

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1684 / 2023.

Zahir Shah

Petitioner

VS

Government of Khyber Pakhtunkhwa & others.....

Respondents

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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1684 / 2023.

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 11403

Dated 27-2-24

**Zahir Shah,
Process Server, BPS-03.
Labour Court, Old Judicial Complex, Peshawar. APPELLANT**

VERSUS

- 1. GOVERNMENT OF KHYBER PAKHTUNKHWA,
Through Secretary Labour, Labour Department,
Civil Secretariat, Peshawar.**
- 2. SECRETARY FINANCE,
Finance Department, Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.**
- 3. SECRETARY ESTABLISHMENT,
Establishment Department, Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.**
- 4. PRESIDING OFFICER,
Labour Court, Old Judicial Complex, Peshawar. RESPONDENTS**

JOINT PARA WISE REPLY ON BEHALF OF RESPONDENTS NO. 1 TO 4

Respectfully Sheweth,

Para wise Reply, on behalf of Respondents No. 1 to 4, is as under:

Preliminary Objection:

1. That the Appellants has no cause of action.
2. That the Appellants has got no locus-standi to institute the present Service Appeal.
3. That, the Appeal of the appellant is not maintainable in its present form.
4. That, the Appeal of the appellant is bad for non-joinder and miss-joinder of parties.
5. That, the Appellant has been estopped by his own conduct to file the instant Appeal.
6. That, the Appellant has not come to the Court with clean hands and has suppressed material facts from this Honorable Tribunal.
7. That, the Appeal of the Appellant is time barred.

1. Correct.
2. Correct to the extent of performance of duties however Labour Court is a special court established under the KP Industrial Relations Act, 2010.
3. Correct to the extent of issuance of Notification dated 30.06.2015 by the Provincial Government. It is worth to mention here that as per clarification of Finance Department Letter No.BOVIII/FD(8)2016-2017 dated 11-08-2016, the upgradation Notification is not relevant to the employees of Labour Court Peshawar. It is also noteworthy that the Appellant was appointed after the issuance of Notification dated 30.06.2015 hence he could not claim retrospective upgradation. Copy of Finance Department clarification is attached as Annexure-I.
4. Incorrect hence denied. The Service Rules of the Labour Courts have been amended now in the year 2023 and proper Service Structure has been notified for all classes of employees including prospects of promotion for the Appellant Annexure-II.
5. Incorrect. As per record no such request is available with the Labour Court. As far as amendment in the Service Rules is concerned, the Service Rules have been amended and proper service structure has been notified including prospects of promotion to the Appellant Annexure-II ibid.
6. The representation/appeal as desired by the court has been considered by the relevant forum i.e. SSRC and finalized amendments in the Service Rules of Ministerial Staff of Labour Court in its meeting held on 22.03.2023. Minutes of the meeting are annexed as (Annexure-III).
7. The appellant filed separate and individual departmental appeal before the competent authority and accordingly the desired appeal considered and took the matter with Establishment Department for consideration in SSRC meeting. The Establishment Department convened meeting of SSRC on 22.03.2023 and finalized amendments in Service Rules of Ministerial Staff of Labour Court on the proposal of Labour Department.
8. Establishment Department convened meeting of SSRC on 22.03.2023 and finalized amendments in Service Rules of Ministerial Staff of Labour Court on the proposal of Labour Department as highlighted against Fact No. 6

ON GROUNDS:

- A. Incorrect hence denied. Service Rules have been amended and proper service structure has been notified including prospects of promotion to the Appellant.
- B. As replied above.
- C. Incorrect hence denied. Appellant was appointed after the issuance of Notification dated 30.06.2015 hence no question of discrimination arises.
- D. As replied above paras.
- E. As replied above paras.
- F. Incorrect hence denied. As per clarification of Finance Departments Letter No.BOVIII/FD(8)2016-2017 dated 11.08.2016, the upgradation Notification dated 30.06.2015 is not relevant to the employees of Labour Court Peshawar.

