

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.449/2016

Date of Institution ... 26.04.2016
Date of Decision ... 17.01.2018

Muhammad Shoaib, Ex-Deputy Director Exploration,
Directorate General, Mines & Mineral, Khyber Pakhtunkhwa.

.... (Appellant)

VERSUS

The Secretary Government of Khyber Pakhtunkhwa, Mines & Mineral
Development Department, Peshawar & 02 others.


... (Respondents)

Mr. Saad Ullah Khan Marwat,
Advocate

--- For appellant.

Mr. Muhammad Jan
Deputy District Attorney

... For respondents.

 MR. GUL ZEB KHAN

...

MEMBER

MR. MUHAMMAD HAMID MUGHAL

....

MEMBER

JUDGMENT

GUL ZEB KHAN, MEMBER. The aforesaid appeal dated 26.04.2016 has been lodged by Muhammad Shoaib, Ex-Deputy Director Exploration, hereinafter referred to as the appellant, under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, wherein the appellant has impugned the office order dated 29.03.2015 pertaining to cancellation/withdrawal of LPR and voluntary/pre-mature retirement.

3. Learned counsel for the appellant argued that the appellant submitted application for grant of 365 days leave as Leave Preparatory Retirement (LPR) w.e.f 8.12.2014 to 7.12.2015 and for allowing to proceed on premature retirement, which was allowed vide notification dated 08.12.2014. That subsequently the appellant submitted another application on 4.12.2015 for withdrawal of the said notification by converting the availed portion of LPR into normal leave on full pay and for cancellation of the remaining period as well as to allow him to resume duty till attaining the age of superannuation. That the said option of the appellant was turned down by the respondent which is violation of the Finance Department notification dated 6.10.2015, as well as Establishment Department Khyber Pakhtunkhwa circular dated 17.3.2014. That the appellant is also eligible for promotion to B-19 during the LPR as admissible under the promotion policy of 2009 as amended vide letter dated 17.3.2014. That similarly one Shakir Ullah, of the Minerals Development Department was previously accorded/granted 312 days leave as LPR with effect from 27.04.2015 vide notification dated 19.06.2014 who was promoted to the post of Director B-19 in the duration of the LPR period and that on the same analogy the appellant also be promoted to the said post in the duration of LPR period, so as to meet justice.

4. On the other side learned Deputy District Attorney argued that the appellant submitted representation to the Secretary Minerals Development Department (respondent No. 1) for withdrawal of LPR as well as acceptance of arrival report on 04.12.2015. That in light of the Finance Department circular dated 25.01.2016. That the Competent Authority informed appellant that the option once accepted for LPR, shall be final and shall not be allowed to be modified or withdrawn. That as per date of birth of the appellant, his retirement date is 18.04.2018 and that he had himself submitted the application for premature retirement, which was accepted accordingly. That his LPR has matured on 07.12.2015(AN). Further argued that the

matter was taken up with the Finance Department and Establishment Department and was ultimately regretted and the appellant was informed accordingly.

5. We have heard arguments of the learned counsel for the appellant and learned District Attorney for the respondents and have gone through the record available on file.

6. It is an admitted fact that under the rules, the option for Leave Preparatory Retirement/Voluntary/Premature Retirement attains finality the moment when it is accepted by the competent authority and that it can only be withdrawn/cancelled altered, through another application, well before its formal acceptance by the competent authority. In the instant case, the appellant has applied for its cancellation/withdrawal on 4.12.2015 i.e only when four days were left to maturity/completion of the LPR period, which is not covered under the rules. However in such an eventually, the incumbent can avail the chance of getting promotion to next higher post in case of availability of post.

7. As a sequence to above, the present appeal is partially accepted and respondents are directed to consider him for proforma promotion to next higher post in case any post was available for his promotion in the duration of his LPR period. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.01.2018

Muhammad Hamid Mughal

(Muhammad Hamid Mughal)
MEMBER

Gul Zeb Khan
(Gul Zeb Khan)
MEMBER

15.12.2017


Learned counsel for the appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney for the respondents present. Arguments heard. To come up for order on 10.01.2018 before D.B



(Gul Zeb Khan)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

10.01.2018

Appellant in person present. Learned Add: AAG along with Said Muhammad Superintendent for respondents present. Order could not be announced due to non availability of proper D.B. adjourned. To come up for order before concerned D.B on 17.01.2018.

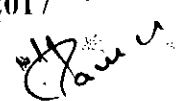

(Ahmad Hassan)
Member(E)



(M. Hamid Mughal)
Member (J)

17.01.2017

Learned counsel for the appellant present. Mr. Muhammad Jan, DDA for the respondents present. Vide separate judgment of today of this Tribunal placed on file, the present appeal is partially accepted and respondents are directed to consider him for proforma promotion to next higher post in case any post was available for his promotion in the duration of his LPR period. Parties are left to bear their own costs. File be consigned to the record room.


ANNOUNCED
17.01.2017



(Muhammad Hamid Mughal)
Member(J)


(Gul Zeb Khan)
Member(E)

22.06.2017


Counsel for the appellant and Mr. Syed Yar Hussain Shah, Supdt alongwith Kabir Ullah Khattak, Assistant AG for the respondent present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 28/09/2017 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Gul Zeb Khan)
Member

28.09.2017

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 29.12.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

30.11.2017

Counsel for the appellant and Mr. Muhammad Jan, DDA for respondents present. Counsel for the appellant submitted an application for early hearing. Application is allowed. To come up for arguments on 15.12.2017 instead of 29.12.2017 before D.B. Parties ~~be~~^{be} informed accordingly.



Chairman

*Noted
uzme*

16.01.2017

Counsel for appellant and Mr. Kabirullah Khattak, Assistant AG for respondents present. Learned counsel for appellant submitted rejoinder which is placed on file. To come up for arguments on 06.04.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(ASHFAQUE TAJ)
MEMBER

06.04.2017

Counsel for the appellant and Mr. Adcel Butt, Addl: AG, for the respondents present. Argument could not be heard due to incomplete bench. To come up for final hearing on 19.05.2017 before D.B.


Chairman

19.05.2017

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 22.06.2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

23.06.2016

Counsel for the appellant and Additional AG for respondents present. Written reply by respondents not submitted. The respondents are directed to submit written reply/comments on next date of hearing. To come up for written reply/comments on 31.08.2016 before S.B.



