

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	11.05.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></p> <p style="text-align: center;">Service Appeal No. 585/2013,</p> <p style="text-align: center;">Hayat Khan Versus The Province of Khyber Pakhtunkhwa through Chief Secretary, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER.-</u> Appellant with counsel (Mr. Noor Muhammad Khattak, Advocate) and Mr. Muhammad Jan, GP with Muzammil Khan, Assistant for the respondents present.</p> <p>2. The instant appeal has been instituted by he appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for directing the respondent department to grant upgradation to the appellant from BPS-7 to BPS-09 with all consequential benefits and seniority.</p> <p>3. The facts giving rise to the instant appeal are that the appellant was appointed as Junior Clerk BPS-5 on 26.10.1978 in the Government Printing & Stationery Department and subsequently promoted as Senior Clerk BPS-7 on 02.12.1990. That he was posted as Caretaker due to non-availability of suitable person for the said post under the orders of the competent authority. The said post was in BPS-6 but the appellant was allowed pay in his original scale BPS-7. That the clerical posts of Junior Clerk/Senior Clerk/ Auditor and</p>

Assistant were upgraded by the provincial government wherein the post of Senior Clerk BPS-7 was placed in BPS-9 on 28.7.2007. The post of appellant was not upgraded on the pretext that he held the post of Caretaker which was not upgraded in the general upgradation and remained in BPS-6. Feeling aggrieved, the appellant filed representation to the appropriate authority on 19.7.2011 which was not replied so far, hence the instant appeal before the Service Tribunal.

4. The learned counsel for the appellant argued that as per Section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 every civil servant shall be liable to serve anywhere within or outside the province in any post under the Federal Government or any Provincial Government or a corporation or body set up or established by any such government. He stated that refusing upgradation to the appellant from BPS-7 to BPS-9 was against the law, facts and norms of natural justice. He further argued that appellant was not treated in accordance with law and rules on the subject and as such respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973. He argued that appellant was holding the post of Senior Clerk on regular basis, his name appeared at S.No. 1 of the seniority list, hence there was no reason to deprive him from the benefit of upgradation simply for the reason that he was posted as Caretaker in the public interest. He requested that on acceptance of the appeal, the respondents may be directed to upgrade the appellant like other senior Clerks from

7-1
D

BPS-7 to BPS-9.

5. The learned Government Pleader argued that the appellant Hayat Khan Senior Clerk BPS-7 appointed by transfer against the post of Caretaker BPS-6 on 15.12.1990 and he was allowed pay of his original post of Senior Clerk in BPS-7. The said transfer was made with the approval of the competent authority and the appellant did not agitate against the same. He further argued that the said transfer order was repeated vide office order dated 03.4.2007 and there was no resistance from the appellant. He further argued that seniority list of technical staff of the Printing and Stationery Department as it stood on 31st December, 2010 showed the name of appellant (Hayat Khan) as Caretaker at S.No. 1 and it showed ample proof of his acceptance of the said position as he never challenged the said seniority list. He prayed that the appeal was not tenable and may be dismissed.

6. Arguments of the learned counsel for the parties heard and record perused.

7. From perusal of record, it transpired that on upgradation of post of Senior Clerk from BPS-7 to BPS-9 by Finance Department, the appellant was not upgraded to BPS-09 because he held the post of Caretaker and upgradation policy was not applicable to the said post. It also transpired that upgradation case of the appellant was discussed by upgradation committee in Finance Department, where it was decided to

upgrade the post of Caretaker from BPS-6 to BPS-7 to enable the appellant draw his salaries in BPS-7 however, upgradation to BPS-9 was not permissible as upgradation was not applicable on the post of Caretaker. Moreover, non agitation of the appellant against his posting as Caretaker and then circulation of his name in the seniority list of caretaker/technical staff amply proved his acceptance of the said position which attained finality.

8. The above being the factual position, the Tribunal feel hesitant to interfere in the matter and hence the instant appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
11.5.2015.



(PIR BAKHSH SHAH)
MEMBER



(ABDUL LATIF)
MEMBER

4.3.2015

Appellant in person and Mr. Muhammad Jan,
GP with Muzamil Khan, Assistant for the respondents
present. Counsel for the appellant is not available. To come
up for arguments on 11.05.2015.


MEMBER


MEMBER

585/2013

15.5.2014

Junior to counsel for the appellant and Mr. Muhammad Jan, GP with Zafar Ali, Supdt. for the respondents present. Rejoinder received and copy handed over to the learned GP. To come up for arguments on 21.8.2014.


MEMBER


MEMBER

21.08.2014

Appellant in person and Mr. Muhammad Jan, GP with Zafar Ali, Supdt. for the respondents present. Due to general of the Bar, counsel for the appellant is not available. To come up for arguments on 24.09.2014.


MEMBER

24.09.2014

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Muzamil Khan, Assistant for the respondents present. The learned Member (Judicial) is not working due to a recent order of the Hon'ble Peshawar High Court, affecting his status as District & Sessions Judge. To come up for arguments on 09.1.2015.


MEMBER

09.1.2015

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Zafar Ali, Supdt. for the respondents present. The Tribunal is incomplete. To come up for the same on 04.3.2015.


READER

3.12.2013

Counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG with Zafar Ali Shah, Supdt. for the respondents present and requested for further time. To come up for written reply on 20.1.2014.

MEMBER 

20.1.2014

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Zafar Ali, Supdt. for the respondents present and stated that written reply prepared and sent to respondent No.2 for signature. Representative of the respondents is directed to follow the same. To come up for written reply positively on 24.2.2014.

MEMBER 

MEMBER 

24.2.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG with Muzamil Khan, Assistant for the respondents present and reply filed. Copy handed over to appellant. To come up for rejoinder on 26.3.2014.

MEMBER 

26.3.2014

Counsel for the appellant and Ziaullah, GP with Zafar Ali, Supdt. for the respondents present. Counsel for the appellant needs time. To come up for rejoinder on 15.5.2014.

MEMBER 


Appeal no. 585/2013
Mr. Hayath Khan.

30.08.2013

Appellant with counsel present and heard on preliminary.

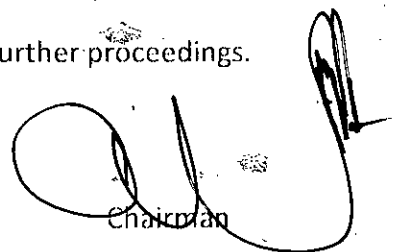
Contended that the appellant has not been treated in accordance with the law/rules. After the promotion to the post of Senior Clerk on 02.12.21990, the appellant was posted as Care Taker officiating basis vide order dated 15.12.1990. Since then he is working as Care Taker in his own pay and scale i.e Senior Clerk BPS-7. The appellant has been denied from upgradation to BPS-9 to BPS-7 by the respondent-department till date. He filed departmental appeal on 19.07.2011 which has not been responded with in the statutory period of 90 days. Hence the instant appeal on 29.03.2013. Since the matter is time barred in support counsel for the appellant further stated that since the matter is recurring case therefore no limitation runs against the appellant. He relied on 2002 PLC (CS Page 1388). Points raised 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, notice be issued to the respondents. Case adjourned to 06.11.2013 for submission of written reply.

Appellant deposited
of Process fee & Security
Rs. 220/- Bank Receipt
attached with file


Member.

30.8.2013

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


Chairman

7.11.2013

Since 6th November, 2013 been declared as holiday, by the provincial government vide notification dated 5.11.2013, therefore, case to come up for the same on 3.12.2013.


READER

31.07.2013

Counsel for the appellant present and requested for adjournment. Case is adjourned. To come up for preliminary hearing on 30.08.2013.



Member




22.05.2013

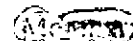
Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment Ordinance, 2013) (Khyber Pakhtunkhwa Order II of 2013), the case is adjourned on note Reader for proceeding as before on 18.6.2013


Reader.

18.6.2013


Munshi to Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 18.7.2013.

~~Appellant in person present and requested for adjournment.~~
~~Case is adjourned. To come up for preliminary hearing on 31.07.2013.~~

Reader



18.08.2013

Appellant in person present and requested for adjournment. Case is adjourned. To come up for preliminary hearing on 31.07.2013.


Member

3.

13.5.2013

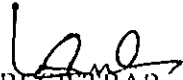

Since 10th May 2013 has been declared as holiday
on account of Election, the case is therefore, adjourned to
~~22-5-2013~~ for preliminary hearing.

