

24.05.2019

An application for early hearing and withdrawal of appeal has been submitted by Mr. Azhar Ali Babar Advocate.

The record of appeal suggests that it was dismissed for non-prosecution on 12.12.2018. Subsequently an application for restoration of appeal was submitted on 20.12.2018 which was lastly fixed for hearing on 22.04.2019 but was adjourned due to incomplete Bench.

Instant application can, at the most, be treated as a request for withdrawal of application for restoration of appeal as the appeal already stands dismissed. The application is allowed and the restoration application No. 465/2018 is dismissed as withdrawn. File be consigned to the record room.


Member







Chairman

Announced
24.05.2019

FORM OF ORDER SHEET

Court of _____

Misc. Application No. 465/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20/12/2018	<p style="text-align: center;">The application for restoration of appeal No. 1082/2016 submitted by Mr. Muhammad Fayaz through Mr. Noor Muhammad Khattak Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <div style="text-align: right;">  REGISTRAR </div>
2-	15-1-19	<p style="text-align: center;">This Misc. application be put up before DB-I. Bench on <u>01-03-19</u></p> <div style="text-align: right;">  CHAIRMAN </div>
	01.03.2019	<p style="text-align: center;">Clerk to counsel for the petitioner present.</p> <p style="text-align: center;">Notice of instant application be issued to the respondents for 22.04.2019 before D.B. for arguments before the D.B.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;">  Member </div> <div style="text-align: center;">  Chairman </div> </div>
	22-4-2019	<p style="text-align: center;">The Bench is incomplete therefore case is adjourned to 17-6-2019</p> <div style="text-align: right; margin-top: 20px;">  Reader </div>

12.12.2018

Nemo for appellant. Mr. Ziaullah, Deputy District Attorney for the respondents present.

It is now 12:35 P.M and the case has been called several times but no one on behalf of the appellant is available.

Dismissed for non-prosecution. File be consigned to the record room.



Member



Chairman

Announced:
12.12.2018

Service appeal No. 1081/2016

20.08.2018

Learned counsel for the appellant and Mr. Zia Ullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 15.10.2018 before D.B

(Ahmed Hassan
Member

(Muhammad Amin Khan Kundi)
Member

15.10.2018

Clerk to counsel for the appellant and Mr. Kabirullah Khattak Additional Advocate General for the respondent present. Due to general strike of the bar, the case is adjourned. To come up on 26.11.2018 before D.B


Member


Member

26.11.2018

Junior to counsel for the appellant and Mr. Riaz Paindkhel learned Assistant Advocate General for the respondents present. Junior to counsel for the appellant seeks adjournment as learned senior counsel is busy before Hon'ble Peshawar high court. Adjourn. To come up for arguments on 12.12.2018 before D.B.


Member


Member

21.03.2018

Appellant absent. Learned counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 18.04.2018 before D.B.



(Muhammad Amin Khan Kundi)
Member



(Muhammad Hamid Mughal)
Member

18.04.2018

Counsel for the appellant and Addl: AG alongwith Mr. Hazrat Shah, Supdt for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 04.07.2018 before D.B.



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

04.07.2018

Junior to counsel for the appellant present. Addl: AG for respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 20.08.2018 before D.B.



(Ahmad Hassan)
Member



(Muhammad Amin Kundi)
Member

Service Appeal No. 1082/2016, M. Fayaz vs Govt

25.10.2017

Counsel for the appellant present Mr. Kabirullah Khattak, Additional alongwith Mr. Muhammad Bilal, Assistant Provost for respondents No. 1, 2 & 4 and Mr. Muzammil Khan, Advocate for respondents No. 3 also present. Written reply on behalf of respondents No. 3 & 4 already submitted. Written reply on behalf of respondents No. 1 & 2 not submitted despite extension of last opportunity at the cost of Rs. 2500/-. Learned Additional AG requested for further adjournment. Adjourned. To come up for written reply/comments and costs of Rs. 2500/- on behalf of respondents No. 1 & 2 on 09.11.2017 before S.B.


(Muhammad Amin Khan Kundi)
Member

09.11.2017

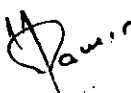
Counsel for the appellant and Mr. Ziaullah, DDA alongwith Mr. Yar Gul, Assistant, Mr. Subhanullah, Litigation Assistant and Mr. Bilal, Statistical Officer for respondents present. Written reply submitted. Cost of Rs. 2500/- also paid and receipt thereof obtained from the learned counsel for the appellant. The appeal is assigned to D.B for rejoinder and final hearing on 17.01.2018.


(AHMAD HASSAN)
MEMBER

17.01.2018


Clerk to counsel for the appellant. Mr. Zia Ullah, learned Deputy District Attorney for the respondents present. Clerk to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 21.03.2018 before D.B


(Gul Zeb Khan)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

28.08.2017

Counsel for the appellant present. Mr. Bilal Ahmed, Assistant Provost alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Written replies on behalf of respondents No. 3 & 4 have already submitted. Written reply on behalf of respondents No. 1& 2 not submitted despite extensions of last opportunity at the cost of 1000/-. Learned Additional AG requested for further adjournment. Last opportunity is further extended subject to payment of further cost of Rs. 1000/- which shall be borne by respondents No. 1&2 from their own pockets. Representative of respondents No. 1&2 are also not in attendance therefore, notice be also issued to the said respondents with the direction to direct the representative to attend the court and submit the written reply on the next date positively. Adjourned. To come up for written reply/comments and costs of Rs. 2000/- on behalf of respondents No. 1 & 2 on 09.10.2017 before S.B.


(Muhammad Amin Khan Kundi)

Member

09.10.2017

Clerk to counsel for the appellant and Addl:AG alongwith Mr. Yar Gul, Senior Clerk for respondents present. Written reply on behalf of respondent no. 1 and 2 not submitted despite last opportunities. Requested for further adjournment. Last opportunity further extended subject to payment of cost of Rs. 2500/- which shall be borne by respondents no. 1 and 2 from their own pockets. To come up for written reply/comments and cost of Rs. 2500/- on 25.10.2017 before S.B.


