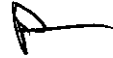


28.09.2016

Counsel for the appellant, Mr. Arshad Iqbal, Junior Clerk for respondent No.3 alongwith Addl: AG for official respondents and private respondent No.2 in person present. written reply on behalf of respondent No.3 submitted. To come up for written reply/comments of respondent No.1 and 2 on 28.11.2016.

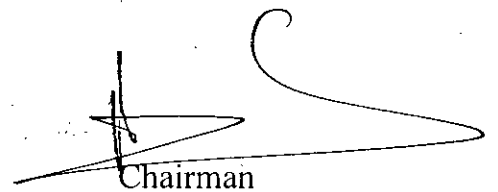


Member

28.11.2016

Counsel for the appellant and Arshad Iqbal, Junior Clerk alongwith Addl. AG for the respondents present. Learned counsel for the appellant informed the Tribunal that the appellant had died.

In view of the above, the appeal has become infructuous and is filed accordingly. File be consigned to the record room.



Chairman

28.11.16.

ANNOUNCED

28.11.2016

20.07.2016

Junior to counsel for the appellant present and moved an application for adjournment wherein he stated that Senior Counsel for the appellant busy before the august Supreme Court of Pakistan. Adjournment granted. To come up for preliminary hearing on 25.07.2016.


Member

25.07.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Naib Qasid in the establishment of District & Sessions Judge Mardan. That his name was reflecting at S.No. 11 in the seniority list and that on the strength of the same he was entitled to promotion as junior clerk in preference to one Muhammad Tariq whose name was appearing at S.N. 13 of the seniority list but despite the afore-stated situation the said employee namely Muhammad Tariq, private respondent No. 2 was promoted by the DPC vide impugned order dated 16.3.2010 where-against the appellant preferred departmental appeal on 27.3.2010 which was rejected on 2.5.2016 and hence the instant service appeal.

That on the strength of existing service record including ACRs of the appellant, he was entitled to promotion in preference to private respondent No. 2 and as such the impugned orders, original as well as appellate, are against facts and law and liable to be set aside.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 28.09.2016 before S.B.



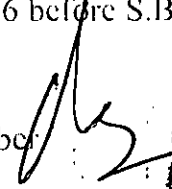
Appellant Deposited
Security Process Fee


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 649/2016


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15/06/2016	<p>The appeal of Mr. Sarfaraz Khan resubmitted today by Mr. Amjid Ali 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	17-6-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>22-6-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	20.7.2016	<p>None present on behalf of the appellant. The appeal is relisted for preliminary hearing on 20.7.2016 before S.B.</p> <p style="text-align: right;">Member </p>

The appeal of Mr. Sarfaraz Khan son of Zabta Khan Naib Qasid attached to the Court of Additional Distt. Session Judge received to-day i.e. on 01.06.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- The authority to whom the departmental appeal was made/preferred has not been arrayed a necessary party.


No. 742 /S.T,

Dt. 01/6 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Amjid Ali Adv. Mardan.

*Resubmitted after removal
of objection*


01/6/15

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

Service Appeal No. 649 /2016

Sarfraz KhanAppellant

VERSUS

District & Sessions Judge, Mardan/ Chairman
Departmental Promotion Committee and another ...Respondents

INDEX

S.No.	Description of documents.	Annexure	Dated
1.	Memo of appeal with affidavit.		1-4
2.	Copy of order dated 19.07.2003	A	5
3.	Copy of seniority list	B	6-7
4.	Copy of minutes of the DPO	C	8-10
5.	Copy of order dated 16.03.2010	D	11-13
6.	Copies of ACRs from 19.07.2003 & 31.12.2009	E	14-26
7.	Copy of ACR	F	27-28
8.	Copy of grounds of departmental appeal and impugned order/ judgment dated 02.05.2016	G	29-38
9.	Copies of decision of Tariq Yousafzai and Sardar Arshad	H	39-49
10.	Wakalatnama		50

Sarfraz Khan

Appellant

Through

Amjad Ali (Mardan)

Advocate

Supreme Court of Pakistan

Cell: 0321-9882434

Dated: 01.06.2016

①

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

Service Appeal No. 649 /2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 560

Dated 01-6-2016

Sarfraz Khan S/o Zabta Khan
(Naib Qasid) attached to the
Court of Additional District & Sessions Judge-, Mardan

.....Appellant

VERSUS

1. District & Sessions Judge, Mardan/ Chairman
Departmental Promotion Committee.
2. Mr. Muhammad Tariq Junior Clerk/ Muharrir
attached to the Court of Civil Judge-III, Takht Bhai,
District Maran
3. Appellate Authority Peshawar High Court. through
Registrar Respondents

**SERVICE APPEAL U/S 4 OF SERVICE
TRIBUNAL ACT, 1974. AGAINST ORDER
DATED 02.05.2016 PASSED BY
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT WHICH IS
ILLEGAL AGAINST LAW AND FACTS.**

Respectfully Sheweth:-

Appellant humbly submits as under

- 1) That the appellant was appointed as Naib Qasid vide
order dated 19.07.2003. (Copy of order dated
19.07.2003 is attached as Annex "A")
- 2) That the tentative seniority list was issued on 22.01.2010
and invited objections within one month. However, as
no objections were raised thus it is deemed as final

Filed to-day

Registrar

1/6/16

Re-submitted to-day
and filed.

Registrar

15/6/16

2

seniority list, which shows appellant senior to respondent No.2 (Copy of seniority list is Annex "B")

- 3) That the Departmental Promotion Committee recommended Muhammad Tariq (respondent No.2) for promotion to the post of Junior Clerk. (Copy of minutes of the DPO is Annex "C")
- 4) That respondent No.2 is promoted as Junior Clerk/ Moharrir to the Court of Civil Judge-III, Takht bhai, vide order dated 16.03.2010, which is illegal against law and facts. (Copy of order dated 16.03.2010 is attached as Annex "D")
- 5) That appellant has rendered meritorious service to the entire satisfaction of his superior and not only earned best ACR's, but was even recommended for accelerated promotion. (Copies of ACRs from 19.07.2003 & 31.12.2009 are attached as Annex "E")
- 6) That the ACR for the period from 19.07.2003 to 31.12.2009 is average and average ACR as per judgment of Superior Courts cannot be treated as adverse. Even in the said ACR, appellant is declared fit for promotion that is why the same was not communicated to appellant. (Copy of ACR is Annex "F")
- 7) That the appellant was not considered for promotion to the post of Junior Clerk and vide order dated 16.03.2010, therefore, being aggrieved the appellant filed Departmental Appeal No.02/2010 before the Hon'ble Administrative Judge, Peshawar High Court, Peshawar/ Appellate Authority, which was later on dismissed by the Hon'ble Peshawar High Court, Peshawar Judicial Department vide its judgment dated 02.05.2016. (Copy of grounds of departmental appeal

and impugned order/ judgment dated 02.05.2016 & comments are attached as Annex "G")

- 8) That impugned orders are illegal, against law and facts on following grounds:-

GROUNDS

- A. Because admittedly appellant is senior to respondent No.2 and possess the required length of service for promotion to the post of Junior Clerk.
- B. Because after impugned promotion order, appellant was orally informed that ACR of appellant for the period from 19.07.2003 to 31.12.2009 is adverse, but appellant was never communicated the same as adverse.
- C. Because in the same ACR, appellant has been declared fit for promotion and the remarks, if any, are advisory which cannot be treated as adverse.

In Part-IV of ACR which declares the status of total ACR, the same is graded as average and not even below average or poor. Moreover, there is no column mark through red entry to declare it an adverse.

- D. Because the opinion of authority "to guard his reputation" is advisory in nature and the Subordinate Judiciary Service Tribunal and the Hon'ble Chief Justice of this Hon'ble Court has treated such type of remarks as advisory in case of ASJ's. (Copies of decision of Tariq Yousafzai and Sardar Arshad are Annex "H")
- E. Because the period of this ACR is also less than six months and it should have been authored by the Officer, with whom appellant served for more than six months.

4

- F. Because the ACRs prior to the mentioned period and after the same are very good, which speaks of the fact that there is no fault of appellant?
- G. Because there is no notice/ warning before the ACR which are mandatory as per instructions prior to adverse ACR.
- H. Because appellant has wrongly being not considered for promotion, as obvious from minutes of DFC.

It is therefore, humbly prayed that impugned orders dated 02.05.2016 and order dated 16.03.2010 may please be set aside by including name of appellant instead of respondent No.2 with all back benefits.

Any other relief which this hon'ble court deems appropriate in the circumstances of the case though not specifically asked for may kindly also be granted.

Dated: 01.06.2016

Sarfaraz Khan

Appellant

Through

[Signature]
Amjad Ali (Mardan)

Advocate

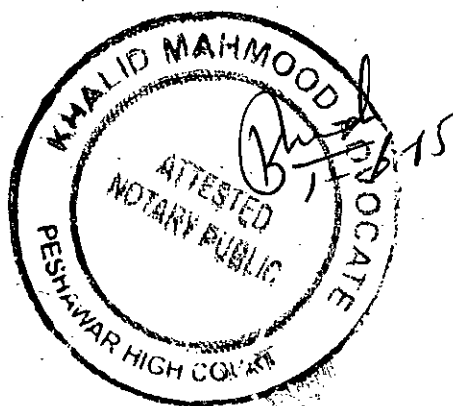
Supreme Court of Pakistan

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.

Sarfaraz Khan

Deponent



APPOINTMENT ORDERS.