- G. Incorrect hence denied. As per clarification of Finance Departments Letter No. BOVIII/FD(8)2016-2017 dated 11.08.2016, the upgradation Notification dated 30.06.2015 is not relevant to the employees of Labour Court Peshawar.
- H. Incorrect hence denied. As per clarification of Finance Departments Letter No. BOVIII/FD(8)2016-2017 dated 11.08.2016, the upgradation Notification dated 30.06.2015 is not relevant to the employees of Labour Court Peshawar.
- I. As replied in above paras.

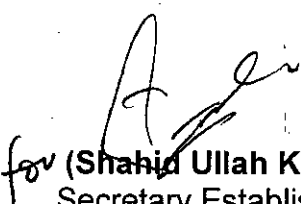
It is, therefore, most humbly prayed that on acceptance of these reply / comments, the Service Appeal filed by the petitioner may please be dismissed.



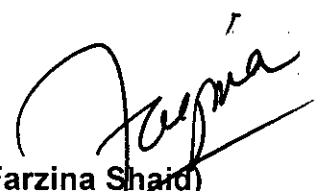
(Muhammad Fakhre Alam)
 Secretary Labour
 Govt. of Khyber Pakhtunkhwa
 Labour Department, Peshawar
 (Respondent No.1)



(Amir Sultan Tareen)
 Secretary Finance
 Govt. of Khyber Pakhtunkhwa
 Finance Department, Peshawar
 (Respondent No.2)



(Shahid Ullah Khan)
 Secretary Establishment
 Through Kaleem Ullah Baloch
 Special Secretary Establishment
 (Respondent No.3)



(Farzina Shaid)
 Presiding Officer
 Labour Court, Peshawar
 (Respondent No.4)



GOVERNMENT OF KHYBER PAKHTUNKHWA
LABOUR DEPARTMENT

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.1684/2023.

Zahir Shah.....

Petitioner

VS

Government of Khyber Pakhtunkhwa & others.....

Respondents

AFFIDAVIT

I, Muhammad Fakhre Alam, Secretary, Labour Department (BS-20), do hereby on oath affirm and declare that the contents of the Comments / Para-wise Reply are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honorable Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defence has been struck off.

Deponent

Muhammad Fakhre Alam
Secretary, Labour Department
CNIC# 17301-4697271-7
Mob No# 0333-9992330

27/02/2024
~~ATTESTED~~
Zakoor Khan Advocate
NOTARY PUBLIC
District Courts Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

No. BOVIII/FD/1-8(B)/2016-2017
Dated Peshawar the, 11.08.2016

CORRIGENDUM

The scale of Reader, Bailiff attendant and Process Server of all Consumer Protection Courts and Labour Courts Khyber Pakhtunkhwa reflected in the Budget Book "Demand for Grant Current Expenditure for the year 2016-2017 Vol-III (PART-F)" under Grant No.25 Industries and Grant No.30 Labour may be read as under:

No	EXISTING ENTRIES	ENTRIES NOW TO BE MADE
1.	Reader (BPS-15)	Reader (BPS-14)
2.	Bailiff (BPS-06)	Bailiff (BPS-04)
3.	Process Server (BPS-05)	Process Serve (BPS-03)

Sd/-
SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

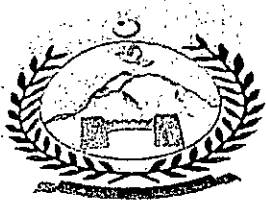
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Copy forwarded for information to the:-

1. Secretary to Government of Khyber Pakhtunkhwa, Industries, Commerce, Technical Education & Manpower Training Department.
2. Secretary to Government of Khyber Pakhtunkhwa Labour Department.
3. All Session Judge Consumer Protection Courts Abbottabad, Bannu, Charsadda, Chitral, D.I.Khan, Haripur, Karak, Kohat, Lakki Marwat, Mansehra, Malakand, Mardan, Nowshera, Peshawar, Swabi, Swat and Tank.
4. Presiding Officer Labour Courts Peshawar, Haripur, Mardan, D.I.Khan and Swat.
5. Director Industries, Khyber Pakhtunkhwa, Peshawar.
6. Director FMIU, Finance Department Peshawar.
7. Director Labour Welfare Khyber Pakhtunkhwa Peshawar.
8. District Account Officer, Abbottabad, Bannu, Batagram, Buner, Charsadda, Chitral, D.I.Khan, Hangu, Haripur, Karak, Kohat, Kohistan, Lakki Marwat, Lower Dir, Malakand, Mansehra, Mardan, Nowshera, Shangla, Swabi, Swat, Tank, Tor Ghar & Upper Dir.


