06.06.2016

respondents No. 1 to 3 present. Learned counsel for the appellant requested for adjournment. Adjourned for arguments to 2:/// before D.B.

MEMBER:

MEMBER

03.11.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for official respondents No. 1 to 3 present. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on

3.3.17 before D.B.

(ABDUL LATIF) MEMBER (PIR BAKHSH SHAH) MEMBER

03.03.2017

None present for the appellant. Assistant AG for respondents present. The court time is about to over but non-appeared on behalf of the appellant nor the appellant was present in person despite issuance of the notice to appellant and his counsel, therefore, the instant appeal is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED:

03.03.2017

MAD HASSAN)

MEMBER

(MUHAMMAD AAMIR NAZIR)

MEMER

•

Clerk of counsel for the appellant and Mr. Sheharyar Khan, ASJ alongwith Addl: A.G for official respondents No. 1 to 3 present. Rejoinder submitted. The appeal is assigned to D.B for final hearing for 30.11.2015.

MEMBER

30.11.2015

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to shortage of time. To come up for rejoinder as well arguments on

2-3. 2016-

<u>a</u>

Member

Member

02:03.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 06.06.2016.

Member

Member

Clerk of counsel for the appellant and Mr. Sheharyar Khan, Assistant Supdt. Jail on behalf of official respondents No. 1 to 3 with Mr. Kabirullah Khattak, AAG present. Written reply received on behalf of official respondents No. 1 to 3, copy whereof is handed over to the clerk of counsel for the appellant for rejoinder; while written reply has not been received on behalf of private respondent No. 4, who was served through registered post for 3.6.2014 when the appeal was adjourned on note Reader. Therefore, fresh notice be issued to private respondent No. 4 for written reply/comments on behalf of the private respondent as well as rejoinder on behalf of the appellant on 13.1.2015.

•

13.01.2015

Clerk of counsel for the appellant and Addl: A.G for official respondents No. 1 to 3 present. None present on behalf of private respondent No. 4 despite service. Proceeded ex-parte. Appellant seeks adjournment for rejoinder. Last opportunity granted for rejoinder on 7.5.2015.

Chairman

28.01.2014

No one is present on behalf of the appellant. Notices be issued to the appellant/counsel for the appellant for preliminary hearing on 17.03.2014.

Member

17.03.2014

heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 17.06.2013, he filed departmental appeal on 16.07.2013, which has not been responded within the statutory period of 90 days, hence the present appeal on 18.11.2013. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents for submission

Counsel for the appellant present. Preliminary arguments

Receipt is Audat ad with File.

17.03.2014

This case be put before the Final Bench for further proceedings.

of written reply/comments on 03.06.2014.

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3.6.14

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Form A

FORM OF ORDER SHEET

Court of 4522 (2012

	*1 * *	Case No	1522/2013
•	S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
	.1	2	3
	1	20/11/2013	The appeal of Mr. Samiullah Khan resubmitted today by Mr. Khaled Rehman Advocate may be entered in the
•			Institution register and put up to the Worthy Chairman for preliminary hearing REGISTRAR
•	2	27-11-20	This case is entrusted to Primary Bench for preliminary shearing to be put up there on 25-1-2014
•			
			CHAHRMAN
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The appeal of Mr. Samiullah Khan Superintendent Distt. Jail Timergara received today i.e. on 18.11.2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days:

1- Page Nos. 8 & 910f the appeal are illegible which may be replaced by legible/better one.

No. 1647 /S.T.

Dt. 19 11 /2013.

REGISTRAR SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Khaled Rehman Adv. Pesh

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BORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. <u>| 522/2013</u>

Samiullah Khan	,	The Govt. Of KPK and others.
	Versus	
Appellant		Respondents

INDEX

S.No.	Description of Documents	Date In	Annexure	Pages
1.	Memo of Service Appeal			1-4
2.	Advertisement and Recommendation of Public Service Commission	4/10/200X	A	5-6
3.	Tentative Seniority List	5/5/2011	В	7-9 .
4.	Objections on the Seniority List	24/5/2011	С	0-10
5.	Final Seniority List	5/7/2011	D .	11-14
6.	Service Appeal		E	15-17
7.	Impugned Notification	17/6/2013	F	0-18
8.	Departmental Appeal	16/7/2013	. G	19-20
9.	Wakalat Nama			21

Through

Khaled Rahman Adversate, Peshawar

9-B, Haroon Mansion, Khyber Bazar, Peshawar. Cell # 0345-9337312

Dated: _____/ 11/2013

Market Control

BAORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appear No. Jee /2013	Service Appeal No. 1522	/2013
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Samiullah Khan, Superintendent, District Jail, Timergara.Appellant.

Versus

- The Govt. of Khyber Pakhtunkhwa, 1. through Chief Secretary, Civil Secretariat, Peshawar.
- 2. The Secretary to Govt. of Khyber Pakhtunkhwa, Home & Tribal Affairs Department, Civil Secretariat Peshawar.
- 3. The Inspector General Prisons, Khyber Pakhtunkhwa, Peshawar.
- 4. Sahibzada Shah Jehan, Superintendent, District Jail, Bannu......Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 **AGAINST** THE **IMPUGNED** 17/6/2013 **NOTIFICATION** DATED WHEREBY NO. 4 BEING RESPONDENT JUNIOR WAS PROMOTED TO THE POST OF SUPERINTENDENT **JAIL** DISTRICT (BPS-18) **AGAINST** WHICH APPELLANT **FILED** DEPARTMENTAL REPRESENTATION ON 16/7/2013, BUT THE SAME WAS NOT RESPONDED WITHIN THE STATUTORY PERIOD OF 90 DAYS.