MEMBER

31.08.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Written reply on behalf of respondents not submitted. Requested for further time. Last opportunity granted for submission of written reply/comments for 29.09.2016 before S.B.



Member

20.09.2016

Counsel for the appellant and Mr. Yawar Hussain, Supdt. Alongwith Addl. AG for respondents present. Written reply submitted. The appeal ^{may be} assigned ^{by the Chairman} to D.B for rejoinder and final hearing on 16.01.2017.



Member

A-No. 449/2016
M. Shoaib vs Govt

6.05.2016

Appellant with counsel present. Preliminary arguments heard and case file perused. The instant appeal has been filed against the impugned order dated 29.3.2016 whereby an application of the appellant for withdrawal of LPR/option for early retirement was refused. Learned counsel for the appellant submitted before the court that as per Government rules, the appellant is entitled to withdraw his application for LPR but the respondents discriminated him and refused to accept his request for withdrawal of application for LPR.

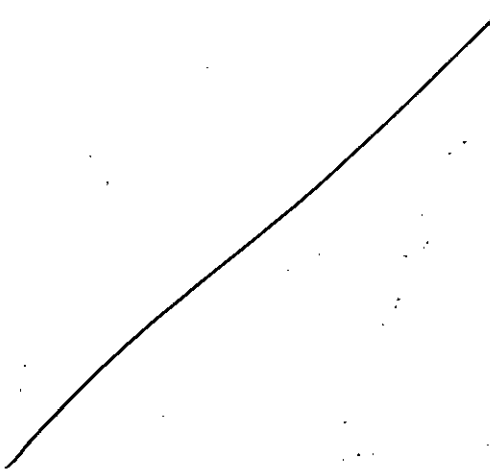
333-201

Since the matter pertains to term & condition of service of the appellant and required further consideration, therefore, the appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 23.5.2016 before S.B. Notice of stay application should also be issued to the respondents for the date fixed.

Appellant Deposited
Security & Process Fee





Member



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 449/2016


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27.04.2016	<p>The appeal of Mr. Muhammad Shoaib resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	28-4-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>6-5-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Muhammad Shoaib Ex-Dy. Director Exploration D.G Mines Office received to-day i.e. on 26.04.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Affidavit may be got attested by the Oath Commissioner.

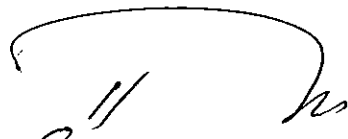
No. 659 /S.T,

Dt. 27/4 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Resubmitted after completion.


Atous Saiful Kamel
Advocate
Dt 27/4/2016.

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWARS.A No. 449 /2016

Muhammad Shoaib

Versus

Secretary & others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Appeal		1-4
2.	Amndt: in Promotion Policy, 17.3.14	"A"	5
3.	Date of Rtd: of Shakir Ullah, 19.6.14	"B"	6
4.	Rep: for withdrawal of LPR, 10.11.14	"C"	7-8
5.	LPR ord: of Appellant, 08.12.2014	"D"	9
6.	FD, Islamabad Circular, 06.10.2015	"E"	10
7.	Withdrawal Application of Appellant and Arrival Report, 04.12.15	"F"	11-12
8.	FD Letter for Withdrawal of LPR, 25.1.2016	"G"	13
9.	Seniority List, 27.01.2016	"H"	14
10.	Regret Order, 25.02.2016	"I"	15
11.	Letter to D.G of Regret, 07.03.2016	"J"	16
12.	Rejection Order, 29.03.2016	"K"	17

Through

Dated: .04.2016

M. J. Khan
Appellant
Saadullah Khan Marwat
(Saadullah Khan Marwat)
Advocate
21-A Nasir Mansion,
Shoba Bazaar, Peshawar.
Ph: 0300-5872676
0311-9266609

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 449 /2016

Muhammad Shoaib, Ex-Deputy Director Exploration,
Directorate General, Mines & Mineral, KPK Appellant

Versus

1. Secretary, Govt. of KP, Mineral Development Department, Peshawar.
2. Director General, Mines & Mineral, KP, Peshawar.
3. Chief Secretary, KP, Peshawar Respondents

**N.W.F. Province
Service Tribunal
Diary No 420
dated 26-4-2016**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL
ACT, 1974 AGAINST THE ORDER DATED
29.03.2016 OF R. NO. 2 WHEREBY
REPRESENTATION/APPLICATION DATED
04.12.2015 FOR WITHDRAWAL OF
LPR/OPTION FOR EARLY RETIREMENT WAS
REFUSED FOR NO LEGAL REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That on 28.01.2009, Govt. of KPK issued policy known as NWFP Civil Servants Promotion Policy, 2009. In the said policy, amendment was brought on 17.03.2014 regarding promotion during LPR which is as under:-

"LPR is one the types of leave to which a Govt. Servant is entitled. As he continues to be Govt. Servant and can be called even for duty, he can, therefore, be considered for promotion against a higher post during LPR." (Copy as annex "A")

2. That one Shakir Ullah, Director Exploration B-19 of the Minerals Development Department was accorded/granted of 312 days

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Filed to Reg
26/4/16

**Re-submitted to-day
and filed.**
Handwritten:
26/4/16

leave as leave preparatory to retirement in respect of the said incumbent after attaining the age of superannuation i.e. retirement from Govt. service with effect from 27.04.2015 vide notification dated 19.06.2014 issued by R. No. 1. (Copy as annex "B")

3. That on 10.11.2014, appellant submitted application for grant of LPR since 08.12.2014 to 07.12.2015. This was voluntary retirement while in fact, he was to be retired from service on 28.01.2018 on attaining the age of superannuation. (Copy as annex "C")
4. That on 08.12.2014, sanction of LPR was accorded/granted of 365 days in respect of appellant by R. No. 1. (Copy as annex "D")
5. That the Govt. of Pakistan Finance Division, Islamabad has issued Office Memorandum on 06.10.2015 that a Govt. Servant can withdraw option of voluntary retirement during the period for which encashment has been applied/granted, subject to following conditions:-
 - i. He/She may withdraw his/her option of voluntary retirement before retirement matures;
 - ii. It is binding on a Govt. Servant to return any amount of leave pay received by him/her. In lieu of encashment of LPR for that period;
 - iii. Later on, on attaining the age of superannuation, if he/she again ops for the 365 days leave encashment in lieu of 365 days LPR, such option of an individual may be treated as a fresh case and he/she will be allow encashment of LPR in toto. (Copy as annex "E")
6. That on 04.12.2015, appellant submitted representation before R. No. 1 for withdrawal of LPR option of voluntary retirement and simultaneously submitted arrival report on the said date to the authority. (Copies as annex "F")
7. That on 25.1.2016, Finance Department issued circular regarding withdrawal of LPR/option for voluntary retirement which states as under:-

"If a Govt. Servant withdraw his application for premature retirement or modified the date of retirement before its acceptance by the competent

authority, the application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be".

