

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

**SERVICE APPEAL NO. 1340/2015**

Date of institution ... 02.12.2015

Date of judgment ... 03.01.2018

Hameedullah  
Secretary, Union Council  
Presently Junior Clerk in Licence Branch  
O/O Deputy Commissioner, Mardan.

... (Appellant)

**VERSUS**

1. **The Govt. of Khyber Pakhtunkhwa,**  
through Senior Member Board of Revenue.

2. **The Commissioner,**  
Mardan Division, Mardan.

3. **The Deputy Commissioner,**  
District Mardan.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE  
IMPUGNED ORDER DATED 23.11.2015 PASSED BY  
RESPONDENT NO. 2 WHEREBY THE DEPARTMENTAL  
REPRESENTATION OF THE APPELLANT AGAINST THE ORDER  
DATED 05.10.2015 ISSUED BY RESPONDENT NO. 3 WAS  
UNLAWFULLY REGRETTEED.

Mr. Khaled Rehman, Advocate.

.. For appellant.

Mr. Muhammad Jan, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Learned counsel

for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Arguments heard and record perused.

2. Brief facts of the present service appeal are that the appellant was appointed as Junior Clerk in the year 1993 in the office of Deputy Commissioner Mardan and

*M. Amin*  
3.1.2018

during devolution process in the year 2001 he was rendered surplus. However, later on the appellant was adjusted as Secretary Union Council in Katlang, District Mardan and during service he was directed by District Coordination Officer Mardan to perform the duty in Licence Branch, Mardan as Junior Clerk in addition to his own duties till further orders vide order dated 30.09.2010. The appellant filed application to Deputy Commissioner Mardan for transfer/adjustment against the vacant post in his parent department but the same was turned down vide order dated 05.10.2015. The appellant also filed departmental appeal against the said order but the said departmental appeal was also dismissed vide order dated 23.11.2015 hence, the present service appeal on 02.12.2015.

3. Learned counsel for the appellant contended that the appellant was appointed as Junior Clerk in the office of Deputy Commissioner Mardan but later on during devolution process he was rendered surplus and was adjusted as Secretary Union Council in Katlang District Mardan. It was further contended that the appellant have much experience of the job of the post of Junior Clerk therefore, the District Coordination Officer Mardan directed him to perform the duty in Licence Branch in addition to his own duties vide order dated 30.09.2010. It was further contended that the other employees who were rendered surplus in the same devolution ~~but they~~ were subsequently transferred/adjusted in the office of DOR, Mardan vide order dated 26.01.2006, 06.07.2009, 17.07.2009 and 14.04.2009 in pursuance of the Establishment Department letters dated 27.02.2009 and 02.04.2009 and likewise after the restoration of the Commissionerate system the former employees of the Commissioner office were also repatriated as is evident from the order dated 06.01.2009 and 08.07.2009. It was further contended that the appellant also moved an application to the competent authority for his repatriation to the post of Junior Clerk but the same was turned down vide letter dated 05.10.2015 which was challenged before the departmental authority but the departmental appeal of the appellant was also rejected hence, the present service appeal. It was further contended that the appeal of the same nature case was also accepted by this Service Tribunal in Appeal No. 999/2012 vide judgment dated

*M. Amin*  
3.1.2018

03.01.2013 therefore, it was contended that the impugned order dated 05.10.2015 passed by respondent No. 3 whereby the application for adjustment of the appellant was rejected as well as the order dated 23.11.2015 passed by the departmental authority are illegal and liable to be set-aside and prayed for acceptance of the present appeal.

4. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the application of the appellant for repatriation/adjustment in the parent department was rightly turned down by respondents as the appellant was adjusted in surplus policy. It was further contended that the transfer application of the appellant to his parent department was dismissed by the competent authority on the opinion of Establishment/Administration Department therefore, the appellant has got no cause of action and prayed for dismissal of appeal.

5. Perusal of the record reveals that the appellant was appointed as Junior Clerk in the year 1993 in the office of Deputy Commissioner Mardan and during devolution process in the year 2001 he was rendered surplus and was later on adjusted as Secretary Union Council in Katlang, District Mardan vide order dated 27.08.2010. Perusal of the record further reveals that vide order dated 30.09.2010 the District Coordination Officer Mardan directed the appellant to perform duty in Licence Branch Mardan as Junior Clerk in addition to his own duties till further orders. Meaning thereby that the appellant has experience in his parent department as Junior Clerk. We have also gone through the impugned order and reach the conclusion that the Commissioner Peshawar in his impugned order has not properly appreciated in letter and spirit of this Tribunal judgment rendered in Appeal No. 999/2012 dated 03.01.2013.

6. The record reveals that the facts of the aforementioned appeal as well as the present service appeal are identical we would like to reproduce para-7 & 8 of the said judgment.

*M Amin*  
31.2.2018

"7 The Tribunal Observes that after devolution plan in the year 2001, officials of various categories serving in the defunct Commissioner and Deputy Commissioner offices became surplus. The appellant while serving as Senior Clerk in the office of Defunct Deputy Commissioner office Mardan had also been declared surplus. He was then adjusted as Secretary Union Council in his own pay and scale. On creation of DCO, DOR offices and restoration of Commissionerates, the official respondent started repatriation/adjustment of their ex-staff without framing, policy/instruction. They must frame a unified policy for adjustment of their old staff on the basis of experience and other facts, but no such policy framed hence adopted the practice of pick & chose. The appellant being adjusted against the wrong post as Secretary Union Council in his own pay and scale was more deserving for adjustment in the parent department but he has been denied for no plausible reason.

8. in view of the above discussion, the appeal is accepted and respondents No. 2 & 3 are directed to repatriated the appellant to his parent department and adjust him against the vacant post of Senior Clerk. It is further observed that Devolution plan of General Musharaf ® had played havoc upon and broken the back-bone of Administrative set up. Since government is again restoring Commissionerate system, therefore, instead of fresh recruitments and repatriating the then experience staff at random, government should make amendment in "surplus staff adjustment policy" especially with respect to Ex-Commissioners and Deputy Commissioner

*M. Amin*  
3.1.2018

Offices staff only for re-adjustment to facilitate smooth running of the above referred offices”.

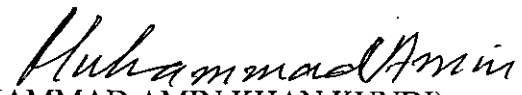
9. While perusing the impugned order in the back-drop of the said paragraphs, it become evident that the cited judgment was not appreciated in letter and spirit nor any cogent and convincing ground was given in the impugned order for any distinction.

10. In the light of the stated position of the case, the Tribunal is of the considered view that having arguable case on the touch-stone of the grounds of discrimination and a previous decision of this Tribunal in another Service Appeal No. 999/2012 *ibid*, the instant case is remanded to the respondent No. 2 to look into the matter strictly in accordance with judgment in appeal No. 999/2012 and to re-decide the matter within a period of two months of the receipt of this judgment. Needless to mention that the impugned order stands set-aside. The appeal is disposed of accordingly, Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
03.01.2018



(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

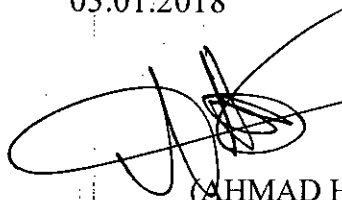
03.01.2018

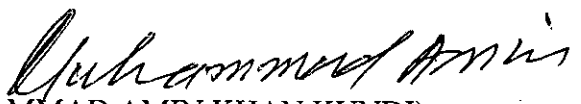
Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of five pages placed on file, the Tribunal is of the considered view that having arguable case on the touch-stone of the grounds of discrimination and a previous decision of this Tribunal in another Service Appeal No. 999/2012 *ibid*, the instant case is remanded to the respondent No. 2 to look into the matter strictly in accordance with judgment in appeal No. 999/2012 and to re-decide the matter within a period of two months of the receipt of this judgment. Needless to mention that the impugned order stands set-aside. The appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

03.01.2018

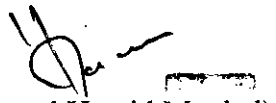
  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

21.11.2017

Appellant in person present. Mr. Muhammad Jna, Deputy District Attorney for the respondents present. Appellant seeks adjournment on the ground that learned counsel is not available today. Adjourn. To come up for arguments on 15.12.2017 before D.B.

  
(Gul Zeb Khan)  
MEMBER(E)

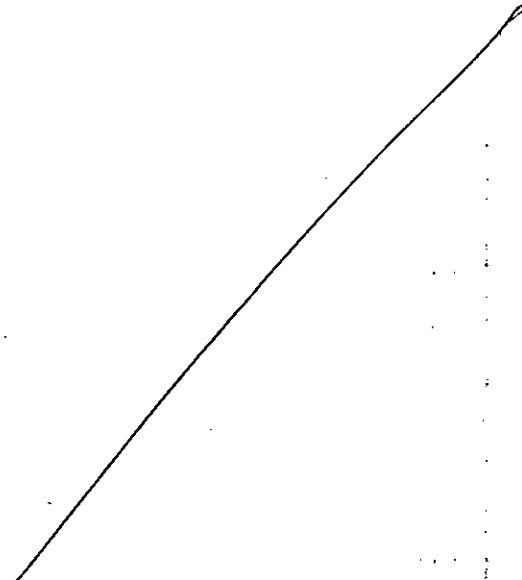
  
(Muhammad Hamid Mughal)  
MEMBER(J)

15.12.2017

Agent to counsel for the appellant. Mr. Muhammad Jan, Learned Deputy District Attorney for the respondents present. Agent to counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 03.01.2018 before D.B

  
(Gul Zeb Khan)  
MEMBER

  
(Muhammad Hamid Mughal)  
MEMBER



15/9/2017

Clerk of counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Clerk of counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 22/09/2017 before DB.

  
MEMBER

  
Chairman

25/09/2017

Since 07.11.09.2017 has been declared as a public holiday on account of first Muharram. Therefore cases adjourned to 07.11.2017 for the same.

  
READER

07.11.2017

Clerk of the counsel for appellant present Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Mukhtiar Ali, Assistant Secretary for the respondents also present. Clerk of the counsel for appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 21.11.2017 before D.B.


  
(Gul Zeb Khan)  
Member


  
(Muhammad Amin Khan Kundi)  
Member



27.07.2017

Appellant in person and Mr. Muhammad Jan, Deputy District Attorney for respondents present. Appellant seeks adjournment as his counsel was busy before the Supreme Court of Pakistan, Islamabad. Adjourned. To come up for arguments on 11.08.2017 before D.B.


  
(Ahmad Hassan)  
Member

  
(M. Hamid Mughal)  
Member

11.08.2017

Appellant with counsel present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 30.08.2017 before D.B.

  
(Muhammad Amin Khan Kundi)  
Member (J)

  
(Muhammad Hamid Mughal)  
Member.(J)

30.08.2017

Clerk to counsel for the appellant and Addl. AG for the respondents present. Counsel for the appellant is not in attendance. seeks adjournment. Granted. To come up for arguments on 15.09.2017 before the D.B.


  
Member

  
Chairman

19.05.2017

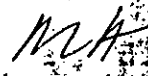
Appellant in person present. Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Appellant requested for adjournment. Adjourned. To come up for record and arguments on 19.06.2017 before D.B. Status-quo be maintained.

  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER


19.06.2017


Appellant present in person. Mr. Shamaz Gul Assistant Litigation alongwith Mr. Usman Ghani, District Attorney for the respondents present. Arguments could not be heard due to learned member executive is on leave. To come up for argument on 07.07.2017 before D.B. Status-quo be maintained.

  
(Muhammad Amin Khan Kundi)  
Member

15. 07.07.2017

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 27.07.2017 before D.B. Status-quo be maintained.

