

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT AT DIKHAN

Service appeal No. 1857/2023

QAYYUM KHAN
(Petitioner)

VERSUS

COMMISSIONER DIKHAN DIVISION ETC.
(Respondents)

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**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 11296

Dated 22-07-2024

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2

PRELIMINARY OBJECTIONS

1. That the petitioner has got no cause of action to file the instant Service Appeal.
2. That the petitioner has got no locus standi to file the instant Service Appeal.
3. That the Petitioner has not come with clean hands to file the instant Service Appeal.
4. That the Petitioner has concealed the material facts from this honorable court in the Service Appeal.
5. The instant Service Appeal is non-maintainable in present form.
6. That the appeal is bad for misjoinder and new jointer of necessary parties.
7. That the appeal is barred by law & limitation.

OBJECTION ON FACTS

- a. Pertain to record.
- b. Correct. Pertain to record.
- c. incorrect. Pertain to record.
- d. Correct, but the list referred by the appellant as final seniority list was only to the extent of class-IV employees who have passed SSC Examination and rest of the Class-IV were not included, whereas the final Seniority List issued vide this office No. 3098-3102/Acctt dated. 13.04.2023 upon which the appellant objected was issued in the light of Appointment, Promotion & Transfer Rules notified vide No. Estt:I/II/35/SSRC/2033 dated. 23.01.2015, S.No. 8 (a) (b) wherein all the Class IV employees have been included accordingly as per their regular date of appointment irrespective of their qualification.
- e. incorrect. Previous Seniority lists, which the appellant has referred, were "Tentative" list, which never attained finality.
- f. Appellant claim his seniority in the light of the APT Rules 1989 part IV(3), which is in correct, he adjusted in this office on 23.07.2012 from Surplus

pool as Mali, whereas, according to his service record his cadre he was a sweeper in his present office. Hence, in the light of the policy adopted for adjustment of Surplus pool staff and due to change of cadre his seniority reckoned from his date of adjustment i.e. 23.07.2012.


- g. In the light of record note of the tentative seniority list of Class-IV the objection of the appellant filed being invalid (**Annexure A**)
- h. incorrect.


REPLY ON GROUNDS

1. Final seniority list was issued in respect of Class-IV employees of this office after giving personal hearing to all the employees including Appellant to redress their objections as per Rules / policy. Officer record note as documentary evidence is as **Annexure -A**.
2. Incorrect.
3. Incorrect
4. Irrelevant.
5. Pertain to Record
6. Pertain to Record
7. Incorrect
8. That the respondents also seek raised further points at the time of arguments

In wake of the submission made above, this honorable Tribunal is humbly requested that on acceptance of the comments of respondent No.1, service appeal of the of the petitioners may please be dismissed.

Dated. ____/2023


Adnan Ahmad
Secretary to Commissioner
DIKhan Division DIKhan
Respondent No.2.


Zafar ul Islam
Commissioner
DIKhan Division DIKhan
Respondent No.1.

RECORD NOTE ON TENTATIVE SENIORITY LIST OF CLASS-IV DATED. 05.04.2023


The Tentative Seniority list has been issued by this office for the year 2022-23 vide this office Endst No. 127-28/ Acctt dated. 10.01.2023. Out of all only (3) objection received in this office for correction / rectification in tentative seniority list of Class-IV.

The undersigned thoroughly heard the following officials in the presence of the Assistant to Commissioner (Rev & GA) and Assistant to Commissioner (Poll / Dev)

1. Zahid Ali, Naib Qasid
2. Allah Nawaz Chowkidar
3. Qayyum Khan Mali
4. Nisar Ahmad Naib Qasid
5. Rifatullah Naib Qasid

THE FOLLOWING POINTS COME UNDER DISCUSSIONS:-OBJECTIONS/CLAIMS BY MR. ZAHID ALI:

1. Seniority over Mr. Rifatullah, Naib Qasid as he remained silent over promotion of Mr. Muhammad Ejaz: It is true that Mr. Rifatullah did not raise any objection upon promotion of Mr. Ejaz. However, his silence does not deprive him of his seniority position. In this respect, seniority of Rifatullah NQ has been rightly determined in the light of APT Rules 1989 part-VI (3). Hence, 1st Objection of Mr. Zahid Ali is recommended to be filed being invalid.
2. Seniority over Mr. Allah Nawaz due to non-entry of his name in previous tentative seniority list: Previous seniority list was a "Tentative" list, which never attained finality. Moreover, it was prepared in view of only those Class-IV Employees, who, in the light of their qualification, were eligible for promotion. It is true that name of Mr. Allah Nawaz was left due to misinformation regarding his qualification. Now, the issue has been clarified and it is clear on record that he passed SSC Exams in year 2003; so, his name has been entered accordingly. Hence, 2nd Objection of Mr. Zahid Ali is recommended to be filed being invalid.

