

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Service Appeal No. 1425/2014

Date of Institution... 18.11.2014

Date of decision... 22.01.2018

Noor Saadat Khan son of Bakhmal Jan, R/O Nari Panoos Tehsil Banda Daud Shah District Karak presently serving as Bailiff to Civil Judge, Banda Daud Shah, Karak.
... (Appellant)

Versus

1. The District & Sessions Judge, Karak & another. (Respondents)

Mst. Uzma Syed, ... For appellant.
Advocate.

Mr. Riaz Khan Painsa Khel, ... For respondents.
Asstt. Advocate General

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. GUL ZEB KHAN, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the
learned counsel for the parties heard and record perused.

FACTS

2. The appellant was considered for promotion in a meeting of the Departmental Promotion Committee on 19.12.2012 and was superseded on the ground of adverse entries in his P.E.R. The appellant thereafter, filed a departmental appeal on 1.2.2013 for expunction of adverse remarks in his P.E.R for three periods mentioned in the said departmental appeal. The said appeal/representation was rejected by the appellate authority on 18.6.2014. Thereafter he filed the present service appeal on 18.11.2014.

ARGUMENTS

3. The learned counsel for the appellant argued that the adverse entries were never communicated to the appellant. That he came to know about these entries for the first time when he was superseded and not promoted by the DPC on 19.12.2012. That he filed departmental appeal/representation which was rejected on 18.6.2014 but the appellant received the copy of the same on 20.10.2014 and thereafter, he filed the present service appeal within time. She further argued that any adverse entry not communicated to a civil servant got no legal sanctity and could not be used against him. She relied upon a judgment reported as 2009-SCMR-117.


4. On the other hand, the learned Assistant Advocate General argued that the present appeal was time barred because departmental representation of the appellant was time barred. That record of the appellant showed that so many Reporting Officers/Countersigning Officers had given him adverse entries. That there was no ground made out for expunction of the said adverse entries.

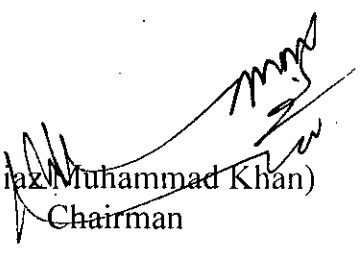
CONCLUSION

5. This Tribunal on the last day requisitioned the original record from the concerned department regarding the P.E.Rs. This Tribunal while going through the said record had noticed that no communication of the entries have been made for the period under challenge. So much so that the Reporting Officer/Countersigning Officer have not inked any date on the P.E.Rs. The said file also reveals that there are two more P.E.Rs for the years 2013 and 2014 which have only been filled by the Reporting Officer but so far the Countersigning Officer has not signed these two P.E.Rs. However, this Tribunal is not concerned with these two last P.E.Rs. The first three reports for the period under challenge have not been communicated to

the appellant, therefore, in view of the judgment pressed into service by the learned counsel for the appellant have got no legal base. The objection of the learned Asstt. A.G regarding limitation is not convincing because the remarks were not communicated to the appellant, then no limitation would run against him as he was unaware about these remarks till he was superseded.

6. Consequently, the present appeal is accepted and the adverse remarks are expunged and shall not be used against him. Parties are left to bear their own costs. File be consigned to the record room.


(Gul Zeb Khan)
Member


(Niaz Muhammad Khan)
Chairman

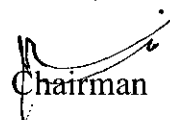
ANNOUNCED
22.1.2018

Service Appeal No: 1425/2014

23.10.2017

Appellant in person and Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. The learned Additional AG seeks adjournment. Granted. To come up for arguments on 14.12.2017 before the D.B.


Member


Chairman

14.12.2017

Appellant with counsel and Addl. AG for the respondents present. During the arguments it transpired that there is no record of ACRs on the file. The department is directed to produce the original record of the ACRs of the appellant alongwith communication of remarks, if any, on the next date. To come up for record and arguments on 22.01.2018 before the D.B.


Member

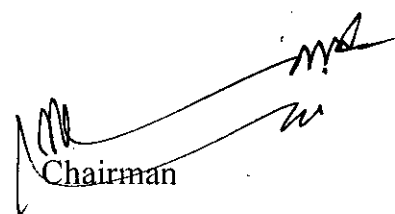

Chairman

22.01.2018

Counsel for the appellant and Mr. Muhammad Riaz Paindakhel, Asstt. Advocate General for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.



Member



Chairman

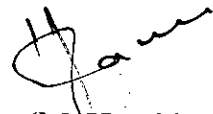
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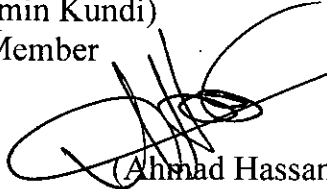
16.08.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Asstt. A.G for the respondents present. Arguments on the point of jurisdiction heard. To come up for order tomorrow on 17.08.2017 before the Larger Bench.


Chairman


(M. Amin Kundi)
Member



(M. Hamid Mughal)
Member



(Ahmad Hassan)
Member


17.08.2017

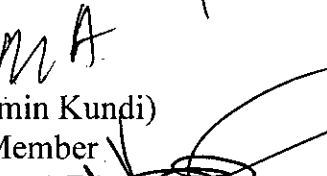
Counsel for the appellant and Mr. Kabeerullah Khattak, Asstt. A.G for the respondents present. Arguments on the point of jurisdiction heard and record perused.

Vide our detailed judgment of today, in connected service appeal No. 41/2016, entitled "Zubair Ahmad Vs. the Appellate Judge through Registrar, Peshawar High Court, Peshawar etc." this Tribunal has the jurisdiction to entertain the appeal. To come up for arguments before D.B on 23.10.2017.


Chairman


(M. Amin Kundi)
Member


(M. Hamid Mughal)
Member


(Ahmad Hassan)
Member

1425/2014

10.01.2017 Appellant with counsel and Additional AG for respondents present. Since learned counsel for appellants are not available today in other similar cases, therefore, this appeal is also adjourned for final hearing to 11.05.2017 before the Larger Bench.



(MUHAMMAD AAMIR NAZIR)
MEMBER


(MUHAMMAD AZIM KHAN AFRIDI)
CHAIRMAN

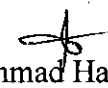

(ASHFAQUE TAJ)
MEMBER


(AHMAD HASSAN)
MEMBER

11.05.2017 Counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Due to incomplete larger bench the case is adjourned. To come up for arguments on 16.08.2017 before Larger Bench.



(M.Amin Khan Kundi)
Member


(Gul Zeb Khan)
Member


(Ahmad Hassan)
Member

09.11.2016

Appellant with counsel and Mr. Raz Ali. Assistant alongwith Mr. Muhammad Jan, GP for respondents present and submit ACR. The similar case of judiciary has already been fixed before larger bench. The same may also be fixed before larger bench on 14.12.2016.


(Muhammad Amir Nazir)
Member

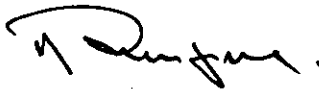

(Pir Baksh Shah)
Member

14.12.2016

Counsel for the appellant and Addl. AG for respondents present. Arguments could not be heard due to non-availability of learned Member Executive. Adjourned for final hearing before the larger bench on 10.01.2017.


(MUHAMMAD AMIR NAZIR)
MEMBER


(MUHAMMAD AZIM KHAN AFRIDI)
CHAIRMAN


(ASHFAQUE TAJ)
MEMBER

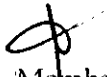
28.03.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted on behalf of the appellant which is placed on file. Arguments could not be heard due to non-availability of D.B. Therefore, the case is adjourned to 23.06.2016 for arguments.


Chairman

23.06.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Respondent-department is directed to produce ACRs of the appellant on the next date. To come up for such record and arguments on 09.11.2016.


Member


Member

28.04.2015

Appellant in person and Mr. Ziaullah, GP present. None for the respondents present. Notices be issued to the respondents for submission of written reply/comments. To come up for written reply/comments on 18.06.2015 before S.B.



Member

18.06.2015

Counsel for the appellant and Assistant A.G for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 11.8.2015.



Member

11.08.2015

Counsel for the appellant and 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 13.10.2015 before S.B.


Chairman

13.10.2015

Appellant in person and Mr. Awal Zaman, Supdt. alongwith Addl: A.G for respondents present. Separate written replies by respondent No. 1 as well as respondent No. 2 submitted. The appeal is assigned to D.B for rejoinder and final hearing for 25.01.2016.