Ann-A

ALICHAQALI
SUPREME COURT
5

In pursuance of the Peshawar High Court, Peshawar, Notification bearing No.D.R/(ADMN)/HC/43-A-14/2002, dated Peshawar the 14th November, 2002, r/w Peshawar High Court, Peshawar, letter No.4313-4360, dated Peshawar, the 19-4-2003, on the recommendations of the Departmental Selection Committee, you are appointed as Naib Qasid in BPS,NO.1, on the term and conditions to the effect that your appointment shall be purely on temporary basis subject to the production of Medical fitness Certificate shall Governed by the Efficiency and Discipline Laws and Rules and on the completion of period of probation, which shall however, be liable to termination without assigning any reason, thereto.

- 1- Haq Nawaz son of Rab Nawaz
R/O New Mohallah Shamsi Road,
Hoti Mardan.
- 2- Sarfaraz son of Zabitha Khan,
R/O Village Ibrahim Khan Killi
Tehsil & District Mardan.
- 3- Muhammad Tariq son of Abdul Malik,
- 4- Aurang Zeb son of Fazal Malik,
R/O Mohallah Gumbat Kaskoorna
Tehsil and District Mardan.

Certified to be True Copy
E. K. SHAIKH
Copying Department
Sessions Court, Mardan

In case the above term and conditions are acceptable to you, you should report to the undersigned for assuming your duty within Fortnigh from today, failing which the offer shall stand withdrawn.

(SYED AFSAR SHAH)
District & Sessions Judge,
Mardan.

No. 1994-99 / Dated Mardan the 19 /07/2003.

Copy forwarded for information to the ;-

- 1- Registrar Peshawar High Court, Peshawar.
- 2- District Accounts Officer, Mardan.
- 3- Official concerned by name.

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Peshawar High Court
25 MAY 2016

o/c

(SYED AFSAR SHAH)
District & Sessions Judge,
Mardan.

OFFICE OF THE
DISTRICT & SESSIONS JUDGE,
MARDAN.

6

Annex B

No. 460 /

Dated Mardan the 22 / 1 /2010

From

The District & Sessions Judge,
Mardan.

To.

All the Officials concerned,
District Judiciary Mardan.

SUBJECT: - TENTATIVE SENIORITY LIST.

Tentative Seniority List for the
year 2009 is served upon you. You all are
directed to submit your objections, if any within
10 days after service, positively to the office of
undersigned.

(Malik Mujtaba Ahmad)
District & Sessions Judge,
Mardan.

سرفروزر اور فرائض کے لئے

Name of the person to be appointed 2350-20-3
Name of the person to be appointed X
Name of the person to be appointed 24-3-X
Name of the person to be appointed 24-3-X
Name of the person to be appointed 54001-40-501-
Name of the person to be appointed X
Name of the person to be appointed PM
Name of the person to be appointed 24-3-10

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EXAMINER
Department
High Court Mardan
24-3-10

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EXAMINER
Peshawar High Court
25 MAY 2016

**PROPOSED SENIORITY LIST OF NAIB QASID RELATED THE OFFICIAL OF SESSIONS DIVISION
MARDAN.**

S/No	Name of Official	Designation	Scale	Date of Birth	Date of Appointment	Signature	Remarks
1	Mr. Zaman Shah	Naib Qasid attach to the Court of SJ, Mardan	BPS-3 (S. Grade)	6/1/1957	6/1/1979	زبان شاہ	—
2	Mr. Bacha Mir	Naib Qasid attach to the Court of SJ, Mardan	BPS-3 (S. Grade)	10/11/1954	10/1/1979	باچہ میر	—
3	Mr. Salim Khan	Naib Qasid attach to the Court of ASJ-I, Takht Bhai	BPS-3	3/15/1966	1/6/1986	سالم خان	—
4	Mr. Zard Ullah Khan	Naib Qasid attach to the Court of ASJ-I, Takht Bhai	BPS-3	6/1/1964	9/1/1989	زرد ullaہ خان	—
5	Mr. Ali Ahmad	Naib Qasid attach to the Court of ASJ-IV, Mardan.	BPS-3	7/1/1974	2/2/1995	علی احمد	—
6	Mr. Amir Hussain	Naib Qasid attach to the Court of ASJ-II, Mardan.	BPS-3	1/1/1965	10/3/1995	امیر حسین	—
7	Mr. Said ul Amin	Naib Qasid attach to the Court of ASJ-VI, Mardan.	BPS-3	1972	5/23/1996	سید امین	—
8	Mr. Abdul Ghafar	Naib Qasid attach to the Court of ASJ-II, Mardan.	BPS-3	7/10/1978	4/27/2000	عبدالغفار	—
9	Mr. Naeem ullah	Naib Qasid attach to the Court of ASJ-III, Mardan.	BPS-3	6/1/1977	11/17/2001	ناہم ullaہ	—
10	Mr. Haq Nawaz	Naib Qasid attach to the copy branch Mardan	BPS-3	2/2/1967	8/1/2003	حاجہ نواز	—
11	Mr. Sarfaraz Khan	Naib Qasid attach to the Court of ASJ-I, Mardan.	BPS-3	4/4/1975	8/1/2003	سرفراز خان	—
12	Mr. Aurangzaib	Naib Qasid attach to the Court of ASJ-III, Mardan.	BPS-3	3/1/1976	8/1/2003	اورنگزیب	—
13	Mr. Muhammad Tariq	Naib Qasid attach to the Court of ASJ-V, Takht Bhai	BPS-3	3/12/1976	8/1/2003	محمد طارق	M. —
14	Sabir Ali	Sweeper attach to the Sessions House Mardan.	BPS-3	3/7/1985	10/12/2005	صابر علی	Trasfer to the cadre of Naib Qasid in BPS-1 against the vacant post vide order of DSJ Mardan bearing No. 4507-

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Postmaster General
Mardan

25 MAY 2016

EXAMINER
Posting Department
Sessions Court Mardan

(8) Annex C (9)

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE.

A meeting of Departmental Promotion Committee, Mardan held on 13-03-2010 in the Chamber of District & Sessions Judge, Mardan. The following participated.

1. Mr. Malik Mujtaba Ahmad,
District & Session Judge, Mardan. **Chairman**
2. Mr. Shamsheer Ali Khan,
Member Inspection Team. **Nominee of PHC**
3. Muhammad Aamir Nazir,
Addl: District & Sessions Judge, Mardan. **Member**

The committee considers the promotion for the following posts.

1. Assistant/Reader (BPS-14)

Consequent upon the retirement of the Readers working in various Courts of District Mardan, 04 Posts fall vacant in the same category. The committee unanimously approved the following officials working as Senior Clerks for promotion on the basis of seniority-cum-fitness as Assistant/Reader under Para-4 of appendix Peshawar High Court (Subordinate Court Staff) Recruitment Rules, 2003.

1. Pervez Muhammad
2. Imtiaz Muhammad
3. Bashir Khan

Under the Rules 01 post was left for initial recruitment.

2. Senior Clerks (BPS-09)

03 vacancies were lying vacant while 03 vacancies created due to promotion to BPS-14 from amongst the Senior Clerks, making a total of 06 vacancies. The following officials of the qualifying category as provided in Para-10 of appendix Peshawar High Court (Subordinate Court Staff) Recruitment Rules, 2003 were approved by the committee for promotion on the basis of seniority-cum-fitness.

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Peshawar High Court
25 MAY 2016

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Department
Peshawar High Court
Mardan
13-3-10

1. Said-ul-Naeem
2. Zarin Khan
3. Iftikhar Ali
4. Shafiullah
5. Muhammad Iqbal
6. Imtiaz Ali

Note: Since Departmental appeal against Mr. Iftikhar Ali is pending before august Peshawar High Court, Peshawar bearing No. 11 of 2008, in which the order is still awaited, therefore, Mr. Iftikhar Ali is conditionally promoted subject to order of august Peshawar High Court, Peshawar.

3. Junior Clerks (BPS-07)

03 vacancies were lying vacant while 06 vacancies created due to promotion to BPS-09 from amongst the Junior Clerks, making a total of 09 vacancies. The following officials of the qualifying category as provided in Para-19 of appendix Peshawar High Court (Subordinate Court Staff) Recruitment Rules, 2003 were approved by the committee for promotion on the basis of seniority-cum-fitness.

1. Bilal Khan
2. Haroon Khan
3. Abdul Ghaffar
4. Naeemullah
5. Haq Nawaz
6. Muhammad Tariq

It is pertinent to note that on 16-07-2003, 15 persons were appointed on the basis of initial recruitment and none from the Cadre was promoted as Junior Clerk due to lack of length of service. The committee while keeping into consideration 30% quota reserved ⁱⁿ the Cadre from the date of initial appointment, promoted the above 06 officials as Junior Clerks to fill up the previous deficiency.

Under the Rules remaining 03 posts were left for initial recruitment.

ATTESTED
[Signature]
EXAMINER
Peshawar High Court.
25 MAY 2016

[Signature]
3-10
EXAMINER
Department
Peshawar High Court, Peshawar


4. Daftari/Record Lifter (BPS-03)

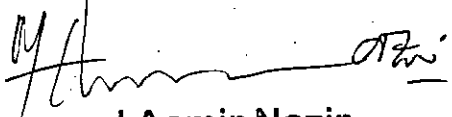
10

01 vacancy was lying vacant while 02 vacancies created due to promotion to BPS-07 from amongst the Daftari/Record Lifter, making a total of 03 vacancies. The following officials of the qualifying category as provided in Peshawar High Court (Subordinate Court Staff) Recruitment Rules, 2003 were approved by the committee for promotion on the basis of seniority-cum-fitness.

1. Aurang Zeb
2. Sabir Ali
3. Dilawar

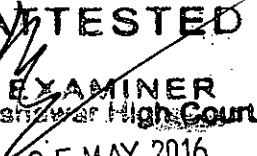
The appointing authority may issue formal promotion orders.