[Signature]
Remdotev

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 585/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	29/03/2013	<p>The appeal of Mr. Hayat Khan presented today by Mr. Noor Muhammad Khattak 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	1-4-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>10-5-2013</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 585 /2013

HAYAT KHAN

VS

GOVT: OF KPK

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE NO.
1-	Memo of appeal	1- 3.
2-	Appointment order	A	4.
3-	Promotion order	B	5.
4-	Posting order	C	6.
5-	Pay slip	D	7.
6-	Service book	E	8- 13.
7-	Seniority list	F	14- 15.
8-	Departmental appeal	G	16- 17.
9-	Correspondence	H	18- 25.
10-	Vakalat nama	26.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

MOBILE NO.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO 585 /2013

A.W.F. Prov.
652
29-3-13

Hayat Khan S/O Abdur Rehman,
Senior Clerk, Stationary & Printing Department,
Govt. of K.P.K., Peshawar.....**Appellant**

VERSUS

1. The Province of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Secretary Industries, Commerce, Technical Education Department, Peshawar.
3. The Secretary Finance Department, KPK Peshawar.
4. The Controller Govt: of K.P.K, Printing & Stationary Department, Peshawar.
5. The Manager Printing & Stationary Department, K.P.K, Peshawar.....**Respondents**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR DIRECTING THE RESPONDENT DEPARTMENT TO ALLOW/GRANT UP-GRADATION TO THE APPELLANT FROM (BPS-07) TO (BPS-09) WITH ALL CONSEQUENTIAL BENEFITS AND SENIORITY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD

** DA not responded.*

PRAYER: That on acceptance of this appeal the respondents may very kindly be directed to allowed/granted up-gradation to appellant from BPS-07 to BPS-09 with all consequential benefits and seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

[Signature]
29/3/13

R/SHEWETH:

1. That the Appellant initially started his career as Junior Clerk under the administrative control of respondent No. 3 on 26.10.1978 in BPS-5 and subsequently promoted as senior clerk in BPS-07 vide order dated 02-12-1990. Copies of the appointment, promotion orders are attached as annexure A & B.
2. That on 15-12-1990 the appellant was posted as Care taker due to non-availability of suitable incumbent for the

said post under the orders of competent authority. The said post was in BPS-06 however the appellant has drawn his emoluments in BPS-07 as Senior Clerk right from 15-12-1990 till date. Copy of the order, pay slip and service book are attached as Annexure C, D & E.

3. That meanwhile Government introduced the policy of up-gradation and the post of senior clerk was upgraded to BPS-09. That the appellant also claimed the benefit of up gradation like his other colleagues who were far Juniors from the appellant and they were placed in BPS-09, in terms of policy of up gradation, but the said benefit was not allowed to the appellant on the pretext, that he is holding the post of Care taker which is in BPS-06. Copy of the seniority list is attached as Annexure F.
4. That feeling aggrieved appellant filed Departmental appeal but no reply has been received so far. Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure G.
5. That on the issue of up gradation of appellant mutual correspondence took place in the matter between the respondents, and respondent No.1 and respondent No.3 strongly recommended that the Appellant is entitled for grant of up gradation from BPS-07 to BPS-09 which went unheeded. Copies of the correspondence is attached as Annexure H.

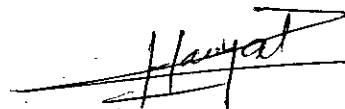
GROUNDS:

- A- That not granting up gradation to the appellant from BPS-07 to BPS-09 is against the law, facts and norms of natural justice.
- B- That appellant has not been treated in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That as per section 10 of the K.P.K, Civil Servant act, 1973 "Every Civil Servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or local authority, or a corporation or body setup or established by any such Government".
- D- That since the Appellant was holding the post of senior clerk on regular basis and his name has been shown at serial No.1

of the seniority list, hence there is no reason to deprive him from the benefit of up gradation simply for the reason, that he was posted as Caretaker in the public interest under the orders of the competent authority. It is abundantly clear that where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favorable than those to which he would have been entitled if he has not been so required to serve.

- E- That appellant has not been treated in accordance with law and rules and as such the respondents acted in arbitrary and malafide manner.
- F- That appellant seeks permission to advance other grounds and proofs at the time hearing.

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



APPELLANT

HAYAT KHAN

THROUGH:



**NOOR MUHAMMAD KHATTAK
ADVOCATE**

ATTESTED

No. /IV/2/A-108/E/2374
GOVERNMENT OF NWFP;
STATIONERY AND PRINTING DEPARTMENT.

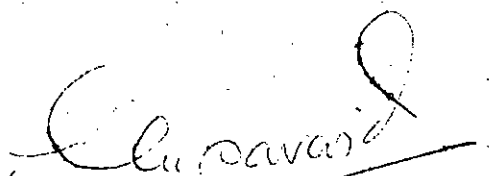
Dated Peshawar the th Dec: 1990.

OFFICE ORDER.

As approved by the Departmental Promotion Committee of the Stationery & Printing Department NWFP Peshawar in its meeting dated 1st December 1990, the following appointments/promotions & transfers are hereby ordered w.e. from 2nd December, 1990 (F. Noon) against the existing as well as subsequent vacancies:-

1. Mr. Tajur Rahman Katib Grade-II. :- Promoted as Katib Grade-I in BPS No.6 of Rs.725-28-1285.
2. Mr. Abdus Salam Binder Grade-II. :- Appointed as Duplicating operator in EPS No.3 of Rs.650-19-1030.
3. M/s Muhammad Ali, Khurshid Khan Binder Grade-I. :- Promoted as Rulling machine-man in EPS No.6 of Rs.725-28-1285.
4. M/s Mehr Gul & Jan Muhammad Counters. :- Promoted as Binder Grade-I in BPS No.3 of Rs.650-19-1030.
5. M/s Shah Jehan-III & Fazal Elahi Binder-II :- Transferred vice No.4 as paper counter.
6. M/s Jan Muhammad, Sham-shad Khan & Muhammad Aslam Machineman-III. :- Promoted as Machineman Gr:II in BPS No.6 of Rs.725-28-1285.
7. M/s Shahid Hussain & Amir Khan Impositor. :- Promoted as Machineman Gr:III in EPS No.5 of Rs.700-25-1200.
8. M/s Hidayatullah & Muhammad Alam Assistant in BPS No.11. :- Promoted as Selection Grade Assistant in BPS No.15 of Rs.1165-71-2585.
9. Mr. Alif Khan, Ehsanul Haq, & Fazal Khaliq (Sel:Grade Senior Clerk). Appointed as Assistant on acting charge basis in BPS No.9 of Rs.830-38-1590.
10. M/s Mushtaq Hussain, Mumtaz Gul & Zafar Ali Sr.Clerk. :- Promoted as Selection Grade Senior Clerk in BPS No.9 of Rs. 830-38-1590.
11. M/s Hayat Khan, Taj Muhammad & Aurang Zeb Sel: Grade Junior Clerk. :- Promoted as Senior Clerk in EPS No.7 of Rs.750-31-1370.
12. M/s Maqbool Shah and Isa Khan Sel: Grade Jr. Clerk. :- Promoted against the newly created posts of Sr.Clerk in EPS No.7 of Rs.750-31-1370 at abbottabad & Swat.
13. M/s Ghisauddin, Ashfaq Ahmad Sher Afzal and Muhammad Hanif Jr.Clerks. :- Promoted as Selection Grade Junior Clerk in EPS No.7 of Rs.750-31-1370.
14. Mr. Ghulam Ghaus Plate Maker. :- Appointed as Litho Photo Grapher in EPS No.7 of Rs.750-31-1370.

ATTESTED


(MUSHTAQ JAWAID IQBAL)
CONTROLLER.

No. and date even

A copy is forwarded to the Accountant General
NWFP Peshawar for information


(MUHAMMAD JAVID IQBAL)
CONTROLLER.

Endst: No. & Date even.

Copy for information to :-

1. The Manager (W) Government Press Peshawar.
2. The Superintendent Government Press Peshawar.
3. The Overseer Government Press Peshawar.
4. The General Foreman concerned.
5. Copy to all concerned and their personal files.


(FARID KHAN)
MANAGER.

Handwritten signature

No. 48751 31


OFFICE OF THE MANAGER,
GOVERNMENT STATIONERY & PRINTING DEPARTMENT
NWFP, PESHAWAR.

Dated Peshawar, the 15/12.../90

OFFICE ORDER.

The following transfers are hereby ordered with effect from 1.12.1990(FN).

1. Mr. Mumtaz Gul Care Taker = Senior clerk.
2. ✓ Mr. Hayat Khan Senior Clerk = Care Taker.


(RAO A. AZEEZ
MANAGER.

Endt: NO 4876-79

Dated 15/12.../90

Copy forwarded to:-

1. Mr. Mumtaz Gul Senior Clerk Govt: Press Peshawar.
2. Mr. Hayat Khan Care Taker Govt: Press Peshawar
3. The Establishment Assistant Govt: Press Peshawar.
4. Copy to Personal File of Mr. Mumtaz Gul Govt: Press Peshawar.
5. Copy to Personal File of Mr. Hayat Khan Govt: Press Peshawar.

ATTESTED


(RAO A. AZEEZ)
MANAGER.