Re-sudmitted to-des and filed.

PRAYER:

On acceptance of the instant appeal, the impugned Notification dated 17/6/2013 may please be set-aside and Appellant being senior be considered for promotion to the post of Superintendent, District Jail (BPS-18) with effect from 17/6/2013 with all consequential back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

- 1. That the Appellant appointed was as Superintendent Jail (BPS-17) on the recommendations of Public Service Commission and later on vide Notification dated 18/6/2010, Appellant was declared as Deputy Superintendent in pursuance of the Orders, the Appellant reported his arrival at Prisons Inspectorate on 23/6/2010. It is worthy to mention here that the post of Deputy Superintendent was upgraded from (BPS-16 to BPS-17) vide Notification dated 16/7/2010.
- 2. That a tentative Seniority List of the Superintendent was issued on 5/5/2011 against which Appellant filed objection petition on 24/5/2011 but the objections were not considered and then final Seniority List was issued on 5/7/2011 which was challenged by the Appellant before this Honourable Tribunal after availing the departmental remedy.
- 3. That while the Service Appeal was still pending when the impugned Notification dated 17/6/2013

was issued whereby the Respondent No. 4 being junior was promoted to the post of Superintendent, District Jail (BPS-18) on acting charge basis in violation of the law and rules.

4. That being aggrieved of the impugned Notification ibid, Appellant preferred departmental representation on 16/7/2013, but the same was not disposed off within the statutory period, hence this service appeal inter-alia on the following grounds:-

Grounds:

- A. That the impugned Notification is against the law and rules on the subject and hence, is not sustainable under the law.
- B. That when the very seniority of Respondent No. 4 was disputed and moreso when the matter was subjudice before a competent forum then the issuance of the impugned Notification was without lawful justification and hence, not maintainable.
- C. That under the Promotion Policy issued by the Provincial Govt. no promotion case shall be processed in respect of Civil Servants whose Seniority is disputed or PERs are incomplete or is under any inquiry but despite the same, the Respondent No. 4 was considered for promotion and was also promoted in violation of the policy.
- D. That Appellant is an established Senior to Respondent No. 4 because the Appellant was

appointed as Superintendent (BPS-17) on 23/6/2010 while Respondent No. 4 was upgraded to (BPS-17) on 26/3/2011 and 16/7/2010 i.e. after the appointment of the appellant but then by means of the incorrect Seniority List Appellant was shown junior to Respondent No. 4 illegally which has resulted in serious miscarriage of justice.

- E. That the disputed Seniority List as well as the impugned Notification are in violation of Section-8 of the Khyber Pakhtunkhwa Civil Servant Act, 1973, read with Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointments, Promotions & Transfer) Rules, 1989.
- F. That the Appellant also begs to submit additional grounds at the time of arguments.

It is, therefore, humbly prayed that the instant appeal may kindly 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

Khale SPahman, Advocate, Peshawar.

Appellant

Dated: 11/2013

SVI fragmentional, Saturday, August 30, 2003 PUBLIC SERVICE COMMI

2-FORT ROAD PESHAWAR CANTA



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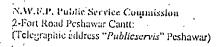
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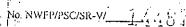




REGISTERED

ephone: 9213750





Dated: 2 / 3 / 2010.

To

Sami Ullah Khan S/O Saidal Khan C/O Lal Khan Ghee Dealer Lakkar Mandi Bazar Kohat

Subject;

RECRUITMENT OF SUPERINTENDENT SUB JAIL / DEPUTY SUPERINTENDENT JAIL (B-17) IN PRISONS DEPARTMENT (ADVERTISEMENT No.66/2008).

The Commission has recommended you to the Government for appointment, but please do not treat this as a letter of appointment for which Government is the final authority. The Commission cannot entertain any correspondence from you in this regard.

Deputy Sceresary-I

19.3.2010

OFFICE OF THE INSPECTOR GENERAL OF PRISONS KHYBER PAKHTUNKHWA, PESHAWAR

Dated 05-05-2011

IMMEDIATE/BY TCS

The Superintendents

- 1. Central Prison D.1.Khan.
- 2. District Jail Timergera.
- 3. Sub Jail Karak.
- 4. Sub Jail Daggar Buner.

Subject:

TENTATIVE SENIORITY LIST OF DEPUTY SUPERINTENDENTS JAIL AS STOOD ON 01.04.2011

Memo:

I am directed to this office letter No.6880-89l dated 2.4.2011, on the subject and to ask you to submit the requisite certificate through fax by tomorrow positively.

Assistant Director (Admn:) Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.