Shansher Ali
Member Inspection Team
Nominee of the
Peshawar High Court,
Peshawar.


Muhammad Aamir Nazir
Addl: District & Sessions Judge,
Mardan
Nominee of
The District & Sessions Judge, Mardan.


Malik Mujtaba Ahmad
District & Sessions Judge,
Mardan.
Chairman


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EXAMINER
Copying Department
Sessions Court, Mardan

ATTESTED

EXAMINER
Peshawar High Court
25 MAY 2016

181

OFFICE ORDER

On the recommendation of the Departmental Promotion Committee meetings held on 13-03-2010, considered the case of the officials/employees of the Sessions Division, Mardan in light of the "Peshawar High Court (Subordinate Court Staff) Recruitment Rules, 2003" and approved the following promotions for the time being subject to the successful completion of the period of probation in accordance with the Prescribed Rules:-

S. No	Name of Official	Present Post & Scale	Promoted to the Scale	Posting
01	Pervez Muhammad	Senior Clerk, BPS-09	BPS-14	Already posted as Rader to the Court of AD&SJ-IV, Mardan.
02	Imtiaz Muhammad	Senior Clerk, BPS-09	BPS-14	Already posted as Rader to the Court of D&SJ, Mardan.
03	Bashir Khan	Senior Clerk, BPS-09	BPS-14	Already posted as Rader to the Court of AD&SJ-I, Mardan.
04	Said-ul-Naeem	Junior Clerk, BPS-07	BPS-09	Already posted as Incharge, Copying Branch, Sessions Court, Mardan.
05	Zarin Khan	Junior Clerk, BPS-07	BPS-09	Already posted as Rader to the Court of Civil Judge-XII, Mardan.
06	Iftikhar Ali	Junior Clerk, BPS-07	BPS-09	Already posted as Copyist/Copy Clerk, Copying Branch, Takht Bhai.
07	Shafiullah	Junior Clerk, BPS-07	BPS-09	Already posted as Muharrir, Civil Court, Takht Bhai.
08	Muhammad Iqbal	Junior Clerk, BPS-07	BPS-09	Already posted as Rader to the Court of AD&SJ-VII, Mardan.
09	Imtiaz Ali	Junior Clerk, BPS-07	BPS-09	Already posted as Rader to the Court of Civil Judge-IV, Mardan.

Certified to be True

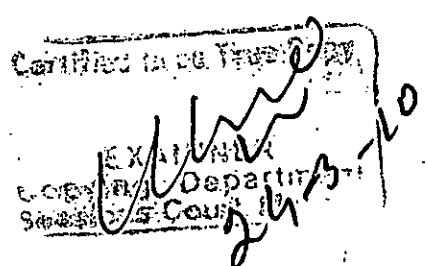
EXAMINER
Department
Peshawar High Court
Mardan

ATTESTED
EXAMINER,
Peshawar High Court
25 MAY 2010

10	Bilal Khan	Record Lifter BPS-03	BPS-07	Posted as Junior Clerk/Assistant Record Keeper in Sessions Record, Mardan
11	Haroon Khan	Daftari BPS-03	BPS-07	Posted as Junior Clerk/Assistant English Clerk to the Sessions Court, Mardan.
12	Abdul-Ghaffar	Naib Qasid BPS-02	BPS-07	Posted as Junior Clerk/Muharrir to the Civil Judge-III, Mardan.
13	Naeemullah	Naib Qasid BPS-02	BPS-07	Posted as Junior Clerk /Muharrir to the Court Civil Judge-XI, Mardan.
14	Haq Nawaz	Naib Qasid BPS-02	BPS-07	Posted as Junior Clerk /Muharrir to the Court ASJ-VI, Mardan
15	Muhammad Tariq	Naib Qasid BPS-02	BPS-07	Posted as Junior Clerk/Muharrir to the Court CJ-III, Takht Bhai.
16	Aurang Zeb	Naib Qasid BPS-02	BPS-03	Posted as Record Lifter in Sessions Record Room, Mardan
17	Sabir Ali	Naib Qasid BPS-02	BPS-03	Posted as Daftari in the Office of Nazir of Sessions Court, Mardan.
18	Dilawar	Sweeper BPS-02	BPS-03	Posted as Daftari in Sessions Court, Mardan.

Note:

1. Since Departmental appeal against Mr. Iftikhar Ali is pending before august Peshawar High Court, Peshawar bearing No. 11 of 2008, in which the order is still awaited, therefore, Mr. Iftikhar Ali is conditionally promoted subject to order of august Peshawar High Court, Peshawar.
2. This order will be effect from the date of Departmental Promotion Committee meeting held on 13-03-2010.



 EXAMINER
 Sessions Court
 Mardan

(Malik Mujtaba Ahmad)
 District & Sessions Judge,
 Mardan.

ATTENDANCE
 EXAMINER
 Peshawar High Court
 25 MAY 2016

No. 1412 - 1442

Dated: Mardan the 16 /03/2010

(13)

Copy forwarded to:-

- 1. Registrar, Peshawar High Court, Peshawar.
- 2. Judicial Officers concerned.
- 3. Senior Civil Judge, Mardan.
- 4. District Accountant Office, Mardan.
- 5. Nazir Sessions Court, Mardan.
- 6. Officials concerned.

For information and necessary action.

District & Sessions Judge,
Mardan

o/c

EXAMINER
 Peshawar High Court
 Mardan

25/3/10

ATTESTED
 EXAMINER
 Peshawar High Court
 25 MAY 2016

vide Para 13(1)

Confidential

E. (prosa)

Patricia/
Naib Qasid/
Mardan.

Ann E (S)
14

GOVERNMENT OF PUNJAB
Judicial Department.

CONFIDENTIAL REPORT
for the period from 19-7-2003 to 31-12-2003

PART-I

- Name Serfaraz
- Designation (when appointed) Naib Qasid
- Present Designation -do-
- Date of Birth 4-4-1975
- Date of entry into govt. service 19-7-2003
- Qualification at the time of appointment Matric
- Branches/Sections in which employed during the period. attached to the Court of ASJ-II-Mardan.
- Qualification acquired after employment _____

PART-II

A	PERFORMANCE	B				
		1	2	3	4	5
1	Thriftness and accuracy in carrying out work	-	✓	-	-	-
2	Scope of responsibility	-	✓	-	-	-
3	Interest in his work	-	✓	-	-	-
4	Whether he possesses adequate knowledge of the work assigned to him.	-	✓	-	-	-

- (b) Integrity :-
- independent
 - reported to be corrupt
 - believed to be corrupt because :-
 - honorary consideration
 - Other consideration

TESTED
EXAMINEE
Peshawar High Court
25 JAN 2004

Confidential to be Treas...
EXAMINER
Judicial Department
Court, Mardan
24-3-10

- 6. Knowledge of Typing NO
 - 7. Trustworthy Yes.
 - 8. Honest Yes.
 - 9. Confident Yes.
- Worth for any responsible job.

PART-III

	By Reporting Officer	By Countersigning Officer
a) Recommended for accelerated promotion.	<input type="checkbox"/>	<input type="checkbox"/>
b) Fit for promotion.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Recently promoted/appointed, consideration for promotion premature.	<input type="checkbox"/>	<input type="checkbox"/>
d) Not yet fit for promotion.	<input type="checkbox"/>	<input type="checkbox"/>
e) unfit for further promotion.	<input type="checkbox"/>	<input type="checkbox"/>

PART-IV

General Assessment	By Reporting Officer	By Countersigning Officer
i) Very good.	<input type="checkbox"/>	<input type="checkbox"/>
ii) good.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Average.	<input type="checkbox"/>	<input type="checkbox"/>
iv) Below Average.	<input type="checkbox"/>	<input type="checkbox"/>
v) poor	<input type="checkbox"/>	<input type="checkbox"/>

PEN PICTURE

An energetic person who is trustworthy & also efficient.

Reporting Officer's Signature: *[Signature]*
 Name (in block letters): **S. KAUSAR ABBAS ZAWI**
 Designation: **ADDL SESSIONS JUDGE**

General Remarks by higher Officers

I agree

[Signature]

Sessions Judge/Zila
 Syed Afzar Shah

APPENDIX-X vide Para 18(i)

CONFIDENTIAL

Form E Fresh

Form for Qasids/
Naib Qasids/
Chaukidars.

15A

GOVERNMENT OF N.W.F.P.
Judicial Department.

CONFIDENTIAL REPORT
for the period from 1-1-2004 TO 31-12-2004

PART-I

- 1. Name Sarfaraz Khan
- 2. Designation (when appointed) _____
- 3. Present Designation Naib Qasid
- 4. Date of Birth _____
- 5. Date of entry into Govt. Service _____
- 6. Qualification at the time of appointment _____
- 7. Branches/sections in which employed during the period. Add; Sessions Judge-I-Mardan.
- 8. Qualification acquired after employment _____

PART-II

A	PERFORMANCE				
	AI	A	B	C	D
1) Promptness and accuracy in disposing of work		✓			
2) Sense of responsibility		✓			
3) Takes interest in his work		✓			
4) Whether he possesses adequate knowledge of the work assigned to him.		✓			

- 5) Integrity :-
 - a) Incorruptible
 - b) Reported to be corrupt
 - c) Believed to be corrupt because :-
 - d) Monetary consideration
 - e) Other consideration

RECEIVED
153
316

White
24-3-10

P.T.O.