D-7

PESH

PR4447
NIC No: 13756023685
CARE TAKEN

P. Sec: 009 North, July 2007
PR4447 -MANAGER GOVT STATION
Ind. Industries
NIC No: 13756023685
LES 010075
Old No: 99990751382

Interest Applied		
(07) Active Permanent		
PAYS AND ALLOWANCES:		
0001-Basic Pay		3,510.00
1001-House Rent Allowance 45%		1,023.00
1210-Convey Allowance 2005		460.00
1300-Medical Allowance		425.00
1770-Spl. Additional allowance		401.00
1830-Special Relief All(2005)		711.00
1831-Adhoc Relief (2005)		711.00
1864-Dearness Allowance (2006)		908.00
Gross Pay and Allowances:		11,879.00
DEDUCTIONS:		
GPF Balance 274,637.00		
3501-Renevolent Fund	Subrc:	230.00
3511-Addl Group Insurance		35.00
3604-Group Insurance		5.00
		44.00

NOT TO BE

PAID

Total Deductions		315.00
NET AMOUNT PAYABLE		11,564.00
D.O.B		
02.02.1956	LFP Quota:	
30 Years 09 Months 007 Days	NEP, MUNICIPAL CORPORATION	
	6597-7	

USG. CARE TAKEN		
NIC No: 13756023685	Old No: 99990751382	
GPF-Interest Applied	DEPT CODE	PR4447
(07) Active Permanent		
PAYS AND ALLOWANCES:		
0001-Basic Pay		8,560.00
1001-House Rent Allowance 45%		1,588.00
1210-Convey Allowance 2005		420.00
1300-Medical Allowance		500.00
1770-Spl. Additional allowance		401.00
1830-Special Relief All(2005)		711.00
1831-Adhoc Relief (2005)		711.00
1864-Dearness Allowance (2006)		908.00
Gross Pay and Allowances		14,399.00
DEDUCTIONS:		
GPF Balance 313,715.00		
3501-Renevolent Fund	Subrc:	320.00
3511-Addl Group Insurance		35.00
3604-Group Insurance		7.00
		67.00
Total Deductions		429.00
NET AMOUNT PAYABLE		13,970.00

PAID

D.O.B	LFP Quota:
02.02.1956	NEP, MUNICIPAL CORPORATION
30 Years 03 Months 007 Days	6597-7

ATTESTED
123
A.

Annex E
E-8

Note: Entries in this page should be renewed or re-attested at least every five years, and the signature in lines 9 and 10 should be dated.

1. Name: Mr. Hayat Khan
2. Race: ~~Awan~~ Afghan
3. Residence: At Kandi Mustafa Khel village
Chamkani Teh + Distt. Peshawar.

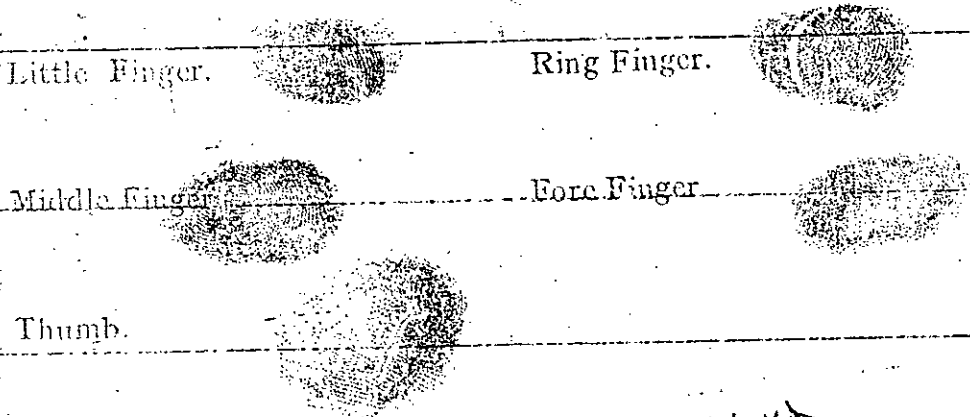
4. Father's name and residence: Mr. Abdul Rahman.

5. Date of birth by Christian era as nearly as can be ascertained: 2-2-1956

6. Exact height by measurement: 5-8"

7. Personal marks for identification: A wound mark on left side of nose near the ~~left~~ left nose.

8. Left hand thumb and Finger impression of (non-gazetted) officer



9. Signature of Government servant: Hayat Khan

10. Signature and designation of the Head of the Office, or other Attesting Officer: Passed medical Exam. Recd. Roll No. Hayat Khan
MANAGER

Attested
25-1-57
MANAGER
Govt. Stationery & Printing Deptt.

ATTESTED
13/5

Govt. Stationery & Printing Deptt.
N. W. F. P., Peshawar.

ADREX (E) (13) 9

1 Name of post	2 Whether substan- tive or officiating and whether permanent or temporary	3 If officiating, state— (i) substantive appointment or (ii) whether service counts for pension under Art. 374 C. S. R.	4 Pay in substantive post	5 Additional pay for officiating	6 Other emoluments failing under the term "Pay"	7 Date of appointment	8 Signature Government servant	9 Signature designated head of other officer of co
Junior Clerk Clerk								
Asstt. Store Keeper R290-10-350/12-470	Off. Temp.	—	—	290.00	—	26 ¹⁰ 1978	(FN) Hayat	
Do	Do	—	—	300.00	—	12 1979	(FN) Hayat	
Do	Do	—	—	310.00	—	12 1980	(FN) Hayat	
Asstt. Store Keeper R290-10-350/12-470-14-540	Off. Temp.	—	—	320.00	—	7 1981	(FN) Hayat	
Do	Do	—	—	330.00	—	12 1981	(FN) Hayat	

ATTESTED

13
9

(16)

10
12-11-90

(10)

9	10	11	12	13	14	15
				Leave		
				Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
				Government to which debitable		
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion transfer, dismissal etc.)	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government servant
<p>12/1990 promoted as Senior Clerk (AN)</p> <p>31/5/1991 (AN)</p> <p>Head of office</p>				<p>Signature of Manager</p> <p>16/11/90</p>		<p>SERVICE VERIFIED</p> <p>FROM 1-12-1989</p> <p>TO 30-11-1990</p> <p>MANAGER.</p>
<p>Authenticated that Mr Hayat Khan is a junior clerk and store keeper from the date of appointment</p>				<p>Drawn areas of - Approx. of pay and allowances</p> <p>Rs. 33/87 w.e.f. 2/12/89 to 31/12/90</p>		<p>Signature of Manager</p> <p>13/1/91</p>
<p>Accounts Officer</p> <p>Govt: Staty: & Printing</p> <p>Deptt: <u>AB</u></p> <p>24/3/91</p>				<p>Signature of Manager</p> <p>24/3/91</p>		
<p>Drawn areas of promotion as 3/clerk from 1/clerk of Rs. 138/87 w.e.f. 2/12/90 to 31/12/91</p>				<p>Promotion made as Senior Clerk w.e.f. 2-12-1990 (FN) in BPS No: 7</p> <p>Asstt. Accounts General B 73-31-1370 with N.W.F.P. Peshawar, office order No: 129 of 19-12-1990.</p>		
<p>Annual Increment 30/11/1991</p> <p>Signature of Manager</p>				<p>Signature of Manager</p> <p>13/1/91</p>		
<p>Annual Increment 30/11/1992</p> <p>Cuttings are Attested</p> <p>Signature of Manager</p>				<p>Signature of Manager</p> <p>13/1/91</p>		<p>SERVICE VERIFIED</p> <p>FROM 1-12-1990</p> <p>TO 30-11-1991</p> <p>MANAGER.</p>
<p>Signature of Manager</p>				<p>Signature of Manager</p>		<p>SERVICE VERIFIED</p>

ATTESTED

1	2	3	4	5	6	7	8
Name of post	Whether substan- tive or officiating and whether permanent or temporary	If officiating, state— (i) substantive appointment or (ii) whether service counts for pension under Art. 371, C.S.R.	Pay in substantive post	Additional pay for Officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
<p>Two increments of Mr Hoyal Khan SC falling on 1/12/2003 & 1/12/2004 were stopped without having future effect and hereby released vide No. 1475 dt 20-8-2002.</p>							
<p style="text-align: right;">MANAGER Stationery & Printing Deptt Govt. of NWFP Peshawar</p> <p style="text-align: center;"><u>REVISED ENTRIES</u></p>							
Senior clerk (B-7) (Rs 2220-120-5820) part	-	-	4860-	-	12 (FN) 1-2003		
do Senior clerk (B-7) (Rs 2555-140-6755)	"	-	4980-	-	12 (FN) 1-2004		
Senior clerk (B-7) (Rs 2555-140-6755)	"	-	5775-	-	7 (FN) 1-2005		
Senior clerk (B-7) (Rs 2555-140-6755)	"	-	5915-	-	12 (FN) 1-2005		
do Senior clerk (B-7) (Rs 740-160-7740)	"	-	6055-	-	12 (FN) 1-2006		
Senior clerk (B-7) (Rs 740-160-7740)	"	-	6940	-	7 (FN) 1-07		
Senior clerk (B-7) (Rs 8185-190-8885)	"	-	6885	-	8 (FN) 1-07		
cutting attested							
<p>ATTESTED</p> <p>1/07</p>							
<p>7100</p> <p>1/07 FN</p>							



12 111

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state— (i) substantive appointment or (ii) whether service counts for pension under Art. 371. C. S. R.	Pay in substantive post	Additional pay for officiating	Emoluments falling under the term "Pay"	Date of appointment	Signature of Government servant
(Care Taker/S. Clerk B-7)	officiating (Rs 3530-190-9230) Permanent	—	8470	—	—	1-7-08 (EM)	
(Care Taker B-7)	officiating (Rs 3530-190-9230) Permanent	—	8660	—	—	1-7-08 (EM)	
ATTESTED		12/9					

