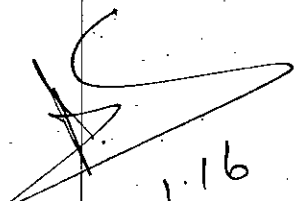


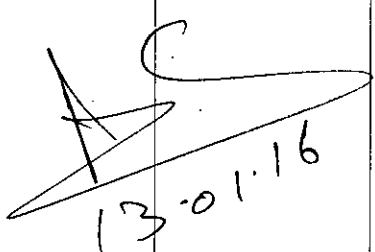
S.No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	13.01.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u> <u>CAMP COURT SWAT</u></p> <p style="text-align: center;"><u>APPEAL NO.800/2015</u></p> <p style="text-align: center;"><u>(Nadir Shah -vs- Registrar, Peshawar High Court, Peshawar and others)</u></p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Appellant in person and Mr. Shah Dawran, Superintendent for respondents present.</p> <p>Nadir Shah s/o Zahir Shah, Naib Qasid at Peshawar High Court, Mingora Bench/Darul Qaza, Swat, hereinafter referred to as the appellant, has preferred the instant appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with a prayer to set-aside order dated 14.4.2015 vide which two Junior Clerks (BPS-11) from the Establishment of District and Sessions Judge/Senior Civil Judge, Swat were transferred and adjusted against the vacant post and where-against departmental representation of the appellant was rejected and communicated to the appellant vide letter dated 2.5.2015.</p> <p>Brief facts of the case of the appellant are that he was initially appointed as Naib Qasid in the Anti-Terrorism Court Malakand Division at Saidu Sharif Swat on 30.3.2010 and after the establishment of Peshawar High Court Mingora Bench/Darul Qaza Swat, appellant was recruited as Naib Qasid (BPS-1) vide order dated 22.12.2010. That certain posts of Junior Clerk</p>


13.01.16

fell vacant where against Naib Qasids senior to appellant were promoted and the appellant thus become the senior most Naib Qasid and entitled for promotion as Junior Clerk. That against two sanctioned posts of Junior Clerk (BPS-11), one post of Assistant (BPS-16) and one post of Budget and Account Assistant (BPS-14), the Additional Registrar, Peshawar High Court, Mingora Bench requested for constitution of DPC and DSC and in response to the said request, the Registrar, Peshawar High Court, Peshawar constituted Departmental Promotion and Selection Committee for filling up the above posts vide order dated 22.10.2014. That meanwhile the appellant and others submitted joint application for promotion to the post of Junior Clerk but vide letter dated 14.4.2015 the Hon'ble Peshawar High Court, Peshawar transferred and adjusted two Junior Clerks (BPS-11) from the Establishment of District & Sessions Judge/Senior Civil Judge, Swat which order affected the prospects of the appellant for future promotion and hence departmental representation was submitted before the august Peshawar High Court, Peshawar which was rejected and communicated to the appellant vide letter dated 2.5.2015 where-against appellant preferred a review petition which was also dismissed vide order communicated to the appellant dated 11.6.2015 and hence the instant service appeal.

Pre-admission notice was issued to the respondents vide order of this Tribunal dated 5.10.2015. Arguments of learned counsel for appellant and Mr. Kabirullah Khan Khattak, Assistant Advocate General were heard and record perused.

The services of the appellant are governed by the Peshawar High Court Ministerial Establishment (Appointment and Conditions of Service) Rules, 1989 made under the provisions of Article 208 of the Constitution of the Islamic Republic of Pakistan. Method of recruitment by initial

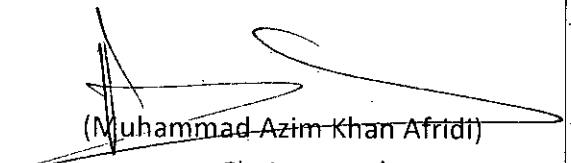
A handwritten signature in black ink, followed by the date '13.01.16' written below it.

recruitment or by promotion or transfer is prescribed for the Establishment of the Ministerial Staff of the Peshawar High Court in the said Rules. According to judgment of the august Supreme Court of Pakistan 1997 SCMR 141 titled "Registrar, Supreme Court of Pakistan, Islamabad -vs- Qazi Wali Muhammad" it was observed that the employees of the Supreme Court, Federal Shariat Court and High Courts are not civil servants within the meaning of Civil Servants Act, 1973.

This Tribunal is vested with the jurisdiction to entertain and hear appeals in respect of civil servants whose terms and conditions of service are governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973. The grievances and appeal of the appellant would not be entertain-able by this Tribunal as the appellant is neither a civil servant under the provisions of Khyber Pakhtunkhwa Civil Servants Act, 1973 nor entitled to prefer an appeal under the provisions of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 as such the instant appeal is not found entertain-able. The same is, therefore, dismissed in limine. No order as to costs. File be consigned to the record room.




ANNOUNCED
13.01.2016


(Muhammad Azim Khan Afridi)
Chairman
13-01-16

7.9.2015

Counsel for the appellant present. Learned counsel for the appellant requested for adjournment as the appellant is an employee of Dar-ul-Qaza and governed by specific rules framed for the establishment of the High Court. Adjourned for preliminary hearing to 5.10.2015 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

5.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that in view of rule-12 of the Peshawar High Court, Ministerial Establishment (Appointment and Conditions of Service) Rules, 1989, the appeal in hand is competent as the rules made under the KPK Civil Servants Act, 1973 would mutatis-mutandis apply to the order of post under the rules referred to above. Let a pre-admission notice be issued to respondents for 7.12.2015 before S.B at Camp Court Swat.


Chairman
Camp Court Swat


7.12.2015

Counsel for the appellant and Mr. Shah Dawran,

Supdt: alongwith Assistant A.G for respondents present.

Arguments heard. To come up for order on 13.01.2016 at





Camp Court Swat.


Chairman
Camp Court Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 800/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13.07.2015	<p>The appeal of Mr. Nadir Shah presented today by Dr. Adnan Khan Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	14-7-15	<p>This case is entrusted to Touring Bench Swat for preliminary hearing to be put up thereon <u>15-7-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	15.7.2015	<p>None present for appellant. The appeal pertains to the territorial limits of Malakand Division as such to be heard at Camp Court Swat on 3.8.2015 before S.B.</p> <p style="text-align: right;"> CHAIRMAN</p>
4	3.8.2015	<p>None present for appellant. Notice to counsel for the appellant be issued for preliminary hearing for 7.9.2015 before S.B at camp court Swat.</p> <p style="text-align: right;"> Chairman Camp Court Swat</p>

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

Appeal No. 800 of 2015

Nadir Shah.....Appellant

VERSUS

The Registrar Peshawar High Court Peshawar and othersRespondents

INDEX

S. No.	Description	Annexure	Pages No.
1.	Appeal with affidavit		1-5
2.	Copy of recruitment order dated 30-03-2010	A	6-7
3.	Copy of the recruitment order No.21676-85/Admn: dated 22-12-2010	B	8
4.	Copy of the Master degree of the applicant	B-1	9
5.	Copy of the promotion order No.11661-68/Admn: dated 14-09-2012	C	10
6.	Copy of promotion order dated 23-10-2013	D	11
7.	Copy of promotion order dated 31-10-2014	E	12
8.	Copies of letters dated 24-09-2014 and 03-10-2014	F & G	13-14
9.	Copies of letters alongwith working paper	H	15-19
10	Copy of letter dated 22-10-2014	J	20
11	Copy of applications for promotion	K	21-23
12	Copy of order dated 14-04-2015	M	24
13	Copy of representation application	N	25-29
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15	Copy of review petition alongwith dismissal order	P	31-36
16	Wakalat Nama		37

**Appellant
Through Counsel**



**Dr. Adnan Khan, Barrister-at-Law
Office: Adnan Law Associates,
Opposite Grassy Ground Mingora Swat
Cell No. 0346-9415233**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 800 /of 2015

A.W.F. Province
Service Tribunal

Diary No. 835

Dated 13-7-2015

Nadir Shah s/o Zahir Shah Naib Qasid at Peshawar High Court, Mingora
Bench/Darul Qaza, Swat.....Appellant

VERSUS

- 1) The Registrar, Peshawar High Court, Peshawar.
- 2) The Additional Registrar (Admn) Peshawar High Court, Peshawar.
- 3) The Additional Registrar, Peshawar High Court, Mingora Bench.

.....Respondents

APPEAL UNDER SECTION 64 OF THE KHYBER PAKHTUNKHWA
TRIBUTUNAL
CIVIL SERVICE ACT, 1974.

Respectfully Sheweth:

- 1) That the appellant was appointed as Naib Qasid in the Anti-Terrorism Court Malakand Division at Saidu Sharif Swat on 30/03/2010. (Copy of recruitment order is Annexure "A").
- 2) That after the establishment of Peshawar High Court Mingora Bench/Darul Qaza Swat, the appellant was recruited as Naib Qasid (BPS-01) vide order bearing Endst: No.21676-85/Admn: dated 22-12-2010 along with three others in order of merits mentioned therein. As per recruitment order, the other two were senior to the appellant (Copy of the recruitment order is Annexure "B").
- 3) That the appellant, who is a Master Degree holder has been performing his duty to the best of his abilities, efficiently, honestly with full zeal and obedience (Copy of the degree is Annexure "B-1").

Filed to
Registrar
13/7/15

- 4) That in the year 2012 a post of Junior Clerk (BPS-7) fell vacant, upon which, Mr. Muhammad Idrees, Naib Qasid was promoted on the basis of seniority cum-fitness amongst the Naib Qasid(s) vide order bearing Endst: No.11661-68/Admn: dated 14-09-2012. (Copy of promotion order is Annexure "C").
- 5) That vide order bearing Endst: No.12620-27/Admn: dated 23-10-2013, the above named official was further promoted to the post of Senior Clerk (BPS-09), (Copy of promotion order is attached as Annexure "D").
- 6) That two posts of Junior Clerk were fell vacant in the Hon'ble Bench, upon which , two Naib Qasid(s) were promoted on the basis of Seniority cum-fitness vide order bearing Endst: No.14457-63/Admn: dated 31-10-2014 and the appellant was come to the top of seniority amongst Naib Qasid(s) of the Hon'ble Bench (Copy of promotion order is Annexure "E").
- 7) That the Hon'ble Peshawar High Court, Peshawar, letter No.6085-6105/B&A dated 24-09-2014 read with corrigendum bearing Endst: No.6292-99 dated 03-10-2014 one post of Assistant (BPS-16), one post of Budget & Account Assistant (BPS-14) and two posts of Junior Clerk (BPS-11) were sanctioned for this Hon'ble Bench (Copies of letters are Annexure "F& G" respectively).
- 8) That for filling up the above posts, the worthy Additional Registrar of Peshawar High Court Mingora Bench vide letter bearing No.3962/Accounts dated 03-10-2014 send a request for constitution of DPC & DSC along with working papers so prepared for the purpose (Copies of papers are Annexure "H").
- 9) That in response to the above letter, the worthy Registrar, Peshawar High Court, Peshawar, vide letter No.13898/Admn: dated 22-10-2014 constituted departmental Promotions & Selections Committee for filling up the above posts. For reasons unknown to the petitioner, the said committees are yet to hold their meetings. (Copy of the above letter is Annexure "J").
- 10) That in the meanwhile the appellant along with other Class-IV officials of Peshawar High Court Mingora Bench, submitted joint application for their

promotions to the posts of Junior Clerk per their seniority, the same was forwarded by the respondent No.3 to respondent No.1. (Copies are Annexure "K").

- 11) That vide order bearing Endst: No. 4888-99/Admn: dated 14-04-2015 of the Hon'ble Peshawar High Court, Peshawar, (Annexure "M") two Junior Clerks (BPS-11) from the establishment of District & Sessions Judge/Senior Civil Judge Swat (working on detailment), were transferred and adjusted upon the above vacant positions.
- 12) That the said order directly affected the prospects of the appellant for future promotion. Hence, a departmental representation was filed before the august Peshawar High Court, Peshawar (Copy of representation application is Annexure "N").
- 13) That the august Peshawar High Court, Peshawar was pleased to dismiss and reject the said application. The same was communicated to the appellant through Endst: No.5614/Admn: dated 02-05-2015 by respondent No.2 (Copy of letter is Annexure "O").
- 14) That against the above order, the appellant filed a review petition which was dismissed vide letter No.6985/Admn dated 11-06-2015. No reasons were mentioned for dismissal of the same (Copy of review petition and dismissal letter are attached as Annexure "P").
- 15) That feeling mortally aggrieved, the appellant files this appeal *inter alia* on the following grounds

GROUND:

1. That the impugned orders are unjust, violative of due process of law and of fundamental rights thus, falling foul of Article 4 and 10-A of the Constitution.
2. That rights can be conferred upon an individual retrospectively but they cannot be taken back retrospectively. By virtue of the impugned orders, officials of

District Judiciary who were working on detailment at PHC Mingora Bench have been deemed senior to the petitioner. Thus, the appellant has been condemned in retrospect and a cardinal principle of justice has been violated through the order under review.