Chairman

25.01.2016




Counsel for the appellant and Addl: AG for respondents present. Due to not availability of D.B, therefore, the case is adjourned to 28/3/16 for arguments.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1425/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.12.2014	<p>The appeal of Mr. Noor Saadat Khan resubmitted today by Mr. Ashraf Ali Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	21.1.2015	<p>This case is entrusted to Zariya for preliminary hearing to be put up there on File received from the Hon'ble Bench.</p> <p>None is available on behalf of the appellant. Notice be issued to appellant and his counsel. Case to come up for preliminary hearing on 19.2.2015 MAN</p> <p style="text-align: right;"> MEMBER</p>
3	19.2.2015	<p>Counsel for the appellant present and submitted that though the ACRs of the appellant were good but the same were treated adverse and as a result thereof, the appellant was deprived of his legal right of promotion. Points raised need consideration. The appeal is admitted for regular hearing, subject to all legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 28.4.2015.</p> <p style="text-align: right;"> MEMBER</p>

*alated
MR. Ashraf Adv.
27/11*


*Appelland deposited
Process fee & Security.*

The appeal of Mr. Noor Saadat Khan son of Bakhmal Jan Bailiff to Civil Judge Banda Daud Shah Karak received today i.e. on 18.11.2014 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- ✓1- Memorandum of appeal may be got signed by the appellatant.
- 2- Annexures of the appeal may be attested.
- 3- Index of the appeal may be prepared according the index of the appeal.
- ④- Copy of Adverse remarks mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 5- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.
- 6- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1638 /S.T,

Dt. 18/11 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.


Mr. Ashraf Ali Khattak Adv. Peshawar.

Re-submitted :

Re-submitted after compliance.

(v) Copy of adverse remarks (objection-5) has not been provided to the appellatant inspite of application in this behalf. The application has been attached as annexure-B.

It is therefore, requested that the case may kindly be placed before the Tribunal.


Ashraf Ali Khattak

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1425 /2014

Noor Saadat Khan Bailiff to
Civil Judge Banda Daud Shah,
Karak
.....Appellant

Versus

The District and Session
Judge, Karak and
others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal with Affidavit.			1-5
2.	Copy of minutes of DPC Meeting.	19-12-2012	A	6-10
3.	Copy of Application		B	11-
4.	Copy of departmental Appeal		C	12-19
5.	Copy of impugned order		D	20-27
6.	Wakalat Nama			28

Through Appellant


Ashraf Ali Khattak

and


Nawab Zada
Advocates, Peshawar

Dated: _____ / 12/ 2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 1425/2014

1378
18-11-2014

Noor Saadat Khan S/o Bakhmal Jan R/o Nari Panoos
Tehsil Banda Daud Shah District Karak Presently serving
as Bailiff to Civil Judge Banda Daud Shah, Karak
.....Appellant.

Versus

1. The District and Session Judge, Karak.
2. The Senior Civil Judge, Karak.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNALS
ACT, 1974 AGAINST THE IMPUGNED FINAL ORDER
DATED 18-10-2014 PASSED BY RESPONDENT NO.1
ON THE DEPARTMENTAL APPEAL OF THE
APPELLANT PREFERRED AGAINST THE ADVERSE
REMARKS FOR THE PERIOD FROM 12-05-2008 TO
31-12-2008, 01-11-2009 TO 31-12-2009 AND 01-01-2010
TO 28-04-2010.

Prayer:-

On acceptance of the instant service appeal, this
Honourable Tribunal may graciously be pleased to
declare that the adverse remarks for the period from
12-05-2008 to 31-12-2008, 01-11-2009 TO 31-12-2009 and
01-01-2010 to 28-04-2010 is illegal, unlawful and without
lawful authority and expunge the same by set aside the
impugned final order of respondent No.1.

Respectfully Sheweth,

re-submitted to-22
and filed.

Registration
24/12/14.

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

1. That appellant has been serving as bailiff in the respondent organization. He has got about 26 year service at his credit.
2. That a meeting of Departmental Selection Committee was held under the chairmanship of respondent No.2, wherein the cases of promotions including Bailiff to the post of Junior Clerk were considered (Annexure-A).
3. That the case of the appellant was also considered ~~was also considered~~, but he was superseded due to adverse remarks in his ACRs for the period from 12-05-2008 to 31-12-2008, 01-11-2009 TO 31-12-2009 and 01-01-2010 to 28-04-2010.
4. That the adverse remarks have never been communicated to the appellant till the date. Appellant was not aware of any adverse remarks. Appellant came to know regarding the same, when he was superseded. Appellant has submitted application (Annexure-B) for granting copy of the adverse remarks, but no copy as such has been provided till the date.
5. That appellant has never been warned regarding his alleged mis conduct.
6. That the adverse remarks is based on malafide intention only to prevent him from his accrued right of promotion.
7. That appellant being aggrieved from the adverse remarks preferred departmental appeal before the respondent No.1 (Annexure-C), who vide order dated 18-10-2014 (Annexure-D) reject the same

without assigning any legal reason.

8. That appellant, being aggrieved of the acts and actions of Respondents and having no other adequate and efficacious remedy, files this appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973. The alleged adverse remarks has never been communicated to the appellant. In absence of communication the alleged adverse remarks has no legal value and liable to be expunged.
- B. That No warning etc has been given to the appellant, which mandatory provision of law. On this score as well the adverse remarks are liable to be expunged.
- C. That since the copy of adverse remarks has never been communicated to the appellant, therefore, appellant is unable to submit proper defense. Appellant would like to seek the permission of the Honourable Tribunal to advance arguments on receipt of copies of adverse entries in his ACRs.
- D. That departmental appeal of the appellant has not been disposed of in accordance with the spirit and provision of Rule No.5 of the appeal Rules, 1986.

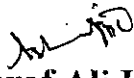
- E. That the impugned remarks is based on malafide and has been endorsed only to deprive the appellant from his accrued right of promotion.
- F. That appellant would like to seek the permission of this Honourable Court to advance more grounds at the time of hearing.

It is therefore humbly prayed that the appeal may kindly be allowed as prayed for above.


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

نور سعادت خان
Appellant

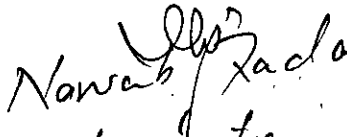
Through


Ashraf Ali Khattak,

and


Nawaz Khan Khattak
Advocates, Peshawar.

Dated: _____ / 19 / 2014


Nawaz Zada
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. _____/2011

Noor Saadat Khan S/o Bakhtmal Jan R/o Nari Panoos
Tehsil Banda Daud Shah District Karak Presently serving
as Bailiff to Civil Judge Banda Daud Shah, Karak
.....Appellant.

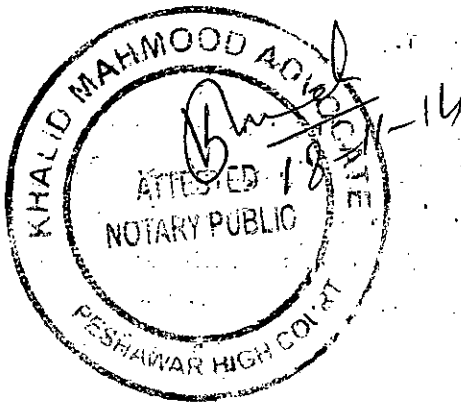
Versus

The District and Session Judge, Karak and others
.....Respondents

Affidavit

I, Noor Saadat Khan S/o Bakhtmal Jan R/o Nari Panoos
Tehsil Banda Daud Shah District Karak Presently serving
as Bailiff to Civil Judge Banda Daud Shah, Karak do
hereby solemnly affirm on Oath that the contents of the
instant appeal are correct and true to the best of my
knowledge and belief.

نور سادات خان
Deponent



**MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION
COMMITTEE HELD ON 19/12/2012 IN THE OFFICE OF
SENIOR CIVIL JUDGE, KARAK.**

A meeting of the Departmental Promotion Committee, as constituted in pursuance of the directions of the Honourable Peshawar High Court, Peshawar, vide letter No. 14384/DSC-DPC/Admn dated; Peshawar the 22/11/2012 was held in the chamber of Senior Civil Judge, Karak on 22/11/2012 which was postponed till shortest period with directions to clerk of court to maintain the record in proper order as it was deficient at the time of meeting of the Departmental Promotion Committee.

Today i.e. on 19-12-2012, the meeting of the Department Promotion Committee was held in the chamber of the undersigned.

The following attended the meeting:-

- | | |
|--|---|
| 1. <u>Mr. Asif Rashid,</u>
Senior Civil Judge, Karak. | In Chair |
| 2. <u>Mr. Seemab Waheed Siddiqui,</u>
Civil Judge-cum-Judicial Magistrate-III, Takht-e-Nusrati, Karak. | Nominee
of the Peshawar High Court,
Peshawar. |
| 3. <u>Syed Iftikhar Shah,</u>
Civil Judge-cum-Judicial Magistrate-III, Karak. | Nominee
of the Senior Civil Judge,
Karak. |

1- One post of the **Civil Nazir/Assistant (BPS-14)** is available for filling by promotion from amongst the holders of the posts of Execution Moharrirs/Naib Nazirs of the establishment of undersigned on the basis of seniority-cum-fitness.

