

29.3.2016

None is available on behalf of the appellant. Mr. Farhaj Sikandar, GP for the respondents present. Fresh notices be issued to appellant and his counsel. To come up for further proceedings on 30.8.16 at camp court, D.I.Khan.


MEMBER

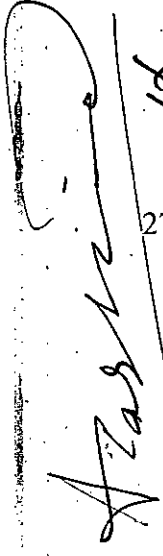
Camp Court, D.I.Khan

30.08.2016

Appellant in person and Mr. Farhaj Sikandar, GP for respondents present. Representative of the respondents are not present. Fresh Notices be issued to the respondents for submission of written reply/comments. To come up for written reply/comments on 27.12.2016 before D.B at camp court D.I Khan.



Member

Camp court D.I. Khan


27.12.2016

Appellant in person, M/S Muhammad Ibrar, Assistant Secretary and Kiramatullah, Tehsildar alongwith Mr. Farhaj Sikandar, Government pleader for the respondents present. Appellant submitted an application for withdrawal of the instant appeal and stated that his grievance has been redressed by the respondent-department. Signature of appellant Mr. Abdur Rashid is taken on the side of the margin sheet as a token of proof In light of application submitted by appellant the appeal in hand stands dismissed as withdrawn. No order as to costs. File be consigned to the record room.

ANNOUNCED
27.12.2016


ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan

بعدالت جناب سرورس ٹریبونل خیر خیر خواہ بشاوت کیمبریا

عنوان :- مقدمہ عبدالرشید خیر 854 سال 2014

نام

سید محمد جبار علی آف ریلوینو خیر خیر خواہ بشاوت

جناب عالی :
و خیر

گزارش میں کہ سائل نے عنوان بالا میں

اپیل کی ہے۔ لیکن اب سائل اپنا ٹرنٹ

سورٹ 15-2-8-31 مورخہ اور سائل کی حق دہی

مورخہ کی ہے۔ لیکن اب کیس فقرا

کہ ہم وہاں نہیں کرنا چاہتا ہوں

کیس فقرا مقدمہ و اس کرنا چاہتا ہوں

عبدالرشید ولد عبدالحمید خیر
بشاوت کیمبریا

مائد

بشاوت کیمبریا

Handwritten signature

27-12-2016


11.08.2015

Counsel for the appellant, M/S Mukhtiar Ali, Supdt. and Abdul Jalil, Naib Tehsildar alongwith Assistant A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 29.9.2015 at Camp Court D.I.Khan as the appeal pertains to the territorial limits of D.I.Khan Division.


Chairman

29.09.2015

None is available on behalf of the appellant. Fresh notices be issued to appellant and his counsel. Mr. Farhaj Sikandar, GP for the respondents present and requested for time to contact them. On request of the learned GP another last chance is given to the respondents for submission of written reply on the next date. Case to come up for the same on 24-11-15 at camp court, D.I.Khan.


MEMBER
Camp court, D.I.Khan

23.11.2015

Appellant in person and Mr. Farhaj Sikandar, GP with Attaullah, Asstt Secretary for the respondents present and requested for further time. Therefore, case to come up for written reply at camp court, D.I.Khan on

29-12-2015.


MEMBER
Camp Court, D.I.Khan

19.3.2015

Counsel for the appellant and Mr. Muhammad Jan, GP with Mukhtiar Ali, Supdt. for respondents No. 1 & 2 present and requested for further time. Fresh notice be issued to respondent No. 3. To come up for written reply on 01.06.2015.


MEMBER

01.06.2015

None for the appellant present. Mr. Mukhtiar Ali, Supdt and Mr. Abdul Jalil, Naib Tehsildar alongwith Muhammad Jan, GP for the respondents present. Representative of the respondents requested for time to submit written reply/comments. Request accepted. To come up for written reply/comments on 11.08.2015 before S.B.


Member


Member

2108-81-12

Appeal No. 854/2014.
Mr. Abdul Rasheed

27.10.2014

Counsel for the appellant present. Mr. Kamran Ullah, Advocate also filed Wakalat Nama on behalf of the appellant. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 23.01.2014, vide which the appellant was reverted from the post Tehsildar to the post of Naib-Tehsildar. Against the above referred impugned order appellant filed departmental appeal on 20.02.2014 which was not responded within the statutory period of 90 days, hence the instant appeal on 11.06.2014. Counsel for the appellant contended that the impugned notification has been issued in violation of law and rules. He relied on PLD 2008 Supreme Court 412, 2008 SCMR 1148, 2006 SCMR 1641 and 1995 SCMR 1593. He further contended that similar nature of appeal No. 804/2014 titled Muhammad Akram has already been admitted and pending before the learned Bench-II, therefore, the same may also be clubbed with the said appeal.

Since the matter pertains to terms and conditions of service of the appellant, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 13.01.2015 before the learned Bench-II.



Member

13.1.2015

Counsel for the appellant and Mr. Muhammad Jan, GP with Mukhtiar Ali, Supdt. for the respondents present. Representative of the respondents submitted before the court that written reply is under process of completion put up for signature which will be submitted on the next date. To come up for the same on 19.3.2015.



MEMBER

3.
Reader Note.

19.08.2014

Counsel for the appellant present. **The** Hon'able Bench is on tour to Abbottabad; therefore, case to come up for preliminary hearing on 12.9.2014.


Reader

4.
Reader Note.

12.09.2014

Counsel for the appellant present. The learned Member (Judicial) is not working due to a recent order of the Hon'ble Peshawar High Court, Peshawar effecting his status as District and Session Judge. To come up for preliminary hearing on 27.10.2014.




Reader



Form - A
Form of Order Sheet

Court of _____

Case No. 854/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate.
1	2	3
1	13/06/2014	<p>The appeal of Mr. Abdur Rashid resubmitted today by Mr. Rizwanullah Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	17-6-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put-up there on <u>19-8-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>


The appeal of Mr. Abdur Rashid Tehsildar received today i.e. on 11.06.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of promotion order in respect of appellant mentioned in para-4 of the memo of appeal is not attached with the appeal which may be placed on it.


No. 922 /S.T,

Dt. 12/6 /2014.

Mr. Rizwanullah Adv. Pesh.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Re-submitted after dot of the needed


—
o dw
13/6/2014

Registrar

BEFORE THE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 854 /2014

Abdur Rashid

VERSUS

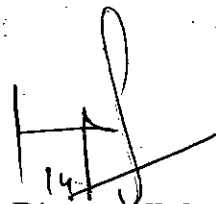
The Government of Khyber
Pakhtunkhwa through
Chief Secretary and others.

I N D E X

S.No	Particulars	Annexure	Pages #
1	Service Appeal	—	1-8
2	Affidavit	—	9
3	Copy of Service Rules 2008	“A”	10-13
4	Copy of Notification dated 2-12-2011	“B”	14-15
5	Copy of Notifications regarding promotion	“C”	16-17 17A to 17C
6	Copy of Writ Petition alongwith order sheet	“D”	18-34
7	Notification regarding withdrawal of promotion	“E”	35
8	Departmental Appeal dated 20-2-2014	“F”	36-39
9	Copy of posting order as Tehsildar on current charge basis	“G”	40-41
10	Wakalatnama	—	—

Appellant

Through



Rizwanullah
M.A. LL.B

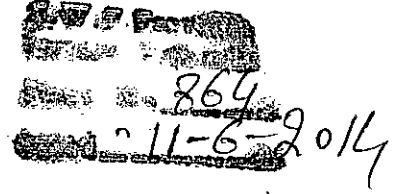
**Advocate High Court,
Peshawar**

Dated:- 10-6-2014

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 854 /2014

Abdur Rashid,
Tehsildar, Tehsil Colachi,
District D.I.Khan.

 864
11-6-2014

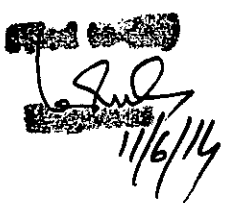
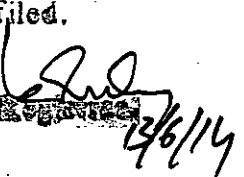
APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary.
2. The Secretary Revenue & Estate Department/SMBR KPK Peshawar.
3. The Commissioner D.I.Khan Division, D.I.Khan.

RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED NOTIFICATION NO.
1984-2061 DATED 23-1-2014 PASSED
BY THE SECRETARY BOARD OF
REVENUE & ESTATE DEPARTMENT /
SMBR, KHYBER PAKHTUNKHWA
(RESPONDENT NO.2) AGAINST WHICH
A DEPARTMENTAL APPEAL WAS
PREFERRED BUT THE SAME WAS NOT
RESPONDED WITHIN THE STATUTORY
PERIOD OF LAW.**

 11/6/14
re-submitted to  13/6/14
and filed.

Prayer in Appeal

By accepting this appeal, the impugned Notification No. 1984-2061 dated 23-1-2014 passed by the Secretary Board of Revenue and Estate Department / SMBR, Khyber Pakhtunkhwa (respondent.No2) whereby the appellant was reverted illegally from the post of Tehsildar to the post of Naib-Tehsildar, may graciously be set aside and the appellant may kindly be restored as Tehsildar alongwith all back wages and consequential benefits.