3. That by virtue of the impugned orders, officials of the District Judiciary who were temporarily deputed to PHC Mingora Bench have been preferred over the petitioner. Needless to say that the permanent staff of Peshawar High Court are in the minimum connotation of the notion, not inferior to those serving in the District Judiciary.
4. That the impugned orders have been made arbitrarily without any plausible grounds. Through the said order future prospects of the appellant for promotion have also been blocked.
5. That the appellant whose mates were appointed as Naib Qasid(s), have now been promoted as Junior Clerks and Senior Clerks. The appellant was having a legitimate expectation to be promoted as Junior Clerk. By virtue of the impugned orders the appellant has been deprived of his lawful rights, which directly affects his job and official responsibilities.
6. That keeping the mandates of law aside, even the norms of courtesy and propriety demand that a person serving in his parent department is more deserving for promotion than an alien. By virtue of the impugned orders, officials of another department have been preferred.
7. That on the factual side as well, the impugned orders are not sustainable in the eyes of law. The working paper prepared by the authorized officers and sent to Respondent No.1 for filling up the posts of Assistants, Budget and Account Assistant and Junior Clerks through DPC and DSC has not been acted upon as yet. Through the impugned orders, the same procedure has been nullified.
8. That further grounds with leave of this august Tribunal may be raised at the time of oral submissions before the Hon'ble Bench.

It is, therefore, humbly prayed that on acceptance of this appeal, the impugned orders may be set aside and the decision of considering staff of the District Judiciary working on detailment at PHC Mingora Bench as senior to the appellant may be withdrawn.

Any other relief though may not specifically prayed for, but which the circumstances of the case demand in the interest of justice, may be granted.



Appellant
Through




Dr. Adnan Khan, Barrister-at-Law,
Advocate High Court

CERTIFICATE:

As per direction of my client, no such like Appeal earlier has been filed by the appellant on the subject matter before this Hon'able Tribunal.

ADVOCATE



Barrister
Dr. Adnan Khan
Advocate High Court

ORDER

On the recommendation of Departmental Selection Committee and in the interest of public service, the following candidates are appointed on the vacant posts mentioned against each:

S.#	NAME	APPOINTED AS
1	Mr. Asif Ali Shah s/o Murad Ali	Assistant (BPS-14)
2	Mr. Saeed Khan s/o Rasool Khan	Assistant (BPS-14)
3	Mr. Inamullah s/o Muhammad Salim	Computer Operator (BPS-12)
4	Mr. Muhammad Yousuf s/o Mumtaz Ali	Junior Clerk (BPS-07)
5	Mr. Umar Farooq s/o Umar Dher	Junior Clerk (BPS-07)
6	Mr. Inayat Ur Rahman s/o Fazal Karim	Driver (BPS-04)
7	Mr. Sajjad Hussain s/o Abdul Wahab	Chowkidar (BPS-01)
8	Mr. Nadar Shah s/o Zahir Shah	Naib Qasid (BPS-01)
9	Mr. Akhtar Ali Shah s/o Muhammad Ali Shah	Naib Qasid (BPS-01)
10	Mr. Fazal Rabi s/o Abdul Wadood	Sweeper (BPS-01)

The above appointments are subject to the following terms and conditions:

- 1) Each appointee shall produce Medical Fitness Certificate before assumption of charge.
- 2) The Terms and Conditions of his service shall be governed by the NWFP Civil Servants Act, 1973, and all other Laws and Rules applicable to Government Servants.
- 3) He shall remain on probation for the period prescribed by the relevant rules.
- 4) He will be eligible for the continuance and eventual confirmation on the post, on satisfactory completion of period of probation, subject to the availability of permanent post.
- 5) His service shall be liable to be dispensed with at any time without notice and assigning any reason before the expiry of the period of his probation/extended period of probation, if his

In the event of termination from service, he will be given fourteen days notice or in lieu thereof fourteen days pay will be paid to him. In case of resignation, he will give one month notice to the Authority or in lieu thereof one month pay shall be forfeited to the Government. The resignation shall, however, be subject to acceptance by the Authority.

- 6) He shall not be entitled for pension and gratuity and shall, in lieu thereof, be entitled to receive such amount as contributed by him towards the Contributory Provident Fund alongwith the contribution made by the Government to his account in Fund in the prescribed manner.
- 7) If the above terms and conditions of appointment are acceptable to him, he should report for duty to the undersigned immediately. In case of any appointee failing to report for duty within 7-days, his appointment order shall be deemed to have been cancelled.

Sd/-
(MUHAMMAD IQBAL KHAN)
Judge Anti Terrorism Court
Malakand Division at
Swat.

Dated: 30th March, 2010.

OFFICE OF THE JUDGE ANTI-TERRORISM COURT, MALAKAND
DIVISION AT SWAT

No. 131-142

Dated: 30th March, 2010

Copy forwarded to:

- 1) The Worthy Registrar, Peshawar High Court, Peshawar.
- 2) Syed Anees Badshah Bukhari, Additional Member Inspection Team-III, Peshawar High Court, Peshawar / Nominee of the Hon'ble Peshawar High Court.
- 3) Mr. Abdul Hassan Mohmand, Civil Judge/Judge Family Court, Swat.
- 4) The District Comptroller of Accounts, Swat.
- 5) All the appointees by name.
- 6) The Nazir of this Court.

Iqbal
(MUHAMMAD IQBAL KHAN)
Judge Anti Terrorism Court
Malakand Division at
Swat.

PESHAWAR HIGH COURT, PESHAWAR

ORDER

Dated Peshawar the 22nd December, 2010

In pursuance of recommendations of the Departmental Selection Committee, vide its meeting dated 21.12.2010, the following candidates are appointed as Naib Qasid (BPS-01), in order of merit, against the vacant posts in the Peshawar High Court, Swat Bench (Dar-ul-Qaza), with immediate effect:-

1. *Mr. Idrees s/o Muhammad*
2. *Mr. Muhammad Nigab s/o Fazal Khaliq*
3. *Mr. Sadiq Ali s/o Ibrahim*
- ✓ 4. *Mr. Nadir Shah s/o Zahir Shah*

The appointment shall be subject to the following terms and conditions:-

1. The appointment shall be purely on temporary basis.
2. The appointment is subject to verification of antecedent/credentials of the appointees.
3. The appointees shall produce Medical Fitness Certificates before the assumption of charge.
4. Their services shall be governed by the Peshawar High Court Ministerial Establishment (Appointment & Conditions of Service) Rules, 1979.
5. No TA/DA will be allowed for joining the service.
6. The appointees shall report for duty within 15 days failing which the appointment shall stand withdrawn.

REGISTRAR

Endst No. 31676-85 /Admin:

Dated Pesh the 23/12 /2010

Copy forwarded to:-

1. The Member Inspection Team, Peshawar High Court, Peshawar.
2. The Addl Registrar, Peshawar High Court, Swat Bench (Dar-ul-Qaza).
3. The Deputy Registrar (Accounts), Peshawar High Court, Peshawar.
4. The Accountant General, KPK Peshawar.
5. The District Accounts Officer, Swat
6. The officials concerned by name.

REGISTRAR

UNIVERSITY OF MALAKAND
PAKISTAN

Serial No. 016717

Annexure B-1

9



Session 2007-2009

NADIR SHAH Son of ZAHIR SHAH Registration No. 2007711215 Private Candidate of District Swat having
passed the prescribed examination held in Sep-Oct, 2010 under Roll No. 33249 is admitted by the University of
Malakand to the degree of

Master of Arts

in Urdu in Second Division

The examination was taken in Parts.

[Signature]
Controller of Examinations

Connersigned

Result Declared on 02-Feb-2011

Assurance Date 23-Aug-2013

[Signature]
Vice-Chancellor

Annexure B-1

9

PESHAWAR HIGH COURT, PESHAWAR

ORDER

Dated Peshawar the 13th September, 2012

Consequent upon the recommendations of the Departmental Promotion Committee, vide its meeting dated 02.06.2012, the Competent Authority has been pleased to order the promotion of the following officials of the Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat, with immediate effect: -

Sr.#	Name of Official	Present Post and Grade	Post Promoted to
1.	Mr. Muhammad Laiq	Junior Clerk (BPS-07)	Promoted as Senior Clerk (BPS-09) against the vacant post
✓ 2.	Mr. Muhammad Idrees	Naib Qasid (BPS-01)	Promoted as Junior Clerk (BPS-07) against the vacant post

By order of Hon'ble the Chief Justice

(SUBHAN SHER)
REGISTRAR

Endsl: No. 11661-60 /Admn:

Dated Pesh the 14/09/2012

Copy forwarded to:-

1. The Member Inspection Team, Peshawar High Court, Peshawar.
2. The District & Sessions Judge/Zilla Qazi, Swat.
3. The Addl: Registrar, Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat.
4. The Deputy Registrar (Accounts), Peshawar High Court, Peshawar.
5. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. The District Accounts Officer, Swat.
7. The officials concerned by name.

(SUBHAN SHER)
REGISTRAR

"Annexure D"
①

PESHAWAR HIGH COURT, PESHAWAR

ORDER

Dated Peshawar the 21st October, 2013

In pursuance of the recommendations of Departmental Promotion Committee, vide its meeting dated 11.09.2013, the Competent Authority has been pleased to order the promotion of the following officials of the Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat, with immediate effect: -

Sr.#	Name of Official	Present Post and Grade	Post Promoted to
1.	Mr. Sikandar Hayat	Senior Clerk (BPS-09)	Promoted as Assistant (BPS-14) against the vacant post.
✓ 2.	Mr. Muhammad Idrees	Junior Clerk (BPS-07)	Promoted as Senior Clerk (BPS-09) against the vacant post.

By order of Hon'ble the Chief Justice

(MUHAMMAD ARSHAD)
REGISTRAR

Endst: No. 12620-27 / Admn.

Dated Pesh the 23/10/2013

Copy forwarded to: -

1. The Member Inspection Team, Peshawar High Court, Peshawar.
2. The District & Sessions Judge/Zilla Qazi, Swat/Chairman DPC.
3. The Addl: Registrar, Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat.
4. The Deputy Registrar (Accounts), Peshawar High Court, Peshawar.
5. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. The District Accounts Officer, Swat.
7. The officials concerned by name.

(MUHAMMAD ARSHAD)
REGISTRAR

PESHAWAR HIGH COURT, PESHAWAR**ORDER**Dated Peshawar the 21st October, 2013

In pursuance of the recommendations of Departmental Promotion Committee, vide its meeting dated 29.09.2014, the Competent Authority has been pleased to order the promotion of the following officials of the Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat, with Immediate effect: -

Sr.#	Name of Official	Present Post and Grade	Post Promoted to
1.	Mr. Muhammad Niqab	Nalb Qasid	Promoted as Junior Clerk (BPS-11) against the vacant post
2.	Mr. Sadiq Ali	Nalb Qasid	Promoted as Junior Clerk (BPS-11) against the vacant post

By order of Hon'ble the Chief Justice

Endst: No. 14457-63/Admn:**REGISTRAR**Dated Pesh the 31/10/2014

Copy forwarded to: -

1. The Member Inspection Team, Peshawar High Court, Peshawar.
2. The District & Sessions Judge/Zilla Qazi, Swat/Chairman DPC.
3. The Addl: Registrar, Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat.
4. The Deputy Registrar (Accounts), Peshawar High Court, Peshawar.
5. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. The District Accounts Officer, Swat.
7. The officials concerned by name.

REGISTRAR



The
PESHAWAR HIGH COURT
 Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210149-58
 Off: 9210135
 Fax: 9210170

www.peshawarhighcourt.gov.pk
 info@peshawarhighcourt.gov.pk
 phcpsh@gmail.com

No. 6085-6105/BCJA

Dated Peshawar, the 24-9-2014

From:-

The Registrar,
 Peshawar High Court,
 Peshawar.

To:-

1. The Additional Registrars,
 Peshawar High Court Benches at Abbottabad, D.I.Khan, Bannu and Swat.
2. District and Sessions Judges,
 Buner, D.I.Khan, Haripur, Peshawar, Swat, Batagram, Nowshera, Swabi and Malakand.
3. Senior Civil Judges,
 Buner, D.I.Khan, Haripur, Peshawar, Swabi, Mardan, Nowshera and Batagram.