  
(Gul Zeb Khan)  
Member

  
(Muhammad Hamid Mughal)  
Member

1340/2015

06.02.2017

Clerk counsel for appellant, M/S Muhammad Ibrar, Assistant Secretary, Lal Said, ACE and Sharif Khan, Naib Court alongwith Mr. Muhammad Jan, GP for respondents present. Requisite record vide order sheet dated 23.12.2016 not submitted by the respondents. The representative of respondent-department is once again directed to submit breakup regarding the availability of post of junior clerk in the respondent-department. Clerk counsel for the appellant also stated that counsel for appellant is at Dar-ul-Qaza Swat and requested for adjournment. Adjourned. To come up for record and arguments on 03.04.2017 before D.B. Status-quo be maintained till the date fixed.

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

03.04.2017


Counsel for the appellant and Mr. Muhammad Ibrar, Assistant Secretary alongwith Mr. Ziaullah, GP for the respondents present. Argument could not be heard due to incomplete bench. To come up for final hearing on 21.04.2017 before D.B.

  
Chairman

21.04.2017

Counsel for the appellant present. Mr. Muhammad Ibrar, Assistant secretary alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Record mentioned in the previous order sheets dated 23.12.2016 and 06.02.2017 not submitted by the respondents. Last opportunity is granted to the respondents for production of the said record on or before the next date of hearing otherwise case will be decided on the available record. To come up for record and arguments on 19.05.2017 before D.B. Status-quo be maintained till the date fixed.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

03.10.2016


Since 3<sup>rd</sup> October, 2016 has been declared as public holiday on account of 1<sup>st</sup> Muharram therefore, case is adjourned for the same on 23-12-16.

  
Reader

23.12.2016

Counsel for the appellant and Mr. Mukhtiar Ali, Supdt. alongwith Mr. Ziaullah, GP for respondents present. Rejoinder submitted which is placed on file. Representative of respondents submitted application for vacation of status-quo. Representative of the respondents is directed to submit breakup regarding the availability posts of Junior Clerk in the respondent-department. Status quo has already been granted in this respect vide order sheet dated 01.09.2016 is hereby extended. To come up for such record and arguments on 06.02.2017.

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

31.03.2016

Counsel for the appellant and Mr. Qaiser Khjan, ACE alongwith Addl. AG for the respondents present. Written reply signed by all the respondents submitted. The appeal is assigned to D. B for rejoinder and final hearing for 02.05.2016.

Chairman

02.05.2016

Appellant in person and Addl:AG for respondents present. Appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 16.06.2016.

Member

Member

16.06.2016

Counsel for the appellant and Mr. Waheed-ur-Rehman, Junior Clerk alongwith Mr. Usman Ghani, Sr.GP for respondents present. Learned counsel for the appellant submitted that he wants to file rejoinder which he could not prepared because of over work in the Holy month of Ramadan. Last opportunity given for rejoinder. To come up for rejoinder and arguments on 3.10.16

MEMBER

MEMBER

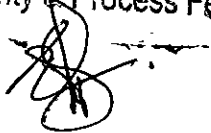
21.12.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was initially appointed as Junior Clerk in the office of the then D.C Mardan and during devolution process he was declared surplus and then absorbed a Secretary Union Counsel Katlang Mardan. That he was transferred and appointed as License Clerk in the office of DCO Mardan in the year 2010. That similarly placed employees were adjusted in the hierarchy of DOR as well as Commissioner Mardan. That the appellant preferred departmental appeal for his absorption/adjustment on 8.10.2015 which was rejected on 23.11.2015 and hence the instant service appeal on 2.12.2015.

That the appellant is entitled to treatment meted out to similarly placed employees.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 11.2.2015 before S.B. Notice of the stay application be also issued for the date fixed.

Appellant Deposited  
Security & Process Fee



  
Chairman

11.02.2016



Counsel for the appellant and Mr. Qaiser Khan, ACE Mardan alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 31.3.2016 before S.B.

  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1340/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02.12.2015	<p>The appeal of Mr. Hameedullah presented today by Mr. Khaled Rehman 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	3-12-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>21-12-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1340/2015

Hamidullah  
.....Appellant

Versus

The Govt. of KPK through  
SMBR and others  
.....Respondents

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5.	Letter/opinion of Establishment Department	27.02.2009 02.04.2009	C	13-14
6.	Repatriation orders of former employees of the Commissioner office	06.01.2009 08.07.2009	D	15-16
7.	Letter thereby application of appellant was rejected	05.10.2015	E	0-17
8.	Departmental Representation	08.10.2015	F	18-20
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Through

*(Signature)*  
Appellant

**Khaled Rahman**  
Advocate,  
Supreme Court of Pakistan  
3-D, Haroon Mansion  
Khyber Bazar, Peshawar  
Off: Tel: 091-2592458  
Cell # 0345-9337312

Dated: \_\_\_/12/2015



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 1340 /2015**

**Hamidullah**

Secretary, Union Council  
presently Junior Clerk in License Branch  
O/O Deputy Commissioner, Mardan .....

K.W.P. Province  
Service Tribunal  
Diary No. 1398  
dated 02-12-2015

*Appellant*

**VERSUS**

1. **The Govt. of Khyber Pakhtunkhwa**  
through Senior Member Board of Revenue  
Peshawar.
2. **The Commissioner,**  
Mardan Division, Mardan
3. **The Deputy Commissioner,**  
District Mardan.....*Respondents*

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 23.11.2015 PASSED BY RESPONDENT NO.2 WHEREBY THE DEPARTMENTAL REPRESENTATION OF THE APPELLANT AGAINST THE ORDER DATED 05.10.2015 ISSUED BY RESPONDENT NO.3 WAS UNLAWFULLY REGRETTEED.**

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**PRAYER:**

On acceptance of the instant appeal, the impugned order dated 05.10.2015 passed by Respondent No.3 and the impugned appellate order dated 23.11.2015 passed by Respondent No.2 may graciously be brushed aside and appellant be repatriated/readjusted in the office of Deputy Commissioner, Mardan alongwith seniority and other service benefits.

Filed to the

Registrar

Respectfully Sheweth,

7/12/15 Facts giving rise to the present appeal are as under:-

1. That appellant was appointed as Junior Clerk way back in the year 1993 in the office Respondent No.3 and during devolution process in the year 2001, he was rendered surplus and later on was adjusted as Secretary Union Council in Katlang, District Mardan.
2. That vide orders dated 27.08.2010 and 30.09.2010 (*Annex:-A*) appellant was transferred and directed by the then District Coordination Officer Mardan to perform duty in the License Branch in addition to his own duties, where the appellant has been performing his duties till date. At the moment, appellant has at his credit 23 years spotless and unblemished service.
3. That other employees so rendered surplus in the same devolution process and then adjusted as Secretaries Union Councils, were subsequently transferred/adjusted in the office of DOR, Mardan vide orders dated 26.01.2006, 06.07.2009, 17.07.2009 and 14.04.2009 (*Annex:-B*) pursuant to the opinion of the Establishment Department vide letters dated 27.02.2009 and 02.04.2009 (*Annex:-C*) and likewise after the restoration of the Commissionerate system, the former employees of the Commissioner office were also repatriated as is evident from the order dated 06.01.2009 and 08.07.2009 (*Annex:-D*).
4. That appellant also moved an application to the competent authority for his repatriation to the post of Junior Clerk but the same was turned down vide letter dated 05.10.2015 (*Annex:-E*) whereafter appellant also preferred a departmental Representation before the appellate authority on 08.10.2015 (*Annex:-F*) but the same too was rejected vide impugned appellate order dated 23.11.2015 (*Annex:-G*).
5. That identical question came before this Hon'ble Tribunal in Service Appeal No.999/2012 which was allowed vide Judgment dated 03.01.2013 (*Annex:-H*) which also followed by another Judgment

dated 24.06.2015 passed in Service Appeal No.1192/2014 (*Annex:-I*). Since the case of the appellant is also identical, therefore, he is also entitled to the same relief, hence, this appeal inter-alia on the following grounds:-

**Grounds:**

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That this Hon'ble Tribunal vide its judgment dated 03.01.2013 in Service Appeal No.999/2012 while allowing the appeals of Zahoor Ahmad and Hamid Ali Taj Secretaries Union Councils in District Mardan observed as under:-

*"In view of the above discussion, the appeal is accepted and Respondent No.2&3 are directed to repatriate the appellant to his parent Department and adjust him against the vacant post of Senior Clerk. It is further observed that the devolution plan of General Musharaf (R) had played havoc and broken the backbone of Administrative set up. Since the Government is again restoring the Commissionerate System, therefore, instead of fresh recruitments and repatriating the then experienced staff at random, Government should make amendment in the "surplus staff adjustment Policy" specially with respect to the ex-Commissioner and Deputy Commissioner offices staff for readjustment to facilitate smooth running of the above referred offices."*

Since the case of the appellant is similar and identical, therefore, appellant is also entitled to the same relief under the law as per the judgments laid down in the case of "*Hameed Akhtar Niazi ...Vs...The Secretary Establishment Division, Government of Pakistan and others*" reported in 1996 SCMR 1185 and in the case of "*Tara Chand and others...Vs...Karachi Water and Sewerage*

*Board, Karachi and others*” reported in 2005 SCMR 499 and another Judgment reported in 2009 SCMR 1 wherein it has been laid down that:

*“When a Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covered not only the case of the civil servants who litigated, but also of other civil servants, who might have not taken any legal proceedings, the dictates of justice and rules of good governance demand that the benefits of the decision be extended to the other civil servants, who might not be parties to the litigation instead of compelling them to approach the Tribunal or any other forum.”*


- C. That the appellant has been discriminated inas much as other colleagues of the appellant similarly placed serving in identical circumstances have been repatriated while the same benefit has been refused to appellant without any justification muchless lawful.
- D. That presently appellant is serving as a License Clerk in the Deputy Commissioner office, Mardan who had requested to the Local Government Department for adjustment of appellant due to his satisfactory performance of duties and the Local Government has issued NOC vide letter dated 05.03.2014 (*Annex:-J*) to Deputy Commissioner Mardan from repatriation/absorption of the appellant as Junior Clerk.
- E. That as per the Surplus Pool Policy circulated vide letter dated 08.06.2001 (*Annex:-K*), all surplus staff should be adjusted on the minimum qualification against vacant post, keeping in view their seniority.
- F. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

  
Appellant

  
Khaled Rahman,  
Advocate,  
Supreme Court of Pakistan

Dated: 01/12/2015

5A

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. \_\_\_\_\_/2015**

Hamidullah .....Applicant

Versus

The Govt. and others.....Respondents

**Application for restraining the Respondents from filling the available vacancies of Junior Clerks till the final disposal of the instant appeal.**

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be as an integral part of this application, which make out an excellent prima facie case in favour of the appellant.
3. That the balance of convenience also lies in favour of appellant and in case the interim relief is not granted the appellant will suffer irreparable loss.

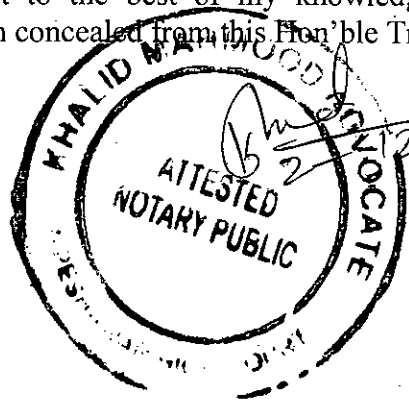
It is, therefore, humbly prayed that on acceptance of this application, the Respondents may graciously be restrained from filling the available vacancies of Junior Clerks till the final disposal of the appeal.

*[Signature]*  
 Applicant  
 Through  
*[Signature]*  
 Khaled Rahman,  
 Advocate, Peshawar.

**Dated: \_\_\_/12/2015**

**Affidavit**

I, Hamidullah, Secretary, Union Council, presently Junior Clerk in License Branch O/O Deputy Commissioner, Mardan, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



*[Signature]*  
 Deponent

Annex A

6

Office of the  
District Coordination Officer  
Mardan.

No. 2/23-27 FA/U/C Staff (M)  
Dated 27/08/2010

**OFFICE ORDER**


Mr. Hameed Ullah Secretary Union Council Dheri Likpani Tehsil Katlang is hereby transfer to Licence Branch Mardan, However Mr. Yar Mohammad secretary Union Council Katlang is hereby directed to perform the duty as secretary union council Dheri Likpani in addition to his own duties till further order/arrangement in the best interest of Govt. as will as public with immediate effect.