16

- 6. Knowledge of Typing -
- 7. Trustworthy Yes
- 8. Honest Yes
- 9. Confident Yes
- 10. Fit for any responsible job. Yes

PART-III

	By Reporting Officer	By Countersigning Officer
a) Recommended for accelerated promotion.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Fit for promotion.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Recently promoted/appointed, consideration for promotion premature.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Not yet fit for promotion.	<input type="checkbox"/>	<input type="checkbox"/>
e) Unfit for further promotion.	<input type="checkbox"/>	<input type="checkbox"/>

PART-IV

General Assessment	By Reporting Officer	By Countersigning Officer
i) Very Good.	<input type="checkbox"/>	<input type="checkbox"/>
ii) Good.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Average.	<input type="checkbox"/>	<input type="checkbox"/>
iv) Below Average.	<input type="checkbox"/>	<input type="checkbox"/>
v) Poor	<input type="checkbox"/>	<input type="checkbox"/>

TESTED
 25 MAY 2010

PEN PICTURE

He takes interest in the work assigned to him. Very much punctual, honest & confident & proved himself to be a good choice for the post.

Reporting Officer's Signature: *[Signature]*
 Name (in Block Letters): KAUSAR ABBAS
 Designation: Addl. Sessions Judge.
 Dated: _____

General Remarks by higher Officers

[Handwritten Signature]

Countersigning Officer's Signature

(Name (In Block Letters))

Dated _____ Designation _____

ANNEXURE-I vide Para 8(i)

CONFIDENTIAL

17

Form E Fresh
Form for Baffrics/
Qasids/Naib Qasids/
Chowkidars.

GOVERNMENT OF N.W.F.P. W.E.F. 1-1-2005 to 13-7-2005
Judicial Department.

CONFIDENTIAL REPORT
for the period from _____ TO _____

PART-I

1. Name Sarfraz

2. Designation (when appointed) 1-8-2003

3. Present Designation Naib Qasid

4. Date of Birth 4-4-1975

5. Date of entry into Govt. Service 1-8-2003

6. Qualification at the time of appointment Matric

7. Branches/Sections in which employed during the period Sessions Court, Mardan.

8. Qualification acquired after employment -

PART-II

A. PERFORMANCE

	A	B	C	D
1) Promptness and accuracy in disposing of work	C			
2) Sense of responsibility	C			
3) Takes interest in his work	C			
4) Whether he possesses adequate knowledge of the work assigned to him	C			

5) Integrity :-

a) Incorruptible _____

b) Reported to be corrupt _____

c) Believed to be corrupt because :- _____

d) Monetary consideration _____

e) Other consideration _____

ATTESTED
EXAMINER
Peshawar High Court
25 MAY 2016

P.T.O.

Certified to be True
EXAMINER
Copying Department
Sessions Court, Mardan

(20) (18)

- 6. Knowledge of P.P.Ping
 - 7. Trustworthiness 75
 - 8. Honesty
 - 9. Confidence
10. Fit for any responsible job.

PART-III

BY _____ BY _____
 Reporting Officer Countersigning Officer

- a) Recommended for accelerated promotion.
- b) Fit for promotion.
- c) Recently promoted/appointed, consideration for promotion premature.
- d) Not yet fit for promotion.
- e) unfit for further promotion.

PART-IV

General assessment BY Reporting Officer BY Countersigning Officer

1) Very good.

II) Good.

III) Average.

IV) Below Average.

V) Poor

PER PICTURE

Farooq Boriar

Reporting Officer's Signature *ALP* SYED AFSAR SHAH
 Name (in block letters)
 Designation

Countersigning Officer's Signature *SYED AFSAR SHAH*
 Name (in block letters)
 Designation

General Remarks by Higher Officers

Not to be filled



Dated _____ Designation _____

ATTESTED
EXAMINER
 High Court
 25 MAY 2016

vide Paragraph (1)

19

Form E Fresh Order

Form for Ballees/
Gazets/Inch-pasals/
Chowkidars

GOVERNMENT OF N.W.F.P. W.P.F. 15-7-2005 to 31-12-2005

Judicial

CONFIDENTIAL REPORT

for the period from 15-7-2005 to 31-12-2005

1. Name: Sarfaraz

2. Designation (when appointed): Naib Qasid

3. Present Designation: Naib Qasid

4. Date of Birth: 4-4-1975

5. Date of entry into Govt. Service: 12-8-2003

6. Qualification at the time of appointment: Matric

7. Branches/Sections in which employed during the period: Sessions Court Mardan

8. Qualification acquired after employment: Sessions Court Mardan

9. Branches/Sections in which employed during the period: Sessions Court Mardan

10. Qualification at the time of appointment: Matric

Sl. No.	Name	Designation (when appointed)	Present Designation	Date of Birth	Date of entry into Govt. Service
1	Sarfaraz	Naib Qasid	Naib Qasid	4-4-1975	12-8-2003

Integrity

31-12-2005

GOVERNMENT OF N.W.F.P. W.P.F. 15-7-2005 to 31-12-2005

Judicial

ATTESTED

EXAMINER
Peshawar High Court

5 MAY 2016

vide Paragraph (1)

20 20

nil

- 6. Knowledge of Typing
- 7. Trustworthy
- 8. Honest
- 9. Confident
- 10. fit for any responsible job.

PART-III

	By Reporting Officer	By Countersigning Officer
a) Recommended for accelerated promotion.	<input type="checkbox"/>	<input type="checkbox"/>
b) fit for promotion.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Recently promoted/appointed, consideration for promotion premature.	<input type="checkbox"/>	<input type="checkbox"/>
d) Not yet fit for promotion.	<input type="checkbox"/>	<input type="checkbox"/>
e) Unfit for further promotion.	<input type="checkbox"/>	<input type="checkbox"/>

PART-IV

General Assessment	By Reporting Officer	By Countersigning Officer
i) Very Good.	<input type="checkbox"/>	<input type="checkbox"/>
ii) Good.	<input type="checkbox"/>	<input type="checkbox"/>
iii) Average.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Below Average.	<input type="checkbox"/>	<input type="checkbox"/>
v) Poor	<input type="checkbox"/>	<input type="checkbox"/>

ARRESTED
 25 MAY 2013

PFN PICTURE

He is a gentleman and has performed his duty accordingly.

Reporting Officer's Signature: *[Signature]*
 Name (in Block Letters): *Devi A. Sessim Jindal*
 Designation: *...*
 Dated: _____

Countersigning Officer's Signature: _____
 Name (in Block Letters): _____
 Designation: _____
 Dated: _____

[Handwritten signature]
20-3-10

10

Form "E" Fresh

Form for Daftaries/
Qasid/Naib Qasids/
Chowkidars.

21

GOVERNEMENT OF N.W.F.P
Judicial Department
CONFIDENTIAL REPORT

Period from 1-1-2006 upto 28-8-2006

Part-I

- 1. Name Sarfaraz Khan
- 2. Designation (When Appointed) Naib Qasid
- 3. Present Designation -do-
- 4. Date of Birth _____
- 5. Date of Entry into Govt. Service _____
- 6. Qualification at the time of appointment _____
- 7. Branches/Sections in which employed during the period Sessions Court, Office, Mardan.
- 8. Qualification acquired after employment _____

PART-II

A	PERFORMANCE	A1	A	B	C	D
1)	Promptness and accuracy in disposing of work		9			
2)	Sense of Responsibility			9		
3)	Takes interest in his work			9		
4)	Whether he possesses adequate knowledge of the work assigned to him.			9		

- 5) Integrity:-
 - a) Incorruptible _____
 - Reporte to be corrupt _____
 - Believed to be corrupt _____
 - because:-
 - Monetary consideration _____
 - Other consideration _____

ATTESTED
EXAMINER
25 MAY 2016

21-3-20

(22)

22

- 6. Knowledge of Typing *NO*
- 7. Trustworthy *YES*
- 8. Honest *YES*
- 9. Confident *YES*
- 10. Fit for any responsible job. *M*

PART-III

	By Reporting Officer	By Countersigning Officer
a) Recommended for accelerated promotion.	<input type="checkbox"/>	<input type="checkbox"/>
b) Fir for promotion.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Recently promoted/appointed, consideration for promotion pre-mature	<input type="checkbox"/>	<input type="checkbox"/>
d) Not yet fir for promotion.	<input type="checkbox"/>	<input type="checkbox"/>
e) Unfit for further promotion.	<input type="checkbox"/>	<input type="checkbox"/>

PART-IV

- General Assessment
- i) Very Good.
 - ii) Good. *9*
 - iii) Average.
 - iv) Below Average.
 - v) Poor.

REGISTERED
EXAMINER
 25 MAY 2016

PEN PICTURE

He is good official.

Reporting Office's Signature _____
 Name (in Block Letters) *IRSHAD QAISAR*
 Designation *Judge Accountability Court Pesh*

Dated: _____

General Remarks by higher Officers _____

Countersigning officer's Signature _____
 Name (in Block Letters) _____
 Designation _____

EXAMINER
Accountability Court Pesh
25/5/2016

(Mrs. Irshad Qaisar)
 Judge
 Accountability Court No.1,
 Peshawar.

23

APPENDIX -X Vide Para 18(1)

Confidential

Form "E" Fresh
 Form for Daftaries/
 Qasid/Naib Qasids/
 Chowkidars.

GOVERNEMENT OF N.W.F.P.
 JUDICIAL Department
 CONFIDENTIAL REPORT

Period from 25-9-2006 upto 31-12-2006.