(AHMAD HASSAN)
MEMBER



10.04.2017

Counsel for the appellant and Mr. Bilal, Assistant Provost, Legal Advisor for respondent No. 3 alongwith Addl: AG for the respondents present. Written reply on behalf of respondents No. 1 and 4 submitted. Learned Addl: AG requested for adjournment on behalf of remaining respondent. Last opportunity granted. To come up for written reply/comments on 11.05.2017 before S.B.


Chairman

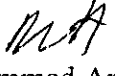
11.05.2017

Counsel for appellant present. Mr. Yar Gul, Senior Clerk alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents No. 1 to 3 and counsel for respondent No. 4 also present and submitted Wakalatnama on behalf of respondent No. 4. Written reply by respondents No. 1 to 3 not submitted despite last opportunity. Requested for further adjournment. Another last opportunity granted to the respondents for submission of written reply/comments on behalf of respondents No. 1 to 3 on 19.06.2017 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

19.06.2017

Counsel for the appellant present. Mr. Yar Gul, Senior Clerk for respondent No. 2 alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents No. 1 and 2, Mr. Subhanullah, Litigation Assistant for respondent No. 3 and counsel for respondent No. 4 also present. Written reply by respondent No. 3 submitted. Written reply by respondent No. 4 has already been submitted. Written reply on behalf of respondents No. 1 & 2 not submitted despite last opportunity. Learned Additional AG requested for further time for submission of written reply on behalf of respondents No. 1 & 2. Last opportunity is further extended subject to payment of cost of Rs. 1000/- which shall be borne by respondents No. 1 and 2 from their own pockets. To come up for written reply/comments and cost on behalf of respondents No. 1 & 2 on 28.08.2017 before S.B.


(Muhammad Amin Khan Kundi)
Member

30.1.2017

Learned counsel for the appellant argued that the appellant was serving as Junior Clerk and that his name was reflecting at S.No. 3 of the seniority list dated 07.01.2016 and that on the basis of seniority position of the appellant he was recommended for promotion by the DPC on 23.2.2017 but vide impugned order dated 23.2.2016 the appellant was not promoted and other officials of the institution were promoted constraining the appellant to prefer departmental appeal on 23.2.2016 which was not responded and hence the instant service appeal on 21.10.2016. Regarding limitation learned counsel for the appellant relied on case law reported as 2004-PLC(C.S) 1014.

Appellant Deposited
Security Process Fee

Points urged need consideration, Admit subject to limitation. Subject to deposit of security and process fee notices be issued to the respondents. To come up for written reply/comments on 02.03.2017 before S.B.

Chairman

02.03.2017

Counsel for the appellant and Mr. Yar Gul, Senior Clerk alongwith Assistant AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 10.04.2017 before S.B.

Chairman

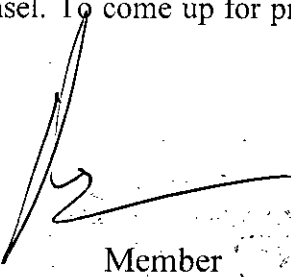
28.12.2016

Agent of counsel for the appellant present. Seeks adjournment. Adjourned for preliminary hearing to 23.01.2017 before S.B.


Chairman

23.01.2017

Appellant in person present. Requested for adjournment due to non-availability of his counsel. To come up for preliminary hearing on 30.01.2017 before S.B.


Member

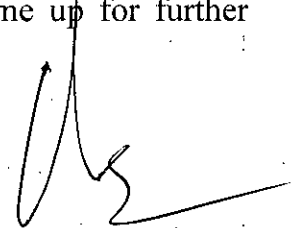
02.11.2016

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal, the appellant has impugned promotion order dated 23.02.2016, against which the appellant prefer departmental appeal on the same day that 23.02.2016 however, the instant appeal has been filed on 21.10.2016 with the considerable delay. Alongwith appeal, application for condonation delay has also been filed. Hence, in order to seek further assistance, learned Additional AG be summoned to clarify the point of limitation. To come up for further proceedings on 30.11.2016 before S.B.


Member

30.11.2016

Counsel for the appellant and Addl. AG for respondents present. Learned counsel for the appellant requested for adjournment to assist the point of limitation. Request accepted. To come up for further proceedings on 22.12.2016 before S.B.


Member

22.12.2016



Counsel for the appellant and Addl. AG for the respondents present. Requested for adjournment. Request accepted. To come up for further proceedings on 28.12.2016 before S.B.


(MUHAMMAD AAMIR NAZIR)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1082/2016


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24/10/2016	<p>The appeal of Mr. Muhammad Fayyaz resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	24-10-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02-11-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Muhammad Fayaz Junior Clerk KMC Peshawar received today i.e. on 21.10.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.
- 3- Appeal may be page marked according to the Index.

No. 1744 /S.T,


Dt. 21-10 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Re. Submitted.

*Objection removed, may
kindly be put up before the
Honourable Tribunal.*


Azhar Ali Babar
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1082 / 2016

MOHAMMAD FAYAZ

VS

HEALTH DEPTT:

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M. Faz

APPELLANT

THROUGH:

[Signature]
NOOR MOHAMMAD KHATTAK
ADVOCATE

AZHAR ALI BABAR.
advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 1089 2016

Diary No. 112

Dated 21-10-2016

Mr. Mohammad Fayaz, Junior Clerk (BPS-11),
Khyber Medical College, Peshawar.....**APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Health Department, Peshawar.
- 2- The Director General Health Services Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Hospital Director MTI, KTH, KMC, KCD, Jamrud Road, Peshawar.
- 4- The Principal Khyber Medical College, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT PROMOTING THE APPELLANT TO THE POST OF SENIOR CLERK (BPS-14) INSPITE OF ELIGIBILITY AND SENIORITY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the respondents may please be directed to consider the appellant for promotion to the post of Senior Clerk (BPS-14) W.E.F. 23.2.2016 being top of the seniority list of junior clerks (BPS-11). Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That initially the appellant appointed as Junior clerk (BPS-05 now BPS-11) in the respondent Department vide order dated 01.3.1999. Copy of the appointment order is attached as annexure.....**A.**