The committee considered the following officials of the establishment of the undersigned in order of seniority for promotion as reflected in the working papers prepared by the office.

1. Mr. Gul Alam Sher (*Execution Moharrir/Naib Nazir*)
2. Mr. Liaqat Ali (*Execution Moharrir/Naib Nazir*)

Before commenting on the seniority of the above officials, it is important to be highlighted that earlier, one Noor Azam, now retired was promoted as Civil Nazir in the establishment of the undersigned, whose promotion/seniority was challenged in service appeal.

No.802/2005 by Gul Alam Sher Execution Moharrar. That, besides other respondents, Liaqat Ali, Naib Nazir also contested the said service appeal. The service appeal preferred by Gul Alam Sher Execution Moharrir/Naib Nazir was accepted vide judgment dated; 24-12-2008 wherein he was declared as senior most amongst the officials in the establishment of process serving agency working under Senior Civil Judge. However, at the same time, learned Member NWFP Service Tribunal, Peshawar held that respondent No.1 (Noor Azam who was already promoted as Civil Nazir) will not be disturbed.

The principle expounded in the Service Appeal as guideline for determining the seniority of the official eligible for the post of Nazir in the ibid judgment was that on transfer, an employee does not lose his seniority and that he remains equipped with full seniority which cannot be snatched from him on any principle.

Perusal of record further reveals that Gul Alam Sher, the then Process server was promoted to the post of Execution Moharrar/Naib Nazir on 25-09-1983 whereas Liaqat Ali Khan, the then process server was promoted as Moharrar/Naib Nazir on 01-07-1989 which clearly reflects that Gul Alam Sher is Senior in service as Naib Nazir/Moharrar from Liaqat Ali Khan. It is also important to mention here that Liaqat Ali Khan has submitted an application wherein he claimed to be promoted to the post of Civil Nazir being senior most amongst the officials of the establishment of the undersigned. Perusal of service record of Liaqat Ali Khan transpires that the said official tendered his resignation on 12-05-1981 which was acted upon, however, it was later on, withdrawn and the interruption between the resignation and re-joining of his service i.e. from 12-05-1981 to 03-06-1981 (23 days) was condoned and commuted as extraordinary leave without pay retrospectively under article 423 of CSR, FR-85(b) and Rule 2.11 of NWFP Civil Servant Pension Rules, 1980. The order No. 480-83/SCJ dated; 25-07-2000 vide which the period of 23 days was considered leave without pay is completely silent about the seniority and therefore, he cannot claim seniority in the prevailing circumstances. It is further noted that in the Service Appeal preferred by Gul Alam Sher, Liaqat Ali Khan was placed as respondent No.4 who contested the same but he

has not challenged that judgment before any other competent forum which has attained finality.

Perusal of the ACRs shows that there is no adverse entry recorded in the ACR of Gul Alam Sher for the last 3 years. Hence, he is at par on criteria of fitness. The only factor determining his right to be promoted is his seniority, in view whereof, Mr. Gul Alam Sher (Execution Moharrir/Naib Nazir) is found fit for promotion and hence, is recommended for promotion against the vacancy of Civil Nazir/Assistant (BPS-14).

2- Two posts of Naib Nazirs/Junior Clerks (BPS-07) i.e. one fell vacant due to the promotion of Gul Alam Sher and second due to the retirement of Akhtar Nawaz, Naib Nazir/Junior Clerk of the are available for filling by promotion from amongst the holders of the posts of Bailiffs who have passed Secondary School Certificate Examination on the basis of seniority-cum-fitness.

The working paper prepared by this Office would show that a total of three bailiffs namely Akbar Nawaz, Mushtaq Ahmad, Noor Saddat in this establishment are in run for the two of posts Naib Nazirs/Junior Clerks (BPS-07).

The service record/ACRs of Akbar Nawaz who is senior most amongst the bailiffs was examined by the committee which reveals that he possesses the requisite qualification and there is no adverse entry in his ACRs/service record available in the office. The committee after the consideration of his service record unanimously recommended that Mr. Akbar Nawaz is fit to be promoted as Naib Nazir/Junior Clerk BPS-7.

It is to be noted here that Mushtaq Ahmad Bailiff has filed an application wherein he has stated that he does not want to be promoted as Naib Nazir/Junior Clerk and voluntarily surrendered his right of promotion in favour of the official next to him in seniority. The committee unanimously accepted his request and Mushtaq Ahmad Bailiff is held as withdrawn from the panel of candidates for the promotion.

Similarly, the ACRs/service record of Noor Saddat Khan bailiff available in the office were also examined which on perusal reveals that

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adverse entries were made by the then reporting officer/controlling officer in the service record/ACRs of the said official. In the light of the above, the committee unanimously held that since adverse entries exists in the ^{ACRS} service record of Noor Saddat Khan Bailiff, therefore, he is not fit for promotion.

It reflects from the above relevant particulars of the Bailiffs that, though all of them possess the required academic qualifications i.e. Secondary School Certificate, however, since, Mushtaq Ahmad, Bailiff, has waived his right of promotion and Noor Saddat Bailiff was not found fit for promotion by the committee therefore, one seat of Junior Clerk/Naib Nazir could not be filled due to the non-availability of suitable candidate in the working paper. In view of the above, **Mr. Akbar Nawaz (Bailiff)** is found fit for promotion and hence, is recommended for promotion against the vacancy of **Naib Nazir/Junior Clerks (BPS-07)** and is promoted as such with immediate effect.

3- One post of the Bailiff (BPS-04), is also available for filling by promotion from amongst the holders of the posts of Process Servers of the establishment of undersigned on the basis of seniority-cum-fitness.

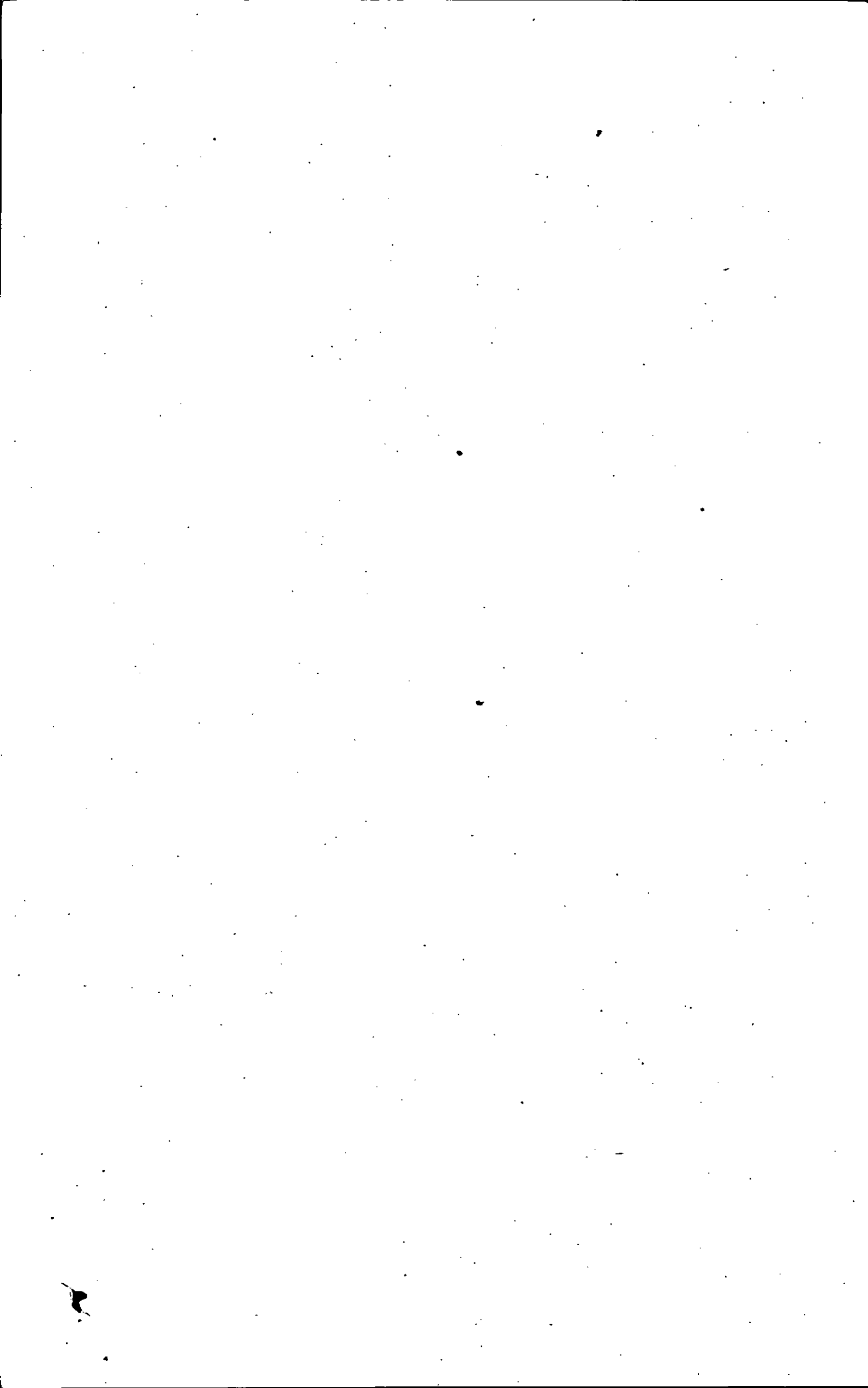
The committee considered the following officials of the establishment of the undersigned in order of seniority for promotion as reflected in the working paper prepared by the office.