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

Respectfully Sheweth,

Short facts giving rise to the present appeal are as under:-

1. That the appellant was a permanent employee of the **Board of Revenue & Estate Department** in capacity as Tehsildar (B-16) at the relevant time.
2. That according to Tehsildar, Naib Tehsildar / Subordinate Revenue Service Rules 2008, notified vide No.32102/Admn:1/135/SSRC dated 26-12-2008, the post of Tehsildar was to be filled in under clause(a) to the extent of 20% by initial recruitment, under clause(b) to the extent of 60% by promotion from Naib Tehsildars and under clause(c) to the extent of 20% from the officials working in various branches of Revenue Administration. But for all categories minimum qualification was 2nd class graduation from a recognized University as per column 5 describing minimum qualification for appointment by promotion. The condition of graduation was to be made applicable after 5 years of the date of Notification to the promotion quota of 60% under clause(b) **(Copy of the rules is appended as Annex-A).**
3. That the above Rules were further amended vide Notification No.12390-12429/Admn:1/1/296/Amendment dated 30-3-2011. Through this Notification clauses(b) and (c) of column 7 were substituted and officials like District Kunongos, District Revenue Accountants and Head Clerks (Revenue) were made eligible for the 60% quota meant for the Naib Tehsildars. The condition of graduation for 5 years as mentioned in Rules 2008 was also deleted.**(Copy of Notification is appended as Annex-B).**
4. That on ⁴18-6-2013, the appellant and other employees of the Revenue Department ^{were} was promoted as Tehsildar (B-16) on

regular basis after recommendation of properly constituted and legally competent "DPC" because the above employees were senior in their cadre and having the eligibility for the posts of Tehsildars (B-16) under the relevant rules (**Copy Annex-C**).

5. That Shakirullah and others employees of the Revenue Department, felt aggrieved by the various promotion orders of Tehsildars, approached the Hon'ble Peshawar High Court by way of filing a writ petition No.1720-P/2013 praying therein that the impugned Notification and illegal promotions may graciously be set aside and the respondents No.1 to 3 be directed to consider the entire case strictly in accordance with the rules in vogue. This writ petition came up for hearing before the Hon'ble Court and it was held that the court has no jurisdiction to entertain the grievance of the petitioners and that the matter falls within the exclusive jurisdiction of the Service Tribunal. However, the writ petition was converted into departmental appeal and the same was sent to respondent No. 1 i.e Secretary, Revenue and Estate Department, KPK to decide it within the statutory period of law (**Copy Annex-D**).
6. That the Competent Authority vide Notification No Estt:I/26/1984-2061 dated 23-1-2014 has illegally withdrawn the promotion orders of the appellant and other employees of the Revenue Department, on the pretext of lack of prescribed qualification for posts of Tehsildars, without application of his independent mind to the merit of the case (**Copy of impugned Notification as Annex-E**).
7. That the appellant felt aggrieved by the said Notification, filed a departmental appeal with the respondent No.1 on 20-2-2014 within the statutory period of law, praying therein that the impugned Notification may graciously be withdrawn and he may kindly be restored as Tehsildar with all back wages and benefits (**Copy of departmental appeal is appended as Annex-F**).
8. That the departmental appeal was neither decided within the statutory period of law with cogent reasons nor any information whatsoever was given to the appellant as required under

Article 19-A of the Constitution of Islamic Republic of Pakistan 1973. Thus, the Appellate Authority has blatantly violated the provision of law as well as Constitution and the Principle laid down by **August Supreme Court of Pakistan** in case reported in **2011 SCMR 1 (Citation –B)**. The relevant citation is reproduced herein for facility of reference:-

(b) General Clauses Act (X of 1897)---

----S. 24-A ---Speaking order- Public functionaries are bound to decide cases of their subordinates after application of mind with cogent reasons within reasonable time.

It is well settled law that the decision of August Supreme Court of Pakistan is binding on each and every organ of the State by virtue of Article 189 and 190 of the Constitution of Islamic Republic of Pakistan, 1973. Reliance can be placed on the judgment reported in **1996-SCMR-Page-284 (Citation-C)**. The relevant citation is as under:-

(c) Constitution of Pakistan (1973)

Arts. 189 & 190--- Decision of Supreme Court—Binding, effect of--- Extent—Law declared by Supreme Court would bind all Courts, Tribunals and bureaucratic set-up in Pakistan.

9. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds within the statutory period of law.

GROUND OF APPEAL

- A. That the order of Competent Authority is not based on sound reasons and correct appreciation of law for the reasons that the condition of educational qualification was not the requirement of relevant Rules 2011 for the post of Tehsildar to be filled through promotion. The

condition of the said qualification was only essential for the post of Tehsildar under the Rules 2008 which were superseded by subsequent Rules 2011 and the condition in respect of qualification was deleted accordingly. The Competent Authority was under statutory obligation to have considered the case of promotion in respect of employees in its true perspective and in accordance with the above Rules 2011. But he has over looked this aspect of the case and as such great injustice has been caused to the appellant as well as other employees. Therefore, the unilateral impugned Notification was malafide, incompetent, capricious, perverse having no sanction of law, was in excess of powers, in derogation of settled rules and principle of law, against the public policy and also against the interest of Public Authority and Trust.

- B. That the Competent Authority was bound to have provided an opportunity of hearing to the appellant before passing the impugned order in respect of his reversion from the post of Tehsildar to Naib Tehsildar, in order to justify his eligibility of promotion as Tehsildar(B-16). But he failed to do so. Thus, the appellant has been condemned / penalized without being heard contrary to the basic Principle of Natural Justice known as “**Audi Alteram Partem**”. It is also well settle law that no adverse order can be passed against any person without providing him an opportunity of hearing. Reliance in this respect can be placed on the judgments of August Supreme Court of Pakistan reported in **2008-PLD (Supreme Court) 412 citation (a)** and **2002-SCMR-1034 citation (o)**. The relevant citations of the said judgments are reproduced herein for facility of reference:-

2008-PLD(Supreme Court)412 citation (a)

Administration of justice---

----Natural justice, principles of---Opportunity of hearing---Scope---Order adverse to interest of a person cannot be passed without providing him an opportunity of hearing---Departure from such rule may render such order illegal.

2002-SCMR-1034 citation (o)

Maxim

"Audi alteram partem "Application---Principle enshrined in maxim "Audi alteram partem" has to be applied in all judicial and non-judicial proceedings notwithstanding the fact that right of hearing has not been expressly provided by the statute governing the proceedings.

Therefore, the impugned Notification is against the spirit of administration of justice.

- C. That it is worth mentioning at this juncture that after withdrawal of Notification in respect of promotion of appellant and others, the Competent Authority has also posted them as Tehsildar (B-16) on current charge basis (**Copy Annex-G**). This clearly shows that the above employees were eligible for the said posts under the relevant Rules. Therefore, the impugned Notification is not sustainable in the eyes of law.
- D. That respondents No.2 has 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 illegally notified the impugned Notification, which is unjust, unfair and hence not warranted under the law.
- E. That joint departmental appeal was not maintainable under the **Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986** which requires separate departmental appeals / representations. Since the Hon'ble High Court has directed for decision of the departmental appeal strictly in accordance with the rules, therefore, respondent No.2 has illegally accepted the said joint departmental appeal of 44 appellants. It is well settled law that when a statute prescribes a particular mode of doing an act it must be done in that way alone to gain validity. Reliance can be placed on the judgment of August Supreme Court of Pakistan reported in **2008-SCMR-1148 (citation-b)**. The relevant portion of the said judgment is reproduced herein for facility of reference:-

(b) Administration of justice---

----Where law provided for doing of a particular act in a particular manner, then same would be done in such particular manner or not at all

Therefore, the impugned Notification is liable to be set aside on this count alone.

- F. That the appellant was promoted as Tehsildar in accordance with law and this order has also been acted upon. Moreover, the appellant has served the Revenue Department for sufficient long period and as such it had taken legal effect and created vested rights in his favour. Thus, the said Notification in respect of his promotion cannot be declared as illegal and the **Principle of Locus Poenitentiae** is attracted in the matter.
- G. That the appellant was senior, eligible as per rules and rightly promoted as Tehsildar by the Competent Authority after the recommendations of properly constituted (DPC). Hence, the impugned Notification in respect of withdrawal of said promotion is not tenable under the law.
- H. That the Competent Authority has passed impugned Notification in mechanical manner and the same is perfunctory as well as non-speaking and also against the basic principle of administration of justice. Therefore, the impugned Notification is bad in law.
- I. That the impugned Notification of the Competent Authority is the result of misreading and non-reading of relevant service rules. Hence the same has not sanctity under the law.
- H. That the appellant would like to seek the permission of this Hon'ble Tribunal to advance some more grounds at the time of arguments.

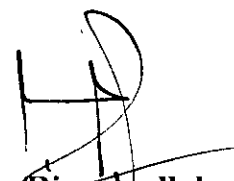
In view of the above narrated facts and grounds, it is, therefore, humbly prayed that the impugned Notification No. 1984-2061 dated 23-1-2014 passed by the Secretary Board of Revenue and Estate Department / SMBR, Khyber Pakhtunkhwa (respondent No.2) whereby the appellant was reverted illegally from the post of Tehsildar to the post of Naib-Tehsildar, may graciously be set aside and the appellant may kindly be restored as Tehsildar alongwith all back wages and consequential benefits.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.



Appellant

Through



Rizwanullah

M.A. LL.B

Advocate High Court,
Peshawar

Dated: 10-6-2014

BEFORE THE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2014

Abdur Rashid, Tehsildar, Tehsil Colachi, District D.I.Khan Swat.

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary and others.

AFFIDAVIT

I, Abdur Rashid, Tehsildar, Tehsil Colachi, District D.I.Khan , do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

A handwritten signature in black ink, appearing to be "Abdur Rashid".

Deponent

GOVERNMENT OF NORTH - WEST FRONTIER PROVINCE REVENUE AND ESTATE DEPARTMENT



NOTIFICATION

Tehsildar, Naib Tehsildar / Subordinate Revenue Service Rules 2003

Annex A

Peshawar dated the 26/12/2008.

No. 32/02 /Admn:I/135/SSRC.