(8)

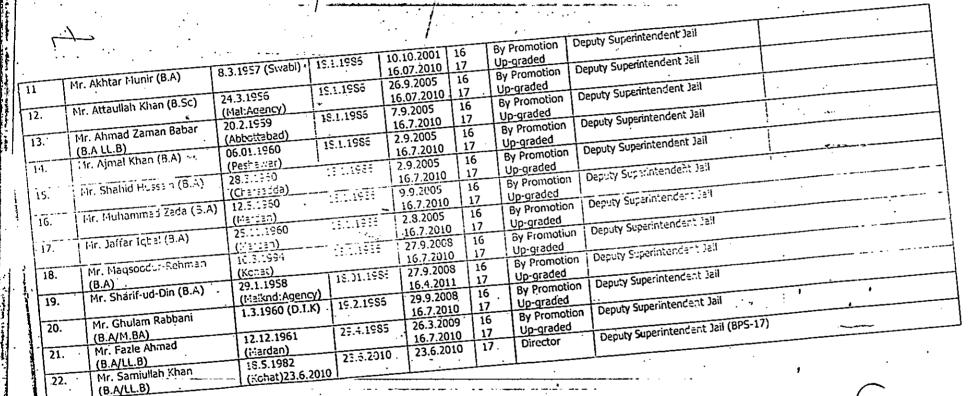
Page-6 TOOD ON 01.04.201

TENTATIVE SENIORITY LIST OF DEPUTY SUPERINTENDENTS JAIL OF THE KIT BELLY BAY

Mr. Usman Ali (B.A) 7.3.55(Bannu) 22.01.1978 28.5.1992 16 By Promotion Deputy Superintendent Jail From 25.11.2008 to 21.1.2011 of remained as Supdt. District Jail (BPS-18). He was awarded the punishment of reduction to lower scale /grade in a departmental disciplinary proceedings. 2. Sahibtafa Shahiferan Shahiferan Shabiferan S	.Ro.	Name of Officer with Academic Qualification	Cate of Birth	Date of Birth entry Into service	Regular Appo		Method of	resent Appointment : 1	· 1	<u> </u>	100
Nr. Usman Ali (B.A) 7.3.55(Bannu) 22.01.1978 28.5.1992 10 24.6.2004 17 24.6.2004 17 24.6.2004 17 24.6.2004 17 24.6.2004 17 24.6.2004 17 24.6.2004 27 27.10.2010		Academie	· · ·		Date	BPS	Appointment	Donuty Superintendent Jail	1	and ac SUDOL	. Dignicr Jan
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3. Mr. Javed All (3.2) 153nay 153nay 16 ay promotion Up-graded 4. Mr. Muhammed Ar war (B.A) 5.5.1956 (Malakand Araency) 5.9.1981 1.11.1993 16 ay promotion Up-graded Deputy Superintendent Jail Deferred for up-gradation (BPS-17 due to pending the departmental inquiries against the said offer. 5. Mr. Akbar Jan (B.4) 2.12.1953 (Mahand Araency) 23.11.1982 23.10.1983 16 appromotion Up-graded Deputy Superintendent Jail Deputy Superintendent Jail 6. Mst. Tillat Yasmin (3.4) 2.2.1953 (Mahand Araency) 16.7.2010 17 appromotion Up-graded Deputy Superintendent Jail Deputy Superintendent Jail 7. Mr. Sardar Hussain (3.4) 2.8.1957 (Mohmand Araency) 16.7.2010 17 appromotion Up-graded Deputy Superintendent Jail 8. Mr. Iftikhar Ahmazi (3.4) 8.5.1960 (Peshawar) 16.1999 16 appromotion Up-graded Deputy Superintendent Jail 8. Mr. Iftikhar Ahmazi (3.4) 1.3.7.1962 (Peshawar) 1.6.1999 16 By Promotion Up-graded Deputy Superintendent Jail	2.	(H.A)	[5:48]2 ⁽)		6.11.1994	16	E/ Fromction				
5. Mr. Akbar Jan (8.4)	3.	Mr. Muhammad Ar war	(3310) 5.5.1956	5.9.1981	1.11.1993	16	By promotion Up-graded	i handont lail		Deferred for up-	gradation (BPS-17
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Alugad	~(B.A)	8-5-1960	(Peshawar)	J-11-1785	1-5-1999	16 i	By promotion	Deputy Superintendent inil:	
H P -	(3.Λ)	21-7-1962	(D.f.Khan)	12-11-1985	16-7-2010 1-6-1999 16-7-2010	17.	Up-graded- By promotion	Deputy Superintendent Jan.	
mad Shesh	(B.A)	7-3-1951	(Swabi)		22 11-200L. 16-7-2010	- 16 - H	ob-blaced	Deputy Superintendent Jail.	

