tehsildar (BPS 16)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Deleted	21 - 30 years For initial recruitment	(a) Twenty percent by initial recruitment: and (b) Sixty percent by promotion, on the basis of joint seniority from amongst Naib Tehsildars, District Revenue Accountants, Kanungos and Sub-Registrar with at least five years service as such. (c) Twenty percent by promotion on the basis of joint seniority from amongst Assistants of the office of Board of Revenue Commissioners, Deputy Commissioners and Political Agents with at least five years service as such.


AS/Estt
AS/Estt

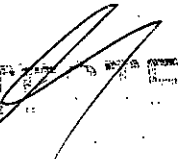
Attested

LITIGATION OFFICER
Deputy Commission
Office Lalki Marwat

ATTESTED

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	3	4	5	6	7
1. Member / Members Board of Revenue	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
1. Inspector of Stamps	Administrative Secretary (SMBR)				By transfer from amongst the Tehsildars
2. Naib Tehsildar (BPS 14)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Deleted	21 - 30 years For initial recruitment	(a) Fifty percent by initial recruitment, through NWFP Pub Commission based on the result of a Competitive Examination con in accordance with syllabus, and (b) twenty five percent by promotion on the basis of Seniority - c from amongst Kanungos with at least Five Years Service as such passed the Departmental Examination of Naib Tehsildar. (c) fifteen percent by promotion, on the basis of joint Seniority - c from amongst Senior Clerks of the office of Board of Revenue, Co and Deputy Commissioners Offices in the Division concerned; and (d) Ten percent by promotion on the basis of seniority cum amongst Junior Clerks as Political Muharrirs of the offices of Pol with atleast ten years service.";
3. District Kanungo (Saddar Kanungo) (BPS 14)	Administrative Secretary (SMBR)				By promotion on the basis of seniority-cum-fitness, from amongst of the concerned District with at-least three years service as such
4. Head Clerk Revenue (BPS - 14)					By transfer from amongst Naib Tehsildar (Deleted) (Post has been abolished)


Attended

 LITIGATION OFFICER
 Deputy Commission
 Office Lakki Marwat

ATTENDED


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1	2	3	4	5	6	7
	District Revenue Accountant (BPS 14)	Administrative Secretary (SMBR)	-	-	-	By promotion, on the basis of seniority-cum-fitness, from among Accountant of the district with at least three years service as such.
6.	Kanungo (BPS - 11)	District Collector	-	-	-	By promotion, on the basis of seniority-cum-fitness, from among and Naib Office Kanungos of the district concerned with three such and who have passed the Departmental examination of Kanungo.
7.	Tehsil Accountant	District Collector	-	-	-	By promotion on the basis seniority-cum-fitness from amongst Accountants having three (03) years service as such.
8.	Patwari (BPS - 09)	District Collector	Intermediate or equivalent qualification, who have passed the Patwar Examination.	-	18 to 35	"By initial appointment from amongst the Patwar passed candidate the Tehsil patwar candidate register maintained by District () district concerned.
9.	Naib Tehsil Accountant / Naib Tehsil Office Kanungo	District Collector	-	-	-	By transfer from amongst the Patwaris.

Attested

LITIGATION OFFICER
Deputy Commissioner
Office Lakki Marwat

Sd/-
SECRETARY TO GOVERNMENT
REVENUE AND ESTATE DEPARTMENT

ATTESTED

No 1943 REVENUE DEPARTMENT

Copy forwarded for information and necessary action to the:-

1. Secretary to Government of Khyber Pakhtunkhwa Establishment Department.
2. Secretary to Government of Khyber Pakhtunkhwa Finance Department.
3. Secretary to Government of Khyber Pakhtunkhwa Law Department.
4. Secretary Khyber Pakhtunkhwa Public Service Commission.
5. Registrar Peshawar High Court.
6. Accountant General Khyber Pakhtunkhwa.
7. All Commissioners / Political Agents in Khyber Pakhtunkhwa.
8. All Deputy Commissioners, Khyber Pakhtunkhwa.
9. Private Secretary to Minister for Revenue Khyber Pakhtunkhwa.
10. Controller, Government Printing Press Peshawar with the request to publish the above notification in the official Gazette and supply 50 printed copies thereof to the undersigned for record.

DEPUTY SECRETARY TO GOVERNMENT OF KHYBER PAKHTUN
REVENUE & ESTATE DEPARTMENT

Attested

LITIGATION OFFICER
Deputy Commission
Office Lakki Marwat

ATTESTED



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 30th JUNE, 2016.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA BOARD OF REVENUE, REVENUE AND ESTATE DEPARTMENT.

NOTIFICATION

Dated: 25th January, 2016.

No. 6032-42/Estt:/SSRC/Vol-II/2016.— In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue and Estate Department in consultation with Establishment and Finance Departments, hereby directs that in this Department's Notification No. 32102/Admn:/SSRC, dated 26.12.2008, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

(a) against serial No. 1, in column No. 7,-

(i) In clause (b), the word "and" appearing at the end shall be deleted;

(ii) For clause (c), the following shall be substituted, namely:

"(c) sixteen (16) percent by promotion, on the basis of seniority-cum-fitness, from amongst Assistants and Senior Scale Stenographers of the offices of Commissioners, Deputy Commissioners and Political Agents having five years service as such; and"; and

(iii) after clause (c), as so amended, the following shall be added, namely:

"(d) four (4) percent by promotion, on the basis of seniority-cum-fitness, from amongst Assistants and Senior Scale Stenographers of the Board of Revenue having five years service as such."; and

(b) against serial No. 2, in column No. 7,-

(i) for clause (c), the following shall be substituted, namely:

"(c) twelve (12) percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Clerks and Stenographers of the offices of Commissioners and Deputy Commissioner in the division concerned;"; and

(ii) In clause (d), the fullstop appearing at end shall be replaced by semi colon and the word "and" and thereafter the following shall be added, namely:

"(e) three (3) percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks and Stenographers of the Board of Revenue.".


Sd/-xxx
Secretary to Government of the
Khyber Pakhtunkhwa,
Revenue and Estate Department.

1085

Printed and published by the Manager,
State Ptg. Dept., Khyber Pakhtunkhwa, Peshawar.

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(18)

	GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT. (Establishment Section)	
091-9213989	No. Estt:V/RTI/ _____ Peshawar Dated the <u>21/2023</u>	091-9214208

To

Mr. Muhammad Idress,
JSS, Deputy Commissioner Office *Chishti Marwat*

SUBJECT: PROVISION OF INFORMATION UNDER RTI, ACT 2013

I am directed to refer to the subject noted above and to enclose herewith a copy of minutes of Departmental Promotion Committee meeting held on 12.01.2016.