By order of  
District Coordination Officer  
Mardan.

Endst: No.& date encl:

Copy forwarded to the

- (i) Administrator U/C Dheri Likpani.
- (ii) Assistant Licence Branch Mardan.
- (iii) Mumtaz Finance Assistant U/C Staff Mardan.
- ✓ (iv) Official concerned katlang I/Dheri Likpani for information & necessary action please.

  
Assistant Dist: Coordination Officer  
Mardan/Administrator U/C Mardan.

Attested to be  
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A

OFFICE OF THE  
DISTRICT COORDINATION OFFICER  
MARDAN.

No. 7865-69 DCO(M)/EA-08  
Dated Mardan the 29 / 7 / 2016.

7

OFFICE ORDER:

Mr. Hameedullah Secretary Union Council Dheri Lekpani is hereby directed to perform duty in Licence Branch, Mardan as Junior Clerk in addition to his own duties on further orders.



District Coordination Officer  
Mardan

Enlist: No. & Date of Even

Copies to:

- 1 The Assistant Coordination Officer, Mardan.
- 2 The Administrator U/C Dheri Lekpani.
- 3 The Assistant Licence Branch, Mardan.
- 4 Mr. Mumtaz Khan Finance Assistant U/C Staff Mardan.
- 5 The official concerned.

Attested to be  
True Copy



ANNEX B<sup>1 3</sup>

8

OFFICE OF THE DISTRICT COORDINATION OFFICER, MARDAN.

Dated, Mardan, the 26/11 2006.

OFFICE ORDER.

The following Mutual posting/transfer is hereby ordered with immediate effect in the public interest.

S.NO.	Name & Designation	From	To	Remarks.
1-	Mr.Samiullah J/C/Secretary	U/C Khazana Dheri	District Officer (R&E) Mardan.	Vice-2
2-	Mr.Aziz Gul J/C Reader to Naib Tehsildar Takht Bhai.	District Officer (R&E), Mardan.	U/C Khazana Dheri	Vice-1

By Order of  
District Coordination Officer  
Mardan.

No. 611-16 /DCO(M)/EA.

Copy forwarded to:

- 1- District Officer (R&E), Mardan.
- 2- District Accounts Officer, Mardan.
- 3- Nazim U/C Khazana Dheri.
- 4- Officials Concerned.

Attested to be  
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Assistant Coordination Officer  
Mardan

B

OFFICE ORDER.

In pursuance of letter No.19214/Admn/II/Israr/Adjust dated 4.7.2009 received from Assistant Secretary (Estab) Board of Revenue NWFP, vide which Mr. Israr Muhammad Junior Clerk office of the defunct Deputy Commissioner Office Mardan presently Constable in Excise Department Mingora Swat has been adjusted in the office of District Officer (Revenue & Estate) Mardan against the post of Junior Clerk.

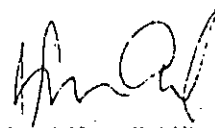
In view of above Mr. Israr Muhammad Junior Clerk is hereby posted as Junior Clerk/Reader to Dy: District Officer (R&E) Mardan with immediate effect.


  
District Officer(R&E)  
Mardan.

OFFICE OF THE DISTRICT OFFICER (REV. & ESTATE) MARDAN.

No. 115-22/Off:Order/Fin/DO(R&E) Dated Mardan the 4/2/2009.

1. The District Coordination Officer Mardan for information please. (Copy of Assistant Secretary (Estab) Board of Revenue, NWFP Peshawar letter No.19214/Admn/II/Israr/Adjust dated 4.7.2009 is enclosed).
2. The Director General Excise & Taxation Department NWFP Peshawar for information and necessary action please.
3. The Assistant Secretary (Estab) Board of Revenue NWFP w/r to above for information.
4. The Excise & Taxation Officer Mingora Swat for information and necessary action please.
5. The District Accounts Officer Mardan.
6. The D.D.O. (R)/(J) Mardan
7. The Official concerned for compliance.

  
District Officer(R&E)  
Mardan.

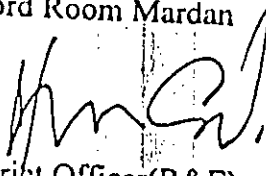
  
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OFFICE ORDER.

10

In pursuance of letter No.20079/Admn:H/Israr/Adjust dated 16.7.2009 received from Assistant Secretary (Estab) Board of Revenue NWFP, vide which Mr. Malak Junaid Junior Clerk office of the defunct Deputy Commissioner Office Mardan presently Constable in Excise Department Mardan has been adjusted in the office of District Officer (Revenue & Estate) Mardan against the post of Junior Clerk.


In view of above Mr. Malak Junaid Junior Clerk is hereby posted as Junior Clerk (this office). He is directed to work as Moharir in the General Record Room Mardan

  
District Officer (R&E)  
Mardan.

OFFICE OF THE DISTRICT OFFICER (REVENUE & ESTATE) MARDAN.

No 2-c 13 - 2 / Off: Order/Fin/DO (R&E) Dated Mardan the 17/7/2009.

1. The District Coordination Officer Mardan for information please. (Copy of Assistant Secretary (Estab) Board of Revenue, NWFP Peshawar letter No.20079/Admn:H/Israr/Adjust dated 16.7.2009 is enclosed).
2. The Director General Excise & Taxation Department NWFP Peshawar for information and necessary action please.
3. The Assistant Secretary (Estab) Board of Revenue NWFP w/r to above for information.
4. The Excise & Taxation Officer Mardan for information and necessary action please.
5. The District Accounts Officer Mardan.
6. The D.D.O. (R) (J) Mardan.
7. The Official concerned for compliance.

  
District Officer (R&E)  
Mardan.

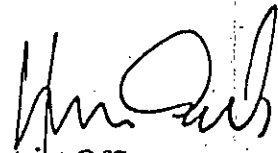
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True Copy.

11

OFFICE ORDER.

In pursuance of office order issued vide ednst: No.2013-18/DCO(M) dated 16.7.2009 by the District Coordination Officer Mardan vide which Mr. Liaqat Ali Junior Clerk office of the defunct Deputy Commissioner Office Mardan presently posted as Junior clerk in the Govt: College Mardan has been adjusted in the office of District Officer (Revenue & Estate) Mardan against the post of Junior Clerk.


In view of above Mr. Liaqat Ali Junior Clerk is hereby posted as Junior Clerk in this office against the vacant post. He is hereby directed to work as Copying Clerk in the District Kanungo Branch Mardan.

  
District Officer(R&E)  
Mardan.

OFFICE OF THE DISTRICT OFFICER (REV: & ESTATE) MARDAN.

No. 2021-27 / Off: Order/Fin/DO(R&E) Dated Mardan the 17 / 7 / 2009.

1. The District Coordination Officer Mardan w/r to office order No, referred to above for information please.
2. The Principal Govt: Post Graduate College Mardan.
3. The District Accounts Officer Mardan.
4. The DDO( R) Mardan.
5. The District Kanungo Mardan.
6. The Copying Agent Copying Branch Mardan.
7. The official concerned for compliance.

  
District Officer(R&E)  
Mardan.

**Attested to be  
True Copy**

OFFICE OF THE  
DISTRICT COORDINATION OFFICER  
BUNER.

No. 2045 DCO(Buner)/Estt:1/2007,  
Dated Daggar the 14/4/2009.

OFFICE ORDER

In pursuance of the Govt: Of NWFP, Establishment Department (Section-E-V) Peshawar NO:SOE-V(E&AD)/3-4/2007, Dated May 30th 2007, Mr Sadaqat Ali Junior clerk in the then Deputy Commissioner Office Buner, presently working as Secretary union Council Gokand is hereby transferred /Posted as Junior Clerk against the vacant post in the Office of District Officer Revenue & Estate Buner with iminediate effect in the best public interest.

*Qmu*  
DISTRICT COORDINATION OFFICER,  
BUNER.

No: \_\_\_\_\_ /Estt:1/DCO(B)

Copy forwarded to the:

1. District officer Revenue & Estate Buner.
2. The District accounts Officer Buner.
3. The Official concerned for compliance.

DIDSTRIC COORDINATION OFFICER,  
BUNER.

*o/c*  
Attested to be  
True Copy

OFFICE OF THE  
DISTRICT COORDINATION OFFICER,  
BUNER.

5  
Annex C

No: 1274 /Estt./1  
Dated Daggar the 27<sup>th</sup> February, 2009.

13

To: The Secretary to Govt:  
Of NWFP Establishment Department  
Peshawar.

Subject: TRANSFER OF MR. SADAQAT ALI SECRETARY UNION  
COUNCIL.

Memo:

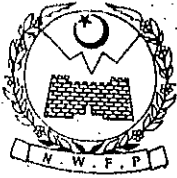
Mr. Sadaqat Ali was serving in the Office of the then Deputy Commissioner Buner, as junior clerk prior to devolution, he became surplus and adjusted as secretary union council where he is serving till now. Now vacancy of junior clerk has been occurred due to promotion of one j/c to the post of senior clerk over which Mr. sadaqat Ali has applied for transfer/ adjustment.

You are therefore requested to kindly advise this office as to whether we can transfer Mr. Sadaqat Ali from the post of secretary union council to the office of Revenue and Estate Buner as junior clerk or otherwise.

DISTRICT COORDINATION OFFICER,  
BUNER.

O/C

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GOVERNMENT OF N.W.F.P.  
ESTABLISHMENT DEPARTMENT.

NO.SOE-V (E&AD)/3-4/2007  
Dated Peshawar, the April 2, 2009

15

To

The District Coordination Officer,  
Bunnar.

Subject: Transfer of Mr. Sadaqat Ali Secretary Union Council

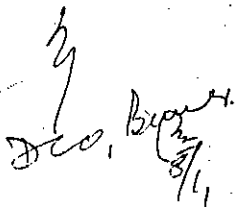
Dear Sir,

I am directed to refer to your letter No.2045.dco(Buner)Estt: /1/2007 dated 13/3/2009 on the subject noted above and to invite your kind attention to the instruction of the government on the subject case that whenever officers/official of lower pay scales are posted against higher pay scales due to exigencies of service or through adjustment, the said posts automatically shall stand downgraded as long as the said incumbents stays against such posts. Departments concerned while issuing posting notification must also notify downgradation of the posts simultaneously with a copy to the Accountant General NWFP, Finance and Establishment and Administration Department (Copy enclosed for ready reference).

Yours faithfully

  
SECTION OFFICER(E-V) 2-4-09

EA

  
Dco, Buner  
3/11

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True Copy

ANSW D

15

OFFICE OF THE  
COMMISSIONER MARDAN DIVISION.

NO. 14-23 /PSC(M)

Dated MARDAN THE 6 /01/2009.

To,

- 1- The District Coordination Officer, Mardan.
- 2- The Executive District Officer (F&P) Mardan.
- 3- The Executive District Officer (Agriculture) Mardan.
- 4- The Executive District Officer (S & L) Mardan.
- 5- The Executive District Officer (Health) Mardan. / SWABI
- 6- Medical Superintendent, DHQ: DHQ: Hospital Mardan.
- 7- XEN Irrigation Department Swabi.
- 8- Principal Government Post Graduate College Mardan.
- 9- Principals GHSS Mayar, Garhi Kapura and Dheri Likpani.

Subject:- ATTACHMENT OF MINISTERIAL STAFF IN COMMISSIONER OFFICE MARDAN.

Memo:

In continuation of this office letter No.52-73/PAC, 70-77/PAC dated 07-12-2008, No.39-51/PSC(M), No. 52-58/PAC dated 16-12-2008 and No.179-82 dated 20-12-2008 wherein the staff pertaining to your respective offices have temporarily been attached with Commissioner office. Their permanent absorption in this office is under consideration, however you are advised to maintain their service/salaries as such in your department till further order. No relieving of staff may be made at the moment:-.