Subject: **DISTRIBUTION OF POSTS.**

Dear Sir,

In pursuance of the Finance Department sanction vide letter No.BO-II/FD/3-14/PHC/2013-14 dated 07/05/2014 for creation of 82 posts, the Hon'ble Chief Justice, in exercise of the powers conferred by the Government of Khyber Pakhtunkhwa Finance Department Notification No. SO(A)/CS/FD/2-1/96 dated 7.12.1996, has been pleased to distribute the aforesaid posts as per the following breakup:-

Peshawar High Court & Benches

DESIGNATION & BPS		PESHAWAR	ABBOTTABAD Bench	D.I. KHAN Bench	Swat Bench	Bannu Bench	TOTAL
Assistant	(BPS-16)	3	1	2	1	1	8
B & A Assistant	(BPS-14)	1	1	1	1	1	5
Junior Clerk	(BPS-07)	2		2	2		6
Daffaries	(BPS-02)	1		2			3
Total		7	2	7	4	2	22

District Judiciary

S.No	Name of Post	BPS	Bunner		D.I.Khan		Haripur		Peshawar		Swat	Batagram		Mardan	Nowshera		Swabi	
			DSJ	SCJ	DSJ	SCJ	DSJ	SCJ	DSJ	SCJ		DSJ	SCJ		DSJ	SCJ	DSJ	SCJ
1	Stenotypist	14	1	1	3	2	1	2	1	1		2	3		2	3	1	2
2	Comp.Oplr	14	1	1	3		3				2	2	2	1			1	3
3	Junior Clerk	7			3				3	4						2		
4	Mali	1			1												1	
Grand total			2	2	10	2	4	2	4	5	2	4	5	1	2	5	3	5

Yours faithfully,

(Muhammad Arshad)

"Annexure G"
(14)

PESHAWAR HIGH COURT, PESHAWAR

CORRIGENDUM

The table first relating to Peshawar High Court, and its benches mentioned in this court letter No.6085-6105 dated 24/09/2014 and Endst No.6106-18 dated 24/09/2014 may be treated as cancelled. The fresh table of the posts are as under:-

Designation and BPS		Peshawar	Abbottabad Bench	D.I Khan Bench	Swat Bench	Bannu Bench	Total
Assistant	BPS-16	3	1	3	1	0	8
B&A	BPS-14	1	1	2	1	0	5
Assistant Junior	BPS-07	2	0	2	2	0	6
Clerk							
Daffaries	BPS-02	1	0	2	0	0	3
Total		7	2	9	4	0	22

By Order of Hon'ble the Chief Justice

(Muhammad Arshad)
Registrar

Endst: No. B&A/ 6299 - 99 Dated Peshawar, the 03-10-2014

Copy forwarded to:-

1. The Accountant General/District Accounts Officers. Concerned.
2. The Budget Officer-II, Government of Khyber, Pakhtunkhwa Finance Department, Peshawar.
3. The Additional Registrar, Peshawar High Court, D.I Khan, Abbottabad, Swat and Bannu Benches

(Muhammad Arshad)
Registrar



The
PESHAWAR HIGH COURT
Mingora Bench/Dar-ul-Qaza
Swat

All the Communications should be addressed to the Additional Registrar of this Bench.

Office: +92-946-811939 885005
Fax: +92-946-811940 885004
E-Mail: darulqazaswat2011@gmail.com

No. 3962 *Accounts*
To

Dated: 3/10/14

The Registrar,
Peshawar High Court,
Peshawar.

Subject: CONSTITUTION OF DPC & DSC.

Respected Sir,

I have the honor to refer to your good-office letter bearing No. 6085-6105/B&A dated: 24/09/2014 vide which the following posts have been sanctioned for this Bench.

S. #	Name of Post	BPS	No. of Post
01	Assistant	16	01
02	B & A Assistant	14	01
03	Junior Clerks	07	02

Post mentioned at Serial No. 01 is to be filled by promotion amongst the holder of the posts of Senior Clerks; Similarly posts mentioned at Serial No. 03 will also be filled by promotion from the holder of the posts of Daftari and Naib Qasid etc as per rules and according to their seniority / fitness. Post mentioned at Serial No. 02 has been newly created and required to be filled by initial recruitment by way of advertisement in the daily NEWS papers, draft of the same has been prepared and is hereby submitted for approval.

After filling up the post of Assistant by promotion, post of a Senior Clerk will become vacant which should be filled by promotion from the holder of the posts of Junior Clerks as per their seniority/fitness. Resultantly another post of Junior Clerk will also become vacant, which will also be filled by the similar process mentioned for the newly sanctioned posts at Serial No. 03.

Working papers for promotion of all the concerned categories are hereby submitted with a request for constitution of Departmental promotion and Departmental Selection Committees and oblige.

I remain obedient

[Signature]
-3/10/2014
Babar Ali Khan,

Additional Registrar,

Peshawar High Court, Mingora Bench

16

WORKING PAPER FOR PROMOTION (CATEGORY WISE)
 Name of the Establishment: Peshawar High Court, Mingora Bench/Dar ul Qaza Swat
 Promotion to the post of the Junior Clerk BPS-11
 To be filled in form amongst : Class IV Servants

Annexure "A"

Name (Category wise) of all the holders of the post of Naib Qasid, Chowkidar, Sanitation Attendant, Daftari, Record Lifter, Mali.	Present Post Held	Present Post Held since	Date of Joining the Service	First appointment as	Date of birth	Qualification									Performance			Performance			Performance						
						S.S.C			H.S.S.C			Bachlor			Master			2011			2012			2013			
						1st	2nd	3rd	1st	2nd	3rd	1st	2nd	3rd	1st	2nd	3rd	Avg	Good	V.G	Avg	Good	V.G	Below Avg	Avg	Good	V.G
QASIDS BPS-03																											
1. Muhammad Niqab	Naib Qasid	01/01/2011	01/01/2011	Naib Qasid	08/03/1987																						
2. Sadiq Ali	Naib Qasid	03/01/2011	03/01/2011	Naib Qasid	04/01/1983																						
3. Nadir Shah	Naib Qasid	01/01/2011	05/04/2010	Naib Qasid	15/03/1984																						
4. Riaz Ali	Naib Qasid	15/04/2013	15/04/2013	Naib Qasid	17/03/1987																						
5. Amjad Ali	Naib Qasid	24/10/2013	24/10/2013	Naib Qasid	02/01/1989																						
6. Muhammad Irfan	Naib Qasid	24/10/2013	24/10/2013	Naib Qasid	25/05/1990																						
7. Saeedullah (BPS-01)	Naib Qasid	10.03.2014	10.03.2014	Naib Qasid	15/03/1995																						
TARI BPS-04																											
1. Inamullah	Daftari	24/10/2013	24/10/2013	Daftari	25/02/1991																						
2. Fazal Karim	Daftari	24/10/2013	24/10/2013	Daftari	05/12/1979																						
ORD LIFTER BPS-04																											
1. Muhammad Tahir	Record Lifter	24/10/2013	24/10/2013	Record Lifter	15/04/1975																						
CHOWKIDARS BPS-03																											
1. Muhammad Ayub	Chowkidar	03/01/2011	03/01/2011	Chowkidar	06/03/1985																						
2. Afzal Shah	Chowkidar	03/01/2011	03/01/2011	Chowkidar	20/05/1977																						
3. Javaid Ali	Chowkidar	10/03/2014	10/03/2014	Chowkidar	23/08/1982																						
SANITATION ATTENDANT BPS-03																											
1. Ajmal Khan	Sanitation Attendant	03/01/2011	03/01/2011	Sweeper	15/4/1983																						
2. Ismail	Sanitation Attendant	28/5/2011	28/5/2011	Sweeper	15/4/1982																						

16

WORKING PAPER FOR PROMOTION (CATEGORY WISE)
 Name of the Establishment: Peshawar High Court, Mingora Bench/Dar-ul Qaza Swat
 Promotion to the post of the Junior Clerk BPS-11
 To be filled in form amongst : Class IV Servants

Annexure "A"

17

S.No	Name (Category wise) of all the holders of the post of Naib Qasid, Chowkidar, Sanitation Attendant, Daftari, Record Lifter, Mali.	Present Post Held	Present Post Held since	Date of joining the Service	First appointment as	Date of birth	Qualification									Performance			Performance			Performance					
							S.S.C			H.S.S.C			Bachlor			Master			2011			2012			2013		
							1st	2nd	3rd	1st	2nd	3rd	1st	2nd	3rd	1st	2nd	3rd	Avg	Good	V.G	Avg	Good	V.G	Below Avg	Avg	Good
3	Asghar Khan	Sanitation Attendant	20/09/2012	20/09/2012	Sweeper	02/03/1982			✓							✓											

MALI BPS-03 HEAD MALI BPSO-04

1	Barkat Ali	Head Mali	24/10/2013	24/10/2013	Mali	06/02/1989		✓											Recently appointed on 24.10.2013
2	Rahim Shah	Mali	10/03/2014	10/03/2014	Mali	14/03/1991		✓											Recently appointed on 10.03.2014

- 1. Total Strength 7
- 2. Existing Strength 5

Method of Recruitment
 80% by initial recruitment
 20% by promotion

Detail of Existing Strength

- 1. By Promotion 2
- 2. By Initial Recruitment 3
- 3. No. of Vacant Posts 2

Riyad
 08/10/2014
 Prepared by
 Ilyas Ahmad
 Computer Operator

Ahmed
 Checked by 3/10/14
 Ibn-e-Yameen
 Superintendent

Babar Ali Khan
 (Babar Ali Khan)
 Addl: Registrar,
 Peshawar High Court Mingora Bench/
 Dar-ul-Qaza Swat

Note : Vide Peshawar High Court Peshawar letter No.74/confdt dt 27-6-2014 adverse remarks expunge from the ACR of Mr.Ismail Sanitation Attendant

17

S.No	Name (in Order of Seniority) of all the holders of the post of Junior Clerk from Whom the subject posts to be filled	Present Post Held	Present Post Held since	Date of joining the service	First appointment as	Date of birth	Qualification												Performance			Performance			Performance			
							S.S.C			H.S.S.C			Bachlor			Master			2011			2012			2013			
							1st	2nd	3rd	1st	2nd	3rd	1st	2nd	3rd	1st	2nd	3rd	Avg	Good	V.G	Avg	Good	V.G	Avg	Good	V.G	
1	Naeem Jan	Junior Clerk	19.01.2011	21.07.2008	Muslim Sweeper	11.03.1988		✓			✓							✓								✓		
2	Sohrab	Junior Clerk	19.01.2011	21.10.2009	Naib Qasid	30.03.1991		✓			✓							✓								✓		
3	Waqar Hassan	Junior Clerk	24.10.2013	24.10.2013	Junior Clerk	01.01.1990	✓					✓						Recently appointed on 24.10.2013										
4	Faisal Bacha	Junior Clerk	24.10.2013	24.10.2013	Junior Clerk	02.01.1986	✓				✓			✓				Recently appointed on 24.10.2013										
5	Riaz Ahmad	Junior Clerk	24.10.2013	24.10.2013	Junior Clerk	15.02.1986	✓				✓			✓				Recently appointed on 24.10.2013										

1	Total Sanction Strenght	6
2	Existing working strength	5
	Vacant/Balance	1

Detail of Existing Working strength

1	By Promotion	4
2	By Initial Recruitment	1

Method of Recruitment

100% by promotion

Ilyas Ahmad
03/10/14
Prepared by
Ilyas Ahmad
Computer Operator

Amanullah
3/10/14
Checked by
Ibn-e-Yameen
Superintendent

Babar Ali Khan
(Babar Ali Khan)
Addl:Registrar,
Peshawar High Court Mingora Bench/
Dar-ul-Qaza Swat

S.No	Name (in Order of Seniority) of all the holders of the post of Senior Clerk from Whom the subject posts to be filled	Present Post Held	Present Post Held since	Date of joining the service	First appointment as	Date of birth	Qualification									Performance			Performance			Performance				
							S.S.C			H.S.S.C			Bachelor			Master			2011			2012			2013	
							1st	2nd	3rd	1st	2nd	3rd	1st	2nd	3rd	1st	2nd	3rd	Avg	Good	V.G	Avg	Good	V.G	Avg	Good
1	Sajjad Ali	Senior Clerk	01.01.2011	04.01.2010	Senior Clerk	22.04.1979	✓				✓				✓			✓			✓			✓		
2	Muhammad Laiq	Senior Clerk	20.09.2012	21.10.2005	Chowkidar	10.01.1981		✓			✓				✓			✓			✓			✓		
3	Muhammad Idrees	Senior Clerk	23.10.2013	01.01.2011	Naib Qasid	13.04.1980			✓		✓				✓			✓			✓			✓		
4	Aurangzeb Khan	Senior Clerk	18.08.2014	02.11.2006	Naib Qasid	20.02.1984		✓			✓				✓			✓			✓			✓		
5	Javid Ali	Junior Clerk	19.01.2011	09.01.2008	Farash	10.03.1988		✓			✓				✓			✓			✓			✓		

1	Total Sanction Strength	4
2	Existing working strength	3
	Vacant/Balance	1

Detail of Existing Working strength

1	By Promotion	2
2	By Initial Recruitment	1

Method of Recruitment

1	By Promotion	75%
2	By Initial Recruitment	25%

Prepared by
Ilyas Ahmad
Computer Operator

Checked by
Ibn-e-Yameen
Superintendent

(Babar Ali Khan)
Addl:Registrar,
Peshawar High Court Mingora Bench/
Dar-ul-Qaza Swat



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210140-88
Off: 9210135
Fax: 9210170

www.peshawarhighcourt.gov.pk
info@peshawarhighcourt.gov.pk
phcpsh@gmail.com

No. 13898 / Admn:

Dated Pesh the 22/10/2014

From:

The Registrar,
Peshawar High Court,
Peshawar.

To:

The Additional Registrar,
Peshawar High Court,
Mingora Bench/Dar-ul-Qaza, Swat.

Subject: **CONSTITUTION OF DPC & DSC.**

Dear Sir,

With reference to your letter No.3962/Accounts dated 03.10.2014, the Competent Authority has been pleased to constitute special Departmental Promotion/ Selection Committee, for recruitment against the vacant posts in the Bench, comprising of the following: -

i.	Mr. Sharif Ahmad, District & Sessions Judge/Zilla Qazi, Swat	Chairman
ii.	Mr. Babar Ali Khan, Addl: Registrar, Mingora Bench/Dar-ul-Qaza, Swat	Member
iii.	Mr. Khalid Khan, Addl: District & Sessions Judge/IZQ, Swat	Member

Faithfully yours,

REGISTRAR

Encl: No. _____ / Admn:

Dated Pesh the ____/____/2014

Copy forwarded to: -

1. The District & Sessions Judge/Zilla Qazi, Swat.
2. Mr. Khalid Khan, Addl: District & Sessions Judge/IZQ Zilla Qazi, Swat.

