


Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 219/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.05.2024	<p>As per verbal direction of the Hon'ble Member Judicial the present appeal is restored to its previous number and is fixed for preliminary hearing before touring Single Bench at A.Abad on 24.06.2024. Counsel for the appellant has been informed telephonically.</p> <p style="text-align: right;"> REGISTRAR</p>

Respected Madam,

It is submitted that the instant appeal bearing no. 219/2024 title Awais Qureshi was returned by the Hon'ble Tribunal vide order dated 24.02.2024 being premature with permission to resubmit after maturity of cause of action. The learned counsel resubmitted the same on 10.05.2024 as it is now matured.

In this connection your Honour may apprise that whether the instant appeal be maintained on its previous number or otherwise.


20/5/24
REGISTRAR

HON'BLE MEMBER (J).

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

CM No. 219 /2024

IN

Service Appeal No. 219/2024

Awais Qureshi.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa & others.

...RESPONDENT

SERVICE APPEAL

INDEX

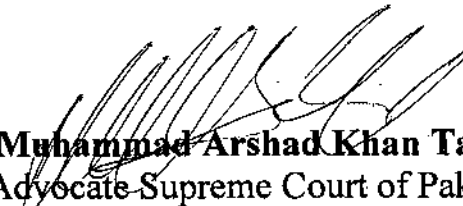
S. No.	Description	Page Nos.	Annexure
1.	Application	1 to 2	
2.	Copy of order dated 26/02/2024		



...APPELLANT

Through

Dated: 15/4 /2024


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

CM No. _____/2024
IN
Service Appeal No. 219/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12698

Dated 10.05.2024
...APPELLANT

Awais Qureshi.

VERSUS

Govt. of Khyber Pakhtunkhwa & others.

...RESPONDENT

SERVICE APPEAL

**APPLICATION FOR RE-FILING OF SERVICE
APPEAL AFTER WHICH WAS RETURNED TO
THE APPELLANT BEING FILED
PREMATURE.**

Respectfully Sheweth;

1. That the titled appeal was filed by the present appellant before this Honourable Tribunal, which was returned to the appellant vide order dated 26/02/2024 due to the reason that the appeal was filed premature by the appellant. Copy of order dated 26/02/2024 is annexed as Annexure "A".

2. That now the appeal of the appellant has become mature and is being filed before this Honourable Tribunal.
3. That valuable rights of the appellant are involved.


It is therefore humbly prayed that the appeal of the appellant may please be admitted for regular hearing.



...APPELLANT

Through

Dated: 18/4 2024



(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad

Annex - A P. 3

Service Appeal No 21

Government of Khyber

ORDER

26 Jan 2024

Kalim Arshad

... counsel for the appellant

present

2 The ... about the ...
 appeal, said th ... the same but that was not
 required beca ... according to him, the service
 appeal was converted into departmental appeal. He, however,
 requested that ... departmental appeal but he has fairly
 submitted that ... service appeal would become
 premature.

3 As the ... to be premature, therefore, it be
 referred for its ... maturity with the direction that, in
 ... all the requisite documents shall be
 annexed. Original ... copies of documents be returned while
 order sheets, ... appeal and documents be retained and it be
 consigned.

4 Pronounced in Court at Abbottabad under my hand and
 seal of the Tribunal on 26 January 2024



(Kalim Arshad Khan)


Chairman

Camp Court, Abbottabad

SCANNED
26/1/2024

Respected Sir

File is submitted on
today:


M. Ashraf

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

Awais Durreshi
..... Appellant

Versus

Govt of KPK etc
..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
3.	Whether appeal is within time?	√	
4.	Whether the enactment under which the appeal is filed mentioned?	√	
5.	Whether the enactment under which the appeal is filed is correct?	√	
5.	Whether affidavit is appended?	√	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	√	
8.	Whether appeal/annexures are properly paged?	√	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
10.	Whether annexures are legible?	√	
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/clear?	√	
13.	Whether copy of appeal is delivered to AG/DAG?	√	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
15.	Whether numbers of referred cases given are correct?	√	
16.	Whether appeal contains cutting/overwriting?	x	
17.	Whether list of books has been provided at the end of the appeal?	√	
18.	Whether case relate to this court?	√	
19.	Whether requisite number of spare copies attached?	√	
20.	Whether complete spare copy is filed in separate file cover?	√	
21.	Whether addresses of parties given are complete?	√	
22.	Whether index filed?	√	
23.	Whether index is correct?	√	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	√	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- M. Arshad Khan Panoli AS
of Paper at Ad

Signature:- [Signature]

Dated:- _____

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

SCANNED
KF-
Peshawar

Service appeal No. 219 /2024

Awais Qureshi Senior Scale Stenographer BPS-16, Commissioner's Office,
Hazara Division, Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through SMBR, Khyber Pakhtunkhwa, Peshawar &
others.

....RESPONDENTS

SERVICE APPEAL

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3.	Copies of appointment order dated 06/10/2011 and advertisement and merit list	16 to 19	"A", "B" & "C"
4.	Copy of appointment order of the respondent No. 6	20 to 21	"D"
5.	Copies of service appeal No. 712/2016 & 7313/2021	22 to 45	"E" & "F"
6.	Copy of judgment dated 27/09/2023	46 to 61	"G"
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8.	Copy of impugned seniority list dated 02/01/2024	67	"I"
9.	Copy of relevant pages of note sheets	68 to 72	"J"
10.	Copy so called of merit list prepared by the respondents' without record -	73 to 77	"K"
11.	Wakalatnama + Departmental Appeal	78	

...APPELLANT

Through;

Dated: _____ /2024

(Muhammad Arslan Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad

&
(Muhammad Ibrahim Khan)
Advocate High Court, Abbottabad

**BEFORE THE HONOURABLE SERVICE TRIBUNAL, Khyber Pakhtunkhwa
Service Tribunal**
KHYBER PAKHTUNKHWA, PESHAWAR

Diary No. 10494

Dated 10-1-2024

Service appeal No. 10219/2024

Awais Qureshi Senior Scale Stenographer BPS-16, Commissioner's
Office, Hazara Division, Abbottabad.

...APPELLANT

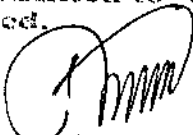
VERSUS

1. Govt. of Khyber Pakhtunkhwa through SMBR, Khyber Pakhtunkhwa, Peshawar.
2. Commissioner Hazara Division, Abbottabad.
3. Secretary to Commissioner Hazara Division, Abbottabad.
4. Assistant to Commissioner (Poll/Dev), Hazara Division, Abbottabad.
5. Assistant to Commissioner (Rev/G.A), Hazara Division Abbottabad.
6. Faiza Abbasi Computer Operator Office of Commissioner Hazara Division Abbottabad.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF
KP SERVICE TRIBUNAL ACT, 1974 FOR
DECLARATION TO THE EFFECT THAT THE
APPELLANT WAS APPOINTED AS
COMPUTER OPERATOR ON 06/10/2011.
WHEREAS THE RESPONDENT NO. 6 WAS

~~Re-submitted to-day
and filed.~~


Registrar

30/1/24

APPOINTED AS COMPUTER OPERATOR ON 16/12/2011. THAT EARLIER SERVICE APPEALS NO. 712/2016 AND 7313/2021, WAS FILED BEFORE THIS HONOURABLE TRIBUNAL. THE APPELLANT WAS ARRAYED AS RESPONDENT NO. 5 IN SERVICE APPEAL NO. 712/2016 IN ALL THE EARLIER SERVICE APPEALS, THE QUESTION BEFORE THE HONOURABLE TRIBUNAL WAS FIXATION OF SENIORITY OF THE APPELLANT AS WELL AS RESPONDENTS' THAT DURING THE WHOLE PROCESS REPLIES SUBMITTED BY THE RESPONDENTS' DEPARTMENT IN THE APPEAL COULD NOT PLACE MERIT LIST OF APPOINTMENTS. IT IS FURTHER SUBMITTED THAT DURING THE PROCEEDINGS, RESPONDENTS' DEPARTMENT PRODUCED TWO SENIORITY LISTS, WHICH WERE AT VARIANCE TO EACH OTHER. AS A RESULT, THIS HONOURABLE TRIBUNAL VIDE DETAILED JUDGMENT DATED 27/09/2023 DIRECTED THE RESPONDENTS TO FIX SENIORITY OF THE PRIVATE RESPONDENTS AND THE

APPELLANTS IN THE JUDGMENT DATED
27/09/2023 AND TAKE ACTION AGAINST
THOSE WHO WERE ILLEGALLY
APPOINTED. THE RESPONDENTS'
DEPARTMENT VIDE MINUTES OF MEETING
DATED 01/01/2024 IN WHICH
RESPONDENTS' CATEGORICALLY
CONCEDED THAT THERE ARE LAPSES IN
THE SELECTION PROCESS AND THE
RESPONDENTS' ON THE BASIS OF THEIR
WHIMS AND WISHES, ISSUED THE
IMPUGNED SENIORITY LIST DATED
02/01/2024 WHEREIN THE RESPONDENT
NO.6 WAS SHOWN AT SERIAL NO. 1 WHOSE
APPOINTMENT ORDER WAS ISSUED ON
30/12/2011 WHEREAS THE APPELLANT HAS
BEEN SHOWN AT SERIAL NO. 2 WHOSE
APPOINTMENT ORDER WAS ISSUED ON
06/10/2011. THE FACT OF DATE OF
APPOINTMENTS IS MENTIONED IN THE
IMPUGNED SENIORITY LIST DATED
02/01/2024 AS WHICH IS MALAFIDE,
PERVERSE, AGAINST SECTION 8 OF CIVIL
SERVANT ACT, 1973 RULE 17(A) OF
KHYBER PAKHTUNKHWA, APPOINTMENT,

PROMOTION AND TRANSFER RULES 1989.
THEREFORE, THE IMPUGNED SENIORITY
LIST DATED 02/01/2024 IS LIABLE TO BE
SET-ASIDE.

PRAYER: ON ACCEPTANCE OF THE
INSTANT SERVICE APPEAL, THE
IMPUGNED SENIORITY LIST DATED
02/01/2024 TO THE EXTENT OF THE
APPELLANT AND THE RESPONDENT NO.6
MAY BE ORDERED TO BE MODIFIED AFTER
PLACING THE APPELLANT AT SERIAL NO. 1
IN THE SONORITY LIST. IT IS FURTHER
PRAYED THAT ALL THE BACK BENEFITS IN
TERMS OF PAY AND PROMOTION MAY
ALSO BE ORDERED TO BE GRANTED TO
THE APPELLANT. ANY OTHER RELIEF
WHICH THIS HONOURABLE TRIBUNAL
DEEM APPROPRIATE IN THE
CIRCUMSTANCES OF THE CASE MAY ALSO
BE GRANTED TO THE APPELLANT.

Respectfully Sheweth;

The facts forming the back grounds of instant service appeal are arrayed as under;-

1. That the appellant as per advertisement qualified the test and interview for the post of computer operator and was placed at Serial No. 1 of the merit list. Thereafter, the appellant was appointed as Computer Operator on 06/10/2011. Copies of appointment order dated 06/10/2011 and advertisement and merit list are annexed as Annexure "A", "B" & "C".
2. That respondent No. 6 was appointed as a Computer Operator on 16/12/2011. Copy of appointment order of the respondent No. 6 is annexed as Annexure "D".
3. That one Mst. Farah Naz was illegally appointed as Computer Operator on 06/10/2011 having no appointing record with the department and was illegally placed senior to the appellant and other employees. The respondents' department has miserably failed to justify the appointment of said Mst. Farah Naz as well as fixing the seniority of

the employees. As a result, two service appeals No. 7313/2021 & 712/2016 were filed, one by Abdul Wahab and second by Mst. Faiza Abbasi and wherein the appellant was arrayed as respondent No. 3 and respondent No. 5 respectively. Copies of service appeal No. 712/2016 & 7313/2021 are annexed as Annexure "E" & "F".

4. That during the proceedings, respondents' department neither produced and authenticate the seniority list of the contesting employees in the said appeals nor produced any record regarding appointment of Mst. Farah Naz. As a result, keeping in view the submission of unauthentic and contradictory record this Honourable Tribunal vide detailed judgment dated 27/09/2023 remitted the cases of the appellants and the private respondents to the respondents' department for rectification of service record/ seniority as per law. Copy of judgment dated 27/09/2023 is attached as Annexure "G".
5. That following this, a detailed minutes of the meeting dated 01/01/2024 was issued by

respondents' department wherein it was held that Mst. Farah Naz was illegally appointed and there is no authentic merit list of the said employee. Copy of minutes of meeting dated 01/01/2024 is attached as Annexure "H".

6. That respondents' department without consulting and by passing Section 8 of KP Civil Servant Act, 1973 and Rule 17(a) of Appointment, Promotion, Transfer Rules 1989 as well as other available record, again issued illegal impugned seniority list dated 02/01/2024 which is perverse, discriminatory against the law, based on whims and wishes and cherry picking of the respondents and is liable to be set-aside. Copy of impugned seniority list dated 02/01/2024 is annexed as Annexure "I"

7. That it is further submitted that in the year 2015 a similar question of seniority of respondent No. 6 arose before respondents' department, and respondents' department categorically held that as per Rule 17 of KP Appointment, Promotion, Transfer Rules 1989, the appellant was declared senior to the respondent No. 6 because the appellant was appointed as Computer Operator on 06/10/2011 and respondent No.6 on 16/12/2011.