Furthermore, 2017 to 2019 no JSS/Senior Clerk was promoted to the post of Naib Tehsildar (BS-14) through Departmental Promotion Committee meeting.

[Signature]
Noor Khan
Assistant Secretary (Estt:)

~~ATTESTED~~



**OFFICE OF THE
COMMISSIONER
BANNU DIVISION**

D

P.O. Box: 12, Postal Code 28100, Bannu.
Phone: 0928-9270044 & 621144
Fax: 0928-9270041
E-mail: esr.bannu@khyber.gov.pk

No. 6310-14 / AG-11P-SENII
Dated: 24-12-18

Attested

1. Deputy Commissioner, Bannu.
2. Deputy Commissioner, Lakki Marwat.
3. Deputy Commissioner, North Waziristan Tribal District.

LITIGATION OFFICER
Deputy Commissioner
Lakki Marwat

Subject: PROVISION OF SENIORITY LIST OF SENIOR CLERK AND JUNIOR SCALE STENOGRAPHER AT DIVISIONAL LEVEL FOR THE YEAR 2017-18.

I am directed to enclose herewith a copy letter No. (Estt:V/Seniority List/2018/40181, dated 21/12/2018 on the subject noted above, and to request you to provide the final/undisputed seniority list of Senior Clerks/Junior Scale Stenographer working in your offices for the year 2017-18 within 3 days for onward submission to the quarter concerned, please.

(Signature) 24/12/2018
Secretary to Commissioner
Bannu Division

Even no & date:

Copy forwarded to:

1. Asstt Secretary (Estt) Govt of Khyber Pakhtunkhwa Board of Revenue, Peshawar for information.
2. PS to Commissioner Bannu.

(Signature) 24/12/2018
Secretary to Commissioner
Bannu Division

RECEIVED	
No.	5166
Date	27/12/18
Return Date	AS/ESK
Action	

ATTESTED

BETTER COPY

D

16

OFFICE OF THE
COMMISSIONER
BANNU DIVISION

P.O 12, Postal code 28100, Bannu
Phone 0928-927014 & 621144
Fax 0928-7270011

No. 6310-1/AG-t/F/SEMIC

Dated 24-12-18

1. Deputy Commissioner
2. Deputy Commissioner
3. Deputy Commissioner, North Waziristan Tribal District.

Subject: **PROVISION OF SENIORITY LIST OF SENIOR CLERK AND JUNIOR CLERK SCALE STENOGRAPHER AT DIVISIONAL LEVEL FOR THE YEAR 2017-18.**

I am directed to enclose here with a copy letter No. Estt V/Seniority List/2018/40181, on the subject noted above, and to request you to provide the final/undisputed seniority list of Senior Clerk/Junior Scale Stenographer working in your offices for the year 2017-18 without 3 days for onward submission to the quarter concerned, please.

Secretary to Commissioner
Bannu Division

Endst No. and date

Copy forwarded to

1. Assistant Secretary (Estb) Govt of Khyber Pakhtunkhwa Board of Revenue, Peshawar for information.
2. PS to Commissioner Bannu.

Secretary to Commissioner
Bannu Division

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Attested

LITIGATION OFFICER
Deputy Commission
Office Larki Marwat

JOINT FINAL SENIORITY LIST OF SENIOR CLERKS/JUNIOR SCALE STENOGRAPHERS OF THE OFFICES OF
COMMISSIONER BANNU DIVISION AND DEPUTY COMMISSIONER BANNU AND LAKKI MARWAT AND NORTH
WAZIRISTAN OF BANNU DIVISION.

S.No	Name	Designation	BPS	D.O.B.	Qualification	Date of entry into Govt. Service	Date of appointment/promotion to present post	Method of appointment	Establishment/Office to which belongs
1.	Shakib Khan	JSS	14	01/01/1964	B.A	21/10/1989	28/08/1990	Direct	DC, Bannu
2.	Muhammad Sajjid	JSS	14	15-03-1969	B.Com	01-11-1992	01-11-1992	Direct	DC, LM
3.	Amir Bayan	JSS	14	11-04-1965	M.Sc	18-11-1992	18-11-1992	Direct	DC, LM
4.	Muhammad Idrees	JSS	14	12-05-1983	M.A.	26-02-2004	26-02-2004	Direct	DC, LM
5.	Nasem Ullah Khan	JSS	14	04/02/1991	M.A+D.Com	06/01/2010	06/01/2010	Direct	DC, Bannu
6.	Shahid Nasem	S/C	14	08-05-1964		01-12-1982	17/05/2011	By Promotion	DC, NW ✓
7.	Rehmat Ali	S/C	14	13-02-1966		01-12-1985	09/05/2012	By Promotion	DC, NW ✓

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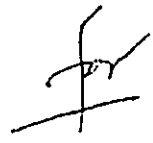
18

8.	Mir Abass Khan	S/C	14	11-12-1964		08-05-1984	15-05-2015	By Promotion	DC, NW ✓
9.	Muhammad Yaqub Khan	S/C	14	20-04-1963		01-09-1984	15-05-2015	By Promotion	DC, NW ✓
10.	Hakim Khan	S/C	14	30-03-1962		01-07-1985	15-05-2015	By Promotion	DC, NW ✓
11.	Rasool Khan	S/C	14	07-09-1963		01-07-1985	19-06-2017	By Promotion	DC, NW ✓
12.	Mir Sadey Khan	S/C	14	21-11-1961		02/07-1985	19-06-2017	By Promotion	DC, NW /
13.	Ghaffar Ali	S/C	14	2-04-1968	B.A	30-05-1991	02-11-2017	By Promotion	DC, Bannu ✓
14.	Saeed Ur Rehman	JSS	14	15/04/1989	M.Com	11/04/2018	10/04/2018	Direct	DC, Bannu ✓
15.	Ihsan Ullah	S/C	14	5-2-1971	M.A	1-1-1992	29-05-2018	By Promotion	DC, Bannu ✓
16.	Jamshed Khan	S/C	14	1-1-1966	B.A	1-9-1992	29-05-2018	By Promotion	DC, Bannu ✓
17.	Nawab Khan	S/C	14	08-04-1970	F.A	08-10-1992	20-08-2018	By Promotion	DC, L.M ✓

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~~ATTACHED~~

Attested

LITIGATION OFFICER
 Deputy Commission
 Office Larki Marwat

for

COMMISSIONER
BANNU DIVISION



Answer - F

20

THE DEPUTY COMMISSIONER, BANNU

Tel: 0928-9270032, Fax: 0928-9270079, Bannu

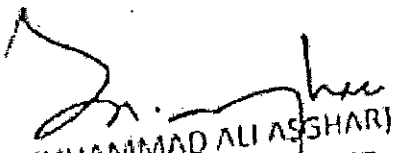
Dated: 7-March-2019

NOTIFICATION:

No. DC/AE/DPC/ 1605

On the recommendation of Departmental Promotion Committee vide Minutes of the meeting dated 07-03-2019, Mr. Shakib Khan, Junior Scale Sonographer (BPS-14) is hereby promoted to the vacant post of Senior Scale Stenographer (BPS-16) on regular basis with immediate effect.