REGISTRAR



The
PESHAWAR HIGH COURT
Mingora Bench/Dar-ul-Qaza
Swat

" Annexure K"
21
All the Communications should be
addressed to the Additional Registrar
of this Bench.

Office: 0946-885005
Fax: 0946-885004
E-Mail: darulqazaswat2011@gmail.com

No. 234 / 198mm

Dated: 26-01-2015

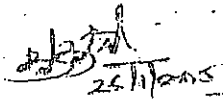
To

The Registrar,
Peshawar High Court,
Peshawar.

Subject: APPLICATION OF CLASS-IV SERVANTS OF THIS BENCH
ABOUT THEIR MERGER/DISTURBANCE IN SENIORITY.

Respected Sir,

Enclosed please find herewith application in original,
submitted by Class-IV employees of this Bench for favour of
consideration, please.


(BABAR ALI KHAN)
Additional Registrar,
Peshawar High Court,
Mingora Bench

خدمت جناب رجسٹرار صاحب پشاور ہائی کورٹ، پشاور۔

ایڈیشنل رجسٹرار صاحب پشاور ہائی کورٹ، مینگورہ بیچ/دارالقضاء سوات۔

پشاور ہائی کورٹ کے جملہ کلاس فور ملازمین کی سنیاریٹی کو متاثر نہ کیا جائے۔

جناب عالی!

انتہائی آداب سے سالکان حسب ذیل عرض رساں ہیں!

یہ کہ ہم سالکان مینگورہ بیچ کے ریگولر کلاس فور ملازمین ہے۔ جن میں بعض ملازمین بیچ ہذا کی ابتداء سے جبکہ بعض ملازمین کچھ عرصہ بعد بھرتی ہوئے۔ ان ملازمین میں نائب قاصدان، دفتر ی، چوکیداران اور سینینیٹیشن اسٹڈنٹ شامل ہیں، جو بیچ ہذا کے مختلف شعبہ جات میں اپنے فرائض سنبھال رہے ہیں اور دن رات اپنی خدمات بیچ ہذا میں فوری انصاف کی فراہمی میں بحیثیت معاونین پیش کر رہے ہیں۔ جس کا اعتراف بذات خود ہائی کورٹ کے معزز ججز صاحبان نے بھی کی ہے۔

یہ کہ دیگر حکاموں کی طرح یہاں بھی کلاس فور ملازمین کی ترقی کیلئے ایک طریقہ کار وضع ہے۔ جس پر عمل کرتے ہوئے ملازمین کو سنیاریٹی کم فٹنس کی بنیاد پر ترقیاں دی جاتی ہیں اور شروع دن سے لیکر آج تک بلحاظ سنیاریٹی کم فٹنس کلاس فور ملازمین میں سے ایک نائب قاصد کو سینئر کلرک جبکہ دو (02) نائب قاصدان کو جو نیر کلرک کے عہدوں پر ترقیاں دے دی گئی ہیں۔ جس پر ہم آج تک معزز افسران بالا کے نہایت ممنون ہیں۔ (نقل ترقی نائب قاصدان ہمراہ لف ہے)

یہ کہ کچھ عرصہ پہلے بیچ ہذا کیلئے چار (04) مزید آسامیاں منظور کی گئیں۔ جس میں دو (02) آسامیاں جو نیر کلرک کی بھی شامل ہیں۔ مذکورہ آسامیوں میں سے حسب ضابطہ جو نیر کلرک کی دو (02) آسامیوں کو بذریعہ پروموشن کلاس فور ملازمین میں سے پر کرنے کیلئے بیچ ہذا سے ایک لیٹر نمبر 3962/B&A مورخہ: 03.10.2014 کو پشاور ہائی کورٹ، پشاور بھیجا گیا۔ جس پر مجاز اتھارٹی نے بحوالہ لیٹر نمبر 13898 مورخہ: 22.10.2014 کو ملازمین کے حقوق کی پاسداری کرتے ہوئے ڈیپارٹمنٹل پروموشن کمیٹی تشکیل دے دی۔ جس پر افسران بالا نے ہم غریب کلاس فور ملازمین کے دل جیت لئے۔

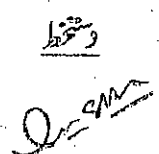

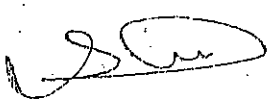

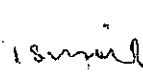

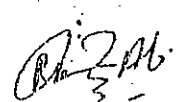

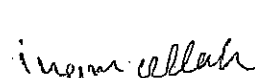
یہ کہ بد قسمتی سے مذکورہ DPC کی کئی ماہ گزرنے کے بعد بھی امکانات معدوم ہوتے چلے آ رہے ہیں اور ہم کلاس فور ملازمین میں دن بدن باپوسی اور بے چینی بڑھتی جا رہی ہیں۔ کیونکہ دوران ملازمت ایک کلاس فور ملازم کی یہ دلی تمنا ہوتی ہے کہ اس کو اگلے گریڈ میں ترقی دی جائے اور اس خواب کو لئے ہوئے اسے طویل عرصہ تک اپنی باری کا انتظار کرنا پڑتا ہے۔ جس کا اندازہ صرف ایک کلاس فور ملازم ہی کر سکتا ہے۔

یہ کہ مذکورہ DPC کے متعلق اب یہ خدشات ظاہر کئے جا رہے ہیں کہ اس پر بیچ ہذا میں موجود Detailment Staff کو ایڈجسٹ کیا جائے گا اور اس وجہ سے مذکورہ DPC طوالت کا شکار ہے۔

جناب عالی! اگر مذکورہ خدشہ درست ہے تو یہ بیچ ہذا میں برسوں سے اپنی خدمات سر انجام دینے والے کلاس فور ملازمین کی سراسر حق تلفی ہوگی اور برسوں سے ترقی کی آس لئے ہوئے ملازمین کی امیدوں پر پانی پھیرنے کے مترادف ہوگا، کیونکہ مذکورہ Detailment Staff کا اپنے اسٹیبلشمنٹ میں باقاعدہ سنیاریٹی لسٹ موجود ہے اور ان کو ان کی سنیاریٹی کی بنیاد پر ترقیاں دی جاتی ہیں۔ جبکہ ہائی کورٹ ملازمین کی سنیاریٹی کو متاثر کرنے کا انہیں کوئی قانونی حق حاصل نہیں۔

اسلئے ماضی میں بذریعہ تحریر Detailment Staff کو نجی ہذا میں ایک آدھ آسامیاں نکلنے کی صورت میں بذریعہ ایڈجسٹمنٹ درخواستیں جمع کرنے سے منع کیا گیا تھا۔ کیونکہ ان ملازمین کو تو صرف اپنی ہی بھلائی کا فکر ہے۔ مگر اگر ان کی وجہ سے دوسرے غریب کلاس فور ملازمین کے حقوق غصب ہو جائیں جو برسوں سے ترقی کیلئے انتظار کرتے چلے آ رہے ہیں تو اس کا انہیں کوئی فکر نہیں۔ ہمیں اپنے معزز اور نہایت قابل احترام چیف جسٹس صاحب پشاور ہائی کورٹ، پشاور سے سو (100) فیصد امید ہے کہ وہ کبھی بھی منگورہ بیج کے غریب کلاس فور ملازمین کے حقوق کو پامال نہیں ہونے دینگے اور چیئر مین DPC کو ہدایت دینگے کہ وہ پہلے سے منظور شدہ DPC کو جلد از جلد منعقد کرائیں۔ کیونکہ معزز چیف جسٹس صاحب کو نجی ہذا کے کلاس فور ملازمین کے مشکلات و تکالیف کا خوب احساس ہے۔ اسکے علاوہ اس بیج اور اسکے ملازمین کے ساتھ معزز چیف جسٹس صاحب کی اچھی یادیں وابستہ ہیں۔

العارضین

نام	عہدہ	تعلیمی قابلیت	دستخط
نادر شاہ	نائب قاصد	ایم اے (اردو)	
محمد ایوب خان	چوکیدار	ایم اے (اسلامیات)	
افضل شاہ	چوکیدار	بی اے	
اجمل خان	سٹیٹیشن اسٹنڈنٹ	بی اے	
اسماعیل	سٹیٹیشن اسٹنڈنٹ	ایم اے (اسلامیات)	
اصغر خان	سٹیٹیشن اسٹنڈنٹ	ایم اے (اسلامیات، عربی)	
ریاض خان	نائب قاصد	ایم ایس سی (کمپیوٹر سائنس)	
افضل کریم	دفتری	ایم اے (پولیٹیکل سائنس)	
انعام اللہ	دفتری	ایم ایس سی (بھٹس)	

PESHAWAR HIGH COURT, PESHAWAR

ORDER

Dated Peshawar the 31st March, 2015

The Competent Authority is pleased to transfer the services of the following officials from the Establishment of District & Sessions Judge/Senior Civil Judge, Swat to the Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat, with immediate effect: -

Sr.#	Name of official with Designation	Remarks
1.	Mr. Zafar Ali, Junior Clerk	Transferred & adjusted as Junior Clerk (BPS-11) in the PHC Mingora Bench/Dar-ul-Qaza, Swat against the vacant post
2.	Mr. Ikramullah, Junior Clerk	Transferred & adjusted as Junior Clerk (BPS-11) in the PHC Mingora Bench/Dar-ul-Qaza, Swat against the vacant post
3.	Mr. Attaullah, Naib Qasid	Transferred & adjusted as Naib Qasid (BPS-01) in the PHC Mingora Bench/Dar-ul-Qaza, Swat against the vacant post
4.	Mr. Wajid Ali, Naib Qasid	Transferred & adjusted as Naib Qasid (BPS-01) in the PHC Mingora Bench/Dar-ul-Qaza, Swat against the vacant post

Note:

1. The services of M/s Muhammad Rafiq Senior Clerk, Ikramullah Khan, Hayat Shah Badshah & Muhammad Kaleem Junior Clerks, Fazal Wahab Naib Nazir and Zia Ullah Process Server, working on detailment in the Bench, shall be transferred and adjusted in Mingora Bench on availability of respective vacancies corresponding to their positions in accordance with seniority.
2. The officials so transferred will rank in bottom of their respective cadres and will not be entitled for seniority for the period prior to transfer.

By order of Hon'ble the Chief Justice

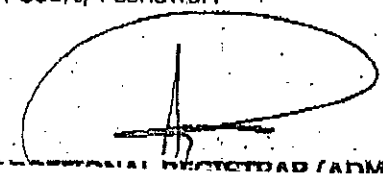
**ADDITIONAL REGISTRAR (ADMN)
FOR REGISTRAR**

Endst: No. 4888-79 /Admn:

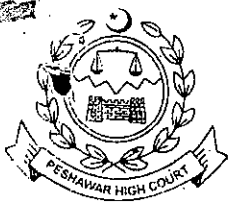
Dated Pesh the 14/4/2015

Copy forwarded to: -

1. The Member Inspection Team, Peshawar High Court, Peshawar.
2. The District & Sessions Judge/Zilla Qazi, Swat.
3. The Addl: Registrar, Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat.
4. The Senior Civil Judge/A'ala Illaqa Qazi, Swat.
5. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. The District Accounts Officer, Swat.
7. The Deputy Registrar (Accounts), Peshawar High Court, Peshawar.
8. The Private Secretary to HCJ, Peshawar High Court, Peshawar.
9. The officials concerned by name.



ADDITIONAL REGISTRAR (ADMN)



The
PESHAWAR HIGH COURT
Mingora Bench/Dar-ul-Qaza
Swat

Annexure N (25)

All the Communications should be addressed to the Additional Registrar of this Bench.

Office: +92-946-811939
Fax: +92-946-811940
E-Mail: darulqazaswat2011@gmail.com

No. 1402 / Admn

Dated: 18-04-2015

To

The Worthy Registrar,
Peshawar High Court,
Peshawar.

Subject: DEPARTMENTAL REPRESENTATION FOR THE
REVIEW OF ORDER BEARING ENDST: NO. 4888-
99/ADMN DATED 14/04/2015.

Respected Sir,

Please find enclosed herewith the departmental representation on the subject cited above of Mr. Nadir Shah Naib Qasid of this Bench for sympathetic consideration and necessary action.

Obediently Yours,

(Babar Ali Khan)

Additional Registrar,
PHC, Mingora Bench/
Dar-ul-Qaza, Swat

To,

The Registrar,
Peshawar High Court,
Peshawar.

