

**SERVICE APPEAL NO. 132/2024**

Syed Nazar Hussain Shah (PCS SG BS-21).....Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1-4**

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Deponent

(2)

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

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VS

Govt. of Khyber Pakhtunkhwa & others.....Respondents

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**PRELIMINARY OBJECTIONS**

1. This Honourable Services Tribunal has no jurisdiction to entertain the instant appeal U/S 4(b)(i) of the Service Tribunal Act, 1974. Reliance is placed on 2001 SCMR 1446.
2. That the appellant has got no cause of action/locus standi to file the instant appeal against the respondents.
3. That the present appeal is not maintainable. Promotion is neither a vested right nor it can be claimed with a retrospective effect. Reliance is placed on 2005 SCMR 1742, 2002, SCMR 1056, 1992 SCMR 77, 1989 SCMR 23, PLD 1997, SC 351(d) and 1995 SCMR 567.
4. That the appellant has presented the facts in manipulated form which disentitles him for any relief whatsoever.
5. That the appellant has not come to this Honourable Services Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
7. That the appeal is hit by laches.

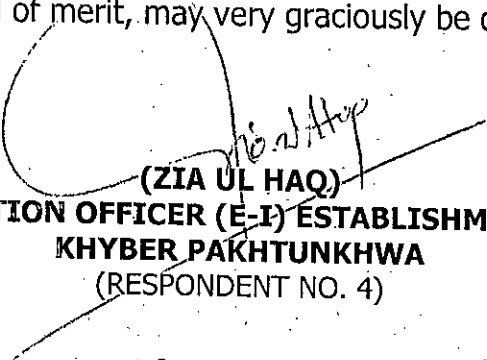
**ON FACTS**

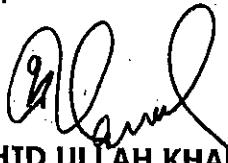
1. Correct.
2. Correct to the extent that the Appellant was at Sr. No. 2 of PCS SG BS-20 Seniority List on 04.03.2023 and the Provincial Selection Board in its meeting held on 07.09.2023 recommended him for promotion to PCS SG BS-21 and Establishment Department after completion of all codal formalities, issued his promotion notification on 08.11.2023.
3. Correct to the extent that a vacancy had fallen vacant upon retirement of Mr. Muhammad Ramzan (for promotion of PCS SG BS-20 officers) on 03.03.2023.
4. As explained vide Fact No. 2.
5. As explained vide Fact No. 2.
6. The Appellant submitted an appeal/representation on 07.12.2023, which was considered, but, cannot be acceded as the existing Civil Servants Act, 1973 and Khyber Pakhtunkhwa Civil Servants (appointment, promotion & transfer) Rules, 1989 do not allow promotion with a retrospective effect.
7. The present appeal is not maintainable as promotion is neither a vested right nor it can be claimed with a retrospective effect.

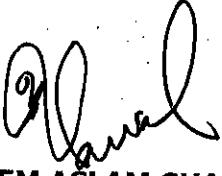
**3**  
**GROUND**

- A. **Incorrect.** The Appellant was promoted from PCS SG BS-20 to PCS SG BS-21 on the recommendation of Provincial Selection Board in its meeting held on 07.09.2023 in accordance with the prevailing law/rules. Moreover, promotion is granted with immediate effect instead of retrospective effect.
- B. **Incorrect.** Promotion of civil a servant is regulated under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the Appointment, Promotion & Transfer Rules, 1989, which do not warrant promotion of Civil Servants with a retrospective effect.
- C. **Incorrect.** Rule 7 of the Khyber Pakhtunkhwa Civil Servants (appointment, promotion & transfer) Rules, 1989 provides that the Chief Minister, Khyber Pakhtunkhwa shall, on the recommendations of the Provincial Selection Board, make promotions of Civil Servants. However, no provision exists for promotion of a civil servant with a retrospective effect.
- D. As explained vide Ground-C above.
- E. **Incorrect.** The Appellant has not been deprived of any right as he was promoted from PCS SG BS-20 to PCS SG BS-21 on the recommendations of PSB in its meeting held on 07.09.2023.
- F. The respondents shall be allowed to raise additional grounds at the time of hearing of the case.

It is, therefore, most humbly prayed that the instant petition, being devoid of merit, may very graciously be dismissed with costs.

  
(ZIA UL HAQ)  
SECTION OFFICER (E-1) ESTABLISHMENT  
KHYBER PAKHTUNKHWA  
(RESPONDENT NO. 4)

  
(SHAHID ULLAH KHAN)  
SECRETARY ESTABLISHMENT  
KHYBER PAKHTUNKHWA  
(RESPONDENT NO. 2 & 3)

  
(NADEEM ASLAM CHAUDHRY)  
CHIEF SECRETARY  
KHYBER PAKHTUNKHWA  
(Respondent NO. 1)



4

**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

**AUTHORITY LETTER**

Mr. Sultan Shah, Superintendent Litigation Section-I, Establishment Department, Government of Khyber Pakhtunkhwa is hereby authorized to submit joint parawise comments before the Khyber Pakhtunkhwa Service Tribunal, Peshawar in connection with S.A No. 132/2024 titled Syed Nazar Hussain Shah VS Government of Khyber Pakhtunkhwa & others on behalf of Respondents.

**Shahid Ullah Khan, Secretary**  
**Establishment through Kaleem Ullah Baloch,**  
**Special Secretary Establishment**  
**CNIC: 11101-1464320-1**

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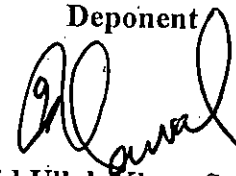
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**AFFIDAVIT**

I Sultan Shah Superintendent (Litigation) Establishment Department do hereby solemnly declare that contents of the Reply are correct to the best of my knowledge and record and nothing has been concealed from this Honourable Tribunal.

Deponent



**Shahid Ullah Khan, Secretary  
Establishment through  
Kaleem Ullah Baloch, Special  
Secretary Establishment  
CNIC: 11101-1464320-1**

Mobile No. 0333-9744944