Consequent upon his promotion he will on probation for a period of one year in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-15 of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer) Rules-1989.


(MUHAMMAD ALI ASGHARI)
DEPUTY COMMISSIONER

Even No. & Date: -

Copy forwarded to the:

1. Secretary to Govt. of Khyber Pakhtunkhwa Revenue Estate Department Peshawar.
2. Commissioner Bannu Division, Bannu.
3. District Comptroller of Accounts, Bannu.
4. Assistant Commissioner, Bannu.
5. District Nazir, Bannu.
6. Official concerned.


DEPUTY COMMISSIONER



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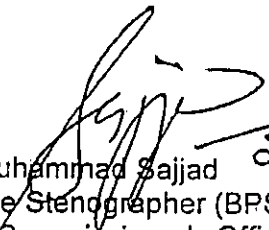
~~TESTED~~

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UNWILLINGNESS / FORGO CERTIFICATE

(21) 10

According to the joint final seniority list of Senior Clerks/Junior Scale Stenographers issued by the Commissioner Bannu Division, I, Muhammad Sajjad Junior Scale Stenographer (BPS-14) reflecting at Serial No.2 is not willing/forgo the promotion to the post of Naib Tehsildar (BPS-14) due to some domestic affairs.


Muhammad Sajjad
Junior Scale Stenographer (BPS-14)
Deputy Commissioner's Office
Lakki Marwat

23/03/09

Attested



LITIGATION OFFICER
Deputy Commission
Office Lakki Marwat

~~ATTESTED~~

F 22



Service Appeal No. 4305/2020
Titled "Naseer Abbas-vs-Government of Khyber Pakhtunkhwa through
Chief Secretary, Civil Secretariat, Peshawar and others"

ORDER

11th April, 2023

KALIM ARSHAD KHAN, CHAIRMAN: Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

02. Through this single order this appeal and connected appeal No. 229/2022 titled "Shahid Mehmood-vs-Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others" as well as Appeal No. 547/2022 titled "Muhammad Idrees-vs-Provincial Government through Chief Secretary Khyber Pakhtunkhwa Peshawar are going to be disposed of as all are almost regarding the same issue.

03. In the appeal in hand as well as connected appeal No 229/2022 titled "Shahid Mehmood" the learned counsel for the appellant produced copy of order No. Estr:V/DPC/NT/2023/2125-34 dated 20.01.2023, whereby the appellants namely Shahid Mehmood and Naseer Abbas have been promoted to the post of Naib Tehsildar (BS-14) on acting charge basis subject to outcome of the CPLA preferred by the department against the judgment rendered by this Tribunal in service appeal No. 1022/2019 titled "Munir Akhtar -vs- Senior Member Board Of Revenue, Khyber Pakhtunkhwa". The respective counsel for the appellants namely Naseer Abbas and Shahid Mehmood stated at the bar that they would be satisfied if directions are issued to the respondents that in case of dismissal of the CPLA preferred by the department against the judgment dated 22.09.2021 passed by this Tribunal in service appeal No. 1022-2019 of Munir Akhtar,

ATTESTED

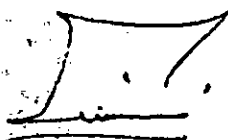
CHIEF CLERK
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


23

the order of promotion of the appellants Naseer Abbas and Shahid Mehmood on acting charge basis may be reconsidered as regular promotion w.e.f the date of their entitlement to promotion as Naib Tehsildar on regular basis. Learned District Attorney is having no objection on this request of learned counsel for the appellants, therefore, these appeals are disposed of accordingly:

04. So far as the appeal of appellant Mr. Muhammad Idrees is concerned, the same is remitted to the competent authority to constitute departmental promotion committee for considering the case of the appellant in light of the judgment dated 22.09.2021 rendered by this Tribunal in service appeal No. 1022/2019 filed by Minir Akhtar. In case the appellant Muhammad Idrees is aggrieved of any order passed in view of recommendations of Departmental Promotion Committee so constituted, he may avail remedy in accordance with law and rules. Consign.

05. Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 11th day of April, 2023.


(Salah Ud Din)
Member(Judicial)


(Kalim Arshad Khan)
Chairman

Date of Presentation of Application 1-5-23

Number of Words 7-8

Copying Fee 20/-

Urgent 8/-

Total 15/-

Name of Case _____

Date of Completion 15-5-23

Date of Delivery of Copy 15-5-23



Certified to be true copy
Admiral Ali Shah, PA
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Page 3

G 24
General Diary
Dy: No. 3397
Date: 27/4/23
Revenue & Estate
Khyber Pakhtunkhwa

To: Worthy Senior Member Board of Revenue,
Revenue & Estate Department, Khyber Pakhtunkhwa
Peshawar

SUBJECT:- REQUEST FOR PROMOTION AS NAIB TEHSILDAR IN PURSUANCE TO THE DECISION DATED 11. APRIL 2023 IN SERVICE APPEAL NO.547/2022 TITLED "M.IDREES VS CHIEF SECRETARY" MADE BY HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

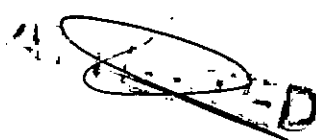
Respected Sir,

With due respect it is submitted that presently I am serving as Junior Scale Stenographer BPS-14 in Deputy Commissioner Office Lakki Marwat and would like to bring the following few facts for your kind & sympathetic consideration please:-

1. As per Tehsildari Rules-2016, 12% quota was reserved for Senior Clerks (BPS-14) and Junior Scale Stenographers (BPS-14) to the post of Naib Tehsildar (BPS-14) offices of the Commissioner and Deputy Commissioners of the province, while 3% quota reserved for SCs and JSS office of the Board of Revenue.
2. It is for kind information that upon the individual request and provided information by the Board of Revenue, no Senior Clerk/Junior Scale Stenographer was promoted to the post of Naib Tehsildar through DPC meeting w.e.f 2016 to 2019 (copy attached). Hence it is evident from the record that the creation of 12% quota in Tehsildari amended Rules-2016 was deleted on 13-05-2019 without implementation.
3. On 21-03-2019, when our cases for promotion to Naib Tehsildar were sought and we were eagerly waiting for our promotion, the Board of Revenue, Peshawar deleted the same 15% quota of SC/JSS on 13.05.2019, wherein such Junior Scale Stenographers and Senior Clerks were deprived of their legal rights of promotion as Naib Tehsildar for no justified reasons.
4. Afterward I knocked the door of the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar bearing Service Appeal No 547/2022 which was accepted/allowed on 11-04-2023 and remitted the same to constitute DPC for considering to the post of Naib Tehsildar (copy attached).
5. It is also for kind information in seniority list of Bannu Division a JSS namely Amir Bayan (now at Sr.No.1) has already filed an appeal in connection with promotion to the post of Naib Tehsildar before the Hon'ble KP Service Tribunal in SA No.1026/2011 which is accepted and allowed on 09-01-2019.