Therefore, the appellant was declared senior to respondent No.6. In this regard, copy of relevant pages of note sheets are attached as Annexure "J". Hence, the instant service appeal is filed inter-alia on the following grounds:-

GROUNDS:-

- a) That the appellant as per Section 8 of KP Civil Servant Act, 1973 and Rule 17 of Appointment, Promotion, Transfer Rules 1989 is senior because the appellant was appointed two months earlier than respondent No. 6. In this regard the Rule 17 sub Rule (2) of KP Appointment, Promotion, Transfer Rules 1989 reproduced "*(2) Seniority in various cadres of Civil Servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment*".

b) That, the appellant produced available records showing marks, appointment order and merit list to the respondents' during personal hearing on 13/12/2023 but the respondents' department turned deaf ear to the records produced by the appellant and as usual with malafide intention once again prepared impugned seniority list in violation of Section 8 of KP Civil Servant Act, 1973 and Rule 17 of KP, APT Rules 1989. Copy so called of merit list prepared by the respondents' without record is is annexed as Annexure "K".

c) That respondents' department during the whole process remained uncertain rather they were quite certain that there is no authentic record available before them. As a result the principle of fixation of seniority mentioned in Section 8 of KP Civil Servant Act, 1973 and Rule 17 of KP, APT Rules 1989 were to be followed. It is further submitted that after cut and paste, respondent No. 6 was shown senior to the appellant.

d) That respondent No.6 who is blue eyed has been shown senior to the appellant vide impugned seniority list dated 02/01/2024. The respondent No. 6 is an influential lady and is going to get undue promotion and is bent upon to demote the appellant from the post of Senior Scale Stenographer to the post of Computer Operator.

e) That it is worth mentioning that this Honourable Tribunal has directed to respondents to rectify the seniority list but the same was not issued according to law. The departments who are involved in mishandling of the cases of the appellant again issued illegal seniority list. Therefore, the impugned seniority list being violative of law is to be rectified after placing the appellant at serial No. 1 and respondent No. 6 at serial No. 2.

f) That this Honourable Tribunal transmitted their judgment dated 27/09/2023 to the respondents as a result the impugned

seniority list issued by the respondents' department. So, there is no need of filling of departmental appeal to next higher authority under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 for filling Service Appeal in this Honourable Tribunal.

- g) That the matter pertains to terms and conditions of service of the appellant, therefore this Honourable Tribunal has jurisdiction to entertain the service appeal of the appellant under Article 212(2) of the constitution of Islamic Republic of Pakistan, 1973.
- h) That the other grounds shall be urged at the time of arguments.

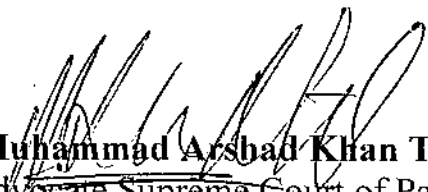
It is respectfully prayed that on acceptance of the instant service appeal, the impugned seniority list dated 02/01/2024 to the extent of the appellant and respondent No.6 may be ordered to be modified after placing the appellant at serial No. 1 in the sonority list. It is further prayed that all the back benefits in terms of pay

and promotion may also be ordered to be granted to the appellant. Any other relief which this Honourable Tribunal deem appropriate in the circumstances of the case may also be granted to the appellant.



...APPELLANT

Through;

Dated: _____/2024


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad

&


(Muhammad Ibrahim Khan) -
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing service appeal are true and correct to the best of our knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.


...APPELLANT

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service appeal No. _____/2024

Awais Qureshi Senior Scale Stenographer BPS-16, Commissioner's Office,
Hazara Division, Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through SMBR, Khyber Pakhtunkhwa,
Peshawar & others.

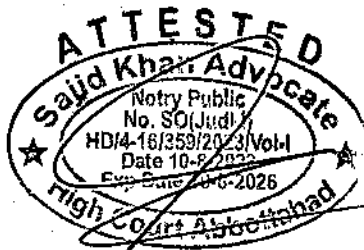
....RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, *Awais Qureshi Senior Scale Stenographer BPS-16, Commissioner's Office, Hazara Division, Abbottabad*, do hereby solemnly affirm and declare that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


DEPONENT



08/01/24

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service appeal No. _____/2024

Awais Qureshi Senior Scale Stenographer BPS-16, Commissioner's Office, Hazara Division, Abbottabad.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through SMBR, Khyber Pakhtunkhwa, Peshawar.
2. Commissioner Hazara Division, Abbottabad.
3. Secretary to Commissioner Hazara Division, Abbottabad.
4. Assistant to Commissioner (Poll/Dev), Hazara Division, Abbottabad.
5. Assistant to Commissioner (Rev/G.A), Hazara Division Abbottabad.
6. Faiza Abbasi Computer Operator Office of Commissioner Hazara Division Abbottabad.

...RESPONDENTS

SERVICE APPEAL

**APPLICATION FOR SUSPENSION OF
IMPUGNED SENIORITY LIST DATED
02/01/2024 TILL FINAL DISPOSAL OF THE
MAIN SERVICE APPEAL.**

Respectfully Sheweth;-

1. That the instant application may be treated as part and parcel of the main service appeal.
2. That the appellant has brought a good prima facie case and there is likelihood of success of the appellant/petitioner in the lis.

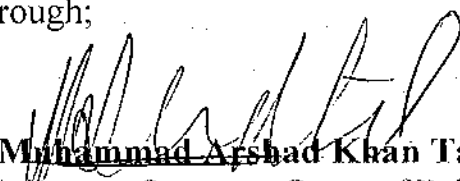
3. That the impugned seniority list is violative of Rule 17 of KP, APT Rules 1989. The appellant/petitioner was appointed on 06/10/2011 where as respondent No. 6 was appointed on 16/12/2011.

It is therefore, humbly prayed that impugned seniority list dated 02/01/2024 to the extent of the appellant and respondent No. 6 may be suspended till final disposal of the service appeal with further direction not to take adverse action against the appellant till final disposal of the main service appeal.

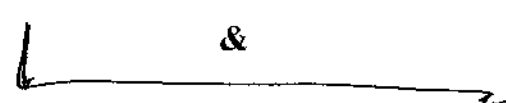

...APPELLANT

Through;

Dated: _____/2024


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad

&


(Muhammad Ibrahim Khan)
Advocate High Court, Abbottabad

AFFIDVIT;

I, *Awais Qureshi Senior Scale Stenographer BPS-16, Commissioner's Office, Hazara Division, Abbottabad*, do hereby solemnly affirm and declare that the contents of forgoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.


DEPONENT

Annex-A

OFFICE OF THE COMMISSIONER HAZARA DIVISION ABBOTTABAD

P-16

ORDER

Consequent upon the recommendations of the Departmental Selection/Recruitment Committee the following are hereby appointed as Computer Operator (BPS-12) in the Commissioner's Office Abbottabad on the following terms and conditions:-

S#	Name	Father Name	Address
01	Miss. Parla Naz	Muhammad Ismail	Village Gull Bagh Post Office Balha District Muzaffargarh.
02	Awaiz Qureshi	Wali Muhammad Qureshi	LM 75/1 Mohalla Qazi Chitta Poon Abbottabad.

1. His/her services will be governed by Section-19 of the NWFP, Civil Servants Act, 1973 as amended vide NWFP Civil Servants (Amendment Act, 2005). He/she will be entitled to contributory Provident Fund in such manners and at such rates as prescribed by the government.
2. His/her services will be liable to termination on one-month notice from either side. In case of resignation without notice, his/her two months pay/allowances shall be forfeited to the government.
3. He/she will be governed by such rules and regulations as may be issued from time to time by the government.
4. He/she will remain on probation for a period of one year in terms of Section-6 of the NWFP, Civil Servants Act, 1973 read with Rule-15 (1) of the NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules 1989. His/her services can be terminated any time in case his/her performance is found unsatisfactory during probation period. In case of misconduct, he/she shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance, 2000 and the rules framed by the government from time to time.
5. The appointment offer is subject to verification of his/her academic documents from the concerned Board/University.
6. He/she shall be bound to accept his/her adjustment/absorption in any of the departments/offices in Hazara Division as ordered by the Competent Authority.

Before joining the post he/she will have to provide (a) Medical Fitness Certificate from the Medical Superintendent, DIIQ Hospital of his/her respective district of domicile. (b) Character Certificate from local Police Station (c) Attested photo copies of academic documents.

In case the above terms and conditions of appointment are acceptable, he/she is required to report his arrival in the office of the undersigned within seven (07) days of the receipt of this letter, otherwise, the appointment would be treated as cancelled.

Sd/-

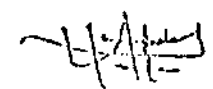
Commissioner Hazara Division
Abbottabad

Dated Abbottabad the 08 / 10 / 2011

Copy to the:-

1. District Comptroller of Accounts, Abbottabad.
2. PS to Commissioner Hazara Division, Abbottabad.
3. Assistant Budget & Accounts Commissioner's Office,
4. Officials concerned.

ATTEST


Assistant to Commissioner (Ac/CA)
Hazara Division Abbottabad

Ans = B P-17

27-04-2010

Ans
July, 2010

**OFFICE OF THE COMMISSIONER, HAZARA
DIVISION ABBOTTABAD**

Vacancies

Applications are invited for recruitment against the following vacancies in the office of the undersigned.

Sr	Nomenclature of Post	BPS	Scale Posts	Qualification	Age
1	Junior Scale stenographer	12	01	i. Minimum 2 nd Class Bachelor Degree or equivalent qualification from a recognized University ii. Speed of 50 words per minute in short hand in English and 40 words per minutes in typing. iii. Knowledge of Computer in using MS words and Ms Excel	18 To 30
2	Computer Operator	12	02	i. Minimum 2 nd Class BA/BSC/BPT/BCS ii. A minimum speed of 160 Key depressions per minutes for Punch/data entry/Verification/Inpage.	18 To 35

- The last date for submission of Applications is 15th July, 2010.
- only the candidates having domicile of Hazara Division can apply.
- The age limit will be considered in the light of relevant rules/ instructions issued by the government from time to time.
- The quota reserved for women, disabled, employees sons and minorities will be considered as per rules.
- The candidate applying for more than one post are required to apply separately for each post.
- Each candidate is required to apply with copies of the following document duly attested by a gazetted officer. Other wise, application would summarily be rejected:-
 - Computerized national Identity Card
 - Domicile
 - Three passport size photographs
 - Academic Certificates/Diplomas/Degrees etc
 - Experience Certificate (if any)
- The appointments shall be made on basis of written test/ interview.
- The candidates already in service are required to apply through proper channel.
- No TA/DA shall be allowed.

Office of Commissioner, Hazara Division

www.khyberpakhtunkhwa.gov.pk

Director, District Administration
 District Office # 33, Hazara Division
 Abbottabad, Pakistan
 22100
 27-04-2010

P-17

Annex-B

Annex - C P-18

MERIT LIST OF THE CANDIDATES FOR THE POST OF COMPUTER OPERATORS (BPS-12)

S. No.	Name of candidate	Father name	Total marks in Screening Test=75 Marks obtained	Computer practical marks=15 Marks obtained	Interview Marks=10 Marks Obtained	Marks as per ESTA code out of 82		Total 182
						Academic Marks=70	Higher Education Marks=12	
1.	Faiza Abbasi	Jan-e-Alam	48.5	11.5	05	58	6	129
2.	Awais Qureshi	Wali Muhammad	34.5	11	09	58	-	112.5
3.	Farah Naz	Muhammad Ismail	A	A	09	42	6	57

NOTE: The merit list has been prepared in the light of decisions taken in the meeting held on 13/12/2023 under the Chairmanship of the Commissioner, Hazara Division and in compliance of KP Service Tribunal Judgment dated 27/09/2023 in service appeals No.712/2016 & 7313/2021,

NO. 1/2/ESTA. 23-25 Dated: 01-01-2024

[Signature]
Assistant to Commissioner (Poll/Dev),
Hazara Division, Abbottabad

[Signature]
Secretary to Commissioner,
Hazara Division, Abbottabad

29-12-2023

[Signature]
Commissioner
Hazara Division, Abbottabad.

Attested
Muhammad Arshad Khan Jan.
Advocate General of Pakistan
Office: Khan Plaza Adjacent to
Dist. Bar Abbottabad

(17)

ANNEXURE III

MERIT LIST OF THE CANDIDATES FOR THE POST OF COMPUTER OPERATORS (BPS-12)

Scanned with CamScanner

Name of Candidate	Father Name	Total Marks in Screening Test =75 Marks Obtained	Computer Practical Marks=15 Marks Obtained	Interview Marks=10 Marks Obtained	Grand Total Out of 100	Remarks
Faiza Abbasi	Jan-e- Alam	48.5	11.5			
Noman Khan	Maroof Khan	33.5	14			
Awais qureshi ✓	Wali Muhammad	34.5	11			
Zai-ul-Haq	Sardar Manzoor Ahmed	29.5	10			

Assistant Commissioner (Rev/GA)
Hazara Division Abbottabad

Abdullah Khan Khan
Advocate Supreme Court of Pakista
Office # 33 Jinnah Plaza Adjacent to
Bar Abbottabad

Worthy Commissioner
Hazara Division

Page No & Date:

Assistant Commissioner, Hazara Division
Abbottabad



Annex- D



OFFICE OF THE
COMMISSIONER HAZARA DIVISION
ABBOTTABAD

P. 20

ORDER

Consequent upon the recommendation of the Departmental Promotion/Selection Committee which met on 16/12/2011, Miss. Faiza Abbas, D/O Jans-e-Alam R/O Sir Syed Colony District Abbottabad working as Junior Clerk in this office is hereby appointed as Computer Operator, (BPS-12) in the office of the Commissioner Hazara Division Abbottabad on the following terms and conditions:

1. His/her services will be governed by Section-19 of the NWFP, Civil Servants Act, 1973 as amended vide NWFP Civil Servants (Amendment Act, 2005). He/she will be entitled to Contributory Provident Fund in such manners and at such rates as prescribed by the government.
2. His/her services will be liable to termination on one-month notice from either side. In case of resignation without notice, two months pay/allowances shall be forfeited to the government.
3. He/she will be governed by such rules and regulations as may be issued from time to time by the government.
4. He/she will be remained on probation for a period of two years in term of Section-6 of the NWFP, Civil Servants Act, 1973 read with Rule-15 (1) of the NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules 1989. His/her services can be terminated any time in case his performance is found unsatisfactory during probation period. In case of misconduct, he/she shall be proceeded against under the E&D rules 2011.
5. He/she shall be bound to accept his adjustment/absorption in any of the departments/offices in Hazara Division as ordered by the Competent Authority.