Meaning thereby that the request of appellant was not acceded to. (Copy as annex "G")

8. That on 31.05.2015, the department issued final seniority list of the Deputy Directors Exploration B-18 vide notification dated 27.01.2016. Appellant was shown at Serial No. 1 and Aurang Zeb at Serial No. 2 of the said seniority list. (Copy as annex "H")
9. That on 25.02.2016, Finance Department wrote letter to R. No. 1 to examine/decide the case of appellant in light of the said circular which is quite clear on the subject issue. (Copy as annex "I")
10. That the aforesaid order was conveyed by the authority on 07.03.2016 to R. No. 1 and then to the appellant on 29.03.2016. (Copies as annex "J" & "K")

Hence this appeal, inter alia, on the following grounds:-


GR OUNDS:


- a. That application for withdrawal of appellant was quite in accordance with law and its none acceptance is violation of rules.
- b. That the appellant normal date of retirement is 28.01.2018.
- c. That malafide of the respondents is apparent from the record as case of Aurang Zeb, who is junior to appellant in spite of the fact that the post of Director BPS-19 became vacant on 27.04.2015 and the appellant was supposed to be promoted as Director BPS-19 as appellant is at Serial No. 1 of the seniority list and is quite senior to the said incumbent.
- d. That by not accepting the representation/application dated 04.12.2015 of appellant, the appellant has been put in financial crises and his school going children would suffer in near future due to the in action of the respondents.
- e. That when office memorandum of Federal Govt. is clear on the subject, then there is no need of depriving the appellant of his legitimate right of service and promotion.

- f. That when similarly placed person (Aurang Zeb) who was also on LPR is going to be promoted to the post of Director General B-19 of the department, then appellant has also equal right for promotion to the said post.
- g. That similarly and equally placed person be treated similarly and equally to avoid discrimination. Such act of the respondents is based on malafide.

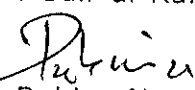
It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 25.02.2016 and 29.03.2016 of R. No. 1 may kindly be set aside and appellant be allowed to perform his duties on his original post of Deputy Director (Exploration) till his retirement date i.e. 28.01.2018, with such other relief as may be deemed proper and just in circumstances of the case.

Dated: .04.2016

Through  Appellant
Saadullah Khan Marwat


Arbab Saif-ul-Kamal

&


Miss Robina Naz,
Advocates,

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. _____/2016

Muhammad Shoai**b** Versus Secretary & others


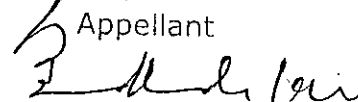
APPLICATION FOR DIRECTION TO RESPONDENTS NOT TO MAKE ANY PROMOTION TO THE POST OF DIRECTOR B-19 TILL THE DECISION OF THE CASE.

Respectfully Sheweth;

1. That the subject appeal is filed today in this hon'ble Tribunal and no date is yet fixed for hearing of the same.
2. That appellant is senior then Aurang Zeb Deputy Director of the department as per the seniority list.
3. That if Mr. Aurang Zeb was promoted to the post of Director B-19 then the said post will be filed up and the purpose of the appeal would defeat.
4. That even during LPR, the department is legally bound to consider applicant for promotion as per law, rules and policy.
5. That facts and grounds of the appeal be taken as integral part of this application for grant of interim relief.



It is, therefore, most humbly requested that application be accepted as prayed for.

Through


Appellant

Saadullah Khan Marwat

Dated: .04.2016

&


Arbab Saif-ul-Kamal

Miss Robina Naz
Advocates,

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. /2016

Muhammad Shoib

Versus

Secretary & others

AFFIDAVIT

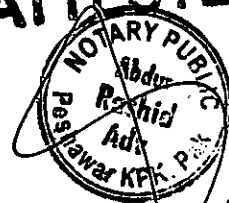
I, Muhammad Shoib Appellant, do hereby solemnly affirm and declare that contents of the Application are true and correct to the best of my knowledge and belief.

Mj had

DEPONENT

CNIC 17301-8206613-7

ATTESTED



27/4/2016

A

5

17-3-14

Government of Khyber Pakhtunkhwa
Establishment Department
(Regulation Wing)
No. SOR-VI/E&AD/1-16/2011
Dated Peshawar, the, 17th March, 2014

To

1. The Additional Chief Secretary, Planning & Development Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. All the Divisional Commissioners in Khyber Pakhtunkhwa.
6. All Heads of the Attached Departments in Khyber Pakhtunkhwa.
7. All the Deputy Commissioners in Khyber Pakhtunkhwa and Political Agents in FATA.

Subject:- **AMENDMENT IN KHYBER PAKHTUNKHWA CIVIL SERVANTS PROMOTION POLICY (PROMOTION DURING LPR).**

Dear Sir,

I am directed to refer to the subject noted above and to state that under the existing policy, there is no provision for promotion of officer/officials who are on LPR. The promotion policy has been reviewed and the competent authority has been pleased to direct to add the following provision therein:-

"LPR is one the types of leave which a government servant is entitled. As he continues to be government servant and can be called even for duty, he can, therefore, be considered for promotion against a higher post during LPR".

These changes will take immediate effect and past cases under existing policy shall not be re-opened.

Yours faithfully
SD/-
(QURRAT-UL-AIN)
Section Officer (REG-VI)

Endst No. & date even.