It is therefore, humbly prayed that in pursuance to the decision dated 11-04-2023 passed in Service Appeal No.547/2022 by Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar, I may kindly be PROMOTED TO THE POST OF NAIB TEHSILDAR on regular basis w.e.f 2017 along with all consequential service back benefits. I shall be very thankful to you for your this act of kindness.

Dated: 26-04-2023



Muhammad Idrees
Junior Scale Stenographer
DC Office Lakki Marwat

(20)
H

IN THE HON'BLE KHYBER PAKHTUNHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. _____ /2023
in Service Appeal No.547/2022

Muhammad Idrees Junior Scale Stenographer BPS-14 office of the Deputy
Commissioner Lakki Marwat Bannu Division
.....Petitioner

VERSUS

1. Provincial Government through Chief Secretary KP Peshawar
2. Senior Member Board of Revenue Khyber Pakhtunkhwa Peshawar

.....Respondents/Contemnors

**EXECUTION PETITION. IN SERVICE APPEAL NO.547/2022 FOR
IMPLEMENTATION OF JUDGMENT/ORDER 11-04-2023 OF THIS HON'BLE
SERVICE TRIBUNAL**

**PRAYER: ON ACCEPTANCE OF INSTANT EXECUTION PETITION THIS
HON'BLE TRIBUNAL MAY GRACIOUSLY BE PLEASED TO ISSUE
ORDERS/DIRECTIONS TO THE RESPONDENTS TO IMPLEMENT THE
JUDGMENT/ORDER DATED 11-04-2023 IN LIGHT OF JUDGMENT DATED 22-
09-2021 TITLED "MUNIR AKHTAR VS SMBR" AND GRANT THE PETITIONER
HIS PROMOTION AS NAIB TEHSILDAR**

Respectfully Sheweth:

1. Brief facts leading to the institution of the instant petition are that, the petitioner had filed Service Appeal No.547/2022, before this Honorable Tribunal for promotion to the post of Naib Tehsildar.
2. That, the above Service Appeal of the petitioner was decided and disposed of by this Hon'ble Tribunal vide judgment/Order dated 11/04/2023, with directions to the respondents to constitute departmental promotion committee for considering the case of the appellant in light of the judgment dated 22.09.2021 rendered by this Tribunal in service appeal No.1022/2019 filed by Munir Akhtar (Copy of judgment dated 11/04/2023).
3. That, the said verdict of this Hon'ble Tribunal dated 11/04/2023 was duly intimated upon the respondents for compliance and for further necessary action, vide this Hon'ble Tribunal letter along with in application of Petitioner diary no 3397 dated 27-04-2023.
4. That, since then one month elapse but the Respondents/Contemnors are reluctant to obey the Judgment/Order of this Hon'ble Tribunal and are reluctant to conduct DPC meeting for issuance of order of promotion to the post of Naib Tehsildar.
5. That, to the obstinacy of the respondents the said Judgment of this Hon'ble Tribunal had been paid sheer disregard, and the same is still pending for compliance before them and the petitioner is still awaiting his fate, already granted by this Hon'ble Tribunal.
6. That, the petitioner, being aggrieved of the reluctance on part of the respondents, to obey with the judgment/order dated 11/04/2023, comes to this Hon'ble Tribunal on inter alia the following grounds.

Appeal No. 547/2022
M. Idrees vs Govt

26

04.08.2023 1. Petitioner in person present. Mr. Fazal Shah Mohmand,



Additional Advocate General alongwith Mr. Ghulam Shabbir,
Assistant Secretary for the respondents present.

2. Vide order sheet dated 26th June, 2023, respondent department produced copy of Minutes of Departmental Promotion Committee meeting held on 23.05.2023 in compliance with the order of the Tribunal dated 11.04.2023, the case of the petitioner was considered by the Departmental Promotion Committee and not found eligible for promotion as he was at serial No. 3 of the joint seniority list of Junior Scale Stenographer and Senior Clerks in the year 2017. The judgment of Service Tribunal has been implemented, therefore, the instant execution petition is filed.

Consign.

3. Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal this 04th day of August, 2023.

Certified to be true copy
EX-11111
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar
08/08/23

(Muhammad Akbar Khan)
Member (I)

Date of Presentation of Application 08/08/23
Number of Words 17
Copying Fee 5/-
Urgent 5/-
Total 10/-
Name of Copyist Shafiq
Date of Completion 08/08/23
Date of Delivery of Copy 08/08/23

~~RECEIVED~~

I (27)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT**

**MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING
REGARDING PROMOTION OF MUHAMMAD IDRESS JUNIOR SCALE
STENOGRAPHER OFFICE OF THE DEPUTY COMMISSIONER LAKKI MARWAT TO
THE POST OF NAIB TEHSILDAR (BS-14) IN LIGHT OF SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA ORDER DATED 11.04.2023 TITLED MUHAMMAD IDRESS
VERSUS SENIOR MEMBER BOARD OF REVENUE AND OTHERS HELD IN THE
OFFICE OF SENIOR MEMBER BOARD OF REVENUE ON 23.05.2023 AT 2.00 PM.**


Meeting regarding Departmental Promotion Committee was held on 23.05.2023 in the office of Senior Member Board of Revenue, under his chairmanship to consider the appointment/promotion of Muhammad Idress Junior Scale Stenographer (BS-14) office of the Deputy Commissioner Lakki Marwat to the post of Naib Tehsildar in light of Service Tribunal order dated 11.04.2023. The following attended: -

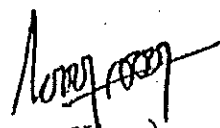
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|----|---|--------|
| 1 | Mr. Atta-Ul-Munim,
Secretary-I. Board of Revenue, | Member |
| 2 | Mr. Jawad Ali
Deputy Secretary
Board of Revenue | Member |
| 3. | Mr. Noor Khan,
Assistant Secretary (Estt.),
Board of Revenue, | Member |