- 2- That right from appointment till date the appellant has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors. That according to the final seniority list of junior clerk (BPS-11

Filed to-day
Registrar
21/10/16

Re-submitted to -day
and filed.
Registrar
24/10/16

Civil/instructional) circulated on 7.1.2016 the appellant appeared at serial No.3 of the list. Copy of the seniority list is attached as annexure.....**B.**

- 3- That according to the minutes of Departmental promotion committee dated 23.2.2016 the appellant was strongly recommended for promotion to the post of Senior clerk (BPS-14) being name of the appellant is enlisted on 2nd position of the seniority list of institutional/civil dated 7.1.2016. Copy of the minutes of DPC is attached as annexure.....**C.**
- 4- That astonishingly vide impugned order dated 23.2.2016 institutional employees/junior clerks (BPS-11) have been promoted to the post of senior clerk BPS-14 while ignoring the appellant inspite of the fact that appellant is the senior most employee/junior clerk amongst his colleagues. Copy of the impugned order is attached as annexure.....**D.**
- 5- That appellant feeling aggrieved from the impugned order dated 23.2.2016 preferred Departmental appeal but no reply has been received so far. That it is pertinent to mention that the respondent No.4 has strongly recommended that the appellant for promotion to the post of senior clerk (BPS-14) in light of the seniority list dated 7.1.2016 vide impugned letters dated 24.2.2016 and 30.3.2016. Copies Departmental appeal, letters and other record are attached as annexure.....**E, F & G.**
- 6- That having no other remedy appellant filed the instant appeal on the following grounds amongst the others.

GROUND:

- A- That not prompting the appellant to the post of Senior Clerk by the respondents inspite of eligibility and seniority is against the law, facts and norms of natural justice.
- B- That the impugned order dated 23.2.2016 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- C- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- D- That the junior colleagues of the appellant has been promoted to the post of senior clerk (BPS-14) while the appellant has been discriminated by not promoting him to the post of senior clerk (BPS-14).
- E- That inspite of seniority and eligibility the respondents ignored the appellant from promotion to the post of senior Clerk (BPS-14).
- F- That the respondent Department acted in arbitrary and malafide manner by not promoting the appellant to the post of Senior Clerk (BPS-14) inspite of eligibility and seniority.
- G- That not promoting the appellant to the post of senior clerk (BPS-14) inspite of eligibility and seniority the respondents violated the Appointment, Promotion and transfer Rules 1989.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

M. FaZ

MOHAMMAD FAYAZ

THROUGH:

N
**NOOR MOHAMMAD KHATTAK
ADVOCATE**

AZMAR ACI BAKAR
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2016

MOHAMMAD FAYAZ

VS

HEALTH DEPTT:

APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL

R.SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so for.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUND OF APPLICATION:

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT

M. Fa2

FAYAZ MOHAMMAD

THROUGH:

NA
NOOR MOHAMMAD KHATTAK
ADVOCATE

KHYBER MEDICAL COLLEGE PESHAWAR.

No. 711 /Estt/KMC.

Dated 1/3 /1999. A-5

OFFICE ORDER

The services of Mr. Mohammed Fayyaz S/O Mohammed Yaqub working as Junior Clerk BPS-5 against the vacant post of Hostel Superintendent is hereby regularised against the vacant post of Junior Clerk BPS-5 with immediate effect. The post of Junior Clerk BPS-5 became vacant on appointment of Mr. Insaullah Junior Clerk KMC as Computer Operator at Hayatabad Medical Complex, Peshawar.

h
PRINCIPAL
KHYBER MEDICAL COLLEGE
PESHAWAR.

No. 1715-18 /Estt/KMC.

Copy to:

1. The Director General Health Services NWFP; Peshawar for information please.
2. Mr. Mohammad Fayyaz, Junior Clerk, Deptt. of Medical Education, KMC.
3. The Pay Bill Clerk.
4. The Accountant General NWFP; Peshawar.

h
PRINCIPAL
KHYBER MEDICAL COLLEGE
PESHAWAR.

h
ATTESTED

Attested
h

To be Done *h*

B-6

**FINAL SENIORITY LIST OF JUNIOR CLERKS (BPS-11) OF KHYBER MEDICAL COLLEGE, PESHAWAR
(Civil/Institutional) 07/01/2016**

S. No	Name/Father Name	Date of Birth/Domicile	Date of 1 st Appointment	Date of appointment as Junior Clerk	Date of Retirement	Remarks	Signature
1	Nazir ul Haq S/O Abdul Haq	20-10-1970 Peshawar	10-08-1983 Cleaner	22-09-1994	19-10-2030	Civil	<i>[Signature]</i>
2	Abid Muhammad S/O Wali Muhammad	15-02-1972 Peshawar	01-09-1994 Mali	01-11-1995	14-02-2032	Civil	<i>[Signature]</i>
3	Muhammad Fayyaz S/O Muhammad Yaqoob	02-03-1974 Peshawar	04-10-1994 Naib Qasid	01-03-1999	01-03-2034	Civil	<i>[Signature]</i>
4	Fazal e Khuda S/O Abdul Rauf	10-04-1968 Peshawar	17-03-1991 Lab. Attendant	07-05-2003	09-04-2028	Institutional	<i>[Signature]</i>
5	Asghar Ali S/O Abdul Rauf	08-04-1974 Charsadda	30-08-1994 Bearer	07-05-2003	07-04-2034	Institutional	<i>[Signature]</i>
6	Muhammad Arif Hussain S/O Fagir Hussain	04-04-1983 Peshawar	04-03-2000 Bearer	07-05-2003	03-04-2043	Institutional	<i>[Signature]</i>
7	Nabi Khan S/O Nawab Gul	01-12-1963 Peshawar	28-05-1990	28-05-1990 20-10-2003 As per surplus pool policy	30-11-2023	Civil	<i>[Signature]</i>
8	Kifayat Ullah S/O Muhammad Ghazi Khan	03-10-1971 Bannue	01-09-2007	01-09-2007	02-10-2031	Institutional	<i>[Signature]</i>
9	Ihsan Ullah S/O Gul Zahid Khan	08-03-1979 Bannue	03-09-2007	03-09-2007	07-03-2039	Institutional	<i>[Signature]</i>
10	Liaq Hussain S/O Ahmad Hussain	10-03-1979 Swabi	25-02-1998 Chowkidar	05-09-2007	09-03-2039	Institutional	<i>[Signature]</i>
11	S. Waseem Ahmad S/O S. Abdul Karim	07-01-1983 Peshawar	22-03-2006 Naib Qasid	18-11-2008	06-01-2043	Institutional	<i>[Signature]</i>
12	Stephen Masih S/O Grephen Masih	09-09-1983 Peshawar	12-08-2010	12-08-2010	08-09-2043	Institutional	<i>[Signature]</i>