S.NO.	NAME OF OFFICIAL	PRESENT POSTING
01	Mr.Murad Ali Shah, SS.Stenographer	XEN Irrigation Department Swabi.
02	Mr.Muhammad Ali, Assistant	EDO Agriculture Deptt: Mardan
03	Mr.Khalid Pervez Senior Clerk	EDO (S&C) Mardan.GHSS Garhi Kapoora
04	Mr.Sharif Khar, J/Clerk	EDO (S&C) Mardan GHSS Dehri Likpani (Katlang)
05	Syed Shah Hussain, J/Clerk	GPGC, Mardan
06	Mr.Tahir Shah, J/Clerk	EDO (S&C) Mardan GHSS Mayar
07	S.Maqbool Shah, J/Clerk	EDO (S&C) Mardan
08	Mr.Aftab Ali, Clerk	M.S. P.G. Hospital Mardan
09-	Mr. Mushtaq A. ....	..... Swabi.
10	Mr.Farooq Zaman J/Clerk	Health Deptt: Swabi
11	Mr.Anwar Shed Driver	EDO(F&P) Mardan
12	Mr.Sakhi Tay	-do-
13	Mr.Alamzeb N/Q	DCO, Office, Mardan
14	Mr.Ziarat Khan, N/Q	Union Council
15	Mr.Abdul Wadood	DCO, Office Mardan
16	Mr.Akbar Ali N/Q	Union Council
17	Mr.Sherin Zar N/Q	Education Deptt:

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COMMISSIONER,  
MARDAN DIVISION.

NO. \_\_\_\_\_ /EA

Copy forwarded to all staff for information and necessary action.

4. Officials concerned.



16

Handwritten scribbles and initials.

OFFICE OF THE COMMISSIONER, MARDAN DIVISION, MARDAN.

OFFICE ORDER

The posting/adjustment of the following ministerial staff against the following posts in the office of undersigned is hereby ordered with immediate effect in the best public interest:-

S #	Name of Official & Designation	From	To	Remarks
01	Mr. Muhammad Ali, Assistant (BS-14)	EDO, Agriculture (Fisheries Deptt)	Commissioner Office, Mardan	Vice No.3
02	Mr. Khalid Parvez, Senior Clerk (BS-09)	GHSS Garhi Kapoora	Commissioner Office Mardan	Against the vacant post of Assistant in his own pay & scale.
03	Mr. Arshad Ali, Assistant (BS-14)	Commissioner Office Mardan	Services placed at the disposal of DCO Mardan for further posting against the post of Assistant in EDO (Agriculture) Office Mardan in his own pay & scale.	
04	Mr. Aftab Ali, Junior Clerk (BS-07)	EDO (Health) Office Mardan	Commissioner Office Mardan	Vice No.5.
05	Mr. Muhammad Abid, Junior Clerk (BS-07)	Commissioner Office Mardan	Services placed at the disposal of DCO Mardan for further posting against the post of J/C (BS-07) in Health Department Mardan.	
06	Syed Shah Hussain, Junior Clerk (BS-07)	Govt. Post Graduate College Mardan.	Commissioner Office Mardan	Vice No.07.
07	Mr. Muhammad Abbas, Junior Clerk (BS-07)	Commissioner Office Mardan	Services placed at the disposal of DCO Mardan for further posting against the post of J/C (BS-07) in Govt. Post Graduate College Mardan.	
08	Syed Maqbool Shah, Junior Clerk/ Lab Assistant (BS-07)	EDO (Education) Mardan	Commissioner Office Mardan	Vice No.09
09	Mr. Tariq Hassan, Junior/Lab Assistant Clerk (BS-07)	Commissioner Office Mardan	Services placed at the disposal of DCO Mardan for further posting against the post of Lab Assistant (BS-07) in Education Department, Mardan.	

Acting  
Muzil

Signature of the Commissioner

Sd/-  
COMMISSIONER,  
MARDAN DIVISION, MARDAN.

No. 1426-32/02/01/EA/ACR

Dated Mardan, the 08/07/2009.

Copy forwarded to:-

- 1- The District Coordination Officer, Mardan.
- 2- The Executive District Officer (Agriculture), Mardan.
- 3- The Executive District Officer (Education), Mardan.
- 4- The Executive District Officer (Health), Mardan.
- 5- The District Accounts Officer, Mardan.
- 6- Principal, Govt. Post Graduate College Mardan.
- 7- Principal, GHSS, Mayar.

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Assistant to Commissioner (Rev),  
for Commissioner, Mardan Division,  
Mardan.

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17

ANINSE E<sup>3</sup>

OFFICE OF THE  
DEPUTY COMMISSIONER MARDAN.  
No. 2479 /DC(M)/EA-5  
Dated Mardan the 5/10 /2015

To


- 1) Mr. Hamid Ullah  
Secretary Union Council Manga Now License Branch  
Deputy Commissioner Office Mardan.
- 2) Mr. Muhammad Ayaz  
Secretary Union Council Jamal Garhi Now Reader to  
AAC-VI Mardan.

Subject: APPLICATION FOR TRANSFER/ADJUSTMENT AGAINST THE VACANT  
POST OF JUNIOR CLERK IN PARENT OFFICE.

Memo:-

I am directed to refer to the subject noted above and to enclose herewith a copy of Government of Khyber Pakhtunkhwa Establishment & Admin Department (Regulation Wing) Letter no. SOR-V(E&AD)/1-4/2008 dated 22.9.2015.

You are hereby directed to inform you that the Competent Authority is regretted your request for adjustment as Junior Clerk in this office.

  
For Deputy Commissioner  
Mardan

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Handwritten text at the top of the page, including a date "23/11/15" and other illegible characters.

23/11/15

12/10/15

COMMISSIONER MARDAN  
75  
Mardan District  
Reader  
12/10/15

Before The Commissioner Mardan

ANNEX F

Hamid Ullah , Secretary Union council presently junior clerk  
in the office of license clerk Deputy Commissioner Office  
Mardan .....Appellant

**VERSUS**

Deputy Commissioner Mardan. .... Respondents

Representation/ Departmental appeal against order of  
respondent No.1 dated 05/10/2015, whereby,  
application for adjustment in the office of Deputy  
Commissioner Mardan is regretted which is illegal,  
against law and facts..

Respectfully Sheweth;

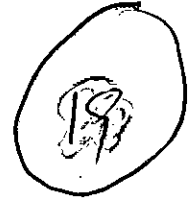
Appellant humbly submits as under

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1. That appellant was ex-junior clerk having been initially appointed as such way back in the year 1993 in the Deputy Commissioner office Mardan ad as devolution later on adjusted as Secretary Union council in Katlang District Mardan.
2. That on 30/09/2010 the appellant was directed by the then District Coordination officer Mardan to perform the duty in the license branch in addition to my own duties, where the appellant have been performing my duties till date. (Copy of the order is Annex: "A").
3. That after the restoration of the commissionerate system, the former employees of the commissioner office were

See Page  
no-2  
26/11/15

repatriated vide orders dated 06/01/2009, 08/07/2009.  
(Copies of the order are Annex: "B").



4. That similarly employees of the Deputy Commissioner office were also repatriated vide orders dated 26/01/2006, 17/07/2009, 06/07/2009. (Copies of the orders are Annex: "C").
5. That the Khyber Pakhtunkhwa Service Tribunal in identical cases allowed the appeals of similarly placed employees and directed for the repatriation of those employs. (Copies of the judgment is Annex: "D").
6. That the appellant also made an application to the Deputy Commissioner Mardan for similar repatriation which was process but finally regretted vide impugned orders/ letters dated 05/10/2015. (Copy of the application and order/ letter Annex: "E").
7. That the appellant therefore, approach your good self against the order/ letter ibid for favorable consideration.
8. That the appellant have been discriminated as other colleagues of the appellant have been repatriated while the same benefit has been refused to the appellant without any justification much less lawful.
9. That appellant is entitled for repatriation to his parent department on the following grounds:-

#### GROUND

- A. That due to in function of officer of AAC Mardan , Deputy Commissioner office have large of deficiency for the reader/ Muharror for the offices of AAC Mardan.
- B. That presently appellant is serving as a license clerk in Deputy Commissioner offices Mardan and Deputy Commissioner Mardan has requested to the authority for

ATTESTED

*[Signature]*  
Examiner/Reader to  
Commissioner Court  
Mardan Division Mardan

26/11/015

*See Page no*

*23*

26/11/015

adjustment of appellant due to his satisfaction of D.C Mardan from performance of appellant.



C. That similarly placed officials have been adjusted/repatriated in the office of D.C Mardan and also service transfer has issued direction for repatriation of similarly placed official vide judgment of service transfer dated 03/01/2013.

D. That as per reported judgment of Apex Supreme Court of Pakistan (1996 SCMR P-1185) once a benefit is given to a civil servant, that benefit can be extended to civil servant tool, so, appellant is also entitled for the same treatment.

E. That as per policy/ notification of (S & GAD KPK Pesh: dated 08/06/2001, all surplus staff should be adjusted on the minimum qualification against vacant post, keeping in view of their seriously. (Copy of policy is attached as Annex" "G").

It is, therefore, most humbly prayed that order/ letter dated 05/10/2015 issued by the Deputy commissioner Mardan may kindly be set aside and the appellant may be repatriated to the office of Deputy Commissioner Mardan.

Appellant, Hamid Ullah  
Hamid Ullah

Trough counsel Yaquob Khan  
Yaquob Khan advocate High Court at Distt: courts Mardan.

Dated 09/10/2015

No. 692 24/11/015  
Date of Application 21/11/2015  
Name of Applicant 12c  
Wards 1200 Fee 12c  
Urgent Fee 2c  
Sign of Copyist [Signature]  
Date of Preparation 26/11/015

**ATTESTED**  
[Signature]  
Examiner/Reader to  
Commissioner Court  
Mardan Division Mardan  
26/11/015

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**IN THE COURT OF COMMISSIONER MARDAN DIVISION, MARDAN.**

Hameed Ullah Secretary Union Councils

Appellant

Versus

ANWER G Respondent

Deputy Commissioner Mardan

Handwritten number 213 in a circle.

Case No.....  
 Dated of institution: 12/10/2015  
 Dated of Decision: 23/11/2015

**DEPARTMENTAL APPEAL AGAINT THE ORDER OF DEPUTY COMMISSIONER MARDAN DATED 05/10/2015.**

**ORDER:-**

This order will dispose off the instant appeal submitted by the above noted appellants for the adjustment in the office of Deputy Commissioner Mardan.

Brief facts of the case are that the appellant was appointed as junior clerk in the office of Deputy Commissioner Mardan. After the abolition of the Deputy Commissioner office due to promulgation of the then local Government Ordinance 2001, the appellant was placed in Surplus Pool, Subsequently he was adjusted as secretary union council in the District Government, with the revival of DC offices the appellant was posted to the office of Deputy Commissioner Mardan at license branch on temporary basis in Addition to his own duties.

Now the appellant prayer is that since their other collogues were repatriated/readjusted in the office of Deputy Commissioner Mardan, he is also entitled to be readjusted/repatriated because he is senior to Nowshad Ali and Muhammad Islam J/clerk who were repatriated/readjusted from the education department to their parent department.

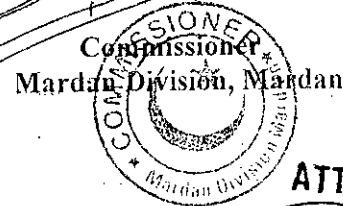
Appellant with counsel present and representative of Deputy Commissioner Mardan also present and submitted parawise comments placed on file. Arguments heard and comments of the Deputy Commissioner Mardan perused.

Perusal of the file and record reveals that official once adjusted in a office can not be readjusted in another office, hence no space in law exists to provide relief to the appellant for the readjustment/repatriation in his parent department/office. If the Government makes amendment in the surplus staff adjustment policy with regard to employees of ex Commissioner office and Deputy Commissioner offices then the new policy will follow. Since the appellants have once been adjusted as Secretary union council, hence he can not be readjusted/repatriated to the office of Deputy Commissioner as per present Government policy. Moreover, the appellant had made application for repatriation to the Deputy Commissioner Mardan but regretted after having received the advice from the Govt of Khyber Pakhtunkhwa Establishment and Administration Department (Regulation Wing) Peshawar. Therefore the appeal in hand is hereby dismissed. No order as to cost.