In pursuance of the provisions contained in sub - rule (2) of rule 3 of the North West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 read with the Cabinet Division Notification No. SRO. 457 (1) / 2001 dated 28th June, 2001 and in supersession of all previous rules issued in this behalf, the Revenue and Estate Department, in consultation with the Establishment and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column 3 to 7 of the Appendix to this Notification and applicable to posts borne on the cadre strength of Revenue and Estate Department specified in column 2 of the said appendix:-

Appendix

1 S.No	2 Nomenclature of the post	3 Appointing Authority	4 Minimum Qualification for appointment by initial recruitment or by transfer	5 Minimum Qualification for appointment by promotion	6 Age limit	7 Method of recruitment
1.	Tehsildar (BPS 16)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Second class Graduation from any University recognized by the Higher Education Commission.	21 - 30 years For initial recruitment	(a) Twenty percent by initial recruitment; and (b) Sixty percent by promotion, on the basis of Seniority - cum - fitness From amongst the Graduate Naib Tehsildar with at least Five Years Service as such. The condition of Graduation will be applicable after five years from the date of issuance of this Notification; and (c) Twenty percent by Promotion, on the basis of Joint Seniority -cum - fitness from amongst the Graduate Assistants / Senior Scale Stenographer of Board of Revenue NWFP Director Land Record NWFP Revenue Appellate Court / Sub - Registrar with at least Five Years Service as such.

Annexure A

10

Attested
Adv

(H)

(11)

	2	3	4	5	6	7
2.	Naib Tehsildar (BPS 14)	Administrative Secretary (SMBR)	Second class Graduation from any University recognized by the Higher Education Commission	Second class Graduation from any University recognized by the Higher Education Commission	21 - 30 years For initial recruitment	(a) Fifty percent by initial recruitment, through NWI Public Service Commission based on the result of Competitive Examination conducted by it in accordance with syllabus, and (b) Thirty percent by promotion, on the basis of Seniority - cum - fitness from amongst Graduate Kanungos with least Five Years Service as such, who have passed the Departmental Examination of Naib Tehsildar. The condition of Graduation will be applicable after five years from the date of issuance of this Notification. 2-5-17 (c) Twenty percent by promotion, on the basis of joint Seniority - cum - fitness from amongst Junior Scale Stenographer and Assistants in the office of Political Agent and Assistant Political Agent Frontier Region Assistant / Junior Scale Stenographer of Ex - Deputy Commissioner / Commissioners offices presently working in the offices of DCO / ACO / EDO (F&P) and DOR who are Graduate with five Years Service as such.
3.	District Kanungo (Saddar Kanungo) (BPS 14)	-	-	-	-	By transfer from amongst Naib Tehsildar
4.	Head Clerk (Revenue) (BPS 14)	-	-	-	-	By transfer from amongst Naib Tehsildar
5.	District Revenue Accountant (BPS 14)	-	-	-	-	By transfer from amongst Naib Tehsildar

Attested
14/10
Adv

	2	3	4	5	6	7
6.	Kanungo (BPS - 09)	District Officer (Revenue & Estate) /Collector.				By promotion, on the basis of joint Seniority -cum - fitness, on District level from amongst the Patwaris / Tehsil Revenue Accountant and Wasil Baqi Nawis who have passed the Departmental Examination of Kanungo with at least five Years Service as such.
7.	Senior Tehsil Revenue Accountant (BPS 07) and Junior Tehsil Revenue Accountant Wasil Baqi Nawis / Additional Wasil Baqi Nawis (BPS - 05)					By transfer from amongst Patwaris
8.	Patwari (BPS - 05) Attested 14/11/11 Adv	District Officer (Revenue & Estate) /Collector,	Intermediate or equivalent qualification, who have passed the Patwari Examination having one year diploma in information technology from any institution technology from any institution recognized by Board of technical education	18 to 30	By initial recruitment	By initial appointment for amongst the Patwari passed candidates entered in Register maintained by the District Collector of the District Concerned having one year diploma in information technology from any institution recognized by Board of technical education. The condition of diploma will be applicable after three years from the date of issuance of Notification. 26/11/11

12

Sd/-
Secretary to Government of NWFP
Revenue and Estate Department

12

Copy forwarded for information and necessary action ::

13

1. Secretary to Government of NWFP Establishment Department
2. Secretary to Government of NWFP Finance Department
3. Secretary to Government of NWFP Law & Parliamentary Affairs Department
4. Secretary NWFP Public Service Commission
5. Secretary to Governor NWFP.
6. Registrar Peshawar High Court Peshawar
7. Advocate General, NWFP
8. Accountant General NWFP Peshawar
9. Private Secretary to Chief Secretary NWFP
10. All District Coordination Officer, in NWFP
11. All District Officer (Revenue & Estate) /Collector, in NWFP
12. Director Land Record NWFP
13. The Controller, Government Printing Press, NWFP Peshawar with the request that the notification may be published in the official gazette and to supply one hundred printed copies to the undersigned

Attested
H. J.
Adv

Tahir
FSC

Deputy Secretary
Government of NWFP
Revenue & Estate Department

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. 1111
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, 0000000000, 00TH SEPTEMBER, 2012.

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE/REVENUE & ESTATE DEPARTMENT

NOTIFICATION

Dated Peshawar, 22nd December, 2011.

No. Estt:1/296/Amendment/29174.-- In pursuance of provisions contained in Sub-Rule (2) of rule 3 of the North West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue & Estate Department in consultation with the Establishment, Finance and Law Departments hereby directs that in Department Notification No. 32102/Admn:1/135/SSRC, dated 26-12-2008 read with Notification No. 12389/Admn:1/296/Amendment, dated 30.03.2011, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix:-

1.	Tehsildar (BPS-16)	<p>Against S.No. 1, in column No. 7, for the existing entries, at clauses (a), (b) and (d), the following shall be substituted, namely:</p> <p>(a) Twenty percent by initial recruitment through Public Service Commission based on the result of a Competitive Examination conducted by it in accordance with syllabus, and</p> <p>(b) Sixty percent by promotion, on the basis of joint seniority-cum-fitness from amongst Naib Tehsildars, District Revenue Accountants, District Kanungos and Sub-Registrars with at least five years service.</p> <p>(c) Twenty percent by promotion on the basis of joint seniority-cum-fitness from amongst Superintendents of the office of Board of Revenue (Revenue & Estate and Land Settlement & Consolidation Department), Commissioners, DOR and Political Agents and Senior, Joint Secretaries of the offices of Board of Revenue, Commissioners, Additional Commissioners, DCOs and Political Agents having five years service.</p>
2.	Naib Tehsildar (BPS-14) (Divisional Cadre)	<p>Against S.No. 2, in column No. 7, for the existing entries, at clause (b), (c) and (d), the following shall be substituted, namely:</p> <p>(b) Twenty five percent by promotion, on the basis of seniority-cum-fitness from amongst Kanungos with at least five years service as such and he has passed the departmental examination of Naib Tehsildar.</p> <p>(c) Twenty five percent by promotion on the basis of joint seniority cum fitness from amongst Assistants of the office of BOR, Commissioners, Additional Commissioners, DCOs, DOR office and Executive District Officers (S.D), with at least five years service, Political Mohajirs of the office of Political Agent/Assistant Political Agents, with 10 years service.</p>

Attested
H. J. J.
Adv

		(d) The officer so appointed shall successfully complete Settlement/Revenue training and pass Kanungo Certificate Examination.
		EXPLANATION: Ministerial employees of the Board of Revenue eligible for appointment to the post of Haidi Tahsiltdar under the provision of clause (c) shall, for the purposes of the said clause, be deemed to belong to the division and zone respectively in which their home district is situated.
		Note: Vacancy in a division will be filled on respective divisional basis.
3.	District Kanungo (BP: 14)	Against S.No. 3, in column No. 7, for the existing entries, the following shall be substituted, namely: By selection on seniority-cum-fitness with due regard to seniority from amongst Intermediate passed Kanungos with at least 03 years.
4.	Head Clerk (Bt. 400) BP: 14 (Divisional cadre)	Against S.No. 4, in column No. 7, for the existing entries, the following shall be substituted, namely: Assistant having dealt with revenue or acquisition matters for at least 03 years.
5.	District Revenue Accountant (BP: 14)	Against S.No. 5, in column No. 7, for the existing entries, the following shall be substituted, namely: By promotion, on the basis of selection on seniority from amongst Kanungos with at least 03 years service.
6.	Kanungo (BP: 9)	Against S.No. 6, in column No. 7, for the existing entries, the following shall be substituted, namely: By promotion, on the basis of joint seniority-cum-fitness, on District level from amongst the patwaris/ Tehsil Revenue Accountant who have passed the Departmental Examination of Kanungo.
7.	Patwari (BP: 5)	Against S.No. 8, in column No. 7, for the existing entries, at clause (a) and (b) the following shall be substituted, namely: (a) By initial appointment from amongst the Patwari passed candidates entered in the Register maintained by the District Collector of the district concerned having one year certificate in information technology from an institution recognized by Board of Technical Education. (b) Successfully completed 09 months Settlement training. This condition will be applicable w.e.f. January, 2014.

Attested
[Signature]
Adv

Sd/- X-XX
SECRETARY



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 22/06/2013

NOTIFICATION

No. Estt: 1/26/ _____ Consequent upon the recommendation of Departmental Promotion Committee, the Competent Authority is pleased to order the promotion the following Naib Tehsildar, District Kanungo, District Revenue Accountant & Sub-Registrar (BPS - 14) to the post of Tehsildar (BPS - 16) on regular basis with immediate effect:-

S.NO	NAME OF OFFICER
1.	Mr. Gul Ghazi Khan
2.	Mr. Mukhtiar Ali
3.	Mr. Mushtaq Ahmad
4.	Mr. Liaqat Ali
5.	Mr. Ghulam Farooq
6.	Mr. Naz Amin
7.	Mr. Tariq Saleem
8.	Mr. Akbar Ifikhar Ahmad
9.	Muhammad Ayub Khan
10.	Mr. Shafi-ur-Rehman
11.	Mr. Attaullah
12.	Mr. Musaciq Hussain
13.	Mr. Abdul Qayum
14.	Muhammad Bashir
15.	Mr. Ifikhar Ahmad
✓ 16.	Muhammad Akram
✓ 17.	Mr. Ghulam Qasim

Attested
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Adv

2. On promotion, the above officers will be on probation for a period of one year in terms of Section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973, read with Rule 15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules - 1989.