Period	Pay due BPS-9	Pay drawn BPS-7	Difference / months	Net amount.
1.7.2007 to 31.8.2007	6985.00	6940.00	45x2	90.00
1.9.2007 to 30.11.2007	7175.00	6940.00	235x3	705.00
1.12.2007 to 30.6.2008	7365.00	7100.00	265x7	1855.00
1.8.2008 to 30.11.2008	8880.00	8470.00	410x5	2050.00
1.12.2008 to 30.11.2009	9110.00	8660.00	450x12	5400.00
1.12.2009 to 30.11.2010	9340.00	8850.00	490x12	5880.00
1.12.2011 to 30.6.2011	9570.00	9040.00	530x7	3710.00
1.07.2011 to 30.9.2011	15700.00	15080.00	620x3	1860.00
--	--	--	Total	21550.00

Period	H.R.A due BPS-9	H.R.A drawn BPS-7	Difference / months	Net amount
1.7.2007 to 30.6.2008	1433.00	1323.00	110x12	1320.00
1.7.2008 to 30.9.2011	1719.00	1588.00	131x39	5109.00
--	--	--	Total	6429.00

Period	Adhoc2009 due 20%	Adhoc 2009 drawn 20%	Difference / month	Net amount
1.7.2009 to 30.11.2009	1822.00	1732.00	90 x 5	450.00
1.12.2009 to 30.11.2010	1868.00	1770.00	98 x 12	1176
1.12.2010 to 30.6.2011	1914.00	1808.00	106x7	742
---	--	--	Total	2368.00

Period	Adhoc C/allow 50% 2010	Adhoc C.Allow. 50%2010 drawn	Difference / months	Net amount
1.7.2010 to 30.11.2010	4670.00	4425.00	245 x 5	1225.00
1.12.2010 to 30.6.2011	4785.00	4520.00	265 x 7	1855.00
--	--	--	Total	3080.00

Gross total amount of pay and allowance Rs. 33,427.00

ATTESTED

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(SYED ADEEL SHAH)
CONTROLLER

(Annex K)

31

F-14

**SENIORITY LIST OF MINISTERIAL ESTABLISHMENT TECHNICAL STAFF OF PRINTING AND STATIONERY DEPARTMENT
GOVERNMENT OF KHYBER PAKHTUNKHWAAS IT STOOD ON 31ST DECEMBER, 2010**

**TOTAL STRENGTH 10
VACANT 03**

Sr #	Name of Official	Qualification	Date of birth	Domicile	Date of 1st entry into Govt: service	Regular appointment/promotion to the present post.			Present appointment with date	Sig. of official
						Date	BPS	Method of recruitment/appointment		
1	2	3	4	5	6	7	8	9	10	11
	SENIOR CLERKS									
1	Mr. Hayat Khan. (Care Taker)	Matric	2.2.1956	Peshawar	26.10.1978	2.12.1990	06	By promotion on the basis of seniority cum fitness from amongst the holders of the post of Junior Clerk BPS-7 with at least two years service as such.	Caretaker (2.12.1990)	
2	Mr. Muzamil Khan.	B.A	28.5.1961	Peshawar	9.6.1981	1.3.1991	09		Senior Clerk (1.3.1991)	
3	Mr. Sher Afzal.	Matric	25.3.1960	Peshawar	11.10.1982	1.6.1992	09		Senior Clerk (1.6.1992)	
4	Mr. Isa Khan.	Matric	6.2.1959	Peshawar	11.1.1981	5.9.1994	09		Senior Clerk (5.9.1994)	
5	Mr. Saeedullah Jan.	M.A	15.8.1958	Peshawar	16.4.1979	25.2.2004	09		Senior Clerk (25.2.2004)	
6	Mr. Fazal Dad.	Matric	22.3.1966	Peshawar	7.8.1984	30.5.2009	09		Senior Clerk. (30.5.2009)	
7	Mr. Muhammad Hanif.	Matric	2.1.1958	Peshawar	2.12.1982	30.5.2009	09		Senior Clerk (30.5.2009)	
8	Vacant									
9	Vacant									
10	Vacant									

It is certified that seniority list has been circulated among the officials and notified and there is no objection.

**SENIORITY LIST OF SENIOR CLERKS OF PRINTING AND STATIONERY DEPARTMENT GOVERNMENT OF NWFP
AS IT STOOD ON 31 DECEMBER 2008**

TOTAL STRENGTH 8 Nos.
VACANT.....NIL

1 Name of officials	3 Qualifications	4 Date of birth	5 Domicile	6 Date of 1 st entry into Government service	Regular appointment/promotion to the present post.			10 Present appointment with date	Sig. Office
					7 Date	8 BPS	9 Method of recruitment		
SENIOR CLERK.									
Mr. Zafar Ali.	Matric	25.5.1955	Peshawar	11.4.1975	1.5.1987	9	By promotion on the basis of seniority-cum-fitness from amongst the holders of the post of Junior Clerk BPS-7 with at least TWO years service as such.	Senior Clerk (1.5.1987)	
Mr. Aminullah.	Matric	20.12.1957	Peshawar	16.5.1978	26.5.1990	9		Senior Clerk (26.5.1990)	
Mr. Ahmad Khan.	M.A. (Pushto)	27.9.1956	Peshawar	25.10.1978	26.5.1990	9		Senior Clerk (26.5.1990)	
Mr. Hayat Khan.	Matric	2.2.1956	Peshawar	26.10.1978	2.12.1990	9		Care Taker (2.12.1990)	
Mr. Muzamil Khan.	B.A	28.5.1961	Peshawar	9.6.1981	1.3.1991	9		Senior Clerk (1.3.1991)	
Mr. Sher Afzal.	Matric	25.3.1960	Peshawar	11.10.1982	1.6.1992	9		Senior Clerk (1.6.1992)	
Mr. Asa Khan.	Matric	6.2.1959	Peshawar	11.1.1981	5.9.1994	9		Senior Clerk (5.9.1994)	
Mr. Saeedullah Jan.	M.A(Ist.)	15.8.1958	Peshawar	16.4.1979	25.2.2004	9		Senior Clerk (25.2.2004)	

It is certified that seniority list has been circulated among the officials and notified and there is no objection

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To,

The Secretary
Industries, Commerce,
Technical Education Department,
Peshawar.

Through proper channel.

Subject: APPEAL FOR CHANGE OF NOMENCLATURE FROM CARE TAKER TO SENIOR CLERK & GRANT OF UPGRADATION AS SENIOR CLERK (BPS-9)

Respected Sir,

I, Hayat Khan, Senior Clerk / Care Taker submit my Appeal / Representation for up-gradation for your honor's sympathetic and benevolent considerations, as under: -

- 1) That, I was appointed as Junior Clerk / Asstt. Store Keeper in (BPS-5) on 26.10.1978 in Government Printing & Stationery Department, Peshawar, the said fact can be confirmed from the Service Book.
- 2) That, subsequently I was promoted as Senior Clerk (BPS-7) with effect from 02.12.1990 vide Order No.1294, dated 19.12.1990 and endorsement to this effect was also made in the Service Book, copy of Service Book Page-3, 4 & 11 is attached as Annexure-I.
- 3) It is important to mention here that since December 1990 I used to draw my salaries in BPS-7 under the said order, moreover, I was also given the arrears of promotion w.e.f. 02.12.1990 to 31.03.1991 but without mentioning any reason or justification and without any lawful order from the Competent Authority I was transferred to perform the duties of Care Taker (BPS-6), but unfortunately, my designation was change in my Pay Roll as Care Taker in spite of that I am drawing my salary in my pay scale in BPS-7 (copy of pay Roll is attached as Annexure-II & Transfer Order is attached as Annexure-III).
- 4) That, transfer as Care Taker amounts to demotion for the reasons that the post Care Taker is in BPS-6, whereas I am in BPS-7. It is relevant to be noted that I was shown at S.No.4 of the Seniority List of Senior Clerks of the Department as stood on 31.12.2008, copy of the same is attached as Annexure-IV.
- 5) That, in July 2007, the Government granted up-gradation to Junior Clerk (BPS-7) to Senior Clerk BPS-9 and to Assistant BPS-14, but due to my designation as Care Taker, I was deprived from this right of up-gradation. All my junior and senior colleagues in the cadre of Senior Clerks have been granted up-gradation in BPS-9 while I have been deprived from my legitimate rights by unlawfully changing my

ATTESTED



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designation as Care Taker. I have been punished for blunders of others.

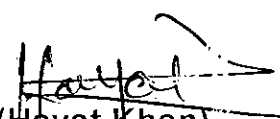
- 6) That, under the law, the cadre cannot be changed without the consent of the incumbents / employees and in the instant case I was never asked regarding the same rather in the Service Book and other connecting documents I am still shown as Senior Clerk, BPS-7.
- 7) That, in my Service Book at Page 18, entries have been made as Senior Clerk (BPS-7) up to 01.07.2007, while on 01.07.2008 entry has been changed as (Care Taker / Senior Clerk, BPS-7 and on 01.12.2008 entry has further changed as (Care Taker, BPS-7) while there is a post of Care Taker in BPS-6 not in BPS-7 and in Pay Roll I am drawing pay against the scale BPS-7, copy of Page 18 & 20 of the Service Book as Annexure-V and relevant pages of Budget Book 2007-8, 2008-09 and 2009-10 are attached for ready reference as Annexure-VI). All this shows the melafide, illwell and nepotism / favouritism done in the case.
- 8) That, in whole of the Establishment there is only one post of Care Taker and that too, in BPS-6 and while placing me and treating me as Care Taker, ultimately I will be placed in BPS-6 with the passage of time, under melafide intention. All this has been done in order to get me out from the channel of promotion of Senior Clerk to the post Assistant, by giving advantage to the other Senior Clerks.
- 9) That, the discrimination in pay scale is creating resentment and is a basic cause for efficiency and performance.
- 10) That, under Article 38 (e) of the Constitution of Pakistan, the Government is bound to reduce disparity in the income and earning of individuals, including persons in the various classes of the services of Pakistan.
- 11) That, it is my fundamental right to be treated at par with the similarly placed employees and as such I am entitle to receive / get the same Upgraded Scale of BPS 9 instead of BPS 7 and not allowing the same will amount to discrimination and disparity in pay.