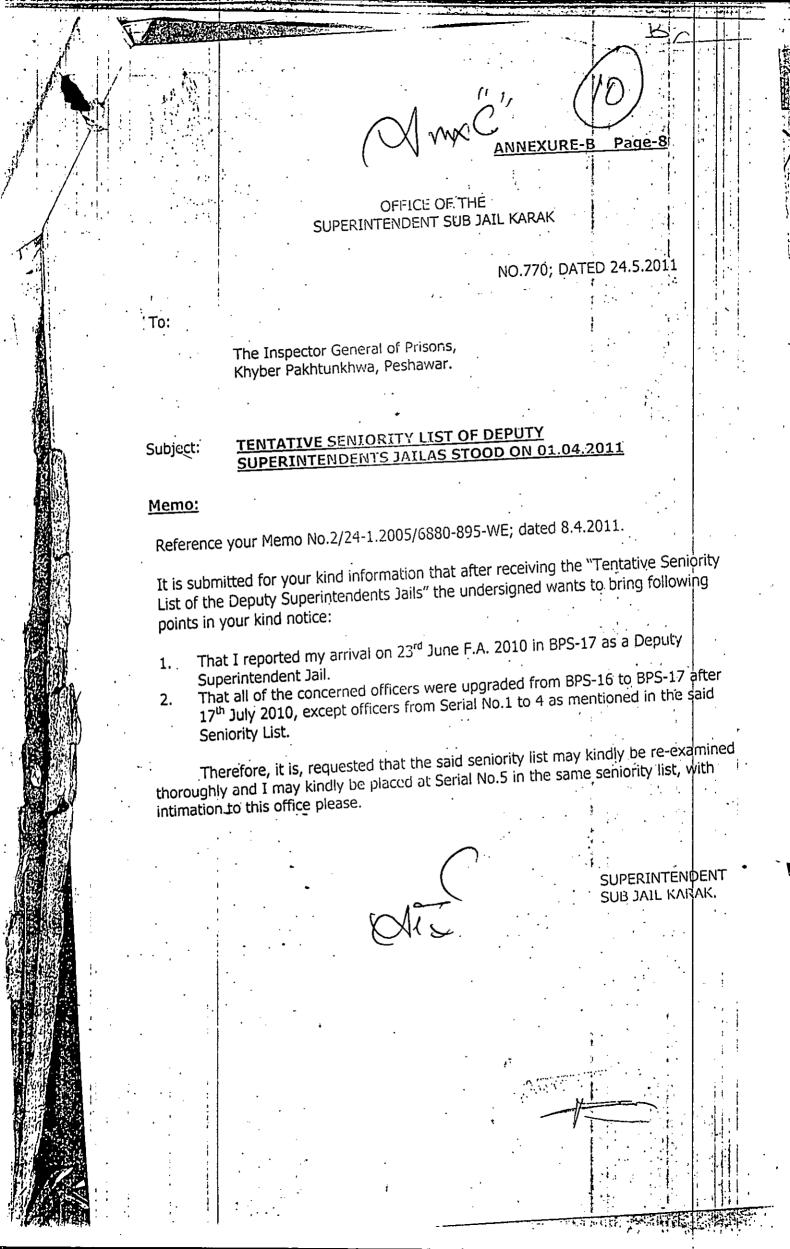
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- 7	:	Sperior Zagrian Bahar	(8.A.L	26-2-(95)		18-1-1986	7-9-2005	17	T. r.S. Station	The second secon	
<u></u> t	'		(الل.،		ait	1021217111		16	By promotion	Deputy Superintendent Jail	and the second
- ; ;		Mr.Ajmal Khan	(B.A)	0501-1960	· · · · · · · · · · · · · · · · · · ·	10 1 1000	16-7-2010	!?	: Lig-graded -	Part of the second of the second	
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11:	:	Mr. Shahid Hassain	755 2.5	29 7 114/1	7/31		16-7-2010	17_	Up-graded	The state of the s	
· ' · ' ·).	i wa. Shang Cussin	(D.A)	78-1-1960	(Charsedda	18-1-1986	29-9-2005	' بران د	Dy promotion	Deputy Superintendent Inil.	Name of the same o
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10	٠.	Mr. Muhammad Zahid (*)	- (31)	32-5-1950	(Swobi)	18-1-15X9	9-9-2005	1 10	· by promotion ·	Deputy Superintendent Init.	The state of the s
		to the second of			Mardan		16-7-2010	17.	Up-graded	Superincialism land	14.19.1
11	'.	Mr Zafar lubat	(B A)	25-13-1960	(Mardan)	18-1-1986	4-3-2006	16	By promotion	· · · · · · · · · · · · · · · · · · ·	, Johnson
						ļ	16-7-2010	17	Up graded	Deputy Superintendent 1 of	
1 13	s i	Mr.Mapayadar Religion	$-\mu K A + 1$	15 × 3164	(Koha)	18-1-1936	.74-2005	1 11			
1	ļ	1 1	`	İ	•	1	1 16-7-2010	1 (7	By parametica,	Deputy Superintendent Juil	1
4 թ	, 3	Mr.Abdal Qayani	(3.35	7-5 1958	(Malakand	8-2-1986	27-9-2008		Up-graded		
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. ' Y	1	 Mr.Chulam Rabbani	33.A/ T	1 - 1 4:0	(D.J.Khan)	19-2-1986	. ,	i i	Up-graded		;
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All Superintendents of Jail/Lockups, In the Khyber Pakhtunkhwa

Subject:-

SENIORITY LIST OF DEPUTY SUPERINTENDENTS JAIL (BPS-16) AS

Memo:

1 am directed to forward herewith a copy of Home Department Notification No.1/57-SO(Prs)HD2006 dated 5-7-2011 on the subject for information of the officers concerned.

Please acknowledge its receipt.

ASSISTANT DIRECTOR(ADMN) FOR INSPECTOR GENERAL OF PRISONS, KHYBER PAKHTUNKHWA PESHAWAR (

ENDST;NO._

Copy of the above is forwarded to the Secretary to Government of Khyber Pakhtunkhwa Home and T.As Department Leshawar, for information with reference to his Notification referred to above.

ASSISTANT DIRECTOR(ADMN)
FOR INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

FAAbayat data Mty Dac NEW ESEMBI (DRAFFIR 7/3014)

GOVERNMENT OF KHYBER PAKHTUNKHWA HOME AND TRIBAL AFFAIRS DEPARTMENT.