BUDGET OFFICER.VIII


ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

(REGULATION WING)

MINUTES OF THE MEETING OF STANDING SERVICE RULES COMMITTEE
HELD ON 22.03.2023.

Meeting of the Standing Service Rules Committee (centralized) was held on 22.03.2023 at 11:00 AM under the chairmanship of Special Secretary (Regulation), Establishment Department in his office in order to discuss framing of service rules as well as to look into the proposed amendments in the existing service rules of the following Administrative Departments:-

1. Administration Department.
2. Labour Department.
3. Elementary & Secondary Education Department.

Following attended the meeting:

Sr. #	Name of officer	Designation	Department/office
1.	Mr. Habibullah Khan	Addl. Secretary (Admn)	Law Department
2.	Muhammad Saeedullah	Addl. Secretary (Reg-II)	Establishment Department.
3.	Abdul Akram	Addl. Secretary	E&SE Department.
4.	Muhammad Saeed	Dy. Director	Khyber Pakhtunkhwa, Public Service Commission.
5.	Mr. Noor ul Haq	Dy. Secretary (Policy)	Establishment Department.
6.	Mr. Niamat Khan	Section Officer	Finance Department.
7.	Muhammad Nazakat	Section Officer	Labour Department.
8.	Mr. Laseq Ahmad	Section Officer	Administration Department.

The chair welcomed participants and formally spelled out the purpose of the meeting. Thereafter, agenda items of the following departments were discussed and the representatives of the departments were asked to brief the forum on the proposed amendments in their respective agenda items.

Administration Department.

Agenda: Service rules for newly created post of Khadim (BPS-03) in Civil Officer's Mess Peshawar, Administration Department.

Representative of Administration Department while explaining the agenda item apprised the forum that Finance Department has created post of Khadim in Civil Officer's Mess Peshawar, of Administration Department which needs to be included in the existing Service Rules as amendment.

After threadbare discussion, the forum unanimously approved Service Rules for the newly created post of Khadim in Civil Officer's Mess, Peshawar as appended at Appendix-I.

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Representative of Labour Department apprised the forum that existing service rules of Labour Courts were notified on 10.03.1996 which were subsequently amended to the extent of different posts on 02.06.2015. In the recent past Labour Department has been segregated from the conglomeration of Industries, Commerce, Mineral Development and Transport Departments. Therefore, all previous notifications issued in this behalf have been superseded by the Administrative Department in consultation with Establishment Department and Finance Department and proposed fresh service rules for the posts borne on the cadre strength of Labour Courts in Khyber Pakhtunkhwa.

Representative of Administrative Department further informed that in the previous service rules, there exists a post of Stenographer (BS-16) that needs to be re-designated as Senior Scale Stenographer-Cum-Judgment writer (BS-16).

After threadbare discussion, the forum agreed to the proposal of the Administrative Department subject to the condition that the re-designated post i.e Senior Scale Stenographer-cum-Judgment writer (BPS-16) be duly reflected in the budget book of Finance Department.

Representative of the Administrative Department further proposed to create avenues for Muharrirs (BPS-07) by creating a post of Senior Clerk (BPS-14), wherein the Chair directed the representative to take up the case with Finance Department for creation of the post of Junior Clerk (BPS-11) in those Labour Courts where it does not exist.

After detailed discussion, the forum unanimously agreed upon the proposed service rules for various cadres in the Labour Courts of Labour Department as appended at Appendix-II.

Elementary & Secondary Education Department

Agenda: Amendment in the Service Rules of Management Cadre under the Directorate of Elementary & Secondary Education and Curriculum & Teacher Education Khyber Pakhtunkhwa.