3. Consequent upon above, the following postings / transfers are orders with immediate effect:-

S.NO.	NAME OF OFFICER	FROM	TO
1.	Mr. Gul Ghazi Khan	Tehsildar Takhti Nasrati (OPS)	Retained on the same station.
2.	Mr. Mukhtiar Ali	District Revenue Accountant Swabi	Services placed at the disposal of Commissioner Mardan Division for further posting.
3.	Mr. Mushtaq Ahmad	Sub-Registrar Karak	Services placed at the disposal of Commissioner Bannu Division for further posting.
4.	Mr. Liaqat Ali	Sub - Registrar Charsadda	Tehsildar / Recovery Officer Peshawar Circle
5.	Mr. Ghulam Farooq	Political Tehsildar (FR) Kohat	Retained on the same post.
5.	Mr. Naz Amin	PNT Barang Bajaur Agency	Services placed at the disposal of Commissioner, Malakand for further posting.
7.	Mr. Tariq Saleem	Tehsildar Domail	Retained on the same post.
8.	Mr. Akbar Ifikhar Ahmad	PT, Ali Zai Kurram Agency	Retained on the same post.
9.	Muhammad Ayub Khan	Tehsildar Bannu	Retained on the same post.

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S.NO.	NAME OF OFFICER	FROM	TO
10.	Mr. Shafi-ur-Rehman	District Kamungo Swat	Services placed at the disposal of Commissioner, Malakand for further posting.
11.	Mr. Attaullah Khan	Tehsildar Charsadda	Retained on the same post.
12.	Mr. Musadiq Hussain	Tehsildar Thall	Retained on the same post.
13.	Mr. Abdul Qayum	Tehsildar Kohat	Retained on the same post.
14.	Muhammad Bashir	Tehsildar Thazi	Retained on the same post.
15.	Mr. Hukbar Ahmad	Naib Tehsildar Manshera	Services placed at the disposal of Commissioner, Hazara for further posting.
16.	Muhammad Akram	DEA DIKhan	Services placed at the disposal of Commissioner, DIKhan for further posting.
17.	Mr. Ghulam Qasim	Naib Tehsildar Paroha DIKhan	Services placed at the disposal of Commissioner, DIKhan for further posting.

By order of
Secretary to Government of
Revenue & Estate Department

No. EST/126/235/3-4/00

- Copy forwarded to:-
1. All Commissioners, Districts, Peshawar
 2. All Commissioners, Districts, Faisalabad
 3. All Deputy Commissioners, Districts, Peshawar
 4. All Political Agents, Districts, Peshawar
 5. Superintending Engineer (O) PESCO, Peshawar Circle, Peshawar
 6. Deputy Secretary (Law & Order) P.A.P.A. Secretariat, Peshawar
 7. Officers concerned.
 8. Personal Files.

Attested
H.P.
Adv

Deputy Secretary to Government of
Revenue & Estate Department.

TRUE COPY

Adv

15 Jul 2013 09:14 P 1

FROM :

PHONE NO. :

JUL 01 2013



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 24/06/2013

NOTIFICATION

consequent upon the recommendation of Departmental Promotion Committee, the Competent Authority is pleased to order the promotion the following Naib Tehsildar District Kanungo, District Revenue Accountant & Sub-Registrar (DPS - 15) to the post of Tehsildar (DPS - 16) on regular basis with immediate effect:-

S.NO	NAME OF OFFICER
1.	Mr. Hazrat Qamar
2.	Mr. Muhammad Siddique
3.	Mr. Miari Khan
4.	Mr. Bashir Ahmad
5.	Mian Saadullah Jan
6.	Mr. Abdul Hafeez
7.	Mr. Asad Shah
8.	Mr. Ali Akbar Khan
9.	Mr. Abdul Gaffar
10.	Mr. Muhammad Farid
11.	Mr. Saad Rehman
12.	Mr. Qasim Khan
13.	Mr. Najib Ullah
14.	Mr. Mubashir Chulani
15.	Mr. Muhammad Hayat
16.	Mr. Waheed Ahmad
17.	Mr. Muhammad Hanif Khan
18.	Mr. Saif Ahmad
19.	Mr. Muhammad Rizwan
20.	Muhammad Nawaz
21.	Mr. Mirza
22.	Mr. Noman Ali Shah
23.	Mr. Shoukat Saif
24.	Mr. Hidayat Ullah
25.	Mr. Ghulam Sarwar
26.	Mr. Farzad Ali
27.	Mr. Saif Rahim
28.	Mr. Fazl Razaq
29.	Mr. Asmat Ullah
30.	Mr. Hussain Bakhsh
31.	Mr. Abdu Rashid
32.	Mr. Farah Ullah
33.	Mr. Muzaim Hussain
34.	Mr. Muhammad Israr
35.	Mr. Atzal Khan
36.	Mr. Gul Saif
37.	Mr. Jehanzeb
38.	Mr. Anwar-ul-Haq
39.	Mr. Bilal Khan

AOR

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24/6/13



2. On promotion the above officers will be on probation for a period of one year in terms of section-6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973, read with Rule 15 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules - 1956.

3. Consequently upon above, the following postings / transfers are orders with immediate effect:-

S.NO	NAME OF OFFICER	FROM	TO
1.	Mr. Hazrat Qamar	District Revenue Accountant Buner	Services placed at the disposal of Commissioner, Malakand for further posting.
2.	Mr. Muhammad Siddique	District Revenue Accountant Peshawar	Reader to Member - II, Board of Revenue
3.	Mr. Miera Khan	Sub-Registrar Malakand	Services placed at the disposal of Commissioner, Mardan for further posting as Tehsildar Takht Bhai
4.	Mr. Bashir Ahmad	Tehsildar Swabi	Retained on the same post.
5.	Mrs. Samra Jan	Tehsildar Tangi	Retained on the same post.
6.	Mr. Abdul Haleem	District Kamanga Battagram	Services placed at the disposal of Commissioner, Hazara for further posting.
7.	Mr. Asghar Shah	Tehsildar / Recovery Officer NHA Abbottabad	Services placed at the disposal of Commissioner, Hazara for further posting as Tehsildar Balakot.
8.	Mr. Ali Sher Khan	Tehsildar on Special Duty, Board of Revenue	Retained on the same post.
9.	Mr. Abdul Ghaffar	Tehsildar Sema Nazranj	Retained on the same post.
10.	Mr. Muhammad Taj	District Kamanga Haripur	Services placed at the disposal of Commissioner, Hazara for further posting.
11.	Mr. Said Rehman	Tehsildar Anti-corruption Peshawar	Retained on the same post.
12.	Mr. Qasim Khan	Tehsildar (PR) Bannu	Retained on the same post.
13.	Mr. Najeeb Ullah	Special Tehsildar Irrigation (Rod Koh) D.Khan	Retained on the same post.
14.	Mr. Muhammad Ghulam	District Kamanga Karak	Services placed at the disposal of Commissioner, Kohat for further posting.
15.	Mr. Muhammad Hayat	Tehsildar (OPS) National Accountability Bureau	Retained on the same post.
16.	Mr. Waheed Ahmad	Tehsildar (OPS) Adiala	Retained on the same post.
17.	Mr. Muhammad Hanayyan	Sub-Registrar Dir Lower	Services placed at the disposal of Commissioner, Malakand for further posting.
18.	Mr. Sarir Ahmad	Tehsildar Nowshera	Retained on the same post.
19.	Mr. Muhammad Raza	Tehsildar / Recovery Officer Peshawar Circle Peshawar	Services placed at the disposal of Commissioner, Peshawar for further posting as Tehsildar Pabli
20.	Muhammad Nawaz	Tehsildar Battagram	Retained on the same post.
21.	Mr. Mir Lala	Tehsildar Mardan	Retained on the same post.
22.	Mr. Nauman Ali Shah	PT, Lower Orakzai	Retained on the same post.
23.	Mr. Shouin Shah	Tehsildar (OPS) Shabadar	Retained on the same post.
24.	Mr. Illayaz Ullah	Tehsildar (OPS) Behrain	Retained on the same post.
25.	Mr. Ghulam Sarwar	Sub Tehsildar Martuqi	Services placed at the disposal of Commissioner, Malakand for further posting.
26.	Mr. Farzand Ali	Sub Tehsildar Chaglagh	Services placed at the disposal of Commissioner, Malakand for further posting.

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FOR NO. : 111 27 2013 2013

FOR NO. :

Sl. No.	Name of Officer	From	To
21	Mr. [Name]	Mr. [Name] (Ops) Swat	Services placed at the disposal of Commissioner, Swat
22	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
23	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
24	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
25	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
26	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
27	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
28	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
29	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
30	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
31	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
32	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
33	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
34	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
35	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
36	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
37	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
38	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
39	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
40	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
41	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
42	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
43	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
44	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
45	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
46	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
47	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
48	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
49	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat
50	Mr. [Name]	Mr. [Name] (Revenue) Swat	Services placed at the disposal of Commissioner, Swat

Secretary to Government of Khyber Pakhtunkhwa
Revenue & Finance Department

Copy forwarded to
 1. Mr. [Name]
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 50. Mr. [Name]

Secretary to Government of Khyber Pakhtunkhwa
Revenue & Finance Department

Annex-D p. 18

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. 1724-P of 2013

Shakir Ullah & others Petitioners

Versus

Secretary Revenue and Estate Deptt: Khyber Pakhtunkhwa
Peshawar & others Respondents

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1.	Memo of writ petition		1-12
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3.	Addresses of the parties		14-20
4.	Copy of appointments orders	"A"	21-25
5.	Copy of Tehsildar, Naib Tehsildar Rules, 2008	"B"	26-29
6.	Copy of Notification No.12390-12429/Admn: 1/1/296/ Amendment dated 30/03/2011.	"C"	30-32
7.	Copy of Notification No.Esst: 1/1/296/Amendment /29174 dated 02/12/2011	"D"	33
8.	Copy of Impugned order No.Esst: 1/ 26-11338 dated 04/06/2013	"E"	34-36
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10.	Copy of letter Estt: 1/1/7270 dated 21/03/2012	"G"	46
11.	Court Fee Stamp Rs.500/-		In original
12.	Wakalat Namaz		In original

Attested
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Dated 17/06/2013

Through

Petitioners

Abdul Matin Khan

Mauz Ullah Khan Khalil
Advocates, High Court,
Peshawar.
Cell # 0301-5921847

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URGENT FORM

IN THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. 172 of 2013

Shakir Ullah & others Petitioners

Versus

Secretary Revenue and Estate Deptt: Khyber Pakhtunkhwa
Peshawar & others Respondents

Will you kindly treat the accompanying Writ Petition as urgent
and in accordance with the Provisions of Rules, Chapter 2-A, High
Court Rules & Orders Volume V.