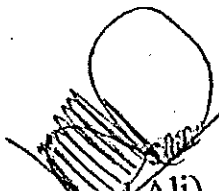
During the discussion it was observed that as per Tehsildari Rules 2015, 15% quota was reserved for Senior Clerk to the post of Naib Tehsildar at Divisional level and one Mr. Mohammad Khan Senior Clerk office of the Commissioner Bannu Division, was promoted to the post of Naib Tehsildar as per joint Seniority List. In the year 2016, rules were again amended and 12% quota was reserved for Senior Clerks and Junior Scale Stenographers offices of the Commissioner and Deputy Commissioners of the province, while 03% quota was reserved for Senior Clerk and Junior Scale Stenographers office of the Board of Revenue. Under 12% quota reserved for JSS/Senior Clerks offices of the Commissioner and Deputy Commissioners in Bannu Division 1.4 post was falling in their share while the appellant was at Serial No. 3 of the joint Seniority List of S/Clerks and Junior Scale Stenographer of Bannu Division for the year 2017. Even if the DPC meeting was convened, the appellant could not be promoted to the post of Naib Tehsildar being at S. No 3 of the joint seniority list. However, Tehsildar/Naib Tehsildar service rules has been amended on 30.05.2023 and 6% quota has been reserved for Senior Clerks and Junior Scale Stenographers as per joint seniority list of the Division concerned.

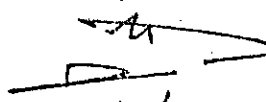
After detailed discussion it was unanimously decided that the official was not eligible for appointment to the post of Naib Tehsildar (BS-14) as he was at serial No. 03 of the Joint Seniority list of Junior Scale Stenographers and Senior Clerks for the year 2017 of Bannu Division. However, he will be promoted against their quota reserved for Naib Tehsildar in newly amended rules dated 30.05.2023 as and when vacancy of Naib Tehsildar (BS-14) gets vacant in Bannu Division.

The meeting ended with a vote of thanks by/from the chair.


(Atta-Ul-Munim)
Secretary-I,
(Member)


(Noor Khan)
Assistant Secretary (Estt;)
(Member)


(Jawad Ali)
Deputy Secretary
(Member)


(Ikram Ullah Khan)
Senior Member
(CHAIRMAN)

ATTESTED

J (29)

BEFORE THE SENIOR MEMBER BOARD OF REVENUE, GOVT. OF KHYBER
PAKHTUNKHWA REVENUE & ESTATE DEPARTMENT PESHAWAR

~~Subject: [REDACTED]~~
~~[REDACTED]~~
Subject: APPEAL AGAINST THE RECOMMENDATIONS/MINUTES OF DEPARTMENTAL PROMOTION COMMITTEE MEETING HELD ON 23-05-2023 IN COMPLIANCE WITH ORDER PASSED BY HON'BLE KP SERVICE TRIBUNAL PESHAWAR IN SERVICE APPEAL NO.547/2022

Respected Sir,

With due respect it is stated that I am serving as Junior Scale Stenographer, BPS-14 in the Deputy Commissioner's office Lakki Marwat being eligible for promotion to post of Naib Tehsildar from 2019 and submit the following:-

FACTS:

1. That the appellant filed Service Appeal bearing No.547/2022 as titled "Muhammad Idrees VS Govt. of Khyber Pakhtunkhwa" for promotion to the post of Naib Tehsildar BPS-14 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. That on 11-04-2023, an order passed by the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar and remitted the competent authority to constitute Departmental Promotion Committee for considering the case of the appellant in light of the judgement dated 22-09-2021 rendered by the Hon'ble Tribunal in Service Appeal No.1022/2019 titled "Murir Akhtar VS SMBR", in case the appellant Muhammad Idrees is aggrieved of any order passed in view of recommendations of DPC so constituted, he may avail remedy in accordance with law and rules. (Copy as F/A)
3. That the appellant filed an Execution Petition bearing No.300/2023 titled Muhammad Idrees VS Govt. of KP for implementation of the order date 11-04-2023 passed by the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar
4. That copy of minutes of the DPC meeting held on 23.05.2023 was produced as per order sheet dated 26-06-2023 in Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar with which the Execution Petition fixed for arguments on 04-08-2023. (Copy as F/B).
5. That the appellant, being aggrieved of the recommendations/minutes of the DPC meeting held on 23-05-2023 in pursuance to the judgment/order dated 11-04-2023, submit appeal against the ibid DPC on inter alia the following grounds:

GROUND OF APPEAL:

- SMBR
24-06-23
1. That there are lots of contradictions in the recommendations/minutes of the DPC meeting held on 23-05-2023 and true facts are that "According to the seniority list for the year-2018, the appellant is placed at serial No.4. The person namely Shakib Khan Junior Scale Stenographer who has been shown at Sr.No.1 in the seniority list has already been given promotion to the post of Senior Scale Stenographer BPS-16 on 03-03-2019 as per Service Rules notified by Board of Revenue. The person at Sr.No.2 of the seniority list is namely Muhammad Sajjad who has already

Sr.No.2 of the seniority list is namely Muhammad Sajjad who has already forgo/decline to take promotion to the post of Naib Tehsildar on 23-03-2019. The person at Sr.No.3 in the seniority list namely Amir Bayan JSS has already filed an Appeal before Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar which is accepted and allowed in Service Appeal No.1026/2011 vide judgment dated 09-01-2019 with which implemented on 22-06-2023. (copy of promotion order as F/A).

2. That in the above mention scenario. the appellant is now at Sr.No.1 of the above mentioned seniority list after the promotion of aforesaid Amir Bayan who was at Sr.No.1 of the seniority list.
3. That in the minutes of Departmental Promotion Committee meeting held on 13-07-2022 in case titled "Amir Bayan VS SMBR" it is admitted facts that under the 12% quota reserved as per amended Rules-2016, share of promotion quota is 2.4 in Bannu Division, while in the minutes of DPC meeting held on 23-07-2023 for the appellant it is also admittedly point out that under the 12% quota reserved as per amended Tehsildar Rules-2016, share of promotion quota is 1.4 in Bannu Division.
4. That the promotion of Muhammad Khan Senior Clerk is concern, it is very much clear that as per Tehsildari Rules-2015, Muhammad Khan Senior Clerk has already been promoted to the post of Naib Tehsildar on 27-05-2015 on regular basis which falls under 15% quota and not under 12% amended Rules-2016. The appellant seek his promotion to the post of Naib Tehsildar under 12% of Tensildari Rules which were amended in the year 2016.
5. That on 11-04-2023 order passed by the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar in light of the judgment dated 22.09.2021 filed by Munir Akhtar but there is no touch nor mentioned any decision in the recommendations/minutes of the DPC meeting held on 23.05.2023 in light of the ibid judgment dated 22.09.2021 titled "Munir Akhtar vs SMBR".