1. Mr. Faiz-Ullah (Process Server)
2. Mr. Masroor Anwar (Process Server)
3. Mr. Khalid Khan (Process Server)
4. Mr. Asmat Ullah (Process Server)


Perusal of the available ACRs show that, there is adverse entry recorded in the ACRs of Faiz Ullah, process server by the then reporting/controlling officer. So the committee after thoroughly examining the service record/ACRs of the said official, found him not fit for promotion as bailiff.

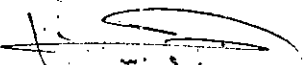
Perusal of ACRs of Masroor Anwar Process server for the last 3 years reveals that no adverse entry exist in his ACRs/service record. Hence, he is


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at par on criteria of fitness. The only factor determining his right to be promoted is his seniority, in view whereof, Mr. Masroor Anwar (Process Servers) is found fit for promotion and hence, he is recommended for promotion against the vacancy of Bailiff (BPS-04).


Mr. Asif Rashid,
Senior Civil Judge, Karak.
(Chairman)


Mr. Seemab Waheed Siddiqui,
Civil Judge-cum-Judl. Magistrate-III,
Takht-e-Nusrati, Karak.
(Nominee of the Peshawar High Court,
Peshawar)



Syed Iftikhar Shah,
Civil Judge-cum-Judl. Magistrate, Karak.
(Nominee of the SCJ, Karak)


No. 647-650 /SCJ, Karak.

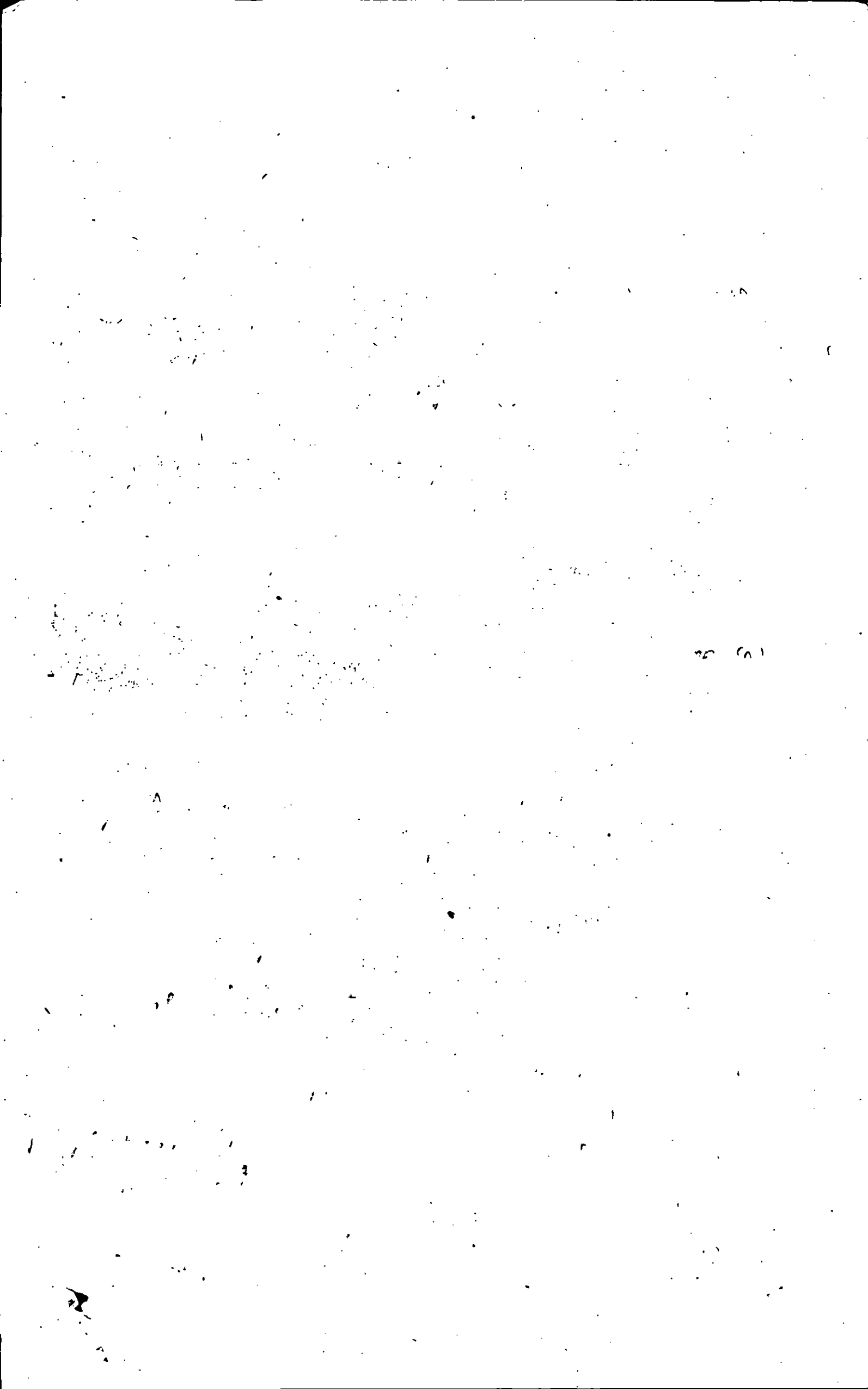
Dated: 19-12-2012

Copy forwarded to the:-

1. The Registrar, Peshawar High Court, Peshawar.
2. The District and Session Judge, Karak.
3. Seemab Waheed Siddiqui, Civil Judge-III Takht-e-Nusrati, (Nominee of Hon'ble Peshawar High Court, Peshawar).
4. Syed Iftikhar Shah, Civil Judge-III Karak, (Nominee of Senior Civil Judge, Karak.)
4. Office Copy.


(Asif Rashid)
Senior Civil Judge,
Karak (Chairman)


Exar. 2012-16
S: Karak



The Superintendent
Judicial Dist Court, Karak.

Subject: Application for the grant of copies of
ACRs for the period 12-05-2008 to 31-12-2009,
01-01-2009 to 31-12-2009 and 01-01-2010 to
28-04-2010.

Respectfully Sheweth,

With due respect, it is humbly submitted
that I need attested copies of the
ACRs pertaining to the period mentioned
in the head note for Court purpose.

It is therefore, requested that ^{attested} copies of
ACRs may kindly be provided under
the rules.

Dated: 20-06-2014

Yours faithfully

~~Saadat Khan~~
Saadat Khan
Deputy to Civil
Judge BD Shah

Anx: C P-12

No. 86 /SCJ Karak

Dated: 2.2.2013

To:- The District and Sessions Judge,
Karak.


From:- Senior Civil Judge,
Karak.

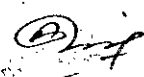
Through Proper Channel

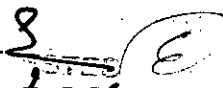
Subject:- DEPARTMENTAL APPEAL NOOR SAADAT KHAN

Respected Sir,

Enclose find herewith departmental appeal in respect of
Noor Saadat Khan, Bailiff of this establishment for further necessary action
please.


Supdt. S. C. J.
Distt. & Sess. Ct.
Karak.
2/2/13


Asif Rashid,
Senior Civil Judge,
Karak.


Asif Rashid,
Senior Civil Judge,
Karak.

BEFORE THE WORTHY DISTRICT & SESSION
JUDGE KARAK

Departmental No. -----of 2013

Noor Saadat Khan S/O Bakhmal Jan R/O Nari
Panoos Tehsil Banda Daud Shah District Karak
presently Bailiff to Civil Judge Banda Daud
Shah Karak. -----Appellant.