It is, therefore, requested that on acceptance of this Appeal, I may kindly be allowed BPS-9 and re-designated as Senior Clerk since July 2007.

Thanking You.

Yours faithfully,

Dated: 19.07.2011.


(Hayat Khan)
Senior Clerk

ATTESTED


Annex J
28
H-18



GOVERNMENT OF KHYBER PAKTUNKHWA
PRINTING & STATIONERY DEPARTMENT.

No. 972 /Estt,

Dated Peshawar the 21/11, 2012

To

Mr. Hayat Khan Care Taker,
Government Press Peshawar..

Subject: **MINUTES OF THE MEETING OF THE
UPGRADATION COMMITTEE HELD ON 10.4.2012
REGARDING CHANGE OF NOMENCLATURE FROM
CARE TAKER TO SENIOR CLERK AND GRANT OF
UPGRADATION AS SENIOR CLERK BPS-09**

Memo :-

Please refer to the subject noted above and to
enclose herewith a copy of the minutes of meeting held on 10.4.2012
which is self explanatory received from Industries Department
Peshawar for your information.

Encl: As above.

(FARID KHAN)
MANAGER

21/11

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CONTROLLER

(Annex G) (18) 19
GOVERNMENT OF
KHYBER PAKHTUNKHWA
PRINTING & STATIONERY DEPARTMENT

No. 148 /CP&S
Dated Peshawar, the July 26th 2011

To

The Secretary,
Government of Khyber Pakhtunkhwa
Industries, Commerce & Technical Education Department,
Peshawar

SUBJECT: APPEAL FOR CHANGE OF NOMENCLATURE FROM CARE TAKER
TO SENIOR CLERK AND GRANT OF UPGRADATION AS SENIOR
CLERK (BPS-9)

Sir,

Enclosed please find herewith an appeal received from Mr. Hayat Khan, Senior Clerk of this department regarding the change of nomenclature from Care Taker to Senior Clerk and grant of Up-gradation as Senior Clerk (BPS-9) since July 2007.

2. Since it is a service matter case, therefore, it is requested that the case may please be forwarded to the Establishment Department for proper advice.

Encl: As-above.

ATTESTED

13/7

Yours faithfully,

(SYED ADEEL SHAH)
CONTROLLER

To

The Controller,
Government Printing and Stationery
Department, Khyber Pakhtunkhwa, Peshawar

Subject: APPEAL FOR CHANGE OF NOMENCLATURE FROM CARE TAKER
TO SENIOR CLERK AND GRANT OF UPGRADATION AS SENIOR
CLERK (BPS-9)


Respected Sir,

I have the honour to enclosed herewith an application along with relevant documents for grant of up-gradation as Senior Clerk in BPS-9, for onward submission to the Secretary to Government of Khyber Pakhtunkhwa, Industries Department Peshawar for further action please.

Encl: As above

Dated 20.7.2011

Yours Obediently


(HAYAT KHAN)
Senior Clerk

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21 $\frac{7}{2011}$ P.A.P

21 $\frac{10}{2011}$

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**GOVERNMENT OF
KHYBER PAKHTUNKHWA
INDUSTRIES, COMMERCE AND
TECHNICAL EDUCATION DEPARTMENT**

NO.SOI(IND)3-28/2011 10280
Dated 8th September, 2011

To



The Controller,
Printing & Stationery Department,
Govt. of Khyber Pakhtunkhwa, Peshawar.

SUBJECT: APPEAL FOR CHANGE OF NOMENCLATURE FROM CARETAKER TO SENIOR CLERK & GRANT OF UP GRADATION AS SENIOR CLERK BPS-09.

Dear Sir,

416

I am directed to refer to your letter No. 436/CP&S dated 27th August, 2011 on the subject noted above and to state that the upgradation policy was circulated on uniform basis for all Govt. employees. The case in-hand also fell under the domain of the said policy, and the applicant deserved to be upgraded from BS-07 to BS-09; in the normal course of circumstances. However, if any difficulty is felt in the instatnt upgradation, then the same may be communicated to this department in the form of a concise query to be put to the appropriate forum for guidance/advice please.

636
12-9-11

(Muhammad Ayaz Khan Momand)
Section Officer (Admn)

ATTESTED

13/9/11

Pl Prepare

a concise query for

Administrative Deptt

and put up

Manager,

E.A. RK

13/9/11

13/9/11

(H) 22
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**GOVERNMENT OF
KHYBER PAKHTUNKHWA
INDUSTRIES, COMMERCE AND
TECHNICAL EDUCATION DEPARTMENT**

NO. SOI(IND)3-28/2011 12543
Dated 5th November, 2011

To

The Section Officer (FR),
Govt. of Khyber Pakhtunkhwa,
Finance Department.

SUBJECT: APPEAL FOR CHANGE OF NOMENCLATURE FROM CARE TAKER TO
SENIOR CLERK AND GRANT OF UPGRADATION AS SENIOR CLERK
BPS-09.

I am directed to refer to your letter No. KC/SO(FR)/FD/7-1/2008 dated 18th October, 2011 on the subject noted above and to submit the following detail as desired please:-

1. Existing Service Rules (Flag-A)
2. Final Seniority list of Caretaker and Senior Clerks (Flag-B).
3. He, Mr. Hayat Khan, was initially recruited as Junior Clerk in BPS-5 as per record; hence deserves for the up-gradation as per policy in vogue.
4. Both the posts were transferable before the up gradation of the post of Senior Clerk.

Encls: As above.

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(Mohammad Ayaz Khan Momand)
Section Officer (Admn)



GOVERNMENT OF
KHYBER PAKHTUNKHWA
PRINTING & STATIONERY DEPARTMENT.

No. 436 /CP&S,
Dated Peshawar, the 27/8 /2011

To

The Section Officer (Admn)
Government of Khyber Pakhtunkhwa
Industries, Commerce, and Technical
Education Department, Peshawar

Subject:

APPEAL FOR CHANGE OF NOMENCLATURE FROM CARETAKER TO
SENIOR CLERK & GRANT OF UP-GRADATION AS SENIOR CLERK
(BPS-9)

Memo:

Please refer to your letter No. SO I(Ind)7-64/2011/9634, dated 15.8.2011
on the subject noted above and to submit par wise reply as under:

1. Mr. Hayat Khan was appointed as Junior Clerk in BPS-5 in Printing and Stationery Department w. e. from 26.10.1978 vide office order bearing No. 1186-90, dated. 24.10.1978 (**Annex-A**).
2. The official was properly promoted as Senior Clerk in PBS-7 w. e. from 02.12.1990 on the recommendation of the Departmental Promotion Committee vide minutes of the meeting dated 01.12.1990 (Photocopy of the office order regarding his promotion & minutes of DPC as **Annex-B**).
3. Mr. Hayat Khan Senior Clerk BPS-7 was internally transferred as Care Taker BPS-6 on 15.12.1990 vide order No. 4875, dated 15.12.1990 by the then Manager (**Annex-C**). The said order was also repeated by the then Controller vide serial No. 10 of the office order No. 33301-17, dated 03.4.2007 (**Annex-D**).
4. The Government of Khyber Pakhtunkhwa, Finance Department upgraded the post of Assistants, Senior Clerks and Junior Clerks from BPS-11 to BPS-14, from BPS-7 to PBS-9, from BPS-5to PBS-7, respectively and presently the following Senior Clerks of this department are in BPS-9.
 - ✓ i. Mr. Muzammil Khan, Senior Clerk.
 - ✓ ii. Mr. Sher Afzal, Senior Clerk.
 - ✓ iii. Mr. Issa Khan, Senior Clerk.
 - ✓ iv. Mr. Saeedullah Jan, Senior Clerk
 - v. Mr. Fazal Dad, Senior Clerk
 - vi. Mr. Muhammad Hanif, Senior Clerk
 - vii. Mr. Muhammad Ikram, Senior Clerk
 - viii. Mr. Muhammad Ishfaq, Senior Clerk
 - ix. Mr. Arshad Ali, Senior Clerk.

2- It is, therefore, requested that further action in to the matter may please be taken accordingly.

Encl: As above

ATTESTED

(SYED ADEEL SHAH)
CONTROLLER

27/08

(Annexure) 24
25

WORKING PAPER.

**UPGRADATION TO THE POST OF CARE TAKER
BPS-6 TO THE POST OF SENIOR CLERK BPS-9.**

Subject - APPEAL FOR CHANGE OF NOMENCLATURE FROM CARE TAKER TO SENIOR CLERK AND GRANT OF UPGRADATION AS SENIOR CLERK BPS-9.