Dated Peshawar, the 5th July, 2011

N. TIFICATION.

NO.1/57-SO(PRISONS)HD/2006. In exercise of the powers conferred under sub section (1) of Section 8 of the NWFP Civil Servants Act, 1973 (NWFP Act NO.XVIII of 1973), the Competent Authority is pleased to notify the final seniority list of Deputy Superintendents Jaii (BPS-17) of the Inspectorate of Prisons Khyber Pakhtunkhwa as it stood on 10/04/2011 and appended herewith for the information of all concerned.

> HOME SECRETARY KHYBER PAKHTUNKHWA

Endrst: of even No/date.

Copy forwarded to the following:

- 1- Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
- -2- Inspector General of Prisons Knyber Pakhtunkhwa Peshawar.
- 3- All Deputy Superintendents Jails
- Manager Government Printing Press Peshawar for publication in the next issue of Govt. Gazette.

(MUHAMMAD GHULAM) SECTION OFFICER (PRISONS).



FINAL SENIORITY LIST OF DEPUTY SUPERINTENDENTS JAIL OF THE INSPECTORATE OF PRISONS KHYBER PAKHTUNKHWA AS STOOD ON 01-04-2011

SANCTIONED STRENGTH=22

S.No	Name of Officer with a qualification	cademic	Date of B		Date of first entry	Regular a	ppointn	nent/promotion	Present appointment	Remarks
1) 			· ·	into service	Date	BPS	Method of appointment		Remarks
<i>*</i>	Mr.Usman Ali	(B.A)	7-5-1956	Bannu	22-1-1978	28-5-1992 2'4-6-2004	16 17	By promotion.		From 25-11-2008 to 21-1-201
				. • .		:				he remained as Supon Dism: Ja (BPS-18). He was awarded the
2.	Sahibzada Shah Jehan	(M.A)	25-4-1957	Swabi	8-11-1978	17-10-1992	1		8	punishment of reduction to low scale grade in a departmental
.	Mr.Javed Ali	(B:A)	13-5-1954			26-3-2011 ,	. 16 17	By promotion. Up-graded.	Deputy Superintendent Jali	disciplinary proceedings. From 7-10-2008 to 27-10-10 remained as Superimendent S.
	Y No. No.		15-5-1954	Bannu	11-8-1977	6-11-1992 26-3-2011 -	16 17	By promotion Up-graded	Deputy Superimendent Jail	Jail (BS-17 -do-
•	Mr. Muhammad Anwar Mr.Akbar Jan.	(B.A)	5-6-1956 i	· Malakand Agency		1-11-1993 26-3-2011	16	By promotion	Deputy Superintendent Jail	
*	•	(B.A).	24-12-1953	Mohmand Agency		12-5-1995	16	Up-graded By promotion.	: Deputy Superimendent Jail.	-co- Deferred for up-gradation
	Mst; Tillat Yasmin	(B.A)	2-2-1953				•			(BPS-17) cie to pending departmental inquiries against t
	Mr.Sardar Hussain		28-8-1957	Haripur Mohmand		6-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.	said officer.
	-			Agency	1	-6-1999 6-7-2010	16 17	By promotion Up-graded	Deputy Superintendent Jail.	