VERSUS

Senior Civil Judge Karak. -----Respondent

THROUGH PROPER CHANNEL

DEPARTMENTAL APPEAL AGAINST ORDER OF Y.E.RS.
(A.C.RS) FOR THE YEAR FROM 12-05-2008 TO 31-
12-2008, 01-11-2009 TO 31-12-2009 & 01-01-
2010 TO 28-04-2010 WHEREBY THE REPORTING
OFFICER HAS REPORTED HIS REMARKS "AVERAGE
OFFICIAL REPORTED TO BE CORRUPT NOT FIT FOR
PROMOTION, CORRUPT AND UNFIT FOR PROMOTION
AND CORRUPT AND NOT FIT FOR PROMOTION"
RESPECTIVELY.

8
ATTESTED
Exec. *[Signature]*
Br. Karak

Forwarded to the
Senior Civil Judge
Karak
2/2/13

[Signature]
2/2/13

PRAYER IN DEPARTMENTAL APPEAL

It is, therefore, most humbly and respectfully prayed that on acceptance of this departmental appeal the impugned remarks of Y.E.Rs (A.C.Rs) may be hold and declared illegal, against law and facts, void ab initio, nullity in the eye of law, passed without lawful authority, against the service law, rules and regulations, set aside, cancelled and has got no legal effect. Resultantly the adverse remarks mentioned in the above mentioned Y.E.Rs (A.C.Rs) may be expunged.

N.B:- The appellant has duly requested and applied for granting attested copy of impugned adverse remarks but the competent authority is not willing and please to grant the same.

Respectfully Sheweth:-

This departmental appeal arises out of the following facts.

Facts

AT
Exam
By
DIED
Copy in
Karak

1. That the present appellant before this appellate authority is performing his duties against the post of Bailiff in the office of Civil Judge Banda Daud Shah District Karak since 04-11-1986 to the entire satisfaction of his immediate as well as superiors authorities.
2. That a meeting of Departmental Promotion Committee (DPC) was held in the office of Senior Civil Judge Karak on 19-12-2012 wherein the appellant was considered for the vacant post of Bailiff (BPS-4) and has been declared not fit for promotion due to the impugned Y.E.Rs.
3. That the appellant came to know about the impugned adverse remarks from the minutes of D.P.C held on 19-12-2012.
4. That the present appellant before this appellate authority is aggrieved by the impugned adverse remarks hence presents the instant departmental appeal with the following grounds amongst others.

Grounds

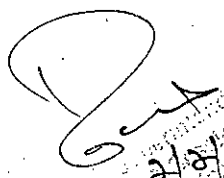
- a. That the impugned adverse remarks are illegal, against law and facts.


b. That the impugned adverse remarks are illegal, void ab initio, nullity in the eye of law as the impugned adverse remarks has neither been communicated to the appellant nor any opportunity of counseling has been given, nor any warning has been issued, nor any inquiry has been conducted by the reporting officer as well as countersigning authority thus the appellant has been condemned unheard.

c. That according to law and rules communication of adverse remarks is mandatory and in the present case the authority has badly failed to communicate the adverse remarks to the appellant hence the impugned adverse remarks are liable to be set aside and expunged.

d. That as the appellant before this Hon'able appellate authority has come to know about the impugned adverse remarks on 19-12-2012 hence the present departmental appeal is within time.

e. That the impugned adverse remarks given by the authority are based on malafidi as before and after the impugned adverse remarks the present appellant has obtained good and excellent remarks.


2/8/13
JUDGE


Exam. Br. Copying Karak

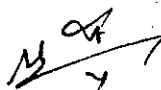
f. That the appellant has got a good performance record (Kar Gozari. Photocopies are annexed.

g. That the present appellant may press and argue during course of arguments any other ground with the kind permission of this Hon'able appellate authority.

So it is, therefore, most humbly and respectfully prayed that on acceptance of this departmental appeal the impugned remarks of Y.E.Rs (A.C.Rs) may be hold and declared illegal, against law and facts, void ab initio, nullity in the eye of law, passed without lawful authority, against the service law, rules and regulations, set aside, cancelled and has got no legal effect. Resultantly the adverse remarks mentioned in the above mentioned Y.E.Rs (A.C.Rs) may be expunged


Dated:- 01-02-2013

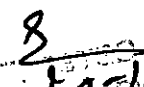
Appellant


Noor Saadat Khan

Certificate

Certified that no departmental appeal has been filed before this appellate authority on similar grounds earlier.


Noor Saadat Khan


Examinator
Brahm

P-18

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BEFORE THE DISTRICT & SESSIONS JUDGE, KARAK.

Departmental Appeal No.3 of 2013

Dated of hearing 14-02-2013

No 100

11-2-2013

02

Noor Saddat

Vs

Senior Civil Judge, Karak.

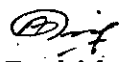
District & Session Judge
Karak.

14.02.13.

My Parawise comments are respectfully submitted as under:-

- 1) Para No.1 of the petition is incorrect. The petitioner is performing his duties as bailiff from 09-04-2004 not from 04-11-1986. Moreover, the adverse remarks of the reporting officer has been recorded in his A.C.R, hence denied.
- 2) Para No.2 of the Petition is incorrect. The petitioner was considered for the vacant post of Junior Clerk/Naib Nazar not for the post of bailiff but he was not promoted to the post of Junior Clerk/Naib ^{Nazar} due to the adverse remarks of the reporting officer in his A.C.R.
- 3) Para No.3 of the Petition is not related to the undersigned. Hence, no comments.
- 4) Para No. 4 of the petition is not related to the undersigned. Hence, no comments.

Photocopy of the minutes dated; 19-12-2012 and Seniority List are attached herewith. Comments are submitted please.


Asif Rashid
Senior Civil Judge, Karak.

Senior Civil Judge

ATTORNEY
Exam
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Karak.

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SENIORITY LIST OF MINISTERIAL STAFF OF SENIOR CIVIL JUDGE KARAK
PROCESS SERVING AGENCY

S.No.	Name of official & Designation	PBS	Date of Birth	Date of Appointment	Date of Retirement	Date of Retirement	Remarks
1	Gul Alam Sher J/C/ Naib Nazar	7	07.01.1960	06.03.1979	6.03.2006	06.01.2020	upon the judgement of Service Tribunal vide appeal no.802 of 2005 decided on 24.12.2008.
2	Liaqat Ali J/C/Naib Nazar	7	16.06.1956	06.04.1981	04.06.2006	15.06.2016	
3	Pir Muhammad J/C/ Naib Nazar	7	06.01.1959	03.11.1981	03.11.2006	05.01.2019	
4	Muhammad Anwar J/C Naib Nazar	7	15.04.1967	04.01.1987	04.01.2012	14.04.2027	
5	Tehsil Noor, J/C Naib Nazar	7	01.05.1967	21.03.1983	21.03.2008	30.04.2017	
6	Zahir ullah J/C/Naib Nazar	7	05.01.1965	06.09.1986	06.09.2011	04.01.2025	
7	Mushtaq Ahmad Bailiff	4	04.04.1962	06.10.1986	06.10.2011	03.04.2022	
8	Akbar Nawaz Bailiff	4	18.04.1962	06.10.1986	06.10.2011	17.04.2022	
9	Noor Sadat Bailiff	4	11.04.1967	04.11.1986	04.11.2011	10.04.2027	
10	Muheet Khan Bailiff	4	25.04.1966	20.12.1987	22.12.2011	24.04.2026	
11	Umet Janah Bailiff	4	10.04.1968	07.06.1989	07.06.2014	09.04.2028	
12	Abdul Samad Bailiff	4	12.02.1971	08.10.1989	08.10.2014	11.02.2031	
13	Faiz ullah P.S	3	18.02.1968	8.10.1989	08.10.2014	17.02.2028	
14	Masroor Anwar P.S	3	11.02.1969	20.01.1994	22.01.2019	10.02.2029	
15	Khalid Khan P.S	3	25.03.1968	19.11.1995	19.11.2020	24.03.2028	
16	Asmat ullah P.S	3	10.04.1957	25.04.2000	25.04.2025	09.04.2017	
17	Muhammad Nazeef P.S	3	10.04.1978	10.04.2004	09.04.2029	09.04.2038	
18	Haroon ur Rasheed No.I P.S	3	10.01.1973	10.04.2004	09.04.2029	09.01.2033	
19	Riaz ullah P.S	3	2.04.1977	10.04.2004	09.04.2029	01.04.2037	
20	Khalid Mehmood P.S	3	03.03.1977	10.04.2004	09.04.2029	02.03.2037	
21	Muhammad Sultan P.S	3	06.01.1983	10.04.2004	09.04.2029	05.01.2043	
22	Atif Farid P.S	3	12.01.1980	10.04.2004	09.04.2029	11.01.2040	
23	Shoukat Mehmood P.S	3	02.01.1982	10.04.2004	09.04.2029	01.01.2042	
24	Safi ullah P.S	3	01.03.1984	08.09.2005	08.09.2030	29.02.2044	
25	Muhammad Mushtaq P.S	3	20.02.1980	08.09.2005	08.09.2030	19.02.2040	
26	Bism Ali Khan P.S	3	05.03.1981	08.09.2005	08.09.2030	04.03.2041	
27	Ijaz Ali Shah P.S	3	04.04.1981	09.10.2006	08.10.2031	03.04.2041	
28	Gul Taj Ali Khan P.S	3	15.01.1977	20.09.2007	19.01.2032	14.11.2037	
29	Haroon ur Rasheed No.II P.S	3	04.04.1979	20.09.2007	19.01.2032	03.04.2039	
30	Sami ullah P.S	3	06.01.1983	20.09.2007	19.01.2032	05.01.2043	
31	Jalal ud Din P.S	3	18.04.1987	20.09.2007	19.01.2032	17.04.2047	
32	Mati ullah P.S	3	02.01.1985	19.07.2008	18.07.2033	01.01.2045	
33	Zia ullah P.S	3	09.02.1986	04.12.2008	03.12.2033	08.02.2046	
34	Akhtar Muneer P.S	3	08.09.1983	23.04.2009	23.04.2034	07.09.2043	

Asif Rashid
Senior Civil Judge, Karak

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Karak

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FORM "A"

FORM OF ORDER SHEET

Court of..... D..... Sessions Judge, Karak

Departmental appeal No..... 3..... of..... 2013.