Representative of the Administrative Department explained that a new directorate namely, Directorate of Professional Development (DPD) by merging all the teachers training institutions has been formed to cater for the need of teachers training; this necessitated amendments in the existing service rules of Management Cadre. It is therefore, need of the hour to amend the existing service rules for enhancing professional skills of the workforce working in Elementary & Secondary Education Department. Moreover, SMC being a generalized training course does not meet requirement of the officers/teachers in the department. Therefore, instead of SMC, domain specific courses may be prescribed by the Directorate of Professional Development (DPD) and the officers will undergo trainings at DPD in their respective fields.

The forum, after threadbare discussion, unanimously agreed upon the proposed service rules as appended at Appendix-III.

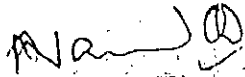
The meeting ended with a vote of thanks to and from the Chair.


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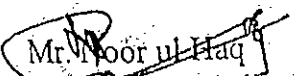
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MINUTES OF THE MEETING OF STANDING SERVICE RULES COMMITTEE HELD ON

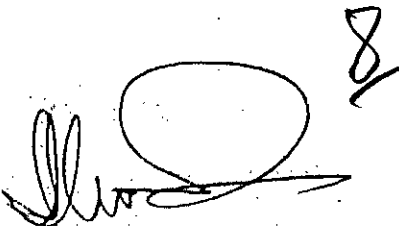
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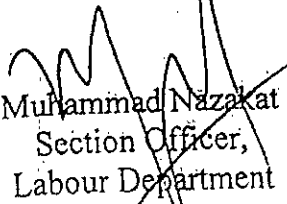

Mr. Niamat Khan
Section Officer,
Finance Department.



Muhammad Saeed
Deputy Director,
Public Service Commission
FOR SSRL HELD ON 22-03-23

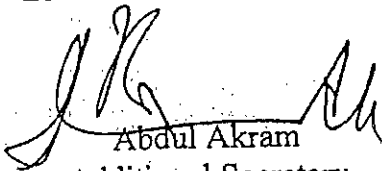

Mr. Noor ul Haq
Deputy Secretary (Policy),
Establishment Department



Mr. Habibullah
Addl: Secretary (Admn),
Law Department.

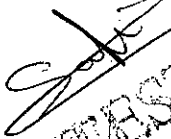

Mr. Laeeq Ahmad
Section Officer (Admn)
Administration Department


Muhammad Nazakat
Section Officer,
Labour Department


Muhammad Saeedullah
Additional Secretary (Reg-II),
Establishment Department


Abdul Akram
Additional Secretary
E&SE Department


Mr. Akhtar Saeed Turk
Special Secretary (Reg),
Establishment Department


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EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 19th OCTOBER, 2023.

GOVERNMENT OF KHYBER PAKHTUNKHWA
LABOUR DEPARTMENT

NOTIFICATION

Peshawar Dated, the 11th October, 2023.

No.SOL(LD)/5-50/2019/LCs/SRs .-In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules,1989 and in supersession of all previous Notifications, issued in this behalf, the Labour Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions laid down in Columns No. 3 to 5 of the APPENDIX to this Notification, which shall be applicable to posts born in the Labour Courts, Khyber Pakhtunkhwa, specified in Column No. 2 of the said Appendix.

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APPENDIX

S.#	Nomenclature of the Post	Minimum qualification for appointment by Initial Recruitment or by Transfer	Age limit	Method of Recruitment
1.	Superintendent (BPS-17).	---	---	<p>By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Assistant (BPS-16), Senior Scale Stenographer-cum-Judgment Writer (BPS-16) and Computer Operator (BPS-16) of all Labour Courts with at least five (05) years' service as such:</p> <p>Note: For the purpose of promotion, a joint seniority list of Assistants, Senior Scale Stenographers-cum-Judgment Writers and Computer Operators of all Labour Courts shall be maintained in the Labour Department.</p>
2.	Assistant (BPS-16).	At least Second Class Bachelor's Degree or its equivalent qualification from a recognized University.	20 to 32 years.	<p>(a) Seventy-five (75%) percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Senior Clerk (BPS-14) of all Labour Courts having Bachelor's Degree or its equivalent qualification from a recognized University with at least three (03) years' service as such; and</p> <p>(b) twenty-five (25%) percent by initial recruitment.</p> <p>Note:- For the purpose of promotion, a Joint seniority list of all Senior Clerks of all Labour Courts shall be maintained in the Labour Department.</p>