Through: **Proper Channel**

Subject: **REPRESENTATION IN RESPECT OF ORDER
BEARING ENDST: NO.4888-99/ADMN: DATED
14/04/2015 OF HON'BLE THE PESHAWAR HIGH
COURT, PESHAWAR.**

Respected Sir,

The applicant humbly submits as under:

1. That on 30/03/2010, the applicant was recruited as Naib-Qasid in the Anti-Terrorism Court, Malakand Division at Saidu Sharif, Swat. (Copy of recruitment order is **Annexure "A"**).
2. That after the establishment of Peshawar High Court Mingora Bench (Darul Qaza) Swat, the applicant was recruited as Naib-Qasid (BPS-01) vide order bearing Endst. No. 21676-85/Admn: dated 22-12-2010 along with three others in order of merits mentioned therein. Per recruitment order, the others were senior to the applicant. (Copy of the recruitment order is **Annexure "B"**).
3. That up till now the applicant performs his duty as Naib-Qasid in Darul Qaza Swat, to the best of his abilities efficiently, honesty with full zeal and obedience and is also a Master Degree holder in Urdu. (Copy of the degree is **Annexure "B-1"**).
4. That in the year 2012 a post of Junior Clerk fell vacant, upon which, Mr. Muhammad Idrees, Naib Qasid was promoted to the said post (BPS-07) on the basis of seniority cum-fitness amongst the Naib-Qasid(s) vide order bearing Endst: No.11661-68/Admn: dated 14/09/2012. (Copy of the promotion order is **Annexure "C"**).
5. That vide order bearing Endst: No.12620-27/Admn: dated 23/10/2013, the above named official was further

- promoted to the post of Senior Clerk (BPS-09). (Copy of promotion order is **Annexure "D"**).
6. That two posts of Junior Clerk were fell vacant in the Hon'ble Bench, upon which, two Naib-Qasid(s) were promoted on the basis of Seniority cum-fitness vide order bearing Endst: No.14457-63/Admn dated 31/10/2014 and the applicant was come to the top of seniority amongst Naib-Qasid(s) of the Hon'ble Bench. (Copy of promotion order is **Annexure "E"**).
 7. That Hon'ble Peshawar High Court, Peshawar, letter No.6085-6105/B&A dated 24/09/2014 read with corrigendum bearing Endst: No.6292-99 dated 03/10/2014 one post of Assistant (BPS-16), one post of Budget & Account Assistant (BPS-14) and two posts of Junior Clerk (BPS-11) were sanctioned for this Hon'ble Bench. (Copies of letters are **Annexure "F & G"** respectively).
 8. That for filling up the above posts, the worthy Additional Registrar of this Hon'ble Bench vide letter bearing No.3962/Accounts dated 03/10/2014 send a request for constitution of DPC & DSC along with working papers so prepared for the purpose. (Copies of letter along with Working Papers are **Annexure "H"**).
 9. That in response to the above letter, the worthy Registrar, Peshawar High Court, Peshawar, vide letter No.13898/Admn: dated 22/10/2014 constituted departmental Promotions & Selections committee for filling up the above posts, which was delayed uptil now due to some unknown reasons. (Copy of the above letter is **Annexure "J"**).
 10. That in the meanwhile the applicant along with other Class-IV officials of this Hon'ble Bench, submitted joint application for their promotions to the posts of Junior Clerk per their seniority, the same was forwarded by the Additional Registrar, of this Bench, to worthy Registrar, Peshawar High Court, Peshawar, reply of which is still awaited. (Copies are **Annexure "K"**).
 11. That vide impugned order bearing Endst: No.4888-99/Admn: dated 14/04/2015 of the Hon'ble Peshawar High Court, Peshawar, (**Annexure "M"**) two Junior Clerks (BPS-11) from the establishment of District & Sessions

Judge/Senior Civil Judge Swat (working on detailment), were transferred and adjusted upon the above vacant positions, which directly infringed the right of the applicant, hence, the instant representation inter alia on the following grounds:-

GROUND:

- i. That the impugned order is completely in contradiction with the *Civil Servants Act, 1973* and the *Civil Servants (Appointment, Promotion and Transfer) Rules, 1989* and **discriminatory**.
- ii. That the officials of District Judiciary Swat, whose services were temporarily hired on detailment, were not entitled to permanently transfer and adjust them on the vacant positions available in the Hon'ble Bench Darul Qaza, because, the applicant waited for long time with a ray of hope that he would be promoted to the post of Junior Clerk as his 03 Senior colleagues Class-IV officials have already got promotion turn by turn to the posts of Junior Clerk even one of them was further promoted to the post of Senior Clerk. Such deprivation of the applicant from his lawful right, is directly affecting his job.
- iii. That in accordance with *Law & Shariah*, the applicant being official of parent department is more deserving for promotion than the officials of District Judiciary Swat.
- iv. That Note Para 1 of the impugned order is completely against the *Government Servants Laws, Rules*, also against the *Shariah* and *natural justice*, because, which directly further infringed the lawful right of the applicant and other Class-IV Servants of the Hon'ble Bench Darul Qaza, Swat.
- v. That about six months ago working papers were prepared by the worthy Additional Registrar, Peshawar High Court, Mingora Bench (Darul Qaza) Swat, and sent the same to the Hon'ble Peshawar High Court, Peshawar, for filling up the posts of Assistant, Budget & Account Assistant and Junior

Clerks through DPC & DSC with full detail of promotions and appointments. In response to that, the Hon'ble Peshawar High Court, Peshawar, constituted both the committees i.e. DPC & DSC (**Annexure "H"**), which process was delayed due to some unknown reasons and now the impugned order. The impugned order is not only against the *Government Servants Laws/Rules* but also in violation of the *fundamental rights* guaranteed by the Constitution of *Islamic Republic of Pakistan, 1973*.

- vi. That despite the fact that the applicant is well qualified, having enough experience in official work, typing as well as computer skills and is fit for promotion for the post of Junior Clerk but even then preference was given to the employees of District Judiciary over the applicant, such deprivation causing mental disturbance to the applicant in particular as well as other Class-IV officials of the Hon'ble Bench too.
- vii. That the impugned order is also against the *law, equity, Shariah, fundamental rights* guaranteed by the Constitution and *natural justice*.

PRAYER:

It is, very meekly prayed that on acceptance of the instant representation, the impugned order may graciously be withdrawn / set aside and an opportunity may be provided to the applicant and promotion to the post of Junior Clerk may be sympathetically considered in case of the applicant coupled with any other remedy which is just, efficacious and appropriate may also be awarded though not specifically been prayed for in the instant representation.

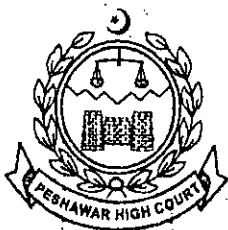
Applicant in person

Nadir Shah
18/4/15

NADIR SHAH

Naib Qasid,
Peshawar High Court,
Mingora Bench (Darul Qaza)
Swat.

Dated: 18-04-2015



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210149-58
Off: 9210135
Fax: 9210170

www.peshawarhighcourt.gov.pk
info@peshawarhighcourt.gov.pk
phcpsh@gmail.com

No. 5614 /Admn:

Dated Pesh the 02/5 /2015

To:

The Additional Registrar,
Peshawar High Court,
Mingora Bench/Dar-ul-Qaza, Swat.

Subject: **DEPARTMENTAL REPRESENTATION FOR THE REVIEW OF ORDER BEARING ENDST: NO.4888-99/ADMN DATED 14.04.2015.**

Dear Sir,

I am directed to refer to your letter No.1402/Admn: dated 18.04.2015 and to say that the representation of Mr. Nadir Shah, Naib Qasid is devoid of merit, hence rejected, please.

Sincerely yours,


ADDITIONAL REGISTRAR (ADMN)
FOR REGISTRAR



The
PESHAWAR HIGH COURT
Mingora Bench/Dar-ul-Qaza
Swat

All the Communications should be addressed to the Additional Registrar of this Bench.

Office: +92-946-811939 885005
Fax: +92-946-811940 885004
E-Mail: darulqazaswat2011@gmail.com

No. 1757 /

Dated: 28/5/15

To,

The Registrar,
Peshawar High Court,
Peshawar.

Subject: REVIEW PETITION UNDER RULE 3 OF THE KHYBER PAKHTUN KHWA CIVIL SERVANTS (APPEAL) RULES, 1986.

Respected Sir,

Enclosed, find herewith Review petition (in original) submitted by Mr. Nadir Shah, Naib Qasid of this Bench for further necessary action, please.

Encl:a.a

Babar Ali Khan,
Additional Registrar
Peshawar High Court, Mingora Bench/
Dar-Ul-Qaza, Swat

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR.

Departmental Review Petition No. _____ /of 2015

Nadir Shah s/o Zahir Shah Naib Qasid at Peshawar High Court, Mingora
Bench/Darul Qaza, Swat.....Petitioner

VERSUS

- 1) The Registrar, Peshawar High Court, Peshawar.
 - 2) The Additional Registrar (Admn) Peshawar High Court, Peshawar.
 - 3) The Additional Registrar, Peshawar High Court, Bench at Mingora.
-Respondents

**REVIEW PETITION UNDER RULE 3 OF THE KP CIVIL SERVANTS
(APPEAL) RULES, 1986, to the effect that Order No.5614/Admn: dated
02-05-2015 communicated to the petitioner by respondent No.2 may be
reviewed and withdrawn and the representation of the petitioner may be
allowed;**

Respectfully Sir,

- 1) That the petitioner was appointed as Naib Qasid in the Anti-Terrorism Court Malakand Division at Saidu Sharif Swat on 30/03/2010. (Copy of recruitment order is Annexure "A").
- 2) That after the establishment of Peshawar High Court Mingora Bench/Darul Qaza Swat, the petitioner was recruited as Naib Qasid (BPS-01) vide order bearing Endst: No.21676-85/Admn: dated 22-12-2010 along with three others in order to merits mentioned therein. Per recruitment order, the other two were senior to the petitioner (Copy of the recruitment order is Annexure "B").
- 3) That the petitioner, who is a Master Degree holder has been performing his duty to the best of his abilities, efficiently, honestly with full zeal and obedience (Copy of the degree is Annexure "B-1").

- 4) That in the year 2012 a post of Junior Clerk (BPS-7) fell vacant, upon which, Mr. Muhammad Idrees, Naib Qasid was promoted on the basis of seniority cum-fitness amongst the Naib Qasid(s) vide order bearing Endst: No.11661-68/Admn: dated 14-09-2012. (Copy of promotion order is Annexure "C").
- 5) That vide order bearing Endst: No.12620-27/Admn: dated 23-10-2013, the above named official was further promoted to the post of Senior Clerk (BPS-09), (Copy of promotion order is attached as Annexure "D").
- 6) That two posts of Junior Clerk were fell vacant in the Hon'ble Bench, upon which, two Naib Qasid(s) were promoted on the basis of Seniority cum-fitness vide order bearing Endst: No.14457-63/Admn: dated 31-10-2014 and the petitioner was come to the top of seniority amongst Naib Qasid(s) of the Hon'ble Bench (Copy of promotion order is Annexure "E").
- 7) That the Hon'ble Peshawar High Court, Peshawar, letter No.6085-6105/B&A dated 24-09-2014 read with corrigendum bearing Endst: No.6292-99 dated 03-10-2014 one post of Assistant (BPS-16), one post of Budget & Account Assistant (BPS-14) and two posts of Junior Clerk (BPS-11) were sanctioned for this Hon'ble Bench (Copies of letters are Annexure "F& G" respectively).
- 8) That for filling up the above posts, the worthy Additional Registrar of this Hon'ble Bench vide letter bearing No.3962/Accounts dated 03-10-2014 send a request for constitution of DPC & DSC along with working papers so prepared for the purpose (Copies of papers are Annexure "H").
- 9) That in response to the above letter, the worthy Registrar, Peshawar High Court, Peshawar, vide letter No.13898/Admn: dated 22-10-2014 constituted departmental Promotions & Selections Committee for filling up the above posts. For reasons unknown to the petitioner, the said committees are yet to hold their meetings. (Copy of the above letter is Annexure "I").
- 10) That in the meanwhile the petitioner along with other Class-IV officials of this Hon'ble Bench, submitted joint application for their promotions to the posts of

Junior Clerk per their seniority, the same was forwarded by the respondent No.3 to respondent No.1. (Copies are Annexure "K").

- 11) That vide order bearing Endst: No. 4888-99/Admn: dated 14-04-2015 of the Hon'ble Peshawar High Court, Peshawar, (Annexure "M") two Junior Clerks (BPS-11) from the establishment of District & Sessions Judge/Senior Civil Judge Swat (working on detailment), were transferred and adjusted upon the above vacant positions.
- 12) That the said order directly affected the prospects of the petitioner for future promotion. Hence, a departmental representation was filed before this august Court (Copy of representation application is Annexure "N").
- 13) That this august Court was pleased to dismiss and reject the said application. The same was communicated to the petitioner through Endst: No.5614/Admn: dated 02-05-2015 by respondent No.2 (Copy of letter is Annexure "O").
- 14) That feeling mortally aggrieved and having no other efficacious and adequate remedy in law, the petitioner files this review petition *inter alia* on the following grounds

GROUND:

1. That the order under review is unjust, violative of due process of law and of fundamental rights thus, falling foul of Article 4 and 10-A of the Constitution.
2. That rights can be conferred upon an individual retrospectively but they cannot be taken back retrospectively. By virtue of the order under review, officials of District Judiciary who were working on detailment at PHC Mingora Bench have been deemed senior to the petitioner. Thus, the petitioner has been condemned in retrospect and a cardinal principle of justice has been violated through the order under review.
3. That by virtue of the order under review, officials of the District Judiciary who were temporarily deputed to PHC Mingora Bench have been preferred over the petitioner. Needless to say that the permanent staff of this august Court are in

the minimum connotation of the notion, not inferior to those serving in the District Judiciary.