File be consigned to record room after necessary completion.

Announced.  
23/11/2015

No. 692  
 Date of Application 24/11/15  
 Name of Applicant  
 Wards 600 Fee 40  
 Urgent fee 20  
 Sign of Conyist  
 Date of Preparation 26/11/15

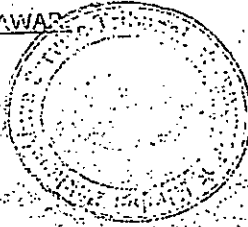


ATTESTED

Examiner/Reader to  
 Commissioner Court  
 Mardan  
 26/11/15

Appel No. 999/2012

Date of Institution: 11.9.2012  
Date of Decision: 3.01.2013



Zahoor Ahmad, Secretary U/C Rustam/Senior Clerk,  
Mardan.

(Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary, Establishment & Administration Civil Secretariat, Peshawar.
  2. The District Coordination Officer, District, Mardan.
  3. The District Officer (Revenue & Estate) Peshawar.
  4. Samiullah, Junior Clerk, Distt. Officer (R&E) Mardan.
  5. Muhammad Sohail, Junior Clerk, District Officer (R&E) Mardan.
  6. Ghulam Sarwar, Junior Clerk, DCO office, Mardan.
- (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT 1974, AGAINST THE IMPUGNED ORDER COMMUNICATED VIDE LETTER DATED 4.9.2012 ISSUED BY RESPONDENT NO. 2 VIDE WHICH THE DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS REJECTED/FILED.

MR. KHALID RAHMAN,  
Advocate

For appellant

MR. SHERAFGAN KHATTAK,  
Addl. Advocate General

For official respondents

MR. AMJAD ALI,  
Advocate

For private respondents

MR. NOOR ALI KHAN,  
SYED MANZOR ALI SHAH,

MEMBER  
MEMBER

JUDGMENT

MR. NOOR ALI KHAN, MEMBER - This appeal has been filed by Zahoor Ahmad, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 4.9.2012 issued by respondent no.2, whereby his departmental appeal for repatriation to parent department has been rejected. It has been prayed that on acceptance of the appeal, the impugned order may be set aside and the appellant be repatriated to his parent department and adjusted against the vacant post of Senior Clerk with all other consequential benefits.

ATTESTED

Affected to be  
True Copy

H  
ANNEX  
22

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2. Brief facts of the case are that the appellant was initially appointed as Junior Clerk on 3.6.1992 in the office of the then Deputy Commissioner Mardan and later on promoted to the post of Senior Clerk. The department has also maintained service book of the appellant wherein necessary entries have been made from time to time. At the moment appellant has at his credit more than 29 years service. In the year 2001 the Devolution system was introduced under which the Commissionerate System was abolished; resultantly, appellant and others were declared surplus and were placed under the surplus pool. Vide order dated 8.9.2001 appellant was adjusted as Secretary Union Council Maho Dheri Mardan and later on posted to Union Council Rustam (Mardan) where he has been performing his duties till date. Recently three vacancies of Senior Clerks in the office of respondent No. 3 became vacant. The appellant filed departmental representation to respondent No. 2 on 25.6.2012 for his adjustment against one of the posts, which was rejected/filed vide impugned order communicated vide letter dated 4.9.2012, hence the present appeal.

3. The appeal was admitted to regular hearing on 20.9.2012 and notices were issued to the respondents. The respondents have filed their written replies and contested the appeal. The appellant also filed rejoinder in rebuttal.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that the appellant has not been treated in accordance with the law, rules and policy on the subject. In similar circumstances other colleagues of the appellant namely Malak Junaid, Israr Muhammad, Liaqat Ali, Kifayat Rahman, Junior Clerks working in Defunct Deputy Commissioner office became surplus due to devolution plan and then adjusted in other departments. On creation of posts, they were repatriated and readjusted in their parent department. Mr. Liaqat Ali and Kifayat Rahman, who were adjusted in the Education Department, Malak Junaid and Israr Muhammad in Excise & Taxation Department were repatriated and readjusted in DOR office Mardan. Similarly private respondent No. 4 namely Samiullah, who was adjusted as Secretary Union Council, has been transferred mutually and adjusted as Junior Clerk in DOR office Mardan vide order dated 26.1.2006. Likewise, M/S. Murad Ali, Assistant, adjusted in Fisheries/Agriculture Department, Khalid Perva, Senior Clerk in Education Department, Aftab Ali Junior Clerk in Health Department, Syed Shah Hussain, Junior Clerk in Education Department, Syed Marqboob Shah, Lab. Assistant in Education Department, and Tariq Hussain, Lab. Assistant in Education Department were repatriated and re-adjusted in Commissioner office Mardan, vide order dated 8.7.2009. On 1.8.2009, six more officials of various categories adjusted in other

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departments permanently have been repatriated and re-adjusted in their Department i.e. Commissioner's office Mardan. He further argued that no policy regarding adjustment of ex-staff had been framed by the respondents as yet, and they are trying to adjust them through pick and chose, the practice against the law/rules. All the citizens are equal before law and should be treated equally in accordance with the law as per Articles 4 and 25, of the Constitution of Islamic Republic of Pakistan. The appellant being adjusted against a wrong post was more deserving for repatriation and adjustment in his parent department but he has been discriminated. He requested that the appeal may be accepted as prayed for.

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6. The learned counsel for private respondents No. 4 to 6 opposed the plea taken by the appellant regarding repatriation of his other colleagues to the office of District Officer (Revenue & Estate) Mardan because the persons as referred to above are almost Junior Clerks and Assistants while the appellant is a Senior Clerk. The appellant while serving as Senior Clerk in the defunct Deputy Commissioner Office Mardan became surplus due to devolution plan. He was then adjusted as Secretary Union Council and after 11 years service under District Government, he could not ask for his repatriation to his parent department. In fact there are three posts of Senior Clerk lying vacant in the District Officer (R&E), DCO and Finance & Planning offices Mardan against which DPC meeting was called to consider the promotion cases of Junior Clerks including the private respondents, and if the appellant is repatriated, the private respondents would suffer irreparable loss and would be deprived of their legitimate rights of promotion. He requested that the appeal may be dismissed. The learned AAG also adopted the arguments advanced by the learned counsel for the private respondents.

7. The Tribunal observes that after devolution plan in the year 2001, officials of various categories serving in the defunct Commissioner and Deputy Commissioner offices became surplus. The appellant while serving as Senior Clerk in the office of Defunct Deputy Commissioner office Mardan had also been declared surplus. He was then adjusted as Secretary Union Council in his own pay and scale. On creation of DCOs, DOR offices, and restoration of commissionerates, the official respondents started repatriation/adjustment of their ex-staff without framing policy/instructions. They must frame a unified policy for adjustments of their old staff on the basis of experience and other factors, but no such policy framed and adopted the practice of pick & chose. The appellant being adjusted against the wrong post as Secretary Union Council in his own pay and scale was more deserving for adjustment in his parent department but he has been denied for no plausible reason.

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5. In view of the above discussion, the Nos. 2 and 3 are directed to repatriate the appellant to his parent department and adjust him against the vacant post of Senior Clerk. It is further observed that Devolution plan of General Musharraf (R) had played havoc upon and broken the back-bone of Administrative set up. Since government is again restoring Commissionerate system, therefore, instead of fresh recruitments and repatriating the their experience staff at random, government should make amendment in "surplus staff adjustment policy" specially with respect to Ex-Commissioner and Deputy Commissioner offices staff only for readjustment to facilitate smooth running of the above referred offices.

6. This order will also dispose of Service Appeal No. 1002/2012 titled "Hamid Ali Taj Versus the Government of Khyber Pakhtunkhwa through Secretary Establishment & Administration Department, Peshawar etc.", in the same manner.

ANNOUNCED  
3.1.2013

*Mr. Nasir Ali Khan*  
*Mr. Ghulam Manzoor Ali Khan*



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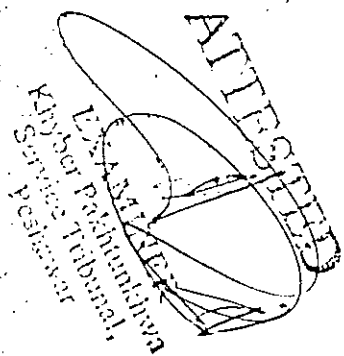
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ANNEX I

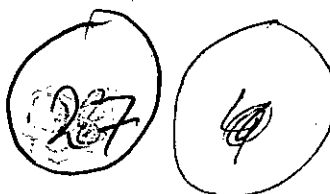
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Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	24.06.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL <u>PESHAWAR.</u></p> <p style="text-align: center;">Service Appeal No. 1192/2014</p> <p>Haji Ahmad Jan Versus the Government of Khyber Pakhtunkhwa Board of Revenue, through its Senior Member, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Khalid Rahman, Advocate) and Government Pleader (Mr. Muhammad Jan) with Naeem Khan, Assistant for the respondents present.</p> <p>2. Appellant was appointed as Junior Clerk in the office of Deputy Commissioner, Charsadda vide order dated 01.08.1988. In the wake of devolution plan in the year, 2001, the appellant was declared surplus and adjusted as Secretary, Union Council under the District Government vide order dated 13.08.2001. That in the year, 2012 the Local Government Ordinance was abolished and the Commissionerate system was restored and the appellant was re-adjusted in the office of Deputy Commissioner Charsadda and posted as Reader to Tehsildar Charsadda vide order dated 14.4.2013 and is still serving there. His prayer per impugned order is as follows:</p> <p style="padding-left: 40px;">“The appellant’s prayer is that since his other colleagues were repatriated/re-adjusted in the office of DOR/DCO (now Deputy Commissioner Office) Charsadda, he is also entitled to be readjusted/repatriated in the same manner.”</p> <p>With the said prayer, he moved representation before</p>



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Commissioner, Peshawar which was rejected vide order dated 10.09.2014, hence the present appeal before this Tribunal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

3. It was submitted by the learned counsel for the appellant that the appellant had rendered 29 years of his service, all under and in the offices of the Deputy Commissioner/District Coordination Officer/District Officer (Revenue & Estate)/Collector with rich experience. It was argued that inspite of adjustment as Secretary Union Council, the appellant was kept posted with district administration right from the year, 2001 till date. While referring to para-6 of the appeal, the learned counsel submitted that cases of Muhammad Zahir Shah etc. were similar to the case of present appellant, who have been re-adjusted in the office of Deputy Commissioner unlike the appellant who was not extended this treatment despite his rich experience and thus discriminated. The learned counsel for the appellant in support of his contention referred to Article 4 and 25 of the Constitution of Islamic Republic of Pakistan. He further maintained that this Tribunal while disposing of an Identical case of Zahoor Ahmad and Hamid Ali Taj in Service Appeal No. 999/2012 decided on 03.01.2013, had directed the respondent-department to repatriate the appellants to their parent department and to adjust them against vacant posts. While referring to 1996-SCMR-1185, 2005-SCMR-499 and 2009-SCMR-1, the learned

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counsel for the appellant stressed that the respondent-department is legally bound to act upon decision of the courts/Tribunal in cases of those government servants, who might not have filed separate appeals. While concluding the arguments, the learned counsel for the appellant stated that the instant appeal may be allowed.

4. The learned Government Pleader resisted this appeal on the grounds that at the relevant time, the appellant had been adjusted as indicated in the impugned order and there is no provision of re-adjustment in surplus pool policy. He defended that the impugned order and requested that the instant appeal being devoid of merits, may be dismissed.