In case the above terms and conditions of appointment are acceptable, He/shes is required to report His/her arrival within seven (07) days of the receipt of his letter, otherwise the order will be considered cancelled.

Sd/xxx

Commissioner Hazara Division
Abbottabad

Endst: No: 1/2/CHD/Estab: 1149-54

Dated Abbottabad 16/12/2011

Attested
Advocate Supreme Court
Office # 32
Distt Hazara

Copy to the:

1. District Comptroller of Accounts, Abbottabad.
2. PS to Commissioner Hazara Division Abbottabad.
3. Divisional Nazer (Local).
- ✓ Assistant Budget & Accounts Branches (Local) for necessary action.
5. The official concerned.

[Signature]
Assistant to Commissioner (Rev/GA)
Hazara Division Abbottabad

P-21

ANNEXURE

15

ARRIVAL REPORT

In compliance of Order No. 1/2/CHD/Estab/11149-54 dated 16/12/2011 issued by Assistant to commissioner (Rev/GA) Hazara Division I, Miss Faiza Abbasi submit my arrival report against the post of Computer Operator (BPS-12) in the office of Commissioner Hazara Division Abbottabad today 16/12/2011 at 11am.

Faiza Abbasi

Miss Faiza Abbasi
D/O Jan-e- Alam

R/O Street No. 08 House No. 18
Sir Syed Colony Mandia Abbottabad
Dated : 16/12/2011

Accepted
20.6.16
[Signature]

AR
16/12/11

Muhammad Arshad Khan
Advocate Supreme Court of Pakistan
Office # 33, Jinnah Plaza Adjacent to
Distt. Bar Abbottabad

[Signature]

AMEX-E

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

P-22

Service Appeal No. 712 /2016

Miss Faiza Abbasi daughter of Jan-e-Alam Abbasi, resident of Sir Syed Colony, Mandian, Tehsil and District Abbottabad, presently working as Computer Operator (BPS-12) in the office of Commissioner, Hazara Division, Abbottabad.

...APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. Senior Member Board of Revenue, Peshawar.
3. Commissioner Hazara Division, Abbottabad.
4. Assistant to Commissioner, (Rev;/GA), Hazara Division, Abbottabad.
5. Awais Ahmed Qureshi, Computer Operator, Commissioner Office Hazara Division Abbottabad.
6. Farah Naz, Computer Operator, Commissioner Office, Hazara Division Abbottabad.

...RESPONDENTS

SERVICE APPEAL AGAINST THE ORDER
DATED 19/05/2016 PASSED BY RESPONDENT
NO. 2 WHEREBY THE RESPONDENT NO.2

Attested
Muhammad Arshad Khan Janol
Advocate Supreme Court of Pakistan
Office # 33, Jinnah Road, adjacent to
Distt Bar Abbottabad

DISMISSED / REJECTED THE DEPARTMENTAL REPRESENTATION OF APPELLANT BY MAINTAINING THE ORDER OF RESPONDENTS NO.3 & 4 FOR PREPARING THE SENIORITY LIST OF COMPUTER OPERATORS BPS-12 BY PLACING THE APPELLANT AT SERIAL NO. 03.

PRAYER: ON ACCEPTANCE OF THE INSTANT APPEAL THE SENIORITY LIST PREPARED BY THE RESPONDENT NO. 3 & 4 WHEREIN THE APPELLANT WAS PLACED AT SERIAL NO. 3 OF LIST BE DECLARED AS AGAINST LAW, WITHOUT JURISDICTION AND WITHOUT LAWFUL AUTHORITY & AGAINST THE MERIT OF THE APPELLANT AND SET ASIDE THE ORDER DATED 19/05/2016 OF RESPONDENT NO. 2 AND APPELLANT BE PLACED AT SERIAL NO. 1 OF THE SENIORITY LIST OF COMPUTER OPERATORS IN THE OFFICE OF COMMISSIONER HAZARA DIVISION ABBOTTABAD. ANY OTHER RELIEF

Attested
 Muhammad Arshad Khan Janjani
 Advocate Supreme Court of Pakistan
 Office # 39 Jinnah Plaza Adjacent to
 District Court Abbottabad

DEEMED FIT AND PROPER IN THE
CIRCUMSTANCES OF THE CASE.

Respectfully Sheweth: -

1. That on 30/06/2009 the appellant was appointed as Junior Clerk in BPS-7 in the office of commissioner Hazara Division Abbottabad.
2. That vide order dated 16/12/2011 the appellant was appointed as Computer Operator in BPS-12 in the office of Commissioner Hazara Division Abbottabad. Copy of arrival report ^{ad order} ~~are~~ annexed as Annexure "A" and "B".
3. That the appellant is a regular employee of office of Commissioner Hazara Division Abbottabad since 30/06/2009.

Attested
Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office: Mohan Plaza Adjacent to
Bar Abbottabad

4. That on 16/12/2015 the respondents NO. 3 & 4 issued a tentative seniority list of computer operators working in BPS-12, but the service of appellant as a Junior Clerk i.e. service of 2 ½ years was not included. Copy of seniority list is annexed as Annexure "C".
5. That in the tentative seniority list of computer operators the appellant was placed at serial No. 03 of the seniority list Annexure "C".
6. That the appellant on 29/12/2015 filed objection petition against the tentative seniority list of computer operators BPS-12 before respondent No.3 but to no avail. Copy of objection petition is annexed as Annexure "D".
7. That despite considering the objection petition of petitioner, on 08/01/2016 respondents No. 3 & 4 issued a final

All ested

Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office # 33, Jinnah Road, Adjacent to
Distt. Bar Abbottabad

seniority list of computer operators in which petitioner was placed at serial No. 03. Copy of final seniority list is annexed as Annexure "E".

8. That the petitioner made a representation before the board of revenue/respondent No.2 against the final seniority list dated 08/01/2016. Copy of representation is annexed as Annexure "F".

9. That on 19/05/2016 the respondent No. 02 dismissed the appeal filed by the appellant against the final seniority list without hearing the appellant. Copy is annexed as Annexure "G".

10. That the final seniority list dated 08/01/2016 of computer operator is against law, rules norms of justice without jurisdiction and without lawful authority on the following amongst other Grounds:-

Muhammad Arshad Khan Jalloh
Advocate Supreme Court of Pakistan
Office # 27 Jinnah Plaza Adjacent to
D. I. Khan Abbotsabad

GROUNDS:

- a) That the appellant is permanent employee of respondent NO. 3 & 4 office since 30/06/2009 and in this way appellant is entitled to have been placed at serial No. 01 of the seniority list of the computer operators.
- b) That the respondents without any lawful authority has changed the period of validity of the seniority list from 01/12/2015 to 31/12/2013.
- c) That the respondents had illegally did not count the service of appellant from 30/06/2009 while preparing the seniority list.
- d) That the previous service of employees of office of respondents No. 3 & 4 namely M. Saeed and Mr. Obaidur Rehman was considered and included while preparing the seniority

Attested
Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office # 33, Wazir Plaza Adjacent to
District & Sessions Court, Lahore

list but the previous service of appellant was neither considered nor included while preparing the seniority list for the reason best known to respondents No. 3 & 4.

- e) That the respondents No. 5 & 6 have illegally and with material irregularity have been placed at serial No. 1 and 2 of tentative seniority list as stood on 16/12/2015 as both do not possess the required qualification / criteria for the post of senior scale stenographer (BPS-16) as compared to appellant but appellant was illegally ignored.
- f) That the respondent No. 2 without hearing the appellant dismissed the departmental appeal filed by the appellant which also does not fulfill the requirement of a valid judgment and order.
- g) That respondent No.5 has submitted an application for promotion as Senior

Attested
Muhammad Arshad Khan Jano
Advocate Supreme Court of Pakistan
Office # 3, 1st Floor, Plaza Adjacent to
Dist. Court, Bahawalpur

Scale Stenographer but he is not eligible for promotion to Senior Scale Stenographer as he neither have service record of at least five nor requisite qualification required for promotion.

h) That criteria /qualification for computer operator BPS-12 in KPK Civil Servant (APT) Rules, 1989 is as under :-

- I. *At least Second class bachelors degree in Computer Science / Information Technology (BCS/BIT four years), from recognized university.*
- II. *At least second class Bachelor's degree from a recognized university with one year diploma in Information Technology from a recognized Board of Technical Education.*

Attested
 Muhammad Arshad Khan, Janoh
 Advocate Supreme Court of Pakistan
 Office # 33, Janoh Plaza Adjacent to
 District Jail, Abbottabad

Respondents No. 5 & 6 do not have required qualification as per above

criteria, as they have certificates for short computer courses and they do not possess degree or even diploma of one year Information Technology, therefore, respondents No. 5 & 6 do not meet the criteria on the basis of seniority cum fitness for promotion.

- i) That the appellant has Bachelor's Degree in Information Technology (BIT) and MA in International Relations (IR) as well as 6 years 9 months experience of work in the office of respondents No.3 & 4, therefore, she is entitled to be placed at serial No. 1 of seniority list prepared by respondents No. 3 & 4.
- j) That the appeal is within time.
- k) That the other grounds shall be urged at the time of arguments with the leave of this Honourable Court.

Attested
 Muhammad Arshad Khan Tandon
 Advocate Supreme Court of Pakistan
 Office: 3rd Floor, Plaza Adjacent to
 Distt. Bd. Building, Islamabad

It is, therefore, humbly prayed that on acceptance of the instant appeal the seniority list prepared by the respondent No. 3 & 4, wherein the appellant was placed at serial No. 3 of merit be declared as against law, without jurisdiction and without lawful authority & against the merit of the appellant and set aside the order dated 19/05/2016 of respondent No. 2 and appellant be placed at serial No. 1 of the seniority list of computer operators in the office of Commissioner Hazara Division Abbottabad. Any other relief deemed fit and proper in the circumstances of the case.



...APPELLANT

Through

Dated: 16 / 06 / 2016



(SAJJAD AHMED ABBASI)
Advocate High Court, Abbottabad

VERIFICATION: -

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

Muhammad Asad Khan, Advocate
Office # 33 Jinnah Plaza Adjacent to
Distt: Bah Abbottabad



...APPELLANT

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

Service Appeal No. _____/2016

Miss Faiza Abbasi daughter of Jan-e-Alam Abbasi, resident of Sir Syed Colony, Mandian, Tehsil and District Abbottabad, presently working as Computer Operator (BPS-12) in the office of Commissioner, Hazara Division, Abbottabad.

...APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Miss Faiza Abbasi daughter of Jan-e-Alam Abbasi, resident of Sir Syed Colony, Mandian, Tehsil and District Abbottabad, presently working as Computer Operator (BPS-12) in the office of Commissioner, Hazara Division, Abbottabad, do hereby solemnly affirm and declare that the contents of forgoing appeal are true and correct to the best of my knowledge and belief has been concealed from this HONourale Court.

Muhammad Arshad Khan Janol
Notary Public
District Abbottabad

[Handwritten signature]



17/6/16

[Handwritten signature]

DEPONENT

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

Service Appeal No. _____/2016

Miss Faiza Abbasi daughter of Jan-e-Alam Abbasi, resident of Sir Syed Colony, Mandian, Tehsil and District Abbottabad, presently working as Computer Operator (BPS-12) in the office of Commissioner, Hazara Division, Abbottabad.

...APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

APPLICATION FOR SUSPENSION OF OPERATION OF IMPUGNED FINAL SENIORITY LIST DATED 08/01/2016 AND RESPONDENTS BE RESTRAINED TO ACT UPON FURTHER ON THE BASIS OF FINAL SENIORITY LIST DATED 08/01/2016 TILL FINAL DECISION OF THE TITLED APPEAL.

Respectfully Sheweth: -

1. That the above titled appeal is filed before this Honourable Court and the contents of foregoing application may kindly be considered as an integral part of the titled appeal.

Alleshad
 Muhammad Arshad Khan (ano.)
 Advocate, Supreme Court of Pakistan
 Office: _____, _____, adjacent to
 Bar Abbottabad

**BEFORE THE FEDERAL SERVICES TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR**

Appeal No. **7313** /2021

Abdul Wahab, Junior Scale Stenographer, Office of Commissioner
Hazara Division Abbottabad

.....APPELLANT

V E R S U S

1. Senior Member Board of Revenue, Government of Khyber Pakhtunkhwa, Peshawar.
2. Commissioner Hazara Division.

.....RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE SERVICE
TRIBUNAL ACT, 1973**

Respectfully Sheweth:-

FACTS: -

1. That the appellant joined the respondent department as Junior Scale Stenographer (BS-14) w.e.f 27.02.2018 on regular basis. From the day one of initial appointment, the appellant has been performing his duties with full devotion, dedication, honesty and having unblemished record of his service.
2. That throughout his service, there has been no complaint of any kind against the appellant from any corner whatsoever. He enjoys very good reputation among his colleagues.

No. Comments

No. Comments

Attested
 Advocate Supreme Court of Pakistan
 11, Jinnah Plaza, Adjacent to
 11th Bar, Abbottabad

3. That brief history of the case is that there are two sanctioned posts of Senior Scale Stenographer (BPS-16) in Commissioner Office Hazara Division. To fill the post of Senior Scale Stenographer through promotion the method prescribed in rules notified by Revenue Department vide Notification No.2074/Ess:I/II 135/SSRC dated:23.01.2015 is:

60% by promotion on the basis of seniority-cum fitness from amongst the Junior Scale Stenographer with atleast five years' service as such in the office of Commissioner concerned; and 40% by promotion on the basis of seniority-cum fitness from amongst the computer operators with at least five years' service as such in the office of Commissioner concerned:

Provided that if no suitable candidate would be available for promotion then by initial recruitment.