Copy forwarded to:

1. The Registrar Peshawar High Court, Peshawar.
2. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
4. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
8. Private Secretary to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
9. Private Secretary to Secretary Establishment Department.
10. Private Secretary to Secretary Administration Department.
11. The Director General, Provincial Disaster Management Authority, Provincial Reconstruction, Rehabilitation and Settlement Authority.

Am
Asst Secy

SD/-
Section Officer (REG-VI)



B 6 19-6-14

GOVERNMENT OF
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT

Dated Peshawar, the 19th June, 2014.

NOTIFICATION

No.SOE(MDD)/1-12/2003.- Sanction is hereby accorded to the grant of 312 days leave as Leave Preparatory to Retirement in respect of Mr. Shakirullah, Director Exploration (BPS-19), Directorate General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w.e.f 19.06.2014 to 26.04.2015.

2. The date of birth of the officer is 28.04.1955 as such he will retire from government service w.e.f 27.04.2015 (F.N).

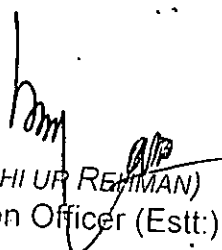
Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department

Ends: No.SOE(MDD)/1-12/2003

Dated Peshawar the, 19th June, 2014.

Copy is forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar.
3. PS to Minister for Minerals Development, Khyber Pakhtunkhwa.
4. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.
5. The officer concerned.


(SAKHI UR REHMAN)
Section Officer (Estt:)

Attested by



To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department.

Through: PROPER CHANNEL

Subject: - GRANT OF LEAVE PREPARATORY RETIREMENT

Respected Sir,

It is submitted that the undersigned has joined the government service on 13.10.1982 as Assistant Director (Mining Engineer) (BS-17) and rendered more than 31 years service. Now I intend to proceed on LPR with effect from 08.12.2014 to 07.12.2015. Availability of 365-days leave in lieu of LPR has been obtained from the office of Accountant General, Khyber Pakhtunkhwa, Peshawar (copy enclosed). The exact date of birth of the undersigned is 13.10.1958. A copy of Matriculation certificate is also attached.

Keeping in view of the above it is, requested that the undersigned may be granted Leave Preparatory Retirement with effect from 08.12.2014 to 07.12.2015 and issue retirement notification after expiry of LPR w.e.f 08.12.2015.

Yours faithfully,

M. Shoaib
10.11.14
(Muhammad Shoaib)
Deputy Director Exploration (BS-18),
HQ Office, Peshawar.

*Matriculation
Certificate
not found
attached.*

ADA
11/11/14

7392
11-11-14

*Attached
by*

11



APPLICATION FOR LEAVE

Notes:- Item 1 to 9 must be filled in by all applicants. Item 12 applies only in the case of Government servants of B.P.S. 16 and above.

- 1. Name of applicant: **Mohammad Shoab**
 - 2. Leave Rules applicable: **1981**
 - 3. Post held: **Deputy Director Exploration BPS-18**
 - 4. Department or Office: **DIRECTORATE GENERAL MINES & MINERALS, KHYBER PAKHTUNKHWA, PESHAWAR**
 - 5. Pay: **Rs: 53000/-**
 - 6. House Rent Allowance/Conveyance Allowance or other compensatory allowance drawn in the present post.
 - 7. (a). Nature of leave applied for: **L.P.R**
 (b). Period of leave in days: **365 days**
 (c). Date of commencement: **FROM THE DATE OF AVAILING 08-12-2014**
 - 8. Particular Rule/Rules under which leave is admissible:
 - 9. (a). Date of return from last leave: **- 15-05-2014**
 (b). Nature of leave: **- Earned leave**
 (c). Period of leave in days: **- 120 days**
- Date: **2-09-2014** Signature of applicant: *[Signature]*

10. Remarks recommendation of the Controlling Officer.

11. Certified that leave applied for is admissible under **Revised Leave Rules-1981** and necessary conditions are fulfilled

Date: **5/9/2014** Signature: *[Signature]*
Designation: **Director General, Mines and Mineral Khyber Pakhtunkhwa**

12. Report of Audit Office:

Date:
certified that the officer concerned is entitled to the grant of (365) days L.P.R. under Revised Leave Rules, 1981. Orders of the sanctioning authority certifying that on the expiry of leave the applicant is likely to return to the same post carrying the compensatory being drawn by *[Signature]*

Date: Signature: *[Signature]*
Designation: **ASSTT. ACCOUNTS OFFICER, O/o A.G. Khyber Pakhtunkhwa**

Attested by *[Signature]*



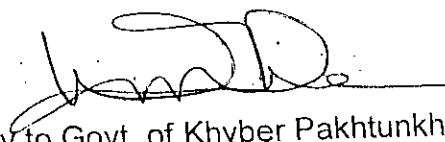
GOVERNMENT OF
KHYBER PAKHTUNKHWA
MINERALS DEVELOPMENT DEPARTMENT

Dated Peshawar, the 8th December, 2014.

NOTIFICATION

No.SOE(MDD)/1-5/2009.- Sanction is hereby accorded to the grant of 365 days leave as Leave Preparatory to Retirement (LPR) in respect of Mr. Muhammad Shoab, Deputy Director Exploration (BPS-18), Directorate General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w.e.f 08.12.2014 to 07.12.2015 (AN).


2. The officer has completed the qualifying service for pension and as such is allowed to proceed on premature retirement.

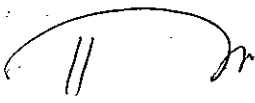

Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department

3-8/5-18
Ends: No.SOE(MDD)/1-5/2009 Dated Peshawar the, 8th December, 2014.

Copy is forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director General, Mines & Minerals, Khyber Pakhtunkhwa, Peshawar w/r to his letter No14465/9-PF-8(24)DGMM/Admn dated 04.12.2014.
3. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department.
4. The officer concerned.


(SAKHI UR REHMAN)
Section Officer (Estt.)

Imp
Attested
by


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6-10-15

Government of Pakistan
FINANCE DIVISION
(Regulations Wing)

>>><<<

No.F.1(1)R-4/2007-Vol-II(Pt)

Islamabad October 6, 2015.

OFFICE MEMORANDUM

Subject: CLARIFICATION OF WITHDRAWAL OF REQUEST OF LPR/
RETIREMENT AFTER SANCTION/NOTIFICATION.