5. We have heard arguments of the parties and have perused the record.

6. This is not disputed that in the year 1988, the appellant was appointed as Junior Clerk in the office of Deputy Commissioner, Charsadda. It was also not disputed that the appellant remained posted in the offices of D.C/DCO/DOR despite his adjustment as Secretary Union Council under the District Government Department. His rich experience also cannot be denied. We have carefully gone through the impugned order and have reached on the conclusion that Commissioner, Peshawar in his impugned order has <sup>not</sup> properly appreciated in letter and spirit this Tribunal judgment rendered in appeal No. 999/2012 decided on 03.1.2013. For facility of

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Service Commission  
Peshawar

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reference and that facts of this appeal are identical with facts of the cited appeal, we would like to reproduce para-7 and 8 of the said judgment:-

7. The Tribunal observes that after devolution plan in the year 2001, officials of various categories serving in the defunct Commissioner and Deputy Commissioner offices became surplus. The appellant while serving as Senior Clerk in the office of Defunct Deputy Commissioner office Mardan had also been declared surplus. He was then adjusted as Secretary Union Council in his own pay and scale. On creation of DCO, DOR offices and restoration of Commissionerates, the official respondent started repatriation/adjustment of their ex-staff without framing, policy/instruction. They must frame a unified policy for adjustment of their old staff on the basis of experience and other facts, but no such policy framed hence adopted the practice of pick & chose. The appellant being adjusted against the wrong post as Secretary Union Council in his own pay and scale was more deserving for adjustment in the parent department but he has been denied for no plausible reason.

8. In view of the above discussion, the appeal is accepted and respondents No. 2 & 3 are directed to repatriate the appellant to his parent department and adjust him against the vacant post of Senior Clerk. It is further observed that Devolution plan of General Musharaf® had played havoc upon and broken the back-bone of Administrative set up. Since government is again restoring Commissionerate system, therefore, instead of fresh recruitments and repatriating the their experience staff at random, government should make amendment in "surplus staff adjustment policy" especially with respect to Ex-Commissioners and

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Service Tribunal,  
Peshawar

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Deputy Commissioner offices staff only for re-adjustment to facilitate smooth running of the above referred offices".

7. While perusing the impugned order in the back-drop of the said paragraphs, it becomes evident that the cited judgment was not appreciated in letter and spirit nor any cogent and convincing ground was given in the impugned order for any distinction.

8. In the light of the stated position of the case, the Tribunal is of the considered view that having arguable case on the touch-stone of the grounds of discrimination and a previous decision of this Tribunal in another Service Appeal No. 999/2012 ibid, the instant case is remanded to the respondent No. 1 to look into the matter strictly in accordance with judgment in appeal No. 999/2012 and to re-decide the matter within a period of two months of the receipt of this judgment. Needless to mention that the impugned order stand, set aside. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED  
24.06.2015

Sy Pk Bahadur Ghosh, member  
Sy Abdul Latif, member

Certified

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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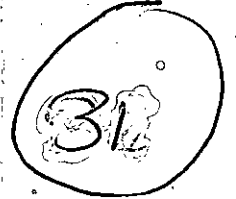
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OFFICE OF THE ASSISTANT DIRECTOR,  
LOCAL GOVT & RURAL DEV: DEPARTMENT MARDAN.

No. 692 /AD LG&RDD Dated Mardan the 05/03/2014

To

ANNEX J




The Deputy Commissioner,  
Mardan.

Subject:-  
Memo:

**Application of Hamidullah, Secretary Union Council.**

Please refer to the subject cited above and to enclose herewith an application of Mr. Hamidullah, Secretary Union Council, which is self explanatory.

It is further requested that this Department has no objection if the applicant is repatriated/absorbed as Junior Clerk in the District Administration.

  
Assistant Director,  
Local Govt & RDD Mardan.

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GOVERNMENT OF N.W.F.P.  
ESTABLISHMENT & ADMINISTRATION DEPARTMENT  
(REGULATION WING)

NO. SOR-HEAD-1-203/88  
Dated Peshawar the 8<sup>th</sup> June 1988

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HYBER

ANNEX 'K'

- To:
- 1) All Administrative Secretaries in NWFP.
  - 2) The Secretary to Governor, N.W.F.P.
  - 3) All Commissioners in N.W.F.P.
  - 4) All Heads of Attached Department in N.W.F.P.
  - 5) All Heads of Autonomous/Semi Autonomous bodies in NWFP.
  - 6) The Registrar, Peshawar High Court, Peshawar.
  - 7) All Districts & Sessions Judges in NWFP.
  - 8) All Deputy Commissioners/Political Agents in NWFP.
  - 9) The Secretary, NWFP Public Service Commission, Peshawar.
  - 10) The Director, Anti-Corruption Establishment, Peshawar.
  - 11) The Registrar, NWFP Service Tribunal, Peshawar.

**SUBJECT: POLICY FOR DECLARING GOVERNMENT SERVANTS AS SURPLUS AND THEIR SUBSEQUENT ABSORPTION/ADJUSTMENT**

Sir,

I am directed to refer to the subject noted above and to say that the Provincial Government has been pleased to make the following policy for absorption/adjustment of Government Servants declared as surplus in view of the transition of District System and resultant re-structuring of the Government Organizations/Departments etc:

1. **POWER WITH REGARD TO THE DECLARATION OF POSTS AS SURPLUS.**

The Finance Department in consultation with Department concerned and with the approval of competent authority would decide with regard to the declaration of a particular organization, set up or individual post as redundant or inessential.

2. **CREATION OF SURPLUS POOL.**

There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawl of pay and allowances etc by the employees declared surplus as such.

3. **IMPLEMENTATION/MONITORING CELL.**

For the purpose of coordination and to ensure proper and expeditious adjustment / absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:-

- |  |       |           |
|--|-------|-----------|
| a. Additional Secretary (Establishment) E&AD | ..... | Chairman  |
| b. Deputy Secretary LG & RD Department       | ..... | Member.   |
| c. Deputy Secretary Finance Department.      | ..... | Member.   |
| d. Deputy Secretary (Establishment) E&AD.    | ..... | Secretary |

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CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS  
RESULT OF ABOLITION OF POST.

Consequent upon the abolition of a post in a particular cadre of a department the junior most employee in that cadre would be declared as surplus. Such posts should be abolished in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawal of pay and allowances and also for consideration for subsequent adjustment.

DIVISION

PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES.

Notwithstanding anything contained in any other law, rules or regulation to the contrary, for the time being in force, the following procedure for the adjustment of surplus staff would be followed:-

- (a) Before transferring an employee to the surplus pool, he should be given option by the concerned department
  - (i) to proceed on retirement with normal retiring benefits under the existing rules;

OR

- (ii) to opt for readjustment/absorption against a future vacancy of his status/UPS which may not necessarily be in his original cadre/department.

(b) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the Surplus Pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustment shall be on seniority-cum-fitness basis. For this purpose the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.

(c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner:-

- (i) ~~In case of occurrence of vacancies in their corresponding posts in any Government Department/Organization, the senior most employee in the surplus pool should be adjusted first.~~
- (ii) ~~In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.~~
- (iii) ~~If an employee possess the basic academic qualification but lacks the professional/technical qualification, he may be adjusted against such post subject to imparting the requisite training.~~
- (iv) (a) ~~The surplus employees holding such posts who fall to promotion quota in about all the Departments, he shall remain in the surplus pool till the availability of a post in the parent department.~~

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(b) Where no equivalent post is available the civil servant may be offered a lower post in such manner and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately preceding his appointment to a lower post shall remain protected.

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GOVERNMENT OF N.W.F.P.  
ESTABLISHMENT & ADMINISTRATION DEPARTMENT  
(REGULATION WING)

NO. NOR-I(E&AD)-283/95  
Dated Peshawar the 8<sup>th</sup> June 2001

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HYBER

ANNEX 'K'

- To
- 1) All Administrative Secretaries in NWFP.
  - 2) The Secretary to Governor, N.W.F.P.
  - 3) All Commissioners in N.W.F.P.
  - 4) All Heads of Attached Department in N.W.F.P.
  - 5) All Heads of Autonomous/Semi Autonomous Bodies in NWFP.
  - 6) The Registrar, Peshawar High Court, Peshawar.
  - 7) All Districts & Session Judges in NWFP.
  - 8) All Deputy Commissioners/Political Agents in NWFP.
  - 9) The Secretary, NWFP Public Service Commission, Peshawar.
  - 10) The Director, Anti-Corruption Establishment, Peshawar.
  - 11) The Registrar, NWFP Service Tribunal, Peshawar.

SUBJECT: POLICY FOR DECLARING GOVERNMENT SERVANTS AS SURPLUS AND  
THEIR SUBSEQUENT ABSORPTION/ADJUSTMENT

Sir,

I am directed to refer to the subject noted above and to say that the Provincial Government has been pleased to make the following policy for absorption/adjustment of Government Servants declared as surplus in view of the transition of District System and resultant re-structuring of the Government Organizations/Departments etc:

1. POWER WITH REGARD TO THE DECLARATION OF POSTS AS SURPLUS.

The Finance Department in consultation with Department concerned and with the approval of competent authority would decide with regard to the declaration of a particular organization, set up or individual post as redundant or inessential.

2. CREATION OF SURPLUS POOL.

There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawl of pay and allowances etc by the employees declared surplus as such.

3. IMPLEMENTATION/MONITORING CELL.

For the purpose of coordination and to ensure proper and expeditious adjustment / absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:-

- |  |       |           |
|--|-------|-----------|
| a. Additional Secretary (Establishment) E&AD | ..... | Chairman  |
| b. Deputy Secretary LG & RD Department       | ..... | Member.   |
| c. Deputy Secretary Finance Department.      | ..... | Member.   |
| d. Deputy Secretary (Establishment) E&AD.    | ..... | Secretary |

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CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS  
RESULT OF ABOLITION OF POST.

Consequent upon the abolition of a post in a particular cadre of a department the junior most employee in that cadre would be declared as surplus. Such posts should be in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawl of pay and allowances and also for consideration for subsequent adjustment.

DIVISION

PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES.

Notwithstanding anything contained in any other law, rules or regulation to the contrary, for the time being in force, the following procedure for the adjustment of surplus staff would be followed:-

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- (a) Before transferring an employee to the surplus pool, he should be given option by the concerned department
  - (i) to proceed on retirement with normal retiring benefits under the existing rules;

OR

- (ii) to opt for readjustment/absorption against a future vacancy of his status/POSTS which may not necessarily be in his original cadre/department.

(b) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the Surplus Pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustment shall be on seniority-cum-fitness basis. For this purpose the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.

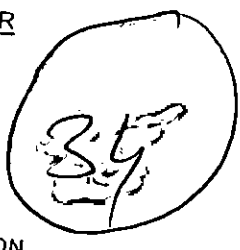
(c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner:-

- (i) In case of occurrence of vacancies in their corresponding posts in any Government Department/Organization, the senior most employee in the surplus pool should be adjusted first.
- (ii) In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.
- (iii) If an employee possess the basic academic qualification but lacks the professional/technical qualification, he may be adjusted against such post subject to imparting the requisite training.
- (iv) (a) The surplus employees holding such posts which fall to promotion quota in about all the Departments, he shall remain in the surplus pool till the availability of a post in the parent department.

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(b) Where no equivalent post is available the civil servant may be offered a lower post in such manner, and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately preceding his appointment to a lower post shall remain protected.

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- (a) If no suitable person is available in the surplus pool to be adjusted against the vacant/revived post, such a post would be filled up by initial recruitment in the prescribed manner after getting clearance from the E&AD.
- (c) Surplus staff should be adjusted preferably in their home District(s). If not possible, then within the same Division, if staff is adjusted away from their District of Origin in the first instance then on availability of post in their District of Origin adjustment near to their home station.
- (f) To facilitate the adjustment of surplus staff, it shall be incumbent upon the Administrative Department to take up the case with Finance Department for revival of the essential posts so retrenched as a result of general directive issued by Finance Department from time to time, giving cogent reasons/justification. Against the resultant revival/restoration of the post, the concerned Department will place a requisition on the E&AD for transferring of a suitable surplus employee against the said post.
- (g) Unless the surplus employees in Class-IV are fully adjusted/absorbed against their respective graded posts in various Government Departments/Organizations, the general policy of the Finance Department regarding conversion of BPS-1 & 2 posts to posts in fixed salary @ Rs. 2000/- per month for contractual appointed should be restricted to the above extent.

