BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL . PESHAWAR

Service Appeal No2609/2023

Muhammad Idress Junior Scale Stenogphar	office of Deputy Commissioner
Munaminad Idiess Jamor Seare Sterregi	Annellant
Lakki Marwat	Appenant

Versus

Chief Secretary Khyber Pakhtunkhwa.

Senior Member Board of Revenue, Khyber Pakhtunkhwa......Respondents 2.

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Dated _ '__/05/2024

Respondent

Through

Senior Member Board of Revenue Respondent No. 01&2

12-06-2024 3. Boot.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal	No. 2609/2023.
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Versus

PARAWISE COMMENTS ON BEHALF OF RESPONDENT No.1and 2

Khyber Pakhtukhwa Service Tribunal

RESPECTFULL SHEWETH.

Diary No. 12746

PRELIMINARY OBJECTIONS

Para 14-05-2024

- 1. That the appellant has got no cause of action.
- 2. That the appellant is estopped by his own conduct to institute the instant appeal.
- 3. That the appellant has not come to the Tribunal with clean hands.
- That the appeal is barred by law and limitation.
- 5. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

FACTS:-

- 1. Pertains to record.
- 2. Pertains to record.
- 3. Incorrect. Even if the Departmental Promotion Committee meeting had convened at that time, the applicant could not be promoted to the post of Naib Tehsildar as he was junior in the Joint Seniority List.
- 4. Incorrect. The Board of Revenue wrote a letter to all the Commissioners of the province to provide the relevant record/documents for updating the official record. The appellant wrongly interpreted that he was eligible for promotion to the post of Naib Tehsildar.
- In correct. In light of Service Tribunal order dated 11.04.2023, meeting of Departmental Promotion Committee was held on 23.05.2023 and the applicant was not found eligible for the post of Naib Tehsildar as he was at serial No. 3 of the Joint Seniority List of Junior Scale Stenographer /Senior Clerks (Annex-I,II & III).
- 6. As explained in para- 5 above.
- 7. Incorrect. The Execution Petition of the appellant was filed on 04.08.2023 by the Khyber Pakhtunkhwa Service Tribunal (Annex-IV)
- 8. The application of the appellant was filed by the Competent Authority being merit less.

GROUNDS

- A. incorrect. The Departmental Promotion Committee meeting was called on 23.05.2023 to consider the eligibility of appellant for promotion to the post of Naib Tehsildar, but he was not eligible for promotion to the post of Naib Tehsildar being junior in the seniority list.
- B. Incorrect. Every case has his own facts and circumstances.
- C. Incorrect. Every case has his own facts and circumstances.
- D. Incorrect. The case of the appellant has no relevancy with Sub-Registrar, as they have their own promotion criteria.

- E. incorrect. Even if the Departmental Promotion Committee meeting was convened, the appellant could not be promoted to the post of Naib Tehsildar as he was at serial No. 3 of Joint Seniority List (Annex-III).
- F. Incorrect. As mentioned in para- E above.
- G. Incorrect.
- H. incorrect.
- I. Incorrect. The appellant has been treated in accordance with law.
- J. Incorrect. No principle of Law has been violated. Being junior in Seniority List the appellant was not considered for the promotion to the post of Naib Tehsildar.
- K. Incorrect.
- L. Incorrect. Mr. Amir Bayan has already been promoted as Naib Tehsildar (ACB) as per directions/order passed by the Khyber Pakhtunkhwa Service Tribunal.
- M. Incorrect. The appellant will be promoted as per amended rules/law and seniority.

 (Annexure-V)
- N. Incorrect.
- O. Incorrect.
- P. Incorrect. The case of the Mr. Munir Akhtair has no relevancy with the case of appellant as Mr. Munir Akhtair belong to Hazara Division while the applicant belong to Bannu Division.
- Q. Incorrect.
- R. The respondents will also advance/produce others grounds at the time of hearing.

Keeping in view of above, the service appeal of the appellant having no legal grounds may graciously be dismissed with costs.