2) The Grounds of urgency are:

- A) That the respondents are bent upon issuing promoting orders almost on weekly basis favouring their blue eyed officials jeopardizing the career of those young Naib Tehsildars /petitioners who have qualified competitive examination conducted by Public Service Commission.
- B) That in order to keep a lid on their illegal orders, the petitioner are being denied access to the relevant documents.
- C) That if the matter is not heard urgently the petitioners are going to suffer multiple and irreparable loss to their career.

Dated 17/06/2013

Petitioners

Through

Abdul Matin Khan

Maaz Ullah Khan Khalil
Advocates, High Court,
Peshawar.
Cell # 0301-5921847

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. 1720 - P of 2013

- 1) Shakir Ullah Son of Khan Mir R/o Mohallah Sodar Khel, Village Piro Khel, Tehsil Landi Kotal Khyber Agency.
- 2) Munir Ahmad Son of Jhangi Khan R/o Outside Lahgari Gate, Bagh Ghali Al-Noor Masjid, Street Sahib Jan Colony House No. 69, D.I, Khan.
- 3) Rahamd Ullah Khan Son of Ahmad Khan R/o Village, Daulat Khel, Ishaq Khel, Tehsil & District Lakki Marwat.
- 4) Intiaz Ali Shah Son of Muhammad Ali Shah R/o Village & P.O Warana Shahabad, Tehsil Takht Nasrati, District Karak.
- 5) Khalid Khan Son of Istikhar Hussain R/o Village & P.O Khar Bajaur Agency.
- 6) Fazli Wadood Son of Fazli Mahmood R/o Village Saad Ullah, Mohmand Agency.
- 7) Irshad Ali Son of Dost Muhammad R/o Village, P.O and Tehsil Tangi District Charsadda.
- 8) Noor ul Amin Son of Zar Mueen R/o Hassan Abad Colony, P.O Zafarabad Colony, D.I. Khan.
- 9) Amir Nawaz Son of Gul Daraz R/o Main Panyala Tehsil Paharpur District D.I Khan

A. I. S. K. U.

Adw

ATTORNEY



- 10) Shah Wazir Son of Abdullah Khan R/o Wazirstan Hotel & Restaurant Wana Road, South Waziristan Agency.
- 11) Sikandar Khan Son of Sar Zamin Khan R/o Village & P.O Tehsil Charbagh, Mohallah Manri District Swat.
- 12) Ishtiaq Ahmed Khan Son of Ala ud Din R/o Village & P.O Old Sakhakot Malakand Agency.
- 13) Shams ul Islam Son of Faqir Gul R/o Village & P.O Ghari Usmani Khel Tehsil Dargai, District Malakand.
- 14) Muhammad Ilyas Son of Shah Nasim Khan R/o Mohallah Khattak Khel, Village & P.O Hazara Tehsil & District Swat.
- 15) Yasir Salman Kundi Son of Hamid Khan Kundi R/o Chowk Chashma Road, P.O Shiekh Yousaf D.I. Khan.
- 16) Yad Ullah Khan Khattak Son of Mohibullah Khattak R/o Mohallah Pela Khel, P.O Lund Khwar, Tehsil Takht Bhai District Mardan.
- 17) Ahmad Hashmi Son of Fazli Rabbi R/o Village Raidghari, Tehsil & P.O Lal Qilla, Maida District Dir Lower.
- 18) Amin Ullah Khan Son of Dost Muhammed Khan R/o Village Baggi Qamar P.O Rehmani Khel, Tehsil Paharpur District D.I. Khan.
- 19) Islah ud Din Son of Syed Badshah R/o Village Nawab Dhery, P.O Talakar, Tehsil Thakt Bhai District Mardan.

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- (22)
- 20) Zahid Younis Son of Muhammad Younis R/o Village & P.O Latamber, Tehsil & District Karak.
- 21) Niamat Ullah Son of Khanim Ullah R/o Village & P.O Dhery Lakpani Tehsil & District Mardan.
- 22) Muhammad Riaz Son of Fazal Aziz R/o Village, P.O and Tehsil Monda District Dir Lower.
- 23) Muhammad Yar Son of Waqif Khan R/o Village & P.O Skhakot Bazaar Malakand Agency.
- 24) Sher Ali Khan Son of Sahibzar Gul R/o Landi Kass Mingora Swat.
- 25) Munawar Shah Son of Abdur Rashid R/o Village Shehadda P.O Chakdara Tehsil Adenzai, District Dir Lower.
- 26) Iftikhar ud Din Son of Zewar Din R/o Gulbahar Colony No.1 Mardan Road, GPO Charsadda.
- 27) Younis Khan Son of Waqif Khan R/o Village & P.O Akhagram Tehsil Wari District Dir Lower
- 28) Mujahid Ali Son of Khalil ur Rehman R/o Village Kund Tazadin P.O Pabbi District Nowshera.
- 29) Syed Abdul Akbar Shah Son of Syed Gul Chaman R/o Village Pirahad, P.O Bashkhalai, District Mardan.
- 30) Syed Sultan Haider Shah Son of Syed Gulzar Hussain Shah R/o House No.946/14-A, Shiekhabad No.3, District Peshawar.

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- 31) Aftab Ahmed Son of Javed Muhammad R/o Village & P.O Chaghar Matti Tehsil & District Peshawar.
- 32) Dil Nawaz Khan Son of Alam Zeb R/o Village & P.O Kalo Khan, Tehsil & District Swabi.
- 33) Kifayat Ullah Son of Haji Akbar R/o Street Idressabad Gulbahar No.3, Peshawar.
- 34) Faqir Hussain Son of Muhammad Younis R/o Kandi Taza Din P.O Pabbi District Nowshera.
- 35) Zulfiqar Khan Son of Arsala Khan R/o Village Hassan Ghari Shami Road, Peshawar.
- 36) Waqar Ahmad Son of Muhammad Irfan R/o Village & P.O Kanshian Tehsil Bala Kot District Mansehra.
- 37) Muhammad Faraz Qureshi Son of Muhammad Riaz Qureshi R/o Street No.1 Al-Mansoor Town, Ayub Medical Complex Abbottabad.
- 38) Fazal ur Rehman Son of Habib ur Rehman R/o Village & P.O Paind Hashim Khan Tehsil & District Haripur.
- 39) Farukh Jadoon Son of Anwar Ahmed Khan R/o Village & P.O Langra Tehsil & District Abbottabad.
- 40) Fayaz Ahmed Son of Pir Khan R/o Village & P.O Beeran Ghali, Tehsil & District Abbottabad.
- 41) Bilal Ahmad Son of Farid ud Din R/o Village Kalis P.O Tehsil & District Haripur.

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- 42) Tanveer Shahzad Son of Muhammad Sahif R/o Badira Road Mohallah Lahor-Banda, Mansehra.
- 43) Ejaz Ahmad Son of Muhammad Riaz R/o Tanda Mera, Village & P.O Salhad Tehsil & District Abbottabad.
- 44) Muhammad Salim Son of Muhammad Saddique R/o Village Badhair, P.O Nathia Ghali Tehsil & District Abbottabad.

..... Petitioners

Versus

- 1) Secretary Revenue and Estate Deptt: Khyber Pakhtunkhwa Peshawar.
- 2) Departmental Promotion Committee Revenue and Estate Deptt: Khyber Pakhtunkhwa Peshawar through Respondent No.1.
- 3) Deputy Secretary Revenue and Estate Deptt: Khyber Pakhtunkhwa Peshawar.
- 4) Hazrat Qamar C/o Commissioner Malakand Division.
- 5) Muhammad Siddique Reader to Member -II Board of Revenue.
- 6) Misri Khan Tehsildar Chota Lahor District Swabi.
- 7) Bashir Ahmed Tehsildar Swabi.
- 8) Mian Sami Ullah Tehsildar Tangi.
- 9) Abdul Haleem C/o Commissioner Hazara.
- 10) Asghar Shah C/o Commissioner Hazara posted at Battgram.
- 11) Ali Sher Khan Tehsildar on Special Duty Revenue Peshawar.
- 12) Abdul Ghaffar Tehsildar Sarai Nourang.

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- 13) Muhammad Taj C/o Commissioner Hazara.
- 14) Said Rehman Tehsildar Anti Corruption Peshawar.
- 15) Qaiser Khan Tehsildar FR Bannu.
- 16) Najeeb Ullah Tehsildar Irrigation (Rod Kohi) D.I.Khan
- 17) Muhammad Ghulam C/o Commissioner Kohat.
- 18) Muhammad Hayat Tehsildar (OPS) National Accountability Bureau.
- 19) Waheed Ahmed (OPS) Allai.
- 20) Muhammad Hamayun C/o Commissioner Malakand Division.
- 21) Surir Ahmed Tehsildar Nowshera.
- 22) Muhammad Riaz Tehsildar Pabbi.
- 23) Muhammad Nawaz Tehsildar Battagram
- 24) Mir Laiq Tehsildar Mardan
- 25) Nouman Ali Shah PT Lower Orakzai, Kurram Agency.
- 26) Shourin Shah Tehsildar (OPS) Shabqadar.
- 27) Hidayat Ullah Tehsildar (OPS) Behrain.
- 28) Ghulam Sarwar C/o Commissioner Malakand Division.
- 29) Farzand Ali C/o Commissioner Malakand Division.
- 30) Said Rahim C/o Commissioner Malakand Division.
- 31) Fazli Raziq C/o Commissioner Malakand Division.
- 32) Asmat Ullah C/o Commissioner Bannu.
- 33) Hussain Bakhsh C/o Commissioner D.I.Khan
- 34) Abdur Rashid C/o Commissioner D.I.Khan
- 35) Fateh Ullah FATA Secretariat.
- 36) Mulazim Hussain C/o Commissioner D.I.Khan Division.
- 37) Muhammad Israr C/o Commissioner Bannu.
- 38) Afzal Khan Tehsildar Khadu Khel (OPS) Buner.
- 39) Gul Said Recovery Officer NRSP, Matta Swat.
- 40) Jehanzeb C/o Commissioner Malakand.
- 41) Anwar ul Haq C/o Commissioner Malakand.