Copy of impugned order 31-12-2020 is annexed as Annexure "A"

4. That against two posts of Senior Scale Stenographer Mr. Amin-ul-Haq Junior Scale Stenographer under 60% share & private respondent Computer operator under 40% share were promoted as Senior Scale Stenographer on 21.09.2016. At time of above promotion the reserved quota for Junior Scale Stenographer was 1.2 & for Computer Operator was **0.8**. However, computer operator was benefited with promotion.

5. That later on Mr. Amin-ul-Haq was promoted as Private Secretary (BS-17) on acting charge basis on 26.04.2019 and thus one post of Senior Scale Stenographer became vacant, against the said vacant post of Senior Scale Stenographer Mr. Muhammad Faisal Junior Scale Stenographer was promoted being the holder of greater share under 60:40 ratio of above mentioned rule.

Attested
 Advocate Supreme Court of Pakistan
 Office # 33 Jinnah Plaza Adjacent to
 Dist. Bar Abbottabad

Correct

Correct

Correct

Correct

6. That the other post of senior scale stenographer became vacant when Mrs. Farah Naz objected on the promotion order of Mr. Awais Qureshi and filed appeal against the said order. Upon this Board of Revenue reverted Mr. Awais Qureshi from Senior Scale Stenographer (BPS-16) to the post of Computer Operator (BS-16). *Page-6*
7. That against the other vacant post of Senior Scale Stenographer (BPS-16) Miss Farah Naz the Computer Operator (BPS-16) was promoted on 29.01.2018 although at that time the share of Junior Scale Stenographer under reserved quota was greater than Computer Operator, however again the Computer Operator was benefited. *Page-9*
8. That thereafter, one post of Senior Scale Stenographer again became vacant on 12.11.2020 upon promotion of Miss Farah Naz, to the post of Private Secretary (BPS-17) on acting charge basis and to fill the said vacant post of Senior Scale Stenographer a DPC was convened in the office of Commissioner Hazara Division on 29.12.2020. *Correct*
9. That the case for promotion of the appellant was also placed before DPC, which was held for promotion against Senior Scale Promotion only on Acting Charge Basis because Miss Farah Naz the incumbent of this post was promoted as Private Secretary on acting charge basis. Working Papers for the said DPC are attached. *Correct*

Attested
Attested by Atiqul Khan Janohi
Member S. T. Board of Revenue
Office # 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100
Plaza Adjacent to
Bar Abbottabad

10. That the case of appellant for promotion in the said DPC was complete in all respect and was due for promotion under rules. It is evident from aforementioned working papers that for available 01 (one) vacant post of Senior Scale Stenographer the reserved quota for Junior Scale Stenographer (JSS) was "01" and for Computer Operator was "0" as in prescribed rules for promotion of Senior Scale Stenographer under 60:40 ratio for both cadres. Copy of Department appeal and order dated 27-07-2021 are annexed as Annexure "B"

Page-
143/15

11. That in the said DPC private respondent Computer operator was illegally promoted on *Acting Charge Basis on the basis of length of service* as evident from Minutes of Meeting circulated vide No. 2/3/Estab/ACR/CHD/9738 dated 29-12-2020. Whereas, in prevailing rules criteria was 60:40 ratio for both cadres rather than length of service. Therefore promotion of private respondent vide order No. 2/3-Estab:992-27 dated: 31-12-2020 is illegal and against the prevailing rules.

12. That the recent promotion was on acting charge basis and the appellant was also fulfilling the required service length for promotion on acting charge basis.

13. That the post of Computer Operator has also been upgraded to BPS-16 and illegal promotion of a computer operator from BPS-16 to the same scale of BPS-16 of senior scale stenographer has deprived the actual right of appellant being Junior Scale stenographer in BPS-14.

Attested
 Advocate Arshad Khan Janjani
 Advocate Supreme Court of Pakistan
 33, Jinnah Plaza, Adjacent to
 Bar, Abbottabad

14. That the appellant time and again approached the respondent department for consideration of his due promotion from the date of his eligibility, but no response whatsoever given to the appellant. Feeling aggrieved the appellant preferred a departmental appeal dated 26.01.2021, for promotion, which has been rejected vide appellate impugned order dated 27.07.2021, hence this appeal, inter alia, on the following grounds:-

GRUNDS:-

- a. That the impugned actions/orders of the respondents are void ab-initio, illegal, unlawful and having no legal effects, against the rights of the appellant.
- b. That the appellant being senior with unblemished service record was absolutely eligible and fit for promotion to the post of BPS-16 at the time of convening of DPC.
- c. That the appellant is fulfilling all the criteria for promotion, but the appellant has not been promoted without any fault on his part, therefore, the appellant is entitled for the promotion to the post of BS-16 from the date of his eligibility.
- d. That the act of the respondents is a clear discrimination and against the Article 4 & 25 of the Constitution, because private respondent who is already in BS-16 has been promoted to same grade, but the appellant has been ignored illegally and unlawfully, which is against the above said Article which gives equal protection and equality before the law to all, here the colleagues of the appellant are getting this benefit but appellant is deprived off the same. Reliance is placed on "2002 CMR 71", & "2002 SCMR 82".

Attested
Muhammad Arshad Khan Janjani
Advocate Supreme Court of Pakistan
Office: Jinnah Plaza Adjacent to
Distt. Bar Abbottabad

- e. That the treatment of Civil Servant in accordance with law and in just and fair manner in the matter of advancement of their career is of paramount importance for good governance. Otherwise, his commitment to the job, dedications to duty, his power to take decision and even his integrity might be confined to a casualty ward. Reliance is placed on 2004 TD (Service) 49.
- f. That the appellant is entitled for consideration of promotion in BPS-16 when private respondent was promoted i.e. w.e.f 29-12-2020, but ignoring and depriving the appellant from his due promotion is against the provisions of the constitution of the Islamic Republic of Pakistan, 1973. Reliance is placed in judgment of august Supreme Court of Pakistan reported as "2010 SCMR1466" observed as under:-

"S.8.....Promotion...Delay.....Legitimate...expectancy, principle of...civil servant was not promoted despite availability of vacancy...service Tribunal allowed the appeal filed by civil servant and directed the authorities to consider him for promotion from the date when he became eligible for the post as there was vacancy available then...validity...state functionaries were mandated to act with certain amount of reasonableness...such canon of due process of law was not observed in processing civil Servant's promotion matter...Having acquired requisite experience and having authored number of articles required for post in question, the civil servant had legitimate expectancy for the post in question.... Judgment passed by service Tribunal was neither against the rules nor the law declared....Civil servant was eligible to be considered for promotion when substantive vacancy in promotion quota was available.... Judgment passed by Service Tribunal directing the authorities to consider the case of civil servant's promotion to post in question from the date when vacancy in his quota was available was unexceptionable....Supreme Court declined to interfere in the judgment passed by Service Tribunal.....Appeal was dismissed.

Arshad
 Arshad Khan Janohi
 Advocate Supreme Court of Pakistan
 100, Jinnah Plaza, Adjacent to
 1st Floor, Abbotabad

against the fundamental rights safeguarded under the Constitution of Islamic Republic of Pakistan, 1973.

- j. That under the impugned order of promotion when private respondent was promoted i.e. w.e.f. 29-12-2020, the acts and omissions on part of the respective authorities are in express violation of Section 24-A of the General Clause Act, 1987, which provides that an authority vested with any power is bound to exercise the same justly, fairly, reasonably and for the advancement of the purpose being vested therein. Reference is made to the judgment reported as "2003 PLC (CS) 503" observed as under:-

"Treatment of the civil servants in accordance with law and in just and fair manner in the matter of advancement of her career is of paramount importance of good governance, otherwise his commitment to the job, dedication to duty, power to take decision and even his integrity might be confined to Casualty Ward". (Page 153).

- k. That the appellant has been deprived of his vested right of objective consideration for promotion, whereas it is the cardinal principle that each and every Civil Servant has legitimate expectation to graduate in the higher echelons of career. The denial of promotion, therefore, being unjust is not warranted as per law as held in a case reported as "2000 PLC (CS) 103". Operative part of the judgment is reproduced herein below:-

"...Even otherwise all employees having been serving since long, principle of locus poenitentia and doctrine of reasonable expectation had created a vested right in them after such a long service with devotion, experience and extra satisfaction of their superiors..."

Advocate Supreme Court of Pakistan
Office # 33, Jinnah Plaza, Adjacent to
Bar, Abbottabad

Reference is also made to the judgments of superiors courts reported as "2004 PLC(CS) 62", "2003 PLC (CS) 56", "1994 PLC (CS) 1055" and "1993 PLC (CS) 67".

- l. That the appellant will undergo a recurring financial loss in his pay due to none of his fault and therefore is fully entitled for promotion to the post of BS-16, with effect from the date when private respondent was promoted i.e. w.e.f. 29-12-2020.
- m. That the appellant has not been dealt with in accordance with law, which itself is violative of the provisions under Article 4 of the Constitution of the Islamic Republic of Pakistan. The expression "law" as employed in the said Article is positively of wider import, which also includes the duty of every public functionary to act in the given matter justly, fairly and in accordance with the principles of natural justice.
- n. That it is axiomatic that the matters relating to the terms and conditions of service particularly the question of promotion should always be examined and decided objectively, rationally and without any prejudice so that fair, reasonable and judicious conclusions / decisions free from any unfair inclination or bias could be emerged. In any case, the available facts and underlined references suffice to indicate that the impugned denial to promotion of the appellant to the post of (BS-16) w.e.f. when private respondent was promoted i.e. 29-12-2020 is at an absolute variance from the set principles / yardsticks in the existing promotion policy. The discretion has not been exercised fairly, justly and reasonably. Reference is made to the judgment of the august Supreme Court of Pakistan reported as "1995 SCMR 650".

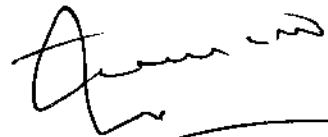
Advocate Supreme Court of Pakistan
Office # 33, Jinnah Plaza, Adiacent to
District Bar, Abbottabad

(Signature)

- o. That denial to promotion under the appellate impugned order is tantamount to depriving the appellant of his livelihood (in shape of benefits attached to higher post and status), which is against the constitutional obligation being imposed upon all the organs/agencies with regard to determination of the rights of the appellant. (Copy of other document is annexed as Annexure "C")
- p. That the impugned action of the respondents are a worst example of colourable exercise of power by the authority and also against the principle of natural justice, fair play and equity.

In view of the above mentioned facts and circumstances, it is respectfully prayed that the instant appeal may graciously be accepted with costs, and the appellate impugned promotion order bearing No. 2/3-Estab:992-27 dated 31-12-2020, may kindly be set aside and in consequence thereof the appellant may kindly be considered for promotion to the post of Senior Scale Stenographer (BS-16) w.e.f. 29-12-2020 when private respondent was promoted with all consequential back benefits in the interest of justice. Any other relief, which this Honorable Tribunal deems fit and appropriate, may also be solicited.

Dated 24/08/2021

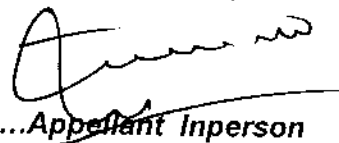


Appellant-in-Person

VERIFICATION:-

Verified that the contents of the instant **appeal** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court

Dated:- 24/08/2021



...Appellant Inperson

Muhammad Asif Ali Khan
 Advocate Supreme Court of Pakistan
 Office # 33, Jinnah Plaza Adjacent to
 District Bar Abbottabad

BEFORE THE FEDERAL SERVICES TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. _____/2021

Abdul Wahab, Junior Scale Stenographer, Office of Commissioner
Hazara Division Abbottabad

.....APPELLANT

VERSUS

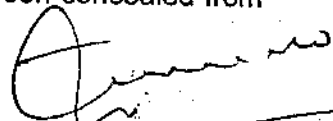
Senior Member Board of Revenue, Government of Khyber
Pakhtunkhwa, Peshawar & another.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF THE SERVICE
TRIBUNAL ACT, 1973

AFFIDAVIT

I, Abdul Wahab, Junior Scale Stenographer, Office of Commissioner
Hazara Division Abbottabad *appellant*, do hereby solemnly affirm and
declare on Oath that the contents of instant *appeal* are true and correct to
the best of my knowledge and belief that nothing has been concealed from
this Hon'ble Court.


DEPONENT

ATTESTED



24-8-2021

Attested

Office of the Registrar
Supreme Court of Pakistan
Office #33, Minnab Plaza Adjacent
Bar Abbottabad

Service Appeal No.712/2016 titled "Miss Faiza Abbasi & others vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others" declared on 27.09.2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Salah-Ud-Din, Member both of Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court, Abbottabad



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR AT CAMP COURT, ABBOTTABAD

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN
SALAH-UD-DIN ... MEMBER(Judicial)

Service Appeal No.712/2016

Date of presentation of Appeal.....20.06.2016

Date of Hearing.....26.09.2023

Date of Decision.....27.09.2023

Miss Faiza Abbasi daughter of Jan-e-Alam Abbasi, resident of Sir Syed Colony, Mandian, Tehsil & District Abbottabad, presently working as Computer Operator (BPS-12) in the office of Commissioner, Hazara Division, Abbottabad.....*Appellant*

Versus

1. Government of Khyber Pakhtunkhwa, through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. Senior Member Board of Revenue, Peshawar.
3. Commissioner Hazara Division, Abbottabad.
4. Assistant to Commissioner, (Rev/GA), Hazra Division, Abbottabad.
5. Awais Ahmad Qureshi, Computer Operator, Commissioner Office, Hazara Division, Abbottabad.
6. Farah Naz, Computer Operator, Commissioner Office, Hazara Division, Abbottabad.(*Respondents*)

Present:

Mr. Sajjad Ahmad Abbasi, Advocate.....For the appellant

Mr. Asad Ali Khan, Assistant Advocate GeneralFor official respondents

Mr. Arshad Khan Tanoli, Advocate.....For private respondent No.5

Syed Raza Shah, Advocate.....For private respondent No.6

Service Appeal No.7313/2021

Date of presentation of Appeal.....24.08.2021

Date of Hearing.....26.09.2023

Date of Decision.....27.09.2023

Abdul Wahab, Junior Scale Stenographer, Office of Commissioner Hazara Division, Abbottabad.....*Appellant*

Versus

1. Senior Member Board of Revenue, Government of Khyber Pakhtunkhwa, Peshawar.
2. Commissioner, Hazara Division
3. Awais Ahmad Qureshi, Computer Operator, Commissioner Office, Hazara Division, Abbottabad..... (*Respondents*)

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No 712/2016 titled "Miss Faiza Abbasi Vs. R other Vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", decided on 27.09.2021 by Division Bench comprising of Mr. Fahim Arshad Khan, Chairman, and Mr. Saleh-Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar as Camp Court, Abbottabad

Present:
Sardar Muhammad Irshad, Advocate.....For the appellant
Mr. Asad Ali Khan, Assistant Advocate GeneralFor official respondents
Mr. Arshad Khan Tanoli, Advocate..... For private respondent No.3

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment the above two appeals are going to be decided as decision of the both is interdependent, therefore, can be conveniently taken up and decided together.