Seal
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3.	Senior Scale Stenographer -Cum - Judgment Writer (BPS-16).	<p>(i) At least Second Class Bachelor's Degree or its equivalent qualification from a recognized University;</p> <p>(ii) a speed of seventy (70) words per minute in short hand in English and forty five (45) words per minute in typing; and</p> <p>(iii) knowledge of Computer in using MS Word and MS Excel.</p>	20 to 32 years.	By initial recruitment.
4.	Computer Operator (BPS-16).	<p>(i) At least Second Class Bachelor's Degree in Computer Science (BCS)/ Information Technology (BIT) four (04) years; or</p> <p>(ii) at least Second Class Master's Degree in Computer Science two (02) years from a recognized University; or</p> <p>(iii) at least Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology (DIT) from a recognized Board of Technical Education.</p>	22 to 32 years.	By initial recruitment.

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5.	Senior Clerk (BPS-14).	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Junior Clerk (BPS-11) of respective Labour Court with at least three (03) years' service as such.
6.	Junior Clerk (BPS-11).	(i) At least Second Class Intermediate Certificate or its equivalent qualification from a recognized Board; and (ii) a speed of 30 words per minute in typing on computer alongwith at least three (03) months Computer Certificate from a recognized Institute.	18 to 30 years.	(a) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Muharrir (BPS-07) of respective Labour Court with three (03) years' service as such; and (b) fifty percent (50%) by initial recruitment.
7.	Muharrir (BPS-07).	(i) At least Second Class Intermediate Certificate or its equivalent qualification from a recognized Board; and (ii) a speed of 30 words per minute in typing on computer alongwith at least three (03) months Computer Certificate from recognized Institute.	18 to 30 years.	(a) Ninety percent (90%) by promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Bailiff Attendant (BPS-04) of respective Labour Court having Secondary School Certificate, with at least three (03) years' service as such; and (b) ten percent (10%) by initial recruitment.
8.	Driver (BPS-06).	At least Middle pass and possessing a valid Light Transport Vehicle (ETV) Driving License and medically fit.	18 to 32 years.	By initial recruitment.

ATTESTED

9.	Bailiff Attendant (BPS-04).	At least Secondary School Certificate or its equivalent qualification from a recognized Board.	18 to 40 years.	<p>(a) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Process Server (BPS-03), Naib Qasid (BPS-03), Chowkidar (BPS-03), Sweeper (BPS-03) or other equivalent posts of respective Labour Court with three (03) years' service as such; and</p> <p>(b) fifty percent (50%) by initial appointment:</p> <p>Note: For the purpose of promotion, a joint seniority list of Process Servers, Naib Qasids, Chowkidars and Sweepers of respective Labour Court shall be maintained.</p>
10.	Process Server/Naib Qasid/ Chowkidar/ Sweeper (BPS-03).	Preferably literate.	18 to 40 years.	By initial recruitment.

Secretary to Government of the Khyber Pakhtunkhwa
Labour Department

S. A. Khan
ATTESTED



**GOVERNMENT OF KHYBER PAKHTUNKHWA
LABOUR DEPARTMENT**

AUTHORITY LETTER

Mr. Safiullah, Superintendent, Litigation Section, Government of Khyber Pakhtunkhwa, Labour Department is hereby authorized to submit para-wise comments before the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar in connection with Service Appeal No. 1684/2023, Zahir Shah V/S Govt. of Khyber Pakhtunkhwa and others on behalf of Respondents No. 1 to 4.

A handwritten signature in black ink, appearing to be 'M. F. Alam'.

(Muhammad Fakhre Alam)
Secretary to Govt. of Khyber Pakhtunkhwa
Labour Department

SECRETARY
to Govt of Khyber Pakhtunkhwa
Labour Department