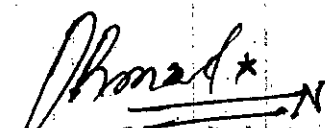
Agreed


OBJECTIONS/CLAIMS BY MR. QAYYUM KHAN:

1. **Seniority over rest of the Class-IV Employees as entered in previous tentative Seniority lists:** Previous seniority lists, which the objector has referred to, were "Tentative" lists, which never attained finality. Mr. Qayyum Khan claims his seniority in the light of APT Rules 1989 part-VI (3), which is in- correct; he was adjusted in this office on 23.07.2012, from Surplus Pool, as Mali. Whereas, according to cadre he was a sweeper in his previous office. Hence, in the light of policy adopted for adjustment of Surplus Pool Staff and due to change of cadre, his seniority will be reckoned from his date of adjustment i.e. 23.07.2012. In view of the above, this objection is recommended to be filed being invalid.
2. **Entry of Qualification as MA instead of BA:** This claim of Mr. Qayyum Khan, after checking of his credentials, were found correct. Hence, this claim needs to addressed accordingly.

OBJECTIONS/CLAIMS BY MR. NISAR AHMED:

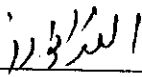
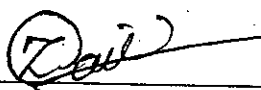
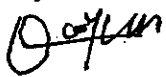

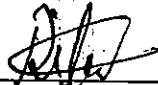
1. **Seniority over Mr. Zahid Ali, as he was adjusted in this office after appointment of Mr. Nisar Ahmed:** It is true that Mr. Zahid Ali was adjusted back in this office after initial appointment of Mr. Nisar Ahmed. But it needs to be clarified that Mr. Zahid Ali was initially appointed in this office, later on, he was posted in the office of EDO (F&P); however, then he was adjusted back in this office. Due to adjustment in parent office, his seniority will be reckoned from the date of his initial appointment. Hence, Claim of Mr. Nisar Ahmed is recommended to be filed being invalid.


Secretary to Commissioner
DIKhan Division DIKhan

Attested


ATTENDANCE SHEET REGARDING PERSONAL HEARING ON OBJECTION RAISED BY VARIOUS OFFICIALS ON TENTATIVE SENIORITY LIST OF CLASS-IV

Dated . 05 . 04 . 2023 .

S.#	Name & Designation	Signature
1	Allah Nawaz Naib Qasid	
2	Zahid Ali Naib Qasid	
3	Qayyum Khan Mali	
4	Nisar Ahmad Naib Qasid	
5	Rifatullah Naib Qasid	

Attended
(7)

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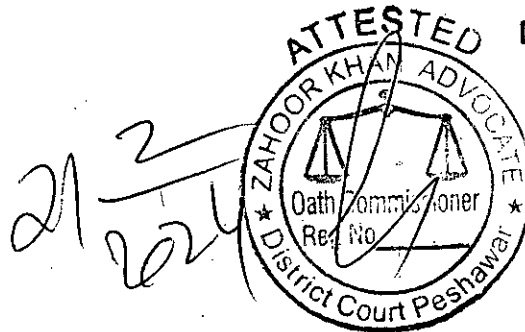
(Respondents)

AFFIDAVIT

I, Zafar ul Islam, Commissioner DIKhan Division DIKhan do hereby solemnly affirm and declare on oath that the contents of the comments are true and correct to the best of my knowledge & belief and that nothing has been concealed from this Honorable Khyber Pakhtunkhwa

Service Tribunal Camp Court at DIKhan. *it is further stated on oath that the answering respondent have neither been place exparte nor their defense struck off last*

**RESPONDENT
Commissioner
DIKhan Division, DIKhan**



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AUTHORITY LETTER

Mr. Muhammad Nawaz, Superintendent (OPS) Commissioner Office DIKhan Division is hereby authorized to attend / defend and submit Para wise comments in the instant case before the Honorable Khyber Pakhtunkhwa Service Tribunal Camp Court at DIKhan vide Service Appeal No. 1857/2023 case title Qayyum Khan Versus Commissioner DIKhan Division etc. on behalf of the undersigned being respondent on each subsequent date of hearing till its decision.


COMMISSIONER
DIKHAN DIVISION DIKHAN

No. 576-78 /Acctt

Dated DIKhan the 02/2/2024

Copy to:

1. Additional Advocate General Khyber Pakhtunkhwa Service Tribunal.
2. Officer Concerned for compliance.


COMMISSIONER
DIKHAN DIVISION DIKHAN