ATTESTED

Attested
To be True Copy

[Signature]
PRINCIPAL
Khyber Medical College

C-7



GOVT. OF KHYBER PAKHTUNKHWA
KHYBER TEACHING HOSPITAL, Peshawar
OFFICE OF THE DIRECTOR HUMAN RESOURCES

No. 4524-30 /KTH/E-III

Dated 23-02-2016

MINUTES OF THE MEETING

A meeting of Selection / Promotion Committee (from BPS-11 to BPS-16) of MTI, KTH/KMC/KCD, was held on 20-02-2016 in Conference Room (Administration Block), KTH under the Chairmanship of Hospital Director, MTI, KTH. The meeting was attended by the following members of the Committee:-

- | | |
|--|--------------------|
| 1. Hospital Director, MTI, KTH | Chairman |
| 2. Prof. Dr. Shah Jehan
(Member BOG, MTI, KTH) | Member |
| 3. Prof. Dr. Qaiser Inayat,
Head Department of Anatomy, KMC
(in place of Vice Principal) | Member |
| 4. Director Human Resources | Member / Secretary |
| 5. Superintendent Establishment | Co-Opted Member |
| 6. Superintendent HR Department | Co-Opted Member |
| 7. Superintendent KMC | Co-Opted Member |

AGENDA POINTS

Promotion Cases:-

- i. Class-IV to Junior Clerk, BPS-11, KTH.
- ii. Junior Clerks, BPS-11 to Senior Clerks, BPS-14, KMC
- iii. Senior Scale Stenographer, BPS-16 to Office Superintendent, BPS-17.

The following cases were examined and recommended for promotion to the next scale accordingly.

DECISIONS TAKEN:

1. Promotion from Class-IV to Junior Clerk, BPS-11.

The Committee was informed that one post of Junior Clerk is lying vacant in KTH, which has to be filled by Promotion according to the laid down criteria. The Committee was further informed that a circular was issued to all Class-IV Staff to submit their applications along with required documents in order to complete all the codal formalities. Total 11-candidates applied from different cadres working in this institution. A typing test was arranged on 20-01-2016, where 08-candidates appeared in the test while 03-candidates were absent. According to test result Mr. Nowman Khattak, Daftari topped the typing test. For satisfaction of the members, Mr. Nowman Khattak was also called during the meeting by the members and taken a short test on Computer. The members showed satisfaction over the test.

The Committee recommended him for promotion from the post of Daftari, BPS-04 to Junior Clerk, BPS-11 with one year probation period. Meanwhile the committee issued instructions to check his performance during the probation period if not satisfactory then 2nd candidate in the merit may be considered.

2. Promotion Case of Junior Clerk, BPS-11 to Senior Clerks, BPS-14, KMC.

The Committee was briefed by the members of the Committee (KMC) that at present 06 posts of Senior Clerks, BPS-14 are lying vacant in KMC, which will be filled amongst the Junior Clerks on Promotion basis, according to criteria. The candidates are:-

Attested
[Signature]

[Vertical signatures and initials on the right margin]

① 7

MEDICAL TEACHING INSTITUTION
KHYBER TEACHING HOSPITAL, PESHAWAR
 Office of the Hospital Director



No. KTH/VE
 Date 23/12/2016

OFFICE ORDER

In pursuance of the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2012; and on the recommendation of Selection/Promotion Committee, MTI, KTH/KMC/KCD, in its meeting held on 20-02-2016, the undersigned is pleased to promote the following Junior Clerk, BPS-11 against the vacant posts of Senior Clerk, BPS-14, Khyber Medical College, Peshawar with immediate effect:-

S. NO.	Name & Designation	Promoted	Remarks
1.	Fazle Khuda, Junior Clerk, BPS-11, KMC	Senior Clerk, BPS-14, KMC	Institutional Employee
2.	Ashraf Ali, Junior Clerk, BPS-11, KMC	Senior Clerk, BPS-14, KMC	Institutional Employee
3.	Muhammad Aft. Hussain, Junior Clerk, BPS-11, KMC	Senior Clerk, BPS-14, KMC	Institutional Employee

Their services will be governed under the MTI Act, 2012 and rules and regulations amended from time to time. They will be on probation for a period of one year extendable to next year.

Hospital Director
 MTI, KTH, Peshawar

No. KTH/VE-17

- Copy to:-
1. Medical Director, MTI, KTH, Peshawar.
 2. Principal, KMC, Peshawar.
 3. Director Human Resources, MTI, KTH, Peshawar.
 4. Secretary to Board of Governors, MTI, KTH, Peshawar.
 5. Account Officer, MTI, KMC, Peshawar.
 6. Audit Officer, MTI, KTH/KMC, Peshawar.
 7. Resident Assistant Director (Audit), MTI, KTH/KMC, Peshawar.
 8. Officials Concerned.