2. Brief facts of the appeals are as under:

i. SA No.712/2016 Miss Faiza Abbasi:

The appellant was appointed as Junior Clerk in BPS-07 in the office of Commissioner, Hazara Division Abbottabad; that vide advertisement dated 07.07.2010 in the Urdu daily "AAJ"; applications were invited for the vacant posts of Computer Operators in the office of Commissioner, Hazara Division. The appellant applied for the same and vide order dated 16.12.2011 she was appointed as Computer Operator in BPS-12 in the office of Commissioner Hazara Division, Abbottabad; that on 16.12.2015 the official respondents issued tentative seniority list of Computer Operators working in BPS-12 but service of two and half years of the appellant as Junior Clerk was not included and she was placed at Serial No.3; that the appellant filed objection petition against the said tentative seniority list on 29.12.2015; that despite her objection, she was placed at the same serial i.e. Serial No.3 in the impugned seniority list dated 08.01.2016. Feeling aggrieved, she filed

Muhammad Arshad Khan Tanoli
Advocate
Office # 38 Jinnah Plaza
District Bar Abbottabad

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No 712/2016 titled "Miss Farah Naz vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", declared on 22.09.2021 in District Bench comprising of Mr. Kadir Arshad Khan (Chairman) and Mr. Sultan-Alt-Din, Member Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court, Abbottabad

departmental appeal on 08.01.2016 which was dismissed on 19.05.2016, hence the instant service appeal,

ii. S.A No.7313/2021 Abdul Wahab:

Appellant joined the respondent department as Junior Scale Stenographer (BPS-14) w.e.f 27.02.2018 on regular basis. While serving there, two sanctioned posts of Senior Scale Stenographer became vacant and for filling of post, criteria set was that 60% by promotion on the basis of seniority-cum-fitness from amongst the Junior Scale Stenographers with at least five years service and 40% by promotion on the basis of seniority-cum-fitness from amongst the Computer Operators with at least five years service. That the seats were filled by Mr. Aminul Haq Junior Scale Stenographer on the basis of 60% promotion quota and Mr. Awais Ahmad Qureshi, Computer Operator (private respondent) on the basis of 40% quota, on 21.09.2016; that at the relevant time, the quota reserved for Junior Scale Stenographer was 1.2 while the 0.8 for Computer Operators; later on, Mr. Aminul Haq was promoted as Private Secretary (BPS-17) and the post of Senior Scale Stenographer (BPS-16) became vacant against which, Mr. Muhammad Faisal, Junior Scale Stenographer was promoted; that on reversion of Mr. Awais Ahmad Qureshi from Senior Scale Stenographer to the post of Computer Operator, the Senior Scale Stenographer seat became vacant; that against the said post, Miss Farah Naz Computer Operator was promoted and upon her further promotion to the post of Private Secretary (BPS-17), the post of Senior Scale Stenographer again fell

*Muhammad Arshad Khan Janani
Advocate Supreme Court of Pakistan
Office: 33, 38th Plaza
Bait-e-Imam, Abbottabad*

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[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No 712 2016 titled "Abus Talab, Abbasa Vs. & others vs Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", decided on 27/09/2024 by Division Bench comprising of Mr. Khatun Ishtiaq Khan, Chairman and Mr. Saqib Ullah, Member Federal Khyber Pakhtunkhwa Service Tribunal, Peshawar as Comptroller, Abbottabad

vacant and a DPC was convened for filling of the said post; that the case of the appellant was also placed before the Committee, but instead of the appellant, Mr. Awais Ahmad Qureshi (private respondent) was promoted on Acting Charge Basis vide impugned order dated 29.12.2020. Feeling aggrieved, the appellant filed departmental appeal which was rejected vide order dated 27.07.2021, hence, the instant service appeal.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellant, learned Assistant Advocate General for the official respondents and learned counsel for private respondent(s), on different dates and also sought assistance of the Commissioner, Hazara Division.

5. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Assistant Advocate General assisted by learned counsel for private respondent(s), controverted the same by supporting the impugned order(s).

Before proceeding ahead, we would like to give certain facts brought on record by the parties. After the advertisement, receipt of applications of the candidates for appointment against the post of Computer Operator, written tests & Computer Practical Test etc., two

Attested
Muhammad Arshad Khan Jatoi
Assistant Commissioner
Hazara Division
Peshawar

Attested
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No 712/2016 titled "Miss Farah Abbas Fa & other vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa Peshawar and others", declared on 27.09.2023 by Division Bench comprising of Mr. Kalim Ayub Khan, Chairman, and Mr. Sahib-Ud-Din Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court, Abbottabad.

meetings of the Departmental Selection Committee were held. One meeting was held on 03.10.2011, which was attended by Mr. Muhammad Khalid Khan Umarzai, the then Commissioner Hazara Division, Syed Imtiaz Hussain, the then District Coordination Officer, Abbottabad and Mr. Abdul Haleem Khan, the then Assistant to Commissioner (Rev/GA) Hazara Division, Abbottabad and the minutes were recorded in the following manner:

"The vacancies of Computer Operators were advertised by this office in the Dail (Aaj) on 7th July, 2010. Total 43 candidates were called for the screening test held on 20.05.2011 while 33 appeared for the test. Out of 33, 19 qualified the test. For the Practical Computer typing test, 19 candidates attended which was held on 08.06.2011. Out of the 19 candidates, only 5 qualified who were called for interview today.

The committee interviewed all the 5 candidates, and at the end concluded that out of the 5 candidates, the 2 at the top of the final merit list i.e. Ms. Farah Naz D/O Muhammad Ismail and r. Awais Qureshi S/O Wali Muhammad may be appointed on the posts of Computer Operator keeping in view the emergent need of this office while the remaining vacancy will be considered for filling later on either from the candidates on the present merit list or otherwise. The committee unanimously agreed with this decision and approved accordingly."

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No. 512/2016 titled "Miss Faiza Abbasi Vs. & other vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", declared on 27.09.2023 by Division Bench comprising of Mr. Kalam Ashraf Khan, Chairman, and Mr. Saleh-Ud-Din, Member Jahanid, Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Cross, Abbottabad

While the second meeting was held 16.12.2011², which was attended by Mr. Muhammad Khalid Khan Umarzai, Commissioner Hazara Division, Syed Imtiaz Hussain, District Coordination Officer, Abbottabad and Miss. Adeela Hafeez, Assistant to Commissioner (Rev/GA) Hazra Division, Abbottabad and the minutes were recorded in the following manner:

"APPOINTMENT AGAINST THE POST OF COMPUTER OPERATOR (BPS-12)

The vacancies of Computer Operators were advertised by this office in the Daily (Aaj) on 7th July, 2010. Total 43 candidates were called for the screening test held on 20.05.2011 while 33 appeared for the test. For the Practical Computer typing test, 19 candidates attended which was held on 08.06.2011.

The committee gone through the qualification and merit of all the candidates thoroughly and recommended that one Miss. Faiza Abbasi D/O Jana-e-Alam whose performance and fitness for the required duties seems appropriate. The committee unanimously decided to appoint Miss. Faiza Abbasi as Computer Operator (BPS-12) against the vacant post.

APPOINTMENT AGAINST THE POST OF JUNIOR CLERK (BPS-07)

Consequent upon the appointment of Miss. Faiza Abbasi Junior Clerk as Computer Operator (BPS-12) one

Attested
 Muhammad Arshad Khan Jatoi
 Chairman Supreme Court of Pakistan
 Japan Plaza Adjacent
 P.O. Abbottabad

Attested
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

Service Appeal No. 712-2016 titled "Miss Faiza (Abasi) & others vs Government of Khyber Pakhtunkhwa through Secretary Board of Revenue Khyber Pakhtunkhwa, Peshawar and others", decided on 27.09.2023 by Division Bench comprising of Mr. Kalam Arshad Khan, Chairman, and Mr. Saleh-Ul-Din, Member Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court, Abbottabad

vacancy of Junior Clerk occurred which was to be filled in by fresh recruitment. The case of one Mr. Muhammad Inran who had also applied for the post of KPO has placed before the committee. The candidate though had good knowledge of computer and found competent but his qualification was F.Sc and not legible for appointment as KPO, hence the committee unanimously decided to appoint the candidate against the above occurring vacancy of Junior Clerk (BPS-07)."

7. From the record placed before the Tribunal, it seems undisputed that the appellant and private respondent No.6 were candidates and were selected and appointed as Computer Operator (BPS-16) in the same selection process, initiated in response to the same advertisement published in Urdu Daily "Aaj" dated 07.07.2010. On 27.04.2023, learned counsel for the appellant submitted a detailed application alongwith list of 43 shortlisted candidates for the post of Computer Operator, call letters for written test bearing No.CHD/1/2-Estab:4966 dated 03.06.2011, issued to the appellant for computer practical test, computer practical result sheet dated 08.06.2011, some note parts of the relevant file of the office of the Commissioner, Hazara Division, call letter No.CHD/1/2-Estab:5569-71 dated 21.06.2011, issued to the appellant for her appearance in interview, list of only 4 candidates named Faiza Abbasi, Noman Khan, Qureshi and Zia Ul Haq signed by the Assistant to Commissioner (Rev-GA) Hazara Division, (it is pertinent to mention here that the list does not contain the name of private respondent,

Attested
Muhammad Arshad Khan
Advocate
Office # 10, Jinnah Road, Peshawar
2017
Court Adjacent to
Peshawar

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[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

[Signature]

Service Appeal No.712/2016 titled "Afzal Faraz Ahtesham & other vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", declared on 27.09.2023 by Division Bench comprising of Mr. Kalam Ashraf Khan Chairman, and Mr. Saqib-ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court Abbottabad

Miss. Farah Naz), an order No.CHD/Estab/2/3/5027-34 dated 01.08.2017, enquiry proceedings conducted by Tasleem Khan, Deputy Commissioner, Haripur. It was observed by the Tribunal that although the question before ~~the~~ it was the claim of seniority of the appellant, yet undisputedly the appellant and private respondent No.6 were appointed through initial recruitment, the process of which was initiated as a result of the same advertisement. In case of initial recruitment the seniority is to be determined under Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, while the only criterion, for fixation of seniority, of the persons, appointed through initial recruitment, provided in the rules, is the merit order assigned to the candidates, by the Selection Committee. The Tribunal directed the Commissioner, Hazara Division to produce all the record of recruitment process, right from the advertisement, applications, list of eligible candidates, list of candidates, who appeared for tests and interviews etc. till appointment date and in case no such record was found, as was evident from the different documents, produced before the Tribunal, a detailed report, in writing, or an authentic merit list duly certified by the Commissioner, should be submitted, enabling the Tribunal for further proceedings in the matter. The case was adjourned to 08.05.2023.

8. On 08.05.2023, following order sheet was passed:

"1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Muhammad Usman Khan, Advocate Supreme Court of Pakistan, Office # 33 Jinnah Plaza A.G.C. Dist. Bar Abbottabad

Service Appeal No 1127516 dated 11th Feb 2021. A case vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Mamber Paktunkhwa, Peshawar and others, decided on 27.04.2023 by Division Bench comprising of Mr. Justice Asif Khan (Chairman) and Mr. Justice Iqbal Khan Member. Khyber Pakhtunkhwa Service Tribunal, Peshawar in Case No. 1127516

Syed Asif Iqbal, Assistant to Commissioner for the respondents present.