Part-I

- 1. Name Sarfraz Khan
- 2. Designation (When Appointed) Naib Qasid
- 3. Present Designation Naib Qasid
- 4. Date of Birth 04-04-1975
- 5. Date of Entry into Govt. Service 01-08-2003
- 6. Qualification at the time of appointment _____
- 7. Branches/Sections in which employed during the period Sessions Court/Office, Mardan.
- 8. Qualification acquired after employment _____

PAR -II

A	PERFORMANCE	A	B	C	D
1) Promptness and accuracy in disposing of work		<u>A</u>			
2) Sense of Responsibility		<u>A</u>			
3) Takes interest in his work		<u>A</u>			
4) Whether he possesses adequate knowledge of the work assigned to him.		<u>A</u>			

- 5) Integrity -
 - a) Incorruptible _____
 - Reporte to be corrupt _____
 - Believed to be corrupt _____
 - because:-
 - Monetary consideration _____
 - Other consideration _____

ATTESTED
 EXAMINER
 Peshawar High Court
 25 MAY 2016

Certified to be True Copy
 EXAMINER
 Peshawar High Court
 25/5/16

26/

24/

- 6. Knowledge of Typing *A*
- 7. Trustworthy *AV*
- 8. Honest *AV*
- 9. Confident *AV*
- 10. Fit for any responsible job. *AV*

PART-III

	By Reporting Officer	By Countersigning Officer
a) Recommended for accelerated promotion.	<input type="checkbox"/>	<input type="checkbox"/>
b) Fir for promotion.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Recently promoted/appointed, consideration for promotion pre-mature	<input type="checkbox"/>	<input type="checkbox"/>
d) Not yet fir for promotion.	<input type="checkbox"/>	<input type="checkbox"/>
e) Unfit for further promotion.	<input type="checkbox"/>	<input type="checkbox"/>

PART-IV

- General Assessment
- i) Very Good.
 - ii) Good. *AV*
 - iii) Average.
 - iv) Below Average.
 - v) Poor

PEN PICTURE

A. J. ...

[Signature]

Reporting Office's Signature _____
 Name (in Block Letters) _____
 Designation _____

Dated: _____

General Remarks by higher Officers

[Stamp: Certified to be True Copy]

[Signature]

[Stamp: Department]

Countersigning officer's Signature _____
 Name (in Block Letters) _____
 Designation _____

Dated: _____

REGISTERED
 OFFICER
 25 MAY 2016

APPENDIX -X Vide Para 18(1)

95
Confidential

Form "E" Fresh
Form for Daftaries/
Qasid/Naib Qasids/
Chowkidars.

GOVERNEMENT OF N.W.F.P
JUDICIAL DEPARTMENT
CONFIDENTIAL REPORT

1-1-2009 to 31-12-2009

Part-I

1. Name Sarfaraz Khan

2. Designation (When Appointed) Naib Qasid

3. Present Designation -do-

4. Date of Birth 04-04-1975

5. Date of Entry into Govt. Service 01-08-2003

6. Qualification at the time of appointment Matric

7. Branches/Sections in which employed during the period Attached to the Court of VI-Mardan

8. Qualification acquired after employment Nil

PART-II

A	PERFORMANCE					
		A1	A	B	C	D
1)	Promptness and accuracy in disposing of work			✓		
2)	Sense of Responsibility			✓		
3)	Takes interest in his work				✓	
4)	Whether he possesses adequate knowledge of the work assigned to him.			✓		

5) Integrity:-

a) Incorruptible _____

Reporte to be corrupt _____

Believed to be corrupt because:- _____

Monetary consideration _____

Other consideration _____

TESTED
EXAMINER
Rawalakot High Court
25 MAY 2016

EXAMINER
Judicial Department
Rawalakot High Court

- 6. Knowledge of Typing NO
- 7. Trustworthy Yes
- 8. Honest Yes
- 9. Confident Yes
- 10. Fit for any responsible job. Yes

(26)

PART-III

	By Reporting Officer	By Countersigning Officer
a) Recommended for accelerated promotion.	<input type="checkbox"/>	<input type="checkbox"/>
b) Fit for promotion.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c) Recently promoted/appointed, consideration for promotion pre-mature	<input type="checkbox"/>	<input type="checkbox"/>
d) Not yet fit for promotion.	<input type="checkbox"/>	<input type="checkbox"/>
e) Unfit for further promotion.	<input type="checkbox"/>	<input type="checkbox"/>

PART-IV

General Assessment

i) Very Good.	
ii) Good.	<input checked="" type="checkbox"/>
iii) Average.	<input checked="" type="checkbox"/>
iv) Below Average.	
v) Poor	

PEN PICTURE

The official under report is handwriting and trustworthy person.

Reporting Office's Signature [Signature]
 Name (in Block Letters) MUHAMMAD AAMIR NAZIR
 Designation AD & SJ, Mardan.
 Dated: 23/01/10.

General Remarks by higher Officers

I agree.

Countersigning officer's Signature [Signature]
 Name (in Block Letters) (محمد شاکر)
 Designation DBS
 Dated: 23.2.2010

ATTESTED
KAMINER
 25 MAY 2016

Period: 1.1.2009 to 25.8.2009

APPENDIX -X Vide Para 18(1)

Form "E" Fresh

Form for Daftaries/
Qasid/Naib Qasids/
Chowkidars.

Ann - F

Confidential

(27)

(30)

(Signature)

GOVERNEMENT OF N.W.F.P
JUDICIAL DEPARTMENT
CONFIDENTIAL REPORT

19.7
(1-7)-2008

to

31-12-2008

Part-I

1. Name Sarfaraz Khan

2. Designation (When Appointed) Naib Qasid

3. Present Designation -do-

4. Date of Birth 4-4-1975

5. Date of Entry into Govt. Service 1-8-2003

6. Qualification at the time of appointment Matric

7. Branches/Sections in which employed during the period Attached to the Court of Addl; Sessions Judge- IV-Mardan.

8. Qualification acquired after employment Matric

PART-II

A PERFORMANCE

	A1	A	B	C	D
1) Promptness and accuracy in disposing of work		✓			
2) Sense of Responsibility			✓		
3) Takes interest in his work			✓		
4) Whether he possesses adequate knowledge of the work assigned to him.			✓		

5) Integrity:-

a) Incorruptible

Reporte to be corrupt

Believed to be corrupt because:-

Monetary consideration

Other consideration

ATTESTED
EXAMINER
25 MAY 2016

(Signature)
3-x

- 6. Knowledge of Typing *no*
- 7. Trustworthy *no*
- 8. Honest *has dubious reputation*
- 9. Confident *no*
- 10. Fit for any responsible job.

(28)

PART-III

	By Reporting Officer	By Countersigning Officer
a) Recommended for accelerated promotion.	<input type="checkbox"/>	<input type="checkbox"/>
b) Fir for promotion.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Recently promoted/appointed, consideration for promotion pre-mature	<input type="checkbox"/>	<input type="checkbox"/>
d) Not yet fir for promotion.	<input type="checkbox"/>	<input type="checkbox"/>
e) Unfit for further promotion.	<input type="checkbox"/>	<input type="checkbox"/>

PART-IV

- General Assessment
- i) Very Good.
 - ii) Good.
 - iii) Average.
 - iv) Below Average.
 - v) Poor

PEN PICTURE

He is active and cooperates with other staff, however enjoys dubious reputation.

Reporting Office's Signature *[Signature]*
 Name (in Block Letters) SUPD. MOHAMED L. HASSAN
 Designation Asst. Dir. Mardan

Dated: 19/2/09

General Remarks by higher Officers

The official shall guard his reputation.

ATTESTED
EXAMINER
 Peshawar High Court

Countersigning officer's Signature *[Signature]*
 Name (in Block Letters) (Signature)
 Designation D.S.J.

Dated: 25 MAY 2016

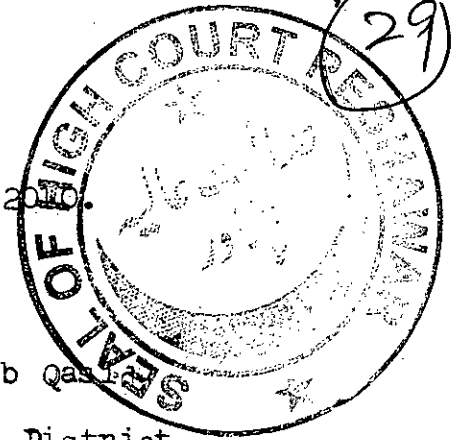
EXAMINER
 Peshawar High Court
 Mardan

Ann - G⁽¹⁾

29

BEFORE THE HONOURABLE ADMINISTRATIVE JUDGE, PESHAWAR HIGH
COURT, PESHAWAR/APPELLATE AUTHORITY,
P E S H A W A R

Departmental Appeal No. 202 / 2010.



Sarfraz Khan son of Zebta Khan Naib Qasid
attached to the Court of Additional District
& Sessions Judge-I, Mardan..... Appellant.

Versus

1. District & Sessions Judge, Mardan/Chairman
Departmental Promotion Committee.
2. Mr. Muhammad Tariq Junior Clerk/Muharrir attached
to the Court of Civil Judge-III Takht Bhai,
District Mardan... .. Respondents.

Departmental appeal against order of
promotion of respondent No.2 dated 16.3.2010
passed by respondent No.1. which is illegal,
against law & facts.

PRAYER:

ON ACCEPTANCE OF THIS APPEAL, ORDER OF
PROMOTION DATED 16/03/2010 MAY PLEASE BE
MODIFIED BY INCLUDING NAME OF APPELLANT
INSTEAD OF RESPONDENT No.2 WITH ALL BACK
BENEFITS. ANY OTHER RELIEF DEEMED FIT MAY
ALSO BE GRACIOUSLY GRANTED.