The undersigned is directed to refer to Finance Division's O.M.No.F.1(1)R-4/2007- (Vol.II) dated 17-11-2011 on the above subject and to state that it has been decided in consultation with Establishment Division that a Government Servant can withdraw option of voluntary retirement, during the period for which encashment has been applied/granted, subject to the following conditions:-

- i. He/She may withdraw his/her option of voluntary retirement before retirement matures;
- ii. It is binding on a government servant to return any amount of leave pay received by him/her, in lieu of encashment of LPR for that period.
- iii. Later on, on attaining the age of superannuation, if he /she again opts for 365 days leave encashment in lieu of 365 days LPR, such option of an individual may be treated as a fresh case and he /she will be allowed encashment of LPR in toto.

Myra Javid Khan
 (Myra Javid Khan)
 Section Officer (R-4)
 Tel:9245872

All Ministries/Division,

Office of the Military Accountant General
Mr. Maqbool Hussain Raja,
Accounts Officer,
Government of Pakistan,
Islamabad.

w.r.t their U.O.No.492/AT/PC/4890
XVIII/Part dated 20-11-2014.

✓
Copy to Web-master Mr. Faheem Anwar, Finance Division.

Wt Anwar

Attested

by

// On

The Secretary,
Mineral Development Department,
Government of Khyberpakhtunkhwa,
Peshawar.

4/12/2015

(through proper channel)

Subject: Application for withdrawal of leave preparatory to retirement (LPR)/ option for voluntary retirement

Sir,

I had applied for premature retirement after availing the LPR for one year w.e.f. 08-12-2014 to 07-12-2015. The application was approved and notification was issued accordingly.

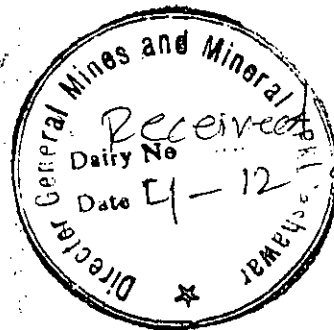
2. It is submitted that the reason for applying LPR was to attend to some domestic problems requiring my urgent attention. Now I intend to withdraw the application for LPR followed by voluntary retirement. Under the Government instructions, option to voluntary retirement/ LPR can be withdrawn before the date of proposed retirement (copy attached).

3. It is therefore humbly requested that my request for voluntary retirement as well as availing of LPR may be treated as withdrawn and consequently, the LPR already availed by me may kindly be converted into normal leave on full pay while the remaining period of leave may be cancelled, allowing me to resume my position and perform duties till attaining the age of superannuation.

Dated: 04-12-2015

M. Shoaib 04-12-2015
(Muhammad Shoaib)
Deputy Director (Exploration)

D. G. M. M.



Attended

by

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4-12-15

4/12/15

The Secretary to Govt. of Khyber Pakhtunkhwa,
Minerals Development Department,
Peshawar

Through: Proper Channel

Subject: ARRIVAL REPORT

Respectfully it is stated that I have submitted application for cancellation of my IPR Notification, therefore, I hereby submit my arrival report on 04.12.2015 (FN) for official duty please.

Yours obediently

4.12.2015
(MUHAMMAD SHOAIB)
Deputy Director Exploration

C.C.To:-

The Director General
Mines and Minerals Khyber Pakhtunkhwa, Peshawar.

Attested

by

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25-1-16

GOVT: OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

(REGULATION WING)

No. SO(FR)/FD/5-14/2010/Vol-II
Dated Peshawar, the 25-01-2016

To,

The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment & Administration Department.

Subject: - APPLICATION FOR WITHDRAWAL OF LPR / OPTION FOR
VOLUNTARY RETIREMENT.

Dear Sir,

I am directed to refer to your letter No. SO(O&M)E&AD/10-1/2015 dated 04-01-2016 on the subject noted above and to state that Finance Department circular is quite clear on the subject issue which states that: -

If a government servant with drawl his application for premature retirement or modified the date of retirement before its acceptance by the competent authority, the application or the date of retirement shall be deemed to have been withdrawn or modified as the case may be.

Application once submitted shall be final and shall not be allowed to be modified or withdraw. Therefore, the officer concerned is not entitled for further working on the same post.

Yours faithfully,

Sd/
SECTION OFFICER (FR)

Attested

by

11 on



Government of
Khyber Pakhtunkhwa
Minerals Development Department

Dated: 27th January, 2016

NOTIFICATION

No. SO (E)/MDD/2-3/ 2015: In pursuance of Section 8(5) of the Khyber Pakhtunkhwa Civil Servants Act 1973, the final seniority of the Deputy Directors (Exploration) (BPS-18) of the Directorate General of Mines and Mineral Khyber Pakhtunkhwa as stood on 31.05.2015 is notified as detailed below.

Seniority No	Name	Academic Qualification	Date of birth	Domicile.	Date of 1st Entry into Government service.	Date of appointment/ promotion to their present grade	Remarks
1	Muhammad Shoaib	B.Sc (Mining Engineering)	28.01.1958	Peshawar	27.09.1982.	07.05.2013	
2	Mr. Aurangzeb	B.Sc (Mining Engineering)	11.10.1956	Swabi	07.04.1984	23.02.2010	

Secretary to,
Govt: of Khyber Pakhtunkhwa,
Minerals Dev: Department

Endst: No & Date even:

Copy forwarded to:

1. Secretary to Governor Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
3. P.S to Minister for Minerals Development Department.
4. P.S to Chief Secretary, Khyber Pakhtunkhwa.
5. P.S to Secretary Minerals Development Department.
6. Director General Mines & Minerals, Khyber Pakhtunkhwa Peshawar.
7. Officers concerned.

Sakhi Ur Rehman

Attested
by

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25-2-16



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

No. SO(FR)/FD/5-92/2015/Vol-I
Dated Peshawar, the 25-02-2016

To,

The Secretary to Govt. of Khyber Pakhtunkhwa,
Mineral Development Department.

Subject: - APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY TO RETIREMENT (LPR) OPTION FOR VOLUNTARY RETIREMENT.