It is therefore, humbly requested that keeping to the above facts into accounts, I may very kindly be promoted to the post of Naib Tehsildar in pursuance of the decision dated 11-04-2023 of Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar. I shall be very thankful to you for your this act of kindness.

Dated: 21-08-2023

Yours Obediently

~~ACCEPTED~~

Muhammad Idrees,
Junior Scale Stenographer
Deputy Commissioners Office
Lakk. Marwat
Service Appeal No.547/2023

Copy forwarded to:

1. The Chairman Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar w/r order dated 11-04-2023 in service appeal No.547/2023.

K (31)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING REGARDING PROMOTION OF AMIR BAYAN JUNIOR SCALE STENOGRAPHER OFFICE OF THE DEPUTY COMMISSIONER LAKKI MARWAT TO THE POST OF NAIB TEHSILDAR (BS-14) IN LIGHT OF SERVICE TRIBUNAL KHYBER PAKHTUNKHWA JUDGMENT DATED 09.01.2019 AND ORDER SHEET DATED 07.06.2022 IN EXECUTION PETITION NO. 128/2020/2021 TITLED AMIR BAYAN VERSUS SENIOR MEMBER BOARD OF REVENUE AND OTHERS HELD IN THE OFFICE OF SENIOR MEMBER BOARD OF REVENUE ON 13.06.2022 AT 2.00 PM.

Meeting regarding Departmental Promotion Committee was held on 13.07.2022 in the office of Senior Member Board of Revenue, under his chairmanship to consider the appointment/promotion of Mr. Amir Bayan Junior Scale Stenographer office of the Deputy Commissioner Lakki Marwat to the post of Naib Tehsildar in light of Service Tribunal Judgment dated 09.01.2019 and order sheet dated 07.06.2022 in Execution Petition No. 128/2020. The following attended: -

1. Mr. Afsar Ali Shah, Member
Secretary-I. Board of Revenue,
2. Mr. Jawad Ali, Member
Deputy Secretary,
Board of Revenue
3. Mr. Noor Khan, Member
Assistant Secretary (Estt.),
Board of Revenue,

During the discussion it was observed that as per Tehsildari Rules 2015 (Annex-A), 15% quota was reserved for Senior Clerk to the post of Naib Tehsildar at Divisional level and one Mr. Mohammad Khan Senior Clerk office of the Commissioner Bannu Division, was promoted to the post of Naib Tehsildar as per joint Seniority List. In the year 2016, rules were again amended and 12% quota was reserved for Senior Clerks and Junior Scale Stenographers offices of the Commissioner and Deputy Commissioners of the province, while 03% quota was reserved for Senior Clerk and Junior Scale Stenographers office of the Board of Revenue. Under 12% quota reserved for JSS/Senior Clerks offices of the Commissioner and Deputy Commissioners in Bannu Division 2.4 posts were falling in their share against which one Mr. Muhammad Khan Senior Clerk office of Commissioner Bannu was already been promoted on 27.05. 2015 to the post of Naib

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING REGARDING PROMOTION OF AMIR BAYAN JUNIOR SCALE STENOGRAPHER OFFICE OF THE DEPUTY COMMISSIONER LAKKI MARWAT TO THE POST OF NAIB TEHSILDAR (BS-14) IN LIGHT OF SERVICE TRIBUNAL KHYBER PAKHTUNKHWA JUDGMENT DATED 09.01.2019 AND ORDER SHEET DATED 07.06.2022 IN EXECUTION PETITION NO. 128/2020/2021 TITLED AMIR BAYAN VERSUS SENIOR MEMBER OF REVENUE AND OTHERS HELD IN THE OFFICE OF SENIOR MEMBER BOARD OF REVENUE ON 13.06.2022 AT 2:00 pm

Meeting regarding Departmental Promotion was held on 13.07.2022 in the office of Senior Member Board of Revenue, under his chairmanship to consider te appointment/promotion of Mr. Amir Bayan Marwat to the post of Naib Tehsil in the light of Service Tribunal Judgment dated 19.01.2019 and order sheet dated 07.06.2022 in Execution Petition No. 128/2020 the following attended:-

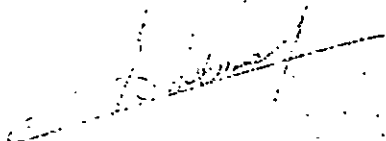
- | | |
|---|--------|
| 1. Mr. Afsar Ali Shah
Secretary-I, Board of Revenue, | Member |
| 2. Mr. Jawad Ali
Deputy Secretary
Board of Revenue | Member |
| 3. Mr. Noor Khan
Assistant Secretary (Estt
Board of Revenue | |

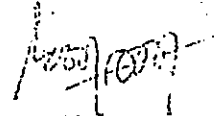
During the discussion it was observed that as per Tehsildar Rules 215 (Annex-A) 15% quota was reserved for Senior Clerk to the post of Naib Tehsildar at Divisional level and one Mr. Mohammad Khan Senior Clerk office of the Commissioner Bannu Division, was promoted to the post of Naib Tehsildar as per joint Seniority List. In the year 2016, rules were again amended and 12% quota was reserved for Senior Clerks and Junior Clerks and Junior Scale Stenographers offices of the Commissioner and Deputy Commissioners of the province, while 03% quota was reserved for Senior Clerk and Junior Scale Stenographers office of the Board of Revenue. Under 12% quota reserved for JSS/Senior Clerks offices of Commissioner and Deputy Commissioners in Bannu Division 2.4 posts were filing in their share against which one Mr.


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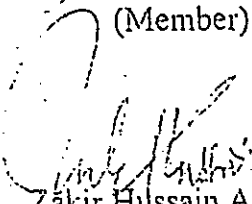
Tehsildar leaving behind only one post of Naib Tehsildar under 12% quota reserved for Junior Scale Stenographers/Senior Clerks of Bannu Division. Even if the DPC meeting was convened, the appellant could not be promoted to the post of Naib Tehsildar being at S. No 2 of the joint seniority list (Annex-B).

After detailed discussion it was unanimously decided that the official was not eligible for appointment to the post of Naib Tehsildar as he was at serial No. 02 of the Joint Seniority list of Junior Scale Stenographers and Senior Clerks for the year 2018 of Bannu Division.


Afsar Ali Shah
Secretary-I,
(Member)


Noor Khan
Assistant Secretary (Estt);
(Member)


Jawad Ali
Deputy Secretary
(Member)


Zakir Hussain Afridi
Senior Member
(CHAIRMAN)

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Muhammad Khan Senior Clerk office of Commissioner Bannu was already been promoted on 27.05.2015 to the post of Naib

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(33)

Tehsildar leaving behind only one post of Naib Tehsildar under 12% quota reserved for Junior Scale Stenographers/Senior Clerks of Bannu Division. Even if the DPC meeting was convened the appellant could not be promoted to the post of Naib Tehsildar being at Serial No. 2 of the joint seniority list (Annex-B).