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- 42) Kulab Khan C/o Commissioner D.I Khan.
- 43) Qaiser Khan
- 44) Latif Khan Sons of Ismail Khan R/o Bajkatta District Buner.

..... Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973, AGAINST THE ORDER OF RESPONDENTS NO.1 TO 3 WHEREBY RESPONDENT NO.4 TO WERE PROMOTED VIDE NOTIFICATION NO. ESTT: 1/26/11333 DATED 04/06/20013 ISSUED IN BLATANT VIOLATION OF THE TEHSILDARI AND NAIB TEHSILDARI RULES 2008 AS AMENDED FROM TIME TO TIME.

Prayer:

On acceptance of this writ petition the impugned notification and the illegal promotions may be set aside and respondents No.1 to 3 be directed to reconsider the entire case strictly in accordance with the Rules in vogue.

Respectfully Sheweth:

The petitioners submit as under:

- 1) That the petitioners were recruited as Naib Tehsildars through a competitive examination conducted by the Khyber Pakhtunkhwa Public Service Commission and the petitioners were accordingly appointed as Naib Tehsildars by the Respondents vide appointment order No. 1782-1907/Admn:V/PSC dated 22/01/2009. (Copy of the appointments order are at Annexure "A".
- 2) That according to Tehsildar, Naib Tehsildar / Subordinate Revenue Service Rules 2008, Notified vide No.32102/ Admn:1/135/SSRC dated 26/12/2008, the post of Tehsildar was to be filled in under clause-(c) to the extent

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of 20% by initial recruitment, under clause (b) to the extent of 60% by promotion from Naib Tehsildars and under clause (c) to the extent of 20% from the officials working in various branches of Revenue Administration, but for all categories minimum Qualification was 2nd Class graduation from a recognized University as per column 5 describing minimum qualification for appointment by promotion. The condition of graduation was to be made applicable after 5 years of the date of notification to the promotion quota of 60% under clause (b). (Copy of the Rules is at Annexure "B")

3) That these Rules were further amended vide Notification No.12390 - 12429/ Admn. 1/1/296/Amendment dated 30/03/2011. Through this notification clauses (b) and (c) of column 7 were substituted and officials like District Kunongos, District Revenue Accountants and Head Clerks (Revenue) were made eligible for the 60% Quota meant for the Niab Tehsildars. The non-application of the condition of graduation for 5 years was also done away with. (Copy of the Amendment Notification is at Annexure "C").

4) That yet another amendment was made in the said rules vide Notification No.Est.1/1/296/Amendment /29174 dated 02/12/2011 where again for the post of Tehsildar changes were introduced in the 60% Quota meant for promotion of Niab Tehsildars to the post of Tehsildars. This time Sub-Registrar were included in the list of eligible officials. (Copy of this Notification is at Annexure "D").

5) That it will be easy to conclude that the minimum qualification for recruitment to the post of Tehsildar is

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Second class Graduation as throughout these amendments, the entries in column No.5 have neither been deleted nor changed and the non-application of the condition of graduation for five years was also deleted.

- 6) That it can be easily concluded that all the amendments introduced in the 60% Quota originally meant only for Naib Tehsildars; are meant to reduce the chances of directly recruited Naib Tehsildars to become Tehsildars under mala fide intention of the authorities.
- 7) That respondents No.1 to 3, through the impugned orders, have promoted Respondent No.4 to 42 against the rules without ensuring the basic qualification of graduation required for promotion to the post of Tehsildar as required by the entries in column No.5 of the Rules, as these stand today, with the result that respondents No.6,7,9,10,13,14,18,19,20,21,22,23,24,28,29,30,32,33,35,36,38 &42 have been promoted despite the fact that they are not graduates. (Copy of the impugned order No.Esst:1/26-11338 dated 04/06/2013 is at Annexure "E").

8) That respondent No.43&44 have been promoted clandestinely through administrative orders as both of them were Patwaries in the year 2007-08 but are now working as EACs in District Buner. According to Letter No.Esst: 1/1/7270 dated 02/03/2012, issued by respondent No.1 addressed to Director, Land Record, wherein the designation of both these respondents was mentioned as District Kanungo. It is amazing that an official who was District Kanungo in the year of 2012, received three promotions i.e. as Naib Tehsildar, Tehsildar and EACs in one year. This could have happened only in the revenue Deptt. (Copy of the Letter is as Annexure "F").

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- 9) That these promotions have been ordered in haste and without due process of law as no joint seniority list has been prepared in accordance with law regarding those officials who were to be considered for promotion to the post of Tehsildar. Such a joint seniority list is the basic requirement for any promotion process.
- 10) That the so-called final seniority list issued vide Office No.Estt-V/S.1/927 dated 26/04/2013 contains the name of those officials who have been shown as promoted to the post of Naib Tehsildars through the Administrative order of SMBR. Such like administrative order is neither a process recognized by the Rules on the subject nor is logical because in the presence of Departmental Promotion Committee, no authority, even the Chief Secretary, cannot promote any person to any post without the process of approval by a Departmental Promotion Committee. (Copy of the Seniority List is at Annexure "G").
- 11) That the seniority list has been issued at the back of the petitioners as the same has not been circulated amongst the petitioners as required by law.
- 12) That the seniority list shows that promotions have been ordered every 2/3 days which tells upon the working of one of the most important department of the province.
- 13) That the respondents No. 1 to 3 are busy in processing further cases of promotion without adopting the proper procedure in accordance with rules on the subject. Any such orders, if issued, during the pendency of this writ

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petition would be brought to the notice of this Hon'ble Court with due permission.

- 14) That the attitude of the Respondents No.1 to 3 is arbitrary, arrogant, motivated by favouritism, against the law and facts and liable to be stopped through interim order to save the career of the petitioners who are young and are likely to suffer irreparable loss.
- 15) That feeling aggrieved, the petitioners have no other adequate remedy under the existing law of the land but to approach this Hon'ble Court through this writ petition with the request to set aside the impugned promotion orders on the following, amongst others;

Grounds:

- A) That the impugned order is against the law on the subject and the rules framed by the respondents themselves;
- B) That the respondents want to favour certain officials to the detriment of the petitioners who have joined the service through competitive examination and the respondents are bent upon destroying their career from the very start;
- C) That promoting some of the respondents as Naib Tehsildars through administrative orders, instead of the

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normal route of DPC, and then promoting them further as Tehsildars shows their favouritism and disregard for law.

D) That the orders of the respondents No.1 to 3 are illegal, arbitrary and against the fundamental rights and need interference by this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of this writ petition the impugned notification and the illegal promotions may be set aside and the respondent be directed to reconsider the entire case strictly in accordance with the Rules in vogue.

Interim Relief:
That the illegal impugned orders of promotion may kindly be suspended till the decision of this Writ petition as the same is against the Rules on face of it.

Dated 17/06/2013

Through *Petitioners*
Abdul Matin Khan
Advocate, High Court,
Peshawar.

Certificate:
Certified that as per instruction of my client no such like writ petition on the subject has earlier been filed before this Hon'ble Court.

Advocate

- List of Books:
1) Constitution of the Islamic Republic of Pakistan, 1973.
2) Other law books as per need.

Advocate

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A. H. Khan
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Adv

Amended - 17/12/13

PESHAWAR HIGH COURT, PESHAWAR
FROM 'A'

FORM OF ORDER SHEET

COURT OF
CASE NO.

SERIAL NO OF ORDER OR PROCEEDINGS	DATE OF ORDER OR PROCEEDINGS	ORDER OR OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE OR MAGISTRATE AND THAT OF PARTIES OR COUNSEL WHERE NECESSARY
1	2	3
	05.11.2013	<p><u>W.P No. 1720-P/2013.</u></p> <p>Present:</p> <p style="padding-left: 40px;">Mr. Abdul Matin, Advocate, for the petitioners.</p> <p style="text-align: center;">*****</p> <p><u>ROOH-UL-AMIN KHAN, J:-</u></p> <p>Through the instant petition, the petitioners have prayed for issuance of appropriate writ directing the cancellation of the impugned notification, thereby setting aside the illegal promotions and with further prayer for reconsideration of the entire case strictly in accordance with law and rules.</p> <p>On the previous date learned counsel for the petitioners was confronted with the proposition that ultimately the Court would determine the question of rights of a civil servant under the Civil Servants Law which is beyond the jurisdiction of</p>

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Service Tribunal. On request of the learned counsel for the petitioners the case was adjourned for further study and preparation of the case. Today the learned counsel for the petitioners, when occupied the Rostrum, stated at the bar that through the instant Writ Petition he has challenged the impugned order on the grounds that he is eligible for promotion but the department has denied him to consider, wherein the jurisdiction of this Court is barred under Article 212 of Constitution of Pakistan and the same question is amendable to the jurisdiction of Service Tribunal constituted under the Article *ibid*. The learned counsel for the petitioner, however, submitted that the instant petition has been filed on 18/6/2013 and since than is pending adjudication for decision, in motion. He requested that the instant writ petition be transmitted to respondent No.1, as departmental

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appeal for decision. The request of the counsel for the petitioner is genuine, thus, copy of this Writ Petition be transmitted to respondent No.1 i.e. Secretary Revenue and Estate Department Khyber Pakhtunkhwa shall be treated as Departmental Appeal and be decided in the prescribed limits of time strictly in accordance with Rules and Law.

With the above observations, this Writ Petition is disposed off accordingly.