Dear Sir,

I am directed to refer to your letter No. SOE(MDD)1-2/2009/6024 dated 17-02-2015 on the subject noted above and to state that the Administrative Department is requested to examine / decide the instant case in light of this department circular which is quite clear on the subject issue (copy enclosed)

Yours faithfully,


(MURAD AHMED)
SECTION OFFICER (FR)

Attested

by





**Government of
Khyber Pakhtunkhwa
Minerals Development Department**

J
-16- 7/3/16
182

No. SO (E)/MDD/1-2/2009/6428
Dated Peshawar, the 7th March, 2016

To,

✓ The Director General,
Mines & Minerals,
Khyber Pakhtunkhwa
Peshawar.

Subject: APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY TO
RETIREMENT (LPR) OPTION FOR VOLUNTARY RETIREMENT.

180/c

I am directed to refer to your letter No. 591/9-P-8(24) DGMM/Admn dated 19-01-2016 on the subject noted above and to enclose herewith a copy of Finance Department letter No. SO (FR)/FD /5-92/2015/Vol-I dated 25-02-2016 alongwith its enclosure for information and further necessary action.

Encls: As above.

[Signature]
Sakhi Ur Rehman
Section Officer (Estt :)
Minerals Dev: Department

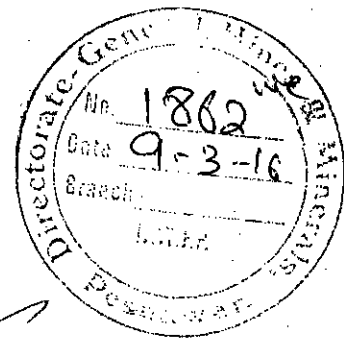
Urgent
for discuss

[Signature]
08.3.16

ADA

DD - M. D.

[Signature]
10/3.



*Attested
by*

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29-3-16



Directorate General of Mines and Minerals
KHYBER PAKHTUNKHWA
Attached Departments Complex Khyber Road Peshawar


No. 3913/9-PF-8(24)DGMM/Admn Dated. 29/03/2016

To:

Muhammad Shoaib,
Deputy Director Exploration (Retired),
Directorate General Mines & Minerals,
Khyber Pakhtunkhwa, Peshawar.

Subject: APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY TO
RETIREMENT (LPR) OPTION FOR VOLUNTARY RETIREMENT.

I am directed to refer to your letter dated 04-12-2015 on the above cited subject and to enclose herewith copy of Section Officer Establishment letter No. SO (E)/MDD/1-2/2009/6428 dated 07-03-2016 and copy of Finance Department letter No SO (Fr) FD/5-92/2015/ Vol-I dated 25-02-2016 for your information.


Assistant Director (Admn)
For Director General.

No. _____/9-PF-8(24)DGMM/Admn

Dated. _____/03/2016

Copy is forwarded for information to the Officer Establishment with reference to his letter cited to above case please.


Assistant Director (Admn)
For Director General.

Attested

by



قیمت
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پشاور بار ایسوسی ایشن، خیبر پختونخواہ

رابطہ نمبر: 9547738 0345

بعدالت جناب: Service Tribunal, KPIC, Peshawar.

Appellant	Service Appeal
<p>منجانب:</p> <p>Muhammad Shoaib</p> <p>Secy</p>	<p>دعوی:</p> <p>علت نمبر:</p> <p>موضوع:</p> <p>جرم:</p> <p>تھانہ:</p>

بامث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کا دعویٰ متعلقہ
 آن مقام محمد شعیب محمد الدھان ارباب کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقریر نمائندگی و فیصلہ برصن دینے جو جواب دعویٰ اقبال دعویٰ اور درخواست اثر ہر قسم کی تصدیق
 زریں مدد منتظر کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاخیر کی صورت میں یا اپیل کی برآمدگی اور منسوخی نیز
 دائر کرنے اپیل نگرانی و نظارتی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا بھارت قانون کو اپنے ہمراہ یا اپنے بجائے قرار کا اختیار ہو گا اور صاحب
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ ہی ذرا متفقہ منظور و قبول ہوگا دوران مقدمہ
 میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف و وکیل کے لئے کا حقدار ہوگا کوئی تاریخ پیشی مقام
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندرجہ۔

المرقوم: 26/4/16

الع بد _____ واہ شد _____ الع بد _____

مقام _____ کے لئے منظور ہے۔

Muhammad Shoaib
17301-8206613-7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.449/2016

Mr. Muhammad Shoaib, Ex-Deputy Director (Exploration)
Directorate General, Mines & Minerals Khyber Pakhtunkhwa

APPELLANT

VERSUS

- 1. Secretary, Govt. of KP, Minerals Development Department, Peshawar.
- 2. Director General, Mines and Minerals, KP, Peshawar
- 3. Chief Secretary, KP, Peshawar

RESPONDENTS

Written statement on behalf of Respondents

Preliminary objection:

- I- That the appellant has no cause of action.
- II- That the appellant has no locus standi to file the instant appeal.
- III- That no vested right of the appellant has been infringed as such the appeal is liable to be dismissed on merit.
- IV. That the appeal is not tenable and may be dismissed.
- V. That LPR of the appellant has already matured on 8.12.2015.

FACTS:

- 1 Pertains to record needs no comments.
- 2 Pertains to record needs no comments.
- 3 Para-3 of the appeal is correct to the extent that the appellant submitted application on 10.11.2014 for LPR w.e.from 8.12.2014 to 7.12.2015(AN).
- 4 Para -4 of the appeal is correct.
- 5 Pertains to record, hence burden of proof lies on appellant shoulder
- 6 Para-6 of the appeal is correct to the extent that the appellant has submitted a representation to the Secretary Minerals Dev: Department (respondent No.1) for withdrawal of LPR alongwith arrival report on 4.12.2015.

7 In response to para-7, it is submitted that the Competent Authority in light of the circulation dated 25.1.2016 of the Finance Department informed that an application once submitted for LPR shall be final and shall not be allowed to be modified or withdrawn, therefore, the appellant is not entitled for further working on the same post. The appellant was, accordingly, informed vide letter dated 29.3.2016. Copy of circulation and letter dated 29.3.2016 is attached as **Annexure -A.**

8 Para-8 is correct to the extent that the seniority list as stood on 31.5.2015 vide notification dated 27.1.2016 was circulated wherein the appellant was shown at S.No.1 of the seniority list as the appellant was on LPR upto 7.12.2015.