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		1				•				and the same and the same	8 7:
3.	Mr.Iftikhar Ahmad	(B.A)	8-5-1960	73 - 6 - 7						* H 40	
		(151)	0-2-1900	Peshawar	3-11-1985	1-6-1999	- 16	By prometic			
C	Mr.Binyamin	(D.A.)	21 7 10 5	<u> </u>		16-7-2010	17	- Contracting		. :	
! *		(B.A)	21-7-1962	D.I.Khan	12-11-198:	1-6-1999 (. 16			•	· A
10.	Mr.Muhammad Shesh					16-7-2010	17	- Fredricas		i	
μ.υ.	Management Shesh	(B.A)	7-8-1951	Swabi //	18-1-1986		16	Up-graded		•	F
<u> </u>			, '4			16-7-2010	10	Dy Crombac			
1 7	134 413	<u> </u>			/	1 10-7-2010	17	Up-graded			4,
4,11	Mr.Akhtar Munir	(B.A)	8-3-1957	Swabi	1911006	110.10.000					
			f	0 11401	18-1-1986		16	By prometic	Deputy Superintepdent Jail.	· · · · · · · · · · · · · · · · · · ·	
¥ 12.	Mr.Attaullah Khan.	(B.Sc)	21-3-1956	Malakand		16-7-2010	1.7	Up-graded	- And Schuttetigett 3211		
			2. 3 1750		. 18-1-1986	26-9-2005	16	By prometica	Danuty Consider 5		
g 13.	Sardar Zaman Babar	, (B.A.L	20-2-1959	Agency		16-7-2010	17.	Up-grace:	Deputy Superintendent Jail.	•	-
,]		LB)	20-2-1939	Abbottabad	18-1-1986	7-9-2005	16	By promeron			•
14.	Mr.Ajmal Khan		106.01		<u> </u>	16-7-2010	17	Up-graded	Deputy Superintendent Jail.		
ĺ	i sama a kilim	(B.A)	06-01-1960	Peshawar	18-1-1986	7-9-2005	16				
15.	Mr.Shahid Hussain			<u> </u>		16-7-2010	17	. By promotion	Deputy Superintendent Jail.		
	: Mr. Shamu Pussain	(B.A)	28-3-1960	Charsadda	18-1-1986	29-9-2005		Up-gradei	· · · · · · · · · · · · · · · · · · ·		,
ال	1 24-24-1		<u> </u>	•	1	16-7-2010	16	By promotite	. Deputy Superintendent Jaill		
۱O. ا	Mr.Muhammad Zahid	. (B.A)	12-5-1960	Swabi	18-1-1986		17	<u>i</u> Up-graded		• •	
		·		,	10-1-1980	9-9-2005 +	16	By premetite	Deputy Superintendent Jall.		
17.	Mr.Zafar Iqbal	(B.A)	25-11-1960	Mardan	. 10:1006	16-7-2010	17	Up-gradef			
<u></u>				read the same	: 18-1-1986	4-8-2006	16	By gramatich	Deputy Superintendent Hill		<u>_ </u>
18	Mr.Magsoodur Rehman	(B.A)	10-3-1964	Volest		16-7-2010	17	Lp-grace:	poly bayerintenceya.,		•
	•	5	10 3-1704	Kohat,	18-1-1986	27-9-2008	16	By promoting	Planum: Compaigners of the		
19	Mr.Abdul Qavum	(B A)	7-9-1958	i	-	_16-7-2010	17	Uptarade:	· Deputy Superintendent Jali.	•	•
1		100 AND	1-3-13/28	Malakand	8-2-1986	27-9-2008	16	By prometing			
20.	Mr.Ghulam Rabbani	(D 4/	1.0	Agency		13-1-2011	17	Up-gradei	Deputy Superintendent (a)].		
	·	(B.A/	1-3-1960	D.I.Khan	19-2-1986	29-9-2008	16			 .	
21.	Mr.Fazle Hainid	MBA)			1	16-7-2010	17	By prometita	Deputy Superintendent fail		
~ I ,	. Str. 1 azie mainio	(B.A.L	12-12-1961	Mardan '		26-3-2009		Up-graded	·		•
22		_L3):	_	•	-0 - 1700		16	By prometita	Deputy Superintendent Jail.		<u> </u>
22.	Mr.Samiullah Khan.	(BA/L	18-3-1982	Kohat.	22 6 2010	16-7-2010 -	_17	<u>Up-gradei</u>			•
	<u> </u>	LB)		. Londi.	23-6-2010	23-6-2010	17	Direct.	Deputy Superintencent Jail		
	V to the control of t								(BPS-17).		
		i.		•							•

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BEFORE THE KHYBER PAKHTUNKNWA, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No._

2011 Wwx E/15

Mr. Samiullah Khan, Deputy Superintendent Jail, Karak.

APPELLANT

VERSUS

The Chief Secretary, Khyber Pakhtunkhwa, Peshawar. The Secretary, Homes & TA, Khyber Pakhtunkhwa, Peshawar. The I.G. (Prisons), Khyber Pakhtunkhwa, Peshawar. Mr. Sahib Zada, Shah Jenan, Deputy Superintendent Jail, Central Joil, Mr. Javed Ali, Deputy Superintendent Jail, Central Jail, Lakki. Muhammad Anwar, Dy: Superintendent Jail, Central Jail, Mardan. Mst. Talat Yasmin, Dy: Superintendent Jail, Central Jail, Peshawar. Mr. Iftikhar Ahmad, Dy: Superintendent Jail, Central Jail, Swabi. -Mr. Binyamin, Dy: Superintendent Jail, C/Jail, DI Khan. Mr. Akhtar Munir, Dy: Superintendent Jail, C/Jail, Swat. Mr. Attaullah Khan, Dv: Superintendent Jail, C/Jail, Malakand. Mr. Sardar Zaman Babar, Dy:Superintendent Jail, C/Jail, Haripur. Mr. Ajmal Khan, Dy: Superintendent Jail, C/Jail, (Suspended). Mr. Shahid Hussain, Dy: Superintendent Jail, C/Jail, Charsadda. Muhammad Zahid, Dy: Superintendent Jail, C/Jail, Bannu. Mr. Zafar Iqbal, Deputy Superintendent Jail, Central Jail, Mr. Maqsoodur Rehman, Dy: Superintendent Jail, C/Jail, Peshawar. Mr. Abdul Qayum, Dy: Superintendent Jail, C/Jail, Abboltabad. Mr. Ghulam Rabbari, Dy: Superintendent Jail, C/Jail, DI Khan. Mr. Fazli Hamid, Dy: Superintendent Jail, C/Jail, Mardan.

RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974, AGAINST THE FINAL SENIORITY LIST DATED 5.7.2011 RECEIVED TO APPELLANT AT SUB JAIL KARAK ON 27.7.2011 WHEREBY SUB JAIL KARAK ON 27.7.2011 WHEREBY JUNIOR MOST DEPUTY SUPERINTENDENT JUNIOR MOST DEPUTY SUPERINTENDENT HAVE BEEN SHOWN SENIOR TO APPELLANT HAVE BEEN SHOWN SENIOR TO APPELLANT AND AGAINST NOT TAKING ACTION ON THE

DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN 90 DAYS.

That on acceptance of this appeal the impugned seniority list may be set-aside and the respondent Deptt; may be directed to place the appellant over and above the names of private respondents being senior to them. Any other remedy which this august tribunal deems fit that may also be awarded in favour of appellant.