ATTESTED
[Signature]
EXAMINER
Peshawar High Court
25 MAY 2016

R/Sir,

Appellant humbly submits as under:-

1. That appellant was appointed as Naib Qasid
vide order dated 19/07/2003. (Copy of order
dated 19/07/2003 is Annexure as 'A')

2. That the tentative seniority list was issued on 22/01/2010 and invited objections within month. However, as no objections were raised; thus it is deemed as final seniority list which shows appellant senior to respondent No.2. (Copy of seniority list is Annexure-'B').
3. That departmental promotion committee recommended Muhammad Tariq (respondent No.2) for promotion to the post of Junior Clerk. (Copy of minutes of DPC is Annexure-'C').
4. That respondent No.2 is promoted as Junior Clerk/ Mbharrir to the Court of Civil Judge-III, Takht Bhai which vide order dated 16/03/2010, which is illegal against law and facts. (Copy of order dt. 16.3.2010 is attached as Annexure-'D').
5. That appellant has rendered meritorious service, to the entire satisfaction of his superior and not only earned best ACR's but was even recommended for accelerated promotion. (Copies of ACRs from 19/07/2003 to 31/12/2009 are attached as Annexure-'E').
6. That A.C.R. for the period from ~~18~~ 19/07/2003 to 31/12/2009 is average and average ACR as per judgment of superior Courts cannot be treated as adverse. Even in the said ACR, appellant is declared fit for promotion that is why the same was not communicated to appellant. (Copy of ACR is annexure-'F').

ATTESTED
EXAMINER
Peshawar High Court
25 MAY 2016

7. That appellant was not considered for promotion to the post of Junior Clerk and vide order dated 16/03/2010, respondent No.2 is promoted which is illegal, against law and facts on the following grounds:-

G R O U N D S

- A: Because admittedly appellant is senior to respondent No.2 and ~~xxx~~ possess the required length of service for promotion to the post of Junior Clerk.
- B: Because after impugned promotion order, appellant was orally informed that ACR of appellant for the period from 19/07/2003 to 31/12/2009 is adverse but appellant was never communicated the same as adverse.
- C: Because in the same ACR, appellant has been declared fit for promotion and the remarks, if any, are advisory which cannot be treated as adverse.

In part-IV of ACR which declares the x status of total ACR, the same is graded as average and not even below average or poor. Moreover, there is no column mark through red entry to declare it as adverse.

- D: Because the opinion of authority "to guard his reputation" is advisory in nature and the subordinate Judiciary Service Tribunal and the Hon'ble Chief Justice of this hon'ble Court has treated such type of remarks as advisory in case of ASJ's.

ATTESTED
EXAMINER
Peshawar High Court
25 MAY 2016

(Copies of decision of Tariq Yousafzai and
and Sardar Arshad are Annexure-'G'0).

E: Because the period of this ACR is also less
than six months and it should have been
authored by the Officer, with whom appellant
served for more than six months.

F: Because the ACRs prior to the mentioned
period and after the same are very good, which
speaks of the fact that there is no fault
in appellant.

G: Because there is no censuring/warning
before the ACR which are mandatory as per
instructions prior to adverse ACR.

H: Because appellant has wrongly being not considered
for promotion, as obvious from minutes of DFC.

It is, therefore, humbly prayed that on acceptance
of this appeal, order of promotion dated 16/03/2010
may please be modified by including name of appellant
instead of respondent No.2 with all back benefits.
Any other relief deemed fit may also be graciously
granted.

Appellant *Sarfraz Khan*

through:

Dated: 27/03/2010.

(Signature)
(AMJAD ALI ADVOCATE)
Supreme Court
at Mardan.

ATTESTED
(Signature)
EXAMINER
Supreme Court
25 MAY 2010

BEFORE THE HON'BLE ADMINISTRATIVE JUDGE, PESHAWAR HIGH COURT
PESHAWAR/APPELLATE AUTHORITY.

(33)

Departmental Appeal No. _____/2010.

Sarfraz Khan Appellant.

Versus

District & Sessions Judge/Chairman Departmental Promotion
Committee, Mardan etc. Respondents.

DEPARTMENTAL APPEAL

DEPARTMENTAL APPEAL

A F F I D A V I T

I, Sarfraz Khan son of Zebta Khan, Naib Qasid
appellant, do hereby state on solemn affirmation that
contents of the attached appeal are true and correct
to the best of my knowledge and belief. Moreover, nothing
has been concealed from this honourable Court.

Dated: 27/03/2010.

Deponent Sarfraz Khan
SARFARAZ KHAN

Identified by Muzaf Ali Advi
Supreme Court.

CERTIFIED TO BE TRUE COPY

Peshawar High Court
Authority under the
The Court of Sessions

25 MAY 2010

No 11691

Dated Mardan the 29/09/2010.

34

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From

The District & Sessions Judge,
Mardan.

To

The Registrar,
Peshawar High Court,
Peshawar.

PESHAWAR HIGH COURT PESHAWAR	
Receipt No.	16087
Date	29/09/10
For action	CD
Signature	[Signature]

Subject: DEPARTMENTAL APPEAL No. 2/2010.
Sarfarz Khan ... Vs ... D&SJ, Mardan.

Dear Sir,

Please refer to your letter bearing No. 6152/Admn dated 03-04-2010 on the subject noted above and to submit my Para-wise comments as under:

Para - 01.

Correct.

Para - 02.

Correct.

Para - 03.

Correct.

Paras - 04 & 05.

Incorrect. Muhammad Tariq Naib Qasid (Respondent No. 2) was promoted by the Departmental Promotion Committee as Junior Clerk and appellant was dropped due to the adverse remarks notified in his Annual Confidential Report for the year 2008, which was duly communicated to the appellant vide this office letter bearing No. 3155 dated 03-10-2009. Copy of the same is annexed as "Annex: A" for ready reference.

His case was considered and on account of adverse remarks, he was not found fit for promotion.

29/09/10

ATTESTED
EXAMINER
Peshawar High Court
25 MAY 2016

Para - 06.

Subject to proof.

35 (10)

Para - 07.

The appellant being found not reliable was not considered for promotion. The order is legal.

Para-Wise comments are submitted as directed, please.

(Malik Mujtaba Ahmad)
District & Sessions Judge,
Mardan.

[Signature]
CERTIFIED TO BE TRUE COPY
Peshawar High Court, Peshawar
Authorized under Article 87 of
The Constitution of Pakistan Order 1988
25 MAY 2016

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JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

Departmental Appeal No.02/2010

JUDGMENT

Date of hearing.....2.5.2016.....

Petitioner(s) (Sarfraz Khan) by Mr. Amjad Ali, Advocate
Respondent(s) (D.C.S.J.) by Mr. Hamza Ahmad, English
clerk for Session Judge, Mardan.

YAHYA AFRIDI, J. Through the instant
Departmental Appeal, Sarfaraz Khan, appellant, seeks
the following prayer:

"It is, therefore, humbly prayed that on acceptance of this appeal order of promotion dated 16.03.2010 may please be modified by including name of appellant instead of respondent No.2 with all back benefits. Any other relief deemed fit may also be graciously granted."

2. Brief and essential facts of the case, leading to filing of the present departmental appeal are that, on 19.07.2003, the appellant was appointed as Naib Qasid, in the office District and Sessions Judge, Mardan; that according to the seniority list the appellant was senior to Muhammad Tariq, respondent No.2; that the Departmental Promotion Committee recommended respondent No.2, for promotion to the post of *Junior Clerk*, and vide order dated 16.3.2010;

ATTESTED

EXAMINER
Peshawar High Court

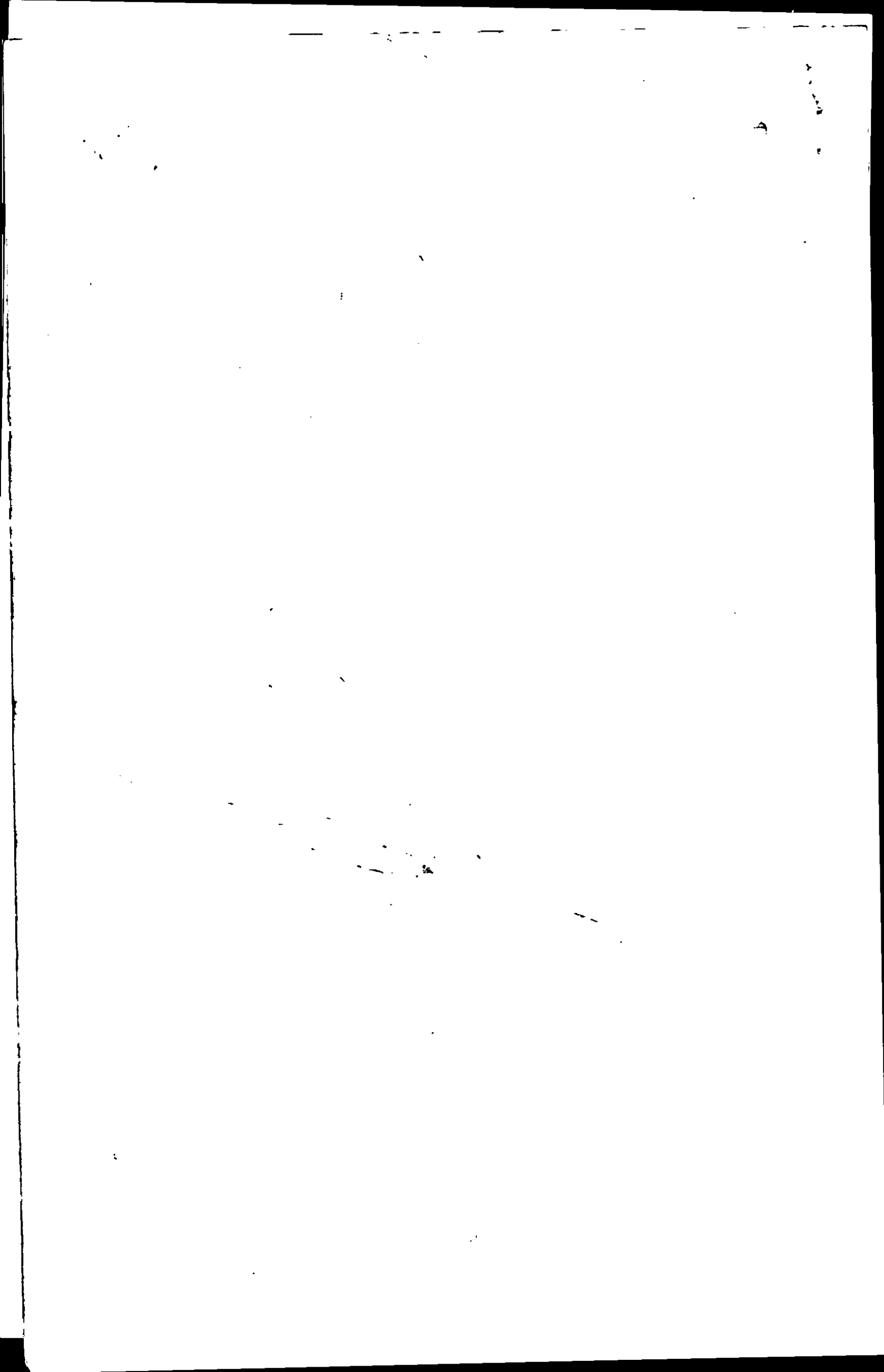
19 MAY 2016

and that the present appellant, despite his seniority was not considered for promotion.