Hospital Director
 MTI, KTH, Peshawar

A. JESUD

S.NO.	NAME OF OFFICIAL	STATUS
1	Mr. Nazir Ul Haq S/O Abdul Haq, Junior Clerk, BPS-11	Civil Servant
2	Mr. Abid Muhammad S/O Wali Muhammad, Junior Clerk, BPS-11	Civil Servant
3	Mr. Muhammad Fayaz S/O Muhammad Yaqoob, Junior Clerk, BPS-11	Civil Servant
4	Mr. Fazle Khuda S/O Abdur Rauf, Junior Clerk, BPS-11	Institutional Employee
5	Mr. Asghar, Junior Clerk, BPS-11	Institutional Employee
6	Mr. Muhammad Arif Hussain S/O Faqir Hussain, Junior Clerk, BPS-11	Institutional Employee

The Committee discussed the above promotion case. The Committee also examined the process in light of the new Judgment of Peshawar High Court, Peshawar vide Writ Petition No. 420/2015 7-12-2015, wherein the concept of joined seniority list of Civil and Institutional employees are silent.

After detail discussion the Committee decided to promote the Institutional Employees as the concept of Promotion for Institutional Employees in MTI Reforms Act, 2015 as well as in the new judgment of Peshawar High Court, Peshawar are cleared. Therefore, the Committee recommended the following (Institutional employees) from Junior Clerks, BPS-11 to Senior Clerks, BPS-14 in KMC with one year probation period.

- i. Mr. Fazle Khuda S/O Abdur Rauf
- ii. Mr. Asghar Ali
- iii. Mr. Muhammad Arif Hussain S/O Faqir Hussain

Regarding Promotion of Civil Servants from Junior Clerks to Senior Clerks, it was decided that complete case may be prepared by KMC authority and send to Legal Advisor of MTI, KTH for legal opinion in this regard. Meanwhile the promotion of Civil Servants may be withheld. If the legal opinion support the Civil Servants and eligible them for Promotion, then the seniority of Civil & Institutional Employees may be maintained equally i.e. from promotion date of the institutional employees in the instant case.

3. Promotion case of Mr. Musharaf Shah, Senior Scale Stenographer, BPS-16 (retired on 24-01-2016) to the post of Office Superintendent, BPS-17, KTH

The above promotion case was discussed by the Committee. The Committee regretted the Promotion case of the official concerned on the reason that there is no vacant post of Office Superintendent, BPS-17 at present and also there some senior employees in the same cadre, i.e. Assistants, BPS-16. Furthermore, the official concerned has been retired from service on 24.1.2016

The meeting ended with the vote of thanks by the chair.

Rabi
 Superintendent-II
 Co-Opted Member
 (Establishment Section)
 MTI, KTH, Peshawar.

Sulab Khan
 Superintendent-III
 (Co-Opted Member)
 HR Department
 MTI, KTH, Peshawar.

M. Rabi
 Superintendent
 (Co-Opted Member)
 Establishment Section
 KMC, Peshawar.

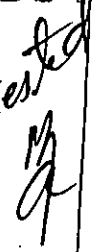
M. Rabi
 Director Human Resources
 (Member / Secretary)
 MTI, KTH/KMC/KCD, Peshawar.

Qaiser Inayat
 Prof. Dr. Qaiser Inayat
 (Member)
 Head Department of Anatomy,
 KMC, Peshawar

ATTESTED

Shah Jehan
 Prof. Dr. Shah Jehan
 (Member)
 Member, BOG,
 MTI, KTH/KMC/KCD, Peshawar.

M. Rabi
 Hospital Director
 (Chairman)
 MTI, KTH/KMC/KCD, Peshawar.

Attested


Dated 23/02/2016

To

The Hospital Director (MTI) KTH/
Chairman Selection Promotion Committee (BPS-11 to 16),
KTH/KMC/KCD,
Peshawar.

E-10

Through
Proper channel

Subject:- PROMOTION OF JUNIOR CLERKS (CIVIL SERVANTS) TO THE POST OF SENIOR CLERK.

Sir,

We, the junior clerks (civil servants) of KMC have the honor to state that a meeting of selection promotion committee duly held on 20-02-2016 under your chairmanship to consider the promotion of Junior Clerks (Civil/Institutional employee) on the basis of joint seniority list. All the members were principally agreed upon but unfortunately someone miss interpreted the judgment of Peshawar High Court Peshawar vide W.P No. 420/2015 that the seniority of civil servant/intutional employees are separated and thus civil servant are not entitle for promotion on the vacant seats of KMC. It is worth mentioning that till date the judgment of Peshawar High Court Peshawar in the W.P No: 434/P of 2012 still stand. In the light of above Judgment, 02 civil servants (teaching staff) have been promoted.

It is further stated that the present Judgment and the past Judgment both are in the favor of promotion of Civil Servants on the vacant seats in their respective institutions (copy of the Judgment of W.P No. 420/2015 & W.P No. 434/P of 2012 are attached herewith). It is therefore, requested that our promotion case may kindly be processed alongwith institutional employees on the basis of seniority to avoid any financial loss to the applicants.

Thanking you for your kind consideration

Yours obediently,

3. Mr. Muhammad Fayaz, Junior Clerk, KMC: ~~_____~~

ATTESTED

Attested
[Signature]

KHYBER MEDICAL COLLEGE, PESHAWAR

F-11

No. 1536 /Estt/KMC
To

Dated: 24/2 2016

The Hospital Director (MTI),
KTH/KMC/KCD,
Peshawar.

Subject: PROMOTION OF JUNIOR CLERKS (CIVIL/INSTITUTIONAL) TO
THE POST OF SENIOR CLERKS (BPS-14).

Memo:

Reference this office letter No. 1084/Estt/KMC dated 04-02-2015.

In this regard, it is stated that the undersigned has forwarded working paper for promotion of six (06) junior clerks to the post of senior clerks on the basis of joint seniority (Civil/Institutional). Out of which three (03) junior clerks at S. No. 4, 5 & 6 have been promoted and S. No. 1, 2 & 3 were not promoted. The committee examined the case in the light of Judgment 420/2015 and were of the opinion that the concept of joint seniority list institutional employee is silent (as per minutes of the meeting held on 20-02-2016). On the matter concerned, the 1st portion of the Judgment of Honorable Peshawar High Court Peshawar in W.P 420/2015 regarding MTIs Act is re-produced below:-

*"The impugned Act is an enactment of competent legislature,
hence is declared as intra vires the constitution"*

If section 26 (Sub Section 5) of MTI Act read with section 10 of Notification No. SOH(II)3-15/2001 Dated 26th June 2001 & Judgment of Peshawar High Court Peshawar in its W.P 434-P of 2012, the Civil servants are also entitle for promotion. The committee has also considered and given the opportunity to the civil servant i.e (Class-IV employee) for the test conducted for promotion to the post of Junior Clerk at KTH.