Announced:
5th November, 2013.

Judicial Officer
JUDGE

[Signature]
JUDGE

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*Ali Raza
A.C.W.*



Annex - E .35
GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 23/01/2014

NOTIFICATION

No. Estt:1/26/_____ Upon acceptance of appeal filed by Mr. Shakirullah & others, the Competent Authority held the promotion order to post of Tehsildar issued vide this department Notifications No. Estt:1/26/11338 dated 04.06.2013, No Estt:1/26/12401 and No. Estt:1/26/12342 dated 18.06.2013 in respect of following officials as not having the prescribed qualification for the post of Tehsildars. Accordingly, the promotion orders of the officials listed below are withdrawn and they are reverted to the post held before prior to their promotion.

S.NO	NAME OF OFFICIAL
1.	Mr. Misri Khan
2.	Mr. Bashir Ahmad
3.	Mr. Abdul Haleem
4.	Mr. Asghar Shah
5.	Mr. Muhammad Taj
6.	Mr. Said Rehman
7.	Mr. Muhammad Hayat
8.	Mr. Waheed Ahmad
9.	Mr. Muhammad Hamayun
10.	Mr. Sarir Ahmad
11.	Mr. Muhammad Riaz
12.	Muhammad Nawaz
13.	Mr. Mir Laiq
14.	Mr. Ghulam Sarwar
15.	Mr. Farzand Ali
16.	Mr. Said Rahim
17.	Mr. Fazli Raziq
18.	Mr. Asmat Ullah
19.	M Hussain Bakhsh
20.	M. Abdur Rashid
21.	Mr. Fatch Ullah
22.	Mr. Mulazim Hussain
23.	Mr. Afzal Khan
24.	Mr. Gulab Khan
25.	Mr. Gul Ghazi Khan

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S.NO	NAME OF OFFICIAL
26.	Mr. Mukhtiar Ali
27.	Mr. Mushtaq Ahmad
28.	Mr. Liaqat Ali
29.	Mr. Naz Amin
30.	Mr. Shafi-ur-Rehman
31.	Mr. Attaullah
32.	Mr. Musadiq Hussain
33.	Mr. Abdul Qayum
34.	Muhammad Bashir
35.	Mr. Htikhar Ahmad
36.	Muhammad Akram
37.	Mr. Ghulam Qasim
38.	Mr. Attaullah
39.	Mr. Tifa Muhammad

No. Estt: 1/26/ 1984-2061

By order of
Secretary

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. All Commissioners, in Khyber Pakhtunkhwa.
3. All Deputy Commissioners, in Khyber Pakhtunkhwa.
4. All Political Agents in Khyber Pakhtunkhwa.
5. Deputy Secretary (Law & Order) FATA Secretariat Khyber Pakhtunkhwa.
6. Official concerned.

Secretary - I



To

The Worthy Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:- **DEPARTMENTAL APPEAL**

Prayer in Appeal

By accepting this departmental appeal, the impugned Notification No. 1984-2061 dated 23-1-2014 passed by the Secretary Board of Revenue and Estate Department/SMBR, KPK, whereby the appellant was reverted illegally from the post of Tehsildar to the post of Naib-Tehsildar, may graciously be set aside and the appellant may kindly be restored as Tehsildar alongwith all back wages and consequential benefits.

RESPECTED SIR,

That the appellant files this Departmental Appeal before the Hon'ble Appellate Authority inter-alia on the following grounds:-

1. That the appellant was serving as Naib Tehsildar at the relevant time under the supervision and control of Board of Revenue & Estate Department.
2. That according to Tehsildar, Naib Tehsildar / Subordinate Revenue Service Rules 2008, notified vide No.32102/Admn:1/135/SSRC dated 26-12-2008, the post of Tehsildar was to be filled in under clause(a) to the extent of 20% by initial recruitment, under clause(b) to the extent of 60% by promotion from Naib Tehsildars and under clause(c) to the extent of 20% from the officials working in various branches of Revenue Administration. But for all categories minimum qualification was 2nd class graduation from a recognized University as per column 5 describing minimum qualification for appointment by promotion. The condition of graduation was to be made applicable after 5 years of the date of Notification to the promotion quota of 60% under clause(b) (Copy of the rules is appended as Annex-A)
3. That the above Rules were further amended vide Notification No.12390-12429/Admn:1/1/296/Amendment dated 30-3-2011. Through this Notification clauses(b) and (c) of column 7 were substituted and officials like District Kunongos, District Revenue Accountants and Head Clerks (Revenue) were made eligible for the 60% quota meant for the Naib Tehsildars. The condition of graduation for 5 years as mentioned in Rules 2008 was also deleted.(Copy of the amended Notification of rules is as Annex-B).

4. That on 4-6-2013, the appellant and other employees of the Revenue Department was promoted as Tehsildar (B-16) on regular basis after recommendation of properly constituted and legally competent "DPC" because the above employees were senior in their cadre and having the eligibility for the posts of Tehsildars (B-16) under the relevant rules (Copy Annex-C).
5. That Shakirullah and other employees of the Revenue Department, felt aggrieved by the various promotion orders of Tehsildars, approached the Hon'ble Peshawar High Court by way of filing a Writ Petition No.1720-P/2013 praying therein that the impugned Notification and illegal promotions may graciously be set aside and the respondents No.1 to 3 be directed to consider the entire case strictly in accordance with the rules in vogue. This writ petition came up for hearing before the Hon'ble Court and it was held that the court has no jurisdiction to entertain the grievance of the petitioners and that the matter falls within the exclusive jurisdiction of Service Tribunal. However, the writ petition was converted into departmental appeal and the same was sent to respondent No.1 i.e Secretary, Revenue and Estate Department, KPK to decide it within the statutory period of law (Copy Annex-D).
6. That the Secretary Revenue and Estate Department vide Notification No. Estt:I/26/1984-2061 dated 23-1-2014 has illegally withdrawn the promotion orders of the appellant and other employees of the Revenue Department, on the pretext of lack of prescribed qualification for posts of Tehsildars, without application of his independent mind to the merit of the case. Hence, the impugned order is not sustainable in the eye of law (Copy Annex-E)
7. That it is worth mentioning at this juncture that after withdrawal of Notification in respect of promotion of appellant and others, the Competent Authority has also posted them as Tehsildar (B-16) on current charge basis (Copy Annex-F). This clearly shows that the above employees were eligible for the said posts under the relevant Rules.
8. That the order of Competent Authority is not based on sound reasons and correct appreciation of law for the reasons that the condition of educational qualification was not the requirement of relevant Rules, 2011 for the post of Tehsildar to be filled through promotion. The condition of the said qualification was only essential for the post of Tehsildar under the Rules, 2008 which were superseded by subsequent Rules, 2011 and the condition in respect of qualification was deleted accordingly. The Competent Authority was under statutory obligation to have considered the case of promotion in respect of employees in its true perspective and in accordance with the above Rules 2011. But he has over looked this aspect of the case and as such great injustice has been caused to the appellant as well as other employees. Therefore, the unilateral impugned order was malafide, incompetent, capricious, perverse having no sanction of law, was in excess of powers, in derogation of settled rules and principle of law, against the public policy and also against the interest of Public Authority and Trust.

9. That the Competent Authority was bound to have provided an opportunity of hearing to the appellant before passing the impugned order in respect of his reversion from the post of Tehsildar to Naib Tehsildar, in order to justify his eligibility of promotion as Tehsildar(B-16). But he failed to do so. Thus, the appellant has been condemned / penalized without being heard contrary to the basic Principle of Natural Justice known as "**Audi Alteram Partem**". Hence the impugned order is against the spirit of administration of justice. It is also well settled law that no adverse order can be passed against any person without providing him an opportunity of hearing. Reliance in this respect can be placed on the judgments of August Supreme Court of Pakistan reported in **2008-PLD(Supreme Court)412 citation (a)** and **2002-SCMR-1034 citation (o)**. The relevant citations of the said judgments are reproduced herein for facility of reference:-

2008-PLD(Supreme Court)412 citation (a)

Administration of justice---

---Natural justice, principles of---Opportunity of hearing---Scope---Order adverse to interest of a person cannot be passed without providing him an opportunity of hearing---Departure from such rule may render such order illegal.

2002-SCMR-1034 citation (o)

Maxim

"Audi alteram partem" Application---Principle enshrined in maxim "Audi alteram partem" has to be applied in all judicial and non-judicial proceedings notwithstanding the fact that right of hearing has not been expressly provided by the statute governing the proceedings.

It is well settled law that the decision of August Supreme Court of Pakistan is binding on each and every organ of the State by virtue of Article 189 and 190 of the Constitution of Islamic Republic of Pakistan, 1973. Reliance can be placed on the judgment reported in **1996-SCMR-Page-284 (Citation-C)**. The relevant citation is as under:-

(c) Constitution of Pakistan (1973)

Arts. 189 & 190--- Decision of Supreme Court--- Binding, effect of--- Extent---Law declared by Supreme Court would bind all Courts, Tribunals and bureaucratic set-up in Pakistan.

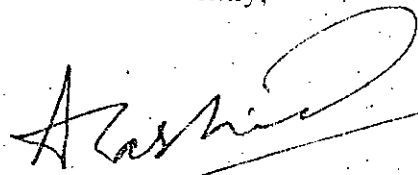
10. That the Competent Authority has passed impugned order in mechanical manner and the same is perfunctory as well as non-speaking and also

against the basic principle of administration of justice. Therefore, the impugned order is not warranted by law.

11. That the impugned order of the Competent Authority is the result of misreading and non-reading of relevant service rules. Hence, the same is liable to be set aside.

In view of the above narrated facts and grounds, the impugned Notification No. 1984-2061 dated 23-1-2014 passed by the Secretary Board of Revenue and Estate Department/SMBR, KPK, whereby the appellant was reverted illegally from the post of Tehsildar to the post of Naib-Tehsildar, may graciously be set aside and the appellant may kindly be restored as Tehsildar alongwith all back wages and consequential benefits.