2. In compliance with the previous order sheet dated 27.04.2023 Syed Asif Iqbal Assistant Commissioner (Political) Office of Commissioner Hazara Division submitted a report alongwith some documents with some irregularities and malpractice stated in the report regarding misplacement of the record of recruitment process, however, the authentic merit list, of the candidates who had applied, appeared and competed in the selection process, has not been produced before the Tribunal rather the two lists, available on the record of the Commissioner Hazara Office as mentioned in the previous order sheet, were again produced. It is observed in the previous order sheet that the case in the Tribunal is one of the seniority of the persons as to determine the seniority under section-8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, wherein the sole criteria and the criteria is merit order. There are two merit lists produced before the Tribunal one is containing four names without the name of private respondent No.6, while the other produced by the private respondent No.6, as representative of respondents containing five names. Therefore, we would like to direct Commissioner Hazara

Muhammad Asif Khan Jagan Advocate Supreme Court of Pakistan Office 22, Jinnah Plaza, adjacent to 22/23, 24/25, 26/27, 28/29, 30/31, 32/33, 34/35, 36/37, 38/39, 40/41, 42/43, 44/45, 46/47, 48/49, 50/51, 52/53, 54/55, 56/57, 58/59, 60/61, 62/63, 64/65, 66/67, 68/69, 70/71, 72/73, 74/75, 76/77, 78/79, 80/81, 82/83, 84/85, 86/87, 88/89, 90/91, 92/93, 94/95, 96/97, 98/99, 100/101, 102/103, 104/105, 106/107, 108/109, 110/111, 112/113, 114/115, 116/117, 118/119, 120/121, 122/123, 124/125, 126/127, 128/129, 130/131, 132/133, 134/135, 136/137, 138/139, 140/141, 142/143, 144/145, 146/147, 148/149, 150/151, 152/153, 154/155, 156/157, 158/159, 160/161, 162/163, 164/165, 166/167, 168/169, 170/171, 172/173, 174/175, 176/177, 178/179, 180/181, 182/183, 184/185, 186/187, 188/189, 190/191, 192/193, 194/195, 196/197, 198/199, 200/201, 202/203, 204/205, 206/207, 208/209, 210/211, 212/213, 214/215, 216/217, 218/219, 220/221, 222/223, 224/225, 226/227, 228/229, 230/231, 232/233, 234/235, 236/237, 238/239, 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906/907, 908/909, 910/911, 912/913, 914/915, 916/917, 918/919, 920/921, 922/923, 924/925, 926/927, 928/929, 930/931, 932/933, 934/935, 936/937, 938/939, 940/941, 942/943, 944/945, 946/947, 948/949, 950/951, 952/953, 954/955, 956/957, 958/959, 960/961, 962/963, 964/965, 966/967, 968/969, 970/971, 972/973, 974/975, 976/977, 978/979, 980/981, 982/983, 984/985, 986/987, 988/989, 990/991, 992/993, 994/995, 996/997, 998/999, 1000/1001, 1002/1003, 1004/1005, 1006/1007, 1008/1009, 1010/1011, 1012/1013, 1014/1015, 1016/1017, 1018/1019, 1020/1021, 1022/1023, 1024/1025, 1026/1027, 1028/1029, 1030/1031, 1032/1033, 1034/1035, 1036/1037, 1038/1039, 1040/1041, 1042/1043, 1044/1045, 1046/1047, 1048/1049, 1050/1051, 1052/1053, 1054/1055, 1056/1057, 1058/1059, 1060/1061, 1062/1063, 1064/1065, 1066/1067, 1068/1069, 1070/1071, 1072/1073, 1074/1075, 1076/1077, 1078/1079, 1080/1081, 1082/1083, 1084/1085, 1086/1087, 1088/1089, 1090/1091, 1092/1093, 1094/1095, 1096/1097, 1098/1099, 1100/1101, 1102/1103, 1104/1105, 1106/1107, 1108/1109, 1110/1111, 1112/1113, 1114/1115, 1116/1117, 1118/1119, 1120/1121, 1122/1123, 1124/1125, 1126/1127, 1128/1129, 1130/1131, 1132/1133, 1134/1135, 1136/1137, 1138/1139, 1140/1141, 1142/1143, 1144/1145, 1146/1147, 1148/1149, 1150/1151, 1152/1153, 1154/1155, 1156/1157, 1158/1159, 1160/1161, 1162/1163, 1164/1165, 1166/1167, 1168/1169, 1170/1171, 1172/1173, 1174/1175, 1176/1177, 1178/1179, 1180/1181, 1182/1183, 1184/1185, 1186/1187, 1188/1189, 1190/1191, 1192/1193, 1194/1195, 1196/1197, 1198/1199, 1200/1201, 1202/1203, 1204/1205, 1206/1207, 1208/1209, 1210/1211, 1212/1213, 1214/1215, 1216/1217, 1218/1219, 1220/1221, 1222/1223, 1224/1225, 1226/1227, 1228/1229, 1230/1231, 1232/1233, 1234/1235, 1236/1237, 1238/1239, 1240/1241, 1242/1243, 1244/1245, 1246/1247, 1248/1249, 1250/1251, 1252/1253, 1254/1255, 1256/1257, 1258/1259, 1260/1261, 1262/1263, 1264/1265, 1266/1267, 1268/1269, 1270/1271, 1272/1273, 1274/1275, 1276/1277, 1278/1279, 1280/1281, 1282/1283, 1284/1285, 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Service Appeal No. 212/2016 titled "Miss Faiza Abbasi Vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue Khyber Pakhtunkhwa, Peshawar and others", declared on 27.09.2023 by Division Bench comprising of Mr. Kalam Arshad Khan, Chairman, and Mr. Saif-Ul-Jawad Member JUDGE, Khyber Pakhtunkhwa Service Tribunal Peshawar in Camp Court, Abbottabad.

			1. Date of practical test: 08.06.2011
			1. Date of Interview: 25.06.2011
2	Abdul Haleem Khan (Now serving as Deputy Secretary, Chief Minister's Secretariat, Peshawar)	30.09.2011 to 19.10.2011	DPSC meeting held on 03.10.2011 vide which Miss Farah Naz and Awais Qureshi were appointed
3	Adeela Hafeez (Now serving in Punjab)	19.10.2011 to 31.12.2011	DPSC meeting held on 16.12.2011 vide which Miss Faiza Abbasi was appointed

2. There is contradiction between constituted DPSC as Board of Revenue's Notification reveals that one ~~member~~ ^{member} should be from.

Attested
 Muhammad Ishaq Khan Jaroon
 Advocate
 Office No. 101
 District, East of Lodiana

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[Handwritten Signature]

Service Appeal No 913-2011 filed "Abas Ghani, Abbottabad & others vs- Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", decided on 27/09/2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Saikat-Ust-Din, Member Judicial Khyber Pakhtunkhwa Service Tribunal, Peshawar or Comp Court, Abbottabad

Board of Revenue while notification issued by the then Commissioner Hazara Division excluded the Board of Revenue from DPSC and included the DCO Abbottabad as member which is violation of the Board of Revenue's notification.

3. Mr. Matloob ur Rehman has completed the entire process except interview but merit list of written test and computer typing test provided by the petitioner were signed by a single member i.e. Mr. Matloob ur Rehman (ACR) not by all members of the DPSC.

4. Mr. Abdul Haleem then ACR who assumed charge on 30.09.2011 when the process of written test, typing test and interview were completed except meeting of DPSC, prepared all record again during his tenure which is doubtful as it is in contradiction with other merit lists prepared by his predecessor.

5. In present situation, this office cannot ascertain that which merit list is genuine at the entire recruitment process from beginning has procedural lapses and after lapse of 12 years; it is not possible to validate the said process or any part/document of it".

It is reflected from the record that vide order dated 01.08.2017, Mr. Tasleem Khan, Deputy Commissioner, Haripur was appointed as Inquiry Officer. The said order stated that a meeting of the Departmental Selection Committee for appointment of Computer Operator was reportedly held on 03.10.2011; that while processing an appeal of the seniority of Computer Operators, it was found that original record of the said DSC was not available in the office, consequently, the subject appeal

Muhammad Ali Shah
Advocate General
Office of the Advocate General
District Bar Abbottabad
Court of Pakistan

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Service Appeal No. 712-2016 titled "Altes Fatah (Ibraz) Vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", declared on 27.09.2023 by Division Bench comprising of Mr. Kulum Tishal Khan, Chairman, and Mr. Saikh-Ul-Eun, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Chair, Abbotabad.

could not be disposed due to non-availability of relevant record. It was further stated that misplacement of record/merit list of subject DSC was extreme negligence/inefficiency on the part of the dealing hand/officials, who remained posted in the Establishment Branch of the Commissioner Office. Following officials were stated to be posted:

1. Mr. Awais Ahmad, Assistant.
2. Mr. Muhammad Babar, Assistant.
3. Mr. Awais Qureshi, Computer Operator
4. Mr. Obaid ur Rehman Senior Clerk.
5. Mr. Fazal ur Rehman, Assistant.
6. Mr. Muhammad Shoaib, Junior Clerk.
7. Miss. Farah Naz, Computer Operator.

12. Mr. Tasleem Khan, DC Haripur conducted detailed inquiry and submitted findings/recommendations which are reproduced as under:

"From the perusal of record produced before the undersigned, written statements and cross examination etc, it recommended that:-

1. Under the policy/rules/laws, all the officials who remained posted in the Establishment Branch were bound to undertake proper handling/taking of branch record at the time of their transfers/postings but they did not do so as a result they all are liable to be proceeded against the E&D Rules in connection with misplacement of record on the basis of negligence/ignorance of rules/laws and inefficiency as they were totally naïve and casual to their prime responsibility/job description as well.

2. Ms. Farah Naz, Computer Operator whose name appeared in the minutes of DPSC dated 03.10.2011 and does not figure in the Attendance Sheet and Call Letter seemed to be interested for

Altes Fatah
 Mr. Saikh-Ul-Eun
 Member Judicial
 Khyber Pakhtunkhwa Service Tribunal
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Service Appeal no 712 2010 titled "Miss Farah Abbasi & other vs Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", decided on 27.09.2021 by Division Bench comprising of Mr. Kallim Arshad Khan, Chairman, and Mr. Suleh-Ul-Haq Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Quarn, Abbottabad

promotion as Senior Scale Stenographer (BPS-16) Instead of Mr. Awais Qureshi might have misplaced the service record while posted in Establishment Branch for declaring herself to be senior in the respective cadre. She may be proceeded against independently for misplacement of relevant record form the main file, since she did not file appeal well in time and to cover the lacuna as the misplacement was in her best interest. She did so after misplacing the record on the basis of her vested interested in the matter, which has been established from the file to get benefit herself from the situation. Moreover, some copies of Note Sheets produced during the course of investigation by Mr. Awais Qureshi would further corroborate the involvement of Ms. Farah Naz, Computer Operator rendering her for disciplinary action under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011,"(underlining is own).

No further proceedings appear to have been done by the Deputy Commissioner, Haripur nor by anybody else, as nothing was produced before the Tribunal in that respect. So it is unknown as to what had happened thereafter.

Be that as it may, it is nowhere denied by anybody that the appellant and private respondent, were initially appointed as Computer Operators in the same selection process though for the unknown reasons two meetings of the DSC were held on two different dates i.e. one on 03.10.2011 and the second was on 16.12.2011. That right from initial recruitment, until date, no effort seems to have been done by the

Alloster
 Murtaza Masood Khan, J.A.
 Advocate Supreme Court of Pakistan
 100, Commercial Plaza, Agha Khan
 Road, F-7/1, Islamabad

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Service Appeal No. 712/2016 titled "Miss Fatma Abbasi Vs. & others vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others" decided on 27.09.2023 by Division Bench comprising of Mr. Kulam Ashraf Khan Chairman and Mr. Saif-Ud-Din, Member Judicial Khyber Pakhtunkhwa Service Tribunal Peshawar in Comp Court Abbottabad.

department to determine the seniority under section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Despite giving a number of opportunities to the Commissioner Hazara Division, the Tribunal was also not provided any authentic and single merit list or one signed or certified by him, to decide the issue in accordance with law & rules nor any seniority list had been shown to have been notified in the official gazette as required by law. The Commissioner, instead, vide his report in writing, also raised doubts on the entire selection ^S process and could not confirm any of the two merit lists produced by the appellants and private respondent, to be the valid merit list of the candidates, who appeared in the process of selection, against the post of Computer Operators, in the office of Commissioner, Hazara Division advertised on 07.07.2010 in Daily "Aaj". Because of this situation, especially, in absence of authentic/valid or duly signed/certified merit list or missing of the said merit list, the Tribunal could not decide the matter in accordance with law & rules and thus has no other way but to send the matter back to the authorities concerned with the direction to fix/determine the seniority strictly in accordance with Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and then issue final seniority list and properly notify the same in the official gazette as required by law & rules.

Alleged
Advocate General
Office
Sindh High Court
Karachi
Pakistan
18/09/2023

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Khyber Pakhtunkhwa
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Service Appeal No. 712/2016 titled "Miss Farah Naz vs. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar and others", declared on 27.09.2023 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Salah-Ud-Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court, Abbottabad.

14. As to the connected appeal, since, the private respondent of the above appeal No.712/2016 named Miss Farah Naz was promoted on the basis of the unauthentic/invalid seniority list, as per findings made hereinabove, therefore, this matter is also remitted to the official respondents to decide it in accordance with the final and duly notified seniority list and the relevant rules. Needless to say that the promotions made in the meantime or further career progression of any of the parties, secured on the basis of disputed/invalid/unauthentic seniority list has to raze to the ground, and in the interest of justice, the person(s) who become senior after the above exercise would have right to such career progression subject to their otherwise entitlement under the relevant rules. Copy of this judgment be placed in the connected Service Appeal No.7313/2021 titled "Abdul Wahab Vs. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar & others". Consign.

15. Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 27th day of September, 2023.

Mulla
Advocate
Khyber Pakhtunkhwa
Abbottabad


KALIM ARSHAD KHAN
Chairman


SALAH-UD-DIN
Member (Judicial)

Muzam Shah

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 28/9/23
Number of Pages 16
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Total 80/-
Name of Copyholder 16/10/23
Date of Completion 16/10/23
Date of Submission 16/10/23

on the entire selection process and could not confirm any of the two merit lists produced by the appellants and private respondent, to be the valid merit list of the candidates, who appeared in the process of selection, against the post of Computer Operators, in the office of Commissioner, Hazara Division advertised on 07.07.2010 in Daily "Aaj". Because of this situation, especially, in absence of authentic/valid or duly signed/certified merit list or missing of the said merit list, the Tribunal could not decide the matter in accordance with law/rules and thus has no other way but to send the matter back to the authorities concerned with the direction to fix/determine the seniority strictly in accordance with Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17(a) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and then issue final seniority list and properly notify the same in the official gazette as required by law & rules.

As to the connected appeal, since, the private respondent of the above appeal No.712/2016 named Miss Farah Naz was promoted on the basis of the unauthentic/invalid seniority list, as per findings made here in above, therefore, this matter is also remitted to the official respondents to decide it in accordance with the final and duly notified seniority list and the relevant rules. Needless to say that the promotions made in the meantime or further career progression of any of the parties, secured on the basis of disputed/invalid/unauthentic seniority list has to raze to the ground, and in the interest of justice, the person(s) who become senior after the above exercise would have right to such career progression subject to their otherwise entitlement under the relevant rules.