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6 **FIXATION OF SENIORITY**

The inter-se seniority of the surplus employees after their adjustment in various Department will be determined according to the following principles:-

- (a) In case a surplus employee could be adjusted in the respective cadre of his parent department he shall retain his original seniority in that cadre.
- (b) In case, however, he is adjusted in his respective cadre but in a Department other than his parent Department, he shall be placed at the bottom of seniority list of that cadre.
- (c) In case of his adjustment against a post in a corresponding basic pay scale with different designation/nomenclature of the post, either in his parent department or in any other department, he will be placed at the bottom of seniority list.

NOTE:-

In case the officer/official declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall lose the facility/right of adjustment/absorption and would be required to opt for premature retirement from Government service.

Provided that if he does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent authority

7. COMPETENT AUTHORITY TO NOTIFY ORDER ADJUSTMENT/ ABSORPTION.

After the transfer of services of surplus employee to a Department for adjustment/absorption against a vacant/revived post, the Competent Authority to notify/order his absorption/adjustment, shall be the respective appointing authority under the relevant rules for the post.

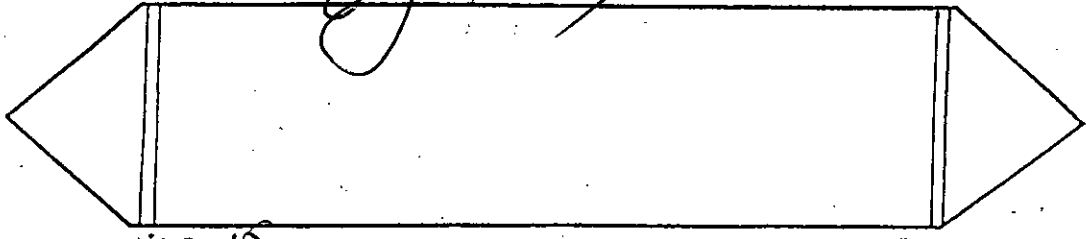
Provided that the decision of adjustment/absorption of surplus employees by the E&AD shall be binding upon the respective appointing authorities.

Yours Obedient Servant

(MUHAMMAD HANAYUN) 6-2001  
ADDITIONAL SECRETARY (REGULATION)

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# بعدالت سرویس لٹریچر



2012ء پنجاب ایبار میں  
بنام

موزخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکے

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

Handwritten signature/initials on the right margin.

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_ گواہ العباد

کے لئے منظور ہے۔

Handwritten signatures and names at the bottom, including 'Master Scopes' and 'Adv'.

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1340/2015

Hamidullah

Secretary, Union Council

Presently Junior Clerk in License Branch

O/O Deputy Commissioner Mardan .....Appellant

**VERSUS**

1. The Govt: of Khyber Pakhtunkhwa, through Senior Member Board of Revenue, Peshawar.
2. The Commissioner Mardan Division Mardan
3. The Deputy Commissioner Mardan ..... Respondents

**REPLY/PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO.2 AND 3 ARE AS UNDER:**

**Respectfully Sheweth:+b**

**PRILIMINARY OBJECTIONS:**

1. The appellant has got no cause of action.
2. This Honorable tribunal has got no jurisdiction to entertain the present appeal.
3. The appellant has not come with clean hands to this honorable tribunal.
4. That the appellant has no locus standi to file the appeal.
5. That the appeal is not maintainable in its present form.
6. That the appeal is bad for non joinder and misjoinder of unnecessary parties.

**FACTS:**

1. Para No.1 pertains to record.
2. Para No. 2 relates to record.
3. Para No.3 relates to record.
4. Para No. 4 is correct to the extent that application of the appellant was turned down in pursuant to the advice of Establishment & Administration Department (Regulation Wing) KPK, received vide their letter No. SOR-V(E&AD)/1-4/2008 dated 22.09.2015 (Annexure -A).
5. Incorrect. Each and every case has different facts and circumstances.

**GROUND:**

- A. Incorrect and denied. The application of the appellant for repatriation/adjustment in his parent office was turned down in light of the advice of Establishment & Administration Department with lawful authority as the applicant has been adjusted in accordance with surplus policy.



- B. Incorrect. Each and every case is decided in the light of its own facts and circumstances. Moreover, the appellant was treated as per law and policy.
- C. As explained in Para -A above.
- ✓ D. It is correct that the appellant is performing duty as license clerk in the office of Deputy Commissioner Mardan and Local Govt: Deptt: has issued NOC for his repatriation to his parent office and this office is in need of its skilled ex-staff rather than fresh recruitment but the post of secretary carry BPS-8 while Junior Clerk carry BPS-11. Therefore the matter was sent to Establishment and Administration Deptt: for advice and according to the said advice, application of the appellant was turned down.
- E. The appellant was treated as per policy.
- F. The respondents also seek permission to raise additional grounds at the time of arguments.

In view of the above parawise comments on above mentioned grounds and facts, it is humbly requested that the appeal of the appellant is baseless and carries no grounds may please be dismissed.

*Harizat Masand Main*  
SMBR  
Khyber Pakhtunkhwa  
Peshawar  
(Respondent No.1)

*M. J. Huberi*  
Commissioner  
Mardan Division Mardan  
(Respondent No. 2)  
**COMMISSIONER,**  
**MARDAN DIVISION**

*M. J. Huberi*  
Deputy Commissioner  
Mardan  
(Respondent No.3)  
**Deputy Commissioner**  
**MARDAN**

# Annex-A



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMN. DEPARTMENT  
(REGULATION WING)

No.SOR-V(E&AD)/1-4/2008  
Dated 22<sup>nd</sup> September, 2015.

To

The Deputy Commissioner,  
District Mardan.

Subject: APPLICATION FOR TRANSFER/ADJUSTMENT AGAINST THE  
VACANT POST OF JUNIOR CLERK IN PARENT OFFICE.

Dear Sir,

I am directed to refer to your letter No.1845/DC(M)/EA dated 30.06.2015 on the subject noted above and to state that the request of Mr. Hameedullah ex-Junior Clerk is not covered under Surplus Pool Policy as he had been adjusted in district of domicile on his own will. Therefore the request of the applicant may be regretted.

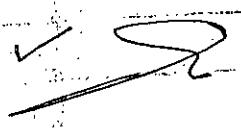
Yours faithfully,

  
KASHIF IQBAL JILANI  
SECTION OFFICER (REG-V)

Endst: of even No. & Date.


Copy forwarded for information to the PA to Deputy Secretary (Reg-III)  
Establishment Department.

DC OFFICE MARDAN	
Dairy No. 4585	Dt 28/9
A.D.C	
A.C	
A.A.C	
OFFER	



SECTION OFFICER (REG-V)

*Est*  
*in applicant*  
*concerned may*  
*be informed*  
*accordingly.*

  
30/9

# Annex-A



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMN. DEPARTMENT  
(REGULATION WING)

No.SOR-V(E&AD)/1-4/2008  
Dated 22<sup>nd</sup> September, 2015.

To  
The Deputy Commissioner,  
District Mardan.

Subject: APPLICATION FOR TRANSFER/ADJUSTMENT AGAINST THE  
VACANT POST OF JUNIOR CLERK IN PARENT OFFICE.

Dear Sir,  
I am directed to refer to your letter No.1845/DC(M)/EA dated 30.06.2015 on the subject noted above and to state that the request of Mr. Hameedullah ex-Junior Clerk is not covered under Surplus Pool Policy as he had been adjusted in district of domicile on his own will. Therefore the request of the applicant may be regretted.

Yours faithfully,  
  
KASHIF IQBAL JILANI  
SECTION OFFICER (REG-V)

Endst: of even No. & Date:

Copy forwarded for information to the PA to Deputy Secretary (Reg-III)  
Establishment Department.

DC OFFICE MARDAN	
Dairy No. 4585	Di 28/9
A.D.C	
A.C	
A.A.C	
CLERK	

SECTION OFFICER (REG-V)

*EA*  
*In applicant*  
*concerned may*  
*be informed*  
*accordingly*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1340 /2015

Hameedullah.....Appellant

Versus

The Govt. and others.....Respondents

**APPLICATION FOR EARLY HEARING.**

Respectfully Sheweth,

1. That the above titled Service Appeal is pending before the Hon'ble Tribunal and is fixed for hearing on 03.10.2016.
2. That the Respondents have issued advertisement for filling up one vacant post of Junior Clerk, therefore appellant has moved an application for interim relief which is fixed alongwith the main appeal on 03.10.2016.
3. That since the Respondents are going to fill up the available vacant post, therefore it is highly in the interest of justice to accelerate the date for the purpose of interim relief otherwise the appeal would become rather infructuous.

It is, therefore, humbly prayed that on acceptance of this application, the titled service appeal may graciously be fixed as early as possible.

Through

Applicant

*Khaled Rahman*

Advocate,  
Supreme Court of Pakistan

Dated: 01/09/2016

**Verification**

Verified, as per instruction of my clients that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Advocate

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 1340/2015**

Hamidullah .....Applicant

Versus

The Govt. and others.....Respondents

*Counsel for appellant  
present. Status  
quo be maintained  
till date of final  
subject to notice.*

**Application for restraining the Respondents from filling the vacant post of Junior Clerk till the final disposal of the instant appeal.**

*8/19/16*

Respectfully Sheweth,

1. That the above titled service appeal is pending before the Hon'ble Tribunal wherein the next date of hearing is 03.10.2016.
2. That the Respondents have filled in some of the vacant posts of Junior Clerks by way of Promotion whereas one of post of Junior Clerk has been advertised in the Dailies to be filled in from the direct quota. (Copy of of the Promotion order and Advertisement *Annex:-A & B*)
3. That since at the moment there is only one vacancy and if in the meanwhile the same is filled then the instant appeal would become infructuous as inspite of the acceptance of the appeal, the applicant/appellant cannot be adjusted against the post of Junior Clerk.
4. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of applicant/ appellant.

It is, therefore, humbly prayed that on acceptance of this application, the Respondents may graciously be restrained from filling the available vacancy of Junior Clerk pursuant to the advertisement till the final disposal of the instant appeal.

Through **Applicant**  
*Khaled Rahman*  
Advocate,  
Supreme Court of Pakistan

**Dated: 29 /08/2016**

Verification

Verified that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


*Hamidullah*  
Applicant/Appellant

Annex "A" (2)

OFFICE OF THE  
DEPUTY COMMISSIONER  
MARDAN  
No. 2336/DC (M)/EA-23  
Dated Mardan the 02/08/2016

**OFFICE ORDER**


On the recommendation of Departmental Promotion Committee held on 02/08/2016, Mr. Muhammad Ali Junior Clerk BPS-11 of this office is hereby promoted to the Post of Senior Clerk BPS-14 on regular basis with immediate effect.

  
Deputy Commissioner  
Mardan

**No. & Date even:**

Copy forwarded to:

1. The Commissioner Mardan Division Mardan.
2. The Secretary Board of Revenue Khyber Pakhtunkhwa, Peshawar.
3. The Comptroller of Accounts Mardan.
4. The Accounts Officer Deputy Commissioner Office Mardan.
5. Mr. Muhammad Ali Senior Clerk Deputy Commissioner Office Mardan with the direction to continue his duties as Incharge General Record Room, Mardan till further order.