It is therefore, requested that the promotion order of Junior Clerks at S. No. 1, 2 & 3 of joint seniority list may kindly be notified and endorsement thereof may also be made to the Director General Health Services KPK for information.

Encl (as above)

ATTESTED

Attested
MP

[Signature]
PRINCIPAL
KHYBER MEDICAL COLLEGE
PESHAWAR

REMINDER

(12)

KHYBER MEDICAL COLLEGE, PESHAWARNo. 2338 /Estt/KMC
ToDated: 30/03 2016The Hospital Director (MTI),
KTH/KMC/KCD,
Peshawar.Subject:- PROMOTION OF JUNIOR CLERKS (CIVIL/INSTITUTIONAL) TO
THE POST OF SENIOR CLERKS (BPS-14).
Memo:

Reference this office letter No. 1576/Estt/KMC dated 24/02/2016.

It is once again reminded that Mr. Nazir ul Haq, Mr. Abid Muhammad & Mr. Muhammad Fayaz, Junior Clerks who are the senior most candidates for promotion to the post of Senior Clerk. Promotion orders of juniors to the seniors have been notified while the senior have been left due to the reason to get legal opinion of the legal advisor of KTH. Now it has come to the notice of the undersigned that legal opinion has been given by the legal advisor in the instant case. It is therefore, requested that the promotion order of the said officials may be notified at the earliest to avoid any financial loss to these low-paid employees of this institution.

ATTESTED

Attested
*[Signature]**[Signature]*
PRINCIPAL
KHYBER MEDICAL COLLEGE
PESHAWAR

✓ 9-13
②

ICAL/UNIVERSITIES/COLLEGES/INSTITUTES

	NUMBER OF POSTS		Budget Estimates	Revised Estimates	Buc Est
	1999-2000	2000-2001	1999-2000	1999-2000	200
			Rs	Rs	
6-40000-SOCIAL SERVICES					
6-41000-EDUCATION					
6-41300-PROFESSIONAL/TECHNICAL/UNIVERSITIES/COLLEGES/INSTITUTES					
1570 Khyber Medical College, Peshawar.					
6-41300-00000 TOTAL ESTABLISHMENT CHARGES					6
6-41300-01000 TOTAL PAY		704			3
6-41300-01100 TOTAL PAY OF OFFICERS					2
6-41300-01101 TOTAL BASIC PAY OF OFFICERS		239			2
Professor (BPS-20)		35			
Principal (BPS-20)		1			
Associate Professor (BPS-19)		36			
Assistant Professor (BPS-18)		56			
Pharmaceutical Chemist (BPS-18)		1			
Senior Registrar (Preventive Paed.) (BPS-18)		1			
Demonstrator (BPS-18)		37			
Assistant Radiologist (BPS-17)		1			
Provost (BPS-17)		1			
Biochemist (BPS-17)		4			
Demonstrator (BPS-17)		35			
Medical Officer (BPS-17)		5			
Medical Technologist (BPS-17)		3			
Nutritionist (BPS-17)		1			
Sociologist (BPS-17)		1			
Assistant Accounts Officer (BPS-17)		1			
Bacteriologist (BPS-17)		1			
Chemist (BPS-17)		1			
Health Educator (BPS-17)		1			
Lecturer (BPS-17)		1			
Librarian (BPS-17)		1			
Security Officer (BPS-17)		1			
Warden (BPS-17)		1			
Audiovisual Operator (BPS-16)		1			
Chief Laboratory Technician (BPS-16)		1			
Librarian (BPS-16)		1			
Superintendent (BPS-16)		4			
Cataloguer (BPS-16)		1			
Statistician (BPS-16)		1			
Administrative Officer (BPS-16)		1			

Sd/-
[Signature]

239

(14) 10

41300-PROFESSIONAL/TECHNICAL/UNIVERSITIES/COLLEGES/INSTITUTES

	NUMBER OF POSTS		Budget Estimates	Revised Estimates	Budget Estimates
	1999-2000	2000-2001	1999-2000	1999-2000	2000-2001
			Rs	Rs	Rs
000-SOCIAL SERVICES					
000-EDUCATION					
300-PROFESSIONAL/TECHNICAL/UNIVERSITIES/COLLEGES/INSTITUTES					
1570 Khyber Medical College, Peshawar.					
Physical Education Director (BPS-16)		1			45,560
DEDUCT PROBABLE SAVING					-300,000
00-01200 TOTAL PAY OF OTHER STAFF					11,976,340
00-01201 TOTAL BASIC PAY OF OTHER STAFF		465			11,976,340
Stenographer (BPS-15)		2			108,040
Steno Typist (BPS-12)		3			121,260
Computer Operator (BPS-11)		2			78,290
Medicological Assistant (BPS-11)		1			49,320
Photographer (BPS-11)		3			90,640
Hostel Superintendent (BPS-11)		3			142,160
Accountant (BPS-11)		1			27,600
Artist (BPS-11)		5			207,180
Assistant (BPS-11)		4			188,000
Electrician (BPS-11)		1			40,880
Modler (BPS-11)		2			57,320
Senior Artist (BPS-11)		1			46,140
Store Keeper (BPS-11)		1			50,710
Laboratory Technician (BPS-9)		18			605,100
Mortician (BPS-9)		1			27,990
X-Ray Technician (BPS-9)		3			109,100
Health Laboratory Technician (BPS-9)		1			27,990
Lady Health Visitor (BPS-9)		1			40,210
House Keeper (BPS-9)		1			26,830
Computer Operator (BPS-8)		1			24,290
Electric Generator Operator (BPS-8)		2			66,580
Projectionist (BPS-8)		8			270,070
Store Keeper (BPS-8)		1			18,480
Saintary Fitter (BPS-7)		1			28,230
Senior Clerk (BPS-7)		16			590,390
Modler (BPS-6)		1			21,030
Head Laboratory Assistant (BPS-6)		3			101,400
Telephone Operator (BPS-6)		3			98,480
Assistant Electrician (BPS-5)		2			56,570
Assistant Mortician (BPS-5)		2			9,896,000
Dark Room					