Serial No. of Order or Proceeding	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
	<p>02.02.2013</p> <p>Or.....01 02.02.2013</p> <p>M</p> <p>Or.....02 14.02.2013</p>	<p>Departmental appeal received from the court of Senior Civil Judge, Karak vide his endst: No.86/SCJ, Karak dated 02.02.2013. To be checked and put up for order before the learned District & Sessions Judge, Karak today.</p> <p>(Superintendent) Sessions Judge, Karak. District Judge Karak</p> <p>ضابطہ کے تحت پرنٹ آؤٹ کیے جانے والے دستاویزات پر اس کی تصدیق کی جا رہی ہے۔ DPC ڈیپارٹمنٹ کے ساتھ موجودہ ریکارڈ کے ساتھ 2.2.13</p> <p>Instant Departmental appeal be entered in the relevant register. Notice be issued to respondent and comments be asked for 14.02.2013.</p> <p>(2)</p> <p>KHALIL KHAN KHALIL Sessions Judge, Karak. District Judge Karak</p> <p>Naz Sadat Khan appealed Present in person. court flaunt b.c. - 30000 received - 90 come up on agenda on 07.3.2013.</p> <p>(Khalil Khan Khalil)</p>

ATTESTED
Examined by
District Judge Karak

District Judge Karak

Or.....03
07.03.2013

Petitioner present in person. Arguments could not be heard due to absence of counsel for the petitioner having been gone to august Peshawar High Court, Bannu Bench hence adjourned and to come up for arguments on 16.03.2013.

Khalil Khan Khalil,
District Judge, Karak,
District Judge Karak.

Note Reader
16.03.2013

Presence as before. Presiding officer has gone to Judicial Academy, KPK, Peshawar to attend the training of DROs. To come up as before on 30.03.2013.

Or - 04.
30.3.2013.

[Signature]
Reader

*Petitioner present in person.
Arguments could not be heard as counsel for petitioner is going to Peshawar High Court Bannu Bench for immediate with bar election, hence adjourned.
To come up next on 20.4.2013.*

[Signature]
District Judge Karak

Note Reader
20.04.2013

Counsel for the appellant present as before. Presiding Officer has gone to Islamabad to attend the International Judicial Conference. File to come up for proceedings as before on 18.05.2013.

[Signature]
Reader

APPOINTED
Exam. 20.04.2013
Bar in Karak

IN THE COURT OF DISTRICT JUDGE, KARAK

Noor Sadat Khan.....vs.....SCJ, Karak

Deptt: A.No.03 of 2013

Or.....05
18.05.2013

Presence as earlier. Arguments could not be heard as I remained busy in recording evidence in session case state vs Mir Sahib Khan hence, adjourned and to come up for arguments on 08.06.2013.

Khalil Khan Khalil,
District Judge, Karak
District Judge Karak

Note Reader
08.06.2013.

Presence as before. Presiding officer is on leave. To come up as before on 06.07.2013.

[Signature]
Reader

Or - 06.
6.7.2013

Presence as earlier

Arguments could not be heard on the request of counsel assigned on the appellant, hence adjourned. To come up on arguments on 7.9.13.

Khalil Khan Khalil
District Judge Karak

Or.....07
07.09.2013

Presence as earlier. Arguments could not be heard due to paucity of court time, hence adjourned and to come up for arguments on 28.09.2013.

Khalil Khan Khalil,
District Judge, Karak
District Judge Karak

ATTESTED
Exam. *[Signature]*
Br. Karak

Or-08.
28-9-2013

Presence as before. Argh could not be heard as I remained busy in recording evidence in s-case state vs. Mohd. Nawaz and others, hence adjourned. To come up on 26-10-2013.

Khalil Khan Khalil
District Judge Karak

Or-09.
26-10-2013

Presence as before. Argh could not be heard as I remained busy in recording evidence in s-case state vs. Rehmatullah and others, hence adjourned. To come up on 16-11-2013.

Khalil Khan Khalil
District Judge Karak

Note Reader
16.11.2013

Presence as before. Presiding Officer is on leave. File to come up as before on 14.12.2013.

For [Signature]
Reader

Note Reader
14.12.2013

Presence as before. Presiding Officer is on leave. To come up as before on 11.01.2014

For [Signature]
Reader

Or-10
10.01.2014

Appellant alongwith his counsel present. Arguments could not be heard as I remained busy in other judicial as well as administrative work hence adjourned. To come up for arguments on 15.01.2014.

For [Signature]
Examined By
Karak

Khalil Khan Khalil
District Judge, Karak

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 196 /ST

Dated 25 /01/2018


To

The District and Session Judge,
Government of Khyber Pakhtunkhwa,
Karak.

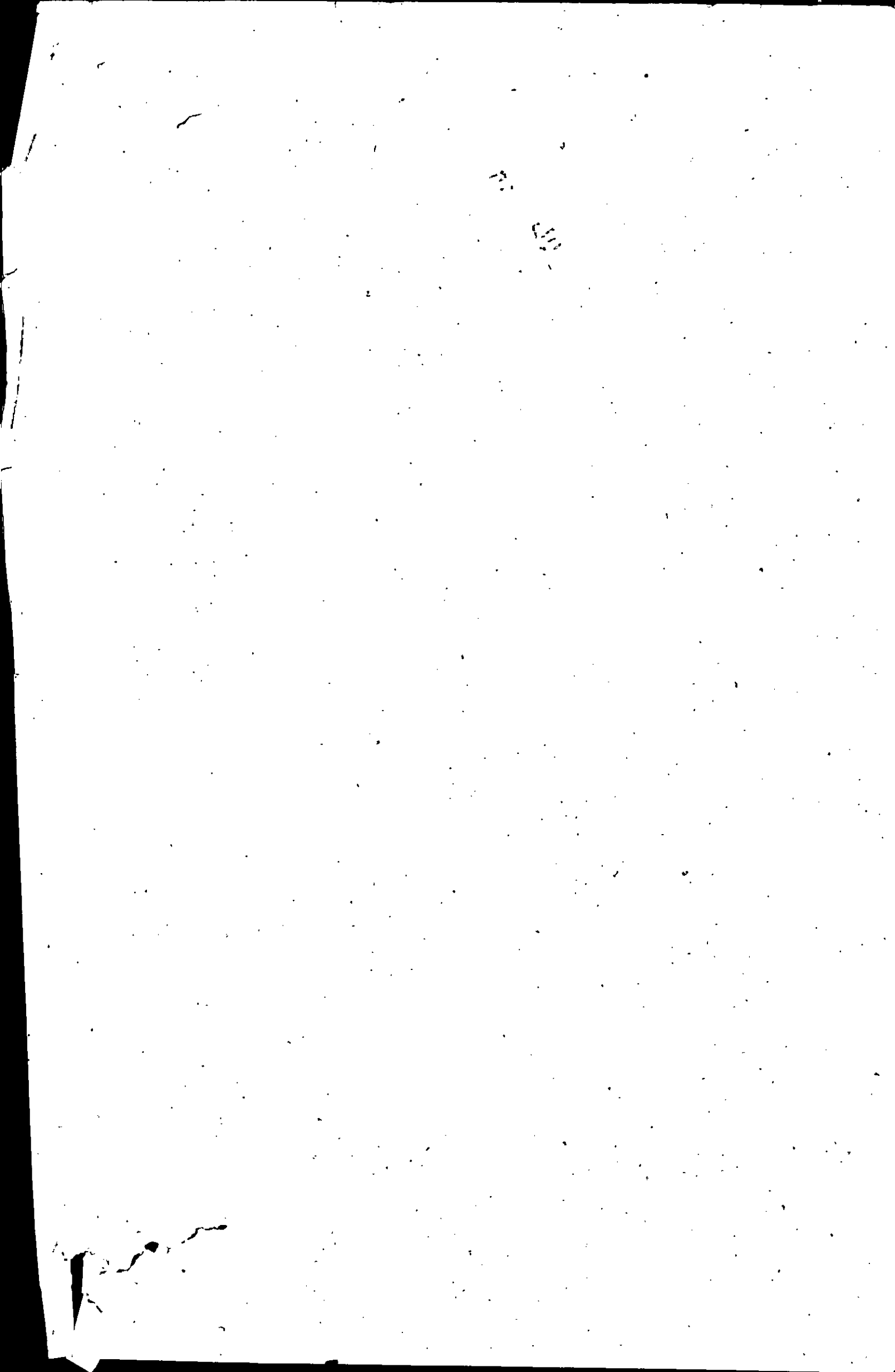
Subject: **JUDGEMENT IN APPEAL NO. 1425/14, MR. NOOR SAADAT KHAN.**

I am directed to forward herewith a certified copy of Judgment dated 22/01/2018 passed by this Tribunal on the above subject for strict compliance.