  
Deputy Commissioner  
Mardan

http://www.dailymashriq.com.pk

اللہ ہی کیلئے ہیں مشرق و مغرب القرآن

DAILY MASHRIQ PESHAWAR

پشاور

عہدہ نو کے بانی

سید تاج میر شاہ

روزنامہ

مشرق

سلسلہ اشاعت کے 49 سال

پشاور و اسلام آباد سے بیک وقت شائع ہونے والا کثیر الاشاعت قومی اخبار

ABC CERTIFIED

شمارہ 362

ہفتہ 16 ذیقعد 1437ھ 20 اگست 2016ء 05 بجادوں قیمت 12 روپے

جلد 49

## درخواستیں مطلوب ہیں

فخریہ کھنڈ ضلع مردان کے ذریعہ سید محمد علی خاں نے خالی آسامی کے لئے ضلع مردان کے حال ڈویژن میں رکھے والے مرد خواہن امیدواروں سے مورخہ 29/8/2016 تک درخواستیں مطلوب ہیں۔ مردوں امیدواروں کا چناؤ مورخہ مورخہ کوئی پالیسی کے تحت کیا جائیگا۔ تفصیل درج ذیل ہے۔

نمبر	نام آسامی اپنے	تعداد	عمر کا حد	تفصیلی قابلیت
1	جینز ٹرک	01	30 تا 18 سال	بھڑک پیکٹ ڈویژن ہائیڈرو پمپنگ ایکسپریٹس 30 اگلا ٹی ٹیٹ

شرائط و ضوابط:- (1) فخریہ حکومت ٹیڑہ کھنڈ ضلع مردان کے مقررہ کردہ مرد خواہن قانون طریقہ کار کے مطابق خالصتاً بھڑک پمپنگ کی بنیاد پر ہوگی۔ (2) صرف حکومت کے مقرر شدہ امیدواروں کی اسناد قابل قبول ہوگی۔ (3) اگر کسی امیدوار کی اسناد ضلعی یا بھڑک پمپنگ کی کسی قسم کے خلاف قانونی چارہ جوئی کی جائے گی اور آئندہ کے لئے اسے قابل قرار دیا جائیگا۔ (4) ٹیسٹ اور پیمائش کے لئے اس امیدواروں کو کوئی TA/DA نہیں دیا جائیگا۔ (5) سرکاری ملازمین اپنے عہدہ سمیت اس سے اپنی درخواستیں ارسال کریں۔ (6) بھڑک پمپنگ سے موصول ہونے والی درخواستوں کو فوری طور پر دیکھا جائیگا۔ (7) صرف شہریت لفظ امیدواروں کا معیار کے لئے لایا جائیگا۔ (8) ہزاروں کی تعداد میں اس امیدواروں کو کئی قسم کے حصول ہوتے ہیں۔

## ذہنی کھنڈ ضلع مردان

\* InfoKPGovt \* @InfoKPGovt \* Send KP to 8333  
INF(P)4358

4

www.dailyaaj.com.pk

پشاور ایبٹ آباد اور اسلام آباد سے بیک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روشنی کل کی ضمانت، آج کا نصب العین

روزنامہ

ایڈیٹر  
عبدالواحد ریونی

پشاور  
پاکستان

صفحہ 16

جلد 27 پیر 22 اگست 2016ء ذیقعدہ 18 437ھ قیمت 12 پیسے۔ یو۔ ای۔ ڈی۔ 224

### درخواستیں مطلوب ہیں

دفتر ذیلی کمشنر ضلع مردان کے زیر سایہ درج ذیل خالی آسامی کے لئے اضلع مردان کے حامل ڈیویس کل رکھنے والے مرد / خواتین امیدواروں سے مورخہ 29/8/2016 تک درخواستیں مطلوب ہیں۔ موزوں امیدواروں کا چناؤ موجودہ مردہ حکومتی پالیسی کے تحت کیا جائیگا۔ تفصیل درج ذیل ہے۔

نمبر شمار	نام آسامی / پے سکیل	تعداد آسامی	عمر کی حد	تعلیمی قابلیت
1	جونیئر کلرک (BPS-11)	01	18-30 سال	میٹرک سینئر ڈیویژن ٹیکنیکل / کمپیوٹر سائنس / 30 القاعدائی منٹ

شرائط و ضوابط:- (1) تقرری حکومت خیر بختو نخواستہ کے مقررہ کردہ مردہ حکومتی قانون و طریقہ کار کے مطابق خالصتاً سہرٹ کی بنیاد پر ہوگی۔ (2) صرف حکومت کے منظور شدہ اداروں کی اسناد قابل قبول ہوگی۔ (3) اگر کسی امیدوار کی اسناد اصلی یا پورس ہائی گئیں تو اس کے خلاف قانونی چارہ جوئی کی جانے کی اور آئندہ کے لئے نااہل قرار دیا جائیگا۔ (4) ٹیسٹ / انٹرویو کیلئے آنے والے امیدواروں کو کوئی TA/DA نہیں دیا جائیگا۔ (5) سرکاری ملازمین اپنے حکمانہ وسامت سے اپنی درخواستیں ارسال کریں۔ (6) نامکمل اور دیر سے موصول ہونے والی درخواستوں کو زیر غور نہیں لایا جائیگا۔ (7) صرف شہرٹ شدہ امیدواروں کو انٹرویو کے لئے بلایا جائیگا۔ (8) حجاز اتھارٹی کو اختیار حاصل ہوگا کہ وہ کوئی مستقل وجہ بتائے بغیر کسی وقت کئی یا جزوی طور پر ٹیسٹ / انٹرویو نہیں پاس ہو سکتا ہے۔

**ڈپٹی کمشنر ضلع مردان**

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Say No To Corruption INF(P)4358





OFFICE OF THE DEPUTY COMMISSIONER MARDAN

No. 1647 /DC(M)/Lit: Cell

Dated Mardan the 23/12/2016

To:-

The Additional Advocate General  
Khyber Pakhtunkhwa Service Tribunal Peshawar.

Subject: SERVICE APPEAL NO.1340/2015 HAMEEDULLAH  
VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA ETC

R/Sir,

I am directed to refer to the subject noted and to state that the above subject service appeal is fixed for hearing today before the Hon'able Service Tribunal, Khyber Pakhtunkhwa, Peshawar.

I am further directed to request you to file application for vacation of status-quo already granted in the subject appeal on 01.09.2016.

Application for vacation of status quo is attached for your further necessary action please.

  
For Deputy Commissioner,  
Mardan

Service Appeal No.1340/2015

Hamidullah.....Applicant

Versus

Government of Khyber Pakhtunkhwa & others.....Respondents

APPLICATION FOR VACATION OF STATUS QUO ORDERS

Respectfully Sheweth:

That respondents No.2 & 3 submit as under :-


1. That the above subject service appeal is fixed for hearing before this Hon'able Tribunal for today.
2. That in the above service status-quo has been granted on 01.09.2016.
3. That balance of convenience in the above service appeal lies in favour of the responders.
4. That this office has advertised the post of junior clerk in the news papers, for which large number of jobless persons has been applied and they time and again visiting the office for progress but due to status-quo we unable to proceed further.
5. That if the appellant fulfill the required criteria, then he will be provided proper relief.

Keeping in view the above, it is humbly prayed that the status-quo already been granted in the above subject appeal may please be vacated in the best interest of public.

Dated 23.12.2016

Respondents No.2 & 3

Through

  
Representative

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR****Service Appeal No. 1340 2015**

Hameedullah ..... Appellant

Versus

The Govt. and others.....Respondents

---

**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE  
TO REPLY FILED BY RESPONDENTS NO.2&3.**

---

Respectfully Sheweth,

**Preliminary Objections:**

Preliminary objections raised by answering respondents are erroneous and frivolous. The appellant has got cause of action to file the instant appeal which has been filed within time in its correct form and shape with all the parties arrayed as Respondents.

**Facts:**

- 1-3. Being not replied hence admitted.
  
4. Incorrect hence denied. The application and Representation of the appellant were rejected without lawful justification. As far as the letter of the Establishment Department is concerned, the same is fallacious, misconceived and hence not sustainable in view of the earlier opinion of the Establishment Department contained in letter dated 02.04.2009 on the same subject matter wherein a different views were offered.

5. Being not replied hence admitted. This Hon'ble Tribunal passed two Judgments in identical cases and relief was granted to the then appellants and implemented and since the case of the is also identical therefore, he is also entitled for the same relief under the principle of consistency and equality before law.

**Grounds:**

- A. Incorrect hence vehemently denied. The views of the Establishment Department are incorrect and discriminatory, therefore, cannot be sustained under any canons of law, justice and fair-play. The appellant has been serving in the office of Deputy Commissioner/District Coordination Officer for the last more than 06 years quite satisfactorily.
- B. Misconceived hence denied. The law points involved in the earlier Judgments as well as the factual profiles thereof are on all fours identical to the appeal in hand, therefore, under the successive Judgments passed by the Apex Court the appellant is also entitled to the same relief to maintain consistency and uniformity.
- C. Being not replied hence admitted.
- D. Misconceived. On the same subject matter, the Establishment Department expressed its views in favour of the repatriation of the ex-employee. In the case of Ahmad Jan, appellant in Service Appeal No.1192/2014 decided on 24.06.2015 (*Annex:-Rj/1*), the Deputy Commissioner, Charsadda implemented the Judgment after obtaining the views of the Establishment Department.
- E. Incorrect hence denied.

F. Needs no reply.

It is, therefore, humbly prayed that the reply of answering Respondents No.2&3 may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant

Khaled Rahman  
Advocate, Peshawar

Dated: 24 / 12 / 10 / 2016

Verification

Verified that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

A. Chellal  
Deponent

Rj/1

4

**OFFICE OF THE  
DEPUTY COMMISSIONER  
CHARSADDA**

NO. DC (CHD) Estt(7 (31) APPOINTMENT 11932-40

Dated: 31 / 12 / 2015

**OFFICE ORDER**

Consequent upon the receipt of advice from the Establishment Department vide No. SOE-V (E&AD)/3-6/2006 Vol-II dated/21.12.2105 and the orders and judgment of Hon'ble Services Tribunal, Peshawar dated 24.06.2015, in service appeal No. 1192/2014 of Haji Ahmad Jan w/r to another service appeal 999/2012, the petitioner Haji Ahmad Jan Secretary Union Council is hereby Re-adjusted against the vacant post of Reader BS-7 till the availability of the post of Junior Clerk BS-11, with immediate effect.

DEPUTY COMMISSIONER  
CHARSADDA.

Endst: Even No & Date:

Copy of the above is forwarded to the:

1. Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar for information and with reference to above quoted service appeal.
2. Secretary to Govt: of Khyber Pakhtunkhwa, Establishment Department Peshawar w/r to letter quoted above.
3. Senior Member, Board of Revenue, Govt: of Khyber Pakhtunkhwa, Peshawar for information with reference to letter No. Estt: II/Haji A. Jan/Charsadda/17326 dated 29.07.2015.
4. Commissioner, Peshawar Division, Peshawar.
5. District Accounts Officer, Charsadda for necessary action.
6. Assistant Director, LG&RDD, Charsadda for information and further necessary action.
7. District Nazir of this office for necessary action.
8. Mr. Ahmad Jan for information and compliance.
9. Office file.

  
DEPUTY COMMISSIONER  
CHARSADDA.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No 360 /ST

Dated 19 /02/2018


To

The Commissioner,  
Government of Khyber Pakhtunkhwa,  
Mardan Division, Mardan.

Subject: ORDER/JUDGEMENT IN APPEAL NO. 1340/2015, MR. HAMEEDULLAH.

I am directed to forward herewith a certified copy of Judgment/Order dated 03/01/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

*OK*

82

OFFICE OF THE  
DEPUTY COMMISSIONER  
MARDAN

No. 1857 /DC (M)/EA-1  
Dated 01/03/2017

To:

The A assistant to Commissioner (Rev)/GA  
Mardan Division Mardan

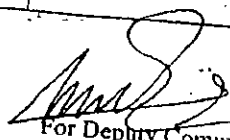
Subject: DETAIL OF VACANT POST IN MARDAN DIVISION

Memo:

I am directed to refer to your office letter No. 349/ACR/EA/2-1 dated 28/2/2017 on the subject noted above.

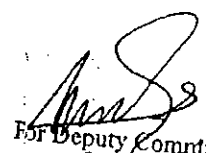
The requisite information asked for are as under:-


S #	Nomenclature of the post	Number of vacant posts	Remarks
1.	Assistant (BPS-16)	(04)	----
2.	Junior clerk (BPS-11)	(04)	Stay order issued by the service tribunal KPK in service appeal Hameed Ullah VS SMBR etc
3.	Naib Qasid ( BPS-1)	(02)	----
4.	Sweeper (BPS-1)	(01)	----

  
For Deputy Commissioner  
Mardan

Endst No & date even

Copy forwarded to the PS to Deputy Commissioner Mardan

  
For Deputy Commissioner  
Mardan

  
01/03