R.SHEWETH

- That the appellant was appointed as Dy: Superintendent Jail in BPS -17 directly on the recommendations of the KPK Public Service Commission on 23.6.2010 while the private respondents have been promoted to BPS -17 (up-graded posts) by the DPC on 26.3.2011 and 16.7.2010 i.e after the cate of appointment of appellant. All the dates are mentioned in the seniority list the copy of which is already attached S Annexure –
- That the respondent Deptt: issued tentative seniority list on 5.5.2011 and against that list the appellant in time filed objection petition on 24.5.2011. Copies of list and objection petition are attached as Annexure - A & B. :
- That then the respondent Deptt: has issued final seniority list on 3-5.7.2011 which was received by the appellant at Karak Sub jail on 27.7.2011. As the appellant's name was not placed at proper place in that seniority list, therefore the filed departmental appeal on 25.8.2011 and waited for ninery days but no reply has been received by the appellant so far. Hence the present appeal on the following grounds amongst the others. Copies of list and appeal are attached as Annexure- C&D.

GROUNDS:

- That the impugned seniority list and not taking action on the appeal of the appellant is against the law, rules and norms of
- That the appellant has not been dualt according to law and rules and kept deprived from his right of seniority in an arbitrary



- C- That the appellant was in BPS 17 on 23.6.2010 and at that time none of private respondent was in BPS -17, then how they could be treated senior to appellant.
- D- That even none of the private respondent was promoted to BPS-17 when on 23.6.2010 the appellant was in BPS-17. All this shows malafide on the part of the respondent Deptt:
- E- That the principles of seniority were totally ignored while drawing the impugned seniority list.
- F- That the carelessness of the respondent Deptt; can be proved from the inclusion of person at S.No.5 who is not yet promoted to BPS-17 but shown senior to appellant in the seniority list of BPS-17 employees.
- G- That the respondents have not acted in accordance with the seniority rules and law.
- H- That the appellant is senior to the private respondents in dates of appointment in BPS-17 therefore he is to be treated senior to the private respondents.
- I- That the 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

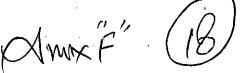
SAMIULLAH KHAN

ADVOCATE.

- THROUGH:

CSAMI OCCALIALIANI) UPBRINTENDINI SVI JATI





Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department

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NOTIFICATION

Dated Peshawar the 17th June, 2013

No SO (Prisons)/HD/1-3/2013: - The Provincial Government in consultation with the Provincial Selection Board Khyber Pakhtunkhwa is pleased to Promote Sahibzada Shah Jahan from Deputy Superintendent Jail BS-17 to the Post of Superintendent District Jail BS-18, on acting charge basis, in the Prison Department with immediate effect.

SECRETARY HOME

Endst: of even No & Date

Copy forwarded to: -

- 1. Inspector General Prisons Khyber Pakhtunkhwa, Peshawar.
- 2. Accountant General, Khyber Pakhtunkhwa Peshawar.
- 3. District Accounts Officer Khyber Pakhtunkhwa , Swat.
- 4. Officer Concerned.
- 5. P.S to Chief Secretary, Khyber Pakhtunkhwa Peshawar.
- 6. P.S to Secretary Establishment, Khyber Pakhtunkhwa Peshawar w/r to Minutes of the PSB meeting held on 21-05-2013.(under Item No. 4)
- 7. P.S to Secretary Home, Khyber Pakhtunkhwa Peshawar.
- 8. The Manager, Govt Printing Press, Khyber Pakhtunkhwa for publication in the Govt Gazette.
- 9. Section Officer Media Home Department, Khyber Pakhtunkhwa Peshawar.

10. Office Order File.

(KHALID KHAN) 17.

SECTION OFFICER (PRISONS)



OFFICE OF THE,
SUPERINTENDENT,
DISTRICT JAIL TIMERGARA
NO 1429 WH, Dt 16/7 /2013

The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.

Subject:-

APPEAL AGAINST ORDER DATED 17-6-2013.

Memo:

Enclosed please find herewith the subject appeal of the undersigned for onward submission to the quarter concerned please.

SUPERINTENDENT DISTRICT JAIL TIMERGARA

950

The Chief Secretary, Khyber Pukhtunkhwa, Peshawar.

Through:

Inspector General of Prisons Khyber Pukhtunkhwa Peshawar

Subject:-

APPEAL AGAINST ORDER DATED 17-6-2013.

Respected Sir,

Submissions of the undersigned are as under:-

That the undersigned was appointed as Superintendent Jail (BPS-17) by the Khyber Pukhtunkhwa Public Service Commission, but later on vide Home Department Notification 1/61-SO(Prs)HD/2010 dated 18-6-2010 the undersigned was declared as Deputy Superintendent. Since following the orders the undersigned reported arrival at Prisons Inspectorate on 23-6-2010 and the post of Deputy Superintendent were upgraded at 16/7/2010 from (BPS-16) to (BPS-17).

That a Seniority List was issued by the Prisons Inspectorate on 5-5-2011 and thereafter issued Final Seniority List on 5-6-2011, in which the undersigned was not shown at the top position according to his seniority in BPS-17 i.e. 23-6-2010. As a result the undersigned challenged the list and so-called seniority of the remaining Deputy Superintendents in the Service Tribunal, which is still sub-judiuce and in progress. In this regard copy of petition is annexed-A. In which the Sahibzada Shahjehan was made respondent at serial No. 4.