3. Perusal of the record would show that the appellant had earned ACRs for two different periods from the one and same countersigning authority, the District and Sessions Judge, Mardan. It was in the subsequent ACR that, the appellant was declared to have "*dubious reputation and he was advised to guard his reputation*", while in the earlier period, the ACR by the same District and Sessions Judge had reported the appellant to be a *trustworthy person*. It means that the District and Sessions Judge had no illwill or grudge with the appellant and he had reported the deterioration in the performance and working of the appellant. This being the position, the Departmental Promotion Committee was correct in not promoting the appellant in the said period. However, it would be pertinent to note that this decision should not be taken as a bar against the appellant to be considered for promotion in future. The appellant is to be considered for promotion appropriately and in accordance with law, keeping in view his ACRs for the preceding five years.

ATTESTED
EXAMINER
Peshawar High Court
19 MAY 2016

Keeping in view the facts and circumstances of this case, the impugned order does



Amr-H
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BEFORE THE HON'BLE SUBORDINATE JUDICIARY
SERVICE TRIBUNAL, N.W.F.P. PESHAWAR.

AMJAD ALI
Advocate
SUPREME COURT

[Handwritten signature]

In Re: Service Appeal No. 05 / 2007.

Tariq Yousaf Zai,
Additional District and Sessions Judge-V,
Mansehra.....APPELLANT.

Versus

1. The Hon'ble Administration Committee through the Registrar, Peshawar High Court, Peshawar.
2. The Registrar, Peshawar High Court, Peshawar.....RESPONDENTS.

35
FILED TODAY
RECEIVED
SUBORDINATE JUDICIARY
8/1/07

APPEAL u/s 5 of the NWFP Subordinate Judiciary Service Tribunal Act, 1991 against the adverse remarks recorded in the ACR for the period 01.01.2004 to 31.12.2004 by the Hon'ble Administration Committee, conveyed through letter No. 20/Confdl: dated 31.08.2006.

Prayer in Appeal: That the adverse remarks recorded in the ACR for the period 01.01.2004 to 31.12.2004 may kindly be expunged / representation thereagainst accepted.

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

S.J.S.A.No.5/2007.

JUDGMENT

Date of hearing...1.2.2010, date of announcement 4.2.2010.

Appellant. Mr.Amjad Ali, Advocate, for appellant alongwith appellant.

Respondents Mr.Zia-ur-Rehman Khan, AG, and Syed Anis Badshah Bukhari, Additional M.I.T., for the respondents.

ABDUL AZIZ KUNDI, J. - This judgment shall also dispose of subordinate Judiciary Service Appeal No.6/2007, both filed by Tariq Yousafzai, Additional District and Sessions Judge, praying for expunction of adverse remarks recorded in his ACR/PERs by Administration Committee of the High Court and conveyed to him by Registrar, Peshawar High Court, as per details below: -

1-S.J.Service Appeal No.5/2007.

Vide letter No.20/Confidential dated 31st August, 2006 the following remarks were conveyed for the period 01.01.2004 to 31.12.2004.

- 1-Pen Picture:- Be mindful of his reputation.
2-Fitness for promotion. Not fit.*

2-S.J.Service Appeal No.6/2007.

Vide letter No.21/Confidential dated 31st August, 2006, the following remarks were conveyed for the period 1.1.2005 to 31.12.2005.

- 1-Pen Picture: Be mindful of his reputation.
2-Fitness for promotion:- Not fit.*

Mr. S. S. S.

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Amjad Ali
Syed Anis Badshah Bukhari

(11)

(30)

As per averments in the memo of appeals, the representations dated 15.9.2006 against the said entries were not responded by the Administration Committee of the High Court, hence these appeals under section 5 of N.W.F.P. Subordinate Judiciary Service Tribunal Act, 1991.

2- We have heard learned counsel for the appellant in both the appeals and Advocate General, N.W.F.P. for the respondents. Record perused.

3- Learned counsel representing appellant argued that the impugned adverse entries were conveyed to the appellant simultaneously through two different letters dated 31-08-2006 and that under the relevant instructions appellant was entitled to prior warning/counseling which was never done; that the impugned entries, particularly the first one "*Be mindful of his reputation*" is ambiguous and conveys no clear message; that the communications were made much delayed in violation of the relevant instructions. It was further argued that a number of other judicial officers had been conveyed almost similar entries and that the Administration Committee, later on, in the year 2008 on acceptance of their representations expunged the said entries in case of a number of judicial officers, while that of the appellant and some others were deferred for providing them a chance of hearing, which was not given and thus it was argued that appellant is also entitled to the same treatment.

Mrs. Sunda

4- Learned Advocate General, however, opposed the appeal and argued that the appeal merits dismissal, as through the impugned entries justice has been done and that late

(42) (30)

communication of entries in ACRs/PERs perse makes no difference, as members of the Administration Committee are required to attend many other pressing issues in addition to their routine judicial work.

5- Record shows that appellant joined judicial service as Additional District & Sessions Judge on 3-10-2001 and for the period January to December, 2002 and again January to December, 2003 his performance was evaluated as good but for the subsequent two years i.e. January to December, 2004 and again for January to December, 2005 his performance was evaluated as the one impugned in these appeals.

6- The arguments on behalf of the appellant that the impugned entries in his ACRs/PERs in the absence of prior warning/counseling and because of delayed communication are not sustainable and liable to be expunged are without force and thus repelled. In the case of "Ch. Shabbir Hussain and others Vs- Registrar, Lahore High Court, Lahore and others" P.I.D. 2004 S.C.191 the Hon'ble Supreme Court of Pakistan has exhaustingly dealt with the questions raised herein above and as regards counseling it was held that the requirement is directory for want of a penal consequence, therefore, adverse remarks recorded sans counseling were held valid. The said judgment further proceeds to hold that in view of pre-occupation of the Judges of the High Court with ever increasing judicial work, delay in initiating ACRs of judicial officers and conveying adverse remarks to them is immaterial and cannot obliterate the adverse remarks in question.

Mirza

(43) (3)

7- This is, however, not the end of the matter. In the instant case the entries recorded and impugned herein are ambiguous and do not convey the true message, particularly entry No.1 for both the years.

8- Besides entries of the same nature were made in the ACRs/PERs of a number of other judicial officers but later on the Administration Committee of the High Court on acceptance of the representations of some of the officers expunged the said entries on 14.07.2008. We summoned the minutes of the said meeting for our perusal and found that on the said date representation of the appellant was also considered but deferred for some other occasion in order to provide a chance of personal hearing, which occasion did not come till date. Thus on the principle of equal treatment too the remarks are liable to be expunged.

9- Accordingly, while allowing both these appeals, we order that the impugned entries in the ACRs/PERs of the appellant be expunged; leaving the parties to bear their own costs.

Announced
Di:04.02.2010.

M. S. G. G.

M. S. G. G.
CHAIRMAN

Ch. M.
MEMBER

BEFORE THE HON'BLE SUBORDINATE JUDICIARY
SERVICE TRIBUNAL, N.W.F.P. PESHAWAR.

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[Signature]

In Re: Service Appeal No. 12 / 2007.

Sardar Muhammad Irshad,
Additional District and Sessions Judge,
Charsadda.....

APPELLANT

Versus

1. The Hon'ble Administration Committee through the Registrar, Peshawar High Court, Peshawar.
2. The Registrar, Peshawar High Court, Peshawar.....

RESPONDENTS

No: 10/07

FILED TO-DAY

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REGISTRAR

SUB ORDINATE JUDICIARY

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13/1/07

APPEAL u/s 5 of the NWFP Subordinate
Judiciary Service Tribunal Act, 1991
against the adverse remarks recorded in
the ACR for the period 01.01.2004 to
31.12.2004 by the Hon'ble Administration
Committee, conveyed through letter
No. 18/Confid: dated 31.08.2006.

Prayer in Appeal: That the adverse remarks recorded in the
ACR for the period 01.01.2004 to
31.12.2004 may kindly be expunged /
representation thereagainst accepted.

FILED TO-DAY

[Signature]
REGISTRAR

SUB ORDINATE JUDICIARY

[Signature]

17/1/07

Judgment Sheet

IN THE PESHAWAR HIGH COURT,
PESHAWAR

JUDICIAL DEPARTMENT

S.J.S.A.No. 12 of 2007 2008.