Senior Member
Board of Revenue
(Respondent No.1 &2)

Hranullah

Annea-I

GOVERNMENT OF KHYBER PAKHTUNKH BOARD OF REVENUE REVENUE & ESTATE DEPARTMENT

WORKING PAPER

SUBJECT: PROMOTION OF MR. MUHAMMAD IDRESS JUNIOR SCALE OF STENOGRAPHER (BS-14) OFFICE OF THE DEPUTY COMMISSIONER LAKKI MARWAT TO THE POST OF NAIB TEHSILDAR (BS-14) AS PER ORDER OF THE SRVICE TRIBUNAL DATED 11.04.2023 IN SERVICE APPEAL NO. 4305/2020 TITLED NASEER ABBAS VERSUS GOVT. KPK

Fact of the case are that the appellant namely Muhammad Idress was appointed as Junior Scale Stenographer (BS-14) in Deputy Commissioner office Lakki Marwat. As per service rules, notified on 25.01.2016, (Annex-A) 12% quota was reserved for promotion to the post of Naib Tehsildar (BS-14) on the basis of joint seniority cum fitness from amongst the Senior Clerks and Junior Scale Stenographers offices of the Commissioners and Deputy Commissioners in the Division concerned. On 13.05.2019 rules were amended and 12% quota for promotion of Senior Clerks & JSS to the post of Naib Tehsildar was omitted / excluded. Feeling aggrieved, the appellant filed departmental appeal, which was rejected . Aggrieved by the same , the appellant filed appeal before Service Tribunal Khyber Pakhtunkhwa. It is further submitted that in the year 2015 under 15% quota reserved for Senior Clerks to the post of Naib Tehsildar-(BS-14) offices of the Commissioners and Deputy Commissioners in Bannu Division 2.4 posts were falling in their share against which one Mr. Muhammad Khan Senior Clerk office of Commissioner Bannu has already been promoted on 27.05. 2015 to the post of Naib Tehsildar leaving behind only one post of Naib Tehsildar. In the year 2016 when rules were amended, under 12% quota reserved for Senior Clerks/JSS offices of the Commissioner and Deputy Commissioners in Bannu Division. one post was falling in their share. According to Joint Seniority List of Senior Clerks and Junior Scale Stenographers for the year 2017 Mr. Muhammad Idress was at Serial No. 03. Even if the Departmental Promotion Committee meeting was convened in 2019, the appellant could not be promoted to the post of Naib Tehsildar being at S. No 4 of the joint seniority list (Annex-B). However, the Service Tribunal disposed of the appeal in the following terms:-

"So far as the appeal of appellant Mr. Muhammad Idress is concerned, the same is remitted to the competent authority to constitute departmental promotion committee for considering the case of the appellant in light of the judgment dated 22.09.2021 rendered by this Tribunal in service appeal No. 1022/2019 filed by Munir Akhtar. In case the appellant Muhammad Idress is aggrieved of any order passed in view of recommendation of Departmental Promotion Committee so constituted, he may avail remedy in accordance with law and rules".

Further to mention here that Tehsildars, Naib Tehsildars rules is amended on 30.05.2023, and 6% quota has been reserved for Senior Clerks and Junior Scale Stenographers as per joint seniority list of the Division concerned. However, as per order of the Service Tribunal Khyber Pakhtunkhwa case is placed before the Departmental Promotion Committee for an appropriate decision please.

(NOOR KHAN)
Assistant Secretary (Estt:)

Masing Secretary Chinasters

Assing Secretary

Annea-

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

MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING REGARDING **PROMOTION MUHAMMAD OF IDRESS JUNIOR** STENOGRAPHER OFFICE OF THE DEPUTY COMMISSIONER LAKKI MARWAT TO THE POST OF NAIB TEHSILDAR (BS-14) IN LIGHT OF SERVICE TRIBUNAL KHYBER PAKHTUNKHWA ORDER DATED 11.04.2023 TITLED MUHAMMAD IDRESS VERSUS SENIOR MEMBER BOARD OF REVENUE AND OTHERS HELD IN THE OFFICE OF SENIOR MEMBER BOARD OF REVENUE ON 23.05.2023 AT 2.00 PM.