That due to the above petition the seniority list is still disputed before Services Tribunal under appeal No. 105 / 2012. It means none of the 3members of the list can be treated as senior.

That under the standing rules, the PSB has to defer the promotion if:-

PER of the candidate are incomplete a).

Enquiry is pending against the candidate b).

Seniority is disputed. c).

But unfortunately the PSB totally overlooked the above facts and recommended Mr. Shah Jehan for promotion to BPS-18 as Superintendent Distt Jail vide Home Department Notification No. SO(Prisons)/HD/1-3/2013 dated 17-6-2013, without considering pending appeal before Services Tribunal, copy of the order is annexed-B.

It is, therefore, humbly prayed before your honour that the promotion of Sahibzada Shah Jehan may kindly be reviewed, so that the senterity of the undersigned may not be affected please.

> (SAMIULLAH KHAN) SUPERINTENDENT DISTRICT JAIL TIMERGARA

WAKALAT NAMA)
IN THE COURT OF Jerue Tribune.	WAL
Amiellah (Mon. Appellant(s)/Petitioner(s)	
Pocut et VERSUS	-
Respondent(s)	
I/We do hereby appoint Mr. Khaled Rehman, Advocate in the above mentioned case, to do all or any of the following acts, deeds and things.	
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.	
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.	•
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.	
AND hereby agree:-	•
a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.	
In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this	
Attested & Accepted by	
Signature of Executants	
Khaled Rehman, Advocate Peshawar.	
9-B, Haroon Mansion Khyber Bazar, Peshawar	-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In the matter of Service Appeal No.1522/2013 Sami Ullah Khan

<u>VÉRSUS</u>

- 1. Chief Secretary
 Khyber Pakhtunkhwa Peshawar
- 2. Secretary to Government of Khyber Pakhtunkhwa, Home and T.A Department.

WRITTEN REPLY ON BEHALF OF RESPONDENTS NO. 1,2 AND 3.

Preliminary Objections

- i. That the applicant/appellant has got no cause of action.
- ii. That the appeal is incompetent and is not maintainable in its present form.
- iii. That the applicant is estopped by his own conduct to bring the present appeal.
- iv. That the applicant has no locus standi.
- v. That the appeal is bad for mis joinder and non-joinder of necessary parties.
- vi. That the appeal is barred by law.

ON FACTS

- 1- Pertains to record, hence no comments.
- 2- Pertains to record, hence no comments. As the matter is already under consideration at Khyber Pakhtunkhwa Service Tribunal vide Service appeal No. 105/2012.
- Incorrect, the said Service Appeal which is yet to be decided by the Learned Service Tribunal having least concern to directly with the Notification issued by the Provincial Government (Home Department) on the basis of recommendation made by P.S.B.

As there were no bar / restriction with regard to fulfilling available vacant position through adopting proper channel i.e. P.S.B proceedings that is why that is the best public interest and keeping in view the peculiar scenario in term of Law & Order with special reference to ongoing insurgency war where the importance of Administration Post like Superintendent District Jail (BPS-18) post enhanced many fold in order to overcome the sure shut complications in that respect, the P.S.B proceedings were made and the incumbent who fulfills the criteria accordingly has been promoted to the rank of Superintendent District Jail (BPS-18) on Acting charge basis. It may be added here that in present circumstances neither the Petitioner is in the line of promotion nor he is eligible for the promotion to the post of Superintendent District Jail (BPS-18).

4- The departmental appeal of the appellant is under consideration in the Home Department.

GROUNDS

- A. Incorrect, the Notification is the outcome of the P.S.B Proceedings which is the competent forum in case of promotion.
- B. As elaborated in Para-3 above.
- C. Incorrect, having no bar / restriction from any Court of Law with regard to fulfilling available vacant position, hence it was necessitated that it should be filled in as per laid down procedure which was done away accordingly.
- D. Incorrect, this is the plea of the Petitioner which is neither established nor admitted by any competent forum including Learned Service Tribunal so for.
- E. Incorrect, the seniority list as well as the Notification is in accordance with Law.
- F. Not pertains to the respondents, however, no comments.

It is therefore, humbly-prayed that on acceptance of this reply, instant appeal may kindly be dismissed with cost-throughout.

CHIEF SECRETARY

GOVERNMENT OF KHYBER PAKHTUNKHWA PESHAWAR (Respondent NO.1) KHYBER PAKHTUNKHWA
HOME & T.AS DEPARTMENT PESHAWAR.

(Respondents No.2)

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

(Respondent No.3)

1177114

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In the matter of
Service Appeal No.1522/2013
Sami Ullah Khan

Deputy Superintendent Jail (BPS-17) District Jail Timergara......Appellant.

VERSUS

- 1. Chief Secretary
 Khyber Pakhtunkhwa Peshawar
- 2. Secretary to Government of Khyber Pakhtunkhwa, Home and T.A Department.

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS NO. 1 TO 3.

We the undersigned respondents do hereby solemnly affirm and declare that the contents of the Parawise Comments / Reply on the above cited appeal are true and correct to the best of our knowledge and belief and that no material facts has been kept secret from this Honorable Tribunal.

CHIEF SECRETARY

GOVERNMENT OF

KHYBER PAKHTUNKHWA PESHAWAR

(Respondent NO.1)

SECRETARY TO GOVERNMENT

KHYBER PAKHTUNKHWA HOME & T.AS DEPARTMENT PESHAWAR. (Respondents No.2)

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No.3)