Mr. Hayat Khan was appointed as Junior Clerk in BPS-5 in Printing and Stationery Department on 26.10.1978 vide office order No.1186-90 dated 24.10.1978 **(Annexure-A).**

The Official was promoted to the post of Senior Clerk on 02.12.1990 at the recommendation of the Departmental Promotion Committee. (Copy of the office order & Minutes of DPC are at **Annexure-B).**

Mr. Hayat Khan was than internally transferred as Care Taker which was an equivalent post at that time vide order No.4875 dated 15.12.1990 **(Annexure-C).** The said order was also repeated vide serial No.10 of the office order No.33301-17 dated 03.4.2007 **(Annexure-D)**

Subsequently Finance Department vide its notification No. FD/SO(FR)7-2/2007 dated 28.7.2007(F/A) granted sanction for the up-gradation of the following posts in the Province with effect from 1.7.2007.

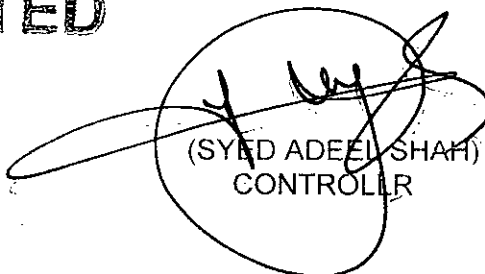
S.NO.	NOMENCLATURE OF THE POSTS	OLD SCALE	UPGRADED SCALE
1	Assistant	BPS-11	BPS-14
2	Auditor	BPS-11	BPS-14
3	Senior Clerk	BPS-06	BPS-09
4	Junior Clerk	BPS-05	BPS-07

The post of Care Taker was not upgraded due to its nomenclature despite being equivalent post to the Senior Clerk. Mr. Hayat Khan Senior Clerk was only transferred against the post of Care Taker and was deprived of the benefit of up-gradation due to the nomenclature of the post as Care Taker instead of Senior Clerk. Due to above mentioned anomaly Mr. Hayat Khan was deprived of his right of up gradation and is still working as Care Taker despite being a Senior Clerk in BPS-9. In order to remove the anomaly the post of care taker needs to be upgraded to BPS-9 on the analogy of the post of Senior Clerk. Total financial implication involved in the up gradation of the post from BPS-6 to BPS-9 along with back benefits come to Rs.35,740/- **(Annexure-E).**

In view of the above, the up gradation committee is requested to grant up-gradation to the post of Care Taker from BPS-6 to BPS-9 as per Finance Department notification along with the back benefits to Mr. Hayat Khan with effect from 1.7.2007.

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(SYED ADEEL SHAH)
CONTROLLER

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GOVERNMENT OF KHYBER PAKHTUNKHWA
PRINTING & STATIONERY DEPARTMENT

No. 803 /Estt:

Dated Peshawar, the 1/10, 2011

To

The Section Officer (Admn.)
Government of Khyber Pakhtunkhwa
Industries, Commerce, and
Technical Education Department, Peshawar.

SUBJECT: **APPEAL FOR CHANGE OF NOMENCLATURE FROM CARETAKER TO SENIOR CLERK AND GRANT OF UP GRADATION AS SENIOR CLERK BPS-09**

Pleas refer to your letter No.SOI(IND)3-28/2011/10280 dated 8.9.2011 on the subject noted above and to state that the Government of Khyber Pakhtunkhwa (Regulation Wing) vide notification No. FD/SO(FR)7-2/2007 dated 28.7.2007(F/A) granted sanction for the up-gradation of the following posts in the Province with effect from 1.7.2007.

S.NO.	NOMENCLATURE OF THE POSTS	OLD SCALE	UPGRADED SCALE
1	Assistant	BPS-11	BPS-14
2	Auditor	BPS-11	BPS-14
3	Senior Clerk	BPS-06	BPS-09
4	Junior Clerk	BPS-05	BPS-07

2. Mr. Hayat Khan Senior Clerk BPS-7 was only transferred against the post of Care Taker and was deprived of the benefit of up-gradation due to the nomenclature of the post as Care Taker instead of Senior Clerk BPS-07.

3. It is further stated that the official was appointed as junior clerk and was promoted as Senior Clerk BPS-7, but later on the nomenclature in the Service Book as well as in the pay roll was changed. On the up gradation of clerical cadre mentioned in para-1 above, the appellatant was deprived of the right of up gradation as the post of Care Taker which was equivalent to Senior Clerk was not upgraded. Due to above mentioned anomaly Mr. Hayat Khan was deprived of his right of up gradation and he is still working as Care Taker despite being a Senior Clerk in BPS-9.

4. In view of the above mentioned facts and the petition submitted by the official, it is requested that case may be taken up with the Finance Department for up gradation of the post of Care Taker from BPS-6 to BPS-9, as per Finance Department notification mentioned above along with the grant of back benefits to Mr. Hayhat Khan with effect from 1.7.2007. Detail of financial implications involved is as under.

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VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar
OF 2013

Hayat Khan

(Appellant)
(Plaintiff)
(Petitioner)

VERSUS

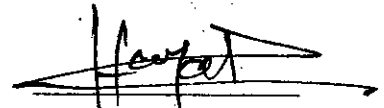
Govt of KPK


(Respondent)
(Defendant)

I/We Hayat Khan

Do hereby appoint and constitute NOOR MOHAMMAD KHATTAK, Advocate, Peshawar to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate counsel on my/our cost. I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 28 / 3 / 2013.


CLIENT


ACCEPTED
NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

2002 P L C (C.S.) 1388

[Punjab Service Tribunal]

Justice (Retd.) Riaz Kayani, Chairman

MUHAMMAD HASNAIN SHAH

versus

INSPECTOR-GENERAL OF POLICE, MULTAN RANGE,
MULTAN and 27 others

Appeal No.3706 of 2000, decided on 4th December, 2001

(a) Civil Service----

----Promotion, confirmation and seniority----Civil servant was promoted to the rank of Officiating Sub-Inspector of Police, but was not confirmed on that post and was also placed below the co-civil servants in seniority list despite they were juniors to him ---Co-civil servants were confirmed and placed above civil servant in seniority list on ground that they had undergone upper-class course earlier to the civil servant---Validity---Civil servant was punished for no fault of his own for not being nominated for upper class course alongwith co-civil servants---Civil servant had no adverse entry to his A.C.R. standing against him at relevant time---Representation and appeal filed by the civil servant against his grievance though were late, but in matters of promotion, pay and other emoluments, limitation would not foreclose his right accrued to him---Orders passed against the civil servant were set aside with direction to the Authority to confirm civil servant from the date when his juniors were so confirmed - and to grant ante-dated promotion to him.

(b) Limitation Act (IX of 1908)---

----Preamble---Limitation---Limitation Act, 1908 undoubtedly was penal in nature and rights accrued could not be taken away unless sufficient cause was shown---Technicalities of law, however, should not stand in the way of a person who had been singled out rather prosecuted without knowing as to crime or sin, he had committed.

Masud Ahmad Riaz for Appellant.

Khadim Hussain Sindhu, District Attorney for Respondents.

Date of hearing: 27th November, 2001.

JUDGMENT

Muhammad Hasnain Shah, Inspector, was appointed as A.S.-I. on 6-3-1982 and was confirmed in the said post on 12-8-1986 on which date he was also admitted to list 'E'. On 8-10-1986. Deputy

Inspector-General of Police, Faisalabad Range, Faisalabad, terminated the probation of the appellant as A.S.-I. and also removed him from list 'E'. Inspector-General of Police, Punjab, took suo motu notice of the steps taken by Deputy Inspector-General of Police, Faisalabad, and directed maintaining status quo ante, with the result that appellant was confirmed as A.S.-I. w.e.f. 2-8-1986 as well as admitted to list 'E' and was also promoted the rank of officiating Sub-Inspector w.e.f. 8-8-1988. Simultaneously, appellant was transferred to Multan Range in the year 1988. A seniority list was issued in which appellant was shown at serial No. 143-A followed by another seniority list of Sub-Inspectors w.e.f. 1-1-1987 in which the name of the appellant did not figure, however, respondents Nos.4 to 9 were shown senior to the appellant having been admitted to list 'E' w.e.f. 9-9-1986, on a date after the admission of the appellant to the said list, as a result of which respondents Nos.4 to 9 were confirmed as Sub-Inspectors w.e.f. 7-2-1990 vide order dated 17-2-1990 passed by Deputy Inspector-General of Police, Multan Range, Multan. Appellant made representation to respondent No. 1 on 15-1-1998. In reply respondent No. 1 vide his letter dated 25-2-1998 informed the appellant that his case was examined for grant of ante-date confirmation as Sub-Inspector w.e.f. 7-2-1990 but the same could not be accorded as he was undergoing upper class course which was a pre-requisite qualification for confirmation as Sub-Inspector. Appellant mentioned in his appeal that respondents Nos.4 to 9 have been deputed for upper class course in March 1989 whereas appellant was sent to upper class course on 23-9-1989 and completed the course in March, 1990, while he was serving in Multan Range. Grievance of the appellant was that confirmation of respondents No.4 to 9 as Sub-Inspectors w.e.f. 7-2-1990, while he was left in lurch, the respondents were admitted to list 'F' and promoted as officiating Inspectors from various dates occurring in the years 1991 and 1995. Appellant admitted that he was transferred to Sargodha Range at his own request vide order dated 27-1-1991, he was placed at the bottom of officiating Sub-Inspectors on the list of Sargodha Range. Being junior to all officiating Sub-Inspectors in Sargodha Range, he was confirmed as Sub-Inspector w.e.f. 12-8-1992 and in the seniority list of confirmed Sub-Inspectors of Sargodha Range, his name figured at Serial No.60, though he was entitled to be placed below Serial No.24 and above Serial No.25 as these persons were confirmed from various dates ranging between 9-10-1990 to 12-8-1992. Appellant was admitted to list 'F' on 27-3-1999 and promoted as Inspector w.e.f. 19-4-1999 making him junior to respondents Nos.4 to 11 by 8 years. Appellant submitted his representation to respondent No.2 on 19-3-1998, which was rejected and communicated to him on 25-11-2000. Order of respondent No. 1 dated 25-2-1998 and that of respondent No.2 dated 25-11-2000 have been challenged in this appeal.