4. That the order under review has been made arbitrarily without any plausible grounds. Through the said order future prospects of the petitioner for promotion have also been blocked.
5. That the petitioner whose mates were appointed as Naib Qasid(s), have now been promoted as Junior Clerks and Senior Clerks. The petitioner was having a legitimate expectation to be promoted as Junior Clerk. By virtue of the order under review the petitioner has been deprived of his lawful rights, which directly affects his job and official responsibilities.
6. That keeping the mandates of law aside, even the norms of courtesy and propriety demand that a person serving in his parent department is more deserving for promotion than an alien. By virtue of the order under review, officials of another department have been preferred.
7. That on the factual side as well, the order under review is not sustainable in the eye of law. The working paper prepared by the authorized officers and sent to this Hon'ble Court for filling up the posts of Assistants, Budget and Account Assistant and Junior Clerks through DPC and DSC has not been acted upon as yet. Through the order under review, the same procedure has been nullified.
8. That further grounds with leave of this august Court may be raised at the time of oral submissions before the Hon'ble Bench.

It is, therefore, humbly prayed that on acceptance of this review petition, order dated 18-04-2015 may be reviewed and the representation of the petitioner may be allowed.

Any other relief though may not specifically prayed for, but which the circumstances of the case demand in the interest of justice, may be granted.

INTERIM RELIEF:

By way of interim relief, order dated 14/04/2015 to the extent of Note-01 may please be suspended and DPC/DSC may be restrained from granting further adjustments of the detailment staff in this court till the final decision on this petition.

Petitioner
Through



**Dr. Adnan Khan, Barrister-at-Law,
Advocate High Court**

CERTIFICATE:

As per direction of my client, no such like petition earlier has been filed by the petitioner on the subject matter before this Hon'ble Court.

ADVOCATE



**Dr. Adnan Khan, Barrister-at-Law,
Advocate High Court**



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

(37)

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info@peshawarhighcourt.gov.pk
phcpsh@gmail.com

Diary No. 1130
Date: 16/6/15

No. 6985 /Admn:

Dated Pesh the 11/6/2015

To:

The Additional Registrar,
Peshawar High Court,
Mingora Bench/Dar-ul-Qaza, Swat.

Subject: **REVIEW PETITION UNDER RULE 3 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPEAL) RULES, 1986.**

Dear Sir,

I am directed to refer to your letter No.1757 dated 28.05.2015 and to say that the Competent Authority is pleased to reject the subject review petition of Mr. Nadir Shah, Naib Qasid, please.

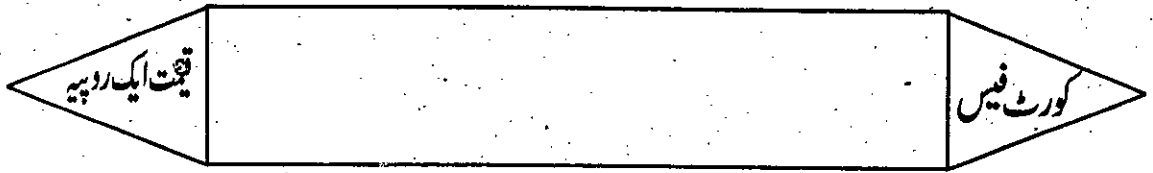
office
official concerned
be informed accordingly.

Sincerely yours,

ADDITIONAL REGISTRAR (ADMN)
FOR REGISTRAR

16/6/15
Addl: Registrar,
Peshawar High Court, Bench
Mingora/Dar-ul-Qaza, Swat

بعدالت خیر نختونخواہ ماتحت عدلیہ سرور ٹریبیونل پشاور



مورخہ 7 جولائی ۱۹۵۷ء منجانب
مقدمہ نادر شاہ بنام جسٹس پشاور یا ٹریبیونل پشاور
دعویٰ اپیل

باعث تحریر آنکے

جرم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام پشاور کیلئے برسر ڈاکٹر عدنان خان ایڈووکیٹ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوا ایسے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

المرقوم 7 ماہ جولائی ۱۹۵۷ء

العبد گواہ شاہ عدہ العبد

کے لئے منظور ہے

Attested

&

Accepted

محمد علی

Barrister

Dr. Muhammad Khan
Advocate High Court

بمقام

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 429 /ST

Dated 14 / 3 / 2016

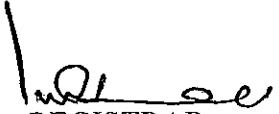
To

The Additional Registrar,
PHC Mingora Bench/Darul Qaza, Swat.

Subject: - **JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 13.1.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.



846

The
PESHAWAR HIGH COURT
Mingora Bench/Dar-ul-Qaza
Swat

All the Communications should be addressed to the Additional Registrar of this Bench.

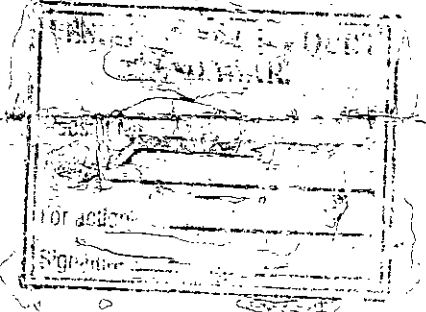
Office: +92-946-811939
Fax: +92-946-811940
E-Mail: darulqazaswat2011@gmail.com

No. 129

To

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 67
dated 22-1-16

Dated: 18/1/16



The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar

Subject: APPEAL NO. 800 OF 2015

Nadar Shah

Vs

The Registrar, Peshawar High Court, Peshawar and others

Dear Sir,

Subject appeal has been decided by Khyber Pakhtunkhwa Service Tribunal Peshawar at Camp Court, Swat, on 13.01.2016. The Registrar, Peshawar High Court, is a party in the matter.

It is requested, that an attested copy of the Judgment/ Order may please be provided to this office.

allowed.
1/21/16

[Signature]
Additional Registrar,
PHC, Mingora Bench/
Dar-UI-Qaza, Swat.
0946-885005

18/1/16

Encl:

Returned envelope dully stamp is also attached.



The
PESHAWAR HIGH COURT
Mingora Bench/Dar-ul-Qaza
Swat

All the Communications should be addressed to the Additional Registrar of this Bench.

Office: +92-946-811111
Fax: +92-946-811111
E-Mail: darulqazaswat2011@gmail.com

No. _____ /

Dated: _____

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

AUTHORITY LETTER

The following officers are hereby authorized to appear before the Khyber Pakhtunkhwa Service Tribunal Peshawar in Appeal No. 800/2015 titled "Nadir Shah Vs The Registrar Peshawar High Court Peshawar" on 07.12.2015 and subsequent dates till final decision of the appeal. on the behalf of respondents

1. Mr. Shah Dawran, Superintendent.
2. Mr. Haseeb Khan, Librarian.


Additional Registrar

Endst. No. _____ /Admn

Dated: _____ / _____ /2015

Copy forwarded to the Registrar, Peshawar High Court, Peshawar with reference to his letter No. 12776/Admn dated 05.11.2015.


Additional Registrar

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

Writ Petition No.2440-P/2012

JUDGMENT

Date of hearing.....4.9.2014.....

Petitioner(s) (Engineer Musharaf Shah)
by Mr. Ijaz Anwar, Advocate,

Respondent(s) (Government of K.P.K)
by Syed Qaiser Ali Shah, AAG,
M/S Abdul Latif Afridi, Ghulam Mohyuddin Malik
and Saadullah Khan Marwat, Advocates.

YAHYA AFRIDI, J.- Through this single judgment,
we propose to dispose of three Writ Petitions, as
common questions of law. The particulars of the
said writ petitions are as under:-

1. *W.P.No.2440-P/2012 (Engineer Musharaf Shah, Assistant Engineer (Acting Charge Basis) Rehabilitation of Irrigation System of Khyber Pakhtunkhwa Directorate Peshawar vs. Govt. of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar and other).*
2. *WP No. 3388-P/2012 (Asif Khan, Sub-Divisional Officer (Irrigation) Shahbaz Garhi, Mardan and others vs. The Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil*

Secretariat, Peshawar and others).

3. *WP No. 3595-P/2012 (Saifullah S/o Abdullah Khan, Sub-Divisional Officer (OPS), Peshawar vs. Secretary, Govt. of KPK, Irrigation Department, Peshawar and others).*

2. In the first two petitions (Writ Petitions No. 2440- P & 3388-P/2012), hereinafter referred to as "*first set of petitions*", the petitioners are seeking the following common relief:

Firstly, to direct the respondents to act in accordance with law and to allow regular promotion to the petitioner & to place his cases before the Departmental Promotion Committee for his confirmation/regular promotion against the post of Assistant Engineer BPS-17;

Secondly, to declare the amendment introduced in the recruitment rules vide Notification NO. SOE/IRR/2-3-5-2010-11 dated 25.6.2012 are inapplicable to the case of the petitioner and have no retrospective effect;

Thirdly, the respondents are legally not competent to process the promotion cases on such rules to the detriment of the rights of the petitioner or any other remedy deemed proper may also be allowed.

While in the third petition (Writ Petition No. 3595-P/2012), hereinafter referred to as "*third petition*", the petitioner is seeking essentially the following:-

- I. Direct the authority /department to issue Notification of Promotion of the petitioner, etc to the post of Assistant Engineer, BPS-17 with all service benefits; and/or*
- II. Any other writ/order/direction deemed proper and just in the circumstances of the case, be also issued/ordered/given".*

3. Before this Court considers the petitions on merits, it would be essential to first decides the preliminary jurisdictional objection raised by the respondent department in view of the express bar provided in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 ("**Constitution**").

4. The constitutional bar imposed upon this Court under Sub-Article (2) of Article 212 of the Constitution reads as under:-

"212. Administrative Courts and Tribunals.

(1) Notwithstanding anything hereinbefore contained the

appropriate Legislature may by Act provide for the establishment of one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of—

- (a) matters relating to the terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary matters;
- (b) matters relating to claims arising from tortuous acts of Government, or any person in the service of Pakistan, or of any local or other authority empowered by law to levy any tax or cess and any servant of such authority acting in the discharge of his duties as such servant; or
- (c) matters relating to the acquisition, administration and disposal of any property which is deemed to be enemy property under any law.
- (2) Notwithstanding anything hereinabove contained, where any Administrative Court or Tribunal is established under clause (1), no other court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends:

Provided that the provisions of this clause shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly unless, at the request of that Assembly made in the form of a resolution, Parliament by law extends the provisions to such a Court or Tribunal.

(3)

(Emphasis provided)

5. The above constitutional provision, opening with the "*non-obstante*" clause, expressly bars all Courts, including the High Court to take cognizance of matters, which can be agitated and adjudicated before an administrative tribunal constituted and functioning under the law. This essential principle has been eloquently explained in the authoritative judgment of this Court in *Mian Amanul Mulk's case* (PLD 1981 Peshawar 1) and the decision of full bench Court of the Sindh High Court in *Abdul Bari's case* (PLD 1987 Karachi 290).

6. Now, in order to appreciate the scope of matters, which can be adjudged exclusively by an administrative tribunal, we will have to refer to section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 ("*Act of 1974*"), which reads as under:-

4. *Appeal to Tribunals.*

Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him or within six months of the establishment of the appropriate Tribunal, whichever is later, prefer an appeal of the Tribunal having jurisdiction in the matter:

Provided that:-**(a).....****(b) no appeal shall lie to a Tribunal against an order or decision of a departmental authority determining..****(i) the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade; or****(ii) the quantum of departmental punishment or penalty imposed on a civil servant as a result of a departmental inquiry, except where the penalty imposed is dismissal from service, removal from service or compulsory retirement; and****(c) no appeal shall lie to a Tribunal against an order or decision of a departmental authority made at any time before the 1st July, 1969.****(Emphasis provided)**

7. In view of the above provision of the Act of 1974, the condition precedents for invoking the jurisdiction of the Tribunal are as under:-

- i. **Civil servant is to be aggrieved of a final order;**
- ii. **The said order has to passed by the departmental authority; and**

- iii. *finally, the said order is to relate to terms and conditions of service of the aggrieved civil servant.*

8. When we consider the circumstances leading to the filing of the "*first set of petitions*", it is noted that the same fulfils the three essential conditions of invoking the jurisdiction of the Tribunal, which are explained as under;

Condition No.I

As far as the first condition precedent is concerned, no doubt, prior to the filing of the "*first set of petitions*", there was no "*final order*" passed by the departmental authority, denying the rights of the petitioners to be "*eligible*" for promotion to a higher post. However, after the institution of "*first set of petitions*", the respondent department, *inter-alia*, has denied and disputed the "*eligibility*" of the petitioner to be considered for promotion. The said denial in writing, duly supported by an affidavit of a responsible competent officer would, thus, be deemed a "*final order*", as envisaged under Section 4 of the Act of 1974.

Condition No.II

As the respondent department has responded in the negative to the claim of the petitioners, the second condition is also fulfilled.

Condition No.III

Before we discuss the third condition precedent, it would be pertinent to understand the true import of the term; "*terms and conditions of service*" of a civil servant. The said term has been defined in Section 3 of the Khyber Pakhtunkhwa Civil Servants Acts, 1973 ("*Act of 1973*"), which reads as under:-

"3. Terms and conditions.—The terms and conditions of service of a civil servant shall be as provided in this Act and the rules".