The Chair heard the following officials in person regarding the subject case.

Miss. Faiza Abbasi (Computer Operator)

Miss. Faiza Abbasi personally appeared and presented the following stance before the Chair.

"She applied for the post of Computer Operator (BPS-12) in the year, 2011, and appeared in written test, practical test and interview. The then DSC prepared merit list in which she was placed at serial No. 1. Later on a DSC meeting was held on 03/10/2011 in which a candidate namely Miss. Farrah Naz D/O Muhammad Ismail was recommended for appointment as Computer Operator. The documents along with merit list prepared by the DSC wherein her name was placed at serial No.4, was contrary to the facts.

She further informed the Chair that a second DPSC meeting was held on 16/12/2011 vide which she was appointed against the vacant post of Computer

Alleged
Advocate Supreme Court of Pakistan
Office # 33, Walled City, Lahore
Dist. Par-Abbottabad

Operator. Since, she topped the written/practical tests and stood on first position, therefore, seniority list may also be compiled as per actual record based on facts.

She further added that she knocked the door of court with the pray that her seniority may be incorporated from date of appointment as Junior Clerk but later on when the facts pertaining to the merit list and seniority list were disclosed before the Service Tribunal, the same seniority list was quashed by the Service Tribunal with the directions to prepare merit/seniority list in light of Section-8 read with rules 17(a) of Appointment, Promotion and Transfer Rules, 1989.

She pleaded that merit/seniority list may be prepared in light of record provided by her and on the basis of Service Tribunal Judgment. Moreover, as per merit list of written test & typing/practical test, which were prepared and signed by then ACR Mr. Matloob-ur-Rehman, she was on first position but after the first DSC, new lists for written & practical test were compiled by new ACR Mr. Abdul Haleem wherein, she was allegedly demoted and Miss. Farah Naz was elevated to top despite the fact that she neither applied for the job nor appeared in any process of recruitment.

Miss. Farah Naz (Private Secretary) (ACB)

Miss. Farah Naz personally appeared and presented her plea before the Chair that she applied for the post of Computer Operator and personally appeared in the entire process of the recruitment completed by the then DPSC. In the light of recommendations made by the DPSC in meeting held on 03/10/2011, she was appointed as Computer Operator vide order No.4050-54 dated 06/10/2011. Furthermore, on the basis of seniority circulated by the office of Commissioner, Hazara Division she was promoted as Senior Scale Stenographer (BPS-16) on regular basis vide Board of Revenue order No.3935-37 dated 09/01/2018 and later on after two and half year, she was promoted as Private Secretary (BPS-17) on ACB vide Board of Revenue order No. 29203-06 dated 12/11/2020. She further clarified that inquiry was conducted by the Deputy Commissioner, Haripur regarding misplacement of relevant record from Establishment Section of this office. Resultantly, the Board of Revenue vide letter No.Estt:II/Seniority List/24197 dated 06/11/2017 had already disposed of the issue and directed the Commissioner Office that no further action was required to be taken. Since, the matter has already been decided, therefore, the seniority list may be prepared in light of available record provided by her.

Awais Ahmed Qureshi, (Senior Scale Stenographer)

Mr. Awais Qureshi appeared in person and asserted that both the merit lists are prepared fraudulently and relevant record was engineered deliberately in order to adjust Miss. Farah Naz who neither applied for the job nor appeared

in any process of recruitment. Moreover, first merit list was signed by only one member of DSC while second merit list was prepared by the DSC members in which he was placed at serial No.2 and Miss. Farah Naz was wrongly and illegally placed at serial No.1.

He further asserted that Mr. Faiza Abbasi was appointed in 2nd DSC, two months later than his appointment. Since the Service Tribunal quashed the seniority list, he should be placed at the top of the seniority list, being the rightful and the deserving one in light of Section-8 of Civil Servant Act, 1973.

Abdul Wahab, Junior Scale Stenographer

Mr. Abdul Wahab personally attended the meeting and presented his stance that as per prevailing rules, 60/40 quota was reserved for JSS and Computer Operators for further promotion as Senior Scale Stenographers (BPS-16). A working paper was prepared in the light of prevailing rules for the promotion of JSS/Computer Operator to the post of Senior Scale Stenographer in which the JSS was to be promoted as SSS but due to lack of required length of service his case was deferred and Mr. Awais Qureshi was promoted as Senior Scale Stenographer. Mr. Abdul Wahab further stated that promotion of Mr. Awais Qureshi was in violation of the rules in vogue. Since, his required length of service was less than three years, which was admissible for promotion on acting charge basis therefore, he should be promoted from JSS to SSS as the working paper of DPC reflected the turn of JSS for promotion to the post of SSS.

DECISIONS:

After hearing the arguments and record presented by the appellant and the respondents and in light of the Judgment of Service Tribunal dated 27/09/2023 in cases No.712/2016 & 7313/2021, the following decision were made:

1. The seniority list in respect of Mr. Awais Qureshi, Miss. Farah Naz & Miss. Faiza Abbasi will be prepared afresh in light of section-8 of Khyber Pakhtunkhwa Civil Servant Act, 1973 and Rules-17(a) of Khyber Pakhtunkhwa, (Appointment, Promotion/Transfer Rule-1989).
2. The seniority list will be finalized on the basis of ESTA Code & Merit List of Departmental Selection Committee as available and produced before Service Tribunal.
3. Since, there are two conflicting merit lists produced before the Tribunal, therefore, the lists of then ACRs, Member of DSC, corresponding to their period in this office will be considered authentic and final.
4. The Deputy Commissioner, Mansehra will initiate inquiry against the alleged appointment of Miss. Farah Naz as it is apparent that she has been appointed without fulfillment of due process. The process of enquiry shall be completed within one month.

Alleged
 Advocate Supreme Court of Pakistan
 District Bar Abbottabad

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5. Regarding connected service appeal of Mr. Abdul Wahab, the same will be reviewed in light of the recent notification of Board of Revenue No.Estt:II/SSRC/Div:/CMSR/2023/25494-502 dated 20/11/2023.

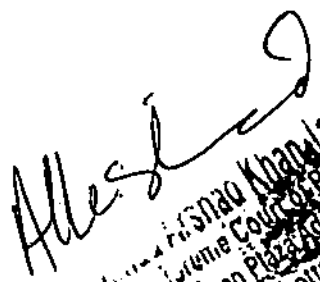

Secretary to Commissioner
Hazara Division Abbottabad

Endst: Even No & Date:

Copy forwarded to:

1. Senior Member, Board of Revenue, Revenue & Estate Department, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commissioner, Mansehra for further necessary action on decision No.4, please.
3. Assistant Secretary (Estt), Board of Revenue, Revenue & Estate Department, Khyber Pakhtunkhwa, Peshawar w/r to his letter No. Estt:I/SA/712/2016/Faiza Abbasi/25391-93 dated 07/11/2023.
4. PS to Commissioner, Hazara Division. Abbottabad.


Secretary to Commissioner
Hazara Division Abbottabad


Advocate General
Hazara Division Abbottabad
Supreme Court of Pakistan
Islamabad

Annex-i

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**FINAL SENIORITY LIST OF COMPUTER OPERATOR (BS-12)
WORKING IN COMMISSIONER OFFICE HAZARA DIVISION, STOOD ON 31-12-2011**

S.#	Name	Date Of Birth	Qualification	Date of first entry into Govt. service	Date of Regular Appointment /Promotion as Computer Operator	Method of recruitment	Office	Remarks
1.	Miss. Faiza Abbasi	19.04.1984	MA/BIT	30.06.2009	30.12.2011	Direct	Commissioner's Office, Hazara Division	
2.	Awais Qureshi	17.05.1985	BA/DIT	06.10.2011	06.10.2011	Direct	Commissioner's Office, Hazara Division	
3.	Mrs. Farah Naz	20.03.1986	M.SC	06.10.2011	06.10.2011	Direct	Commissioner's Office, Hazara Division	

NOTE: The Final Seniority list has been issued in the light of decisions taken in the meeting held on 13/12/2023 under the Chairmanship of the Commissioner, Hazara Division in compliance of KP Service Tribunal Judgment dated 27/09/2023 in service appeals No.712/2016 & 7313/2021. Furthermore, previous seniorities in respect of aforementioned officials hereby superseded.

No.2/3 Estb/CHD/ 68-70 Dated: 21/01/2024

Attested
Attest
M. Arshad Khan Jari
Supreme Court of Pakistan
Saminah Plaza Adjacent to
Distt. Bar Abbottabad

Secretary to Commissioner
Hazara Division, Abbottabad

minutes of the meeting is enclosed. In light of decisions taken in the meeting and in

Annex-J

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5
Vide PUC, Miss. Faiza Abbasi Computer Operator of this office raised the objections on the Seniority list of Computer Operators working in this office circulated vide this office available at (Flag "A") with the direction to file any objection within stipulated period i.e. 15 days after the issuance of the said seniority lists.

6
From the perusal of objections and record, it appears that the objection on the date of regular appointment of the applicant as Computer Operator is correct, which require to be corrected as it seems to be a clerical mistake.

7
In this respect it is submitted that Miss Faiza Abbasi was appointed as Junior Clerk vide this office order dated 30.06.2009 available at (Flag "B"). After going through the record, it transpires that on availability of the post of Computer Operator, the applicant the than Junior Clerk was applied for appointment against the vacant post of Computer Operator. She was appointed on 16/12/2011 under **Divisional/District Ministerial Services Rules 2001(Flag "C")**. The previous service of the applicant has already been included in her service, but as Junior Clerk, the name of applicant placed correctly in the seniority list of Computer Operators, as required under Khyber Pakhtunkhwa **Appointment Promotion and Transfer Rules,1989, Section 17 sub section(2)** which are reproduced for ready reference.

8
“(2) Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment” (Flag “D” which is highlighted).

9
In the light of these rules the name of applicant was placed at the bottom of the seniority list, so her objection on the seniority is unjustified, as the cadre of applicant was changed from Junior Clerk to Computer Operator, through initial appointment. Her pervious Service cannot be included as 'Computer Operator' as both cadres are different having different job descriptions.

10
As far as the objection on the adjustment of Mr. Saeed and Mr. Obaid Ur Rehman is concerned, it is submitted that both the officials were Transferred/absorbed in this office while this office was going through the stage of restructuring. Both the officials were ordered to perform their duties in July 2008, for smooth running the official work in Commissioner's office, the Services of both the officials were absorbed in their cadres and given them seniority under Khyber Pakhtunkhwa **Appointment Promotion and Transfer Rules,1989, Section 17 sub section(3)** which also reproduced for ready reference:

18

20

P-70

4 - This office does not record the
any service from the office
recording any kind of objection
the proposed appointment
in the previous list

3rd paragraph

19

5. It is at para 4 above.

20

6. The case is concerned with
the law, being, i.e. law of
appointment, service,
appointment and ministerial
in nature. The law
which was applied
in the case of 10th Oct 2011
which the applicant is
the 10th Oct 2011 case
to be applied in this case

Allected

Muhammad Arshad Khan Janohi
Advocate Supreme Court of Pakistan
Office # 100/101 Plaza Adjacent to
Distt Bar Abbottabad

21

It is expected that the
continuities to be applied

55/11

22

sent to court

from 5-19/11

The only valid objection is regarding
the date of her appointment, which
will be rejected. No other cogent objection
has been raised, as the other KPO were
appointed on 8th & 10th Oct, 2011 while the
applicant was appointed on 18.12.2011.

Section 17(2) of the Civil Servant provisions

23

very explicit.

Therefore, if approved the objection may be filed and the Seniority List may be finalized please.

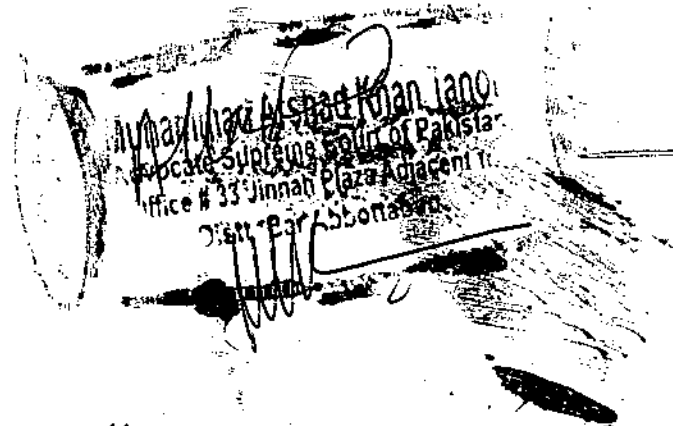
W
5.1.2015

Commissioner of Accounts

Para 23/10. 9/10

24

Spy
Supt
Asstt.



6/1/16

W
5.1.2015

25

The final Seniority list of Computer operator is submitted please the list of Stenographer is also placed in file '6B'.

26

Spy:

Draft Final Seniority list of Computer operator in this office is submitted for perusal.