After detailed discussion it was unanimously decided that the official was not eligible for appointment to the post of Naib Tehsildar as he was at Serial No. 02 of the joint Secretary list of Junior Scale Stenographers and Senior Clerks for the year 2018 of Bannu Division.

Afsar Ali Shah
Secretary-I
(Member)

Noor Khan
Assistant Secretary- (Estt
(Member)

Jawad Ali
Deputy Secretary
(Member)

Zakir Hussain Afridi
Senior Member
(CHAIRMAN)

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GOVERNMENT OF JAMMUER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT
District Office, Muzaffargarh

On the recommendation of Departmental
the Competent Authority is pleased to order the promotion of the
Senior Clerks (BPS-14) to the post of Naib Tehsildar (BPS-14) on regular basis
with immediate effect.

Sl. No.	Name of Official	Current Post
1	Mr. Muhammad Khalid	Senior Clerk office of the Commissioner, District
2	Mr. Abdul Salam	Senior Clerk Board of Revenue.

On promotion, they are placed under Revenue/ Settlement Training for a
period of six months as required under Rule - 53 of the Tehsildar and Naib Tehsildar
Examination and Training Rules - 1967. The officials shall undergo training
in the Department of Settlement Officers Nowshera as per attached training programme.
The candidates shall have to pass the examination
at the end of the training programme. Promotees failing the
examination will be reverted to their original post.

Sd/-
Senior Member

Number: Muzaffargarh

11901-07

- Copy forwarded to:-
1. Commissioner, Benazir Division Bahawalpur.
 2. District Accounts Officer, Bahawalpur.
 3. Settlement Officer, Nowshera.
 4. Budget & Accounts Officer, Board of Revenue for necessary action.
 5. To Senior Member, Board of Revenue.
 6. Office to be retained.
 7. Press of files.

Secretary

Asst. Secy
put up case
for promotion
27-15
APR
Suppl
We may fill
the vacancy
28/07/15

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE ESTATE DEPARTMENT

On the recommendation of Departmental the competent authority to pleased to order the promotion of the Senior Clerks (BPS-14) to the post of Tehsildar (BPS-14) on regular basis with immediate effect.

S. NO	Name of official
1	Mr Muhammad Khan Senior Clerk office of the Commissioner Bannu
2.	Mr Abdul Salam Senior Clerk Board of Revenue

On promotion they are placed under Revenue/Settlement Training for a required under Rule 53 of the Tehsildar and Naib Tehsildar Examination and Training Rules 1969. The official shall undergo training the Settlement Officer Nowshera as per attached training programme.

Shall have to pass the examination failing the twice will be reverted to their.

Sd/-

Senior Member

Bannu/11901/07

Copy forwarded to the

1. Commissioner Bannu Division Bannu.
2. Accountant Officer Bannu.
3. Settlement Officer Nowshera.
4. Budget Account Officer Board of Revenue for necessary action.
5. Senior Member Board of Revenue.
6. Official concerned.

Secretary



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.

091-9213989

091-9214208

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 128/2021.

Amir Bayan Stenographer..... Appellant.

Versus

Senior Member Board of Revenue and other..... Respondents.

SUBJECT: PROPER REPLY IN EXECUTION PETITION NO. 128/2021 TITLE AMIR BAYAN VERSUS SENIOR MEMBER BOARD OF REVENUE AND OTHERS

With reference to your order dated 12.10.2022 passed by the Tribunal in Execution petition No. 128/2021 proper reply is as under:-

It is submitted that during the discussion in Departmental Promotion Committee Meeting held on 13.06.2022 (Annex-A), it was observed that as per Tehsildari Rules 2015, 15% quota was reserved for Senior Clerk to the post of Naib Tehsildar at Divisional level. One Mr. Mohammad Khan Senior Clerk office of the Commissioner Bannu Division, was promoted to the post of Naib Tehsildar as per joint Seniority List from Bannu Division. In the year 2016, rules were ammended and 12% quota was reserved for Senior Clerks and Junior Scale Stenographers offices of the Commissioner and Deputy Commissioners of the province, while 03% quota was reserved for Senior Clerk and Junior Scale Stenographers office of the Board of Revenue. Under 12% quota reserved for JSS/Senior Clerks offices of the Commissioner and Deputy Commissioners in Bannu Division 02 posts were falling in their share against total 17 posts reserved for Senior Clerks/ Junior Scale Stenographer offices of the Commissioner and Deputy Commissioners in Bannu Division. One Mr. Muhammad Khan Senior Clerk office of Commissioner Bannu has already been promoted to the post of Naib Tehsildar leaving behind only one post of Naib Tehsildar under 12% quota reserved for Junior Scale Stenographers/Senior Clerks of Bannu Division. Even if the DPC meeting was convened, the appellant could not be promoted to the post of Naib Tehsildar being at S. No 3 of the joint seniority list (Annex-B).

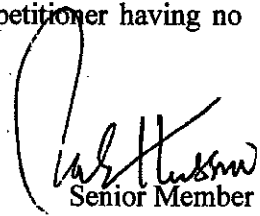
Furthermore, at present there is no provision in Service Rules for promotion of Junior Scale Stenographer to the post Naib Tehsildar, therefore the request of the petitioner for promotion as Naib Tehsildar does not cover the rules and cannot be acceded to as the appellant does not fulfill the criteria for promotion. The order/judgment dated 19.01.2019 also clearly speaks that "Whenever the applicant fulfills the criteria and right is vested in him for promotion, his case be considered in the prescribed manner, for promotion to the post of Naib Tehsildar". Since the appellant/petitioner does not fulfill the criteria, therefore he cannot be considered for promotion as Naib Tehsildar.

After detailed discussion in the meeting it was unanimously decided that the official was not eligible for appointment to the post of Naib Tehsildar as he was at serial No. 03

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of the Joint Seniority list of Junior Scale Stenographers and Senior Clerks for the year 2018 of Bannu Division at that time.

Keeping in view the above, the Execution petition of the petitioner having no legal ground may be dismissed with costs.


Senior Member
Board of Revenue

~~ATTESTED~~

E-1 to E-4
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT ABBOTTABAD.

Service Appeal No. 1021/2019

Date of Institution ... 05.08.2019
Date of Decision ... 22.09.2021

Abdul Qayyum Tahir S/O Qari Aziz-ur-Rehman, Senior Clerk,
Office of the Commissioner Hazara Division, Abbottabad.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat,
Peshawar and two others.