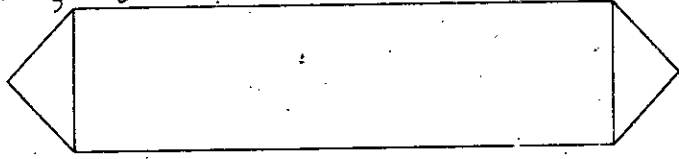
Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

DLU



بعدالت سروس ٹریبونل کشمیر



Appeal No. 1425/2014

2014ء پنجاب

نور سعادت بنام ڈسٹرکٹ سٹیشن منیجر

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام پشاور کیلئے اشرف علی خٹک ایڈووکیٹ ایڈڈ نوٹس زاہد ایڈووکیٹ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

2014

ماہ دسمبر

المرقوم دسمبر

نور سعادت

Attested and accepted

العوانہ العوانہ العوانہ

مقام

- 8) Admitted correct by the private respondent while the official respondents are incorrect, hence denied.

GROUNDS

All the grounds of main appeal are correct and in accordance with law and prevailling rules and that of the respondents are incorrect and baseless, hence denied.

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

APPELLANT


NOOR SAADAT KHAN

THROUGH:-


UZMA SYED
ADVOCATE PESHAWAR

DATED:- 28-03-2016

BEFORE THE HON'BLE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

APPEAL NO. 1425/2014

NOOR SAADAT KHAN VERSUS DISTRICT & SESSIONS
JUDGE KARAK

REJOINDER ON BEHALF OF THE APPELLANT
IN RESPONSE TO THE REPLY SUBMITTED BY
THE RESPONDENTS

RESPECTFULLY SHEWETH :-

PRELIMINARY OBJECTIONS:

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, hence needs no comments.
- 2) Admitted correct, hence needs no comments.
- 3) Admitted correct, hence needs no comments.
- 4) That para No.4 of reply is incorrect. The appekkant wasnot aware of any adverse remarks and submitted application for granting copy of the adverse remarks.
- 5) Para No.5 of the reply is incorrect.
- 6) Para No.6 of the reply is incorrect.
- 7) Admitted correct but the departmental appeal of the appellant has not been rejected on no good grounds.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

In re STA No. 1425 of 2014.

Noor Saadat Khan Vs The D&SJ Karak and one other.

Affidavit

I, Syed Kamal Hussain Shah, D&SJ Karak respdt # 01 do hereby state on oath, solemnly affirm and declare that the contents of the reply/written statement are true to the best of my knowledge and belief arising out of record and nothing has been concealed from this hon'ble Court.

Dated: 05th Oct 2015

Affested

SW 05/10/15
Respdt # 01

[Signature]
Haji Aqal Shah Noor
Advocate
Oath Commissioner

NO 579. dt 5/10/2015.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

In re STA No. 1425 of 2014.

Noor Saadat Khan Vs The D&SJ Karak and one other.

Reply/written statement on behalf of the respondent # 01.

Respectfully state

Preliminary Objections.

- 1) The appellant has no cause-of-action.
- 2) The appeal is not competent and maintainable.
- 3) The appeal is totally time barred as the impugned adverse remarks pertained to the years 2008, 2009 & 2010 and time barred departmental appeal # 03/2013 was filed on 02.02.2013 and instant appeal was filed on 18.11.2014.
- 4) The appeal is in violation of instructions on PERs and Indicators of Evaluation.
- 5) The appeal is bad for want of representation against the impugned adverse remarks and verification on oath.

Objections on Facts.

- 1) It is correct.
- 2) It is correct.
- 3) It is also correct.
- 4) It pertains to the respdt # 02.
- 5) It also pertains to the respdt # 02.
- 6) ...do...
- 7) It is correct but the departmental appeal was dismissed in the light of record and past conduct of the appellant.
- 8) It is in-correct and no solid malafide in-fact and law has been alleged against the respdt # 01.

It is humbly prayed that the appeal be dismissed.

Sgn 05/11/15
District & Sessions Judge,
Karak/Respdt # 01

P- 97

I have heard the arguments of learned counsel for the appellant and have gone through the record.

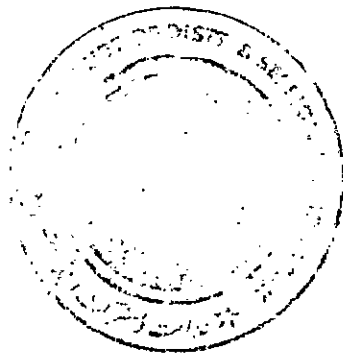
After perusing the service record of the appellant, it has clearly been mentioned in the ACR for the period 12.05.2008 to 31.12.2008 that the appellant is reported to be corrupt, warning has been issued to him but in vain and in the general remarks of the above said ACR, it has also clearly been mentioned that the appellant is in habit of giving false and frivolous application against Judge with the name of Capt. (R) Noor and also graded with qualities of corrupt, average official and not fit for promotion. Similarly, in the ACRs for the period 08.02.2009 to 31.12.2009 & 01.01.2010 to 06.03.2010, he is also reported to be corrupt, average official and also not fit for promotion. Similarly, vide order dated 15.01.2010, as per the recommendation of the authorized officer, an inquiry has been conducted against the appellant and a minor penalty of censure has been imposed upon him.

As a minor penalty of censure has been imposed upon the official/appellant and his reputation and integrity is not upto the mark. Similarly, he is also reported to be corrupt on the basis of which he has been declared not fit for promotion as such, the appeal in hand being devoid of force is hereby dismissed. Requisitioned service record be returned to the quarter concerned and file of this court be consigned to record room.

Announced:
18.06.2014

(KHALIL KHAN TALIL)
District & Sessions Judge,
Karak/ Appellate Authority.

CD No 2826
Date of Presentation of Application 19-6-14
Number of 2
Copying Fee 20/-
Unsett Fee 40
Date of Copy 20-6-14
Date of Delivery 20-6-14
Date of Disposal of Copy 20-6-14



A
Examiner
Karak

Certified True Copy
Examiner Copying Branch,
Karak

IN THE COURT OF DISTRICT & SESSIONS JUDGE, KARAK

Departmental Appeal No. 03 of 2013

Noor Sadat Khan... Vs... Senior Civil Judge Karak

ORDER.
18.06.2014

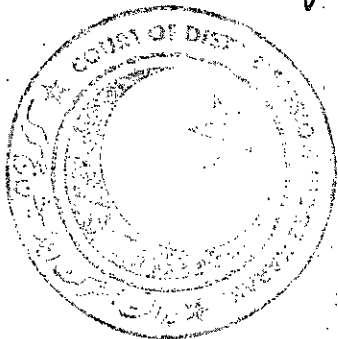
This departmental appeal has been brought by appellant Noor Saadat Khan, Bailiff, against the adverse remarks recorded in his ACRs for the year from 12.05.2008 to 31.12.2008, 01.11.2009 to 31.12.2009 & 01.01.2010 to 28.04.2010 whereby he has been reported with "Average Official reported to be corrupt", "Corrupt and Unfit for Promotion" & "Corrupt and not fit for Promotion" respectively by the reporting officer Senior Civil Judge Karak.

Concisely, the facts are that Noor Saadat Khan appellant is serving as Bailiff in the office of Civil Judge Banda Daud Shah District Karak since 04.11.1986. In the meeting of Departmental Promotion Committee (DPC) held in the office of Senior Civil Judge Karak on 19.12.2012, the appellant was considered for the vacant post of Bailiff (BPS-4) and has been declared not fit for promotion due to the impugned ACRs. According to the appellant, he got knowledge about the impugned adverse remarks from the minutes of DPC held on 19.12.2012.