JUDGMENT

Date of hearing 2.2.2010, date of announcement 4.2.2010

Appellant (Sardar Muhammad Irshad) by Mr. Amjad Ali, Advocate.

Respondent, Mr. Zia-Ur-Rehman Khan, A.O., and Syed Anis
Badshah Bukhari, Additional M.I.T. for respondents.

MIFTAH-UD-DIN KHAN, J:-

These two appeals are in respect of Annual Confidential Reports recorded for the year 2004 and 2005 communicated to the appellant on the same date, therefore, they are disposed of through the present single judgment.

2. The appellant Sardar Muhammad Irshad while serving as Additional District and Sessions Judge, Charsadda received letters No.18 and 19 dated 31-8-2006 issued by respondent No.1 on the basis of which the following remarks were recorded in the ACR of the appellant.

01.01.2004 to 31-12-2004.

1.	Pen Picture	Shall mind his reputation and also judicial proceedings.
2.	Fitness for promotion.	Not fit.

01.01.2005 to 31-12-2005.

1.	Pen Picture	Shall mind his reputation and also judicial proceedings.
2.	Fitness for promotion.	Not fit.

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3. On receipt of these remarks the appellant made representation on 15.9.2006 for expunction of these remarks but respondent No.1 has not given reply to the appellant in this connection, therefore, the appellant has preferred these two appeals under Section 5 of the N.W.F.P. Subordinate Judiciary Services Tribunal Act 1991. The appellant alleges in the memo of appeal that he has been given incentive reward continuously from the year 2002 to 2005 and no complaint or advice has been communicated to the appellant, therefore, the impugned remarks recorded without any solid foundation and out of time which too not approved and signed by the competent authority are liable to be expunged.

4. We have heard the arguments of the learned counsel for the appellant, the learned Advocate General for the respondents and have gone through the record before us.

5. The perusal of the available record reveals that both the ACRs for the year 2004 and 2005 were communicated to the appellant on the basis of two different letters bearing No.18 and 19 of the same date i.e. 31.8.2006. Admittedly the two adverse remarks in respect of different years were communicated simultaneously on

3

(M7) (68)

one and the same date. The record further shows that similar remarks recorded in respect of other Judicial Officers have either been treated as advisory or expunged by the authority. These remarks are not only self contradictory but also vague unclear and ambiguous. It is not understandable as to what happened to the judicial proceedings conducted by the appellant and to his reputation. The appellant has been given overall grading as average, therefore, the same cannot be treated as adverse. The ACR of the appellant has been signed by the two members of the Administration Committee but not by the authority i.e. the Reporting Officer. As the ACRs of the appellant pertain to the terms and conditions of his service, therefore, the same must carry approval or signature of the authority i.e. the Hon'ble Chief Justice. In these circumstances the remarks are vague, unclear, ambiguous and baseless carrying no signature of authority are expunged. We allow both the appeals and direct that the entries recorded in the Annual Confidential Reports of the appellant for the year 2004 and 2005 be expunged.

M. V. Srinivas
CHAIRMAN

O. R.
MEMBER

Announced.
Dt. 4.2.2010.

(108)

1

**BEFORE THE HON'BLE SUBORDINATE JUDICIARY
SERVICE TRIBUNAL, N.W.F.P. PESHAWAR.**

In Re: Service Appeal No. 13 / 2007.

Sardar Muhammad Irshad,
Additional District and Sessions Judge,
Charsadda.....

APPELLANT.

Versus

1. The Hon'ble Administration Committee
through the Registrar, Peshawar High Court,
Peshawar.

2. The Registrar, Peshawar High Court,
Peshawar.....

RESPONDENTS.

APPEAL u/s 5 of the NWFP Subordinate
Judiciary Service Tribunal Act, 1991
against the adverse remarks recorded in
the ACR for the period 01.01.2005 to
31.12.2005 by the Hon'ble Administration
Committee, conveyed through letter
No. 19/Confdl: dated 31.08.2006.

Prayer in Appeal: That the adverse remarks recorded in the
ACR for the period 01.01.2005 to
31.12.2005 may kindly be expunged /
representation thereaagainst accepted.

11/10/07
FILED TO-DAY

Alu
**REGISTRAR
SUB ORDINATE JUDICIARY**

FILED TO-DAY

Alu
**REGISTRAR
SUB ORDINATE JUDICIARY**

Judgment Sheet

IN THE PESHAWAR HIGH COURT,
PESHAWAR

~~193~~
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JUDICIAL DEPARTMENT

S.J.S.A.No. 13 Of R.O. 7 2008.

JUDGMENT

Date of hearing. R.O. 7. Date of announcement. 4.2.2010.
Appellant (Sardar Muhammad Irshad) by Mr. Amjad Ali Advocate.
Respondent. Mr. Zia-Ul-Rehman Khan, A.G., and Syed Anis Badshah
Bukhari, Additional M.I.T, for respondents.

MIFTAH-UD-DINKHAN, J:- For the reasons recorded in our detailed judgment of even dated in SJS Appeal No.19/2005 Sardar Muhammad Irshad Vs. The Hon'ble Administration Committee, etc. this appeal is allowed and it is directed that the entries recorded in the Annual Confidential Reports of the appellant for the year 2004 and 2005 be expunged.

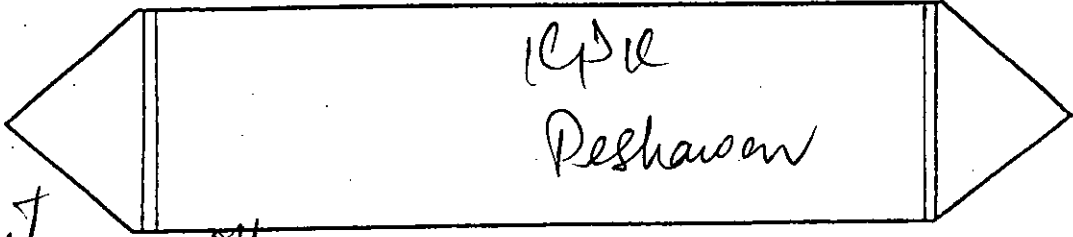
Office
9/2/2010

Announced.
Dt.4.2.2010.

Mr. Zia-Ul-Rehman Khan
CHAIRMAN

Mr. Miftah-ud-Dinkhan
MEMBER

Service Tribunal بعدالت



Appellant

2011ء پنجاب
بنام

Sarfraz
us

Govt

باعث تحریر آئندہ

مورخہ
مقدمہ
دعویٰ
جرم

سندھ
گورنمنٹ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ
آن مقام Peshawar کیلئے ایگزیکٹو افسر
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پر داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جاندا التوائے مقدمہ کے سبب سے دہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا ادکالت نامہ لکھد یا کہ سند ہے۔

المرقوم 01 _____ ماہ _____ 2011ء

Accepted
[Signature]

کے لئے منظور ہے۔

Peshawar

بمقام

[Signature]

[Signature]

SARFRAZ KHAN

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 649/2016

Sarfaraz Khan

(Appellant)

....Vs....

District & Sessions Judge, Mardan/Chairman Departmental
Promotion Committee and another. (Respondents)

COMMENTS ON BEHALF OF RESPONDANT NO.3

Respectfully Sheweth

Preliminary objections:-

- i. The appeal is incompetent and non maintainable at all.
- ii. The appellant has not approached this Hon'ble court with clean hands, hence his appeal deserves dismissal on this score alone.
- iii. That, the appellant is estopped by his conduct.
- iv. The appellant has got no cause of action/locus standi to file the present appeal.

On facts:-

1. Para No. **1**, of the appeal is correct.
2. Para No. **2**, of the appeal is a matter of record.
3. Para No. **3**, of the appeal is correct.
4. Para No. **4**, of the appeal is correct to the extent that respondent No. 2 promoted as Junior Clerk/Moharrar, vide order dated, 16.03.2016. Rest of the Para is incorrect, hence denied.
5. Para No. **5**, of the appeal is a matter of record.
6. Para No. **6**, of the appeal is incorrect. He earned adverse remarks in PERs for the year 2008 in the following words;
"The official shall guard his reputation". The adverse remarks communicated to him vide office letter bearing No. 3155, dated, 03.10.2009.
7. Para No. **7**, of the appeal is correct.
8. Para No. **8**, of the appeal denied.

Grounds:-

- A. Para **A**, of the grounds is a matter of record.
- B. Para **B**, of the grounds is incorrect. Adverse remarks has been communicated to the appellant vide office letter bearing No. 3155, dated, 03.10.2009.
- C. Para **C**, of the grounds is incorrect. In the year 2008, appellant earned Adverse Remarks in his PERs which were communicated to him.
- D. Para **D**, of the grounds is legal.
- E. Para **E**, of the grounds is incorrect. Denied.
- F. Para **F**, of the grounds is a matter of record.
- G. Issuing of notice or warning is not required under the rules prayer to recording adverse remarks.
- H. Para **H**, of the grounds denied.

Prayer:

It is, therefore, most graciously prayed that the appeal may be dismissed with cost.

Dated: _____/2016

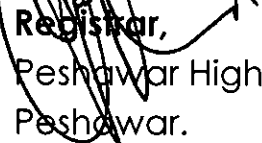
Respondent No. 3


Registrar,

Peshawar High Court,
Peshawar

AFFIDAVIT

I, **Ishtiaq Ahmad, Registrar, Peshawar High Court, Peshawar**, on behalf of respondent No. 3, solemnly affirm and declare that the contents of the reply are true to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


Registrar,
Peshawar High Court,
Peshawar.

AFFIDAVIT

I, **Muhammad Ayub Khan, Registrar, Peshawar High Court, Peshawar**, on behalf of respondents, solemnly affirm and declare that the contents of the comments/reply are true to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Registrar,
Peshawar High Court,
Peshawar.