

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Execution Petition No. 702 of 2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10021

Dated 21-12-2023

Mushtaq Ahmed.
Retired Sub Engineer,
C&W Division Abbottabad.

.....**APPELLANT**

VERSUS

1. Secretary to Government of Khyber Pakhtunkhwa, Communication & Works Department, Peshawar.
2. Chief Engineer (Centre), Communication and Works Department, Peshawar.
3. Chief Engineer (East), Communication and Works Department, Abbottabad.

.....**RESPONDENTS**

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth!

PRELIMINARY OBJECTIONS:

1. That the instant Appeal as before the court is not entertainable on the grounds that neither any reference to his seniority position in the then seniority as stood on 31/12/1999/12/12/2000 has been stated or annexed on the one and the others had failed to give any reference his juniors are placed/granted Senior Scale BS-16.
2. That the Appellant has never challenged in time any orders in which his right had been ignored.
3. That the Appeal is also time barred.
4. That the Appellant has got no cause of action or locus standi.
5. That the Appellant is estopped by his own conduct to file the instant appeal.

6. That the Appeal is liable to rejection on the grounds of non-joinder and mis-joinder of necessary parties. The grant of Senior Scale rests with the Departmental Promotion / up gradation Committee according to the Government rules, which he has not made parties.

ON FACTS: -

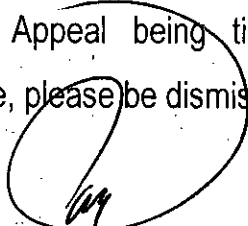
1. Pertains to record.
2. Correct as per the relevant Paras of the Tribunal Judgment dated 02/03/2016.
3. Correct to the extent as expressed in Para-26 of the Judgment dated 02/03/2016.
4. Correct to the extent the present appellant probably not went in such litigation.
5. Actually after passing Judgment dated 02/03/2016 and upheld by the Supreme Court of Pakistan dated 13/02/2017 the Secretary C&W Department processed the cases of entitled individuals including retired persons in consultation of Departmental Promotion / up gradation Committee, granted Senior Scale Selection Grade, BS-16, w.e.f. 04/09/2003, the date on which their juniors were awarded Senior Scale (BS-16) or from the date they become qualify, whichever is later as per the prevailing policy vide Notification No.SOE/C&WD/4-2/2018 dated 30/04/2018 and Notification No. SOG/C&W/3-365/2016 and No.SOG/C&W/3-365/2015 both dated 31/10/2022, the later two orders had been issued in pursuance to Execution Petition No.350/2018 in Service Appeal No. 1330/2010 decided on 02/03/2016. Whereas from the plain reading of the Annex-C with the Appeal No. where his junior have been granted BS-16 as Junior Scale Sub Engineer.


6. The subject Appeal is under process in the Administration Department.
7. The matter as expressed by the Appellant in Para-7 of the instant Service Appeal is now concerning the Court/Tribunal either accept or reject being too late and time barred.

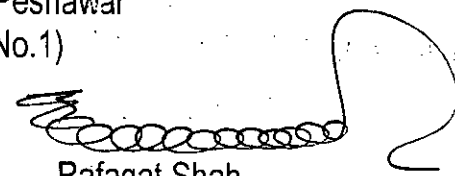
ON GROUNDS: -

- A. No comments. However, he had not Annexed the very seniority list when the Senior Scale Selection grade was operative.
- B. Incorrect. The Appellant was in active service till 02/02/2013, the date he superannuated, had not represented for such relief when he was fully aware that if his any junior to him was earlier granted such a benefit of BS-16.
- C. Not worth consideration, the appellant is stand retired w.e.f. 02/02/2013, hence this Execution Petition is not maintainable in the said circumstances.
- D. Not needs any comments.

In the wake of above stated facts and the circumstances as put forth before this honorable Tribunal, the present Appeal being time barred, frivolous, unjust may therefore, please be dismissed in limine with cost.


Muhammad Idrees Khan
Secretary
Govt. of Khyber
Pakhtunkhwa
C&W Department Peshawar
(Respondent No.1)


Engr. Muhammad Tariq
Chief Engineer (Centre)
C&W Department Peshawar
(Respondent No.2)


Razaqat Shah
Chief Engineer (East)
C&W Department Abbottabad
(Respondent No.3)