If agreed, the same may be circulated amongst the Computer operator and Steno grapher in the

27

0

7/1

~~Commissioner~~ Hydrabad

(22)

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Signal - Please Circulate

ASSH

W
7.1.2006

Attested

Muhammad Ahsan Khan Janohi
District Sessions Court of Pakistan
District Bar Abbottabad

Annex-K

File No:

1/2 Estab: P-73

Vol. No:

OFFICE OF THE COMMISSIONER



HAZARA DIVISION
ABBOTTABAD

APPOINTMENT OF COMPUTER
OPERATORS (BPS-12)

INTERVIEW FILE

Subject:

1/- Merit List (Flag-C)

2/- Screening Test result (Flag-A)

3/- Computer Practical Result (Flag-B)

Attested
Munir Ahmad Khan Tansil
Adv. Gen. to the Court of Sessions
Abbottabad

P-74

-6-

**MERIT LIST OF QUALIFIED CANDIDATES IN WRITTEN TEST
DATED 20-05-2011 FOR THE POST OF COMPUTER OPERATOR
(BPS-12)**

Total marks=75
Passing marks=25

S#	Name of the Candidate	Father Name	Total Marks in Screening Test=75 Marks Obtained
01	Farah Naz	Muhammad Ismail	48.5
02	Awais qureshi	Wali Muhammad	42
03	Noman Khan	Maroof Khan	33.5
04	Faiza Abbasi	Jan-e- Alam	32.5
05	Yasir Naser	Muhammad Naser	31.5
06	Umer Kheyam	Auranzgeb	31.5
07	Syed Waqas	Syed Lal Hussain Shah	31
08	Fahad Gul	Qalandar Khan	30
09	Zai-ul-Haq	Sardar Manzoor Ahmed	29.5
10	Awais Malik	Malik Aman	29
11	Kashif Aslam	Aslam Waqar	29
12	Khurram Mumtaz	Muhammad Mumtaz	29
13	Malik Usman Ali	Malik Pervez Ali	28
14	Syed Mehmood-ul-Hassan	Syed Abdul Rahim Shah	27
15	Zahid Naveed	Abdul Makeem Jilani	27
16	Faisal-ur-Rehman	Fazal-ur-Rehman	26.5
17	Muhammad Imran	Muhammad Ilyas	26
18	Muhammad Fasil	Muhammad Aslam	25
19	Muhammad Shakeel	Maqbool-ur-Rehman	25

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Handwritten signature

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Assistant to Commissioner (Rev/GA)
Hazara Division Abbottabad

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*Muhammad Nisar Khan Janohi
The Supreme Court of Pakistan
Office # 100, Jinnah Plaza, Adjacent to
1st Bar Abbottabad*

**MERIT LIST FO THE CANDIDATES OF THE POST OF COMPUTER OPERATORS (BPS-12)
IN THE OFFICE OF THE COMMISSIONER HAZARA DIVISION ABBOTTABAD**


S#	Name of Candidate	Father Name	Total Marks in Screening Test= 75 Marks obtained	Computer Practical Marks =15 Marks obtained	Interview marks=10 Marks obtained	Grand total out of 100	Remarks
01	Farah Naz	Muhammad Ismail	48.5	13	09	70.5	
02	Awais qureshi	Wali Muhammad	42	12.5	09	63.5	
03	Noman Khan	Maroof Khan	33.5	12	05	50.5	
04	Faiza Abbasi	Jan-e- Alam	32.5	11	05	48.5	
05	Zai-ul-Haq	Sardar Manzoor Ahmed	29.5	10	04	43.5	


Assistant to Commissioner (Rev/GA)
Hazara Division Abbottabad

Attested

Muhammad
Advocate
Office
District Bar, Abbottabad

Attested


Assistant to Commissioner (Rev/GA)
Hazara Division, Abbottabad

MIS

14	Syed Mehmood-ul-Hassan	Syed Abdul Rahim Shah	ABSENT	
15	Zahid Naveed	Abdul Makeem Jilani	30WPM	90%	0	03	03	03
16	Faisal-ur-Rehman	Fazal-ur-Rehman	ABSENT	
17	Muhammad Imran	Muhammad Ilyas	14WPM	87%	0	0.5	04	4.5
18	Muhammad Fasil	Muhammad Aslam	14 WPM	92%	0	0.5	02	2.5
19	Muhammad Shakeel	Maqbool-ur-Rehman	13 WPM	89%	0	1.5	04	5.5

[Handwritten signature]

[Handwritten signature]

Assistant to Commissioner (Rev/GA)
Hazara Division Abbottabad

[Handwritten signature]
 Muhammad Aisaz Khan Jano
 Advocate Supreme Court of Pakistan
 Dina Wazir Plaza Adjacent to
 Dist Bar Abbottabad

[Handwritten signature]
 Assistant to Commissioner (Rev/GA)
 Hazara Division, Abbottabad

P-22-A

**BEFORE THE HON'ABLE SENIOR MEMBER BOARD OF REVENUE,
KHYBER PAKHTUNKHWA, PESHAWAR**

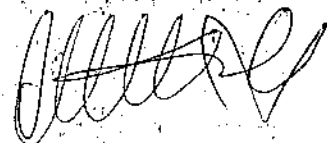
**DEPARTMENTAL APPEAL / REPRESENTATION AGAINST IMPUGNED SO
CALLED MERIT LIST BEARING NO. 1/2-ESTTB/23-25 DATED 01.01.2024
& IMPUGNED SENIORITY LIST BEARING NO. 2/3-ESTAB/CHD/68-70
DATED 02.01.2023 ISSUED BY THE COMMISSIONER HAZARA DIVISION**

Respectfully Shewethl

FACTS

The facts forming the back grounds of instant service appeal are arrayed as under:

1. That I was appointed as Computer Operator (BPS-12) in the Office of Commissioner Hazara Division Abbottabad vide order No. CHD/Estab:/4050-54 dated 06.10.2011 on the recommendation of DP/SC, after due course as required in the rules in vogue 2011 and APT Rules, 1989, for appointment of any Government Servant, such as advertisement, Test, Interview. The copies of advertisement, Call Letter of Computer Practical Test, Interview and appointment order are annexed as "A, B, C and D" respectively.
2. That Mst. Faiza Abbasi was appointed as a Computer Operator on 16/12/2011. Copy of appointment order and arrival report is annexed as "E & F".
3. That one Mst. Farah Naz was illegally appointed as Computer Operator on 06/10/2011 having no appointing record with the department and was illegally placed senior to the appellants and other employees. The respondents' department has miserably failed to justify the appointment of said Mst. Farah Naz as well as fixing the seniority of the employees. As a result, two service appeals No. 7313/2021 & 712/2016 were filed, one by Abdul Wahab and second by Mst. Faiza Abbasi and wherein the appellants were arrayed as Respondent No. 3 and Respondent No. 5 respectively.
4. That during the proceedings, respondents' department neither produced and authenticate the seniority list of the contesting employees in the said appeals nor produced any record regarding appointment of Mst. Farah Naz. As a result, keeping in view the submission of unauthentic and contradictory record the Honourable Tribunal vide detailed judgment dated 27/09/2023 remitted the cases of the appellants and the private respondents to the respondents' department for rectification of seniority as per Section 8 of KP Civil Servant Act, 1973 and Rule 17(a) of Appointment, Promotion, Transfer Rules 1989. Copy of judgment dated 27/09/2023 is attached as Annexure "G".
5. That following this, a detailed minutes of the meeting dated 01/01/2024 was issued by respondents' department wherein it was held that Mst. Farah Naz was illegally appointed and there is no authentic merit list of the said employee. Copy of minutes of meeting dated 01/01/2024 is attached as Annexure "H".



- P-77-B
6. That respondents' department without consulting and by passing Section 8 of KP Civil Servant Act, 1973 and Rule 17(a) of Appointment, Promotion, Transfer Rules 1989 as well as other available record, again issued illegal impugned seniority list dated 02/01/2024 which is perverse, discriminatory against the law, based on whims and wishes and cherry picking of the respondents and is liable to be set-aside. Copy of impugned seniority list dated 02/01/2024 is annexed as Annexure "I".
 7. That the Service Tribunal Judgement, simply directed to respondents department to "fix /determine the seniority strictly in accordance with Section-8 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule 17(a) of Appointment, Promotion, Transfer Rules 1989 and then issue final seniority list", but the office of Commissioner Hazara prepared new merit list instead of seniority list by merging two unauthentic merit lists. It is worth mentioning here that the then Commissioner Hazara Mr. Amer Sultan Tareen submitted a signed report wherein he denied to verify/authenticate the merit list produced before the court by Mst. Faiza Abbasi and private respondent Mst. Farah Naz. Astonishingly, it transpires that Mst. Faiza Abbasi showed senior to me in new merit list knowing the facts that she was appointed 2 months later than me.
 8. That it is further submitted that in the year 2015 a similar question of seniority of Mst. Faiza Abbasi Computer Operator arose before the Commissioner Hazara and Commissioner Office categorically held that as per Rule 17 of KP Appointment, Promotion, Transfer Rules 1989, the appellant was declared senior to Mst. Faiza Abbasi because the appellant was appointed as Computer Operator on 06/10/2011 and she was appointed on 16/12/2011. Therefore, the appellant was declared senior to her. In this regard, copy of relevant pages of note sheets are attached as Annexure "J".
 9. That vide minutes of meeting issued by the Secretary to Commissioner Hazara Division wherein Mst. Faiza Abbasi took plea that she was on the top of the merit list at that time, but a question arose, that why she did not file any appeal before the SMBR/Service Tribunal or any other court of law against the illegal appointments in the year 2011. That why she did not raised any query before the then competent authority or any officer to advertised three seats of computer operator instead of two? Copy of merit list prepared by the Departmental Selection Committee duly signed by the then Competent Authority i.e. Mr. Khalid Khan Umarizai (late) the then Commissioner Hazara and one member Mr. Abdul Haleem Khan the then Assistant to Commissioner (Rev/GA) in which I was placed as serial No. 2 and miss Farah Naz was wrongly and illegally placed at serial No. 1 are attached as Annexure "K".
 10. That in year 2015 a tentative seniority list of Computer Operator was issued by the office of Commissioner Hazara Division, wherein Mst. Faiza Abbasi never raised any objection before the Commissioner, SMBR Office as well as in Service Tribunal that she was on top of the merit list at that time.
 11. That on 16.12.2011, a Departmental Selection Committee was held wherein Mst. Faiza Abbasi was appointed as Computer Operator and Mr. Muhammad Imran was appointed as Junior Clerk without any code

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formalities. It is pertinent to mention that these posts were not advertised as per procedure laid down in APT Rules, 1989. These posts were illegally filled at that time.

Hence, the instant service appeal is filed inter-alia on the following grounds:

GROUNDS

- a) That the appellant as per Section 8 of KP Civil Servant Act, 1973 and Rule 17 of Appointment, Promotion, Transfer Rules 1989 is senior because the appellant was appointed two months earlier than Mst. Faiza Abbasi Computer Operator. In this regard the Rule 17 sub Rule (2) of KP Appointment, Promotion, Transfer Rules 1989 reproduced "*(2) Seniority in various cadres of Civil Servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment*".
- b) That, the appellant produced available records showing marks, appointment order and merit list to the Commissioner Hazara during personal hearing on 13/12/2023 but he turned deaf ear to the records produced by the appellant and as usual with malafide intention once again prepared impugned seniority list in violation of Section 8 of KP Civil Servant Act, 1973 and Rule 17 of KP, APT Rules 1989. Copy of so called merit list prepared by the Commissioner Hazara without record is annexed as Annexure "L".
- c) That the respondents' department during the whole process remained uncertain rather they were quite certain that there is no authentic record available before them. As a result the principle of fixation of seniority mentioned in Section 8 of KP Civil Servant Act, 1973 and Rule 17 of KP, APT Rules 1989 were to be followed. It is further submitted that after cut and paste, Mst. Faiza Abbasi Computer Operator was shown senior to the appellant.
- d) That Mst. Faiza Abbasi Computer Operator who has been shown senior to the appellant vide impugned seniority list dated 02/01/2024. She is an influential lady and is going to get undue promotion and is bent upon to demote the appellant from the post of Senior Scale Stenographer to the post of Computer Operator.
- e) That it is worth mention here that the applicant was promoted as Senior Scale Stenographer (BS-16) vide Notification bearing No. Estt:II/DS/Assistance/23112-15 dated 21.09.2016 issued by Board of Revenue and as per application of Mst. Farah Naz at that time, the applicant was demoted illegally and again promoted as Senior Scale Stenographer vide order No. 2/3-Estab:9720-27 dated 31.12.2020 issued by Commissioner Hazara Division. (Annexure -M & N).
- f) That it is worth mentioning that the Honourable Tribunal has directed to respondents departments i.e. Commissioner Hazara and your good office to rectify the seniority list but the same was not issued according to law. The department who are involved in mishandling of the cases of the appellant again issued illegal seniority list. Therefore, the impugned


seniority list being violative of law is to be rectified after placing the appellant at serial No. 1 and Mst. Faiza Abbasi at serial No. 2.

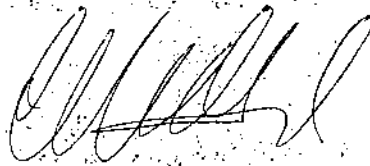
PRAY:

On the above mentioned facts, realities, rules, judgments and human natural right, the instant appeal is based on the truth and ground realities on the shoulder of rules, regulation, official record which are not only entertainable but requires favourable consideration. It is respectfully prayed that the impugned merit list dated 01/01/2024 may be set aside and seniority list dated 02/01/2024 to the extent of the appellant may be requested to be modified after placing the appellant at serial No. 1 in the seniority list, please.

Meanwhile it is also requested to direct office of the Commissioner Hazara Division to not hold any meeting of promotion of Senior Scale Stenographer in the subject case till the finalization of seniority issue, please.

Dated: 15/01/2024


Awais Qureshi
Senior Scale Stenographer,
Office of the Commissioner,
Hazara Division, Abbottabad.



کورٹ فیس

وکالت نامہ

Honourable Service Tribunal of Pakistan

Awaz Qureshi Govt of FKP عنوان

Appellant منجانب

Service Appeal نوعیت مقدمہ

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

M. Arshad Khan, Advocate, District Bar, Abbottabad

کو وکیل مقرر کر کے اقرار کرنا کہ اس مقدمہ کی کل کاروائی کا سبب ہو گا کہ وکیل M.

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہو گا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہو گا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پر داختمہ مجھ کو منظور و قبول ہو گا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہو گا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہو گا۔ اگر کوئی پیشی مقام دورہ پر ہوا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جز و بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت ناش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہو گا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المقوم:

Accepted

M. Hashim Khan
Adv. Hc. FKP

مقام: Abbottabad

M. Arshad Khan, Advocate, District Bar, Abbottabad

M. Arshad Khan Panel
ASC of Pakistan