9 As stated in para-7 above.

10 Pertains to record.

GROUNDS:

a Para-a of the grounds is incorrect, hence denied. Detail reply may be perused in Para-7 of the comments on facts.

b Para-b is correct to the extent that as per date of birth of the appellant, his retirement date is 18.1.2018 but he himself submitted application for premature LPR which was accepted. His LPR is matured on 7.12.2015(AN).

c Para-c is incorrect, hence, denied. There is no malafide motives on the part of respondents. The respondents have performed their duties as per rules.

d Para-d is incorrect. Appellant at his own will gone on LPR, therefore, there is no financial losses to the appellant. Rest of the para needs no comments.

e Para-e is incorrect. The representation alongwith memorandum of Federal Govt. was sent to the Competent Authority and the Competent Authority, in light of the FD circulation dated 25.1.2016 observed that the application once given for retirement is final and thus withdrawn could not be considered, therefore, his application was not accepted and he was informed, accordingly.

- f In response to Para-f, it is submitted that Mr. Aurang Zeb, DDM has gone on LPR w.e.f 11/10/2015 to 10/10/2016 and he is still on service and the post of Director Exploration has fallen vacant since long, therefore, he has been considered for promotion by Provincial Selection Board. However, his promotion order has not yet been issued.
- g Para-g is incorrect. No discrimination has been done with the appellant in light of the position explained in the above paras.

Keeping in view the above, it is prayed that the instant appeal may be dismissed having no cause of action or locus standi, please.

Secretary Minerals Dev: Deptt:
Khyber Pakhtunkhwa
(Respondent No.1)

Director General
Mines & Minerals Khyber Pakhtunkhwa
(Respondent No.2)

Chief Secretary
Khyber Pakhtunkhwa
(Respondent No.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal NO. 449/2016

Mr. Muhammad Shoaib Ex-Deputy Director (Exploraiton),
Directorate General, Mines & Minerals Khyber Pakhtunkhwa.....**Appellant.**

VERSUS

- 1- Secretary, Govt of Khyber Pakhtunkhwa, Minerals Development Department, Peshawar.
- 2- Director General Mines and Minerals, Khyber Pakhtunkhwa, Peshawar:
- 3- The Secretary Mines and Mineral Department Peshawar.....**Respondents**

AFFIDAVIT

I, Sayed Yawar Hussain, Superintend, Directorate General Mines and Mineral do hereby solemnly affirm and declare that the contents of the accompanying written statement are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.


DEPONENT

Identified by

1	7	3	0	1	-	5	0	0	6	8	0	3	-	9
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**Advocate General Service Tribunal,
KHYBER PAKHTUNKHWA, Peshawar.**

Better Copy

Govt. of NWFP.,
Services and General Admn:
Deptt; (Regulation Wing)

No. SOR-I (S&GAD)4-2/82,
Dated: 15.01.1999.

To

1. All Administrative Secretaries to Government of NWFP.
2. Secretary to Governor, NWFP.
3. Secretary to Chief Minister, NWFP.
4. All Divisional Commissioners in NWFP.
5. All Heads of attached Departments in NWFP.
6. All Heads of Autonomous/Semi-Autonomous Bodies in NWFP.
7. All Deputy Commissioners/Political Agents In NWFP.
8. The Registrar, Peshawar High Court, Peshawar.
9. All District and Session Judges in NWFP.
10. The Registrar, NWFP Services Tribunal, Peshawar.
11. The Secretary, NWFP Public Service Commission.
12. The Director, Anti-Corruption Establishment, Peshawar.
13. The Secretary, Board of Revenue, NWFP.

SUBJECT: - SIGNING OF PARA-WISE COMMENTS ETC. IN SERVICE APPEALS FILED IN THE NWFP SERVICES TRIBUNAL BY CIVIL SERVANTS.

Sir,

I am directed to refer to the subject noted above and to say that pursuant to Rule-12(2) of NWFP Services Tribunal Rules, 1974, the competent authority has been pleased to authorize the Administrative Secretaries concerned or a subordinate officer to be nominated by the Administrative Secretary to sign para-wise comments etc. on behalf of the Chief Minister, NWFP and Chief Secretary, NWFP, as the case may be in cases of service appeals filed by the Civil Servants before the NWFP Services Tribunal.

Yours Obedient Servant,

SECTION OFFICER (REGULATION-I)
S&GAD.

Endst: Even No. and date.

A copy is forwarded for information to the: -

1. All Addl: Secretaries/Dy: Secretaries in S&GAD.
2. All Section Officers/Estate Officers in S&GAD.
3. P.S. to Chief Secretary, NWFP.
4. P.S. to Secretary S&GAD.
5. Librarian, S&GAD.

SECTION OFFICER (REGULATION-I)

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Directorate General of Mines and Minerals
KHYBER PAKHTUNKHWA
 Attached Departments Complex Khyber Road Peshawar.


No. 3913 /9-PF-8(24)DGMM/Admn Dated. 29 /03/2016

To:

Muhammad Shoaib,
 Deputy Director Exploration (Retired),
 Directorate General Mines & Minerals,
 Khyber Pakhtunkhwa, Peshawar.

Subject: **APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY TO
 RETIREMENT (LPR) OPTION FOR VOLUNTARY RETIREMENT.**

I am directed to refer to your letter dated 04-12-2015 on the above cited subject and to enclosed herewith copy of Section Officer Establishment letter No. SO (E)/MDD/1-2/2009/6428 dated 07-03-2016 and copy of Finance Department letter No SO (Fr) FD/5-92/2015/ Vol-I dated 25-02-2016 for your information.

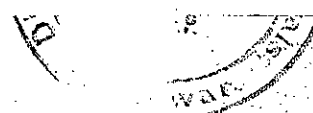

 Assistant Director (Admn)
 For Director General.

No. 3914 /9-PF-8(24)DGMM/Admn


 Dated. 29 /03/2016

Copy is forwarded for information to the Officer Establishment with reference to his letter cited to above case please.


 Assistant Director (Admn)
 For Director General.