Aggrieved from same, instant departmental appeal has been brought by appellant for the following relief:-

"It is, therefore, most humbly and respectfully prayed that by acceptance of this departmental appeal, the impugned remarks of Y.E.Rs, (A.C.Rs) may be hold and declared as illegal, against law and facts, void ab-intio, nullity in the eye of law, passed without lawful authority, against the service law, rules and regulation, set aside, cancelled and has got no legal effect. Resultantly, the adverse remarks mentioned in the above mentioned Y.E.Rs (A.C.Rs) may be expunged".

Para-wise comments of learned Senior Civil Judge, Karak received and placed on file.



Exar...
Br... Karak
10-19

Or.....16
21.04.2014

Presence as earlier. Order could not be written and announced as I remained busy in other judicial/administrative work hence adjourned. To come up for order on 23.04.2014.

[Signature]
Khalil Khan Khalil,
District Judge, Karak
District Judge Karak

Or.....17
23.04.2014

Presence as before. Order could not be written and announced as I remained busy in writing judgment in Oldest Session Case No.90/7 titled State Vs Noor Shahbaz etc, hence adjourned. To come up for order on 24.04.2014.

[Signature]
Khalil Khan Khalil,
District Judge, Karak
District Judge Karak

Or.....18
24.04.2014

Presence as earlier. Order could not be written and announced as I remained busy in test/interview of the post S.S/Stenographer etc, hence adjourned. To come up for order on 12.05.2014.

[Signature]
Khalil Khan Khalil,
District Judge, Karak
District Judge Karak

Or.....19
12.05.2014

Presence as before. Order could not be written and announced as I have not gone through the file, hence adjourned. To come up for order on 26.05.2014.

[Signature]
Khalil Khan Khalil,
District Judge, Karak
District Judge Karak

Or.....20
26.04.2014

Presence as before. Order could not be written and announced as I remained busy in hearing arguments in Session Case titled State Vs Ashraf Gul and others, hence adjourned. To come up for order on 18.06.2014.

[Signature]
Khalil Khan Khalil,
District Judge, Karak
District Judge Karak

[Signature]
Exstn. District Judge
Branch Karak

In the court of District Judge, Karak.
Nur Sadat Khan vs. S.E.D., Karak.
Deflt. A No 03 of 2013.

P- (24)

Or - II

15-01-2014

Appellant along with his counsel
present. Arguments heard. To come up
for order on 12-2-2014.

Khalil Khan Khalil
District Judge, Karak

Or.....12
12.02.2014

Appellant present in person. Order could not be written and
announced as I have not gone through the file. To come up for
order on 07.3.2014.

Khalil Khan Khalil,
District Judge, Karak

Or.....13
07.03.2014

Presence as before. Order could not be written and
announced as I remained busy in hearing arguments in Session
Cases, hence adjourned. To come up for order on 28.3.2014.

Khalil Khan Khalil,
District Judge, Karak

Or.....14
28.03.2014

Presence as before. Order could not be written and
announced as I remained busy in other judicial/administrative
work, hence adjourned. To come up for order on 07.04.2014.

Khalil Khan Khalil,
District Judge, Karak

Or.....15
07.04.2014

Presence as before. Order could not be written and
announced as I remained busy in hearing arguments in Sessions
Case titled State Vs Hameed Ullah as well as due to my
engagement in other administrative work, hence adjourned. To
come up for order on 21.04.2014.

Khalil Khan Khalil,
District Judge, Karak

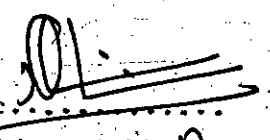
ATTESTED
Exam. Copying
B. Karak

4. Particulars of outstanding work, if any, during the period under review. **NIL**

5. Particulars of reprimand or warning, if any, administered. **Yes**

6. General Remarks
Average and Not fit for Promotion

Dated

Reporting Officer's Signature 

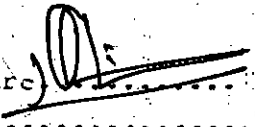
Name (in Block letter) **TAJSEER RAHMAN**

Designation **SCU**

7. General Remarks by Higher Officer:

Agreed

Dated

Countersigning Officer's Signature 

Name (in Block letters)

Designation

Appendix B.

APPENDIX V

(Vide Para 18)

Form 'B' (Revised)
Superintendent/Head Clerks.

SECRET

GOVERNMENT OF N.W.F.P.

..... DEPARTMENT:

CONFIDENTIAL REPORT

For the Year ending 31st December 2010 = 1-1-2010 To

..... 6-3-2

1. Name. Noor Saadat Khan
2. Designation. Bailiff
3. Observation on-

- (i) Punctuality. Average
- (ii) Superintendence of work and the Division of duties so that no man has unduly heavy burden. Average
- (iii) Maintaining order and discipline. Average
- (iv) Amenability to discipline. Average
- (v) Capacity for ensuring prompt disposal of work and sub-mission of returns. Average
- (vi) The submission of cases in proper order, i.e whether all relevant papers are put up and properly reference without errors and mis-statements. Good
- (vii) Capacity to help and advice staff. Good
- (viii) Knowledge of procedure and regulations. Average
- (ix) Initiative. Average
- (x) Ability to handle difficult cases. Average
- (ix) Integrity- _____

Assessm

- (i) Incorruptible..... N/A
- (ii) Reported to be corrupt..... Yes
- (iii) Blived to be corrupt, because of-
 - (a) Monetary considerations..... N/A
 - (b) Other consideration..... Yes

4. Particulars of outstanding work, if any, during the period under review. NIL

5. Particulars of reprimand or warning, if any, administered. Yes

6. General Remarks

Average Official. Reported to be Corrupt and not fit for Promotion.

Dated

Reporting Officer's Signature. [Signature]

Name (in Block letter) QAISER RAHM

Designation. SET

7. General Remarks by Higher Officer.

Agreed

Dated

Countersigning Officer's Signature. [Signature]

Name (in Block letters)

Designation

(Vide Para 18)

Form 'B' (Revised)

Superintendent/Head Clerks.

SECRET.

GOVERNMENT OF N.W.F.P.

.....DEPARTMENT.

CONFIDENTIAL REPORT

For the Year ending 31st December, 2009-2010

31-12-09

1. Name. Noor Saadat Khan

2. Designation. Bailiff

3. Observation on-
- (i) Punctuality. Average
 - (ii) Superintendence of work and the Division of duties so that no man has unduly heavy burden. Average
 - (iii) Maintaining order and discipline. Average
 - (iv) Amenability to discipline. Average
 - (v) Capacity for ensuring prompt disposal of work and submission of returns. Good
 - (vi) The submission of cases in proper order, i.e whether all relevant papers are put up and properly reference without errors and mis-statements. Average
 - (vii) Capacity to help and advice staff. Average
 - (viii) Knowledge of procedure and regulations. Average
 - (ix) Initiative. Average
 - (x) Ability to handle difficult cases. Average
 - (xi) Integrity- _____

Assessment

(i) Incorruptible.....	N/A
(ii) Reported to be corrupt.....	Yes
(iii) Blived to be corrupt, because of-	
(a) Monetary considerations.....	
(b) Other consideration.....	N/A
	Yes

4. Particulars of outstanding work, if any, during the period under review. NIL

5. Particulars of reprimand or warning, if any, administered

Warning Given but no effect.

6. General Remarks

He has the habit of giving false and frivolous applications against Judge with the name of Capt (R) Noor. The applications are posted from Kohat where he frequently visits. The official is corrupt, Average and not fit for promotion.

Dated:.....

Reporting Officer Signature, [Signature]

Name (in Block letters).....

KAISER-RAHIM

Designation ...

SCT

7. General Remarks by Higher Officer

Agreed

Dated:.....

Countersigning Officer's Signature, [Signature]

Name (in Block letters).....

KAISER-RAHIM

Designation ...

SCT

GOVERNMENT OF N.W.F.P

Judicial DEPARTMENT

CONFIDENTIAL REPORT

For the year ending 31st December 12-5-08 to 31-12-08

1. Name: Noor Saadat Khan

Designation: Bailiff

2. Observation on :-

(i) Punctuality Average

(ii) Superintendence of work and the division the of duties so that no man has unduly heavy burden Average

(iii) Maintaining order and discipline Average

(iv) Amenability to discipline Average

(v) Capacity for ensuring prompt disposal of work and submission of returns. Good

(vi) The submission of cases in proper order i.e Whether all relevant papers are put up and properly reference without errors and mis-statements. Good

(vii) Capacity to help and advice staff. Average

(viii) Knowledge of procedure and regulations Average

(ix) Initiative. Average

(x) Ability to handle difficult cases. Average

(xi) Integrity : Assessment

(xii) Incorruptible..... N/A

(xiii) Reported to be corrupt..... Yes

(xiv) Believed to be corrupt because of..... N/A

(xv) Monitory consideration N/A

(xvi) Other Consideration Yes