It is by now a settled principle of administrative and service laws that a civil servant has **no** "*right to promotion*" to a higher post. However, a "*right to be considered for promotion*" would accrue in favour of the civil servant on his fulfilling the requisite prescribed qualification. The basic decision on this issue was rendered in **Fida Muhammad Khan's case (PLD 1960 S.C. 45)** and later in **Muhammad Akbar Qureshi's case (PLD**

1962 S.C. 428) and thereafter, consistently followed in various decisions including that of M.A. Rafique's case (1990 SCMR 927) and Fazali Rahmani's case (PLD 2008 S.C. 769).

9. In addition to the above-stated general principles concerning the civil servant's right to promotion and to be considered for promotion, the statutory service provisions also supplements the said principles.

Firstly, it is noted that there is no express statutory "*right to promotion*" vested in a civil servant. However, every civil servant, when he joins the civil service has a "*legitimate expectation*" to rise up the rungs of the service structural ladder. This "*legitimate expectation*" is not legally enforceable.

Secondly, it is only when the civil servant fulfills the essential prescribed qualifications for promotion that his "*legitimate expectation*" matures into a "*vested right*".

Thirdly, the civil servant's "*vested right*" to be considered for promotion to a higher post, has been expressly provided under Section 9 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 ("Act of 1973") read with sub-rule (3) of Rule-7 of

Khyber Pakhtunkhwa Civil Servants (Appointments, Promotion and Transfer) Rules, 1989 (“**Rules of 1989**”). The said provisions read as follows:

Act of 1973

“9. Promotion. (1) A civil servant possessing such minimum qualifications as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rule for departmental promotion in the service or cadre to which he belongs.

Rules of 1989.

7. Appointment by Promotion or Transfer.

(1)

(2)

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be”.

10. In order to appreciate the true scope of the right of a civil servant to be considered for promotion, it would be appropriate to review the various stages his promotion case proceeds. The

promotion process generally takes the following course:-

PROMOTION PROCESS.

Eligibility Test (First Stage).

On creation of a new post or availability of a vacancy in a higher post, civil servants, who are "*eligible*" under the prescribed rules to be promoted to the said higher post, are shortlisted by the department, keeping in view the number of post; thereafter, the department prepares the list of eligible officers for its placement before the competent promotion authority/Board for its decision.

Fitness Test (Second Stage).

On receipt of the shortlisted eligible civil servants for promotion, the competent promotion authority/Board, in cases of selection posts, considers the "*fitness*" of all short listed eligible civil servants placed before it for promotion to the higher grade, keeping in view the criteria prescribed under the relevant rules of promotion.

What is crucial to understand is that in the First Stage, the essential and determining factor is the "*eligibility*" of the civil servant. While in the second stage, in cases of selection posts, it is "*fitness*" of the civil servant, which is the

determining factor for promotion of the civil servant to the higher post.

11. Now, let us move on to the legal forums available to a civil servant for redressal of his grievance during the various stage his promotion case proceeds. The competent forum for redressal during each stage of the promotion process can be explained as under:

LEGAL FORUMS.

Pre-eligibility stage.

In case the departmental authority, despite clear availability of vacancies in the higher post is not processing the promotion case of the eligible civil servants, they cannot seek "*mandamus*" from the Tribunal, as aptly explained by the Apex Court in **Qamar Dost Khan's case (2006 SCMR 1630)**.

In such circumstances, the aggrieved civil servant may seek the indulgence of the constitutional Court under Article 199 of the Constitution. The writ so issued by the Constitutional Court would only be to the extent of directing the departmental authority to act in accordance with law and to initiate the process of promotion.

Eligibility Stage. Once the departmental authority proceeds with the promotion process and decides on

the "*eligibility*" of the civil servants and shortlists the candidates to be placed before the competent departmental promotion authority/Board, the issue would transform from inaction of the department to that of "*terms and conditions*" of the aggrieved civil servant. In such circumstances, the legal forum for redressal of a grievance of the said aggrieved civil servant would then only be entertained and determined by a validly constituted and functioning Tribunal. The order of referring the promotion case of others to the departmental promotion authority/Board would be the "*final order*", as envisaged under Section 4 of the Act of 1974.

Fitness stage. The legal forum for redressal of a civil servant aggrieved of the decision of the promotion authority/Board on his lack of "*fitness*" to be promoted to a higher post would not be the Tribunal. No doubt, the subject-matter of promotion falls within the scope of "*terms and conditions*" of his service, as the process and criteria of promotion has been provided under the Act of 1973 and the relevant Rules. However, the "*proviso*" to subsection (2) of Section 4 of the Act 1974, has expressly barred the Tribunal to entertain any such

grievance of a civil servant. In addition thereto, Section 23B of the Act of 1973 also bars the ordinary Courts of civil jurisdiction from entertaining any matters relating to the "*terms and conditions of service*" of a civil servant. Thus, a civil servant's grievance regarding the decision of the competent departmental promotion authority/Board on his lack of "*fitness*" to be promoted to a higher post cannot be agitated before a civil Court or the Tribunal. Faced with having no alternative remedy, the aggrieved civil servant may approach the constitutional Court for redressal of his grievance by invoking Article 199 of the Constitution.

12. The jurisprudential distinctions in regard to maintainability of petitions before the constitutional Courts and the Tribunals have by now been settled. While dealing with maintainability of petitions filed by a civil servant relating to "*terms and conditions*" of his service, it is settled that the exclusive jurisdiction to decide the same vests in the Service Tribunal and not the constitutional Courts. The leading pronouncements on the matter have been explained in *Muhammad Anis and others v. Abdul*

Haseeb and others (PLD 1994 SC 539), Muhammad Iqbal v Executive District Officer (Revenue) (2007 SCMR 682), Syed Abdul Qadir Shah v. Government of Punjab (1972 SCMR 323), Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others (1991 SCMR 1129), Muhammad Akram and others v. The State and others (1996 SCMR 324), Muhammad Rehman Khan v. Chief Secretary, NWFP and others (2004 PLC (C.S) 62), Abdul Ghafoor, Supervisor/Inspector, NHA v. National Highway Authority and others (2002 SCMR 574) and Zafarullah Baloch v. Government of Balochistan and others (2002 SCMR 1056).

13. It would be interesting to note that the apex Court has in some cases clearly vested the Tribunal with exclusive jurisdiction on matters relating to terms and conditions of a civil servant, wherein the impugned action or inaction of the departmental authority did not have a formal "*final order*". Some of the leading cases are as follows:-

Vires of Rules.

Service Tribunal was competent to adjudicate on the question of "*vires*" of rules framed by the department, even if the same were challenged on the basis of violating fundamental rights of the civil

servant. The very rules were deemed to be the "*final order*". Cases in point are *Iqan Ahmed Khurram's case* (PLD 1980 S.C. 153) and *I.A. Sharwani's case* (1991 SCMR 1041).

Departmental Inquiry Proceedings

A challenge was made to the enquiry proceedings before the constitutional Court, where it was argued that as there is no "*final order*", the enquiry proceedings could be challenged before a constitutional Court. The apex Court in *Abdul Wahab Khan's case* (PLD 1989 S.C. 508), while dealing with matter held otherwise with the following observations:

"Even without such observation, the petitioner is entitled to seek remedy in accordance with the law applicable to the tribunal concerned with regard to the filing of appeals. The petitioner would have to satisfy all the conditions for filing such an appeal. One of the conditions being that the order impugned before the Tribunal should be such which is appealable in accordance with the relevant Service Tribunals Act. But the order impugned before the High Court vis-à-vis the stage at which it has been passed, is not appealable, the petitioner would have to wait

till such an order is passed against him which is appealable before the tribunal".

14. In view of the above legal discourse, it can safely be stated that the right to be considered for promotion to a higher post by a civil servant is a matter, which relates to the "*terms and conditions of service*" and the Services Tribunal has to decide the same. It is an admitted position that the Administrative Service Tribunal has been duly constituted and is presently functioning in Khyber Pakhtunkhwa under the enabling provision of the Act of 1974.

15. Having reached the conclusion that this constitutional Court lacks the jurisdiction to entertain the petitions, it would not be appropriate to pass any finding on merits and the challenge made to *vires* of the impugned rules in both sets of petitions.

16. Accordingly, for the reasons stated above, this Court:

- i. Declare grievance of the petitioners relating to their rights to be eligible for promotion to a higher post are "vested right" provided and*

protected under Section 9 of the Khyber Pakhtunkhwa Civil Servants Acts, 1973 and hence, are terms and conditions of service of the petitioners.

- ii. Declare that as the respondents have refused the right of petitioners to be considered for promotion in their comments, the same are deemed as final order provided under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.*
- iii. Declare that the exclusive jurisdiction to entertain and adjudicate upon the matters relating to the right to be considered for promotion to a higher grade vested in the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and that this Court is constitutionally barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 to take cognizance thereof.*
- iv. Direct the office to retain copies of memo of Writ Petitions bearing No. 2440-P and 3388-P/2012 and transmit the same to the Khyber Pakhtunkhwa Services Tribunal for decision in accordance with law. Parties are directed to appear before the Services Tribunal on 10th October, 2014.*
- v. In view of the above directions, Writ Petition NO. 3595-P/2012 having become infructuous is disposed of, accordingly.*

JUDGE

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

Writ Petition No

JUDGMENT

Date of hearing.....4.9.2014.....

Petitioner(s).....

Respondent(s).....

YAHYA AFRIDI, J.- For reasons recorded in the connected *Writ Petition No. 2440-P/2012 (Engineer Musharaf Shah vs. Govt. of Khyber Pakhtunkhwa and others)*, this Writ Petition having become infructuous, disposed of as such.

JUDGE

JUDGE

Nawab Shah

SECTION-4
MINISTERIAL ESTABLISHMENT OF
THE HIGH COURT

C.No. 1(1-4)

CONSTITUTIONAL PROVISION REGARDING OFFICERS
AND SERVANTS OF THE HIGH COURT

Article 208 of the Constitution of Islamic Republic of Pakistan, 1973. The Supreme Court and the Federal Shariat Court, with the approval of the President and a High Court, with the approval of the Governor concerned, may make rules providing for the appointment by the Court of officers and servants of the Court and for their terms and conditions of employment.

C.No. 2(1-4)

THE PESHAWAR HIGH COURT MINISTERIAL
ESTABLISHMENT (APPOINTMENT AND CONDITIONS OF
SERVICE) RULES, 1989.

PESHAWAR HIGH COURT, PESHAWAR

NOTIFICATION
7TH JANUARY, 1990

No. 32 – In exercise of the powers conferred by Article 208 of the Constitution of the Islamic Republic of Pakistan and in supersession of all previous rules made in this behalf, the Peshawar High Court, with the approval of the Governor of the North-West Frontier Province, is pleased to make the following rules regulating the terms and conditions of service of persons serving in the High Court, namely --

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THE PESHAWAR HIGH COURT MINISTERIAL ESTABLISHMENT
(APPOINTMENT AND CONDITIONS OF SERVICE) RULES, 1989.

1. **Short title, application and Commencement;** - (1) These rules may be called the Peshawar High Court Ministerial Establishment (Appointment and Conditions of Service) Rules, 1989.

2. They shall apply to all persons appointed to the posts borne on the Establishment except those appointed by transfer or on deputation from any other Department, service or post.
3. They shall come into force at once.

2. **Definitions;**- In these rules, unless there is anything repugnant in the subject or context-

- (a) "Appendix" means the Appendix to these rules;
- (b) "appointing authority" means the authority specified in rule 4;
- (c) "Board" means a Board of Intermediate and Secondary Education, established by law in Pakistan or any other educational authority or institution declared by Government to be a Board for purpose of these rules;
- (d) "Chief Justice" or "Judge" shall respectively means the Chief Justice or a Judge of the Peshawar High Court;
- (e) "holder of post" means a person appointed to any post specified in Column 2 of the appendix, but does not include a person appointed by transfer or on deputation from other service, Department or post;
- (f) "Establishment" means the Ministerial Establishment of the Peshawar High Court consisting of the posts specified in column 2 of the Appendix;
- (g) "Government" means the Government of North-West Frontier Province;
- (h) "initial appointment" means appointment made otherwise than by promotion or transfer;
- (i) "post" means a post specified in column 2 of the Appendix and includes such other post or posts as may, from time to time, be added to it;
- (j) "recognized University" means any University incorporated by Law in Pakistan or any other University declared by Government to be recognized University for the purpose of these rules;
- (k) "Zone" means the different areas for the time being notified by Government as a separate Zone for the purpose of giving

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representation to the bonafide residents of each such area in the services of the Province.

3. **Constitution of the Establishment.** -- The Establishment shall consist of the posts specified in Appendix, and shall include such other posts as may be added to it from time to time.

4. **Appointing Authority.** -- Appointment to the posts shall be made by the Chief Justice or by an officer of the High Court authorized by the Chief Justice in that behalf.

5. **Method of Recruitment:** (1) Recruitment to the cadre posts borne on the Establishment shall be made by initial recruitment or by promotion or transfer in the manner specified in these rules.