2. Learned counsel for the appellant contended that the injustice to the appellant commenced at the time when he was not considered alongwith his batchmates to undergo upper class course to which they were admitted in March, 1989 and this is the starting point of his miseries. Taking his arguments to their logical conclusion, learned counsel stated that the only ground for not sending the Police Officer for upper course is that when he has an adverse entry in his ACR, as mandated in the Police Rules, 1934. To the contrary, it was urged that appellant has in his whole career not earned even a single adverse entry, particularly, till March, 1989, when respondents Nos.4 to 11 were sent to undergo the upper class course and without any rhyme or reason, his entry in the institution to undergo upper class course was delayed till 23-8-1989, which he passed in March, 1990.

Learned counsel for the appellant referred to an unreported judgment of the Hon'ble Supreme Court in Civil Petitions Nos.766-L of 1995 and 790-L of 1995 which took into consideration identical question of law; Respondent and petitioner, in the referred to case, before the apex Court were Junior Instructors in Government College of Technology. Respondent being senior to the petitioner was not promoted to take the training course because the Principal was of the view that his class would be neglected without him. But on the other hand petitioner was allowed to proceed on training which made him qualified to be promoted in BS-17 on 18-6-1990. However, the case of the respondent was relegated on the ground that he did not complete the training which he did subsequently and obtained Diploma on 13-5-1991. Respondent claimed promotion and seniority asserting that if he had not been ignored earlier, without any fault of his, he would have also been promoted alongwith the petitioner. Punjab Service Tribunal who allowed the petition, observed as under:--

"There was no denying the fact that the appellant was senior to respondent No.3. He should have been deputed for the course by virtue of his seniority. It was not the respondent's case that his record was otherwise unsatisfactory rendering him unfit for getting the training. Conversely, when his record was clean and he was senior as well, he should have been given preference to all others for getting the training. He was detained by the Principal as he had none also to look after the relevant duties but this could not be a reason to traverse seniority of the appellant. Someone should have been brought in by transfer or by initial recruitment to fill the post temporarily. The reason for rendering his seniority ineffective was not sound. Late, however, he got the training and came eligible to be promoted. By virtue of seniority which was a vested right he had a genuine claim to be preferred to respondent No.3.

Accordingly, the appeal is allowed. The appellant is held entitled to be promoted as Inspector (BS-17) in preference to respondent No.3 even though the latter might have to be demoted."

Hon'ble Judges of the Supreme Court held that the respondent was handicapped to undergo the course/training because of refusal of - the Principal to allow him to proceed on such training but since he was entitled to undergo the training alongwith others, the Principal should have exercised the discretion in his favour and alternate arrangement should have been made. The appeal of the petitioner was dismissed and judgment of the Tribunal was upheld.

4. Another hurdle which has been created in the way of the appellant is that he got himself transferred to Sargodha and according to the policy of the Government, transfer with consent brings his seniority in his rank to the bottom. However, the mischief to the appellant was done before he opted for transfer to Sargodha in January, 1991 and events culminating in ignoring him for promotion as confirmed Sub-Inspector from 7-2-1990 would not stand in his way for seeking relief by his voluntary transfer to Sargodha Range. Appellant also quoted the case of Muhammad Sarwar v. Director Administration, FIA reported in 1998 SCMR 2409 a case more or less on the similar grounds. Learned District Attorney, raised a single objection about limitation and submitted that wrong was done to the appellant on 7-2-1990 according to his own showing but the representation which he made was in January, 1998 and according to the dictum of Hon'ble Supreme Court reported in 1998 SCMR 882, question of limitation could be seen by the appellate Court at any stage of the proceedings. It was urged that although appellant may have a good case on merit but having kept mum for 7/8 years, he cannot be allowed condonation there being no sufficient ground in his favour.

5. I have attended to the arguments of the respective counsels and have also gone through the record.

Appellant admittedly was punished for no fault of his for not being nominated for upper class course in March, 1989 alongwith other respondents. He had no adverse entry in his ACR standing against him, name at that period of time. Ruling of the Hon'ble apex Court upholding the judgment of this Tribunal in Appeal No. 634 of 1991 clinches the issue. Subsequent event of getting himself transferred to Sargodha and being placed at the bottom of officiating Sub-Inspectors list, would not stand in the way of the appellant as the mischief had completed itself in February, 1990 when juniors to the appellant were confirmed as Sub-Inspector.

7. Coming to the question of limitation, canvassed by the appellant, I am more prone in the instant case to do substantial justice, as head of the appellant was placed on the chopping block for no fault of his. Undoubtedly, Limitation Act is penal in nature and rights accrued cannot be taken away unless sufficient cause is shown. However, technicalities of law should not stand in the way of a person who has been singled out rather persecuted without knowing as to what crime or sin he has committed. Equities in his favour, far outweigh, his fardiness, to make representation against the injustice done to him. I am also fortified in my view by the judgment of the apex Court reported in PLD 1992 SC 825 that in matters of promotion, pay and other emoluments cause of action is recurring, limitation does not foreclose the right. Resultantly I accept the appeal, set aside the impugned orders and direct the respondents to confirm the appellant as Sub-inspector' w.e.f. 7-2-1990 when respondents; 14 to 11 his juniors were given the benefit of confirmation as Sub-Inspector. Respondent No.2 may consider granting ante-dated promotion to the appellant as officiating Inspector from the same dates as were allowed to the respondents alongwith consequential benefits flowing from the order to promotion.

H.B.T./64/PST

Appeal accepted.

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal NO. 585 OF 2013.

Hayat Khan S/o Abdur Rehman, Senior Clerk,
Government Printing & Stationery Department
Khyber Pakhtunkhwa Peshawar.

VERSUS

1. The Province of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Secretary Industries, Commerce, Technical Education Department Peshawar.
3. The Secretary Finance Department, KPK, Peshawar.
4. Controller, Govt. of KPK, Printing and Stationery Department, Peshawar.
5. The Manager, Printing & Stationery Department, KPK, Peshawar. **RESPONDENTS.**

Para-wise comments on behalf
Of respondent No. 1 TO 5.

Respectfully Shewith

PRELIMINARY OBJECTIONS.

1. That the Appellant has no cause of action.
2. That this Honourable tribunal with respect to say has no jurisdiction to entertain the appeal.
3. That the appeal is not maintainable in its present form.
4. The appellant has concealed the material facts.
5. The instant appeal is barred by law.
6. That the appeal is bad due to non-joinder and mis-joinder of necessary party / parties.
7. *That the appellant is estopped by his own conduct.*

On facts:

1. Para No.1 Pertain to record, hence need no comments.
2. Para No.2 is correct.
3. The Para No.3 is correct to the extent that the Government upgraded the post of Senior Clerk BPS-7 to BPS-9, but the appellant was not upgraded to the post of Senior Clerk BPS-9 due to the change of nomenclature as the incumbent was working as Care Taker during the issuance of the said notification in 2007. This benefit has been given by the Finance Department vide notification No.FD/SO(FR)7-2/2007 dated 28.7.2007. Copy attached at **Annexure-A.**
4. Para No.4 is correct to the extent that the department sent his appeal to the Administrative Department but no reply has been received to this department up till now.
5. Para No.5 is correct to the extent that in this connection a meeting held in the Finance Department on 10.4.2013 and decided that the post of Care Taker BPS-6 upgraded to BPS-7 **copy of the minutes is attached as Annexure-B.** As the appellant was adjusted against a lower post of Care Taker, (BPS-6) and did not objected, therefore, the appellant was not entitled for the same.

GROUNDS.


- A. In correct. Applent was not given this benefit due to the nomenclature.
- B. It is incorrect. The upgrddation Committee was authorized to decide the matter according to the Government Rules.
- C. No comments.
- D. Incorrect. The appellatnt was not given the benefit due to nomenclature of the post of Care Taker.
- E. Incorrect. In this respect the committee was authorized to decide the matter as it was dependent on the committee.
- F. No comments.

It is, therefore, prayed that the appeal may graciously be dismissed.

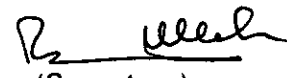
Respondent No.1.