ATTENTION
S/Lt
Attached

HEALTH SERVICES

15

6-41300-PROFESSIONAL/TECHNICAL/UNIVERSITIES/COLLEGES/INSTITUTES

	NUMBER OF POSTS		Budget Estimates	Revised Estimates	Budget Estimates
	1999-2000	2000-2001	1999-2000	1999-2000	2000-
			Rs	Rs	Rs

6-40000-SOCIAL SERVICES

6-41000-EDUCATION

6-41300-PROFESSIONAL/TECHNICAL/UNIVERSITIES/COLLEGES/INSTITUTES

1570 Khyber Medical College, Peshawar.

Assistant (BPS- 5)	2				
Dissection Assistant Laboratory	(BPS- 5)	2			
Assistant (BPS- 5)	26				
Carpenter (BPS- 5)	1				
Embalmers (BPS- 5)	2				
Junior Clerk (BPS- 5)	19				
Masson (BPS- 4)	1				
Pipe Fitter (BPS- 4)	1				
Plumber (BPS- 4)	1				
Driver (BPS- 4)	11				
✓ Tubewell Operator Laboratory (BPS- 3) ✓	4				
Attendant (BPS- 2)	34				
Animal Attendant (BPS- 2)	2				
Daftari (BPS- 2)	1				
Head Bearer (BPS- 2)	4				
Bearer (BPS- 1)	66				1
Chowkidar (BPS- 1)	31				1.3
Cleaner (BPS- 1)	6				6
Helper (BPS- 1)	2				1
Library Attendant (BPS- 1)	3				
Museum Attendant (BPS- 1)	5				1
Naib Qasid (BPS- 1)	34				7
Sweeper (BPS- 1)	53				1.1
Assistant Cook (BPS- 1)	1				
Behishti (BPS- 1)	7				1
Cold Storage Attendant (BPS- 1)	2				
Conductor (BPS- 1)	6				1
Cook (BPS- 1)	21				4
Lecture Room Attendant (BPS- 1)	9				2
Mali (BPS- 1)	13				2
Mortuary Cooler Attendant (BPS- 1)	1				

6-41300-02000 TOTAL REGULAR ALLOWANCES

02100-Senior Post Allowance					23.5
02200-House Rent Allowance					2
02300-Conveyance Allowance					6.6
02700-Washing Allowance					7
02800-Dress Allowance					1
02900-111-Special Adhoc Relief					5
02900-133-Special Adh: Allowance					5.0
02900-61-Adhoc Relief					1.6
02900-68-Non Practicing Allowance					
02900-80-Instructional Allowance					
Qualification Allowance					

Attended
[Signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1082/2016

Muhammad Fayaz, Appellant

VERSUS

GOVT. OF KHYBER PAKHTUNKHWA AND OTHERS

PARA WISE COMMENTS ON BEHALF OF RESPONDENT No. 01 & 02, 4

Respectfully Shweth:-

Preliminary Objection:-

1. That the instant appeal is incompetent and not maintainable.
2. That the appellant has got no cause of action to file the instant appeal.
3. That the instant appeal is barred by law.
4. That the instant appeal is bad for mis joinder and non joinder of necessary parties.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has not come to the Tribunal with clean hands.


REPLY ON FACTS:

1. Para No. 1 pertains to record hence no comments.
2. Para No. 2 also pertains to record hence no comments.
3. In reply to Para No. 3 it is submitted that the Departmental Promotion Committee examined the process of promotion in the light of Judgment of Peshawar High Court Peshawar vide Writ Petition No. 420/15 Dated: 07-12-2015 wherein the concept of joint seniority list of civil and Institutional employees are silent. Departmental Promotion Committee after elaborate discussion decided to promote the Institutional employees as the concept of promotion for Institutional employees in Medical Teaching Institution (MTI) Reforms Act-2015 as well as in the new judgment of Peshawar High Court are cleared. The Departmental Promotion Committee recommended the promotion of Institutional employees from Junior Clerk (BPS-11) to Senior Clerk (BPS-14) while the promotion of civil servant from Junior Clerk to Senior Clerk was withheld.
4. Para No. 4 pertains to respondent No. 3.
5. Para 5 to the extent of Departmental Appeal pertains to respondent No. 3 whereas the rest of the Para pertains to record and needs proof.
6. The Appellant has got no cause of action to file instant appeal.

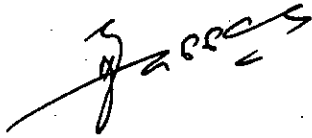
GROUND

- A. Incorrect. The impugned order Dated: 23-02-2016 is correct as there were 06 posts of Senior Clerk lying vacant and only 03 incumbents were promoted to Senior Clerk while 03 vacant posts out of 06 vacant posts were retained.
- B. As replied in above Para.
- C. Incorrect. The appellant was treated in accordance in law and rules on the subject and the replying respondents have not violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan.
- D. Detail reply has been given and Para-3 of facts and Para-A of grounds.
- E. As replied above.
- F. As replied in Para-C of grounds.
- G. Incorrect. The replying respondents have not violated the appointment, promotion and transfer rules 1989.
- H. The replying respondents also seek permission to raise additional ground at the time of arguments.

It is requested that the instant appeal may be dismissed.


Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
Peshawar (Respondent No. 1)


Director General
Health Services
Khyber Pakhtunkhwa Peshawar.


Dean/Principal
Khyber Medical College,
Peshawar (Respondent No. 4)

D. 15/11/16
29/3/16

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1081, 1082 & 1083/2016

Nazeer ul Haq, ~~Abul Muhammad and Muhammad Feroz~~..... Appellants

VERSUS

GOVT. OF KHYBER PAKHTUNKHWA AND OTHERS

PARA WISE COMMENTS ON BEHALF OF RESPONDENT No. 01, 02 & 04.