Yours obediently,



Abdul Rashid,
Tehsildar, Tehsil Colachi,
District D.I.Khan.

Dated: 20-2-2014

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GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 24/01/2014.

Annex-6

No. Estt:1/26/ 2270. On issuance of Notification No. Estt:1/26/1983, dated 23.01.2014 the Competent Authority is pleased to post the following Naib Tehsildars, District Kanungos, District Revenue Accountants, Sub-Registrars and Superintendents as Tehsildar on Current Charge Basis with immediate effect and in public interest: -

S.No.	NAME	DESIGNATION & PRESENT POSTING	TO
	Mr. Misri Khan	Tehsildar Lahor, District Swabi	Retained on the same post (On current Charge basis)
2.	Mr. Bashir Ahmad	Tehsildar Swabi	Retained on the same post (On current Charge basis)
3.	Mr. Abdul Halceem	Tehsildar Battagram	Retained on the same post (On current Charge basis)
4.	Mr. Asghar Shah	Tehsildar Mardan	Retained on the same post (On current Charge basis)
5.	Mr. Muhammad Taj	Tehsildar Manshehra	Retained on the same post (On current Charge basis)
6.	Mr. Said Rehman	Tehsildar Anti-Corruption	Retained on the same post (On current Charge basis)
7.	Mr. Muhammad Hayat	Tehsildar Tangi District Charsadda	Tehsildar Tangi District Charsadda (Current Charge basis)
8.	Mr. Waheed Ahmad	Tehsildar Haripur	Retained on the same post (On current Charge basis)
9.	Mr. Muhammad Hamayun	Tehsildar Upper Dir	Retained on the same post (On current Charge basis)
10.	Mr. Sarir Ahmad	Tehsildar Nowshera	Tehsildar Nowshera (CCB)
11.	Mr. Muhammad Riaz	Tehsildar Pabbi	Retained on the same post (Or current Charge basis)
12.	Muhammad Nawaz	Tehsildar Charsadda	Retained on the same post (Or current Charge basis)
13.	Mr. Mir Laiq	Tehsildar Peshawar	Retained on the same post (Or current Charge basis)
14.	Mr. Ghulam Sarwar	Tehsildar Behrain	Retained on the same post (Or current Charge basis)
15.	Mr. Farzand Ali	Tehsildar Mandar	Retained on the same post (Or current Charge basis)
16.	Mr. Said Rahim	Tehsildar Timergara	Retained on the same post (Or current Charge basis)
17.	Mr. Fazli Raziq	Tehsildar Gagra	Retained on the same post (Or current Charge basis)
18.	Mr. Asmat Ullah	Tehsildar Bannu	Retained on the same post (Or current Charge basis)
19.	Mr. Hussian Bakhsh	Tehsildar Land Acquisition DIK	Retained on the same post (Or current Charge basis)
20.	Mr. Abdur Rashid	Tehsildar Kulachi	Retained on the same post (Or current Charge basis)
21.	Mr. Fatch Ullah	Political Tehsildar Dossali (NVA)	Retained on the same post (On current Charge basis)
22.	Mr. Mulazim Hussain	Tehsildar Paharpur	Retained on the same post (On current Charge basis)
23.	Mr. Afzal Khan	Tehsildar Khadu Khel	Retained on the same post (Or current Charge basis)

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24.	Mr. Kutab Khan	Tehsildar Havelian	Retained on the same post (On current Charge basis)
25.	Mr. Gul Ghazi Khan	Tehsildar/RO Khyber Bank Peshawar	Retained on the same post (On current Charge basis)
26.	Mr. Mukhtiar Ali	Tehsildar Inspector Stamp Mardan	Retained on the same post (On current Charge basis)
27.	Mr. Mushtaq Ahmad	Tehsildar/Reader to SMBR	Retained on the same post (On current Charge basis)
28.	Mr. Liaqat Ali	Tehsildar Razzar	Retained on the same post (On current Charge basis)
29.	Mr. Naz Amin	Tehsildar Kalkot	Retained on the same post (On current Charge basis)
30.	Mr. Attaullah	Tehsildar /RO PESCO Peshawar Circle	Retained on the same post (On current Charge basis)
31.	Mr. Musadiq Hussain	Tehsildar Thall	Retained on the same post (On current Charge basis)
32.	Muhammad Bashir	Tehsildar Katlang	Retained on the same post (On current Charge basis)
33.	Mr. Iftikhar Ahmad	Tehsildar/LAC NHA Hazara	Retained on the same post (On current Charge basis)
34.	Muhammad Akram	Tehsildar Babuzai Swat	Retained on the same post (On current Charge basis)
35.	Mr. Ghulam Qasim	Tehsildar Irrigation DIK	Retained on the same post (On current Charge basis)
36.	Mr. Attaullah	Tehsildar Daggar	Retained on the same post (On current Charge basis)
37.	Mr. Tila Muhammad	Tehsildar /RO PESCO Khyber Circle	Retained on the same post (On current Charge basis)

No. Estt: 1/26/ 2271-79

By order of
Secretary

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. All Commissioners in Khyber Pakhtunkhwa.
3. All Deputy Commissioners in Khyber Pakhtunkhwa.
4. All Political Agents in Khyber Pakhtunkhwa.
5. Official Concerned.
6. Personal Files.

Secretary-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.854/2014

Abdur Rashid Tehsildar Kulachi.....Appellant

VERSUS

Senior Member Board of Revenue & others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 & 2 ARE AS UNDER: -

PRELIMINARY OBJECTIONS

1. That the appellant has no cause of action and locus standi.
2. That the appeal is badly time barred.
3. That appellant is estopped by his own conduct to institute the appeal.
4. That the appeal is not maintainable in its present form.
5. The appellant has no grounds in support of his Appeal and no cause of action.
6. That the hon'ble Tribunal has got no jurisdictions to adjudicate the matter.

RESPECTFULLY SHEWETH.

ON FACTS.

- 1 Pertains to record.
- 2 Correct to the extent that according to Tehsildar/Naib Tehsildar Service Rules, 2008 the post of Tehsildar was to be filled in 60% by promotion from amongst Naib Tehsildar. In 2011 rules were amended however, the condition of Graduation for appointment by promotion was inadvertently not deleted.
- 3 Incorrect. Rules were amended in 2011, but the column of qualification for appointment by promotion was not deleted.
- 4 Pertains to record.
- 5 Correct to the extent that writ petition of Mr. Shakirullah and others was remanded by Peshawar High Court which was processed and a note was moved to Chief Secretary being next authority which was accepted in favour of Mr. Shakirullah and others, on the basis of which the appellant was reverted to lower post.
6. Incorrect. Promotion order of the appellant was withdrawn with the approval of Appellate Authority as per implementation of the judgment of Peshawar High Court.
7. The departmental appeal of the appellant was filed by the Appellate Authority as there is no law which provide the remedy of second Departmental Appeal. The impugned order dated 23.01.2014 was passed on the Departmental Appeal forwarded by Peshawar High Court. Hence the instant Appeal is badly time barred.
8. Incorrect. Departmental appeal of the appellant has already been filed by the Appellate Authority. Detail reply has been given in Para-7.
9. The appellant has got no cause of action to file the instant appeal.

ON GROUNDS

- A. Incorrect. Tehsildar/Naib Tehsildar Service Rules, 2008 were not suspended by Rules, 2011, however, amendment were made in Tehsildar/Naib Tehsildar Service Rules 2008, but the condition of Graduation for appointment by promotion was not deleted.
- B. Incorrect. There was no need for opportunity of hearing of the appellant as he has not been penalized.
- C. Correct to the extent that the appellant was posted as Tehsildar on (CCB), but not in BPS-16. Further current charge basis creates no rights for regular promotion.
- D. Incorrect. The appellant was treated according to law and Rules.
- E. Incorrect. Writ Petition of Shakirullah and others was remanded by the High Court to treat it departmental appeal, which was accepted by the Appellate Authority, on the basis of which the appellant was reverted. However if appellant considered aggrieved, he should have challenged the order before Supreme Court.
- F. Incorrect. Illegal and void order can any time be withdrawn. Further the rule of locus poenitentiae cannot be attracted in case of violation of law and rules.
- G. As in para "F" above.
- H. Incorrect. The impugned notification was issued with the approval of Competent Authority and is very much legal.
- I. Incorrect. The impugned notification is according to law and Rules.
- H. Incorrect. The respondents seek permission to raise additional grounds/proof at the time of arguments.

Keeping in view of the above, the appeal having no legal grounds may be dismissed as the appellant has already been retired from government service on 3.8.2015 (Annexure-A).

[Handwritten Signature]
21/12/2016
Respondent No. 1 & 2

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GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Dated Peshawar the 3 /08/2015

NOTIFICATION

No.Esst:I/PF(A.Rashid)/_____ On attaining the age of Superannuation, Mr. Abdur Rashid Tehsildar (BPS-16) shall stand retired from Government Service with effect from 31.08.2015 (A.N).

His date of birth is 01.09.1955.


By order of
Secretary

No.Esst:I/PF(A.Rashid)/

18050-84

Copy forwarded to the: -

1. Commissioner DIKhan Division DIKhan.
2. Deputy Commissioner, DIKhan and Tank, with the request to send leave entitlement certificate duly verified from District Accounts Officer concerned.
3. District Account Officer, DIKhan and Tank.
4. Official concerned.
5. Office order file.


Secretary-I

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.854/2014

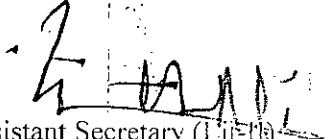
Abdur Rashid Tehsildar KulachiAppellant

VERSUR

Senior Member Board of Revenue, Khyber Pakhtunkhwa & Others.....Respondents

AFFIDAVIT

I Mr.Mukhtiar Ali, Superintendent (Lit-II), Board of Revenue Khyber Pakhtunkhwa do hereby solemnly affirm that the contents of the written reply are true and correct to the best of my knowledge and belief information provided to me and nothing has been deliberately concealed from this Hon'able Tribunal.


Assistant Secretary (Lit-II),
Board of Revenue