 (CHIEF SECRETARY)
 Government of Khyber Pakhtunkhwa

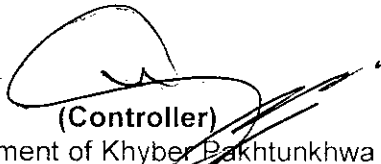
Respondent No.2.


 (SECRETARY)
 Government of Khyber Pakhtunkhwa
 Industries Department


Respondent No.3.

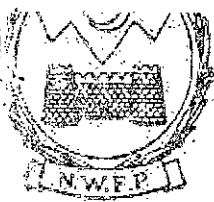

 (Secretary)
 Government of Khyber Pakhtunkhwa
 Finance Department

Respondent No.4.


 (Controller)
 Government of Khyber Pakhtunkhwa
 Printing and Stationery Department

Respondent No.5.


 (MANAGER)
 Government of Khyber Pakhtunkhwa,
 Printing and Stationery Department.

Dated Peshawar, the 28th July, 2007

Annex. A

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NOTIFICATION

NO.FD/SO(FR)7-2/2007. The competent authority has been pleased to accord sanction to the up-gradation of the following posts in the Province with effect from 01-07-2007.

S.No.	Nomenclature of the post	Existing Scale	Upgraded Scale
1	Assistant	BPS-11	BPS-14
2	Auditor	BPS-11	BPS-14
3	Senior Clerk	BPS-7	BPS-9
4	Junior Clerk	BPS-5	BPS-7

The incumbents of the up-graded posts will also stand upgraded and their pay will be fixed at the stage next above their basic pay in their lower pay.

2. The Competent Authority has also been pleased to approve that employee from BPS-1 to 4 would move one scale up in the pay scales w.e.f 1st July, 2007.

3. The Establishment Department will amend the recruitment rules of the ministerial posts, whereas amendments in the recruitment rules of other posts listed at Para-1 above shall be made by the concerned Departments in consultation with the Establishment Department.

4. As a special dispensation, the annual increment falling due on 1st December 2007 shall be admissible to the above-mentioned employees in the upgraded pay scales.

SECRETARY TO GOVT. OF NWFP
FINANCE DEPARTMENT

Encl No. & Date even.

Copy of the above is forwarded for information and necessary action to the:-

- 1) All Administrative Secretaries Government of NWFP.
- 2) Senior Member, Board of Revenue, NWFP, Peshawar.
- 3) Accountant General, NWFP, Peshawar.
- 4) Secretary to Governor, NWFP, Peshawar.
- 5) Principal Secretary to Chief Minister, NWFP.
- 6) Secretary Provincial Assembly, NWFP.
- 7) All Heads of Attached Departments in NWFP.
- 8) Registrar, Peshawar High Court, Peshawar.
- 9) All Zilla Nazims/District Coordination Officers/Political Agents District & Sessions Judges/Executive District Officers in NWFP.
- 10) Registrar, NWFP, Public Service Commission, Peshawar.
- 11) Registrar, Service Tribunal NWFP.
- 12) All the Autonomous and Semi Autonomous Bodies in NWFP.
- 13) Secretary to Government of the Punjab, Sindh and Balochistan, Finance Department, Lahore, Karachi and Quetta.
- 14) The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and D.I.Khan.
- 15) The Senior District Accounts Officer Nowshera, Swabi, Charsadda, Haripur, Mansehra and Dir (Lower).
- 16) The Treasury Officer, Peshawar.
- 17) All District/Agency Accounts Officers in NWFP/FATA.
- 18) PS to Minister for Finance NWFP.
- 19) PS to Chief Secretary, NWFP.
- 20) PS to Additional Chief Secretary, NWFP.
- 21) Director Local Fund Audit, NWFP, Peshawar.
- 22) Director, FMIU, Finance Department for placing the same on the Website of Finance Department.
- 23) PS to Finance Secretary.
- 24) PAs to All Addl. Secretaries/Deputy Secretaries in Finance Department.
- 25) All Section Officers/Budget Officers in Finance Department.

(Signature)
(Naib Khan)
Section Officer (FR)

THE PAGES
454
7-7-07

EA
1/8
1/8/07

MINUTES OF THE MEETING OF THE UPGRADATION COMMITTEE
HELD ON 10-04-2012 REGARDING CHANGE OF NOMENCLATURE FROM
CARE TAKER TO SENIOR CLERK AND GRANT OF UPGRADATION
SENIOR CLERK BPS-9.

A meeting of Upgradation Committee was held on 10-04-2012 at 10 AM, under the chairmanship of Special Secretary, Finance Department discuss the above subject upgradation. The following attended the meeting

- | | | |
|----|---|----------|
| 1. | Mr. Masood Ahmad
Special Secretary
Finance Department | Chairman |
| 2. | Mr. Javed Anwar
Additional Secretary
Industries Department | |
| 3. | Mr. Mohammad Idrees Khan
Additional Secretary (Regulation)
Finance Department | |
| 4. | Ms. Naj-mus-Sahar
Section Officer (Regulation-VI)
Establishment Department | |

2. The meeting commenced with the welcome note from the chair. representative of Administrative Department informed the committee Mr. Hayat Khan was appointed as Junior Clerk in BS-5 in Printing Stationary Department on 26-10-1978. The official was promoted to the of Senior Clerk on 02-12-1990 on the recommendation of the Department Promotion Committee. He was internally adjusted as Care Taker. The of concerned was in BPS-07 while the post of Care Taker was in BPS-06.

3. Due to his above mentioned adjustment as Care Taker in BPS-06, official could not get the benefit of general up-gradation of posts of minist staff by the Finance Department on 08.07.2007, whereby the post of Sr Clerk was upgraded from BPS-07 to BPS-09. The Industries Department therefore, placed the case before the Upgradation Committee for upgra- the post of Care Taker (BPS-06 to BPS-09) so that the official could also benefit of general upgradation.

MANAGER
 Stationery and Printing Deptt.
 Govt. of Sindh, Karachi
 Pakistan

4. The Committee thoroughly deliberated over the issue and observed that the post of the Care Taker is in BS-6 while the incumbent was in BS-7. Yet he did not agitate his adjustment against the lower post of Care Taker BS-6 in December 1990, hence his complaint carries no weight. The committee further observed that the upgradation of Senior Clerk from BPS-07 to BPS-08 was part of the upgradation of specified ministerial posts in 2007 throughout Pakistan and can not be extended to any other posts carrying same pay scale.

5. The committee therefore, unanimously regretted to up-grade the post of Care Taker to BPS-09. However, in order to rectify the anomaly occurred due to adjustment of the official against a post in lower pay scale, the committee recommended that the post of Care Taker may be upgraded permanently from BS-06 to BS-07 alongwith the incumbent already working on the post of Care Taker so that the issue may be settled once for all. The Committee also advised the representative of the Administrative Department to make necessary amendments in existing service rules through SSRC.

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

(NAJ-MUS-SAHAR)
Section Officer (Regulation-VI)
Establishment Department

(MUHAMMAD IDREES KHAN)
Additional Secretary (Regulation)
Finance Department

(JAVED ANWAR)
Additional Secretary
Industries Department

(MASOOD AHMAD)
Special Secretary
Finance Department

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 585/2013

HAYAT KHAN

VS

GOVT OF KPK

REJIONDER ON BEHALF/OF APPELLANT IN
RESPONSE TO THE REPLY SUBMITTED BY
THE RESPONDENT NO.1 & 2

R/ SHEWETH:

PRELIMINARY OBJECTIONS:

(1 TO 7):

All the preliminary objections raised by the respondents are incorrect and baseless and not in accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

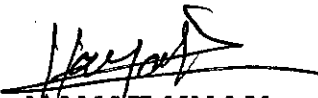
- 1- Admitted correct by the respondent hence need no comments.
- 2- Admitted correct by the respondent hence need no comments.
- 3- In correct and not replied accordingly. That vide order dated 15-12-19190 the appellant was posted temporarily as Care Taker due to non-availability of suitable incumbent for the said post. That the said post was in BPS-6 however the appellant has drawn his emoluments in BPS-7 as Senior Clerk right from the order dated 15-12-1990 till date.
- 4- In correct and not replied accordingly. That provincial government of Khyber Pakhtunkhwa introduce the policy of up gradation and in result the post of senior clerk was up graded to BPS-09. That the appellant also claimed the benefit of up gradation like his other colleagues but the same was not allowed to the appellant on the pre-text that he is holding the post of Care Taker which in BPS-6.
- 5- In correct and not replied accordingly. That as explained above in para No.3 & 4 that, that the appellant is fully entitled for the grant of up gradation on the basis of equity and equality.

GROUND:
(A TO F):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect, and baseless. That appellant temporarily was posted against a wrong post of care taker BPS-6 though his original post is of Senior Clerk BPS-7 and the appellant also drawn his pay and emoluments of his original post. That the denial of the respondent Department by not upgrading the post of appellant is based on malafidely and arbitrary intention. That the appellant is fully entitled for the grant of BPS-9 under the principal of equity and equality, which guaranteed by the constitution of Islamic Republic of Pakistan 1973.

It is therefore most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may be accepted as prayed for.

APPELLANT



HAYAT KHAN

THROUGH:



NOOR MUHAMMAD KHATTAK
ADVOCATE