Respectfully Shweth:-

Preliminary Objection:-

1. That the instant appeal is incompetent and not maintainable.
2. That the appellant has got no cause of action to file the instant appeal.
3. That the instant appeal is barred by law.
4. That the instant appeal is bad for mis joinder and non joinder of necessary parties.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has not come to the Tribunal with clean hands.

REPLY ON FACTS:

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2. Para No. 2 also pertains to record hence no comments.
3. In reply to Para No. 3 It is submitted that the Departmental Promotion Committee examined the process of promotion in the light of judgment of Peshawar High Court Peshawar vide Writ Petition No. 420/15 Dated: 07-12-2015 wherein the concept of joint seniority list of civil and Institutional employees are silent. Departmental Promotion Committee after elaborate discussion decided to promote the Institutional employees as the concept of promotion for Institutional employees in Medical Teaching Institution (MTI) Reforms Act-2015 as well as in the new judgment of Peshawar High Court are cleared. The Departmental Promotion Committee recommended the promotion of Institutional employees from Junior Clerk (BPS-11) to Senior Clerk (BPS-14) while the promotion of civil servant from Junior Clerk to Senior Clerk was withheld.
4. Para No. 4 pertains to respondent No. 3.
5. Para 5 to the extent of Departmental Appeal pertains to respondent No. 3 whereas the rest of the Para pertains to record and needs proof.
6. The Appellant has got no case of action to file ^{instant} extent appeal.

IT-7705

GROUNDS

- A. ~~Incorrect the impugned order Dated 23-02-2016 is correct as there were 06~~ posts of Senior Clerk lying vacant and only 03 incumbents were promoted to Senior Clerk while 03 vacant posts out of 06 vacant posts were retained.
- B. As replied in above Para.
- C. Incorrect the appellant was treated in accordance in law and rules on the subject and the ~~replied~~ ^{replied by} respondent have not violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan.
- D. Detail reply has been given and Para-3 of facts and Para-A of grounds.
- E. As replied above.
- F. As replied in Para-C of grounds.
- G. Incorrect the ~~replied~~ ^{replied by} respondent have not violated the appointment, promotion and transfer rules 1989.
- H. The ~~replied~~ ^{replied by} respondent also seek permission to raise additional ground at the time of arguments.

It is requested that the instant appeal may be dismissed.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
Peshawar (Respondent No. 1)

[Signature]
Dean/Principal
Khyber Medical College,
Peshawar (Respondent No. 4)

Submitted for vetting

Please vet up I

[Signature]

[Signature]
KABIR ULLAH KHATTAK
Asst. Advocate General
Service Tribunal K.P.K.
Peshawar

vetted subject to correction, attachment of
amendments, ~~if any~~ affidavit and approval
of Additional A.C./Assistant A.C.

Agreed as above. *[Signature]* approved.

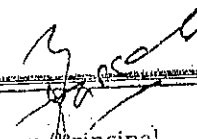
[Signature]
KABIR ULLAH KHATTAK
Asst. Advocate General
Service Tribunal K.P.K.
Peshawar
27/3/17.

GROUNDS

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- H. The ^{replied} respondent also seek permission to raise additional ground at the time of arguments.

It is requested that the instant appeal may be dismissed.

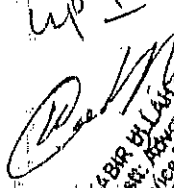
Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
Peshawar (Respondent No. 1)


Dean/Principal
Khyber Medical College,
Peshawar (Respondent No. 4)

Submitted for vetting

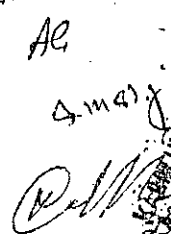
Please vet
up I

Perf.


Khyber Pakhtunkhwa
Health Department
Peshawar

vetted subject to correction attachment of
annexure, if any affidavit and approval
of Additional AE/Assistant AE

Agreed as above approved


Khyber Pakhtunkhwa
Health Department
Peshawar
3/17

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1082/2016

Muhammad Fayaz, Appellant

VERSUS

GOVT. OF KHYBER PAKHTUNKHWA AND OTHERS

PARA WISE COMMENTS ON BEHALF OF RESPONDENT No. 01 & 03/14

Respectfully Shweth:-

Preliminary Objection:-

1. That the instant appeal is incompetent and not maintainable.
2. That the appellant has got no cause of action to file the instant appeal.
3. That the instant appeal is barred by law.
4. That the instant appeal is bad for mis joinder and non joinder of necessary parties.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has not come to the Tribunal with clean hands.


REPLY ON FACTS:

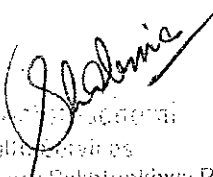
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2. Para No. 2 also pertains to record hence no comments.
3. In reply to Para No. 3 it is submitted that the Departmental Promotion Committee examined the process of promotion in the light of Judgment of Peshawar High Court Peshawar vide Writ Petition No. 420/15 Dated: 07-12-2015 wherein the concept of joint seniority list of civil and Institutional employees are silent. Departmental Promotion Committee after elaborate discussion decided to promote the Institutional employees as the concept of promotion for Institutional employees in Medical Teaching Institution (MTI) Reforms Act-2015 as well as in the new judgment of Peshawar High Court are cleared. The Departmental Promotion Committee recommended the promotion of Institutional employees from Junior Clerk (BPS-11) to Senior Clerk (BPS-14) while the promotion of civil servant from Junior Clerk to Senior Clerk was withheld.
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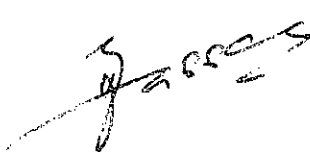
GROUNDS

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- H. The replying respondents also seek permission to raise additional ground at the time of arguments.

It is requested that the instant appeal may be dismissed.


Secretary to Govt. of Khyber Pakhtunkhwa
Health Department
Peshawar (Respondent No. 1)


Health Services
Khyber Pakhtunkhwa Peshawar


Dean/Principal
Khyber Medical College,
Peshawar (Respondent No. 4)