(Respondents)

MR. MOHAMMAD ASLAM TANOLI,
Advocate

For Appellant

MR. RIAZ AHMED PAINDAKHEL
Assistant Advocate General

For Respondents

SALAH-UD-DIN
ATIQ-UR-REHMAN WAZIR

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall dispose of the instant service appeal as well as the connected Service Appeal No 1022/2019 titled "Munir Akhtar Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and two others", as common question of law and facts are involved therein.

2. Brief facts of the case are that the appellants namely Abdul Qayyum Tahir and Munir Akhtar initially joined the Revenue Department as Junior Clerks and subsequently were elevated to the post of Senior Clerk on 02-02-1983 and

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29-06-2010 respectively. As per service rules, notified on 23-01-2015, 15% quota was reserved for promotion on the basis of joint seniority cum fitness from amongst the Senior Clerks of the office of Board of Revenue, Commissioners and Deputy Commissioners offices, for their further promotion to the post of Naib Tehsildar. Cases of promotion of the appellants were under process for quite some time, but could not materialize well in time and in the meanwhile, the respondents vide another notification dated 13-05-2019 amended the service rules and deleted the reserved quota of 15% for promotion of ministerial staff to the post of Naib Tehsildar. Feeling aggrieved, the appellants filed departmental appeals, which were filed without any consideration vide order dated 11-07-2019, hence the instant service appeals with prayers that the impugned order dated 11-07-2019 may be set aside and notification dated 13-05-2019, may be declared as illegal, void ab-initio and ineffective upon the appellants promotion rights and the appellants may be promoted to the post of Naib Tehsildar against the 15% quota reserved for ministerial staff, from the date when the appellants became eligible for such promotion and posts had fallen vacant in Hazara Division with all consequential benefits.

3. Learned counsel for the appellant has contended that the appellants were fully eligible for promotion to the post of Naib Tehsildar based on seniority cum fitness, but it was due to the lethargic and reckless attitude of the respondents that cases of promotion of the appellants lingered for years in the offices of respondents, which finally were refused under the pretext that the respondents has brought amendments in service rules vide notification dated 13-05-2019, thereby deleting the 15% quota reserved for ministerial staff; that by virtue of issuance of impugned notification dated 13-05-2019, the amendments has been made in Rules, 2008, whereas after issuance of Rules, 2015 in supersession of all previous rules, the rules, 2008 stands non-existent, therefore has no legal impact on the already accrued rights of promotion of appellants nor on the basis of such amendments in the non-existent rules; any reserved quota for promotion of ministerial staff can be deleted; that posts of Naib Tehsildar were lying vacant in Hazara Division, working paper for which were also submitted and cases of promotion in respect of the appellants were also included, which were also placed before the Departmental Promotion Committee(DPC); that again in 2015 cases of promotion in respect of the appellants came under consideration of the DPC, but were again ignored by the respondents due to their lethargic

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behaviour; that in 2019, the Commissioner Hazara Division vide letter dated 27-02-2019, requested the board of revenue for promotion of the senior clerks to the post of Naib Tehsildar and in response, the board of revenue demanded for requisite documents of the senior clerks concerned, which were also provided, but in the meanwhile rules were amended and the appellants were not promoted, which was illegal unlawful and contrary to the norms of natural justice; that in the light of judgments of the superior courts, any change in the terms and condition of service of the civil servant with retrospective effect by depriving them of their vested rights cannot be done while the appellants remained eligible for considerable period of 20 years, but through impugned notification dated 13-05-2019, their right of promotion has been taken away which is not sustainable in the eye of law; that the respondents have not treated the appellants in accordance with law, departmental rules, regulation and policy on the subject and have acted in violation of Article-4 of the constitution and unlawfully issued the impugned order and notifications, which are unjust, unfair and are liable to be set at naught.

4. Learned counsel for respondents has contended that in 2015, under 15% quota reserved for senior clerks, cases of the appellants were placed before the DPC, but their cases were not considered for such promotion due to non-availability of post of Naib Tehsildar in their share at that time; that it is correct that the appellants were otherwise eligible for promotion on the basis of seniority cum fitness for promotion to the post of Naib Tehsildar, but in the meanwhile amendments were brought in the service rules and 15% quota reserved for their promotion was deleted.

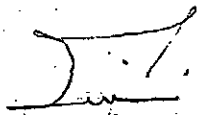
5. We have heard learned counsel for the parties and have perused the record.


6. Record reveals that the appellants were otherwise fit for promotion based on seniority cum fitness and their cases were submitted for promotion more than once, but were not considered. Stance of the respondents to the effect that the appellants were not considered due to non-availability of posts is not correct, as record reveals that Commissioner Hazara vide letter dated 27-02-2019 had submitted cases of the appellants for convening meeting of DPC, as well as mentioned that there are many vacancies available in the division to be filled in through promotion from amongst the senior clerks at the ratio of 15%, but the

respondents as usual lingered the cases and finally refused on the grounds of amendments in service rules, which was not warranted. We are of the considered opinion that the appellants were fit for promotion in every respect and vacancies to that effect were also available, but it was due to malafide of the respondents that the appellants were kept deprived of their right of promotion. The amendments in service rules at a later stage, cannot deprive the appellants of their right of promotion already accrued to them as making the relevant amended rules applicable to the appellants would be against the law and natural justice.

7. In view of the foregoing discussion, the instant appeals are accepted. The appellants are held entitled for promotion to the post of Naib Tehsildar from the dates, when they became eligible for promotion. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
22.09.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD

ACCEPTED

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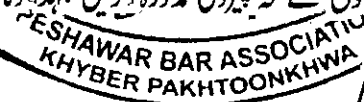
تیت 50	20133	پشاور بار ایسوسی ایشن، خیبر پختونخوا
ایڈویٹ: سپر لٹرائز کی جگہ	بار کونسل ایسوسی ایشن نمبر: 55-5643	PESHAWAR BAR ASSOCIATION
رابطہ نمبر: 0306-569438		QR Code

بعدالت جناب:

مخانب: محمد ادریس	دعویٰ:
	علت نمبر:
محمد ادریس بنام SMBR	مورخہ:
	جرم:
	تھانہ:

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام پشاور کیلئے سپر لٹرائز کی جگہ پر کلیم مسلسل کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقررات ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائزہ التوائے مقدمہ کے سبب سے ہوگا وکالی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب بابت ذمہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے



المرقوم: /20

الع بد گواہ شد الع بد

مقام کے لیے منظور ہے۔

محمد ادریس ولد محمد ابرار ولد علی احمد
 0312-9653203
 0312-11501-03121538-7

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