Meeting regarding Departmental Promotion Committee was held on 23.05.2023 in the office of Senior Member Board of Revenue, under his chairmanship to consider the appointment/promotion of Muhammad Idress Junior Scale Stenographer (BS-14) office of the Deputy Commissioner Lakki Marwat to the post of Naib Tehsildar in light of Service Tribunal order dated 11.04.2023. The following attended: -

- Mr. Atta-Ul-Munim, Secretary-I. Board of Revenue,
- 2 Mr. Jawad Ali Deputy Secretary Board of Revenue
- 3. Mr. Noor Khan, Assistant Secretary (Estt;). Board of Revenue,

Member

Member

Member

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During the discussion it was observed that as per Tehsildari Rules 2015, 15% briefly better the reved for Senior Clerk to the post of Naib Tehsildar at Divisional 1 and Khan Senior Clerk office of all the root. quota was reserved for Senior Clerk to the post of Naib Tehsildar at Divisional level and one Mr. Mohammad Khan Senior Clerk office of the Commissioner Bannu Division, was promoted to the post of Naib Tehsildar as per joint Seniority List. In the year 2016, rules were again amended and 12% quota was reserved for Senior Clerks and Junior Scale Stenographers offices of the Commissioner and Deputy Commissioners of the province, while 03% quota was reserved for Senior Clerk and Junior Scale Stenographers office of the Board of Revenue. Under 12% quota reserved for JSS/Senior Clerks offices of the Commissioner and Deputy Commissioners in Bannu Division 1.4 post was falling in their share while the appellant was at Serial No. 3 of the joint Seniority List of S/Clerks and Junior Scale Stenographer of Bannu Division for the year 2017. Even if the DPC meeting was convened, the appellant could not be promoted to the post of Naib Tehsildar being at S. No 3 of the joint seniority list. However, Tehsildar/Naib Tehsildar service rules has been amended on 30.05.2023 and 6% quota has been reserved for Senior Clerks and Junior Scale Stenographers as per joint seniority list of the Division concerned.

After detailed discussion it was unanimously decided that the official was not eligible for appointment to the post of Naib Tehsildar(BS-14) as he was at serial No. 03 of the Joint Seniority list of Junior Scale Stenographers and Senior Clerks for the year 2017 of Bannu Division. However, he will be promoted against their quota reserved for Naib Tehsildar in newly amended rules dated 30.05.2023 as and when vacancy of Naib Tehsildar (BS-14) be get vacant in Bannu Division.

The meeting ended with a vote of thanks by/from the chair.

(Atta-Ul-Munim)

Secretary-I, (Member)

(Noor Khan)

Assistant Secretary (Estt;)

(Member)

(Jawad Ali)
Deputy Secretary
(Member)

(Ikram Ullah Khan) Senior Member (CHAIRMAN)

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WAZIRISTAN OF BANNU DIVISION. JOINT FINAL SENIORITY LIST OF SENIOR CLERKS/JUNIOR SCALE STENOGRAPHERS OF THE OFFICES OF COMMISSIONER BANNU DIVISION AND DEPUTY COMMISSIONER BANNU AND LAKKI MARWAT AND NORTH

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)	Mir Sadey Khan	SIC					177-00-2017	By Promotion DC, NW
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	Ihsan Ullah	S/C	14	5-2-1971	M.A	111000		
-					271.11	1-1-1992	29-05-2018	By Promotion DC, Bannu
, ,	Jamshed Khan	S/C	14	1-1-1966	B.A	1-9-1992	20.05	
+.	Vawab Khan					1 1792	29-05-2018	By Promotion DC, Bannu
'`	Samuel Nam	S/C	14	08-04-1970	F.A	08-10-1992	20-08-2018	
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Assistant Secretary Revenue Khawa

Khyber Pukhlun Khawa

Khyber Pukhlun Khawa

COMMISSIONER BRAND EQUISION

SA 1006/2023

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04.08.2023 1. Petitioner in person present. Mr. Fazal Shah Mohmand,

Additional Advocate General alongwith Mr. Ghulam Shabbir,

Assistant Secretary for the respondents present.

- 2. Vide order sheet dated 26th June, 2023, respondent department produced copy of Minutes of Departmental Promotion Committee meeting held on 23.05.2023 in compliance with the order of the Tribunal dated 11.04.2023, the case of the petitioner was considered by the Departmental Promotion Committee and not found eligible for promotion as he was at serial No. 3 of the joint seniority list of Junior Scale Stenographer and Senior Clerks in the year 2017. The judgment of Service Tribunal has been implemented, therefore, the instant execution petition is filed. Consign.
- 3. Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal this 04th day of August, 2023.