(2) Subject to these rules, vacancies in various posts shall be filled in the following manners;

- (a) vacancies in the post of Registrar shall be filled by transfer;
- (b) vacancies in the post of Additional Registrar and Secretary to the Chief Justice shall be filled at the discretion of the appointing authority by transfer or by promotion; provided that the said two posts shall be inter-transferable;
- (c) vacancies in the post of Assistant Registrar, Private Secretary to the Chief Justice, Superintendents and Senior Clerks shall be filled by promotion, provided that the posts of Assistant Registrar and Private Secretary to the Chief Justice shall be inter-transferable;
- (d) vacancies in the posts of Judgment Writers and Stenographers shall be filled by promotion or, if no suitable person is available for promotion, by initial appointment;
- (e) seventy five percent of the posts of Assistants shall be filled by promotion on the basis of seniority-cum-fitness and the remaining twenty five percent by initial appointment;
- (f) vacancies in the remaining posts specified in column 2 of the appendix shall be filled by initial recruitment; provided that twenty percent of the vacancies in the posts of Junior Clerk may be filled by promotion from amongst Daftaries and Naib Qasids who have passed the Secondary School Certificate Examination from the Board.

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- (3) Vacancies to be filled by initial recruitment shall be reserved for bonafide resident of Zones in accordance with such policy or proportion as may be laid down by Government from time to time.
- (4) Vacancies to be filled by promotion or transfer shall be filled from amongst persons eligible for such promotion or transfer in accordance with the provisions contained in column 4 of appendix.
6. **Age---**No person shall be appointed to a post by initial recruitment who is less than eighteen years or more than twenty five years of age-
- (a) where recruitment is to be made on the basis of written examination, on the 1st January of the year in which the examination is proposed to be held; and
- (b) in other cases, on the last date fixed for submission of application for appointment; provided that that appointing authority may, in the case of upper age limit, grant such concession to a candidate as may be admissible to him for appointment to Government service under any general or specific order of Government for the time being in force.
7. **Qualification.**—(1) No person shall be appointed to a post by initial recruitment unless he possesses the qualifications prescribed for the post in column 3 of the Appendix.
- (2) No person, if not already in Government service, shall be appointed to a post unless he/she produces a certificate of character from the principal academic officer of the academic institution last attended and also certificate of character from two other responsible persons not being his/her relatives, who are well acquainted with his/her character and antecedents.
8. **Probation.**- (1) A person appointed to a post against a substantive vacancy shall remain on probation for a period of two years, if appointed by initial recruitment, and for a period of one year, if appointed otherwise.

Explanation: Officiating service and service spent on deputation to a corresponding or a higher post may be allowed to count towards the period of probation

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(2) If the work or conduct of a holder of post during the period of probation has, in the opinion of the appointing authority, not been satisfactory, the appointing authority may, notwithstanding that the period of probation has not expired dispense with his services, if he has been appointed by initial recruitment and if he has been appointed otherwise, revert him to his former post, or if there be no such post, dispense with his services.

(3) On completion of the period of probation of a holder of the post, the appointing authority may, subject to the provisions of sub-rule (4), confirm him in his appointment or if his work or conduct has, in the opinion of the appointing authority, not been satisfactory.-

- (a) in case he has been appointed by initial recruitment, dispense with his services; or
- (b) in case he has been appointed otherwise, revert him to his former post, and if there be no such post, dispense with his services; or
- (c) extend the period of probation by a period not exceeding two years in all, and during or on the expiry of such period pass such orders as it could have passed during or on the expiry of the initial probationary period.

Explanation-I.-- If no orders have been made by the day following the completion of the initial probationary period, the period of probation shall be deemed to have been extended.

Explanation-II.-- If no orders have been made by the day on which the maximum period of probation expires, the probationer shall be deemed to have been confirmed in his appointment.

Explanation-III.-A probationer who has satisfactorily completed his period of probation shall be confirmed with effect from the date of his continuous appointment to the post in a substantive vacancy; provided that where the period of his probation has been extended under the provisions of clause (c) of this sub-rule, the date of confirmation shall, subject to the other provisions of this rule be the date on which the period of probation was last extended.

(4) Where the appointing authority has prescribed any training or departmental examination for the purpose of confirmation against a post,

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no person shall be confirmed against the post, unless he successfully completes the training or passes the departmental examination so prescribed.

(5) If a holder of the post fails to complete successfully any training or pass any departmental examination prescribed under sub-rule(4), within such period or in such number of attempts as may be prescribed by the appointing authority, the appointing authority may.—

- (a) in case he has been appointed by initial recruitment, dispense with his services; and
- (b) in case he has been appointed otherwise, revert him to his former post, or if there be no such post, dispense with his services.

9. **Seniority:** (1) The seniority interse of the holders of posts shall be determined.--

- (a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the authority on whose recommendation the appointment is made; provided that persons selected in an earlier selection shall rank senior to persons selected in a latter selection; and
- (b) in the case of persons appointed otherwise, with reference to the date of their continuous regular appointment; provided that persons selected for promotion in one batch shall retain their inter-se seniority as held by them in the lower cadre.

Explanation-I.-- If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted, the person promoted first shall rank senior to the person promoted subsequently.

Explanation-II.-- A junior person appointed to a higher post shall be deemed to have superseded a senior person if both the junior and senior persons were considered for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority of the holder of posts appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with

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reference to the dates of their continuous regular appointment to the post; provided that if the date of continuous regular appointment in the case of two or more persons is the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.

10. **Pay and Allowances and other Fringe benefits.**--- Members of the Establishment shall be entitled to the same pay and allowances (including the scale of pay) and other fringe benefits as are admissible to Government Servants of the equivalent status or rank in accordance with the rules made by the Government from time to time.

11. **Liability of Transfer.**--- Holders of posts shall be liable to transfer anywhere in the North-West Frontier Province from the principal seat of the High Court to any of its Circuit Benches and vice versa.

12. **General Rules.**--- In all other matters not expressly provided for in these rules or any other rules hereafter made, the rules made or deemed to have been made by Government under the North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P Act XVIII of 1973), shall mutatis mutandis apply to the holders of posts under these rules.

13. **Relaxation.**--- Any of these rules may, for reasons to be recorded in writing, be relaxed in individual cases, if the Chief Justice is satisfied that a strict application of the rule would cause undue hardships to the individual concerned.

14. **Delegation.**--- The Chief Justice may delegate all or any of his powers under these rules to a Judge or officer of the High Court.

15. **Powers of the Chief Justice to safeguard rights of holders of posts.**--- Whenever in the application of these rules, the terms and conditions of service of a holder of post, as guaranteed by any law for the time being in force, are likely to be adversely affected, the Chief Justice shall make appropriate orders to safeguard the legal rights of such person in accordance with law.

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APPENDIX

(See rules 2(a), 3, 5(2)(f), 5(4) and 7)

S.No	Nomenclature of the post	Minimum qualification for appointment by initial recruitment or by transfer	Method of Recruitment
1	2	3	4
1	Registrar	--	By transfer of a District and Sessions Judge
2	Member Inspection Team	--	By transfer of a District and Sessions Judge
3	Additional Registrar	--	(a) By transfer of an Additional District and Sessions Judge; or (b) By promotion on merit with particular reference to fitness for higher responsibilities, from amongst holders of posts in the next below cadre.
4	Secretary to Chief Justice	--	By promotion from the holder of the post of Private Secretary to the Chief Justice or by transfer of Judicial Officer in BPS-18.
5	Assistant Registrar, (General) Assistant Registrar (Budget & Accounts)	--	(a) By promotion on the basis of seniority-cum-fitness, from amongst the holders of posts of Superintendents and Judgment Writers,

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1	2	3	4
			<p>who were in the service of the High Court immediately before the dissolution of the Province of West Pakistan; and</p> <p>(b) after absorption of the Superintendent and Judgment Writers referred to in clause (a) above, two-third by promotion, on the basis of seniority-cum- fitness from amongst holders of the post of Superintendent and one-third by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Judgment Writers in the following manner:</p> <p>First vacancy: Superintendents Second vacancy: Judgment Writers Third vacancy: Superintendents Fourth vacancy: Superintendents Fifth vacancy: At the discretion of the Chief Justice</p>
6	Private Secretary to Chief Justice		By promotion, on the basis of seniority-cum-fitness, from amongst the holders of posts of Judgment Writers

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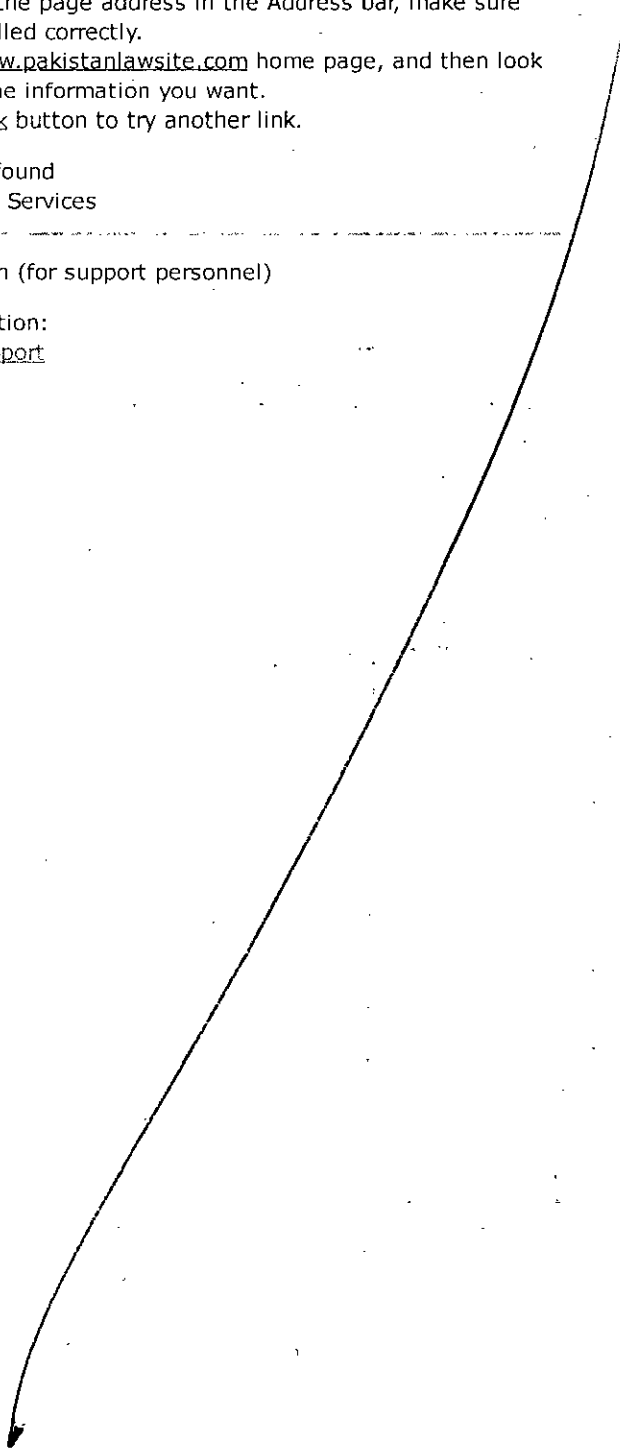
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1	2	3	4
7	Superintendent		By promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of Assistant.
8	Judgment Writer.	(i). Degree from a recognized University (ii). Speed of 120 words per minute in shorthand and 40 words per minute in typing	(a) By promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of Stenographer. (b) If no suitable stenographer is available for promotion, by initial recruitment.
9	Stenographer	(i). Secondary School Certificate or equivalent qualification from a recognized Board; and (ii). Speed of 100 words per minute in shorthand and 40 words per minute in typing	(a) By promotion, on the basis of seniority-cum-fitness from amongst the holders of the post of steno-typist; or (b) If no suitable stenographer is available for promotion, by initial recruitment.
10	Assistant	Degree from a recognized University	(a) seventy five percent by promotion on the basis of seniority-cum-fitness from amongst the holders of the post of Senior Clerk; and

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1	2	3	4
			(b) twenty five percent by initial recruitment.
11	Librarian	Diploma in Library Science	By initial recruitment
12	Assistant Librarian	Diploma in Library Science	By initial recruitment
13	Stenotypist	1. Secondary School Certificate or equivalent qualification from a recognized Board; and 2. Speed of 80 words per minute in shorthand and 35 words per minute in typing	By initial recruitment
14	Security Officer	Ex-Service man	By initial recruitment
15	Senior Clerk		By promotion on the basis of seniority-cum-fitness from amongst the holders of the post of Junior Clerk.
16	Telephone Operator	Secondary School Certificate or equivalent qualification from a recognized Board with experience of one year in any recognized Organization.	By initial recruitment

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1	2	3	4
17	Junior Clerk	Secondary School Certificate or equivalent qualification from a recognized Board	(a) By promotion on the basis of seniority-cum-fitness from amongst the holders of posts of Daftari, Qasid, Naib Qasid or equivalent post who posses the qualification prescribed for initial recruitment; or (b) by initial recruitment
18	Driver	Possessing a valid driving license to drive a light motor vehicle	By initial recruitment
19	Daftri	Middle Standard	By initial recruitment
20	Lift Operator	Middle Standard with experience of one year in any recognized Organization	By initial recruitment
21	Book Binder	Middle Standard with experience of five years	By initial recruitment
22	Qasid/Naib Qasid	Preferably Literate	By initial recruitment
23	Mali/Naib Mali/ Farash/ Behishti/Sweeper		By initial recruitment
24	Security Guard	Ex-Service man	By initial recruitment

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