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17-3-14

Government of Khyber Pakhtunkhwa
Establishment Department
(Regulation Wing)
No. SOR-VI/E&AD/1-16/2011
Dated Peshawar, the, 17th March, 2014.

To

1. The Additional Chief Secretary, Planning & Development Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. All the Divisional Commissioners in Khyber Pakhtunkhwa.
6. All Heads of the Attached Departments in Khyber Pakhtunkhwa.
7. All the Deputy Commissioners in Khyber Pakhtunkhwa and Political Agents in FATA.

Subject:- **AMENDMENT IN KHYBER PAKHTUNKHWA CIVIL SERVANTS PROMOTION POLICY (PROMOTION DURING LPR).**

Dear Sir,

I am directed to refer to the subject noted above and to state that under the existing policy, there is no provision for promotion of officer/officials who are on LPR. The promotion policy has been reviewed and the competent authority has been pleased to direct to add the following provision therein:-

"LPR is one the types of leave which a government servant is entitled. As he continues to be government servant and can be called even for duty, he can, therefore, be considered for promotion against a higher post during LPR".

These changes will take immediate effect and past cases under existing policy shall not be re-opened.

Yours faithfully
SD/-
(QURRAT-UL-AIN)
Section Officer (REG-VI)

Endst No. & date even.

Copy forwarded to:

1. The Registrar Peshawar High Court, Peshawar.
2. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
4. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
8. Private Secretary to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
9. Private Secretary to Secretary Establishment Department.
10. Private Secretary to Secretary Administration Department.
11. The Director General, Provincial Disaster Management Authority, Provincial Reconstruction, Rehabilitation and Settlement Authority.

SD/-
Section Officer (REG-VI)

28

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

No. SO(FR)/FD/5-92/2015/Vol-I
Dated Peshawar, the 25-02-2016

To,

The Secretary to Govt. of Khyber Pakhtunkhwa,
Mineral Development Department.

Mineral Dev: Deptt: (KPK)
Secy: Diary No: 511
113/16

Subject: -

APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY
TO RETIREMENT (LPR) OPTION FOR VOLUNTARY
RETIREMENT.

Dear Sir,

I am directed to refer to your letter No. SOE(MDD)1-2/2009/6024 dated 17-02-2015 on the subject noted above and to state that the Administrative Department is requested to examine / decide the instant case in light of this department circular which is quite clear on the subject issue (copy enclosed)

examined in light of circular of Secy
01/3/16

Yours faithfully,

(Signature)
(MURAD AHMED)
SECTION OFFICER (FR)

SO(E)

Adm. Enquiry



29
182

Government of
Khyber Pakhtunkhwa
Minerals Development Department

No. SO (E)/MDD/1-2/2009/6428.
Dated Peshawar, the 7th March, 2016

To,

✓ The Director General,
Mines & Minerals,
Khyber Pakhtunkhwa
Peshawar.

Subject: APPLICATION FOR WITHDRAWAL OF LEAVE PREPARATORY TO
RETIREMENT (LPR) OPTION FOR VOLUNTARY RETIREMENT.

180/c

I am directed to refer to your letter No. 591/9-P-8(24) DGMM/Admn dated 19-01-2016 on the subject noted above and to enclose herewith a copy of Finance Department letter No. SO (FR)/FD /5-92/2015/Vol-I dated 25-02-2016 alongwith its enclosure for information and further necessary action.

Encls: As above.

[Signature]
Sakhi Ur Rehman
Section Officer (Estt :)
Minerals Dev: Department

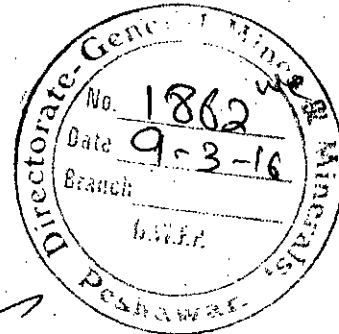
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BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A. No. 499/2016
Fixed for 16.01.17

Mr. Muhammad Shoaib versus Secretary & Others

REJOINDER

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

All the 5 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why the appellant has no cause of action, locus standi, no vested rights infringed, not maintainable and maturity of LPR.

ON FACTS:

- 1-4. Needs no comments.
5. Proof is attached with the appeal Annex "E" Page No. 10.
6. Admitted correct to the extent of submission of representation for withdrawal of LPR on 04-12-2015 with arrival report on the said date.
7. In response to this para of the appeal it is submitted that Finance department issued circular on 25-01-2016 for withdrawal of application for pre-mature retirement. As for as finality of the circular dated 25-01-2016 is concerned, being final, the same bore date 25-01-2016, while appellant submitted application for withdrawal of LPR on 04-12-2015, so letter dated 25-01-2016 is not applicable to the case of appellant regarding its finality.
8. Admitted correct to the extent circulation of Seniority list and placement of appellant at S. No. 1.
- 9-10. As above.

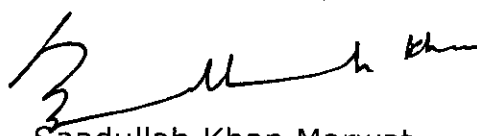
GROUND S:

All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are again adopted. No retrospective effect could be given to FD letter dated 25-01-2016.

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

Appellant

Through



Saadullah Khan Marwat

Advocate,

Dated: 16-12-2016

AFFIDAVIT

I, Mr. Muhammad Shoaib appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.

DEPONENT

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A. No. 499/2016
Fixed for 16.01.17

Mr. Muhammad Shoaib

versus

Secretary & Others

REJOINDER

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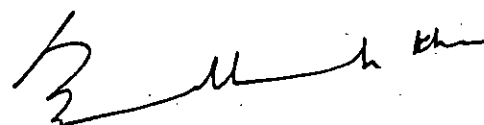
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Saadullah Khan Marwat

Advocate,

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DEPONENT

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 231 /ST

Dated 30 /01/2018

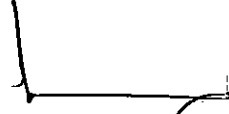
To

The Director General, Mines & Mineral,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: **JUDGEMENT/ORDER IN APPEAL NO. 449/2016 MR. MUHAMMAD SHOAIB.**

I am directed to forward herewith a certified copy of Judgment/Order dated 17/01/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


**REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.**

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