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(Muhammad Akbar Khan) Member (E)

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GAZETTE

Annex-

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 23rd JUNE, 2023.

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

NOTIFICATION

Peshawar Dated, the 30th May, 2023.

No. Estt: I/SSRC/Tehsildar/2022-23/13218-31: In pursuance of provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Revenue & Estate Department in consultation with the Establishment Department and the Finance Department is pleased to direct that in this Department Notification No. 32102/Admn:I/135/SSRC, dated 26.12.2008, the following further amendments shall be made, namely:

AMENDMENTS

In the APPENDIX,

- (a) against Serial No. 1, in Column No. 7,
 - in clause (a), the word "and" and semi-colon shall be replaced by the colon and thereafter, the following shall be inserted, namely:

"Note: After appointment, on recommendation of the Public Service Commission, the Tehsildars shall undergo the Pre-Service Training of Tehsildars for a period of six (06) months which shall include four (04) months training at the Pakistan Provincial Services Academy (PPSA), one months Settlement Training and one months Revenue Training, under the West Pakistan Tehsildar and Naib Tehsildar Departmental Examinations and Training Rules, 1969;";

- (ii) for clause (b), the following shall be substituted, namely;
 - fifty-five percent (55%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Naib Tehsildar, District Revenue Accountant, District Kanungo and Sub-Registrar with at least three (03) years service as such.

Note: The official promoted from the cadre of Sub-Registrar and District Revenue Accountant shall undergo six (06) months Revenue & Settlement Training as per schedule of the Department;";

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2263 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 23rd June, 2023

(iii) after clause (b), as so amended, the following new clause shall be inserted, namely:

"(b-i) five percent (05%) by selection, on merit on the basis of competitive examination, to be conducted by the Public Service Commission, from amongst the holders of the posts of Assistant, Senior Scale Stenographer, Computer Operator, Junior Scale Stenographer, Senior Clerk, Junior Clerk, Naib Tehsildar, District Kanungo, District Revenue Accountant and Sub Registrar in the offices of the Board of Revenue, Director Land Records, Commissioners and Deputy Commissioners, who have Second Class Bachelor's Degree from a recognized University or its equivalent qualification and having at least three (03) years service as such.

Note: After appointment, on recommendation of the Public Service Commission, the Tehsildars shall undergo the Pre-Service Training of Tehsildars for a period of six (06) months which shall include four (04) months training at the Pakistan Provincial Services Academy (PPSA), one month Settlement Training and one month Revenue Training, under the West Pakistan Tehsildar and Naib Tehsildar Departmental Examination and Training Rules, 1969;";

(iv) for clause (d), the following shall be substituted, namely:

"(d) five percent (05%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Assistant, Senior Scale Stenographer and Computer Operator in the offices of the Board of Revenue and Director Land Records with at least five (05) years service as such."; and

(b) against Serial No. 2, in Column No. 7,-

(i) in clause (a), for the word "and" and comma shall be replaced by the colon and thereafter, the following Note shall be inserted, namely:

"Note: After appointment, on recommendation of the Public Service Commission, the Naib Tehsildars shall undergo the Pre-Service Training of Naib Tehsildars for a period of six (06) months which shall include four (04) months training at the Pakistan Provincial Services Academy (PPSA), one month Settlement Training and one month Revenue Training, under the West Pakistan Tehsildar and Naib Tehsildar Departmental Examinations and Training Rules, 1969;";

(ii) for clause (b), the following shall be substituted, namely:

forty percent (40%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Kanungo with at least three (03) years service as such, who have undergone one (01) month mandatory training in Revenue Academy to be conducted by the Board of Revenue.

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 23rd JUNE, 2023 2264

Note: Those Kanungos who have already passed Departmental Exam shall not undergo one-month training;";

- (iii) after clause (b), as so amended, the following new clause, shall be inserted, namely:
 - "(c) six percent (06%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of,-
 - (i) the Senior Clerk with at least five (05) years accumulative service as Junior Clerk and Senior Clerk in the offices of the Board of Revenue, Director Land Records, Divisional Commissioners and Deputy Commissioners; and
 - the Junior Scale Stenographer with at least five (05) years service in the offices of the Board of Revenue, Director Land Records, Divisional Commissioners and Deputy Commissioners:

Provided that for the purpose of promotion, a joint seniority list of Senior Clerks and Junior Scale Stenographers, shall be maintained at Board of Revenue; and"; and

- (iv) for clause (d), the following shall be substituted, namely:
 - "(d) four percent (04%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Junior Clerk having ten (10) years service as Political Moharrir, in the office of Deputy Commissioners / Ex-Political Agent.

Note: On promotion, the officials at clause (c) and (d) shall undergo six (06) months Revenue and Settlement Training as per schedule of Board of Revenue."

Sd/-Secretary to Government of Khyber Pakhtunkhwa, Revenue & Estate Department

Printed and published by the Manager, & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL . PESHAWAR

Service Appeal No2609/2023

Muhammad Idress Junior Scale Stenogphar office of Deputy Commissioner

Lakki Marwat.....Appellant

Versus

Chief Secretary Khyber Pakhtunkhwa and othersRespondents

AFFIDAVIT

I Senior Member Board of Revenue, do hereby solemnly affirm and declare on oath that the contents of the accompanying parawise comments in the subject Service Appeal noted above are true and found correct and nothing has been concealed from the Honorable Service Tribunal. Hence, it is further stated that in the Subject Service Appeal, the answering respondents have neither been placed ex-parte nor their defense have been strucked off cost.

Deponent

Senior Member Board of Revenue Respondent No. 1&2

11 ramuelah.

GOVERNMENT OF KHYBER PAKHTUNKHWA REVENUE AND ESTATE DEPARTMENT

AUTHORITY LETTER

Mr. Abdul Resheed, Superintendant, Litigation-II (BS-17) Board of Revenue is hereby authorized to attend and submit comments on the part of respondent No. 1 & 2 before the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 2609/2023 filed by Mr. Muhammad Idress Junior Scale Stenographer office of Deputy Commissioner Lakki Marwat.

Senior Member Board of Revenue Respondent No. 1&2

Henomullah .

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Govt. of Mayard., . Services and General Admn: Deptt; (Regulation Wing)

No. SOR-I (S&GAD)4-2/82, Dated: 15.01.1999.

To

- 1. All Administrative Secretaries to Government of NWFP:
- 2. Secretary to Governor, NWFP:
- 3. Secretary to Chief Minister, NWFP.
- 4. All Divisional Commissioners in NWFP.
- 5. All Heads of attached Departments in NWFP.
- 6. All Heads of Autonomous/Semi-Autonomous Bodies in NWFP.
- 7. All Deputy Commissioners/Political Agents In NWFP.
- 8. The Registrar, Peshawar High Court, Peshawar.
- 9. All District and Session Judges in NWFP.
- 10. The Registrar, NWFP Services Tribunal, Peshawar.
- 11. The Secretary, NWFP Public Service Commission.
- 12. The Director, Anti-Corruption Establishment, Peshawar:
- 13. The Secretary, Board of Revenue, NWFP.

SUBJECT: - SIGNING OF PARA-WISE COMMENTS ETC: IN SERVICE APPEALS FILED IN THE NWFP SEVICES TRIBUNAL BY CIVIL SERVANTS.

Sir,

I am directed to refer to the subject noted above and to say that pursua to Rule-12(2) of NWFP Services Tribunal Rules, 1974, the competent authority ha been pleased to authorize the Administrative Secretaries concerned or a subordina officer to be nominated by the Administrative Secretary to sign para-wise comments et on behalf of the Chief Minister, NWFP and Chief Secretary, NWFP, as the case may I in cases of service appeals filed by the Civil Servants before the NWFP Service Tribunal.

Yours Obedient Serva

SECTION OFFICER (REGULATION S&GAD.

Even No. and date.

A copy is forwarded for information to the: -

All-Addl: Secretaries/Dy: Secretaries in:S&GAD.

All Section Officers/Estate Officers in S&GAD.

P.S. to Chief Secretary, NWFP.

P.S. to Secretary S&GAD.

Librarian, S&GAD.